



The County of San Diego

Planning Commission Hearing Report

Date:	June 28, 2018	Case/File No.:	Newland Sierra; PDS2015-GPA-15-001 (GPA), PDS2015-SP-15-001 (SP), PDS2015-REZ-15-001 (REZ), PDS2015-TM-5597 (TM), PDS2015-ER-15-08-001 (ER)
Place:	County Conference Center 5520 Overland Avenue San Diego, CA 92123	Project:	Specific Plan consisting of 2,135 dwelling units, 81,000 square feet of commercial, civic and other associated uses and 1,209 acres of biological open space on 1,985 acres
Time:	9:00 a.m.	Applicant/Owner:	Newland Sierra, LLC.
Agenda Item:	#1	Appeal Status:	Not applicable; Approval by the Board of Supervisors
Environmental:	Environmental Impact Report	APNs:	172-091-07, 172-220-14, 16, 18, 174-190-12,13, 41, 43, 174-210-01, 05, 07, 08, 17, 18, 174-211- 04, 05, 06, 07, 174-190-20, 174-280-11, 174-190- 44, 178-100-05, 26, 178-101-01, 16, 17, 25, 26, 27, 28, 174-280-14, 174-290-02, 178-221-09, 178- 222-16, 182-020-28, 29, 182-040-74, 186-250-13, 186-611-01, 07, 08, 09, 11, 14, 15, 16, 17, 23, 187-540-49, 50, and 51

A. EXECUTIVE SUMMARY

1. Introduction

The purpose of this staff report is to provide the Planning Commission with the information necessary to consider the proposed Specific Plan (PDS2015-SP-15-001), General Plan Amendment (PDS2015-GPA-15-001), Zone Reclassification (PDS2015-REZ-15-001), Tentative Map (PDS2015-TM-5597), conditions of approval and findings, and environmental findings prepared in accordance with the California Environmental Quality Act (CEQA).

The Newland Sierra project, submitted in 2015, is a master planned community consisting of 1,985 acres in the North County Metropolitan Subregional Plan Area and the Bonsall Community Plan

Area. During the processing of the application, the County received extensive public comments and concerns from residents and stakeholders. Planning & Development Services (PDS) conducted a careful and thorough review of the project for consistency with County codes, policies and ordinances as summarized in this report.

The sections contained in this report describe in detail the following: development proposal, analysis and discussion, community planning groups and public input, and the PDS recommendation.

The Planning Commission is asked to consider the project and make a recommendation to the Board of Supervisors (Board) to either approve the projects as submitted, approve the project with modifications, or deny the project. PDS conducted a detailed analysis of the project for consistency with the General Plan, Zoning Ordinance and other applicable regulations, policies and ordinances as well as a thorough review of the project's potential impacts on the environment in accordance with CEQA. After PDS's review and analysis, PDS staff recommends certification of the Environmental Impact Report, approval of the General Plan Amendment (GPA), Specific Plan (SP), Zone Reclassification (REZ), and Tentative Map (TM), with the conditions explained in the report and incorporated in the attached Resolutions and Form of Decisions.

2. Requested Actions

The Planning Commission should determine if the required findings can be made and, if so, make the following recommendations to the Board:

- a. Adopt the California Environmental Quality Act (CEQA) Findings, which include the certification and findings regarding significant effects of the project, the mitigation and monitoring program, the Statement of Overriding Considerations, and certify the Environmental Impact Report (EIR), REF: PDS2015-ER-15-08-006 (Attachment G).
- b. Adopt the Resolution approving General Plan Amendment PDS2015-GPA-15-001 for the reasons stated therein and discussed in this report (Attachment H).
- c. Adopt the Resolution approving Specific Plan PDS2015-SP-15-001 for the reasons stated therein and discussed in this report (Attachment I).
- d. Adopt the Ordinance titled, ORDINANCE CHANGING THE ZONING CLASSIFICATION OF CERTAIN PROPERTY WITHIN THE NORTH COUNTY METROPOLITAN SUBREGIONAL PLAN AND BONSALL COMMUNITY PLAN), REF: PDS2015-REZ-15-001 (Attachment J).
- e. Adopt the Ordinance titled, ORDINANCE AMENDING THE RESOURCE PROTECTION ORDINANCE (RPO) (Attachment M).
- f. Adopt the Resolution of Approval for Tentative Map PDS2015-TM-5579 which includes those requirements and conditions necessary to ensure that the project is implemented in a manner consistent with State law and County of San Diego regulations (Attachment K).

- g. Adopt the Statement of Reasons to permit the proposed use and extinguish access to mineral resources of statewide significance as required by Sections 2762 and 2763 of the California Surface Mining and Reclamation Act (Attachment L).
- h. Direct staff to update the Transportation Impact Fee (TIF) Program to incorporate the Newland Sierra GPA.

3. Key Requirements for Requested Actions

The Planning Commission should consider the requested action and determine if the following findings can be made:

- a. Is the proposed project consistent with the vision, goals, and polices of the General Plan?
- b. Does the project comply with the policies as set forth and amended in the North County Metropolitan Subregional Plan and the Bonsall Community Plan?
- c. Is the proposed project consistent with the County's Zoning Ordinance?
- d. Is the proposed project consistent with the County's Subdivision Ordinance?
- e. Is the project consistent with other applicable County regulations?
- f. Does the project comply with CEQA?

B. DEVELOPMENT PROPOSAL

1. Project History

a. Merriam Mountains Project

On July 9, 2003, Stonegate Merriam Mountains LLC, submitted an application for a Plan Amendment Authorization (PAA) for a proposed development on 2,327 acres of land consisting of approximately 2,700 residences, 110,000 square feet of neighborhood commercial uses, a fire station, passive and active recreational facilities and a 1,192 acre biological preserve. On September 11, 2003, Department of Planning and Land Use (DPLU) granted the PAA, allowing the application to proceed with the processing of a GPA.

On June 30, 2004, the Stonegate Merriam Mountains, LLC formally submitted a GPA, a Zone Reclassification, Specific Plan, Vesting Tentative Map, and four Site Plans.

On October 9, 2009, the Planning Commission voted 7-0-0 to close the public testimony and continue the public hearing to October 23, 2009.

On October 23, 2009, the Planning Commission voted 5-2-0 to recommend approval of the Merriam Mountains project with modifications. Modifications to the project were proposed to

address issues related to noise, community character/aesthetics, air quality, biological resources, and wildland fire.

On December 9, 2009 (3), the Board voted 2-2-1 to recommend approval of the project; this motion failed due to lack of majority. On that same day, the Board voted 2-2-1 to request a continuance; this motion failed due to a lack of a majority.

On January 13, 2010 (12), the project was brought back to the Board in accordance with Section 375.13(c) of the San Diego County Code of Administrative Ordinances. Subsequent to closing public testimony, the Board voted 3-2-0 to have the project return on March 24, 2010 for reconsideration. The Board also requested DPLU address concerns raised by the Board and the general public related to water availability, traffic, fire protection, construction related noise, compliance with Assembly Bill 32, and appropriateness of density.

On March 24, 2010 (3), the Board voted 3-2 to deny the project.

For a comparison of the previously proposed project and the currently proposed Newland Sierra project, please see Attachment N.

b. Application Submittal

On September 8, 2014, a Major Pre-Application was submitted for Newland Sierra. On January 20, 2015, an application for a GPA, Specific Plan, Zone Reclassification, and Tentative Map, were submitted by Newland Sierra, LLC.

c. California Environmental Quality Act (CEQA)

A Notice of Preparation for an EIR was circulated from February 12, 2015 to March 16, 2015. A Draft EIR was prepared for this project and was circulated for a 60-day public review period from June 15, 2017 to August 14, 2017. The Draft EIR identified significant and unavoidable environmental impacts to aesthetics, air quality, mineral resources, noise, population and housing, and transportation and traffic. The Draft EIR also identified significant and mitigatable environmental impacts to agricultural resources, biological resources, cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, paleontological resources, and utilities and service systems.

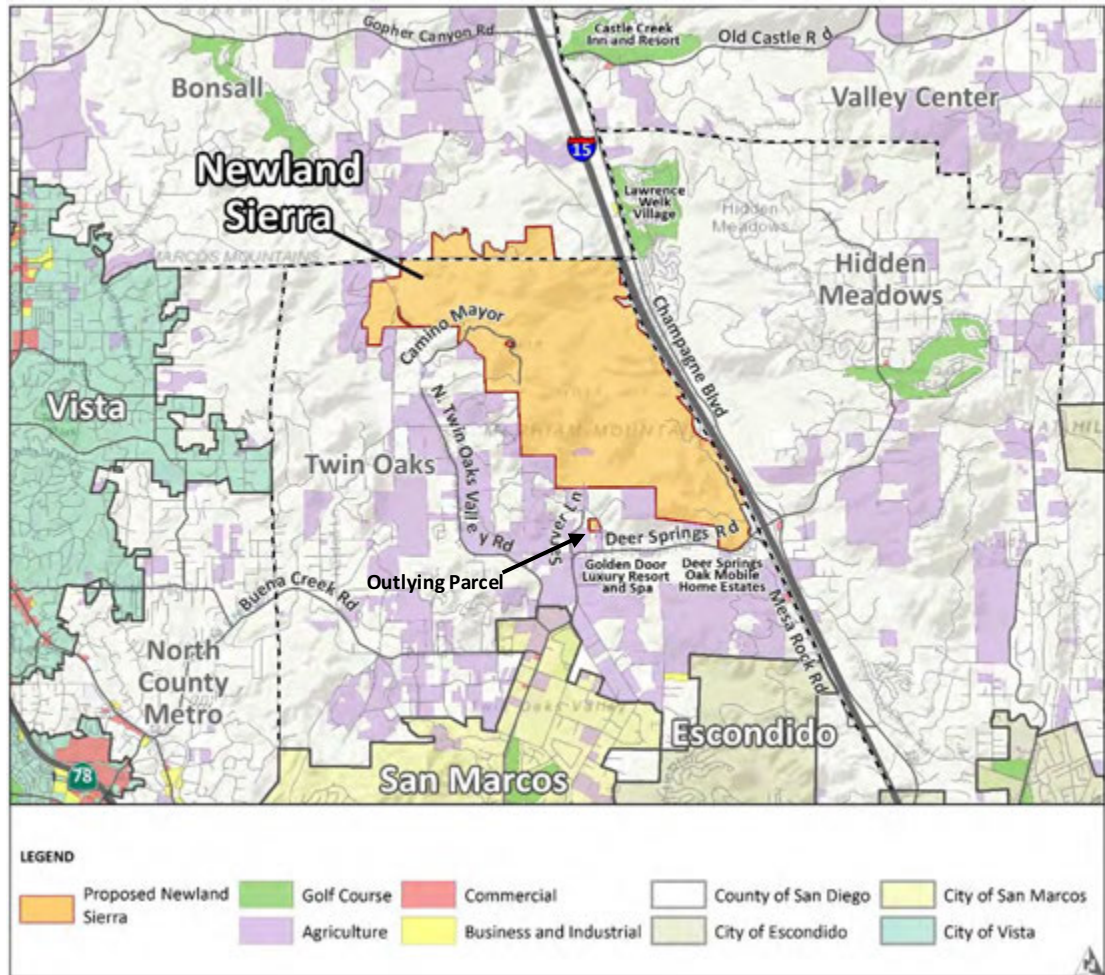
2. Regional Setting and Project Location

a. Regional Location and Surrounding Land Uses

The project is located in the unincorporated area of northern San Diego County, directly west of Interstate 15 (I-15), north of State Route 78 (SR-78), and south of State Route 76 (SR-76). Located within the inland area of North San Diego County, the project is close to several North County cities. The Cities of Escondido and San Marcos are approximately one mile south of the project, the City of Vista is approximately three miles west of the project, the City of Oceanside is approximately five miles northwest of the project, and the City of Carlsbad is approximately seven miles southwest of the project.

A number of residential communities and other uses are located within a five-mile radius of the project: Lawrence Welk Village (0.6 mile east), which includes a resort, 512 time shares and two 18-hole golf courses; Castle Creek Inn and Resort (1.4 miles northeast), which contains 63 condominium units and a golf course; Deer Springs Oak Mobile Home Estates (0.2 mile south); and Golden Door Luxury Resort and Spa (0.3 mile southwest).

Figure 1: Regional Location Map



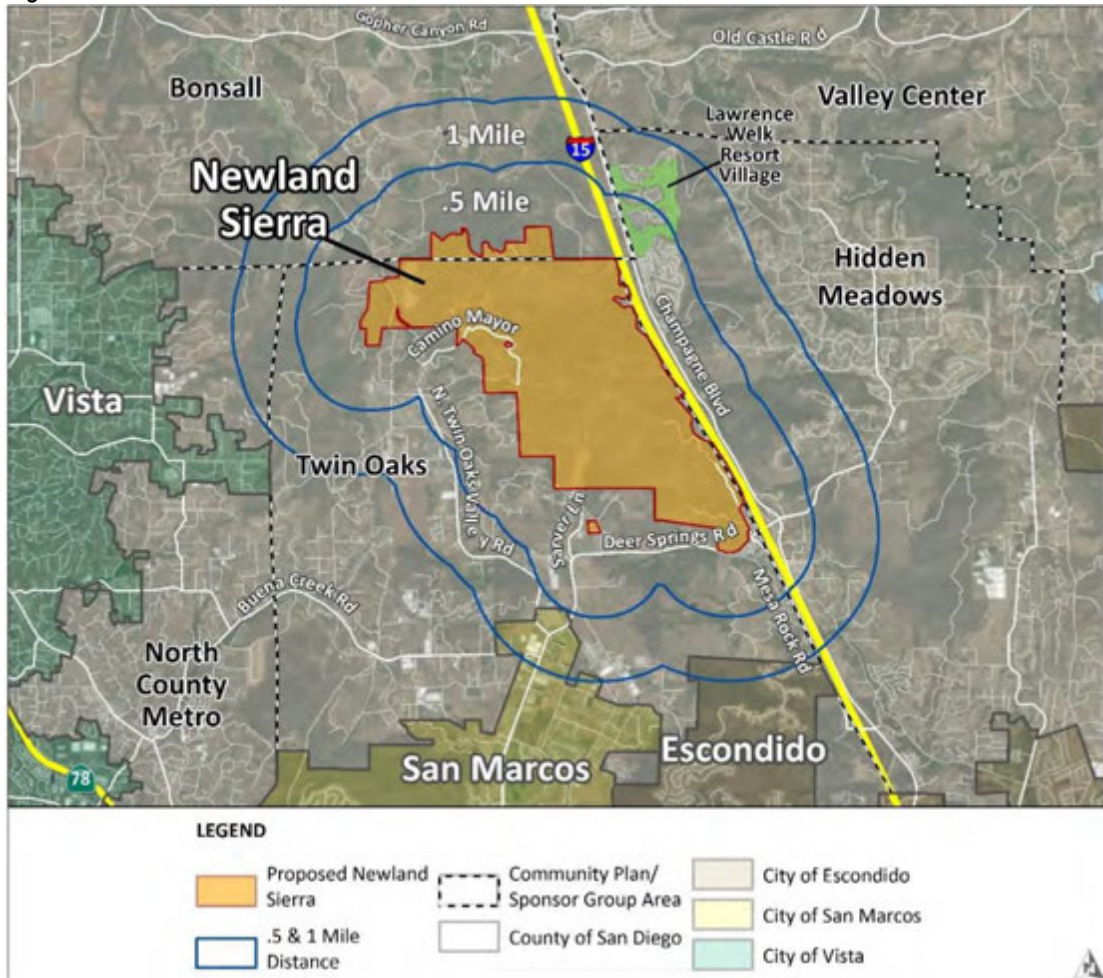
The project is approximately 1,985 acres and is comprised of 52 parcels (33 legal lots) in the easternmost portion of the North County Metropolitan Subregional Plan Area (1,888 acres) and southernmost portion of the Bonsall Community Plan area (97 acres) as shown in Figure 2.

The outlying parcel, shown in Figure 1, is a proposed 7.39 acre private park for the development. Located at the project’s western entry off Sarver Lane, this park will create a gateway to the community. Amenities will include an open lawn, parking, vineyards, a community garden, and a multi-purpose building that will be used for community and private events.

b. Project Site

The project is characterized as being composed of hills and valleys with rock outcroppings and moderate to steeply sloping terrain that is visible from the I-15 corridor. The project is located in two watersheds: the San Luis Rey and Carlsbad watersheds. Elevations across the project range from 1,750-feet above mean sea level (MSL) at the highest to 660 feet above MSL at the lowest. The project measures approximately three miles long from north to south and approximately two miles wide from east to west.

Figure 2: Aerial Photo



The project is primarily undeveloped. A number of dirt roads and trails provide access to existing parcels, including Vallecitos Water District service roads that access existing potable water facilities (e.g., water transmission lines and tanks) found on and near the project. In the northwest portion of the project is the San Diego County Water Authority’s aqueduct, which is part of a regional system of water transmission pipelines the Water Authority uses to transfer water to its member agencies and between various reservoirs around the county.

Portions of the project have been and continue to be used for various unauthorized uses, including horseback riding, hiking, mountain biking, off-roading, motorcycling, shooting, and

illegal dumping. The northwest portion of the project contains an abandoned quarry fronting Twin Oaks Valley Road, and an abandoned private landing strip in the north-central portion of the project. Figures in this report include views of the project site.

3. Project Description

The Newland Sierra Specific Plan will provide the design guidelines and conceptual plans for the project. The community will include a mix of uses, including single-family and multi-family residential, commercial, a school site and parks. The project proposes the highest concentration of density around the commercial center and transitions to lower densities along the project's northwest portion (Summit Neighborhood). The project's overall density is 1.08 dwelling unit per acre (du/ac). Specifically, the proposed project includes the following:

- 2,135 dwelling units;
 - 815 single-family dwelling units
 - 995 multi-family dwelling units
 - 325 single-family detached senior dwelling units (age-restricted)
- 81,000 square feet of commercial (retail and office);
- Equestrian staging area;
- School site (6 acres);
- Public and private parks (35.87 acres);
- 19.2 miles of multi-use and community trails;
- 1,209 acres of permanent biological open space;
- Amend the North County Metropolitan Subregional Plan and Bonsall Community Plans;
- Amend Section 86.605 of the San Diego County Resource Protection Ordinance to add an exemption for the development of Newland Sierra Specific Plan, specifically for wetlands;
- Amend General Plan Mobility Element (Deer Springs Road Option A Only); and
- Amend General Plan Mobility Element Appendix (Deer Springs Road Option A Only)
 - Revisions to Figure M-A-12 to change the bicycle classification of Deer Springs Road from a Class III Bike Route to a Class II Bike Lane and to change the road classification of Deer Springs Road from a 6.1 Prime Arterial classification to the following classifications:
 - 2.1B Community Collector classification (Sarver Lane to Mesa Rock Road)
 - 4.1A Major Road classification (City of San Marcos Boundary to Sarver Lane) and (Mesa Rock Road to I-15 Southbound Ramps)
 - Revisions to the "Mobility Element Network – North County Metro Subregion Matrix" table to:
 - Add the segment of Deer Springs Road between Sarver Lane and Mesa Rock (LOS F)
 - Delete the segment of Deer Springs Road between the I-15 Northbound Ramps and North Centre City Parkway, as this segment is no longer failing in the County GP Buildout Scenario with Deer Springs Road reclassified.

- Amend General Plan Mobility Element Appendix (Deer Springs Road Option B Only)
 - Revision to Figure M-A-12 to change the bicycle classification of Deer Springs Road from a Class III Bike Route to a Class II Bike Lane

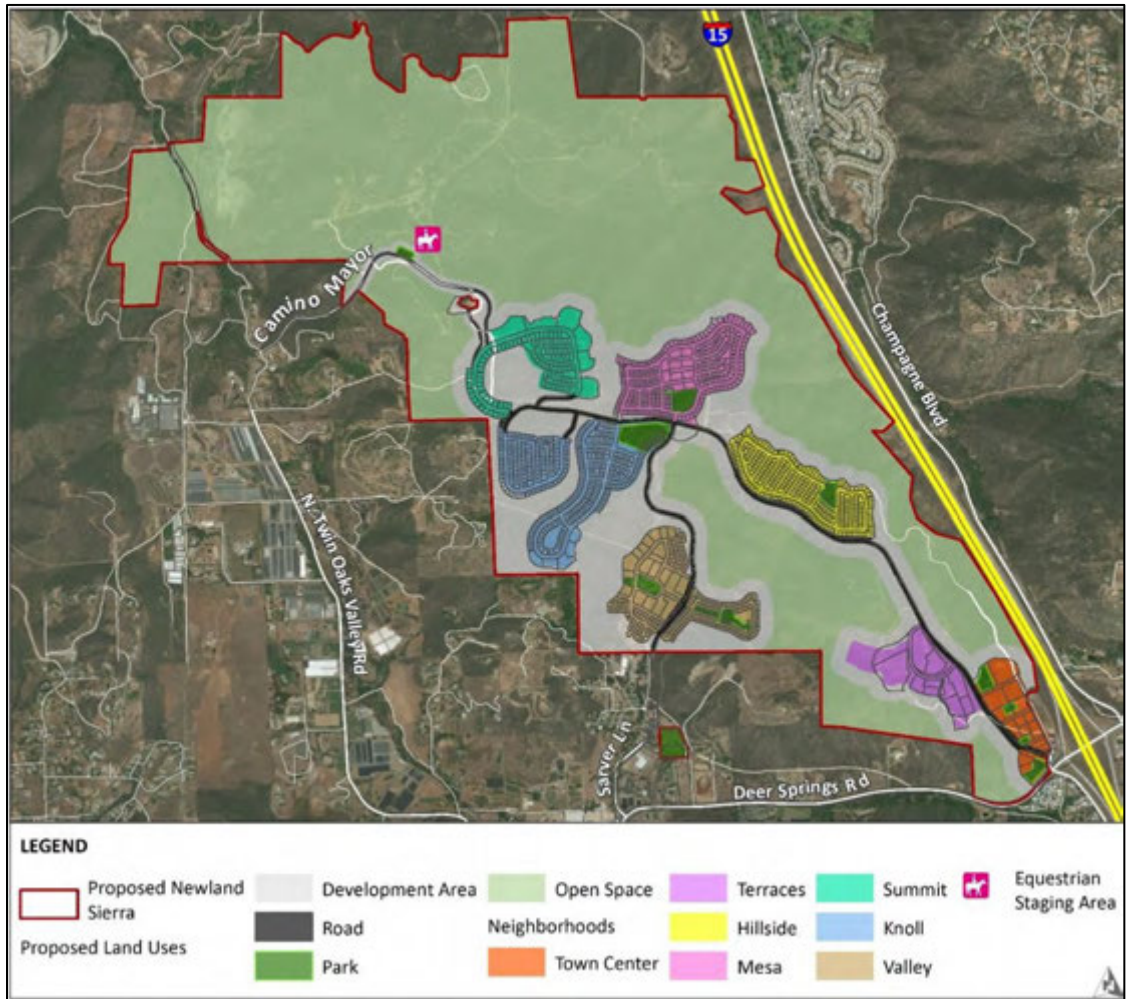
Figure 3: Conceptual Plan



a. Specific Plan

The Newland Sierra Specific Plan includes Design Guidelines, which govern building setbacks, architectural elevation design, parks, green space, lot design, signage and lighting. Site Plans will be required in the future prior to issuance of building permits and will be required to be consistent with the guidelines and standards identified in the Specific Plan.

Figure 4: Specific Plan Map



b. Lot Design, Neighborhoods, and Phasing

The project will use nine different product types including detached single-family homes and townhomes. The single-family lots range from 2,000 square feet to 8,000 square feet. The project also incorporates age-qualified product and age-targeted product (55 years or older).

The Specific Plan proposes land development construction in two phases over approximately ten years in response to market demands and in accordance with logical and orderly improvements to roads, public utilities, and infrastructure. The phases are not proposed to be constructed sequentially, and no specific phasing sequence has been proposed. However,

necessary infrastructure will be constructed with each phase, and approval of additional discretionary permits (Site Plans) will be required for each subphase.

The project proposes seven neighborhood areas:

i. Town Center

The Town Center will be located off Deer Springs Road, east of Mesa Rock Road in the southernmost portion of the project. The 58.3-acre Town Center will include 95 residential dwelling units, 81,000 square feet of commercial space, a 6-acre school site, and 5.73 acres of parks.

Figure 5: Town Center Conceptual Site Plan



ii. Terraces Neighborhood

The Terraces neighborhood will be comprised of 446 residential units including two and three story townhomes.

iii. Hillside Neighborhood

The Hillside neighborhood will include 241 residential dwelling units and 2.29 gross acres of parks. It will be composed of single-family detached homes with lots ranging in size from 4,500 square feet to 5,000 square feet, as well as age targeted lots. Age-targeted lots are intended in neighborhoods that cater to, but are not restricted to, adults 55 years or older.

iv. Mesa Neighborhood

The Mesa neighborhood will include 325 residential units and 4.10 gross acres of parks. This neighborhood area will be entirely composed of age-qualified (55 years and older only) single-family lots and age-qualified single-family clusters on lots ranging from 3,000 to 6,000 square feet centered around a park.

v. Summit Neighborhood

The Summit neighborhood will include 151 residential units and 1.98 gross acres of parks (including an equestrian staging area). This neighborhood area is composed of the largest lots in the project, with lots ranging from 6,000 to 7,500 square feet. A trail will lead to the highest point in the neighborhood where a lookout will be located.

vi. Knoll Neighborhood

The Knoll neighborhood includes 372 residential units and 9.51 acres of parks. This neighborhood area will be composed of single-family homes with lots ranging from 4,500 to 5,000 square feet, in addition to family clusters. The Knoll will include 372 residential units and 9.51 gross acres of parks.

vii. Valley Neighborhood

The Valley neighborhood includes 505 residential units and 12.26 gross acres of parks. This neighborhood area will be composed of clusters, townhomes, and single-family homes with lots ranging from 3,500 to 4,000 square feet.

c. Grading

The project will require on-site grading on approximately 504 acres (25%) of the 1,985-acre site. Overall grading is estimated at 10.7 million cubic yards of balanced cut and fill. Grading for individual phases will require that material be removed from a future phase or temporarily deposited in a future phase until needed.

On-site grading will take place in two phases. The first phase consists of 9.4 million cubic yards of balanced cut and fill and the second phase consists of 1.3 million cubic yards of balanced cut and fill. A preliminary grading plan has been prepared for Phase 1 and 2, in conjunction with the Tentative Map.

Blasting is anticipated during the grading phase in the central portion of the project and along roads within the project, including some off-site portions along Deer Springs Road. Localized

areas within the upper portion of the project may require heavy ripping and/or blasting. Cut areas are expected to be only marginally rippable and will likely require blasting.

Rock crushing will be required and will occur on-site as needed. Rock crushing equipment will process 2,000 to 2,500 cubic yards of material per day. A maximum daily throughput of 2,500 cubic yards (approximately 5,650 tons) per day was assumed as a conservative estimate.

d. Facilities and Services

The project has demonstrated that all necessary services and facilities will be provided to serve the project as required by the General Plan and Board of Supervisors Policy I-84 (Project Facility Availability and Commitment for Public Sewer, Water, School and Fire Services). The applicant is responsible for funding all the necessary services and facilities to serve the project.

i. Water and Sewer Service

Water and sewer service will be provided by Vallecitos Water District (VWD). VWD certified the November 2016 Water Supply Assessment (WSA) for the project, indicating its ability to provide potable water service to the project. The WSA includes expansion/extension of existing supply pipelines and water tanks located within and adjacent to the project in order to supply water to the project.

VWD has provided a Project Facility Availability Form for sewer that indicates that the project is eligible for service, and facilities to serve the project are reasonably expected to be available within the next five years. The point of connection is located approximately 0.25 mile south of the project in Sarver Lane. All wastewater will be routed to the Meadowlark Water Recycling facility and/or Encina Water Pollution Control Facility for treatment.

ii. Fire and Medical Service

The project is located within the Deer Springs Fire Protection District (DSFPD). DSFPD has provided a Project Facility Availability Form indicating that fire and emergency services will be adequate to service the project. The existing DSFPD fire station is located within the five minute travel time required by the General Plan. A Fire Protection Plan for the project was approved by DSFPD and the County Fire Authority. The plan details the locations and widths of appropriate fuel management zones, road widths, secondary access, water supply, and hydrant spacing.

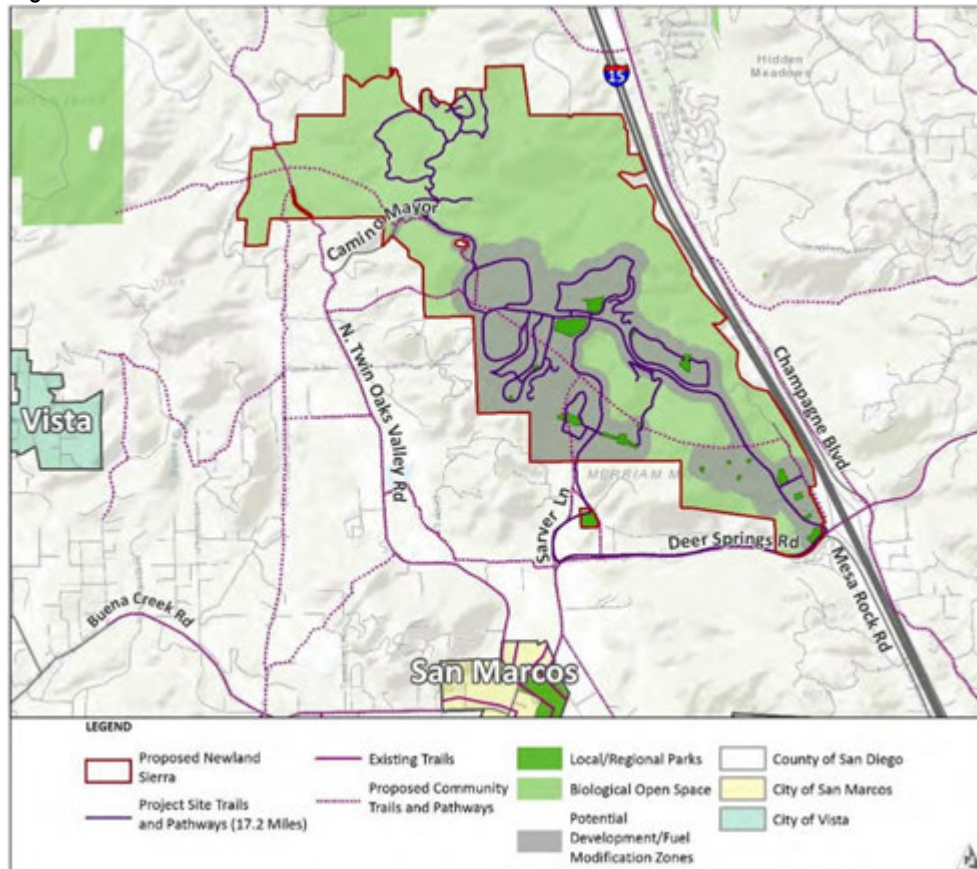
iii. Parks and Trails

The County of San Diego Parkland Dedication Ordinance (PLDO), requires that projects that propose more than 50 dwelling units dedicate land for parks, pay PLDO fees, or do a combination of both. The PLDO requires a total of 18.41 acres of parkland based on the number of dwelling units proposed by the project. The PLDO allows up to half of the parkland dedication to be satisfied through the construction of private parks. The project will provide 18.5 acres as defined by the PLDO, which exceeds the project's PLDO obligation.

In addition to the 35.87 acres of parks, the project includes associated recreational facilities, including swimming pools, active fields, a dog park, and children’s play equipment. The project also includes five pocket parks; 16 overlooks; pathways and multi-use and single-track trails; bike lanes and routes; and open space, including fuel modification areas, community gardens, and vineyards.

The project includes an interconnected network of trails and pathways that total approximately 19.2 miles. The project’s trail system will include: approximately 6.9 miles (10’ and 8’ wide) of multi-use trails along the loop road; approximately 5.7 miles (6’ wide) of internal pathways within neighborhoods; approximately 3.2 miles (3’ wide) of secondary trails within neighborhoods; approximately 2 miles (8’ wide) of multi-use trail through open space; and approximately 1.5 miles (3’ wide) of secondary trail through open space. Sidewalks will connect the multi-use pathway to parks and will provide a sidewalk loop through the Terraces neighborhood (5’ wide).

Figure 6: Park and Trail Plan



iv. Law Enforcement Service

Law enforcement services will be provided by the San Diego County Sheriff’s Department from the San Marcos Station, located approximately eight miles southwest of the project. The Sheriff’s Department has reviewed the proposed project and identified a need for five additional sworn personnel, but not the need for new or expanded facilities.

v. Schools

The proposed project is within the service boundaries of three public school districts: San Marcos Unified School District (SMUSD), Escondido Union School District (EUSD), and Escondido Union High School District (EUHSD). Although Bonsall Unified School District covers portions of the project, there is no development in that portion of the project. Project Facility Availability Forms have been provided by the San Marcos and Escondido school districts in accordance with Board of Supervisors Policy I-84. In addition, the proposed project has reserved a 6-acre site for a school. If students do not attend a school within the project, the project's future students who live in the SMUSD boundary are expected to attend Twin Oaks Elementary School and Woodland Park Middle School. The project's future students who live in the EUSD boundary are expected to attend Reidy Creek Elementary, Rincon Middle School, and Escondido High School. The project's future high school students are expected to attend Mission Hills High School, San Marcos High School, or Escondido High School.

If the school site is not developed with a school, that area should revert to the underlying residential use. A maximum of 90 residential dwelling units may be transferred to the 6-acre site from other neighborhood areas. No increase in dwelling units beyond the maximum of 2,135 dwelling units shall be allowed.

The project is estimated to generate approximately 449 elementary school students, 130 middle school students, and 217 high school students. Based on the number of students generated by the project, there would not be adequate capacity in the local elementary schools to serve the project's student generation. The project will be required to pay school fees.

Payment of school fees constitutes full and complete mitigation of the project's impacts on school facilities.

4. General Plan Amendment

Under the existing General Plan Land Use Designations, the project could potentially support a total of 99 single-family detached dwelling units, 140,263 square feet of General Commercial uses, and 1,867,853 square feet of Office Professional uses. The GPA proposes changes to the Land Use Element, Mobility Element, and the North County Metropolitan Subregional Plan and Bonsall Community Plan. The proposed changes are explained in further detail below.

a. Regional Category Amendment

The project is currently subject to the Village and Rural Regional Categories. The proposed GPA will amend the Regional Category Map to change a portion of the Rural Regional Category to the Semi-Rural Regional Category. The Village Regional Category designation will remain unchanged from its existing configuration. This project will not alter, expand, or create a new Village Regional Category or Village Boundary Line.

Figure 7: Existing General Plan Regional Categories

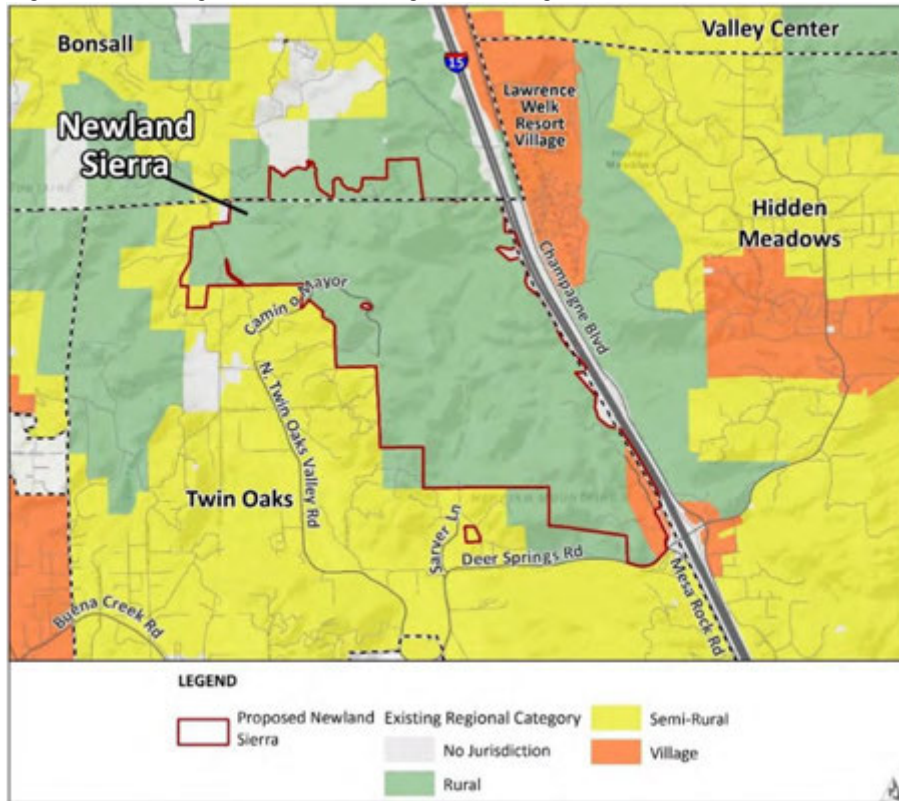
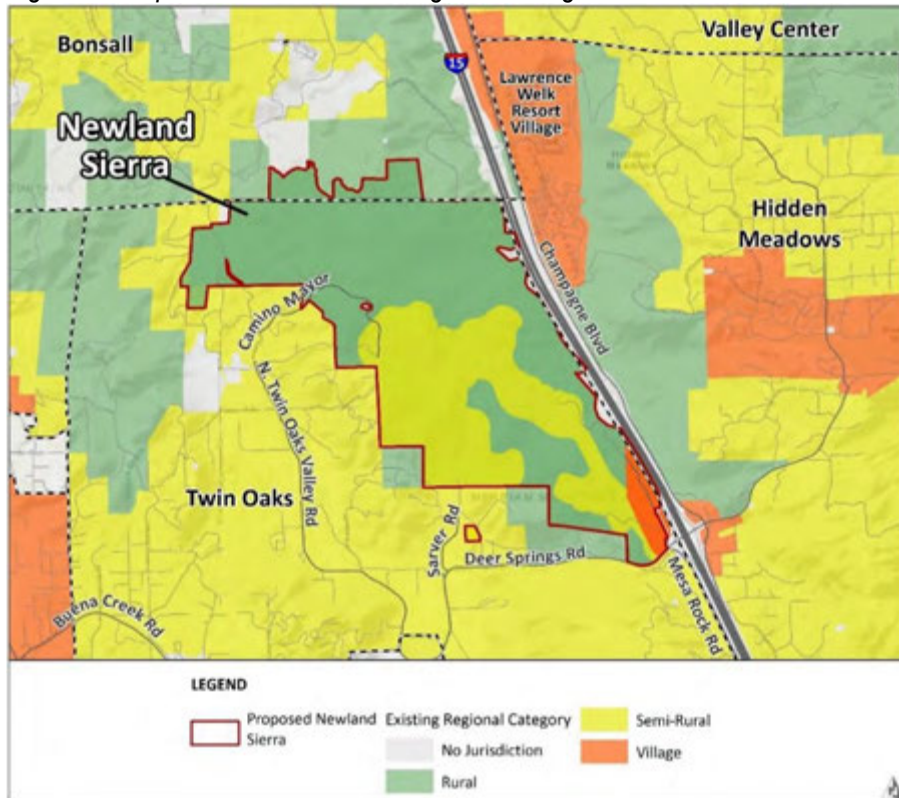


Figure 8: Proposed General Plan Regional Categories



b. Land Use Designation Amendment

The project is currently subject to the Semi-Rural (SR-10) (1 dwelling unit per 10 or 20 gross acres depending on slope), Rural Land 20 (RL-20) (1 dwelling unit per 20 gross acres), General Commercial, and Office Professional Land Use Designations. The proposed GPA would change the existing Land Use Designations to Village Core Mixed Use (C-5), Semi-Rural 1 (SR-1) (1 dwelling unit per 1, 2, or 4 gross acres depending on slope), and Open Space-Conservation (OS-C) Designations. The Village Core Mixed Use area of the General Plan will remain unchanged as will the outlying parcel located along Sarver Lane, which will remain under its current designation of Semi-Rural (SR-10). The areas designated for Semi-Rural would primarily be for residential development, the areas designated as Village Core Mixed Use would be for mixed-use development, including commercial uses, and the areas designated as Open Space-Conservation would be for preservation.

Figure 9: Existing General Plan Land Use Designations

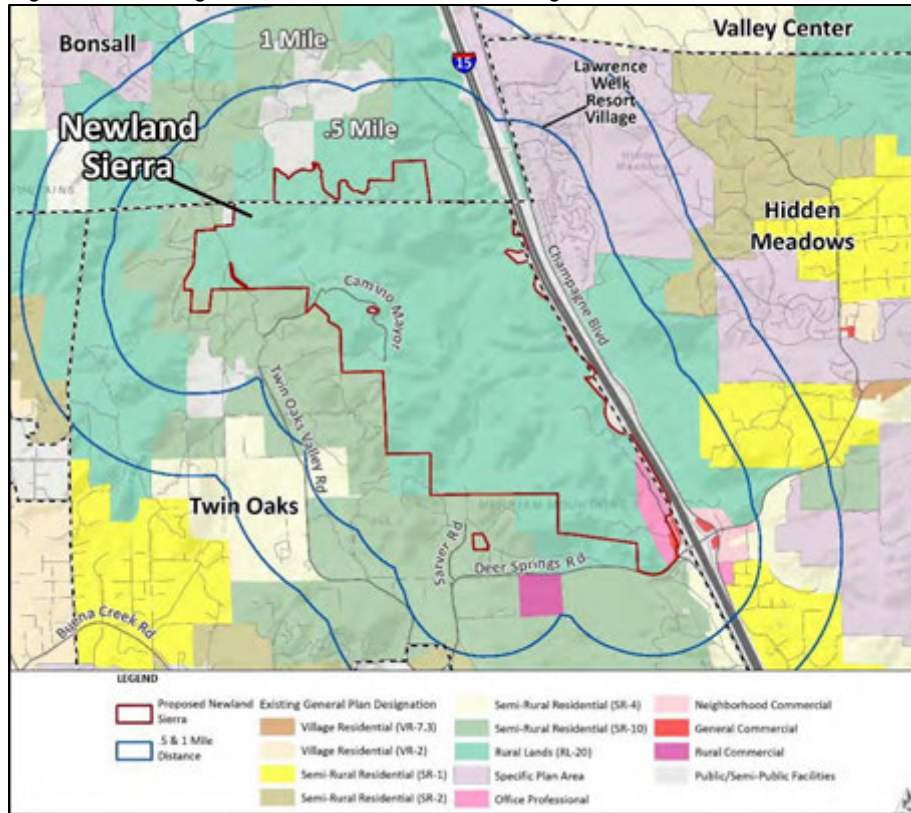
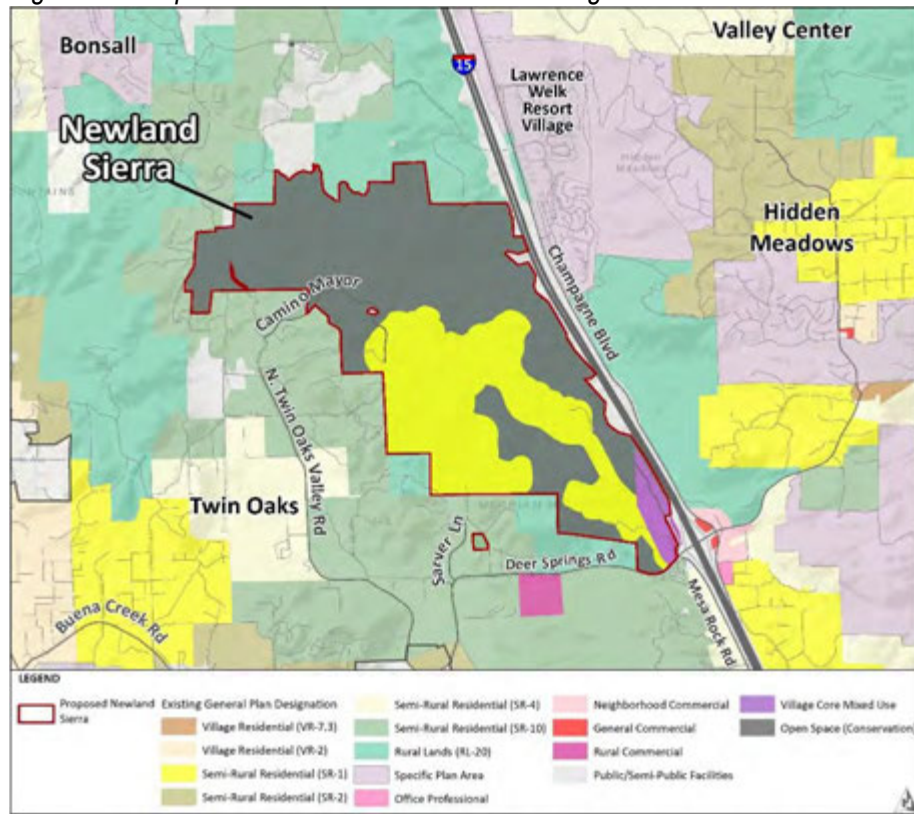


Figure 10: Proposed General Plan Land Use Designations



c. Mobility Element Amendment

The project also includes an amendment to the Mobility Element of the General Plan. The amendment will cover one of two options for Deer Springs Road, Option A or Option B, as explained below. The Board has the ultimate authority to approve Option A or Option B.

If Option A is selected, the classification of a segment of Deer Springs Road between I-15 Northbound Ramps to North Centre City Parkway will change from a 4.1B Major Road with Intermittent Turn Lanes, to a 2.1B Community Collector with Continuous Turn Lane. The project will also amend Table M-4 of the Mobility Element to add Deer Springs Road from I-15 NB Ramps to North Centre City Parkway to the list of Accepted Roadway Classifications with Level of Service E/F.

If Option B is selected, the General Plan Mobility Element Appendix would be amended to revise Figure M-A-12 to change the bicycle classification of Deer Springs Road from a Class III Bike Route to a Class II Bike Lane.

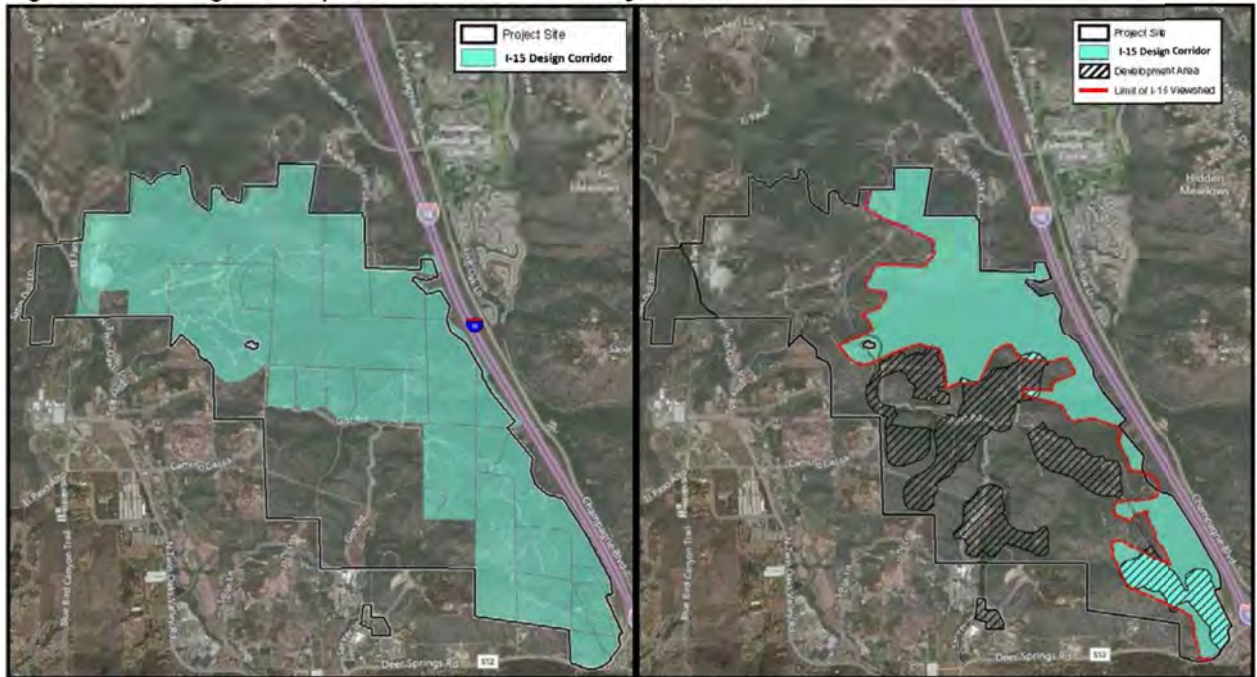
d. Community Plan Amendments (North County Metropolitan Subregional Plan and Bonsall Community Plan)

The project also includes amendments to both the North County Metropolitan Subregional Plan and Bonsall Community Plan to add the project's new land use designations within both communities. The GPA will also add a description of the Newland Sierra Specific Plan to the

North County Metropolitan Subarea Regional Plan. The GPA will designate all land within the Bonsall Community Plan area as Open Space-Conservation (OS-C).

The North County Metropolitan Subregional Plan I-15 Corridor Subregional Plan contains the goals and policies related to scenic preservation, land use, public services and facilities, circulation, conservation, coordination (with adjacent jurisdictions), and plan implementation within the I-15 corridor. The North County Metropolitan I-15 Design Corridor Map within the I-15 Corridor Scenic Preservation Guidelines will be amended to include only the areas of the project visible from I-15.

Figure 11: Existing and Proposed I-15 Corridor Subregional Plan



5. Zone Reclassification

A Zone Reclassification is also required to implement the GPA and Specific Plan. The 1,888 acres within the North County Metropolitan Subregional Plan Area are currently zoned General Commercial (C36), Office Professional (C30), Rural Residential (RR), Limited Agricultural (A70), Extractive (S82), and General Rural (S92) Use Regulations. The 97 acres within the Bonsall Community Plan area are currently zoned Rural Residential (RR). The zoning will be changed to General Commercial/Residential (C34), Single Family Residential (RS), and Open Space (S80). The portion of the project immediately adjacent to Sarver Lane will retain the Limited Agriculture (A70) zoning.

The Zone Reclassification would change the existing development regulations for the project, including the minimum lot size, maximum number of stories (height), and Special Area Regulations. All development within the Specific Plan will be regulated through the application of the "D" Special Area Designator, which requires a detailed Site Plan to be submitted for each phase prior to approval of any building permits.

Figure 12: Existing Zoning Regulations

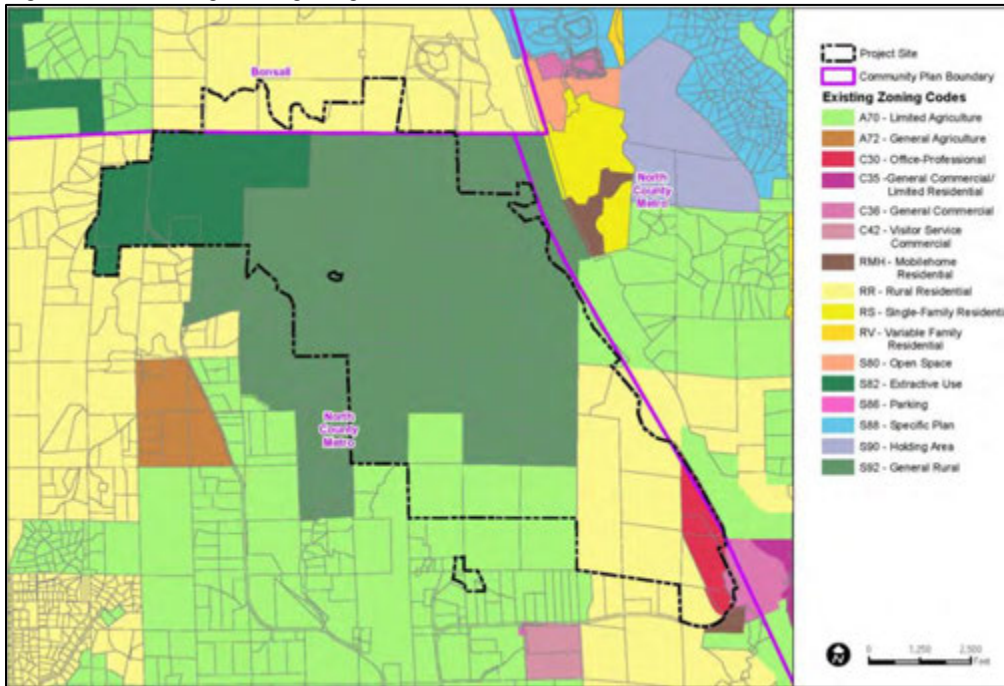
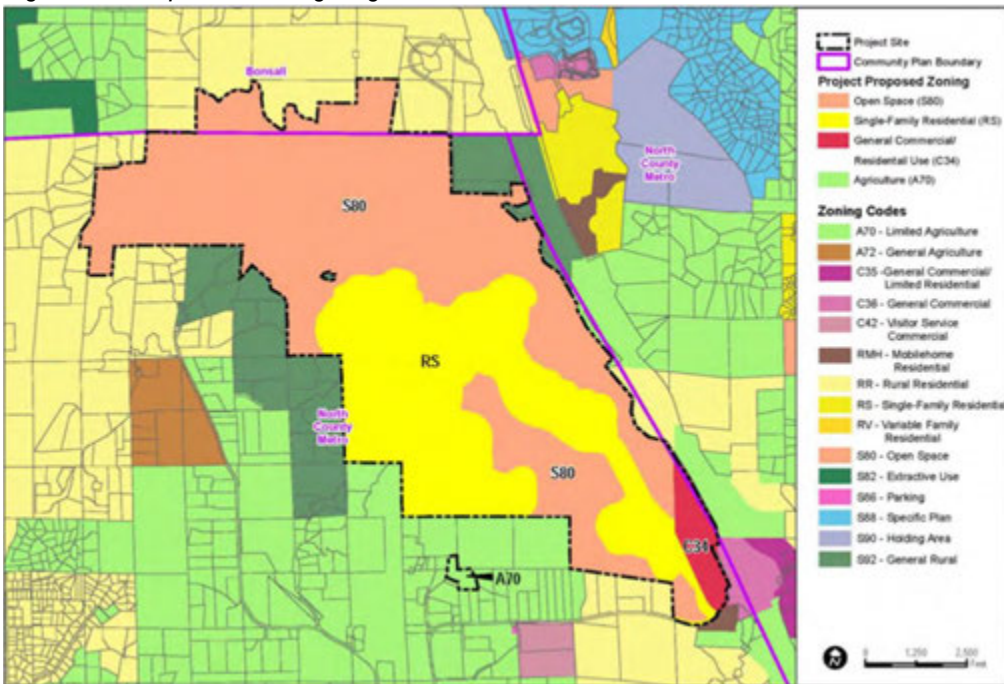


Figure 13: Proposed Zoning Regulations



6. Resource Protection Ordinance Amendment

The project includes a proposed amendment to the RPO that will exempt the project from the requirements of the ordinance through implementation of regional resource protection. The project's Resource Protection Plan (RPP) serves as the functional equivalent of the County RPO for the

proposed project. The RPP is a comprehensive planning document addressing the preservation, enhancement, and management of sensitive resources (habitat, wetlands, slopes, cultural) within the 1,985-acre project. It was designed specifically for the proposed project as it relates to biological resources. The RPP provides assurances and funding for long-term resource protection, management, restoration, and enhancement of the proposed biological open space. As part of the proposed project, the on-site preserve will consist of 1,209.1 acres of habitat on-site. Additionally, the project will preserve 212 acres of off-site habitat for biological mitigation.

7. Tentative Map

The project includes a Tentative Map application for the subdivision of the project into 1,140 single-family residential lots, 57 multi-family residential lots, 46 homeowner association lots, 22 private and public park lots, 18 open space lots, nine commercial lots, two utility lots, one school lot, and one private street lot. The lots created by the Tentative Map will require additional discretionary permits in order to be developed in accordance with the Specific Plan. For example, the lots will require subsequent Site Plans to develop the site in accordance with the Specific Plan. The Tentative Map also includes a preliminary grading plan, which specifies rough grading quantities and drainage facilities that serve the entire project.

C. ANALYSIS AND DISCUSSION

1. Planning and Development Analysis

a. Specific Plan – Conceptual Design & Development

The County's General Plan is based on a vision to promote healthy and livable communities that protect natural resources for future generations. The vision is supported by ten interrelated principles that provide the supportive framework for the goals and policies that implement the vision. Specific Plans must include text and diagrams that provide standards and criteria by which development will proceed, including any subjects, which in the judgment of the planning agency, are necessary or desirable for the implementation of the General Plan.

County staff analyzed all the design components of the project related to the General Plan vision including the mix of uses, inclusion of amenities, recreational opportunities, such as parks and trails, walkability, bikeability, and accessibility, resource protection, and the overall sustainable composition of the project.

• Location and Linkage

As detailed in the EIR, large-lot single-family residential development and agricultural groves comprise the majority of property in the surrounding area and undeveloped hilly and canyon terrain is present to the north and east. Semi-rural residential development, with occasional equestrian and agricultural (nursery and groves) uses, is located along the project's western and southern boundary. Large-lot and more dense single-family residential development occur to the east of the project in the Hidden Meadows community and to the south in San Marcos. Larger ridgeline homes in Hidden Meadows would be afforded views to the project, but views to the project from the majority of homes in Hidden Meadows would generally be obstructed by intervening vegetation, structures, and terrain. Commercial land uses, limited

industrial businesses and mobile home and resort-living communities are located in the surrounding area. A small mobile home community is located south of Deer Springs Road and immediately south of the proposed Town Center. The Champagne Village Mobile home community is located east of I-15 and approximately 0.2 mile from the project's eastern boundary. Golden Door Resort and Spa is located off Deer Springs Road, approximately 0.35 mile east of Sarver Lane and approximately 0.5 mile south of the southern boundary. The visual change associated with removal of existing vegetation and alteration of existing terrain to accommodate proposed residential, commercial, and education land uses and associated infrastructure would be most evident as viewed from locations in the viewshed located east of the project.

The proposed project is located one mile south of the Cities of Escondido and San Marcos, three miles west of the City of Vista, five miles northwest of the City of Oceanside, and seven miles southwest of the City of Carlsbad. The project is located in proximity to California State University San Marcos and Palomar College. Additionally, the introduction of approximately 2,135 residential units to the area could result in additional commercial growth in the vicinity. Construction of the proposed project will generate an economic stimulus from the use of building materials, the sales of residential units, the operation of the project's commercial facilities, and the introduction of new consumer demand in the area.

In terms of existing employment growth, SANDAG estimates 116,268 jobs within the County's unincorporated area; and 6,843 jobs within the North County Metropolitan Subregional Plan Area. A jobs/housing market analysis prepared for the project indicates that 124,251 jobs exist within the SR-78 Corridor Submarket, encompassing the Cities of Escondido, San Marcos, and Vista, and certain portions of the unincorporated County. SANDAG estimates a 75 percent increase in employment within this subregional plan area from 2012 through 2050. The North County Metropolitan Subregional Plan area is forecasted to grow at a faster rate than both the County unincorporated area and the entire County (incorporated and unincorporated).

The project is located adjacent to I-15 and five miles north of SR-78. Additionally, the proposed project is located at the Deer Springs Road interchange with access to I-15, providing regional access to existing job centers in Rancho Bernardo, Escondido, and Poway. Commuting options for residents of the project are enhanced with proximity to three Sprinter stations within six miles of the project—the San Marcos Civic Center Sprinter Station (approximately four miles to the south), the Buena Creek Station (approximately four miles to the west), and the Palomar College Station (approximately five miles to the south). Each of these stations have a park and ride lot for commuters.

The project will make significant improvements to the existing road network by improving Deer Springs Road, Deer Springs Road/I-15 Interchange, Twin Oaks Valley Road, Buena Creek Road, Monte Vista Drive, South Santa Fe Avenue, and various intersections on those roads.

The project provides a mix of land uses, including residential, commercial, educational, and parks, so that residents of the project have access to basic shopping, school, and recreational opportunities without having to travel outside of the project. This will lower

vehicle miles traveled because residents can use alternative transportation modes to reach the various land uses available within the project. More specifically, the mix of uses proposed within the Specific Plan includes multiple recreational amenities including approximately 36 acres of parks, 19.2 miles of multi-use trails, and community recreation facilities.

Based on staff analysis, the project's land use strategy consists of land use diversity (mixed-use) and supporting design features that encourage residents/employees to walk, bike, or take transit.

Figure 14: Jobs

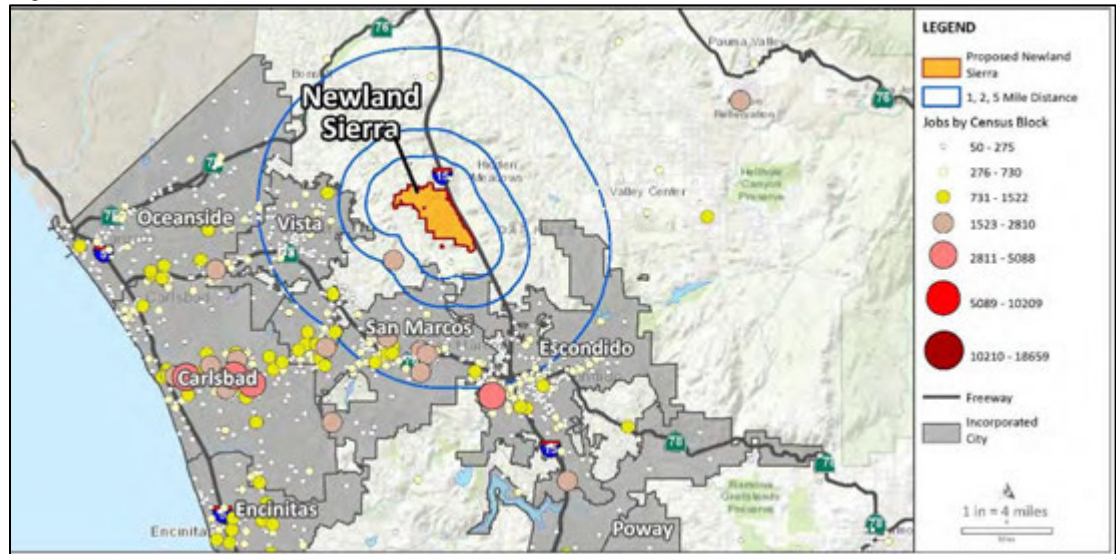
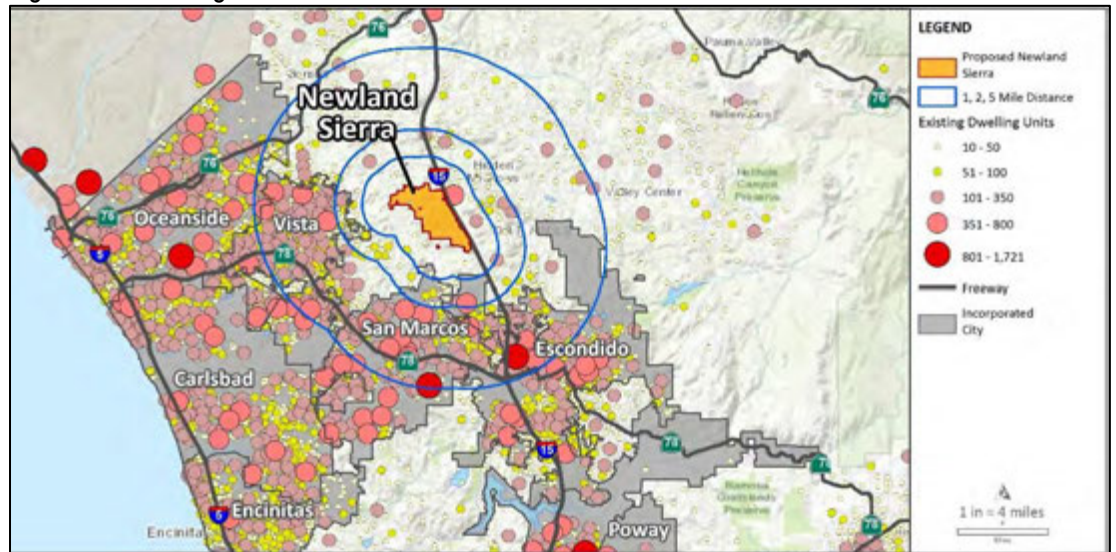


Figure 15: Housing



b. General Plan Amendment

The County can amend the General Plan pursuant to State Law (Government Code Section 65350). The General Plan (Chapter 1 - Implementing and Amending the Plan) establishes the methods and findings for amending the General Plan. The General Plan specifically states that “the General Plan is intended to be a dynamic document and must be periodically updated to respond to changing community needs.”

i. General Plan Conformance

The Specific Plan was reviewed to ensure that the proposed General Plan Amendment is in the public interest and will not be detrimental to public health, safety, and welfare. Staff reviewed all the 473 goals and policies in order to determine those that were applicable to the project and determined it to be consistent except where revisions have been proposed (i.e., North County Metropolitan Subregional Plan and Bonsall Community Plan). Staff reviewed all the public comments received regarding the Specific Plan’s consistency with the General Plan.

ii. Land Use and Housing Elements and Affordability

State Housing law requires that the County accommodate a share of the region’s projected housing needs by identifying an inventory of available housing sites in the General Plan Housing Element. This share of the region’s housing needs, called the Regional Housing Needs Assessment (RHNA), is important because State law mandates that jurisdictions provide sufficient land to accommodate a variety of housing opportunities for all economic segments of the community. To meet the RHNA for lower-income families, the Housing Element Sites Inventory relies on sites designated at 20 to 30 dwelling units per acre. To meet the RHNA for moderate-income families, sites were identified that permit the development of duplex, triplex, townhouse or other multi-family units in the density range of 10.9 to 15 units per acre.

Table C-1: RHNA Income Categories

Income Category	Dwelling Units Per Acre (Du/Ac)
Very Low	24-30
Low	20-24
Moderate	10.9-20
Above Moderate	Less than 10.9

Based on the proposed densities, the project will provide 294 units with densities between 24-30 du/ac, 221 units between 20-24 du/ac, 286 units between 10.9-20 du/ac, and 1,334 units which are less than 10.9 du/ac. The proposed densities are consistent with the very low income, low income, and moderate income RHNA categories. The project also includes 325 age-qualified units, which will be restricted to residents 55 and older.

General Plan Policies LU-1.2 & LU-1.4

The proposed project is not subject to County General Plan Policies LU-1.2 Leapfrog Development and LU-1.4 Village Expansion as it is not creating or modifying village boundaries.

General Plan Policy LU-1.8

General Plan Policy LU-1.8, Density Allocation on Project Sites, states that projects with more than one Land Use Designation and subject to a Specific Plan are allowed to transfer densities within the project, including across land use designation boundaries, to provide flexibility in project design. The proposed Specific Plan includes more than one land use designation, and, therefore, is allowed to transfer densities within the project.

General Plan Policy H-1.9

General Plan Policy H-1.9, Affordable Housing through General Plan Amendments, states that the County shall require developers to provide an affordable housing component when requesting a General Plan amendment for a large-scale residential project when legally permissible. The project does not conflict with this policy. Consistent with other General Plan Amendment projects approved by the Board since the adoption of the General Plan on August 3, 2011, the project does not include an affordable housing component as the County of San Diego does not have an inclusionary housing ordinance or other legal mechanism to require affordable housing units. The project consists of seven neighborhoods with a variety of housing types (townhomes, single-family clusters, small lots, family lots, large lots, age-targeted and age-qualified lots), with lot sizes (ranging from 3,000 to 7,500-square feet) for a broad range of age groups and income levels. Additionally, 325 of the project's dwelling units are age-qualified and located in the Mesa neighborhood.

Goal COS-21 – Parks and Recreational Facilities

Goal COS-21 of the County General Plan identifies a goal of 10 acres per 1,000 residents for local parks. Mini-parks are typically less than one acre and serve a limited population who live, work, or shop in a distinct area. Neighborhood parks typically range from five to 10 acres and serve a residential area. The proposed project will meet the requirements set forth by the PLDO for adequate park land dedication to reduce impacts, including cumulative impacts to local recreational facilities. The project proposes to include all parkland dedication on-site to comply with the PLDO. Overall, the project will result in approximately 36 acres of public and private parks on-site. While this project's parks will assist in meeting the General Plan goal, the goal does not apply on a project by project basis.

c. Zoning Ordinance Consistency

The surrounding lands are generally designated Rural Lands (RL-20), Semi-Rural Residential (SR-10), and Specific Plan (SP) and zoned Limited Agricultural (A72) lands or Rural Residential (RR).

Table C-2: Surrounding Zoning and Land Uses

Location	General Plan	Zoning	Description
North	(SR-10) Semi-Rural Residential (one dwelling unit per 10 or 20 acres); Public/Semi-Public Facilities; and (RL-20) Rural Lands (one dwelling unit per 20 acres)	RR A70	Undeveloped, Inactive Landfill, and Single-Family Residential
South	(SR-10) Semi-Rural Residential (one dwelling unit per 10 or 20 acres); Rural Commercial; and (RL-20) Rural Lands (one dwelling unit per 20 acres)	A70 C42 S92	Single-family Residential, Golden Door Resort & Spa, Undeveloped and Agriculture
East	(RL-20) Rural Lands (one dwelling unit per 20 acres); and Specific Plan	S90 S92	Single-family Residential, Undeveloped and Agriculture
West	(SR-10) Semi-Rural Residential (one dwelling unit per 10 or 20 acres); and Rural Lands (RL-20) (one dwelling unit per 20 acres)	RR A70	Undeveloped, Agriculture, and Mining

The portion of the project within the Bonsall Community Plan is currently zoned Rural Residential (RR) Use Regulations and the portion within the North County Metropolitan Subregional Plan Area is currently zoned General Rural (S92), Rural Residential (RR), Extractive Use (S82), Office-Professional (C30) and General Commercial (C36) Use Regulations. However, because the project proposes a GPA and Specific Plan, the existing Zoning regulations are proposed to be amended to implement the GPA and Specific Plan.

The Zone Reclassification will change the existing Zoning Use Regulations for the entire project to Single-Family Residential (RS) Use Regulations, Open Space (S80) and General Commercial-Residential (C34) Use Regulations.

2. Project Issues

a. Mobility - Streets, Roads, and Circulation

The County received extensive public comments regarding the proposed mobility plan for the project, including the potential use of eminent domain and the proposal to use and improve a number of existing public roads, such as Deer Springs Road. The comments identified concerns with road improvements, traffic, and design modifications. These issues are addressed below.

i. Traffic

A Traffic Impact Study (TIS) was prepared for the project that analyzed the project's potential direct, cumulative, and Horizon Year (General Plan Buildout) traffic impacts. The TIS estimated the proposed project will generate a total of 28,862 daily vehicle trips. The project assumed an overall 15.9-percent internal capture rate (project trips which remain within the project; Table 8-1 of the TIS) which resulted in 22,209 external trips (vehicle trips that will enter/exit the project).

Direct and cumulative traffic impacts were determined based on criteria in the County of San Diego Transportation and Traffic Guidelines dated August 24, 2011 and the SANTEC/ITE Guidelines.

The project's Traffic Impact Study (TIS) identified direct and cumulative traffic impacts to study area road segments and intersections located within the unincorporated County and City of San Marcos. In addition, direct and cumulative traffic impacts were identified to Caltrans I-15 and SR-78 facilities. The project's direct and cumulative traffic impacts and recommended mitigation measures are summarized in Table C-4.

Horizon Year

The TIS also includes a Horizon Year (General Plan Buildout) analysis comparing the Mobility Element adopted with the current General Plan to the project's Mobility Element (proposed GPA).

Under Option A, the project's GPA proposes to reclassify Deer Springs Road in the County's General Plan to be a 4.1A Major Road between Twin Oaks Valley Road and Sarver Lane, to a 2.1B Community Collector between Sarver Lane and Mesa Rock Road, and to a 4.1B Major Road between Mesa Rock Road and the I-15 Northbound Ramps. Option A will also amend Table M-4 of the Mobility Element to add Deer Springs Road from I-15 NB Ramps to North Centre City Parkway to the list of Accepted Roadway Classifications with Level of Service E/F. The project's proposed GPA will increase the potential trip generation of the project from 21,223 trips per day (current Mobility Element) to 22,209 external trips.

ii. Deer Springs Road

Deer Springs Road is a County Mobility Element road. From 1967 until 2011, Deer Springs Road was classified a 4-lane Major Road in the County's Mobility Element Plan. As part of the 2011 General Plan Update, Deer Springs Road was upgraded from a 4-lane Major Road to a 6-lane Prime Arterial.

Issue: Deer Springs Road is currently a two-lane undivided road current operating at a congested LOS. The project will result in a direct impact to the Deer Springs Road corridor. Two road options are proposed for the segment of Deer Springs Road, Option A and Option B.

Under Option A, this significant impact will not be fully mitigated; the impact will remain significant and unavoidable. Under Option B, recommended by staff, the impact will be mitigated to less than significant.

If Option A is approved, prior to the issuance of the certificate of occupancy for the 58th EDU, the Project applicant, or its designee, shall widen Deer Springs Road between Sarver Lane and Mesa Rock Road to a San Diego County 2.1B Community Collector with a two-way center turn lane standards.

OPTION A: Improve an approximately 6,600-foot-long section of the segment of Deer Springs Road between Sarver Lane and Mesa Rock Road to a 2.1B Community Collector (two lanes of travel with a continuous center turn lane). The balance of the road southwest into the City of San Marcos and east to I-15, including its intersections with Sarver Lane and Mesa Rock Road, would be improved to a 4.1A Major Road (a four lane road with a raised median). As a result, Option A would reclassify Deer Springs Road in the Mobility Element of the County's General Plan from a 6.2 Prime Arterial (six-lane) to a 4.1A Major Road with Raised Median and a 2.1B Community Collector with Continuous Turn Lane classifications. The centerline of Deer Springs Road would be realigned to ensure a minimum 750-foot turning radii along the entire alignment.

If Option B is approved, prior to the issuance of the certificate of occupancy for the 58th EDU, the Project applicant, or its designee, shall widen Deer Springs Road to San Diego County 4.1B Major Road standards between Sarver Lane and Mesa Rock Road.

OPTION B: Construct the entire length of the road from the I-15 interchange to its intersection with Twin Oaks Valley Road as a four-lane road, with an approximately 7,600-foot-long section of the road between Sarver Lane and Mesa Rock Road as a 4.1B Major Road (four lanes of travel with a continuous center turn lane), and the balance of the road, including its intersections with Sarver Lane and Mesa Rock Road, as a 4.1A Major Road.

The applicant will be required to make off-site improvements and will require additional right-of-way on Deer Springs Road. It will be the applicant's responsibility to obtain right-of-way from these property owners. In the event that the applicant cannot obtain the required right-of-way, the County may enact eminent domain pursuant to Board of Supervisor Policy J-33.

Figure 16: Deer Springs Road near Deer Springs Place (Existing)

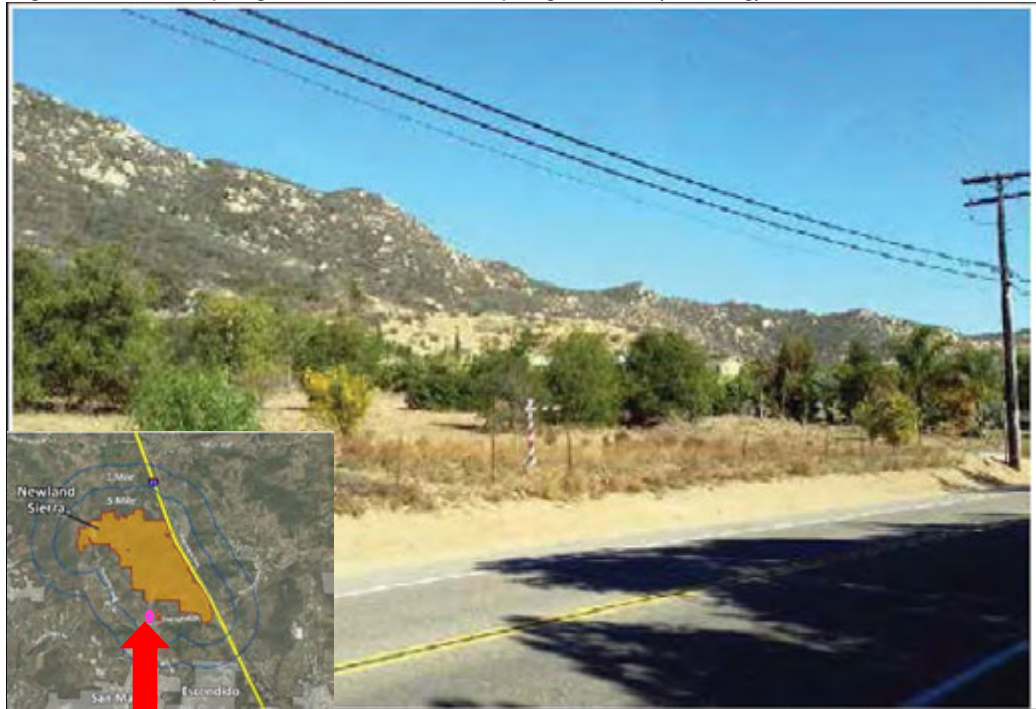


Figure 17: Deer Springs Road near Deer Springs Place (Option B)

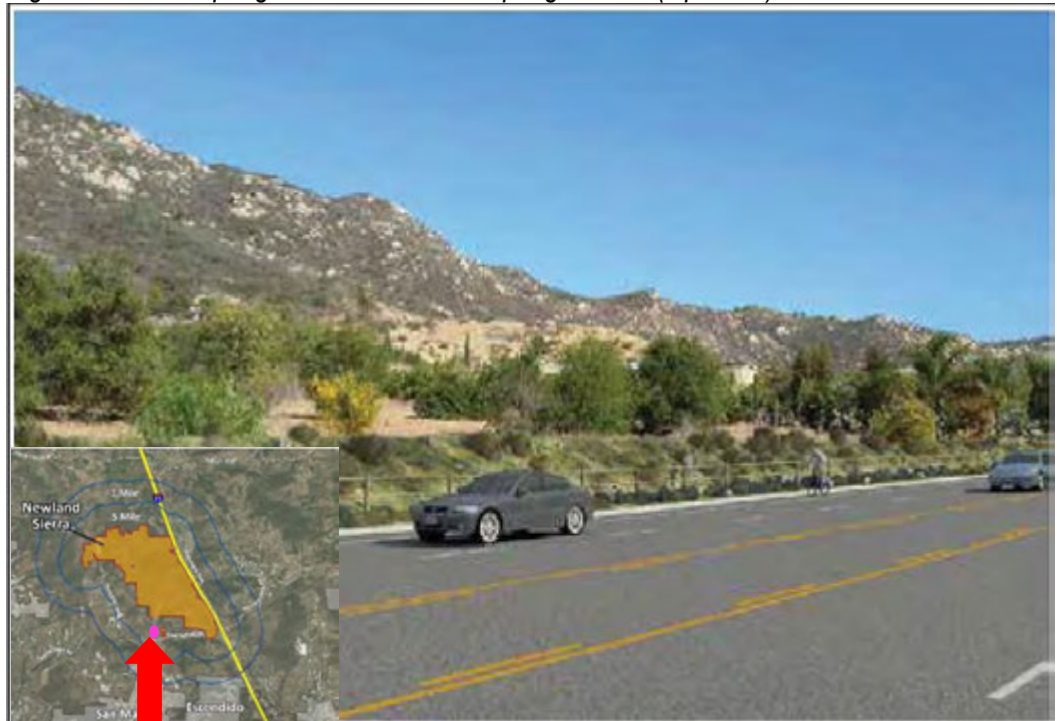


Figure 18: Deer Springs Road near Mesa Rock Road (Existing)

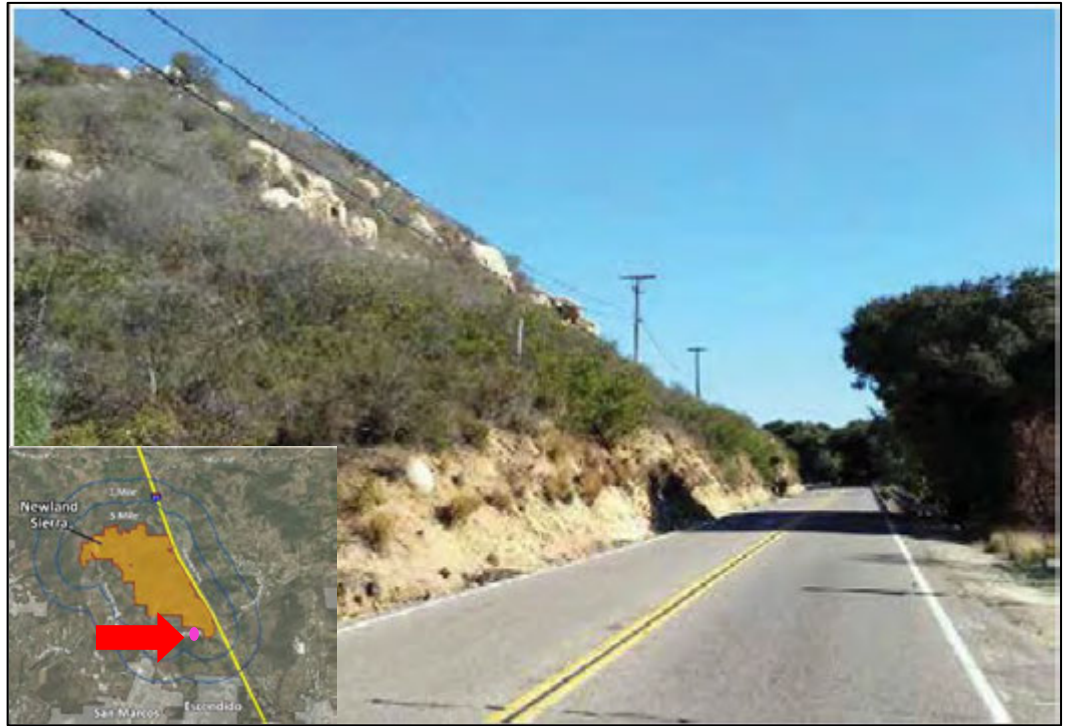


Figure 19: Deer Springs Road near Mesa Rock Road (Option B)



Staff Determination:

Both Option A and Option B will provide increased capacity on Deer Springs Road when compared to existing conditions, although when considering LOS, only Option B will meet the County's LOS standards at project buildout and provide for adequate daily traffic operations.

iii. Camino Mayor

One of the three access points provided to the project is located in the northwest portion of the project site, with access to North Twin Oaks Valley Road via Camino Mayor. As part of the project, the existing Camino Mayor dirt road east of North Twin Oaks Valley Road would be improved and connected to the project's internal roadway systems.

The alignment of Camino Mayor in its existing condition generally follows the alignment of the private road easements. The proposed alignment of Camino Mayor as shown on the Tentative Map also generally follows the alignment of the road's easements. Two additional alignments were considered in the EIR, Alignment 1 and Alignment 2, as follows:

Camino Mayor Alternative Alignment 1 would be directly north of the existing alignment and traverse through APN 174-300-21 to connect to the project site. Beginning at Camino Mayor's existing intersection with Twin Oaks Valley Road, this alternative would improve a small, approximately 400-foot-long segment of the road to just north of the shared driveway to APNs 174-300-24 and 174-300-23 and then divert away from the existing road easement onto APN 174-300-21. Camino Mayor Alternative Alignment 2 would stay entirely within the existing easements for Camino Mayor to the point at which it reaches the project site.

Staff Determination:

Both Camino Mayor Alternatives will have all the same design details and standards as the proposed alignment described above. Staff recommends Camino Mayor Alignment 1 as the applicant currently holds an option to purchase the required area for this option.

Figure 20: North Twin Oaks Valley Road near Camino Mayor (Existing)



Figure 21: North Twin Oaks Valley Road near Camino Mayor (Proposed)



iv. Design Modifications

The public and private road standards allow for modifications (design modifications) to the standards. As explained in the road standards, an applicant may request a modification by completing a “Request for a Modification of a Road Standard” form which details the location of the requested exception, alternatives considered, hardship of compliance with the standard, and cost estimates. Staff analyzed the design modifications to determine if they are appropriate based on the physical setting and to ensure they will not negatively impact traffic safety. Full descriptions of the requested design modifications can be found in the Newland Sierra Design Exception Requests dated June 2017. Attachment E includes the Newland Sierra - Design Exception

Requests letter dated June 14, 2018 and the Newland Sierra – Request for a Modification to Private Road Standards letter dated June 14, 2018 detailing staff's recommendations on the requested design modifications.

The Newland Sierra project includes 20 design modification requests for the following roadways: Mesa Rock Road Sections, Sarver Lane, Residential Collector Sections C1-C3, Residential Road Sections D1-D4 and E1-E2, Hillside Residential Street Sections F1-F2 and Alt. F2, Deer Springs Road Sections H1-H3, and Intersection Spacing. After review, County staff can support and recommend approval of all except two. County staff does not support modification requests Section H1 and Section H3 based on the following:

- a. Section H1: Staff does not support Section H1 as presented as an alternative for Deer Spring Road from Mesa Rock Road to 900 feet east of Sarver Lane. When presented to the Board and if the Board is to select the applicant's option, staff will request at a minimum, a raised median instead of a painted median be included as part of the section features for safety purposes with turn lanes and median openings allowed at appropriately determined locations and with the approval of the DPW Director or designee.
- b. Section H3: Staff does not support this alternative as presented with a painted median. Staff will be in support of a four-lane roadway with raised median. The raised median shall be of varying width (2-14') with turn lanes and median openings allowed at appropriately determined locations and with the approval of the Department of Public Works Director. The request for approval of design exception for the curve radius and the associated design speed is not applicable within this segment.

Figure 22: I-15 (Existing)



Figure 23: I-15 Proposed with Mature Landscaping (Proposed)



Figure 24: Deer Springs Road near Sarver Lane (Existing)



Figure 25: Deer Springs Road near Sarver Lane (Proposed)



Figure 26: Deer Springs Road near Sycamore Road (Existing)



Figure 27: Deer Springs Road near Sycamore Road (Proposed)



Table C-3: Newland Sierra Traffic Impacts and Mitigation

Deer Springs Road			
Direct Impacts			
Impacted Segment or Intersection		Mitigation Measures	Jurisdiction
Segment	Twin Oaks Valley Road to Sarver Lane (D-10)	Widen Deer Springs Road to City of San Marcos 4-Lane Arterial standards b/t Twin Oaks Valley Road and the City Limits; San Diego County 4.1A Major Road standards b/t City Limits and Sarver Lane	City of San Marcos / San Diego County
	Sarver Lane to Mesa Rock Road (D-11)	Option A: Widen Deer Springs Road to San Diego County 2.1B Community Collector w/ a two way center turn lane b/t Sarver Lane and Mesa Rock Road; Option B: Widen Deer Springs Road to San Diego 4.1A Major Road Standards b/t Sarver Lane and Mesa Rock Road	San Diego County
	Mesa Rock Road to I-15 (D-12)	Widen Deer Springs Road to San Diego 4.1A Major Road Standards w/ auxiliary lanes b/t Mesa Rock Road and I-15	San Diego County
Intersection	I-15 NB Ramps (D-1)	Three-phase PSR process with Caltrans	Caltrans / San Diego County
	I-15 SB Ramps (D-2)	Three-phase PSR process with Caltrans	Caltrans / San Diego County
	Mesa Rock Road (D-3)	Reconstruct the intersection	San Diego County

	Sarver Lane (D-4)	Install traffic signal and reconstruct the intersection	San Diego County
Cumulative Impacts			
	Impacted Segment or Intersection	Mitigation Measures	Jurisdiction
Segment	Twin Oaks Valley Road to Sarver Lane (C-12)	Same as Mitigation for D-10 & D-9	City of San Marcos / San Diego County
	Sarver Lane to Mesa Rock Road (C-13)	Same as Mitigation for D-11	San Diego County
	Mesa Rock Road to I-15 (C-14)	Same as Mitigation for D-12	San Diego County
Intersection	I-15 NB Ramps (C-1)	Same as Mitigation for D-1	Caltrans / San Diego County
	I-15 SB Ramps (C-2)	Same as Mitigation for D-2	Caltrans / San Diego County
	Mesa Rock Road (C-3)	Same as Mitigation for D-3	San Diego County
	Sarver Lane (C-4)	Same as Mitigation for D-4	San Diego County
	Sycamore Road (C-5)	Signalize this intersection	San Diego County

Twin Oaks Valley Road			
Direct Impacts			
Impacted Segment or Intersection		Mitigation Measures	Jurisdiction
Segment	Deer Springs Road to Buena Creek Road (D-13)	Widen Twin Oaks Valley Road to City of San Marcos 4-Lane Arterial standards; Significant and unavoidable	City of San Marcos
	Buena Creek Road to Cassou Road (D-14)	Same as Mitigation for D-6; pay a fair share to the City of San Marcos	City of San Marcos
Intersection	Deer Springs Road (D-5)	Reconstruct the intersection	City of San Marcos
	Buena Creek Road (D-6)	Reconstruct the intersection	City of San Marcos
Cumulative Impacts			
Impacted Segment or Intersection		Mitigation Measures	Jurisdiction
Segment	Deer Springs Road to Buena Creek Road (C-15, H-1, AH-2)	Same as Mitigation for D-13; Fair share	City of San Marcos
	Buena Creek Road to Cassou Road (C-16)	Same as Mitigation for D-14	City of San Marcos
	Richmar Avenue to San Marcos Boulevard (C-17)	Same as Mitigation for C-8	City of San Marcos
Intersection	Deer Springs Road (C-6)	Same as Mitigation for D-5	City of San Marcos
	Buena Creek Road (C-7)	Same as Mitigation for D-6	City of San Marcos

	San Marcos Boulevard (C-8)	Contribute a fair share towards installing a dedicated southbound right-turn lane and a third westbound left-turn lane at this intersection, with appropriate signal modifications	City of San Marcos
	Richmar Avenue (AH-1)	Fair share	City of San Marcos

<i>Buena Creek Road</i>			
<i>Direct Impacts</i>			
<i>Impacted Segment or Intersection</i>		<i>Mitigation Measures</i>	<i>Jurisdiction</i>
<i>Segment</i>	S. Santa Fe Avenue to Monte Vista Drive (D-15)	Same as Mitigation for D-7 & D-8	San Diego County
	Monte Vista Drive to Twin Oaks Valley Road (D-16)	Same as Mitigation for D-6 & D-9	San Diego County
<i>Intersection</i>	South Santa Fe Avenue (D-7)	Provide dedicated right-turn and left-turn lanes on southbound Buena Creek Road	San Diego County
	Monte Vista Drive (D-9)	Provide a traffic signal; or, Build a roundabout	San Diego County
<i>Cumulative Impacts</i>			
<i>Impacted Segment or Intersection</i>		<i>Mitigation Measures</i>	<i>Jurisdiction</i>

Segment	S. Santa Fe Avenue to Monte Vista Drive (C-18)	Same as Mitigation for D-7 & D-9	San Diego County
	Monte Vista Drive to Twin Oaks Valley Road (C-19)	Same as Mitigation for D-6 & D-9	San Diego County
Intersection	South Santa Fe Avenue (C-9)	Same as Mitigation for D-7	San Diego County
	Monte Vista Drive (C-11)	Same as Mitigation for D-9	San Diego County

Robelini Drive

Direct Impacts

Impacted Segment or Intersection		Mitigation Measures	Jurisdiction
Segment	Sycamore Avenue to South Santa Fe Avenue (D-17)	Widen Robelini Drive to four lanes; AND, acquisition of a minimum of 48 feet of additional right-of-way (4.1A Major Road Standard)	San Diego County
Intersection	South Santa Fe Avenue (D-8)	No feasible improvement available; Significant and unavoidable	San Diego County

Cumulative Impacts

Impacted Segment or Intersection		Mitigation Measures	Jurisdiction
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Segment	Sycamore Avenue to South Santa Fe Avenue (C-22)	Participate TIF	San Diego County
Intersection	South Santa Fe Avenue (C-10)	No feasible improvements that fully mitigate; Participate TIF	San Diego County

South Santa Fe Avenue			
Direct Impacts			
Impacted Segment or Intersection		Mitigation Measures	Jurisdiction
Segment	Woodland Drive to Buena Creek Road (D-18)	Same as Mitigation for D-7 ; Modify signal timing plan and the upgrade intersection signal equipment	San Diego County
Cumulative Impacts			
Impacted Segment or Intersection		Mitigation Measures	Jurisdiction
Segment	Woodland Drive to Buena Creek Road (C-23)	Participate TIF	San Diego County

Monte Vista Drive			
Cumulative Impacts			
<i>Impacted Segment or Intersection</i>		<i>Mitigation Measures</i>	<i>Jurisdiction</i>
Segment	Foothill Drive to Buena Creek Road (C-20)	Same as Mitigation for D-9	San Diego County

Gopher Canyon Road			
Cumulative Impacts			
<i>Impacted Segment or Intersection</i>		<i>Mitigation Measures</i>	<i>Jurisdiction</i>
Segment	Little Gopher Canyon Road to I-15 Ramps (C-21)	Participate TIF	San Diego County

<i>Interstate 15</i>		
<i>Direct Impacts</i>		
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Jurisdiction</i>
Deer Springs Road to Pomerado Road (D-19)	Significant and unavoidable	Caltrans
<i>Cumulative Impacts</i>		
Old Highway 395 to Pomerado Road (C-24)	Significant and unavoidable	Caltrans

<i>State Route 78</i>		
<i>Cumulative Impacts</i>		
<i>Impact</i>	<i>Mitigation Measures</i>	<i>Jurisdiction</i>
Mar Vista Road to Sycamore Avenue (C-25)	Fair share payment to Caltrans for the planned improvement to add high-occupancy-vehicle (HOV) lanes in both directions on State Route 78	Caltrans

b. Facilities and Services

Fire Service and Evacuation

The project is within the Deer Springs Fire Protection District. DSFPD currently operates three fire stations, all of which could respond to a fire or medical emergency at the project. The project has prepared a Fire Protection Plan (FPP), which evaluates and identifies the potential fire risk associated with the proposed project's land uses and identifies requirements for water supply, fuel modification and defensible space, access, building ignition and fire resistance, fire protection systems, and wildfire emergency pre-planning, among other pertinent fire protection criteria.

Staff has determined that the project complies with policy S-6.4 Fire Protection Services for Development, because fire and emergency services will be provided to the project within the five-minute travel time. Initial fire response for the improved portions of the Newland Sierra project area will be provided by DSFPD's Station 12, due to its proximities that enable response within five minutes travel to all improved areas. In addition to Station 12, Stations 11 and 13 can also respond to the project within 10 minutes to round out the effective firefighting force. In addition, San Marcos Fire Protection District and Escondido Fire Department, as well as other north county fire agencies, are parties to automatic aid or mutual aid agreements. These agreements provide additional resources during emergency conditions. Wildland areas adjacent to the project are the responsibility of CAL FIRE due to their State Responsibility Area designation. DSFPD, along with other area agencies, respond simultaneously with CAL FIRE for wildland fires through a coordinated local agency response system.

The project will increase demand on fire and emergency medical services; however, Station 12 has the capacity to provide service to and throughout the project in accordance with the County General Plan's five-minute threshold. The EIR determined that the project will not have a significant impact on fire protection services and facilities. The EIR's determination is based, in part, on the fact that payment of the required Fire Mitigation Fees will be satisfied by the project pursuant to a fire fee payment agreement. Newland Sierra, LLC and DSFPD have executed a fire fee payment agreement. Under the agreement, fire mitigation fees of \$2,468,732 paid to the County. In addition to the fire mitigation fees, the applicant shall pay an additional public benefit payment in the amount of \$2,010,834.

Based on the results of the FPP's analysis and findings, the following FPP mitigation measures will be implemented by the project:

- i. Preparation of a Construction Fire Prevention Plan detailing the important construction phase restrictions and fire safety requirements that will be implemented to reduce risk of ignitions and pre-plans for responding to an unlikely ignition.
- ii. Project buildings will be constructed of ignition resistant construction materials based on the latest Building and Fire Codes.

- iii. Fuel Modification will be provided throughout the perimeter of the project and will be 250 feet wide in most locations. Maintenance will occur as needed and the home owners association (HOA) will annually hire a 3rd party, qualified Fuel Modification Zone inspector to provide twice yearly (June 1st and October 1st) certification that it meets the requirements of the FPP.
- iv. Fire apparatus access roads will be provided throughout the community and will vary in width and configuration, but will all provide at least the minimum required unobstructed travel lanes, lengths, turnouts, turnarounds, and clearances.
- v. Firefighting staging areas/temporary refuge areas are available throughout the facility as well as along roadways and site green spaces.
- vi. Access to the project's open space area is provided via access points that are spaced, on average, every 650 lineal feet with a maximum of 1,300 feet.
- vii. Water capacity and delivery provide for a reliable water source for operations and during emergencies requiring extended fire flow.
- viii. A project-specific evacuation plan has been prepared for the project based on input and coordination with DSFPD and San Diego County Fire Authority (SDCFA).
- iv. The Community HOA will have an outreach and educational role to coordinate with DSFPD and the local Fire Safe Council, oversee landscape committee enforcement of fire safe landscaping, ensure fire safety measures detailed in the FPP have been implemented, and educate residents on and prepare facility-wide "Ready, Set, Go!" plans.

Emergency Evacuation: The community has expressed concerns that the proposed project will increase the number of people that will need to be evacuated during a wildfire event, and will increase the overall evacuation time. A Wildland Fire Evacuation Plan (Plan) has been prepared for the Newland Sierra Community, which was reviewed for accuracy by SDCFA and DSFPD. Although wildland fire and other emergencies are often fluid events and the need for evacuations are typically determined by on-scene first responders or emergency response teams, the Plan evaluated the project's impact on emergency evacuation. The Plan is not a requirement per CEQA and was not necessary to reach any of the significance conclusions in the EIR.

The Plan identifies evacuation routes, evacuation points, and specific measures to keep future residents and employees informed about what to do in the event of an emergency. The Plan includes both primary and secondary evacuation routes. All proposed evacuation routes have been designed in accordance with the County Consolidated Fire Code and will comply with minimum horizontal radius, fall within the 20 percent maximum allowable grade, and meet or exceed the minimum paved width requirements. The Plan is designed to allow adjustments to the plan throughout each phase of construction, and fire and law enforcement officials will be given an opportunity to review the plan to ensure its accuracy with each future

phase. The Plan also includes an educational component that ensures that evacuation information is consistently and timely communicated to residents.

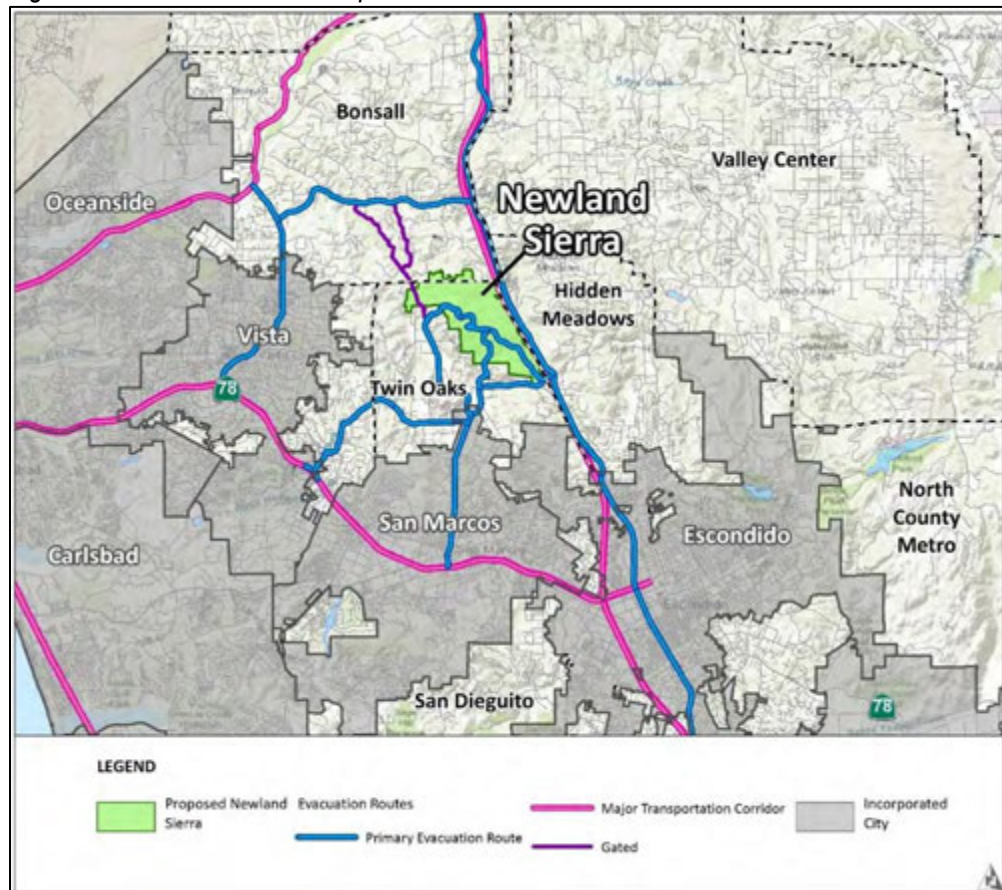
The project's primary evacuation routes are accessed through a series of internal neighborhood roadways and three access points. Based on the proposed road network, project residents can evacuate to the east, west and south of the project depending on the nature of the emergency. The primary evacuation routes for the project are:

1. **Egress to the south via Mesa Rock Road** – This is the primary Newland Sierra access road and connects with Deer Springs Road, which offers travel options to the west and south into San Marcos or to the east and then north or south on either the I-15 or Old Highway 395. Likely neighborhoods using this access during an evacuation include: Town Center, Mesa, Terraces, and Hillside.
2. **Egress to the south on Sarver Lane** - this secondary access road provides a route to Deer Springs Road at which point, travel to the west and south into San Marcos or east and then north or south (on I-15 or Old Highway 395) is possible. Likely neighborhoods using this access road during an evacuation are Valley, Knolls, and/or Mesa.
3. **Egress to the west via Camino Mayor** – This secondary access roads connect with North Twin Oaks Valley Road and provide southerly access to Twin Oaks Valley Road. Travel to the south to San Marcos on Twin Oaks Valley Road or Buena Creek Road or to the east via Deer Springs Road, and then north or south via I-15 or Old Highway 395 is available. Travel to the north on North Twin Oaks Valley Road may be directed by law enforcement. However, residents are not advised to utilize this route without law enforcement direction because it is a gated road and should not be assumed passable. In an emergency evacuation, any of the neighborhoods may be directed to utilize Camino Mayor, but based on proximity, Summit is the only neighborhood likely to use this route to North Twin Oaks Valley Road.

According to the Plan, the potential amount of time needed to evacuate the Newland Sierra Community, based on the planned roadway improvements, was conservatively calculated based on the following factors: 1) the internal roadway capacities, 2) three available egress routes with estimated 60% of vehicles (2,820) using Mesa Rock Road, 30% (1,410) using Sarver Lane, and 10% (470) using Camino Mayor, and 3) off-site roadway capacities.

Based on these factors and assumptions regarding neighborhood evacuation routes, it is estimated that the 2,820 vehicles anticipated to use Mesa Rock Road to the improved Deer Springs Road (minimum capacity of 3,200 vehicles), to I-15, can be evacuated from the project within, conservatively, 1.5 hours. Simultaneous evacuation of the estimated 1,410 vehicles via Sarver Lane (minimum capacity of 3,200 vehicles) to Deer Springs, to Twin Oaks Valley Road (minimum capacity of 5,600 vehicles) will require less than one hour. The 470 vehicles estimated to use Camino Mayor or the Camino Mayor alternative (minimum capacity of 1,000 vehicles) to North Twin Oaks Valley Road (minimum capacity of 1,350 vehicles) to Twin Oaks Valley Road (5,600 vehicles) will be approximately 30 minutes. Therefore, it is conservatively estimated that the community can be completely evacuated within 1.5 to two hours once notification has been provided.

Figure 28: Fire Evacuation Map



Water Service

Water Supply

A Water Supply Assessment (WSA) has been prepared for the project pursuant to State Law (SB 610/221) and has been certified by VWD. The WSA determined that the project will result in a net overall decrease in imported water demand compared to the existing general plan. The imported water demand for the project was specifically considered by VWD, County of San Diego and San Diego County Water Authority. The County independently evaluated and approved the study to ensure water availability.

The District's 2008 Master Plan used the 1979 County General Plan zoning to project a water demand of 1.74 million gallons per day (MGD) or 1,945 AFY; the 2014 Draft Master Plan Update and 2015 Urban Water Management Plan uses the 2011 County General Plan Update land use and revised unit water demand factors for a decreased water demand projection of 1.63 MGD or 1,825 acre-feet per year (AFY). As detailed below, the current zoning for the existing general plan would require a higher water demand for the project site than the proposed project.

Newland Sierra's water demand projections estimate that 1,624 AFY will be needed for the project before reductions are taken. The project proposes conservation measures that are estimated to reduce total water demand at Newland Sierra by up to 428 AFY to a demand of 1,196 AFY. Furthermore, the Water Conservation Demand Study (EIR Appendix T), which calculated the water savings achieved by implementing current state and local indoor and outdoor water conservation requirements within the project's Specific Plan and under a separate setting that involves taking "land use deductions," within which outdoor water uses are eliminated for open space and non-irrigated fuel modification zones. Under this methodology, water demand dropped by an additional 326 AFY, resulting in a total water demand of 870 AFY for the project. This reduced water demand represents a 46 percent reduction in water use compared with the Water Supply Assessment estimate, and a 52 percent reduction in water use compared with VWD's draft 2014 Master Plan. The project would require 870 AFY.

c. Biological Resources

The project site is located within the northern portion of the Merriam Mountains, a narrow chain of low mountains generally running north/south, with east/west-trending ridgelines and scattered peaks. These mountains originate near the northern end of the City of Escondido and are bordered by Gopher Canyon Road to the north, I-15 to the east, and Twin Oaks Valley Road to the west. Much of the northern two-thirds of the Merriam Mountains have a high habitat value due to their undeveloped nature and potential to provide a major block of habitat that could contribute to regional conservation planning. The site contains natural features of scenic and biological value, including rugged topography and rock outcroppings. Elevations on the project site range from approximately 660 feet above mean sea level (AMSL) along Twin Oaks Valley Road traversing the northwestern portion of the site to 1,750 AMSL directly northeast of Twin Oaks Crest Drive.

The County has included the project site as a hardline project in the draft North County Multiple Species Conservation Program (MSCP). Hardline projects designate specific areas for development and conservation within the project boundaries. The previous Merriam Mountain project successfully negotiated a hardline design with the California Department of Fish and Wildlife (CDFW) and United States Fish and Wildlife Service (USFWS).

Biological resources on the project site were evaluated through assessment of existing vegetation communities, plant species, and wildlife species. Biological surveys were conducted from 2000 to 2017 and included vegetation mapping; focused rare plant surveys; a jurisdictional delineation; a nesting raptor survey; a reptile habitat assessment; wildlife crossing and culvert review; and focused surveys for burrowing owl (*Athene cunicularia*), least Bell's vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii extimus*), coastal California gnatcatcher (*Poliottila californica californica*), and Harbison's dun skipper (*Euphyes vestris harbisoni*). Additionally, a review of winter puddles was conducted, including surveys for listed large branchiopods (fairy shrimp) in January and February 2017.

Based on the surveys conducted, eight special-status plants and 20 special-status wildlife species, including one federally and state-listed species, coastal California gnatcatcher,

were identified onsite. Development of the project and off-site impact areas, as proposed, will result in potentially significant direct and/or indirect effects to special-status plant species; special-status wildlife species; special-status vegetation communities; and jurisdictional resources, including County RPO wetlands and wetland buffers.

Coastal sage scrub is a classified vegetation by CDFW and United States Fish and USFWS that provides foraging value and critical habitat for the coastal California gnatcatcher. In order for the proposed project to obtain approval for the loss of coastal sage scrub and any associated incidental take of coastal California gnatcatcher through the County's Section 4(d) Habitat Loss Permit (HLP) process, the proposed project must demonstrate conformance with overall programmatic goals and policies established for the San Diego County Natural Community Conservation Planning (NCCP) subregion and make the specific findings applicable to issuance of an HLP. A draft HLP was circulated for public review and can be found in Attachment G.

Based upon the surveys prepared for the Newland Sierra project, the project will result in potential impacts as follows:

- i. Impacts to the following habitats: coastlive oak woodland, coastal sage scrub, disturbed coastal sage scrub, granitic southern mixed chaparral, scrub oak chaparral, disturbed habitat, RPO wetland buffers, southern coast live oak riparian forest, disturbed wetland, mulefat scrub, southern willow scrub, eucalyptus, non-native grassland, flat-topped buckwheat – disturbed, mafic southern mixed chaparral, coast live oak woodland, freshwater marsh, southern coast live oak riparian forest, orchard and vineyards, and arundo-dominated riparian.
- ii. Impacts to the following Special-Status plant species: orcutt's brodiaea (*Brodiaea orcutti*), summer holly (*comarostaphylis diversifolia* ssp. *diversifolia*), Ramona horkelia (*horkelia truncate*), munz's sage (*salvia munzii*), chaparral rein orchid (*piperia cooperi*), Engelmann oak (*quercus engelmannii*), and ashy spike-moss (*selaginella cinerascens*).
- iii. Impacts to the following County Group I and II wildlife species and their habitat: coastal whiptail (*aspidoscelis tigris stejnegeri*), blainville's horned lizard (*phrynosoma blainvillei*), coast patch-nosed snake (*salvadora hexalepis virgultea*), red-diamond rattlesnake (*crotalus ruber*), San Diego ringneck snake, belding's orange-throated whiptail, Coronado skink (*plestiodon skiltonianus*), bell's sparrow (*artemisiospiza bellii*), cooper's hawk (*accipiter cooperii*), sharp-shinned hawk (*accipiter striatus*), mule deer (*odocoileus hemionus*), red-shouldered hawk (*buteo lineatus*), turkey vulture (*cathartes aura*), northern harrier (*circus cyaneus*), coastal California gnatcatcher (*polioptila californica californica*), yellow warbler (*setophaga [dendroica] petechia brewsteri*), San Diego desert woodrat (*neotoma lepida intermedia*), northwestern San Diego pocket mouse (*chaetodipus fallax fallax*), and western bluebird (*sialia mexicana*).

Although the southern portion of the site will be developed, approximately 1,209 acres (61% of the project site) would be endowed and managed onsite as permanent open space. The location of this proposed open space is shown in Figure 29. This open space will form a centroid of habitat connectivity to the north, south, east, and west, thereby retaining

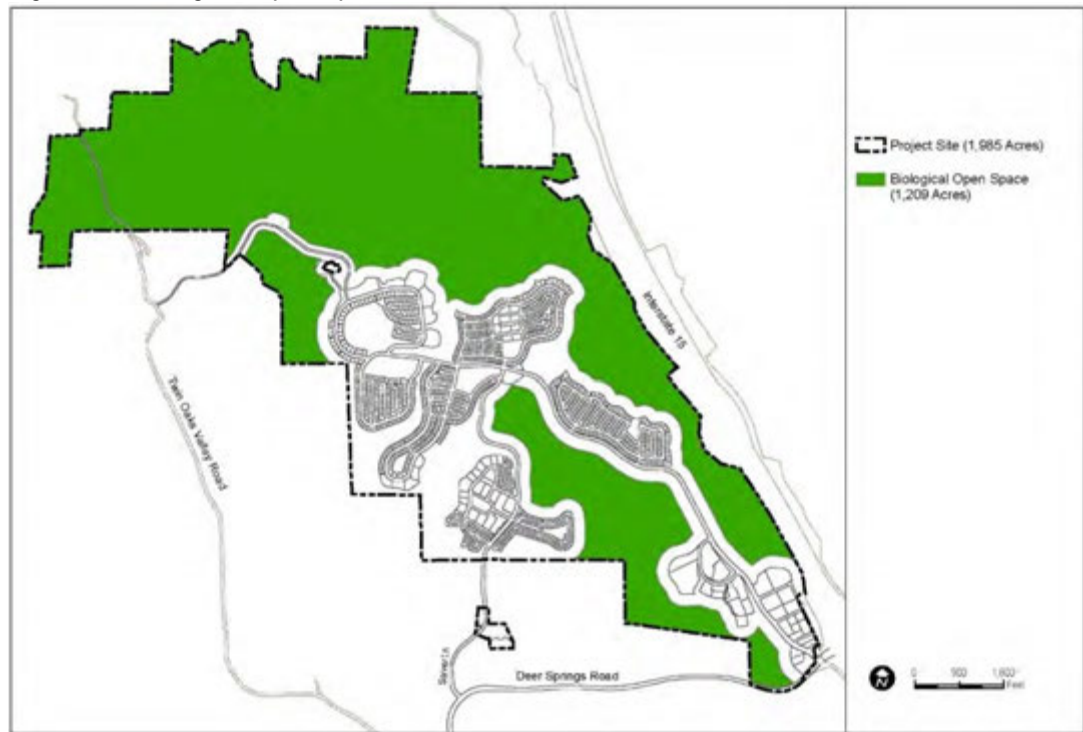
connectivity of currently undeveloped landscapes throughout and surrounding proposed development. The proposed open space design also includes a diverse array of environmental features including ridgetops, hill tops, and rocky outcrops. Although small mammals may regularly utilize the dense chaparral occurring on the site, larger mammals such as mule deer and coyote are expected to utilize dirt trails and riparian corridors occurring throughout the open space as their primary means of travel. Similarly, small wildlife species will continue to utilize the dense chaparral and dirt trails within the proposed open space. By developing the site into one single development, the project will prevent the future construction of single family residences on the 33 existing legal lots that make up the site as well as the future subdivision of all or some of the 33 lots. If each of the individual on-site lots were developed with single-family residences, subdivided or planted with agriculture, open space preservation and connectivity values of the site would be greatly diminished.

In addition to the conservation of onsite open space, to mitigate for impacts of the project on biological resources, the following measures, as further detailed in the Draft Final EIR, will become conditions of approval of the project:

- i. Offsite Habitat Preservation (212 acres of habitat located within a draft Pre-Approved Mitigation Area (PAMA) of the draft North County MSCP)
- ii. Limited Building Zones (LBZ)
- iii. Open Space Fencing and Signage
- iv. Preparation of a Resource Management Plan
- v. Wetland Mitigation and Preparation of a Revegetation Plan
- vi. Invasive Species Prohibition
- vii. Control of Invasive Species
- viii. Biological Monitoring
- ix. Preparation of a Lighting Plan
- x. Horkelia Relocation Plan
- xi. Breeding Season Avoidance
- xii. Preparation of a Fire Protection Plan

With the implementation of the mitigation detailed above, the Newland Sierra project will have a less than significant impact on biological resources.

Figure 29: Biological Open Space



3. California Environmental Quality Act (CEQA) Compliance

The project has been reviewed in compliance with the CEQA. A Notice of Preparation (NOP) for an EIR was circulated from February 12, 2015 to March 16, 2015. A Draft EIR was prepared for this project and was circulated for a 60 day public review period from June 15, 2017 to August 14, 2017. The County held two public meetings during the EIR process, including an NOP meeting on March 16, 2015 and an EIR meeting on July 18, 2017.

The Draft Final EIR identified significant and unavoidable environmental impacts to the following that will require the adoption of a Statement of Overriding of Considerations, which is included in Attachment G – Environmental Documentation:

- a. Aesthetics
- b. Air Quality
- c. Mineral Resources
- d. Noise
- e. Population and Housing
- f. Transportation and Traffic

The Draft Final EIR also identified significant and mitigated environmental impacts to the following.

- a. Air Quality
- b. Agricultural Resources
- c. Biological Resources

- d. Cultural Resources
- e. Geology and Soils
- f. Greenhouse Gas Emissions
- g. Hazards and Hazardous Materials
- h. Paleontological Resources
- i. Utilities and Service Systems

During public review, the County received extensive public comments on the Draft EIR. Staff's responses to the public comments are included in the Draft Final EIR, which is on file with PDS under PDS2015-ER-15-08-001 (Attachment B).

Significant and Unavoidable Impacts

a. Aesthetics

Visual Character or Quality (direct): The visual change associated with removal of existing vegetation and alteration of existing terrain to accommodate proposed residential, commercial, and educational land uses and associated infrastructure will be most evident as viewed from locations in the viewshed located east of project. From this viewshed, the introduction of project elements will result in an adverse change to the primarily undisturbed chaparral-covered hill and valley terrain visual character of the project site. Level of contrast associated with development of the proposed project, and implementation of roadway improvements along the identified segment of Deer Springs Road, will significantly alter the current visual character of the project site.

Visual Character or Quality (cumulative): The cumulative projects will combine with the proposed project to change the existing composition of the visual environment. With implementation of the identified projects and the proposed project, the area will transition from primarily agriculture and rural residential land use development pattern to a more urban pattern of development. Physical changes associated with vegetation removal, grading, and the addition of residential development will adversely affect the viewshed.

b. Air Quality

Conformance to Regional Air Quality Strategy (direct): The project will result in a more intense land use and will generate greater operational trips than those land uses currently allowed under the existing General Plan. As the proposed project will contribute to local population and employment growth and associated VMT that is not anticipated for the project in the existing General Plan, the proposed project is not accounted for in the SIP and RAQS, and the proposed project potentially will not be consistent with local air quality plans. The impact will be eliminated once the SDAPCD completes a future update to the RAQS, which will be based on updated SANDAG population and growth projections for the region. Mitigation measure M-AQ-1 is provided to ensure population growth and vehicle trips generated from the proposed project are provided to SANDAG for incorporation into the future RAQS update. This update will likely occur following project approval; therefore, at this time the impact is considered potentially significant.

Conformance to Air Quality Standards—Construction (direct and cumulative): Daily construction emissions will exceed the thresholds for VOC, NO_x, CO, PM₁₀ and PM_{2.5}. Mitigation measures were identified and shall be implemented during each phase of construction in order to minimize emissions to the extent feasible. These measures include, but are not limited to, the use of Tier 4 construction equipment, electrical or natural gas-powered equipment where feasible, a construction worker ridership plan, and a fugitive dust control plan. Although mitigation was identified, the Draft Final EIR determined direct impacts will be significant and unavoidable. In addition, when considered in combination with reasonably foreseeable future projects under the cumulative scenario, impacts will be significant and unavoidable.

Conformance to Air Quality Standards—Operation (direct and cumulative): Daily operational emissions will exceed the thresholds for VOC, CO, PM₁₀ and PM_{2.5}. Mitigation measures were identified and shall be implemented. These measures include, but are not limited to, preferential parking for electric vehicles, the provision of educational materials regarding alternative transportation for future residents and tenants, and the provision of a loading dock with electrical hook-up to power refrigerated trucks (to reduce idling time at commercial sites that use refrigeration). Although mitigation was identified, the Draft Final EIR determined direct impacts will be significant and unavoidable. In addition, when considered in combination with reasonably foreseeable future projects under the cumulative scenario, impacts will be significant and unavoidable.

c. Mineral Resources

Loss of Availability of Mineral Resources: The proposed project will result in the loss of availability of approximately 156.8 acres of Mineral Resource Zone (MRZ-2) designated land, which means adequate information indicates significant mineral deposits are present in the area, or a high likelihood exists for their presence. As no measures that will mitigate impacts to below a level of significance for the loss of availability of mineral resources have been found to be feasible, impacts will be significant and unavoidable.

d. Noise

Traffic Noise Levels (cumulative): Noise level increases resulting from increased traffic along Deer Springs Road at the residence northeast of Golden Door will be 3 decibels under Deer Springs Road Option B. No feasible mitigation measures exist to reduce identified impacts below a level of significance. Therefore, impacts will be significant and unavoidable.

e. Population and Housing

Induce Substantial Population Growth (direct): The proposed project will induce substantial population growth because it will exceed planned residential and population growth in the area, result in land uses that could provide economic stimulus, and expand roadways that will accommodate higher capacities and improve accessibility, consistent with the County General Plan Mobility Element. No feasible mitigation measures exist to reduce identified impacts below a level of significance. Therefore, impacts will be significant and unavoidable.

Induce Substantial Population Growth (cumulative): The proposed project, in combination with the cumulative projects, will result in substantial population growth. No feasible mitigation measures exist to reduce identified impacts below a level of significance. Therefore, impacts will be significant and unavoidable.

f. Transportation and Traffic

County of San Diego Intersection Level of Service (LOS) (direct): The proposed project will result in a significant impact on the LOS at seven intersections (see Table S-1 of the DEIR). With the implementation of the project's improvements, six of the intersection impacts would be mitigated to less than significant. One intersection mitigation measure is considered infeasible and the impact is considered significant and unavoidable.

County of San Diego Street Segment LOS (direct): The proposed project will result in a significant impact on the LOS at seven street segments (see Table S-1 of the DEIR). With the implementation of the project's improvements, four of the street segment impacts would be mitigated to less than significant. Two of the street segment mitigation measures are considered infeasible and the impacts is considered significant and unavoidable. One segment is under Caltrans's jurisdiction and is subject to the Caltrans's review and approval. For this reason, this one segment impact is considered significant and unavoidable. For Option A, the project would result in a significant and unavoidable impact to the segment of Deer Springs Road between Sarver Lane and Mesa Rock Road.

County of San Diego Intersection LOS (cumulative): The proposed project will result in a cumulatively considerable impact on the LOS at six intersections (see Table S-1 of the DEIR). With the project's proposed mitigation measures, all of the intersection impacts would be mitigated to less than significant.

County of San Diego Street Segment LOS (cumulative): The proposed project will result in a cumulatively considerable impact on the LOS at seven street segments (see Table S-1 of the DEIR). With the project's proposed mitigation measures, six of the segment impacts would be mitigated to less than significant. One segment is under Caltrans's jurisdiction and is subject to the Caltrans's review and approval. For this reason, this one segment impact is considered significant and unavoidable.

The project will also impact additional intersections and segments within the jurisdictions of Caltrans and San Marcos. The project applicant and the County have coordinated with Caltrans and City of San Marcos to develop mitigation measures (portion of County TIF/fair share contribution and physical improvements) that are anticipated to address the impacts and the County required the improvements as conditions of the project, subject to the review and approval of Caltrans and San Marcos. However, the facilities that are under the jurisdiction of other agencies (Caltrans and City of San Marcos) and are outside of the County's control to implement. Therefore, from a CEQA standpoint, impacts to Caltrans facilities and City of San Marcos jurisdiction will remain significant and unavoidable.

City of San Marcos

City of San Marcos Intersection Level of Service (LOS) (direct): The proposed project will result in a significant impact on the LOS at two intersections (see Table S-1 of the DEIR). Although mitigation was identified for each intersection, the timing and implementation of these improvements are under the city's jurisdiction and they are subject to the city's review and approval. For this reason, these impacts are considered significant and unavoidable.

City of San Marcos Street Segment LOS (direct): The proposed project will result in a significant impact on the LOS at two street segments (see Table S-1 of the DEIR). Although mitigation was identified for each intersection, the timing and implementation of these improvements are under the city's jurisdiction and they are subject to the city's review and approval. For this reason, these impacts are considered significant and unavoidable.

City of San Marcos Intersection Level of Service (LOS) (cumulative): The proposed project will result in a significant impact on the LOS at three intersections (see Table S-1 of the DEIR). Although mitigation was identified for each intersection, the timing and implementation of the improvements or fair share payment are under the city's jurisdiction and they are subject to the city's review and approval. For this reason, these impacts are considered significant and unavoidable.

City of San Marcos Street Segment LOS (cumulative): The proposed project will result in a significant impact on the LOS at three street segments (see Table S-1 of the DEIR). Although mitigation was identified for each intersection, the timing and implementation of the improvements or fair share payment are under the city's jurisdiction and they are subject to the city's review and approval. For this reason, these impacts are considered significant and unavoidable.

City of San Marcos Roadway Network (cumulative): The proposed project will result in a cumulatively considerable impact on one roadway segment and one intersection along Twin Oaks Valley Road under the City of San Marcos Horizon Year 2035, Full Road Network Buildout. Mitigation will also reduce the significant cumulative impacts to a less-than-significant level. However, as the timing and implementation of mitigation is under the jurisdiction and control of the City of San Marcos and, thereby, subject to their concurrence and approval, impacts will be significant and unavoidable.

Caltrans Facilities

Freeway Segment LOS (direct): The proposed project will result in a significant impact on the LOS at one freeway segment: I-15 from Deer Springs Road to Pomerado Road. Direct impacts to the I-15 mainline (Caltrans facility) will be significant and unavoidable as payment of a fair-share contribution or mitigation fee is infeasible because there is no improvement program in place in to which the project could make a contribution.

Freeway Ramp Intersections LOS (direct): The proposed project will result in a significant impact on the LOS at two freeway ramp intersections at Deer Springs Road (Caltrans facility). Although mitigation was identified for each intersection, the timing and

implementation of the improvements are under the Caltrans' jurisdiction and they are subject to the Caltrans' review and approval. For this reason, these impacts are considered significant and unavoidable.

Freeway Segment LOS (cumulative): The proposed project will result in a cumulatively considerable impact on the LOS at two freeway segments (see Table S-1 of the DEIR). Cumulative impacts to the Caltrans freeway segments will be significant and unavoidable as payment of a fair-share contribution or mitigation fee is infeasible because there is no improvement program in place in to which the project could make a contribution.

Freeway Ramp Intersections LOS (cumulative): The proposed project will result in a significant impact on the LOS at two freeway ramp intersections at Deer Springs Road (Caltrans facility). Although mitigation was identified for each intersection, the timing and implementation of the improvements are under the Caltrans' jurisdiction and they are subject to the Caltrans' review and approval. For this reason, these impacts are considered significant and unavoidable.

Vehicle Miles Traveled (VMT)

Each element of the proposed Transportation Demand Management (TDM) Program was evaluated to determine the VMT reduction attributable to its implementation as well as the project's land uses. As a result of this evaluation, it was determined the project would achieve an 11.1 percent reduction in overall VMT. This 11.1 percent reduction in VMT was directly applied to reduce the project's mobile emissions.

The TDM Program would include, but is not limited to, the following:

- i. Develop a comprehensive trail network designed to provide multi-use trails between the various project components, land uses, parks/open spaces, school site, and the Town Center. The trails network will provide connections to the various recreational trails and multimodal facilities accessing the project. Additionally, the loop road includes five-foot wide bike lanes on both sides of the roadway.
- ii. Provide bicycle racks along main travel corridors, adjacent to commercial developments, at public parks and open spaces, and at retail and multi-family buildings within the project.
- iii. Implement a shuttle system that connects the various project neighborhoods to the Town Center and to external transit facilities and resources such as the park and ride lots and the Escondido Transit Center.
- iv. Implement an electric bike-share program to further link the project neighborhoods to one another and to reduce motorized vehicle trips. The bike share program includes the placement of eight kiosks throughout the Community. Electric bikes can be taken from one kiosk and left at another to promote sustainable transportation between neighborhoods. It is anticipated that each kiosk will contain 10 to 20 electric bikes.

The TDM Program is described in final draft EIR Table 2.7-7.

Less Than Significant Impacts (With Mitigation)

Impacts for the following issue areas will be reduced to less than significant with the incorporation of required mitigation measures: agricultural resources, biological resources, cultural resources, geology and soils, greenhouse gas emissions, hazards/hazardous materials, paleontological resources, and utilities and service systems.

4. County Regulations

a. Subdivision Ordinance Consistency

The project has been reviewed for compliance with the Subdivision Ordinance (County Code section 81.101 et seq.). The project is consistent with the requirements for major subdivisions in terms of design (section 81.401), dedication and access (section 81.402), and improvements (sections 81.403 and 81.404). However, because the project proposes a Specific Plan, the subdivision design requirements of the Specific Plan take precedence over the requirements in Subdivision Ordinance subsections 81.401 (b), (d), (e), (h), and (i). (Section 81.401 (o)). Furthermore, the Specific Plan also specifies the street standards necessary to implement the development density design and objectives of the Specific Plan for all on-site and off-site access pursuant to subsection 81.402 (d). The project also includes requirements and conditions of approval necessary to ensure that the project is implemented in a manner consistent with the Subdivision Map Act and the Subdivision Ordinance.

b. Other Applicable County Regulations

Table C-3: Applicable Regulations

County Regulation Policy	Explanation of Project Conformance
1. San Diego County Consolidated Fire Code	<p>A FPP was prepared for the project and was approved by the DSFPD. The FPP will ensure that the project will implement particular design measures to ensure compliance with the San Diego County Consolidated Fire Code, including but not limited to the following:</p> <ul style="list-style-type: none"> • Fuel Modification Zones • Ignition-resistance construction • Fire sprinklers in all structures • Access roads constructed to Fire Code Standards • Water supply and fire hydrants • Secondary access • Evacuation Plan • Community HOA outreach and educational coordination

County Regulation Policy	Explanation of Project Conformance
<p>2. Resource Protection Ordinance (RPO)</p>	<p>The project includes a proposed amendment to the RPO that will exempt the project from the requirements of the ordinance through implementation of a resource protection plan (RPP). The project's RPP serves as the functional equivalent of the County RPO for the proposed project. The RPP is a comprehensive planning document addressing the preservation, enhancement, and management of sensitive resources (habitat, wetlands, slopes, cultural) within the 1,985-acre project. It was designed specifically for the proposed project as it relates to biological resources. The RPP provides assurances and funding for long-term resource protection, management, restoration, and enhancement of the proposed biological open space. As part of the proposed project, the on-site preserve will consist of 1,209.1 acres.</p> <p>The project contains 1,086 acres of steep slopes as defined by the RPO. The project will encroach into 148 acres of the 1,086 acres of steep slopes (13.6 percent), which will exceed the maximum encroachment allowed pursuant to the RPO (10 percent), however, the project is consistent with Section 86.604.e.2.cc which allows encroachment into steep slope lands to avoid impacts to significant environmental resources that cannot be avoided by other means. In addition, the project will not impact any floodway/floodplains.</p>
<p>2. Watershed Protection Ordinance (WPO)</p>	<p>Stormwater Management Plans have been prepared for the project that comply with the WPO.</p>
<p>3. Habitat Loss Permit (HLP) Ordinance</p>	<p>Implementation of mitigation for impacts to Diegan Coastal Sage Scrub will ensure that the proposed project will comply with the Habitat Loss Permit Ordinance.</p>

County Regulation Policy	Explanation of Project Conformance
4. Light Pollution Code	Project lighting will conform to the lamp type and shielding requirements as well as the hours of operation in the Light Pollution Code.
5. Noise Ordinance	A Noise Study has been prepared for the project and identified mitigation including dedication of noise easements (that require berms, sound walls, etc. required before building permit), building construction requirements (dual pane windows or weather stripping), shielding (enclosures, barriers, or building orientation), construction measures (setback restrictions and noise barriers), and implementation of a Blasting Plan. With the incorporation of mitigation measures, the project will comply with the requirements of the Noise Ordinance.
6. Board of Supervisors Policies	<p>The project complies with all applicable Board of Supervisors policies, including I-73, I-84, I-78, and I-132.</p> <p>Policy I-73 requires the project to be constructed in a manner to preserve, enhance or improve the physical features of the area consistent with providing building sites. The project will comply with the policy as well as the RPO requirements for the protection of steep slopes. In addition, the Specific Plan includes grading design principles to further reduce impacts associated with grading.</p> <p>Policy I-84 requires adequate facilities to be available concurrent with need before approving a project. The policy requires Project Facility Availability forms to be submitted. The project has provided Project Facility Availability forms from the VWD for sewer and water, DSFPD for fire, and SMUSD, EUSD, and EUHSD for school services. Therefore, the project complies with the policy.</p>

D. PUBLIC INPUT

Throughout the processing of this project, there was significant interest by the public and a large amount of correspondence was received from members of the public and other stakeholders.

i. Public Review

During the public review period of the Draft EIR, a total of 454 comment letters were received. Please see Attachment B for the Draft Final EIR and responses to comments. Responses to comments received during the public review period can be found in the Draft Final EIR on file under PDS2015-ER-15-08-001.

ii. Other Public Correspondence

In addition to the comment letters received during the public review period of the Draft EIR, the County received a number of additional comment letters during the processing of the project and outside of the public review period of the Draft EIR. Copies of these comment letters are provided in Attachment D. These comment letters range from general comments on the merits of the project to detailed comment letters on specific issue areas. The County has reviewed each of these comment letters and has determined that they do not raise any new issues that have not been considered in the evaluation of the project or CEQA analysis. Responses to these comments are being prepared.

E. COMMUNITY PLANNING GROUPS AND DESIGN REVIEW BOARD RECOMMENDATIONS

The proposed project is located within the Twin Oaks Valley, Hidden Meadows and Bonsall Community Planning Areas. The project is also subject to the I-15 Design Review Guidelines because it proposes development visible from the I-15.

1. Twin Oaks Valley Community Sponsor Group

The Twin Oaks Valley Community Sponsor Group (TOVCSG) considered or discussed the Newland Sierra project at a total of six sponsor group meetings. On July 19, 2017, TOVCSG recommended denial of the project with a vote of 4-0-0. TOVCSG attached comments explaining their recommendation. The TOVCSG identified concerns regarding traffic, water availability, community character impacts, fire, noise pollution, light pollution and school impacts.

2. Bonsall Community Planning Group

The Bonsall Community Planning Group (BCPG) considered or discussed the Newland Sierra project at a total of seven planning group meetings. On August 1, 2017, BCPG voted to recommend denial of the project with a vote of 6-0-1. The BCPG provided comments explaining their recommendation. The BCSG identified concerns regarding traffic along Twin Oaks Valley Road, fire protection, lack of conformance to the County General Plan, safety, and the proposed blasting onsite.

3. Hidden Meadows Community Sponsor Group

The Hidden Meadows Community Sponsor Group (HMCSG) considered or discussed the Newland Sierra project at a total of six sponsor group meetings. On April 26, 2018, HMCSG recommended denial of the project with a vote of 6-0-3. The HMCSG provided comments explaining their recommendation and concerns regarding evacuation routes.

4. Interstate 15 Design Review Board

The Interstate 15 Design Review Board (I-15 DRB) considered or discussed the Newland Sierra project at a total of three board group meetings. On April 21, 2016, the I-15 DRB voted 2-1-0 to recommend the I-15 reconfiguration areas be deducted from the I-15 DRB review area and assigned to the Twin Oaks Community Sponsor Group, and for parcels to have the B-Designator remain.

F. STAFF RECOMMENDATIONS

Staff recommends that the Planning Commission make the following recommendations to the Board of Supervisors:

- a. Adopt the the California Environmental Quality Act (CEQA) Findings, which include the certification and findings regarding significant effects of the project, the mitigation and monitoring program, the Statement of Overriding Considerations, and certify the Environmental Impact Report (EIR), REF: PDS2015-ER-15-08-006 (Attachment G).

- b. Adopt the Resolution approving General Plan Amendment PDS2015-GPA-15-001 (Attachment H) for the reasons stated therein and discussed in this report.

Deer Springs Option B including a raised median as described in this report.

- c. Adopt the Resolution approving Specific Plan PDS2015-SP-15-001 (Attachment I) for the reasons stated therein and discussed in this report.

Deer Springs Option B including a raised median as described in this report.

Camino Mayor Alternative Alignment Option #1 as described in this report.

- d. Adopt the Ordinance titled, ORDINANCE CHANGING THE ZONING CLASSIFICATION OF CERTAIN PROPERTY WITHIN THE NORTH COUNTY METROPOLITAN SUBREGIONAL PLAN AND BONSALL COMMUNITY PLAN), REF: PDS2015-REZ-15-001 (Attachment J).

- e. Adopt the Ordinance titled, ORDINANCE AMENDING THE RESOURCE PROTECTION ORDINANCE (RPO) (Attachment M).

- f. Adopt the Resolution of Approval for Tentative Map PDS2015-TM-5579 which includes those requirements and conditions necessary to ensure that the project is implemented in a manner consistent with State law and County of San Diego regulations (Attachment K).

Deer Springs Option B including a raised median as described in this report.

Camino Mayor Alternative Alignment Option #1 as described in this report.

- g. Adopt the Statement of Reasons to permit the proposed use and extinguish access to mineral resources of statewide significance as required by Sections 2762 and 2763 of the California Surface Mining and Reclamation Act (Attachment L).
- h. Direct staff to update the Transportation Impact Fee (TIF) Program to incorporate the Newland Sierra General Plan Amendment.

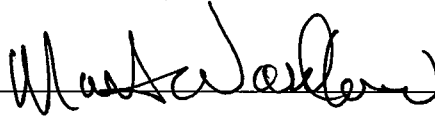
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ATTACHMENTS

Attachment A – Specific Plan

Attachment B – Environmental Impact Report (EIR)

Attachment C – General Plan Consistency Table

Attachment D – Public Documentation

Attachment E – Planning Documentation

Attachment F – Environmental Findings

Attachment G – Environmental Documentation

Attachment H – Resolution Approving General Plan Amendment PDS2015-GPA-15-001

Attachment I – Resolution Approving Specific Plan PDS2015-SP-15-001

Attachment J – Ordinance Approving PDS2015-REZ-15-001

Attachment K – Resolution Approving PDS2015-TM-5579

Attachment L – Statement of Reasons

Attachment M – Resource Protection Ordinance Amendment Form of Ordinance

Attachment N – Merriam Mountain Project Comparison

Attachment O - Ownership Disclosure

**Attachment A –
SPECIFIC PLAN**

**(The Newland Specific Plan is available at
<https://www.sandiegocounty.gov/content/sdc/pds/ceqa/SP-15-001/NSDEIR.html>)**

**Attachment B –
ENVIRONMENTAL IMPACT REPORT (EIR)**

**(The Final EIR, including Technical Studies and
Response to Comments are available at
<https://www.sandiegocounty.gov/content/sdc/pds/ceqa/SP-15-001/NSDEIR.html>)**

**Attachment C –
GENERAL PLAN CONSISTENCY TABLE**

Policy	Project Conformance	Conformance Conclusion
<i>Guiding Principles</i>		
<p>1. Support a reasonable share of the projected regional population growth.</p>	<p>The proposed Newland Sierra Project (herein after referred to as “project” or “proposed project”) would provide a mix of housing types and choices to meet the housing needs of a range of consumer life stages and income levels in a manner that would support a reasonable share of San Diego County’s projected regional population growth to help the County of San Diego (County) meet its required Regional Housing Needs. The project’s residential component includes 2,135 total homes, including 1,140 single-family homes on varying lot sizes and 995 multi-family homes. Of the 2,135 total homes, 325 would be age-qualified senior homes. Further, the Specific Plan contemplates several product types in the C34 and RS zones, including alley-loaded homes, row and grade-separated townhomes, clustered single-family homes and traditional single-family detached homes. In so doing, the project would provide a range of housing opportunities for existing and future residents of the County.</p>	<p>Consistent.</p>
<p>2. Promote health and sustainability by locating new growth near existing and planned infrastructure, services, and jobs in a compact pattern of development.</p>	<p>The project would promote health and sustainability by locating new growth near existing and planned infrastructure, services, and jobs in a compact pattern of development. Please see Figure 1-35, Regional Location Map, and Figure 1-36, Vicinity Map, in Chapter 1 of the EIR.</p> <p>Consistent with sustainable development principles, the project is a balanced Community with a mix of housing types and choices for a wide range of households including young professionals, growing families, empty nesters, and seniors structured around walkable and bikeable Community amenities, including neighborhood shopping, Community and neighborhood parks, Community centers with swim facilities, and a school site. Furthering the interest of health and sustainability, the project’s land uses would be planned around a network of trails, pedestrian and multi-use pathways, and bike routes connecting between and integrated into the project’s various neighborhoods, parks, retail uses, the school site, and other amenities. These multi-use pathways and bike routes would extend off Site along Sarver Lane and Deer Springs Road all the way into the City of San Marcos along Twin Oaks Valley Road enhancing the connectivity with the existing surrounding built environment and enabling both the project’s residents and the residents of Twin Oaks to bike, walk, or even horseback ride into and out of the project all the way into the City of San Marcos.</p> <p>Beyond the project’s individual neighborhoods, the balance of the project Site would be left undeveloped and provide for open space/habitat preservation and passive recreational uses such as trails for nature hikes and sightseeing. Coupled with the project’s balanced approach to land use, the project would include a number of sustainable development features, including solar on all residential and Community facilities and a greenhouse gas emissions offset program.</p> <p>The project would also include a Transportation Demand Management (TDM) Program of mobility alternatives to private vehicle trips (e.g., single occupancy trips) including an electric bike-share program with kiosks throughout the project, support for car-share and ride-share programs within its Town Center, subsidized transit passes for the project’s residents, shuttle services connecting the project’s residential neighborhoods to its Town Center neighborhood and to the Escondido Transit Center which serves as a hub for public rail, bus, and shuttle services throughout the North County area, and marketing and educational services to residents and employees of the project’s various mobility alternatives . The project’s TDM Program would result in a significant reduction in both internal vehicle trips (trips that stay within the project Site) and external vehicle trips (trips that leave and return to the project Site).</p> <p>The project would establish large contiguous blocks of on-site native habitat preservation and Community open space by creating a 1,209-acre habitat preserve on Site and a 212-acre habitat preserve off Site, by retaining an additional 235 acres of native habitat in Fuel Modification Zone 2 and Special Management Areas, and by concentrating the project’s grading footprint into approximately 27% of the total Site. The project’s on-site and off-site preserve areas would be subject to Resource Management Plans and managed in</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	<p>perpetuity by a preserve manager. The project's FMZ 2 areas and SMAs would be subject to periodic fuel thinning and weed and trash removal for fire protection purposes, however the native habitat structure of these areas would be retained. In total, the project would provide protection for 1,657 acres of native habitat.</p> <p>In the context of the project's placement within the North San Diego County subregion and centers of employment, the project Site is connected via freeways, arterials, and local roads to several neighboring cities, making it less than three miles to the Cities of Escondido, San Marcos, and Vista, and approximately 10 miles to the Cities of Carlsbad and Oceanside, all North County cities serving as major centers of employment and regional shopping for North San Diego County. A jobs/housing market analysis prepared for the project by MarketPointe Realty Advisors shows that a total of 124,251 jobs exist with the Highway 78 Corridor Submarket, encompassing the Cities of Escondido, San Marcos, and Vista and certain portions of the unincorporated County. The MarketPointe Study shows that 63% (nearly 2/3rds) of these jobs are commuting into these Cities from outside the Highway 78 Corridor Submarket. Of these jobs commuting into the Submarket, 58% are coming from other parts of San Diego County and the balance (42%) are coming primarily from the Counties of Riverside, Orange, and Los Angeles. Riverside County, the closest neighboring County and where over 8% of the total workers in the Highway 78 Corridor Submarket live, is at least 25 miles to the north of the project Site, over 30 miles from the center of the Highway 78 Corridor Submarket, and accessible via Interstate 15 (I-15). By comparison, the project would offer a range of housing options much closer to these North County regional employment and shopping centers within the Highway 78 Corridor Submarket.</p> <p>Falling near the center of the North County Metropolitan Subregional Area (North County Metro Area) and the northwest half of the Highway 78 Corridor Submarket, the project Site is near existing and planned infrastructure and services. The project Site falls within the service territory of the Vallecitos Water District for sewer and water service and significant water infrastructure, including water transmission lines and water towers, exist on or immediately adjacent to the project Site. The project Site is bordered by the I-15 corridor to the east and Deer Springs Road to the south. Deer Springs Road turns into Twin Oaks Valley Road which connects to Buena Creek Road approximately one and a half miles (1.5 mi) from the project Site. Deer Springs Road, Twin Oaks Valley Road, and Buena Creek Road are all part of the Regional Arterial System providing direct connections between neighboring cities such as San Marcos and Vista, the Twin Oaks Community, and the project Site. All three of these Regional Arterial System roads are planned for capacity and signalization enhancements in both the County and City of San Marcos General Plans. To the south of the project Site is the I-15/SR-78 Interchange, the two major freeways that serve the North County Metro Area, the surrounding Cities of Escondido, San Marcos, Vista, and Carlsbad, and whose interchange effectively serves as the center of the Highway 78 Corridor Submarket.</p> <p>In addition to the arterial freeway and road network providing access to the project Site, a range of public transportation services operated by the North County Transit District exist within the vicinity of the project Site, including six Sprinter stations within six miles of the project Site and BREEZE Bus and Flex Shuttle routes providing access to and between various North County cities and unincorporated communities as well as the Camp Pendleton Marine Corps Base and the Fallbrook Naval Weapons Station. These transit services connect to the Coaster rail service, which provides access between Oceanside Transit Center and the Santa Fe Train Station in downtown San Diego. The project would provide shuttle services to these North County transit centers and proposes a transit stop in its Town Center neighborhood to accommodate future NCTD BREEZE or shuttle services to the project Site.</p> <p>In the context of the state's goals for sustainable communities and GHG reduction, the project's development plan complies with the critical objectives and mandates of Assembly Bill (AB) 32 and Senate Bill (SB) 375 by providing: (a) a mix of housing types</p>	

Policy	Project Conformance	Conformance Conclusion
	<p>and choices in neighborhoods that support a wide range of mobility options with parks, a school site, and commercial/retail uses in close proximity to housing; (b) a variety of recreational opportunities including active and passive parks with multi-purpose trails that connect the residential neighborhoods; and (c) mobility alternatives for residents that reduce energy consumption, air pollution, noise, and greenhouse gas emissions.</p> <p>In summary, the project's parks, recreational opportunities, commercial/retail uses, and school site combined with its mix of housing types, including age-qualified (senior) and age-targeted (single story) housing, walkable and bicycle-friendly neighborhoods, multi-purpose trails and pedestrian pathways, large blocks of native habitat preserve and open space, Community sponsored electric bike-share program, and shuttle services within the project and to the Escondido Transit Center make it a complete Community that will promote and enhance the health and sustainability of its residents, guests, employees, and patrons. The project Site is also well situated to place a range of housing opportunities closer to existing regional employment centers. Finally, the project is well served by existing and planned infrastructure and services and would provide alternatives to driving both within and to/from its neighborhoods and nearby transit stations.</p>	
<p>3. Reinforce the vitality, local economy, and individual character of existing communities when planning new housing, employment, and recreational opportunities.</p>	<p>The project Site is predominantly within the planning area of the existing unincorporated community of Twin Oaks with a small portion the project Site's most northern portion within the unincorporated community of Bonsall. All of the project's proposed neighborhoods are located in the community of Twin Oaks within the North County Metropolitan Subregional Community Planning Area. To the northeast of the project Site is the unincorporated community of Hidden Meadows. The incorporated cities of Vista, San Marcos, and Escondido reside within a few miles of the project Site and connect to the Site via major roads including Twin Oaks Valley Road and Deer Springs Road as well as I-15.</p> <p>The Twin Oaks community began as a predominantly agricultural community north of an area known originally as Vallecitos de San Marcos, today, what is the City of San Marcos. In 1963, San Marcos became an incorporated city, and since that time, various annexations of the southern portions of Twin Oaks have occurred to the City of San Marcos. Today, Twin Oaks supports a mix of land uses, including a range of housing types and lot sizes, small farms, nurseries, and ranchettes in its northern portions, the Twin Oaks Golf Course, an equestrian center and a handful of equestrian ranchettes, and retail, commercial, and light industrial uses</p> <p>South of the project Site along the south side of Deer Springs Road is Golden Door Properties LLC, a resort featuring fitness, spa and nutrition. Directly to the east of the Twin Oaks community is the Mesa Rock community, a planned community of single-family homes on small lots surrounded by large blocks of open space/preservation built into the hills immediately north of the city of San Marcos. Approximately 3 miles south and southeast of the project Site are the incorporated cities of San Marcos and Escondido, cities supporting populations of approximately 90,000 and 150,000 residents, respectively. The I-15 exit south of the project Site, approximately 3 miles down the freeway, is the El Norte Parkway exit in northwestern Escondido featuring higher density single-family and multi-family neighborhoods and a community shopping center. Finally, approximately 3.5 to 4 miles due west of the project Site is the city of Vista supporting a population of approximately 97,000 residents. Refer to Figures 1-35 and 1-36 in Chapter 1 of the EIR.</p> <p>Approximately one mile to the northeast on the east side of I-15 along Old Highway 395/Champagne Boulevard is the Lawrence Welk Resorts, three separate vacation resorts offering family vacation homes, hotel accommodations, recreation centers, spas, pools, restaurants, and golf. Also along Old Highway 395/Champagne Boulevard just north of the Lawrence Welk Resorts is the Deer Park Winery and Auto Museum. Just south of the Lawrence Welk Resorts is the community of Champagne Village, an age-qualified community of 457 homes on small lots and narrow streets buffeted by chaparral covered hills to the east.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	<p>In the hills above Champagne Village and the Lawrence Welk Resorts is the Rimrock Estates community, a gated community of estate homes and lots clustered together in discrete enclaves and surrounded by large blocks of open space. Just to the southeast of Rimrock, Champagne Village, and Lawrence Welk is the community of Hidden Meadows, a community of mostly single-family homes spanning a range of lot sizes and densities, from your typical suburban densities of four to eight homes per acre to the more rural ½ acre and 1 acre lot sizes, with the more rural areas supporting limited agriculture. A little further north is the community of Castle Creek, a planned community with a mix of single-family and multi-family homes built around the Castle Creek Country Club and surrounded by chaparral covered hills to the south, north, and east. Outside of the planned neighborhoods and communities and more developed resorts, towns, and cities, is a mix of semi-rural neighborhoods, agriculture, limited ranching and certain commercial uses.</p> <p>When looking across the vicinity of the project Site, no one archetypal land use pattern or community emerges, but instead a broad range of neighborhoods, land uses, and communities all unique and well integrated into their surroundings but also complementary to each other and the larger area. The newer communities are well-planned with more environmentally sensitive development patterns surrounded by large blocks of open space, striking an important balance between accommodating housing while also preserving the natural character of the area. The unincorporated communities support a mix of housing types and lot sizes intermixed with limited commercial/retail, some light industrial uses, and small farms and ranches. The Lawrence Welk resorts provide an important tourism boost to the local area while the nearby cities provide critical regional employment centers and shopping opportunities. Finally, the more semi-rural areas, small farms and ranches, and other land uses within the vicinity of the project Site help to complete the complex and balanced character of the surrounding area, an area that includes everything from small towns to dense urban cities just down the road and planned communities, resorts, rural estate homes, and small farms and ranches to the south, north, west, and east.</p> <p>To reinforce the vitality, local economy, and individual character of these existing neighborhoods, communities, and surrounding land uses, the project incorporates various elements of each. Like the newly planned communities discussed above and to reinforce the more dramatic natural elements of the area such as the chaparral covered hills and open space, the project uses environmentally sensitive development patterns to preserve large blocks of native habitat with nearly three quarters of the project Site remaining its natural condition. Like the surrounding communities, the project provides a range of housing types and lot sizes. Like the more semi-rural areas, the project incorporates limited agriculture along the perimeter of some of its neighborhoods. Like the more developed areas surrounding the project, the project incorporates commercial/retail uses, including an anticipated neighborhood grocery store at the Town Center, and a school Site with a joint-use park. The Town Center would provide employment opportunities and the mix of uses within the project will reinforce and enhance the vitality and local economy of the existing communities and land uses around the project.</p> <p>Ultimately, the project will support over 6,000 residents, a variety of local jobs within and as a result of the project, and a school Site which will help support the surrounding local economy. These residents, workers, and parents will shop in local stores and markets, play golf at nearby golf courses (Twin Oaks, Castle Creek, Lawrence Welk, and Boulder Oaks), stay or have their friends and family stay at the nearby resorts, visit the nearby Deer Park Winery along Old Highway 395, eat at local restaurants, and work and shop in the nearby cities.</p> <p>Finally, the project's proposed large blocks of open space preserve would serve to reinforce a major feature of these existing communities near the project Site, serving as an amenity to both the project and these existing communities. A Community-wide</p>	

Policy	Project Conformance	Conformance Conclusion
	<p>network of public parks, pedestrian pathways, and trails with connections to open space areas would act as the connective thread uniting the project's various neighborhoods and creating pedestrian and bicycle-friendly streets throughout the project for the benefit of the project and existing communities.</p>	
<p>4. Promote environmental stewardship that protects the range of natural resources and habitats that uniquely define the County's character and ecological importance.</p>	<p>The project would preserve and permanently protect a wide-range of natural resources and sensitive native habitats that support wildlife habitat and movement with connectivity between the project's proposed preserve areas and existing, surrounding off-site open space areas supporting the same and similar habitat types.</p> <p>The proposed preserve design would consist of two large, contiguous blocks of open space preserve situated within the project Site's northern and eastern areas and a third large block of open space preserve located in the southern half of the project Site. The project's open space preserve areas would connect to open space located west, east, and south of the project Site.</p> <p>In the context of environmental stewardship, the project's preserve areas would be managed by a preserve management entity in perpetuity. Preserve management responsibilities would include an array of preserve maintenance and monitoring responsibilities including fencing, signage, trash removal, prevention of runoff and fugitive irrigation, weed and non-native vegetation abatement, and biological monitoring of sensitive species and habitat types found within the project's preserve areas.</p> <p>In total, the proposed project would preserve and manage approximately 1,209 acres of on-site open space as native habitat, as well as 212 acres of off-site habitat preservation, for a total preserve acreage of 1,422 acres (72% of the project Site acreage). In addition to supporting native plants and animals and their habitats, the project's preserve areas would include a range of environmental features, including ridgetops, hill tops, chaparral covered hills, and rocky outcrops. The majority of the project's preserve areas would consist of dense chaparral, riparian and oak woodland, and non-native grasslands as well as a limited amount of coastal sage scrub, habitat types supporting a wide range of native vegetation communities and species also found off Site. For more details on the project's preservation component, please refer to EIR Section 2.4, Biological Resources.</p>	<p>Consistent.</p>

<p>5. Ensure that development accounts for physical constraints and the natural hazards of the land.</p>	<p>Key natural elements and constraints of the project Site influenced the design of the project's neighborhoods and road network, including the project's hills, ridgetops, boulder outcroppings, and sensitive native habitat areas, the surrounding road network off Site of the project, and the wildfire risk posed to virtually all new development in San Diego County. The project has been designed to preserve many of the hills, ridgetops, boulder outcroppings, and, as discussed above in the project's conformance with <i>Guiding Principle 4</i>, large blocks of native habitat by concentrating development into the flatter, less constrained areas of the Site and by incorporating a network of internal roads connecting these neighborhoods planned around the project Site's key natural features.</p> <p>To protect against wildfire risk, the project proposes and would be conditioned to implement a Fire Protection Plan which identifies various project design requirements to protect persons and property against wildfire risks, including 250 feet of fuel modification around the perimeter of the each of the project's neighborhoods, an additional Special Management Area in the southwestern corner of the Site and adjacent to existing homes off Site, and other project design and construction methods and standards for new buildings meeting the highest levels of fire safe design required in the state (e.g., refer to Chapter 7A of the California Building Code). Periodically, new building safety standards may be adopted or amended by the state or the County. For example, the state now requires all new construction to have a fire sprinkler system. All construction within the project will be required to comply with the latest effective standards in place at the time of building permit submittal. In this way, construction of new buildings in the project will remain in lockstep with the latest state and local codes.</p> <p>In addition to building safety, the project's FPP identified Fuel Modification requirements for the project's development areas where those areas interface with native habitat, restrictions on the types of plants and trees that can be planted within the project, and requirements for primary and secondary access. For example, the project would include two primary access roads and one secondary access road and a two zone fuel modification strategy for all structures adjacent to native habitat. The project's FPP would require routine maintenance with periodic inspections by the Fire Marshall of the project's fuel modification zones.</p> <p>The project would also be required to address any geologic conditions or hazards that exist or would arise through grading and development of the Site and with any off-site improvements, and likewise construct all roads, improvements, structures, and walls in accordance with the requirements as specified in the final geotechnical report or reports generated for these improvements. These grading and development-level reports, which are generated for the project during the construction phases, contain detailed specifications and requirements for grading, road, utility, storm drain improvements, structures, and walls. These detailed specifications and requirements are placed on grading and improvement plans to ensure compliance, and the Geotechnical Engineer of Record must sign improvement plans verifying they comply with the detailed requirements in such reports. Such reports address issues such as Site-specific soil conditions, remediation of any on-site geologic hazards or constraints in areas planned for development, and any seismic standards unique to the project Site.</p> <p>Finally, the project would be required to avoid the creation of any new flooding condition or exacerbation of an existing flooding condition. Detailed hydrological analysis has been prepared for the project (please see the project's drainage study, Appendix Z of the EIR), as well as the project's off-site improvements to address any changes in impervious surface and natural drainage patterns that would result from the project. During the construction phases of the project, additional analysis and design of the project's various improvements will be required to ensure consistency with the design of grading and improvements shown on the Tentative Map and consistency with the drainage study prepared for the project.</p> <p>In summary, the project would fully mitigate geologic, fire, flooding, and other natural hazards and constraints. Please see EIR Section 2.6, Geology, Soils, and Seismicity, and Section 2.8, Hazards and Hazardous Materials.</p>	<p>Consistent.</p>
<p>6. Provide and support a multi-modal transportation network that enhances</p>	<p>The project would provide and support a multi-modal transportation network by serving as a true multi-use project with a mix of housing types and choices, commercial/retail uses, parks and recreation, and a school site supported by a TDM Program including an</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>connectivity and supports community development patterns and, when appropriate, plan for development which supports public transportation.</p>	<p>internal network of pedestrian pathways, bicycle lanes and bicycle-friendly streets, and multi-use trails, a Community-sponsored electric bike-share program with kiosks throughout the project, support for ride-share and car-share programs, subsidized transit passes for the project's residents, shuttle services between the project's individual neighborhoods and to the Escondido Transit Center, and marketing and educational services to residents and employees of the project's various mobility alternatives . The project would be required to implement its TDM Program measures as conditions of development.</p> <p>The project's TDM Program, particularly shuttle service within and around the project and to the Escondido Transit Center, a north county transit hub, would support a range of public transportation services operated by the North County Transit District, including six Sprinter stations within six miles of the project Site and BREEZE Bus and Flex Shuttle routes providing access to and between various North County cities and unincorporated communities as well as the Camp Pendleton Marine Corps Base and the Fallbrook Naval Weapons Station. These transit services connect to the Coaster rail service, which provides access between Oceanside Transit Center and the Santa Fe Train Station in downtown San Diego. By providing shuttle service connections to North County transit centers and space for a potential NCTD transit stop in its Town Center neighborhood, the project would support and reinforce the provision of public transportation in the North County Metropolitan Subregional Planning Area.</p> <p>In support of public transportation, and in addition to providing shuttle services throughout the project to the Escondido Transit Center, and the Town Center neighborhood, the project would include a location to accommodate a future transit stop for potential future NCTD BREEZE and/or other NCTD shuttle services to the project Site. The project applicant is also coordinating with Caltrans, SANDAG, and NCTD on a potential future expanded park-and-ride at the I-15/Deer Springs Road Interchange. Presently, there are two park-and-ride lots at the Interchange, one on the west side and one on the east side of the freeway. The project applicant has met with Caltrans, SANDAG, and NCTD about whether Caltrans plans to improve or expand the park-and-ride lots, either as stand-alone projects or as part of the process of improving the Interchange. The project applicant supports and will advocate for the incorporation of alternative transportation modes such as electric vehicle charging stations, bicycle facilities, storage lockers for travelers, accommodations for ride-share and car-share services, and a possible future transit stop as part of any project to expand or improve the park-and-ride facilities at the Interchange.</p> <p>With incorporation of these multimodal features and a commitment to support and coordinate with public transportation agencies on the same, the project would support a range of mobility alternatives to single occupancy vehicle trips.</p>	
<p>7. Maintain environmentally sustainable communities and reduce greenhouse gas emissions that contribute to climate change.</p>	<p>The proposed project would maintain an environmentally sustainable Community and reduce greenhouse gas (GHG) emissions that contribute to climate change through a variety of project planning and design features and mitigation measures. The project has committed to offset all of its greenhouse gas emissions to achieve and maintain carbon neutrality (i.e. net zero emissions) for the life of the project. This initiative would make the project the first large-scale planned community in San Diego County to achieve a 100 percent reduction in the project's construction and operational GHG emissions through the life of the project, and one of the first master-planned communities in the United States to commit to carbon neutrality.</p> <p>In terms of planning and design, the project would feature walkable and bicycle-friendly neighborhoods and streets; a balance of housing types and other land uses including a school, commercial/retail uses; well-integrated pocket, neighborhood, and Community parks, and a network of trails and pedestrian pathways that would interconnect the project's various neighborhoods; a Community-sponsored electric bike-share program; shuttle services to transit centers in neighboring cities, a car-share program, a ride-share program, and transit fare passes for residents; water efficient landscapes and buildings throughout the project along with a commitment to pre-plumb single-family homes in the</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	<p>project for greywater systems; compliance with California Title 24 building and energy efficiency standards (e.g., the CalGreen Building Code and the California Energy Code); solar on all residential uses; solar-powered street lights, and other project design features which reduce GHG emissions. For more information on these project planning and design features, please see EIR Section 2.7, Greenhouse Gas Emissions.</p> <p>In terms of project objectives, the project would locate new residents near existing and planned infrastructure, services, and employment and regional shopping centers in an environmentally sensitive, balanced development pattern while preserving large blocks of natural open space on Site that connect to open space off Site. For more information on the project's connectivity and proximity to employment and regional shopping centers as well as how it fits within and benefits the neighborhoods, communities, and land uses that surround the project Site, please see the project's conformance with Guiding Principles 2, 3, 4 and 6 above.</p>	
<p>8. Preserve agriculture as an integral component of the region's economy, character, and open space network.</p>	<p>The project Site does not presently support any agricultural uses, however, building upon the North County subregion's agricultural heritage, the project proposes to include two types of neighborhood/Community-scale agriculture uses, community gardens and grape vineyards. In so doing, the project would create agriculture uses on a site that does not presently support them, thereby contributing to the preservation of agriculture as an integral component of the region's economy, character, and open space network.</p> <p>The project's proposed Community gardens would be integrated into individual neighborhoods to promote sustainable Community-based agriculture. Both the project's residents and the general public would be allowed to reserve or rent garden plots within these Community gardens, with first priority given to the project's residents. Additionally, on some of the project's more visible slopes within Fuel Modification Zone 1 areas along the edge of certain neighborhoods, productive grape vineyards would be planted and maintained. These productive landscapes would be maintained by the Homeowners' Association and add to the aesthetic appeal of the project's individual neighborhoods. These vineyards would include a variety of species of grapes that are drought tolerant, resistant to wildfire, and thrive in the local microclimate. The vineyards would be expected to produce 3 to 4 tons of grapes per acre.</p> <p>By including the Community gardens and vineyards in the project, the project would increase the amount of agriculture in the region and enhance the availability of locally grown organic food sources, thereby contributing to the preservation of agriculture as an integral component of the region's economy, character, and open space network.</p>	<p>Consistent.</p>
<p>9. Minimize public costs of infrastructure and services and correlate their timing with new development.</p>	<p>The project would be conditioned to work with the County and public agencies to provide new and expanded infrastructure, facilities, and public services to and within the vicinity of the project Site. These new infrastructure, facilities, and services would be sized to serve the project and/or address existing impacted facilities such as roads and would be in areas already planned for new and/or expanded infrastructure and facilities. The project's proposed improvements would include improvements to road capacity, sewer and water infrastructure, public parks, fire service, undergrounding of utilities in on- and off-site areas, and a school site.</p> <p>The project would be conditioned to require delivery, construction and/or funding of these improvements commensurate with the various phases of project development. The payment of impact fees or the equivalent would be required at the time of building permit issuance. Relevant policies and responses addressing various infrastructure, facilities, and public services can be found throughout this table, including for schools, parks, fire protection (Deer Springs Fire Protection District), and sewer and water services (Vallecitos Water District). Refer also to EIR Section, 2.14, Utilities and Service Systems, and EIR Section 3.5, Public Services.</p>	<p>Consistent.</p>
<p>10. Recognize community and stakeholder interests while striving for consensus.</p>	<p>The applicant held four private workshops and numerous meetings with interested stakeholders. The applicant also met with the Twin Oaks, Hidden Meadows, and Bonsall sponsor groups to solicit their input, and the applicant held a public scoping meeting to determine the scope of the environmental document. A CEQA-compliant 60-day public</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	review period will also solicit public input as part of the County's environmental review process. Finally, the County will conduct public hearings as part of the approval process of the project.	
<i>Conservation and Open Space Element</i>		
<p>COS-1 Inter-Connected Preserve System. A regionally managed, inter-connected preserve system that embodies the regional biological diversity of San Diego County.</p>	<p>The project would dedicate and permanently preserve approximately 1,209 acres of on-site open space, and an additional 212 acres of off-site open space for a total preserve acreage of 1,421 acres (72 percent of the project Site acreage). The onsite preservation includes large contiguous blocks of preserve dominated by native habitats including chaparral, oak and riparian woodlands, and grasslands. These native habitats are internally connected to each other either directly or through linkages within the project Site and support a variety of sensitive native flora and fauna, including five special-status plant species and 16 special-status wildlife species observed on the project Site. In addition to creating a 1,209-acre biological preserve area on Site, the project proposes to maintain an additional 235 acres of native habitat as Fuel Modification Zone 2 and Special Maintenance Areas whereby the native habitat would be thinned up to 50% of its existing density, and weeds, other flash fuels, and dead or dying vegetation would be removed to reduce the fuel load of the vegetation but preserve the integrity and certain of the habitat functionality and benefits of these areas.</p> <p>In support of the goal to have a regionally-managed, inter-connected preserve system that embodies the regional biological diversity of San Diego County, the project's proposed 1,209 acres of preserve areas would also be contiguous with large off-site open space areas located to the north, south, and west of the project Site containing high-quality native habitat, including chaparral, woodlands, riparian areas, wetlands, and grasslands,. Many of these areas are designated as "Pre-Approved Mitigation Areas" (PAMAs) in the County's Draft North County Multiple Species Conservation Program (MSCP) Plan or, in some cases, already in permanent preservation. Preserving the northwestern, northern and eastern areas of the project Site would provide a contiguous block of habitat connected to mostly undeveloped lands and lands designated as PAMA, including the San Marcos Mountains, and lands already in preservation. The project's proposed preserve areas in the southern portion of the project Site would also connect to off-site areas designated as PAMA, including the high-quality wetland and riparian habitat immediately south of Deer Springs Road, an important drainage area for native flora and fauna.</p> <p>While a regional preserve system has not yet been adopted in the unincorporated areas of North San Diego County, the primary goal of the Draft North County MSCP Plan is to create this regional preserve. The preserve areas of the project would be an important and significant contribution of preserve land to the North County MSCP preserve. It is anticipated that the MSCP will contain a regional preserve management component for the various lands that are added to the Plan's preserve. The project has prepared on-site and off-site Resource Management Plans (RMPs) that include contracting with a preserve management entity for the project's on-site preserve areas. In addition to performing important biological monitoring functions, the project's preserve manager would keep trespassers from dumping trash, camping, driving off-road-vehicles, graffiti/tagging boulders, and participating in other illegal activities that disturb and threaten the flora and fauna found on Site. The management of the project's preserve areas would be accomplished in coordination with the management of the larger preserve system ultimately created via the North County MSCP when that is adopted and implemented.</p> <p>In addition to the proposed on-site preservation, the project would preserve approximately 212 acres off Site. The mitigation site is comparable to or better than the habitat that is being impacted on the Site. The mitigation site includes a variety of topographic relief, a comparable suite of vegetation communities, and rock resources. It provides better wildlife movement potential than the Newland Sierra Site because it connects segments of the Cleveland National Forest and San Diego County Parks properties. This Site supports more Engelmann oak resources (100+ trees versus the three on the Newland Sierra Site) and other sensitive resources (e.g., ringtail). Preservation of the mitigation</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	<p>site through acquisition would also benefit the PAMA and draft North County MSCP because it eliminates any potential of development for agricultural production or residential use. Further, the Site could benefit from management, since there is currently easy access to the Site and there are wild boar concerns.</p> <p>Please also refer to EIR, Section 2.4, Biological Resources, for additional information on the project's proposed preserve areas and preserve management component.</p>	
<p>COS-1.1 Coordinated Preserve System. Identify and develop a coordinated biological preserve system that includes Pre-Approved Mitigation Areas, Biological Resource Core Areas, wildlife corridors, and linkages to allow wildlife to travel throughout their habitat ranges.</p>	<p>Please see the response to the above Goal/Policy/Objective COS-1. The project proposes to create a 1,209-acre preserve area on Site that supports sensitive native flora and fauna. The project's proposed preserve would connect to large blocks of native habitat and open space areas proposed as PAMA in the Draft North County MSCP Plan as well as preserve areas that are off Site of the project Site. The project's proposed on-site preserve areas and these off-site PAMA and preserve areas support a wide range of sensitive native flora and fauna, wildlife corridors and linkages, and what would become Biological Resource Core Areas if the North County MSCP Plan is implemented. Please also refer to EIR, Section 2.4, Biological Resources, for additional information on the project's proposed preserve areas.</p>	<p>Consistent.</p>
<p>COS-1.2 Minimize Impacts. Prohibit private development within established preserves. Minimize impacts within established preserves when the construction of public infrastructure is unavoidable.</p>	<p>The entire project Site and the project's off-site improvements are not located within an established preserve. Consistent with this policy, the project would also not place new development within established preserves or construct new public infrastructure within established preserves; thus, this policy is not applicable. Please also refer to EIR Section 2.4, Biological Resources.</p>	<p>Not applicable.</p>
<p>COS-1.3 Management. Monitor, manage, and maintain the regional preserve system facilitating the survival of native species and the preservation of healthy populations of rare, threatened, or endangered species.</p>	<p>Please see the response to the above Goal/Policy/Objective COS-1. The County's Draft North County MSCP Plan will include a regional preserve management component with the overarching goal of managing the regional preserve system created through implementation of the Plan in a manner that ensures the preservation and survival of healthy populations of native species, including rare, threatened, and endangered flora and fauna, found within the Plan area. The project proposes a Resource Management Plan for its proposed preserve areas that would likewise be managed with the same overarching goal; therefore, the project is consistent with this Policy. For more information on the project's proposed preserve management objectives and requirements, please also refer to EIR Section 2.4, Biological Resources and the project's Conceptual Resource Management Plan.</p>	<p>Consistent.</p>
<p>COS-1.4 Collaboration with Other Jurisdictions. Collaborate with other jurisdictions and trustee agencies to achieve well-defined common resource preservation and management goals.</p>	<p>The project applicant supports the County's collaboration with other jurisdictions and trustee agencies; however, this policy is not applicable. Nonetheless, for the past 10 years, the project applicant, previous property owners of the project Site, and the County have coordinated and consulted with the wildlife agencies (California Department of Fish and Wildlife and U.S. Fish and Wildlife Service), the federal and state agencies with purview over the preservation and management of native habitat areas, on preserve management objectives and requirements, preserve design, wildlife movement, corridors, and linkages, and other factors that relate to the project's proposed preserve design and preserve management framework.</p>	<p>Not applicable.</p>
<p>COS-1.6 Assemblage of Preserve Systems. Support the proactive assemblage of biological preserve systems to protect biological resources and to facilitate development through mitigation banking opportunities.</p>	<p>The project does not propose mitigation banking; therefore, this policy is not applicable.</p>	<p>Not applicable</p>
<p>COS-1.7 Preserve System Funding. Provide adequate funding for assemblage, management, maintenance,</p>	<p>Please see the response to Goal/Policy/Objective COS-1, above. The project applicant would provide the necessary funding for the preservation, maintenance, and management of the project's on-site habitat preserve areas. The project proposes to contract with a preserve management entity for the project's on-site habitat preserve areas. In addition to</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>and monitoring through coordination with other jurisdictions and agencies.</p>	<p>performing important biological monitoring functions, the project's preserve manager would keep trespassers from dumping trash, camping, driving off-road-vehicles, graffiti/tagging boulders, and participating in other illegal activities that disturb and threaten the flora and fauna found on Site.</p>	
<p>COS-1.8 Multiple-Resource Preservation Areas. Support the acquisition of large tracts of land that have multiple resource preservation benefits, such as biology, hydrology, cultural, aesthetics, and community character. Establish funding mechanisms to serve as an alternative when mitigation requirements would not result in the acquisition of large tracts of land.</p>	<p>Please see the response to Goal/Policy/Objective COS-1, above. This objective applies to the County in the context of forming multiple resource preserve areas. Consistent with the spirit and intent of this objective, the project's proposed open space areas, which are predominantly native habitat preserve areas, contain multiple resource preservation benefits, benefits to County objectives pertaining to biology, hydrology, cultural resources, aesthetics, and Community character. As it relates to biology and open space, the project proposes to create a 1,209-acre native habitat preserve and an additional 235 acres of project open space supporting native habitat (managed for fuel modification purposes), pedestrian pathways and trails, approximately 20 acres of Community grape vineyards, and 35.9 acres of Community, neighborhood, and pocket parks. The project's proposed habitat preserve areas connect to large off-site open space areas dominated by native habitat and designated as "Pre-approved Mitigation Areas" (PAMA) in the Draft North County MSCP Plan on its southern, western, and northern boundaries.</p> <p>As it relates to hydrology, the proposed project would leave nearly three quarters of the project Site, in its existing natural (ungraded) topographic condition, ensuring that the project Site's existing sub-watersheds and drainage patterns are largely maintained. Additionally, the project's development areas have been designed to conform to the existing terrain and to utilize the Site's existing natural drainages such that runoff from graded and developed areas is treated and detained in full compliance with the applicable Regional Water Quality Control Board storm water quality and hydromodification detention requirements and then discharged into these existing natural drainages. Finally, prior to leaving the Site, runoff from the project's various drainages would undergo detention where necessary such that post-development flows are less than or equal to pre-development flows in accordance with County flood control requirements. Of the 8.2 acres of RPO wetlands within the project Site, approximately 2.13 would be impacted by the proposed project, with a large majority of those impacts resulting from fuel modification activities. Additional direct impacts would result from off-site improvements to Deer Springs Road and Camino Mayor. The amount of impact depends on the Deer Springs option chosen for development, with Option B generating greater impacts. In addition, RPO buffers would be impacted by road improvements. On-site and off-site impacts are unavoidable given the project goals of concentrating development in the southern portion of the property to create a Biological Open Space area in the northern portion of the property, and providing a core habitat block in the Merriam Mountains. Improvements to Deer Springs Road are required by the General Plan and, therefore, impacts to RPO wetlands are unavoidable. Improvements to Camino Mayor are necessary to provide secondary access to the project Site for emergency purposes.</p> <p>As it relates to cultural resources, the project has been designed to avoid significant cultural resources to the greatest extent feasible. However, several significant cultural sites would be impacted by the widening of Deer Springs Road (an essential public facility). These impacts have been minimized through the use of soldier pile walls, which would avoid much of the resource. Impacts to these significant cultural sites will be mitigated to less than significant levels via Phase III data recovery efforts pursuant to an approved treatment plan. In addition, to the extent grading activities uncover previously unknown or unanticipated cultural resources, all such activities will stop until the significance of the resources is determined. In the event the affected resources are deemed significant, the project grading will be adjusted to avoid them if such avoidance is feasible. If avoidance is not feasible, the uncovered resource will be subject to data recovery. With respect to cumulative impacts, the project's effects on the three significant cultural sites constitute a cumulatively considerable contribution to a significant cumulative impact. The proposed mitigation measures, however, reduce this impact to less than cumulatively considerable.</p> <p>As it relates to aesthetics, the project's proposed open space design would preserve key natural features found on the project Site, including ridgetops, hilltops, drainages, and</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	<p>rocky outcrops. The majority of these areas consist of dense chaparral, riparian forest and scrub, coastal sage scrub, non-native grassland, and oak woodland. The two largest riparian areas located within the project Site, the South Fork of Gopher Canyon and the South Fork of Moosa Canyon, would also be included in the open space. In total, the project would avoid altering nearly three quarters of the topography and other natural features of the Site.</p> <p>By preserving large portions of the project's Site's biological, hydrological, cultural, and natural aesthetic features, in the context of these features being necessary components of Community character, the project achieves the Community character aspect of this objective. For more information on how the project is consistent with the land use components (including development patterns, densities, and uses) of Community character, please refer to COS-1 above. Please also refer to EIR Section 2.4, Biological Resources and the project's Conceptual Resource Management Plans.</p>	
<p>COS-1.9 Invasive Species. Require new development adjacent to biological preserves to use non-invasive plants in landscaping. Encourage the removal of invasive plants within preserves.</p>	<p>The project would be conditioned to require the use of non-invasive plants in all landscaping areas that are adjacent to preserve areas. The project's Specific Plan proposes the use of low-water use native and naturalized plants and trees throughout its various landscape areas, including parkways, slopes, Fuel Modification Zone 1, and parks. To ensure compliance with this requirement, prior to any permanent landscaping being installed, the project's various landscape construction documents would be reviewed and permitted in compliance with the project's Conditions of Approval, Specific Plan, the Fire Protection Plan, and the County's Water Efficient Landscape Design Manual. The project also proposes a Conceptual Resource Management Plan for its 1,209-acre biological preserve implemented by a County and wildlife agency pre-approved preserve management entity that would require the removal of exotic and invasive plants and trash and debris, among preserve management responsibilities, within preserve areas.</p>	<p>Consistent.</p>
<p>COS-2 Sustainability of the Natural Environment. Sustainable ecosystems with long-term viability to maintain natural processes, sensitive lands, and sensitive as well as common species, coupled with sustainable growth and development.</p>	<p>The project is a balanced project supporting a range of housing types along with shopping, Community and neighborhood parks, Community pathways and trails, bicycle-friendly streets, and a school site connected together in an environmentally sensitive development pattern surrounded by 1,209 acres (approximately 61% of the Site) of native habitat preserve areas, 128.9 acres of Fuel Modification Zone 1, and 241 acres of Fuel Modification Zone 2 and Special Maintenance Areas. The project's proposed 1,209 acres of permanently preserved, managed, and dedicated preserve would sustain the on-site natural environment, including the natural processes, sensitive lands, and sensitive and common native species found on Site. The project's proposed preserve areas would connect to existing open space areas and areas designed as Pre-approved Mitigation Areas (PAMA) in the vicinity of the project, areas which support natural processes, sensitive lands, and sensitive as well as common native species. 235 acres of the 241 acres of FMZ 2 and Special Maintenance Areas would be left as native habitat areas, thinned and managed for fuel modification purposes.</p> <p>It should also be noted that the project would dedicate and permanently preserve an additional 212 acres of off-site open space for a total preserve acreage of 1,421 acres (72 percent of the project Site acreage).</p> <p>To help the project's preserve areas maintain native biodiversity, the project proposes limited trails into and through the project's preserve areas to control access and minimize human encroachment. The open space would not be developed, and human use would be limited to passive recreation along designated trail areas and staging areas. Please also refer to EIR Section 2.4, Biological Resources.</p>	<p>Consistent.</p>
<p>COS-2.1 Protection, Restoration and Enhancement. Protect and enhance natural wildlife habitat outside of preserves as development occurs according to the underlying</p>	<p>The proposed project protects natural wildlife habitat outside of preserves as project development occurs, and would limit degradation of regionally important natural habitats within the Semi-Rural and Rural Lands regional categories, and within the Village designation where appropriate.</p> <p>In the context of limiting the degradation of regionally important natural habitats, the project would permanently preserve and manage approximately 1,209 acres of dedicated</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>land use designation. Limit the degradation of regionally important natural habitats within the Semi-Rural and Rural Lands regional categories, as well as within Village lands where appropriate. The preservation of existing native plants and the planting of a variety of native (genetically locally adapted) or compatible non-native, non-invasive plant species enhance wildlife habitat areas.</p>	<p>preserve onsite (approximately 61% of the Site) and thin but maintain as native habitat an additional 235 acres of native habitat in Fuel Modification Zone 2 and Special Management Areas. FMZ 2 and SMAs would be thinned up to 50% and maintained free of weeds and exotic and invasive plants and would continue to support wildlife movement, nesting, and foraging. More broadly, the overall design of the project would protect and preserve significant natural areas and features of the Site, including nearly three quarters of the Site's existing natural terrain, 61% of the Site in a habitat preserve, and areas not within the project's proposed habitat preserve areas that provide for additional wildlife movement and connectivity throughout the Site.</p> <p>It should also be noted that an additional 212 acres of off-site open space would be preserved, for a total preserve acreage of 1,421 acres (72 percent of the project Site acreage).</p> <p>In the context of preserving native plants, the project's proposed preserve design consists of two large continuous blocks of native habitat situated within the project's northern half and eastern boundary, as well as a large third block of native habitat in the center of the proposed development that connects the abovementioned blocks of open space to open space and Pre-approved Mitigation Areas (PAMA) located off the project Site. The project's preserve areas contain a diversity of environmental characteristics, including representative populations of special-status plant and animal species observed on Site; existing dirt trails and canyon bottoms currently used by wildlife for movement across the Site; and the north/south trending tributary to Gopher Canyon along Twin Oaks Valley Road, which provides linkage opportunities to the San Marcos Mountains. Please also refer to EIR Section 2.4, Biological Resources, and the associated Conceptual Resource Management Plan (Appendix H).</p>	
<p>COS-2.2 Habitat Protection Through Site Design. Require development to be sited in the least biologically sensitive areas and minimize the loss of natural habitat through site design.</p>	<p>The project proposes to locate its various neighborhoods in the least biologically sensitive areas of the Site and minimize the loss of natural habitat found on Site. The most biologically sensitive areas are located in the northern portion of the Site and would be included in the project's biological preserve. The project would limit disturbance and development to only those areas on Site or off Site as needed for grading, roads, utilities, and infrastructure, thereby preserving nearly three-quarters of the Site's natural terrain. The project would also create a 1,209-acre native habitat preserve on Site connected to off-site areas supporting native habitat. The project would also maintain an additional 235 acres of native habitat within Fuel Modification Zone 2 and Special Maintenance Areas. Please also refer to EIR Section 2.4, Biological Resources.</p>	<p>Consistent.</p>
<p>COS-3 Protection and Enhancement of Wetlands. Wetlands that are restored and enhanced and protected from adverse impacts.</p>	<p>The project Site contains freshwater marsh and southern willow scrub wetlands under the jurisdiction of the U.S. Army Corps of Engineers (ACOE), the Regional Water Quality Control Board (RWQCB), the California Department of Fish and Wildlife (CDFW), and the County (Appendix H). The project Site also supports wetland and riparian habitat that fall within the jurisdiction of CDFW and the County RPO but outside the jurisdiction of the ACOE and RWQCB. The project proposes avoidance, mitigation, and long-term preservation management of wetland and riparian resources. Impacts to all jurisdictional resources will require permits from the regulatory agencies and any additional measures required for restoration, enhancement and/or protection/preservation of these resources will be identified through those permitting processes. Please also refer to the response to Goal/Policy/Objective COS-1.8, EIR Section 2.4, Biological Resources, and the On-Site Conceptual Resource Management Plan (in Appendix H, Biological Resources Technical Report).</p>	<p>Consistent.</p>
<p>COS-3.1 Wetland Protection. Require development to preserve existing natural wetland areas and associated transitional riparian and upland buffers and retain opportunities for enhancement.</p>	<p>Please see the responses to Goal COS-3 and Goal/Policy/Objective COS-1.8 above. The riparian areas to be preserved primarily occur within the stream channel west of North Twin Oaks Valley Road, and the tributary just west of I-15 with additional scattered areas throughout the proposed preserve area. These locations are surrounded by upland habitat and will be preserved and protected as discussed in the On-Site Conceptual Resource Management Plan (in Appendix H, Biological Resources Technical Report). In addition, the project would preserve non-wetland waters, which include the tributaries to the two main riparian areas. Please also refer to EIR Section 2.4, Biological Resources.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>COS-3.2 Minimize Impacts of Development. Require development projects to:</p> <ul style="list-style-type: none"> Mitigate any unavoidable losses of wetlands, including its habitat functions and values; and Protect wetlands, including vernal pools, from a variety of discharges and activities, such as dredging or adding fill material, exposure to pollutants such as nutrients, hydromodification, land and vegetation clearing, and the introduction of invasive species. 	<p>Please see the response to Goal/Policy/Objective COS-3.1 above. The proposed project mitigates impacts to wetlands through avoidance, minimization, and mitigation in the form of preservation of high quality wetland and riparian habitat within the project's proposed preserve areas.</p> <p>Exposure to pollutants such as nutrients, hydromodification, land and vegetation clearing, and the introduction of invasive species would be mitigated through the following measures: construction monitoring (M-BIO-1), construction fencing (M-BIO-2), invasive species prohibition (M-BIO-4), preservation of on-site and off-site habitat (M-BIO-8A), and control of invasive species (M-BIO-10). Refer to EIR Section 2.4.15, Mitigation Measures, for the full description of these mitigation measures.</p> <p>As previously stated, impacts to all jurisdictional resources will require permits from the regulatory agencies (M-BIO-12) and any additional measures required for restoration, enhancement and/or protection of these resources will be identified through those permitting processes.</p>	<p>Consistent.</p>
<p>COS-4 Water Management. A balanced and regionally integrated water management approach to achieve the long-term viability of the County's water quality and supply.</p>	<p>The project Site is located within the service territory of the Vallecitos Water District (VWD), the water and sewer service provider for the project Site and much of the surrounding area. An extensive network of water lines and facilities currently exist within the project Site, including water lines ranging in size from 8 inches to 16 inches in diameter and a 1.3 million-gallon water reservoir that would be used to serve the project as well as adjacent properties. The project proposes the relocation of some existing water mains, the construction of new water mains, and the construction of two new water tanks, one to serve the project and one to support VWD's implementation of their approved Water, Wastewater, and Recycled Water Master Plan. The applicant would equitably finance all on-site services and facilities and pay capital facility fees to VWD and the County Water Authority (CWA) to fund local and regional water storage, treatment, and delivery facilities, saltwater desalination facilities, and other facilities, which create new water supply, and water conservation and reuse programs, which collectively ensure the long-term viability of drinking water quality and supply for the project, VWD, and the San Diego County region as a whole.</p> <p>Further, while the project would result in an increase in demand for water from VWD, the project proposes extensive mandatory and project design water conservation measures that would reduce the project's projected water demand by 52% below what VWD has programmed for the project Site in their Urban Water Management Plan (UWMP), including: a plant palette comprised predominantly of low water use drought-tolerant plants, water efficient irrigation systems with the extensive use of efficient drip irrigation; weather-based "smart" irrigation controllers that adjust the irrigation schedule in respond to rain events; prohibitions on planting turf in the front yard areas of private residences; restricting backyard and side yard turf to "warm season" turf varieties only; low water use fixtures in all new construction as required by Title 24 (i.e., the California Green Building Standards Code/CalGreen), and provisions in the project's Specific Plan to require pre-plumbing for greywater systems in all of the project's single-family homes. Collectively, the project's proposed indoor and outdoor water conservation measures exceed the latest requirements imposed by the state and the County, including California Title 24 and the County's "Water Conservation in Landscape" Ordinance and the County's Water Efficient Landscape Design Manual.</p> <p>The project's contribution to local and regional water supply and transmission facilities, its aggressive indoor and outdoor water conservation measures that exceed state and local requirements (requirements which were recently tightened as a result of 2015 drought conditions in the state), and its commitment to pre-plumbing greywater systems in the</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	<p>project's single family residential residences, ensure that the project is consistent with the goal of having a balanced and regionally integrated water management approach to achieve the long-term viability of the County's water quality and supply. See also EIR Section 2.14, Utilities and Service Systems; EIR Appendix T, GSI's technical memorandum; EIR Appendix S, Water Supply Assessment and Verification Report; and Section 3.7 of the Specific Plan.</p>	
<p>COS-4.1 Water Conservation. Require development to reduce the waste of potable water through use of efficient technologies and conservation efforts that minimize the County's dependence on imported water and conserve groundwater resources.</p>	<p>Please see the response to Goal/Policy/Objective COS-4 above. The proposed project would reduce potable water waste through the use of efficient technologies and conservation efforts that minimized the County's dependence on imported water, including: a plant palette comprised predominantly of low water use drought-tolerant plants, water efficient irrigation systems with the extensive use of efficient drip irrigation; weather-based "smart" irrigation controllers that adjust the irrigation schedule in respond to rain events; prohibitions on planting turf in the front yard areas of private residences; restricting backyard and side yard turf to "warm season" turf varieties only; low water use fixtures in all new construction as required by Title 24 (i.e., the California Green Building Standards Code/CalGreen), and provisions in the project's Specific Plan to require pre-plumbing for greywater systems in all of the project's single-family homes. Collectively, the project's proposed indoor and outdoor water conservation measures exceed the latest requirements imposed by the state and the County, including California Title 24 and the County's "Water Conservation in Landscape" Ordinance and the County's Water Efficient Landscape Design Manual.</p> <p>As the project does not use any groundwater, the project would have no effect on groundwater resources. The project's aggressive indoor and outdoor water conservation measures that exceed state and local requirements and its commitment to pre-plumbing for greywater systems further the goal of minimizing the County's dependence on imported water and, indirectly, benefit the goal of conserving groundwater resources.</p> <p>For further responsive information, please see Appendix T of the EIR for GSI Water Solutions' technical memorandum substantiating the project's water conservation and Section 3.7 of the Specific Plan.</p>	<p>Consistent.</p>
<p>COS-4.2 Drought-Efficient Landscaping. Require efficient irrigation systems and in new development encourage the use of native plant species and non-invasive drought tolerant/low water use plants in landscaping.</p>	<p>Please see the response to Goal/Policy/Objective COS-4 above. The project's Specific Plan and the County's Water Efficient Landscape Design Manual would require the use of efficient irrigation systems (i.e., drip irrigation), weather based "smart" irrigation controllers, and the use of native plant species and non-invasive drought-tolerant/low water use plants in landscaping, including a plant palette comprised mostly of low water use drought-tolerant plants and native or naturalized plants. To ensure compliance with this requirement, prior to any permanent landscaping being installed, the project's various landscape construction documents would be reviewed and permitted in compliance with the project's Conditions of Approval, Specific Plan, the Fire Protection Plan, and the County's Water Efficient Landscape Design Manual. For further responsive information, please see Appendix T of the EIR for GSI Water Solutions' technical memorandum substantiating the project's water conservation and Section 3.7 of the Specific Plan.</p>	<p>Consistent.</p>
<p>COS-4.3 Stormwater Filtration. Maximize stormwater filtration and/or infiltration in areas that are not subject to high groundwater by maximizing the natural drainage patterns and the retention of natural vegetation and other pervious surfaces. This policy shall not apply in areas with high groundwater, where raising the water table could cause septic system failures, moisture damage to</p>	<p>The project would maximize stormwater filtration and infiltration by preserving natural drainage patterns and the retention of natural vegetation and other pervious surfaces. The project would avoid grading impacts to nearly three quarters of the project Site, preserving much of the natural terrain, drainages, and native vegetation found on Site. The project proposes to preserve approximately 61% (1,209 acres) of the native vegetation on Site and thin an additional 235 acres (12%) of native vegetation such that nearly three-quarters of the Site will retain its native vegetative cover and root system.</p> <p>It should also be noted that an additional 212 acres of off-site open space would be preserved, for a total preserve acreage of 1,421 acres (72 percent of the project Site acreage).</p> <p>Stormwater quality and hydromodification impacts are addressed through a system of Site design best management practices (BMPs), low-impact development (LID) BMPs, structural BMPs, and source control BMPs (collectively, LID and water quality BMPs). The</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>building slabs, and/or other problems.</p>	<p>Site design BMPs are largely reflected in the three quarters of the Site, which will remain pervious resulting in extensive preservation of the Site’s existing natural terrain and drainages. The project’s roadway-adjacent bioswales (in landscaped medians and parkways) and its separation of impervious surfaces with pervious surfaces, and use of pervious walking paths reflect the implementation of LID BMPs. The project’s bioretention swales and bioretention basins, which treat and detain runoff, constitute the project’s structural water quality and hydromodification BMPs. The project’s Stormwater Quality Management Plan source control BMPs would restrict the use of fertilizers, pesticides, and herbicides in common areas, commercial areas, and parks, prohibitions on dumping or discharges of any kind into the storm drain system, and educational material provided to new homebuyers and Community residents as a whole constitute the project’s source control BMPs.</p> <p>The project’s proposed stormwater capture, detention, and treatment system and associated water quality Best Management Practices (BMPs) have been designed to provide high-quality stormwater treatment, hydromodification detention, and flood control detention to mitigate flows to pre-development levels for storm events in compliance with the applicable San Diego RWQCB requirements for stormwater runoff, discharges, and pollutants as contained in the National Pollution Discharge Elimination System (NPDES) Permit for Municipal Separate Storm Sewer Systems (MS4s), Order Numbers R9-2015-0001 and R9-2015-0100, as well as in compliance with the County of San Diego Hydrology Manual.</p> <p>The project also proposes to minimize grading impacts for off-site improvements and has been designed to meet the same applicable RWQCB and County Hydrology Manual requirements applicable to on-site improvements. See also EIR Section 3.2, Hydrology and Water Quality; Appendix Y, the project’s Stormwater Quality Management Plan (SWQMP); and Sections 2 and 3 of the project’s Specific Plan.</p>	
<p>COS-4.4 Groundwater Contamination. Require land uses with a high potential to contaminate groundwater to take appropriate measures to protect water supply sources. Potential sources of groundwater contamination include, but are not limited to, landfills, fertilizer, pesticide, manure storage and sales, petroleum product storage tanks, manufacturing plants, and on-site wastewater treatment systems.</p>	<p>The project’s proposed land uses, which include residential and non-residential uses, do not create the high potential to cause groundwater contamination. The project does not propose and would not permit any land uses, which involve the use of landfills, manure storage and sales, petroleum product storage tanks, or manufacturing plants. The project’s Stormwater Quality Management Plan includes stringent source control BMPs to limit the use of fertilizers, pesticides, and herbicides in all common areas, commercial areas, and parks within the project. Therefore, the use of pesticides, fertilizers, and herbicides would be minimal and not have a high potential to contaminate groundwater. Finally, while the project would require the pre-plumbing of greywater systems in its single-family homes, each greywater system includes a complex treatment unit and will be individually permitted and inspected by the County’s Department of Health consistent with all applicable state laws governing the use of greywater systems. Therefore, the use of greywater systems in the project would not create a high potential to contaminate groundwater. See also EIR Section 2.8, Hazards and Hazardous Materials.</p>	<p>Consistent.</p>
<p>COS-4.5 Recycled Water. Promote the use of recycled water and gray water systems where feasible.</p>	<p>The project does not propose the use of recycled water because Vallecitos Water District (VWD) does not currently provide any recycled water service within its sphere of influence. According to VWD’s Urban Water Management Plan (UWMP) adopted in June 2016:</p> <p>“VWD produces up to 5 MGD of recycled water at MRF (Meadowlark Reclamation Facility) and maintains the 54 million-gallon (MG) Mahr Reservoir for recycled water storage, (however) VWD does not maintain a recycled water service area within its sphere of influence. All of the recycled water produced is sold to the (Carlsbad Municipal Water District) CMWD and the (Olivenhain Municipal Water District) OMWD. CMWD originally contracted for up to 2.0 MGD during peak summer months, and in 2003, increased that amount to 3.0 MGD. As part of that agreement, VWD also provides CMWD with 32 MG of recycled water</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	<p>storage in the Mahr Reservoir. Also in 2003, the OMWD contracted for up to 1.5 MGD of recycled water and 16 MG of recycled water storage in the Mahr Reservoir.”</p> <p>Wastewater in VWD’s service territory is directed to the Meadowlark Reclamation Facility where up to 74% of that water is converted into recycled water and then distributed to the neighboring districts of CMWD and OMWD and used for irrigation at places like Legoland, the Carlsbad Flower Fields, and the Aviara Golf Course. VWD is presently evaluating whether to begin extending recycled water service to portions of its service territory, with its focus being on the downtown area of San Marcos. VWD presently has no plans to extend recycled water service to the northern portions of its territory, including the community of Twin Oaks or the project Site.</p> <p>More broadly, VWD is currently working with other North County water districts to determine the best approach to water reuse, including examining the viability of potable reuse, the water reuse solution the city of San Diego is now implementing. VWD and other North County water districts may determine that potable reuse (indirect or direct) may be the best long-term strategy related to the water reuse capability of their water treatment facilities. In such case, VWD and other North County water districts may shift their focus away from providing or expanding recycled water services and toward developing potable water reuse infrastructure, including potentially restructuring treatment facilities and building new reservoirs. Potable reuse infrastructure and facilities would be funded through VWD’s and other water districts’ water capacity/capital facility fees and service charges.</p> <p>Currently, where it is made available to projects, existing state regulations limit the use of recycled water to common areas, parkways, medians, and parks due to the concern about cross-connections were it extended into private lots and buildings. However, recent state legislation, Assembly Bill 2282 passed in 2014, directs the Building Standards Commission to develop plumbing code requirements for indoor and outdoor recycled water as part of the 2019 California Building Code cycle. As this code development process is underway now, it remains to be seen how it will ultimately be applied to new construction. AB 2282, however, is clear about when these new code requirements would apply, adding Section 17921.5(c)(2) to the Health and Safety Code to read:</p> <p>“When developing the application provisions for the mandatory building standards, the department (Department of Housing and Community Development) shall limit the mandate to install recycled water systems within residential buildings and building site landscaped areas to only those areas within a local jurisdiction that have feasible and cost-efficient access to a water recycling facility, or that have been identified by the local jurisdiction within a planned service area for the provision of recycled water for which a specific implementation timeline has been identified by the public water system in its most recent urban water management plan.”</p> <p>In the event that VWD were to eventually develop and extend recycled water service to the project Site, the code requirements that are promulgated out of AB 2282 may be triggered for any remaining construction in the project depending on the proximity of that remaining construction to the recycled water service being extended to the project Site. Under such a scenario, the County and VWD would be able to exercise their regulatory authority in determining how these remaining portions of the project Site would be required to implement recycled water systems.</p> <p>Finally, while the project does not propose the use of recycled water, as stated previously, the project would require the pre-plumbing for greywater systems in all of its single-family homes subject to the permitting requirements of the County of San Diego for greywater systems. In the same fundamental way that recycled water serves as a form of water reuse, greywater use in the project would as well.</p>	

Policy	Project Conformance	Conformance Conclusion
	See also EIR Section 2.14, Utilities and Service Systems and the project's Specific Plan.	
<p>COS-5 Protection and Maintenance of Water Resources. Protection and maintenance of local reservoirs, watersheds, aquifer-recharge areas, and natural drainage systems to maintain high-quality water resources.</p>	<p>The project is consistent with the goal of protecting and maintaining local reservoirs, watersheds, aquifer-recharge areas, and natural drainage systems to maintain high-quality water resources. As discussed in the response to COS-4.3, the project proposes to conserve nearly three quarters of the existing natural terrain, drainages, and native vegetation on Site. In addition to this high level of on-site conservation, to protect both on-site and off-site drainage systems and the larger San Luis Rey-Escondido Watershed in which the project Site sits, the project proposes stormwater facilities (e.g., bioretention basins, bioswales; and other low impact development features) to manage stormwater quality, hydromodification impacts, and peak flow attenuation.</p> <p>No local reservoirs exist within the vicinity of the project Site. The nearest drinking water reservoir (Dixon Lake) is approximately 6 miles to the southeast and separated from the project Site by the I-15 corridor and within a different watershed. See also EIR Section 3.2, Hydrology and Water Quality.</p>	Consistent.
<p>COS-5.1 Impact to Floodways and Floodplains. Restrict development in floodways and floodplains in accordance with policies in the Flood Hazards section of the Safety Element. Development in floodways and floodplains has the potential to alter natural hydrologic flow and cause soil erosion and increased stormwater runoff—including loss of wetland and health issues related to surface and groundwater contamination.</p>	<p>The project would restrict development in floodways and floodplains. Any areas of proposed development improvements located in a flood hazard area would be designed for adequate structural safety for flooding hazards in compliance with the County's Flood Control development regulations and permitting. All grading that occurs and any structural improvements in or adjacent to or affecting a floodplain must comply with these requirements.</p> <p>In addition, a drainage study, hydromodification study, and stormwater study were prepared and incorporated into the project design to analyze impacts regarding stormwater runoff, and to ensure proposed stormwater runoff control facilities are adequately sized, hydrology generally follows the existing drainage pattern, and impacts to drainage and flooding are minimized to the extent feasible, as described within EIR Section 3.2, Hydrology and Water Quality. Issues related to wetland habitat are addressed in the responses to Goal/Policy/Objective COS-3, COS-3.1, and COS-3.2, and issues related to groundwater contamination are addressed in the response to COS-4.4.</p>	Consistent.
<p>COS-5.2 Impervious surfaces. Require development to minimize the use of directly connected impervious surfaces and to retain stormwater run-off caused from the development footprint at or near the site of generation. Impervious surface area impairs groundwater recharge and contributes to stormwater runoff and heat retention.</p>	<p>The proposed project requires Site development to minimize the use of directly connected impervious surfaces, and to retain stormwater runoff generated by impervious surfaces in the project's development footprint. For example, to minimize the impacts from impervious surfaces during peak storm events, stormwater detention would be provided prior to runoff exiting the project Site. The project proposes to preserve nearly three quarters of the project Site's natural terrain and drainages. Please see the response COS-4.3 for a detailed discussion of the project's water quality BMPs. See also EIR Section 2.9, Hydrology and Water Quality.</p>	Consistent.
<p>COS-5.3 Downslope Protection. Require development to be appropriately sited and to incorporate measures to retain natural flow regimes, thereby protecting downslope areas from erosion, capturing runoff to adequately allow for filtration and/or infiltration, and protecting downstream</p>	<p>The proposed project implements Site design, on-site preservation and conservation of natural features, and a complex suite of water quality BMPs that retain the Site's natural flow regimes to protect downslope areas from erosion, capture, filter, and infiltrate stormwater runoff, and to protect downstream biological resources. For example, the project proposes development in the least environmental sensitive areas of the Site, retains nearly three quarters of the existing natural terrain and drainages, and implements water quality BMPs, including bioswales and bioretention basins, to retain natural flow regimes, thereby protecting downslope areas from erosion, capturing runoff to adequately allow for filtration and/or infiltration, and protecting downstream biological resources. See also EIR Section 3.2, Hydrology and Water Quality.</p>	Consistent.

Policy	Project Conformance	Conformance Conclusion
<p>biological resources.</p> <p>COS-5.4 Invasive Species. Encourage the removal of invasive species to restore natural drainage systems, habitats, and natural hydrologic regimes of watercourses.</p>	<p>Please see the response to Goal/Policy/Objective COS-1.9. The project would require the use of non-invasive plants in all landscaping areas that are adjacent to preserve areas. The project proposes the use of low-water use native and naturalized plants and trees throughout its various landscape areas, including parkways, slopes, Fuel Modification Zone 1, and parks and these areas would be subject to ongoing maintenance and removal of invasive species. The project is conditioned to submit and includes a Resource Management Plan for its 1,209-acre biological preserve implemented by a preserve management entity that would require the removal of exotic and invasive plants and trash and debris, among other preserve management responsibilities, within these preserve areas.</p> <p>The active management of the project’s internal landscape areas, development perimeter areas (e.g., Fuel Modification Zones), and preserve areas to prevent the use of invasive plant species and to ensure the removal of any that occur would ensure compliance with the goal of removing invasive species to restore natural drainage systems, habitats, and hydrologic regimes.</p>	<p>Consistent.</p>
<p>COS-5.5 Impacts of Development to Water Quality. Require development projects to avoid impacts to the water quality in local reservoirs, groundwater resources, and recharge areas, watersheds, and other local water sources.</p> <p>Protecting reservoir water quality requires that the quality of the water entering the reservoirs is maintained or improved. Pollutants of high concern are nutrients and related algae, total organic carbon, and total dissolved solids.</p>	<p>The project would require Site development to avoid water quality impacts to local reservoirs, groundwater resources, recharge areas, watersheds, and other local water resources through implementation of stormwater quality BMPs and storm water runoff detention, attenuation, and, in certain locations, infiltration. The project’s Drainage Study, Hydromodification Study, Critical Coarse Sediment Analysis, and a Storm Water Quality Management Plan analyzed impacts related to water quality, flooding, hydromodification, and sediment supply from stormwater runoff. The project’s storm water facilities, including BMPs, would be designed to ensure that stormwater BMPs are located and sufficiently sized to remove pollutants and attenuate flows for hydromodification and flood control purposes, that runoff within and from developed areas generally follows the existing drainage patterns, and that impacts to downstream drainages and flooding are mitigated to less than significant. To that end, the project has been designed to comply with the San Diego RWQCB requirements for stormwater runoff, discharges, and pollutants as contained in the NPDES Permit for Municipal Separate Storm Sewer Systems (MS4s), Order Numbers R9-2015-0001 and R9-2015-0100 as well as in compliance with the County of San Diego Hydrology Manual. The project has also completed a “No Rise” flood control analysis related to off-site improvements to Deer Springs Road and Twin Oaks Valley Road. See also the responses above to COS-4.3 and COS 5 and EIR Section 3.2, Hydrology and Water Quality.</p>	<p>Consistent.</p>
<p>COS-6 Sustainable Agricultural Industry. A viable and long-term agricultural industry and sustainable agricultural land uses in the County of San Diego that serve as a beneficial resource and contributor to the County’s rural character and open space network.</p>	<p>The project Site does not support any agricultural uses and the project would not reduce the viability of the long-term agricultural industry or sustainable agricultural land uses in the County that serve as beneficial contributors to the County’s rural character and open space network. Instead, the project proposes Community gardens and vineyards within certain of the project’s individual neighborhoods and Fuel Modification Zones to further the tradition of agriculture in the area surrounding the project Site and the larger unincorporated County. Please see the response to <i>Guiding Principle 8</i>, above.</p>	<p>Consistent.</p>
<p>COS-6.2 Protection of Agricultural Operations. Protect existing agricultural operations from encroachment of incompatible land uses by doing the following:</p> <ul style="list-style-type: none"> • Limiting the ability of new development to take actions to limit existing agricultural uses 	<p>The proposed project would protect existing agricultural operations from encroachment by limiting and minimizing impacts between Site development and existing agriculture; providing a buffer between development and these existing agriculture operations, designing the project to facilitate agriculture uses within the project, specifically through the incorporation of Community gardens and vineyards, and consolidating development areas in the project to avoid grading/landform alteration impacts to nearly three quarters of the project Site.</p> <p>A few small family-run citrus and avocado groves exist to the west and southwest of the project Site. These types of agricultural operations are generally found to be compatible with residential land uses. Certain portions of the project’s Valley, Knoll, and Summit neighborhoods</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>by informing and educating new projects as to the potential impacts from agricultural operations</p> <ul style="list-style-type: none"> • Encouraging new or expanded agricultural land uses to provide a buffer of non-intensive agriculture or other appropriate uses (e.g., landscape screening) between intensive uses and adjacent non-agricultural land uses • Allowing for agricultural uses in agricultural areas and designing development and lots in a manner that facilitates continued agricultural use within the development. • Requiring development to minimize potential conflicts with adjacent agricultural operations through the incorporation of adequate buffers, setbacks, and project design measures to protect surrounding agriculture • Supporting local and State right-to-farm regulations • Retain or facilitate large and contiguous agricultural operations by consolidation of development during the subdivision process. <p>Discourage development that is potentially incompatible with intensive agricultural uses, including schools and civic buildings where the public gather, daycare facilities under private institutional use, private institutional uses (e.g., private hospitals or rest homes), residential densities higher than two dwelling units per acre, and offices and retail commercial.</p>	<p>would be adjacent to these existing groves, with the closest lots being within approximately 150 to 200 feet and the majority of the lots being 500 feet or more from the edges of these off-site groves. These groves would be buffered by a combination Fuel Modification Zones and Special Maintenance Areas in conjunction with intervening topography. By locating only residential land uses within proximity to these existing groves and providing buffers, the proposed project would not result in the fragmentation or substantial interruption of surrounding agricultural land uses.</p> <p>Finally, the project Site does not presently support agricultural uses, however, the project would incorporate Community gardens and vineyards within and around certain neighborhoods in the project to establish agricultural uses within the project in a manner that is compatible with the project's neighborhoods that would surround these uses. The project's Community gardens and vineyards would serve as sustainable and locally grown forms of agriculture in the Twin Oaks community and surrounding area.</p>	

Policy	Project Conformance	Conformance Conclusion
<p>COS-6.3 Compatibility with Recreation and Open Space. Encourage siting recreational and open space uses and multi-use trails that are compatible with agriculture adjacent to the agricultural lands when planning for development adjacent to agricultural land uses.</p> <p>Recreational and open space uses can serve as an effective buffer between agriculture and development that is potentially incompatible with agriculture uses.</p>	<p>Please see the response to Goal/Policy/Objective COS-6.2 above. The project would provide adequate buffers (portions of which that would act as Fuel Modification Zones and Special Maintenance Areas) between proposed development and existing adjacent off-site agricultural land uses. Consistent with this policy, the project proposes 1,209 acres of preserve, an additional 235 acres of Fuel Modification Zones and Special Management Areas that will retain their native vegetative cover, other project open space areas, parks, and an extensive system of pedestrian pathways and trails, including pedestrian pathways along its loop road, internal pathways within its individual neighborhoods, and multi-use and secondary trails within its neighborhoods and open space areas.</p>	<p>Consistent.</p>
<p>COS-7 Protection and Preservation of Archaeological Resources. Protection and preservation of the County's important archeological resources for their cultural importance to local communities, as well as their research and educational potential.</p>	<p>The proposed project would protect and preserve the County's important archaeological resources from loss or destruction, and require development appropriate mitigation to protect the quality and integrity of these resources. The project's Cultural Resources Technical Report was prepared in accordance with the County's CEQA Guidelines for Determining Significance, Cultural Resources: Archeological and Historical Resources. The report assesses the presence of cultural and archaeological resources within the project, their significance (including from the perspective of Native American tribes), and means of mitigation, if necessary. In addition, the applicant discussed the proposed project's design and development impacts with local Native Americans identified by the Native American Heritage Commission (NAHC). Mitigation includes, preservation in place (open space), where possible, data recovery or index & capping, recording, curation or repatriation, fencing (temporary and permanent), pre-grade survey, and monitoring. Specifically, as analyzed in the Cultural Resources Technical Report, the project would preserve a large portion of the Sites that include significant cultural resources.</p> <p>Potential impacts to cultural resources would be minimized and/or mitigated in accordance with the project's cultural resource mitigation requirements. The proposed project's impacts to significant cultural resources would be reduced to less than significant through mitigation measures that include the placement of significant sites within an avoidance area (open space), curation or repatriation of all artifacts obtained during the testing and data recovery and archaeological monitoring programs. The archaeological monitoring program would include avoidance or data recovery at new discoveries.</p> <p>Additionally, as stated in the RPP, Sites CA-SDI-4558, CA-SDI-5951, and CA-SDI-9822 are located within an off-site improvement area (Deer Springs Road improvements) that is proposed to include public projects (roadway improvement and utilities), and, as such, complete avoidance will not be possible. These types of public projects are considered essential and include public use, and are, therefore, considered exempt from the RPO, according to Article V of the RPO (County of San Diego 2007). The County has determined that the Deer Springs Road improvement is an essential public facility (as determined in the General Plan Update 2011), and that sites CA-SDI-4558, CA-SDI-5951, and CA-SDI-9822 are exempt from RPO compliance. Mitigation is provided as detailed in EIR Section 2.5, Cultural Resources, and the Cultural Resources Report included as Appendix I to the EIR.</p>	<p>Consistent.</p>
<p>COS-7.1 Archaeological Protection. Preserve important archaeological resources from loss or destruction and require development to include appropriate mitigation to</p>	<p>Please see the response to Goal COS-7 above regarding preservation of important resources, and response to COS-7.4 regarding consultation with affected communities.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>protect the quality and integrity of these resources. The importance of archaeological resources must be evaluated from the perspective of the affected community, including local tribes, in addition to the definitions contained in the California Public Resources Code. Input from the affected community on the importance of cultural resources through the consultation process is important in determining what resources should be preserved and what constitutes appropriate mitigation.</p>		
<p>COS-7.2 Open Space Easements. Require development to avoid archeological resources whenever possible. If complete avoidance is not possible, require development to fully mitigate impacts to archaeological resources. Avoidance of archaeological resources is normally achieved through the design of the development project in conjunction with the use of open space easements that protect the resources. If complete avoidance is not possible, other forms of mitigation, including data recovery excavations and the incorporation of archaeological features into the project design on a case-by-case basis may be appropriate. The determination of what constitutes adequate mitigation should be based on meaningful consultation with the affected community, including local tribes.</p>	<p>Please see the response to Goal COS-7 above. The proposed project would require development to avoid archeological resources, where possible, and require development to reduce impacts to significant archaeological resources through mitigation (including preservation in place measures).</p> <p>Additionally, as stated in the RPP, Sites CA-SDI-4558, CA-SDI-5951, and CA-SDI-9822 are located within an off-site improvement area (Deer Springs Road improvements) that is proposed to include public projects (roadway improvement and utilities), and, as such, complete avoidance will not be possible. These types of public projects are considered essential and include public use, and are, therefore, considered exempt from the RPO, according to Article V of the RPO (County of San Diego 2007). The County has determined that the Deer Springs Road improvement is an essential public facility (as determined in the General Plan Update 2011), and that sites CA-SDI-4558, CA-SDI-5951, and CA-SDI-9822 are exempt from RPO compliance. Mitigation is provided as detailed in EIR Section 2.5, Cultural Resources, and the Cultural Resources Report included as Appendix I to the EIR.</p>	<p>Consistent.</p>
<p>COS-7.3 Archaeological Collections. Require the appropriate treatment and preservation of archaeological collections in a culturally appropriate manner.</p>	<p>Please see responses to Goal/Policy/Objective COS-7 and COS-7.2, above. The proposed project would require the appropriate treatment and preservation of archaeological collections in a culturally appropriate manner. For instance, when significant cultural sites cannot be placed within open space easements, information would be preserved through recordation, test excavations, and data recovery programs that would be presented in reports and filed with the County and the South Coastal Information Center. The cultural materials collected from any potentially significant site</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>The determination of what constitutes appropriate treatment and preservation of archaeological collections should be based on existing federal curation standards in combination with consultation with the affected community, such as the tribes. Many collections should be placed in a local collections curation facility that meets federal standards per 36 CFR Part 79. The proper storage and treatment of these collections should also be based on consultation with the affected community, such as the tribes. In addition, existing federal and state law governs the treatment of certain cultural items and human remains, requires consultation, and in some circumstances, repatriation. The County is committed to conduct an inventory of collections it holds or are held by cultural resources consulting firms.</p>	<p>would be transferred to a curation facility within San Diego County or to an affiliated tribal curation facility. Alternatively, the collections may be repatriated to a tribe of appropriate affiliation.</p> <p>All cultural materials excavated or removed from prehistoric or historic sites during testing and/or data recovery programs, along with associated project data, would be permanently curated at a San Diego County curation facility or culturally affiliated tribal curation facility in accordance with federal standards per 36 C.F.R. Part 79. In lieu of curation, the cultural materials may be repatriated to a culturally affiliated tribe. If curation is selected as the method for the disposition of artifacts, then any burial-related cultural materials—unless otherwise required by law—would be repatriated. Curation would include field notes, photographs, catalogues, and final reports. Mitigation is provided as detailed in EIR Section 2.5, Cultural Resources, and the Cultural Resources Report included as Appendix I to the EIR.</p>	

Policy	Project Conformance	Conformance Conclusion
<p>COS-7.4 Consultation with Affected Communities. Require consultation with affected communities, including local tribes to determine the appropriate treatment of cultural resources.</p> <p>Consultation should take place with the affected communities concerning the appropriate treatment of cultural resources, including archaeological sites, sacred places, traditional cultural properties, historical buildings and objects, artifacts, human remains, and other items. The County is required by law, Senate Bill 18 Protection of Traditional Tribal Cultural Places (SB-18), to consult with the appropriate tribes for projects that may result in major land use decisions including General Plans, General Plan Amendments, Specific Plans and Specific Plan Amendment. In addition to these types of permits, it is County policy to consult with the appropriate tribes on all other projects that contain or are likely to contain, archaeological resources.</p> <p>Consultation may also include active participation by the tribes as monitors in the survey, testing, excavation, and grading phases of the project.</p>	<p>Consultation for the project has been conducted with affected communities, including local tribes (Rincon, Pauma, Pechanga, and San Luis Rey) to determine the appropriate treatment of cultural resources. As background, the County contacted the Native American Heritage Commission to request information and/or input regarding Native American concerns either directly or indirectly associated with the proposed project, as well as names of individuals in the area who may have information regarding cultural resources at the Site. Letters were sent to the individuals identified by the Native American Heritage Commission, along with a request for any other individuals who may possess information concerning cultural resources within the project. The project applicant as well as the County have been involved in several meetings with the local tribes to discuss the project.</p> <p>Mark Mojado, P.J. Stoneburner, and Banning Taylor (San Luis Rey Band of Luiseño Indians) and Manuel Masiel (Pechanga Band of Luiseño Indians) provided monitoring services for survey and test excavation fieldwork. The project's design and development impacts, including the widening of Deer Springs Road, were discussed. All open space planning, including use of cultural resources for public interpretation and/or capping and protection of the resources, were discussed with local Native Americans. All record of this correspondence is on file with the County of San Diego and is summarized in EIR Appendix I.</p>	<p>Consistent.</p>

<p>COS-7.5 Treatment of Human Remains. Require human remains be treated with the utmost dignity and respect and that the disposition and handling of human remains will be done in consultation with the Most Likely Descendant (MLD) and under the requirements of Federal, State and County Regulations.</p> <p>Human remains, including ancestral Native American remains, should be left undisturbed and preserved in place whenever possible. For most development permits, this is required by the County's Resource Protection Ordinance. In the event that human remains are discovered during any phase of an archaeological investigation, the requirements of State and local laws and ordinances, including notification of and consultation with appropriate tribal members, must be followed in determining what constitutes appropriate treatment of those remains.</p>	<p>The potential to discover additional human remains inadvertently during ground-disturbing activities would necessitate compliance under CEQA, Public Resources Code Section 15064.5 and Public Resources Code Section 5097.98. Accordingly, if human remains are encountered, work in the area of the find must stop until the County Coroner has made the necessary findings as to origin. Native American remains require consultation with the Most Likely Descendants. The Most Likely Descendants may make recommendations and engage in consultations concerning the treatment of the remains. As a result, the project would comply with Public Resources Code Sections 5097.98 and 15064.5.</p> <p>The proposed project would require that human remains be treated and disposed with the utmost dignity and respect in consultation with the Most Likely Descendant and under federal, state, and County requirements. Mitigation Measure M-CR-3 governs the treatment of human remains, and requires the following:</p> <p>If human remains are found during evaluations, data recovery, construction monitoring, or any project-related ground-disturbing activity, the remains shall be treated pursuant to the requirements of California Public Resources Code Sections 5097.98 and 15064.5(e). The discovery of human remains shall trigger the following requirements:</p> <ol style="list-style-type: none"> 1. The project manager shall ensure that the immediate vicinity, according to generally accepted cultural or archaeological standards, is not damaged or disturbed by further development activity until the project manager has discussed and conferred with the Most Likely Descendants about preferences for treatment, as describe below, of the discovered remains. 2. The County approved consultant on behalf of the project manager shall contact the San Diego County Coroner to determine that no investigation of the cause of death is required. If the discovered remains are determined by the Coroner, or an authorized representative, to be Native American, the Medical Examiner shall contact the NAHC. The San Diego County Coroner, in consultation with the NAHC and the Most Likely Descendant, may develop an agreement that applies to the discovery of human remains that meets the requirements of California Public Resources Code Sections 5097.98 and 15064.5(e). 3. The NAHC shall identify and contact the person or persons it believes to be the Most Likely Descendant from the deceased Native American. 4. The landowner shall provide the Most Likely Descendant with access to the discovery location for inspection. The Most Likely Descendant must complete their inspection and make a recommendation for treatment of the remains within 48 business hours of their notification by either the NAHC or the project manager, whichever is earlier. <p>Options for treatment include, but are not limited to:</p> <ol style="list-style-type: none"> a. Preservation of Native American human remains and associated items in place and avoidance of the adjacent area defined by a 100-foot radius. b. Nondestructive removal and analysis of the Native American human remains and associated items by a qualified archaeologist, osteologist, or physical anthropologist. c. Relinquishment of the Native American remains and associated items to the Most Likely Descendant for treatment. d. Reburial of the remains on the property by the project applicant at a location mutually agreeable to the Most Likely Descendant and the project applicant. <ol style="list-style-type: none"> 5. If the Most Likely Descendant does not make a recommendation within 48 business hours, or if the recommendations are not acceptable to the County of San Diego following extended discussions and mediation pursuant to California Public Resources Code Sections 5097.98(b)(2) and 5097.94(k) respectively, the project applicant shall reinter the Native American remains and burial items with appropriate dignity on the site in a location not subject to further subsurface disturbance. The location of reinternment shall be protected by one or more of the following: <ol style="list-style-type: none"> a. Record the site location with the NAHC or the CHRIS Information Center at San Diego State University. b. Utilize an open space or conservation zoning designation or easement. 	<p>Consistent.</p>
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Policy	Project Conformance	Conformance Conclusion
	<p>c. Record a document with the County of San Diego Recorder's Office.</p> <p>6. If multiple human remains are found, discussions shall be held with the Most Likely Descendant. If agreement on the treatment of these remains is not reached, the remains shall be reinterred in compliance with California Public Resources Code Section 5097.98(e).</p> <p>If Native American human remains are found during project implementation, then soils associated with the remains shall not be removed from the site.</p>	
<p>COS-7.6 Cultural Resource Data Management. Coordinate with public agencies, tribes, and institutions in order to build and maintain a central database that includes a notation whether collections from each site are being curated, and if so, where, along with the nature and location of cultural resources throughout the County of San Diego.</p> <p>This database should be accessible to all qualified individuals while maintaining the confidentiality of the location and nature of sensitive cultural resources, such as archaeological sites. The County maintains a partnership with the local repository of the database, the South Coastal Information Center at San Diego State University, which provides direct access by qualified County personnel to the database so that the information it contains may be used to design development projects to avoid cultural resources at an early point in the process.</p>	<p>All cultural materials excavated or removed from prehistoric or historic sites during testing and/or data recovery programs, along with associated project data, would be permanently curated at a San Diego curation facility or culturally affiliated tribal curation facility in accordance with federal standards per 36 C.F.R. Part 79. In lieu of curation, the cultural materials may be repatriated to a culturally affiliated tribe. If curation is selected as the method for the disposition of artifacts, then any burial-related cultural materials—unless otherwise required by law—would be repatriated. Curation would include field notes, photographs, catalogues, and final reports. Mitigation is provided as detailed in EIR Section 2.5, Cultural Resources, and the Cultural Resources Report included as Appendix I to the EIR.</p>	<p>Consistent.</p>
<p>COS-8 Protection and Conservation of the Historical Built Environment. Protection, conservation, use, and enjoyment of the County's important historic resources.</p>	<p>The project Site does not contain any important historic resources. This policy is not applicable.</p>	<p>Not Applicable.</p>
<p>COS-8.1 Preservation and Adaptive Reuse. Encourage the preservation and/or adaptive reuse of historic sites, structures, and landscapes as a means of protecting important historic resources as part of the</p>	<p>The only potentially significant historic structure is the remains of the 1901 homestead. However, efforts to re-locate the homestead based on surface survey proved unsuccessful, and, thus, it is not possible to predetermine if the project would come into contact with resources at this site, nor could the structure be preserved or reused. The project Site does not contain any other identified specific historic site, structures, or historic landscapes.</p>	<p>Not Applicable.</p>

Policy	Project Conformance	Conformance Conclusion
<p>discretionary application process, and encourage the preservation of historic structures identified during the ministerial application process.</p> <p>Historic buildings, objects, trails, landscapes and districts are important parts of the multi-cultural heritage of San Diego County and should be preserved for the future enjoyment and education of the County's diverse populations. Preservation and adaptive reuse of these resources should be encouraged during the planning process and an emphasis should be placed on incentives for preservation, such as the Mills Act property tax program, in addition to restrictions on development, where appropriate.</p>		
<p>COS-8.2 Education and Interpretation. Encourage and promote the development of educational and interpretive programs that focus on the rich multicultural heritage of the County of San Diego.</p>	<p>As detailed in the County's General Plan, this policy is directed at the County and relates to the County's ongoing efforts to develop programs that focus on the history of San Diego County. To that end, the project applicant will work with the County to facilitate any such efforts to incorporate educational and interpretative signage, monuments, and the like that the County deems appropriate for inclusion in Sierra's public parks and/or at public trail heads within the project as part of the County's review and approval of Sierra's construction documents for these facilities.</p>	<p>Not Applicable.</p>
<p>COS-9 Educational and Scientific Uses. Paleontological resources and unique geologic features conserved for educational and/or scientific purposes.</p>	<p>Boulders and other geologic features would be conserved and used to establish a distinctive landscape identity throughout the project that reflects the character of the surrounding landscape and the area's geologic history. Please also refer to EIR Section 2.11, Paleontological Resources, and the associated Paleontological Mitigation Measure M-PR-1, which required paleontological resources monitoring during ground disturbing activities.</p>	<p>Consistent.</p>
<p>COS-9.1 Preservation. Require the salvage and preservation of unique paleontological resources when exposed to the elements during excavation or grading activities or other development processes.</p>	<p>Please see the responses to Goal/Policy/Objective COS-9. In addition, the proposed project would require the salvage and preservation of unique paleontological resources when exposed to the elements during excavation or grading activities or other development processes. The project applicant would be conditioned to ensure the proper handling of any paleontological resources encountered during the grading operation for development of the project. Such methods would include construction monitoring, recordation, and curation by a qualified paleontologist and facility.</p> <p>County guidelines state projects within areas of potential high or moderate paleontological resources that propose excavation equal to or greater than 2,500 cubic yards require the services of a project Paleontologist and a Paleontological Resources Monitor. Excavation in areas underlain by Quaternary or older alluvium and younger alluvial deposits (Town Center, the Valley, Sierra Farms Park, and Sarver Lane) would comply with County guidelines for monitoring paleontological resources during excavation to minimize impacts, and require salvage and preservation of any discovered paleontological resources. Please refer to EIR Section 2.11, Paleontological Resources, and the associated Paleontological Mitigation Measure M-PR-1</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>COS-9.2 Impacts of Development. Require development to minimize impacts to unique geological features from human related destruction, damage, or loss.</p>	<p>The project has been designed to minimize impacts to unique geological features from human-related destruction, damage, or loss. The project proposes protection of prominent landforms, boulder outcroppings, and other natural features in the project's proposed preserve areas and, in certain cases, within the project's development footprint. In accordance with the requirements of the Specific Plan, numerous boulders would be salvaged during grading and reused to provide visual identity within the Community landscape. The project would avoid grading/landform alteration to nearly three quarters of the Site, minimizing impacts to much of the Site's natural geologic features. Please refer to EIR Section 2.6, Geology, Soils, and Seismicity</p>	<p>Consistent.</p>
<p>COS-10 Protection of Mineral Resources. The long-term production of mineral materials adequate to meet the local County average annual demand, while maintaining permitted reserves equivalent to a 50-year supply, using operational techniques and site reclamation methods consistent with SMARA [Surface Mining and Reclamation Act of 1975] standards such that adverse effects on surrounding land uses, public health, and the environment are minimized.</p>	<p>The project would not interfere with the long-term production of mineral materials adequate to meet the local County annual demand and requirements under SMARA. Although portions of the project have been categorized as containing Mineral Resource Zone (MRZ) 2 resources, the property is not currently being used for extraction, and previous attempts to re-initiate extraction operations at the abandoned quarry site and to mine other portions of the project Site were unsuccessful. In addition, no mining activities have occurred within the Sycamore Ridge area. For more information on the project Site's mineral resources, see EIR Section 2.9, Mineral Resources.</p>	<p>Consistent.</p>
<p>COS-10.1 Siting of Development. Encourage the conservation (i.e., protection from incompatible land uses) of areas designated as having substantial potential for mineral extraction. Discourage development that would substantially preclude the future development of mining facilities in these areas. Design development or uses to minimize the potential conflict with existing or potential future mining facilities. For purposes of this policy, incompatible land uses are defined by SMARA Section 3675.</p>	<p>Please see the response to Goal/Policy/Objective COS-10 above. Although portions of the project have been categorized as containing MRZ-2 resources, the property is not currently being used for extraction, and previous attempts to re-initiate extraction operations at the abandoned quarry site and to mine other portions of the Site were unsuccessful. In addition, no mining activities have occurred within the Sycamore Ridge area. For more information on the project Site's mineral resources, see EIR Section 2.9, Mineral Resources.</p>	<p>Consistent.</p>
<p>COS-10.2 Protection of State-Classified or Designated Lands. Discourage development or the establishment of other incompatible land uses on or adjacent to areas classified or designated by the State of California as having important mineral resources</p>	<p>Please see the response to Goal/Policy/Objective COS-10.1, above.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>(MRZ-2), as well as potential mineral lands identified by other government agencies. The potential for the extraction of substantial mineral resources from lands classified by the State of California as areas that contain mineral resources (MRZ-3) shall be considered by the County in making land use decisions.</p>		
<p>COS-10.3 Road Access. Prohibit development from restricting road access to existing mining facilities, areas classified MRZ-2 or MRZ-3 by the State Geologist, or areas identified in the County Zoning Ordinance for potential extractive use in accordance with SMARA Section 2764.a.</p>	<p>The proposed project would not restrict road access to existing mining facilities classified as MRZ-2 by the State Geologist or areas identified in the County Zoning Ordinance for potential extractive use in accordance with SMARA. The quarry area zoned S-82 for extractive use would not be developed, and the proposed project would not affect its access (from the west). The northeast portion of the project Site classified as MRZ-2 has access from Lawrence Welk Court.</p>	<p>Consistent.</p>
<p>COS-10.4 Compatible Land Uses. Discourage the development of land uses that are not compatible with the retention of mining or recreational access to non-aggregate mineral deposits. See Policy COS-10.1 for a definition of incompatible land uses.</p>	<p>The abandoned quarry site is situated on a west-facing slope adjacent to North Twin Oaks Valley Road, which provides access to the quarry site. A large topographic summit (1,630 feet above mean sea level) separates the quarry from the Sycamore Ridge parcel. The quarry area currently zoned S-82 for extractive use would not be developed, and its access (from the west) would not be affected by the proposed project.</p>	<p>Consistent.</p>
<p>COS-10.6 Conservation of Construction Aggregate. Encourage the continued operation of existing mining facilities and streamline the permitting of new mining facilities consistent with the goal to establish permitted aggregate resources that are sufficient to satisfy 50 years of County demand.</p>	<p>The proposed project does not contain a mining operation or propose the permitting of any new mining operation. Past attempts to re-initiate extraction at the abandoned quarry site and to mine other portions of the Site were unsuccessful.</p>	<p>Not Applicable.</p>
<p>COS-10.7 Recycling of Debris. Encourage the installation and operation of construction and demolition (C&D) debris recycling facilities as an accessory use at permitted (or otherwise authorized) mining facilities to increase the supply of available mineral resources.</p>	<p>The proposed project does not propose a construction and demolition recycling facility and nor does the project propose a mining operation or support an active mining facility, therefore the policy is not applicable in this context. On the subject of recycling demolition and construction debris, during project construction, demolition and construction debris would be recycled in compliance with the County's Construction and Demolition Debris Recycling Ordinance which requires that 90% of inert construction debris and 70% of all other construction debris be recycled from the project. As a condition of building permit issuance, the project would be required to obtain County approval of a Construction and Demolition Debris Management Plan and a fully refundable Performance Guarantee.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>COS-10.8 New Mining Facilities. Develop specific permit types and procedures for the authorization of new mining facilities that recognize the inherent physical effects of mining operations and the public necessity for available mineral resources adequate to meet local demand, in accordance with PRC Section 2762.</p>	<p>The proposed project does not propose new mining facilities.</p>	<p>Not applicable.</p>
<p>COS-10.9 Overlay Zones. Provide zoning overlays for MRZ-2 designated lands and a 1,300-foot-wide buffer area adjacent to such lands. Within these overlay zones, the potential effects of proposed land use actions on potential future extraction of mineral resources shall be considered by the decision makers.</p>	<p>The proposed project does not propose new overlay zones and does not have the authority establish MRZ-2 designations. The one area of the Site that supported a mining operation in the past is more than 1,300 feet away from the project's proposed development areas.</p>	<p>Not applicable.</p>
<p>COS-11 Preservation of Scenic Resources. Preservation of scenic resources, including vistas of important natural and unique features, where visual impacts of development are minimized.</p>	<p>The proposed project would preserve scenic resources, including vistas of important natural and unique features, and would minimize visual impacts of Site development. Presently, no known designated scenic vistas exist in the immediate vicinity of the project. Nevertheless, to ensure consistency, a County approved visual resources consultant has prepared a Visual Resources Report in accordance with County of San Diego Guidelines and specifications. The Visual Resources Report identifies project development impacts on scenic and aesthetic resources. Impacts to scenic resources would be minimized to the extent feasible. The proposed project would integrate, maintain, and preserve the property's unique landscape character and distinct natural landforms into the development of each of the project's neighborhoods.</p>	<p>Consistent.</p>
<p>COS-11.1 Protection of Scenic Resources. Require the protection of scenic highways, corridors, regionally significant scenic vistas, and natural features, including prominent ridgelines, dominant landforms, reservoirs, and scenic landscapes.</p>	<p>The proposed project would comply with the requirement to protect scenic highways, corridors, regionally significant scenic vistas, and natural features. Notably, there are no designated or eligible state scenic highways on the project or in the immediate vicinity of the project and no regionally significant scenic vistas were identified in the central and southern portions of the Site that would support the project's new neighborhoods.</p> <p>As demonstrated in EIR Section 2.1, Aesthetics, project Site development would comply with the applicable visual resource policies of the I-15 Corridor Scenic Preservation Guidelines concerning excessive building or Site lighting and use of mirror glass. Further, with the exception of the modification of a hillside to accommodate a proposed Vallecitos Water District water tank, the majority of the project's proposed development would be located off visually prominent terrain. Instead, the project proposes to concentrate development into individual neighborhoods in a way that preserves the surrounding landform, thereby avoiding substantial alteration of prominent ridgelines and, likewise, protecting the mountainous terrain and dominant landforms located within the northern and eastern portions of the project Site.</p> <p>Development within the Town Center and Terraces planning areas would be temporarily visible to northbound I-15 motorists as they approach and pass Deer Springs Road at the prevailing travel speed (approximately 70 miles per hour) on I-15. In addition, existing hillside and ridgeline residential development within the Hidden Meadows area and residential and golf course development on the valley floor (e.g., Jesmond Dene,</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	<p>Champagne Village Mobile Homes, Lawrence Welk Village Resort, and north of Old Castle Road) currently occur within the project viewshed along the I-15 corridor.</p> <p>As demonstrated in EIR Section 2.1, Aesthetics, and the Visual Resources Technical Report (Appendix E), project impacts to valued and/or panoramic vistas from public roads, trails within an adopted County trail system, scenic highways, and recreational areas would be less than significant and no mitigation is required.</p>	
<p>COS-11.2 Scenic Resource Connections. Promote the connection of regionally significant natural features, designated historic landmarks, and points of regional historic, visual, and cultural interest via designated scenic corridors, such as scenic highways and regional trails.</p>	<p>Please see responses to Goal/Policy/Objective COS-11.1 and 11.3, above. The project Site does not support any existing, or propose any new, scenic highways, regional trails, or scenic corridors, however, the project would promote the connection of the significant natural features found on the project Site through 1,209-acre preserve and avoidance of grading/landform alteration impacts to nearly three quarters of the project Site.</p>	<p>Consistent.</p>
<p>COS-11.3 Development Siting and Design. Require development within visually sensitive areas to minimize visual impacts and to preserve unique or special visual features, particularly in rural areas, through the following:</p> <ul style="list-style-type: none"> • Creative site planning • Integration of natural features into the project • Appropriate scale, materials, and design to complement the surrounding natural landscape • Minimal disturbance of topography • Clustering of development so as to preserve a balance of open space vistas, natural features, and community character • Creation of contiguous open space networks <p>Potential measures for promoting scenic compatibility may include limiting or avoiding soundwalls, placing utilities underground, minimizing grading, and providing scenic vista points.</p>	<p>The proposed project has been designed to minimize impacts and to preserve unique or special visual features through the use of: creative Site planning; integration of natural features into the project; the use of appropriate scale, materials, and design to complement the surrounding natural landscape; minimizing disturbance of topography; clustering development to preserve a balance of open space vistas, natural features, and Community character; and creating contiguous open space networks.</p> <p>In terms of creative Site planning, integrating natural features into the project design, clustering development to preserve a balance of open space vistas, natural features, and Community character, and minimizing disturbance of the Site's existing topography, the project proposes to retain approximately three quarters of the existing natural terrain on the project Site, including many of the peaks and outcroppings along the Site's main north-south ridgeline. This high level of topographic preservation is accomplished by concentrating (clustering) development within the central and southern portions of the project Site into discrete neighborhoods, and locating and designing the project's various neighborhoods around the more prominent ridgelines and peaks found on Site such that the visibility of the project's development areas are minimized. Where possible, streets were designed to parallel topography and were guided by watershed patterns on the Site. Also, existing landforms and ridgelines immediately north of Deer Springs Road would buffer the proposed project's visibility from Deer Springs Road and adjacent properties. Site grading was designed as a balanced operation in a way that would minimize grading into areas supporting the Site's more prominent geologic features, including ridgelines, rock outcroppings and peaks, and areas that are visible from adjacent property.</p> <p>In terms of implementing the appropriate scale, materials, and design to complement the surrounding natural landscape, the project's Specific Plan and Tentative Map/Preliminary Grading Plan outline a land use approach that would concentrate development below prominent ridgelines, rock outcroppings, and peaks, integrate boulders and large rock clusters into landscape areas to reinforce the visual identity of the project, implement a rustic, Mediterranean theme that draws on the more rural and natural elements of the area, utilize grade-adaptive architecture and Site design that results in terraced pads that are context sensitive and conform to the underlying slope of the home Site. Similarly, materials and design of residential and commercial/retail structures generally would be consistent with existing residential and commercial structures throughout the I-15 corridor in keeping with the Community character of the area. The project would be conditioned to comply with the Tentative Map/Preliminary Grading Plan and the various project design objectives and requirements of the Specific Plan throughout implementation of the project.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	<p>In terms of creating a contiguous open space network, the project would concentrate development within the central and southern portions of the project Site to create a 1,209-acre habitat preserve and an additional 235 acres of open space constituting Fuel Modification Zone 2 and Special Maintenance Areas where native habitat is thinned to 50% but preserved and managed as native habitat, thereby retaining significant value as native habitat. By concentrating development in the central and southern portion of the Site, the project would preserve large blocks of contiguous preserve area in the northern and northwestern portions of the Site with connections to off-site open space/draft PAMA areas supporting high quality native habitat, including the east/west habitat linkage with the adjacent San Marcos Mountains. An additional block of open space is proposed along the eastern boundary of the project Site adjacent to I-15, which would serve as important habitat for coastal California gnatcatcher and many other wildlife species.</p> <p>For more information on the project Site's development siting and design details, see EIR Chapter 1 and the Newland Sierra Specific Plan.</p>	
<p>COS 11.7 Underground Utilities. Require new development to place utilities underground and encourage "undergrounding" in existing development to maintain viewsheds, reduce hazards associated with hanging lines and utility poles, and to keep pace with current and future technologies.</p> <p>The concept of "undergrounding" in the initial phases of a project not only increases the aesthetic value of the surrounding viewshed, but can also reduce costs in the long run since less infrastructure is exposed to the elements.</p>	<p>As a condition of the issuance of grading and construction permits, all new electric distribution lines, gas lines, and communication lines serving the project would be undergrounded within the project's network of streets. Overhead electric lines and an underground gas line that feed businesses and residences in the project vicinity are located along Deer Springs Road and Mesa Rock Road. The project applicant will be required to provide utility easements to locate power and natural gas services underground within the proposed roadways as part of the development and final engineering process.</p>	<p>Consistent.</p>
<p>COS-12 Preservation of Ridgelines and Hillside. Ridgelines and steep hillsides that are preserved for their character and scenic value.</p>	<p>The proposed project would preserve ridgelines and steep hillsides by avoiding impacts to nearly three quarters of the existing natural terrain on Site. As shown on the Tentative Map, the project's proposed neighborhoods are designed around the dominant topographic features found on Site. Prominent ridgelines and landforms were mapped during the design phases. The project proposes to concentrate development into individual neighborhoods designed around major ridgelines and peaks to limit Site disturbance and visually soften the development edge. Where possible, streets were designed to parallel topography and were guided by watershed patterns on the project. Also, existing landforms and ridges immediately north of Deer Springs Road would buffer the proposed project's visibility from Deer Springs Road and adjacent properties. Site grading was designed to be balanced within the boundaries of the project Site and the improvements to Deer Springs Road and Sarver Lane immediately off-site. The project's proposed preserve design would include an array of environmental features, including ridgetops, hill tops, rocky outcrops, and large-scale preservation of on-site native habitat. For more information, see EIR Section 2.4, Biological Resources, and the Newland Sierra Specific Plan.</p>	<p>Consistent.</p>
<p>COS-12.1 Hillside and Ridgeline Development Density. Protect undeveloped ridgelines and steep hillsides by maintaining semi-rural or</p>	<p>The proposed project would protect undeveloped ridgelines and steep hillsides by protecting nearly three quarters of the project Site in preserve and project open space. The project proposes to change a portion of the current Rural Lands General Plan designation on the project Site through a General Plan Amendment (GPA) to implement a Specific Plan. While the GPA would change a portion of the Rural Lands designation on the property, implementation of the project's proposed Specific Plan and Tentative Map</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
rural designations on these areas.	would concentrate development and maximize preservation of the native habitat and existing ridgelines and steep hillsides on Site. Under the Specific Plan, the areas proposed for protection would be redesignated OS-C (Open Space-Conservation), the General Plan's most restrictive land use designation. Please see the responses to Goal/Policy/Objective COS-11.3 and COS-12, and the Newland Sierra Tentative Map and Specific Plan.	
COS-12.2 Development Location on Ridges. Require development to preserve the physical features by being located down and away from ridgelines so that structures are not silhouetted against the sky.	The proposed project would require preservation of physical features such that structures would be located down and away from ridgelines and not silhouetted against the sky. The project proposes to avoid grading/landform alteration impacts to nearly three quarters of the Site, preserve many of the project Site's ridgelines and peaks, and use grade adaptive architecture and Site design that results in terraced pads that are context sensitive and conform to the underlying slope of the home Site. Please see the responses to Goal/Policy/Objective COS-11.3, COS-12 and COS-12.1, and the Newland Sierra Specific Plan.	Consistent.
COS-13 Dark Skies. Preserved dark skies that contribute to rural character and are necessary for the local observatories.	The proposed project would preserve dark skies. The project EIR concluded that potential development-related impacts to dark skies associated with highly reflective building materials (Guideline d) and conflicts with federal, state, or local statutes or regulations (including San Diego County Light Pollution Guideline (e)) would be less than significant. The proposed project would comply with all required lighting codes and standards intended to minimize light pollution. Please see responses to Goal/Policy/Objective COS-13.1 and COS-13.2 below.	Consistent.
COS-13.1 Restrict Light and Glare. Restrict outdoor light and glare from development projects in Semi-Rural and Rural Lands and designated rural communities to retain the quality of night skies by minimizing light pollution.	The proposed project would be conditioned to restrict outdoor light and glare from development to retain the quality of night skies, and to minimize light pollution. In particular, although new sources of lighting within the proposed project Site would illuminate portions of the Site during nighttime hours, the potential for light trespass onto adjacent properties would be reduced through compliance with the lamp type and shielding requirements for San Diego Light Pollution Code, Class I, II, and III lighting within Zone B. Further, Site lighting would be limited to that necessary for security, safety, and identification, and would operate within the timeframe permitted by Section 59.107, Hours of Operation, of the County Light Pollution Code. Excessive building or Site lighting for decorative purposes is not proposed in any of the planning areas. Lighting levels will be regulated by the project's CC&Rs and compliance with the County's lighting standards will be enforced through the Site Plan and building permit approval processes which will require adherence to Specific Plan Section 3.4.7, Site Lighting. For more information, please see EIR Section 2.1, Aesthetics, and Specific Plan Section 3.4.7.	Consistent.
COS-13.2 Palomar and Mount Laguna. Minimize, to the maximum extent feasible, the impact of development on the dark skies surrounding Palomar and Mount Laguna observatories to maintain dark skies which are vital to these two world-class observatories by restricting exterior light sources within the impact areas of the observatories.	Please see project conformance analysis above for Goal/Policy/Objective COS-13.1. The project Site is not within the vicinity of the Palomar or Mount Laguna Observatories.	Not Applicable.
COS-14 Sustainable Land Development. Land use development techniques and patterns that reduce emissions of criteria pollutants and GHGs [greenhouse gases] through minimized transportation and energy demands, while	Please see the responses to <i>General Plan Guiding Principles 2, 3, 4, 6, and 7</i> , above. The project would implement land use development techniques and patterns that reduce emissions of criteria pollutants and GHGs through minimized transportation and energy demands, while protecting public health and contributing to a more sustainable environment. In terms of land use development techniques and patterns that minimize transportation and energy demands, the project would feature walkable and bicycle-friendly neighborhoods and streets; a balance of housing types and other land uses including a	Consistent.

Policy	Project Conformance	Conformance Conclusion
<p>protecting public health and contributing to a more sustainable environment. [See also Goal LU-6].</p>	<p>school, commercial/retail uses; well-integrated pocket, neighborhood, and Community parks, and a network of trails and pedestrian pathways that would interconnect the project's various neighborhoods; a Community-sponsored electric bike-share program; shuttle services to transit centers in neighboring cities, a car-share program, a ride-share program, and transit fare passes for residents; water efficient landscapes and buildings throughout the project along with a commitment to pre-plumb single-family homes in the project for greywater systems; compliance with California Title 24 building and energy efficiency standards (e.g., the CalGreen Building Code and the California Energy Code); solar on all residential uses; solar-powered street lights, and other project design features which reduce GHG emissions. The project would locate new residents near existing and planned infrastructure, services, and employment and regional shopping centers in an environmentally sensitive, balanced development pattern while preserving large blocks of natural open space on Site that connect to open space off Site. For more information on these project planning and design features, please see EIR Section 2.7, Greenhouse Gas Emissions.</p>	
<p>COS-14.1 Land Use Development Form. Require that development be located and designed to reduce vehicular trips (and associated air pollution) by utilizing compact regional and community-level development patterns while maintaining community character.</p>	<p>The project Site is located and designed to reduce vehicular trips (and associated air pollution). The project would support the use of internal roads and alternative modes of travel to reduce single-occupancy vehicle trips. Specifically, the project would facilitate non-vehicular modes of transportation through the inclusion of a shuttle service to major North County transit centers, bike lanes, and an extensive trail system consisting of pedestrian pathways connecting the project's various neighborhoods, multi-use trails, an electric bike-share program, a ride-share program, a car-share program, and transit fare passes for residents. These features would help reduce vehicle trips and associated air pollution through Community-level design patterns. The project would include a mix of land uses surrounding a Town Center and a school site to locate places of shopping, limited employment, and education in close proximity to housing. The project's Transportation Demand Management (TDM) Program would be implemented by Project Design Features (PDFs) 1 through 20 and would reduce vehicle miles traveled associated with the project.</p>	<p>Consistent.</p>
<p>COS-14.2 Villages and Rural Villages. Incorporate a mixture of uses within Villages and Rural Villages that encourage people to walk, bicycle, or use public transit to reduce air pollution and GHG emissions.</p>	<p>The proposed project incorporates a mixture of uses within its Village designated area (the Town Center Neighborhood), including 81,000 square feet of commercial/retail uses, a school site, 95 multi-family housing units, and three public parks. The Town Center is immediately adjacent and within walking distance of the project's Terraces Neighborhood which is planned with an additional 446 multi-family housing units.</p> <p>More broadly, the project is a true multi-use project with a variety of housing types and choices to accommodate a wide range of household types planned around pocket, neighborhood, and Community parks. Additionally, the project proposes a TDM Program that would include the following: a network of pedestrian pathways and multi-use trails connecting the project's various neighborhoods to each other, its parks and open space, the school site, and the commercial/retail area as well as to off-site pathways and bicycle routes with connections all the way into Twin Oaks and San Marcos; a Community sponsored electric bike-share program linking the neighborhoods to one another; a system of streets designed to support bicycles and walking; support for car-share and ride-share services; and shuttle services within and around the project and to the Escondido Transit Center, a north county public transit hub. By being a true multi-use project with a TDM Program offering viable alternatives to driving, the project would provide residents the opportunity to access its Town Center as well as employment, education, recreation, and commercial uses via walking, bicycling, and/or transit. With implementation of the project's various land uses and its TDM Program, the project would significantly reduce air pollution and GHG emissions.</p>	<p>Consistent.</p>
<p>COS-14.3 Sustainable Development. Require design of residential subdivisions and nonresidential development through "green" and</p>	<p>The proposed project would implement a multitude of green and sustainable development practices in the layout and design of the project's various residential and non-residential neighborhoods, its conservation of the natural terrain and habitat on Site, and other project design features that conserve energy, water, open space, and natural resources.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>sustainable land development practices to conserve energy, water, open space, and natural resources.</p>	<p>In particular, the project's proposed green and sustainable development practices include an environmentally sensitive land use pattern with a variety of housing types, trails, and parks in every neighborhood; a balanced Community that includes a mix of residential, commercial/retail, and educational uses as well as 35.9 acres of pocket, neighborhood, and Community parks and multi-purpose trails; preservation of nearly three quarters of the Site's natural terrain and a 1,209-acre habitat preserve. Further, the project incorporates mobility alternatives including Community pathways, bicycle-friendly streets, an electric bike-share program, a ride-share program, a car-share program, transit passes for residents, and a shuttle service to the project. In addition, the project would be conditioned to require solar on all residential uses in the project; low water use through water conservation, high-efficiency landscape requirements with restrictions on the use of turf for all development in the project consistent with the County's Landscape Ordinance; and Community gardens and vineyards to support local and sustainable agricultural practices. Further, the project's Specific Plan requires the pre-plumbing of greywater systems in single-family residential homes, and compliance with the most current edition of the California Building Standards Code (Title 24) for indoor energy and water efficiency (e.g., CalGreen). These conditions would be enforced at the time of construction/building permit issuance. Finally, the project Site is in close proximity to major employment centers and major transportation facilities (I-15, State Route 78 (SR-78), and the North County Transit System), including the cities of Escondido, San Marcos, Vista, Carlsbad, and Oceanside.</p>	
<p>COS-14.4 Sustainable Technology and projects. Require technologies and projects that contribute to the conservation of resources in a sustainable manner, that are compatible with community character, and that increase the self-sufficiency of individual communities, residents, and businesses.</p>	<p>The proposed project would require technologies that contribute to the conservation of resources in a sustainable manner, which are compatible with Community character, and which increase the self-sufficiency of individual communities, residents, and businesses. Examples include solar-powered lighting for all communal areas and solar on the project's residential units; high-efficiency low water use irrigation systems with weather-based "smart" irrigation controllers; roadside swales, bioretention basins, and other Low Impact Development design features designed to capture, treat, and infiltrate stormwater runoff; Community gardens and grape vineyards within and adjacent to individual neighborhoods to facilitate sustainable Community-scale agricultural practices; a Community-based electric bike-share program and shuttle services to major transit centers for the project's residents to use as an alternative to driving, and other multi-modal/transit based project design features. Additionally, the project would meet the most recent Title 24 energy-efficiency standards, feature drought-tolerant landscaping, and require the pre-plumbing of greywater systems in all single-family residential homes.</p> <p>These project features in conjunction with the layout of the project's development areas and the project's proposed high conservation level of native habitat and the existing terrain on Site would contribute to the conservation of resources in a sustainable manner that are compatible with Community character and that increase the self-sufficiency of individual communities, residents, and businesses.</p>	<p>Consistent.</p>
<p>COS-14.5 Building Siting and Orientation in Subdivisions. Require that buildings be located and oriented in new subdivisions and multi-structure non-residential projects to maximize passive solar heating during cool seasons, minimize heat gains during hot periods, enhance natural ventilation, and promote the effective use of daylight.</p>	<p>The project would require all new construction, including residential and commercial, to comply with the latest applicable edition of the California Building Standards Code (e.g., the California Green Building Code/CalGreen and the California Energy Code), applicable at the building permit stage. CalGreen contains mandatory measures that address Site development, material resource conservation, energy and water conservation, and indoor environmental quality. The California Energy Code contains mandatory measures that govern the energy efficiency of windows, doors, exterior walls, attics, and roofs; and energy efficiency associated with the performance of heating and air conditioning systems and lighting systems.</p> <p>The California Building Standards Code has a regular code cycle with a history of increasing energy and water efficiency and indoor air quality requirements applying with subsequent code cycles. In this way, construction permitted under subsequent code cycles must meet the latest, most stringent code requirements.</p> <p>In exceedance of the current California Energy Code requirements, the project would be conditioned to require solar on all new residential construction. To take advantage of</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	<p>passive solar cooling and heating and to enhance natural ventilation, in compliance with Title 24, all buildings in the project would be required to meet stringent indoor air quality requirements; and the project's ventilation, heating, and cooling systems would take advantage of the nighttime and daytime passive cooling and heating effect to more efficiently cool and heat interior spaces. Larger buildings would also incorporate air conditioning zones and/or multiple air condition systems to heat and cool only those spaces and rooms in the building being used, thereby reducing energy demand. By requiring solar on all new residential construction, the energy-offsetting benefits of solar are maximized during the hottest periods of the year.</p> <p>In, addition the project's Specific Plan requires that each neighborhood and each non-residential use implement a Site plan, approved by the County, which would address building orientation and layout, compliance with architectural standards, landscape standards, and other design guidelines that apply to the project's various neighborhoods and uses, including single-family residential lots, multi-family sites, and commercial sites. For example, the Specific Plan's Commercial Development Standards and Design Guidelines provide that commercial buildings would offer pedestrian-level features such as awnings, large windows, and first-floor building articulations, design details intended to support the pedestrian scale of the project's commercial uses but also support the passive solar heating and cooling of the commercial/retail buildings in the project.</p>	
<p>COS-14.7 Alternative Energy Sources for Development projects. Encourage development projects that use energy recovery, photovoltaic, and wind energy.</p>	<p>The project would be conditioned to require solar on all residential development and HOA Community buildings and would use solar to power the project's street lights.</p>	<p>Consistent.</p>
<p>COS-14.8 Minimize Air Pollution. Minimize land use conflicts that expose people to significant amounts of air pollutants.</p>	<p>The project does not propose any land uses, such as certain industrial uses, which would create air pollutants which have the potential to create land use conflicts with surrounding uses. Further, as a condition of approval, the project would be required to implement extensive use of solar, a Transportation Demand Management (TDM) Program, a GHG offset program, and project design features which would collectively substantially reduce air pollutants and greenhouse gas emissions associated with electric energy generation and automobile trips. An Air Quality Technical Report has been prepared for the proposed project in accordance with County guidelines. The report identifies on-and off-site sensitive receptors to potential pollutant concentrations that may be generated by the proposed project, such as carbon monoxide, diesel particulate matter, and other reasonably foreseeable toxic air contaminants. Such pollutant concentrations have been minimized to the extent feasible. Please see EIR Section 2.7, Greenhouse Gas Emissions.</p>	<p>Consistent.</p>
<p>COS-14.9 Significant Producers of Air Pollutants. Require projects that generate potentially significant levels of air pollutants and/or GHGs such as quarries, landfill operations, or large land development projects to incorporate renewable energy, and the best available control technologies and practices into the project design. The recovered methane from landfills can be pumped through turbines to generate power. This provides a</p>	<p>The proposed project would require and incorporate renewable energy, and the best available control technologies and practices into the project design. Solar would be installed on all residences and Community facilities and be used to power the project's street lighting to offset electrical usage and thereby reduce GHG emissions.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>mutual benefit by generating energy and reducing the amount of CO₂ and methane being released from landfills. Other uses for closed facilities include photovoltaic (solar) panels, wind, and microturbines, as appropriate for the area they would be located in.</p>		
<p>COS-14.10 Low-Emission Construction Vehicles and Equipment. Require County contractors and encourage other developers to use low-emission construction vehicles and equipment to improve air quality and reduce GHG emissions.</p>	<p>The proposed project would be conditioned to require the use of low-emission construction vehicles and equipment to improve air quality and reduce GHG emissions. Site grading would be balanced within the boundaries of the project Site and the improvements to Deer Springs Road and Sarver Lane immediately off-site and thereby reduce off-site truck trips during construction. Additionally, where feasible, Tier 4 low-emission equipment would be used during construction activities. These conditions would be enforced at the time of grading/construction permit issuance.</p>	<p>Consistent.</p>
<p>COS-14.11 Native Vegetation. Require development to minimize the vegetation management of native vegetation while ensuring sufficient clearing is provided for fire control. Plants use photosynthesis to remove carbon from the atmosphere by incorporating it into biomass and releasing oxygen into the atmosphere.</p>	<p>The proposed project would minimize the vegetation management of native vegetation while requiring sufficient clearing for fire control through the implementation of a two-zone fuel modification approach along the edge of its development areas. Fuel Modification Zone 1 would constitute 100 feet of vegetation clearing and maintenance from the edge of all development areas that interface with open space areas supporting native vegetation. Fuel Modification Zone 2 would constitute 150 feet of vegetation thinning (up to 50% of the vegetative density) between Zone 1 and the edge of the project's proposed 1,209-acre preserve areas. The Zone 2 thinning would maintain the structure and much of the functionality of the native vegetation.</p> <p>The Fuel Modification Zones as well as vegetation inside the project's development areas would be maintained in accordance with the Fire Protection Plan (FPP). Specifically, the FPP requires several vegetation management measures, including a 20-foot vegetation management zone around driveways, the removal of highly flammable species and dead and dying plants, the inclusion of vineyards in some fuel modification zones, and the proper spacing of trees in vegetation management zones.</p> <p>The project's fuel modification strategy, including the sizing and layout of its Zone 1 and 2 areas and Special Management Areas, was developed in compliance with the County's and the Deer Spring Fire Protection District's requirements to minimize the wildfire exposure of the project's development areas as well as existing areas of development off-Site. These Zones and SMAs were also configured and located in such a way to reduce impacts to native habitat and species within the project Site. For example, by limiting fuel maintenance activities in Zone 2 areas and SMAs to the required thinning and weed abatement, these areas will retain certain biological functionality for both the flora and fauna that they harbor as well as fauna that use these areas for migration/wildlife movement.</p>	<p>Consistent.</p>
<p>COS-14.12 Heat Island Effect. Require that development be located and designed to minimize the "heat island" effect as appropriate to the location and density of development, incorporating such elements as cool roofs, cool pavements, and strategically placed shade trees. Heat islands formed as urbanized</p>	<p>The proposed project has been located and designed to minimize the "heat island" effect by incorporating landscape islands, parkways, 36 acres of pocket, neighborhood, and Community parks, vegetated roadside swales and bioretention areas, and shade-producing trees along parkways, adjacent to streets, and within parking areas to reduce the solar heat island effect. The project would also require all residential buildings to install solar on the roof, turning roofs into a source of electrical energy instead of a contributor to the heat island effect. Please also see Chapter 3 of the Specific Plan.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>areas replace natural land cover with pavement, buildings, and other infrastructure, resulting in significantly higher average temperatures than the rural areas surrounding them.</p>		
<p>COS-14.13 Incentives for Sustainable and Low GHG Development. Provide incentives such as expedited project review and entitlement processing for developers that maximize use of sustainable and low GHG land development practices in exceedance of State and local standards.</p>	<p>Please see the responses to Goal/Policy/Objective COS-14.7 and COS-14.9, above.</p>	<p>Consistent.</p>
<p>COS-15 Sustainable Architecture and Buildings. Building design and construction techniques that reduce emissions of criteria pollutants and GHGs, while protecting public health and contributing to a more sustainable environment.</p>	<p>Please see the response to Goal/Policy/Objective COS-15.1. The project would implement building design and construction techniques that reduce emissions of criteria pollutants and GHGs, while protecting public health and contributing to a more sustainable environment through Site design, compliance with Title 24 (e.g., California Green Building Standards Code/CalGreen), and the use of solar on all residential and Community facilities.</p>	<p>Consistent.</p>
<p>COS-15.1 Design and Construction of New Buildings. Require that new buildings be designed and constructed in accordance with green building programs that incorporate techniques and materials that maximize energy efficiency, incorporate the use of sustainable resources and recycled materials, and reduce emissions of GHGs and toxic air contaminants. Green building programs include the Leadership in Energy and Environmental Design (LEED) standards set by the U.S. Green Building Council, the Green Point Rated system standards set by Builditgreen.org, or equivalent programs.</p>	<p>Please see responses to Goal/Policy/Objective Nos. COS-14.5, 14.7, and COS-14.9, above. All new construction, including residential and non-residential (e.g., commercial) would comply with the latest applicable edition of Title 24 at building permit application. Title 24 constitutes the California Building Standards Code, which contains the California Green Building Standards Code (CalGreen), the California Energy Code, the California Plumbing Code, and other code sections applicable to all new construction. CalGreen contains mandatory measures that address Site development, material resource conservation, energy and water conservation, and indoor environmental quality. The California Energy Code contains mandatory measures that govern the energy efficiency of windows, doors, exterior walls, attics, and roofs; the performance of heating and air conditioning systems, and lighting systems.</p> <p>In exceedance of the current California Energy Code requirements, the project would be conditioned to require solar on all new residential construction. To take advantage of passive solar cooling and heating and to enhance natural ventilation, in compliance with Title 24, all buildings in the project would be required to meet stringent indoor air quality requirements; and the project's ventilation, heating, and cooling systems would take advantage of the nighttime and daytime passive cooling and heating effect to more efficiently cool and heat interior spaces. Larger buildings would also incorporate air conditioning zones and/or multiple air condition systems to heat and cool only those spaces and rooms in the building being used, thereby reducing energy demand. By requiring solar on all new residential construction, the energy-offsetting benefits of solar are maximized during the hottest periods of the year.</p> <p>The California Building Standards Code has a regular code cycle with a long history of increasing energy and water efficiency requirements applying with subsequent code cycles. In this way, construction permitted under subsequent code cycles must meet the latest, most stringent code requirements. Future editions of the California Energy Code and/or the California Green Building Code are expected to include requirements for renewable energy such as solar.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	See also EIR Section 2.7, Greenhouse Gas Emissions.	
<p>COS-15.4 Title 24 Energy Standards. Require development to minimize energy impacts from new buildings in accordance with or exceeding Title 24 energy standards.</p>	<p>Please see the response to Goal/Policy/Objective COS-15.1, above.</p>	<p>Consistent.</p>
<p>COS-15.6 Design and Construction Methods. Require development design and construction methods to minimize impacts to air quality.</p>	<p>Please see the response to Goal/Policy/Objective COS-15.1, above. Additionally, Site grading would be balanced within the boundaries of the project Site and the improvements to Deer Springs Road and Sarver Lane immediately off-site, which would minimize off-Site truck trips during project construction, and the grading and construction equipment used in the project would be required to meet stringent CARB off-road diesel emission standards. To reduce CO and NO_x emissions from construction activities, M-AQ-2 would be implemented. Following implementation of M-AQ-2, emissions would not be reduced to a level below the thresholds. As such, effects regarding NO_x and CO emissions during construction activities would be significant and unavoidable. M-AQ-3 and M-AQ-4 would be implemented to reduce fugitive dust emissions; however, following implementation of M-AQ-3 and M-AQ-4, fugitive dust emissions would remain above the threshold. PM₁₀ impacts would be significant and unavoidable during grading, blasting and rock crushing activities. Following completion of grading, blasting and rock crushing, fugitive dust emissions would be below the thresholds of significance. See also EIR Section 2.3, Air Quality.</p>	<p>Consistent.</p>
<p>COS-16 Sustainable Mobility. Transportation and mobility systems that contribute to environmental and human sustainability and minimize GHG and other air pollutant emissions.</p>	<p>The proposed project would incorporate transportation and mobility systems that contribute to environmental and human sustainability and minimize GHG and other air pollutant emissions. The project would be conditioned to implement a Transportation Demand Management (TDM) Program that would include an electric bike-share program, a car-share program, a ride-share program, and shuttle services as alternatives to driving a car, significantly reducing daily motor vehicle trips as well as vehicle miles traveled, thereby reducing GHGs and other air pollutants from the single largest contributor of those emissions, single occupancy vehicle trips in automobiles. Further, the project would include bike lanes, an extensive trail system consisting of pedestrian pathways and multi-use trails, and a balanced Community with housing, parks, a school, commercial/retail uses, and large blocks of open space preserve planned around a network of pedestrian and bicycle-friendly streets.</p> <p>With incorporation of these mobility options, the project would provide residents the opportunity to access employment, education, recreation, and commercial uses via multiple modes of transportation. See also EIR Section 2.3, Air Quality, Section 2.7, Greenhouse Gas Emissions, and Section 2.13, Transportation and Traffic.</p>	<p>Consistent.</p>
<p>COS-16.1 Alternative Transportation Modes. Work with SANDAG [San Diego Association of Governments] and local transportation agencies to expand opportunities for transit use. Support the development of alternative transportation modes, as provided by Mobility Element policies.</p>	<p>The proposed project would encourage alternative modes of transportation through implementation of a TDM Program including an electric bike-share program with kiosks throughout the project, support for car-share and ride-share programs within its Town Center, subsidized transit passes for the project's residents, shuttle services connecting the project's residential neighborhoods to each other and to the Escondido Transit Center, which serves as a hub for bus and rail connections throughout the North County area, and marketing of the project's various mobility alternatives. The project's TDM Program would result in a significant reduction in both internal vehicle trips (trips that stay within the project Site) and external vehicle trips (trips that leave and return to the project Site) and support the alternative transportation modes.</p> <p>The project applicant has had several meetings with SANDAG, NCTD, and Caltrans to discuss these PDFs and how they can benefit these agencies' transportation planning efforts related to I-15 and existing and potential future NCTD transit-related services. The project applicant is also coordinating with these agencies on a potential future expanded park-and-ride at the I-15/Deer Springs Road Interchange. Presently, there are two park-and-ride lots at the Interchange, one on the west side and one on the east side of the freeway. The project applicant has met with Caltrans, SANDAG, and NCTD about</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	<p>whether Caltrans plans to improve or expand the park-and-ride lots, either as stand-alone projects or as part of the process of improving the Interchange. The project applicant supports and will advocate for the incorporation of alternative transportation modes such as electric vehicle charging stations, bicycle facilities, storage lockers for travelers, accommodations for ride-share and car-share services, and a possible future transit stop as part of any project to expand or improve the park-and-ride facilities at the Interchange.</p> <p>These PDFs are part of a broader strategy and commitment by the project to reduce air pollution and offset GHG emissions related to the project. Please see PDF-1 through PDF-32 in Section 2.7, Greenhouse Gas Emissions, of the project's EIR. Please also see Section 2.13, Transportation and Traffic, of the project's EIR.</p>	
<p>COS-16.2 Single-Occupancy Vehicles. Support transportation management programs that reduce the use of single-occupancy vehicles.</p>	<p>The project would support transportation management programs that reduce the use of single-occupancy vehicles by implementing a Transportation Demand Management (TDM) Program that includes a network of bicycle and pedestrian friendly streets striped with bike lanes and multimodal trails and pedestrian pathways linking all of the project's neighborhoods as well as a host of alternative mobility options including an electric bike-share program, a car-share program, a ride-share program, and shuttle services. Please see also EIR Section 2.7, Greenhouse Gas Emissions.</p>	<p>Consistent.</p>
<p>COS-16.3 Low-Emissions Vehicles and Equipment. Require County operations and encourage private development to provide incentives (such as priority parking) for the use of low- and zero-emission vehicles and equipment to improve air quality and reduce GHG emissions. [Refer also to Policy M-9.3 (Preferred Parking) in the Mobility Element.]</p>	<p>The project would provide priority parking for zero-emission and low-emission vehicles and electric vehicle charging stations in its commercial/retail parking areas. The project would also include an EV charging unit in each single family garage in the project to encourage its residents to drive an electric vehicle. The project would also include an electric bike-share program, coordinate car-share and/or ride-share program(s), implement shuttle services within the project and to the Escondido Transit Center and the project applicant will continue to coordinate with Caltrans, SANDAG, and NCTD on a potential future expanded or improved park-and-ride facilities that could include electric vehicle charging stations and priority parking for low and zero-emission vehicles, among other transportation related features that would reduce air quality impacts and GHG emissions. Please see also EIR Section 2.7, Greenhouse Gas Emissions.</p>	<p>Consistent.</p>
<p>COS-16.5 Transit-Center Development. Encourage compact development patterns along major transit routes.</p>	<p>The project's proposed Town Center and Terraces neighborhoods provide mixed-uses including commercial/retail uses, a school site, parks, and multi-family residential planned in an environmentally sensitive development pattern and immediately adjacent to the Deer Springs Road/I-15 Interchange with I-15 serving as a major transportation corridor and a planned transit route. In furtherance of this policy, the project also proposes shuttle services between and among its seven neighborhoods and to major North County transit centers.</p>	<p>Consistent.</p>
<p>COS-17 Sustainable Solid Waste Management. Perform solid waste management in a manner that protects natural resources from pollutants while providing sufficient, long term capacity through vigorous reduction, reuse, recycling, and composting programs.</p>	<p>The project would comply with the County's reduction, re-use, and recycling requirements contained in their Recycling and Construction and Demolition Debris (C&D Debris) Recycling Ordinances. These ordinances were adopted by the County in order to comply with state legislation pertaining to solid waste reduction and diversion from landfills. In 1989, the state passed AB 939, the Integrated Waste Management Act, requiring cities and counties to achieve a 50% diversion rate from landfills. In 2011, the state passed AB 341, increasing the diversion requirement to 75% and expanding the requirement to recycle to multi-family and commercial development. In accordance with state law, the County's Recycling Ordinance requires homes, apartments, condos, and businesses to recycle paper, plastic, cardboard, glass, and metals found in solid waste for disposal and the project would be in full compliance with this County's ordinance. In addition, the HOA would maintain a green waste compost area within the maintenance yard in the Sierra Farms Neighborhood Park for landscape trimming from common areas. Finally, the project would meet the requirements of the County's C&D Debris Recycling Ordinance throughout the construction process.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>COS-17.1 Reduction of Solid Waste Materials. Reduce greenhouse gas emissions and future landfill capacity needs through reduction, reuse, or recycling of all types of solid waste that is generated. Divert solid waste from landfills in compliance with State law.</p>	<p>See above response. AB 341 requires a diversion of 75% of solid waste by 2020, and the project would comply with all requirements of state law.</p>	<p>Consistent.</p>
<p>COS-17.2 Construction and Demolition Waste. Require recycling, reduction and reuse of construction and demolition debris.</p>	<p>The proposed project would be required to comply with the County's Construction and Demolition Debris Ordinance and divert the required 90% of inert construction debris and 50% of all other construction debris from landfills. See also Section 2.14, Utilities and Service Systems.</p>	<p>Consistent.</p>
<p>COS-17.4 Composting. Encourage composting throughout the County and minimize the amount of organic materials disposed at landfills.</p>	<p>The project would create an area within the maintenance yard of the Sierra Farms Neighborhood Park designated for collection of common area landscape trimmings. These landscape trimmings shall be chipped and ground into either mulch or compost and used to return organic matter and nutrients to the project landscape areas. The green waste collection area would be designed to collect approximately 30 to 40 yards of material at a time. A buffer of screening shrubs would be planted between the collection area and the street.</p>	<p>Consistent.</p>
<p>COS-17.6 Recycling Containers. Require that all new land development projects include space for recycling containers.</p>	<p>As a condition of Site Plan approval (see Specific Plan), the project would be conditioned to include space for recycling containers for all residential and commercial uses as well as parks and common areas, which facilitates the recycling of cans, bottles, paper, plastic, and similar materials in accordance with the County's recycling ordinance and the Community's waste management strategy.</p>	<p>Consistent.</p>
<p>COS-18 Sustainable Energy. Energy systems that reduce consumption of non-renewable resources and reduce GHG and other air pollutant emissions while minimizing impacts to natural resources and communities.</p>	<p>The proposed project would include energy systems that reduce consumption of non-renewable resources and reduce GHG and other air pollutant emissions while minimizing impacts to natural resources and communities. For example, the project would require installation of solar panels on all residential buildings and Community facilities, and all street lights would be solar powered, thereby reducing GHG and other air pollutant emissions related to the electric energy generation that would otherwise be required to power these buildings and lights. In addition, the proposed project would implement project design features and/or mitigation measures aimed at the reduction of pollutants. Those measures include environmentally sensitive design and development, energy efficient appliances, the use of natural gas-fired fireplaces, an electric bike-share program, compliance with Title 24, mobility alternatives to single-occupancy vehicle trips, and dedicated parking for low- and zero-emission vehicles in the commercial/retail and public park parking areas of the project.</p>	<p>Consistent.</p>
<p>COS-19 Sustainable Water Supply. Conservation of limited water supply supporting all uses including urban, rural, commercial, industrial, and agricultural uses.</p>	<p>As described in the Specific Plan and as conditions of construction/building permit issuance, the project proposes extensive mandatory and project design indoor and outdoor water conservation measures that would reduce the project's projected water demand by 52% below what VWD has programmed for the project Site in their UWMP, including: a plant palette comprised predominantly of low water use drought-tolerant plants, water efficient irrigation systems with the extensive use of efficient drip irrigation; weather-based "smart" irrigation controllers that adjust the irrigation schedule in respond to rain events; prohibitions on planting turf in the front yard areas of private residences; restricting backyard and side yard turf to "warm season" turf varieties only; low water use fixtures in all new construction as required by Title 24 (i.e., the California Green Building Standards Code/CalGreen)), and the requirement to pre-plumb for greywater systems in all of the project's single-family homes. Collectively, the project's proposed indoor and outdoor water conservation measures exceed the latest requirements imposed by the state and the County, including California Title 24 and the County's "Water Conservation in Landscape" Ordinance and the County's Water Efficient Landscape Design Manual.</p>	<p>Consistent.</p>
<p>COS-19.1 Sustainable Development Practices. Require land development,</p>	<p>Please see the response to Goal/Policy/Objective COS-19 above. The project's design features would require on-site development, building design, landscaping, and operational practices that minimize water consumption. Please see also GSI Water Solutions'</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>building design, landscaping, and operational practices that minimize water consumption.</p>	<p>technical memorandum, which quantifies the project's water savings (see EIR Appendix T).</p>	
<p>COS-19.2 Recycled Water in New Development. Require the use of recycled water in development wherever feasible. Restrict the use of recycled water when it increases salt loading in reservoirs. A permit is required from the County Department of Environmental Health for the use of recycled water.</p>	<p>Please see the response to Goal/Policy/Objective COS-4.5. The project does not propose the use of recycled water because Vallecitos Water District (VWD) does not currently provide any recycled water service within its sphere of influence. According to VWD's Urban Water Management Plan (UWMP) adopted in June 2016:</p> <p style="padding-left: 40px;">“VWD produces up to 5 MGD of recycled water at MRF (Meadowlark Reclamation Facility) and maintains the 54 million-gallon (MG) Mahr Reservoir for recycled water storage, (however) VWD does not maintain a recycled water service area within its sphere of influence. All of the recycled water produced is sold to the (Carlsbad Municipal Water District) CMWD and the (Olivenhain Municipal Water District) OMWD. CMWD originally contracted for up to 2.0 MGD during peak summer months, and in 2003, increased that amount to 3.0 MGD. As part of that agreement, VWD also provides CMWD with 32 MG of recycled water storage in the Mahr Reservoir. Also in 2003, the OMWD contracted for up to 1.5 MGD of recycled water and 16 MG of recycled water storage in the Mahr Reservoir.”</p> <p>Wastewater in VWD's service territory is directed to the Meadowlark Reclamation Facility where up to 74% of that water is converted into recycled water and then distributed to the neighboring districts of CMWD and OMWD and used for irrigation at places like Legoland, the Carlsbad Flower Fields, and the Aviara Golf Course. VWD is presently evaluating whether to begin extending recycled water service to portions of its service territory, with its focus being on the downtown area of San Marcos. VWD presently has no plans to extend recycled water service to the northern portions of its territory, including the community of Twin Oaks or the project Site.</p> <p>More broadly, VWD is currently working with other North County water districts to determine the best approach to water reuse, including examining the viability of potable reuse, the water reuse solution the city of San Diego is now implementing. VWD and other North County water districts may determine that potable reuse (indirect or direct) may be the best long-term strategy related to the water reuse capability of their water treatment facilities. In such case, VWD and other North County water districts may shift their focus away from providing or expanding recycled water services and toward developing potable water reuse infrastructure, including potentially restructuring treatment facilities and building new reservoirs. Potable reuse infrastructure and facilities would be funded through VWD's and other water districts' water capacity/capital facility fees and service charges.</p> <p>Currently, where it is made available to projects, existing state regulations limit the use of recycled water to common areas, parkways, medians, and parks due to the concern about cross-connections were it extended into private lots and buildings. However, recent state legislation, Assembly Bill 2282 passed in 2014, directs the Building Standards Commission to develop plumbing code requirements for indoor and outdoor recycled water as part of the 2019 California Building Code cycle. As this code development process is underway now, it remains to be seen how it will ultimately be applied to new construction. AB 2282, however, is clear about when these new code requirements would apply, adding Section 17921.5(c)(2) to the Health and Safety Code to read:</p> <p style="padding-left: 40px;">“When developing the application provisions for the mandatory building standards, the department (Department of Housing and Community Development) shall limit the mandate to install recycled water systems within residential buildings and building site landscaped areas to only those areas within a local jurisdiction that have feasible and cost-efficient access to a water recycling facility, or that have been identified by the</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	<p>local jurisdiction within a planned service area for the provision of recycled water for which a specific implementation timeline has been identified by the public water system in its most recent urban water management plan.”</p> <p>In the event that VWD were to eventually develop and extend recycled water service to the project Site, the code requirements that are promulgated out of AB 2282 may be triggered for any remaining construction in the project depending on the proximity of that remaining construction to the recycled water service being extended to the project Site. Under such a scenario, the County and VWD would be able to exercise their regulatory authority in determining how these remaining portions of the project Site would be required to implement recycled water systems.</p> <p>Finally, while the project does not propose the use of recycled water, as stated previously, the project would require the pre-plumbing for greywater systems in all of its single-family homes subject to the permitting requirements of the County of San Diego for greywater systems. In the same fundamental way that recycled water serves as a form of water reuse, greywater use in the project would as well.</p> <p>See also EIR Section 2.14, Utilities and Service Systems, and the project’s Specific Plan.</p>	
<p>Governance and Administration. Reduction of community-wide (i.e., unincorporated County) and County Operations greenhouse gas emissions contributing to climate change that meet or exceed requirements of the Global Warming Solutions Act of 2006, as amended by Senate Bill 32 (as amended, Pavley. California Global Warming Solutions Act of 2006: emissions limit).</p>	<p>The proposed project would reduce GHG emissions contributing to climate change by exceeding requirements of the Global Warming Solutions Act of 2006 (AB 32). The project has committed to offset all of its greenhouse gas emissions to achieve and maintain carbon neutrality (i.e. net zero emissions) for the life of the project. This initiative would make the project the first large-scale planned community in San Diego County to achieve a 100 percent reduction in the project’s construction and operational GHG emissions through the life of the project. Please see also EIR Section 2.7, Greenhouse Gas Emissions, and supporting technical report (EIR Appendix K).</p>	<p>Consistent.</p>
<p>COS-21 Park and Recreational Facilities. Park and recreation facilities that enhance the quality of life and meet the diverse active and passive recreational needs of County residents and visitors, protect natural resources, and foster an awareness of local history, with approximately 10 acres of local parks and 15 acres of regional parks provided for every 1,000 persons in the unincorporated County.</p>	<p>The project would include park and recreational facilities that enhance the quality of life and meet the diverse active and passive recreational needs of the project’s County residents and visitors. The project’s 35.9 acres of parkland, 1,209-acre habitat preserve, and a project-wide network of pedestrian pathways and trails would weave through the project’s various neighborhoods and to the surrounding Community of Twin Oaks off Site, linking to open space trails, neighborhood trails and parks, and pedestrian pathways throughout the project. The project’s 35.9 acres of pocket, neighborhood, and Community parks have been sized, designed, and designated as a combination of public and private parks in compliance with the County’s Parkland Dedication Ordinance (PLDO), which serves as the County’s implementation ordinance to comply with the Quimby Act and to provide parks for its residents. The project’s parks and recreational facilities would provide a wide range of recreational opportunities and uses, including active ballfields, passive use areas, swimming facilities, children’s play equipment, and a dog park. The project’s Saddleback Park would serve as a staging area for equestrian enthusiasts to horseback ride through the project and along the project’s multi-use trails. The project’s proposed 35.9 acres of active and passive parks and its system of trails and pedestrian pathways would address an established public need for recreation, and would provide quality-of-life enhancing benefits associated with hiking, biking, and horseback riding to both its future residents and visitors, and existing and future residents of the surrounding communities, such as Twin Oaks.</p>	<p>Consistent.</p>
<p>COS-21.1 Diversity of Users and Services. Provide parks</p>	<p>The proposed project would provide parks and recreation facilities that create opportunities for a broad range of recreational experiences to serve user interests. A</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>and recreation facilities that create opportunities for a broad range of recreational experiences to serve user interests.</p>	<p>network trails would extend throughout the neighborhoods and the open space preserve, and includes off-site improvements and connections on Deer Springs Road which would be accessible to outside users. The project also includes 14 parks, of which 11 would be available for public use, and six pocket parks, all of which would be public. Each uniquely-themed park in the project would respond to the surrounding neighborhood and would include a variety of amenities. Parks and open space areas would accommodate the needs of differing ages and physical abilities. In addition, structures within parks and open space would exhibit a high level of quality and design on all visible sides of structures. Refer to the project's Specific Plan for more information.</p>	
<p>COS-21.2 Location of Parks. Locate new local parks and recreation facilities near other community-oriented public facilities such as schools, libraries, and recreation centers where feasible, so that they may function as the "heart" of a community.</p>	<p>The project would locate proposed parks and recreation facilities near the project's other Community-oriented facilities. In particular, parks are proposed for the Town Center planning area. Also, all centrally-located neighborhood parks would be accessible from the loop road and connected to the loop road and surrounding area by on-street bike routes and the pathway and trail network. Each neighborhood would include strategically located park and open space amenities.</p>	<p>Consistent.</p>
<p>COS-21.3 Park Design. Design parks that reflect community character and identity, incorporate local natural and cultural landscapes and features, and consider the surrounding land uses and urban form and cultural and historic resources.</p>	<p>The project Site's landscape character and distinct landforms would inspire the project's park themes. Each park in the project would respond to the surrounding neighborhood and its surrounding natural environment. Parks and open space areas would accommodate the needs of differing ages and physical abilities. In addition, parks and open space structures would exhibit high quality and design on all visible sides of structures. The design theme for the project's Community and neighborhood parks would draw from the rustic character of the Twin Oaks area and the natural character of the Site. Further, consistent with Policy COS-21.3, residential areas and active-use amenities would be separated by pools, dog parks, and children's play areas. A minimum setback of 15 feet between residential areas and active-use amenities would be provided.</p>	<p>Consistent.</p>
<p>COS-21.4 Regional Parks. Require new regional parks to allow for a broad range of recreational activities and preserve special or unique natural or cultural features when present.</p>	<p>There are no proposed regional parks within the project Site; and, therefore, this policy is not applicable. Instead, the project would comply with the County's Parklands Dedication Ordinance to satisfy this goal.</p>	<p>Not applicable.</p>
<p>COS-21.5 Connections to Trails and Networks. Connect public parks to trails and pathways and other pedestrian or bicycle networks where feasible to provide linkages and connectivity between recreational uses.</p>	<p>The proposed project would connect public parks to trails, pathways, and other pedestrian or bicycle networks where feasible to provide linkages and connectivity between recreational uses. More specifically, the project proposes pedestrian pathways and a network of multi-purpose trails for walkers, joggers, and equestrians to act as the connective thread that unites the various neighborhood parks, creating a link to open space trails as well as a sense of walkability throughout the Community. The proposed project includes bike lanes and an extensive trail system with multi-use pathways along the loop road, primary and secondary internal trails within neighborhoods, and multi-purpose and secondary trails through the open space area. This network of approximately 16 total linear miles of trails would extend throughout the neighborhoods and the open space preserve. Along Community trails, parks, and within open space, key landforms and boulders would be identified at scenic vistas and trail rest points to increase the public's connection to the natural features found throughout the Site, as shown on Figure 82 of the Specific Plan.</p>	<p>Consistent.</p>
<p>COS-22 Park and Recreational Services. High-quality parks and recreation programs that promote the health and well-being of County residents while meeting the needs of a</p>	<p>Please see the response to Goal COS-21 above. The project would incorporate combination of Community parks, neighborhood parks, pocket parks, overlooks, pathways, and trails. Each neighborhood would include strategically located park and open space amenities. As detailed in Section 3.5.4 of the project's Specific Plan, the project would provide a variety of recreational amenities and facilities that meet the needs of and benefit County residents and the project's neighborhood and Community parks would be sized, designed, and amenitized in compliance with the County's Parkland Dedication Ordinance (PLDO). Proposed amenities throughout the project Site include</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
diverse and growing population.	loop trails, exercise circuits, children’s play areas, electric bike stations, amphitheater seating, public restroom areas, active fields, and picnic areas. A dog park and a large recreational lawn area are also proposed as part of Peak’s Park. Potential amenities include a Community building, pool, and outdoor gathering spaces.	
COS-22.1 Variety of Recreational Programs. Provide and promote a variety of high quality active and passive recreation programs that meet the needs of and benefit County residents.	The project’s proposed park and trail amenities would accommodate the needs of a range of age groups and physical abilities, from children to seniors. Please refer to the Park Standards and Design Guidelines as set forth within the Specific Plan.	Consistent.
COS-23 Recreational Opportunities in Preserves. Acquisition, monitoring, and management of valuable natural and cultural resources where public recreational opportunities are compatible with the preservation of those resources.	To protect the project’s proposed preserve areas from human encroachment and other anthropogenic impacts, signage and designated routes would establish designated public access trails. The project would protect large patches of habitat that do not currently contain trails. The proposed trails predominantly would be located along pre-existing dirt roads and trails. A preserve manager would monitor the use of these trails and would visit the Site on a semi-weekly basis to document and reinforce these efforts. Management of the preserve areas would keep the many current trespassers from dumping trash, camping, riding off-road vehicles, graffiti/tagging boulders, and participating in other illegal activities. Refer to the On-Site Conceptual Resources Management Plan included as Appendix J to the Biological Resources Technical Report (Appendix H of the EIR) for more details of preserve manager duties.	Consistent.
COS-23.1 Public Access. Provide public access to natural and cultural (where allowed) resources through effective planning that conserves the County’s native wildlife, enhances and restores a continuous network of connected natural habitat and protects water resources.	The proposed project would provide public access to natural resources through effective planning that conserves the County’s native wildlife, enhances and restores a continuous network of connected natural habitat, and protects water resources. Significant cultural resources will be protected or mitigated; and their location will be kept confidential as required by law. The project’s location and design preserves natural areas and provides for wildlife movement and connectivity. The project would permanently preserve and manage 1,209 acres of the Site that includes a diverse array of environmental features including sensitive native habitat, vegetation communities, ridgetops, hilltops, and rocky outcrops. Also, the two largest riparian areas within the project Site would be included in the preserve: the South Fork of Gopher Canyon and the South Fork of Moose Canyon. The South Fork of Gopher Canyon holds water part of the year. Please see the response to Goal COS-23 above.	Consistent.
COS-24 Park and Recreation Funding. Adequate funding for acquisition, development, maintenance, management, and operation of parks, recreation facilities, and preserves.	Please see the response to Goals COS-22 and COS-23 above. The project would provide adequate funding for the development, management, and operation of the project’s proposed parks, recreational facilities, trails, and preserve areas consistent with the County’s Parkland Dedication Ordinance (PLDO), the County’s Trails Master Plan, the project’s Specific Plan, and the project’s Resource Management Plan and Resource Protection Plans.	Consistent.
COS-24.1 Park and Recreation Contributions. Require development to provide fair-share contributions toward parks and recreation facilities and trails consistent with local, state, and federal law.	Please see the response to Goal COS-21 above. The proposed project would meet its fair-share contributions toward parks and recreation facilities and trails consistent with applicable law through the provision of 35.9 acres of public and private parks and a Community-wide system of pedestrian pathways and trails. The project’s recreational facilities have been sized, designed, and designated a combination of public and private in compliance with the County’s Park Lands Dedication Ordinance (PLDO), which in turn satisfies compliance with the state’s Quimby Act, and in compliance with the County’s Trails Master Plan. Please see Section 3.5.4 of the Specific Plan.	Consistent.
COS-24.2 Funding Opportunities. Maximize funding opportunities for the following: <ul style="list-style-type: none"> • The acquisition, expansion, and development of parks, 	Please see the response to Goal/Policy/Objective COS-24, above.	Consistent.

Policy	Project Conformance	Conformance Conclusion
recreation facilities, preserves, and trails <ul style="list-style-type: none"> The operation, maintenance, and management of parks, recreation facilities, preserves, and trails. 		
<i>Housing Element</i>		
H-1 Housing Development and Variety. A housing stock comprising a variety of housing and tenancy types at a range of prices, which meets the varied needs of existing and future unincorporated County residents, who represent a full spectrum of age, income, and other demographic characteristics.	<p>The proposed project includes housing stock comprising of a variety of housing and tenancy types, which would meet the varied needs of existing and future unincorporated County residents representing a spectrum of age, income, and other demographic characteristics. To illustrate this point, the project includes seven planning areas, each representing a unique neighborhood consisting of a variety of housing types, lot sizes, and amenities to provide housing for a broad range of age groups, family formations, and income levels. The broad range of lot sizes and housing types provide options for existing and future North County residents. The applicant completed a consumer survey indicating preferences for a wide range of homes and lot sizes for different age groups and income levels. The residential component of the project includes 1,140 single-family dwelling units, of which 325 would be age-qualified in the Mesa neighborhood. The project includes 995 multi-family dwelling units.</p> <p>Additionally, the project is conveniently located at the Deer Springs Road interchange with direct access to I-15, providing regional access to existing job centers in San Marcos, Vista, Rancho Bernardo, Escondido, Poway, and along the SR-78 corridor accessing Carlsbad and Oceanside. The project is located close to California State University San Marcos and Palomar College. Commuting options for project residents would be enhanced with proximity to four Sprinter stations within 8 miles of the project: the San Marcos Civic Center Sprinter Station, the Buena Creek Station, Escondido Transit Center, and Palomar College Station.</p>	Consistent.
H-1.1 Sites Inventory for Regional Housing Needs Assessment (RHNA). Maintain an inventory of residential sites that can accommodate the RHNA.	The amount and type of housing and lot sizes was assessed in the context of the County's Regional Housing Needs Assessment, housing sites inventory, and other housing projects within the County's jurisdiction. The proposed project provides a range of housing types and 2,135 housing units that would help the County meet required regional housing needs for projected population growth.	Consistent.
H-1.2 Development Intensity Relative to Permitted Density. Encourage a development intensity of at least 80 percent of the maximum permitted gross density for sites designated at 15 to 30 dwelling units per acre in development projects.	The proposed project includes a Specific Plan that would allow for residential densities between 15 and 30 dwelling units per acre in its Town Center, Terraces, and Valley neighborhoods.	Consistent.
H-1.3 Housing near Public Services. Maximize housing in areas served by transportation networks, within close proximity to job centers, and where public services and infrastructure are available.	The proposed project would be located at the Deer Springs Road interchange with direct access to I-15, providing regional access to existing job centers in San Marcos, Vista, Rancho Bernardo, Escondido, and Poway. Additionally, commuting options for project residents would be enhanced with proximity to four Sprinter stations within 8 miles of the project: the San Marcos Civic Center Sprinter Station, the Buena Creek Station, Escondido Transit Center, and the Palomar College Station. The project would provide shuttle services to its residents between these transit stations and the project's neighborhoods.	Consistent.
H-1.4 Special Needs Housing near Complementary Uses. Encourage the location of housing targeted to special	The offered housing choices do not target a particular special needs group; however, the Community would promote housing opportunities for all persons regardless of race, religion, gender, marital status, ancestry, national origin, familial status, or disability, and the broad range of lot sizes and housing types would provide options for a range of buyers and renters in proximity to job centers. See Goal/Policy/Objective H-1.3, above.	Consistent.

Policy	Project Conformance	Conformance Conclusion
needs groups, in close proximity to complementary commercial and institutional uses and services.		
H-1.5 Senior and Affordable Housing near Shopping and Services. Provide opportunities for senior housing and affordable housing development within town centers, transit nodes, and other areas that offer access to shopping and services.	The project would provide a range of housing types and choices, including age-qualified (senior) housing, age-targeted housing (e.g., single story homes), and multi-family housing which is more naturally affordable to renters, first-time homebuyers, and young families. The project's Town Center neighborhood and its adjacent Terraces neighborhood would provide a total of 541 multi-family housing units within walking distance of the project's commercial area, the school site, and parks. The project's proposed age-qualified housing would be within walking distance of parks. The project proposes a Transportation Demand Management (TDM) Program with a host of mobility alternatives, including shuttle services within and around the project Site and to the Escondido Transit Center. .	Consistent.
H-1.6 Land for All Housing Types Provided in Villages. Provide opportunities for small-lot single-family, duplex, triplex, and other multi-family building types in Villages.	The proposed project would provide opportunities for small-lot single-family and multi-family building types in Villages. Specifically, within the Village, the Specific Plan designated a number of multi-family building types to create a range of housing opportunities, including townhomes, small lots, family lots, large lots, and age-qualified lots.	Consistent.
H-1.7 Mix of Residential Development Types in Villages. Support the design of large-scale residential developments (generally greater than 200 dwelling units) in Villages that include a range of housing types, lot sizes, and building sizes.	The project would implement a Specific Plan for the Site to develop a range of housing types, lot sizes, and building sizes and types through the design of seven distinct planning areas: the Sierra Town Center, Sierra Terraces, Sierra Valley, Sierra Hillside, Sierra Knoll, Sierra Mesa, and Sierra Summit neighborhoods. Each planning area represents a unique neighborhood consisting of a variety of housing types, lot sizes, and Community amenities to provide housing for a range of age groups, family formations, and income levels.	Consistent.
H-1.8 Variety of Lot Sizes in Large-Scale Residential Developments. Promote large-scale residential development in Semi-Rural that include a range of lot sizes to improve housing choice.	The project would accommodate a mix of lot sizes, ranging from 3,000 to 7,500 square feet, and promote diverse housing choices. See also the responses to Goal/Policy/Objective Nos. H-1.5 through H-1.7, above.	Consistent.
H-1.9 Affordable Housing through General Plan Amendments. Require developers to provide an affordable housing component when requesting a General Plan amendment for a large-scale residential project when this is legally permissible.	The project does not conflict with this policy. Consistent with other General Plan Amendment projects approved by the County Board of Supervisors since the adoption of the General Plan on August 3, 2011, the project does not include an affordable housing component as the County of San Diego does not have an inclusionary housing ordinance or other legal mechanism to require affordable housing units.	Consistent.
H-2 Neighborhoods That Respect Local Character. Well-designed residential neighborhoods that respect unique local character and the natural environment while expanding opportunities for affordable housing.	The proposed project provides well-designed residential neighborhoods that respect unique local character and the natural environment while expanding opportunities for affordable housing. Relatedly, the neighborhoods would be crafted to include diverse housing types and styles, with homes that incorporate natural materials and building forms respecting the traditional ranch style homes and rural character of the project area. Development would be clustered in a series of neighborhoods in a manner to conserve natural resources.	Consistent.

Policy	Project Conformance	Conformance Conclusion
<p>H-2.1 Development That Respects Community Character. Require that development in existing residential neighborhoods be well designed so as not to degrade or detract from the character of surrounding development consistent with the Land Use Element. [See applicable community plan for possible relevant policies.]</p>	<p>The proposed project requires that development be designed so as not to degrade or detract from the character of the surrounding development. To that end, natural open space would buffer the development from existing residential development. Existing surrounding residential development includes large-lot single-family homes, agricultural uses, and higher-density master-planned communities along the I-15 corridor. The project's land use plan balances development of a range of housing types and densities with conservation of open space and natural resources. In addition, the architectural character would incorporate natural, rusting materials and fundamental building forms that respect the traditional ranch style homes and rural character of the area, including farmhouse, ranch house and mountain themes.</p>	<p>Consistent.</p>
<p>H-2.2 projects with Open Space Amenities in Villages. Require new multi-family projects in Villages to be well-designed and include amenities and common open space areas that enhance overall quality of life.</p>	<p>The project would require its multi-family housing units to be well-designed and include amenities and common open space areas that enhance overall quality of life. For example, the Specific Plan provides private open space for multi-family units in addition to the public open space provided in the Village. Within the planning areas, Sierra Town Center would include approximately 5 acres of parks. Oak Grove Park would highlight the existing oak and boulder landscape found along Deer Springs Road. Suggested offerings include picnic areas, trails, and fitness nodes, and preservation of large oak trees. Village Green would be located in the heart of the Town Center commercial area. The park would be accessible from the adjacent businesses and provide a gathering space for Community events. More "refined" in character, this park may include game tables, flexible turf, an electric bike station, and plaza seating. The Joint Use Park would be located adjacent to the school site to allow for joint uses. Proposed amenities include turf for active and passive play, a backstop for T-ball and little league practice and games, bike racks, and a children's play area.</p>	<p>Consistent.</p>
<p>H-3 Housing Affordability for All Economic Segments. Affordable and suitable housing for all economic segments, with emphasis on the housing needs of lower income households and households with special needs.</p>	<p>Please see the response to Goal/Policy/Objective H-1.9 above. The project's mix of housing types includes sufficient housing options for a wide range of consumer life stages and income levels, including entry-level buyers, young professionals, growing families, and seniors, often times with limited ability to afford housing in the San Diego Region. In conjunction with providing a diversity of housing options, including age-qualified and age-targeted units to accommodate the special needs of buyers such as empty-nesters and seniors, the project would include 35.9 acres of parks, a school site, and a neighborhood shopping center in conjunction with mobility alternatives including shuttle services and electric bikes for its residents to use to access these project amenities and off-site North County transit centers. In so doing, the project would provide both a wide range of housing options and affordable mobility alternatives to fit with its approach to housing needs.</p>	<p>Consistent.</p>
<p>H-3.4 Housing for Moderate-Income Families in Villages. Facilitate the production of housing for moderate income families within Villages by permitting developments that offer affordable housing to incorporate other compatible housing types within areas zoned for single-family residential development.</p>	<p>The project would offer a range of residential densities to create a mix of housing choices by creating a variety of housing types, lot sizes, and amenities to provide housing for a broad range of age groups, family formations, and income levels. The project would also implement a TDM Program of free and subsidized mobility alternatives to single-occupancy vehicle driving, would locate shopping and school uses within walking distance of residential, and would require solar on all residential units in the project, thereby significantly reducing the cost of these major living expenses (energy and transportation) for its residents.</p>	<p>Consistent.</p>
<p>H-5.3 Fire Protection. Work with local fire agencies to improve fire protection for multi-story construction.</p>	<p>A Fire Protection Plan (FPP) has been prepared for the proposed project and approved by the Deer Springs Fire Protection District (DSFPD) and the San Diego County Fire Authority (SDCFA). The FPP evaluates the potential fire risk to the project's proposed land uses and identifies requirements for water supply, fuel modification, defensible space, emergency access, building ignition and fire resistance, fire protection systems, and wildfire emergency pre-planning. The FPP complies with the fire safety requirements of DSFPD and SDCFA, along with project-specific measures based on the Site, its</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	intended uses, the types of structures proposed including multi-story structures, and its fire environment. The project applicant has coordinated with DSFPD to ensure adequate fire and emergency medical services would serve the project, and proposed structures are designed for fire safety. All structures, including multi-story structures, within the project Site would be constructed in accordance with California Building Code, Chapter 7A.	
<i>Land Use Element</i>		
LU-1 Primacy of the Land Use Element. A land use plan and development doctrine that sustain the intent and integrity of the Community Development Model and the boundaries between Regional Categories.	By locating the proposed project near existing and planned infrastructure, services, and jobs in an environmentally sensitive pattern of development, while promoting health and sustainability among its residents, the project is designed around the guiding principles of the General Plan. Consistent with the Community Development Model, the densest neighborhood on Site, the Town Center, would consist of a range of commercial uses that are supported by a network of local roads containing bicycle lanes and pathways linking the neighborhoods with parks, a school site, and public areas. Spanning out from the Village, the proposed project's semi-rural areas would contain low-density residential neighborhoods. Farther out, the neighborhoods would be surrounded by rural lands characterized by open space, habitat conservation areas, recreation areas, and other uses associated with rural areas.	Consistent.
LU-1.1 Assigning Land Use Designations. Assign land use designations on the Land Use Map in accordance with the Community Development Model and boundaries established by the Regional Categories Map. [Refer to Guiding Principle 2 for an explanation of the Community Development Model.]	The project assigns land use designations in accordance with the Community Development Model and boundaries established by the Regional Categories Map. The proposed General Plan Amendment assigns land use designation according to the three regional categories, with the highest-intensity uses located in the Village category, surrounded by medium-density and residential neighborhoods in the Semi-Rural category. Farther out, rural lands characterized by open space, habitat conservation, and recreation areas would surround the neighborhoods.	Consistent.

Policy	Project Conformance	Conformance Conclusion
<p>LU-1.2 Leapfrog Development. Prohibit leapfrog development which is inconsistent with the Community Development Model. Leapfrog Development restrictions do not apply to new villages that are designed to be consistent with the Community Development Model, that provide necessary services and facilities, and that are designed to meet the LEED-Neighborhood Development Certification or an equivalent. For purposes of this policy, leapfrog development is defined as Village densities located away from established Villages or outside established water and sewer service boundaries. [See applicable community plan for possible relevant policies.]</p>	<p>The Community Development Model is implemented by three Regional Categories: Village, Semi-Rural, and Rural lands. The project as proposed is consistent with the Community Development Model, because the Community Development Model has already applied an established Village Regional Category designation to a portion of the project Site. The project does not propose to create a new Village, or expand or reconfigure the existing Village area. The project is also within the established boundaries of the Vallecitos Water District.</p>	<p>Not applicable.</p>
<p>LU-1.3 Development Patterns. Designate land use designations in patterns to create or enhance communities and preserve surrounding rural lands.</p>	<p>Village Core Mixed-Use, Semi-Rural 1, and Open Space-Conservation land use designations were assigned based on the underlying regional category. The project would promote sustainability by focusing on an environmentally sensitive pattern of development. The project would integrate a range of housing types and densities while conserving open space and natural resources.</p>	<p>Consistent.</p>
<p>LU-1.4 Village Expansion. Permit new Village Regional Category designated land uses only where contiguous with an existing or planned Village and where all of the following criteria are met:</p> <ul style="list-style-type: none"> • Potential Village development would be compatible with environmental conditions and constraints, such as topography and flooding • Potential Village development would be accommodated by the General Plan road network • Public facilities and services can support the expansion without a reduction of services to other County residents 	<p>The project is located in an area where the Community Development Model has already applied the Village Category to a portion of the project Site; therefore, the project does not propose to create a new Village, or expand or reconfigure the existing Village area.</p>	<p>Not Applicable.</p>

Policy	Project Conformance	Conformance Conclusion
<ul style="list-style-type: none"> The expansion is consistent with community character, the scale, and the orderly and contiguous growth of a Village area 		
<p>LU-1.5 Relationship of County Land Use Designations with Adjoining Jurisdictions. Prohibit the use of established or planned land use patterns in nearby or adjacent jurisdictions as the primary precedent or justification for adjusting land use designations of unincorporated County lands. Coordinate with adjacent cities to ensure that land use designations are consistent with existing and planned infrastructure capacities and capabilities.</p>	<p>The policy is not applicable because the project's proposed land use designations are based on the County's Community Development Model and the County's provisions for utilizing Specific Plans to implement projects with a variety of housing types, lot sizes, land uses, project-specific development standards, and other project objectives, including conservation. The project has coordinated with the cities of San Marcos and Escondido, as well as the Vallecitos Water District, to ensure that the project's proposed land uses are consistent with existing and planned infrastructure capacities and capabilities.</p>	<p>Not applicable.</p>
<p>LU-1.7 Maximum Residential Densities. Determine the maximum number of dwelling units permitted within the boundaries of any subdivision or single lot based on the applicable land use designation(s). When the total number of dwelling units is less than one, this shall be interpreted as permitting one dwelling unit. When more than one dwelling unit is permitted, fractional dwelling units are rounded down to the nearest whole number of dwelling units.</p>	<p>Table LU-1 in the General Plan was used to calculate the residential yield for the project, and Table LU-2 was used to calculate the gross density allowed on all property, with slope-dependent land use designations. Presently, the maximum number of dwelling units permitted within the boundaries of the project based on applicable land use designations is 99. The Specific Plan proposed land use designations that would allow for approximately 2,199 residential dwelling units. The project proposes a more restrictive maximum of 2,135 residential dwelling units.</p>	<p>Consistent.</p>
<p>LU-1.8 Density Allocation on project Sites. Permit changes in density within a project site with parcels that have more than one land use designation to provide flexibility in project design only when approved by Major Use Permit or Specific Plan. The policy does not allow a project to receive more units than is established by the Land Use Maps nor to supersede Housing Element requirements related to achieving the County's Regional Housing Needs</p>	<p>This policy states that a project with more than one land use designation and that is subject to a Specific Plan is allowed to transfer densities within the project, including across land use designation boundaries to provide flexibility in project design. The proposed Specific Plan includes more than one land use designation, and, therefore, is allowed to transfer densities within the project.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
Allocation. [See applicable community plan for possible relevant policies.]		
<p>LU-1.9 Achievement of Planned Densities. Recognizing that the General Plan was created with the concept that subdivisions will be able to achieve densities shown on the Land Use Map, planned densities are intended to be achieved through the subdivision process except in cases where regulations or site specific characteristics render such densities infeasible.</p>	<p>The project would implement a Specific Plan with various land uses designations, allowable densities, and development regulations to plan for 2,135 dwelling units. Subdivision maps for the project would be consistent with the densities allowed for under the proposed land use designations as described in the Specific Plan.</p>	<p>Consistent.</p>
<p>LU-2 Maintenance of the County's Rural Character. Conservation and enhancement of the unincorporated County's varied communities, rural setting, and character.</p>	<p>The project would enhance the rural setting and character of the surrounding unincorporated area through its context sensitive land use plan in conjunction with its design guidelines and incorporation of key project features and amenities that build off the surrounding area.</p> <p>The Twin Oaks Community began as a predominantly agricultural community north of an area known originally as Vallecitos de San Marcos, today, what is the City of San Marcos. Today, Twin Oaks supports a mix of land uses, including a range of housing types and lot sizes, small farms, nurseries, and ranchettes in its northern portions, the Twin Oaks Golf Course, an equestrian center and a handful of equestrian ranchettes, and retail, commercial, and light industrial uses. In keep with this character, the project includes over 20 acres of Community gardens and vineyards interspersed throughout the project as a locally grown, sustainable source of agriculture; an equestrian staging area and pathways and trails that connect all the way into the City of San Marcos and to the project's eastern edge designed to accommodate equestrian users; conservation of nearly three quarters of the Site's existing natural terrain, including prominent ridgelines, peaks, rock outcroppings, and drainages; a range of housing options to meet the needs of the North County Metro's growing population; a variety of parks, including the Oak Grove Park, the Sierra Farms Park, and several other neighborhood parks, and a system of pedestrian pathways and trails that incorporate the more natural elements of the surrounding area, including oaks, clusters of boulders, and scenic vistas; and architectural design guidelines that draw from the character of the Site as well as the surrounding community.</p>	<p>Consistent.</p>
<p>LU-2.1 Community Plans. Maintain updated Community Plans, as part of the General Plan, to guide development to reflect the character and vision for each individual unincorporated community, consistent with the General Plan.</p>	<p>This policy represents the County's direction to maintain updated Community Plans. The proposed project would not impede County's achievement of this policy.</p> <p>The North County Metropolitan Subregional Plan area provides several goals for growth within this growing area, including accommodating urban development in appropriate areas; promoting agriculture in non-urban areas; and preserving scenic, rugged terrain not suitable for urbanization. The densest on-site neighborhood, the Town Center, would consist of a network of local roads containing bicycle lanes and pathways linking various commercial uses to the neighborhoods, parks, a proposed school site, and public areas. The proposed project would consist of urban development in the areas consistent with the North County Metropolitan Subregional Plan. Community agriculture would be promoted through the incorporation of over 20 acres of Community gardens and vineyards. The public would rent or reserve garden plots with first priority given to Community residents. This would promote locally grown organic food sources for residents, and provide a link to the region's agricultural heritage. In addition, scenic resources would be permanently conserved and managed in an open space system encompassing approximately 1,209 acres. The majority of the proposed open space would be located within the northern half of the project. The northern half has the greatest potential to support wildlife due to the</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	<p>east/west connection with the San Marcos Mountains. Therefore, the proposed project would accommodate urban development and preserve scenic rugged terrain and be consistent with the environmental goals of the North County Metropolitan Subregional Plan.</p> <p>Section 3.1 of the Specific Plan, Community Design Concepts, describes five overarching themes: (i) land stewardship, (ii) connectivity, (iii) healthy communities, (iv) homes and neighborhood diversity, and (v) sustainability. These elements would influence project planning and minimize significant impacts to aesthetic impairment and human health and safety.</p>	
<p>LU-2.3 Development Densities and Lot Sizes. Assign densities and minimum lot sizes in a manner that is compatible with the character of each unincorporated community.</p>	<p>The project assigns densities and minimum lot sizes in a manner that is compatible with the character of the unincorporated communities surrounding the project Site. Proposed project densities and lot sizes are consistent and compatible with the Community Development Model, which influences the North County Metropolitan Subregional Plan area and surrounding areas. Please see the responses to <i>Guiding Principle 3</i>.</p>	<p>Consistent.</p>
<p>LU-2.4 Relationship of Land Uses to Community Character. Ensure that the land uses and densities within any Regional Category or Land Use Designation depicted on the Land Use Map reflect the unique issues, character, and development objectives for a Community Plan area, in addition to the General Plan Guiding Principles.</p>	<p>The proposed project proposes a General Plan Amendment to replace a portion of the project's regional category designation from Rural Lands to Semi-Rural, consistent with General Plan goals and policies. Please see also the above responses to the <i>General Plan Guiding Principles</i>.</p>	<p>Consistent.</p>
<p>LU-2.5 Greenbelts to Define Communities. Identify and maintain greenbelts between communities to reinforce the identity of individual communities.</p>	<p>The project would create a 1,209 acre preserve and protect an additional 235 acres of native habitat as Fuel Modification Zones/Special Management Areas, establishing large green belts between the project's individual neighborhoods and surrounding off-site areas.</p>	<p>Consistent.</p>
<p>LU-2.6 Development near Neighboring Jurisdictions. Require that development in the proximity of neighboring jurisdictions retain the character of the unincorporated community and use buffers or other techniques where development in the neighboring jurisdiction is incompatible.</p>	<p>The project would retain the character of the unincorporated community. Please see responses to <i>Guiding Principle 3</i>, Goal LU-2, and Goal/Policy/Objective LU-2.5, above.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>LU-2.7 Commercial Viability. Ensure that new commercial centers maintain or enhance the viability of existing commercial areas.</p>	<p>The Twin Oaks and Hidden Meadows communities presently lack basic commercial services, requiring residents to travel to Escondido and San Marcos for goods and services. The proposed Town Center would serve as a town square and the commercial hub for the surrounding area. An anticipated neighborhood grocery store at the Town Center would serve Twin Oaks Valley and the surrounding community. The Town Center would provide employment opportunities for future residents and for the surrounding area and would be walkable, as well as visually appealing and compatible with surrounding development. Further, the Town Center would be accessible due to its location, reinforcing the local vitality and economy of the Twin Oaks Valley community. Please see the response to <i>Guiding Principle 3</i>.</p>	<p>Consistent.</p>
<p>LU-2.8 Mitigation of Development Impacts. Require measures that minimize significant impacts to surrounding areas from uses or operations that cause excessive noise, vibrations, dust, odor, aesthetic impairment and/or are detrimental to human health and safety.</p>	<p>The project would require measures that minimize significant impacts to surrounding areas from uses or operations that cause excessive noise, vibrations, dust, odor, aesthetic impairment, and/or are detrimental to human health and safety. The project would ensure that noise considerations are incorporated into the land use decision-making process. The quality of life for project residents and for nearby residents is important to the project applicant who considered noise-generating uses such as traffic and construction in project design. Project construction would be conducted to minimize disturbance to adjacent sensitive receptors. Blasting (and the associated drilling that precedes blasting) would only occur between 7 a.m. and 7 p.m. Construction blasting generates a maximum noise level of approximately 94 dBA at a distance of 50 feet (FHWA 2006). This noise level is used in the analysis because it provides a reasonable estimate of the construction blasting noise level. However, the noise level would vary depending on various factors. The blast is generally perceived as a dull thud rather than as a loud explosion. Additionally, to conduct blasting, a blasting permit must be obtained from the County Sheriff's Department prior to any blasting activities. Potentially significant blasting noise impacts would be mitigated to a level below significance through implementation of mitigation measure M-N-5, which require the preparation and implementation of a blast drilling and monitoring plan. See also the response to Goal/Policy/Objective LU-2.1.</p>	<p>Consistent.</p>
<p>LU-2.9 Maintaining Rural Character. Consider level of service criteria, in accordance with Policy M-2.1, to determine whether adding lanes to a Mobility Element road would adversely impact the rural character of a community or cause significant environmental impacts. In those instances, consider other options to mitigate LOS where appropriate.</p>	<p>Consistent with this Policy, Policy M-2.1, and the County's CEQA Guidelines for Determining Significance, the project includes a Traffic Impact Analysis that analyzes the project's estimated traffic impacts to existing off-site roads and identifies measures in the form of road and intersection capacity enhancing improvements to mitigate these impacts to less than significant. The project's EIR also analyzes the potential environmental impacts associated with these improvements and concludes that impacts to biological resources, cultural resources, aesthetic/visual resources (e.g., rural character), drainage and water quality, air quality, and related subject areas would be less than significant with mitigation.</p> <p>In the context of rural character, the project proposes two options for the County Board of Supervisors' consideration for the improvements to Deer Springs Road between Sarver Lane and Mesa Rock Road. Option A would widen and upgrade Deer Springs Road to a two-lane Community Collector Road. Option B would widen and improve this same segment of Deer Springs Road to a four-lane Major Road. Both of these Options would improve the capacity of Deer Springs Road, both Options include bike lanes and a 10-foot-wide multi-use pathway along the road to accommodate alternative modes of transportation not accommodated today along the road, including bicyclists, walkers, joggers, and horseback riding, and both Options have been designed to substantially follow the existing alignment of the road to minimize impacts to biology, cultural resources, the existing natural terrain surrounding the road, and existing residences and properties along the road. Under both of these options, the other portions of Deer Springs Road would be widened and improved consistent with the County's four-lane Major Road standard and include the same bicycle and multi-use pathway improvements connecting all the way into the City of San Marcos.</p> <p>The improvements under Option B would provide sufficient capacity to achieve a Level of Service (LOS) D or better for the entire set of improvements to Deer Springs Road (from I-15 to its terminus with Twin Oaks Valley Road). The improvements under Option A would improve the existing capacity of the road, however that segment between Sarver</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	<p>Lane and Mesa Rock Road would not achieve an acceptable LOS under this Option such that the road would continue to experience a deficient LOS during the peak hours of traffic congestion. Both Options A and B have been designed to minimize impacts and would require mitigation to address impacts to biological, cultural, and aesthetic resources. For both Options, these impacts would be mitigated to less than significant. Both Options would also address the existing flooding condition (i.e., overtopping of the roadway) that results during major rainfall events and both Options would install drainage, hydromodification, and water quality improvements along the improvements to the road where limited to no improvements exist today, significantly improving the water quality and drainage outcome along the road when compared to the existing condition.</p> <p>Option A would require a Mobility Element reclassification of Deer Springs Road. This approach is consistent with General Plan Goal M-2, and, more specifically, Policy M-2.1.</p>	
<p>LU-3 Diversity of Residential Neighborhoods. A land use plan that accommodates a range of building and neighborhood types suitable for a variety of lifestyles, ages, affordability levels, and design options.</p>	<p>The Specific Plan includes development regulations for single-family detached and a range of multi-family residential types of various lot sizes and square footages. The project applicant completed a consumer survey that vetted buyer preferences and demand by consumer life stage to inform the mix of residential products proposed in each neighborhood. The survey resulted in seven planning areas that would provide housing for a broad range of age groups, family formations, and income levels.</p>	<p>Consistent.</p>
<p>LU-3.1 Diversity of Residential Designations and Building Types. Maintain a mixture of residential land use designations and development regulations that accommodate various building types and styles.</p>	<p>The Specific Plan includes development regulations for single-family detached and cluster, and a range of multi-family residential lot sizes and square footages. The buyer survey informed the project applicant's land planning for the neighborhoods, resulting in a mix of housing types. The broad range of lot sizes and housing types would provide significant options for North County buyers. The seven designations of building types each contain their own design regulations.</p>	<p>Consistent.</p>
<p>LU-3.2 Mix of Housing Units in Large projects. Require new large residential developments (generally greater than 200 dwelling units) to integrate a range of housing types and lot and building sizes. [See applicable community plan for possible relevant policies.]</p>	<p>The proposed project requires integration of a range of housing types, lot sizes, and building sizes. The project offers various housing types, including a range of single-family lot sizes, detached cluster housing types, age-qualified (senior/55+) and age-targeted (single story) housing choices, and multi-family building types of various lot sizes and square footages. Several planning areas would be composed of lots ranging in size from 3,000 square feet to 7,500 square feet. The Specific Plan's range of housing types, lot sizes, and building sizes would implement this policy. Please see also response to <i>General Plan Guiding Principles 1, 2, and 3</i>.</p>	<p>Consistent.</p>
<p>LU-3.3 Complete Neighborhoods. Require new development sufficiently large to establish a complete neighborhood (typically more than 1,000 dwelling units) to include a neighborhood center within easy walking distance of surrounding residences. [See applicable community plan for possible relevant policies.]</p>	<p>The proposed project includes a neighborhood center (Town Center) within walking distance of surrounding residences. The Town Center is centrally located between the residential development and the existing road network and I-15. By locating the project near existing and planned infrastructure, services, and jobs in an environmentally sensitive pattern of development, the project is designed around the <i>Guiding Principles</i> of the General Plan. Consistent with the County's Community Development Model, the densest neighborhoods on Site, the Town Center and Terraces, would consist of a range of commercial uses. A dense network of local roads containing bicycle lanes and pathways linking the neighborhoods with parks, a school site, and public areas.</p>	<p>Consistent.</p>
<p>LU-5 Climate Change and Land Use. A land use plan and associated development techniques and patterns that reduce emissions of local greenhouse gases in</p>	<p>The proposed project includes a land use plan and associated development techniques and patterns that reduce emissions of greenhouse gases in accordance with state initiatives, while promoting public health. The project would incorporate a walkable Town Center to create a central core in the community of Twin Oaks. Neighborhood serving retail uses in the Town Center would serve the existing communities of Twin Oaks, Hidden Meadows, and Champagne Village as well as the Sierra Community. On the north</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>accordance with state initiatives, while promoting public health.</p>	<p>end of the Town Center, a planned school site would include a joint-use field open to the public during weekends and after school hours during weekdays. The Town Center would be close to the school site and to new homes and be linked via bicycle lanes and multi-use trails to all of the remaining neighborhoods within the Community. The project would include parks, pedestrian pathways, and multi-use trails within one quarter mile or less from each residence in the project, emphasizing walkability and deemphasizing individual motorized transportation, thereby promoting public health and reducing GHG emissions.</p> <p>In the same vein of promoting public health, reducing individual motorized transportation, and reducing GHG emissions, the project proposes a number of TDM Program measures including: an electric bike-share program, support for ride-share and car-share programs, subsidized transit passes for the project's residents,; and shuttle services within and around the project and to the Escondido Transit Center.</p> <p>The land use pattern and TDM Program measures would reduce overall GHG emissions and promote public health. This manner of project development complies with the objectives and meets the mandates of the California Global Warming Solutions Act of 2006 (AB 32), and SB 375, and meets the County's land use goals.</p>	
<p>LU-5.1 Reduction of Vehicle Trips within Communities. Incorporate a mixture of uses within Villages and Rural Villages and plan residential densities at a level that support multi-modal transportation, including walking, bicycling, and the use of public transit, when appropriate.</p>	<p>Please refer to the response to Goal/Policy/Objective LU-5, above. The project would incorporate a mix of residential, commercial, recreational, and education uses within its Village (the Town Center Neighborhood) and proposes residential densities in its Terraces and Valley neighborhoods along with a Transportation Demand Management (TDM) Program that would support multi-modal transportation, including walking, bicycling, and the use of transit. The project's TDM Program would include a number of mobility alternatives to single occupancy vehicle driving, including pedestrian pathways, multi-use trails, bicycle routes, an electric-bike share program, support for car-share and ride-share services within the project, subsidized transit passes, and shuttle services around the project and to the Escondido Transit Center, a north county transit hub with access to the Sprinter and NCTD Breeze bus services and FLEX shuttle services. Collectively, the project's mixture of land uses and its TDM Program would support multi-modal transportation.</p>	<p>Consistent.</p>
<p>LU-5.2 Sustainable Planning and Design. Incorporate into new development sustainable planning and design.</p>	<p>The County's General Plan emphasizes sustainable design principles. The proposed project is designed to implement these General Plan principles. The project would locate design elements near existing and planned infrastructure, services, and jobs in an environmentally sensitive pattern of development while promoting health and sustainability among its residents.</p> <p>Proposed project Site planning accounts for existing landforms and topography and concentrating development between and away from ridge lines. Prominent ridges and landforms were mapped, and each neighborhood would minimize disturbance to prominent peaks and landforms. Each neighborhood would be developed to minimize impacts to the Site's existing natural terrain. Where possible, streets would parallel topography and be guided by on-site watershed patterns.</p> <p>Additionally, Section 2.1.3 of the Specific Plan identifies the "Sustainable Planning and Design Goals" to promote sustainability through sensitive Site design that conserves energy, water, open space, and other natural resources. Sustainable Planning and Design Policies include the following:</p> <ol style="list-style-type: none"> a. Develop a Community Development Model based project that provides a more environmentally sensitive land use pattern, where residents live closer to jobs, businesses, schools, parks, services and their neighbors. b. Provide mobility alternatives for the residents to reduce energy consumption, air pollution, noise, and GHG emissions. c. Integrate the Site's natural features into the development (ecosystems, topography, rock formations, agriculture and views), which would improve resident quality of life. d. Exceed Title 24 requirements with Net Zero Energy homes, solar requirements for all residential construction, water conservation measures that meet the County's Water Efficient Landscape Design Manual requirements, pre-plumbing for greywater 	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	<p>systems in all single-family residential construction, and a carbon neutrality program that offsets all greenhouse gas emissions (i.e., net zero GHG emissions) associated with the project's construction and operational stages for the life of the project.</p>	
<p>LU-5.3 Rural Land Preservation. Ensure the preservation of existing open space and rural areas (e.g., forested areas, agricultural lands, wildlife habitat and corridors, wetlands, watersheds, and groundwater recharge areas) when permitting development under the Rural and Semi-Rural Land Use Designations. Open space and rural lands are primary areas that provide carbon sequestration benefits for the Region.</p>	<p>As stated in the Land Use Element of the Specific Plan, the project's semi-rural areas would contain lower-density residential neighborhoods. Farther out, open space, habitat conservation areas, recreation areas, and other uses associated with rural areas would surround the neighborhoods.</p> <p>The Community's homes and neighborhoods would represent diverse housing types in each planning area to respond to the needs of anticipated residents, reflect the rural character, maximize on-site natural resources with indoor/outdoor living opportunities, and use density as a tool to reinforce place-making within the Town Center and other neighborhoods. Each neighborhood is designed with an enhanced parkway that includes landscaping, a trail, and often a decorative "dry creek" drainage swale that further enhances the rural character of the Community.</p> <p>Section 2.1.7 of the Specific Plan states the project would promote environmental stewardship by dedicating large blocks of biological open space into the North County Metropolitan Subregional Plan to protect natural resources and habitat.</p> <p>The following Open Space and Conservation Policies apply:</p> <ol style="list-style-type: none"> a. Conserve large blocks of environmentally sensitive lands using easements to ensure permanent conservation, consistent with the draft North County Multiple Species Conservation Program. b. Avoid construction and grading in dedicated open space areas. Fuel modification and drainage for pads, slopes and roads shall be restricted as provided in the easement dedication or conservation agreement. c. Limit disturbance and development to only those areas shown on this Specific Plan or areas off Site needed for grading, roads, utilities, or infrastructure. d. Manage dedicated open space areas through the County or another qualified third-party. <p>Much of the project Site is designated Rural Lands (RL-20) under the General Plan. The proposed project would permanently preserve and manage approximately 1,209 acres of land as open space. Currently, approximately 35 acres of the project Site is identified as Farmland of Local Importance and Unique Farmland and approximately 189 acres are zoned as agricultural. The project would retain approximately 6 acres of this agricultural land because the on-site terrain of steep slopes and rock outcroppings are not conducive to agricultural use. Additionally, existing, nominal agricultural land uses on Site consist of encroachments from adjacent properties. These encroaching agricultural operations would remain with proposed project implementation.</p>	<p>Consistent.</p>
<p>LU-5.5 projects that Impede Non-Motorized Travel. Ensure that development projects and road improvements do not impede bicycle and pedestrian access. Where impacts to existing planned routes would occur, ensure that impacts are mitigated and acceptable alternative routes are implemented. Examples include large parking areas that cannot be crossed by non-motorized vehicles, and new developments that block through access on existing</p>	<p>The proposed project would not impede existing bicycle and pedestrian access during construction by implementing a Construction Traffic Control Plan that outlines ways to access affected rights-of-way safely throughout construction. The proposed project also would result in increased opportunities for non-motorized travel.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
or potential bicycle and pedestrian routes.		
LU-6 Development–Environmental Balance. A built environment in balance with the natural environment, scarce resources, natural hazards, and the unique local character of individual communities.	The proposed project would include a built environment in balance with the natural environment, scarce resources, natural hazards, and the unique local character of individual communities by integrating the property’s natural character, primary landforms, view corridors, and agricultural heritage into the Community fabric using the following methods: an environmentally sensitive development pattern, creating cohesive open space networks, grading in response to topography and hydrology, and using materials and forms that reflect the region’s agrarian history.	Consistent.
LU-6.1 Environmental Sustainability. Require the protection of intact or sensitive natural resources in support of the long-term sustainability of the natural environment.	The proposed project requires the protection of intact or sensitive natural resources in support of the long-term sustainability of the natural environment by proposing an open space conservation easement to the County or third party conservation entity or organization to protect sensitive biological natural resources. The land dedicated under the easement would be permanently preserved to protect wildlife, existing vegetation, and the on-site natural features. For example, planning area location and design would preserve natural areas and provide for wildlife movement and connectivity throughout the project. The proposed open space design consists of two large, continuous blocks of key biological resources situated within the Site’s northern half and along the eastern boundary; a large third block of open space in the center of the proposed development would connect the abovementioned blocks of open space to open space located east and south of the project Site. The project would permanently preserve and manage approximately 1,209 acres of open space. Please see also <i>General Plan Guiding Principles 4 and 8</i> .	Consistent.
LU-6.2 Reducing Development Pressures. Assign lowest-density or lowest-intensity land use designations to areas with sensitive natural resources.	The proposed project assigns lowest-density or lowest-intensity land use designations to areas with sensitive natural resources. In particular, the project assigns the Open Space–Conservation land use designation to more than 50% of the project, protecting natural resources in perpetuity.	Consistent.
LU-6.3 Conservation-Oriented project Design. Support conservation-oriented project design when appropriate and consistent with the applicable Community Plan. This can be achieved with mechanisms such as, but not limited to, Specific Plans, lot area averaging, and reductions in lot size with corresponding requirements for preserved open space (Planned Residential Developments). Projects that rely on lot size reductions should incorporate specific design techniques, perimeter lot sizes, or buffers, to achieve compatibility with community character. [See applicable community plan for possible relevant policies.] Approval of Conservation-Oriented projects is not	Planning area location and design would preserve natural areas and provide for wildlife movement and connectivity throughout the project. The proposed project includes buffers between residences and open space. Goal/Policy/Objective LU-1.8 provides flexibility in project design by allocating density to provide contiguous blocks of habit as opposed to fragmented open space.	Consistent.

Policy	Project Conformance	Conformance Conclusion
<p>guaranteed by-right but shall be allowed to process if consistent with applicable minimum lot sizes, design guidelines, and regulations.</p>		
<p>LU-6.4 Sustainable Subdivision Design. Require that residential subdivisions be planned to conserve open space and natural resources, protect agricultural operations including grazing, increase fire safety and defensibility, reduce impervious footprints, use sustainable development practices, and, when appropriate, provide public amenities consistent with the applicable community plan. [See applicable community plan for possible relevant policies.]</p>	<p>Please see Goal/Policy/Objectives LU-6.1 through LU-6.3. In addition, the proposed project requires that planning areas be planned to conserve open space and natural resources, protect agricultural operations, increase fire safety and defensibility, reduce impervious footprints, use sustainable development practices, and provide public amenities consistent with the applicable community plan. The project would permanently preserve and manage 1,209 acres of native habitat and other natural resources found on-Site, achieving a planned preservation of 61% of the project Site native habitat. The project would protect an additional 235 acres of native habitat in Fuel Modification Zone 2 and Special Management Areas, areas that will retain their native vegetative cover but be subject to periodic thinning and weed abatement for fire protection purposes. It should also be noted that an additional 212 acres of off-site open space would be preserved, for a total preserve acreage of 1,421 acres (72 percent of the project Site acreage). The project would incorporate open space buffers between its neighborhoods and off-site agricultural and other uses. The project would include a Fire Protection Plan addressing fire safety and defensibility, including fuel modification zones, the latest fire safety construction practices, and emergency response and evacuation. The project would include extensive use of Low Impact Development BMPs and project design features, including minimizing and disconnecting impervious surfaces. The project would provide 36 acres of pocket, neighborhood, and Community parks with a wide range of amenities consistent with the Twin Oaks Community Plan to meet the needs of the project's future residents as well as the existing residents of surrounding communities.</p>	<p>Consistent.</p>
<p>LU-6.5 Sustainable Stormwater Management. Ensure that development minimizes the use of impervious surfaces and incorporates other Low Impact Development techniques as well as a combination of site design, source control, and stormwater best management practices, where applicable and consistent with the County's LID Handbook.</p>	<p>The proposed project would incorporate stormwater facilities to manage stormwater quality, hydromodification impacts, and peak flow attenuation. Integrated bioretention swales and basins, as well as LID features and roadside swales, would address stormwater quality and hydromodification impacts.</p>	<p>Consistent.</p>
<p>LU-6.6 Integration of Natural Features into project Design. Require incorporation of natural features (including mature oaks, indigenous trees, and rock formations) into proposed development and require avoidance of sensitive environmental resources.</p>	<p>Please see Goal/Policy/Objective Nos. LU-6.1 through LU-6.6. In addition, the proposed project requires incorporation of natural features and avoidance of sensitive environmental resources. For example, parks would incorporate natural features such as mature oaks, indigenous trees, and rock formations. The proposed Oak Grove and Sierra Farms Parks would incorporate large existing oak trees. More broadly, the project would integrate the Site's natural features (e.g., ecosystems, topography, rock formations, and views), which are important design elements that enhance resident quality of life, into various neighborhoods.</p>	<p>Consistent.</p>
<p>LU-6.7 Open Space Network. Require projects with open space to design contiguous open space areas that protect wildlife habitat and corridors; preserve scenic vistas and</p>	<p>Please see Goal/Policy/Objective Nos. LU-6.1 through LU-6.6. In addition, the proposed project requires a contiguous open space design that protects wildlife habitat and corridors, preserves scenic vistas and areas, and connects to existing or planned recreational opportunities. Planning area location and design would preserve natural areas and provide for wildlife movement and connectivity throughout the Site. The proposed open space design consists of two large, continuous blocks of key biological resources situated within the Site's northern half and along the eastern boundary, and a</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>areas; and connect with existing or planned recreational opportunities.</p>	<p>large third block of open space in the center of the proposed development that connects the abovementioned blocks of open space to open space located east and south of the project Site. In total, the project would preserve approximately 1,209 acres of native habitat in a habitat preserve. The majority of the proposed open space design would be located within the northern and eastern halves of the project Site. The northern half of the Site has the greatest potential to support wildlife due to the east/west connection with the San Marcos Mountains. The open space design also includes environmental features such as ridgetops, hill tops, and rocky outcrops. Although the majority of this area consists of dense chaparral, the area incorporates a diverse representation of the vegetation communities that occur on Site and in the vicinity, including riparian forest and scrub, coastal sage scrub, non-native grassland, and oak woodland. The two largest riparian areas located within the project Site would be included in the open space: the South Fork of Gopher Canyon and the South Fork of Moosa Canyon.</p> <p>The project's proposed habitat preserve area will support multi-use trails that connect into the project's individual neighborhoods and to the project's Community and neighborhood parks. The project's circulation system is built around accommodating alternatives to vehicle travel (such as walking, bicycling, and transit/shuttle services). This circulation system connects seamlessly through the project's individual neighborhoods, parks, and open space areas. The project's residents and visitors can go from their home to the local park to a hike in the habitat preserve area to a shuttle stop in the Town Center without ever using a car.</p>	
<p>LU-6.8 Oversight of Open Space. Require that open space associated with future development that is intended to be preserved in perpetuity either be:</p> <ol style="list-style-type: none"> 1. Retained in private ownership of the property owner or a third party with a restrictive easement that limits use of the land as appropriate; or 2. Transferred into public ownership of an agency that manages preserved open space. <p>The owner of the open space will be responsible for the maintenance and any necessary management unless those responsibilities are delegated through an adopted plan or agreement. Restrictive easements shall be dedicated to the County or a public agency (approved by the County) with responsibilities that correspond with the purpose of the open space. When transferred to a third party or public agency, a funding mechanism to support the future maintenance and management of the property</p>	<p>The project's proposed 1,209-acre preserve areas would be preserved in perpetuity, maintained, and managed by a preserve management entity per the requirements of the project's Resource Management Plan in accordance with this policy and the County's related requirements. Please see also <i>General Plan Guiding Principles 4 and 8</i>.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
should be established to the satisfaction of the County.		
LU-6.9 Development Conformance with Topography. Require development to conform to the natural topography to limit grading; incorporate and not significantly alter the dominant physical characteristics of a site; and to utilize natural drainage and topography in conveying stormwater to the maximum extent practicable.	The project would require development to conform to the natural topography to limit grading, incorporate and not significantly alter the dominant physical characteristics of the Site, and utilize natural drainage and topography in conveying stormwater to the maximum extent practicable. Specifically, the project would avoid grading/landform alteration impacts to nearly three quarters of the project Site and would integrate the property's natural character, primary land forms, view corridors, and agricultural heritage by using the following methods: clustering development, creating 1,209 acres of a cohesive open space network, and conforming grading in response to topography and hydrology.	Consistent.
LU-6.10 Protection from Hazards. Require that development be located and designed to protect property and residents from the risks of natural and man-induced hazards.	The proposed project requires development be located and designed to protect property and residents from the risks of natural and man-induced hazards. For example, the Geotechnical Report and the Rock Fall Hazard Report include recommendations and design considerations to minimize geologic, seismic, soils, slopes, and other hazards. The project would conform to the most recent building code standards for geologic and seismic safety. The project's Hazardous Materials Environmental Site Assessment is designed with the recommendations to minimize potential natural and human-induced hazards. Please also see the response to <i>Guiding Principle 5</i> .	Consistent.
LU-6.11 Protection from Wildfires and Unmitigable Hazards. Assign land uses and densities in a manner that minimizes development in extreme, very high and high hazard fire areas or other unmitigable hazardous areas.	The proposed project's FPP evaluates and identifies the potential fire risks associated with the proposed project's land uses, and identifies requirements for water supply, fuel modification, defensible space, emergency access, building ignition and fire resistance, fire protection systems, and wildfire emergency pre-planning, among other pertinent fire protection criteria. The FPP complies with the fire safety requirements of the DSFPD and SDCFA, and includes project-specific measures based on the Site, its intended use, and its fire environment. Please see other fire-related responses for additional details. Please also see the response to <i>Guiding Principle 5</i> .	Consistent.
LU-7 Agricultural Conservation. A land use plan that retains and protects farming and agriculture as beneficial resources that contribute to the County's rural character.	The project would create agricultural uses on the Site where there are none today, thereby retaining and protecting farming and agriculture as beneficial resources that contribute to the County's rural character. The project would include more than 20 acres of Community gardens and vineyards within and around certain neighborhoods and in the Sierra Farms Park. Vineyard plantings located on slopes along the loop road would create a unique visual identity, establish a connection to the region's agrarian history, and provide a productive landscape. Vineyards are low-water-use crops that provide a productive agricultural use of the irrigated open space. They have a low fuel volume and are thereby resistant to fire, serving as an effective fuel break between the project's preserve areas and its neighborhoods.	Consistent.
LU-7.1 Agricultural Land Development. Protect agricultural lands with lower-density land use designations that support continued agricultural operations.	<p>Please see the responses to <i>Guiding Principles 3 and 8</i>, and Policies COS-6.2, LU-2, LU-7, and S-11.5. The project Site does not support any existing agricultural operations. Small family-run avocado orchards exist off Site near the southwestern and western boundaries of the project Site. The project would buffer these existing off-site orchards with open space and habitat preserve where these existing orchards are adjacent to the project's proposed neighborhoods.</p> <p>Although the project Site does not support any agricultural operations, inside the project, sustainable agriculture would be promoted through the creation of Community gardens and vineyards dispersed throughout the project. These Community gardens and vineyards would be placed in Community open space lots (outside of habitat preserve areas) and managed by the HOA. Both the project's residents and people from the surrounding neighborhoods would be allowed to reserve space in the Community gardens to plant and manage their own plot of fruits and vegetables, serving as an important contribution to sustainable agriculture practices within the Community of Twin Oaks and larger the North County Metro Area, an area with a strong agricultural history.</p>	Consistent.

Policy	Project Conformance	Conformance Conclusion
<p>LU-9 Distinct Villages and Community Cores. Well-defined, well-planned, and well-developed community cores, such as Villages and Town Centers, that contribute to a community's identity and character.</p>	<p>The project's Town Center proposes a range of commercial, residential, educational, and park uses that would serve as the hub of the Community. Local roads, bike lanes, and pathways would link the Town Center to the neighborhoods.</p>	<p>Consistent.</p>
<p>LU-9.1 Village and Community Core Planning. Encourage the delineation of and development of more detailed planning direction for the character, design, uses, densities, and amenities of Village areas, Town Centers, and other community cores in Community Plans to assist in the future planning of residences, infrastructure, businesses, and civic uses.</p>	<p>The Town Center would create a central core in Twin Oaks Valley. An anticipated neighborhood grocery store at the Town Center would serve the Twin Oaks Valley and the Sierra neighborhoods. On the north end of the Town Center, a planned school site would include a joint-use field open to the public during weekends and after school hours during weekdays. The Town Center would be close to the school site and to new residential dwelling units, and be linked via bicycle lanes and multi-use trails to all neighborhoods within the Community.</p>	<p>Consistent.</p>
<p>LU-9.2 Density Relationship to Environmental Setting. Assign Village land use designations in a manner consistent with community character, and environmental constraints. In general, areas that contain more steep slopes or other environmental constraints should receive lower density designations. [See applicable community plan for possible relevant policies.]</p>	<p>The proposed project assigns the Village land use designation in a manner consistent with the Community character of the North County Metro Area and surrounding existing development patterns as well as the project Site's environmental constraints. To that end, the Village designation is assigned presently to the project Site abutting the I-15/Deer Springs Road intersection. The Village regional category designation would remain unchanged from its existing configuration.</p> <p>Outside the Village, the project proposes to use a Specific Plan to focus development of According to the Land Use Element of the County's General Plan, approximately 19.6 acres of the existing property are designated Semi-Rural 10, which allows one dwelling unit per 10 gross acres on land with slopes of less than 25%, and one dwelling unit per 20 gross acres on land with slopes greater than 25%.</p>	<p>Consistent.</p>
<p>LU-9.3 Village and Community Core Guidelines and Regulations. Support the development and implementation of design guidelines, Village-specific regulations for roads, parking, and noise, and other planning and regulatory mechanisms that recognize the unique operations and character of Villages, Town Centers, and transportation nodes. Ensure that new development be compatible with the overall scale and character of established neighborhoods.</p>	<p>Please see response to Goal/Policy/Objective LU-1.8 above. The project's Specific Plan includes design guidelines for architecture, landscaping, and the project's network of roads that would establish the character while recognizing the intended operations of its Town Center. The project's various neighborhoods would be compatible with the overall scale and character of established neighborhoods. Also, please see response to Guiding Principle 3 for more information on the project's compatibility with the surrounding area.</p>	<p>Consistent.</p>
<p>LU-9.4 Infrastructure Serving Villages and Community Cores. Prioritize</p>	<p>Infrastructure serving the Community would be constructed concurrent with need and be sized for the proposed land uses.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>infrastructure improvements and the provision of public facilities for Villages and community cores as sized for the intensity of development allowed by the Land Use Map.</p>		
<p>LU-9.5 Village Uses. Encourage development of distinct areas within communities offering residents places to live, work, and shop, and neighborhoods that integrate a mix of uses and housing types.</p>	<p>The Specific Plan designates a mix of land uses for the Town Center and adjacent higher-density residential neighborhood. Each village within the Community would have a mix of uses, parks, and trail access to the Town Center.</p>	<p>Consistent.</p>
<p>LU-9.6 Town Center Uses. Locate commercial, office, civic, and higher-density residential land uses in the Town Centers of Villages or Rural Villages at transportation nodes. Exceptions to this pattern may be allowed for established industrial districts and secondary commercial districts or corridors. In this reference, a transportation node is intended to be the intersection of two high traffic volume Mobility Element roadways, along with a transit stop.</p>	<p>The project would locate commercial, educational, recreational, and higher-density residential land uses in the project's Village designated area, its Town Center neighborhood. . The Town Center would be designated Village Core Mixed Use and zoned with General Commercial/Residential Use Regulation. It would provide both shopping and employment opportunities for future residents as well as for the surrounding area, be walkable and bikeable, and support car-share and ride-share programs as well as a shuttle stop for the project's shuttle services and space for a potential future NCTD transit stop (e.g., BREEZE or FLEX services) at the project. The project applicant is also coordinating with Caltrans SANDAG, and NCTD on potential future expanded or improved park-and-ride facilities at the I-15/Deer Springs Road Interchange. Presently, there are two park-and-ride lots at the Interchange, one on the west side and one on the east side of the freeway. The project applicant has met with Caltrans, SANDAG, and NCTD about whether Caltrans plans to improve or expand the park-and-ride lots, either as stand-alone projects or as part of the process of improving the Interchange. The project applicant supports and will advocate for the incorporation of alternative transportation modes such as electric vehicle charging stations, bicycle facilities, storage lockers for travelers, accommodations for ride-share and car-share services, and a possible future transit stop as part of any project to expand or improve the park-and-ride facilities at the Interchange.</p>	<p>Consistent.</p>
<p>LU-9.7 Town Center Planning and Design. Plan and guide the development of Town Centers and transportation nodes as the major focal point and activity node for Village areas. Utilize design guidelines to be compatible with the unique character of a community. Roadways, streetscapes, building facades, landscaping, and signage within the town center should be pedestrian oriented. Wherever possible, locate public facilities, such as schools, libraries, community centers, and parks in Town Centers and Villages.</p>	<p>The project would plan and guide the development of its Town Center and Terraces neighborhoods as a major focal point and activity node for the project. These two neighborhoods would support a mix of residential and commercial uses, a school site, parks, including a joint-use ball field, a system of pedestrian pathways and bicycle-friendly streets, a shuttle stop for shuttle services within and to and from the project Site. The project's Town Center would include multi-modal connections, including a pedestrian pathway and dedicated bicycle routes, to the balance of the project's neighborhoods, making it a major focal point and activity node as the Village area of the project. The project's Specific Plan contains detailed design guidelines for the architecture of the various buildings, the landscaping, the roads and pedestrian pathways, the signage, and other project components to be built in these neighborhoods, as well as the balance of the project, that draw upon the natural and semi-rural character of the project's surroundings and ensure internal consistency and compatibility with the unique character of the Community the project would create.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>LU-9.8 Village Connectivity and Compatibility with Adjoining Areas. Require new development within Villages to include road networks, pedestrian routes, and amenities that create or maintain connectivity; and site, building, and landscape design that is compatible with surrounding areas. [See applicable community plan for possible relevant policies.]</p>	<p>The project would require its Village-designated area (i.e., the Town Center neighborhood) along with the rest of its neighborhoods to include road networks, pedestrian routes, and amenities like parks and neighborhood shopping to create connectivity. As detailed in the project's Specific Plan, the project would also require Site, building, and landscape design guidelines that are compatible with its surroundings. The project's network of roads, dedicated bike lanes and bicycle-friendly streets, and pedestrian pathways would link its Town Center to the project's other neighborhoods. The project would include multi-use trails for walkers, joggers, mountain bikers, and equestrians that connect the project's various neighborhoods to the surrounding off-site areas. The project's off-site improvements to Deer Springs Road and Twin Oaks Valley Road would include multi-use pathways and Class II bicycle lanes with connections from the project all the way into the community of Twin Oaks and the City of San Marcos.</p>	<p>Consistent.</p>
<p>LU-9.9 Residential Development Pattern. Plan and support an efficient residential development pattern that enhances established neighborhoods or creates new neighborhoods in identified growth areas.</p>	<p>The project would plan and support an efficient residential development pattern that enhances established neighborhoods and creates new neighborhoods within the project Site. The project Site is located in North San Diego County immediately west of Interstate 15, within approximately 1 mile from the municipal boundary of the City of San Marcos, and within a few miles of the city centers for the Cities of San Marcos, Escondido, and Vista, North County cities that have experienced steady population and job growth over the last several decades. The project would create efficient residential development patterns on the project Site by planning each of its seven distinct neighborhoods in a manner that minimizes impacts to the Site's existing natural terrain, native habitats, and features. The project would avoid landform alteration impacts to nearly three quarters of the Site and create a 1,209-acre habitat preserve on Site, a 212-acre habitat preserve off Site, and protect an additional 235 acres of open space on Site supporting native habitat managed as Special Maintenance Areas and Fuel Modification Zone 2.</p>	<p>Consistent.</p>
<p>LU-9.10 Internal Village Connectivity. Require that new development in Village areas are integrated with existing neighborhoods by providing connected and continuous street, pathway, and recreational open space networks, including pedestrian and bike paths.</p>	<p>The proposed project requires the development is integrated with existing neighborhoods by providing connected and continuous street, pathway, and recreational open space networks, including pedestrian and bike paths. For example, the Town Center would be linked to the project's other neighborhoods and the proposed preserve areas by a network of bicycle-friendly streets, multi-purpose trails, and pedestrian pathways. The Community would include miles of trails for walkers, joggers, mountain bikers, and equestrians that would connect the Community to the surrounding areas. Please see also <i>General Plan Guiding Principle 6</i>.</p>	<p>Consistent.</p>
<p>LU-9.11 Integration of Natural Features in Villages. Require the protection and integration of natural features, such as unique topography or streambeds, into Village projects.</p>	<p>The proposed project requires the protection and integration of natural features, such as unique topography or streambeds. As shown in the Preliminary Grading Plan, each proposed neighborhood would integrate with the surrounding topography and preserve significant knolls and ridgelines. Environmentally sensitive development patterns are proposed below and away from major ridgelines to limit Site disturbance and visually soften development edges. In addition, the project would integrate into its various neighborhoods and retain the Site's natural features, including native habitat, rock outcroppings, ridgelines, peaks, and other unique topographic features, wetland and riparian areas, and much of the Site's natural drainages. In addition to protecting much of the Site's natural features, boulders and other natural landforms would be integrated as principal features in each Community park and at entry points into and within the project's various neighborhoods.</p>	<p>Consistent.</p>
<p>LU-9.12 Achieving Planned Densities in Villages. In villages, encourage future residential development to achieve planned densities through multi-family, mixed use, and small-lot single-family projects that are</p>	<p>The Specific Plan establishes the project's maximum number of dwelling units, and allocates those units among the seven neighborhoods based on location and product type. The Town Center would include commercial retail space, townhomes, and a school. The Town Center would be designated Village Core Mixed Use (C-5) on the Twin Oaks Community Plan and zoned with the General Commercial/Residential (C34) Use Regulation.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
compatible with the community character.		
LU-10 Function of Semi-Rural and Rural Lands. Semi-Rural and Rural Lands that buffer communities, protect natural resources, foster agriculture, and accommodate unique rural communities.	The Community Development Model shaped the project's development pattern. A 1,209-acre habitat preserve, an additional 241 acres of Fuel Modification Zone 2 and Special Management Areas, and agricultural uses would buffer the neighborhoods outside of the Village designation.	Consistent.
LU-10.1 Residential Connectivity. Require residential development in Semi-Rural areas to be integrated with existing neighborhoods by providing connected and continuous street, pathway/trail, and recreational open space networks.	The proposed project would integrate a connected and continuous network of streets, pedestrian pathways, multiuse trails, and recreational open spaces into and between the project's various neighborhoods and surrounding off-site areas. For example, a local road network, bike lanes, and pathways would link the neighborhoods located in the project's Semi-Rural zoned areas to each other and to the project's Village designated area. The project's Town Center and Valley neighborhoods would have pedestrian pathway and bicycle-friendly roadway connections out to Deer Springs Road, which provides connectivity to the community of Twin Oaks to the south.	Consistent.
LU-10.2 Development—Environmental Resource Relationship. Require development in Semi-Rural and Rural areas to respect and conserve the unique natural features and rural character, and avoid sensitive or intact environmental resources and hazard areas.	The proposed project requires development in Semi-Rural and Rural areas to respect and conserve the unique natural features and rural character, and avoid sensitive or intact environmental resources and hazard areas. The project would avoid grading/landform alteration to nearly three quarters of the Site and protect 61% of the Site as permanent preserve. It should also be noted that an additional 212 acres of off-site open space would be preserved, for a total preserve acreage of 1,421 acres (72 percent of the project Site acreage).	Consistent.
LU-10.3 Village Boundaries. Use Semi-Rural and Rural land use designations to define the boundaries of Villages and Rural Land Use designations to serve as buffers between communities.	The project is designed in accordance with the Community Development Model. Lower density residential areas would be outside of the Village core area. Because a Village core does not exist currently in the Twin Oaks Valley area of the North County Metropolitan Subregional Plan area, the Village core is sited on the southeastern boundary of the project Site, adjacent to transportation infrastructure, to serve the larger North County Metropolitan Subregional Plan area.	Consistent.
LU-10.4 Commercial and Industrial Development. Limit the establishment of commercial and industrial uses in Semi-Rural and Rural areas that are outside of Villages (including Rural Villages) to minimize vehicle trips and environmental impacts.	Commercial uses are designated in the existing Village zoned area and not in the Semi-Rural or Rural zoned areas of the project Site to minimize vehicle trips and environmental impacts to those areas.	Consistent.

Policy	Project Conformance	Conformance Conclusion
<p>LU-11 Commercial, Office, and Industrial Development. Commercial, office, and industrial development that is appropriately sited and designed to enhance the unique character of each unincorporated community and to minimize vehicle trip lengths.</p>	<p>Commercial uses are sited closest to the I-15 and Deer Springs Road interchange to result in shorter trips on local roads.</p>	<p>Consistent.</p>
<p>LU-11.1 Location and Connectivity. Locate commercial, office, and industrial development in Village areas with high connectivity and accessibility from surrounding residential neighborhoods, whenever feasible.</p>	<p>The proposed project locates the commercial portion of the Town Center development with high connectivity and accessibility to the surrounding residential planning area neighborhoods proposed within the project. In particular, the Village designated land is adjacent to I-15 and Deer Springs Road, providing accessibility to the Town Center directly to the Terraces planning areas' residential neighborhoods. Multimodal connections extend from the project's Village designated area out to the other neighborhoods.</p>	<p>Consistent.</p>
<p>LU-11.2 Compatibility with Community Character. Require that commercial, office, and industrial development be located, scaled, and designed to be compatible with the unique character of the community.</p>	<p>The project would require that the Town Center neighborhood be located, scaled, and designed to be compatible with the unique character of the Community. Specifically, the Town Center would be walkable, as well as visually appealing and compatible with the surrounding regional character. The Specific Plan's Commercial Development Standards and Design Guidelines state commercial buildings would offer pedestrian-level features such as awnings, large windows, and first-floor building articulations. Please see Specific Plan, Section 3.5.1, Commercial Development Standards and Design Guidelines, Site Design.</p>	<p>Consistent.</p>
<p>LU-11.3 Pedestrian-Oriented Commercial Centers. Encourage the development of commercial centers in compact, walkable configurations in Village centers that locate parking in the rear or on the side of the parcel, use transparent storefronts with active retail street-fronting uses, minimize setbacks, and discourage "strip" commercial development. "Strip" commercial development consists of automobile-oriented commercial development with the buildings set back from the street to accommodate parking between the building and street.</p>	<p>The project's Specific Plan would require that commercial buildings would be clustered and would incorporate plazas and pedestrian areas, avoiding "strip" commercial development. The Town Center would be walkable, and include commercial retail space, townhomes, a school site, and employment opportunities for future residents and the surrounding area. Parking areas would be designed to be buffered and softened with landscaping areas, separating them from the network of streets and sidewalks supporting the project's proposed commercial area. The Specific Plan's Commercial Development Standards and Design Guidelines state commercial buildings would offer pedestrian-level features such as awnings, large windows, and first-floor building articulations. Please see Specific Plan, Section 3.5.1, Commercial Development Standards and Design Guidelines, Site Design.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>LU-11.4 Town Center Intensity and Vitality. Encourage revitalization of Town Center areas to strengthen neighborhoods, expand local employment opportunities, and establish or enhance a sense of place.</p>	<p>No Town Centers exist in Twin Oaks Valley or the surrounding area; rather, the area has scattered retail, general commercial, and light industrial development. The project's proposed Town Center would create a new gathering place for the Community and would include a number of amenities and uses that would foster a sense of place in the Town Center, including three separate parks (Oak Grove Park, Village Green Park, and the Joint Use Park at the school site), a school site, 81,000 square feet of neighborhood serving retail uses, and multi-family neighborhoods within and immediately adjacent to the Town Center. This mixture of uses and amenities will create a vibrant and active Town Center where residents, students, and visitors can live, work, play, and interact. The Town Center would be walkable and accommodate stops for the project's shuttle services and stations for the project's electric bike-share program to reinforce the Town Center's pedestrian, transit, and bicycle-oriented structure</p>	<p>Consistent.</p>
<p>LU-11.5 Large-Format Retail Stores. Allow large-format retail uses, typically referred to as "big box stores," only where the scale of the use and design is compatible with the surrounding areas. Large-format retail typically means retail stores with floor plans that are larger than 65,000 sq. ft.</p>	<p>Large-format retail stores are not proposed in the project's proposed Town Center.</p>	<p>Not applicable.</p>
<p>LU-11.6 Office Development. Locate new office development complexes within Village areas where services are available, in proximity to housing, and along primary vehicular arterials (ideally with transit access) with internal vehicular and pedestrian linkages that integrate the new development into the multi-modal transportation network where feasible.</p>	<p>The Specific Plan does not allow office development within the Community.</p>	<p>Not applicable.</p>
<p>LU-11.7 Office Development Compatibility with Adjoining Uses. Require new office development, including office parks, to be compatible to the scale, design, site layout, and circulation patterns of adjacent existing or planned commercial and residential development.</p>	<p>The Specific Plan does not allow office development within the proposed Community.</p>	<p>Not applicable.</p>
<p>LU-11.8 Permitted Secondary Uses. Provide a process where secondary land uses may be permitted when appropriate and compatible with the primary commercial, office, and light industrial uses, in order to better serve the daily needs of employees and to reduce the frequency of related</p>	<p>The Specific Plan identifies the zoning requirements for each permitted use within its various neighborhoods, including the Town Center neighborhood which supports the project's proposed neighborhood commercial uses. The project proposes to zone the Town Center Neighborhood as C-34. Accordingly, primary and secondary uses would be subject to the County's Zoning Ordinance requirements and permitted uses for the C-34 zone as well as the project's Specific Plan and Tentative Map.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>automobile trips. This policy is not intended for high impact industrial uses.</p>		
<p>LU-11.9 Development Density and Scale Transitions. Locate transitions of medium-intensity land uses or provide buffers between lower intensity uses, such as low-density residential districts and higher intensity development, such as commercial or industrial uses. Buffering may be accomplished through increased setbacks or other techniques such as grade differentials, walls, and/or landscaping but must be consistent with community design standards.</p>	<p>The proposed project locates transitions of medium intensity land uses and provides buffers between lower intensity uses. For instance, the project proposes the use of large-scale blocks of open space with moderate to steep sloping terrain between its individual neighborhoods. Further, on-site elevations range from approximately 660 feet to 1,750 feet above mean sea level. The Town Center and other medium-density neighborhoods would be sited at the lower elevations and be buffered from the low-density residential neighborhoods by preserved open space and, in limited instances, vineyards. Each neighborhood would be nestled into the natural topography of the Site, offering physical and visual separation between the project's various neighborhoods. The Town Center, the school site, and the multi-family housing would be located closer to project's two main entry roads, and single-family residential neighborhoods would be located more within the interior of the project, each separated by large blocks of open space.</p>	<p>Consistent.</p>
<p>LU-12 Infrastructure and Services Supporting Development. Adequate and sustainable infrastructure, public facilities, and essential services that meet community needs and are provided concurrent with growth and development.</p>	<p>The proposed project provides adequate and sustainable infrastructure, public facilities, and essential services that meet the project's needs and are provided concurrent with growth and project development. The project would phase, construct, and extend appropriately sized infrastructure, public facilities, and essential services to the project's proposed neighborhoods commensurate with the grading and construction of those neighborhoods.</p>	<p>Consistent.</p>
<p>LU-12.1 Concurrency of Infrastructure and Services with Development. Require the provision of infrastructure, facilities, and services needed by new development prior to that development, either directly or through fees. Where appropriate, the construction of infrastructure and facilities may be phased to coincide with project phasing. In addition to utilities, roads, bicycle and pedestrian facilities, and education, police, and fire services, transit-oriented infrastructure, such as bus stops, bus benches, turnouts, etc., should be provided, where appropriate.</p>	<p>The proposed project requires the provision of necessary infrastructure, facilities, and services prior to Site development, either directly or through fees. The Specific Plan ensures that necessary infrastructure, public facilities, and essential services would be provided prior to development or phased to coincide with other construction. Please see Specific Plan Section 4.4, Public Facilities/Infrastructure, and General Plan Guiding Principle 9.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>LU-12.2 Maintenance of Adequate Services. Require development to mitigate significant impacts to existing service levels of public facilities or services for existing residents and businesses. Provide improvements for Mobility Element roads in accordance with the Mobility Element Network Appendix matrices, which may result in ultimate build-out conditions that achieve an improved LOS but do not achieve a LOS of D or better.</p>	<p>The proposed project requires Site development to mitigate significant impacts to existing services levels of public facilities or services for existing residents and businesses. For example, the proposed project would pay all required public facility impact fees per the County Code of Regulatory Ordinances. As related to transportation and traffic impacts, project design includes off-site roadway improvements on public roads (Deer Springs Road, Twin Oaks Valley Road, Sarver Lane, and Mesa Rock Road). The project would also participate in the County's Traffic Impact Fee program, as necessary. The participation in the County TIF Program and the project's proposed off-site roadway improvements would mitigate impacts to public facilities and Mobility Element roadways.</p>	<p>Consistent.</p>
<p>LU-12.3 Infrastructure and Services Compatibility. Provide public facilities and services that are sensitive to the environment with characteristics of the unincorporated communities. Encourage the collocation of infrastructure facilities, where appropriate. Public services and facilities in Village areas are expected to differ from those in rural lands. Development standards in the Implementation Plan, Zoning Ordinance, and community-specific planning documents may reflect this 'context-sensitive' approach.</p>	<p>The proposed project provides public facilities and services that are sensitive to the environment with characteristics of the unincorporated communities. To achieve this policy, the project would take advantage of existing and planned infrastructure and services in an efficient manner, and would require less-extensive infrastructure and services than if the project were sited outside of service district boundaries.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>LU-12.4 Planning for Compatibility. Plan and site infrastructure for public utilities and public facilities in a manner compatible with community character, minimize visual and environmental impacts, and whenever feasible, locate any facilities and supporting infrastructure outside preserve areas. Require context sensitive Mobility Element road design that is compatible with community character and minimizes visual and environmental impacts; for Mobility Element roads identified in Table M-4, an LOS D or better may not be achieved.</p>	<p>The proposed project's public utilities and facilities infrastructure would be compatible with Community character, and implement context sensitive road design compatible with Community character, where feasible and when allowed by the County. Where possible, the project's internal streets are designed to parallel topography and were guided by drainage patterns on the Site. All new wet and dry utility lines would be undergrounded to minimize visual impacts. The project includes an option to improve but maintain Deer Springs Road as a two-lane road (Option A) that would reduce grading impacts, thereby minimizing grading, visual, and cultural resource impacts from the road widening. The four-lane option for improving Deer Springs Road (Option B) would minimize grading, visual, and cultural resource impacts associated with building Deer Springs Road as a four-lane road. Both of these options include design exceptions to minimize grading, visual, and cultural resource impacts.</p>	<p>Consistent.</p>
<p>LU-13 Adequate Water Quality, Supply, and Protection. A balanced and regionally integrated water management approach to ensure the long-term viability of San Diego County's water quality and supply.</p>	<p>The project is located within the Vallecitos Water District (VWD) service area for water service. An extensive network of water mains exists within the project ranging in size from 8 to 16 inches in diameter. An existing 1.3 million gallon water reservoir within the project serves the project area. VWD would provide the project's water supply and not require annexation into the water district. The water supply would be established through the expansion/extension of existing supply pipelines and reservoirs located within and adjacent to the project.</p> <p>The applicant has worked closely with VWD to determine the ultimate sizes and locations of water facilities. The detailed sizing, layout, and design of the water facilities necessary to serve the project would occur as part of the construction permitting process. As project design features, the project would include extensive indoor and outdoor water conservation measures in excess of state and County requirements and require the pre-plumbing of greywater systems in its single-family residences which collectively would reduce the project's water demand substantially below the demand projection specified in the project's Water Supply and Verification (WSAV) Report approved by VWD on October 5, 2016, ensuring the long-term viability of San Diego County's water quality and supply. Please see EIR Section 3.2, Hydrology and Water Quality, and Appendix T, the GSI Water Conservation Demand Study for Newland Sierra.</p>	<p>Consistent.</p>
<p>LU-13.1 Adequacy of Water Supply. Coordinate water infrastructure planning with land use planning to maintain an acceptable availability of a high quality sustainable water supply. Ensure that new development includes both indoor and outdoor water conservation measures to reduce demand.</p>	<p>The water supply would be established through the expansion/extension of existing supply pipelines and reservoirs located within and adjacent to the project. The applicant has worked closely with VWD to determine the ultimate sizes and locations of water facilities. The detailed sizing, layout, and design of the water facilities necessary to serve the project would occur as part of the construction permitting process. As project design features, the project would include extensive indoor and outdoor water conservation measures in excess of state and County requirements and require the pre-plumbing of greywater systems in its single-family residences which collectively would reduce the project's water demand substantially below the demand projection specified in the project's approved WSAV Report, ensuring the long-term viability of San Diego County's water quality and supply. Please see the response to Goal/Policy/Objective COS-19.2, EIR Section 3.2, Hydrology and Water Quality, and Appendix T, the GSI Water Conservation Demand Study for Newland Sierra.</p>	<p>Consistent.</p>
<p>LU-13.2 Commitment of Water Supply. Require new development to identify adequate water resources, in accordance with State</p>	<p>Prior to approval, the proposed project requires the identification of adequate water resources, in accordance with state law, to support the project. VWD would provide the project's water service and approved a WSAV Report for the project on October 5, 2016, ensuring water supplies are adequate to support the project's projected water demand as outlined in the WSAV. As project design features, the project would include extensive</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
law, to support the development prior to approval.	indoor and outdoor water conservation measures and require the pre-plumbing of greywater systems in its single-family residences which collectively would reduce the project's water demand projection substantially below the demand projection specified in the project's approved WSAV. Please see EIR Section 3.2, Hydrology and Water Quality, and Appendix T, the GSI Water Conservation Demand Study for Newland Sierra.	
LU-14 Adequate Wastewater Facilities. Adequate wastewater disposal that addresses potential hazards to human health and the environment.	The proposed project provides adequate wastewater disposal that addresses potential hazards to human health and the environment. The project's Sewer Master Plan ensures the proper sizing of wastewater facilities. The Vallecitos Water District would treat wastewater from the Site. The project applicant would work with Vallecitos Water District to ensure sufficient and appropriated sized facilities are constructed to convey and treat all sewage flows from the project concurrent with the development of the project.	Consistent.
LU-14.1 Wastewater Facility Plans. Coordinate with wastewater agencies and districts during the preparation or update of wastewater facility master plans and/or capital improvement plans to provide adequate capacity and assure consistency with the County's land use plans.	The project applicant is coordinating with Vallecitos Water District staff and will abide by VWD's Conditions of Approval for the project based on the analysis presented in the project's Sewer Master Plan, which has been approved by VWD. VWD has also issued a Will Serve letter for sewer service, indicating the District has adequate capacity to serve the project.	Consistent.
LU-14.2 Wastewater Disposal. Require that development provide for the adequate disposal of wastewater concurrent with the development and that the infrastructure is designed and sized appropriately to meet reasonably expected demands.	The project's Sewer Master Plan was prepared by Dexter Wilson Engineering, Inc., in coordination with the Vallecitos Water District. The County of San Diego and the Vallecitos Water District would require that sewer systems are installed and made operation concurrent with the development of the project. The County further requires that extension of the sewer system occurs prior to issuance of a Certificate of Occupancy for a given residential unit or non-residential building to be connected to that sewer system.	Consistent.
LU-14.3 Wastewater Treatment Facilities. Require wastewater treatment facilities serving more than one private property owner to be operated and maintained by a public agency. Coordinate the planning and design of such facilities with the appropriate agency to be consistent with applicable sewer master plans.	The proposed project requires wastewater treatment facilities serving more than one private property owner to be operated and maintained by a public agency. The applicant proposes no on-site wastewater treatment facilities. The Vallecitos Water District would treat all project wastewater. The applicant is coordinating with VWD to ensure adequate treatment capacity is available.	Consistent.
LU-14.4 Sewer Facilities. Prohibit sewer facilities that would induce unplanned growth. Require sewer systems to be planned, developed, and sized to serve the land use pattern and densities depicted on the Land Use Map. Sewer systems and services shall not be extended beyond either Village boundaries or extant Urban Limit Lines,	The project does not propose sewer facilities that would induce unplanned growth. The project would require its sewer systems to be planned, developed, and sized to serve the project's land uses, densities, and demand. The project is within the VWD sewer district boundaries and VWD has issued a Will Serve letter indicating sewer services are available to serve the entire project.	Consistent.

Policy	Project Conformance	Conformance Conclusion
<p>whichever is more restrictive, except:</p> <ul style="list-style-type: none"> • When necessary for public health, safety, or welfare; • When within existing sewer district boundaries • When necessary for a conservation subdivision adjacent to existing sewer facilities; or • Where specifically allowed in the Community Plan. <p>An Urban Limit Line is a growth boundary that can be used in Community Plans to define the maximum extent of urban and suburban development. An Urban Limit Line may be the basis for containment of growth inducing urban infrastructure or community-specific goals and policies.</p>		
<p>LU-17 Adequate Education. Quality schools that enhance our communities and mitigate for their impacts.</p>	<p>A proposed school site would be sited within the Town Center to serve the Community's educational needs.</p>	<p>Consistent.</p>
<p>LU-17.1 Planning for Schools. Encourage school districts to consider the population distribution as shown on the Land Use Map when planning for new school facilities.</p>	<p>The project Site is located in the Escondido Elementary School District, Escondido Union High School District, and San Marcos Unified School District boundaries. The school districts take the lead on planning new school facilities.</p>	<p>Consistent.</p>
<p>LU-17.2 Compatibility of Schools with Adjoining Uses. Encourage school districts to minimize conflicts between schools and adjacent land uses through appropriate siting and adequate mitigation, addressing such issues as student drop-off/pick up locations, parking access, and security.</p>	<p>The proposed school site would be sited at the north end of the Town Center with two access points and be buffered from the commercial area by medium-density residential and parkland. The school site would be located along the project's backbone road and include its own internal circulation that would address student drop-off/pick-up locations, parking requirements, and security. Actual Site planning of the school facility would occur once an agreement is reached with school officials. The school district would be responsible for the processing of Site planning approvals, building permits, and other construction approvals.</p>	<p>Consistent.</p>
<p>LU-17.3 Priority School Locations. Encourage school districts to locate schools within Village or Rural Village areas wherever possible and site and design them in a manner that provides the maximum opportunity for students to walk or bicycle to school.</p>	<p>The proposed school would be sited in the project's Town Center neighborhood and be linked to the other development areas by bicycle lanes and pedestrian pathways.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>LU-17.4 Avoidance of Hazards. Assist school districts with locating school facilities away from fault zones, flood or dam inundation zones, and hazardous materials storage areas in conformance with State statutes.</p>	<p>The proposed school would be sited in the project's Town Center neighborhood in the southeastern corner of the project Site to avoid potential natural and human-caused hazards to the extent feasible. The school is part of the proposed project and, therefore, is included in the geologic, hazard, and hydrology assessments. Detailed geotechnical analysis, flood zone mapping and analysis, and a Phase 1 Environmental Assessment have been prepared for the project. No known fault zones, flood or dam inundation zones, or hazardous materials storage areas exist or are known to have historically existed on or within the vicinity of the project's proposed school site.</p>	<p>Consistent.</p>
<p>LU-18 Adequate Civic Uses. Civic uses that enhance community centers and places.</p>	<p>See project conformance analysis above for Guiding Principle 3.</p>	<p>Consistent.</p>
<p><i>Mobility Element</i></p>		
<p>M-1 Balanced Road Network. A safe and efficient road network that balances regional travel needs with the travel requirements and preferences of local communities.</p>	<p>The proposed project's off-site circulation plan provides access to the Community from Deer Springs Road, a Mobility Element Road, which connects to Mountain Meadow Road on the east and Twin Oaks Valley Road to the south. Primary Community access is at two points off Deer Springs Road, Mesa Rock Road on the east and Sarver Lane on the west. The Community will dedicate and construct one of the two scenarios for Deer Springs Road: Option A or Option B as shown on the project's tentative map. The Community also proposes to dedicate and install a Community Trails segment along the north side of Deer Springs Road from Mesa Rock Road to the city of San Marcos limits. This public trail will be built as a Type D – Pathway (Typical).</p> <p>The proposed project's on-site mobility network plays an important role in the functional aspects and visual character of the Community (see Figure 14, Road Sections Key Map, of the Specific Plan). Street character is intended to be semirural in nature, reflecting the greater community, while addressing fire and traffic safety. This design must minimize road widths where possible, incorporating stormwater features, and respond to existing Site topography.</p> <p>The Specific Plan provides the following standards and guidelines for road design and layout:</p> <ul style="list-style-type: none"> • Road design must accommodate a range of mobility options, including vehicular, bicycle, equestrian, and pedestrian options and reduce pavement widths to the minimum allowed. • Road sections are to be designed with cross slopes to drain into basins and swales that act as neighborhood landscape design features where possible. • Streetscapes throughout the Community are to be designed using consistent elements such as landscaping, street furniture, lighting, and signage to create a unified aesthetic— these elements should be appropriately scaled according to the street hierarchy. • Enhanced paving details are to be used at significant intersections and important pedestrian crossings such as stamped concrete or unit pavers. 	<p>Consistent.</p>
<p>M-1.1 Prioritized Travel within Community Planning Areas. Provide a public road network that accommodates travel between and within community planning areas rather than accommodating overflow traffic from State highways and freeways that are unable to meet regional travel demands.</p>	<p>The proposed project provides a public road network that accommodates travel between and within community planning areas rather than accommodating overflow traffic from state highways and freeways that are unable to meet regional travel demands. Specifically, the project proposes a network of roads, pedestrian trails, and bicycle pathways to link the project's seven neighborhoods and provide alternatives to single vehicle trips. The project also proposes off-site improvements to Deer Springs Road and Twin Oaks Valley Road (that portion within the City of San Marcos). The project proposes two options for Board of Supervisors' consideration for the improvements to Deer Springs Road between Sarver Lane and Mesa Rock. Option A would widen and upgrade Deer Springs Road to a two-lane Community Collector Road. Option B would widen and improve this same segment of Deer Springs Road to a four-lane Major Road. Both of these Options would improve the capacity of Deer Springs Road, both Options include bike lanes and a 10-foot-wide multi-use pathway along the road to accommodate</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	<p>alternative modes of transportation not accommodated today along the road, including bicyclists, walkers, joggers, and horseback riding, and both Options have been designed to substantially follow the existing alignment of the road to minimize impacts to biology, the existing natural terrain surrounding the road, and existing residences and properties along the road. Under both of these options, the other portions of Deer Springs Road would be widened and improved consistent with the County's four-lane Major Road standard and include the same bicycle and multi-use pathway improvements connecting all the way into the City of San Marcos.</p>	
<p>M-1.2. Interconnected Road Network. Provide an interconnected public road network with multiple connections that improve efficiency by incorporating shorter routes between trip origin and destination, disperse traffic, reduce traffic congestion in specific areas, and provide both primary and secondary access/egress routes that support emergency services during fire and other emergencies.</p>	<p>The proposed project provides an interconnected public road network with multiple connections that improve efficiency by incorporating shorter routes between trip origin and destination, disperse traffic, reduce traffic congestion in specific areas, and provide both primary and secondary access/egress routes that support emergency services during fire and other emergencies.</p> <p>For example, the project would have two primary access roads along Deer Springs Road at Mesa Rock Road and Sarver Lane, with an additional access point at Camino Mayor off Twin Oaks Valley Road to the north. The primary access road at Mesa Rock Road would be a four-lane entry road with a median that transitions into a four-lane undivided road, then a two-lane undivided road farther into the project Site, and then to a three-lane road. On-site roadways would be constructed within and between the different planning areas where development would occur. Primarily, these roadways would consist of main roads with a pavement width of 34 feet that travel between the planning areas, residential streets approximately 32 to 40 feet wide that traverse within a planning area, and private paseo roads that typically end at smaller clusters of residential units within a planning area. The roadways would accommodate safe emergency services access. A planned electric bike-share program would link the neighborhoods to each other and would reduce motorized vehicle trips. Additionally, the project would include bike lanes, an extensive trail system consisting of roadside pathways within the linear greenbelts, and multi-use trails. Incorporating the internal circulation features would provide project residents the opportunity to access employment, education, and recreational and commercial uses via multiple modes of transportation. Refer to Figures 14 through 30 and 28 and 83 of the Specific Plan.</p>	<p>Consistent.</p>
<p>M-1.3 Treatment of High-Volume Roadways. Consider narrower rights-of-way, flexibility in design standards, and lower design speeds in areas planned for substantial development in order to avoid bisecting communities or town centers. Reduce noise, air, and visual impacts of new freeways, regional arterials, and Mobility Element roads, through landscaping, design, and/or careful location of facilities.</p>	<p>The project's street network would embrace the rural character of the surrounding area. Street widths would be narrow and bike lanes would be integral to the street network. Appropriately sized rights-of-way would be provided to incorporate landscaped setbacks and pedestrian pathways that reinforce the rural identity of the Community.</p>	<p>Consistent.</p>
<p>M-2 Responding to Physical Constraints and Preservation Goals. A road network that provides adequate capacity to reasonably accommodate both planned land uses and regional traffic patterns, while supporting other General Plan goals such as</p>	<p>The proposed project would include off-site roadway improvements to accommodate anticipated project-related growth. Such improvements would occur to Deer Springs Road, Twin Oaks Valley Road, Sarver Lane, and Camino Mayor. Option B for Deer Springs Road would improve Deer Springs Road to four lanes and fully mitigate the project's direct traffic impacts and provide capacity to better accommodate existing and future regional traffic. The project would also contribute the County's Transportation Impact Fee Program to mitigate cumulative impacts to the County's roadway network. Appropriately sized rights-of-way would be provided to incorporate landscaped setbacks and pedestrian pathways that reinforce the rural identity of the Community.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>providing environmental protections and enhancing community character.</p>		
<p>M-2.1 Level of Service Criteria. Require development projects to provide associated road improvements necessary to achieve a level of service of "D" or higher on all Mobility Element roads except for those where a failing level of service has been accepted by the County pursuant to the criteria specifically identified in the accompanying text box (Criteria for Accepting a Road Classification with Level of Service E/F). When development is proposed on roads where a failing level of service has been accepted, require feasible mitigation in the form of road improvements or a fair share contribution to a road improvement program, consistent with the Mobility Element road network. Refer to the Background Material section (Road Segments Where Adding Travel Lanes is Not Justified) at the end of this chapter for list of road segments accepted to operate at LOS E/F.</p>	<p>The proposed project requires associated road improvements necessary to achieve a level of service of "D" or higher on all roadways except for those where a failing level of service has been accepted by the County. However, the proposed project requires feasible mitigation in the form of road improvements or a fair share contribution to a road improvement program.</p> <p>To demonstrate consistency with this goal, project-related traffic modeling indicates that the levels of service (LOS) for Deer Springs Road would be acceptable save for the center two-lane segment, following construction of the east and west legs of Deer Springs Road to four lanes and keeping the center leg between Mesa Rock Road and Sarver Lane as a 2.1B Community Collector with Continuous Turn Lane (Option A). The center two-lane segment would remain at its current failing level of service during peak hours, as it is today. However, a reduction in cut-through trips may occur since traffic on I-15 may be discouraged from using Deer Springs Road during peak hours because of the constrained capacity of the two-lane segment of Deer Springs Road. Option A reduces environmental impacts (biological resources, cultural resources, aesthetics) and preserves of the rural character of this segment. Option A would require a Mobility Element reclassification of Deer Springs Road. This approach is consistent with General Plan Goal M-2 (and, more specifically, Policy M-2.1), which addresses roadways where adding capacity can induce additional traffic and growth.</p> <p>Were the project to be approved under Option A, a portion of Deer Springs Road would continue to operate at LOS F.</p>	<p>Consistent.</p>
<p>M-2.2 Access to Mobility Element Designated Roads. Minimize direct access points to Mobility Element roads from driveways and other non-through roads to maintain the capacity and improve traffic operations.</p>	<p>The project does not propose new access points along Deer Springs Road. The Mesa Rock Road intersection at Deer Springs Road would be signalized and would be 102 feet wide north of the intersection in the project Site providing two northbound lanes and five southbound lanes that transition to 58 feet wide and then to 34 feet wide within the project Site. No parking would remain along Mesa Rock Road. The Sarver Lane intersection at Deer Springs Road would be signalized and would be 52 feet wide at the intersection to provide one northbound lane and two southbound lanes that transition to 38 feet wide, and then to 32 feet wide within the project Site. No parking would remain along Sarver Lane. All of Sarver Lane would include an enhanced parkway with a linear greenbelt and multi-use trail. The Camino Mayor intersection at Twin Oaks Valley Road would not be signalized and would be 28 feet wide at the intersection to provide one travel lane in each direction.</p>	<p>Consistent.</p>
<p>M-2.3 Environmentally Sensitive Road Design. Locate and design public and private roads to minimize impacts to significant biological and other environmental and visual resources. Avoid road</p>	<p>The proposed project locates and designs public and private roads to minimize impacts to significant biological and other environmental and visual resources. The project also would avoid road alignments through floodplains to minimize impacts on floodplain habitats and limit the need for constructing flood control measures. The project also would design new roads to maintain wildlife movement, and would utilize fencing to reduce road kill and direct animals under crossings.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>alignments through floodplains to minimize impacts on floodplain habitats and limit the need for constructing flood control measures. Design new roads to maintain wildlife movement and retrofit existing roads for that purpose. Utilize fencing to reduce road kill and to direct animals to under crossings.</p>	<p>For example, the internal backbone roads would minimize impacts to grading, environmental resources, and visual resources by following the existing natural topography, thereby minimizing the need for large cut and fill slopes. Options A and B for Deer Springs Road are sensitive to environmental and Community character issues. Project development and roadways would promote land stewardship and avoid the most sensitive biological, cultural, and topographical resources. The proposed project would consist of a series of neighborhoods that integrate the Site's landscape character and distinct landforms to ensure each neighborhood individually responds to its topographical setting.</p> <p>Further, the project's open space area contains a diversity of environmental characteristics including representative populations of special-status plant and animal species observed on Site; existing dirt trails and canyon bottoms currently used by wildlife for movement across the Site; and the north-south-trending tributary to Gopher Canyon along Twin Oaks Valley Road, which provides linkage opportunities to the San Marcos Mountains. As a result, the majority of the project's proposed open space design will be located within the northern half of the project Site. The northern half of the Site has the greatest potential to support wildlife movement due to the east-west connection with the San Marcos Mountains. In addition, the northern half of the project Site is positioned to take maximum advantage of interconnected blocks of habitat. The northern portion of the proposed open space design provides a diverse representation of the natural and environmental conditions that occur within the larger project area. Open space will also be designated along the eastern boundary of the project Site adjacent to I-15, which serves as important habitat for California gnatcatcher and many other wildlife species, as well as internal to the project Site which would enhance connectivity to the south.</p>	
<p>M-2.4 Roadway Noise Buffers. Incorporate buffers or other noise reduction measures consistent with standards established in the Noise Element into the siting and design of roads located next to sensitive noise-receptors to minimize adverse impacts from traffic noise. Consider reduction measures such as alternative road design, reduced speeds, alternative paving, and setbacks or buffers, prior to berms and walls. Sensitive noise-receptors are described in the Noise Element.</p>	<p>The proposed project incorporates buffers or other noise reduction measures consistent with the General Plan Noise Element into the siting and design of roads located next to sensitive noise-receptors to minimize adverse impacts from traffic noise. To that end, the project's Traffic Impact Analysis and Acoustical Analysis Report ensures that cumulative traffic noise is minimized to the extent feasible (EIR Sections 2.10 – Noise and 2.13, Transportation and Traffic, and Appendices Q and R). Several available methods exist to attenuate traffic noise, including noise barriers, road surface improvements, regulatory measures (such as lower speed limits), and traffic-calming devices (such as speed bumps); but these potential mitigation measures may be beyond the proposed project's authority because the project cannot mandate measures on off-site private property in perpetuity (i.e., such as constructing barriers on private property where the issues of liability and maintenance in perpetuity become a concern). Further, assuming noise barriers could be constructed within the County right-of-way, noise barriers at existing land uses must be broken for access points, such as pathways and driveways, creating short lengths with many openings, or they must be limited in height for safety reasons when close to a travel way. Local residents may object to some measures, such as noise barriers; and some measures may not be effective because driveways and other access points would limit continuity of the sound barrier. Moreover, although measures such as reduced speed limits and traffic-calming devices are within the County's control, such measures may result in unacceptable traffic impacts. Therefore, mitigation to reduce off-site direct noise impacts resulting from the proposed project is infeasible, and impacts would be significant and unavoidable, but overridden due to the project's significant public benefits.</p>	<p>Consistent.</p>
<p>M-2.5 Minimize Excess Water Runoff. Require road improvements to be designed and constructed to accommodate stormwater in a manner that minimizes demands upon engineered stormwater systems and to maximize the use of natural detention and infiltration</p>	<p>The project requires the design and construction of both on- and off-Site road improvements to minimize demands on engineered stormwater systems and maximize natural detention and infiltration techniques to mitigate environmental impacts. The project would incorporate a variety of structural, Site design, and source-control stormwater Best Management Practices (BMPs) to address the stormwater quality and hydromodification requirements as defined in the applicable San Diego RWQCB requirements for stormwater runoff, discharges, and pollutants as contained in the National Pollution Discharge Elimination System (NPDES) Permit for Municipal Separate Storm Sewer Systems (MS4s), Order Numbers R9-2015-0001 and R9-2015-0100, as well as in compliance with the County of San Diego Hydrology Manual. The project's BMPs include a system of bioretention swales and bioretention basins along with additional "low</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>techniques to mitigate environmental impacts.</p>	<p>impact development” project design features such as landscaped roadside swales in extended parkways . These features provide high quality stormwater treatment and mitigate flows to pre-development levels for storm events that could contribute to hydromodification of receiving channels. Stormwater detention of runoff exiting the Site would eliminate potential flooding impacts during peak storm events. Drainage improvements would also be constructed for the off-site road improvements. Please see the response to Goal/Policy/Objective COS-4.3 Refer also to the Preliminary Drainage Study (Appendix Z) and the Stormwater Quality Management Plan (Appendix Y of the EIR).</p>	
<p>M-3 Transportation Facility Development. New or expanded transportation facilities that are phased with and equitably funded by the development that necessitates their construction.</p>	<p>The proposed project would phase new or expanded transportation facilities, and would equitably fund those facilities commensurate with the project’s impacts to existing and planned facilities. Specifically, the Traffic Impact Analysis recommends mitigation measures and off-Site road improvements that would be implemented based on impacts to both road segments and intersections. For example, the project proposes improvements to Deer Springs Road and Twin Oaks Valley Road (that portion within the City of San Marcos). The project proposes two options for Board of Supervisors’ consideration for the improvements to Deer Springs Road between Sarver Lane and Mesa Rock. Option A would widen and upgrade Deer Springs Road to a two-lane Community Collector Road. Option B would widen and improve this same segment of Deer Springs Road to a four-lane Major Road. Both of these Options would improve the capacity of Deer Springs Road, both Options include bike lanes and a 10-foot-wide multi-use pathway along the road to accommodate alternative modes of transportation not accommodated today along the road, including bicyclists, walkers, joggers, and horseback riding, and both Options have been designed to substantially follow the existing alignment of the road to minimize impacts to biology, the existing natural terrain surrounding the road, and existing residences and properties along the road. Under both of these options, the other portions of Deer Springs Road would be widened and improved consistent with the County’s four-lane Major Road standard and include the same bicycle and multi-use pathway improvements connecting all the way into the City of San Marcos.</p>	<p>Consistent.</p>
<p>M-3.1 Public Road Rights-of-Way. Require development to dedicate right-of-way for public roads and other transportation routes identified in the Mobility Element roadway network (see Mobility Element Network Appendix), Community Plans, or Road Master Plans. Require the provision of sufficient right-of-way width, as specified in the County Public Road Standards and Community Trails Master Plan, to adequately accommodate all users, including transit riders, pedestrians, bicyclists, and equestrians.</p>	<p>Consistent with the County’s Public Road Standards and Board Policy J-36, the project would dedicate sufficient right-of-way for new or improved public roads and other transportation routes internal to the project Site. The project would facilitate dedication of sufficient right-of-way on off-Site properties for public roads and other transportation routes identified in the General Plan’s Mobility Element roadway network to adequately accommodate all users, including transit riders, pedestrians, bicyclists, and equestrians. For example, the project would either dedicate or initiate the acquisition of sufficient right-of-way for Deer Springs Road so that it can be improved with Class II bicycle lanes on both sides of the road and a 10-foot-wide pathway. Internal to the project Site, the project’s public roads would incorporate bicycle lanes and pedestrian pathways along its loop road as well as multi-purpose trails connecting its individual neighborhoods and equestrian and hiking trails into its open space preserve areas. The applicant has discussed future transit facilities with Caltrans, SANDAG, and NCTD as part of a potential future expansion of or improvements to the existing park-and-ride facility located I-15/Deer Springs Road Interchange and will continue to pursue this planning effort with NCTD and Caltrans to accommodate a transit stop and related facilities in the park-and-ride if and when NCTD determines that such facilities are warranted.</p>	<p>Consistent.</p>
<p>M-3.2 Traffic Impact Mitigation. Require development to contribute its fair share toward financing transportation facilities, including mitigating the associated direct and cumulative traffic impacts caused by their project on</p>	<p>The proposed project requires construction of transportation facilities (e.g., physical road and intersection improvements to Deer Springs Road and Twin Oaks Valley Road) to mitigate direct impacts and requires fair share contributions (e.g., payment of County TIF and RTCIP Fees) toward financing transportation facilities to mitigate cumulative impacts. Consistent with this policy, the Traffic Impact Analysis identified significant direct and cumulative traffic impacts, and incorporated mitigation to reduce those impacts. Mitigation includes physical widening, fair-share contributions, and traffic impact fee contributions.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>both the local and regional road networks. Transportation facilities include road networks and related transit, pedestrian and bicycle facilities, and equestrian.</p>	<p>Please refer to EIR Section 2.13, Transportation and Traffic, and the Traffic Impact Analysis (Appendix R).</p>	
<p>M-3.3 Multiple Ingress and Egress. Require development to provide multiple ingress/egress routes in conformance with State law and local regulations.</p>	<p>The project has been designed to include multiple ingress/egress routes into, out of, and through the project Site conforming to state law and County regulations. Specifically, the project would provide three fully improved access points (Mesa Rock Road, Sarver Lane, and Camino Mayor) that would meet state and local regulations, including the California Fire Code, the County's Consolidated Fire Code, and the County's Public Road Standards for fire apparatus access roads, second access, and dead-end road lengths. The project's internal road network would also comply with these same applicable state and local regulations.</p>	<p>Consistent.</p>
<p>M-4 Safe and Compatible Roads. Roads designed to be safe for all users and compatible with their context.</p>	<p>The proposed project has been designed to include safe roads for all users and compatible with their context designed in compliance with the County's Public Road Standards. For example, the project proposes an internal network of bicycle and pedestrian friendly streets, sidewalks separated from the streets by parkways, and pedestrian pathways linking the project's various neighborhoods and parks to each other. The project includes private streets, including a portion of Camino Mayor, which have been designed in compliance with the County's Private Street Standards.</p>	<p>Consistent.</p>
<p>M-4.1 Walkable Village Roads. Encourage multi-modal roads in Villages and compact residential areas with pedestrian-oriented development patterns that enhance pedestrian safety and walkability, along with other non-motorized modes of travel, such as designing narrower but slower speed roads that increase pedestrian safety.</p>	<p>Each neighborhood includes an enhanced parkway that would include landscaping, a trail, and often a decorative "dry creek" drainage swale to further enhance the Site's rural character. These greenbelts would include a multi-use pathway for equestrian uses and provide connectivity through the project Site between the equestrian facility at Walnut Grove Park, located in the City of San Marcos, and an equestrian staging area that is proposed on Camino Mayor. Internally within neighborhoods, open space greenbelts would include a loop trail and be wider in some areas to accommodate integrated water quality basins. These basins would provide a buffer between homes and streets, and reinforce the uniqueness of each neighborhood. A designated park or open space area would be situated within 0.25 mile of each residence, recognizing the importance of walkable access to open space for Community health and well-being. An electric bike-share program would be included to further link the neighborhoods to each another and reduce internal vehicle trips. The project would include bike lanes and an extensive trail system, including multi-use pathways along the loop road; internal and secondary trails within neighborhoods; and multi-purpose and secondary trails through the open space area. The project's network of pathways and dedicated bike lanes connects to the multi-use pathway and Class II bike lanes along Deer Springs Road and Twin Oaks Valley Road, providing multi-modal connectivity into the community of Twin Oaks and all the way into the City of San Marcos.</p>	<p>Consistent.</p>
<p>M-4.2 Interconnected Local Roads. Provide an interconnected and appropriately scaled local public road network in Village and Rural Villages that reinforces the compact development patterns promoted by the Land Use Element and individual community plans.</p>	<p>The proposed project provides an interconnected and appropriately scaled local public road network that reinforces the project's environmentally sensitive development pattern. For example, two primary access roads and one secondary access road would serve the Community, and backbone roads would connect the Community's individual neighborhoods. In addition, each neighborhood would have an interconnected street system that would provide different routes in and out of the neighborhood and different modes of travel within the neighborhood. The project would include a Community-sponsored electric bike-share program supported with marked bicycle lanes along its backbone roads and bicycle friendly neighborhood streets. Additionally, the project would include multi-purpose trails and pedestrian pathways connecting through and between the project's individual neighborhoods.</p>	<p>Consistent.</p>
<p>M-4.3 Rural Roads Compatible with Rural Character. Design and construct public roads to meet travel demands in Semi-Rural and Rural Lands</p>	<p>The proposed project has been designed and would construct public roads to meet travel demands in Semi-Rural and Rural land uses that are consistent with rural character while safely accommodating transit stops, bicyclists, pedestrians, and equestrians. For example, all internal roadways, bicycle lanes, trails, and other portions of the proposed project's internal circulation network, as described in Section 1.2.1.2 of the EIR, comply with the County Department of Public Work's <i>Design Standards</i> (County of San Diego</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>that are consistent with rural character while safely accommodating transit stops when deemed necessary, along with bicyclists, pedestrians, and equestrians. Where feasible, utilize rural road design features (e.g., no curb and gutter improvements) to maintain community character. [See applicable community plan for possible relevant policies.]</p>	<p>2012) to ensure adequate safety of travel and use by motorists, cyclists, and pedestrians. Also, the project includes a number of design exception requests for on-Site road standards that provide safety and sufficient capacity while maintaining the semi-rural character of the area. A discussion of the project's consistency with the North County Metropolitan Community Plan is provided below; however, the North County Metropolitan Community Plan does not call out any special road considerations for any project roadways.</p>	
<p>M-4.4 Accommodate Emergency Vehicles. Design and construct public and private roads to allow for necessary access for appropriately-sized fire apparatus and emergency vehicles while accommodating outgoing vehicles from evacuating residents.</p>	<p>The proposed project has been designed and would construct public and private roads to allow necessary access for appropriately-sized fire apparatus and emergency vehicles while accommodating outgoing vehicles from evacuating residents. The project includes turn-out bays for emergency vehicle parking, and interior street connections to provide appropriate access for emergency vehicles and evacuating residents. The County and DSFPD have both approved the FPP. In addition to the project's overall FPP, an additional FPP was prepared for the Sierra Farms park site due to its location within the service area of the San Marcos Fire Department, which was approved on June 7, 2016.</p>	<p>Consistent.</p>
<p>M-4.5 Context Sensitive Road Design. Design and construct roads that are compatible with the local terrain and the uses, scale and pattern of the surrounding development. Provide wildlife crossings in road design and construction where it would minimize impacts in wildlife corridors.</p>	<p>The proposed project would design and construct roads compatible with the local terrain and the uses, scale, and pattern of the surrounding development. The project's road network has been designed around the natural topography of the Site, minimizing grading impacts and impacts to native habitat and wildlife corridors. Impacts to habitat connectivity for larger wildlife species are mitigated by measures which provide for habitat management and conservation of open space areas and allow for unimpeded wildlife movement and use. The open space design consists of two large continuous blocks of key biological resources situated within the northern half, along the eastern boundary of the project Site, and open space in the center of the development which connects the above-mentioned blocks of open space to regional open space located east and south of the project Site. There is adequate habitat available for wildlife to utilize on Site, or to move to available habitat areas outside of the project Site; thus, such crossings are not required to minimize impacts to wildlife corridors.</p>	<p>Consistent.</p>
<p>M-4.6 Interjurisdictional Coordination. Coordinate with adjacent jurisdictions so that roads within Spheres of Influence (SOIs) or that cross jurisdictional boundaries are designed to provide a consistent cross-section and capacity. To the extent practical, coordinate with adjacent jurisdictions to construct road improvements concurrently or sequentially to optimize and maintain road capacity.</p>	<p>The applicant has coordinated with the City of San Marcos on Twin Oaks Valley Road and Deer Springs Road improvements to minimize inconsistencies between the County and San Marcos regarding each jurisdiction's Public Road Standards for these roads. For example, the project would maintain travel lanes, bicycle lanes, and a pedestrian pathway along Deer Springs Road as the road crosses over into the City of San Marcos and becomes Twin Oaks Valley Road.</p>	<p>Consistent.</p>
<p>M-5 Safe and Efficient Multi-Modal Transportation System. A multi-modal transportation system that provides for the safe,</p>	<p>The project would be conditioned to implement a Transportation Demand Management (TDM) program that would provide for the safe, accessible, convenient, and efficient movement of people and goods within the unincorporated County. The project's proposed off-site improvements to Deer Springs Road and Twin Oaks Valley Road would include dedicated Class II bike lanes on both sides of the road and a ten-foot-wide multi-use</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>accessible, convenient, and efficient movement of people and goods within the unincorporated County.</p>	<p>pathway connecting from the project's Town Center and Valley Neighborhoods all the way into the Community of Twin Oaks and the City of San Marcos.</p>	
<p>M-5.1 Regional Coordination. Coordinate with regional planning agencies, transit agencies, and adjacent jurisdictions to provide a transportation system with the following:</p> <ul style="list-style-type: none"> • Sufficient capacity consistent with the County General Plan Land Use Map • Travel choices, including multiple routes and modes of travel to provide the opportunity for reducing vehicle miles traveled • Facilities sited and designed to be compatible with the differing scales, intensities, and characteristics of the unincorporated communities while still accommodating regional, community, and neighborhood travel demands • Maximized efficiency to enhance connectivity between different modes of travel 	<p>The applicant continues to coordinate with the County of San Diego, the City of San Marcos, the San Diego Association of Governments (SANDAG), California Department of Transportation (Caltrans), and North County Transit District (NCTD) in planning transportation facilities serving the project. The project's internal transportation system and off-Site transportation improvements are sized and designed to:</p> <ul style="list-style-type: none"> • accommodate existing and future traffic volumes, including project generated traffic; • include a Transportation Demand Management program that would provide multi-modal travel choices and alternatives to single-occupancy vehicle trips; • be compatible with the project's and the surrounding community's differing scales, intensities, and characteristics by incorporating landscaped medians, extended parkways, pedestrian pathways, and roadside swales that weave the on-Site and off-Site roadway improvements into the natural terrain to fit with the character of the surrounding area; and • maximize efficiency of connectivity between different modes of travel, for example, by including a Community-sponsored electric bicycle program with stations throughout the Community, and identifying a location for a potential future transit stop and park and ride facility in the project's Town Center neighborhood. 	<p>Consistent.</p>
<p>M-5.2 Impact Mitigation for New Roadways and Improvements. Coordinate with Caltrans to mitigate negative impacts from existing, expanded, or new State freeways or highways and to reduce impacts of road improvements and/or design modifications to State facilities on adjacent communities.</p>	<p>The project continues to coordinate with Caltrans to mitigate impacts from existing, expanded, or new state freeways or highways and to reduce impacts of road improvements and/or design modifications to state facilities on adjacent communities. For example, the project proposes improvements to the I-15/Deer Springs Road interchange and has initiated a three-phase approval process with Caltrans. The project applicant is currently in the first phase of that process, the Project Initiation Document (PID) process which requires the preparation of a Project Study Report/Project Development Support (PSR/PDS) document for the new interchange. During this process, Caltrans would examine alternative configurations for the interchange as well as not improving the existing interchange (the "No Build Alternative"). The draft interchange alternatives consist of a diamond interchange, roundabouts on Deer Springs Road at the two I-15 ramp intersections and the two frontage roads, and a diverging diamond interchange configuration. Consistent with this policy, the interchange design alternatives are examining the potential to improve the functionality of the adjoining the road network (e.g., Deer Springs Road, Mesa Rock Road, and N. Centre City Parkway).</p>	<p>Consistent.</p>
<p>M-8 Public Transit System. A public transit system that reduces automobile dependence and serves all segments of the population.</p>	<p>The proposed project's Town Center would accommodate future transit use and the project would include shuttle services to North County Transit Centers. Additionally, the project would include bike lanes, an electric bike share program, an extensive trail system consisting of roadside pathways within the linear greenbelts, and multi-use trails to reduce automobile dependence. With incorporation of these internal circulation features, the</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	project would provide residents the opportunity to access employment, education, recreational areas, and commercial uses via multiple modes of transportation.	
<p>M-8.1 Maximize Transit Service Opportunities. Coordinate with SANDAG, the CTSA [Consolidated Transportation Service Agency], NCTD, and MTS [Metropolitan Transit System] to provide capital facilities and funding, where appropriate, to:</p> <ul style="list-style-type: none"> • Maximize opportunities for transit services in unincorporated communities • Maximize the speed and efficiency of transit service through the development of transit priority treatments such as transit signal priority, transit queue jump lanes, and dedicated transit only lanes • Provide for transit-dependent segments of the population, such as the disabled, seniors, low income, and children, where possible • Reserve adequate rights-of-way to accommodate existing and planned transit facilities including bus stops 	<p>This policy does not apply to a specific project, but memorializes the County's intent to coordinate with transit/transportation agencies. The applicant had discussions with NCTD to adjust the routes to add stops at the Community to serve residents. The applicant would continue to plan for this adjustment option as design alternatives for I-15 proceed.</p>	<p>Not applicable.</p>
<p>M-8.2 Transit Service to Key Community Facilities and Services. Locate key County facilities, healthcare services, educational institutions, and other civic facilities so that they are accessible by transit in areas where transit is available. Require those facilities to be designed so that they are easily accessible by transit, whenever possible.</p>	<p>The policy addresses the location of key County community facilities and services. Aside from the school site, such facilities are not proposed as part of the project. Nonetheless, the Town Center would be located adjacent to the existing Caltrans park-and-ride lot and includes the school site. In addition to the school site, commercial, residential, and park uses would be located in the Town Center, and accessible by shuttle services, pedestrian pathways, and bicycle routes. The project would also provide space within the Town Center to support a potential future transit stop should NCTD decide to extend either BREEZE or FLEX service to project Site, and the project's shuttle service would include service to the Escondido Transit Center, a north county transit hub with access to the Sprinter, BREEZE bus service, FLEX shuttle service, and other public transportation options for the project's residents to access County facilities, healthcare services, and civic facilities.</p>	<p>Not applicable.</p>
<p>M-8.3 Transit Stops That Facilitate Ridership. Coordinate with SANDAG, NCTD, and MTS to locate transit stops and facilities in areas that facilitate transit ridership, and designate</p>	<p>The project applicant is coordinating with Caltrans SANDAG, and NCTD on potential future expanded or improved park-and-ride facilities at the I-15/Deer Springs Road Interchange. Presently, there are two park-and-ride lots at the Interchange, one on the west side and one on the east side of the freeway. The project applicant has met with Caltrans, SANDAG, and NCTD about whether Caltrans plans to improve or expand the park-and-ride lots, either as stand-alone projects or as part of the process of improving the Interchange. The project applicant supports and will advocate for the incorporation of</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>such locations as part of planning efforts for Town Centers, transit nodes, and large-scale commercial or residential development projects. Ensure that the planning of Town Centers and Village Cores incorporates uses that support the use of transit, including multi-family residential and mixed-use transit-oriented development, when appropriate.</p>	<p>alternative transportation modes such as electric vehicle charging stations, bicycle facilities, storage lockers for travelers, accommodations for ride-share and car-share services, and a possible future transit stop as part of any project to expand or improve the park-and-ride facilities at the Interchange.</p> <p>The Town Center would also include land uses that place jobs, shopping, recreation, and schooling within walking distance of each other, including multi-family residential, commercial, educational, and park uses connected to the balance of the project by shuttle service, pedestrian pathways, and bicycle routes. The Town Center includes a location to accommodate a potential future NCTD transit stop to accommodate either BREEZE or FLEX service to the project. The project includes a Transportation Demand Management (TDM) Program that will reduce single occupancy vehicle trips by replacing these trips with mobility alternatives, including shuttle services within the project and to the Escondido Transit Center, an electric-bicycle share program, ride-share and car-share programs, and subsidized transit passes for its residents.</p>	
<p>M-8.4 Transit Amenities. Require transit stops that are accessible to pedestrians and bicyclists; and provide amenities for these users' convenience.</p>	<p>Please see response to Goal/Policy/Objective M-8.3, above. A future transit stop planned as part of the expanded park and ride facility would be accessible to pedestrians and bicyclists and provide amenities for these users' convenience, such as bicycle racks and storage lockers. The joint involvement of NCTD and Caltrans in the planning and design of such a transit stop would address the need for these amenities and other applicable design issues.</p>	<p>Consistent.</p>
<p>M-8.5 Improved Transit Facilities. Require development projects, when appropriate, to improve existing nearby transit and/or park and ride facilities, including the provision of bicycle and pedestrian facilities, provisions for bus transit in coordination with NCTD and MTS as appropriate including, but not limited to, shelters, benches, boarding pads, and/or trash cans, and to provide safe, convenient, and attractive pedestrian connections.</p>	<p>Please see response to Goal/Policy/Objective M-8, and M-8.1 through M-8.4, above.</p>	<p>Consistent.</p>
<p>M-8.6 Park and Ride Facilities. Coordinate with SANDAG, Caltrans, and tribal governments to study transit connectivity and address improving regional opportunities for park-and-ride facilities and transit service to gaming facilities and surrounding rural areas to reduce congestion on rural roads.</p>	<p>This policy is not subject to project-specific application, but memorializes the County's intent to coordinate with other jurisdictions concerning transit service and facilities to reduce congestion on rural roads. Nevertheless, the project applicant would continue to coordinate with Caltrans, SANDAG, and NCTD on a potential expansion of or improvements to the existing park-and-ride at the I-15/Deer Springs Road Interchange. Please see the response to Goal/Policy/Objective M-8.3 above.</p>	<p>Not applicable.</p>
<p>M-8.7 Inter-Regional Travel Modes. Coordinate with SANDAG, Caltrans, and the California High-Speed Rail Authority, where appropriate, to identify alternative methods for inter-regional</p>	<p>The policy does not apply to specific project, but memorializes the County's intent to coordinate with other jurisdictions on interregional travel. Please see the responses to Goal/Policy/Objective M-8.3 and M-8.6 above.</p>	<p>Not applicable.</p>

Policy	Project Conformance	Conformance Conclusion
travel to serve the unincorporated County residents.		
M-8.8 Shuttles. Coordinate with Tribal governments, the Reservation Transportation Authority, and other large employers to provide shuttles and other means of connecting transit stops with job locations, civic, and commercial uses, where appropriate.	Please see response to Goal/Policy/Objective M-8.7.	Not applicable.
M-9 Effective Use of Existing Transportation Network. Reduce the need to widen or build roads through effective use of the existing transportation network and maximizing the use of alternative modes of travel throughout the County.	The project would reduce the need to widen or build new roads through effective use of the existing transportation network and maximizes the use of alternative modes of travel. The project's internal circulation plan would include a linked road network, bicycles lanes, pedestrian pathways, and multi-use trails in conjunction with a Transportation Demand Management (TDM) Program that will reduce single occupancy vehicle trips by replacing these trips with mobility alternatives, including shuttle services, an electric-bicycle share program, ride-share and car-share programs, and subsidized transit passes for its residents. Off-Site, the project proposes road improvements to Deer Springs Road and Twin Oaks Valley Road that would incorporate dedicated bike lanes in both directions and a separate multi-use pathway for walking, jogging, and equestrian uses all the way into the City of San Marcos. The off-Site road improvements would be sized and designed to safely accommodate existing and project buildout traffic volumes and would fall substantially within the existing footprint of these roads.	Consistent.
M-9.1 Transportation Systems Management. Explore the provision of operational improvements (i.e. adding turn lanes, acceleration lanes, intersection improvements, etc.) that increase the effective vehicular capacity of the public road network prior to increasing the number of road lanes. Ensure operational improvements do not adversely impact the transit, bicycle, and pedestrian networks.	Please see the response to Policy LU-2.9. The project proposes operational and physical improvements to increase vehicular capacity at a number of intersections within the surrounding roadway network. For example, the project would make operational improvements to the Buena Creek Road/Monte Vista Drive and Buena Creek Road/South Santa Fe Avenue intersections to improve traffic circulation through those two intersections. The project also proposes improvements to Deer Springs Road and Twin Oaks Valley Road (that portion within the City of San Marcos). The project proposes two options for Board of Supervisors' consideration for the improvements to Deer Springs Road between Sarver Lane and Mesa Rock Road. Option A would widen and upgrade Deer Springs Road to a two-lane Community Collector Road. Option B would widen and improve this same segment of Deer Springs Road to a four-lane Major Road. Both of these Options would improve the capacity of Deer Springs Road, both Options include bike lanes and a 10-foot-wide multi-use pathway along the road to accommodate alternative modes of transportation not accommodated today along the road, including bicyclists, walkers, joggers, and horseback riding, and both Options have been designed to substantially follow the existing alignment of the road to minimize impacts to biology, the existing natural terrain surrounding the road, and existing residences and properties along the road. Under both of these options, the other portions of Deer Springs Road would be widened and improved consistent with the County's four-lane Major Road standard and include the same bicycle and multi-use pathway improvements connecting all the way into the City of San Marcos. The EIR analyzes impacts associated with operational improvements to ensure that adverse impacts to transit, bicycle, and pedestrian ways do not occur.	Consistent.
M-9.2 Transportation Demand Management. Require large commercial and office development to use TDM programs to reduce single-occupant vehicle traffic generation, particularly during peak periods to maximize the	The project would implement a TDM program, including an electric bike share program, ride-share and car-share programs, shuttle services within the project and to the Escondido Transit Center, subsidized transit passes for residents, and mobility hubs as a means of resident outreach and education. The applicant would also continue to coordinate with SANDAG, NCTD, and Caltrans on a potential expansion of or improvements to the existing park-and-ride that can accommodate future transit and other mobility alternatives.	Consistent.

Policy	Project Conformance	Conformance Conclusion
capacity of existing or improved road facilities.		
<p>M-9.3 Preferred Parking. Encourage and provide incentives for commercial, office, and industrial development to provide preferred parking for carpools, vanpools, electric vehicles and flex cars. [Refer also to Policy COS-16.3 (Low-Emission Vehicles) in the Conservation and Open Space Element.] Encourage parking cash out programs to reimburse employees for the cost of “free” on-site parking to provide incentives to use alternate modes of travel and to reduce parking requirements (see also Policy M-10.5).</p>	<p>The project would provide preferred parking and electric vehicle charging stations within its commercial area and public parking areas. The project would also include an EV charging unit in each single family garage in the project to encourage its residents to purchase an electric vehicle. The project also proposes a TDM Program which includes ride-share and car-share (“flex-car”) programs, shuttle services to the Escondido Transit Center, and subsidized transit passes for residents. Please see the responses to Goal/Policy/Objective M-8, M-8.1 through M-8.4, M-8.6, M-8.7, and M-9.2.</p>	<p>Consistent.</p>
<p>M-9.4 Park-and-Ride Facilities. Require developers of large projects to provide, or to contribute to, park-and-ride facilities near freeway interchanges and other appropriate locations that provide convenient access to congested regional arterials. Require park-and-ride facilities that are accessible to pedestrians and bicyclists, and include bicycle lockers and transit stops whenever feasible.</p>	<p>The project applicant is coordinating with Caltrans SANDAG, and NCTD on potential future expanded or improved park-and-ride facilities at the I-15/Deer Springs Road Interchange. Presently, there are two park-and-ride lots at the Interchange, one on the west side and one on the east side of the freeway. The project applicant has met with Caltrans, SANDAG, and NCTD about whether Caltrans plans to improve or expand the park-and-ride lots, either as stand-alone projects or as part of the process of improving the Interchange. The project applicant supports and will advocate for the incorporation of alternative transportation modes (i.e., mobility alternatives to single occupancy vehicle driving) such as electric vehicle charging stations, bicycle facilities, storage lockers for travelers, accommodations for ride-share and car-share services, and a possible future transit stop as part of any project to expand or improve the park-and-ride facilities at the Interchange.</p>	<p>Consistent.</p>
<p>M-10 Parking for Community Needs. Parking regulations that serve community needs and enhance community character.</p>	<p>The Design Guideline section of the Specific Plan contains the parking regulations consistent with the overall vision of the project.</p>	<p>Consistent.</p>
<p>M-10.1 Parking Capacity. Require new development to:</p> <ul style="list-style-type: none"> • Provide sufficient parking capacity for motor vehicles consistent with the project’s location, use, and intensity • Provide parking facilities for motorcycles and bicycles • Provide staging areas for regional and community trails 	<p>The proposed project includes sufficient parking for motor vehicles consistent with the project’s location, use, and intensity. For example, the Specific Plan includes appropriate parking requirements for the proposed land uses. Residential parking will be provided through garages, residential streets, and a combination of on-site parking areas for attached residential homes. Parking facilities for motorcycles and bicycles would be included in the overall parking design. Sufficient parking capacity would be provided for each land use consistent with the zoning ordinance. For commercial and other public uses, parking spaces would be provided either on the street or within parking lots. Additionally, space would be provided for bicycle parking. The Community’s pathway network also would reduce reliance on single-occupant vehicle trips. The applicant also would implement several TDM measures, which include measures to reduce vehicle trips. Finally, the project would include multi-purpose Community trails supporting hikers and equestrians. The project’s Saddleback Park in the northwestern half of the project Site would include an equestrian staging area and parking lot.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>M-10.2 Parking for Pedestrian Activity. Require the design and placement of on-site automobile, motorcycle, and bicycle parking in Villages and Rural Villages that encourages pedestrian activity by providing a clear separation between vehicle and pedestrian areas and prohibit parking areas from restricting pedestrian circulation patterns.</p>	<p>Please see response to Goal/Policy/Objective M-10.1, above. Further, the Specific Plan integrates parking into the overall design in a manner that does not detract from the pedestrian orientation of the project Site. For instance, the project would ensure other transportation modes do not impede pedestrian-oriented facilities. The Site design of the project's commercial area would provide a clear separation between vehicle parking areas and pedestrian areas, including gathering spaces. Safe and convenient pedestrian circulation would be integrated into the parking lots serving the commercial uses as well as the parking areas for the project's multi-family residential uses.</p>	<p>Consistent.</p>
<p>M-10.3 Maximize On-street Parking. Encourage the use of on-street parking in commercial and/or high-density residential town center areas to calm traffic and improve pedestrian interaction. Traffic operations and pedestrian safety must not be compromised.</p>	<p>The Town Center would provide appropriate on-street parking. On-street parking is encouraged where possible to reduce the need for large parking areas and to provide traffic calming along streets to improve the pedestrian environment.</p>	<p>Consistent.</p>
<p>M-10.4 Shared Parking. Support town center plans when desired by the community that incorporate on-street and/or shared vehicular parking facilities to reduce on-site parking requirements.</p>	<p>The project proposes a TDM Program that includes coordinating for ride-share and car-share programs and other mobility alternatives that would reduce the need for parking within its Town Center. In the project, on-street parking would be incorporated into the design of its internal road network, including within the Town Center, where appropriate to reduce the need for large off-street parking areas and to provide traffic calming along streets to improve the pedestrian environment. See also response to Goal/Policy/Objective M-10.5, below.</p>	<p>Consistent.</p>
<p>M-10.5 Reduced Parking. Accommodate appropriate reductions in on-site parking requirements in situations such as</p> <ul style="list-style-type: none"> • Development of low-income and senior housing • Development located near transit nodes • Employment centers that institute Transportation Demand Management programs • Development that integrates other parking demand reductions techniques such as parking cash out, when ensured by ongoing permit conditions <p>Transportation Demand Management programs are described in the previous section.</p>	<p>Please see response to Goal/Policy/Objective M-10.1. In addition, Community trails linked to the commercial areas would encourage residents to walk to the Town Center. The project would accommodate pedestrians, bicycles, electric vehicles, and other alternative transportation modes by linking trail systems and pedestrian pathways with parks, open space areas, residential, commercial, and schools. A planned electric bike-share program would link the neighborhoods to each other and reduce motorized vehicle trips. Additionally, the project would include bike lanes, an extensive trail system consisting of roadside pathways within the linear greenbelts, and multi-use trails. With incorporation of these internal circulation features, the project would provide residents the opportunity to access employment, education, recreation, and commercial uses via multiple transportation modes while reducing the need for additional parking around the Town Center.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>M-10.6 On-Street Parking. Minimize on-street vehicular parking outside Villages and Rural Villages where on-street parking is not needed, to reduce the width of paved shoulders and provide an opportunity for bicycle lanes to retain rural character in low-intensity areas. Where on-street parking occurs outside Villages and Rural Villages, require the design to be consistent with the rural character. [See applicable community plan for possible relevant policies.]</p>	<p>The proposed project minimizes on-street vehicular parking outside the Village where on-street parking is not needed. For example, the loop road would not offer on-street parking, but would integrate a bike lane. In addition, shoulder-designated bike routes are proposed to provide connections to each neighborhood, neighborhood park, and the Town Center.</p>	<p>Consistent.</p>
<p>M-10.7 Parking Area Design for Stormwater Runoff. Require that parking areas be designed to reduce pollutant discharge and stormwater runoff through site design techniques such as permeable paving, landscaped infiltration areas, and unpaved but reinforced overflow parking areas that increase infiltration. Require parking areas located within or adjacent to preserve areas to also include native landscaping and shielded lighting.</p>	<p>Parking lot and street parking within the Community have been designed with integrated treatment swales and basins. Treatment would be provided along the loop road with planted swales that contribute to the Site's stormwater management plan. Native landscaping and shielded lighting are proposed.</p>	<p>Consistent.</p>
<p>M-11 Bicycle and Pedestrian Facilities. Bicycle and pedestrian networks and facilities that provide safe, efficient, and attractive mobility options as well as recreational opportunities for County residents. See also Goals and Policies in the Conservation and Open Space Element, Biological Resources section, which address the protection of sensitive biological resources and habitat areas.</p>	<p>The project proposes bicycle and pedestrian networks and facilities that provide safe, efficient, and attractive mobility options as well as recreational opportunities for residents and visitors. To that end, the project would incorporate a network of trails and pedestrian pathways connecting the project's various neighborhoods together and creating a safe, efficient, and attractive option to link open space trails and walkability throughout the project. The project would include bike lanes; multi-use pedestrian pathways along the project's loop road; internal and secondary trails within neighborhoods; and multi-purpose and secondary trails through the open space preserve areas, forming a network of approximately 16 linear miles of trails and pedestrian pathways that would extend throughout the project's individual neighborhoods and the open space preserve. Please see responses to COS-11.1, -11.2, -11.3,, -16, and -16.1.</p>	<p>Consistent.</p>
<p>M-11.1 Bicycle Facility Design. Support regional and community-scaled planning of pedestrian and bicycle networks.</p>	<p>Please see response to Goal/Policy/Objective M-11. Further, the bicycle network and trail network would connect to the surrounding area and to the open space trail network to the north.</p>	<p>Consistent.</p>
<p>M-11.2 Bicycle and Pedestrian Facilities in Development. Require development and Town</p>	<p>Please see response to Goal/Policy/Objective M-11. Further, the proposed project requires alternative modes of transportation, such as a planned electric bike-share program linking the neighborhoods to one another and reducing internal vehicle trips. The electric bike-share program would include kiosks within a number of planning areas to</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>Center plans in Villages and Rural Villages to incorporate site design and on-site amenities for alternate modes of transportation, such as comprehensive bicycle and pedestrian networks and facilities, including both on-street facilities as well as off-street bikeways, to safely serve the full range of intended users, along with areas for transit facilities, where appropriate and coordinated with the transit service provider.</p>	<p>allow electric bikes to be taken from one kiosk and left at another, encouraging sustainable transportation between planning areas. Additionally, the project would include bike lanes, an extensive trail system consisting of roadside pathways within the linear greenbelts, and multi-use trails. With incorporation of these internal circulation features, the project provides residents the opportunity to access employment, education, and recreational and commercial uses via multiple modes of transportation.</p>	
<p>M-11.3 Bicycle Facilities on Roads Designated in the Mobility Element. Maximize the provision of bicycle facilities on County Mobility Element roads in Semi-Rural and Rural Lands to provide a safe and continuous bicycle network in rural areas that can be used for recreation or transportation purposes, while retaining rural character.</p>	<p>Please see the response to Goal/Policy/Objective M-11.2.</p>	<p>Consistent.</p>
<p>M-11.4 Pedestrian and Bicycle Network Connectivity. Require development in Villages and Rural Villages to provide comprehensive internal pedestrian and bicycle networks that connect to existing or planned adjacent community and countywide networks.</p>	<p>The proposed project provides comprehensive internal pedestrian and bicycle networks that connect to existing or planned adjacent community and countywide networks. To that end, the project would incorporate a network of bicycle lanes, trails and pedestrian pathways connecting the project's various neighborhoods together and with linkages to open space trails for hiking and equestrian users. The project would include bike lanes; multi-use pedestrian pathways along the project's loop road; primary and secondary trails within neighborhoods; and multi-purpose and secondary trails through the open space preserve areas, forming a network of approximately 16 linear miles of trails and pedestrian pathways that would extend throughout the project's individual neighborhoods and the open space preserve. Off-Site, the project would incorporate a multi-purpose trail along Deer Springs Road and Twin Oaks Valley Road that connects all the way into the City of San Marcos and the existing multipurpose trail along Twin Oaks Valley Road.</p>	<p>Consistent.</p>
<p>M-11.6 Coordination for Bicycle and Pedestrian Facility Connectivity. Coordinate with Caltrans to provide alternate connections for past, existing, or planned bicycle and pedestrian routes that were or would be severed by State freeway and highway projects that intersect pathways or divide communities. Caltrans endeavors to provide safe mobility for all users, including bicyclists, pedestrians, transit riders,</p>	<p>As a result of the project's traffic impacts to the existing I-15/Deer Springs Road interchange, the project applicant has initiated a three-phase process with Caltrans to plan and design a new interchange. The project applicant is currently in the first phase of that process, the Project Initiation Document (PID) process which requires the preparation of a Project Study Report/Project Development Support (PSR/PDS) document for the new interchange. In addition to identifying design alternatives for the new interchange, the PSR/PDS document will address the need to maintain pedestrian and bicyclist access through the interchange, to the project Site, and to any potential future expanded park-and-ride facilities. In addition to coordinating with Caltrans, the project applicant has coordinated with SANDAG and NCTD on these potential improvements at the I-15/Deer Springs Road Interchange.</p> <p>Presently, there are two park-and-ride lots at the Interchange, one on the west side and one on the east side of the freeway. The project applicant has met with Caltrans, SANDAG, and NCTD about whether Caltrans plans to improve or expand the park-and-ride lots, either as stand-alone projects or as part of the process of improving the interchange. The project applicant supports and will advocate for the incorporation of</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>and motorists appropriate to the function and context of the facility. Caltrans is committed to working with the County to complete bicycle and pedestrian facilities.</p>	<p>alternative transportation modes such as electric vehicle charging stations, bicycle facilities, storage lockers for travelers, accommodations for ride-share and car-share services, and a possible future transit stop as part of any project to expand or improve the park-and-ride facilities at the interchange.</p> <p>Internally, as discussed above, the project's "loop road" would integrate bicycle lanes and a pedestrian pathway connecting the Town Center neighborhood and the existing park-and-ride facility to the various other neighborhoods in the project. Finally, Deer Springs Road would provide a bike route and a pedestrian pathway connecting through Twin Oaks Valley Road and into the City of San Marcos to the southwest and to the existing park-and-ride facility and Town Center neighborhood.</p>	
<p>M-11.7 Bicycle and Pedestrian Facility Design. Promote pedestrian and bicycle facility standards for facility design that are tailored to a variety of urban and rural contexts according to their location within or outside a Village or Rural Village.</p>	<p>Please see response to Goal/Policy/Objective M-11.4. The project's design of proposed bicycle and pedestrian facilities was tailored to the project's Semi-Rural and Village land uses.</p>	<p>Consistent.</p>
<p>M-11.8 Coordination with the County Trails Program. Coordinate the proposed bicycle and pedestrian network and facilities with the Community Trails Master Plan's proposed trails and pathways.</p>	<p>Proposed pathway and trail locations were coordinated with the County's Community Trails Master Plan. The project proposes a multi-use pathway connection along Deer Spring Road and Twin Oaks Valley Road with connections to the project's network of pedestrian pathways and trails, including to multi-use trails and open space trails in the project. The project would help implement the County's Community Trails Master Plan for the area as well as include additional trails within the project Site.</p>	<p>Consistent.</p>
<p>M-12 County Trails Program. A safe, scenic, interconnected, and enjoyable non-motorized multi-use trail system developed, managed, and maintained according to the County Trails Program, Regional Trails Plan, and the Community Trails Master Plan.</p>	<p>The project would include a trail network through open space areas that has been planned in coordination with the County Trails Program and Community Trails Master Plan. The project would include a range of trail types and pedestrian pathways, including multi-use trails, secondary trails, and single-track trails, however no motorized vehicles would be permitted on the project's trails or pedestrian pathways.</p>	<p>Consistent.</p>
<p>M-12.1 County Trails System. Implement a County Trails Program by developing the designated trail and pathway alignments and implementing goals and policies identified in the Community Trails Master Plan.</p>	<p>This Goal/Policy/Objective serves as direction to the County to develop a County Trails Program and, therefore, is not directly applicable to the project. Nevertheless, the proposed project implements trail and pathway alignments consistent with the County's Trails Program, and the goals and policies identified in the Community Trails Master Plan. To that end, Chapter 3 of the Specific Plan, Community Wide Trail Network provides sections of each trail type with illustrations – all of which are consistent with the County Trails Program.</p>	<p>Not Applicable.</p>
<p>M-12.2 Trail Variety. Provide and expand the variety of trail experiences that provide recreational opportunities to all residents of the unincorporated County, including urban/suburban, rural, wilderness, multi-use,</p>	<p>Please see response to Goal/Policy/Objective M-11.4. The proposed project would provide and expand the variety of trail experiences that would provide recreational opportunities to all residents of the project and the County, including urban/suburban, rural, wilderness, multi-use staging areas, and support facilities. For example, the project would include a comprehensive pedestrian and bicycle network with pedestrian pathways and bicycle lanes connecting the project's various neighborhoods and multi-purpose trails into open space preserve areas. Further, an equestrian staging area is proposed on Camino Mayor at the project's Saddleback Park.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
staging areas, and support facilities.		
M-12.3 Trail Planning. Encourage trail planning, acquisition, development, and management with other public agencies that have ownership or jurisdiction within or adjacent to the County.	As shown in the Parks Master Plan and Trails Master Plan, an extensive network of interconnected parks, open space, and trails is proposed throughout the project. This includes approximately 16 miles of pedestrian pathways and multipurpose trails.	Consistent.
M-12.4 Land Dedication for Trails. Require development projects to dedicate and improve trails or pathways where the development will occur on land planned for trail or pathway segments shown on the Regional Trails Plan or Community Trails Master Plan.	The project would improve and dedicate its proposed trails and pedestrian pathways, in certain cases through dedication of right-of-way where they are adjacent to the project's proposed road improvements, to ensure public access to these facilities. In addition, a substantial portion of the project would be preserved in perpetuity and managed through a Resource Management Plan (RMP). Trails through this open space would establish connections to a greater regional trail network.	Consistent.
M-12.5 Future Trails. Explore opportunities to designate or construct future trails on County-owned lands, lands within the Multiple Species Conservation Program (MSCP), or other lands already under public ownership or proposed for public acquisition.	The project would construct trails through the proposed on-Site open space preserve areas which may eventually become part of the North County MSCP preserve system.	Consistent.
M-12.6 Trail Easements, Dedications, and Joint-Use Agreements. Promote trail opportunities by obtaining easements, dedications, license agreements, or joint-use agreements from other government agencies and public and semi-public agencies.	The project's proposed public trails would be dedicated to the County by establishing an easement over them. Trails within the neighborhoods would include public use easements where those trails are not within the right of way for public roads.	Consistent.
M-12.8 Trails on Private Lands. Maximize opportunities that are fair and reasonable to secure trail routes across private property, agricultural and grazing lands, from willing property owners.	The project's proposed trail network would not require trail connections across any adjacent private property. The project would accommodate future pedestrian pathways associated with off-site improvements to Deer Springs Road and Twin Oaks Valley Road within the right-of-way, in certain instances acquired from private property owners, for those road improvements.	Not Applicable.

Policy	Project Conformance	Conformance Conclusion
<p>M-12.9 Environmental and Agricultural Resources. Site and design specific trail segments to minimize impacts to sensitive environmental resources, ecological system and wildlife linkages and corridors, and agricultural lands. Within the MSCP preserves, conform siting and use of trails to County MSCP Plans and MSCP resource management plans.</p>	<p>The project would site and design specific trail segments to minimize impacts to sensitive environmental resources, ecological system and wildlife linkages and corridors, and agricultural lands. The project also would conform siting and use of trails to County plan requirements.</p> <p>For instance, to protect the project's proposed open space preserve areas and minimize human encroachment, signage and designated routes would establish public access trails, and protect large patches of habitat that do not currently contain trails. Additionally, the project's proposed trails into open space preserve areas would be predominantly located along existing dirt roads and existing trails. In accordance with the project's Resource Management Plan, a preserve manager would monitor the use of these trails and address any encroachment or other impacts associated with the trails in the project's open space preserve areas. The proposed project's trail system has also been designed to be consistent with the overarching goals of the draft North County MSCP.</p>	<p>Consistent.</p>
<p>M-12.10 Recreational and Educational Resources. Design trail routes that meet a public need and highlight the County's biological, recreational and educational resources, including natural, scenic, cultural, and historic resources.</p>	<p>The project's proposed trails would meet a public need and highlight the County's biological, recreational and educational resources, including natural, scenic, cultural, and historic resources. For example, the project's unique cultural resources informed proposed project design. Several permanent displays would be erected to provide information on the area's cultural and historic resources, including descriptions of Native American and historic occupants. These displays would include imagery and text to facilitate public outreach and enhance appreciation of regional diversity. The project's pedestrian pathways take advantage of the Site's prominent landform, featuring vista points along various segments of the surrounding landscape.</p>	<p>Consistent.</p>
<p><i>Noise Element</i></p>		
<p>N-1 Land Use Compatibility. A noise environment throughout the unincorporated County that is compatible with the land uses.</p>	<p>The proposed project provides a noise environment that is generally compatible with both on Site and off Site land uses. The majority of potential noise effects are either less than significant or would be mitigated to less than significant through the mitigation measures identified in the EIR.</p>	<p>Consistent.</p>
<p>N-1.1 Noise Compatibility Guidelines. Use the Noise Compatibility Guidelines (Table N-1) and the Noise Standards (Table N-2) as a guide in determining the acceptability of exterior and interior noise for proposed land uses.</p>	<p>Using the Noise Compatibility Guidelines and the Noise Standards, the project would maintain acceptable exterior and interior noise levels for proposed land uses.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>N-1.2 Noise Management Strategies. Require the following strategies as higher priorities than construction of conventional noise barriers where noise abatement is necessary:</p> <ul style="list-style-type: none"> • Avoid placement of noise sensitive uses within noisy areas • Increase setbacks between noise generators and noise sensitive uses • Orient buildings such that the noise sensitive portions of a project are shielded from noise sources • Use sound-attenuating architectural design and building features • Employ technologies when appropriate that reduce noise generation (i.e. alternative pavement materials on roadways) 	<p>The proposed project discourages using noise walls; however, when necessary, the project would evaluate and require, where feasible, a combination of walls and earthen berms and the use of vegetation or other visual screening methods to soften the visual perspective. Additionally, mitigation measure M-N-1 requires a detailed acoustical study demonstrating that barriers and/or setbacks incorporated into the project design reduce noise exposure to residential receivers placed in all useable outdoor areas, including multi-family residential patios and balconies, to below the County's noise compatibility guideline of 65 A-weighted decibels (dBA) community noise equivalent level (CNEL).</p>	<p>Consistent.</p>
<p>N-1.3 Sound Walls. Discourage the use of noise walls. In areas where the use of noise walls cannot be avoided, evaluate and require where feasible, a combination of walls and earthen berms and require the use of vegetation or other visual screening methods to soften the visual appearance of the wall.</p>	<p>The proposed project discourages using noise walls; however, when necessary, the project would evaluate and require, where feasible, a combination of walls and earthen berms and the use of vegetation or other visual screening methods to soften the visual perspective. Additionally, mitigation measure M-N-1 requires a detailed acoustical study demonstrating that barriers and/or setbacks incorporated into the project design reduce noise exposure to residential receivers placed in all useable outdoor areas, including multi-family residential patios and balconies, to below the County's noise compatibility guideline of 65 A-weighted decibels (dBA) community noise equivalent level (CNEL).</p>	<p>Consistent.</p>
<p>N-1.4 Adjacent Jurisdiction Noise Standards. Incorporate the noise standards of an adjacent jurisdiction into the evaluation of a proposed project when it has the potential to impact the noise environment of that jurisdiction.</p>	<p>The noise analysis incorporates the noise standards of the City of San Marcos for traffic-related noise impacts within that jurisdiction. Please see EIR Section 2.10, Noise, and Appendix Q, Noise Technical Report.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>N-1.5 Regional Noise Impacts. Work with local and regional transit agencies and/or other jurisdictions, as appropriate, to provide services or facilities to minimize regional traffic noise and other sources of noise in the County.</p>	<p>Please see response to Goal/Policy/Objective N-1.4. Further, the project's Acoustical Analysis Report incorporated the traffic analysis and assessed potential noise impacts from project development. The project would coordinate with the County to ensure that traffic noise is minimized to the extent feasible.</p>	<p>Consistent.</p>
<p>N-2 Protection of Noise Sensitive Uses. A noise environment that minimizes exposure of noise sensitive land uses to excessive, unsafe, or otherwise disruptive noise levels.</p>	<p>The project would provide a noise environment that minimizes exposure of noise sensitive land uses to excessive, unsafe, or otherwise disruptive noise levels. For example, the project includes project design features (PDF-33 through PDF-38) that would reduce potential construction noise through the use of exhaust mufflers, use of electrical equipment when feasible, locating staging areas away from noise-sensitive land uses, and other noise attenuation techniques. Blasting involves drilling a series of bore holes and placing explosives in each hole. By limiting the amount of explosives in each hole, the blasting contractor can limit the fraction of the total energy released at any single time, which in turn can reduce noise and vibration levels. Rock drilling generates impulsive noise from the striking of the hammer with the anvil within the drill body, which drives the drill bit into the rock. Blasting (and the associated drilling that precedes blasting) would only occur between 7 a.m. and 7 p.m. Construction blasting generates a maximum noise level of approximately 94 dBA at a distance of 50 feet (FHWA 2006). To conduct blasting, a blasting permit must be obtained from the County Sheriff's Department prior to any blasting activities. The permit is issued in accordance with California Health and Safety Code requirements. The permit ensures that blasting is conducted in a safe manner. As part of the permit conditions, pre-blast notifications, pre-blast structure survey inspections for structures within 300 feet of the blast site, monitoring, and post-blast inspections are necessary. Mitigation measure M-N-5 requires the preparation of a blast drilling and monitoring plan which would reduce potentially significant impacts to below a level of significance.</p>	<p>Consistent.</p>
<p>N-2.1 Development Impacts to Noise Sensitive Land Uses. Require an acoustical study to identify inappropriate noise level where development may directly result in any existing or future noise sensitive land uses being subject to noise levels equal to or greater than 60 CNEL and require mitigation for sensitive uses in compliance with the noise standards listed in Table N-2.</p>	<p>The proposed project completed a Noise Technical Report to identify inappropriate noise level where development may directly result in any existing or future noise sensitive land uses being subject to noise levels equal to or greater than 60 CNEL and require feasible mitigation for sensitive uses in compliance with the noise standards within the General Plan's Noise Element, Table N-2. For instance, homes and other land uses are estimated to have rear yard noise exposures ranging from 61 to 69 dBA CNEL in the future with project implementation. Therefore, there would be potentially significant impacts from noise on ground floor receivers before incorporation of mitigation. Mitigation measures M-N-1 and M-N-2 require additional acoustical studies based on the final map and architectural plans, prior to the issuance of grading permits, to ensure noise compliance. The remaining on-Site receivers were determined to have future-with-project noise levels that would comply with the County noise standards without mitigation. The TNM noise model was used to determine the barrier heights needed to reduce traffic noise impacts to less than significant at the ground-floor receiver locations identified above as significantly impacted (i.e., to reduce noise levels to or below the County noise compatibility guideline).</p>	<p>Consistent.</p>
<p>N-2.2 Balconies and Patios. Assure that in developments where the exterior noise level on patios or balconies for multi-family residences or mixed-use developments exceed 65 CNEL, a solid noise barrier is incorporated into the building design of the balconies and patios while still maintaining the openness of the patio or balcony.</p>	<p>The proposed project assures that where exterior noise level on patios or balconies for multi-family residences or mixed-use developments exceed 65 CNEL, a noise barrier is incorporated into the building design of the balconies and patios while still maintaining the openness of the patio or balcony.</p> <p>For instance, M-N-1 states that prior to grading permit issuance, for construction at the modeled receiver locations listed in Tables 9 and 10 of the Noise Technical Report (Appendix Q of the EIR), the project applicant or its designee would prepare an acoustical study based on the final map design and would implement recommended study measures, which the County's Planning & Development Services department (or its designee) would approve. The acoustical study would include:</p> <ol style="list-style-type: none"> 1. The location, height, and building material of any constructed noise barriers. The noise barriers shall be a minimum height of 6 feet, have a surface density of at least 4 pounds per square foot, and be free of openings and cracks. The barriers 	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	<p>may be constructed of acrylic glass, masonry material, earthen berm, or a combination of these materials. Noise barrier heights shall be relative to final pad elevation.</p> <ol style="list-style-type: none"> 2. A detailed analysis that demonstrates noise barriers and/or setbacks were incorporated into the project design, such that exposure to residential receivers in all useable outdoor areas, including multi-family residential patios and balconies, is at or below the applicable noise standard (i.e., 60 dBA CNEL at single-family residences and 65 dBA CNEL at multi-family residences). 3. In the event pad grade elevations, lot configuration/Site design, and/or traffic assumptions change during the processing of any final maps, the noise barriers shall be revised to reflect those modifications. 	
<p>N-3 Groundborne Vibration. An environment that minimizes exposure of sensitive land uses to the harmful effects of excessive groundborne vibration.</p>	<p>The proposed project provides an environment that minimizes exposure of sensitive land uses to the harmful effects of excessive groundborne vibration. Project operational components would not include significant groundborne noise or vibration sources; and no significant vibrations sources presently exist, or are planned, in the project Site.</p> <p>As it relates to construction activities, M-N-6 requires that a vibration monitoring plan be prepared and sent to the County Noise Control Officer prior to initiating of construction activities having the potential to create groundborne vibration. The Noise Control Officer would have the authority to take the steps necessary to ensure future vibration levels do not exceed applicable limits, including suspending further construction activities that would result in excessive vibration levels until either alternative equipment or alternative construction procedures are identified that would reduce vibration levels in compliance with County standards.</p>	<p>Consistent.</p>
<p>N-3.1 Groundborne Vibration. Use the Federal Transit Administration and Federal Railroad Administration guidelines, where appropriate, to limit the extent of exposure that sensitive uses may have to groundborne vibration from trains, construction equipment, and other sources.</p>	<p>According to the Federal Transit Administration's methodology for determining vibration propagation, vibration levels would exceed County-recommended Caltrans thresholds of 0.004 peak particle velocity (PPV) inch per second root mean square within 190 feet of large bulldozers and 170 feet of loaded trucks for residences. For pile driving, vibration levels would exceed County-recommended Caltrans thresholds of 0.1 PPV within 90 feet of the nearest sensitive receptor. M-N-6 would require that a vibration monitoring plan be prepared and sent to the County Noise Control Officer. The plan shall require monitoring of data on a weekly basis to ensure that vibration does not exceed established limits; methods include placement of vibration monitors, data acquisition and reporting, and exceedance notification. The Federal Railroad Administration guidelines are not applicable.</p>	<p>Consistent.</p>
<p>N-4 Transportation-Related Noise Generators. A noise environment that reduces noise generated from traffic, railroads, and airports to the extent feasible.</p>	<p>The proposed project provides a noise environment that reduces noise generated from traffic to the extent feasible. There are no airports or railroad lines proximate to the project Site. Reduction in traffic noise levels to less than significant at noise-sensitive land uses within the project would be accomplished through implementation of M-N-1 at completion of project build-out. M-N-1 requires a detailed acoustical study demonstrating that barriers and/or setbacks incorporated into the project design reduce noise exposure to residential receivers placed in all useable outdoor areas, including multi-family residential patios and balconies, to below the County's noise compatibility guideline of 65 A-weighted decibels (dBA) community noise equivalent level (CNEL).</p>	<p>Consistent.</p>
<p>N-4.1 Traffic Noise. Require that projects proposing General Plan amendments that increase the average daily traffic beyond what is anticipated in this General Plan do not increase cumulative traffic noise to off-site noise sensitive land uses beyond acceptable levels.</p>	<p>The project, when combined with other cumulative development, would have the potential to result in a 3 dBA increase in noise levels (under Option B) along Deer Springs Road. This increase is considered a minimal increase as it relates to the General Plan Mobility Element volumes and to the perception of noise. Sound studies and multiple validated sources state that a 1 dBA increase in noise is not noticeable to the human ear. A 3 dBA increase in sound level is barely noticeable. An increase of sound level by 5 dBA is considered noticeable. It is important to clarify that, per the Sierra Traffic Impact Analysis (Appendix R), the project would result in fewer peak hour vehicle trips when compared to the existing General Plan land use designations for the project Site, and, as a result, the project would result in a decrease in the noise levels along Deer Springs Road when compared to the noise levels that were analyzed from buildout of the existing General Plan with Deer Springs Road improved to its ultimate six-lane classification.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>N-4.2 Traffic Calming. Include traffic calming design, traffic control measures, and low-noise pavement surfaces that minimize motor vehicle traffic noise in development that may impact noise sensitive land uses.</p>	<p>The proposed project has incorporated traffic calming measures into its overall design. For example, the project includes speed feedback signs, narrowing of lanes to 10.5 feet on a portion of the loop road, landscaped medians, and enhanced parkways to minimize motor vehicle traffic noise that may impact noise sensitive land uses.</p>	<p>Consistent.</p>
<p>N-4.3 Jurisdictional Coordination. Coordinate with California Department of Transportation (Caltrans), the City of San Diego, and other adjacent jurisdictions, as appropriate, for early review of proposed new and expanded State freeways, highways, and road improvement projects within or affecting the unincorporated County to (1) locate facilities where the impacts to noise sensitive land uses would be minimized and to (2) develop and include noise abatement measures in the projects to minimize and/or avoid the impacts to noise sensitive land uses.</p>	<p>An Acoustical Analysis Report, prepared in accordance with the County's Guidelines for Determining Significance and Report Format and Content Requirements for Noise, assesses the proposed project's potential noise impacts to on-and off-Site uses, including transportation-related noise. Additionally, the project applicant has met on several occasions with Caltrans and the City of San Marcos to discuss roadway design, and will continue to coordinate with these agencies to minimize impacts on noise-sensitive land uses.</p>	<p>Consistent.</p>
<p>N-4.5 Roadway Location. Locate new or expanded roads designated in the Mobility Element in areas where the impact to noise sensitive land uses would be minimized.</p>	<p>The project does not propose any new or expanded roads that are not already included in the County's Mobility Element. The project proposes to expand Deer Springs Road, a Mobility Element road, from its current configuration to become a four-lane road with a center median. The alignment of this roadway was set in 1946, and, since that time, growth has occurred in neighboring communities and to the north in Riverside County, creating high existing demand along this road.</p>	<p>Not applicable.</p>
<p>N-4.6 Road Improvement Projects. For County road improvement projects, evaluate the proposed project against ambient noise levels to determine whether the project would increase ambient noise levels by more than three decibels. If so, apply the limits in the noise standards listed in Table N-2 for noise sensitive land uses that may be affected by the increased noise levels. For federally-funded roadway construction projects, use the limits in the applicable Federal Highway Administration Standards.</p>	<p>Construction-related traffic would not result in a perceptible (3 dBA) increase in the daily or peak-hour traffic noise levels. The project's operational noise was evaluated against ambient noise levels to determine if a 3 dBA increase would occur. Locations would experience an increase in ambient noise levels by 3 dBA, and mitigation measures would be implemented to reduce potentially significant noise level impacts.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>N-5 Non-transportation-Related Noise Sources. A noise environment that provides minimal noise spillovers from industrial, commercial, agricultural, extractive, and similar facilities to adjacent residential neighborhoods.</p>	<p>The project's noise environment does not include industrial, extractive, and similar facilities to adjacent residential neighborhoods. Nonetheless, project-associated stationary noise sources would include mechanical equipment associated with the residential and commercial developments, emergency generators, delivery activities associated with the commercial land uses, and recreational and educational activities. M-N-3 requires preparation of an acoustical study to identify effective noise-reducing mitigation measures (e.g., enclosures, barriers, Site orientation). The proposed project would implement the measures identified in the acoustical study to comply with the County's Noise Ordinance, Section 36.404.</p>	<p>Consistent.</p>
<p>N-5.1 Truck Access. Design development so that automobile and truck access to industrial and commercial properties abutting residential properties is located at the maximum practical distance from residential zones.</p>	<p>The proposed project would design its development areas so that automobile and truck access to commercial properties in the vicinity of residential uses are located at the maximum practical distance from residential zones. The project does not include industrial land uses. Automobiles and trucks accessing commercial properties would only occur within the Town Center planning area. The Town Center planning area would be located off of Deer Springs Road, east of the primary access road in the southernmost portion of the project. The 81,000 square feet of commercial land uses in the Town Center near residential properties would be located at the maximum practical distance to reduce truck delivery noise and reduce other noises associated with commercial activity.</p>	<p>Consistent.</p>
<p>N-6 Temporary and/or Nuisance Noise. Minimal effects of intermittent, short-term, or other nuisance noise sources to noise sensitive land uses.</p>	<p>Project-related construction noise would be temporary. Construction noise typically occurs intermittently and varies depending on the phase of construction (e.g., demolition, Site preparation, grading and excavation, building construction) and the types of construction activities, such as hauling material via trucks, pouring concrete, and using power tools. Additionally, noise generated by particular pieces of construction equipment, including earthmovers, material handlers, and portable generators, could reach high levels for brief periods of time. The proposed project would implement project design features (PDF-33 through PDF-38), which would require properly maintained construction equipment with noise-reduction features (e.g., intake, exhaust mufflers, engine shrouds), using electrical power tools, locating construction equipment staging areas away from residences and schools, and using noise attenuation techniques (e.g., noise blankets and temporary barriers) to reduce noise levels below 75 dBA L_{eq} at existing noise-sensitive land uses. With implementation of these mitigation measures, the project's construction noise impacts would be less than significant.</p>	<p>Consistent.</p>
<p>N-6.2 Recurring Intermittent Noise. Minimize impacts from noise in areas where recurring intermittent noise may not exceed the noise standards listed in Table N-2, but can have other adverse effects.</p>	<p>The proposed project minimizes impacts from noise in areas where recurring intermittent noise may not exceed the noise standards listed in General Plan, Noise Element, Table N-2. Please also see the response to Goal/Policy/Objective N-6.</p>	<p>Consistent.</p>
<p>N-6.3 High-Noise Equipment. Require development to limit the frequency of use of motorized landscaping equipment, parking lot sweepers, and other high-noise equipment if their activity will result in noise that affects residential zones.</p>	<p>Hours of construction would comply with the County of San Diego Code of Regulatory Ordinances, as well as the County's Noise Ordinance.</p>	<p>Consistent.</p>
<p>N-6.4 Hours of Construction. Require development to limit the hours of operation as appropriate for non-emergency construction and maintenance, trash collection, and parking lot</p>	<p>Hours of construction would comply with the County of San Diego Code of Regulatory Ordinances, as well as the County's Noise Ordinance.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
sweeper activity near noise sensitive land uses.		
N-6.5 Special Events. Schedule special events sponsored by the County that may generate excessive noise levels to daytime hours when feasible.	The proposed project does not reasonably foresee County-sponsored special events; and, therefore, the policy is not applicable.	Not applicable.
<i>Safety Element</i>		
S-1.1 Minimize Exposure to Hazards. Minimize the population exposed to hazards by assigning land use designations and density allowances that reflect site specific constraints and hazards.	<p>Please see the response to <i>Guiding Principle 5</i>. Various sections of the EIR evaluate potential health and safety issues related to people and property within the project. The EIR either identifies no impacts associated with potential hazards or requires mitigation to ensure that all potentially significant hazards are reduced to less than significant. Most of the project's potential hazards are mitigated through compliance with the state's building and fire codes and the County's regulations for development. The hazards that are addressed in this manner include geologic (e.g., earthquakes, rock-fall hazards, subsidence), flooding, and wildfires. Geologic hazards are mitigated through a combination of best practices during grading, compliance with the County's Grading Ordinance, and construction and compliance with the California Building Standards Code. Flooding hazards are eliminated by avoiding the placement of structures within a flood zone and ensuring that new facilities such as roads are constructed to eliminate or avoid a flooding condition along the road or downstream as a result of the road improvements. Compliance with the County's Hydrology Design Manual and Hydraulic Design Manual ensure that flooding issues are addressed in this manner. Fire hazards, including wildlife hazards, are addressed through compliance with the California Building Standards Code, which includes Chapter 7A of the CBC and the California Fire Code, applicable local codes and ordinances, and through evaluation of Site-specific conditions and constraints and the preparation of a Fire Protection Plan in accordance with those conditions and constraints.</p> <p>Accordingly, a Fire Protection Plan (FPP) has been prepared and approved for the project in accordance with the DSFPD standards, the California Fire Code, and the County Consolidated Fire Code. The FPP evaluated the level of potential fire hazard affecting or resulting from the proposed project and the methods and measures required to minimize that hazard. The wildfire threat will be mitigated to less than significant with the incorporation of the design features described in the FPP. Implementation of the FPP will ensure that exposure of the project's future residents, including the buildings they would inhabit, to wildfire risk would be minimized.</p>	Consistent.
S-2 Emergency Response. Effective emergency response to natural or human-induced disasters that minimizes the loss of life and damage to property, while also reducing disruptions in the delivery of vital public and private services during and following a disaster.	<p>The proposed project provides three access points for emergency response to reduce disruptions in the delivery of services during and following a disaster. Specifically, the project would have two primary access roads along Deer Springs Road at Mesa Rock Road and Sarver Lane, with an additional access point at Camino Mayor off of Twin Oaks Valley Road to the north. The primary access road at Mesa Rock Road would be a four-lane entry road with median that transitions into a four-lane divided road farther into the project. An additional access road (Camino Mayor) would provide residents and emergency access vehicles with sufficient Site access. All project access points and internal roadways would conform to County requirements to ensure adequate emergency access and response times.</p> <p>Further, the project's FPP provides information on wildland fire emergency response. Specifically, the FPP evaluates and identifies the potential fire risk associated with the proposed project's land uses, and identifies requirements for water supply, fuel modification and defensible space, emergency access, building ignition and fire resistance, fire protection systems, and wildfire emergency pre-planning, among other pertinent fire protection criteria. Additionally, in accordance with the FPP, an Evacuation Plan has been prepared and approved for the project. The Evacuation Plan describes how the project would evacuate during a wildfire emergency. The plan was prepared in coordination with DSFPD and the County of San Diego such that it does not conflict with</p>	Consistent.

Policy	Project Conformance	Conformance Conclusion
	<p>existing evacuation and pre-plans or interfere with the countywide Operational Area Emergency Plan. In addition, the project would be conditioned to provide on-going resident education outreach regarding wildfire safety, the "Ready, Set, Go!" pre-planning model, and the project FPP requirements. Informational handouts, facility website page, mailers, fire safe council participation, inspections, and seasonal reminders are some methods that would also be used to disseminate wildfire and relocation awareness information. The Sierra HOA would coordinate with DSFPD regarding wildfire educational material/programs before printing and distribution.</p>	
<p>S-2.6 Effective Emergency Evacuation Programs. Develop, implement, and maintain an effective evacuation program for areas of risk in the event of a natural disaster.</p>	<p>The project has prepared an Evacuation Plan that guides evacuation procedures and routes for the project's neighborhoods during a wildfire emergency. The evacuation plan would be implemented in coordination with DSFPD and the County to avoid conflict with existing evacuation and pre-plans. The evacuation plan does not interfere with the countywide Operational Area Emergency Plan because County staff has ensured consistency with other applicable/overlapping emergency plans. In addition, the Newland Sierra HOA would provide ongoing resident education outreach regarding wildfire safety, the "Ready, Set, Go!" pre-planning model, and the project's FPP requirements. Wildlife and relocation awareness information would be disseminated using informational handouts, facility website page, mailers, fire safe council participation, inspections, and seasonal reminders The HOA would coordinate with DSFPD regarding wildfire educational material/programs before printing and distributing.</p> <p>The evacuation plan recommends the implementation of procedures for efficiently evacuating people from the project Site according to a pre-defined, practiced evacuation protocol. The evacuation plan provides a contingency option of temporarily refuging, if evacuation is considered less safe. The estimated minimum time needed to evacuate project residents to designated areas may be up to 4 hours after receiving notice to evacuate. The available project evacuation routes are egress to the south via Mesa Rock Road, egress to the south on Sarver Lane, and egress to the west via Camino Mayor. The evacuation plan requires adjustment and continued coordination with the Newland Sierra HOA and/or developer and DSFPD/law enforcement agencies during each of the construction phases. Interim evacuation routes may change during project phasing and construction, with the addition of primary and secondary evacuation routes. Please see Appendix N.</p>	<p>Consistent.</p>
<p>S-3 Minimized Fire Hazards. Minimize injury, loss of life, and damage to property resulting from structural or wildland fire hazards.</p>	<p>The proposed project has been designed to minimize injury, loss of life, and damage to property resulting from structural or wildland fire hazards. Specifically, the project would comply with state and County fire and building codes and ordinances to minimize injury, loss of life, and damage to property resulting from structural or wildland fire hazards. The project's FPP (Appendix N) demonstrates that the proposed project would comply with applicable portions of the County of San Diego 2014 Consolidated Fire Code and the Deer Springs Fire Protection District's Ordinance Number 2013-01. The County and DSFPD have both approved the project's FPP. In addition to the project's overall FPP, an additional FPP was prepared for the Sierra Farms park site due to its location within the service area of the San Marcos Fire Department, which was approved on June 7, 2016. The proposed project would be required to comply with the most recent edition of the California Building Code, Chapter 7A, and California Fire Code, Chapter 49, as adopted by the County applicable at building permit issuance. Chapter 7A of the California Building Code focuses primarily on preventing ember penetration into homes, a leading cause of structure loss from wildfires. Building and fire code compliance is an important required component of the project's FPP.</p>	<p>Consistent.</p>
<p>S-3.1 Defensible Development. Require development to be located, designed, and constructed to provide adequate defensibility and minimize the risk of structural loss and life safety resulting from wildland fires.</p>	<p>Please see responses to Goal/Policy/Objective S-1.1 through S-3, above. In addition, the proposed project would be located, designed and constructed to provide adequate defensibility and minimize the risk of structural loss and life safety resulting from wildland fires. The project's FPP demonstrates adequate defensible space, project siting, access, construction materials, fuel management, water supply, emergency response times and staffing, and overall coordination with DSFPD and the San Marcos Fire Department.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>S-3.2 Development in Hill-sides and Canyons. Require development located near ridgelines, top of slopes, saddles, or other areas where the terrain or topography affect its susceptibility to wildfires to be located and designed to account for topography and reduce the increased risk from fires.</p>	<p>Due to the project Site's terrain and topography, neighborhoods and structures are located to minimize the likelihood of wildfire spread and encroachment. A proposed additional fully improved access road (Camino Mayor) would provide residents and emergency vehicles with sufficient ingress and egress to and from the project Site. Fire travel times on the proposed project would meet the County General Plan standard of 5 minutes or less for all structures. Fuel modification zones are conservatively sized (250 feet on either side of development, almost 4 times the modeled flame length). Please see Policy S-3, S-3.1, and S-3.3.</p>	<p>Consistent.</p>
<p>S-3.3 Minimize Flammable Vegetation. Site and design development to minimize the likelihood of a wildfire spreading to structures by minimizing pockets or peninsulas, or islands of flammable vegetation within a development.</p>	<p>The project has been designed to minimize the likelihood of a wildfire spreading to structures by minimizing pockets or peninsulas, or islands of flammable vegetation. Specifically, the project would provide extended fuel modification zones that gradually reduce fire intensity and flame lengths from advancing fire by placing adjacent thinning zones, restricted vegetation zones, and irrigated zones between the project's open space preserve areas and individual neighborhoods and roads.</p>	<p>Consistent.</p>
<p>S-3.4 Service Availability. Plan for development where fire and emergency services are available or planned.</p>	<p>The project Site falls within the service territory for the Deer Springs Fire Protection District (DSFPD). Accordingly, the project has prepared a Fire Protection Plan demonstrating the availability of services to the project Site, which has been reviewed and approved by DSFPD and the San Diego County Fire Authority. The project has also received a Will Serve Letter from DSFPD.</p>	<p>Consistent.</p>
<p>S-3.5 Access Roads. Require development to provide additional access roads when necessary to provide for safe access of emergency equipment and civilian evacuation concurrently.</p>	<p>The project would provide access roads which provide for safe access of emergency equipment and civilian evacuation concurrently. The project would have two primary access roads that connect to Deer Springs Road, one at Mesa Rock Road and a second at Sarver Lane, with an additional third access point at Camino Mayor that would connect to Twin Oaks Valley Road to the north. Modeling performed in connection with the EIR demonstrated that an additional access road (Camino Mayor) would provide residents and emergency vehicles with sufficient Site access.</p>	<p>Consistent.</p>
<p>S-3.6 Fire Protection Measures. Ensure that development located within fire threat areas implement measures that reduce the risk of structural and human loss due to wildfire. Mitigation measures include, but are not limited to, the use of ignition resistant materials, multiple ingress and egress routes, and fire protection systems.</p>	<p>Implementation of the project's Fire Protection Plan (FPP) would reduce on-site wildfire risk, minimize risks associated with typical uses, and aid responding firefighters during an emergency. The project's fire protection would not rely on one method, but, a system of fire protection measures, methods, and project design features that, in combination, would result in enhanced fire safety, reduced fire potential, and a Community prepared for a wildfire event. The project would implement the latest fire protection measures and exceed standard requirements for fuel modification. All new construction within the project would be required to comply with the latest editions of state and County building and fire code requirements applicable at the time of building permit application.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>S-3.7 Fire Resistant Construction. Require all new, remodeled, or rebuilt structures to meet current ignition resistance construction codes and establish and enforce reasonable and prudent standards that support retrofitting of existing structures in high fire hazards areas.</p>	<p>The project would be required to comply with the latest adopted ignition resistant building standards as contained in the California Building Standards Code. For example, on-site fire safety measures that are integrated into the project design include compliance with the ignition-resistant construction standards as contained in Chapter 7A of the CBC, requirements for water supply, fire apparatus access, fuel modification and defensible space, interior fire sprinklers in all new construction, and 5-minute or less fire response travel times.</p>	<p>Consistent.</p>
<p>S-4 Managed Fuel Loads. Managed fuel loads, including ornamental and combustible vegetation.</p>	<p>The project provides a thinning zone to reduce the fuel load of a wildland area adjacent to Zone 1, thereby reducing heat and ember production from wildland fires, slow fire spread, and reduce fire intensity. Zone 2 would adjoin Zone 1 and measure 150 feet in depth.</p> <p>Zone 2 would include the following components:</p> <ul style="list-style-type: none"> • A minimum of 50% thinning or removal of plants (50% no fuel). • Grasses shall be cut to 4 inches in height. Native grasses can be cut after going to seed. • Ground cover less than 6 inches high. • No trees except sycamore (<i>Platanus racemosa</i>), coast live oak (<i>Quercus agrifolia</i>), or Engelmann oak (<i>Quercus engelmannii</i>). • Trees and tree-form shrub species that naturally grow to heights exceeding 4 feet shall be vertically pruned to prevent ladder fuels. • No shrubs, except single-specimen native shrubs, exclusive of chamise and sage, 20 feet on center. • Maintenance, including ongoing removal and thinning of dead/dying planting, and regular trimming to prevent ladder fuels. • Plant species introduced into Zone 2 shall not include prohibited or highly flammable species. • No permanent or portable wood-burning fire pits, fireplaces, or other flame-generating devices allowed. <ul style="list-style-type: none"> ○ No vegetation found on the Prohibited Plant List shall be planted or remain in any Fuel Modification Zone. 	<p>Consistent.</p>
<p>S-4.2 Coordination to Minimize Fuel Management Impacts. Consider comments from CAL FIRE, U.S. Forest Service, local fire districts, and wildlife agencies for recommendations regarding mitigation for impacts to habitat and species into fuel management projects.</p>	<p>Wildland areas adjacent to the project are Calfire’s responsibility under the State Responsibility Area designation. The DSFPD, along with other local fire districts, would provide a coordinated response with CALFIRE in the event of a wildland fire. The project has undergone extensive coordination with CALFIRE, DSFPD, and the County to protect the project from potential wildfire hazards which resulted in an approved Fire Protection Plan (FPP).</p>	<p>Consistent.</p>
<p>S-6 Adequate Fire and Medical Services. Adequate levels of fire and emergency medical services (EMS) in the unincorporated County.</p>	<p>Adequate levels of fire and emergency medical services would be available to the project Site. The project has prepared and received approval of a Fire Protection Plan and has also received a Will Serve Letter from DSFPD demonstrating that adequate levels of service are available.</p>	<p>Consistent.</p>
<p>S-6.1 Water Supply. Ensure that water supply systems for development are adequate to combat structural and wildland fires.</p>	<p>The project would ensure fire prevention, protection, and suppression. Specifically, water availability and flow including fire flow and hydrant distribution, would be consistent with DSFPD requirements. These features, along with the ignition resistance of all buildings, interior sprinklers, pre-planning, and training and awareness, would assist responding firefighters.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>S-6.2 Fire Protection for Multi-Story Development. Coordinate with fire services providers to improve fire protection services for multi-story construction. Multi-story structures are associated with densities of 15 to 30 dwelling units per acre— particularly in areas within the County Water Authority (CWA) boundary. Design features may include safe zones and increased building design features.</p>	<p>All habitable structures in the project, whether single story or multi-story and including single-family homes, multi-family homes, and commercial spaces, would be equipped with automatic fire sprinkler systems as is required by the California Building Standards Code. All multi-family and commercial structures would be equipped with an electronically supervised fire alarm and detection system. These requirements are detailed in the project's Fire Protection Plan (FPP), the preparation of which has been coordinated with the fire service provider for the project Site, Deer Springs Fire Protection District (DSFPD). DSFPD and the San Diego County Fire Authority have both approved the project's FPP.</p>	<p>Consistent.</p>
<p>S-6.3 Funding Fire Protection Services. Require development to contribute its fair share toward funding the provision of appropriate fire and emergency medical services as determined necessary to adequately serve the project.</p>	<p>The proposed project would be required to pay all County – and DSFPD – required public facilities impact fees to ensure available adequate fire and emergency medical services for future residents.</p>	<p>Consistent.</p>
<p>S-6.4 Fire Protection Services for Development. Require that new development demonstrate that fire services can be provided that meets the minimum travel times identified in Table S-1 (Travel Time Standards from Closest Fire Station).</p>	<p>DSFPD Station 12 would provide initial fire response to the project Site. A GIS-based travel time coverage modeling effort was conducted to determine if the project meets the General Plan's 5-minute travel time response standard. A route analysis was also performed to determine the best route between a minimum of two points based on the parameters chosen. The analysis includes only response from Station 12 throughout the proposed project and surrounding areas where roads provide access. Modeling results indicate that Station 12 can reach all of the project's neighborhoods within 5 minutes of travel. The available firefighting and emergency medical resources within the project's vicinity include an assortment of fire apparatus and equipment capable of responding to typical potential fires that would occur within and adjacent to the project Site. DSFPD has issued a Will Serve Letter demonstrating that the district has sufficient capacity to serve the project Site.</p>	<p>Consistent.</p>
<p>S-6.5 Concurrency of Fire Protection Services. Ensure that fire protection staffing, facilities and equipment required to serve development are operating prior to, or in conjunction with, the development. Allow incremental growth to occur until a new facility can be supported by development.</p>	<p>The proposed project will pre-pay the County Fire Mitigation Fee pursuant to a Fire Fee Payment Agreement with the DSFPD which would also provide funding beyond the required County Fire Mitigation Fee to augment the DSFPD's capabilities for continued provision of timely service to its primary jurisdictional area, including the project Site. By pre-paying the County Fire Mitigation Fee, the proposed project ensures Fire Station 12 would continue to have the capacity and facilities to serve the project Site and satisfy the General Plan's 5-minute threshold (Appendix N). The final funding amount will be determined in the Fire Fee Payment Agreement, to be completed prior to map recordation per County conditions of approval. The proposed project would be in compliance with applicable portions of the San Diego County Consolidated Fire Code and the Deer Springs Fire Protection District's Ordinance No. 2013-01. The proposed project also would be consistent with the 2013 California Building Code, Chapter 7A, 2013 California Fire Code, Chapter 49, as adopted by San Diego County.</p>	<p>Consistent.</p>
<p>S-7 Reduced Seismic Hazards. Minimized personal injury and property damage resulting from seismic hazards.</p>	<p>To ensure structural integrity, the proposed project would conform to the seismic design requirements outlined within the California Building Code (CBC), which contains universal standards for proper Site preparation and grading practices, adequate design foundation, and guidelines for the appropriate selection and use of construction materials. The County Department of Planning & Development Services enforces the CBC and reviews applications for building permits for compliance with the CBC, local amendments to the CBC, and County Zoning Ordinance Section 87.209. Grading plans would also be reviewed for compliance with state and local standards. Please also see the project's conformance with <i>Guiding Principle 5</i>.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>S-7.1 Development Location. Locate development in areas where the risk to people or resources is minimized. In accordance with the California Department of Conservation Special Publication 42, require development be located a minimum of 50 feet from active or potentially active faults, unless an alternative setback distance is approved based on geologic analysis and feasible engineering design measures adequate to demonstrate that the fault rupture hazard would be avoided.</p>	<p>The project would locate development in areas where the risk to people or resources is minimized. Review of available geologic literature indicates that no known active, potentially active, or inactive faults transect the project. In addition, the project has been designed to avoid development below steeply sloping areas with granitic boulder outcrops where there is a potential for isolated rockfalls to occur. Please also see the project's response to Goal/Policy/Objective S-7 and the project's conformance with <i>Guiding Principle 5</i>.</p>	<p>Consistent.</p>
<p>S-7.2 Engineering Measures to Reduce Risk. Require all development to include engineering measures to reduce risk in accordance with the California Building Code, Uniform Building Code, and other seismic and geologic hazard safety standards, including design and construction standards that regulate land use in areas known to have or potentially have significant seismic and/or other geologic hazards.</p>	<p>Project development would be required to include engineering measures to reduce risk in accordance with applicable California Building Code, Uniform Building Code, the County's Grading Design Manual, and other seismic and geologic hazard safety standards as outlined in the project's final geotechnical report(s) prepared in association with the project's grading and improvement plans.</p> <p>The process of preparing project's grading and improvement plans, and performing project-related grading work and building improvements, including utilities, streets, retaining walls, and the like, are subject to the County's plan check and inspection processes as well as the applicable recommendations contained in the project's final geotechnical report(s). All aspects of grading and horizontal construction are overseen by County as well as geotechnical inspectors to ensure full compliance with state and County requirements and those contained in the final geotechnical report(s).</p> <p>Please also see the response to Goal/Policy/Objective S-7 and the response to <i>Guiding Principle 5</i>.</p>	<p>Consistent.</p>
<p>S-8 Reduced Landslide, Mudslide, and Rock Fall Hazards. Minimized personal injury and property damage caused by mudslides, landslides, or rock falls.</p>	<p>The project would minimize personal injury and property damage caused by mudslides, landslides, or rock falls. Specifically, the project and off-site improvement areas are not within or adjacent to a designated "Landslide Susceptibility Area" (County's Multi-Jurisdictional Hazard Mitigation Plan (2010)). Further, the high-density characteristics of the on-site bedrock materials and lack of a groundwater table result in a low potential for liquefaction in bedrock areas.</p> <p>Notwithstanding these Site geologic characteristics, review of available geologic literature indicates the presence of possible ancient landslide debris on the eastern edge of the Site. This potential landslide area was mapped previously based on its surficial expression along the eastern portion of the Site and extending beneath I-15. The mapped landslide is not in the vicinity of any of the areas proposed for development by the project.</p> <p>Areas that were observed to have potential rockfall hazards that are located within the project's proposed development areas would be subject to requirements to remove boulders and any loose material in conjunction with grading for the pad sites, roadways, and other infrastructure or improvements supporting the project. In situations where removal is not feasible, the hazard may be mitigated by breaking up the rock in place to reduce the potential for dislodgment. This remediation work would be done prior to construction of any structures in downslope areas (see mitigation measure M-GE-4).</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
S-8.1 Landslide Risks. Direct development away from areas with high landslide, mudslide, or rock fall potential when engineering solutions have been determined by the County to be infeasible.	Please see response to Goal/Policy/Objective S-8, above.	Consistent.
S-8.2 Risk of Slope Instability. Prohibit development from causing or contributing to slope instability.	The project is designed to prohibit causing or contributing to slope instability. For example, slope excavation of cut slopes over 10 feet may require blasting. If rock debris remains on the 1:1 (horizontal to vertical) cut slopes, the cut rock slopes may need to be raked/scaled with proper runoff control measures in-place. Cut slopes located within dense rock areas and free of adverse geologic conditions (jointing, fracturing, and weathering) will have an adequate safety factor for both deep-seated and surficial stability. The project's final geotechnical report(s) and Grading Plans will contain detailed requirements for all cut and fill areas within the project based on the specific geotechnical conditions present in each area.	Consistent.
S-9 Protection of Life and Property. Minimized personal injury and property damage losses resulting from flood events.	The project Site is not located within a mapped or designated floodplain and the project has been designed in compliance with the County of San Diego Hydrology Manual and Drainage Design Manual. Post-development runoff flow rates match pre-development flow rates. Thus, the Project development would not result in the placement of any residential uses within a floodplain area. Off-Site improvements to Sarver Lane and Deer Springs Road would eliminate the existing flooding condition that occurs along certain portions of these roads during major rainfall events. Accordingly, the project has prepared a drainage study in compliance with the County Hydrology Manual and a "Preliminary No Rise" analysis in compliance with the County Flood Damage Prevention Ordinance that demonstrates how the project would address this existing substandard condition that results in flooding. Thus, the proposed project's design minimizes personal injury and property damage losses resulting from flood events.	Consistent.
S-9.2 Development in Floodplains. Limit development in designated floodplains to decrease the potential for property damage and loss of life from flooding and to avoid the need for engineered channels, channel improvements, and other flood control facilities. Require development to conform to federal flood proofing standards and siting criteria to prevent flow obstruction.	Please see response to Goal/Policy/Objective S-9, above. The project Site is not located within a mapped or designated floodplain and the project has been designed in compliance with the County of San Diego Hydrology Manual and Drainage Design Manual. Post-development runoff flow rates match pre-development flow rates. Off-Site improvements to Sarver Lane (a public road) and Deer Springs Road (a Mobility Element Road and essential public facility) have been designed to conform to federal flood proofing standards and siting criteria to prevent flow obstruction and to ensure that the project would not contribute to or worsen a downstream flooding condition. While the project would require certain channel improvements for the project's off-Site road improvements, these channel improvements enhance and increase the capacity of existing road side channelize flow areas to safely convey the design flood and conform to federal flood proofing standards. These off-site facilities will be required to comply with the San Diego County Drainage Design Manual, Public Road Standards, and Flood Damage Prevention Ordinance. Prior to issuance of a permit for construction in the floodplain, the project will be required to obtain formal approval from FEMA of the proposed channel improvements and the resultant reduction in the area mapped as floodplain.	Consistent.
S-9.3 Development in Flood Hazard Areas. Require development within mapped flood hazard areas be sited and designed to minimize on and off-site hazards to health, safety, and property due to flooding.	Please see the responses to Goal/Policy/Objective S-9 and S-9.2 above.	Consistent.
S-9.4 Development in Villages. Allow new uses and development within the floodplain fringe (land within	The project Site is not located within any mapped or designated floodway, floodplain, or floodplain fringe; and, thus, no residential uses are placed in any such areas. Certain portions of off-site improvements proposed by the project, including improvements to Sarver Lane and Deer Springs Road, presently reside within the mapped 100-year	Consistent.

Policy	Project Conformance	Conformance Conclusion
<p>the floodplain outside of the floodway) only when environmental impacts and hazards are mitigated. This policy does not apply to floodplains with unmapped floodways. Require land available outside the floodplain to be fully utilized before locating development within a floodplain. Development within a floodplain may be denied if it will cause significant adverse environmental impacts or is prohibited in the community plan. Channelization of floodplains is allowed within villages only when specifically addressed in community plans. A higher level of flexibility for floodplain encroachment within Villages is provided where future growth is planned and where fewer options are available for locating development outside the floodplain.</p>	<p>floodplain and are subject to flooding during major rainfall events. In such cases, the floodwaters can overtop portions of these roads. The project would construct the improvements to these existing facilities to realign and lift these roads out of the floodplain and to eliminate the existing flooding condition (i.e., the overtopping of floodwaters across the road) that occurs. Please see the responses to Goal/Policy/Objective S-9, S-9.2, and S-9.3 above.</p>	
<p>S-9.5 Development in the Floodplain Fringe. Prohibit development in the floodplain fringe when located on Semi-Rural and Rural Lands to maintain the capacity of the floodplain, unless specifically allowed in a community plan. For parcels located entirely within a floodplain or without sufficient space for a building pad outside the floodplain, development is limited to a single family home on an existing lot or those uses that do not compromise the environmental attributes of the floodplain or require further channelization.</p>	<p>Please see response to Goal/Policy/Objective S-9.4, above.</p>	<p>Consistent.</p>
<p>S-9.6 Development in Dam Inundation Areas. Prohibit development in dam inundation areas that may interfere with the County's emergency response and evacuation plans.</p>	<p>The proposed project is not located in a dam inundation area.</p>	<p>Not applicable.</p>

Policy	Project Conformance	Conformance Conclusion
<p>S-10 Floodway and Floodplain Capacity. Floodways and floodplains that have acceptable capacity to accommodate flood events.</p>	<p>The project Site is not located within a mapped or designated floodplain or floodway. Off-Site improvements to Deer Springs Road and Twin Oaks Valley Road have been designed to conform to federal flood proofing standards and siting criteria in compliance with the County Flood Damage Prevention Ordinance and Federal Emergency Management Agency (FEMA) Guidelines and Standards to ensure that the project would not contribute to or worsen a downstream flooding condition. Please see response to Goal/Policy/Objective S-9.2, above.</p>	<p>Consistent.</p>
<p>S-10.1 Land Uses within Floodways. Limit new or expanded uses in floodways to agricultural, recreational, and other such low-intensity uses and those that do not result in any increase in flood levels during the occurrence of the base flood discharge, do not include habitable structures, and do not substantially harm, and fully offset, the environmental values of the floodway area. This policy does not apply to minor renovation projects, improvements required to remedy an existing flooding problem, legal sand or gravel mining activities, or public infrastructure.</p>	<p>Please see response to Goal/Policy/Objective S-10, above. The project Site is not located within a mapped or designated floodplain or floodway. The project's off-Site improvements to Deer Springs Road and Twin Oaks Valley Road would be considered public infrastructure. Nevertheless, these off-Site improvements would be designed consistent with the intent of this policy as is required by the County's Drainage Design Manual and FEMA regulations.</p>	<p>Not applicable.</p>
<p>S-10.2 Use of Natural Channels. Require the use of natural channels for County flood control facilities except where necessary to protect existing structures from a current flooding problem and where natural channel use is deemed infeasible. The alternative must achieve the same level of biological and other environmental protection, such as water quality, hydrology, and public safety.</p>	<p>The project would use natural channels and drainages for County flood control facilities wherever feasible to convey storm water runoff from developed areas, including both on- and off-Site areas. Within project development areas, runoff along and from manufactured slopes would be accommodated with concrete brow ditches in accordance with the County's grading ordinance, however the project would incorporate natural drainage swales and bioretention areas to capture, treat, and detain stormwater runoff prior to this runoff being released into the Site's system of natural drainages. The project's improvements to Deer Springs Road between Sarver Lane and Sycamore Drive would include the creation of a new widened drainage channel along the east side of Deer Springs Road.</p>	<p>Consistent.</p>
<p>S-10.3 Flood Control Facilities. Require flood control facilities to be adequately sized, constructed, and maintained to operate effectively.</p>	<p>The project would ensure that flood control facilities built as part of the project would be adequately sized, constructed, and maintained to operate effectively. Storm water runoff from the project's developed areas and roads, including off-Site improvements to Deer Springs Road and Twin Oaks Valley Road, would be detained in the project's system of stormwater BMPs to remove criteria pollutants and attenuate runoff flowrates for both hydromodification minimization and flood control purposes. As is required by the MS4 Permit, the project would comply with hydromodification requirements to ensure that its hydromodification BMPs would detain post-development flowrates to match those from pre-development conditions. As is required by the County's Drainage Design Manual, the project's stormwater BMPs would be sized and designed to control post-development flowrates to match those from pre-development conditions.</p>	<p>Consistent.</p>
<p>S-10.4 Stormwater Management. Require development to incorporate</p>	<p>The project would incorporate LID features, including preservation of nearly three quarters of the Site's existing natural drainages and terrain, bioswales along roads and within the project's development areas, and disconnecting impervious surfaces. The</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>low impact design, hydromodification management, and other measures to minimize stormwater impacts on drainage and flood control facilities.</p>	<p>project would also include stormwater BMPs to minimize hydromodification of downstream receiving channels and other stormwater BMPs to review criteria pollutants, infiltrate stormwater runoff, and attenuate runoff flowrates prior to runoff being discharges to natural drainages.</p> <p>A Drainage Study, Hydromodification Study, Critical Coarse Sediment Analysis, and a Storm Water Quality Management Plan were prepared to analyze impacts related to water quality, flooding, hydromodification, and sediment supply from stormwater runoff. To that end, the project has been designed to comply with the San Diego Regional Water Quality Control Board requirements for stormwater runoff, discharges, and pollutants as contained in the National Pollution Discharge Elimination System (NPDES) Permit for Municipal Separate Storm Sewer Systems (MS4s), Order Numbers R9-2015-0001 and R9-2015-0100 as well as in compliance with the County of San Diego Hydrology Manual. The project has also completed a "No Rise" flood control analysis related to off-site improvements to Sarver Lane and Deer Springs Road. See also the responses above to COS-4.3 and COS 5 and EIR Section 3.2, Hydrology and Water Quality.</p>	
<p>S-10.5 Development Site Improvements. Require development to provide necessary on- and off-site improvements to stormwater runoff and drainage facilities.</p>	<p>The proposed project proposes drainage facilities that would provide adequate capacity to safely convey stormwater runoff. Please see the responses to Goal/Policy/Objective S-10.2, S-10.3, and S-10.4.</p>	<p>Consistent.</p>
<p>S-10.6 Stormwater Hydrology. Ensure development avoids diverting drainages, increasing velocities, and altering flow rates to off-site areas to minimize adverse impacts to the area's existing hydrology. Increases in velocities and peak flow rates can result in flooding, erosion, and other problems downstream. Decreases can deprive biological resources of a needed water source.</p>	<p>The project would incorporate hydromodification mitigation and peak-flow detention facilities to eliminate adverse impacts to the area's hydrology. Runoff diversion was avoided by balancing the proposed drainage basins with existing drainage basins. Where proposed storm drain systems would discharge to a natural drainage, adequate energy dissipation would be provided (energy dissipation to be sized during final engineering). As is required by the MS4 Permit, the project would comply with hydromodification requirements to ensure that its hydromodification BMPs would detain post-development flowrates to match those from pre-development conditions. As is required by the County's Drainage Design Manual, the project's stormwater BMPs would be sized and designed to control post-development flowrates to match those from pre-development conditions. Please see the responses to Goal/Policy/Objective S-10.2-10.5 above.</p>	<p>Consistent.</p>
<p>S-11.4 Contaminated Lands. Require areas of known or suspected contamination to be assessed prior to reuse. The reuse shall be in a manner that is compatible with the nature of the contamination and subsequent remediation efforts.</p>	<p>To comply with this policy, Phase I and II Environmental Site Assessments prepared for the project informed the analysis of potential environmental impacts. Any areas of suspected contamination would be evaluated and, if necessary, remediated according to all applicable federal, state, and local regulations, including County of San Diego Department of Environmental Health and U.S. Environmental Protection Agency Region 9 standards. Both Phase I ESAs (included as Appendix L of the EIR), concluded that hazardous materials may exist on Site. Depending upon final grading and construction plans, the extent of the lead contamination from the illegal use of the project Site for weapons firing may result in adverse effects. Therefore, impacts would be potentially significant and would be mitigated by soil evaluation (M-HZ-4). Due to the age of the on-site structures at 2733 Sarver Lane, asbestos and lead-based paint are likely to exist within the buildings. Therefore, impacts would be potentially significant. Performing a hazardous materials building survey and, pending results of the survey, implementing an abatement work plan (M-HZ-5), would reduce impacts to less than significant.</p>	<p>Consistent.</p>
<p>S-11.5 Development Adjacent to Agricultural Operations. Require development adjacent to existing agricultural operations in Semi-Rural</p>	<p>Please see the response to Goal/Policy/Objective COS-6.2. The project would provide adequate buffers between its development areas and existing off-Site agricultural uses. Furthermore, the existing off-site agricultural operations consistent of small, family-run avocado and citrus crops which are generally considered compatible with residential land uses. The project's Agricultural Resources Technical Report was completed in accordance with the County's Guidelines for Determining Significance and Report Format and Content Reports for</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<p>and Rural Lands to adequately buffer agricultural areas and ensure compliance with relevant safety codes where pesticides or other hazardous materials are used.</p>	<p>Agricultural Resources (2007) which state that, “[t]he type of agricultural uses surrounding the project Site will affect the degree of agriculture interface conflicts that would be expected to occur. For example, orchard crops such as avocados and citrus are often compatible with residential uses.”</p> <p>Due to the distances from existing operations, intervening hills and topography, and the existing semi-rural environment of the surrounding community, indirect impacts to nearby agricultural operations are not expected to occur. The project’s proposed development would be buffered from the existing off-site active agricultural land uses within the quarter-mile radius and indirect impacts from the conversion of agricultural land would be less than significant.</p>	
<p>S-12 Adequate Law Enforcement Facilities. Timely development of law enforcement facilities in locations that serve the unincorporated areas of the County.</p>	<p>The proposed project’s population growth would increase demands for services necessitating an increase in law enforcement. The project would result in the need for five additional sworn personnel. The project does not propose construction of new law enforcement facilities, nor are new facilities required to serve the project.</p>	<p>Consistent.</p>
<p>S-12.1 New Law Enforcement Facilities. Coordinate new law enforcement facilities and services with new development in ways that sustain the provision of comprehensive services at levels consistent with substantially similar areas of the County.</p>	<p>The project does not propose construction of new law enforcement facilities, nor are new facilities required to serve the project. However, the project would pay a fair share contribution, and combined with fees collected from surrounding developments, would ensure adequate facilities and equipment are provided for local law enforcement.</p>	<p>Consistent.</p>
<p>S-13 Safe Communities. Law enforcement facilities and services that help maintain safe communities.</p>	<p>Please see the response to Goal/Policy/Objective S-12, above.</p>	<p>Consistent.</p>
<p>S-13.1 Sheriff Facility Locations. Locate Sheriff facilities to best serve existing and planned development and the corresponding demand for services.</p>	<p>Please see the response to Goal/Policy/Objective S-12.1 above.</p>	<p>Consistent.</p>
<p>S-13.2 Sheriff Facilities in Non-Residential Areas. Locate future Sheriff facilities in commercial, industrial, or mixed-use areas; they may also be located within residential areas when other sites are unavailable or unsuitable based on circulation, geography, proximity to demand, and other factors that impact the practical provision of services.</p>	<p>The Town Center planning area would include 81,000 square feet of General Commercial use. The proposed project does not specify future uses within the proposed commercial space, and it does not prohibit future Sheriff facilities – see also response to Goal/Policy/Objective S-12.1, above.</p>	<p>Consistent.</p>
<p>S-14 Crime Prevention. Crime prevention through building and site design.</p>	<p>The proposed project provides crime prevention through building and Site design. Specifically, project design encourages clustered buildings to create high-traffic areas and incorporate 360-degree architecture for visibility. The Specific Plan promotes the visibility</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
	and safety principles of Crime Prevention Through Environmental Design, which reduces crime and improves resident quality of life through building and public space design.	
<p>S-14.1 Vehicular Access to Development. Require development to provide vehicular connections that reduce response times and facilitate access for law enforcement personnel, whenever feasible.</p>	<p>The proposed project provides vehicular connections that reduce response times and facilitate access for law enforcement personnel. Specifically, the project would have two primary access roads along Deer Springs Road at Mesa Rock Road and Sarver Lane, with an additional access point at Camino Mayor off of Twin Oaks Valley Road to the north. The primary access road at Mesa Rock Road would be a four-lane entry road with a median that transitions into a four-lane undivided road farther into the project Site. An additional access road (Camino Mayor) would provide residents and emergency vehicles with sufficient access to and from the project. All project access points and internal roadways would conform to County Public Road Standards to facilitate access for law enforcement and emergency responders. All neighborhoods within the project would meet the County's travel time of 5 minutes for fire and emergency response. Please also refer to the project's Fire Protection Plan and the response to Goal/Policy/Objective S-2.</p>	<p>Consistent.</p>
<p>S-14.2 Development Safety Techniques. Require development within Village areas to utilize planning and design techniques, as appropriate, that deter crime. Examples of design features include the following:</p> <ul style="list-style-type: none"> • Avoiding landscaping that might create blind spots or hiding places • Centrally locating open green spaces and recreational uses so that they are visible from nearby homes and streets • Designing streets to discourage cut-through or high-speed traffic • Installing paving treatments, plantings, and architectural design features, such as columned gateways, to guide visitors to desired entrances and away from private areas • Installing walkways in locations safe for pedestrians • Designing lots, streets, and homes to encourage interaction between neighbors • Including mixed land uses that increase activities on the street • Siting and designing buildings oriented for occupants to view streets and public spaces 	<p>The proposed project requires development within Village areas to utilize planning and design techniques that deter crime. As stated in the Specific Plan, visibility and safety would be promoted using the principles of Crime Prevention Through Environmental Design, which is based on design and use of buildings and public spaces to reduce the incidence of crime and improve the quality of life for residents.</p>	<p>Consistent.</p>

Policy	Project Conformance	Conformance Conclusion
<i>North County Metropolitan Subregional Plan</i>		
<p>Goal 1. ACCOMMODATE URBAN DEVELOPMENT IN APPROPRIATE AREAS Because the North County Metropolitan Subregion</p> <ul style="list-style-type: none"> A. is developing rapidly; and B. contains large areas of developable land with many basic urban services available or located nearby. 	<p>The proposed project accommodates development in appropriate areas, with basic urban services available or located nearby. For example, the project Site is located within the CWA boundary, directly west of I-15 and north of Deer Springs Road. The Site is within the service boundary of Vallecitos Water District for water and sewer service, and is within a 5 minutes travel time of Deer Springs Fire Protection District Station 12.</p>	<p>Consistent</p>
<p>Goal 2. ENCOURAGE LOGICAL CITY ANNEXATIONS Because</p> <ul style="list-style-type: none"> A. "spheres of influence" boundaries for all five cities have been adopted to facilitate rational city annexations in the future. <p>ENCOURAGE THE ANNEXATION OF UNINCORPORATED LAND WITHIN EACH CITY'S ADOPTED SPHERE OF INFLUENCE.</p>	<p>The proposed project's development would encourage logical City annexations. The southeastern portion of the project Site is located in the Sphere of Influence of the City of Escondido, and the southern portion of the Site is within the Sphere of Influence of the City of San Marcos. The Site does not physically touch either City's existing municipal boundary. There are properties in between the project Site and the Cities' boundaries that would need to be annexed before annexation was an option for the project Site.</p> <p>Even if the project Site was physically touching the boundary of San Marcos, any benefit to taxpayers/ratepayers that could result from annexation would be speculative because the existing facilities would remain unchanged. Vallecitos Water District would continue to be the provider of sewer and water services; police services would continue to be provided by the County's Sheriff's Department as San Marcos does not have a police department; and fire services would likely continue to be provided by the Deer Springs Fire Protection District (DSFPD)/Cal Fire (e.g., through an out-of-area service agreement or contract with San Marcos) due to the location of the Site and its proximity to existing DSFPD facilities. These same service provider conditions would likely apply in the case of a proposed annexation to Escondido. In light of these factors, the project Site is not a candidate for annexation to either San Marcos or Escondido.</p>	<p>Consistent</p>
<p>Goal 3. PROMOTE AGRICULTURE IN NON-URBAN AREAS Because</p> <ul style="list-style-type: none"> A. a large portion of the unincorporated territory of the Subregion is in some form of valuable agricultural production; and B. agriculture provides economic benefits to County residents. <p>PROMOTE AGRICULTURE BY PROTECTING SEMI-RURAL AND RURAL AREAS FROM URBANIZATION AND INCOMPATIBLE DEVELOPMENT.</p>	<p>The project would promote agriculture in non-urban areas. For example, the project proposes to include two types of neighborhood/Community-scale agriculture uses: over 20 acres of Community gardens and grape vineyards. As such, the project would create agriculture uses on a Site that does not presently support them, thereby contributing to the preservation of agriculture as an integral component of the region's economy, character, and open space network.</p> <p>The project's proposed Community gardens would be integrated into individual neighborhoods to promote sustainable Community-based agriculture. Both the project's residents and the general public could rent or reserve garden plots within these Community gardens, with first priority given to the project's residents. Additionally, on some of the project's more visible slopes within Fuel Modification Zone 1 areas along the edge of certain neighborhoods, productive grape vineyards would be planted and maintained. These productive landscapes would be maintained by the Homeowners' Association and add to the aesthetic appeal of the project's individual neighborhoods. These vineyards would include a variety of species of grapes that are drought tolerant, resistant to wildfire, and thrive in the local microclimate. The vineyards would be expected to produce 3 to 4 tons of grapes per acre.</p> <p>By including the Community gardens and vineyards in the project, the project would increase the amount of agriculture in the region and enhance the availability of locally grown organic food sources, thereby contributing to the preservation of agriculture as an integral component of the region's economy, character, and open space network.</p>	<p>Consistent</p>
<p>Goal 4. PROTECT ENVIRONMENTAL RESOURCES</p>	<p>The project would protect natural and economic resources within the North County Subregion. The project includes a proposed General Plan Amendment that would add the Semi-Rural Regional Category Designation to the project's proposed development areas</p>	<p>Consistent</p>

Policy	Project Conformance	Conformance Conclusion
<p>Because</p> <ul style="list-style-type: none"> A. the Subregion includes scenic rugged terrain, which is not suitable for urbanization; and B. Resource Conservation Areas have been identified to help protect valuable resources throughout the Subregion. <p>PROTECT NATURAL AND ECONOMIC RESOURCES BY DESIGNATING APPROPRIATE LANDS AS RURAL, SEMI-RURAL, AND ENVIRONMENTALLY CONSTRAINED AREAS.</p>	<p>and would replace the Rural Lands Land Use Designation with the more restrictive Open Space-Conservation Land Use Designation for the lands proposed to be preserved and managed in perpetuity as habitat preserve. The project would create a 1,209-acre habitat preserve (61% of the Site) and avoid grading impacts to nearly three quarters of the Site, thereby protecting and preserving a substantial portion of the Site's natural terrain and features, including its prominent geology and rock outcroppings and native habitat. It should also be noted that an additional 212 acres of off-site open space would be preserved, for a total preserve acreage of 1,421 acres (72 percent of the project Site acreage).</p> <p>For more information on how the project would protect the natural and economic resources of the Site and surrounding area, please see the response to <i>Guiding Principle 3</i>.</p>	
<p>LAND USE</p> <p>Policy 1. INCREASE CITY-COUNTY PLANNING COOPERATION</p> <p>Because</p> <ul style="list-style-type: none"> A. cities of the Subregion are closely related to the surrounding area in terms of public services, travel patterns, and community identity; and B. the cities and County are generally agreed on the spheres of influence boundaries, which were adopted by the Local Agency Formation Commission (LAFCO). <p>THE COUNTY WILL COOPERATE IN THE PLANNING AND REGULATING OF GROWTH IN THE UNINCORPORATED TERRITORY WITHIN EACH CITY'S SPHERE OF INFLUENCE. FUTURE COUNTY DECISIONS ON PROPOSED PROJECTS IN THE SPHERE AREAS WILL TAKE EACH CITY'S PLANNING OBJECTIVES INTO CONSIDERATION.</p>	<p>The southeastern portion of the project Site is located in the sphere of influence of the City of Escondido, and the southern portion of the Site is within the sphere of influence of the City of San Marcos. The County has discussed this project with both jurisdictions, and has considered the planning objectives of those cities while reviewing the proposed project. The project applicant has coordinated directly with the City of San Marcos on the planning and design of improvements to Deer Springs Road and Twin Oaks Valley Road as those roads travel to and into the City's jurisdiction.</p>	<p>Consistent</p>
<p>GOVERNMENT STRUCTURE</p>	<p>This policy is not relevant to the proposed project. It provides direction for City/County cooperation regarding annexation incentive programs. Please also see the response to <i>North County Subregional Plan Goal 2</i>.</p>	<p>Not Applicable.</p>

Policy	Project Conformance	Conformance Conclusion
<p>Policy 2. SUPPORT CITY ANNEXATION INCENTIVE PROGRAMS</p> <p>Because</p> <ul style="list-style-type: none"> A. the cities and County are generally agreed that territory within the city spheres of influence should eventually be annexed; and B. pre-annexation improvement plans, which identify city services available to neighborhoods upon annexation, will encourage public support for annexation. <p>SUPPORT CITY ANNEXATION INCENTIVE PROGRAMS FOR EACH CITY WITHIN THE SUBREGION. ASSIST THE CITIES IN PREPARING PRE-ANNEXATION IMPROVEMENT PLANS TO IDENTIFY CITY SERVICES AND FACILITIES THAT WOULD BE INCENTIVES TO PUBLIC SUPPORT FOR ANNEXATION.</p>		
<p>Policy 3. IDENTIFY POTENTIAL COMMERCIAL LOCATIONS</p> <p>Because</p> <ul style="list-style-type: none"> A. identification of the potential commercial use of these sites, if annexed to a city, will serve as an incentive for the property owner to seek annexation in order to realize a more intense use of the property B. these sites should only be developed when sewer service is made available; and C. the relevant city generally concurs that these locations are potentially as described below. <p>THE FOLLOWING ARE IDENTIFIED AS</p>	<p>The project is proposing commercial uses in its Town Center neighborhood. The project proposes a General Plan Amendment to redesignate an area as Village Core Mixed Use that also would allow commercial use. The Town Center is currently within the VWD sewer service area, and sewer service is available.</p> <p>The locations identified in this policy as potential locations for commercial uses if annexed are not applicable to the proposed project.</p>	<p>Not applicable.</p>

Policy	Project Conformance	Conformance Conclusion
<p>POTENTIAL LOCATIONS FOR COMMERCIAL USES IF ANNEXED TO THE CITY: SAN PASQUAL VALLEY ROAD AT BEAR VALLEY PARKWAY - NEIGHBORHOOD SERVING COMMERCIAL USES. GAMBLE LAND (CITRICADO PARKWAY) AT FELICITA ROAD - NEIGHBORHOOD SERVING COMMERCIAL USES. PENDING ANNEXATION, THE COUNTY WILL PERMIT REASONABLE RESIDENTIAL USE OF THESE POTENTIAL COMMERCIAL SITES.</p>		
<p>Policy 4. STUDY AMENDMENT OF COUNTY ROAD AND SIGN STANDARDS Because each city is more likely to annex territory within its sphere if roads and signage are developed consistent with the city's own standards.</p>	<p>This policy does not apply to private development, however the project applicant has coordinated with the City of San Marcos on the planning and design@ of improvements to Deer Springs Road and Twin Oaks Valley Road to ensure that improvements to Deer Springs Road outside the City's boundary will be consistent with the improvements to Deer Springs Road and Twin Oaks Valley Road inside the City's boundary. For example, the proposed travel lane and shoulder widths for Deer Springs Road inside the County match those proposed for Deer Springs Road and Twin Oaks Valley Road inside the City of San Marcos.</p>	<p>Not applicable,.</p>
<p>Policy 7. LIMIT NEW SUBDIVISIONS EXCEEDING ONE DU/ACRE, OTHER THAN WHERE THE LAND USE MAP SHOWS A HIGHER DENSITY – ESCONDIDO Because A. there is a great amount of unincorporated land within the adopted city sphere of influence that is appropriate for urbanization if annexed to the city; B. a one acre minimum lot size requirement would create an incentive for landowners to annex to the city in order to realize higher densities; C. a one acre minimum policy will minimize the creation of new public service demands; and</p>	<p>The proposed project includes a General Plan Amendment that would amend the General Plan Land Use Map such that the project would be consistent with the General Plan and thus is consistent with item (1). In addition, the proposed project has sewers available and can obtain sewer lateral connections to an existing sewer main and thus complies with item (2). The project's Town Center is located within the City of Escondido's sphere of influence and located within the boundaries of VWD's sewer service area. The majority of the Site will require annexation into a sewer improvement district prior to sewer service being available. This is an internal process for VWD and does not require Local Agency Formation Commission (LAFCO) approval.</p>	<p>Consistent</p>

Policy	Project Conformance	Conformance Conclusion
<p>D. exceptions to a one acre requirement can be considered on a case-by-case basis, if sewer service is available or if the vicinity of a proposed project is already fully subdivided or developed.</p> <p>PROHIBIT NEW MAJOR AND MINOR SUBDIVISIONS WITHIN THE ADOPTED ESCONDIDO CITY SPHERES OF INFLUENCE IF THE DENSITY SHOWN ON THE FINAL SUBDIVISION OR PARCEL MAP IS GREATER THAN ONE DWELLING UNIT PER GROSS ACRE, UNLESS: (1) CONSISTENT WITH THE GENERAL PLAN LAND USE MAP; OR (2) THE PROPOSED PROJECT HAS SEWERS AVAILABLE AND CAN OBTAIN SEWER LATERAL CONNECTIONS TO AN EXISTING SEWER MAIN, IN WHICH CASE THIS POLICY SHALL NOT APPLY TO THE PROPERTY.</p>		
<p>AGRICULTURE Policy 8. PROMOTE AGRICULTURE - OUTSIDE CITY SPHERES</p> <p>Because</p> <ul style="list-style-type: none"> A. agriculture is an important commercial activity in the North County Metropolitan Subregion and valuable commercial crops are being raised; B. row crops and nursery production are common to the maritime area climate, while orchards are scattered throughout the eastern portion of the Subregion. C. certain areas have viable commercial 	<p>This policy applies to the County and not private development. However, the project is consistent with the policy's intent because the project: (1) proposes Semi-Rural and Rural Regional Categories for all development areas outside the Village designation, including those areas of the project Site outside the Sphere of Influence of the City of San Marcos; (2) incorporates Community-scale agricultural uses, including Community gardens and vineyards within project neighborhoods, thereby increasing the amount of agriculture in the North County Metropolitan Subregion, enhancing the availability of locally grown organic food sources, and contributing to the agricultural preservation as an integral component of the region's economy, character, and open space network (please see the response to the <i>North County Metropolitan Subregional Plan Goal 3</i> above); and, (3) provides appropriate buffers between the project's development areas and off-Site existing agricultural uses.</p> <p>Finally, due to the surrounding terrain the off-site agricultural uses are limited to citrus and avocado groves. The County's Guidelines for Determining Significance and Report Format and Content Reports for Agricultural Resources (2007) states that, "[t]he type of agricultural uses surrounding the project Site will affect the degree of agriculture interface conflicts that would be expected to occur. For example, orchard crops such as avocados and citrus are often compatible with residential uses."</p> <p>Therefore, in light of these considerations, the project would be consistent with the intent of this policy to limit the intrusion of incompatible land uses from existing agricultural lands.</p>	<p>Consistent</p>

Policy	Project Conformance	Conformance Conclusion
<p>agriculture and soil; climate and other conditions are favorable for continuing success; and low density Land Use General Plan Designations can be applied to protect agriculture in these outlying and undeveloped locations.</p> <p>DESIGNATE THE TWIN OAKS VALLEY (PORTION OUTSIDE SAN MARCOS SPHERE) AS SEMI-RURAL AND RURAL LANDS REGIONAL CATEGORIES. THESE DESIGNATIONS WILL LIMIT THE INTRUSION OF INCOMPATIBLE LAND USES FROM EXISTING AGRICULTURAL LANDS.</p>		
<p>Policy 13. SEWER SERVICE</p> <p>13. IMPROVE SEWER SERVICE WITHIN THE URBAN AREA</p> <p>Because</p> <ul style="list-style-type: none"> A. many areas throughout the Subregion have experienced septic tank failures and the problem is especially critical in the fringe areas around Escondido and Vista, where the cumulative impact of residential development is causing this problem to worsen over time; and B. need for sewer service will expand greatly as growth continues, particularly within the County Water Authority (CWA) boundary. <p>WHEREVER FEASIBLE, PROVIDE SEWER SERVICE INSIDE THE CWA BOUNDARY AND TO</p>	<p>The project would improve sewer service. The project is located inside the CWA boundary and sewer service will be provided by the Vallecitos Water District to the project Site. Existing land uses (such as the gas station) within the vicinity of the project and adjacent to the sewer system to be built with the project will have the ability to connect to the expanded sewer system.</p>	<p>Consistent</p>

Policy	Project Conformance	Conformance Conclusion
<p>EXISTING DEVELOPED AREAS OUTSIDE THE CWA BOUNDARY, WHERE HIGH RATES OF SEPTIC TANK FAILURES HAVE BEEN EXPERIENCED.</p>		
<p>Policy 14. DESIGNATE RESOURCE CONSERVATION AREAS Because</p> <ul style="list-style-type: none"> A. it is County policy to protect and manage environmental resources in order to maintain them for future needs; and B. an initial inventory of valuable resources has been completed (refer to Appendix). <p>THE RESOURCE CONSERVATION AREA (RCA) DESIGNATION IS APPLIED TO PROTECT SENSITIVE BIOLOGICAL, ARCHAEOLOGICAL, AESTHETIC, MINERAL, AND WATER RESOURCES. PROJECTS REQUIRING ENVIRONMENTAL ANALYSIS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) THAT OCCUR WITHIN RESOURCE CONSERVATION AREAS SHOULD BE CAREFULLY ANALYZED TO ASSESS THEIR IMPACT ON THE RESOURCE CONSERVATION AREA.</p>	<p>The County previously designated a significant portion of the project Site as a Resource Conservation Area. Much of the RCA will be folded into the proposed North County Multiple Species Program in the process of that plan moving forward.</p>	<p>Consistent</p>

Policy	Project Conformance	Conformance Conclusion
<p>Policy 15. DIRECT COUNTY RESOURCES TOWARD PARKLAND ACQUISITION AND DEVELOPMENT</p> <p>Because</p> <ul style="list-style-type: none"> A. priority to acquisition and development protects good park locations from alternative development; and B. acquisition and development by the County facilitates annexation of the park by the city, which is the appropriate entity to manage a recreation program for that locality. <p>DIRECT COUNTY RESOURCES TOWARD PARK LAND ACQUISITION AND DEVELOPMENT; PARK SITES WITHIN AN ADOPTED CITY SPHERE OF INFLUENCE SHOULD BE ANNEXED AND SUBSEQUENTLY OPERATED AND MAINTAINED BY THE CITY. WHEN FEASIBLE, CITY ANNEXATION, OPERATION, AND MAINTENANCE SHOULD BE A REQUIREMENT OF CITY-COUNTY JOINT POWERS PARK AGREEMENTS.</p>	<p>This policy is not directed to private development; however, the applicant has worked with the Parks Department to provide parkland in compliance with the Park Land Dedication Ordinance (PLDO). Please see the responses to Goal/Policy/Objective COS-21, COS-21.1, COS-21.2, COS-21.3, COS-21.5, COS-22, COS-24.</p>	<p>Not Applicable.</p>
<p>Policy 18. IMPLEMENTATION ADOPT GENERAL PLAN CATEGORIES</p> <p>Because</p> <ul style="list-style-type: none"> A. the North County Metropolitan Subregional Plan, as part of the County General Plan, must conform to the County General Plan; and B. the Land Use Element contains a full description of the Land Use Designations that will be used to implement each of the 	<p>The policy is directed at the County's adoption of General Plan land use designations.</p>	<p>Not Applicable.</p>

Policy	Project Conformance	Conformance Conclusion
<p>County's Community and Subregional plans.</p> <p>THE LAND USE DESIGNATIONS CONTAINED IN THE LAND USE ELEMENT ARE HEREBY ADOPTED BY REFERENCE AND WILL BE USED TO IMPLEMENT THIS SUBREGIONAL PLAN.</p>		
<p>The North County Metropolitan Subregional Plan also has a description of the existing Specific Plans within the boundaries of the subregion. The project should also include an amendment to the subregional plan to include a brief description of the proposed project after Chapter 6.</p>	<p>Upon approval of a General Plan Amendment, a brief description of the proposed project will be included in the North County Metropolitan Subregional Plan.</p>	
<p>The North County Metropolitan Subregional Plan has two figures provided in Appendix A. These figures may need to be amended to account for the proposed project.</p>	<p>Figure 1 of the North County Metropolitan Subregional Plan will not need to be revised because the project would not amend the boundaries of the North County Metropolitan Subregional Plan area. Figure 3, North County Metropolitan Subregional Plan Village Boundaries, will remain the same; therefore, Figure 3 will not be amended.</p>	

**Attachment D-
PUBLIC DOCUMENTATION**

(Full copies of the letters in this attachment including the noted enclosures can be viewed at 5510 Overland Avenue, San Diego CA 92123 or can be provided upon request by contacting Ashley Smith at ashley.smith2@sdcounty.ca.gov)

Final Minutes: April, 20th, 2016 meeting of the
TWIN OAKS VALLEY COMMUNITY SPONSOR GROUP

Roll Call and Advisory Role Statement

Chairman Tom Kumura called the meeting to order. Present: Tom Kumura (Chair), Karen Binns (Co-Vice Chair), Erik Chapman (Co-Vice Chair), Sandra Farrell, Rob Peterson, and Colleen Branin.

Tom Kumura read the Advisory Role Statement and Public Forum statement.

Review/Approval of Minutes: Approval of March 16th 2016 Meeting Minutes (6-0-0)

Public Communications:

A community member stated that she would like the sponsor group to re-address the adjustment of the boundary areas that the Twin Oaks Sponsor Group represents. She felt that some areas south of Santa Fe and 78 should not be considered because of the differences in those areas. Chair Tom Kumura informed her that there was a letter written to recommend 3 areas to be added to the Sponsor Group's boundary area.

Action Items:

1. **Road Conditions in TOVCSG and immediate surrounding area (i.e. Buena Creek Road, Deer Springs Road).** Members of the community have received communication from the County that the Sponsor Group needs to produce a priority list of road repair projects. Sandra Farrell addressed the members of the community and asked for suggestions of needed road repairs in the Twin Oaks Valley area. **Action Item. Motion** was made to submit the list of specific repairs to the county and have a county member come out and look at the roads. **Motion was passed 6-0-0**
2. **Newland Sierra Project (2,135 residential units on 1,983 acres). PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ-15-001, & PDS2015-TM-5591; North of Deer Springs Road, east of North Twin Oaks Valley Road and west of Interstate 15; APNs: 172-091-07, 172-220-14, 16, & 18, 174-190-12, 13, 20, 41, 43, & 44, 174-210-01, 05, 07, 08, 11, 12, 17, & 18, 174-211-04, 05, 06, & 07, 174-280-11 & 14, 174-290-02, 178-100-05 & 26, 178-101-01, 16, 17, 25 through 28, 178-221-09, 182-040-36 & 69, 186-250-13, 186-611-01, 07 through 09, 11, 14 through 17 & 23, and 187-540-49 through 51; San Diego County is currently reviewing a resubmittal for the Newland Sierra project, including their Specific Plan, Tentative Map and Preliminary Grading Plan. The resubmitted documents can be found at [http://www.sandiegocounty.gov/content/sdc/pds/Current Projects/newlandsierra.html](http://www.sandiegocounty.gov/content/sdc/pds/Current%20Projects/newlandsierra.html). SD County PDS has updated their website to include the corrected Preliminary Grading Plan: <http://www.sandiegocounty.gov/content/dam/sdc/pds/regulatory/docs/newlandsierra/Preliminary%20Grading%20Plan%205597%2001.22.16.pdf>; Specific Plan: http://www.sandiegocounty/content/dam/sdc/pds/docs/Newland%20Sierra%20Sierra%20Specific%20Plan_1_25_16_CLEAN.pdf; Tentative Map : <http://www.sandiegocounty.gov/content/dam/sdc/pds/docs/TM%205597%2001.22.16.pdf>; Preliminary Grading Plan: <http://www.sandiegocounty.gov/content/dam/sdc/pds/docs/Preliminary%20Grading%20Plan%205597%2001.22.16.pdf>. Contacts: Linda Bailey, President Community Strategies Group, Inc. linda@communitystrategiesgroup.com; (760)-455-1323; Ashley Smith, Land Use/Environmental Planner, Ashley.Smith2@sdcounty.ca.gov; (858)-495-5375**

Vice Co-chair Karen Binns and Rob Peterson recused themselves because their personal properties may be affected by the Newland Sierra project.

Newland Sierra made a detailed power point presentation. Members of their team and County representatives answered many questions from the community. Questions from the community included water concerns, traffic and road conditions, evacuation plans, security, easements, parks and park fees, schools, Native American sites, and land use.

Chairman Kumura asked the audience to raise their hand if they had concerns regarding the overall density proposed for the project and the vast majority of the approximately 70 community members raised their hands and expressed concern

In addition, there were at least three people who expressed their support for the project noting the need for affordable housing and overall appreciation for the design and layout of the project.

Newland Sierra announced they will be opening an office in San Marcos to allow people to stop in and speak with representatives and to address their questions and concerns. The office will be located at 100 E. San Marcos Blvd 4th floor. You may also contact: lbailey@newlandco.com
Linda Bailey, Community Relations Coordinator, 760.445.1323

Additional information can be found at <http://www.newlandsierra.com/> to include many FAQ's.

Action Item. Motion was made to **not** support the Newland Sierra project until the Sponsor Group gets more information to include the Environmental Impact Report. **Motion was passed (4-0-2)**

GROUP BUSINESS

1. Meeting Updates: Next Meeting will be May 18th, 2016

Chairman Kumura adjourned the meeting at 9:15 p.m.

Respectfully Submitted, Colleen Branin, Secretary

Final Minutes: 21 September, 2016 meeting of the
TWIN OAKS VALLEY COMMUNITY SPONSOR GROUP

Roll Call and Advisory Role Statement

Chairman Tom Kumura called the meeting to order. Present: Karen Binns (Co-Vice Chair), Sandra Farrell, Rob Peterson, Colleen Branin, and Ana Rosvall. Erik Chapman arrived late.

Chairman Tom Kumura read Advisory Role Statement and Public Forum statement.

Review/Approval of Minutes: Approval of July 2016 Meeting Minutes (6-0-0) **Approval of August 2016 Meeting Minutes (6-0-0)**

Public Communications: Community members spoke on various topics.

- Claudia Hunsaker spoke about the Vallecitos Water District elections. Mr. Hunsaker is running in the current elections for the board of the Water district. He is concerned with water for new developments at the expense of others.
- Stephanie from the Golden Door mentioned there is a meeting at the Vallecitos Water District on Oct 5th
- Zachery from Loan Oak Dr mentioned the property that was approved for 24 houses off Lone Oak Dr. was listed for sale.
- Lindsey from Buena Creek presented a letter she received from Mr. Nick Ortiz about a Planning Commission meeting planned for 4 Nov 16. (There will be a presentation on the General Plan Mobility Element. The meeting will touch on public road improvements and the current status of available funding for public road improvements. The Planning and Development Services is targeting Twin Oaks Valley for a Community Plan Update sometime next year. The CPU will provide local residents with a forum to identify issues and determine the goals and policies to guide the future development of their communities. Lindsey would like to meet with Mr. Ortiz before the Nov 4th meeting and wanted to see if others were available to meet with him also.
- Andrew from the Golden Door spoke on greenhouse gasses. In 2011 the County adopted an approach to analyze greenhouse gasses. The Sierra Club filed a lawsuit to throw out the greenhouse gas guidance. If the Sierra Club wins the lawsuit it could change the approach Newland Sierra uses for their Environmental Impact Report (EIR).
- Ana mentioned a new App for your phone called Access Vista. The App will allow you to make contact with the city of Vista to report concerns like speeding, traffic, and parking. The information will go directly to the correct department.

Action Items:

1. Crime Prevention, Buena Creek/Deer Springs Road Traffic Issues: Brandy Contreras, San Diego County Sheriffs, Crime Prevention Specialist will give a short presentation; 760-751-4408; contreras@sdsheriff.org. Discussion

Brandy Contreras spoke about crime in the area and services offered.

- If a resident would like a drive through or a vacation check of your property by senior volunteers please complete a form online.
- Most home crimes occur during the day. Call the non-emergency line if you are suspicious of anything. Try to get a license plate number but do not put yourself in danger.
- There is a map online which defines the boundaries of allowed weapons shooting on your property. If you hear illegal shooting call into the dispatcher.
- Officer Chris Perratt from the CHP spoke and said the CHP is very understaffed statewide and has difficulties recruiting quality trainees. The CHP is working hard to cover a 1200 sq mile

area, so there may be times they are delayed. However, they can call on the Sherriff to assist if an immediate emergency arises. If you see anything you would like to report you can email cops9650@gmail.com. Officer Perrat will personally reply to your email and concerns and encourages you to email him.

Action item: none

2. Third Party Analysis of Newland Sierra's Proposed Widening of Deer Springs Road. John Prince, Partner and Principal Engineer, DELANE Engineering, Inc. gave a presentation regarding the Golden Door's commissioned report, "Impact Analysis for Newland's Proposed Deer Springs Road Widening Technical Memo and Exhibits, August 29, 2016". 619-787-5566; Jprince@delanegroup.com. Karen Binns and Rob Peterson recused themselves. Discussion

- Andrew Yancy representing the Golden Door spoke on the Golden Door's opposition to the Newland Sierra plan for the widening of Deer Springs Road. The Golden Door hired DELANE engineering to study the impacts of widening and review Newland Sierra's plan for feasibility. The Golden Door feels there are more impacts than the Newland Sierra reports shows and would like them to consider an alternate road within the Newland Sierra property.
- John Prince from DELANE Engineering gave a power point presentation showing the potential impacts of widening Deer Springs Road are greater than shown on Newland's publicly available preliminary grading plan.
- Newland and the County have not provided any analysis or plans for the proposed 6-Lane buildout of Deer Springs Road.
- Newland has only provided grading plans for the proposed 4-lane Phase 1 design for Deer Springs. Those plans contains several discrepancies and do not identify specific impacts.
- Caltrans and Newland are working to re-design the I-15/Deer Springs Road interchange but have not provided the public with their design or the resulting impacts. Caltrans plans to process the interchange re-design as a separate project which will not be included in the County's consideration of Newlands proposal, even though the interchange alignment will impact traffic flow and Deer Springs alignment.
- DELANE highlighted the inconsistencies of storm water runoff, drainage, cut slopes. A 6-lane buildout would require 155% more grading and 78% more property impacts than are apparent on the Newlands preliminary grading plan. A 4-lane buildout would require 60% more grading and 36% more property impacts than are apparent on the Newlands preliminary grading plan.
- More potential impacts to private property and the community such as fences, gates, driveways, parking and structures.
- Additional impacts to the community are large cut slopes and retaining walls along Deer Springs Road, and increases in noise, biological and tribal cultural impacts around Deer Springs Road.
- DELANE report identifies numerous discrepancies in Newland's reports and would like Newland to fully analyze an alternative route for a major road through their own property. **Action Item. None**

GROUP BUSINESS

1. Meeting Updates: Next meeting will be 19 October, 2016

2. December meeting **may** be cancelled due to the holidays.
3. Letter sent to BOS regarding Quintessa planting along its western slope.

Chairman Tom Kumura adjourned the meeting at 9:15 p.m.

Respectfully Submitted, Colleen Branin, Secretary

Final Minutes: June 14th, 2017 meeting of the
TWIN OAKS VALLEY COMMUNITY SPONSOR GROUP

A. Roll Call and Advisory Role Statement

Tom Kumura called the meeting to order. Present: Tom Kumura (Chairman), Karen Binns (Co-Vice Chair), Rob Peterson (Co-Vice Chair), Colleen Branin, Ana Rosvall and Sandra Farrell. Absent: Erik Chapman.

Tom Kumura read the Advisory Role Statement and Public Forum statements.

**B. Review/Approval of Minutes: Approval of the May 2017 Meeting minutes.
Motion Sandra Farrell, second Karen Binns. Passed 5-0-1**

C. Public Communications: Community members spoke on various topics.

Claudia Huntsecker announced the Twin Oaks Property Owners meeting on 7/23/17, 2-4 pm at the San Marcos Historical Society, Walnut Park. Please join the Property Owners for BBQ from Dickey's and to elect officers.

Ana Rosvall announced the County will hold a meeting about Country Estates on 6/21/17, 0900 at the SD County Building for final approvals.

D. Action Items:

1. **San Diego County Planning and Development Services anticipates release of the Draft Environmental Impact Report (EIR) for Newland Sierra Project (2,135 residential units on 1,983 acres) to be released soon (June 15, 2017). PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ-15-001, & PDS2015-TM-5591; North of Deer Springs Road, east of North Twin Oaks Valley Road and west of Interstate 15;** APNs: 172-091-07, 172-220-14, 16, & 18, 174-190-12, 13, 20, 41, 43, & 44, 174-210-01, 05, 07, 08, 11, 12, 17, & 18, 174-211-04, 05, 06, & 07, 174-280-11 & 14, 174-290-02, 178-100-05 & 26, 178-101-01, 16, 17, 25 through 28, 178-221-09, 182-040-36 & 69, 186-250-13, 186-611- 01, 07 through 09, 11, 14 through 17 & 23, and 187-540-49 through 51; Contacts: Linda Bailey, President Community Strategies Group, Inc. linda@communitystrategiesgroup.com; (760)-455-1323; Mark Slovick, Planning Manager, San Diego County PDS, Mark.Slovick@sdcounty.ca.gov; (858)-495-5172; TOVCSG will discuss assigning individual members to review particular portions of the EIR. The County plans to hold a public meeting approximately 3 to 4 weeks into the 60 days public review period. **Discussion: Karen Binns and Rob Peterson recused themselves.** The release of the EIR was discussed. The county public meeting is scheduled on July 18, 2017 at the San Marcos Community Services Department, Community Hall, located at 3 Civic Center Drive, San Marcos, CA 92069 at 6:00 p.m. It is a public workshop held by the county to discuss the EIR and answer community questions and concerns. Newland Sierra will be there but not answering questions, since it is a county meeting. The EIR will have a 60 day public review period and the comment period goes until August 14, 2017. The draft EIR is available on the County's website at <http://www.sandiegocounty.gov/content/sdc/pds/ceqa/SP-15-001/NSDEIR.html>. For additional information on this project, please contact the County Project Manager Ashley Smith at (858) 495-5375 or by e-mail at Ashley.Smith2@sdcounty.ca.gov. **Please send all comments to Ashley.Smith2@sdcounty.ca.gov before 4 p.m. on 8/14/17.** Tom Kumura recommended the sections be divided up. Sandra Farrell offered to review the water quality and biology sections. Buena Creek subcommittee will review the traffic section. Mike Hunsaker discussed Vallecitos water restrictions and offered to review the water section. Clifton Williams, Latham & Watkins LLP, representing the Golden Door will review the EIR. He addressed the group and emphasized land use and recommends the BOS not change the land use designation. He will scrutinize the traffic section and historical Indian burial grounds. There is a requirement for the county to respond to comments in written format, so it is suggested to point out how the Newland Sierra

development will impact you personally in a written letter. The Hidden Valley Zen Center located on Sarver Lane would like a special study to review the traffic and noise impacts on their Center. **ACTION ITEM:** Ask County to have a special meeting in early August and invite Newland Sierra and the County to attend. Ana Rosvall motioned, Colleen Branin 2nd. Passed 4-0-0 with Binns & Peterson recusing.

2. Update regarding Landscaping and other issues regarding the Quintessa Project;

Discussion: No updates. **Action Item:** None

E. Group Business:

1. **Announcements and correspondence:** None
2. **Subcommittee Reports:** The subcommittee will report next month, July 19th, 2017
3. **Meeting Updates:** The next meeting will be held on July 19th, 2017.

Adjournment: Tom Kumura adjourned the meeting at 7:35p.m.

Respectfully Submitted,
Colleen Branin, Secretary

Final Minutes: July 19th, 2017 meeting of the
TWIN OAKS VALLEY COMMUNITY SPONSOR GROUP

A. Roll Call and Advisory Role Statement

Tom Kumura called the meeting to order. Present: Tom Kumura (Chairman), Karen Binns (Co-Vice Chair), Colleen Branin, Ana Rosvall and Sandra Farrell. Absent: Rob Peterson, Erik Chapman (Co-Vice Chair).

Tom Kumura read the Advisory Role Statement and Public Forum statements.

**B. Review/Approval of Minutes: Approval of the June 2017 Meeting minutes.
Motion Karen Binns, second Tom Kumura. Passed 5-0-0**

C. Public Communications: Community members spoke on various topics: Mike Hunsaker spoke about Vallicitos Water Districts support for the Newland Sierra project and the estimated 36% conservation does not include all projects in the San Marcos area.

D. Action Items:

- 1. San Diego County Planning and Development Services is circulating for public review the Draft Environmental Impact Report (DEIR) for Newland Sierra Project (2,135 dwelling units, 81,000 square feet of commercial use, parks, trails, a 6-acre school site and 1,209 acres of dedicated biological open space on 1,983 acres) bounded by Interstate (I-15) on the east, Deer Springs Road (County Road S12) on the south, and Twin Oaks Valley Road on the west, with a small portion of the northwest edge of the site traversed by Twin Oaks Valley Road. The majority of the Project is located within the Twin Oaks Community of the North County Metropolitan Subregional Plan area and a portion within the Bonsall Community Planning area, all within the unincorporated area of San Diego County. NEWLAND SIERRA, LOG NO. PDS2015-ER-15-08-001; PROJECT NUMBERS: PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ-15-001, PDS2015-TM-5597, PDSXXX-HLP-XXX with PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ-15-001, & PDS2015-TM-5591; North of Deer Springs Road, east of North Twin Oaks Valley Road and west of Interstate 15; APNs: 172-091-07, 172-220-14, 16, & 18, 174-190-12, 13, 20, 41, 43, & 44, 174-210-01, 05, 07, 08, 11, 12, 17, & 18, 174-211-04, 05, 06, & 07, 174-280-11 & 14, 174-290-02, 178-100-05 & 26, 178-101-01, 16, 17, 25 through 28, 178-221-09, 182-040-36 & 69, 186-250-13, 186-611- 01, 07 through 09, 11, 14 through 17 & 23, and 187-540-49 through 51; Contacts: Ashley Smith, Planning Manager, San Diego County PDS, (858) 495-5375 Ashley.Smith2@sdcounty.ca.gov; The DEIR documents can be viewed at http://www.sdcounty.ca.gov/pds/ceqa_public_review.html. Written comments and questions regarding the DEIR are due to Ashley.Smith2@sdcounty.ca.gov by 4:00 pm, August 14, 2017.**

Discussion: Karen Binns recused herself.

The release of the EIR was discussed. San Diego County, The Golden Door and Newland Sierra were invited to speak. The County did not attend. Linda Bailey from Newland Sierra said they gave a presentation in April 2016 and said that nothing has changed with the project since then, so there will be no presentation at this time. They

will work through the written comments to the DEIR and will have a presentation when all the comments have been replied to.

Andrew Yancy with Latham and Watkins LLP, representing the Golden Door and went over some areas of the EIR that they oppose. 1.) A General Plan amendment will be required to increase the density over the allowed 99 homes because this project is not in compliance with the General Plan. The density increase will be the equivalent of the population of the City of Del Mar. Latham and Watkins believes a 99 home alternative should also be presented in the draft EIR. 2.) It is a 10 year construction plan and the commercial area will be the last area to be developed. 3.) Traffic will increase significantly with over 28,862 new car trips each day. If you take the accumulation of all projects in the area, traffic will increase by 43%. There is no design for an interchange at Deer Springs Rd and I-15. 4.)The Hidden Valley Zen Center located on Sarver Lane would like a special study to review the traffic and noise impacts on their Center. 5.) Water, there is a 36% deficit over and above the previous conservation efforts. 6.) The project is in a "Very High Fire Hazard Severity Zone". Is there an acceptable fire evacuation plan to include horse trailers? 7.) Wildlife, the project will hinder wildlife movement corridors and the draft EIR does not address it sufficiently.

The TOV Sponsor Group would like to hold a special meeting on August 2nd and cancel the August 16th meeting. This will allow members to bring their written questions and comments and a letter on behalf of the Sponsor Group will be submitted prior to the August 14, 2017 deadline. **ACTION ITEM:**

Motion: The TOV Sponsor Group would like to deny the project for the following reasons: there are too many immitigable impacts to include traffic, water, community impacts, fire, pollution (both light and noise pollution), and school impacts. In addition we do not support a project that will upend the General Plan in our area. Sandra Farrell motioned, Ana Rosvall seconded. Passed 4-0-0. (1 recusal, Binns)

Motion: Hold a special meeting on August 2nd and cancel the August 16th meeting. Tom Kumura motioned and Sandra Farrell seconded. Passed 4-0-0. (1 recusal, Binns)

2. Update regarding Landscaping and other issues regarding the Quintessa Project;

Discussion: Lindsey met with Jarrett. He told Meritage to install more plants and he will revisit the project to view the embankment. The subcommittee would like to postpone meeting until October. **Action Item:** None

E. Group Business:

- 1. **Announcements and correspondence:** None
- 2. **Subcommittee Reports:** The subcommittee will meet again in October
- 3. **Meeting Updates:** The next meeting will be held on August 2nd, 2017.

Adjournment: Tom Kumura adjourned the meeting at 8:30 p.m.

Respectfully Submitted,
Colleen Branin, Secretary

Final Minutes: August 2nd, 2017 Special meeting of the
TWIN OAKS VALLEY COMMUNITY SPONSOR GROUP

A. Roll Call and Advisory Role Statement

Tom Kumura called the meeting to order at 7:10pm. Present: Karen Binns (Co-Vice Chair), Colleen Branin, Ana Rosvall and Sandra Farrell. Absent: Rob Peterson and Erik Chapman (military leave).

Tom Kumura read the Advisory Role Statement and Public Forum statements.

B. Review/Approval of Minutes: Approval of July 2017 Meeting minutes.

Sandra motioned, Tom seconded. **Passed 5-0-0**

C. Public Communications: Community members spoke on various topics.

It was noted Vallecitos Water district mailed a brochure to notify of water price increases. Water uses were discussed and pricing dependent on meter size.

Claudia Hunsacker stated she has “keep it rural” t-shirts and totes available for sale.

D. Action Item: San Diego County Planning and Development Services is circulating for public review the Draft Environmental Impact Report (DEIR) for Newland Sierra Project (2,135 dwelling units, 81,000 square feet of commercial use, parks, trails, a 6-acre school site and 1,209 acres of dedicated biological open space on 1,983 acres) bounded by Interstate (I-15) on the east, Deer Springs Road (County Road S12) on the south, and Twin Oaks Valley Road on the west, with a small portion of the northwest edge of the site traversed by Twin Oaks Valley Road. The majority of the Project is located within the Twin Oaks Community of the North County Metropolitan Subregional Plan area and a portion within the Bonsall Community Planning area, all within the unincorporated area of San Diego County. NEWLAND SIERRA, LOG NO.

PDS2015-ER-15-08-001; PROJECT NUMBERS: PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ-15-001, PDS2015-TM-5597, PDSXXXX-HLP-XXX with PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ-15-001, & PDS2015-TM-5591; North of Deer Springs Road, east of North Twin Oaks Valley Road and west of Interstate 15; APNs: 172-091-07, 172-220-14, 16, & 18, 174-190-12,13, 20, 41, 43, & 44, 174-210-01, 05, 07, 08, 11, 12, 17, & 18, 174-211-04, 05, 06, & 07, 174-280-11 & 14, 174-290-02, 178-100-05 & 26, 178-101-01, 16, 17, 25 through 28, 178-221-09, 182-040-36 & 69, 186-250-13, 186-611- 01, 07 through 09, 11, 14 through 17 & 23, and 187-540-49 through 51; Contacts: Ashley Smith, Planning Manager, San Diego County PDS, (858) 495-5375 Ashley.Smith2@sdcounty.ca.gov;

The DEIR documents can be viewed http://www.sdcounty.ca.gov/pds/ceqa_public_review.html
Written comments and questions regarding the DEIR are due by 4:00 pm, August 14, 2017 to Ashley.Smith2@sdcounty.ca.gov.

Written questions/comments from the community regarding the DEIR will be accepted and put into a letter from the TOVCSG.

Discussion: Karen Binns recuse herself. There was still a quorum with 4 members. Tom Kumura wrote a letter requesting to extend the deadline for comments to the DEIR to 90 days. Areas of concern with the DEIR were discussed and subcommittees were formed to write comments.

Some of the areas requesting to be addressed:

Concessions with the General Plan and Conservation Subdivision Plan.

Wildlife corridors

Indian burial grounds and vernal pools

Drainage easements and construction easements.

Mello-Roos-How much will they be to home owners, and what will the fees cover?

Camino Major Road- is a concern because it is planned to be used as an exit, but the rights to use are still in progress. The plan for evacuation and signaling needs to be clarified.

Road impacts-There is no discussion on the sprinter crossing on Buena Creek Rd. even though there will be a greater impact on Buena Creek Rd. The impacts on Farley Rd are very significant but not addressed. There needs to be new traffic studies of those intersections.

Schools-The school districts of Escondido and San Marcos are over enrolled. Is funding adequate to accommodate all future students?

Parks- who pays for parks and who will have access?

Emissions- Rock crushing will continue for 5 years

Community members are requested to write comments to the county with their concerns on the DEIR to Ashley.Smith2@sdcounty.ca.gov by 4:00 pm, August 14, 2017.

Action Item. MOTION was made by Tom Kumura. Ask the County on behalf of TOV Sponsor group to extend an additional 45 days for comment period. **PASSED: 4-0-0**

E. GROUP BUSINESS

1. Announcements and Correspondence: none
2. Subcommittee Buena Creek Road Report: Will meet in October
3. Tentative Meeting (TBD): August 16, 2017. Cancelled
4. Regular Meeting: September 20, 2017 unless the DEIR is extended

F. ADJOURNMENT Tom Kumura adjourned the meeting at 9 p.m.

Respectfully Submitted, Colleen Branin, Secretary



County of San Diego, Planning & Development Services
**COMMUNITY PLANNING OR SPONSOR
GROUP PROJECT RECOMMENDATION**
ZONING DIVISION

Record ID(s): PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ-15-00

Project Name: Newland Sierra Project - DEIR

Planning/Sponsor Group: TWINS OAKS COMMUNITY SPONSOR GROUP

Results of Planning/Sponsor Group Review

Meeting Date: July 17, 2017

A. Comments made by the group on the proposed project.

The TOV Community Sponsor Group would like to deny project since the DEIR has too many inmitigable impacts to include: traffic, water, community impacts, fire, pollution (light & noise) and school impacts; In addition, we do NOT support a project that would upend the General Plan in our area.

B. Advisory Vote: The Group Did Did Not make a formal recommendation, approval or denial on the project at this time.

If a formal recommendation was made, please check the appropriate box below:

- MOTION:
- Approve without conditions
 - Approve with recommended conditions
 - Deny
 - Continue

VOTE: 4 Yes 0 No 0 Abstain 1 ~~Vacant~~ Recusal ~~Absent~~

C. Recommended conditions of approval:

NONE.

Reported by: Tom Kumura Position: Chair Date: 7/29/17

Please email recommendations to BOTH EMAILS;
Project Manager listed in email (in this format): Firstname.Lastname@sdcounty.ca.gov and to
CommunityGroups.LUEG@sdcounty.ca.gov

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

From: [C.W. Dauber](#)
To: [Smith, Ashley](#)
Subject: GPA-15-001, SP-14-001, REZ 15-001, TM 5597K ER-15-08-001 NEWLAND SIERRA Project Recommendation Addendum
Date: Monday, April 30, 2018 4:48:27 PM

Hi Ashley,

If possible I would like to add another sentence to our N-S Recommendation report. This was mentioned in our discussion and I meant to include when I prepared the report.

It follows: It is not consistent with Guiding Principle #2 of the County General Plan, it is totally out of character for the area, will cause severe traffic problems on an already impacted Twin Oaks Valley/Deer Springs Road, the plans for the mitigation of the interchange with I-15 are not known, and it is in a hazardous fire area.

Please attach this to the report if it is possible to do so.

Regards,

C Wayne Dauber
Chair
Hidden Meadows Community Sponsor Group
28117 Par View Ct
Escondido, CA 92026-6951
760-809-6898 (M) 760-749-6085 (H)
hmdaub@cox.net

From: [C W Dauber](#)
To: [LUEG, CommunityGroups](#); [Wells, Stephanie](#); [Smith, Ashley](#)
Subject: GPA-15-001, SP-15-001, TM5597 ,ER-15-08-001 GROUP PROJECT RECOMMENDATION
Date: Sunday, April 29, 2018 3:36:53 PM
Attachments: [PDS-534 - Newland Sierra Recommendations.pdf](#)

Good morning Ashley,

Thank you for attending the HM CSG meeting last Thursday evening. I know it makes for a late night to come up here for a meeting that takes as long as this one did, but we really appreciate you coming and helping us out with a few questions you had. It was also good to meet you and put a face to the name we have come to know associated with this project. I believe it was also good for you to be able to get a sense of the feelings of the community with regards to this project.

I believe the Supervisors believe the communities in this area are just prejudiced against development, and to an extent that may be, but for most of us approval of Newland Sierra or Lilac Ranch Hills amount to a breach of faith. We have significant financial and personal investment in our choice of living here, based to a great extent on what the County has consistently related through the GPA and other statements. We have seen the flames from several major fires from our homes and have experience evacuations, but never under conditions equivalent to the Lilac Fire event. Our communities were not designed to attempt to "shelter in place", and that would probably be a disastrous choice in a Lilac type of event, but the traffic condition we anticipate in ten years time even with already approved developments along the corridor already put us at risk of having no possibility of escape for a significant portion of our population.

Best regards,

C Wayne Dauber
Chair
Hidden Meadows Community Sponsor Group
28117 Par View Ct
Escondido, CA 92026-6951
760-809-6898 (M) 760-749-6085 (H)
hmdaub@cox.net

Hidden Meadows Community Sponsor Group

Covering the area bordered by Escondido, 1-15, Valley Center, & Circle R

Meeting location: The Hidden Meadows Community Center 28208 Meadow Glen Way West

Thursday, April 27, 2017

MINUTES

Assistance for those with disabilities: If you need accommodation to participate in this meeting, please call Wayne Dauber at 760-809-6898 so necessary arrangements can be made.

(Please note that persons desiring to speak on any action or information item are required to fill out a speaker slip, available from the Secretary.)

- 1) CALL TO ORDER: Wayne Dauber, Chairman at 7:00 pm.
- 2) ROLL CALL: Coultas, Dauber, Caster, Rings, Birch, Sealey. Excused absences-Cook.
- 3) PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA
- 4) MINUTES
 - a) Approval of minutes of February 23, 2017 with no corrections. Motion by Rings; seconded by Birch. Motion passed with no objections.
- 5) OPEN FORUM: Linda Bailey, representing Newland Sierra, informed the Group that the draft EIR for the proposed project north of Deer Springs Road would be available in May and would come before the Group for review. A separate EIR is being prepared by Caltrans for the I15 connection.
- 6) ADMINISTRATIVE ITEMS/CORRESPONDENCE
 - a) Chairman Dauber announced to the Group that Jack Cox had submitted his resignation and that a Vacancy Notice had been filed with the County.
 - b) Chairman Dauber announced that everyone in the Group was current with regard to the Annual Sponsor Group training and bi-annual ethics training.
- 7) SUB-COMMITTEE REPORTS
 - a) Mobility – Coultas, Dauber & Clark—None
 - b) Trails & Parks – Coultas. Coultas reported that a lot of work has been done to remove vegetation in an effort to make the areas more fire safe.
 - c) Meadow Lake Golf Club – Dauber – None.

Hidden Meadows Community Sponsor Group

Thursday, April 27, 2017 (Cont'd)

8) PUBLIC REVIEW / ACTION ITEMS:

- a) PDS2017 – TM – 5602 Nordahl Road & Private Road. Chairman Dauber reported that a request had been made to extend TM5602. A copy of the vicinity map was presented to the Group. Due to a lack of meaningful information pertaining to the request, Caster motioned to defer the extension request to the County for action. Motion was seconded by Sealey. Motion passed without exception.

(Chagala joined the meeting at 7:25 pm)

- b) HM301 Rezone 10 Parcels in HM from S88 to A70. Chagala reported to the Group that he needed to recuse himself on this item. Chairman Dauber reported that this request was being requested because the current zoning S88 referred to a Specific Plan, but there was in actuality no specific Plan on this area. A70 would be consistent with the surrounding properties. Discussion ensued. Sealey motioned to approve the proposed rezone, seconded by Ring. Motion passed without exception (Chagala abstained).

9) INFORMATION ONLY ITEMS:

- a) Chairman Dauber stated that he had been notified by one of the Golden Door attorneys of the upcoming new EIR report referred to previously by Linda Bailey in Open Forum.

10) MEMBERS' COMMENTS--None.

11) ADJOURNMENT 7:32 pm.

Hidden Meadows Community Sponsor Group

Covering the area bordered by Escondido, I-15, Valley Center, & Circle R

Meeting location: The Hidden Meadows Community Center 28208 Meadow Glen Way West

Thursday, June 22, 2017

MINUTES

Assistance for those with disabilities: If you need accommodation to participate in this meeting, please call Wayne Dauber at 760-809-6898 so necessary arrangements can be made.

(Please note that persons desiring to speak on any action or information item are required to fill out a speaker slip, available from the Secretary.)

- 1) CALL TO ORDER: Wayne Dauber, Chairman, 7:00 pm

- 2) ROLL CALL: Dauber, Sealey, Coultas, Chagala, Birch, Rings. Caster and Cook-excused absence. Gutierrez is in attendance as a non-voting member.

- 3) PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

- 4) MINUTES
 - a) Approval of minutes of May 25, 2017. Chagala advises that Draft May 25 minutes are not yet available.

- 5) OPEN FORUM: Attendees may speak on any subject not covered by this Agenda (time limit - 3 minutes per speaker) None

- 6) ADMINISTRATIVE ITEMS/CORRESPONDENCE--None

- 7) SUB-COMMITTEE REPORTS
 - a) Mobility – Coultas, Dauber --Nothing to report
 - b) Trails & Parks – Coultas indicates he has nothing to report
 - c) Meadow Lake Golf Club – Dauber indicates he has nothing to report

- 8) PUBLIC REVIEW / ACTION ITEMS:

Hidden Meadows Community Sponsor Group

Thursday, June 22, 2017

MINUTES

a) Concern expressed regarding the Shell Station discussed last month. It was thought that the zoning on the property was not commercial and we should check on the zoning. Cook expressed his opinion that the design was more mission style than modern, and that it was not in the community character. Also if the interchange was to be improved and a cloverleaf put in, there would be no room for a station and convenience store.

b) Review Newland Sierra EIR and prepare comments for submission to the County. Chairman Dauber indicated we only had this meeting and next month to prepare a response to the EIR. He would like the Group's input on any problems they see and send it to him before the next meeting so he can prepare present draft comments at the July Meeting. Motion by Chagala, seconded by Rings passes unanimously.

Mike Johnson representing the Golden Door makes a presentation. He says that the EIR is over 1000 pages long making it very difficult to find the information one is looking for. Some of his concerns are:

The project ignores the General Plan Update the County approved in 2011, but the EIR did not find this to be an impact. In addition the General Plan policy regarding leapfrog development was found to be not applicable.

The I 15 Interchange is part of the project but there is no information in the EIR. Only that Newland will work with CALTRANS. If the interchange is part of the mitigation it cannot be separated from the project. This is called "piecemealing" and is not permitted.

There will be an impact of 29,000 trips on I 15 between Deer Springs and Riverside County but there is no mitigation proposed, which means the public will have to pay for the mitigation.

Vallecitos Water District will have to cut water availability to their customers by 36% to have enough water to serve this project.

This project is also in a High Fire Hazard Area.

There is a suggestion that Twin Oaks Valley Road only be widened to 3 lanes.

He suggested that we be at the public meeting on July 18 at the San Marcos Civic Center to discuss the EIR.

Chairman Dauber was concerned about the rock crushing and the effect that it may have on the air quality in the area. Also traffic was a major concern.

Birch was concerned about the left turn off Center City Parkway onto the Freeway.

Rings was concerned about the Visual Impact to I-15

Hidden Meadows Community Sponsor Group

Thursday, June 22, 2017

MINUTES

9) INFORMATION ONLY ITEMS:

a) The Next Door Hidden Meadows web site, which now encompasses more than our area, has been receiving a large number of Newland Sierra related comments from HM and the neighboring communities.

10) MEMBERS' COMMENTS

Request is made that a Sponsor Group Roster be sent out to the members. Chairman Dauber indicated he would do so.

11) ADJOURNMENT: 8:15

Hidden Meadows Community Sponsor Group

Covering the area bordered by Escondido, I-15, Valley Center, & Circle R

Meeting location: The Hidden Meadows Community Center 28208 Meadow Glen Way West

Special Meeting

Thursday, August 3, 2017

MINUTES

Assistance for those with disabilities: If you need accommodation to participate in this meeting, please call Wayne Dauber at 760-809-6898 so necessary arrangements can be made.

(Please note that persons desiring to speak on any action or information item are required to fill out a speaker slip, available from the Secretary.)

- 1) CALL TO ORDER: Wayne Dauber, Chairman, 7:00 pm
- 2) ROLL CALL: Dauber, Sealey, Coultas, Caster, Cook, Rings, Birch and Chagala.
- 3) PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA
- 4) MINUTES
 - a) Approval of Minutes of July 27, 2017. Sealey motioned to approve the minutes; Rings seconded the motion. Motion so ordered without exception by Chairman Dauber, Chagala and Birch in abstention.
- 5) OPEN FORUM: Attendees may speak on any subject not covered by this Agenda (time limit - 3 minutes per speaker)-- None
- 6) ADMINISTRATIVE ITEMS/CORRESPONDENCE--None
- 7) SUB-COMMITTEE REPORTS—None
- 8) PUBLIC REVIEW / ACTION ITEMS:
 - a) Review and prepare comments on Newland Sierra EIR for submission to County

Chairman Dauber distributed a draft of his memo to the County regarding the Group's analysis and discussion of the Newland Sierra Draft Environmental Impact undertaken at the Group's regular meeting of August 27, 2017. Sealey suggested that issue #1 reference the County General Plan goal of maintaining rural character. Rings suggested that the term authors in the third line be changed to County Planning Department and Board of Supervisors. Coultas suggested that the memo reference not just Hidden Meadows, but rather all of the areas represented by the Sponsor Group. Chagala felt it would be appropriate

Hidden Meadows Community Sponsor Group

Thursday, August 3, 2017

MINUTES

to reference one of the guiding principles of the General Plan which is to locate new growth near existing and planned infrastructure. Chagala also felt that this proposal was an example of piece-mealing since the public was being asked to approve the EIR without the benefit of the EIR that would have to be prepared by Cal Trans regarding I15 improvements at Deer Springs.

Sealey stated that issue #2 should be combined with issues #3 with emphasis on the Group's concerns over road improvements. Rings suggested that the last 2 sentences of the Issue #2 paragraph regarding retail and office space be deleted. Coultas inquired as to the plans of Cal Trans regarding improvements to the I15 interchange. Linda Bailey, representing Newland, stated that there were a couple of options being considered but no conclusion had been reached as to the best alternative. Bailey stated she would provide the Group with the Cal Trans EIR when completed.

Regarding Issue #4 in the draft memo, Sealey felt any reference to the Group's vote on the preference for the Option A or B improvements for Deer Spring Road should be deleted. Coultas felt the reference to "cumulative impact" on line 5 should be highlighted in some fashion. Also the EIR should address the traffic impact of a simultaneous emergency evacuation in this area.

Caster felt that Issue #5 which addresses noise, dust and particle, and visual pollution should include comments from statement 4.2.1.4 of the Air Quality Report reflecting the concern of the Group that even after mitigation efforts, NOx, CO, PM10 and PM25 emissions would remain significant and unavoidable.

Aside from the comments in the draft memo, Birch expressed her concern as to the adequacy of electricity for this proposed project. Sealey stated that there was a usage analysis in the EIR. Birch also inquired as to whether there was a specific evacuation plan in place in the circumstances of a fire during the construction phase of the project. Sealey commented that that should be part of the Fire Plan.

Sealey motioned to approve the memo as amended by the previous comments in these minutes. Birch seconded the motion. Motion passed unanimously.

9) INFORMATION ONLY ITEMS:

- a) None.

10) MEMBERS' COMMENTS

11) ADJOURNMENT: 8:00

Hidden Meadows Community Sponsor Group

Covering the area bordered by Escondido, I-15, Valley Center, & Circle R

Meeting location: The Hidden Meadows Community Center 28208 Meadow Glen Way West

Thursday, March 22, 2018 at 7:00 p.m.

MINUTES

<p>Assistance for those with disabilities: If you need accommodation to participate in this meeting, please call Wayne Dauber at 760-809-6898 so necessary arrangements can be made.</p>

(Please note that persons desiring to speak on any action or information item are required to fill out a speaker slip, available from the Secretary.)

- 1) CALL TO ORDER: Wayne Dauber, Chair at 7:00
- 2) ROLL CALL: Dauber, Chagala, Rings, Sealey, Cook, Birch, Coultas, Caster and Gutierrez.
- 3) PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA
- 4) MINUTES
 - a) Approval of minutes of December 7, 2017. Motion to approve by Rings, seconded by Sealey. So ordered by the Chair.
- 5) OPEN FORUM: No Speakers
- 6) ADMINISTRATIVE ITEMS/CORRESPONDENCE:
 - a) Election of officers-Dauber was nominated by Coultas to continue as Chair, seconded by Sealey. Sealey was nominated to continue as Vice Chairman, seconded by Dauber. Caster was nominated to continue as Secretary, seconded by Rings. Motion passed without objection.
 - b) Annual training and forms update-All completed except for Chagala and Sealey. Both members indicated that they would complete by the following weekend.
 - c) Consider terminating the Boulder Oaks Golf Club subcommittee-Dauber suggested that the committee be disbanded due to lack of any additional development activity at the golf course. Chagala stated that negotiations were in process with the County to designate Cougar Pass as an additional fire escape route for the Hidden Meadows community. A couple of proposed development projects could help fund the required development of the road. In light of this situation and potential other future issues, Chagala suggested that the committee be retained. After discussion, Chagala motioned to keep the committee, seconded by Cook. Motion passed without objection.
- 7) SUB-COMMITTEE REPORTS
 - a) Mobility – Coultas-No report
 - b) Trails & Parks – Coultas-No report
 - c) Boulder Oaks Golf Club – Dauber-(see above)

Hidden Meadows Community Sponsor Group

Covering the area bordered by Escondido, I-15, Valley Center, & Circle R

Meeting location: The Hidden Meadows Community Center 28208 Meadow Glen Way West

Thursday, March 22, 2018 at 7:00 p.m.

8) PUBLIC REVIEW / ACTION ITEMS:

a) Traffic on Champagne Boulevard

Sealey presented the Group with his rendition of a proposed pavement and bicycle path improvement plan that he felt would provide greater safety for bikers. The easements currently exist for widening of the road. Rings suggested more speed limit signs and installation of a speed radar sign. Coultas thought consideration should be given to reducing the speed limit. Chagala suggested a letter be sent to Public Works and the Traffic Advisory Committee of the County citing the Sealey plan and concerns of the Group with excessive speed limits and the dangers of improper vehicle passing on the road. Chagala motioned to have the Chair prepare such a letter, seconded by Sealey. Motion passed without objection.

b) Lilac Hills & Newland Sierra

Sealey informed the Group that the Lilac Hills proposed project was in the Final Stage of its EIR review period. The review period ends April 9, 2018.

Linda Bailey representing Newland Sierra told the Group that the County was going through the process of answering all of the comments on the draft EIR and the final EIR was being prepared. It is anticipated that the Board of Supervisors will vote on the project in the fall. Cal Trans is evaluating the I-15 freeway interchange but any recommendations are not expected to be presented before the EIR becomes final.

9) INFORMATION ITEMS-None

10) MEMBER' COMMENTS:

- a) Rings submitted his letter of resignation to the Group. Chair Dauber thanked Rings for his contributions to the Group. Tom Bossmeyer who resides in Champagne Village has been recommended as a possible candidate for replacing Rings. He will complete the necessary paperwork for consideration by the Group and notification will be published for any additional candidates that may be interested.

11) AJOURNMENT 7:35



County of San Diego, Planning & Development Services
**COMMUNITY PLANNING OR SPONSOR
GROUP PROJECT RECOMMENDATION**
ZONING DIVISION

Record ID(s): GPA-15-001, SP-15-001, REZ 15-001, TM 5597, ER 15-08-001

Project Name: Newland Sierra

Planning/Sponsor Group: Hidden Meadows Community Sponsor Group

Results of Planning/Sponsor Group Review

Meeting Date: April 26, 2018

A. Comments made by the group on the proposed project.

This project does not comply with the GP nor the guidance used to create it. Project is likely to increase the already unsafe experienced on local evacuation routes in even minor emergencies. Completion would prevent almost any chance of a successful evacuation under Lilac fire type conditions .

B. Advisory Vote: The Group **Did** **Did Not** make a formal recommendation, approval or denial on the project at this time.

If a formal recommendation was made, please check the appropriate box below:

- MOTION:**
- Approve without conditions
 - Approve with recommended conditions
 - Deny
 - Continue

VOTE: 6 Yes 0 No 0 Abstain 3 Vacant/Absent

C. Recommended conditions of approval:

None. We cannot envision any practical or affordable means or methods of mitigation which might be employed to alleviate the real negative impact on the local population even if the GP were re-written with no concern for environmental or safety considerations.

Reported by: C Wayne Dauber Position: Chair Date: 04/26/2018

Please email recommendations to BOTH EMAILS;
Project Manager listed in email (in this format): Firstname.Lastname@sdcounty.ca.gov and to CommunityGroups.LUEG@sdcounty.ca.gov

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BONSALL COMMUNITY SPONSOR GROUP

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COUNTY OF SAN DIEGO BONSALL COMMUNITY SPONSOR GROUP

REGULAR MEETING MINUTES

Tuesday, February 3, 2015

7:00 P.M.

31505 Old River Road

Bonsall, California

A. Roll Call:

PRESENT: Davis, Schwartz, Carullo-Miller, Zales, Norris, Morgan

ABSENT:

Vacancy: Seat #2 South of 76 and East of Camino del Rey

B. Pledge of Allegiance: By Fallbrook Boy Scout Troup

C. Approval of Minutes of December 2, 2014. Motion by Davis, 2nd by Zales minutes were approved.

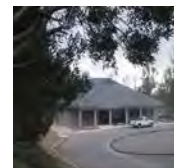
D. Public Communication: None.

E. ACTION ITEMS: (Voting Items)

- a. PDS2014-AD-14_002 Stonewood Properties Administrative Permit: County staff members present to answer letter from community members dated January 22, 2015. Staff presented a 10 point letter dated February 3, 2015. Staff will be amending the January 22, 2015 letter soon to reflect deadline dates that have changed do to new information. During meeting questions from community members and Sponsor Group as to what other recourse besides annual 50 K fine per year would the home owner be assessed? Staff indicated that working with code enforcement, building and other county departments fees, fines will be assessed at reasonable time lines (30, 60, 90 days vs. months.) Staff's goal is to provide plans to the community and return in 60 days with updated schedule and plan of action requiring professionals hired by homeowner to submit to staff required information within 60 days.

Staff is to request information from County Council regarding homeowners and Counties responsibility if home is abandoned?

Vote not taken.



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- b. PDS2014-MUP-14-024 Champagne Lakes Wireless Facility:
Motion to continue by Zales until input from neighbor is available and additional requested information regarding coverage by Verizon is needed. Where is documentation requiring the height of 50 'and not 35', 40' or 45'? second by Carullo-Miller all in favor. Question: why were photo's presented not accurate? This needs to be corrected prior to next review scheduled for March 3rd.
- c. PDS2014-AD-14-64 Solterra Vineyards – site is Biologically rich and a Habitat Loss Permit & Mitigation requirements are a such that the owner will not be able to proceed as cost is counterproductive.
- d. Richard Zales reappointment: Carullo-Miller moved to reappoint Mr. Zales second by Davis. Unanimously approved.

F. GROUP BUSINESS – INFORMATION AND DIRECTION

- a. LAFCO report no questions
- b. SP15-001 Newland Sierra scoping meeting to be held March 4th at City Hall in San Marcos.
- c. TP 21150R Yuan project was approved with our recommendation.
- d. Soitec Solar Development was approved by Planning Commission.

G. MEETING ADJOURNMENT: 9:05



BONSALL COMMUNITY SPONSOR GROUP

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COUNTY OF SAN DIEGO BONSALL COMMUNITY SPONSOR GROUP

REGULAR MEETING MINUTES

Tuesday, March 3, 2015

7:00 P.M.

31505 Old River Road

Bonsall, California

A. Roll Call:

PRESENT: Davis, Schwartz, Carullo-Miller, Zales, Norris, Morgan

ABSENT:

Vacancy: Seat #2 South of 76 and East of Camino del Rey

B. Pledge of Allegiance:

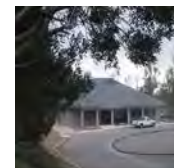
C. Approval of Minutes of the February 3, 2015. Motion by Schwartz, 2nd by Zales minutes were approved.

D. Public Communication: Tom Kennedy GM of Rainbow Water discussed the issues regarding the merger possibility with Fallbrook Public Utility District. Expense of voters was discussed as Rainbow prefers divisional vs. "at large". Goal is to change legislation so people can vote for local direction and not be decided by LAFCO. This is all about governess and their boards. Water for the next year has a possible 10% cutback with 20% ag.

E. ACTION ITEMS: (Voting Items)

- a. PDS2014-MUP-14-024 Champagne Lakes Wireless Facility – request by applicant to continue.
- b. PC 0-61 Request for Annexation and Tentative Subdivision Map for 14 lots. Mr. Norris recused himself and left the room for this item.

The Bonsall Sponsor Group voted to deny the proposed Annexation for the following reasons; The motion was based on the premature annexation request as the data provided dated back to 2006, eight plus year ago. Because of this inordinate amount of time lag between the initial annexation request, of eight years we strongly suggest that all of the data and studies be updated for the current conditions found in the area. The request should encompass the many contiguous parcels in the immediate area now being considered for annexation, and should be part of a larger more comprehensive plan re: water, roads, mitigation and economics. This needs to be included in a an overall master annexation plan for the area. Further questions concerning this annexation include, but are not limited to the following:



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Slope issues are prevalent that is why the density from the County General Plan has the proposed property zoned for 2, 4 or 8 acre parcels.

Ridgeline issues need to be addressed as they are not being considered by applicants parcel maps.

Proposed density does not meet the agricultural nature of some of the contiguous properties.

Traffic on East Vista Way is a level of service F for both morning and evening rush hours. However, with the current building in the City of Vista along this roadway has created a much longer rush hour both in the morning and evening commute. We see no mitigation requirement in this proposed annexation to help alleviate this condition. The traffic studies provided are so outdated.

Dark sky policy based on the needs of Mount Palomar Observatory have not been addressed.

This single annexation request is in the shape of a small finger peninsula and does not support a smooth border between the City of Vista and the Community of Bonsall in the County of San Diego. We prefer a smooth border and not saw tooth in nature.

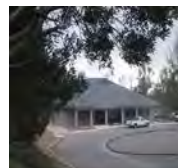
The road leading to this single proposed annexation is a private road and in very bad repair the applicant has not been conditioned to make in improvement to the road except in front of the development itself. With 14 homes based on the 10 trips a day, San Diego Counties method of counting vehicles per day per household that would place an additional 140 car trips a day on this private neighborhood road. Should not the applicant be required to bring the entire road up to standard?

The neighborhood representative attending our meeting requested that a gate be required where the secondary access connects to Vista Grande Terrace. This revision was requested to prevent the access road being used as a shortcut. The Bonsall Sponsor Group supports the neighbor's request.

c. TM5346 Dabbs Tentative Map – county requested continuance.

F. GROUP BUSINESS – INFORMATION AND DIRECTION

- a. PDS2015-GPA-15-001 Newland Sierra – announcement of public meeting to be held March 4th at the San Marcos Community Services Department, Community Hall.
- b. Bonsall Community Right-of-Way Development Standards sub-committee will be meeting prior to every Sponsor Group meeting for one half hour until the document is complete.



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- c. LAFCO – Rainbow/Fallbrook Public Utility District Reorganization was discussed in Public Communication.
- d. County of San Diego Traffic Advisory Committed – West Lilac Rd from Camino del Rey to Highway will be posted at 45 miles per hour. Currently this road is not posted with a speed limit.
- e. Thriving-Livability, Sustainability & Healthy Communities Workshop and LEED-ND information discussed at the workshop was reviewed.

G. ADJOURNMENT 8:45 P.M.



BONSALL COMMUNITY SPONSOR GROUP

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Bonsall Community Sponsor Group
Regular Meeting Minutes
Tuesday, August 4
7:00 P.M.
31505 Old River Road
Bonsall, California

A. ROLL CALL:

PRESENT: Morgan, Davis, Norris, Schwartze, Zales
ABSENT: Carullo-Miller
Vacancy: Seat #2 South of 76 and East of Camino del Rey

B. PLEDGE OF ALLEGIANCE:

C. APPROVAL OF THE FINAL MINUTES of July 7, 2015. Minutes were approved as written.

D. PUBLIC COMMUNICATION: Questions were raised by a member of the public about the speed calming devices located in the yellow center line divider along Gopher Canyon Road. The complaint was that traffic was hitting the markers (sometimes intentionally) causing excessive noise. The chairwoman agreed to contact County staff and look into this matter.

E. ACTION ITEMS: (Voting Items)

a. Reimbursable item for chair --- printer replacement in the amount of \$54.24. A motion was unanimously approved to authorize this reimbursement.

F. GROUP BUSINESS – INFORMATION AND DIRECTION

- a. Road Maintenance for the community of Bonsall – list available upon request. The list was reviewed and discussed by the members present. --- Steve Norris noted that the overlay work being done by the County on Camino Del Rey looked shoddy. The chair stated she would contact Derek Gade and request that he look into this matter.
- b. Stonewood Properties Building Permit Update. The chair discussed the update email previously sent to the members.
- c. Bonsall Cell Site Permit Status – new map for subcommittee to use and verify. The chair praised the county staff for providing the map. However, several cell sites identified in the map appear to be incorrect. The chair indicated the subcommittee would carefully review the map and provide corrections to county staff.



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d. Newland Sierra – Sales promotion material sent to a large area. The chair distributed a color brochure to the members for their information and review.

e. Discussion on Lilac Hills project --- preparation of PC presentation. The group reviewed information and identified speakers to present the Group's comments on the proposed Lilac Hills project at the Planning Commission hearing.

G. ADJOURNMENT 8:00 P.M.

Respectfully submitted
Richard Zales



BONSALL COMMUNITY SPONSOR GROUP

Dedicated to enhancing and preserving a rural lifestyle



COUNTY OF SAN DIEGO BONSALL COMMUNITY SPONSOR GROUP
MEETING MINUTES
Tuesday, May 3, 2016

Bonsall Community Center
7:00 P. M.
31505 Old River Road
Bonsall, California

The Bonsall Sponsor Group is looking for 1 candidate to fill a current opening representing the area between West Lilac and Camino Del Rey.

If you are interested, please contact Margarett Morgan, Chair at 760-630-7070.

A. ROLL CALL:

Present: Morgan, Davis, Zales, Norris, Carullo-Miller, Schwartz
One Vacancy

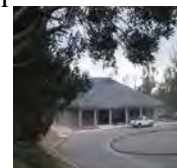
B. PLEDGE OF ALLEGIANCE

C. APPROVAL OF THE MINUTES FOR THE MEETING of Tuesday, April 5, 2016 motion by Zales Second by Norris to approve minutes.

D. PUBLIC COMMUNICATION: No comments by the public.

E. ACTION ITEMS: (Voting Items)

- a. GPC15-025 General Plan Conformance Bonsall Unified School District Land Acquisition Supervisor Cunningham discussed that the former North County Fire Station is in escrow with the district. He also requested a member of the Bonsall Sponsor Group become a member of the High School Design Committee for the 53 acre Gird Road site. Motion by Zales, second by Norris.
- b. PDS2015-GPA Newland Sierra requested 40 minutes for purpose of information. Review EIR, project description, key elements, neighborhoods (Planning area), site is located on Deer Springs Road and I-15. Resubmitted documents, target draft EIR -Summer 2016, Final Publication – fall 2016/early 2017, construction to begin late 2018. General Plan Amendment 2 primary pts of access, 1 secondary 1,985 acres 61% permit open space =1,209 acres. 2,135 total dwellings with 81,000 square feet of commercial space, 6 acre K-8 school site, County land use is designated as rural and village for the site use with 97 acres located in Bonsall as open space.



BONSALL COMMUNITY SPONSOR GROUP

Dedicated to enhancing and preserving a rural lifestyle



- c. Changes requested would be from rural to Semi Rural and extensive increase in commercial Community Plan is rural/semi rural and office professional. Proposed 2,135 dwelling units. Price of dwellings start at \$400K-450K features include 1,209 acres in biological habitat with open space totaling 61% of the project site. Some trails will be accessible to public, multi use pathways 4.6 miles on site.
Questions: Does equestrian trail connect with any current trails in surrounding communities? More primitive trails – meaning what? Park & Ride @ Dee Springs? No turf grass front yards, solar on all buildings, vineyards, electric bike stations, composting site, no rental units proposed, Town Center – Charter School- 95 attached town homes, grocery store and restaurants. Will there be bussing for the schools?

- d. Residential
 1. Terraces (up the hill) 446 units Townhomes for 1st time buyers
 2. Hillside 241 family on 3,500 – 4,8—square foot lots
 3. Mesa 55 + 325 single family townhomes and cluster homes
 4. Summit 151 Single family 6,000 to 9,000 square foot lots, larger homes
 5. Knoll 139 homes upper knoll, 233 lower knoll 4,500 – 5,500 square foot lots.
 6. Valley 296 single from carriage home paseo, row town cluster

- e. Deer Springs Road
Two options for Deer Springs Rd. that will be decided by the Board of Supervisors
Option A= 4 lanes
Option B=6 lanes

Option A substandard – 4.1 A major Road with Raised Median bike lanes, no parking. In San Marcos Deer Springs is 84 ft improvement connecting tails and trails 2 lane median for turn outs.

Option B 4.1 major – continuous left pathways on either side. 4 lanes – reduced to 2 lanes that would create a traffic jams a little further up the road.

Golden Door representative Attorney Mr. Garrett stated that not all information has been disclosed. Mitigation from county re: roads and some of the studies have not been completed at this time. He suggested postponing a vote until BCSG receives technical information.
Motion: by Zales second Carullo-Miller unanimously approved to not vote on project until all technical studies have been submitted.

G...ADJOURN

Respectfully submitted by Phyllis Carullo-Miller



<http://www.bcs.org>





County of San Diego, Planning & Development Services
**COMMUNITY PLANNING OR SPONSOR
GROUP PROJECT RECOMMENDATION**
ZONING DIVISION

Record ID(s): PDS2015-SP-15-001; PDS2015-GPA-15-001; PDS2015-REZ-15-001; PDS2015-TM-5597; PDS2015-ER-15-08-001

Project Name: Newland Sierra

Planning/Sponsor Group: Bonsall Community Sponsor Group

Results of Planning/Sponsor Group Review

Meeting Date: AUGUST 1, 2017

A. Comments made by the group on the proposed project. TO DENY THE PROJECT IN ITS ENTIRETY FOR THE FOLLOWING REASONS: THE (BCSG) DOES NOT AND CANNOT SUPPORT ANY PROJECT THAT DOES NOT WITHOUT AMENDMENT CONFORM TO AND FOLLOW THE COUNTY'S GENERAL PLAN. THE (BCSG) DOES NOT FEEL THAT THE APPLICANTS DEIR MITIGATES THE CRITICAL ISSUES OF TRAFFIC (INCLUDING USE OF TWIN OAKS ROAD AS PART OF PROJECT CIRCULATION), FIRE PROTECTION & SAFETY, GRADING, BLASTING, HEALTH/ENVIRONMENT IMPACTS THAT INVOLVE SUCH A MASSIVE PROJECT. THE (BCSG) CONSIDERS THE PROJECT A HUGE IMPACT TO THE AREA'S COMMUNITY CHARACTER.

B. Advisory Vote: The Group Did Did Not make a formal recommendation, approval or denial on the project at this time.

If a formal recommendation was made, please check the appropriate box below:

- MOTION:
- Approve without conditions
 - Approve with recommended conditions
 - Deny
 - Continue

VOTE: 6 Yes 0 No 0 Abstain 1 Vacant / Absent

C. Recommended conditions of approval:

Reported by: Margarita Morgan Position: Chair Date: 8/1/17

Please email recommendations to BOTH EMAILS;
Project Manager listed in email (in this format): Firstname.Lastname@sdcounty.ca.gov and to CommunityGroups.LUEG@sdcounty.ca.gov

5510 OVERLAND AVE, SUITE 110, SAN DIEGO, CA 92123 • (858) 565-5981 • (888) 267-8770
<http://www.sdcounty.ca.gov/pds>

I-15 CORRIDOR DESIGN REVIEW BOARD

Regular Meeting

Thursday 17 March 2016, 7:00 P.M., 5256 Mission Road, Suite 706 (La Sala Room), Bonsall, CA 92003

MINUTES

The meeting was called to order at 7:00 PM by Thomas Harrington, Vice Chairman.

Board members present, Gordon Cloes (Hidden Meadows), Tom Harrington (Fallbrook), Chuck Davis (Bonsall), Mike Mahan (Valley Center) and Bill Crocker (Rainbow). Board member excused; Greg Izor (5 District).

1. **Open Forum.** Opportunity for members of the public to speak to the Design Review Board on any subject matter within the Board's jurisdiction but not on today's agenda. Three minute limitation. Non-discussion, & Non-voting item.

NONE

2. Approval of the minutes for the meetings of February 18, 2016. Voting Item. Mr. Mahan motioned to approve the minutes as presented. Mr. Davis seconded and the motion passed unanimously.

3. Newland Sierra Subdivision – SP15-001 – Specific Plan for a major subdivision north west of the Twin Oaks Road and I-15 intersection 26915 Mesa Rock Road (APNs 186-611-13 etal). Applicant: Newland Sierra LLC, Ms. Rita Brandin 858-875-8219 email: rbrandin@newlandco.com. County Planner Ashley Smith 858-495-5375, email Ashley.smith2@sdcounty.ca.gov. Community input. Voting item.

Ms. Rita Brandin introduced the project. She stated that the project would be developed on a 1,985 acre site and would have 2,135 units when fully developed. Ms. Brandin informed the Board of how Newland Sierra developed projects. They would secure the required entitlements for the project then construct the infrastructure for the entire project. Then they would be working with several developers for the construction of the housing units. She stated that this would insure a wide variety in finish products but the with consistent design requirements for the overall project. The project Environmental Impact Report was tentatively scheduled to be out for review by early June. Newlands goal was to have Final Maps approved mid 2017. The entire project would be covered with a B-designator that would require the individual developers to bring their site plans to the Design Review Board as the project would be built out.

Other members of the Newland Sierra team explained how they had studied their existing site and the proposed project to determine the view limits of the area from the I-15 south bound lanes. They had determined that the limits of the I-15 jurisdiction and the view shed were very different and had requested the County consider reducing the I-15 jurisdiction to the limits of their view shed study.

The Board was informed that the major cut slopes visible at the entry to the project would be covered with vineyards. On other slopes, a great deal of effort would go into trying to preserve any large rocks. Then native grasses and landscaping would be used for the rest of exposed slopes.

The development team was working with the County and Caltrans to address the traffic issues in the vicinity.

Mr. Harrington stated that while he had no objections to the limits of the Design Review Board jurisdiction being modified to the true view shed from the freeway, he was concerned that the study done by the Newland Sierra design team had done did not consider the north bound lanes perspective of the site. He felt that needed to be reviewed.

Mr. Davis commented that this development was in conflict with the County General Plan and several Community Plans. He felt that these plans had been painstakingly developed and that development should follow them. He also was concerned with the traffic impact this project would have on the I-15. In his opinion the I-15 is currently not functional at several times of the day and this project would make the situation worse. He further stated until the freeway infrastructure was improved he could not support development on this scale.

After further discussion Mr. Harrington motioned to approve the project conceptually as presented but reserve comment on the view shed study until the site could be inspected. Mr. Cloes seconded the motion and it passed with Mr. Davis voting against the motion.

4. Request for a site plan exemption for a single family dwelling and attached garage at Palo Verde Drive Fallbrook (APN 127-360-27 (Lot 1)). Owner: Hidden Valley Developers 14475 Old Highway 80 El Cajon. Applicant, Ed Jackson email: jacksne@aol.com. County planner: Dag Bunnemeyer, 858 694-3429, email: Dag.bunnemeyer@sdcounty.ca.gov. Community input. Voting item.

Mr. Ed Jackson presented the project. The home was planned to be modular in construction and just under 2000 square feet. The visibility of the site would be minimal from the freeway and the color scheme of the home would be in earth tones.

After further discussion Mr. Harrington motioned to approve the project as presented . Mr. Crocker seconded the motion and it passed unanimously.

5. Request for a site plan exemption for a single family dwelling and attached garage at Palo Verde Drive Fallbrook (APN 127-360-27 (Lot 2)). Owner: Hidden Valley Developers 14475 Old Highway 80 El Cajon. Applicant, Ed Jackson email: jacksne@aol.com. County planner: Dag Bunnemeyer, 858 694-3429, email: Dag.bunnemeyer@sdcounty.ca.gov. Community input. Voting item.

Mr. Ed Jackson presented the project. The home was planned to be modular in construction and just under 2000 square feet. The visibility of the site would be minimal from the freeway and the color scheme of the home would be in earth tones.

After further discussion Mr. Harrington motioned to approve the project as presented . Mr. Crocker seconded the motion and it passed unanimously.

6. MUP-16-002 Fallbrook Hacienda - Request for Project Review for a private party venue east of Sterline View Drive (APN 108-350-13). Owner: Robert Frulla 951-375-2052, email Roberto@frulla.com. Applicant, Michael Benesh email: mlbenesh@pacbel.net. County planner: Donald Kraft, 858 694-3856, email: donald.kraft@sdcounty.ca.gov. Community input. Voting item.

Mr. Robert Frulla introduced the project. He informed the Board that there would be no new construction with the exception of upgrading restroom and parking facilities. The main use of the site would be a wedding and private party facility. Valet parking would be provided for

guests to make the most of the onsite parking area. He stated that he had met with the Fallbrook Community Planning Group Design Review Committee who had notified him that the proposed signage for the project exceeded the County's 90 square foot limit. He presented the I-15 Board with an alternate sign configuration that would allow his signage to stay within the Counties limit.

After further discussion, Mr. Harrington motioned to approve the project with the alternate sign configuration. Mr. Crocker seconded the motion and it carried unanimously.

7. Request a Minor Deviation to Major Use Permit P70-202M3W1 for a 48" by 240" lite sign for the entrance to the Welk Resort Theater. Address : 8860 Lawrence Welk Drive (APN 185-331-03). Owner: Welk Resort Group Contact Heidi Spurgin 760-566-3211, email: heidi.spurgin@welkgroup.com. Applicant, Paul Jester 858-566-3010 ex 304, email: paul@miramarsignworks.com. County planner: John Leavitt, 858 495-5448, email: john.leavitt@sdcounty.ca.gov. Community input. Voting item.

Mr. Harrington introduced the request stating that he had spoken to the applicant and inspected the site. The proposed signage appeared to have minimal exposure to the freeway and saw no problem with the project. Also the applicant had presented a letter from the Hidden Meadows CPG approving the project.

After review of the project plans and limited discussion, Mr. Harrington motioned to approve the project as presented. Mr. Cloes seconded and the motion passed unanimously.

8. Request for a site plan exemption for a commercial building at 8530 Nelson Way Escondido (APN 127-222-19). Applicant, Darren Machulsky, email: dmachulski@yahoo.com. County planner: Dag Bunnemeyer, 858 694-3429, email: Dag.bunnemeyer@sdcounty.ca.gov. Community input. Voting item.

Mr. Darren Machulsky introduced the request and presented plans of the site. He informed the Board that the building would house a marijuana grow facility. The adjacent existing building was currently being remodeled to house a medical marijuana dispensary. The dispensary had a County permit and was going forward independently. The proposed building would have a stucco finish and roofing to match the existing building on the site. The building met all setback requirements and would require no grading to be constructed with the exception of foundation and utility excavations.

Mr. Davis stated that he did not support medical marijuana and could not support a project for this use.

Mr. Mehan asked if the project was scheduled with the Valley Center Community Planning Group? Mr. Machulsky stated that he was scheduled for that group next week.

After limited further discussion, Mr. Harrington motioned to approve the project as presented.

Mr. Cloes seconded the motion and it passed. Mr. Davis voted against the project and Mr. Mehan abstained to save his vote for the Valley Center CPG review of the project.

9. Correspondence:

NONE

10. Board Member Discussion:

NONE

11. Adjournment

Meeting adjourned at 8:45 pm

Tom Harrington, Vice Chair, 4976 Caroline Lane, Fallbrook, California 92028 (760) 728-3557
Thomas.harrington111@gmail.com

I-15 CORRIDOR DESIGN REVIEW BOARD

Regular Meeting

Thursday 21 April 2016, 7:00 P.M., 5256 Mission Road, Suite 706 (La Sala Room), Bonsall, CA
92003

MINUTES

The meeting was called to order at 7:20 PM by Greg Izor, Chairman.

Board members present, Greg Izor (5 District). Tom Harrington (Fallbrook), Chuck Davis (Bonsall) and Gordon Cloes (Hidden Meadows). Mr. Cloes was present by phone. Board member excused; Mike Mahan (Valley Center) and Bill Crocker (Rainbow).

1. **Open Forum.** Opportunity for members of the public to speak to the Design Review Board on any subject matter within the Board's jurisdiction but not on today's agenda. Three minute limitation. Non-discussion, & Non-voting item.

NONE

2. Approval of the minutes for the meetings of March 17, 2016. Voting Item.

Mr. Davis motioned to approve the minutes as presented Mr. Harrington seconded and the motion passed with no objections.

3. Newland Sierra Subdivision – SP15-001 – Limits of I-15 DRB jurisdiction in the vicinity of a major subdivision north west of the Twin Oaks Road and I-15 intersection 26915 Mesa Rock Road (APNs 186-611-13 etal). Applicant: Newland Sierra LLC, Ms. Rita Brandin 858-875-8219 email: rbrandin@newlandco.com. County Planner Ashley Smith 858-495-5375, email Ashley.smith2@sdcounty.ca.gov. Community input. Voting item.

Mr. Harrington introduced the subject. He stated that at the March meeting of the board. The Newland Sierra project had been approved in concept but a question as to the accuracy of the I-15 view shed had been made a part of the motion. Mr. Harrington stated that he had studied the area on the site and from surrounding area. He felt the study was reasonably accurate. But if the County did see fit to adjust the I-15 jurisdictional line he recommended that the Twin Oaks Sponsor Group be assigned the design review responsibilities in the area removed from the I-15 jurisdiction.

After further discussion, Mr. Harrington motioned that the Board had no objection to re-configuring the I-15 jurisdiction if the County wants to accept the view shed as the limit. However, the Board recommended that the B designator should remain on the parcels that currently have it and the Design Review of parcels in the area deducted from the I-15 DRB be assigned to the Twin Oaks Sponsor Group. Mr. Izor seconded the motion and it passed with Mr. Davis voting against the motion.

4. Request for a site plan exemption for a single-family dwelling and attached garage at Palo Verde Drive Fallbrook (APN 127-360-16). Owner: Hidden Valley Developers 14475 Old Highway 80 El

Cajon. Applicant, Ed Jackson email: jacksne@aol.com. County planner: Dag Bunnemeyer, 858 694-3429, email: Dag.bunnemeyer@sdcounty.ca.gov. Community input. Voting item.

Mr. Ed Jackson introduced the request. He presented plans for a third building site he was developing on Palo Verde Drive. The Board had approved the request for site plan exemptions on two other sites on the same street last month. The new site was very similar. After limited discussion Mr. Harrington motioned to approve the request as presented. Mr. Davis seconded and the motion passed unanimously.

**5. Correspondence:
NONE**

**6. Board Member Discussion:
Mr. Davis brought to the Boards attention an article on traffic congestion in San Diego County. The article stated that there were 22,408 man years wasted by people in traffic annually. Mr. Davis felt that developers were contributing to this congestion and should be paying to improve the situation.
After further discussion, the Board felt our elected officials needed to provide better funding sources for maintaining our traffic infrastructure.**

**7. Adjournment
The meeting was adjourned at 7:50 pm.**

Tom Harrington, Vice Chair

From: [m. seebach](#)
To: [Smith, Ashley](#)
Cc: [Neufeld, Darin](#); [Slovick, Mark](#); [Fitzpatrick, Lisa](#); [Witt, William](#); [Silva, Claudia](#)
Subject: Hidden Meadows Newland Sierra meeting
Date: Friday, April 27, 2018 9:15:21 AM

Dear Ms Smith,

Thank you for taking time to attend last night's community sponsor meeting. As you witnessed first-hand, residents are very adamant in retaining the rural character and their quality of life in this area of North County.

Last night the sponsor board reiterated the reasons we are urging the Commission and Supervisors not to approve this project. As mentioned, the same reasons that our supervisors heard and defeated the Merriam Mountains project are again, the same for this Newland Sierra project. Plus, enforcing and utilization of our County General Plan.

We hope the Planning Commission (and Supervisors) truly understand the vast majority of residents are opposed to the destruction of our quality of life, rural character of the area and the natural beauty of these mountains.

Again, thank you for your time and consideration.

Mark S. and Concerned District 5 voters.

From: [Dan & Cindy Sunderland](#)
To: kristin.gaspar@sdcountry.cagov; [Horn, Bill](#); [Cox, Greg](#); [Roberts, Ron](#); [Jacob, Dianne](#); [Wardlaw, Mark](#); [Smith, Ashley](#)
Cc: dsilverla@me.com
Subject: Bundling Newland Sierra, 10,000 housing units to be rushed through
Date: Saturday, May 12, 2018 5:50:00 PM

Dear Sirs

We live in San Marcos Twin Oaks area. We are almost within shouting distance of these projects and emphatically protest this type of approval. Each should stand alone on its approval. Many different approval processes are needed.

This will decimate the rural area in which we live, ruin the wildlife habitats in that area and is unsafe as far as Cal Fire is concerned with ingress and egress to the areas.

Please do the right thing and look at each project on its own merits.

Thank You

Sincerely
Dan and Cindy Sunderland
86bluebird@sbcglobal.net
760-445-0005

From: j.mcclune@yahoo.com
To: [Silva, Claudia](#); [Neufeld, Darin](#); [Slovick, Mark](#); [Fitzpatrick, Lisa](#); [Witt, William](#)
Cc: [Smith, Ashley](#)
Subject: Newland Sierra Issues
Date: Saturday, May 12, 2018 3:54:50 PM
Attachments: [NEWLAND SIERRA037.jpg](#)

Please read the attached letter sent to Ashley Smith (Planning Manager) regarding the Newland Sierra Project.

Sincerely,

John W. and Jean L. McClune
8975 Lawrence Welk Dr. #425
Escondido, CA 92026

To The County of San Diego Planning & Development Services

Ashley Smith, Project Manager

SUBJECT: Opposing the NEWLAND SIERRA PROJECT for environmental Issues.

The Newland Sierra Project is inconsistent with the County General Plan which took 10 years to develop, I moved to this area 3 years ago desiring a quiet, less congested and environmental safe place with less impact on my wife's asthma condition.

The Newland Sierra Project will impact I-15 causing gridlock at level "F" in an already traffic burdened area which does not provide enough emergency access routes. I'm concerned because we live in a "Very High Fire Hazard Zone. "

How do we get out?

I'm also concerned about the environmental impact on us as local residents with the 10 years of construction noise that includes on-site blasting and rock crushing. Also it will impact our health issues and impact our property in Champagne Village.

The Newland Sierra Project site would sever our regional wildlife corridors in the "Pre-Approved Mitigation Areas" and impact our local wildlife. The Newland mitigation plan of preserving land east of Ramona provides no benefit for our local wildlife.

Signature: 

Date: 7/28/17

Name: John W and Jean McClune

Address: 8975 Lawrence Welk Drive Space 425 Escondido, CA 92026

From: [Rex Bright](#)
To: [Cox, Greg](#); [Jacob, Dianne](#); [Gaspar, Kristin](#); [Roberts, Ron](#); [Horn, Bill](#); [Smith, Ashley](#)
Cc: [John Fitzpatrick](#); [Carol Fitzpatrick](#); [Lang Morris](#); [Cheryl Heady](#); [Jason Springston](#); [Pete Cox](#); [Bob Franz](#); [Jane Franz](#); [Ann Neise](#); [Ann Neise](#); [Ron Arestad](#); [Ron Arestad](#); [Chuck Austin](#); [Kelly Austin](#); [Bob Pawlik](#); [Marilyn Bright](#); [Susan Stittle](#); [Harry Shaw](#); [Michele Shaw](#); [Herb Baker](#); [Roxie Stanley](#); [Jack & Bonnie Lamberson](#); [Barbara Schultz](#); [Carl & Christa Wilburn](#); [Granger Haugh](#); [Mike Manley](#); [Patty Manley](#); [Lee Lovaas](#); [Pamiani Darioush](#); [Howard Bode](#); [Carol & Jim Willard](#); [Dick & Ginny Shillington](#); [Jack Wood](#)
Subject: Newland Sierra Project
Date: Monday, May 21, 2018 6:11:24 PM

Dear Hon. Board of Supervisors:

I am a Lake Vista Estates resident in Bonsall and I am very concerned that a massive new Project called Newland Sierra is being proposed in our community without providing the community the opportunity to ask questions and understand the impacts. I am opposed to the Project, but I have a lot of unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group once the Final EIR was released.

Newland wouldn't make a presentation during the EIR process, because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission.

This is wrong. If Newland wants to be our neighbor, they should be willing to talk with their neighbors about the impacts that they will have on the community. This is just more of the same from developers who want to avoid community input; and it appears that County staff doesn't care to have an open and transparent process either.

Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community.

Thank you.

Rex Bright
5641 Lake Vista Drive
Bonsall, CA 92003
Rex@RexBright.com
www.RexBright.com

Sent from my iPhone 7

Subject: FW: Citification . . .

From: Hall, David C.
Sent: Tuesday, May 22, 2018 10:32 AM
To: FGG-DL, LSDOCS
Subject: FW: Citification . . .

From: Sandi Lord [<mailto:sandilord@cox.net>]
Sent: Tuesday, May 22, 2018 10:30 AM
To: Hall, David C.
Subject: Citification . . .

of our county rural areas, I live in one of them. The supervisors are trying very hard to grow our county, and trying to place large residential and commercial areas in the middle of nowhere in North County and elsewhere. Since I live in one of those areas, I need to ask you to stop this. Grow the Sports Arena area and other places like it, if you must, but leave the country alone. Our traffic is terrible, due to the workers rushing from one city to another to work. When it's not rush hour, which is most of the day, the rest of us are trying to get our errands Fix the traffic first, then if we must grow, grow skyscrapers of apartments and condos in city areas, please. We love our country life in the suburbs, and adding huge complexes here will impact our life in a number of negative ways. Please don't do this to us.

Sent from [Mail](#) for Windows 10

Subject: FW: Newland Sierra

From: Jacob, Dianne
Sent: Monday, May 21, 2018 2:44 PM
To: FGG-DL, LSDOCS
Subject: FW: Newland Sierra

From: Angela Sousa [<mailto:dotsousa@gmail.com>]
Sent: Monday, May 21, 2018 2:42 PM
To: Cox, Greg; Jacob, Dianne; Gaspar, Kristin; Roberts, Ron; Horn, Bill
Subject: Newland Sierra

Dear Hon. Board of Supervisors:

I am a Twin Oaks Valley/Buena Creek resident and I am very concerned that a massive new Project called Newland Sierra is being proposed in our community without providing the community the opportunity to ask questions and understand the impacts. I am opposed to the Project, but I have a lot of unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group once the Final EIR was released.

Newland wouldn't make a presentation during the EIR process, because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission.

This is wrong. If Newland wants to be our neighbor, they should be willing to talk with their neighbors about the impacts that they will have on the community. This is just more of the same from developers who want to avoid community input; and it appears that County staff doesn't care to have an open and transparent process either.

Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community.

Thank you,

Angela Sousa

Subject: FW: Bundling GPAs and Newland Sierra Project

From: Cox, Greg
Sent: Monday, May 21, 2018 11:02 AM
To: FGG-DL, LSDOCS
Subject: FW: Bundling GPAs and Newland Sierra Project

From: D Snider [<mailto:snider10@msn.com>]
Sent: Monday, May 21, 2018 10:59 AM
To: Cox, Greg; Jacob, Dianne; Gaspar, Kristin; Roberts, Ron; Horn, Bill
Subject: Bundling GPAs and Newland Sierra Project

5/21/2018

Dear Hon. Board of Supervisors:

I am a Twin Oaks Valley resident and am very concerned that a massive new Project called Newland Sierra is being proposed in our community without providing the community the opportunity to ask questions and understand the impacts. I am opposed to the Project, but I have a lot of unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group once the Final EIR was released.

Newland wouldn't make a presentation during the EIR process, because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission.

This is wrong. If Newland wants to be our neighbor, they should be willing to talk with their neighbors about the impacts that they will have on the community. This is just more of the same from developers who want to avoid community input; and it appears that County staff doesn't care to have an open and transparent process either.

Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community. **Besides, what is the rush? These are not affordable housing units.**

All prior correspondence regarding the Newland Sierra project including the EIR comments should be made a part of the public and administrative record.

Regards,
D. Snider
3645 Camino de Las Lomas

Vista, CA 92084

Subject: FW: Twin Oaks Valley

From: Jacob, Dianne
Sent: Monday, May 21, 2018 9:30 AM
To: FGG-DL, LSDOCS
Subject: FW: Twin Oaks Valley

From: Jared Rowley [<mailto:jared@nicklebypress.com>]
Sent: Monday, May 21, 2018 9:27 AM
To: Cox, Greg; Jacob, Dianne; Gaspar, Kristin; Roberts, Ron; Horn, Bill
Subject: Twin Oaks Valley

Dear Hon. Board of Supervisors:

I am concerned about the way the Newland Sierra Project is being handled. I never like to feel like I, as a constituent, am being ignored by those that are suppose to be representing us. I understand that every decision can't be completely unanimous, but if there is not even an attempt to hear from all sides then I question my representation. I am a Twin Oaks Valley resident and I would like this process to be handled responsibly.

Thank you,
Jared Rowley

Subject: FW: Newland Sierra

From: Cox, Greg
Sent: Monday, May 21, 2018 9:00 AM
To: FGG-DL, LSDOCS
Subject: FW: Newland Sierra

From: Ana Rosvall [<mailto:ana.c.rosvall@gmail.com>]
Sent: Sunday, May 20, 2018 9:47 PM
To: Cox, Greg; Jacob, Dianne; Gaspar, Kristin; Roberts, Ron; Horn, Bill
Subject: Newland Sierra

greg.cox@sdcounty.ca.gov

Dianne.jacob@sdcounty.ca.gov

Kristin.gaspar@sdcounty.ca.gov

Ron.Roberts@sdcounty.ca.gov

Bill.Horn@sdcounty.ca.gov

Dear Hon. Board of Supervisors:

I am a Twin Oaks Valley resident and am very concerned that a massive new Project called Newland Sierra is being proposed in our community without providing the community the opportunity to ask questions and understand the impacts. I am opposed to the Project, but I have a lot of unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group once the Final EIR was released. Newland wouldn't make a presentation during the EIR process, because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission.

This is wrong. If Newland wants to be our neighbor, they should be willing to talk with their neighbors about the impacts that they will have on the community. This is just more of the same from developers who want to avoid community input; and it appears that County staff doesn't care to have an open and transparent process either.

Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community.

Thank you.

--

Ana Rosvall
Realtor, Century21 Award
760-458-3883
arosvall@century21award.com
BRE# 0194537

"A diamond is just a piece of charcoal that handled stress exceptionally well."

Subject: FW: Newland

From: jamwiest [<mailto:jpjbt@pacbell.net>]
Sent: Monday, May 21, 2018 5:04 AM
To: Cox, Greg; Jacob, Dianne; Gaspar, Kristin; Roberts, Ron; Horn, Bill
Subject: Newland

Dear Hon. Board of Supervisors:

I am a Twin Oaks Valley resident and am very concerned that a massive new Project called Newland Sierra is being proposed in our community without providing the community the opportunity to ask questions and understand the impacts. I am opposed to the Project, but I have a lot of unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group once the Final EIR was released.

Newland wouldn't make a presentation during the EIR process, because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission.

This is wrong. If Newland wants to be our neighbor, they should be willing to talk with their neighbors about the impacts that they will have on the community. This is just more of the same from developers who want to avoid community input; and it appears that County staff doesn't care to have an open and transparent process either.

Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community.

Thank you.

Jay Wiestling
Fallbrook

Subject: FW: Newland Sierra and surrounding communities

From: Cox, Greg
Sent: Monday, May 21, 2018 9:05 AM
To: FGG-DL, LSDOCS
Subject: FW: Newland Sierra and surrounding communities

From: Jack Fox [<mailto:fordtrk56@gmail.com>]
Sent: Monday, May 21, 2018 7:10 AM
To: Cox, Greg; Jacob, Dianne; Gaspar, Kristin; Roberts, Ron; Horn, Bill
Subject: Newland Sierra and surrounding communities

Dear Hon. Board of Supervisors:

I am a Valley Center resident but I am still very concerned that the massive new Project called Newland Sierra is being proposed in close proximity to my community just 5 miles to the north without providing the entire community the opportunity to ask questions and understand the impacts. I am opposed to the Project, but I have a lot of unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group once the Final EIR was released.

Newland wouldn't make a presentation during the EIR process, because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission.

This is wrong. If Newland wants to be our neighbor, they should be willing to talk with their neighbors about the impacts that they will have on the community. This is just more of the same from developers who want to avoid community input; and it appears that County staff doesn't care to have an open and transparent process either.

Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community.

Thank you.
John Fox

Subject: FW: EIR Newland Sierra

From: Cox, Greg
Sent: Monday, May 21, 2018 9:07 AM
To: FGG-DL, LSDOCS
Subject: FW: EIR Newland Sierra

From: dmi [<mailto:debramirr@gmail.com>]
Sent: Monday, May 21, 2018 7:22 AM
To: Cox, Greg; Jacob, Dianne; Gaspar, Kristin; Roberts, Ron; Horn, Bill
Subject: EIR Newland Sierra

Dear Hon. Board of Supervisors:

I am a Bonsall resident and am very concerned that a massive new Project called Newland Sierra is being proposed without providing the community of Twin Oaks Valley the opportunity to ask questions and understand the impacts. I am opposed to the Project, but I have a lot of unanswered questions about how it will affect the North County area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group once the Final EIR was released.

Newland did not make a presentation during the EIR process, because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission.

This is wrong. If Newland wants to be our neighbor, they should be willing to talk with their neighbors about the impacts that they will have on the community. This is just more of the same from developers who want to avoid community input; and it appears that County staff doesn't care to have an open and transparent process either.

Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community.

Thank you.

Debra Mirr

Subject: FW: Newland Sierra

-----Original Message-----

From: Cox, Greg
Sent: Monday, May 21, 2018 9:09 AM
To: FGG-DL, LSDOCS
Subject: FW: Newland Sierra

-----Original Message-----

From: onthellevel@mac.com [mailto:onthellevel@mac.com]
Sent: Monday, May 21, 2018 8:58 AM
To: Cox, Greg; Jacob, Dianne; Gaspar, Kristin; Roberts, Ron; Horn, Bill
Subject: Newland Sierra

Dear Honorable Board of Supervisors,

As a contractor of 30 years with a home in Twin Oaks Valley since 1981, I am not a homeowner that espouses the party line of "Not In My Backyard". We have four children with families who are forced to rent and some to live in trailer parks because the cost of housing in our fair county precludes them owning a piece of the American Dream.

Therefore there are elements of the Newland Sierra project that offers our younger members of society and people that have to drive great distances to work in San Diego, a better hope for the future.

That said, our family was a fire victim in 1993 and with the advent of WAZE and other short cut apps, Twin Oaks, Buena Creek, and Monte Vista woefully under-perform to meet the safe driving needs of our current population on a daily basis much less in an evacuation scenario. For those of us on the hill artery streets, we could be landlocked in an emergency. I can barely turn left from our artery street of Ora Avo Drive to head to work without the risk of an accident. Why there are not three way stops along the artery streets I'll never know? All four of my children have been in major accidents along Buena Creek and two of our neighbors have each lost a son on Buena Creek. And the former head of building and safety at City of San Marcos was almost killed on that same street.

I don't believe we can stop progress nor is it fair to impact our future generation and their housing needs. My plea is to make sure we can count on emergency vehicles to reach our homes in the event of an emergency. Minimally, we should be able to safely evacuate in the event of a fire, earthquake, or terrorist event.

It would also be a bonus if those of us that travel the streets everyday can leave their homes or return to our homes without impending peril.

Sincerely,

Janis L. Arendsen

From: Jacob, Dianne
Sent: Monday, May 21, 2018 1:59 PM
To: FGG-DL, LSDOCS
Subject: FW: Newland Sierra

From: keith andrew [<mailto:kickstar1@me.com>]
Sent: Monday, May 21, 2018 1:29 PM
To: Jacob, Dianne
Subject: Newland Sierra

Dear Mrs. Jacob,

I am a nearby resident to Twin Oaks Valley and am very concerned that a massive new Project called Newland Sierra is being proposed in our community without providing the community the opportunity to ask questions and understand the impacts. I am opposed to the Project, and I have a lot of unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group once the Final EIR was released.

Newland wouldn't make a presentation during the EIR process, because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission.

This is wrong. If Newland wants to be our neighbor, they should be willing to talk with their neighbors about the impacts that they will have on the community. This is just more of the same from developers who want to avoid community input; and it appears that County staff doesn't care to have an open and transparent process either.

Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community.

Thank you,

Keith Andrew

760-419-5132

Subject: FW: Newland Sierra public information and approval bundling

From: Jacob, Dianne
Sent: Monday, May 21, 2018 11:35 AM
To: FGG-DL, LSDOCS
Subject: FW: Newland Sierra public information and approval bundling

From: Greg Duchnak [<mailto:duchnakg@gmail.com>]
Sent: Monday, May 21, 2018 11:35 AM
To: Jacob, Dianne
Subject: Newland Sierra public information and approval bundling

Dear Hon. Board of Supervisors:

I am a Valley Center resident and am very concerned that a massive new Project called Newland Sierra is being proposed right next to our community without providing the community the opportunity to ask questions and understand the impacts. I am opposed to the Project, but I have a lot of unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group once the Final EIR was released.

Newland wouldn't make a presentation during the EIR process, because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission.

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Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community.

In addition to the above concerns I understand that the board is considering bundling the approval of changes to the GP2020 to allow for more than one development to be included in one decision. This is so basically wrong. It is not the will of the people, it is the board taking a power grab. Absolutely unacceptable. If his type of activity happens the people will have no choice than to vote out the board and replace the board with all new members that serve the people of this county. Shame on you for considering this.

Thank you.

Greg Duchnak
9723 Running Creek Lane
Escondido, Ca 92026

Subject: FW:

From: Jacob, Dianne
Sent: Monday, May 21, 2018 10:14 AM
To: FGG-DL, LSDOCS
Subject: FW:

From: Anja Pressler [<mailto:apressler@yahoo.com>]
Sent: Monday, May 21, 2018 10:07 AM
To: Jacob, Dianne
Subject:

Dear Hon. Board of Supervisors:

I am a Twin Oaks Valley resident and am very concerned that a massive new Project called Newland Sierra is being proposed in our community without providing the community the opportunity to ask questions and understand the impacts. I am opposed to the Project, but I have a lot of unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group once the Final EIR was released.

Newland wouldn't make a presentation during the EIR process, because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission.

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Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community.

Thank you.

Anja Pressler and Gary Anderson

--

[Sent from Yahoo Mail on Android](#)

Subject: FW: Newland Sierra

From: Cox, Greg
Sent: Monday, May 21, 2018 9:02 AM
To: FGG-DL, LSDOCS
Subject: FW: Newland Sierra

From: Dave Bales [<mailto:dbales@imageoptions.net>]
Sent: Monday, May 21, 2018 6:07 AM
To: Cox, Greg
Subject: Newland Sierra

Dear Hon. Board of Supervisors:

I am a Twin Oaks Valley resident and am very concerned that a massive new Project called Newland Sierra is being proposed in our community without providing the community the opportunity to ask questions and understand the impacts. I am opposed to the Project, but I have a lot of unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group once the Final EIR was released.

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Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community.

Thank you.

Dave Bales

DAVE BALES

COO

dbales@imageoptions.net

p 949.586.7665 m 760.518.1967

80 Icon, Foothill Ranch, CA 92610

imageoptions.net

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Subject: FW: New Land Sierra Project

From: Rachel Schweizer [<mailto:stefanleo@hotmail.com>]
Sent: Monday, May 21, 2018 6:29 AM
To: Cox, Greg
Subject: New Land Sierra Project

Dear Greg,

I am a Twin Oaks Valley resident and am very concerned that a massive new Project called Newland Sierra is being proposed in our community without providing the community the opportunity to ask questions and understand the impacts. I am opposed to the Project, but I have a lot of unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group once the Final EIR was released.

Newland wouldn't make a presentation during the EIR process, because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission.

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Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community.

Thank you.

Rachel Leona Schweizer

Subject: FW: Newland Sierra Project Conflicts with General Plan Collaboration Requirements
Attachments: 2018-05-21 LW Letter to COSD re Agency Collaboration Requirements.pdf

From: Cox, Greg
Sent: Tuesday, May 22, 2018 8:55 AM
To: FGG-DL, LSDOCS
Subject: FW: Newland Sierra Project Conflicts with General Plan Collaboration Requirements

From: Taiga.Takahashi@lw.com [<mailto:Taiga.Takahashi@lw.com>]
Sent: Monday, May 21, 2018 5:02 PM
To: Ed.Pert@wildlife.ca.gov; mendel_stewart@fws.gov
Cc: karen_goebel@fws.gov; doreen_stadtlander@fws.gov; Cox, Greg; Roberts, Ron; Jacob, Dianne; Gaspar, Kristin; Horn, Bill; Wells, Stephanie; Neufeld, Darin; Slovick, Mark; Witt, William; Silva, Claudia
Subject: Newland Sierra Project Conflicts with General Plan Collaboration Requirements

Dear Mr. Pert and Mr. Stewart:

Please see the attached letter regarding the Newland Sierra Project's conflicts with the County of San Diego General Plan wildlife agency collaboration requirements.

If you have any questions or would like to discuss further, please let me know.

Best regards.

Taiga Takahashi

LATHAM & WATKINS LLP
12670 High Bluff Drive
San Diego, CA 92130
Direct Dial: +1.858.523.3987
Fax: +1.858.523.5450
Email: taiga.takahashi@lw.com
<http://www.lw.com>

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 www.lw.com

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Los Angeles	Singapore
Madrid	Tokyo
Milan	Washington, D.C.

May 21, 2018

VIA EMAIL

Ed Pert
 Regional Manager, South Coast Region
 California Department of Fish and Wildlife
 3883 Ruffin Road
 San Diego, CA 92123

Mendel Stewart
 Field Supervisor
 United States Fish and Wildlife Service
 2177 Salk Avenue, Suite 250
 Carlsbad, California 92008

Re: Newland Sierra Project Conflicts with General Plan Collaboration Requirements

Dear Mr. Pert and Mr. Stewart:

As you know, we represent Golden Door Properties, LLC (“Golden Door”), a world-class resort and agricultural operation in rural Twin Oaks Valley. The Golden Door has restored farming and beekeeping on its property, including the replanting of many new trees on the property—sharing its bounty at a community Farm Stand and through retail operations. The Golden Door has raised many concerns with the County about the proposed Newland Sierra Project and the impacts of adding urban density the size of the City of Del Mar in our rural community.

As discussed in greater detail in our comment letter on the Draft EIR, the Newland Sierra Project site is located on an important core habitat area that provides for regional linkage. It is located within pre-approved mitigation area (“PAMA”) land in the Draft North County Multiple Species Conservation Program (“NC MSCP” or “Plan”) and surrounded by PAMA on all sides. (See **Attachment A** [PAMA map].) The Project Site is the second largest block of contiguous natural habitat west of I-15 in PAMA. The draft NC MSCP habitat evaluation model indicates habitat on and adjacent to the Project Site is moderate, high, and very high quality habitat. The Newland Sierra Project threatens to fragment important core habitat area and sever regional wildlife connections.

We are concerned that the County has violated its own General Plan requirements to consult with federal and state agencies, such as yours, regarding the project’s potential environmental impacts in connection with its analysis of the Newland Sierra Project. San Diego

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County General Plan Policy COS-1.4 requires collaboration with adjacent federal and state agencies, providing in full:

Collaborate with other jurisdictions and trustee agencies to achieve well-defined common resource preservation and management goals.

Therefore, the County was clearly required to collaborate with the California Department of Fish and Wildlife (“CDFW”) and the United States Fish and Wildlife Service (“FWS”).

The Draft EIR for the Newland Sierra Project indicates the County has failed to satisfy this requirement because it concludes that the policy is “not applicable,” as the “project applicant supports the County’s collaboration with other jurisdictions and trustee agencies.” (Draft EIR, Appendix DD, p. DD-16.) As an initial matter, it is a faulty conclusion to determine that Policy COS-1.4 does not apply to the Project because it only applies to the County. Ultimately, the County is responsible for the content of the EIR. (See *Friends of La Vina v. Cty. of Los Angeles*, 232 Cal.App.3d 1446; see also Pub. Res. Code § 21082.1, [“[A] draft EIR shall be prepared directly by, or under contract to, a public agency” and “draft documents” must reflect the independent judgment of the County.]; CEQA Guidelines § 15084(c) [agency required to “subject the draft to the agency’s own review and analysis.”].) Therefore, the County must abide by its General Plan, inclusive of Policy COS-1.4, in its analysis of the Newland Sierra Project and collaborate with your agencies.

In addition, the Draft EIR claims that the project applicant and the County have “coordinated and consulted” with the wildlife agencies. But, while meetings may have occurred, there is no evidence that the Project design has been altered to accommodate agency comments or that the County and Project applicant have reached an agreement with the agencies. Caselaw is clear that mere consultation does not amount to “collaboration.” In *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, the court determined that the project was inconsistent with the city’s general plan’s policy requiring “consultation” and “coordination” with the state and federal wildlife agencies. There, the court noted that the city approved the project despite FWS’ “repeated objections that the proposed biological resource mitigation measures were inadequate,” analyzing the definitions of “coordinate” and “consultation” to determine that coordination requires more than just mere solicitation and consideration of input:

[W]e believe that even under this definition the concept of “coordination” means more than trying to work together with someone else . . .

Although the City suggests “coordination” is synonymous with “consultation”—and therefore the City satisfied its “coordination” obligation under the general plan at the same time it satisfied its “consultation” obligation under the plan—that is not true. While the City could “consult” with the Service by soliciting and considering the Service’s comments on the draft EIR, the City

could not “coordinate” with the Service by simply doing those things. The City may be correct in asserting that “[c]onsultation is not a synonym for ‘agreement,’” but Action NR.1.7.1 required more than “consultation” with the Service; it required “coordination,” and by definition “coordination” implies some measure of cooperation that is not achieved merely by asking for and considering input or trying to work together. Had the City intended the obligation under Action NR.1.7.1 to be one of mere “consultation,” it could have used that word, as it did in Action NR.1.1.3. The fact that it did not do so supports the conclusion that the City intended “coordination” to have a different meaning than “consultation,” consistent with the dictionary definitions of those words.

That the word “coordination,” as used in the City’s general plan, implies a measure of cooperation is apparent not only from the dictionary definition of the word, but also from the context in which the word is used in the plan.

(*Id.*, pp. 640-41.)

Here, General Plan Policy COS-1.4 requires the County to “collaborate,” with CDFW and FWS for resource preservation. Similar to “consult” in *California Native Plant Society v. City of Rancho Cordova*, “collaborate” carries with it a heavier burden than mere discussion with the agencies. CDFW and FWS levied serious concerns regarding the Newland Sierra Project’s potential wildlife impacts due to the important biological resources in the Project’s footprint, and proposed alternatives aimed at preserving wildlife corridors. Rather than take these comments seriously and engage with the agency in order to reach a mutually beneficial outcome, the Draft EIR designed alternatives based on the agency comments in a manner fundamentally designed to fail.

For example, the DEIR concludes that these alternatives would have increased land use planning impacts (DEIR at pp. 4-68, 4-77, 4-85, Table 4-1), whereas the Draft EIR concludes that the Project itself would have no such impacts. As discussed in the Golden Door’s comment letter on the Draft EIR, this is not the case. In addition, the Draft EIR failed to analyze easy solutions to the perceived issues with the agency alternatives, which could have been easily remedied through engagement with the agencies. For instance, the Draft EIR concludes that these alternatives would have an increased hazards impact due to the delay in fire services, but failed to analyze placing a fire station on the Project site to reduce the impact to a less than significant level.

Despite concluding that the Wildlife Agency Alternatives would reduce the impacts to biological resources, the Draft EIR rejects the alternatives. This does not amount to “collaboration” with the agencies to ensure the County’s resource preservation goals are met, but rather a cursory dismissal of valid agency concerns. As such, the Newland Sierra Project is inconsistent with the County’s General Plan requirements to collaborate with the wildlife

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agencies. The agencies should ensure that the County does not abrogate its collaboration requirement in order to protect the important biological resources within the Project site.

We thank you for your time and attention to our comments. Should you have any questions, please do not hesitate to contact me at 858.523.5400.

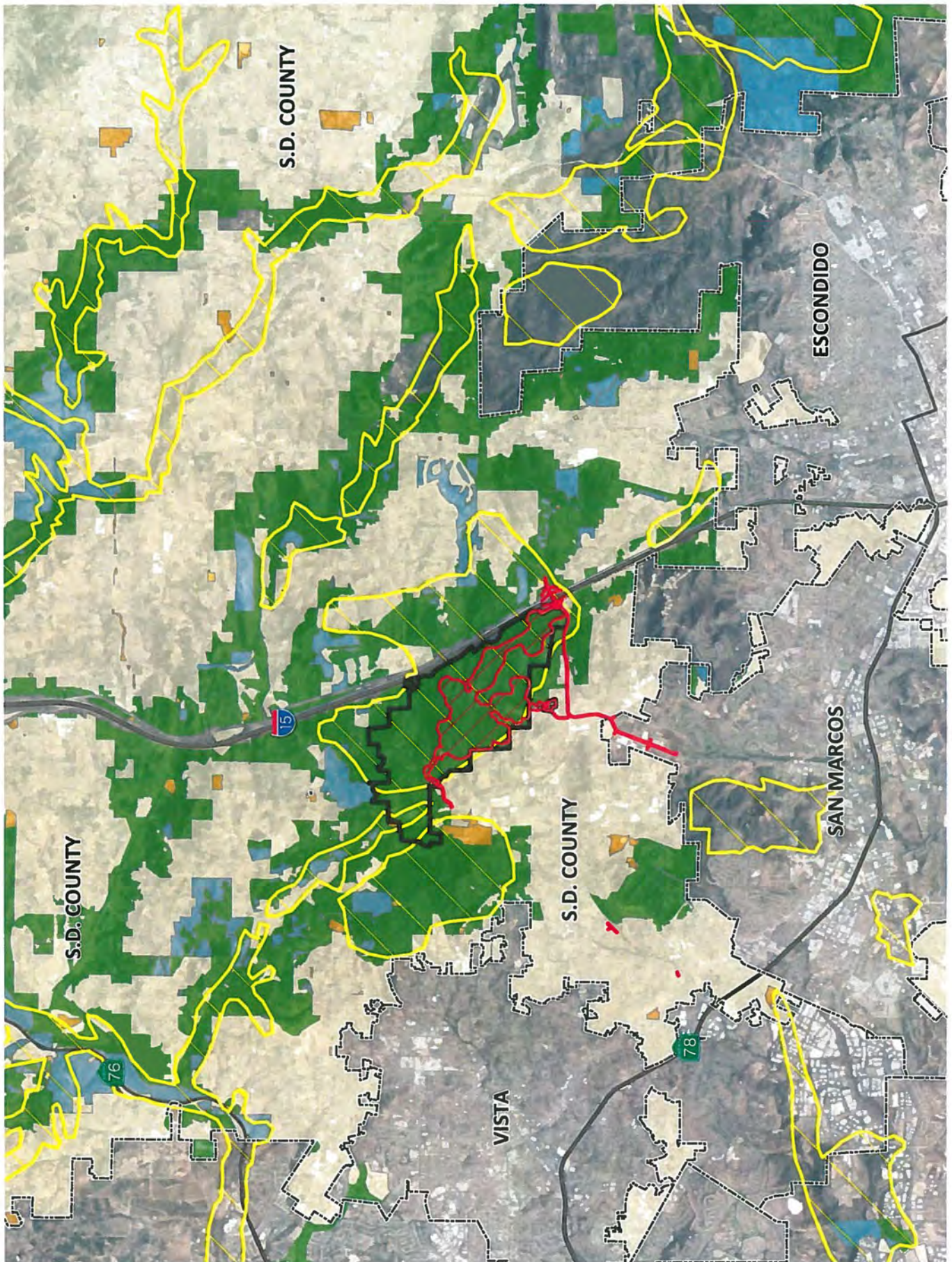
Best regards,



Taiga Takahashi
of LATHAM & WATKINS LLP

cc: Karen Goebel, U.S. Fish & Wildlife Service
Doreen Stadtlander, U.S. Fish & Wildlife Service
County Board of Supervisors
County Planning Commission
Darin Neufeld, County Planning and Development Services
Mark Slovick, County Planning and Development Services
William W. Witt, Office of County Counsel
Claudia Silva, Office of County Counsel
Dan Silver, Endangered Habitats League
George Courser, Sierra Club
Duncan McFetridge, Cleveland National Forest Foundation
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
Kathy Van Ness, Golden Door Spa

ATTACHMENT A



Subject: FW: Newland Sierra Project

From: Cox, Greg
Sent: Tuesday, May 22, 2018 8:58 AM
To: FGG-DL, LSDOCS
Subject: FW: Newland Sierra Project

From: Rex Bright [<mailto:rex@rexbright.com>]
Sent: Monday, May 21, 2018 6:11 PM
To: Cox, Greg; Jacob, Dianne; Gaspar, Kristin; Roberts, Ron; Horn, Bill; Smith, Ashley
Cc: John Fitzpatrick; Carol Fitzpatrick; Lang Morris; Cheryl Heady; Jason Springston; Pete Coz; Bob Franz; Jane Franz; Ann Neise; Ann Neise; Ron Arestad; Ron Arestad; Chuck Austin; Kelly Austin; Bob Pawlik; Marilyn Bright; Susan Stitle; Harry Shaw; Michele Shaw; Herb Baker; Roxie Stanley; Jack & Bonnie Lamberson; Barbara Schultz; Carl & Christa Wilburn; Granger Haugh; Mike Manley; Patty Manley; Lee Lovaas; Parniani Darioush; Howard Bode; Carol & Jim Willard; Dick & Ginny Shillington; Jack Wood
Subject: Newland Sierra Project

Dear Hon. Board of Supervisors:

I am a Lake Vista Estates resident in Bonsall and I am very concerned that a massive new Project called Newland Sierra is being proposed in our community without providing the community the opportunity to ask questions and understand the impacts. I am opposed to the Project, but I have a lot of unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group once the Final EIR was released.

Newland wouldn't make a presentation during the EIR process, because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission.

This is wrong. If Newland wants to be our neighbor, they should be willing to talk with their neighbors about the impacts that they will have on the community. This is just more of the same from developers who want to avoid community input; and it appears that County staff doesn't care to have an open and transparent process either.

Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community.

Thank you.

Rex Bright

5641 Lake Vista Drive
Bonsall, CA 92003
Rex@RexBright.com
www.RexBright.com

Sent from my iPhone 7

Subject: FW: Newland Sierra, Lilac Hills or any other project that you want give to developers

From: Cox, Greg
Sent: Tuesday, May 22, 2018 8:59 AM
To: FGG-DL, LSDOCS
Subject: FW: Newland Sierra, Lilac Hills or any other project that you want give to developers

From: Sharon Daniels [<mailto:dasda800@aol.com>]
Sent: Monday, May 21, 2018 7:53 PM
To: Cox, Greg; Jacob, Dianne; Gaspar, Kristin; Roberts, Ron; Horn, Bill
Subject: Newland Sierra, Lilac Hills or any other project that you want give to developers

I am a Fallbrook resident and am very concerned that a massive new Project called Newland Sierra is being proposed in our community without providing the community the opportunity to ask questions and understand the impacts. I am opposed to the Project, but I have a lot of unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group once the Final EIR was released. Newland wouldn't make a presentation during the EIR process, because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission. All these projects are wrong. You all do not care what the impact they will have on the community. This is just more of the same from developers who want to avoid community input; and it appears that County staff doesn't care to have an open and transparent process either. Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community. Thank you.
Dave & Sharon Daniels

Subject: FW: Letter against bundling of projects for GPA 2018
Attachments: Ltr against bundling of projects for GPA 2018 May 22.pdf

From: Cox, Greg
Sent: Tuesday, May 22, 2018 9:02 AM
To: FGG-DL, LSDOCS
Subject: FW: Letter against bundling of projects for GPA 2018

From: Tom Kumura [<mailto:Tomkumura@aol.com>]
Sent: Tuesday, May 22, 2018 12:00 AM
To: Wardlaw, Mark; Wells, Stephanie
Cc: xavier.becerra@doj.ca.gov; Horn, Bill; Ron-Roberts; Cox, Greg; Jacob, Dianne; Gaspar, Kristin; 'BillieJo Jannen'; travislyonacpg@gmail.com; rebalk7@gmail.com; wrplanning@gmail.com; cuyamaca@nethere.com; descansocpg@gmail.com; russellfarms@roadrunner.com; wdaub@cox.net; helen@deanzasprings.com; info.masters@cox.net; patrickeng@sbcglobal.net; lakesidecpg@gmail.com; bms0345@gmail.com; PineValleyPlanningGroup@gmail.com; wmcrocker@gmail.com; kmansolf@gmail.com; theddills@att.net; jimcusteausvcpg@cox.net; harriettaylor@cox.net; louisschooler@gmail.com; djbanker@cox.net; oliver.smith@philips.com; tisdale.donna@gmail.com; pvfdchief@sbcglobal.net; morgan7070@cox.net; 'Sandra Farrell'; royalviewranch@aol.com; 'Ana Rosvall'; cbranin@gmail.com; erik.chapman10@gmail.com; Bailey, Je'Rae; jharry.jones@sduniontribune.com
Subject: Letter against bundling of projects for GPA 2018

Mark, the TOVCSG voted on May 18th to recommend against bundling of projects for GPA 2018.

Subject:

FW:

From: Jacob, Dianne
Sent: Tuesday, May 22, 2018 9:19 AM
To: FGG-DL, LSDOCS
Subject: FW:

From: Coach Lipinski [<mailto:coachlipinski@gmail.com>]
Sent: Monday, May 21, 2018 11:01 PM
To: Jacob, Dianne; Cox, Greg; Gaspar, Kristin; Horn, Bill; Roberts, Ron
Subject:

Dear Hon. Board of Supervisors:

I am a resident in unincorporated San Diego County and am very concerned that a massive new Project called Newland Sierra is being proposed in our community without providing the community the opportunity to ask questions and understand the impacts. I am opposed to the Project, but I have a lot of unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group once the Final EIR was released.

Newland wouldn't make a presentation during the EIR process, because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission.

This is wrong. If Newland wants to be our neighbor, they should be willing to talk with their neighbors about the impact they will have on the community. This is just more of the same from developers who want to avoid community input; and it appears that County staff doesn't care to have an open and transparent process either.

Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community.

Thank you.

David Lipinski

Subject: FW: Newland Sierra

From: Cox, Greg
Sent: Tuesday, May 22, 2018 12:46 PM
To: FGG-DL, LSDOCS
Subject: FW: Newland Sierra

From: Gary Nelson [<mailto:gnelson@gnelson.com>]
Sent: Tuesday, May 22, 2018 12:11 PM
To: Cox, Greg
Subject: Newland Sierra

Dear Hon. Board of Supervisors:

I am a Twin Oaks Valley resident and am very concerned that a massive new Project called Newland Sierra is being proposed in our community without providing the community the opportunity to ask questions and understand the impacts. I am opposed to the Project, but I have a lot of unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group once the Final EIR was released.

Newland wouldn't make a presentation during the EIR process, because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission.

This is wrong. If Newland wants to be our neighbor, they should be willing to talk with their neighbors about the impacts that they will have on the community. This is just more of the same from developers who want to avoid community input; and it appears that County staff doesn't care to have an open and transparent process either.

Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community.

Thank you.

Gary Nelson

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Subject: FW: Newland Sierra Answers to EIR questions regarding School Impact

From: Cox, Greg
Sent: Tuesday, May 22, 2018 12:50 PM
To: FGG-DL, LSDOCS
Subject: FW: Newland Sierra Answers to EIR questions regarding School Impact

From: Erin Veit [<mailto:eerinveit@gmail.com>]
Sent: Tuesday, May 22, 2018 12:47 PM
To: Cox, Greg; Jacob, Dianne; Gaspar, Kristin; Roberts, Ron; Horn, Bill
Subject: Newland Sierra Answers to EIR questions regarding School Impact

Dear Hon. Board of Supervisors:

I am a resident of Twin Oaks Valley in San Marcos and am concerned about the Newland Sierra project that is being proposed in our community without providing the community the opportunity to ask questions and understand the impacts.

I am opposed to the Project, but I have a lot of unanswered questions about how it will affect my area. I have a toddler that will be attending Twin Oaks Elementary which is the closest elementary school to the project- will this be where all the children living there will attend? How will that affect traffic getting to and from the school currently? (It is already dangerous around drop off/pick up times).

Newland wouldn't make a presentation during the EIR process, because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission. HOW ARE WE SUPPOSED TO GET ANSWERS ABOUT OUR SCHOOL?

This is wrong. If Newland wants to be our neighbor, they should be willing to talk with their neighbors about the impacts that they will have on the community.

It very much appears that County staff don't care about our concerns regarding the safety of our children and quality of our schools in our district.

Please direct your staff to have Newland and County staff hold a meeting at the Twin Oaks Valley sponsor groups, so people who can't make it downtown for a hearing, can provide receive answers to their concerns.

Sincerely,
Erin Veit

Subject: FW: Newland Sierra Considerations

From: Jacob, Dianne
Sent: Wednesday, May 23, 2018 8:57 AM
To: FGG-DL, LSDOCS
Subject: FW: Newland Sierra Considerations

From: Chris Veit [<mailto:chris.veit@gmail.com>]
Sent: Tuesday, May 22, 2018 9:10 PM
To: Jacob, Dianne
Subject: Newland Sierra Considerations

Dianne,

I am a Twin Oaks Valley resident and am very concerned that a massive new Project called Newland Sierra is being proposed in our community without providing the community the opportunity to ask questions and understand the impacts.

This developer is attempting to circumvent community input and proper process and coerce the County staff to approve this project without appropriate community input. Please consider your constituents and instruct Newland to hold meetings at the local sponsor groups and consider our input in upcoming decisions.

The local infrastructure, community services, schools, emergency services, and utilities can not currently support a project of this magnitude. This developer will obviously not provide for these needs as part of the project, and the result will be a serious degradation to this community.

I trust that under your watch you will not let your county succumb to such.

Thanks,
Chris

Subject: FW: Newland Sierra Concerns

From: Jacob, Dianne
Sent: Wednesday, May 23, 2018 8:58 AM
To: FGG-DL, LSDOCS
Subject: FW: Newland Sierra Concerns

From: Elizabeth Aragon [<mailto:elizabmarie@hotmail.com>]
Sent: Tuesday, May 22, 2018 5:55 PM
To: Jacob, Dianne
Subject: Newland Sierra Concerns

Dear Ms. Jacob:

I live across the I15 Freeway from the proposed Newland Sierra project and am very concerned and worried as to the effect this huge development will have on the safety and quality of life in our area.

I have many concerns about the project; however, my primary fear is that of fire evacuation. The recent Lilac Fire was an example of the freeway gridlock and the inadequate escape routes for thousands of people in this area in the event of a wildfire. I live off of Circle R Drive (a two-lane street) where three large communities have only one exit onto Circle R that serves as a major escape route for Valley Center. In the event of a fire, one lane of Circle R will be reserved for emergency vehicles leaving only one lane open for thousands of people trying desperately to get to Old 395 or I15. Our chances of survival in a fast-moving fire such as the Lilac Fire are minimal at best. Adding large developments such as Newland Sierra and Lilac Hills Ranch will exacerbate the problem and is unconscionable.

In addition, there are many unanswered questions that the Newland Sierra developer have not addressed. I attended a presentation of the Hidden Meadows Community Sponsor Group on April 26 at which Newland Sierra representatives summarized the proposed project and answered questions, many inadequately, regarding issues/concerns of the project. At the end of that meeting, the Hidden Meadows Community Sponsor Group voted against supporting the project.

Another concern is that the Newland Sierra project will require 10 years of rock blasting which will have a detrimental effect on air quality (not to mention the hearing) of thousands of residents.

Please listen to and represent the thousands of your constituents who oppose the Newland Sierra project.

Thank you.

Elizabeth Aragon
29625 Circle R Greens Drive
Escondido, CA 92026

Subject: FW: Newland Sierra Concerns

From: Jacob, Dianne
Sent: Wednesday, May 23, 2018 8:59 AM
To: FGG-DL, LSDOCS
Subject: FW: Newland Sierra Concerns

From: E G [<mailto:theburbanker@yahoo.com>]
Sent: Monday, May 21, 2018 10:40 PM
Subject: Newland Sierra Concerns[SUSPECTED SPAM]

Dear Board of Supervisors:

I am a Twin Oaks Valley/Buena Creek resident and I am very concerned that the Newland Sierra development project is being proposed in our community, without providing vital information the community needs to understand, along with other potential impacts.

I am opposed to the Project, and there are still many unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group once the Final EIR was released.

Newland Sierra did not keep their promise; they instead asked us to write down our comments and concerns, which would be addressed in a meeting after the Final EIR was prepared.

Now citizens are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission.

This is completely NOT ACCEPTABLE.

If Newland Sierra wants to be our neighbor, they should be willing to talk us in person about the impacts that they will have on the community. This is just more of the same from developers who want to avoid community input; and it appears that County staff doesn't care to have an open and transparent process either.

I am requesting that the Board of Supervisors formally arrange a meeting between Newland Sierra and County officials, so working people such as myself who cannot make it downtown for a hearing can provide input on the Project in their local community.

Thank you for your consideration.

Sincerely,

Elliott Goretsky

3048 Overhill Drive

Vista, CA 92084

Cell: 818-636-0745

Email: goretskymft@yahoo.com

Subject: FW: Opposition to Twin oaks development

-----Original Message-----

From: Cox, Greg
Sent: Wednesday, May 23, 2018 9:40 AM
To: FGG-DL, LSDOCS
Subject: FW: Opposition to Twin oaks development

-----Original Message-----

From: Malia Sering [<mailto:maliasering@me.com>]
Sent: Wednesday, May 23, 2018 9:16 AM
To: Cox, Greg
Subject: Opposition to Twin oaks development

Dear Hon. Board of Supervisors:

I am a North County resident and am very concerned that a massive new Project called Newland Sierra is being proposed in our community without providing the community the opportunity to ask questions and understand the impacts. I am opposed to the Project and I have a lot of unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group once the Final EIR was released. Newland wouldn't make a presentation during the EIR process, because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission. This is wrong. If Newland wants to be our neighbor, they should be willing to talk with their neighbors about the impacts that they will have on the community. This is just more of the same from developers who want to avoid community input; and it appears that County staff doesn't care to have an open and transparent process either. Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community. All else aside, I am heavily opposed to our beautiful, rural land being developed. I have lived here since 1981, I grew up here and the developers wanting to come in have no personal ties to the community. Please know as a long time resident, taxpayer, healthcare provider, I am opposed to a massive development such as this.

Sincerely,

Malia Sering, MSPAS, PA-C

Subject: FW: Newland Sierra and other projects using bunding.

From: Jacob, Dianne
Sent: Wednesday, May 23, 2018 1:34 PM
To: FGG-DL, LSDOCS
Subject: FW: Newland Sierra and other projects using bunding.

From: Jennifer Hill [<mailto:jennhill68@gmail.com>]
Sent: Wednesday, May 23, 2018 12:36 PM
To: 'Jennifer Hill'
Subject: Newland Sierra and other projects using bunding.

Dear Hon. Board of Supervisors:

I am a Hidden Meadows resident and am very concerned that a massive new Project called Newland Sierra is being proposed in our community without providing the community the opportunity to ask questions and understand the impacts.

I am opposed to the Project, and I have a lot of unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Sponsor Group once the Final EIR was released. Newland wouldn't make a presentation during the EIR process, because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission. This is wrong.

If Newland wants to be our neighbor, they should be willing to talk with their neighbors about the impacts that they will have on the community. This is just more of the same from developers who want to avoid community input; and it appears that County staff doesn't care to have an open and transparent process either. Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community.

Thank you.

Jennifer Hill
CA BRE #01880717

cell: 760-484-4121
fax: 760-888-1968

jennhill68@gmail.com





****If your email/request is time sensitive, please call or text me! Thank you****

Confidentiality Notice: *The information contained in this electronic e-mail and any accompanying attachment(s) is intended for the use of the intended recipient and is non-public in nature and may be confidential and/or privileged. If any reader of this communication is not the intended recipient, unauthorized use, disclosure, dissemination or copying is strictly prohibited, and may be unlawful. If you have received this communication in error, please immediately notify the sender by return mail, and delete the original message and all copies from your system and promptly destroy any copies made of this electronic message. Thank you.*

Subject: FW: Twin Oaks Valley Resident - Newland Sierra

From: Jacob, Dianne
Sent: Wednesday, May 23, 2018 1:34 PM
To: FGG-DL, LSDOCS
Subject: FW: Twin Oaks Valley Resident - Newland Sierra

From: Rayna Faumuina [<mailto:Rayna.Faumuina@vca.com>]
Sent: Wednesday, May 23, 2018 12:08 PM
To: Cox, Greg; Jacob, Dianne; Gaspar, Kristin; Roberts, Ron; Horn, Bill
Subject: Twin Oaks Valley Resident - Newland Sierra

Dear Hon. Board of Supervisors:

I am a Twin Oaks Valley resident and am very concerned that a massive new Project called Newland Sierra is being proposed in our community without providing the community the opportunity to ask questions and understand the impacts. I am opposed to the Project, but I have a lot of unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group once the Final EIR was released.

Newland wouldn't make a presentation during the EIR process, because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission.

This is wrong. If Newland wants to be our neighbor, they should be willing to talk with their neighbors about the impacts that they will have on the community. This is just more of the same from developers who want to avoid community input; and it appears that County staff doesn't care to have an open and transparent process either.

Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community.

Thank you,
Rayna Faumuina, RVT, CVPM
VCA Specialty Recruiting Director
(IM, Cardio, Neuro, Onco, Rad, Rad Onc)
Cell: 760-891-9903
rayna.faumuina@vca.com
VCAjobs.com



Subject: FW: Proposed Newland Sierra Project

Importance: High

From: Jacob, Dianne
Sent: Thursday, May 24, 2018 1:16 PM
To: FGG-DL, LSDOCS
Subject: FW: Proposed Newland Sierra Project
Importance: High

From: Lois Sklar [<mailto:lbsklar2@gmail.com>]
Sent: Thursday, May 24, 2018 12:47 PM
To: Horn, Bill; Jacob, Dianne; Gaspar, Kristin; Cox, Greg; Roberts, Ron; Gaspar, Kristin
Subject: Proposed Newland Sierra Project
Importance: High

Dear Hon. Board of Supervisors:

I am a Twin Oaks Valley resident and am very concerned that a massive new Project called Newland Sierra is being proposed in our community without providing the community the opportunity to ask questions and understand the impacts. I am opposed to the Project, but I have a lot of unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group once the Final EIR was released.

Newland wouldn't make a presentation during the EIR process because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission. **This is wrong.** If Newland wants to be our neighbor, they should be willing to talk with their neighbors about the impacts that they will have on the community. This is just more of the same from developers who want to avoid community input; and it appears that County staff doesn't care to have an open and transparent process either.

Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community. You were elected to represent the people of this County, not the developers.

Thank you.

Lois Sklar
2954 Ora Avo Terr
Vista 92084

From: Jacob, Dianne
Sent: Thursday, May 24, 2018 4:02 PM
To: FGG-DL, LSDOCS
Subject: FW: Newland Sierra and Twin Oaks Valley

-----Original Message-----

From: Lisa Amantea [<mailto:laa42@cox.net>]
Sent: Thursday, May 24, 2018 4:01 PM
To: Cox, Greg; Jacob, Dianne; Gaspar, Kristin; Roberts, Ron; Horn, Bill
Subject: Newland Sierra and Twin Oaks Valley

Dear Honorable Board of Supervisors:

I have been a resident of the Twin Oaks Valley for 20 years and during this time we have faced several attempts by developers to build massive, high density housing in the valley. The latest such proposal is Newland Sierra and in addition to concerns about the development itself, is their lack of openness and transparency with the community. Despite several promises to attend and make a presentation to the Twin Oaks Valley Sponsor Group, they have failed to do so.

Newland Sierra did not want to make a presentation during the EIR process. Instead, they wanted the public to write down their questions, comments, and concerns and they would address these after the final EIR was prepared. Now we are being told by Ashley Smith at County Planning and the Newland Sierra representatives that they will not be making a presentation to the community, therefore leaving us no forum in which to get our questions answered before the project comes up for a vote by the planning commission.

I'm concerned as to how this is a fair process, not only for those living in the valley, but for any people in the San Diego area who will undoubtedly be impacted by this large scale, high impact development. Where is the opportunity for community input, both in favor and opposed? Although I understand that the planning commissioners are appointed, how do they know how to best represent their constituents, and therefore report to you, without ongoing and adequate input from the very members they are representing?

I respectfully ask that Newland Sierra and county representatives be asked to hold a meeting at the local sponsor group location(s) thus making it accessible to more people. If any of you can attend, that would be welcomed!

Thank you for your time and attention to this matter.

Respectfully,

Lisa Amantea
760.415.8221

From: [m. seebach](#)
To: [Hom, Bill](#); [Jacob, Dianne](#); [Gaspar, Kristin](#); [Roberts, Ron](#); [Cox, Greg](#)
Cc: [Smith, Ashley](#)
Subject: Land Use, General Plan
Date: Tuesday, May 29, 2018 9:01:03 AM
Attachments: [Recommendations for Future Agenda Items pdf.pdf](#)

Dear Supervisors,

We're contacting you on behalf of your concerned constituents regarding the proposed Newland Sierra development. Several inconsistencies, misinformation and regulatory compliance questions need addressed before consideration of this project, let alone a vote.

We ask you, your staff and the Planning Commission to review the consultants Newland Sierra used in their EIR. Your research will reveal some of these consultants are not on the County approved list. It seems reasonable to request these portions of Newland's EIR be in compliance using the county approved consultants, there may be a CEQA violation if not addressed.

Another Newland Sierra EIR possible CEQA violation has been reported, when Caltrans stated Newland Communities Draft Environmental Impact Report concerning the traffic analysis and mitigation was "insufficient and misleading."

This site project was voted down by our supervisors when it was the Merriam Mountains project. The same reasons it was voted down then are what the Newland Sierra proposal presents now. The vast majority of residents are (once again) opposed to the continued LA type of urban sprawl. We hope the BOS has the courage to stand with us so three votes don't leave us with the developers consequences. An attachment is provided with ideas for smart development.

We strongly urge each of you to enforce our General Plan and vote not to amend.

Thank You,
Concerned Voters Dist. 5

**Recommendations for Future Agenda Items and Public Hearings
for San Diego County Planning Commission**

Presented by Christopher Garrett, Latham & Watkins
May 24, 2018 Public Comment Period On Non-Agenda Items

1. Inclusionary Zoning and Affordable Housing: Implementing County **General Plan Policy H-10** Requiring Inclusionary Zoning and Recommendations of California Housing Partnership Corporation and San Diego Housing Federation (see Tab 1)
2. Parkland Dedication Requirements: Implementing County **General Plan Policy COS-21** Requiring parkland dedication requirements of 10 acres of local park land for major new County projects. (see Tab 2)
3. Regional Fire Emergency Evacuation Planning ---- Implementing **County General Plan Policy S-2.6** to maintain “an effective evacuation program for areas of risk” in the I-15 Corridor in the event of a natural disaster. (see Tab 3)
4. Regional Transportation Planning—Interstate 15 Corridor ---- Review options, status, funding and timing for transportation planning and new toll lanes and interchanges planned for I-15 Corridor in unincorporated areas--- invite SANDAG, Caltrans and Community Sponsor Groups. (see Tab 4)
5. Records Retention for Development Applications ---- Review existing PDS Dept. 60 day “auto-delete” policy that destroys all developer emails to PDS staff that are not classified as part of “official” record for development projects. (see Tab 5)

1

GOALS AND POLICIES

H-1.7 **Mix of Residential Development Types in Villages.** Support the design of large-scale residential developments (generally greater than 200 dwelling units) in Villages that include a range of housing types, lot sizes, and building sizes.

H-1.8 **Variety of Lot Sizes in Large-Scale Residential Developments.** Promote large-scale residential development in Semi-Rural that include a range of lot sizes to improve housing choice.

H-1.9 **Affordable Housing through General Plan Amendments.** Require developers to provide an affordable housing component when requesting a General Plan amendment for a large-scale residential project when this is legally permissible.

GOAL H-2

Neighborhoods That Respect Local Character. Well-designed residential neighborhoods that respect unique local character and the natural environment while expanding opportunities for affordable housing.

Policies

H-2.1 **Development that Respects Community Character.** Require that development in existing residential neighborhoods be well designed so as not to degrade or detract from the character of surrounding development consistent with the Land Use Element. [See applicable community plan for possible relevant policies.]

H-2.2 **Projects with Open Space Amenities in Villages.** Require new multi-family projects in Villages to be well-designed and include amenities and common open space areas that enhance overall quality of life.



Multi-family housing units in 4S Ranch

Housing Affordability

GOAL H-3

Housing Affordability for All Economic Segments. Affordable and suitable housing for all economic segments, with emphasis on the housing needs of lower income households and households with special needs.

Policies

H-3.1 **Federal Funding to Expand Affordable Housing.** Pursue funding from federal, State, and local sources to expand affordable housing opportunities within the unincorporated County.

H-3.2 **Equitable Share of Federal Funding.** Advocate for an equitable share of available federal and State housing funds for subsidizing affordable housing development within unincorporated County areas.

Talmadge Gateway Apartments, developed by Wakeland Housing & Community Development, St. Paul's PACE, and City Heights CDC in City Heights. Courtesy of Wakeland Housing.

MAY 2018

San Diego County's Housing Emergency and Proposed Solutions

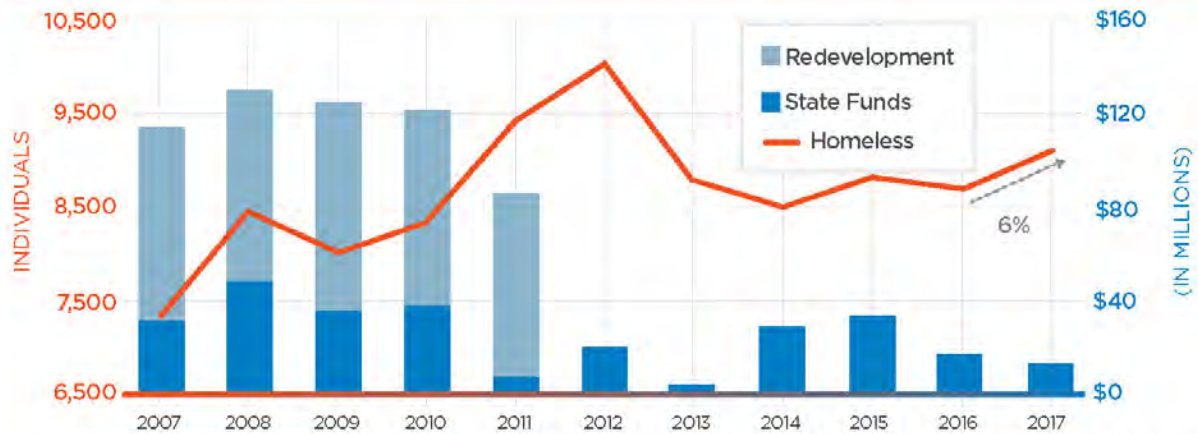
KEY FINDINGS

- The elimination of redevelopment in 2012 and exhaustion of state bond funding foreshadowed a 6% rise in homelessness from 2016 to 2017.
- Renters in San Diego County need to earn \$38.31/hr - 3.3 times local minimum wage - to afford the median monthly asking rent of \$1,992.
- San Diego County's lowest-income renters spend 69% of income on rent, leaving little left for food, transportation, health care, and other essentials.
- San Diego County needs 143,800 more affordable rental homes to meet current demand.
- When housing costs are considered, San Diego County's poverty rate rises from 13.3% to 20.4%.
- LIHTC production in San Diego County increased 64% from 2016-17, bucking a statewide trend of significant decreases in production.

www.chpc.net

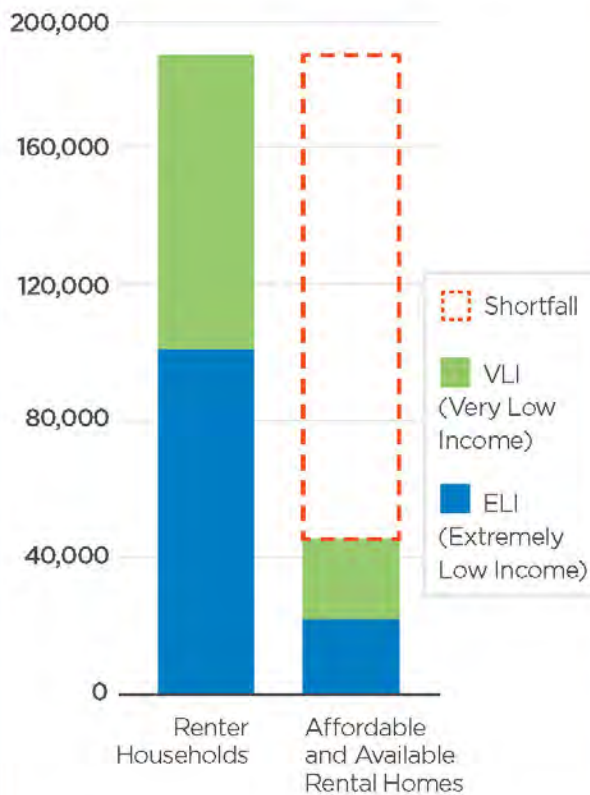


ELIMINATION OF REDEVELOPMENT & LOSS OF STATE BOND FUNDING FOR HOUSING FORESHADOWED A 6% RISE IN HOMELESSNESS IN SAN DIEGO COUNTY IN 2016-17



Source: CHPC analysis of 2008-2009 annual HCD Redevelopment Housing Activities Reports; 2008-2009 and 2016-2017 annual HCD Financial Assistance Programs Reports. Housing and Urban Development (HUD) PIT and HIC Data Since 2007. Note fiscal years are indicated by second half of fiscal year (e.g. FY 2006-2007 is presented as 2007).

SAN DIEGO COUNTY NEEDS 143,800 MORE AFFORDABLE RENTAL HOMES



Source: NLIHC analysis of 2016 PUMS data.

SAN DIEGO COUNTY'S POVERTY RATE RISES TO 20.4% WHEN HIGH HOUSING COSTS ARE INCLUDED

Official Poverty Measure (OPM)

13.3%

Unadjusted for Housing Costs

California Poverty Measure (CPM)

20.4%

Adjusted for Housing Costs and Social Benefits

Source: Public Policy Institute of California (PPIC), California Poverty by County and Legislative District, 2013-2015.

SAN DIEGO COUNTY'S LOW INCOME HOUSING TAX CREDIT PRODUCTION INCREASED 64% WHILE STATE PRODUCTION DECREASED 45% 2016-17

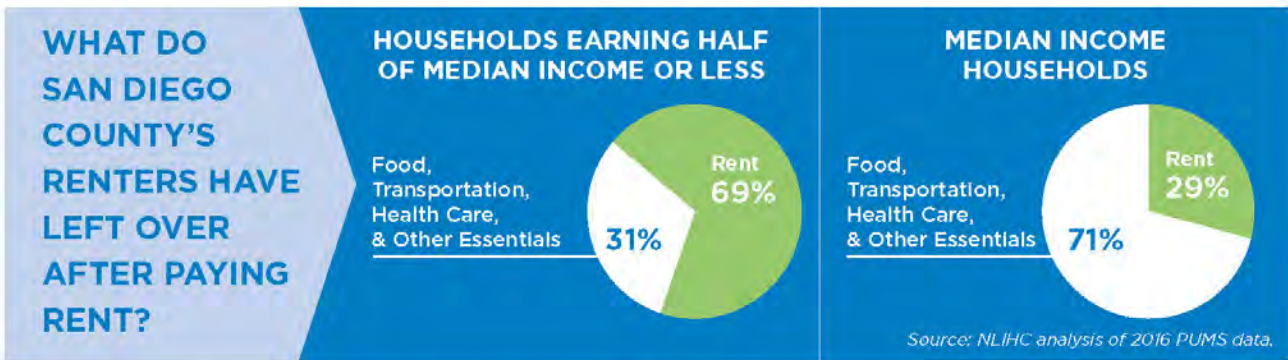
State			
Type	2016	2017	Change %
New Construction	9,285	7,407	-20%
Acquisition & Rehab	15,032	5,928	-61%
All	24,317	13,335	-45%
San Diego County			
Type	2016	2017	Change %
New Construction	823	1,134	38%
Acquisition & Rehab	792	1,522	92%
All	1,615	2,656	64%

Source: CHPC analysis of 2016 and 2017 CA Tax Credit Allocation Committee (TCAC) data. Note the data does not include manager or market rate homes created through the LIHTC program.

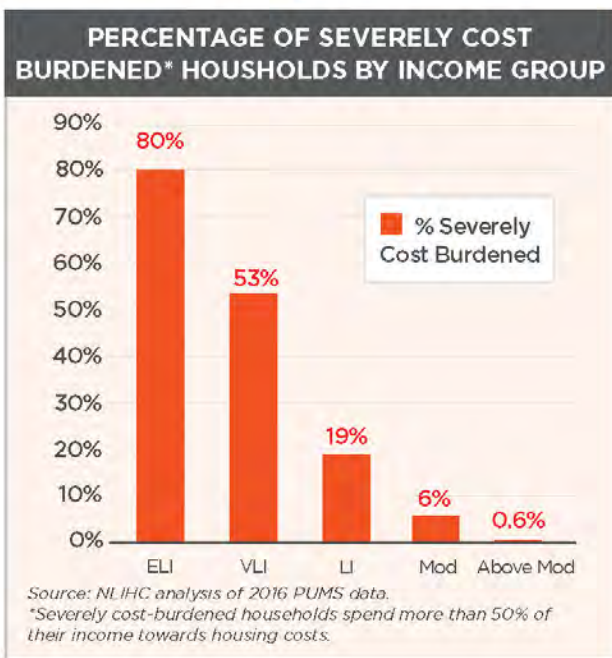
RENTERS NEED TO EARN 3.3 TIMES MINIMUM WAGE TO AFFORD MEDIAN ASKING RENTS



Source: Paul Waddell, Urban Analytics Lab, University of California, Berkeley, retrieved from analysis of online Craigslist listings in April 2018. CHPC analysis of Bureau of Labor Statistics Median Annual Wage Data for CA Occupations in 2017.



Source: NLIHC analysis of 2016 PUMS data.



ABOUT CHPC

THE STATE CREATED THE CALIFORNIA HOUSING PARTNERSHIP NEARLY 30 YEARS AGO AS A PRIVATE NONPROFIT ORGANIZATION WITH A PUBLIC MISSION: TO MONITOR, PROTECT, AND AUGMENT THE SUPPLY OF HOMES AFFORDABLE TO LOWER-INCOME CALIFORNIANS AND TO PROVIDE LEADERSHIP ON AFFORDABLE HOUSING FINANCE AND POLICY. SINCE 1988, THE CALIFORNIA HOUSING PARTNERSHIP HAS ASSISTED NONPROFIT AND LOCAL GOVERNMENT HOUSING AGENCIES ACROSS THE STATE TO LEVERAGE MORE THAN \$14 BILLION IN PRIVATE AND PUBLIC FINANCING TO CREATE AND PRESERVE 70,000 AFFORDABLE HOMES.

STATEWIDE POLICY RECOMMENDATIONS

The California Housing Partnership calls on state leaders to take the following actions to provide relief to low-income families struggling with the high cost of housing:

- » Immediately invest \$1 billion of the state's budget surplus to finance the development of permanently affordable rental housing and another \$1 billion for supportive housing for the homeless.
- » Bring back redevelopment funding for affordable housing and related infrastructure at an initial amount of \$1 billion annually.
- » Aggressively campaign for the passage of the \$4 billion Veterans and Affordable Housing Bond of 2018.
- » Reduce the threshold for voter approval of local funding of affordable housing and infrastructure from 67% to 55%.

LOCAL RECOMMENDATIONS FOR SAN DIEGO COUNTY

- » Place revenue measures on city and county ballots to allow voters to approve affordable housing bonds similar to those recently passed in other California jurisdictions that can provide a local revenue source to be matched with state and federal resources to finance the construction and preservation of affordable homes.
- » Prioritize the use of public lands for affordable housing and require affordable housing as a component of development on public lands located near transit.
- » Adopt and fully enact local programs to incentivize the development of affordable homes as a part of new development, similar to the City of San Diego's Affordable Homes Density Bonus Program.
- » Fully implement local policies to fund and develop affordable homes such as inclusionary ordinances and related in-lieu fees, commercial linkage fees, and SRO replacement ordinances.
- » Include affordable housing as a solution in local TOD (transit-oriented development) policies, including Climate Action Plans and SANDAG's Smart Growth Plan to make the San Diego region more competitive for State Cap-and-Trade funds.
- » Lower the cost to develop affordable homes through reforms that shorten entitlement processing times, create more certainty, and reduce unnecessary or duplicative regulatory barriers.
- » Identify local resources for services and capital that can be matched with state funds to create permanent supportive housing for individuals and families experiencing homelessness.

This report was produced by the California Housing Partnership.

Local policy recommendations provided by:
San Diego Housing Federation

For questions about San Diego County's housing need, contact:
Stephen Russell, steve@housingsandiego.org, 619-239-6693



2

GOALS AND POLICIES

GOALS AND POLICIES

GOAL COS-21

Park and Recreational Facilities. Park and recreation facilities that enhance the quality of life and meet the diverse active and passive recreational needs of County residents and visitors, protect natural resources, and foster an awareness of local history, with approximately ten acres of local parks and 15 acres of regional parks provided for every 1,000 persons in the unincorporated County.



The historic Rancho Guajome Adobe, Guajome County Park

Policies

- COS-21.1 Diversity of Users and Services.** Provide parks and recreation facilities that create opportunities for a broad range of recreational experiences to serve user interests.
- COS-21.2 Location of Parks.** Locate new local parks and recreation facilities near other community-oriented public facilities such as schools, libraries, and recreation centers where feasible, so that they may function as the “heart” of a community.
- COS-21.3 Park Design.** Design parks that reflect community character and identity, incorporate local natural and cultural landscapes and features, and consider the surrounding land uses and urban form and cultural and historic resources.
- COS-21.4 Regional Parks.** Require new regional parks to allow for a broad range of recreational activities and preserve special or unique natural or cultural features when present.
- COS-21.5 Connections to Trails and Networks.** Connect public parks to trails and pathways and other pedestrian or bicycle networks where feasible to provide linkages and connectivity between recreational uses.

GOAL COS-22

Park and Recreational Services. High-quality parks and recreation programs that promote the health and well-being of County residents while meeting the needs of a diverse and growing population.

Policies

- COS-22.1 Variety of Recreational Programs.** Provide and promote a variety of high quality active and passive recreation programs that meet the needs of and benefit County residents.



Lakeside Community Center

3

4

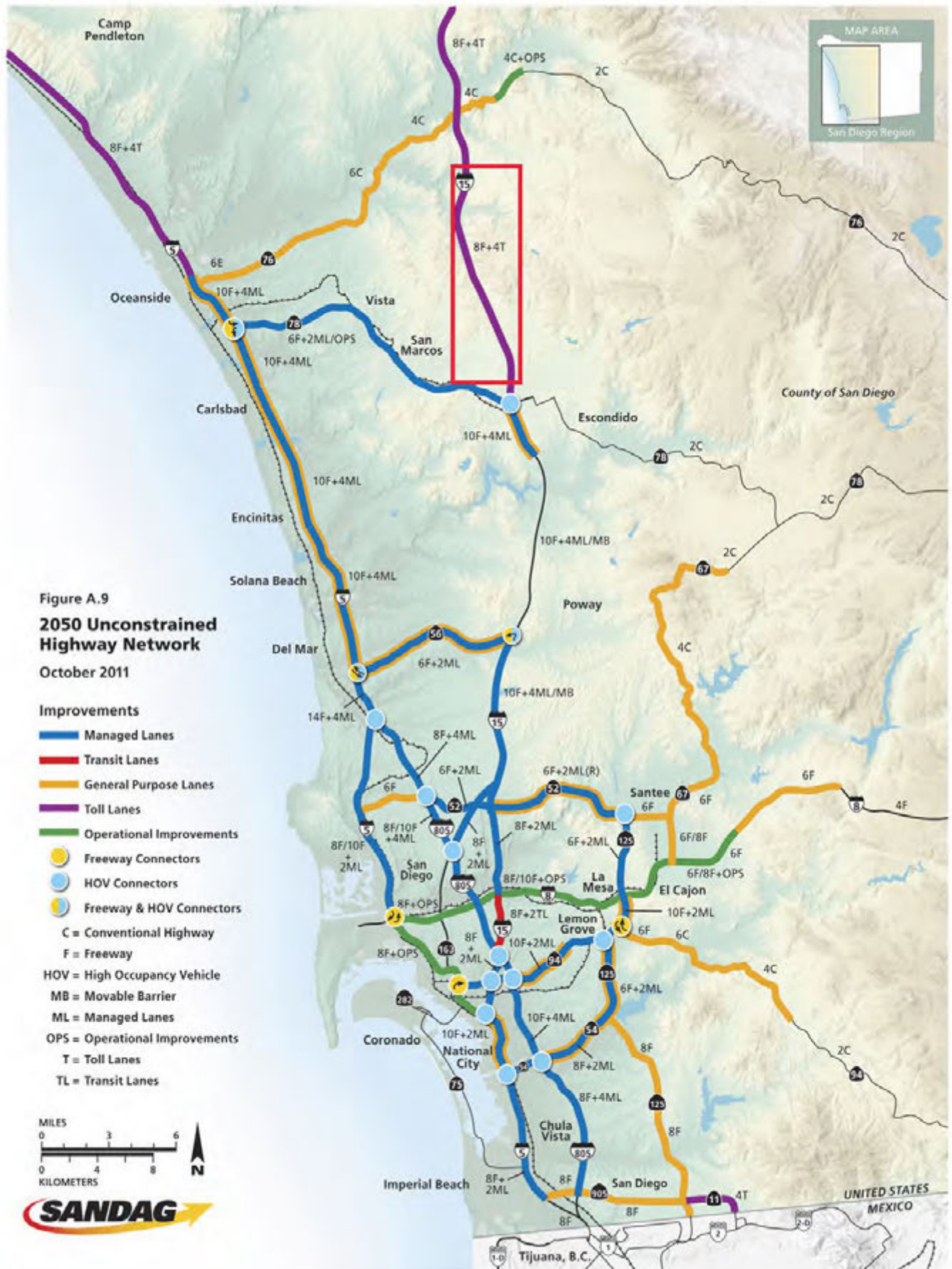


Table A.11 – Summary of 2050 Revenue Constrained Plan and Unconstrained Scenario – Highway Projects

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I-5	SR 54	SR 15	8F	10F+2ML	10F+2ML
I-5	I-15	I-8	8F	8F+Operational	8F+Operational
I-5	I-8	La Jolla Village Dr	8F/10F	8F/10F+2ML	8F/10F+2ML
I-5	La Jolla Village Dr	I-5/I-805 Merge	8F/14F	8F/14F+2ML	8F/14F+2ML
I-5	I-5/I-805 Merge	SR 56	8F/14F+2HOV	8F/14F+4ML	8F/14F+4ML
I-5	SR 56	Manchester Ave	8F/10F+2HOV	8F+4ML	10F+4ML
I-5	Manchester Ave	Palomar Airport Rd	8F	8F+4ML	10F+4ML
I-5	Palomar Airport Rd	Vandegrift	8F	8F+4ML	10F+4ML
I-5	Vandegrift Blvd	Orange County	8F	8F+4T	8F+4T
I-8	I-5	I-15	8F	8F+Operational	8F+Operational
I-8	I-15	SR 125	8F/10F	8F/10F+Operational	8F/10F+Operational
I-8	SR 125	2nd Street	6F/8F	6F/8F+Operational	6F/8F+Operational
I-8	2nd Street	Los Coches	4F/6F	6F	6F
I-8	Los Coches	Dunbar Rd	4F/6F	4F/6F	6F
SR 11/ Otay Mesa East POE	SR 905	Mexico	--	4T+POE	4T+POE
SR 15	I-5	SR 94	6F	8F+2ML	8F+2ML
SR 15	SR 94	I-805	8F	8F+2ML	8F+2ML
SR 15	I-805	I-8	8F	8F+2TL	8F+2TL
I-15	Viaduct		8F	8F+2ML	8F+2ML
I-15	I-8	SR 163	8F	8F+2ML	8F+2ML
I-15	SR 163	SR 56	8F+2ML(R)	10F+4ML/MB	10F+4ML/MB
I-15	SR 56	Centre City Parkway	10F+4ML/MB	10F+4ML/MB	10F+4ML/MB
I-15	Centre City Parkway	SR 78	8F	8F+4ML	10F+4ML
I-15	SR 78	Riverside County	8F	8F+4T	8F+4T
SR 52	I-5	I-805	4F	6F	6F
SR 52	I-805	I-15	6F	6F+2ML	6F+2ML
SR 52	I-15	SR 125	4F	6F+2ML(R)	6F+3ML(R)
SR 52	SR 125	SR 67	4F	4F	6F

5

**COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject Compliance with the Countywide Records Management Program	Policy Number	Page
	A-129	1 of 2

Purpose

In order to meet business and legal requirements, the County of San Diego requires a Records Management Program for managing paper and electronic files and strengthening the system for the creation, maintenance, usage, and disposal of County documents and records, including “official records.”

This policy establishes the Countywide Records Management Program with its purpose to assist County Departments with managing content, regardless of format (paper or electronic, document or record).

The Countywide Records Management Program responsibilities include:

1. Guide departments on how to manage their content (either paper or electronic)
2. Maintain Countywide records policies and the global records retention policy schedule
3. Assist departments with development of departmental records retention policies and plans
4. Manage the Countywide annual Records Management audit

Background

Records Management is the practice of identifying, classifying, archiving, preserving, and destroying records. It is formally defined as, “The field of management responsible for the efficient and systematic control of the creation, receipt, maintenance, use and disposition of records, including the processes for capturing and maintaining evidence of and information about business activities and transactions in the form of records.” (International Organization for Standardization 15489: 2001)

There are 5 essential elements of an effective records management program. These include:

1. Records inventory and value classification (e.g. legal, fiscal, administrative)
2. Accessibility and efficiency to retrieve records
3. Retention of records based on its lifecycle and disposition
4. Secure records storage for all electronic and physical records (including vital records)
5. Compliance with applicable California State laws, international standards, and best practices

The County establishes its Records Management Program as stated in Government Code 12236 by the Secretary of State, and in compliance with guidelines established for Local Governments.

Policy

It is the policy of the Board of Supervisors that County departments and offices comply with the Countywide Records Management Program identified in the Administrative Manual (Item 40-09).

As such, the Board of Supervisors directs the following:



SECRETARY OF STATE

LOCAL GOVERNMENT

RECORDS MANAGEMENT GUIDELINES

SECRETARY OF STATE DEBRA BOWEN

ARCHIVES DIVISION
RECORDS MANAGEMENT

(916) 653-3834

FEBRUARY 2006

Disclaimer

Local Government Retention Schedule Guidelines

The guidelines as enclosed have been endorsed by resolution of the General Assembly of the League of California Cities, and by the City Clerks Association of California. They represent extensive research as to the *minimum legal requirements* for the retention of local government records and do not reflect the administrative, operational, financial or historical needs of the jurisdiction. It is strongly recommended that cities consult with legal counsel when formulating their retention schedules so as to best meet their particular needs.

The committee's research was as complete as possible and reviewed by many legal officers but may not include every record series pertinent to local government. The guidelines are just that and are fluid, very much subject to additions and updates which will be coordinated through the office of the State Archivist under the Secretary of State.

Reference to retention periods, unless otherwise indicated, refers to the current year plus the years shown. For example, Cu + 2 refers to the Current year plus two, or 1998 plus years 1997 and 1996.

LEGEND

Records Retention

AC = Active
AU = Audit
CU = Current Year
E = Election
P = Permanent
T = Termination

AD = Adoption
CL = Closed/Completion
DOB = Date of Birth
L = Life
S = Supersede

CITATIONS

B&P – Business and Professions

H&S – Health & Safety

CAC – California Administrative Code

**HUD – Housing and Urban
Development**

CCP – Code of Civil Procedure

**OSHA – Occupational Safety & Health
Act**

CCR – Code of California Regulations

PC – Penal Code

**CEQA – California Environmental
Quality Act**

**POST – Police Officers Standards
Training**

CFR – Code of Federal Regulations

UFC – Uniform Fire Code

EC – Election Code

USC – United States Code

**FMLA – Family & Medical Leave Act,
1993**

WIC – Welfare & Institutions Code

GC – Government Code

DEVELOPMENT(CONTINUED)

Record Series	Retention	Citation	Descriptor
Logs	CU + 2	GC34090d	Lien Recovery, citations, complaints
Regulations	S + 2	GC34090d	Includes rules
Reports, Federal and State	P	GC34090a	Code enforcement statistics; may contain records affecting title to real property or liens thereon
Violations, Building, Property & Zoning	CL + 2	GC34090d	Supporting code enforcement activity
ENGINEERING			
Capital Improvement Projects	CL + 10	CC337.15	Supporting documents including bidders list, specifications, reports, plans, work orders, schedules, etc.
Construction Tracking, Daily	P	CC337.15	Assesses value of real property
Drawings, Traffic Control Plan	P	GC34090a	Signs, signing & striping, road construction
Flood Control	CL + 2	GC34090d	Storm Drains
Special Districts	P	GC34090a	Supporting documents re: improvement, lighting, underground utility; bonds, taxes & construction
Street/Alley (Abandonment/ Vacation)	CL + 2	GC34090d	Relinquishment of rights and fee title
Traffic Signals	CL + 2	GC34090d	Counts, collisions, accidents
ENVIRONMENTAL QUALITY			
Air Quality (AQMD)	CU + 7	CCP 338(k); GC34090	Participants/voucher logs, Total Daily Mileage Survey (TDM); various local authorities; Commute Alternative
Asbestos	P	GC34090a	Documents abatement projects, public buildings
California Environmental Quality Act (CEQA)	P	GC34090a + CEQA Guidelines	Exemptions, Environmental Impact Report, Mitigation monitoring, negative declaration, notices of completion and determination, comments, statements of overriding considerations
Congestion Management	CU + 2	GC34090d	Ride sharing, trip reduction
Environmental Review	CL + 2	GC34090d	Correspondence, consultants, issues, conservation
Pest Control	CU + 2	GC34090d	Pesticide applications, inspections & sampling, documents
Soil	CL + 2	GC34090d	Analysis, construction recommendations
Soil Reports	P	GC34090d	Final Reports
HOUSING			
Bonds	CL + 4	CCP 337	Revenue Bond Documentation
Programs	CL + 3	24 CFR 570.502(b)(3); 24 CFR 85.42 & OMB Cir. A-110, #C	Includes comprehensive Housing Authority Strategy, Meeting Credit Certificate, Housing bond advisory, HOME, In-Lieu Housing Mitigation, Low/Moderate Housing, Rental Housing Assistance

**COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY**

Subject	Policy Number	Page
Compliance with the Countywide Records Management Program	A-129	1 of 2

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Subject: FW: Newland Sierra Development Project

From: Cox, Greg
Sent: Wednesday, May 30, 2018 10:55 AM
To: FGG-DL, LSDOCS
Subject: FW: Newland Sierra Development Project

From: Ashley Jones [mailto:jones_ashley_m@yahoo.com]
Sent: Wednesday, May 30, 2018 10:42 AM
To: Cox, Greg; Jacob, Dianne; Gaspar, Kristin; Roberts, Ron; Horn, Bill
Subject: Newland Sierra Development Project

Dear Hon. Board of Supervisors:

I am a San Diego County resident and am very concerned that a massive new Project called Newland Sierra is being proposed in our community without providing the community the opportunity to ask questions and understand the impacts. I am opposed to the Project, but I have a lot of unanswered questions about how it will affect my area. Newland Sierra promised several times that they would make a presentation to the Twin Oaks Valley Sponsor Group and other impacted community sponsor groups once the Final EIR was released.

Newland Sierra wouldn't make a presentation during the EIR process, because they said they wanted us to write down our comments and concerns and that they would be addressed in a meeting after the Final EIR was prepared. Now we are being told by Ashley Smith at County Planning and by representatives of Newland Sierra that there will be no presentation to the community, and no opportunity to get our questions answered before the Project comes up for a vote at the Planning Commission.

This is wrong. If Newland Sierra wants to be our neighbor, they should be willing to talk with their neighbors about the impacts that they will have on the community. This is just more of the same from developers who want to avoid community input; and it appears that County staff doesn't care to have an open and transparent process either.

Please direct your staff to have Newland Sierra and County staff hold a meeting at the local impacted sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community.

Thank you,
Ashley Dummer

Subject: FW: Proposed Newland Sierra

From: Cox, Greg
Sent: Friday, June 01, 2018 10:52 AM
To: FGG-DL, LSDOCS
Subject: FW: Proposed Newland Sierra

From: Chris Sousa [<mailto:csousa@chrissousa.com>]
Sent: Friday, June 01, 2018 10:20 AM
To: Cox, Greg; Jacob, Dianne; Gaspar, Kristin; Roberts, Ron; Horn, Bill
Subject: Proposed Newland Sierra

Chris Sousa
412 Hardell Ln
Vista, CA 92084

6/1/2018

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Please direct your staff to have Newland and County staff hold a meeting at the local sponsor groups, so people who can't make it downtown for a hearing, can provide input on the Project in their local community.

Thank you.
Chris Sousa

Christopher W. Garrett
 Telephone: +1.858.523.5400
 christopher.garrett@lw.com

12670 High Bluff Drive
 San Diego, California 92130
 Tel: +1.858.523.5400 Fax: +1.858.523.5450
 www.lw.com

FIRM / AFFILIATE OFFICES

Abu Dhabi	Milan
Barcelona	Moscow
Beijing	Munich
Boston	New Jersey
Brussels	New York
Chicago	Orange County
Doha	Paris
Dubai	Riyadh
Düsseldorf	Rome
Frankfurt	San Diego
Hamburg	San Francisco
Hong Kong	Shanghai
Houston	Silicon Valley
London	Singapore
Los Angeles	Tokyo
Madrid	Washington, D.C.

File No. 025388-0011

LATHAM & WATKINS LLP

January 20, 2015

VIA EMAIL

Mark Slovick, Project Manager
 County of San Diego
 Planning & Development Services
 5510 Overland Avenue, Suite 310
 San Diego, California 92123

Re: Postponing Processing of Newland's "Sierra" Project Due to the Impacts of Recent Court Decisions and Cumulative Impacts Issues

Dear Mr. Slovick:

As you know, we represent the Golden Door Properties LLC (the "Golden Door"), an award-winning spa and resort that opened in 1958. This historic haven is situated on approximately 600 acres on the south side of Deer Springs Road in northern San Diego County ("North County"). The Golden Door focuses on the health and fitness of its guests, and its property encompasses a peaceful array of hiking trails, luxurious spa amenities, tranquil Japanese gardens, and a bamboo forest. Agricultural cultivation on the property includes fresh vegetable gardens as well as citrus and olive trees.

We appreciate your taking time to meet with us on October 30 to discuss the Golden Door's concerns regarding Newland Real Estate Group, LLC's ("Newland") Sierra/Merriam Mountains project (the "Project") and the potential widening of Deer Springs Road. We feel this was a productive conversation, and we look forward to continued communications about County planning issues. As we discussed, the Golden Door is dedicated to environmental stewardship, and has taken steps to fulfill this commitment, such as eliminating guests' use of plastic water bottles. Greenhouse gas ("GHG") emissions, in particular, are a pressing global environmental issue, and the Golden Door is committed to reducing emissions in its North County community. These principles guide the Golden Door's position on land use policy and its opposition to Newland's Project. The Golden Door is concerned that the road construction and widening included in Newland's project will funnel regional traffic off of a gridlocked Interstate 15 on to the surface streets in San Marcos and Vista, rather than to the region's planned Sprinter and Bus Rapid Transit ("BRT") systems.

Since our meeting, two Court of Appeal opinions have impacted the planning landscape in San Diego County and require additional measures to curb GHG emissions through a renewed focus on the relationship between land use planning and transportation planning: *Sierra Club v. Cnty of San Diego*, 231 Cal. App. 4th 1152 (2014) and *Cleveland Nat'l Forest Foundation et al. v. San Diego Ass'n of Governments*, 231 Cal. App. 4th 1056 (2014) (attached hereto). We also

understand that the County staff is continuing to work on potential cumulative impacts solutions regarding the impacts of proposed General Plan Amendments to allow additional unplanned development along the Interstate 15 corridor, including the Lilac Hills Ranch project and Newland's proposed project at Deer Springs Road. While Caltrans requested in June that the County analyze such developer funded cumulative impact mitigation, it does not appear that the County has developed any such regional proposals or plans.

We understand that despite these events and issues, Newland is proceeding ahead with submitting a formal application for a County General Plan Land Use Element Amendment to allow an "old style" auto-centric development that increases single-occupant vehicle trips, lacks any meaningful transit component, and fails to address the cumulative impacts and projected gridlock on Interstate 15 north of SR 78.

We believe that important planning principles require that the County put the Newland Project on hold and postpone processing any applications or permits until the County and the San Diego Association of Governments ("SANDAG") develop revised plans for addressing GHG emissions, or the pending legal issues associated with these plans are resolved.¹ It will also be important for County staff to work with other regional transportation agencies, such as Caltrans and SANDAG, to develop a comprehensive transportation solution that would allow developers to address the significant cumulative impacts identified on the Interstate 15 corridor north of SR 78 (if such a solution exists).

These events do not require a delay for all development in the County. However, the unusual location, size, and design of Newland's Project, and its potential regional transportation impacts, involve important issues regarding GHG emissions and cumulative regional transportation facilities that cannot be addressed or analyzed by County staff. It would not be responsible to proceed with development of Newland's property exceeding the General Plan's allowed density of approximately 130 residential units before the revised regional plans and cumulative impacts mitigation have been developed, and the courts have confirmed the applicable legally adequate regional plans. The Golden Door considers efforts to limit GHG emissions to be a cornerstone of environmental stewardship, and the State has recognized it as a core tenet of regional planning by cities and counties. Newland's application can only be considered after the County staff is in a position to address transportation and GHG emissions issues that are raised by the County's Climate Action plan and SANDAG's regional transportation plan. For example, the County staff should insist that any application include a transit-oriented alternative to the General Plan Amendment proposed by Newland for 2,135

¹ A petition for review is pending before the California Supreme Court in each of these two cases. *See* Petition for Review, *Sierra Club v. Cnty of San Diego*, No. S223591 (Cal. Sup. Ct., Jan. 5, 2015); Petition for Review, *Cleveland Nat'l Forest Foundation et al. v. San Diego Ass'n of Governments*, No. S223603 (Cal. Sup. Ct., Jan. 6, 2015). Regardless of whether these cases are ultimately reviewed by the California Supreme Court, the County should postpone processing Newland's application until either: (1) the California Supreme Court can provide clarity regarding the plans' legality; (2) or if review is not granted, the County and SANDAG can adopt new plans to comply with the Court of Appeal opinions.

homes. Such an alternative would include fewer homes and would allow residents direct access to the regional transit solutions that will be required to address the predicted future gridlock on Interstate 15 and the County's and the region's new GHG emissions reduction goals.

The State Planning and Zoning Law requires the County's project approvals to be consistent with the General Plan. *See Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal. 3d 553, 570-71 (1990). The County's General Plan relies on a Climate Action Plan ("CAP") to mitigate GHG emissions impacts. *See San Diego County General Plan Update EIR, State Clearinghouse No. 2002111067 (Aug. 2011) at 2.17-30 (Mitigation Measure CC-1.2)*. The Court of Appeal in *Sierra Club*, however, held that the CAP failed to adequately mitigate the General Plan's GHG impacts. (As noted, a petition for review is pending before the California Supreme Court, which may reach a different conclusion.) It would be improper for the County to move forward with Newland's auto-centric Project—which would have failed to comply with even the former CAP—before developing a CAP that would provide the GHG emissions reduction measures indicated by either the Court of Appeal or the California Supreme Court.

Thus, the County should postpone any action on Newland's Project until the courts have concluded that the County has developed a legally compliant CAP and can ensure the Project would meet any new standards or mitigation measures. Premature processing of Newland's application would result in the County wasting public resources on a project that may have to go back to the drawing board once a new CAP is approved, could require recirculation of its environmental impact report, or—in a worst-case scenario—would result in a project approval that would later be invalidated due to the missing court approved CAP. It is in no one's interest to move forward with Newland's project until these issues can be addressed, especially where Newland continues to propose an "automobile only" project which provides road widening and expansion, but no transit options or transit links to SANDAG's multimillion dollar BRT system on Interstate 15.

The County will also have to analyze whether and to what extent the Project is consistent with SANDAG's Regional Transportation Plan ("RTP") and Sustainable Communities Strategy ("SCS"). 14 Cal. Code Regs. § 15125(d). A Court of Appeal similarly invalidated SANDAG's RTP/SCS in *Cleveland National Forest Foundation* for, among other reasons, failing to sufficiently analyze long-term GHG emissions reduction requirements. (A petition for review is pending before the California Supreme Court which may provide different guidance on these same issues.) In discussing the inadequacies of SANDAG's environmental review, the Court of Appeal underscored the need for smart growth and transit-focused development, thus indicating that the revised plan should promote smart growth and emphasize programs to reduce vehicle miles traveled ("VMT"). *Cleveland National Forest Foundation et al.*, 231 Cal. App. 4th at 1079-80, 1082-83. Because GHG emissions are not localized, a regional plan is necessary to effectively reduce them. As discussed in our meeting, SANDAG has made clear that its current RTP/SCS was developed using the County's current General Plan land use element, which did not provide for Newland's increased development or traffic and therefore did not provide any transit improvements north of SR 78. Further processing of Newland's application for an auto-centric development without the benefit of such a regional plan would contravene the planning principles required by law.

Also, infrastructure improvements related to the Project would need to account for SANDAG's long-term GHG-reduction plans. For example, Caltrans is currently pursuing a project study report ("PSR") for the Interstate 15/Deer Springs Road interchange. Design plans for this interchange must consider SANDAG's plan through 2050 in the RTP/SCS, which may include a transit station, direct access ramps, managed lanes, and/or an improved park and ride facility. With Interstate 15 predicted to soon operate at gridlock, alternative transportation infrastructure will be needed to reduce congestion while also limiting GHG emissions. Constructing a redesigned interchange that merely addresses Project-related traffic impacts, rather than regional GHG emissions impacts and transit needs on the long-term scale required in SANDAG's RTP/SCS, could result in costly future modifications. It would be a mistake to move forward with re-design of this interchange prior to approval of SANDAG's updated RTP/SCS. For example, a much better approach to the issue might be to design the interchange to accommodate the extension of the BRT system to the Deer Springs Road interchange, with a regional transit center at that location.

Newland's proposal to impose 2,135 residential units and 81,000 square feet of commercial development on rural lands far from urban and job centers will increase VMT and is in stark contrast with the planning principles required of the County's Climate Action Plan and SANDAG's RTP/SCS. Newland's proposed Project is simply disconnected from the region and lacks any meaningful transit options. The Project is designed to spread across both the east and west sides of the property, making residents completely dependent on automobiles for access to their homes, rather than being clustered around the potential transit options on Interstate 15.

Newland notes in its Pre-Application that three Sprinter stations are located "within six miles" of the Project. This distance would preclude the Sprinter rail line from serving as a viable everyday commute option for Project residents. The Pre-Application makes no mention of transit aside from this wholly ineffectual reference to distant Sprinter stations and does not provide for any links to the Escondido Transit Center or SANDAG's regional BRT system on the Interstate 15 corridor. The Project would be located in the rural Interstate 15 corridor in North County, which lacks transit infrastructure, and will provide significant increases in traffic on Interstate 15 which the County's cumulative impacts study for Lilac Hills Ranch demonstrates will be over capacity and operate at gridlock at peak hour. Unfortunately, the Project does not acknowledge these infrastructure deficiencies and impacts and fails to take a "transit-first" approach to transportation. Any planned transit facilities should be fully funded before the County would permit the Project to proceed, and must ensure that the Project's added impacts and increased emissions are fully mitigated or avoided. Such facilities must be coordinated on a regional basis by SANDAG, rather than created on a partial, haphazard or unfunded basis at the project level. The County should, therefore, postpone any Project approvals until SANDAG can develop a revised regional plan.

Moreover, cumulative impacts from other nearby projects, including Lilac Hills Ranch, would effectively urbanize a rural area lacking in transit infrastructure. Before Newland's Project can go forward, there must be a County and regional plan in place to address the transportation needs of such a drastic increase in density, and the courts have made clear that statewide planning principles *require* such plans to effectively mitigate GHG-emissions and limit VMT. Further, the courts have demonstrated that it is improper to simply defer consideration of

transportation sector GHG-emissions mitigation; thus, the new County Climate Action Plan and SANDAG RTP/SCS must be in place before processing Newland's application for a Project out-of-step with modern planning principles.

This preference for multi-modal transit opportunities instead of lengthy single-occupant vehicle trips also counsels against widening Deer Springs Road. Any project on Newland's property should focus its transportation plan on constructing, improving, and providing access to transit stations that link with SANDAG's and the North County Transit District's existing transit system.

Newland's application proposes simply adding lanes to Deer Springs Road to make it a 3 to 6 lane road, which will only induce additional single-occupant vehicle travel from new and existing development and create a freeway bypass system in lieu of improving transit opportunities or adding managed lanes to the freeway where longer trips belong. Newland is following the County's past circulation element "road-building" preferences, which were developed in the past by the County without regard to the need to analyze and GHG emissions. The Court of Appeal in *Cleveland National Forest Foundation*, for instance, specifically noted that congestion relief is not an effective strategy for long-term GHG emissions reduction and could actually result in increased GHG emissions by inducing additional vehicle trips at less congested times. The County should not process a project which spends limited resources widening Deer Springs Road for freeway bypass trips in contradiction of statewide planning principles. Those funds could instead be spent in furtherance of a regional transit system that will help the County and SANDAG meet their obligations to reduce VMT and transportation-related GHG emissions.

The planning principles upheld in recent court decisions—calling for increasing density in urban areas, preserving rural and open space, and incorporating transit as a priority rather than an afterthought—are not new. Supervisor Ron Roberts recognized the importance of these principles when he articulated his vision for San Diego County development in explaining his vote against the Merriam Mountains Project in 2010:

My own personal feeling is that the communities of the 21st century are going to be very, very different . . . they are going to have, as an integral part, public transit. They are going to be lower in their impacts in every way shape or form.

Alison St. John, *Roberts Votes to Scuttle Merriam Mountain Project*, KPBS.ORG (Mar. 24, 2010), <http://www.kpbs.org/news/2010/mar/24/roberts-votes-scuttle-merriammountains-project/>. Now, more than ever, the County and SANDAG must prepare a blueprint for the region's future growth. Any new development must comply with those plans, and allowing haphazard development evaluated only on a project-by-project basis would contradict the current trend of the law and result in uninformed policy choices lacking in regional perspective. The County should adhere to Supervisor Ron Roberts' vision and delay action on Newland's outdated Project, because transit-focused development is so clearly necessary, not only in the future, but now—and while both the County and SANDAG are re-working plans to realize that vision.

The County is at a planning crossroads. Because of the unique circumstances of Newland's Project proposing increased density in a rural area away from existing transit infrastructure, we urge the County to delay any further processing of the Project's permits and approvals until the County has finalized its CAP and SANDAG has finalized its RTP/SCS, and both plans have been re-drafted or revised to address the cumulative impacts and mitigation measures related to County General Plan revisions to allow new urban development in the Interstate 15 corridor. Only then, will the County, Newland, and the public be able to evaluate the Project's GHG emissions impacts. Forcing hasty, uninformed decisions on this Project without final guidance from the courts and without consideration of the most recent decisions could result in significant policy mistakes and costly revisions and would violate the courts' clear directives. If Newland nonetheless insists on going forward with its application at this time, staff should request that Newland also submit proposed amendments to the County's CAP, the County's Circulation Element, and SANDAG's RTP/SCS that include Newland's new 2,135 homes and commercial development and the resulting transportation and GHG emissions impacts and proposed regional mitigation, and are consistent with recent legal guidance from the Court of Appeal and California Supreme Court.

We appreciate your time and attention to our concerns regarding Newland's Project. Please feel free to contact me at (858) 523-5400 or christopher.garrett@lw.com if you would like to discuss these matters further.

Sincerely,

Christopher Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
Jeff Dawson, Golden Door
Stephanie Saathoff, Clay Co.
Maddy Kilkenny, Clay Co.
Mark Wardlaw, County of San Diego
Sami Real, County of San Diego
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Elisa Arias, SANDAG
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File No. 025388-0011

LATHAM & WATKINS LLP

October 28, 2015

VIA EMAIL AND U.S. MAIL

Mr. Jeffrey G. Scott, Esq.
 Vallecitos Water District, General Counsel
 Law Offices of Scott & Jackson
 16935 West Bernardo Drive, Suite 170
 San Diego, CA 92127

Re: The Golden Door's Concerns Regarding Water and Wastewater Services for the Revived Merriam Mountains Project

Dear Mr. Scott,

As you know, we represent the Golden Door Properties LLC ("Golden Door"), an award-winning spa and resort that opened in 1958. This historic haven is situated on approximately 600 acres on the south side of Deer Springs Road in northern San Diego County ("North County"). It was the highest rated establishment in *Travel and Leisure's* recent list of the world's best destination spas. In addition, the Golden Door is a Vallecitos Water District ("VWD") customer in District 1.

I. REQUEST FOR INFORMATION AND PARTICIPATION IN WATER AND SEWER STUDY PROCESS FOR THE NEWLAND "SIERRA" PROJECT

We understand that VWD is currently preparing water and sewer studies, including a Water Supply Assessment ("WSA"), for Newland Real Estate Group, LLC's ("Newland") revived Merriam Mountains project, which is known as the "Sierra" project ("Project"). The Golden Door has been actively monitoring the Project and has been in consultation with Newland, the San Diego County ("County") Planning and Development Services staff, and other relevant agencies regarding the Project. As such, and as a VWD customer, the Golden Door would like the opportunity to comment on any studies at the earliest possible juncture to ensure VWD has adequate time to address our input.

Is there any time schedule for when public input could be made, and when the documents might be presented to the Vallecitos Board of Directors? Do you know when draft reports will be ready? Please provide us with any documents as soon as they are available, so that we may comment in a timely manner. We are also happy to meet with you about this Project and your studies, as we have been meeting with other relevant agencies during this process.

We also understand that Newland's proposed Project would need to be annexed into VWD's wastewater service boundaries. We further understand that VWD would plan to process this annexation internally without the involvement of the Local Agency Formation Commission. Again, the Golden Door would like to participate in this process as an existing VWD customer, interested member of the public, and informed participant in Newland's application process. We would appreciate any information or schedules you could provide pertaining to VWD's potential annexation process for wastewater services.

II. THE GOLDEN DOOR'S CONCERNS REGARDING THE NEWLAND PROJECT

A. Background Regarding Newland "Sierra" Project

As we have previously discussed, Newland is attempting to revive the Merriam Mountains project, which was rejected by the County Board of Supervisors in 2010. Newland's "Sierra" project would include 2,135 residential units, 81,000 square feet of commercial development, a school, and various parks and equestrian facilities. The Project would be located across Deer Springs Road from the Golden Door, and would be located within VWD's service boundaries. The County is currently preparing a draft environmental impact report ("EIR") for the Project, which we are informed will be released later this year or early next year.

B. Background Regarding the Golden Door

The Golden Door focuses on the health and fitness of its guests. Its property encompasses a peaceful array of hiking trails, luxurious spa amenities, tranquil Japanese gardens, and a bamboo forest. Agricultural cultivation on the property includes avocado groves and fresh vegetable gardens as well as citrus and olive trees.

The Golden Door is committed to environmental stewardship and sustainability. It uses sustainable and bio-intensive agriculture practices and has eliminated guests' use of plastic water bottles. The owners are not seeking to expand the Golden Door in any way, but are seeking to further enhance the Golden Door according to its guiding principles, including the extensive sustainable agriculture on several surrounding acres.

As such, the Golden Door is concerned about Newland's proposal to implement urban-style development in a rural area of unincorporated San Diego County, in particular the accompanying increase in water usage. The current drought has caused significant concerns for agriculture in rural North County and has emphasized the need to protect our current and future water supply. The unplanned intensification of use proposed by Newland threatens to cut further into the region's water supply to the detriment of the entire community.

C. The Golden Door's Concerns Relating to Drought

Given the length and intensity of the current drought, the Golden Door is concerned about the Project's potential to deplete area water supplies. California's current drought presents a dire situation. The Governor issued an Executive Order earlier this year, requiring a 25% reduction in water usage. The County Water Authority had already declared the County to be in Drought Level 2, requiring 20% mandatory conservation. If the County Water Authority further

downgrades the condition to Drought Level 3, VWD Ordinance No. 162 requires a 40% consumer demand reduction and prohibits VWD from making available any new potable water services. In addition, other directives—such as further gubernatorial executive orders—could further limit future water usage.

Also, one issue that is currently occurring with development projects around the state is a concern that the existing criteria for single-dry year and multiple dry year analysis in WSAs may be insufficiently conservative given the terrible length and depth of the current drought. This is an issue that we encourage VWD to consider in evaluating the new uses proposed by Newland. Perhaps VWD should consider the possibility of delaying water service to Newland's proposed Project or requiring Newland to obtain "water offsets" to ensure that sufficient supplies are available for other VWD customers.

D. The Golden Door's Concerns Relating to Land Use

The Golden Door is concerned about the impacts of Newland's proposal to urbanize our idyllic rural community. VWD has already noted its concerns over Newland's drastic density increase in a June 5, 2014 letter from Eileen Koonce to County Planning and Development Services: "[T]he potential increased density of the project may have a significant impact on offsite facilities both for this project and cumulatively with other projects currently being proposed. These projects may significantly impact District facilities including local water and sewer mains, water storage, the sewer interceptor, pump stations, outfall and treatment." We encourage VWD to work with the County to ensure that Newland's proposed urban-style density does not adversely impact existing water and wastewater services. In particular, we suggest that any WSA should study the impacts if drought conditions worsen to Drought Level 3 or Drought Level 4.

Also, in reviewing VWD's Master Plan, it appears that Newland's proposed Project is not included in the projected land use model. A map of "future land use" at Figure 2-2 of the Master Plan shows primarily "spaced rural residential" designations on Newland's proposed Project site. To the contrary, Newland is proposing to increase density on much of the Project site, and the Project would include attached townhomes. In addition, the Master Plan lists the Merriam Mountain project as a "known development," but the Master Plan cautions that "*[s]hould new developments move forward, they will require separate analysis prior to being served by VWD.*" VWD Master Plan at 2-5 to 2-6 (Nov. 2010). It would appear, therefore, that VWD would need to amend its Urban Water Management/Master Plan before serving Newland's proposed Project.

III. ADDITIONAL QUESTIONS RELATING TO WATER AND SEWER SERVICE IMPACTS FROM NEWLAND'S PROPOSED PROJECT

In addition to the concerns raised above, the Golden Door has several near term questions regarding potential water usage that we hope VWD can answer directly at the appropriate time:

1. If the drought continues for several more years, and Newland's proposed Project comes on line as a new water user, what would be the extent of

additional cutbacks that the Golden Door and other customers would have to make to accommodate Newland's increased demand?

2. Will this year's state cutbacks that have been allocated to each district by the San Diego County Water Authority continue for several years? Will they allow VWD to provide service to Newland's proposed Project, and if so, what level of additional cutbacks would be required of current users?
3. Would it be appropriate for VWD to defer its decision-making on providing water service to Newland until after the current water crisis has been resolved through additional supplies or an end to the multi-year drought? Do scientific studies indicate that the drought may continue for several more years?
4. Has VWD considered requiring new large urban users, such as Newland, to obtain "water offsets" to reduce their usage to a "net zero" increase by paying for enhanced conservation measures of other users, such as an extension or enhancement of VWD's reclaimed water and recycled water potable reuse facilities? This approach was used for the City of San Diego University Town Center expansion approval in 2007, that I worked on with the City, when concerns were raised about adequate water supplies.

IV. CONCLUSION

Water is a precious resource, particularly to the agricultural properties in the Twin Oaks Valley community and especially during the current drought crisis. The Golden Door is committed to protecting our region's water supply and promoting sustainable practices in our North County community. We appreciate your time and attention to our concerns and look forward to additional communications with you about water and wastewater issues related to Newland's proposed Project. Please feel free to contact me at (858) 523-5400 or christopher.garrett@lw.com if you would like to discuss these matters further.

Sincerely,

Christopher Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
Jeff Dawson, Golden Door
Doug Hageman, Newland
Paul Robinson, Hecht Solberg Robinson Goldberg & Bagley
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January 5, 2016

VIA EMAIL AND MESSENGER

Vallecitos Water District
 201 Vallecitos De Oro
 San Marcos, CA 92069
 Attention: Diane Posvar

File No. 025388-0011

Re: The Golden Door's Comments Regarding Agenda Item 2.4 for the Vallecitos Water District Board of Directors' January 6, 2016 Meeting

Dear Directors Evans, Hernandez, Elitharp, Sannella, and Martin,

As you may know, we represent the Golden Door Properties LLC ("Golden Door"), an award-winning spa and resort that opened in 1958. This historic haven is situated on approximately 600 acres on the south side of Deer Springs Road in northern San Diego County ("North County"). It was the highest rated establishment in *Travel and Leisure's* recent list of the world's best destination spas. In addition, the Golden Door is a Vallecitos Water District (the "District") customer in District 1.

This letter concerns Agenda Item 2.4 for the District Board of Directors' ("Board") January 6, 2016 meeting—approval of a Water Supply Assessment and Verification ("WSA/WSV") for Newland Real Estate Group, LLC's ("Newland") revived Merriam Mountains project, which is known as the Newland "Sierra" Specific Plan ("Project"). As discussed in more detail below, the Golden Door opposes the Project and has significant concerns about the WSA/WSV.

It is striking that the WSA/WSV's determination that sufficient supplies exist is based on the illogical projection that Newland's proposed 2,135 home project would use *less* water than a rural residential project with approximately 350 homes. The land use plans upon which the District bases its projections do not account for the Newland Project, and cannot serve as a valid basis for determining that sufficient water supplies exist. In addition, we are concerned that the WSA/WSV provides legally insufficient analysis of normal, single dry, and multiple dry year scenarios; fails to provide firm assurances of adequate water supply; and uses an inaccurate project description.

Further, the District has declared a Drought Level 2 "Drought Alert," and implemented water use restrictions on its existing customers. Despite these required cutbacks, and the

potential that the drought could escalate to Drought Level 3, the Project proposes an increase of more than 20 times the density designated in the County of San Diego's ("County") current General Plan. The District should delay approving water supply for such a drastic density increase until it eases restrictions on existing customers. Otherwise, a speculating developer will reap the benefits of existing customers' exemplary conservation efforts, while existing customers are not afforded any relief.

In addition, the District should require Newland to provide water offsets for its proposed water supply use. The County Groundwater Ordinance already requires offsets for groundwater for new development in Borrego Valley—which could serve as a model for the District regarding the Newland Project.

We appreciate your consideration of our concerns. We respectfully request that the Board reject the WSA/WSV. In the alternative, we request that the Board, at least, delay consideration of the WSA/WSV until (1) drought-related restrictions have been lifted on existing customers and (2) the developer has identified and set in place funding mechanisms for water supply offsets or water reclamation and recycling features that will eliminate impacts to existing District customers.

I. THE GOLDEN DOOR'S CONCERNS REGARDING THE NEWLAND PROJECT

A. Background Regarding Newland "Sierra" Project

Newland is proposing to construct an urban-style development in rural North County. This Project was proposed once before as the Merriam Mountains project, and was rejected by the County Board of Supervisors in 2010. At that time, the County's General Plan allowed for approximately 350 residential units on the property. The County's General Plan Update in 2011 decreased the density permitted on the Project site such that the site is largely zoned RL-20, allowing one residential unit per 20 acres, permitting approximately 100 units. This trend indicates the intent of local residents and the County to maintain the rural character of this area.

Newland's "Sierra" project, however, would include 2,135 residential units, 81,000 square feet of commercial development, a school, a vineyard, and various parks and equestrian facilities. The Project would be located across Deer Springs Road from the Golden Door, and would be located within the District's service boundaries. The County is currently preparing a draft environmental impact report ("EIR") for the Project, which we are informed will be released this spring or summer.

The Golden Door has been actively monitoring the Project and has been in consultation with Newland, County Planning and Development Services staff, and other relevant agencies regarding the Project. The Golden Door has consistently stated its opposition to the Project in its public comments. In addition to concerns regarding water supply and wastewater service impacts, the Golden Door opposes this proposed urbanization of rural Twin Oaks Valley due to its detrimental traffic, greenhouse gas emissions, noise, biological, community character, and other impacts.

B. Background Regarding the Golden Door

The Golden Door focuses on the health and fitness of its guests. Its property encompasses a peaceful array of hiking trails, luxurious spa amenities, tranquil Japanese gardens, and a bamboo forest. Agricultural cultivation on the property includes avocado groves and fresh vegetable gardens as well as citrus and olive trees.

The Golden Door is committed to environmental stewardship and sustainability. It uses sustainable and bio-intensive agriculture practices and has eliminated guests' use of plastic water bottles. The owners are not seeking to expand the Golden Door in any way, but are seeking to further enhance the Golden Door according to its guiding principles, including the extensive sustainable agriculture on several surrounding acres.

As such, the Golden Door is concerned about Newland's proposal to implement urban-style development in a rural area of the unincorporated County—in particular the accompanying increase in water usage. The current drought has caused significant concerns for agriculture in rural North County and has emphasized the need to protect our current and future water supply. The unplanned intensification of use proposed by Newland threatens to cut further into the region's water supply to the detriment of the entire community.

II. THE GOLDEN DOOR'S CONCERNS REGARDING THE WSA/WSV

Specific projections about water availability must be developed prior to approval of a large development project. Water Code § 10910-12; 14 Cal. Code Regs. § 15155. A water supply assessment ("WSA") "shall include a discussion with regard to whether the total projected water supplies, determined to be available by the city or county for the project during normal, single dry, and multiple dry water years during a 20-year projection, will meet the projected water demand associated with the proposed project, in addition to existing and planned future uses, including agricultural and manufacturing uses." Water Code § 10910(c)(4).

A water supply verification ("WSV") must determine that sufficient water supply is available to serve a project. Gov't Code § 66473.7(b)(1). A WSV must be based on substantial evidence. *Id.* § 66473.7(c).

Water supply is sufficient only if "total water supplies available during normal, single-dry, and multiple-dry years within a 20-year projection . . . meet the projected demand associated with the proposed subdivision, in addition to existing and planned future uses, including, but not limited to, agricultural and industrial uses." Gov't Code § 66473.7(a)(2). "When the verification rests on supplies not yet available to the water provider, it is to be based on firm indications the water will be available in the future, including written contracts for water rights, approved financing programs for delivery facilities, and the regulatory approvals required to construct infrastructure and deliver the water." *Preserve Wild Santee v. City of Santee*, 210 Cal. App. 4th 260, 283 (2012) (internal citations omitted).

"[W]ater supplies must be identified with more specificity at each step as land use planning and water supply planning move forward from general phases to more specific phases."

Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova, 40 Cal. 4th 412, 433-34 (2007) (internal quotations omitted); *see also Preserve Wild Santee*, 210 Cal. App. 4th at 283 (“Collectively, Water Code sections 10910 to 10912 and Government Code section 66473.7 require that water supplies be identified with more specificity as land use and water supply planning progresses from general to more specific phases.”).

Here, both a WSA and WSV have been prepared. The utmost specificity is required, because Newland’s Project includes a Specific Plan and Tentative Map.

A. The WSA/WSV Errs in Its Land Use Analysis

The Golden Door is concerned about the impacts of Newland’s proposal to urbanize our idyllic rural community. The District has already noted its concerns over Newland’s drastic density increase in a June 5, 2014 letter from Eileen Koonce to County Planning and Development Services: “[T]he potential increased density of the project may have a significant impact on offsite facilities both for this project and cumulatively with other projects currently being proposed. These projects may significantly impact District facilities including local water and sewer mains, water storage, the sewer interceptor, pump stations, outfall and treatment.”¹ The Golden Door shares this concern regarding the adverse impacts of Newland’s proposed urban-style density to existing water and wastewater services. Further, ongoing or escalating drought conditions (e.g., Level 3 or Level 4) raise additional concerns regarding water supply availability.

1. The WSA/WSV Improperly Relies on Plans that Do Not Account for the Project

If the water demand associated with a proposed project was accounted for in the supplier’s most recently adopted urban water management plan (“UWMP”), the WSA/WSV may incorporate information from that plan. Water Code § 10910(c)(2); Gov’t Code § 66473.7(c)(1). If the water demand was *not* accounted for in the most recently adopted UWMP, however, the WSA “shall include a discussion with regard to whether the public water system’s total projected water supplies available during normal, single dry, and multiple dry water years during a 20-year projection will meet the projected water demand associated with the proposed project, in addition to the public water system’s existing and planned future uses, including agricultural and manufacturing uses.” Water Code § 10910(c)(3). A WSA or WSV cannot rely on a UWMP if the UWMP did not analyze water supply for the project. *See Vineyard Area Citizens for Responsible Growth, Inc.*, 40 Cal. 4th at 434-35 (noting that a “CEQA evaluation may incorporate previous overall water planning projections, *assuming* the individual project’s demand was included in the overall water plan”) (emphasis added).

¹ A copy of the District’s June 5, 2014 letter is attached hereto as Attachment A.

In reviewing the District's Water, Wastewater, and Recycled Water Master Plan Master Plan ("District's Master Plan")² and Urban Water Management Plan ("District's UWMP"),³ it appears that Newland's proposed Project is not included in the projected land use model. A map of "future land use" at Figure 2-2 of the District's Master Plan shows primarily "spaced rural residential" designations on Newland's proposed Project site. To the contrary, Newland is proposing to drastically increase density on much of the Project site. In addition, the District's Master Plan lists the Merriam Mountain project as a "known development," but the District's Master Plan cautions that "[s]hould new developments move forward, they will require separate analysis prior to being served by VWD." District Master Plan at 2-5 to 2-6 (Nov. 2010).

The WSA/WSV, however, does not provide "separate analysis" as discussed in the District's Master Plan, but instead simply relies on the District's Master Plan. See WSA/WSV at 8, 11, 13. The District's Master Plan was prepared beginning in 2008 and relied upon the County's 1979 General Plan. *Id.* The 1979 General Plan would have allowed approximately 350 residential units on the property proposed for the Newland Project, far less than 2,135 homes Newland proposes.⁴

The WSA/WSV also relies on the District's most recent UWMP. See WSA/WSV at 11, 13, 25-26. The District's UWMP relies on land use data from the San Diego Association of Governments ("SANDAG"), which does not include the Project. See District UWMP at 2-2 (2010). In addition, the San Diego County Water Authority's ("SDCWA") UWMP, on which the WSA/WSV relies (WSA/WSV at 25-26), similarly relies on available land use data, which does not include the Newland Project. SDCWA UWMP at 2-4 ("These datasets are compiled from various sources, including SANDAG, Water Authority member agencies, and the Scripps Institution of Oceanography. Under the terms of a 1992 memorandum of agreement between the Water Authority and SANDAG, the Water Authority utilizes SANDAG's official forecast, which is based on local land use jurisdictions' general plans and policies, to project consumptive water demands for the region.")⁵.

Because no underlying land use plans include the Newland Project, the WSA/WSV errs in failing to provide a "separate analysis."

² The District's Master Plan can be accessed online at <http://www.vwd.org/departments/engineering/capital-facilities/master-plan>.

³ The District's UWMP is attached hereto as Attachment B.

⁴ The figure of approximately 350 homes is based on our own analysis of the County's previous General Plan. Relying only on the "Agricultural," "Hillside Residential," and "Rural Residential" densities provided in Table 3-3 of the WSA/WSV, the property was designated for no more than 490 homes. Environmental and slope issues, however, would render a portion of that property undevelopable resulting in a lower total home figure. In addition, the updated County General Plan approved in 2011 designates the Newland property for only approximately 100 residential units.

⁵ The SDCWA's UWMP is attached hereto as Attachment C.

2. The WSA/WSV Demand Allocations Are Based on Faulty Data and Lead to an Absurd Result

The WSA/WSV counter-intuitively determines that the Newland Project's demand is *less* than the demand projected in the District's Master Plan. The District's Master Plan accounted for 1.74 million gallons per day ("MGD") on the Newland property; while the WSA/WSV projects the Newland Project will have demand of only 1.33 MGD. The District's Master Plan was based on the 1979 General Plan, which allowed approximately 350 residential units on the Newland property. Newland's Project will increase intensity to 2,135 residential units, 81,000 square feet of commercial development, a school, a vineyard, and various parks and equestrian facilities. How can the WSA/WSV find that this dense development will use *less* water than a much less intense project?

This finding defies logic and is not supported by substantial evidence. It appears that the water usage allocations supplied in the District's Master Plan fail to hold up when applied to reality in this matter. Demand, measured in gallons per day, is assigned by the District's Master Plan Chapter 3, Water System Planning Criteria. Based on this criteria, hillside residential (0.05-0.25 du/ac) has a demand of 1,000 gallons per day, whereas multi-family (15-20 du/ac) has a demand of 3,700 gallons per day. These figures can be translated into a "gallons per dwelling unit" basis as follows: the multi-family (15-20 du/ac) designation may have an assigned demand as low as 185 gallons per dwelling unit, while the hillside residential (0.05-0.25 du/ac) designation could have an assigned demand of as much as 20,000 gallons per dwelling unit. It is feasible that a ranch home on 20 acres would use more water than a single townhome; but these figures represent as much as a **100 fold increase**. This differential is disproportionate and unrealistic, and it fails to account for the specifics of Newland's proposed development.

Because the WSA/WSV accounts for 1,566 acres (almost 80% of the entire Project area) as "hillside residential" with this large "gallons per dwelling unit" ratio, it creates an unrealistically high demand factored into the District's Master Plan. Further, assuming all property designated hillside residential in the District's Master Plan would actually be developed is highly improbable due to the slope of the area—a factor ignored by the WSA/WSV. In addition, the District fails to provide substantial evidence in support of its assigned land use allocations. The WSA/WSV should reflect the reality of low-intensity rural uses and high-density development in order to adequately determine if sufficient water supply is available for the Project. This short-cut method employed in WSA/WSV is insufficient to provide a reasoned assessment to the public and the Board in making its decision regarding the WSA/WSV.

3. The WSA/WSV Is Inconsistent with Regional Land Use Plans

In addition to improperly relying on the District Master Plan, District UWMP, and SDCWA UWMP, the WSA/WSV is inconsistent with regional land use plans. SANDAG has developed a Regional Transportation Plan and Sustainable Communities Strategy ("RTP/SCS") that favors housing and job growth in urban areas, rather than siting urban-style development in

existing rural communities.⁶ SANDAG recently adopted a Regional Plan that integrates the RTP/SCS with its Regional Comprehensive Plan.⁷ These regional land use plans do not account for dense urban growth in Twin Oaks Valley. Instead, they project the area to remain largely rural and agricultural through 2050. SANDAG's RTP/SCS at 3-11 to 3-15, 3-19 to 3-23. Approval of the WSA/WSV, therefore, would be inconsistent with SANDAG's regional land use plans.

B. The WSA/WSV's Analysis May Be Insufficient to Meet Legal Requirements

1. The WSA/WSV Does Not Analyze Water Supply Over a Sufficient Timeframe

Both a WSA and WSV require analysis of 20-year projections. Water Code § 10910(c)(4); Gov't Code § 66473.7(a)(2). The WSA/WSV's analysis of normal year, single dry year, and multiple dry year scenarios, however, extends only 15 years to 2030. WSA/WSV at 3, 26-27 (Table 7-1 to 7-3). The WSA/WSV's data appears to be based on the District's UWMP, prepared in 2010, which only provides projections through 2030. We understand that the District is preparing an updated UWMP; however, no updated information is included in the WSA/WSV, which should provide projections through 2035. The WSA/WSV, therefore, fails to provide the required 20-year projections. With pervasive concerns regarding drought conditions in California, suppliers' availability is subject to potential changes and significant uncertainties in future years, making projections and secure commitments past 2030 even more imperative.

2. The WSA/WSV Provides Insufficient Analysis of Single and Multiple Dry Year Scenarios

WSAs and WSVs are also required to analyze a multiple dry year scenario. Water Code § 10910(c)(4); Gov't Code § 66473.7(a)(2). We are concerned that the WSA/WSV's criteria for multiple dry year analysis may be insufficiently conservative given the terrible length and depth of the current drought. The WSA/WSV document itself acknowledges that the current water supply planning for 2015 had been insufficient. WSA/WSV at 23 (“[D]ue to drought and economic issues this past decade, increases in water deliveries have not developed at the previously projected rate. Current imported water deliveries to the District remain approximately 10,000 AF behind the 2015 projections.”). This shortfall in projected imported water deliveries accounts for 37% of the normal year demand and 44% of the single dry year demand. *Id.* at 25. This shows that the methodology used in the District's UWMP and in the WSA/WSV is not sufficiently conservative to meet the new drought realities in California. The District, therefore, cannot rely upon the District's UWMP for the WSA/WSV, and must instead complete an independent analysis of supply projections that are grounded in the realities of the current drought.

⁶ SANDAG's RTP/SCS can be accessed online at <http://www.sandag.org/index.asp?projectid=349&fuseaction=projects.detail>.

⁷ SANDAG's recently adopted Regional Plan can be accessed online at <http://www.sdforward.com/>.

In addition, we are concerned that Tables 7-1, 7-2, and 7-3 do not rely on substantial evidence and that insufficient information is provided to understand the methodology used in the projections. In comparing Tables 7-1 and 7-2, we note that the WSA/WSV shows *more* water supply available in 2015 in a single *dry* year than in a normal year. WSA/WSV at 25-26. In addition, the WSA/WSV seems to show that *less* conservation would be required in a *dry* year than in a normal year. *Id.* It defies reason that less conservation would occur in a dry year. The WSA/WSV itself admits that, according to the SDCWA's UWMP, additional conservation measures may be needed under a multiple dry year scenario. *Id.* at 26-27 (“[U]nder multiple dry year conditions, potential water supply shortages of varying degrees may occur over the 25-year planning horizon. If these shortfalls occur, additional conservation measures will be necessary to balance supply against the regional demands.”).

3. The WSA/WSV Fails to Provide “Firm Assurances” of Water Supply

Although a WSA may be based on plans and policies that show that potential water supplies will be provided over a 20-year period, a WSV requires more substantial, and concrete documentation of the availability of those supplies. Indeed, the court in *Vineyard Area Citizens for Responsible Growth, Inc.* stated that “plans and estimates that Water Code 10910 mandates for future water supplies at the time of approval subject to CEQA must, under Government Code section 66473.7, be replaced by *firm assurances* at the subdivision map approval stage.” 40 Cal 4th at 433-434 (emphasis added). The WSA/WSV fails to provide these “firm assurances” because it relies on projections for water supply deliveries that the WSA/WSV admits have not been consistent, and which may fall short if certain rights are exercised by other agencies. WSA/WSV at 27. The WSA/WSV acknowledges that 100% of the District’s supplies come from the SDCWA, which in turn purchases a large amount of its overall supply from the Metropolitan Water District (“MWD”). *Id.* at 19. As stated above, the WSA/WSV admits that water deliveries are approximately 10,000 AF *behind* 2015 projections due to drought and economic issues. *Id.* at 23.

The WSA/WSV also discusses the fact that the SDCWA’s rights to water from MWD are restricted by a preferential right to water that may not meet the needs of the SDCWA. The WSA/WSV states that “during multiple dry-year weather patterns, when imported supplies are assumed to be restricted to MWD preferential rights, supply-demands gaps will likely occur.” WSA/WSV at 21. This falls short of the “firm assurances” required by the *Vineyard* court.

In fact, Government Code section 66473.7 is clear that when a WSV “relies on projected water supplies that are not currently available to the public water system,” it must base its verification on “all” of the following elements, to the extent each is applicable:

- (1) Written contracts or other proof of valid rights to the identified water supply that identify the terms and conditions under which the water will be available to serve the proposed subdivision.
- (2) Copies of a capital outlay program for financing the delivery of a sufficient water supply that has been adopted by the applicable governing body.

- (3) Securing of applicable federal, state, and local permits for construction of necessary infrastructure associated with supplying a sufficient water supply.
- (4) Any necessary regulatory approvals that are required in order to be able to convey or deliver a sufficient water supply to the subdivision.

Here, the WSA/WSV relies upon planned water or the development of additional resources and conservation to ensure water supply, while admitting that those plans did not provide the projected water supply in the 2010-2015 timeframe. The WSA/WSV even provides the *conditional* statement that “*If* Metropolitan, Water Authority and District supplies are developed as planned, along with achievement of SB7-7 retail conservation targets, then no shortages are anticipated within the District’s service area in multiple dry-year events through 2030.” WSA/WSV at 27 (emphasis added). The WSA/WSV, however, provides no contracts or other proof of valid rights to the planned water supply; provides no capital outlay program for financing the delivery of that water supply; and has no proof of federal, state, or local permits. Instead the WSA/WSV relies on the speculation that MWD and SDCWA will reliably supply water to the District, even though recent history has provided evidence that MWD and SDCWA have delivered *less* water than projected or planned. The District should not approve a WSA/WSV that fails to provide “firm assurances” of adequate water supply.

C. The WSA/WSV Errs in Its Project Description and Provides Analysis of Features that Differ from Those Set Forth in Newland’s Own Public Documents

The WSA/WSV’s analysis of Project water demand relies on a description of the Project that differs from the description submitted in Newland’s formal application to the County (“Newland Project Description”).⁸ These differences appear to result in an artificially low Project water demand, rendering the WSA/WSV inaccurate. We request that the District revise the WSA/WSV either to correct the errors in its project description or to provide side-by-side comparisons and analysis of the project features and land use values included in the present version of the WSA/WSV with those in the Newland Project Description. In addition, we request that the District provide a detailed description of the source of its information, including the breakdown of land uses and residential unit densities. A WSV must be based on substantial evidence. Gov’t Code § 66473.7(c).

The most significant difference in the WSA/WSV and Newland’s Project Description is the amount of open space. The Newland Project Description lists 1,202 acres of open space (Newland Project Description at 16); yet, the WSA/WSV assigns 1,381.4 acres to open space. WSA/WSV at 7 (Table 3-2), Appx. A. The WSA/WSV’s over-counting of open space is significant because open space is assigned a value of only 200 gallons per day per acre—the lowest value of any land use categories analyzed in the WSA/WSV. Consequently, including extra open space results in the WSA/WSV undervaluing the Project’s water demand.

⁸ The Newland Project Description, dated January 2015, is attached hereto as Attachment D.

The WSA/WSV differs in several other respects from the Newland Project Description. The WSA/WSV's breakdown of single-family versus multi-family units in Table 3-1 differs from the planning area breakdowns in the Newland Project Description, in particular with respect to the Terraces, Valley, and Knoll planning areas. *See* WSA/WSV at 7; Newland Project Description at 5-9. The WSA/WSV also differs from the Newland Project Description in the acreage assigned to commercial use and to the proposed charter school. *See* WSA/WSV at 7 (Table 3-2), Appx. A; Newland Project Description at 5 (Table 1).

In addition, it is not clear whether the WSA/WSV accounted for all of the Project's features. According to the Newland Project Description, the Project will include 24 acres of public parks and 13 acres of private parks. Newland Project Description at 4. The WSA/WSV, however, only accounts for 23.9 acres of park space in its analysis. *See* WSA/WSV at 7 (Table 3-2), Appx. A. It appears that the WSA/WSV may omit the 13 acres of private parks proposed by Newland. Further, the park acreage broken out by planning unit in the WSA/WSV's Table 3-1 differs from the park acreage by planning area listed in the Newland Project Description. *See* Newland Project Description at 5-9.

Finally, the Newland Project Description includes specific features that are either omitted from or not clearly defined in the WSA/WSV, including vineyards, equestrian facilities, pools, a community garden, and picnic areas. Newland Project Description at 4-5. Neither Table 3-2 nor Appendix A lists such features. Are these features accounted for in the WSA/WSV? If so, how do the generalized land use categories capture the amount of water use from each?

The differences in the WSA/WSV's project description and the Newland Project Description are significant and could affect the District's decisionmaking and analysis related to the Newland Project.⁹ Further, failure to clarify any such differences would result in a failure to base the WSA/WSV on substantial evidence in the record. The District has not provided any background documents to the public describing the source of its Project land use data.

D. The District Should Not Approve a WSA/WSV for Such a Drastic Density Increase Until Current Restrictions on Existing Customers Have Been Lifted

Given the length and intensity of the current drought, the Golden Door is concerned about the Project's potential to deplete area water supplies. California's current drought presents a dire situation. The Governor issued an Executive Order last year, requiring a statewide reduction in water usage. The SDCWA had already declared the County to be in Drought Level 2, requiring 20 percent mandatory conservation. On May 20, 2015, the District passed Ordinance No. 195¹⁰ implementing specific restrictions—and penalties for non-compliance—on its customers' water usage in order to meet a 24 percent reduction in potable water use mandated by the State Water Resources Control Board ("Control Board"). If the SDCWA further downgrades the condition to Drought Level 3, District Ordinance No. 162¹¹ requires a 40 percent

⁹ The WSA/WSV's project description similarly differs from Newland's Specific Plan.

¹⁰ A copy Ordinance No. 195 is attached hereto as Attachment E.

¹¹ A copy Ordinance No. 162 is attached hereto as Attachment F.

consumer demand reduction and prohibits the District from making available any new potable water services. In addition, other directives—such as further gubernatorial executive orders—could further limit future water usage.

According to a District news release, District customers have reduced water use by 31 percent from 2013 demand since the Control Board's reduction took effect.¹² These extraordinary efforts have resulted in the District exceeding the Control Board's 24 percent reduction requirement. But such reductions have taken a toll on District customers. To meet its water use reduction requirements, the Golden Door increased use of its own well water—which is lower quality than District water due to higher salt content—for its agricultural production. The Golden Door also had to spend time and resources on improvements to its groundwater systems and irrigation management to maximize efficiency of water use. It is likely that others in the District's service area have made similar sacrifices to meet water use reduction requirements.

Approving additional water supply for a new development while the District's existing customers are subject to conservation restrictions would be patently unfair. Allowing a speculating developer to reap the benefits of the District customers' extraordinary conservation efforts could compromise District customers' incentives to comply with future restrictions. This perverse incentive contradicts sound public policy.

E. The District Should Require Newland to Provide Offsets for Its Water Usage

Water use for the Project's urban-density proposal will be substantial. The District should require such a large, new user to obtain "water offsets" to reduce its usage to a "net zero" increase by paying for enhanced conservation measures, such as an extension or enhancement of the District's reclaimed water and recycled water potable reuse facilities. The County Water Ordinance¹³ already requires water offsets for certain new groundwater users in Borrego Valley. *See* San Diego County Code tit. 6, div. 7, § 67.720 (2013). This provision could serve as a model for the District's water offset requirements for Newland.

In addition, the City of San Diego used this offset approach for the University Town Center expansion approval in 2007 when concerns were raised about adequate water supplies.

F. The District Should Delay Consideration of the WSA/WSV

Due to the ongoing drought, the WSA/WSV's legal deficiencies, restrictions placed on existing District customers, and the need for developer-funded water offsets, we encourage the District to delay consideration of the WSA/WSV. The current environment is ripe with uncertainty for water supply planning of such a drastic density increase in an existing rural area. Delaying consideration, therefore, is warranted.

¹² A copy of the District's November 18, 2015 news release is attached hereto as Attachment G.

¹³ A copy of the County Water Ordinance is attached hereto as Attachment H.

LATHAM & WATKINS LLP

III. CONCLUSION

Water is a precious resource, particularly to the property owners in the rural Twin Oaks Valley community and especially during the current drought crisis. We are concerned about plans to approve water supplies for an urban-style project in rural North County while existing customers are subject to drought-related restrictions. We are also concerned that the WSA/WSV's analysis may not adequately analyze water supply issues. For the reasons discussed above, we respectfully request that the District reject the WSA/WSV, or, at least, delay its consideration. Thank you.

Sincerely,



Christopher W. Garrett
of LATHAM & WATKINS LLP

by Andrew Yancey

cc: Kathy Van Ness, Golden Door
Jeffrey G. Scott, Vallecitos Water District General Counsel
Mark Slovick, County Planning and Development Services
Ashley Smith, County Planning and Development Services
Dan Silver, Endangered Habitats League
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February 4, 2016

VIA EMAIL AND HAND DELIVERY

Peter Eichar, Planner
 County of San Diego
 Planning & Development Services
 5510 Overland Avenue, Suite 310
 San Diego, California 92123

File No. 025388-0011

Re: Golden Door Comments on Notice of Preparation for Property Specific Requests General Plan Amendment and Rezone, PDS2012-3800-12-005, PDS2014-REZ-14-006, PDS2012-ER-12-00-003, SCH#2015121012

Dear Mr. Eichar:

As you know, we represent the Golden Door Properties LLC (the "Golden Door"), an award-winning spa and resort that opened in 1958. This historic haven is situated on approximately 600 acres on the south side of Deer Springs Road in northern San Diego County ("North County") in a narrow valley enclosed by steep hillsides on three sides.

We appreciate the opportunity to share with you the Golden Door's comments regarding the Notice of Preparation ("NOP") for the NC-42 Property Specific Request ("PSR"). We attended the scoping meeting for this project and appreciate the information that County of San Diego Planning and Development Services staff ("County staff") shared with us there.

As discussed below, we have significant concerns about NC-42 and plans to urbanize our idyllic rural Twin Oaks Valley community. Our community has stood up time after time to protect our rural community character and pristine habitat against threats from developers who would attempt to urbanize this remote area in contrast to State, regional, and County of San Diego ("County") planning principles. This area simply lacks the connectivity to existing infrastructure, services, and density to justify this proposed urbanization.

We begin this letter by providing brief background on the Golden Door, followed by a discussion of other efforts to impermissibly urbanize our rural community. Next, we discuss several procedural and overarching issues regarding the PSRs and NC-42. We then suggest several alternatives to NC-42 for consideration in the environmental impact report ("EIR"). Finally, we provide an impact-by-impact summary of our comments on NC-42's NOP.

I. THE GOLDEN DOOR'S BACKGROUND

The Golden Door focuses on the health and fitness of its guests. Its property encompasses a peaceful array of hiking trails, luxurious spa amenities, tranquil Japanese gardens, and a bamboo forest. Agricultural cultivation on the property includes avocado groves and fresh vegetable gardens as well as citrus and olive trees.

The Golden Door is committed to environmental stewardship and sustainability. It uses sustainable and bio-intensive agriculture practices and has eliminated guests' use of plastic water bottles. The owners are not seeking to expand the Golden Door in any way, but are seeking to further enhance the Golden Door according to its guiding principles, including the extensive sustainable agriculture on several surrounding acres.

As such, the Golden Door is concerned about proposals to implement urban-style development in a rural area of the unincorporated County—especially when such intense density increases contradict all approved State, regional, and County plans. Additionally, we are concerned that the County's latest proposed General Plan amendment may result in forcing a significant amount of new traffic from this development onto the proposed County Route S12 six-lane regional arterial running through the narrow Deer Springs Valley, which is otherwise planned to remain rural and undeveloped. This unplanned intensification conflicts with the efforts of the Golden Door and our neighbors to protect our community character and prosper in our rural setting.

II. SUMMARY OF EFFORTS TO IMPERMISSIBLY URBANIZE RURAL TWIN OAKS VALLEY

As you are aware, the Newland Real Estate Group, LLC ("Newland") has now proposed a revived Merriam Mountains project, known as the "Sierra" project (the "Newland Project") on the same property affected by NC-42. This property is located just across Deer Springs Road from the Golden Door's property. Newland's proposal includes 2,135 residential units, 81,000 square feet of commercial development, a school, and various parks and equestrian facilities. Newland submitted an application for its project to the County on January 20, 2015, and the County issued a NOP for the project's EIR on February 12, 2015 (Attachment A).

We have attended public meetings and workshops regarding the Newland Project, held several meetings with County staff and Newland, obtained and reviewed voluminous materials relating to the Newland Project's Application and NOP, and provided comments to the Vallecitos Water District ("VWD") regarding its proceedings related to the Newland Project.¹ We have assessed the Newland Project's potential impacts based on the information available to date, and we have a number of significant concerns. The Newland Project proposes to implement urban-style development in a rural area of the unincorporated County that lacks the connectivity and transit infrastructure to comply with modern smart growth planning principles. The Newland Project also risks turning Deer Springs Road into a massive freeway bypass system

¹ The Golden Door's comment letter to the VWD, dated January 5, 2016, is attached hereto as Attachment B.

and destroying the community's rural character. We have proposed several alternatives to be reviewed in the Newland Project's EIR (and propose similar alternatives here) to determine the extent to which these alternatives would mitigate or avoid the Newland Project's significant impacts. We have also provided a number of comments on specific issues that we believe require detailed environmental review.

A drastic density increase on the project site has been proposed before as the Merriam Mountains project. This effort was rejected by the Board of Supervisors in 2010. The General Plan Update in 2011 decreased the density permitted on the project site such that the site is largely zoned RL-20, allowing one residential unit per 20 acres, permitting approximately 100 units. Despite the two recent decisions by the County Board of Supervisors (the 2010 rejection of the first Merriam Mountains proposal and 2011 application of appropriate density in the General Plan Update to maintain a low rural and semi-rural density on the project site), the Newland Project now proposes 2,135 residential units, 81,000 square feet of commercial development, a charter school, and the expansion of Deer Springs Road.

The County has heard from this community for years that we value the rural character of our community and want it to be preserved in line with these recent actions related to the project site. Public participation in this process is imperative to ensure that yet another bite at the apple does not result in a drastic density increase against the will of the community and the policy direction given twice by the County Board of Supervisors.

NC-42 similarly threatens the Twin Oaks Valley community. Although its density increase is less severe than that proposed by the Newland Project, NC-42 would result in *more than 10 times the existing residential density* on the project site. Such residential growth in this rural area would result in increased long, single-occupant automobile trips on adjacent rural roads to reach employment and commercial centers. This directly contradicts modern planning principles, State planning laws, and existing regional plans that focus residential growth in existing urban communities near jobs and existing transit infrastructure. The County should give careful consideration to whether it can move forward with this project before other regional plans are updated and reviewed to consider whether this significant density increase in remote rural locations is appropriate.

III. THE EIR SHOULD ANALYZE WHETHER ALL OF THE PROPERTY SPECIFIC REQUESTS, INCLUDING NC-42, ARE CONSISTENT WITH DIRECTION PROVIDED BY SUPERVISOR RON ROBERTS

In March of 2010, Supervisor Ron Roberts cast his vote against the Merriam Mountains project, and gave direction to County staff regarding future planning efforts on the project site and other locations in San Diego County. His statement is currently posted on his website at <http://www.ronroberts.com/hotissues/mmountain/> and is attached hereto as Attachment C.

This statement indicates that Supervisor Roberts will be looking for any new development to take into consideration the following: (1) "state regulations" and "specifics" in "addressing greenhouse gasses" and (2) "transit connections that do more than just a token job of offering people transportation alternatives besides the automobile."

Accordingly, the EIR for the PSRs, including NC-42, should address how the proposed General Plan amendments will be consistent with State regulations addressing the specifics of reductions in greenhouse gas (“GHG”) emissions. The EIR should also address how the PSRs’ proposed development, including NC-42, would provide transit connections that do more than “just a token job of offering people transportation alternatives beside the automobile.” In order for the EIR to provide this analysis, it must analyze consistency with the San Diego Association of Government’s (“SANDAG”) 2015 Regional Transportation Plan/Sustainable Communities Strategy (“RTP/SCS”) and the County’s new Climate Action Plan (“CAP”). The County must further determine whether this new development will be consistent with the new RTP/SCS’s GHG reduction targets, which are being used by the California Air Resources Board in its statewide planning for reductions of GHGs. Additionally, the EIR should analyze whether the PSRs’ proposed new development will do more than a token job of offering people transportation alternatives besides the automobile, using the transportation alternatives planned and funded by SANDAG in the newly adopted 2015 RTP/SCS.

IV. THE COUNTY SHOULD SEPARATE PROCESSING OF NC-42 FROM THE OTHER PROPERTY SPECIFIC REQUESTS

NC-42 should be analyzed and approved separately from the dozens of other PSRs set forth at this time. NC-42’s density increase of approximately 1,000 residential units dwarfs the increases proposed in the other PSRs. In addition, NC-42 is unique in that it applies to the same property as a separate proposed General Plan amendment that would construct a master-planned development with over 2,100 homes, 81,000 square feet of commercial development, a charter school, and other related amenities—the Newland Project. The complexity of NC-42 and the number and intensity of its environmental impacts risks unnecessary delay in the consideration of other PSRs. Moreover, any streamlining or fast-tracking of environmental review and approval of NC-42 in order to accommodate the other PSRs would subvert the purpose of both the California Environmental Quality Act (“CEQA”) and the General Plan.

A. The County Must Avoid Improper Project Splitting in this EIR

Courts have provided limited analysis of the effect of attempting to split a project or portion of a project from other components of an approved environmental review. A court may choose to “sever” CEQA defects in an EIR from the remainder of the project if the severed portion may be reviewed independently without negatively affecting the remaining whole. *See* 14 Cal. Code Regs. § 21168.9(b). In application, courts appear to err on the side of denying severability where the activity is in significant noncompliance with CEQA. *See LandValue 77, LLC v. Bd. of Trustees of Cal. State Univ.*, 193 Cal. App. 4th 675, 680 (2011) (rejecting concept of severance where the lower court did not sever a portion or specific project activity or activities from the remainder, but set aside project approval due to CEQA defects in the EIR); *Cty. of Amador v. City of Plymouth*, 149 Cal. App. 4th 1089 (project activity at issue is not severable where CEQA defect was failure to determine the necessity of an EIR); *but see Golden Gate Land Holdings, LLC v. East Bay Regional Park Dist.*, 215 Cal. App. 4th 353 (2013) (eminent domain proceedings and servable, existing project activity allowed to move forward while CEQA defects relating to a singular future project activity were remedied). Due to this uncertainty, and in order

to avoid any unnecessary complications from considering NC-42 along with the other PSRs, the County should analyze and process NC-42 separately.

V. THE EIR MUST ANALYZE THE IMPACTS OF THE PROPOSED NEWLAND “SIERRA” PROJECT

As discussed above, the County is currently processing Newland’s application for 2,135 residential units, 81,000 square feet of commercial development, a school, and various parks and equestrian facilities on the same property as NC-42. It is unclear why the County is spending taxpayer resources to process NC-42 simultaneous with the developer-funded processing of the Newland application—especially when the degree of residential density increase for NC-42 dwarfs the other PSRs studied in the EIR. The law, however, is perfectly clear that any EIR for NC-42 must provide a more detailed and project-specific analysis of the proposed Newland Project.

A. The Newland Revived Merriam Mountains Project Is Reasonably Foreseeable Given Its Pending Application

CEQA requires environmental review of a project’s reasonably foreseeable impacts. *Laurel Heights Improvement Ass’n. v. Regents of the Univ. of California*, 47 Cal. 3d 376, 396 (1988) (“*Laurel Heights I*”). Here, all impacts associated with the Newland Project are reasonably foreseeable because the County is currently processing its application. Consequently, the EIR for NC-42 would be insufficient if it failed to fully analyze the Newland Project’s impacts on the same project site.

In addition, the proposals for two separate density increases on the project site—both of which are substantial—raises a concern about piecemealing where the County would only analyze the impacts of the less intense density increase of NC-42 now, while improperly ignoring the additional impacts of the full-blown Newland Project. CEQA Guidelines section 15165 prohibits piecemealing, and requires the lead agency to analyze the entire project in a single environmental document. *See also Bozung v. Local Agency Formation Comm’n*, 13 Cal. 3d 262, 284, n. 27 (1975). Such a prohibition ensures “that environmental considerations do not become submerged by chopping a large project into many little ones – each with minimal potential impact on the environment – which cumulatively may have disastrous consequences.” *Bozung*, 13 Cal. 3d at 283-284 (citing 14 Cal. Code Regs. § 15165).

B. The County Must Avoid Improper CEQA “Piecemealing”

Courts have also found that where one project constitutes a first step towards future development, failure to analyze the impacts of the ultimate project would result in improper piecemealing. *City of Carmel-by-the-Sea v. Bd. of Supervisors*, 183 Cal. App. 3d 229, 242-243 (1986) (“Where the project is a development, for which various government approvals are necessary, ‘[all] phases of project planning, implementation, and operation must be considered in the initial study of the project,’ and an EIR must address all phases.”). Here, any attempt to use NC-42 to “pave the way” for future additional development would be improper. Given the current processing of Newland’s application and the previous attempts to develop this property

for even more units than proposed by Newland (the failed Merriam Mountains project, for example), any claim that NC-42 is not a stepping stone to a higher density development would simply lack credibility.

The County risks impermissibly splitting the projects' environmental review by simultaneously considering two different General Plan amendments to convert the same specific property—the project site—from agriculture and rural residential to urban levels of development. *See Paulek v. Cal. Dept. of Water Resources*, 231 Cal. App. 4th 35 (2014) (a single project may not be divided into smaller pieces for individual environmental reviews that do not adequately account for the project's overall impacts); *see also Bozung*, 13 Cal. 3d at 283-284 (CEQA ensures “environmental considerations do not become submerged by chopping a large project into many little ones”). As a result, the County should delay processing the pending application for the Newland Project until it has the opportunity to first process NC-42. In any event, the County should not be splitting environmental review into two separate projects.

C. In Preparing an EIR for NC-42, the County Must Consider Infrastructure Needed or Which Will Be Funded by These Density Increases

Further, while NC-42 only includes a density increase, rather than a specific development proposal, necessary infrastructure to serve this increase must be analyzed, including the appropriate alternative locations for any expanded six-lane County Route S12, including locating S12 on Newland's own property or the extensive blasting required in Deer Spring Valley (if the six-lane County Route S12 is to be placed on the current Deer Springs Road) and overhaul of the Deer Springs Road/Interstate 15 interchange. Transportation, GHG emissions, noise, biological, and many other impacts are reasonably foreseeable from NC-42's proposed density increase. The County cannot adopt NC-42 without considering these essentials and their environmental impacts.

Finally, the County must analyze the impacts from the full Newland Project *at least* in NC-42 EIR's cumulative impacts analysis. Newland's proposal may provide in some respects for development that is *additive* to any density increase in NC-42. Theoretically, approval of both NC-42 and the Newland Project could result in over 3,000 residential units when added together. In reality, many of the land use density increases would overlap—but not necessarily all. The EIR, therefore, must include careful analysis of the total number of residential units, commercial square footage, and other amenities that could be developed on the project site if both NC-42 and the Newland Project were to be approved, and then must analyze the cumulative impacts of the two projects together.

In summary, the EIR for NC-42 cannot simply ignore the Newland Project. It must analyze the Newland Project's impacts, both as reasonably foreseeable project impacts and as additive cumulative impacts. The EIR must further analyze all reasonably foreseeable impacts from infrastructure, services, and other necessary components of developing the project site.

VI. THE EIR SHOULD ANALYZE ALTERNATIVES THAT REDUCE IMPACTS

An EIR must demonstrate that the lead agency identified and investigated all significant environmental effects of a proposed project. 14 Cal. Code Regs. § 15126.2(a). Through mitigation measures or project alternatives, CEQA requires a public agency to mitigate or avoid any significant environmental effects of a project whenever feasible. Pub. Res. Code § 1002.1(b). An agency may reject a proposed project alternative or mitigation measure and approve a project, despite significant environmental impacts, only if the agency makes appropriate findings that the mitigation or alternative is infeasible. Pub. Res. Code § 21081.5; *see also Cal. Native Plant Soc'y v. City of Santa Cruz*, 177 Cal. App. 4th 957, 959 (2009). A measure is “infeasible” if it is incapable of being accomplished in a successful manner within a reasonable time. Pub. Res. Code § 21061.1.

Like other EIR findings, a finding of infeasibility must be based on substantial evidence. *Preservation Action Council v. City of San Jose*, 141 Cal. App. 4th 1336 (2006); *Ctr. for Biological Diversity v. Cty. of San Bernardino*, 184 Cal. App. 4th 1342, 1357 (2010). The findings of expert consultants may not be sufficient to constitute substantial evidence of infeasibility if they are not adequately supported. *See Sierra Club v. Tahoe Reg'l Planning Agency*, 916 F. Supp. 2d 1098, 1125-29 (E.D. Cal. 2013). An agency must directly respond to any proposed mitigation measure or project alternative unless the measure is facially infeasible. If a proposed measure is not facially infeasible, an agency must respond with a good faith and reasoned analysis. *Los Angeles Unified Sch. Dist. v. City of Los Angeles*, 58 Cal. App. 4th 1019, 1029-30 (1997).

A. NC-42 Conflicts with SANDAG's 2015 RTP/SCS

NC-42 proposes a drastic density increase in a rural area that contradicts the recently adopted County General Plan Update and the regional plans developed by SANDAG. The General Plan Update designates most of the project site as RL-20, one unit per twenty acres, which would limit development to approximately 100 units. Moreover, SANDAG's land use and density projections for 2020, 2035, and 2050 forecast a largely rural and agricultural region along the Interstate 15 corridor in North County. *See* Attachment D, SANDAG Land Use and Population Density Maps. In comments on SANDAG's recently approved RTP/SCS, the County has admitted the inconsistency between the land use calculations underlying SANDAG's plan and any General Plan amendments adding density in rural areas. *See* Attachment E, County Comment Letter to SANDAG, dated July 15, 2015, and Responses. County staff and SANDAG staff proceeded to finalize the 2015 RTP/SCS without including or referencing any of the County's pending General Plan amendments, including the Newland Project and NC-42.

As a result, the SANDAG 2015 RTP/SCS was finalized without any planning for these General Plan amendments, and the future GHG reductions promised by the RTP/SCS were sent to the California Air Resources Board for approval and incorporation into the Board's ongoing planning for compliance with California's GHG reduction goals. *See* California Air Resources Board Executive Order G-15-075, December 2015 (“ARB Acceptance of GHG Quantification Determination”) http://www.arb.ca.gov/cc/sb375/sandag_eo_15_075.pdf. The EIR should

evaluate whether the project would interfere with the San Diego Region's achievement of the "2020 and 2035 GHG reduction targets established by ARB." *See* Executive Order at 1.

The EIR should analyze alternatives that reduce density on the project site, mitigate the impacts of density increases on the project site, or shift density increases to alternate locations in order to mitigate or avoid traffic, GHG, fire safety, biological, and other impacts. To avoid and mitigate NC-42's potential impacts, the Golden Door suggests that the EIR evaluate at least the following alternatives.

B. Alternate Route Alternative: The EIR Should Analyze an Alternative that Includes a Four-Lane or Six-Lane Road Through the Project Site that Avoids Dumping NC-42 Project Traffic onto Deer Springs Road

NC-42 would result in a significant increase of trips on Deer Springs Road, unless an alternate route is constructed. Deer Springs Road exists today as a two-lane rural lane, and any attempt to widen it to four or six lanes would face significant grading and biological challenges. We believe that previous County decisions to use Deer Springs Valley as the location for an expansion of County Route S12 were based on the unavailability of the Newland property for development and the existing interchange configuration at Interstate 15. With the new proposed plans to develop the project site and replace the interchange at Interstate 15, it is now possible for the County to look for new routes for County Route S12 to handle the increased traffic from development. The County should take this opportunity to provide an option that would avoid the significant impacts on noise, biological resources, and tribal cultural resources associated with cutting a new six-lane major arterial road through Deer Spring Valley.

1. Unimproved Two-Lane Deer Springs Road Already Handles Substantial "Bypass" Traffic

Unimproved Deer Springs Road currently is forced to handle substantial bypass traffic from regional trips fleeing the congested freeway system, which has not been expanded to handle increased traffic in the region. This is indicated by a license plate survey conducted last year by Linscott Law & Green ("LLG"). *See* Attachment F, LLG License Plate Survey (May 5, 2014). NC-42 would add trips to Deer Springs Road from residents of the approximately 1,000 new homes. Any project on that location following the community design proposed by Newland that is designed to discourage internal circulation—indirect, winding internal roads, featuring many cul-de-sacs, grade changes, and intersections, and no connections to the north, northeast, or northwest—would cause project residents to rely heavily, if not solely, on Deer Springs Road rather than utilizing project roads on the property for access. Dumping project traffic on to Deer Springs Road and discouraging internal circulation or use of project roads for through trips poses a safety threat to the non-vehicular traffic on the current Deer Springs Road, including any new non-vehicular traffic generated by a new project on the site.

2. NC-42 Should Consider Alternative Routes for Six-Lane County Route S12 Needed to Serve this New Proposed Development

The EIR should study an alternative that routes the planned six-lane County Route S12 on project property, rather than through the narrow Deer Springs Valley. This would involve the construction of a direct road (which can be referred to as “*Relocated County S12*”) to accommodate all of the planned traffic that needs to travel through the project site and would allow for direct access to Newland’s planned regional commercial center. This option would keep trips off of Deer Springs Road, causing traffic to instead travel through the project site on the north side of the ridgeline immediately north of Deer Springs Road (the “Alternate Route Alternative”). This “*Relocated County S12*” road would provide for a more unified project connecting uses across the site and allow project residents direct access to their commercial center.

3. New Circumstances in 2016, Such as the New Proposed Development, Require an Updated Evaluation of Alternative Routes for County Route S12 that May Be Built as a Result of this Development

The General Plan update approved in October of 2011 did not take into consideration whether County Route S12 could be built on the Newland property, and instead kept the route on the current unimproved Deer Springs Road, with plans to expand County Route S12 to a six-lane regional arterial through the narrow valley, wedged between Deer Spring creek and a steep hillside to the north. In fact, the County had explicitly rejected the original Merriam Mountains project on March 24, 2010. The General Plan update designated the project site primarily as RL-20 and severely constrained by habitat and topography. Deer Springs Road, therefore, was conceived as a location for County Route S12 to serve merely as a conduit between Interstate 15 and the village centers to the west in San Marcos and was not designed to accommodate any development on the project site to the north.

4. NC-42’s Proposed Development Should Be Served Directly by a Six-Lane Regional Arterial to Allow New Residents Direct Access to Commercial Development and Transit Facilities

NC-42 proposes to significantly change the character of the area north of Deer Springs Road to include a new village center which will draw regional traffic from all directions. Nearby housing could utilize that village center as the primary area of services, if sufficient direct road and trail access were provided between the housing and the commercial center. NC-42, if approved, requires the County to re-evaluate the circulation network of the North County Metro area without the General Plan’s existing land use constraints, and provide for the appropriate planning for the six-lane County Route S12 in a location that serves these new residents and avoids the significant adverse effects of constructing in Deer Springs Valley. Moving County Route S12 onto the project site would connect the regional traffic flow from and to Interstate 15 directly with the new village center. This would efficiently move those trips through the project site and on to other village centers to the west, and also accommodate the internal trips from NC-42 project housing.

5. Under CEQA, NC-42's EIR Must Evaluate Alternative Routes that Will Avoid or Reduce Significant Adverse Impacts of Constructing County Route S12 in Deer Springs Valley to Serve NC-42's Development

As noted above, Deer Springs Road is a two-lane rural road that is consistent with the rural character of the area. Expansion of Deer Springs Road to convert it into a six-lane regional arterial road to service new development is likely to have significant impacts on the community character of the area and direct impacts to biological resources, including wildlife corridors and an adjacent wetland. The attached U.S. Geological Survey wetlands map shows a blue line stream adjacent to Deer Springs Road that may need to be filled in order for the expansion to occur. *See Attachment G, USGS Topographic Map.*

1. Prior County Analysis Confirms that Locating a Six-Lane County Route S12 in Deer Springs Valley Will Result in Significant Adverse Impacts

(1) Impacts on Tribal Resources that Must Be Studied Under AB 52

The Merriam Mountains Project EIR's analysis for the of the feasibility of widening Deer Springs Road (EIR Section 9.2.3) found that there is a potential for identified tribal human remains and cultural artifacts discovered at these sites to be impacted by widening the roadway. The EIR at section 9.2.3.1 states that, "[c]ultural resource sites identified as CA-SDI-4558 and CA-SDI-9822, both of which are within the Deer Springs Road corridor, have been previously tested and identified as significant under the County of San Diego and CEQA criteria." The cultural resources survey noted the presence of pottery and burned bones on site, which could indicate sensitive Native American tribal resource sites that will require consultation with tribal officials prior to moving forward with any plans to widen Deer Springs Road. Indeed, newly enacted laws, such as AB 52, that state a "preference for historical and archeological resources of preservation in place, if feasible," (AB 52 sec 1(b)(3)) could make it difficult to accommodate the widening.

(2) Significant Aesthetics and Noise Impacts Due to Required Blasting and Mass Excavation of the East Side of Deer Springs Valley

Part of the charm and value of Deer Springs Valley is the surrounding steep hillsides on three sides of the valley, which provide a sense of isolation and rural surroundings. After the intersection with Mesa Rock Road, Deer Springs Road enters the valley through a narrow and winding entrance, just wide enough for two lanes, wedged between an extremely steep hillside on the north and the creek and the rural homes located on Windsong Lane to the south. To build a six-lane County Route S12 through this intersection will require a very large amount of blasting and excavation to remove the steep hillsides to the north, thereby removing the hillside which isolates Deer Springs Valley from Interstate 15 to the north. This will have a significant adverse aesthetic impact on the valley and views from within the Golden Door and its extensive network of trails, meditation areas, and outdoor dining areas.

(3) Substantial Condemnation Costs Associated with
Alternative Six-Lane County Route S12

A Deer Springs Road expansion for the location of a new six-lane County Route S12 would also require the condemnation of right-of-way from multiple owners, which could impact the cost of the road and inhibit efficient route design. Among other condemnation impacts, as the Golden Door has informed the County previously during the consideration of the Merriam Mountains project, construction of the six-lane County Route S12 in Deer Springs Valley will require the “total” take of the Golden Door, and compensation for the complete loss of this important County hospitality destination. The Golden Door will no longer be able to operate at a location adjacent to this new regional six-lane road and freeway bypass. In evaluating the costs of each alternative location for the new six-lane County Route S12, the County staff should consider the potential right of way costs, versus alternative routes that could be dedicated at little or no cost to the County by any development adjacent to the alternative routes. Condemnation costs must be evaluated to determine the feasibility of each alternative route. As part of this EIR, the County must also determine whether it has sufficient resources to complete a six-lane County Route S12, including condemnation costs. Without sufficient resources and commitments for construction of County Route S12, the County will have no assurance that a six-lane County Route S12 will in fact be constructed as part of the transportation network required to serve this increased growth.

(4) Considering the NC-42 Property for Additional
Development Allows the County to Take a Fresh Look at
the Best Route for County Route S12

In the past, with development constraints to the north and south after rejection of the Merriam Mountains project in 2010, expansion of Deer Springs Road was the only corridor available to accommodate through traffic from Interstate 15 under the General Plan’s land use designations. Because NC-42 would provide a new opportunity that was outside the scope of the General Plan update, the County should accommodate NC-42 project traffic and non-project traffic through the region with a new roadway with modern pedestrian and bikeway elements, and potential Bus Rapid Transit (“BRT”) or other mass transit capabilities, while avoiding the significant cultural, biological, noise, and aesthetic impacts that will occur from the expansion of Deer Springs Road. Construction of the six-lane County Route S12 on Newland’s own property would only require land from a single development which could be provided at the time of subdivision of the area, lowering overall costs of the new road. The route could be designed to reduce impacts while more efficiently moving traffic from the designated village areas. The County was previously constrained, but the NC-42 proposal, if approved, provides an entirely new opportunity to apply the vision and policies of the General Plan to better accommodate mobility in the North County Metro subregional area.

Further, this opportunity presents itself at the same time that Caltrans is developing a Project Study Report to re-design the Interstate 15/Deer Springs Road interchange. Caltrans should be asked to analyze an interchange configuration that provides direct access to the alternative County Route S12 designated as “*Relocated County S12*,” directly funneling traffic from the interchange to the site of the commercial center proposed in Newland’s project on the

southeast corner of the site, rather than forcing the traffic to take a circuitous route to the south and then multiple turns to reach the commercial center. The Golden Door submitted a letter last year (*see* Attachment H) requesting that Caltrans include such a configuration in its Project Study Report. The new “*Relocated County S12*” road should also directly connect to an expanded park-and-ride facility and transit center which should be integrated into the NC-42 plan, and provide for an efficient “on/off” for a future expansion of SANDAG’s BRT system to the interchange.

The Alternate Route Alternative should be designed to encourage trips on the new road through the project site rather than on to Deer Springs Road in order to avoid traffic, noise, air quality, destruction of tribal resources, and safety impacts to the community and the pedestrians, cyclists, and equestrians traveling along Deer Springs Road. The details already provided by Newland in its own application as to how it would use the additional density under NC-42 require the County to analyze these details in the EIR for NC-42, including transportation alternatives for project traffic.

C. GHG Reduction Alternative: The EIR Should Analyze a Transit-Oriented Alternative to Reduce Greenhouse Gas Emissions

The EIR should also study an alternative with all residential units allowed under NC-42 clustered on the eastern side of the project site near Mesa Rock Road and Interstate 15. This would allow the residential units to access transit options and reduce required single occupancy vehicle trips and their related GHG emissions (the “GHG Reduction Alternative”). The GHG Reduction Alternative would allow all new residents to walk or bike to the planned commercial development in the site’s southeast corner (located within the City of Escondido’s sphere of influence). This commercial center could be designed to provide a transit connection for all residents via an expanded park-and-ride facility and a transit center with direct access on to Interstate 15, and link with SANDAG’s ultimate 2050 plan to extend toll lanes to the location. Under this alternative, the developer should provide for a peak hour shuttle system (funded by the developer) to the Escondido Transit Center or extend SANDAG’s BRT system along Interstate 15 to the project site from its current terminus six to seven miles to the south.

This alternative would realign proposed density to remove the units on the west side of the property and the steep, winding roads throughout the site, thus eliminating the need to drive from one side of the site to the other, or more likely, detour onto Deer Springs Road. This design could also realign the project’s primary entrance to Mesa Rock Road—with direct access from Interstate 15—and limit additional ingress and egress points to emergency access. Again, direct freeway access could be studied in Caltrans’ Project Study Report. *See* Attachment H, Golden Door Letter to Caltrans (Mar. 16, 2015). A design spreading density across the project site requires project residents to take circuitous winding trips in their single-occupant vehicles to reach transit access, thus discouraging or prohibiting transit or shuttle bus easy access and use of the park-and-ride facility. Such an approach should be discarded as inconsistent with the General Plan, SANDAG’s RTP/SCS, and State planning laws. The EIR must study whether and how the additional density provided by NC-42 must be clustered on the large scale site as a condition to any density increase.

Residential units clustered around a transit hub could be designed as higher density multistory town homes or apartments, and would not necessarily result in a reduction in the total number of residential units proposed in NC-42. A key feature of this GHG Reduction Alternative would be to allow transit more direct access to the commercial designated area on the southeast corner of the site, so that buses or shuttles provided by the developer can operate more effectively with greater usage, and provide for regional connections and transfers for all the drivers driving from North County to Vista, San Marcos, and Escondido.

1. An Alternative Needed to Be Consistent with the County's Own General Plan

This clustered, transit-oriented design of the GHG Reduction Alternative would minimize single-occupant vehicle trips by providing transit for longer trips and walkability or short bike path connections for internal trips, thus reducing vehicle miles traveled ("VMT") and GHG emissions. The County General Plan embraces smart-growth communities and a multi-modal mass transit system, stating that "[t]he General Plan will reduce GHG emissions primarily through minimizing vehicle trips and approving land use patterns that support increased density in areas where there is infrastructure to support it, increased opportunities for transit, pedestrians, and bicycles, and through green building and land development conservation initiatives." Attachment I, General Plan Introduction and Vision and Guiding Principles at 1-16. In addition, the County Mobility Element states the following:

Reducing vehicle miles traveled is also an important component of reducing greenhouse gas emissions. Along with compact land use patterns, a well-connected road network contributes to reducing vehicle miles traveled. The Mobility Element requires the provision of multi-modal facilities to accommodate alternative modes of travel, such as public transportation, bicycling, and walking. In addition, goals and policies are included to minimize single occupancy vehicular travel through carpooling, vanpooling, and other transportation demand management methods.

Attachment J, General Plan Mobility Element at 4-3.

2. An Alternative Needed to Be Consistent with SANDAG's RTP/SCS Policies

In addition, SANDAG's RTP/SCS favors a transit-first approach to new development. The RTP is a regional blueprint for a transportation system that meets the State's sustainable development planning priorities through 2050. It allocates funding across transportation priorities, including transit, highway improvements (consisting largely of HOV lane additions), and local roads. SB 375, which went into effect in 2009, requires that an SCS be prepared as part of the RTP to integrate land use and transportation planning in an effort to curb VMT and associated GHG emissions. SANDAG published its RTP/SCS in October 2011, then published an updated SCS as part of the "San Diego Forward" Regional Plan in October 2015. The SCS's strategies for sustainability include "focus[ing] housing and job growth in urbanized areas where

there is existing and planned transportation infrastructure, including transit . . . [and] invest[ing] in a transportation network that gives people choices and reduces [GHG] emissions.”

Attachment K, San Diego Forward: The Regional Plan (“SANDAG Regional Plan”) at 26.

According to these planning principles, when a rural area is proposed to be transformed into an urban area (such as proposed by NC-42), transit must be a central focus and not an afterthought. Because the Interstate 15 corridor in North County is not urbanized and lacks existing transit infrastructure, new development should consist of “transit-first” or even “transit-obligate” communities that proceed only after the construction of, and funding of contributions to, planned transit facilities to ensure that added impacts and increased emissions are fully mitigated or avoided. Without any meaningful transit proposals, NC-42 would result in long, single-occupant vehicle trips from its rural location to urban and job centers. Additionally, NC-42 is designed to “sprawl” across the property, forcing unnecessary internal trips. The Golden Door’s GHG Reduction Alternative, however, would embrace the County’s updated General Plan policies favoring connectivity and transit, the RTP/SCS, the Community Development Model, and the planning principles embodied in SB 375.

Further, the GHG Reduction Alternative would cluster development near the area currently designated as village in the County’s General Plan. We understand that the County does not intend to create a “new” village designation for the Project; therefore, any added density should be clustered in or near the existing village designation rather than spreading out in a very disconnected fashion into existing rural lands. A failure to provide for this design would cause NC-42 to conflict with the County’s General Plan policies. Depending upon the design, the GHG Reduction Alternative could eliminate the need for a General Plan and Community Plan amendment and would likely reduce potential significant land use impacts from NC-42.

D. Alternate Location Alternative: The EIR Should Analyze an Alternative Location in Closer Proximity to Existing Communities and Infrastructure

The EIR should analyze an alternative location for NC-42’s increased density that complies with General Plan policies. The preamble to the General Plan’s Land Use Element provides clear policy direction that, “[f]ocusing development in and around existing unincorporated communities allows the County to maximize existing infrastructure, provides for efficient service delivery, and strengthens town center areas while preserving the rural landscape that helps define the unique character of the unincorporated County.” Attachment L, General Plan Land Use Element at 3-2. The Land Use Element goes on to state that “the core concept for the County’s development directs future growth to areas where existing or planned infrastructure and services can support growth and locations within or adjacent to existing communities. By giving priority to areas identified for urban level densities, this concept also helps to retain the rural setting and lifestyle of remaining areas of the County.” *Id.* at 3-5. Further, General Plan Goal LU-2 seeks to maintain the rural character of existing rural lands in the unincorporated County, and Goal LU-5 directs development patterns and techniques that curb GHG emissions and VMT while preserving rural lands. *Id.* at 3-24, 3-27 to 3-28. NC-42, however, is located far from existing communities and infrastructure and would urbanize existing rural lands contrary to the General Plan’s direction.

The EIR should analyze alternative locations that meet the principles set forth in the General Plan and SANDAG's 2015 RTP/SCS—locations that are closer to existing communities and infrastructure, in close proximity to transit, and that do not convert existing rural lands. The EIR should study alternative locations that accommodate NC-42's proposed density increase with fewer environmental impacts and more in line with the General Plan's Guiding Principles and policies.

E. Agricultural Alternative: The EIR Should Analyze an Alternative that Implements an Agricultural Use of the Property

The alternatives section of the EIR should include an Agricultural Alternative that would utilize the steep slopes of the project site for the production of avocados and other lucrative produce, providing an economically viable alternative for the applicant, which is consistent with the land use designations for the property in the General Plan. Agriculture is an appropriate use of the project site because the majority of the site is designated as Rural Lands in the General Plan. The General Plan notes that, “[t]he Rural Lands category is applied to large open space and very-low-density private and publicly owned lands that provide for agriculture, managed resource production, conservation, and recreation and thereby retain the rural character for which much of unincorporated County is known.” Attachment L, General Plan Land Use Element at 3-8 (emphasis added). The General Plan goes on to state that “the undeveloped nature of Rural Lands benefits all of San Diego County by . . . [p]reserving and providing land for agricultural opportunities.” *Id.* at 3-9. The Agricultural Alternative would be consistent with the project site's designation in the General Plan, and would also allow the preservation of open space, enhancement of the County's economy, provision of jobs, and creation of an economically viable use for the property.

As noted by the San Diego County Farm Bureau, farming provides carbon sequestration that can reduce GHG emissions (Attachment M, San Diego County Farm Bureau, San Diego County Agriculture Facts) as opposed to NC-42 which would significantly increase GHG emissions from increased VMT and construction. Based on these benefits and the minimization of environmental impacts, the EIR must study an Agricultural Alternative.

F. The EIR Should Analyze Other Reduced-Density Alternatives that Would Minimize Environmental Impacts

In addition to the alternatives described above, the EIR should analyze other reduced-density alternatives. These alternatives should include various levels of reduced density to determine the extent to which they would reduce traffic congestion, VMT, GHG, fire safety, biological, and aesthetic impacts; impacts to tribal cultural resources; and other impacts.

VII. THE EIR SHOULD PROVIDE A BROAD-BASED ENVIRONMENTAL REVIEW TO ENSURE IT ANALYZES ALL OF NC-42'S IMPACTS

An EIR must “identify and analyze the significant effects on the environment, state how those impacts can be mitigated or avoided, and identify alternatives to the project, among other requirements.” *Cal. Native Plant Soc'y*, 177 Cal. App. 4th at 979 (internal citation omitted). A

significant effect is a “substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance.” 14 Cal. Code Regs. § 15382. Among other things, the County will need to determine whether there is a “reasonable plan of actual mitigation” from the relevant agency that is fully enforceable through project conditions, agreements, or other legally binding instruments. *Anderson First Coalition v. City of Anderson*, 130 Cal. App. 4th 1173, 1187-89 (2005); *see also* Pub. Res. Code § 21081.6(b); 14 Cal. Code Regs. § 15126.4(a)(2).

Based on NC-42’s significant density increase in a rural area and lack of proximity to existing communities and infrastructure causing far-reaching connectivity issues, the scope of the EIR must encompass a broad array of communities in order to determine the extent of NC-42’s impacts. The Golden Door’s comments on specific potential impacts are provided below.²

A. Aesthetics

The urbanization of the Deer Springs Valley, Windsong Lane, and Twin Oaks Valley areas would irrevocably destroy the community’s rural character. Community residents and businesses have expressed time and time again that we value the feel and appearance of our rural community. The Golden Door and other community members have chosen to reside or operate our businesses in this area because of its tranquil, rural characteristics, not in spite of them. NC-42’s proposed density increase would completely transform the area. This proposal would further ruin our community’s tranquil rural nature if it resulted in realignment of Deer Springs Road and taking of land from surrounding property owners to the south to “smooth the curve” and allow high speed travel into Deer Springs Road, creating a dangerous “raceway.”

The County has acknowledged the detrimental effects of increase density in the area in its October 22, 2014 letter to Newland discussing Newland’s Pre-Application noting in a list of “major project issues” that “[t]he project proposes to locate a high density urbanized development, characterized by small lots, commercial and civic use types within an existing semi-rural community, which may conflict with some goals and policies of the General Plan.” *See* Attachment N, Letter from Mark Slovick, County Planning and Development Services, to Rita Brandin, Newland, at 4 (Oct. 22, 2014) (emphasis added). The EIR should analyze NC-42’s impacts to community character and consider alternative designs and mitigation measures which minimize or eliminate NC-42’s disruption of surrounding roads and property.

B. Agriculture and Forestry

Analysis of agricultural impacts should not be limited to the project site. The surrounding area consists primarily of agricultural lands, including 120 acres of agricultural production on the Golden Door’s property. Project-related impacts, including increased traffic

² While the Golden Door does not provide specific comments on mineral resources, public services, or recreation impacts or on mandatory findings of significance, the Golden Door generally encourages a wide-lensed approach to reviewing such impacts due to the breadth of the communities that may be impacted by NC-42.

from construction and operations, decreased water supply, and fugitive dust and other particulate emissions from construction could impact surrounding agricultural operations. In addition, NC-42's cumulative growth-inducing impacts could decrease the land available for agricultural production, which is a significant source of jobs and economic activity in San Diego County. Further, any efforts to widen Deer Springs Road to accommodate additional trips could encroach on land used for agricultural production.

C. Air Quality

The Initial Study for the Newland Project notes that it could result in a potentially significant impact from objectionable odors. *See* Attachment O, Newland Project Initial Study. NC-42 could result in similar impacts. Such odors could be particularly harmful to the Golden Door's guest experience. The EIR should analyze the extent of any objectionable odors and specify whether such odors will impact nearby residents and businesses, including the Golden Door.

In addition, both construction and project air emissions could significantly impact the surrounding community. This rural area is unaccustomed to the air pollutants associated with urbanization, and agricultural uses may be particularly sensitive to the effects of air pollutants on their crops. Moreover, the amount of rock crushing required to build on the steep slopes of the project site could result in significant air quality impacts. The EIR should analyze the impacts of air pollution from multi-year construction and project operations on surrounding properties.

D. Biological Resources

The project site is home to valuable species and habitat. As noted in the Newland Project Initial Study, the project site is located within the North County Multi-Species Conservation Program ("NCMSCP") subregional plan. The NCMSCP designates the project site as having very high, high, and moderate habitat value. *See* Attachment P, NCMSCP Habitat Evaluation Map. In addition, the project site contains areas designated as ecologically valuable Pre-Approved Mitigation Area ("PAMA"). The NCMSCP sets a goal of conserving 75 percent of natural lands in the PAMA. This should be the minimum amount of preservation required by the County on the project site, and any approval of NC-42 should be conditioned to require at least this level of preservation. The EIR should analyze NC-42's conformance with the NCMSCP and impacts on PAMA.

County staff noted in its previous report on NC-42 that the project site contained sensitive habitat and that the urban development proposed would not support the General Plan's Guiding Principles for steep slope development and habitat conservation: "The site is entirely constrained by steep slopes, sensitive habitat and is also located within the Very High Fire Hazard Severity Zone. Because of the predominance of upland chaparral habitat, the County's habitat evaluation model qualifies the site as low value. However, a site-specific study indicated that this area supports rare plants and is conducive to wildlife movement Specifically the request does not support Guiding Principle #5 due to the steep topography of the land and sensitive habitat." *See* Attachment Q, PSR NC-42. This report on NC-42 also includes maps that indicate the steep slopes on the site, and moderate to high habitat value for the property. The June 20, 2012

County staff report on NC-42 also states that “portions of the requestor’s property contain High and Very High Value Habitat and would require additional environmental analysis to ascertain the impact of development on such sensitive habitat.” Attachment R, County Staff Report for NC-42 and Study Area at 2 (June 12, 2012). The EIR should provide at least the level of analysis previously indicated as necessary by County staff.

Altering the rural character of the project site could significantly impact various populations and habitats. Moreover, the project site includes both north-south and east-west wildlife corridors, including a stepping stone corridor for the California Gnatcatcher, a species that has been sighted on the property. Attachment S, Merriam Mountains Project Recirculated Environmental Impact Report, State Clearinghouse No. 2004091166 (“Merriam Mountains EIR”), Biological Resources Subchapter, at 3.2-8, 3.2-10 (Mar. 2009). Any urbanization of this rural area should not come at the expense of precious habitat. The EIR should study impacts to species due to urbanization of the rural site and impacts to the California Gnatcatcher. In addition, the EIR should analyze NC-42’s impacts on wildlife movement.

NC-42’s impacts will require substantial mitigation. The EIR should analyze mitigation measures for impacts to biological resources, including off-site mitigation and whether such off-site mitigation land is available. Mitigation lands for biological impacts from development is at a premium in San Diego County. Because the project site could be used for biological mitigation for another project, the EIR should also analyze how the significant loss of this potential mitigation land could impact development throughout the County, including development in incorporated urban areas that could purchase parts of the property to mitigate their development impacts. In addition, the housing, population, and land use sections of the EIR should analyze how the loss of this property as potential mitigation land could affect development in urban areas, where the County General Plan, the SANDAG Regional Comprehensive Plan and the General Plans of incorporated cities like San Diego direct growth. If, for example, the PAMA located on the project site is not available as mitigation land, it could constrain development in urban areas that will require biological mitigation land to allow development. This could create significant regional land use impacts that implicate fundamental public policy impacts not only on the County General Plan, but the General Plans of incorporated cities throughout the County.

E. Cultural Resources

Construction of NC-42’s proposed density on the project site will require extensive grading, blasting, and excavation that could exhume fossils or cultural remains of Native American tribes in the area. Senate Bill 18 requires cities and counties to contact, and consult with, California Native American tribes prior to amending or adopting a general plan or specific plan, or designating land as open space. In addition, NC-42 must be analyzed against the San Diego County Resource Protection Ordinance (“RPO”). The EIR for the Merriam Mountains proposal that was rejected by the County Board of Supervisors found two RPO sites that would

be impacted by the project's requirement to expand Deer Springs Road. *See* Attachment T, Merriam Mountains EIR, Cultural Resources Subchapter at 2.5-8.³

In addition to project construction, any widening of Deer Springs Road could also result in a significant impact to cultural resources. In particular, there are two sites with tribal artifacts of significant cultural value in close proximity to the north side of Deer Springs Road. Cultural resource sites identified as CA-SDI-4558 and CA-SDI-9822—both located in the Deer Springs Road corridor—have been “previously tested and identified as significant under the County of San Diego and CEQA criteria . . . on the basis of human remains and a pictograph feature . . . bedrock milling features, and foundations from remains of residential structures.” *See* Attachment U, Deer Springs Road General Plan Amendment/Circulation Element at Chapter 9.2.3.1. Additionally, AB 52 has been adopted since the County previously analyzed the six-lane road in 2008-2010. *See* Attachment V, AB 52. AB 52 requires the County to engage in additional study and consultation regarding projects that can affect tribal cultural resources.

The County must consider the entire impact of the Newland Project, including the density increase, related infrastructure, and options for relocating the proposed six-lane construction of County Route S12, rather than chopping the Newland Project into smaller pieces to be analyzed individually. *See Bozung*, 13 Cal. 3d at 283-284. Per the requirements of AB 52, the County must provide notice to and consult with the Native American tribe culturally and traditionally affiliated with the region regarding the planned disturbance or eradication of CA-SDI-4558 and CA-SDI-9822. The County must also re-analyze impacts to these resources, including a complete analysis of the total human remains that will be disturbed by any project or construction activity.

F. Geology and Soils

The project site is composed of steep slopes that could pose the potential risk of landslide. In addition, mountainous regions are typically created through earth movement over millions of years. A thorough analysis of potential earthquake faults will be required.

G. Greenhouse Gas Emissions

GHG emissions present a pressing global environmental concern. On-road transportation is the primary contributor of GHG emissions in the San Diego region. NC-42, however, follows an outdated auto-centric development model with development far from urban and job centers and that sprawls across even its own site. Because of its location far from existing communities, job centers, and transit infrastructure, NC-42 will cause long single-occupant automobile trips that increase VMT, resulting in harmful GHG emissions. The EIR should analyze mitigation measures and alternatives that reduce VMT, including mitigation measures set forth in the RTP/SCS and the integration of developer-funded shuttles or transit into the project design.

³ The Merriam Mountains EIR notes that impacts to RPO sites that are within an essential public facility are exempt from the RPO.

A recent California Supreme Court decision emphasizes the difficulty in making a finding of no significant impact for GHG emissions. *See Ctr. for Biological Diversity v. Dept. Fish & Wildlife*, 62 Cal. 4th 204 (2015). In that case, the Supreme Court indicated that an EIR using the reduction from “business as usual” approach to significance determinations for GHG emissions impacts must bridge the “analytic gap” between project level emissions and statewide standards by substantial evidence and reasoned explanation. *Id.* at 227. This guidance should not be taken lightly.

The County may not merely rely on its CAP for GHG emissions analysis. The CAP was invalidated by a 2014 Court of Appeal decision. *Sierra Club v. Cty. of San Diego*, 231 Cal. App. 4th 1152 (2014) *petition for review denied*, No. S223591 (Cal. Mar. 11, 2015). The County’s General Plan relied on the CAP to mitigate GHG emissions impacts. *See* Attachment W, San Diego County General Plan Update EIR, State Clearinghouse No. 2002111067, Global Climate Change Subchapter at 2.17-30 (Mitigation Measure CC-1.2) (Aug. 2011). This EIR, therefore, cannot merely rely on the invalidated CAP for GHG impact mitigation, but must propose enforceable mitigation measures and alternatives. The CAP is attached hereto as Attachment X. Additionally, the County should carefully consider whether it can move forward to analyze this major regional project without first adopting a replacement CAP.

The EIR must also analyze NC-42’s consistency with executive orders setting future goals for GHG emissions reductions. *Sierra Club v. County of San Diego*, 231 Cal. App. 4th at 1161, 1175 (invalidating the County’s CAP because, among other reasons, it failed to sufficiently analyze compliance with Executive Order S-3-05’s GHG emissions reduction target for 2050). Here, Executive Order S-3-05, issued by Governor Schwarzenegger in 2005, sets a statewide goal to reduce GHG emissions to 2000 levels by 2010, to 1990 levels by 2020, and finally to 80 percent below 1990 levels by 2050. In addition, Executive Order B-30-15, issued by Governor Brown last year, establishes a new interim statewide reduction target to reduce GHG emissions to 40 percent below 1990 levels by 2030.

H. Hazards and Hazardous Materials

NC-42 proposes a significant density increase in a High Fire Hazard Severity Zone. This puts thousands of people in increased danger from fire hazards and exponentially increases the potential for fire-related damage to property value. This increased density directly conflicts with the County General Plan Safety Element Policy S-1.1- Minimize Exposure to Hazards, which sets forth the following policy proclamation: “Minimize the population exposed to hazards by assigning land use designations and density allowances that reflect site specific constraints and hazards.” Attachment Y, San Diego County General Plan Safety Element at 7-4 (2011).

It should be noted that the County recently went through the General Plan Update process of designating land at appropriate density levels to minimize the exposure of people to the risk of fire hazards. The staff report for NC-42 notes that the entire site is in a Very High Fire Hazard Severity Zone. *See* Attachment Q. NC-42, therefore, contradicts the thoughtful consideration that was given to the density designation on this site during the multi-year General Plan Update process. The EIR should analyze reduced-density alternatives and mitigation measures that will avoid or mitigate density-related fire safety impacts.

NC-42 also risks overcrowding local evacuation routes in event of a fire. During the fires in May 2014, area roads were at a standstill, and Interstate 15 and State Highway 78 both experienced closures. The EIR should analyze a plan that includes moving evacuees out the north side of the project site—to North Twin Oaks Valley Road, Gopher Canyon Road, and Lawrence Welk Court—to avoid evacuation in a single direction or taking the risk of trapping residents if the fire is to the south. Improvements to northern access points necessary to mitigate fire safety impacts cannot be deemed infeasible simply due to costs.

A crucial mitigation measure that must be studied is the redesign of NC-42 to include a direct four- or six-lane road—“*Relocated County S12*”—as discussed above in Section VI.B, that will provide a new east-west evacuation route for the thousands of new residents located on project site’s west side. In an emergency, it is crucial that all residents and the community have access to a new direct four- or six-lane east-west road across the project to evacuate to the east, rather than limiting evacuation points.

I. Hydrology and Water Quality

Water availability is a significant concern for agricultural and domestic uses in the areas surrounding the project site—and throughout California generally. Some properties in the area use water from on-site wells. Water is a precious resource, particularly to the agricultural properties in the Twin Oaks Valley community. The County Water Authority has declared the County to be in Drought Level 2, requiring 20% mandatory conservation. If the County Water Authority further downgrades the condition to Drought Level 3, no new potable water service will be available. The County should ensure that NC-42’s proposed urbanization of the area does not adversely impact existing water and wastewater services. The EIR should analyze impacts on water supply under various drought conditions, including Drought Level 3. The EIR should also analyze the impacts to water availability and quality to the area’s water resources, including wells.

J. Land Use and Planning

The State Planning and Zoning Law requires the County’s project approvals to be consistent with the General Plan. *See Citizens of Goleta Valley v. Bd. of Supervisors*, 52 Cal. 3d 553, 570-71 (1990). The County recently completed a General Plan Update in 2011, which zoned the project site as rural lands allowing one residential unit for every 20 acres (RL-20), with just a sliver of village, office, and commercial designation near Interstate 15. *See* Attachment Z, Twin Oaks Valley Land Use Map. The RL-20 designation is actually a *decrease* in the density previously allowed. Because NC-42 proposes a substantial increase in density so soon after the conclusion of the lengthy General Plan Update process, it is important that the EIR provide an in-depth analysis of NC-42’s compliance with the General Plan’s policies and Guiding Principles and whether any General Plan amendment will have an impact on similarly situated property elsewhere in the County.

1. The EIR Should Analyze Whether the Project Will Require Amendments to the General Plan's Guiding Principles

The General Plan lists ten Guiding Principles that apply to all development in the unincorporated County:

1. Support a reasonable share of projected regional population growth.
2. Promote health and sustainability by locating new growth near existing and planned infrastructure, services, and jobs in a compact pattern of development.
3. Reinforce the vitality, local economy, and individual character of existing communities when planning new housing, employment, and recreational opportunities.
4. Promote environmental stewardship that protects the range of natural resources and habitats that uniquely define the County's character and ecological importance.
5. Ensure that development accounts for physical constraints and the natural hazards of the land.
6. Provide and support a multi-modal transportation network that enhances connectivity and supports community development patterns and, when appropriate, plan for development which supports public transportation.
7. Maintain environmentally sustainable communities and reduce greenhouse gas emissions that contribute to climate change.
8. Preserve agriculture as an integral component of the region's economy, character, and open space network.
9. Minimize public costs of infrastructure and services and correlate their timing with new development.
10. Recognize community and stakeholder interests while striving for consensus.

Attachment I, General Plan Introduction and Vision and Guiding Principles at 2-6.

The EIR should analyze NC-42's compliance with each of the Guiding Principles. NC-42 risks violating the Guiding Principles in at least the following ways: (1) locating growth far from existing and planned communities, infrastructure, and services; (2) drastically altering existing community character; (3) impacting operations of businesses that rely on the peace and

tranquility of a rural setting; (4) disrupting wildlife corridors; (5) developing despite physical constraints posed by the project site's slope; (6) failing to provide transit options; (7) requiring long single-occupant vehicle trips that increase GHG emissions; (8) urbanizing a rural agricultural community; (9) requiring the extension of utility services and annexation into the VWD; (10) developing in excess of that allowed by the City of Escondido's sphere of influence designation; and (11) developing the project site despite significant community opposition, a previous rejection of a similar project, and a recent General Plan Update that spent years weighing stakeholder input. Any change to the County's Guiding Principles would require an analysis of the impacts of the change on similarly situated properties throughout the County and could require additional public input on the County General Plan's EIR.

In evaluating NC-42 shortly after passage of the updated General Plan, County staff designated the request as "Major" and "High Complexity." See Attachments Q, R. According to the Staff Report for a January 9, 2012 workshop on the General Plan Property Specific Requests, a "Major" category designation indicates an inconsistency with General Plan Guiding Principles and "would require more fundamental and extensive changes to the General Plan Update and associated environmental documents." See Attachment AA, County Staff Report for General Plan Property Specific Requests Workshop ("Workshop Staff Report") at 3 (Jan. 9, 2012). The Workshop Staff Report further noted that "if the County chooses to implement the Guiding Principles differently for a single property, it risks establishing an inconsistent basis for applying the Guiding Principles to other similar properties," that additional public outreach and review would be required to modify the Guiding Principles, and that changes to the General Plan's Land Use Map could be required for consistency. *Id.* at 4.

In a follow-up report by County staff on June 20, 2012, for NC-42, the request was deemed "Very High" complexity specifically because the significant changes being sought could alter the basic policy construct and planning principles of the General Plan. The staff report for NC-42 notes the following rationale for the "Very High" complexity classification of PSR NC-42:

- The workplan outlines an extensive community remapping that will have a major impact on the Twin Oaks Community and neighboring communities. The effects of adding over 1,000 dwelling units on land that is currently undisturbed rural land will require extensive study to determine the impact on the community, resources, and the environment and to address consistency with Policy LU-2.3 assigning densities in a manner that is compatible with the character of the community.
- The proposal would shift the focus of the Twin Oaks Community from its center to its edge along Interstate 15. At a minimum it would be necessary to review the proposed change to address consistency with the Community Development Model, Policy LU-1.1, and Guiding Principle 2. The Community Development Model supports decreased densities as the distance increases from the village core to promote compact development and preserve distinct boundaries between communities.

- The study area affects over 250 property owners. A change affecting such a large number of people increases the complexity involved in notifying owners of the proposed changes, seeking their input, and addressing their concerns. Given the large amount of community opposition to this project, additional issues will be brought up over the life of the approval process.
- The adjacent study area constitutes primarily agricultural lands. Further analysis would be required to determine the effect of a density increase on efforts to preserve important agricultural areas of the county such as this one.
- Portions of the requestor's property contain High and Very High Value Habitat and would require additional environmental analysis to ascertain the impact of development on such sensitive habitat.
- Review of the mapping principles regarding prohibiting "leapfrog" development as outlined in Policy LU-1.2 and consistency with Policy LU-1.4 involving establishing new Village Regional Category designations outside of an existing or planned village will be required.

See Attachment R, County Staff Report for NC-42 and Study Area at 2.

In light of these concerns, the EIR must analyze whether NC-42 is consistent with the General Plan Guiding Principles and whether it requires additional environmental review of the General Plan. The EIR should analyze the basis for any change in County staff's position.

In addition to analyzing NC-42's consistency with the General Plan's Guiding Principles, the EIR should also analyze NC-42's consistency with each of the General Plan's specific policies. For example, Policy LU-2.3 requires density to be compatible with community character. Attachment L, General Plan Land Use Element at 3-25. NC-42 proposes to drop urban development into a rural and semi-rural area, thus violating this policy.

2. The EIR Should Analyze NC-42's Consistency with the General Plan's Leapfrog Policy

General Plan Policy LU-1.2 ("Leapfrog Policy") prohibits leapfrog development:

Leapfrog Development. Prohibit leapfrog development which is inconsistent with the Community Development Model. Leapfrog Development restrictions do not apply to new villages that are designed to be consistent with the Community Development Model, that provide necessary services and facilities, and that are designed to meet the LEED-Neighborhood Development Certification or an equivalent. For purposes of this policy, leapfrog development is defined as Village densities located away from established Villages or outside established water and sewer service boundaries.

Attachment L, General Plan Land Use Element at 3-23. We understand the County has taken the position that the Newland Project is exempt from the Leapfrog Policy because a small portion of the project site is currently designated as “village” and, therefore, does not constitute a “new village.” We are not aware if the County takes the same position regarding NC-42. In any event, the Golden Door’s position is that either NC-42 or the Newland Project would be inconsistent with the Leapfrog Policy for at least five reasons, thus precluding approval. This issue must be analyzed in the EIR.

First, County staff has previously taken the position that NC-42 must be reviewed for consistency with the Leapfrog Policy as well as with Policy LU-1.4, which applies to new village designations. The County staff report for NC-42 states that the requested General Plan change would require a “[r]eview of the mapping principles regarding prohibiting ‘leapfrog’ development as outlined in Policy LU-1.2 and consistency with Policy LU-1.4 involving establishing new Village Regional Category designations outside of an existing or planned Village” See Attachment R, County Staff Report for NC-42 and Study Area at 3. The EIR, therefore, must address this issue.

Second, a plain reading of the Leapfrog Policy contradicts the County’s position on the Newland Project that the Leapfrog Policy applies only to a “new” village. The Leapfrog Policy’s indication that a “new” village may be exempt implies that an “existing” village is not exempt. The first sentence of the Leapfrog Policy is a clear prohibition on leapfrog development with no reference to “new” or “existing” village designations. The second sentence provides a limited exemption from the prohibition for “new villages” that meet certain criteria. This exemption, therefore, applies only to a subset of “new villages”—and does not apply to an “existing” village. Consequently, if the County determines that NC-42 contains an “existing” village, the second sentence’s exemption does not apply. Without the protection afforded by the exemption, the Leapfrog Policy, as described in the first sentence, applies to NC-42.

Third, NC-42 appears to make no changes to an “existing” village designation, but adds a new swath of village residential designation just north of office park designation connected to the existing sliver of village designation. The initial village designation, however, appears unchanged. Attachment BB, Existing and Proposed General Plan Land Use Maps for NC-42. The EIR should analyze whether this constitutes addition of a “new” village or alteration of an “existing” village and whether this designation is consistent with Policy LU-1.4.

Fourth, much of the project site is disconnected from the limited village designation in the project site’s southeast corner—regardless of whether such village is “new” or “existing.” The Leapfrog Policy, therefore, precludes the semi-rural designation throughout the site. Any contrary finding would constitute an absurd result allowing even the smallest village designation on the General Plan’s Land Use Map to provide protection for clear-cut leapfrog development as far out as a developer is willing to build a road from that village designation. Moreover, the existing village designation is hardly a bustling center of activity—it supports only a gas station convenience store and several roadside stands. General Plan Policy LU-1.4 limits village expansion and requires, among other things, that such expansion be consistent with community character. Here, allowing dense residential growth is wholly inconsistent with the area’s markedly rural setting.

Fifth, and finally, even if the exemption found in the second sentence of the Leapfrog Policy could apply to NC-42, NC-42 does not meet the exemption's three criteria: consistency with the Community Development Model, provision of services and facilities, and LEED-Neighborhood Development ("LEED-ND") standard or its equivalent. NC-42's design is not consistent with the Community Development model because it spreads density throughout the project site away from the area designated as village. Also, there are not sufficient existing facilities and services to support construction of the units permitted by NC-42. Further, construction on the project site, as designated, could not meet LEED-ND or equivalent standards. LEED-ND requires a project's connectivity to transit and existing communities and infrastructure. The US Green Building Council's FAQ on LEED-ND states that, "[u]sing the framework of other LEED rating systems, [LEED-ND] recognizes development projects that successfully protect and enhance the overall health, natural environment, and quality of life of our communities. The rating system encourages smart growth and new urbanist best practices, promoting the location and design of neighborhoods that reduce vehicle miles traveled and communities where jobs and services are accessible by foot or public transit. It promotes more efficient energy and water use—especially important in urban areas where infrastructure is often overtaxed." *See* Attachment CC, U.S. Green Building Council LEED-ND FAQ. LEED-ND also requires a walkability component that cannot be accomplished on the project site if residential units are spread from the west side to the east across steep terrain. No substitute for LEED-ND could be found "equivalent" without such walkability and connectivity components.

As discussed above, NC-42 lacks connectivity to existing urban and job centers or public transportation and will require long single-occupant vehicle trips which increase VMT. While we understand the County is in the process of determining what criteria to use for LEED-ND "equivalent," such criteria cannot include the wholesale discarding of central tenets of LEED-ND, such as walkability, connectivity, protection of the natural environment, and other such new urbanist best practices.

The EIR should analyze NC-42's consistency with the General Plan's Leapfrog Policy in light of the points raised above.

3. The County Should Carefully Consider Whether It Can Move Forward with NC-42 Before SANDAG Revises Its RTP/SCS's Land Use Assumptions and Before the County Approves a New CAP

Generally, an EIR should analyze whether and to what extent a project is consistent with County and regional plans. *See* 14 Cal. Code Regs. § 15125(d). The EIR should carefully consider NC-42's consistency with SANDAG's RTP/SCS.^{4,5} As discussed above, SANDAG's

⁴ While Government Code Section 65080(b)(2)(K) does not legally require that a County's General Plan be consistent with the RTP/SCS, the County should still consider whether it is good policy to stay consistent with the Region's overall adopted plan. Moreover, by stating that an EIR need not evaluate consistency with an "Alternative Planning Scenario," Government Code Section 65080(b)(2)(I) implies that an EIR should evaluate consistency with an SCS—a more definitive plan than an "Alternative Planning Scenario."

RTP/SCS relies on land use allocations that do not include the density increases proposed by NC-42 or the Newland Project. The County provided comments to SANDAG noting that the RTP/SCS failed to account for any General Plan amendments—without providing any details of proposed amendments that SANDAG could have incorporated—and SANDAG refused to update its underlying land use model. Attachment E, County Comment Letter to SANDAG.

SANDAG is required to approve a new RTP/SCS by 2019. *See* Gov. Code § 65080(d). We recommend that the County work closely with SANDAG in advance of that plan to incorporate any projected land use changes and carefully consider delaying processing of any significant density increases in Twin Oaks Valley until such density is included in SANDAG's regional growth projections. Without a concerted effort to work toward cohesive regional planning goals, new unplanned development in the unincorporated County threatens to subvert the State's planning and GHG emissions reduction goals and will cause disconnect between transportation and land use planning—in contradiction to SB 375's stated purpose. A more coordinated approach between the County and SANDAG is required to achieve the RTP/SCS's goals and ensure the San Diego region's compliance with GHG emissions reduction requirements.

Similarly, the County should carefully consider whether it should delay processing NC-42 until it has approved a new, legally compliant CAP. As discussed above, the County's current General Plan relies upon an invalid CAP. We understand the County is currently in the process of preparing a new CAP. The County, therefore, should carefully consider whether or not the State Zoning and Planning Law requires the County to first adopt its new CAP *before* proceeding with additional General Plan amendments for unplanned development in rural Twin Oaks Valley. Generally, State Planning and Zoning Law requires the County's project approvals to be consistent with the General Plan. *See Citizens of Goleta Valley*, 52 Cal. 3d 553, 570-71 (1990).

Additionally, a General Plan is required to be consistent within itself. *See Sierra Club v. Kern Cty. Bd. of Supervisors*, 126 Cal. App. 3d 698, 703 (1981). The County's General Plan depends on the invalid CAP for consistency among its elements, and may not be “reasonably consistent and integrated on its face” without it. *Concerned Citizens of Calaveras Cty. v. Bd. of Supervisors*, 166 Cal. App. 3d 90, 97 (1985). The County should carefully consider whether it is possible for the General Plan to be consistent without the new CAP and whether it should delay this substantial General Plan amendment until a new CAP has been adopted. This way, the EIR would be able to analyze consistency with a new, valid CAP. Further, consideration of NC-42 after adoption of a new CAP would permit the County to incorporate any recommended mitigation measures from the CAP.

⁵ Similarly, the EIR should further analyze NC-42's consistency with County and SANDAG growth forecast maps, including SANDAG's Smart Growth Concept Maps. *See* Attachment DD, SANDAG's San Diego Region Smart Growth Concept Map and North County Subregional Smart Growth Concept Map, both dated October 2014; *see also* Regional Plan at 7.

In addition to any legal requirement, the Golden Door believes that, as a matter of public policy, the County should not process NC-42 until a new CAP is implemented. GHG mitigation strategies are constantly evolving, and new development in rural Twin Oaks Valley should be consistent with the measures adopted in the forthcoming CAP. The Golden Door believes that adopting NC-42 now without considerations of the new CAP would be contrary to the State's climate change objectives. *See* Executive Order S-3-05, Executive Order B-30-15. Further, it is the Golden Door's position that amending the General Plan without carefully considering its overall consistency and adequacy would subvert CEQA's purpose of allowing the public opportunities to fully analyze NC-42's GHG emissions impacts in light of a valid CAP.

4. NC-42 Contradicts the General Plan's Smart Growth Principles

NC-42 is simply out of step with General Plan's smart growth policies. NC-42 would designate approximately 1,100 residential units on rural lands far from urban and job centers—and without meaningful transit options—in stark contradiction to the planning principles encompassed in the County's General Plan, LEED-ND, SANDAG's RTP/SCS, and SB 375. General Plan Goal LU-5 promotes “[a] land use plan and associated development techniques and patterns that reduce emissions of local [GHGs] in accordance with state initiatives, while promoting public health.” Attachment L, General Plan Land Use Element at 3-27. In addition, the County's 2013 General Plan Annual Progress Report states that “[t]he core concept for the County's Land Use Element is to direct future growth to areas where existing or planned infrastructure and services can support that growth and to locations within or adjacent to existing communities.” *See* Attachment EE, 2013 General Plan Annual Progress Report at 3. As previously discussed, NC-42 will be located away from existing services, faces challenges with internal circulation, is located far away from existing transit infrastructure, and will require long single-occupant vehicle trips in contradiction with these policies. NC-42 must do more than merely pay lip-service to County, regional, and State planning requirements emphasizing smart growth principles.

5. NC-42's Proposed Density within the Escondido Sphere of Influence Would Be Inconsistent with the County's General Plan

A portion of the project site falls within the City of Escondido's sphere of influence. The San Diego County Local Agency Formation Commission's (“LAFCO”) map of the Escondido sphere of influence is attached hereto as Attachment FF. The map clearly shows the Escondido sphere of influence extends north of Deer Springs Road and west of Interstate 15 into the project site—notably covering the area currently designated as “village.” This inter-jurisdictional issue requires review of both the County General Plan and Escondido General Plan to analyze consistency. Here, NC-42's proposed density would be inconsistent with these General Plans.

The North County Metro Community Plan (“NC Metro CP”) is part of the County General Plan and includes the project site. The general goals and policies of NC Metro CP require the County to take the City of Escondido's planning into consideration. *See* Attachment

GG, NC Metro CP at Policy 1.⁶ NC Metro CP Policy 7 limits density on unincorporated County land within the Escondido sphere of influence to one unit per acre. Specifically, Policy 7 prohibits “new major and minor subdivisions within the adopted Escondido city spheres of influence if the density shown on the final subdivision or parcel map is greater than one dwelling unit per gross acre, unless: (1) *consistent with the general plan land use map*; or (2) the proposed project has sewers available and can obtain sewer lateral connections to an existing sewer main, in which case this policy shall not apply to the property.” *Id.* at 5 (emphasis added). This provision appears intended to limit the County’s ability to approve dense development within the City of Escondido’s sphere of influence. The County’s General Plan, therefore, limits the County to approving development at a density of one unit per acre within the City of Escondido’s sphere of influence unless the Escondido General Plan allows for additional density.

Currently, Escondido’s General Plan designates the portion of the project site within its sphere of influence for very low density development. *See* Attachment HH, Escondido General Plan Land Use Map. The northwest corner of the Escondido General Plan land use map includes the portion of the sphere of influence covering the part of the project site. It depicts this area as Rural Residential I (1 du/4, 8, 20 acres) and Estate I (1 du/1, 2, 4, 20 acres). *Id.* This density is equal to or less than one dwelling unit per acre, and therefore does not create an exception to NC Metro CP Policy 7. As a result, the County is not able to approve density greater than one unit per acre on that portion of the project site, because it would be inconsistent with the County’s General Plan pursuant to NC Metro CP Policy 7.⁷ *See Sierra Club v. Kern Cty. Bd. of Supervisors*, 126 Cal. App. 3d at 703 (“[T]he general plan is required to be consistent within itself.”); *Concerned Citizens of Calaveras Cty.*, 166 Cal. App. 3d. at 97 (“A general plan must be reasonably consistent and integrated on its face. A document that, on its face, displays substantial contradictions and inconsistencies cannot serve as an effective plan because those subject to the plan cannot tell what it says should happen or not happen.”).

K. Noise

Noise related to reasonably foreseeable construction activities would persist for years to accommodate development of all units allowed on the project site by NC-42. Due to the project site’s steep slopes, construction is likely to result in significant noise impacts. For example, in its application, Newland notes that rock crushing will be performed on-site, but provides no details of the volume, duration, or location of rock crushing activities. *See* Newland Project

⁶ NC Metro CP Policy 1: A. “Because cities of the Subregion are closely related to the surrounding area in terms of public services, travel patterns, and community identity; and B. the cities and County are generally agreed on the spheres of influence boundaries, which were adopted by the Local Agency Formation Commission (LAFCO) the County will cooperate in the planning and regulating of growth in the unincorporated territory within each city’s sphere of influence. Future County decisions on proposed projects in the sphere areas will take each city’s planning objectives into consideration.”

⁷ Because the City of Escondido’s sphere of influence encompasses the area currently zoned as “village” in the County’s General Plan, the inability to develop at a high density further impacts the Leapfrog Policy arguments above in Section VII.J.2.

Application, Project Description at 13 (Jan. 20, 2015, on file with the County). The EIR should analyze the noise impacts from rock-crushing and other similar construction techniques, as well as alternatives to on-site rock crushing and implementation of noise-reducing mitigation measures. In addition, the EIR should identify the specific location or locations within the project site that will most effectively mitigate noise impacts from rock crushing or other similar operations.

The EIR should analyze noise and ground vibration impacts on the Golden Door and other surrounding properties from construction and project operations generated by activity both on the project site and on Deer Springs Road. The EIR should also analyze appropriate mitigation for noise impacts to the Golden Door and other surrounding property owners.

L. Population and Housing

NC-42's proposed urbanization of a rural area could result in growth-inducing impacts both in the areas surrounding the project site and elsewhere in the unincorporated County. Because the General Plan encourages new development near existing communities, adding a new community on the project site could induce other communities to develop nearby. As noted in the County staff report on NC-42, "[t]he proposal would shift the focus of the Twin Oaks community from its center to its edge along I-15." Attachment R, County Staff Report for NC-42 and Study Area at 2. Because of this shift, NC-42 could act as a bridge between previously designated rural and urbanized areas creating an incentive for in-fill development of rural areas between the project site and urbanized areas. The EIR must analyze NC-42's potential to induce additional development of rural lands.

In addition, setting the precedent that the 2011 General Plan Update is subject to amendment that drastically increases density in contradiction of the General Plan's Guiding Principles could pave the way for other General Plan amendments adding similar urban density in other areas of the unincorporated County with existing rural designations. The EIR should analyze NC-42's growth inducing impacts to the area surrounding the project site as well as other areas in the unincorporated County.

M. Transportation and Traffic

NC-42 will cause significant traffic impacts on freeways and surface streets. It is located far from urban and job centers without any meaningful transit options, and—if designed similar to the Newland Project—could face challenges with internal circulation due to steep slopes. Due to these shortcomings, NC-42 would cause traffic to be dumped on to Deer Springs Road, which already experiences significant peak hour cut-through trips in contradiction of General Plan policies for regional connectivity and rural roads. For this reason, the Golden Door proposes a direct four- or six-lane east-west connection such as the "*Relocated County S12*" described in Section VI.B. As discussed in more detail below, the EIR should analyze NC-42's traffic impacts on a broad scale as well as feasible alternatives and mitigation measures.

1. The EIR Should Study Mitigation Measures and Alternatives to Maintain a Two-Lane Configuration on Deer Springs Road to Prevent Any Development from Dumping Traffic onto Deer Springs Road

NC-42 proposes a drastic increase in density far from existing communities and infrastructure or job and urban centers. Moreover, as shown by LLG's license plate survey, a number of trips on Deer Springs Road are freeway bypass trips resulting in regional impacts. *See* Attachment F. These freeway bypass trips occur now and will increase in the future because of existing freeway congestion on Interstate 15 and State Highway 78. As discussed below, NC-42 will contribute to gridlock Level of Service "F" on Interstate 15 in the future, causing large numbers of residents to divert from Interstate 15 to escape stopped freeway traffic. Any approval of NC-42 must be conditioned to require a direct road across the project site rather than allowing a developer to design its roads as a circuitous system with cul-de-sacs to funnel the cut-through traffic away from their property and on to Deer Springs Road.

Due to the increased density and cut-through implications, NC-42 could cause traffic impacts within a broad geographic radius from the project site. Under CEQA, the County will be required to consider mitigation measures or alternatives which could fully mitigate or avoid predicted traffic impacts (as well as the complete and detailed performance objectives for mitigation measures for impacts on State highways provided by Caltrans under CEQA Guideline Section 15086). Pub. Res. Code § 21100; *see also Gray v. Cty. of Madera*, 167 Cal. App. 4th 1099, 1116-17 (2008). Courts have found mere fair-share payments made to undefined or insufficient mitigation fee programs to violate CEQA. *See Anderson First Coalition*, 130 Cal. App. 4th at 1187-89 (requiring fair-share payments to fund a program that would *actually mitigate* cumulative traffic impacts) (emphasis added); *Endangered Habitats League, Inc. v. Cty. of Orange*, 131 Cal. App. 4th 777 (2005) (invalidating EIR that did not provide evidence of improvements funded by the project's mitigation fee or evidence that fees would adequately mitigate traffic impacts).

A traffic study included in the Lilac Hills Ranch project's EIR forecasts a failing Level of Service "F" on Interstate 15 from Escondido all the way to the Riverside County line when both Newland's Project and the Lilac Hills Ranch project are developed. *See* Attachment II, Lilac Hills Ranch Draft Revised EIR, State Clearinghouse No. 2012061100, Transportation/Traffic Subchapter (June 2014) at 2.3-41 to 2.3-42, 2.3-96 to 2.3-97. The Golden Door believes that when Interstate 15 reaches Level of Service "F," a large number of motorists traveling to and from State Highway 78 will simply view Deer Springs Road/Twin Oaks Valley Road/Buena Creek Road as an alternate freeway ramp to the West 78, the City of Vista and south San Marcos, including Cal. State San Marcos and Palomar Community College. For NC-42, the EIR should include traffic studies analyzing impacts, mitigation measures, and alternatives within a broad study area—including multiple segments of Interstate 15 and State Highway 78, Twin Oaks Valley Road, and Buena Creek Road—due to the prevalence of freeway bypass trips on Deer Springs Road affecting a wide range of freeways and surface streets. Any approval must be condition upon full funding of mitigation measures *before* a development project can move forward on the project site. A traffic study should consider improvements on Interstate 15 and State Highway 78 that would minimize the freeway congestion caused by NC-42 that will exacerbate future cut-through traffic.

The EIR should consider improvements to Deer Springs Road—without adding lanes on Deer Springs Road—that discourage additional cut through trips in this rural area and avoid making the road more attractive for bypass trips that should remain on the freeway rather than burdening local property owners. If the County staff nonetheless believes an east-west regional freeway “cut-through” should be built in this area, the County staff should consider instead the alternative of building the “cut-through” road across the project site using a direct four- or six-lane parkway and through a realignment of the Deer Springs Road interchange bridge, rather than widening Deer Springs Road.

The updated General Plan no longer views road-widening as a “one-size-fits-all” solution to congestion. According to the General Plan’s Mobility Element, the “widening of roads, which can dramatically change the character of a community, should be pursued only after environmental and community character impacts are also considered. The need to widen roads is minimized when trip vehicle miles traveled are reduced, the performance of the existing network is optimized, and the use of alternative modes of travel is maximized.” Attachment J, General Plan Mobility Element at 4-3. The EIR should study ways to avoid environmental and community impacts that would occur if Deer Springs Road were expanded, such as the following: (1) the rural character of the community does not support a major thoroughfare ferrying passers-through from one freeway to the next; (2) the extensive grading on steeply sloped landscape would destroy habitat and potentially water flows; (3) the extensive blasting required to fit the road into Deer Springs Road; (4) the impacts to residents to the south of Deer Springs Road near Mesa Rock Road; (5) the impacts of a high speed road adjacent to the planned trail on the north side of Deer Springs Road; and (6) an expanded roadway inviting vehicle trips would create an additional hindrance to wildlife and pedestrian, bicycle, and equestrian movement, especially north-south movement across the road.

Moreover, the General Plan supports County road configuration that discourage freeway-bypass trips. LLG’s license plate survey indicates that approximately 78% of trips on Deer Springs Road originating at the Interstate 15 southbound ramp during morning peak hours are freeway bypass trips. See Attachment F. With the County’s projection that Interstate 15 will reach Level of Service “F” and be extremely congested for many hours of the day, (due in large new developments), many more motorists will be encouraged to “flee the freeway” and find any surface street that can provide an alternative. We understand that County staff, nonetheless, has expressed a lack of concern over freeway bypass trips on Deer Springs Road and would support the transformation of this rural road into freeway-to-freeway bypass. We could not disagree more—and neither could the General Plan.

Policy M-1.1 of the General Plan’s Mobility Element requires prioritizing travel *within* communities by encouraging “a public road network that accommodates travel between and within community planning areas **rather than accommodating overflow traffic from State highways and freeways that are unable to meet regional travel demands.**” Attachment J, General Plan Mobility Element at 4-12 (emphasis added). The Twin Oaks Valley community should not be burdened by a massive freeway bypass because of congestion on Interstate 15 and State Highway 78. The EIR should study alternatives and mitigation that would maintain the area’s rural character, which would be destroyed by a “Deer Springs Freeway Bypass System,” which, even if effective, would merely serve as a short-term stop-gap measure instead of seeking

a more systematic solution to freeway congestion through more efficient freeway management and alternative means of transportation.

In addition, General Plan Policy M-2.1 describes situations in which acceptance of a failing Level of Service is necessary to achieve other General Plan goals, such as environmental preservation or enhancing community character. One situation justifying acceptance of a failing Level of Service involves regional connectivity issues, “when congestion on State freeways and highways causes regional travelers to use County roads, resulting in congestion on the County road network. Rather than widening County roads to accommodate this traffic, the deficiencies in the regional road network should be addressed.” Attachment J, General Plan Mobility Element at 4-14. Another situation calling for acceptance of a failing Level of Service on a County Road is when “adding travels lanes to a road that would adversely impact environmental and cultural resources This situation would also occur in areas with steep slopes where widening roads would require massive grading, which would result in adverse environmental impacts and other degradation of the physical environment.” *Id.*

We believe that the environmentally superior alternative under CEQA would be to accommodate this bypass traffic using improvements in traffic and transit facilities on the Interstate 15 and State Highway 78 corridors. SANDAG’s RTP/SCS encourages additional transportation options rather than simply relying on the old-style auto-centric suburban development model. Attachment K, SANDAG Regional Plan at 30. This comports with Supervisor Ron Roberts direction for new development to provide “transit connections that do more than just a token job of offering people transportation alternatives besides the automobile.” *See* Attachment C. This approach would limit VMT and GHG emissions in accordance with State, regional, and local planning priorities.

Newland has recommended an “Option A” in its application that maintains Deer Springs Road as two-lane road between Sarver Lane and Mesa Rock Road. *See* Newland Application, Project Description at 14-15. If the County will not condition future development on a road through the project site, such as the “*Relocated County S12*,” it should at least condition future development on maintaining a two-lane configuration on Deer Springs Road between Sarver Lane and Mesa Rock Road similar to Newland’s “Option A.” Because the segment of Deer Springs Road between Sarver Lane and Mesa Rock Road meets the criteria set forth in the preceding paragraphs, acceptance of a failing Level of Service is warranted. Moreover, NC-42 would not *create* a failing segment on Deer Springs Road by maintaining this segment at two lanes. The two-lane segment is *already* failing today. As demonstrated by the LLG license plate survey, a two-lane configuration between Sarver Lane and Mesa Rock would result in the same or improved Levels of Service on all other segments of Deer Springs Road. *See* Attachment F. Additionally, the developer of NC-42 could be required to fund and operate a transit shuttle to San Marcos and Escondido from the park-and-ride transit center at NC-42’s planned commercial center, to replace the lost road capacity resulting from Option A and improve levels of service by reducing traffic in this portion of the County Route S12 corridor.

Expanding Deer Spring Roads would require significant right-of-way acquisition from local property owners and could destroy the Golden Door and other businesses in the area. Based on the steep slope in front of the Golden Door and the Golden Door’s need to access Deer

Springs Road at grade, grading to or constructing four lanes—and even more so for six lanes—would require substantial encroachment onto the Golden Door’s property and would significantly harm the Golden Door’s business. Such an encroachment may result in a “taking” of both the Golden Door’s property and business and require the County to compensate the Golden Door for the value of both its property and its business.

Other area property owners would also be subject to significant property loss and potential destruction of their intended use. For example, the various alignments of the southward bend on Deer Springs Road would require differing degrees of condemnation of the TERI property. Depending on the configuration, it could render the TERI property useless for the non-profit’s intended equestrian center and other facilities for developmentally disabled individuals. A two-lane configuration of Deer Springs Road, and a reduced speed limit, would be more likely to allow for a tight turn radius or T-intersection that would limit the need to acquire right-of-way from TERI or other area property owners. The EIR should analyze the impacts to local property owners of the extensive condemnation that would be required for expanding Deer Springs Road, including impacts that would occur if the encroachment caused a closing of businesses, blight, or the conversion to other uses.

Finally, the County should implement measures to reduce the speed at which vehicles travel on Deer Springs Road, including a reduced speed limit, traffic calming circles, and a T-intersection at the intersection of Sarver Lane and Deer Springs Road. Reduced speed would not only discourage freeway bypass trips, it would increase safety in the area—the safety of vehicles as well as pedestrians, cyclists, and equestrians. Various residences and businesses, including the Golden Door, access Deer Springs Road directly, and excessive speeds pose a significant safety risk. Moreover, high-speed travel is not necessary for true “local trips,” but benefit only the freeway bypass drivers seeking to treat Deer Springs Road as a long freeway access ramp. The EIR should study alternatives and mitigation measures that maintain Deer Springs Road as two lanes.

2. The EIR Should Evaluate NC-42’s Traffic Impacts Using a VMT-Based Metric

In addition to measuring traffic impacts using the Level of Service, the County should also perform a VMT-based analysis as required by SB 743. Recent guidance from the Governor’s Office of Planning and Research (“OPR”) would promulgate a new CEQA Guidelines section—Section 15064.3—mandating a VMT-based threshold of significance for transportation impacts in place of Level of Service. *See* Attachment JJ, OPR Draft Proposal Implementing SB 743 (Jan. 20, 2016). The new criteria are intended to promote reduced GHG emissions, multimodal transportation network development, and diverse land uses. OPR’s proposed guidance notes that “[VMT] is the most appropriate measure to replace level of service . . . [VMT] directly relates to emissions of air pollutants, including greenhouse gases, energy usage, and demand on infrastructure, as well as indirectly to many other impacts including public health, water usage, water quality and land consumption.” *Id.* at 3.

While Level of Service may still be analyzed under current regulations, given the clear language from the State, the County should also provide a VMT-based traffic analysis for NC-

42. The adoption of VMT as a means to measure a project's traffic impacts is intended to shift CEQA's current method of reducing traffic impacts by expanding roads and highways to allow for more cars on the road (thus reducing delay) to providing more public transportation and concentrating development in urban areas to actually reduce the number of vehicles on the road. VMT-based analysis will "facilitate transit projects and better uses of existing infrastructure as well as bicycle and pedestrian improvements . . . it also means that CEQA will no longer mandate roadways that focus on automobiles to the exclusion of every other transportation option. It will no longer mandate excessive, and expensive, roadway capacity." Attachment JJ at 1. This in turn will reduce GHG emissions.

A Level of Service analysis may require Caltrans to greatly expand the Deer Springs Road interchange to allow for the increased population in the region. Analyzing VMT in conjunction with Level of Service will ensure that traffic impacts focus not only on reducing the amount of time spent in the car, but the amount of miles on the road. This is especially pertinent because NC-42 proposes a drastic density increase in a rural area with no transit infrastructure far from urban and employment centers. VMT will provide a more accurate representation of NC-42's impacts. Because NC-42 is not located near the places where people congregate and travel on a daily basis, such as a workplace or restaurants and other entertainment options, there will be a significantly higher VMT impacts than if the project was located in an urban area. In fact, the OPR predicts that "a focus on [VMT] will facilitate the production of badly-needed housing in urban locations." Attachment JJ at 1. The County should, therefore, analyze VMT in evaluating NC-42's environmental impacts, because undoubtedly it will demonstrate the true traffic impacts of the project as they relate to other environmental concerns such as GHG emissions.

3. Deer Springs Road/Interstate 15 Interchange Impacts

We are aware that Caltrans is developing a Project Study Report for the Deer Springs Road/Interstate 15 interchange. County staff has stated that the EIR for the Newland Project will analyze all alternatives proposed in the Project Study Report. The NC-42 EIR should similarly include and analyze Caltrans' Project Study Report. While the County should analyze the impacts of all alternatives in the Project Study Report, it should not limit its analysis to those alternatives. The EIR should analyze all feasible mitigation measures and alternatives even if they are not included in the Project Study Report.

4. The EIR Should Study Transit Options

In addition, the project site lacks any meaningful transit options. The nearest Sprinter stations are located "within six miles" of the project site. *See* Newland Project Application, Project Description at 22. This distance would preclude the Sprinter train from serving as a viable everyday commute option for residents on the project site. Despite the strong policy preference for transit in the County General Plan, SANDAG's RTP/SCS, and the LEED-ND standards, NC-42 would locate significant residential density far from any viable transit options. Because of this lack of transit infrastructure, any approval of NC-42 should be conditioned to include a "transit-first" approach to transportation.

The County should only allow development on the project site to proceed *after* the construction of, and funding of contributions to, planned transit facilities to ensure that NC-42's added impacts and increased emissions are fully mitigated or avoided. Such facilities must be coordinated on a regional basis with SANDAG, rather than created on a partial, haphazard, or unfunded basis at the project level. In addition, the EIR should consider a shuttle operating at regular intervals that would connect the project site to the closest Sprinter stations and the Escondido Transit Center, which could reduce some of the thousands of single-occupancy car trips that will be generated by NC-42.

As discussed above, NC-42's traffic impacts should be analyzed on both a Level of Service and VMT basis to demonstrate the necessity of a substantial transit component as mitigation.

N. Utilities and Service Systems

We are aware that VWD provides water and wastewater services for the project site. VWD noted in its June 5, 2014 comment letter on the Newland Project that additional study is required for the provision of water and wastewater services. *See* Attachment KK, Letter from Eileen Koonce, VWD, to County Planning and Development Services. VWD's letter concludes that the Newland Project's density could cause significant impacts on water and wastewater services: "[T]he potential increased density of the project may have a significant impact on offsite facilities both for this project and cumulatively with other projects currently being proposed. These projects may significantly impact District facilities including local water and sewer mains, water storage, the sewer interceptor, pump stations, outfall and treatment." *Id.* at 4.

Although VWD approved a Water Supply Assessment and Water Supply Verification for the Newland Project earlier this year (over the Golden Door's objection), the County is required to independently analyze utility and service system impacts. The EIR should analyze the impacts to water and wastewater services from NC-42's proposed density increase, including to other users in the VWD area or to users whose service providers share facilities with VWD. The County should also analyze mitigation measures for impacts, such as requiring water offsets for use of new supply.

VIII. CONCLUSION

NC-42 would result in a significant increase in density and poses connectivity issues that could impact a broad geographic area. It could alter the County's General Plan framework that was updated only a few years ago. As such, the NC-42's environmental review should require a broad analysis of potentially significant impacts. The Golden Door has proposed four distinct alternatives for analysis and encourages the analysis of many additional alternatives and mitigation measures that would mitigate or avoid NC-42's many significant impacts.

LATHAM & WATKINS LLP

Thank you for your time and attention to our comments. Please feel free to contact me at (858) 523-5400 or christopher.garrett@lw.com if you would like to discuss these matters further.

Sincerely,

Christopher Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
Mark Slovick, County Planning and Development Services
Ashley Smith, County Planning and Development Services
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April 4, 2016

VIA ELECTRONIC MAIL AND U.S. MAIL

Ashley Smith, Land Use/Environmental Planner
 County of San Diego
 Planning & Development Services
 5510 Overland Avenue, Suite 310
 San Diego, California 92123

Re: Newland Sierra Project Site Visit

Dear Ms. Smith:

As you know, we represent the Golden Door Properties LLC (the "Golden Door"), an award-winning spa and resort that opened in 1958. This historic haven is situated on approximately 600 acres on the south side of Deer Springs Road in northern San Diego County. The Golden Door focuses on the health and fitness of its guests, and its property encompasses a peaceful array of hiking trails, luxurious spa amenities, tranquil Japanese gardens, and a bamboo forest. Agricultural cultivation on the property includes fresh vegetable gardens as well as citrus and olive trees.

We write to inform you of recent developments involving the Newland Sierra Project (the "Project"), which proposes to add 2,135 homes, 81,000 square feet of commercial property, a charter school, vineyards, hiking trails, and equestrian facilities, and to widen Deer Springs Road adjacent to the Golden Door. As you are aware, the Golden Door opposes this attempt to implement urban-style development in a rural area of the unincorporated County that lacks the connectivity and transit infrastructure to comply with modern smart growth planning principles.

The Project also risks turning Deer Springs Road into a massive freeway bypass system, destroying the community's rural character. As we have discussed with you on several occasions, the Golden Door opposes widening Deer Springs Road as the method for providing the County's planned widened Route S12 in this region. However, should the County move forward with the Project's environmental analysis, or should the County decide, unrelated to the Newland Project, to move forward with its own independent planning for the future size and configuration of County Route S12 for other projects, it must analyze alternatives that reduce or eliminate significant environmental impacts. *See* 14 Cal. Code Regs. § 15126.2(a); Pub. Res. Code § 21081.5.

The County must therefore analyze alternatives to the proposed widening of Deer Springs Road or alternative locations for its planned 6 lane (plus trails) ultimate County Route S12. The Golden Door proposed one such alternative in its comment letter to the Project's Notice of Preparation, dated March 16, 2015. This alternative—"Option C"¹—proposes rerouting regional arterial County Route S12 across Newland's property so that the developer can accommodate increased trips on its own property rather than forcing the Project's impacts upon existing community residents and businesses. Option C will also avoid the significant adverse impacts to routing a wider County Route S12 across Deer Springs Road, including the significant adverse impacts to noise, tribal cultural resources, and oak woodlands, wetlands, and species. In the past, the Golden Door has also urged the County to consider alternatives to widening County Route S12, such as adding capacity to Interstate 15 and State Route 78 instead, or providing various transit options such as Bus Rapid Transit ("BRT") and/or connections to Escondido's Transit Center and the Sprinter to provide replacement mobility for the planned County Route S12 widening.

Although the County is responsible for performing adequate environmental review under CEQA—including the analysis of alternatives—to provide an adequate environmental impact report under CEQA, the Golden Door has hired technical consultants to analyze the viability of an alternate route for regional arterial County S12 across Newland's property. The County has chosen, at this point, to rely exclusively upon Newland and its consultants to prepare a candidate draft EIR for review by County staff. Unfortunately, we believe that Newland may not be preparing a complete and adequate candidate draft for the County staff's review.

Separately, the Golden Door has asked Newland to consider an "Option C" in its design of its project. Unfortunately, Newland has simply responded to the Golden Door's request by stating that "Option C is infeasible." The Golden Door has asked for any supporting information or details about the basis for Newland's decision that an Option C type routing would be infeasible, but Newland has repeatedly refused to supply any information on this point. Thus, the Golden Door has been left completely in the dark as to whether Newland will be developing any analysis of an "Option C" type routing for the County staff's consideration.

In order to develop preliminary information on such an option, the Golden Door has requested that Newland allow access to its property so that our consultants can walk the property for six hours to conduct a biota survey—in the presence of a Newland representative. The Golden Door's survey seeks to identify constraints to Option C so that a range of potential routes across Newland's property can be evaluated. The Golden Door's technical consultants will, among other things, identify plant and animal species that might exist in the area of potential Option C routes.

On March 30, after extended discussion, Newland has refused to accommodate the Golden Door's requests to perform a site survey, and instead seeks to limit the visit to a two-hour vehicular tour. Newland has offered to drive the Golden Door's consultant, Greg Mason of

¹ Newland has already set forth an "Option A" and "Option B" for Deer Springs Road in its project application—both of which require widening Deer Springs Road within its existing road bed, although to varying degrees.

Alden Environmental—an experienced and respected biologist—around the site for two hours confined to a vehicle. As you are likely aware, at least four hours would be required for an adequate biota survey for a regional arterial route through Newland's property, and a vehicular tour does not provide adequate observation of potential biological constraints. Mr. Mason requires six hours to walk the property and conduct his survey. The Golden Door has provided Newland with ample information regarding the purpose of this site visit. Newland, however, has denied the Golden Door's request.

We respectfully request the County's assistance in scheduling a site visit for the Golden Door to perform the above-referenced biota site survey. The Golden Door has volunteered to fund and perform the necessary preliminary site survey for the potential constraints of the Option C route. Further, the Golden Door does not request any additional site visits until the Project's Draft EIR is released. However, this may only be possible with a full six hour visit and ability to walk the site.

Alternatively, given Newland's refusal thus far to provide any information about potential Option C type alternatives for County Route S12 to the Golden Door or the public, it may be best for the County staff to retain independent engineers and biological consultants, separate from Newland's own design engineers, to provide an independent evaluation of potential routes and alternatives for the ultimate planned County Route S12. It would seem that engineers who have been given the job by Newland to design and build their project may not be in the best position to evaluate independently potential options for this planned County roadway.

We understand that the County itself has an independent interest in the long term planning for County Route S12, and may not wish to rely completely upon a single developer and a single engineering firm who will be actively involved in building the developer's project to perform these important regional planning efforts.

We call your attention to the fact that this is little if any time left for any consultant to perform a survey of biological resources on potential routes for County S12. The months of February, March, and April are crucial times to conduct spring surveys for resources that are only active during that time period. If the work is not done in 2016, we would expect that the County would have to wait until 2017 for the work could be completed in order to have a full evaluation of biological resources in the area for this alternatives analysis.

We hope by making our comments now, rather than waiting for the County staff's release of a draft EIR, delays or difficulties in completing this crucial part of this alternatives analysis may be avoided.

LATHAM & WATKINS LLP

Thank you for your time and attention to this matter.

Sincerely,

Christopher Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
Mark Slovick, County Planning and Development Services
Peter Eichar, County Planning and Development Services
Dan Silver, Endangered Habitats League
Doug Hageman, Newland
Paul Robinson, Hecht Solberg Robinson Goldberg & Bagley
Stephanie Saathoff, Clay Co.
Maddy Kilkenny, Clay Co.
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April 4, 2016

VIA ELECTRONIC MAIL AND FEDERAL EXPRESS

Ashley Smith, Land Use/Environmental Planner
 County of San Diego
 Planning & Development Services
 5510 Overland Avenue, Suite 310
 San Diego, California 92123

Re: Revised Notice of Preparation for Newland Sierra Project

Dear Ms. Smith:

As you know, we represent the Golden Door Properties LLC (the “Golden Door”), an award-winning spa and resort that opened in 1958. This historic haven is situated on approximately 600 acres on the south side of Deer Springs Road in northern San Diego County (“North County”) in a narrow valley enclosed by steep hillsides on three sides. The Golden Door focuses on the health and fitness of its guests, and its property encompasses a peaceful array of hiking trails, luxurious spa amenities, tranquil Japanese gardens, and a bamboo forest.

Adjacent to the Golden Door, the Newland Real Estate Group, LLC (“Newland”) has proposed a revised Merriam Mountains project, known as the “Sierra” project (the “Newland Project” or “Project”) on property located near Deer Springs Road. Newland’s proposal includes 2,135 residential units, 81,000 square feet of commercial development, a school, and various parks and equestrian facilities. Newland submitted an application for its project to the County on January 20, 2015, and the County issued a Notice of Preparation (“NOP”) for the Project’s environmental impact report (“EIR”) on February 12, 2015. In addition to on-site development, the Project proposes to expand Deer Springs Road from its current two-lane configuration—despite significant engineering and environmental constraints—without considering an alternate route through Newland’s property to accommodate the Project’s increased trips.

In January 2016, Newland submitted an extensively revised Specific Plan, Grading Plan, and Tentative Map to the County. Despite meaningful changes to the Project in these documents, the County failed to provide notice to community residents and interested parties and failed to circulate a revised NOP. While the Golden Door opposes the Project, should the County continue to move forward with the environmental review process, it must ensure that the

Project complies with CEQA's requirements regarding public participation; particularly where there have been changes to the Project since the original NOP was issued. In particular, Newland has altered the Project's zoning designations, the width of Deer Springs Road, the Project's open space designation, and numerous other aspects of its previous Project documents. These changes will significantly impact the region's biological resources, cultural resources, and neighboring communities.

Not only has the County failed to provide notice of Newland's Project changes, even a party aware of the new submissions would have difficulty determining what changes were made without further review. No key or summary of changes has been published; therefore, an interested party must resort to sorting through a more than 250-page Specific Plan and a highly technical grading plan and tentative map on a line-by-line basis to determine what changes were made. This obfuscation violates CEQA's central tenet of informing the public and decision makers.

Moreover, additional environmental review has unearthed substantial deficiencies in the County's 2015 NOP. Notably, the NOP failed to provide adequate notice of impacts to cultural resources. Since issuance of that NOP, the Legislature passed Assembly Bill ("AB") 52, requiring additional consultation with affected Native American tribes. Failure to provide adequate notice in the 2015 NOP and failure to circulate a revised NOP threatens to short change the tribal consultation and participation required by State law. In addition, the 2015 NOP failed to adequately disclose biological impacts and impacts to a manufactured home community from the widening of Deer Springs Road and utterly fails to notify interested parties that a portion of the Project is within the City of Escondido's sphere of influence.

As such, the County should circulate a new or revised NOP addressing the Project's changes and remedying any previous deficiencies in order to ensure the public has the opportunity to fully evaluate the Project's impacts. Should the County issue a new or revised NOP, it must comply with AB 52's new notice and consultation requirements regarding tribal cultural resources. Regardless of the County's actions with respect to the NOP, it should adhere AB 52's requirements to ensure that tribes are afforded the opportunity to participate in developing mitigation strategies to protect their important resources. Community residents, interested parties, and affected Native American tribes deserve to understand the magnitude of the impacts from Newland's proposal to urbanize rural Twin Oaks Valley and should not be kept in the dark about Project developments.

I. CHANGES TO THE PROJECT REQUIRE A NEW OR REVISED NOP

Newland's Project application has changed in several ways from the 2015 application, requiring the issuance of a new or revised NOP. A comparison chart of key changes is attached to this letter as Exhibit A, and a comparison of key Specific Plan graphics is attached as Exhibit B. While these charts demonstrate the breadth of the changes between the 2015 and the 2016 Newland Project applications, several examples are noted here. In light of these changes, general CEQA principles favor recirculation of the NOP with additional information to ensure the public is properly informed.

A. Examples of Project Changes

Zoning. There is a small portion of “village” zoning near an existing convenience store on the southeast corner of the property near Mesa Rock Road. In its 2015 application, Newland proposed to alter the boundaries of the “village” zone to encompass a neighborhood containing 446 multi-family units. The revised application now classifies the 446 residential units as semi-rural rather than village. In the revised application, only 95 of Newland’s 2,135 total proposed residential units would be within the “village” designation, while 2,040 residential units would be located in a “semi-rural” designation. This change results in over 95% of Newland’s proposed residential units being located in a “semi-rural” zone, which contradicts planning principles that emphasize growth in denser, urban areas, rather than on rural or semi-rural lands.

In addition, Newland has added over 200 acres of open space, which appears to be located primarily on the southern portion of the Project site. Despite these zoning changes, Newland has not indicated any significant corresponding changes in Project design—which begs the question of how the same Project design could be consistent with each of the zoning classifications in the 2015 and 2016 applications. The magnitude of these changes is apparent looking at the changes in land use designations in the southern portion of the project:

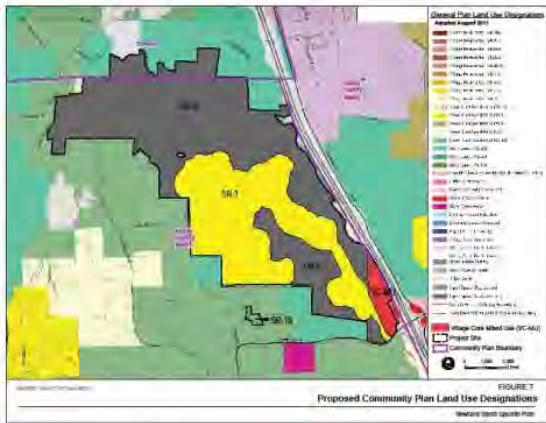


Figure 7 – 2015 (Specific Plan p. 31)

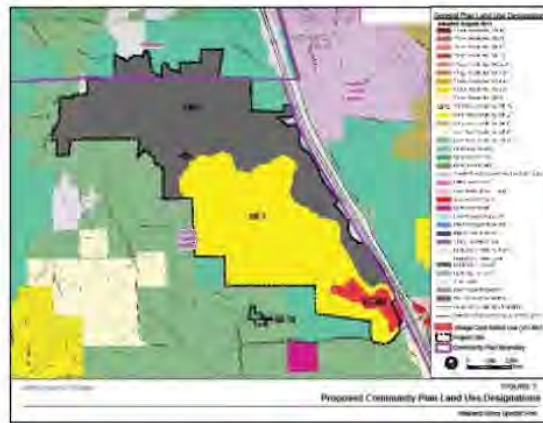


Figure 7 – 2016 (Specific Plan p. 33)

Deer Springs Road. Newland modified Option B regarding Deer Springs Road. The 2015 application proposed Option B as a four-lane configuration on Deer Springs Road, but graded to six lanes. The 2016 application removes the six-lane grading requirement and would, therefore, result in construction of a four-lane road without grading for any potential additional expansion. The shift from grading for six lanes to grading and building four lanes threatens to eliminate full analysis of the six-lane road designated in the County’s Mobility Element. This could result in piecemealing and deprive area residents and decision makers of analysis for the full configuration and consideration of alternative locations for regional arterial S12.

The Golden Door has encouraged consideration of “Option C.”¹ Rather than cut through significant cultural resources, or significantly grade the steep slopes surrounding Deer Springs Road, Option C would require Newland to relocate County S12 across Newland’s property. Option C would result in fewer impacts when built out to full configuration. An alternative route for the regional arterial County S12 across Newland’s property to the north would avoid the significant adverse impacts to routing a wider County S12 across Deer Springs Road, such as the significant noise, tribal cultural resources, oak woodlands, wetlands and species impacts to widening Deer Springs Road. Further, if S12 were routed across Newland’s property, there would be no need for Newland to improve Deer Springs Road as a part of its project. Newland would be constructing its own roads to serve its own development and provide the necessary regional connection planned by the County between San Marcos and Interstate 15. Determining the ultimate location for S12 may only be accomplished with the analysis of a full configuration—not the piecemeal analysis that would result from analysis of Option B as set forth in Newlands revised 2016 application.

Despite the aforementioned proposed changes to Option B for Deer Springs Road, Newland does not propose to amend the Mobility Element in the 2016 Specific Plan to reflect the four-lane configuration.

Additionally, Newland’s Specific Plan substitutes a hook-ramp option for the 2015’s diamond option for the Interstate 15/Deer Springs Road interchange. The configuration of this interchange is a key element of any plan to address the drastic transportation impacts caused by Newland’s plans to urbanize rural Twin Oaks Valley. The community and decision makers deserve to be notified of changes in potential configurations and understand how this interchange will impact daily commutes and access to area residences and businesses. In addition, it is important that any interchange configuration accommodate the transit infrastructure necessary to comply with state, regional, and local plans. Other agencies, such as the City of Escondido, should be notified that Newland has proposed a different design for this key regional freeway interchange as part of Newland’s project.

Greenhouse Gas (“GHG”) Laws. The 2016 Specific Plan removes language assuring that the Newland Project’s development is compliance with AB 32 and SB 375. Additionally, Newland no longer states that the Project’s design is “key to meeting the County’s land use goals.” *See* Specific Plan, § 2; *see also* §§ 5.1.1.7, 5.2. AB 32 and SB 375 are landmark pieces of legislation aimed at reducing GHG emissions and curbing the rate of global climate change, and the County’s land use goals also support GHG emissions reductions. The Project contradicts modern planning principles focusing on growth in existing urban communities and transit infrastructure. Community members and decision makers deserve to know how and why Newland is further distancing itself from State and County efforts to reduce GHG emissions. Newland’s lack of transparency regarding these issues, therefore, is troubling.

¹ Newland has already set forth an “Option A” and “Option B” for Deer Springs Road in its project application—both of which require widening Deer Springs Road within its existing road bed, although to varying degrees.

General Plan Guiding Principles and Goals and Policies. The 2016 Specific Plan removes language stating that the Project was designed to be consistent with the Guiding Principles and goals and policies of the County General Plan. *See* Specific Plan, § 2. The Golden Door has provided extensive discussion of the Project's failure to comply with the General Plan's Guiding Principles and goal and policies in previous letters. It is unclear whether Newland's changes to its Specific Plan admitting its lack of conformity with the General Plan Guiding Principles and goals and policies, and would therefore require amendments to the General Plan triggering Countywide recirculation.

North County Multiple Species Conservation Program ("NCMSCP"). The 2016 Specific Plan adds language indicating that the Project is consistent with the NCMSCP, but removed language stating the Project would integrate on site resources into the NCMSCP. *See* Specific Plan Goals and Summary, § 2.1.8. It is unclear how Newland has changed the Project to ensure consistency with the NCMSCP, while also removing the guarantee that the Project site will integrate the NCMSCP.

Circulation. The 2016 Specific Plan removes the claim that the Project will improve vehicular circulation in the Project site's vicinity. *See* Specific Plan, § 2.3. It is unclear what Project changes warrant removal of such a claim, but it implies that the Project will not adequately handle traffic impacts the added population will bring to the region. Again, the Golden Door has described the Project's drastic transportation impacts in previous communications and emphasized the need for a transit-first approach to address the Project's traffic and climate change impacts. The Golden Door has also requested analysis of an alternative alignment for County Route S12 across Newland's property to accommodate the Project's increased trips. If Newland no longer claims improvements to off-site circulation, community members and decision makers deserve to know how Newland plans to address the drastic transportation impacts it will cause by urbanizing rural Twin Oaks Valley.

Water. The 2016 Specific Plan reduces the number of reservoirs in the area to one. Despite the Project adding 2,135 homes, 81,000 square feet of commercial, a school, and other amenities, to the area, the 2016 Specific Plan appears to have removed a portion of the Project's water supply. Notably, this change occurred *after* Newland received approval of its Water Supply Assessment and Water Supply Verification from the Vallecitos Water District ("VWD"), and it is unclear what version of the Project VWD analyzed in reaching its decision. Newland has provided no notice to neighbors or other interested parties that their water supplies may be impacted by the proposal to only include one reservoir despite the significant increase to the area's population. An additional reservoir is "proposed," but will serve the larger VWD service area, rather than just the community as contemplated in the 2015 Specific Plan. *See* Infrastructure and Public Facilities, § 2.5.1.

Secondary Access. Newland has removed the claim that Camino Mayor's parkway will provide secondary access to North Twin Oaks Valley Road. The impacts of this change on traffic flow and emergency access are unclear. In addition, Newland has decreased the lane side on Camino Mayor, and removed a private right of way with a larger, graded easement. *See* Mobility Network, § 3.2.2.3. Such changes should be adequately disclosed and explained to community members and decision makers.

Compost. Newland has added a greenwaste compost area to the Project. Neighbors have not been notified of the compost area, and may be unaware of the noxious odor that would permeate from such a facility. The extent of this odor’s impact—especially during times of high winds—are unknown. Hauling waste to and from the compost area could also have significant noise impacts on nearby sensitive receptors. Further, greenwaste could attract pests such as rats, flies, and various insects to the area. The Golden Door understands that a previous compost area in the community causes significant impacts to neighbors and was eventually shut down.

Ballfield Lights. In the 2015 Specific Plan, Newland expressly stated that there would be no ballfield lights in its community parks. The 2016 Specific Plan has removed this language, leaving open the opportunity for Newland to include ballfield lights. Such lights would cause significant aesthetic impacts to neighbors. In addition, more people will frequent lighted ballfield areas at night, causing more traffic, noise, and other intrusions into the quiet, tranquil neighborhood.

Construction Phasing. In its 2016 Specific Plan, Newland has reduced build out to two phases over a ten year period, rather than three phases over a five to ten year period, as was contemplated in the 2015 Specific Plan. See Figure 84, Figure 80 below. This change appears to ensure ten full years of construction noise, traffic, and other impacts. In addition, construction of the Terraces community, which is toward the southeast of the Project site, nearer to existing businesses and residents than other Project site areas, has been accelerated from the final phase to the first phase of development. See Implementation, § 5. Nearby residents and businesses need to be duly informed of potential construction impacts that may affect long term planning.



Figure 84 – 2015 (Specific Plan p. 233)

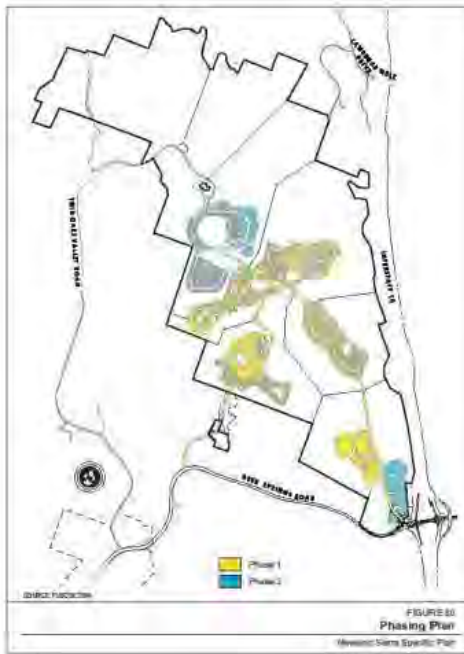


Figure 80 – 2016 (Specific Plan p. 241)

Specific Plan Amendments. The 2016 Specific Plan removed a statement that minor modifications will not require a Specific Plan amendment, and added language stating that no subsequent or supplemental EIR is required unless the County determines that one would be necessary under the CEQA guidelines, among other requirements for a revised Project EIR. *See* Amending the Specific Plan, § 4.2.1. Newland additionally added language stating that a non-minor modification may be processed without processing a formal amendment to the Specific Plan. *See id.*, § 4.2.2. Finally, Newland added language regarding the process for amending the Specific Plan if the minor modification factors are not present, and added County Specific Plan Amendment processing requirements that provide for additional environmental review if one of the determinations in section 4.2.1 is made. *See id.*, § 4.2.3. These changes appear to enable Newland to bypass yet another opportunity for public comment and review for modifications to the Specific Plan.

Wildlife. The 2016 Specific Plan removes language stating that the Project will provide for wildlife movement and connectivity throughout the site. Wildlife movement is important to ensure the biodiversity of the region, and that sensitive populations have adequate habitat. *See* General Plan Conformance, § 5.1.1. It is unclear what Project changes required removal of Newland's previous assurances, but the community and decision makers deserve to know how Project changes will impact wildlife movement.

Age Restrictions. For its age qualified community, Newland has increased the age qualification by five years to 55, from age 50 as contemplated in the 2015 Specific Plan. Some individuals previously interested in the community may now be ineligible, but Newland has provided no notification of this shift in policy. *See* Housing Element, § 5.5.

Evacuation. Newland has removed a claim that evacuation impacts will be completely mitigated. Instead, Newland merely states that evacuation impacts will be "lessened." *See* Safety Element, § 5.6. The extent and impact of Newland's change is unclear, but the community and decision makers deserve to know if impacts to their safety will not be completely mitigated. The Project site is located within a Very High Fire Hazard Severity Zone. During the fires in May 2014, area roads were at a standstill, and Interstate 15 and State Highway 78 both experienced closures. If evacuation routes are overcrowded, thousands of people will be placed in danger. Yet, Newland only promises evacuation impacts will be "lessened" without notifying the public of potential increases in this risk.

B. General CEQA Principles Favor Recirculation of a Revised NOP

1. CEQA Favors Early Disclosure of Potential Environmental Impacts and Public Participation for NOPs

The overarching goal of CEQA is to secure the most environmentally friendly projects through public involvement in the EIR process. *See generally No Oil v. City of Los Angeles*, 13 Cal. 3d 68 (1974) (an EIR serves to inform governmental agencies and the public of a project's environmental impacts); *see also Cty. of Orange v. Superior Court*, 113 Cal. App. 4th 1, 10 (2003) ("[O]ne of the major objectives of the CEQA process" is "to foster better (more

environmentally sensitive projects through revisions which are precipitated by the preparation of EIRs.”). Public involvement begins with the NOP, and CEQA favors early public review.

The underlying desire to ensure public participation in the environmental review process illustrates the need to recirculate a revised NOP for the Newland Project. “Public review is essential to CEQA. The purpose of requiring public review is ‘to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action....’ [P]ublic review and comment ... ensures that appropriate alternatives and mitigation measures are considered, and permits input from agencies with expertise in ... resources and conservation. Thus, public review provides the dual purpose of bolstering the public’s confidence in the agency’s decision and providing the agency with information from a variety of experts and sources.” *Envtl. Prot. Info. Ctr. v. California Dep’t of Forestry & Fire Prot.*, 44 Cal. 4th 459, 486 (2008); citing *Schoen v. Dep’t of Forestry & Fire Prot.*, 58 Cal. App. 4th 556, 573–574 (1997). Comments from interested parties in turn “allow the lead agency to identify, at the earliest possible time, the potential significant adverse effects of the project and alternatives and mitigation measures that would substantially reduce these effects.” *Laurel Heights Improvement Ass’n v. Regents of University of California*, 6 Cal. 4th 1112, 1131, 1132 (1993) (internal citations omitted).

In addition, CEQA Guidelines section 15083 recognizes the importance of early public consultation. Prior to completion of the draft EIR, the “lead agency may also consult directly with any person or organization it believes will be concerned with the environmental effects of the project.” CEQA Guidelines § 15083. The CEQA Guidelines note “[m]any public agencies have found that early consultation solves many potential problems that would arise in more serious forms later in the review process.” *Id.* This procedure should be combined “to the extent possible” in the NOP process. *Id.*

Preparing and recirculating a revised NOP when a project applicant revises their project documents is recognized as a matter of good practice that keeps reviewing agencies and the public well informed. *See* 1-22 California Environmental Law & Land Use Practice § 22.03. In light of the changes to the Newland Project, the County should prepare and recirculate a revised NOP; especially given the impacts the proposed changes will have on the region (*see* Section II.A).

Circulating revised NOPs is also a matter of common practice. The following unpublished cases provide some examples of agencies updating a project’s NOP to properly address changes in the project:

- *El Pueblo v. Kings Cty. Bd. of Supervisors*, 2012 Cal. App. Unpub. LEXIS 4984, *6, *68 (2012). A project expanding a landfill by 221.5 acres was revised in response to agency comments on traffic and water supply impacts. “In 2004, [the agency] prepared and circulated a notice of preparation of a draft subsequent environmental impact report and initial study. A notice of project modification, revised NOP and initial study were prepared and circulated the following year ...

[the revised] NOP stated the project could result in 100 additional daily peak truck round trips.” *Id.*

- *Advocates v. City of Atwater*, 2011 Cal. App. Unpub. LEXIS 2176, *4, *6 (2011). “In 2006, the [city] issued a notice of preparation, and one year later issued a revised NOP that described the differences between the 2006 project and revised project.” *Id.* The project had changed in two major ways—the city decided to build a new treatment plant rather than expand the existing one, and the size of the plant was downsized as a result of the decision to build a new plant.
- *Yuba Group Against Garbage v. City & Cty. of San Francisco*, 2015 WL 3473981, at *3 (2015). “After entering into the Cooperative Agreement, Yuba County circulated a revised NOP to provide notice that the City’s consideration of one or more agreements with Recology for the disposal and transportation of San Francisco’s waste will be addressed in the EIR.”

Public review of the Newland Project should not be undermined by an incomplete NOP. Because the NOP does not incorporate Newland’s changes to the Project, the public has not been given the opportunity to comment on the Project as it will be developed. This is contrary to CEQA’s underlying principles. Additionally, because CEQA requires early public consultation, these changes should be noted in a revised NOP, rather than a later environmental document. A new or revised NOP enables the County to address the potential impacts of the Project’s changes at the earliest possible time, thus alleviating potential problems that would resurface later in the environmental process. The County should revise and recirculate the NOP for the Newland Project to best serve CEQA’s objective to inform the public about the significant environmental effects of proposed activities at the earliest possible stage in the environmental review process.

2. Other CEQA Provisions Favor Recirculation

Alternatively, a reviewing court may borrow from the CEQA Guidelines requiring recirculation of an EIR to determine whether a revised NOP is required. “When significant new information is added to an [EIR] after notice has been given ... and consultation has occurred ... but prior to certification, the public agency shall give notice again ... and consult again ... before certifying the [EIR].” Pub. Res. Code § 219092.1. CEQA Guidelines section 15088.5(a) clarifies what information prompts recirculation. *See* CEQA Guidelines § 15088.5(a). Specifically, information prompting recirculation can include “changes in the project or environmental setting,” and is considered significant if the EIR “is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project.” *Id.* “Recirculation is not mandated under section 21092.1 when the new information merely clarifies or amplifies the previously circulated draft EIR, but is required when it reveals, for example, a new substantial impact or a substantially increased impact on the environment.” *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova*, 40 Cal. 4th 412, 447 (2007).

Recirculation should also occur where new information reveals impacts to biological resources. In *Sierra Club v. Gilroy City Council*, the presence of the California tiger salamander was discovered after the close of the public comment period for the draft EIR. 222 Cal. App. 3d 30 (1990). In that matter, a study was commissioned demonstrating that due to the presence of the tiger salamander, the draft EIR had not properly addressed a potentially substantial adverse environmental effect. *Id.* Therefore, revision and recirculation were required and voluntarily undertaken by the agency. *Id.* Similarly, “discovery that a project encroached upon wetlands, when the text of the draft EIR indicated that the wetlands area would remain undeveloped, was a substantial change in circumstances requiring revision and recirculation of the EIR. The failure to do so ‘deprived the public, who relied upon the EIR’s representations, of meaningful participation regarding the issue of wetlands degradation,’ a significant adverse effect.” *Laurel Heights Improvement Ass’n*, 6 Cal. 4th at 1129 (internal citations omitted).

Additionally, recirculation was also required where an EIR failed to disclose a street would be extended over a ridge line, obstructing views. “[T]he opportunity for additional public comment was also required where an uncirculated EIR disclosed for the first time that, for mitigation purposes, a street would be extended through a ridge line resulting in a previously unidentified adverse visual impact.” *Laurel Heights Improvement Ass’n*, 6 Cal. 4th at 1132 (internal citations omitted).

Here, the Newland Project has proposed a multitude of changes, including altering the zoning density from that which is considered in the original NOP, weakening environmental protections, and adding noxious Project components. These changes “deprive[] the public the opportunity to comment,” and, therefore, could be considered “significant new information” to require recirculation of the Project’s NOP. Based on the substantial changes in the Project and the need to inform the public and decision makers of potential environmental impacts and to encourage public participation, the County should revise and recirculate Newland’s NOP.

II. THE 2015 NOP WAS SUBSTANTIVELY INADEQUATE FOR FAILURE TO IDENTIFY PROJECT IMPACTS

In addition to the Project changes between the 2016 and 2015 versions of the Specific Plan requiring the County to revise and recirculate the NOP, the original 2015 NOP is legally defective because it failed to adequately describe a number of the Project’s impacts. A NOP must contain sufficient information to enable the public and other agencies to make meaningful responses. CEQA Guidelines § 15082(a)(1). Because the 2015 NOP failed to address road-widening impacts to the region, as well as the Project’s intrusion into the City of Escondido’s sphere of influence, it did not provide the public with sufficient information to appropriately respond to the NOP.

A. Substantive and Procedural Requirements of a NOP

“When the lead agency determines that an EIR is necessary, it must notify all other responsible agencies which must, in turn, specify to the lead agency the scope and content of the EIR that is germane to that agency’s area of responsibility.” *Friends of Sierra Madre v. City of*

Sierra Madre, 25 Cal. 4th 165, 185 (2001) (citing Pub. Res. Code § 21080.4). The NOP serves that function.

If the lead agency on a project determines that an EIR is required, the lead agency must immediately send a NOP to each responsible agency. CEQA Guidelines § 15082(a). The NOP must also be sent to “any person who has filed a written request for notices with either the clerk of the governing body or ... the director of the agency.” Pub. Res. Code § 21092.2. The NOP must contain sufficient information to enable the agencies to make meaningful responses, including the following: a description of the project; its location, either by street address or on a map; and a statement of the projects probable environmental effects. CEQA Guidelines § 15082(a)(1).

Within 30 days after receiving the NOP, each responsible agency must provide the lead agency with specific detail about the scope and content of the environmental information related to the responsible agency’s area of statutory responsibility. This information must be included in the draft EIR. CEQA Guidelines §§ 15082, 15103. Responses to the NOP must, at a minimum, identify: the significant environmental issues and reasonable alternatives and mitigation measures which the responsible agency will need to have explored in the draft EIR; and whether the agency will be a responsible agency or trustee agency for the project. *Id.*, § 15082. A generalized list of concerns does not constitute an adequate response. *Id.*, § 15082(b)(1)-(b)(3). Members of the public are also allowed 30 days to provide comments on a NOP. *See* Pub. Res. Code § 21083.9 (requiring public scoping meeting to solicit comments); County of San Diego, Newland Sierra Project Notice of Preparation (Feb. 12, 2015) (noting comments due on or before a 30 day public review period expires).

B. Road-Widening Impacts and Other Impacts Not Analyzed in 2015 NOP

The NOP failed to provide sufficient notice of the impacts that accompany expanding Deer Springs Road to six lanes. Beyond the physical impact that the larger road will have on the area, expansion of Deer Springs Road will have significant impacts on cultural resources, biological resources, and a local retirement community. The NOP ignored these impacts, just as the 2009 Merriam Mountains EIR ignored road-widening impacts. The County should avoid the same pitfall and properly address these impacts in a revised NOP.

1. Cultural Resources

The NOP must be revised and recirculated because it minimized significant impacts to cultural resources that would be obliterated by proposed widening of Deer Springs Road by making only vague references to “one or more cultural resources within the project site” and one resource with the potential for human remains in the Initial Study. To the contrary, additional detail is widely available regarding multiple resources that would be impacted by the Project—and in particular by the widening of Deer Springs Road. Two tribal cultural sites are located at the eastern “mouth” of Deer Springs Canyon in an area through which Deer Springs Road runs. These sites appear to be extremely well known and documented, yet were not discussed in the NOP. For example, one of the sites, CA-SDI-4558, was partially excavated in 1977 and recently discussed in a book on California archaeology for its potential link between La Jolla area tribes

and other Luiseño descendants.² This finding was reinforced in the 2009 Merriam Mountains Project EIR's analysis for the feasibility of widening Deer Springs Road.

The Merriam Mountains EIR found that there is a potential for identified tribal human remains and cultural artifacts discovered at these sites to be impacted by widening Deer Springs Road. The EIR at section 9.2.3.1 states that, “[c]ultural resource sites identified as CA-SDI-4558 and CA-SDI-9822, both of which are within the Deer Springs Road corridor, have been previously tested and identified as significant under the County of San Diego and CEQA criteria.” Merriam Mountains EIR at § 9.2.3.1. The cultural resources survey noted the presence of pottery and cremated human remains on site, which could indicate sensitive Native American tribal resource sites that will require consultation with tribal officials prior to moving forward with any plans to widen Deer Springs Road. In addition, preliminary findings from a recent survey commissioned by the Golden Door, and conducted by Spindrift Archaeological Consulting (“Spindrift”), CA-SDI-9822 contains prehistoric rock art and seed grinding boulders. Cremations have been documented at the site. Spindrift identified tribal cultural sites that have not been disclosed in the County’s environmental documentation.³

Beyond the Merriam Mountains EIR, these important cultural resources sites have been discussed in various publications. A 1977 Caltrans report discussed CA-SDI-4558 at length. *See* Roger A. Cook, Preliminary Report: Archaeological Test Excavations at 4-SDi-4558, 4562, and 4562A, Caltrans, (April 1977) (“1977 Caltrans Report”).⁴ The report indicates the boundaries of the site run up against Deer Springs Road. *Id.* at 22. In addition to the findings mentioned above, the 1977 Caltrans Report suggested that CA-SDI-4558 should be nominated for inclusion in the National Register of Historic Places. *Id.* at 66. Further, the 1977 Caltrans Report explained in detail the significance of CA-SDI-4558. The site was occupied during the Pauma Complex, and at the time of the report, no other sites from that particular period had been intensively examined. *Id.* at i.

Whether or not CA-SDI-4558 has been included on the National Register of Historic Places,⁵ it likely qualifies for inclusion on the California Register of Historical Resources. In order to qualify for designation, a site must meet one of the following criteria: (1) the site must be associated with events that have made a significant contribution to the broad patterns of local or regional history or the cultural heritage of California or the United States; (2) the site must be

² “Another possible Pauma site is SDi-4558 in Moosa Canyon near Escondido, tested in 1977 by R. Cook of the California Department of Transportation. Apart from a few San Luis Rey pot sherds near the surface, excavations at SDi-4558 revealed 130 cm of Millingstone cultural deposits with several San Dieguito-like points in the upper levels. Pending further work, the stratigraphy and identification of a Pauma component at SDi-4558 remain equivocal.” Michael J. Moratto, CALIFORNIA ARCHAEOLOGY 152 (2014) (internal citations omitted).

³ Spindrift is currently finalizing a report that the Golden Door will submit to the County at a later date.

⁴ A copy of the 1977 Caltrans Report is attached as Exhibit C.

⁵ CA-SDI-4558 has not been listed on the public database of California Register of Historical Resources. Due to the confidential nature of sites included in the database, we are unable to determine as of this time whether CA-SDI-4558 has been included on the California Register of Historical Resources.

associated with the lives of persons important to local, California or natural history; (3) the site must embody the distinctive characteristics of a type, period, region, or method of construction or represent the work of a master or possess high artistic value; (4) the site must yield, or have the potential to yield, information important to the prehistory or history of the local area, California, or the nation. See Office of Historic Preservation, California Register, “Criteria for Designation,” http://ohp.parks.ca.gov/?page_id=21238. CA-SDI-4558 could meet the first or fourth criteria, because artifacts on the site have been linked to the prehistoric period. See 1977 Caltrans Report at 23, 36-37.

While specific known artifacts—CA-SDI-4558 and CA-SDI-9822—would be decimated by widening Deer Springs Road, the Project site is located an area generally rich in tribal history. In addition to the aforementioned sites, many others have been identified in the Moosa Canyon region and may be threatened by the Newland Project. A 1978 Caltrans report identifies four sites within the region. See Roger A. Cook, Final Report: Archaeological Test Excavations in Moosa Canyon, (Feb. 1978) (“1978 Caltrans Report”). The precise locations of these sites are unknown due to theft and vandalism concerns. The initial Spindrift findings indicate several other potential sites in the region, and based off of the presence of the sites within the creek corridor, the valley may be considered an archaeological district because the sites are all related as a landscape—especially in light of the presence of rock art and human remains in the area. However, given the abundance of sites located in the region, the NOP is deficient for failing provide information on the Project’s potential decimation of these cultural resources.

Further, the Pechanga Band of Luiseño Indians submitted a comment letter detailing their concerns and requesting consultation under Senate Bill (“SB”) 18. See Letter from Anna Hoover to Mark Slovick (Mar. 16, 2015) (“Pechanga Letter”). The Pechanga Letter highlights the importance of early consultation and adequate mitigation or avoidance of impacts to cultural resources. Over a year ago, Pechanga requested to assist the County in developing appropriate avoidance and preservation standards for the portions of the significant Luiseño village complex and related cultural resources. *Id.* at 1. Pechanga additionally requested an intensive archaeological survey to be completed on the project with participation by a Luiseño tribal monitor. *Id.* at 2. Consultation may identify geographic spaces yielding sacred places, and identify the proper means of treatment and management of such places to ensure their protection and preservation. *Id.* Early consultation ensures that Pechanga and other tribes have input in how their resources are handled. The NOP should provide sufficient information to put tribes on notice of the need for such consultation.

2. Biological Impacts

The County’s Initial Study also provides inadequate description of the extensive biological resources that could be impacted by the Project—and in particular by the widening of Deer Springs Road. The Golden Door recently commissioned a reconnaissance-level biological survey of the Deer Springs Road area by the Baranek Consulting Group, which used Schaefer Ecological Solutions as a sub-consultant. The resulting report determines that the region contains sensitive habitats and suitable habitats for a number of sensitive species, including coastal sage scrub, southern mixed chaparral, coast live riparian forest, and wetland communities. Schaefer Ecological Solutions, Biological Restraints Report, Deer Springs Road

Widening Project (March, 2016) (“Biological Report”).⁶ In addition, the California gnatcatcher, the golden eagle, and the American badger may be impacted by the proposed expansion of Deer Springs Road. Because the area contains sensitive habitats and suitable habitats for a number of sensitive species, impacts to sensitive resources should be avoided or minimized to the greatest extent practicable. *Id.* at § 5. The NOP fails to provide adequate notice of the potential for such impacts to enable the public to appropriately respond and develop mitigation measures.

Vegetation Communities. The Project area contains sensitive vegetation communities, including coastal sage scrub, southern mixed chaparral, coast live oak riparian forest, and jurisdictional waters and wetlands. Biological Report, § 5.1. Other vegetation communities, such as eucalyptus woodland, while not sensitive, are regulated through their habitat features, for example, trees that may provide nesting habitat for migratory birds regulated under the Migratory Bird Treaty Act. *Id.* Widening Deer Springs Road may potentially impact almost 30 percent of the available coast live oak riparian habitat, half of the available coastal sage scrub, and half of the available southern mixed chaparral habitat in the study area. *Id.* These vegetation communities are considered highly sensitive. *Id.*

California Gnatcatcher. The federally threatened California gnatcatcher was observed in 2002 at the intersection of Deer Springs Road and Highway 395 west of Interstate 15. Biological Report, § 5.2.2. Suitable gnatcatcher habitat—including the threatened coastal sage scrub—exists in the Project area. *Id.* at Table 1. The California gnatcatcher is covered by the NCMSCP and is a federally threatened species.⁷ In addition to following the NCMSCP’s guidance, Newland will be required to obtain a Habitat Loss Permit from the County under Section 4(d) of the Endangered Species Act. *Id.* at § 5.2.2. Therefore, impacts to gnatcatchers and gnatcatcher-suitable habitat must be avoided unless they can be permitted by an approved NCMSCP. *Id.* Avoidance measures may also include avoidance of the gnatcatcher breeding season (March 1 through August 15) during construction. *Id.*

Southwestern Pond Turtle. The southwestern pond turtle has historically been recorded in the Deer Springs Road vicinity. Biological Report, § 5.2.2. The species has been rapidly declining in the County due to habitat loss. Habitat for the species includes a series of ponds in the study area, and the likelihood of the species to occur in the area is moderate. *Id.*

Golden Eagle. Golden eagles have frequently been observed flying overhead and foraging in the Deer Springs Road vicinity, and would be impacted by the Project’s widening of Deer Springs Road due to the loss of habitat. Biological Report, § 3.3. Golden eagle foraging habitat includes extensive areas of open sage scrub, grasslands, recently burned chaparral, agricultural fields, and oak woodlands and forest, all present in the Project area. *Id.* at Table 1. Golden eagles nest on cliffs and large trees capable of supporting a large nest platform in open areas, also present near the Project site. *Id.*

⁶ The Biological Report is attached as Exhibit D.

⁷ Notice of Intent available at: <http://www.fws.gov/policy/library/2005/05-4926.html>.

The golden eagle is covered under the NCMSCP and the federal Bald and Golden Eagle Protection Act, 16 U.S.C. § 668. The golden eagle is rare in the region, and is currently being studied by the United States Geological Service (“USGS”) as part of the San Diego Association of Governments’ (“SANDAG”) Environment Mitigation Program (“EMP”). The EMP’s San Diego Mitigation and Monitoring Program has prepared regional monitoring and management strategies to implement the regional Natural Community Conservation Planning (“NCCP”) plans, including the NCMSCP, once approved. The United States Geological Survey is currently undertaking a regional golden eagle study, and plans to include the Project area. Biological Report, § 5.2.2.

American Badger. The NCMSCP-covered American badger has been observed within one mile of the Deer Springs Road Project area. Biological Report, § 5.2.2. The badger’s preferred habitat includes level, open areas in grasslands, agricultural areas, and open shrub habitats, in addition to coast live oak riparian forest. *Id.* at Table 1. The badger is regionally rare and is being studied as a part of the SANDAG EMP. Badgers require large territories and migrate over large distances. The species’ migration patterns could potentially be affected by the Deer Springs Road widening project from an increased risk of roadkill due to the increase of road width and traffic. *Id.* at § 5.2.2.

Mountain Lion. Mountain lions have been observed in the Project area, and are covered by the NCMSCP. Mountain lions may be affected by the road widening from an increased risk in roadkill due to the increase of road width and traffic. In addition, increased development as a cause or effect of the road widening may also increase the urban-wildlands interface and the risk of dangerous human interactions with mountain lions, which results in an increased potential for mountain lion extermination. Biological Report, § 5.2.2.

Sensitive Wetland Communities (Jurisdictional Waters and Wetlands). The expansion of Deer Springs Road will potentially destroy sensitive wetland communities. Biological Report, § 5.3. Vegetated and unvegetated wetlands associated with the stream south of Deer Springs Road would be regulated by the Army Corps of Engineers, the Regional Water Quality Control Board and California Department of Fish and Wildlife. Any impacts to the creek and associated federally or state-regulated wetlands would need to be avoided or minimized, and permitted by these federal and state agencies.

Wildlife Movement. Wildlife movement corridors are linear features that connect large patches of open space and provide habitat conditions for the movement of small and large animals. Biological Report, § 3.3. Wildlife corridors contribute to population viability by—among other things—providing access to adjacent habitat areas representing additional territory for foraging and mating, and also provide routes for colonization of habitat lands following local population extinctions or habitat recovery. *Id.*

The Project area is located within the confines of a canyon, bifurcated by an east-west flowing stream. The area is surrounded by natural and agricultural landscapes, hills, and low-density rural development, providing excellent opportunities for wildlife movement. Biological Report, § 3.3. Animal tracks and signs observed in and around the creek during the survey included bobcat, coyote, raccoon, and mule deer. *Id.* While these animals are not state or

federally protected, they are indicators of a healthy environment and functional urban-wildland interface. *Id.* at § 5.4. The latest information indicates that there is a significant regional wildlife corridor that would be substantially impacted or eliminated by Newland's proposed widening of County S12 in this location.

Deer Springs Road is currently constructed and operated as a 2-lane road that is crossed by wildlife during times of less traffic. Widening the road to a 4- or 6-lane configuration would inhibit wildlife movement due to the width of the road crossing, thus segregating the rich regional wildlife habitat, additionally resulting in the death of many animals. Biological Report, § 5.4.

Despite the potentially significant impact to many species' habitat, the NOP failed to provide adequately notice to the public of the potential for such impacts.

3. Retirement Community Impacts

A quiet retirement community located just south of Deer Springs Road near Mesa Rock Road will also be impacted by the proposed widening of Deer Springs Road. The grading required to expand the road will require the demolition of several homes in this community. Because the NOP did not provide notice of the impacts of grading and widening Deer Springs Road on that community, residents have not been properly informed that their homes are threatened by the Newland Project. The NOP failed to provide adequate information to ensure that members of this retirement community are aware that their homes are threatened by the Newland Project's expansion of Deer Springs Road.

4. City of Escondido Sphere of Influence

A portion of the project site falls within the City of Escondido's sphere of influence. The San Diego County Local Agency Formation Commission's ("LAFCO") map of the Escondido sphere of influence is attached hereto as Exhibit E. The map clearly shows the Escondido sphere of influence extends north of Deer Springs Road and west of Interstate 15 into the project site—notably covering the area designated as "village." Additional review and comment is required to ensure density zoning would be consistent between the County General Plan and the City of Escondido General Plan. The County has yet to acknowledge this issue. The responsible agencies should have the opportunity to review and comment to ensure their General Plans remain consistent, an opportunity not afforded to them under the 2015 NOP.

The North County Metro Community Plan ("NC Metro CP") is part of the County General Plan and includes the project site. The general goals and policies of NC Metro CP require the County to take the City of Escondido's planning into consideration. *See* NC Metro CP at Policy 1.⁸ NC Metro CP Policy 7 limits density on unincorporated County land within the

⁸ NC Metro CP Policy 1: A. "Because cities of the Subregion are closely related to the surrounding area in terms of public services, travel patterns, and community identity; and B. the cities and County are generally agreed on the spheres of influence boundaries, which were adopted by the Local Agency Formation Commission (LAFCO) the County will cooperate in the planning and regulating of growth in

Escondido sphere of influence to one unit per acre. Specifically, Policy 7 prohibits “new major and minor subdivisions within the adopted Escondido city spheres of influence if the density shown on the final subdivision or parcel map is greater than one dwelling unit per gross acre, unless: (1) *consistent with the general plan land use map*; or (2) the proposed project has sewers available and can obtain sewer lateral connections to an existing sewer main, in which case this policy shall not apply to the property.” *Id.* at 5 (emphasis added). This provision appears intended to limit the County’s ability to approve dense development within the City of Escondido’s sphere of influence. The County’s General Plan, therefore, limits the County to approving development at a density of one unit per acre within the City of Escondido’s sphere of influence unless the Escondido General Plan allows for additional density.

Currently, Escondido’s General Plan designates the portion of the Project site within its sphere of influence for very low density development. *See* Escondido General Plan Land Use Map. The northwest corner of the Escondido General Plan land use map includes the portion of the sphere of influence covering the part of the project site. It depicts this area as Rural Residential I (1 du/4, 8, 20 acres) and Estate I (1 du/1, 2, 4, 20 acres). *Id.* This density is equal to or less than one dwelling unit per acre, and therefore does not create an exception to NC Metro CP Policy 7. As a result, the County is not able to approve density greater than one unit per acre on that portion of the Project site, because it would be inconsistent with the County’s General Plan pursuant to NC Metro CP Policy 7.⁹ *See Sierra Club v. Kern Cty. Bd. of Supervisors*, 126 Cal. App. 3d 698, 703 (1981) (“[T]he general plan is required to be consistent within itself.”); *Concerned Citizens of Calaveras Cty.*, 166 Cal. App. 3d. 90, 97 (1985) (“A general plan must be reasonably consistent and integrated on its face. A document that, on its face, displays substantial contradictions and inconsistencies cannot serve as an effective plan because those subject to the plan cannot tell what it says should happen or not happen.”).

In addition, caselaw indicates that failure to consult with relevant agencies may violate CEQA. *See San Francisco Baykeeper, Inc. v. State Lands Comm’n*, 242 Cal. App. 4th 202 (2015). “CEQA requires that the lead agency consult with all responsible agencies and trustee agencies before determining whether an EIR is required for a project.” *Id.* at 228 (citing Pub. Res. Code § 21080.3). “Upon determining that a project requires preparation of an EIR, the lead agency ‘shall’ send notice of that determination (i.e. the NOP) ‘by certified mail or equivalent procedure to each responsible agency, the Office of Planning and Research, and those public agencies having jurisdiction by law over natural resources affected by the project that are held in trust for the people of the State of California.’” *Id.* at 229.

Here, the County failed to send the NOP to the City of Escondido, even though a portion of the proposed project is in Escondido’s sphere of influence and planned area for annexation.¹⁰

the unincorporated territory within each city’s sphere of influence. Future County decisions on proposed projects in the sphere areas will take each city’s planning objectives into consideration.”

⁹ Because the City of Escondido’s sphere of influence encompasses the area currently zoned as “village” in the County’s General Plan, the inability to develop at a high density further impacts the Leapfrog Policy arguments above in Section VII.J.2.

¹⁰ While a distribution list for the NOP is not readily available, the City of Escondido did not submit a comment letter on the NOP, leading to the likely conclusion that it was not notified. Even if the City of

Escondido is responsible for a portion of the land and resources that will be implicated by the Newland project. Therefore, the County should have notified the City of Escondido of the project to enable the City the opportunity to comment on the Project's impacts to property within its sphere of influence. Any draft EIR published pursuant to this NOP would be deficient due to failure to notify the City of Escondido and obtain input from the only agency that can provide input regarding Escondido's interest with its sphere of influence.

While "full compliance with the letter of CEQA is essential to the maintenance of its important public purpose," a violation of notice and consultation requirements requires a finding of prejudice. *San Francisco Baykeeper*, 242 Cal. App. 4th at 230. An error is prejudicial "where failure to comply with the law results in 'a subversion of the purposes of CEQA by omitting information from the environmental review process.'" *Id.* While *San Francisco Baykeeper* did not find the failure to notify the California Coastal Commission of the project to be prejudicial because there was no omission of pertinent information, that is not the case here. Failure to circulate the NOP to those impacted by the Project, and the minimization of the Project's impacts on important resources is prejudicial. By failing to circulate the NOP to the City of Escondido, the County will not obtain the City's input on regional transportation and biological resources issues, including the connection to the wildlife corridors that connect to other City preservation lands to the south and east. Only the City of Escondido can provide input on whether the Project conforms with its General Plan, or would significantly impact the City's important resources. The County has subverted CEQA's goal of securing the most environmentally friendly projects by denying the City the opportunity to comment on the many significant adverse impacts to the portion of the Project within the Escondido sphere of influence. Any subsequent draft EIR would be deficient without the City's input or notification, and therefore would have to be recirculated at a later date.

The intrusion into the Escondido sphere of influence creates an impermissible inconsistency that the County and Newland have yet to address. Further, failure to notify the City of Escondido of the Project resulted in a prejudicial violation of CEQA's notice and consultation provisions. Proper notification is necessary to ensure the public and other interested parties are fully aware of the issue.

C. The NOP Is Substantively Inadequate

The NOP failed to provide notice regarding these potential significant Project impacts. The Project will potentially decimate significant tribal cultural resources dating back to prehistoric times, and destroy the habitats of several threatened or endangered species, in addition to destroying sensitive wetland area. Further, the Project will force senior citizens to abandon their retirement homes in order for Deer Springs Road to be expanded. Community members and decision makers have had no notice of these impacts, despite being directly affected by them. Because the NOP failed to provide the public with notice regarding these impacts, it does not meet CEQA's substantive or procedural requirements requiring "sufficient

Escondido received the NOP, it would not know that the Project impacted its sphere of influence, because the County failed to disclose this in its NOP documentation.

information to enable the agencies to make meaningful responses.” CEQA Guidelines § 15082(a)(1).

III. ASSEMBLY BILL 52 SHOULD APPLY TO THE PROJECT

As discussed above, the substantial revisions made to the Project without notice by new submittals in January 2016 should require the County to circulate a new NOP. A new NOP would trigger the requirements of recently passed AB 52.¹¹ Alternatively, even if the County refuses to circulate new NOP, it should still consult with local tribes and follow the requirements of AB 52 because of the significant cultural resources that may be impacted by the Project. AB 52, which went into effect on July 1, 2015, creates a category called “tribal cultural resources” that must now be considered under CEQA. Previously, cultural resources were generally categorized into three subtopics: archaeological, historic, and paleontological. In addition to adding a new category for CEQA consideration, AB 52 seeks to address the capacity of tribal governments and lead agencies to handle tribal cultural resources issues, while ensuring tribal sovereignty is maintained.

A. AB 52’s Notice and Consultation Requirements

AB 52 establishes a consultation process with all California Native American tribes on the Native American Heritage Commission (“NAHC”) List, which contains federally and non-federally recognized tribes. As mentioned, AB 52 creates a new class of resources under CEQA: tribal cultural resources. A tribal cultural resource is defined as a site feature, place, cultural landscape, sacred place or object, which is of cultural value to a tribe; and is either (1) on or eligible for the California Historic Register or a local historic register; or (2) the lead agency, at its discretion, chooses to treat the resource as a tribal cultural resource. *See* Pub. Res. Code § 21074(a)(1)(A)-(B). AB 52 requires project proponents to consider tribal cultural values in determination of project impacts and mitigation. Additionally, AB 52 requires notice to certain tribes and meaningful consultation.

In order to invoke AB 52’s notice and timing requirements, a tribe must request to be on the Agency’s Notice List notified prior to determination of whether a negative declaration, mitigated negative declaration, or EIR is required for a project. The notice requirement is triggered for “projects that have a notice of preparation or a notice of negative declaration filed or mitigated negative declaration on or after July 1, 2015.” AB 52 Legislative Digest (Sept. 25, 2014).¹² The lead agency must provide written notification to the tribes that requested placement on the agency’s notice list within fourteen days of a decision to undertake a project or determination that a project application is complete. The notice must include a brief project description, the project’s location, lead agency contact information, and a statement informing the tribe that it has 30 days to request consultation. If the tribe requests consultation, the lead agency will begin the consultation process within 30 days of receiving the tribe’s request for

¹¹ The NOP issues in February 2015 did not trigger AB 52’s requirements, because such requirements apply only to NOP’s published on or after July 1, 2015.

¹² Available at: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB52.

consultation. Holly Roberson, Office of Planning and Research, AB 52: A CEQA Guidelines Update for Tribal Cultural Resources at 6, (“AB 52 Presentation”).¹³

During consultation, the tribe and public agency will agree to mitigation measures, which in turn will be recommended for inclusion in the environmental document. Public agencies shall, when feasible, avoid damaging effects to tribal cultural resources. Mitigation measures may include the following: avoidance and preservation of the resources in place; treating the resource with culturally appropriate dignity; permanent conservation easements; and protecting the resource. *See* AB 52 Presentation at 7. Under Public Resources Code section 21080.3.2(b), consultation will end when either (1) the parties agree to mitigation measures or avoidance of a significant effect on tribal cultural resources; or (2) a party acting in good faith and after a reasonable effort, concludes that mutual agreement cannot be reached. Pub. Res. Code § 21080.3.2(b).

By July 1, 2016, the CEQA Guidelines Appendix G will be adopted to reflect AB 52’s updates. Specifically, the Office of Public Resources shall develop revisions to Appendix G that: (1) separate the consideration of paleontological resources from tribal cultural resources and update the relevant sample questions; and (2) add consideration of tribal cultural resources with relevant sample questions. *See* Office of Planning and Research, Discussion Draft of Proposed Changes to Appendix G of the CEQA Guidelines Incorporating Tribal Cultural Resources at 2 (Nov. 17, 2015)¹⁴; *see generally* Pub. Res. Code § 21083.09.

B. The County Should Adhere to AB 52’s Requirements in Processing the Project

AB 52 states that a “preference for historical and archeological resources of preservation in place, if feasible.” AB 52 § 1(b)(3). This preference could affect the widening of Deer Springs Road proposed by Newland. As previously mentioned, there are two sites with tribal artifacts of significant cultural value in close proximity to the north side of Deer Springs Road. CA-SDI-4558 and CA-SDI-9822 have been “previously tested and identified as significant under the County of San Diego and CEQA criteria . . . on the basis of human remains and a pictograph feature . . . bedrock milling features, and foundations from remains of residential structures.” *See* Deer Springs Road General Plan Amendment/Circulation Element at Chapter 9.2.3.1.¹⁵ These two sites are at risk of being destroyed by the widening of Deer Springs Road, and as a result, tribal consultation should occur to ensure their protection under AB 52.

We are unaware of any efforts to significantly involve tribes regarding the Project’s impacts on important tribal cultural resources. Failure to recirculate the NOP would exclude

¹³ Available at: https://www.opr.ca.gov/docs/OPR_AB_52_Presentation_Discussion_Draft.pdf.

¹⁴ Available at: https://www.opr.ca.gov/docs/Discussion_Draft_Appendix_G_Questions_re_Tribal_Cultural_Resources_Nov_17_2015.pdf.

¹⁵ The Deer Springs Road General Plan Amendment/Circulation Element was included as part of the EIR for the previous 2010 Merriam Mountains Project.

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impacted tribes from participating in the discussion of how to handle their significant cultural resources. By not updating the NOP, Newland would deny the tribes their rights under AB 52. Recirculation of a revised NOP would provide the Luiseño descendants the opportunity to consult with the lead agency regarding potential mitigation and treatment of important tribal cultural resources within the Newland Project. AB 52 is evidence that public policy favors tribal consultation where their resources are concerned. Given the significant project revisions, a new NOP addressing these revisions would ensure that the tribes are able to safeguard the sensitive tribal cultural resources within the Project's footprint.

IV. CONCLUSION

The County should revise and recirculate its NOP for the Newland Project because of the significant changes that were not fully disclosed in 2015. Recirculation ensures the public may adequately participate in the CEQA process. In addition, the County should provide a NOP because the version published in 2015 was legally defective in failing to provide notice of important potential impacts. Further, the County should adhere to the requirements of AB 52 instead of bypassing tribal consultation requirements while simultaneously obscuring the Project's impacts to significant tribal cultural resources.

Thank you for your time and attention to our comments. Please feel free to contact me at (858) 523-5400 or christopher.garrett@lw.com if you would like to discuss these matters further.

Best regards,

Christopher Garrett

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April 4, 2016

VIA ELECTRONIC MAIL AND FEDERAL EXPRESS

Ashley Smith, Land Use/Environmental Planner
 County of San Diego
 Planning & Development Services
 5510 Overland Avenue, Suite 310
 San Diego, California 92123

Re: Revised Notice of Preparation for Newland Sierra Project

Dear Ms. Smith:

As you know, we represent the Golden Door Properties LLC (the “Golden Door”), an award-winning spa and resort that opened in 1958. This historic haven is situated on approximately 600 acres on the south side of Deer Springs Road in northern San Diego County (“North County”) in a narrow valley enclosed by steep hillsides on three sides. The Golden Door focuses on the health and fitness of its guests, and its property encompasses a peaceful array of hiking trails, luxurious spa amenities, tranquil Japanese gardens, and a bamboo forest.

Adjacent to the Golden Door, the Newland Real Estate Group, LLC (“Newland”) has proposed a revised Merriam Mountains project, known as the “Sierra” project (the “Newland Project” or “Project”) on property located near Deer Springs Road. Newland’s proposal includes 2,135 residential units, 81,000 square feet of commercial development, a school, and various parks and equestrian facilities. Newland submitted an application for its project to the County on January 20, 2015, and the County issued a Notice of Preparation (“NOP”) for the Project’s environmental impact report (“EIR”) on February 12, 2015. In addition to on-site development, the Project proposes to expand Deer Springs Road from its current two-lane configuration—despite significant engineering and environmental constraints—without considering an alternate route through Newland’s property to accommodate the Project’s increased trips.

In January 2016, Newland submitted an extensively revised Specific Plan, Grading Plan, and Tentative Map to the County. Despite meaningful changes to the Project in these documents, the County failed to provide notice to community residents and interested parties and failed to circulate a revised NOP. While the Golden Door opposes the Project, should the County continue to move forward with the environmental review process, it must ensure that the

Project complies with CEQA's requirements regarding public participation; particularly where there have been changes to the Project since the original NOP was issued. In particular, Newland has altered the Project's zoning designations, the width of Deer Springs Road, the Project's open space designation, and numerous other aspects of its previous Project documents. These changes will significantly impact the region's biological resources, cultural resources, and neighboring communities.

Not only has the County failed to provide notice of Newland's Project changes, even a party aware of the new submissions would have difficulty determining what changes were made without further review. No key or summary of changes has been published; therefore, an interested party must resort to sorting through a more than 250-page Specific Plan and a highly technical grading plan and tentative map on a line-by-line basis to determine what changes were made. This obfuscation violates CEQA's central tenet of informing the public and decision makers.

Moreover, additional environmental review has unearthed substantial deficiencies in the County's 2015 NOP. Notably, the NOP failed to provide adequate notice of impacts to cultural resources. Since issuance of that NOP, the Legislature passed Assembly Bill ("AB") 52, requiring additional consultation with affected Native American tribes. Failure to provide adequate notice in the 2015 NOP and failure to circulate a revised NOP threatens to short change the tribal consultation and participation required by State law. In addition, the 2015 NOP failed to adequately disclose biological impacts and impacts to a manufactured home community from the widening of Deer Springs Road and utterly fails to notify interested parties that a portion of the Project is within the City of Escondido's sphere of influence.

As such, the County should circulate a new or revised NOP addressing the Project's changes and remedying any previous deficiencies in order to ensure the public has the opportunity to fully evaluate the Project's impacts. Should the County issue a new or revised NOP, it must comply with AB 52's new notice and consultation requirements regarding tribal cultural resources. Regardless of the County's actions with respect to the NOP, it should adhere AB 52's requirements to ensure that tribes are afforded the opportunity to participate in developing mitigation strategies to protect their important resources. Community residents, interested parties, and affected Native American tribes deserve to understand the magnitude of the impacts from Newland's proposal to urbanize rural Twin Oaks Valley and should not be kept in the dark about Project developments.

I. CHANGES TO THE PROJECT REQUIRE A NEW OR REVISED NOP

Newland's Project application has changed in several ways from the 2015 application, requiring the issuance of a new or revised NOP. A comparison chart of key changes is attached to this letter as Exhibit A, and a comparison of key Specific Plan graphics is attached as Exhibit B. While these charts demonstrate the breadth of the changes between the 2015 and the 2016 Newland Project applications, several examples are noted here. In light of these changes, general CEQA principles favor recirculation of the NOP with additional information to ensure the public is properly informed.

A. Examples of Project Changes

Zoning. There is a small portion of “village” zoning near an existing convenience store on the southeast corner of the property near Mesa Rock Road. In its 2015 application, Newland proposed to alter the boundaries of the “village” zone to encompass a neighborhood containing 446 multi-family units. The revised application now classifies the 446 residential units as semi-rural rather than village. In the revised application, only 95 of Newland’s 2,135 total proposed residential units would be within the “village” designation, while 2,040 residential units would be located in a “semi-rural” designation. This change results in over 95% of Newland’s proposed residential units being located in a “semi-rural” zone, which contradicts planning principles that emphasize growth in denser, urban areas, rather than on rural or semi-rural lands.

In addition, Newland has added over 200 acres of open space, which appears to be located primarily on the southern portion of the Project site. Despite these zoning changes, Newland has not indicated any significant corresponding changes in Project design—which begs the question of how the same Project design could be consistent with each of the zoning classifications in the 2015 and 2016 applications. The magnitude of these changes is apparent looking at the changes in land use designations in the southern portion of the project:

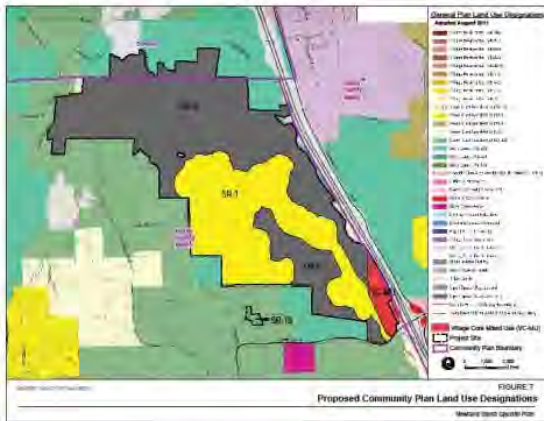


Figure 7 – 2015 (Specific Plan p. 31)

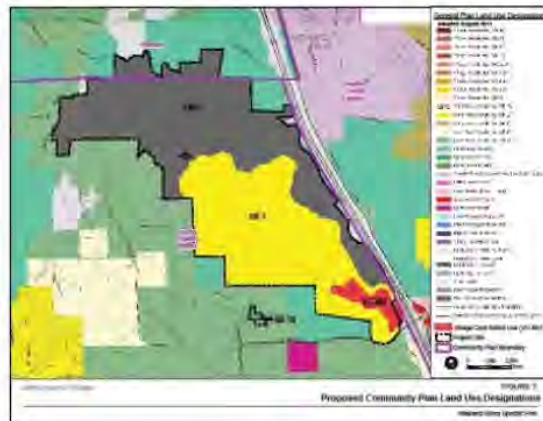


Figure 7 – 2016 (Specific Plan p. 33)

Deer Springs Road. Newland modified Option B regarding Deer Springs Road. The 2015 application proposed Option B as a four-lane configuration on Deer Springs Road, but graded to six lanes. The 2016 application removes the six-lane grading requirement and would, therefore, result in construction of a four-lane road without grading for any potential additional expansion. The shift from grading for six lanes to grading and building four lanes threatens to eliminate full analysis of the six-lane road designated in the County’s Mobility Element. This could result in piecemealing and deprive area residents and decision makers of analysis for the full configuration and consideration of alternative locations for regional arterial S12.

The Golden Door has encouraged consideration of “Option C.”¹ Rather than cut through significant cultural resources, or significantly grade the steep slopes surrounding Deer Springs Road, Option C would require Newland to relocate County S12 across Newland’s property. Option C would result in fewer impacts when built out to full configuration. An alternative route for the regional arterial County S12 across Newland’s property to the north would avoid the significant adverse impacts to routing a wider County S12 across Deer Springs Road, such as the significant noise, tribal cultural resources, oak woodlands, wetlands and species impacts to widening Deer Springs Road. Further, if S12 were routed across Newland’s property, there would be no need for Newland to improve Deer Springs Road as a part of its project. Newland would be constructing its own roads to serve its own development and provide the necessary regional connection planned by the County between San Marcos and Interstate 15. Determining the ultimate location for S12 may only be accomplished with the analysis of a full configuration—not the piecemeal analysis that would result from analysis of Option B as set forth in Newlands revised 2016 application.

Despite the aforementioned proposed changes to Option B for Deer Springs Road, Newland does not propose to amend the Mobility Element in the 2016 Specific Plan to reflect the four-lane configuration.

Additionally, Newland’s Specific Plan substitutes a hook-ramp option for the 2015’s diamond option for the Interstate 15/Deer Springs Road interchange. The configuration of this interchange is a key element of any plan to address the drastic transportation impacts caused by Newland’s plans to urbanize rural Twin Oaks Valley. The community and decision makers deserve to be notified of changes in potential configurations and understand how this interchange will impact daily commutes and access to area residences and businesses. In addition, it is important that any interchange configuration accommodate the transit infrastructure necessary to comply with state, regional, and local plans. Other agencies, such as the City of Escondido, should be notified that Newland has proposed a different design for this key regional freeway interchange as part of Newland’s project.

Greenhouse Gas (“GHG”) Laws. The 2016 Specific Plan removes language assuring that the Newland Project’s development is compliance with AB 32 and SB 375. Additionally, Newland no longer states that the Project’s design is “key to meeting the County’s land use goals.” *See* Specific Plan, § 2; *see also* §§ 5.1.1.7, 5.2. AB 32 and SB 375 are landmark pieces of legislation aimed at reducing GHG emissions and curbing the rate of global climate change, and the County’s land use goals also support GHG emissions reductions. The Project contradicts modern planning principles focusing on growth in existing urban communities and transit infrastructure. Community members and decision makers deserve to know how and why Newland is further distancing itself from State and County efforts to reduce GHG emissions. Newland’s lack of transparency regarding these issues, therefore, is troubling.

¹ Newland has already set forth an “Option A” and “Option B” for Deer Springs Road in its project application—both of which require widening Deer Springs Road within its existing road bed, although to varying degrees.

General Plan Guiding Principles and Goals and Policies. The 2016 Specific Plan removes language stating that the Project was designed to be consistent with the Guiding Principles and goals and policies of the County General Plan. *See* Specific Plan, § 2. The Golden Door has provided extensive discussion of the Project's failure to comply with the General Plan's Guiding Principles and goal and policies in previous letters. It is unclear whether Newland's changes to its Specific Plan admitting its lack of conformity with the General Plan Guiding Principles and goals and policies, and would therefore require amendments to the General Plan triggering Countywide recirculation.

North County Multiple Species Conservation Program ("NCMSCP"). The 2016 Specific Plan adds language indicating that the Project is consistent with the NCMSCP, but removed language stating the Project would integrate on site resources into the NCMSCP. *See* Specific Plan Goals and Summary, § 2.1.8. It is unclear how Newland has changed the Project to ensure consistency with the NCMSCP, while also removing the guarantee that the Project site will integrate the NCMSCP.

Circulation. The 2016 Specific Plan removes the claim that the Project will improve vehicular circulation in the Project site's vicinity. *See* Specific Plan, § 2.3. It is unclear what Project changes warrant removal of such a claim, but it implies that the Project will not adequately handle traffic impacts the added population will bring to the region. Again, the Golden Door has described the Project's drastic transportation impacts in previous communications and emphasized the need for a transit-first approach to address the Project's traffic and climate change impacts. The Golden Door has also requested analysis of an alternative alignment for County Route S12 across Newland's property to accommodate the Project's increased trips. If Newland no longer claims improvements to off-site circulation, community members and decision makers deserve to know how Newland plans to address the drastic transportation impacts it will cause by urbanizing rural Twin Oaks Valley.

Water. The 2016 Specific Plan reduces the number of reservoirs in the area to one. Despite the Project adding 2,135 homes, 81,000 square feet of commercial, a school, and other amenities, to the area, the 2016 Specific Plan appears to have removed a portion of the Project's water supply. Notably, this change occurred *after* Newland received approval of its Water Supply Assessment and Water Supply Verification from the Vallecitos Water District ("VWD"), and it is unclear what version of the Project VWD analyzed in reaching its decision. Newland has provided no notice to neighbors or other interested parties that their water supplies may be impacted by the proposal to only include one reservoir despite the significant increase to the area's population. An additional reservoir is "proposed," but will serve the larger VWD service area, rather than just the community as contemplated in the 2015 Specific Plan. *See* Infrastructure and Public Facilities, § 2.5.1.

Secondary Access. Newland has removed the claim that Camino Mayor's parkway will provide secondary access to North Twin Oaks Valley Road. The impacts of this change on traffic flow and emergency access are unclear. In addition, Newland has decreased the lane side on Camino Mayor, and removed a private right of way with a larger, graded easement. *See* Mobility Network, § 3.2.2.3. Such changes should be adequately disclosed and explained to community members and decision makers.

Compost. Newland has added a greenwaste compost area to the Project. Neighbors have not been notified of the compost area, and may be unaware of the noxious odor that would permeate from such a facility. The extent of this odor’s impact—especially during times of high winds—are unknown. Hauling waste to and from the compost area could also could significant noise impacts on nearby sensitive receptors. Further, greenwaste could attract pests such as rats, flies, and various insects to the area. The Golden Door understands that a previous compost area in the community causes significant impacts to neighbors and was eventually shut down.

Ballfield Lights. In the 2015 Specific Plan, Newland expressly stated that there would be no ballfield lights in its community parks. The 2016 Specific Plan has removed this language, leaving open the opportunity for Newland to include ballfield lights. Such lights would cause significant aesthetic impacts to neighbors. In addition, more people will frequent lighted ballfield areas at night, causing more traffic, noise, and other intrusions into the quiet, tranquil neighborhood.

Construction Phasing. In its 2016 Specific Plan, Newland has reduced build out to two phases over a ten year period, rather than three phases over a five to ten year period, as was contemplated in the 2015 Specific Plan. See Figure 84, Figure 80 below. This change appears to ensure ten full years of construction noise, traffic, and other impacts. In addition, construction of the Terraces community, which is toward the southeast of the Project site, nearer to existing businesses and residents than other Project site areas, has been accelerated from the final phase to the first phase of development. See Implementation, § 5. Nearby residents and businesses need to be duly informed of potential construction impacts that may affect long term planning.



Figure 84 – 2015 (Specific Plan p. 233)

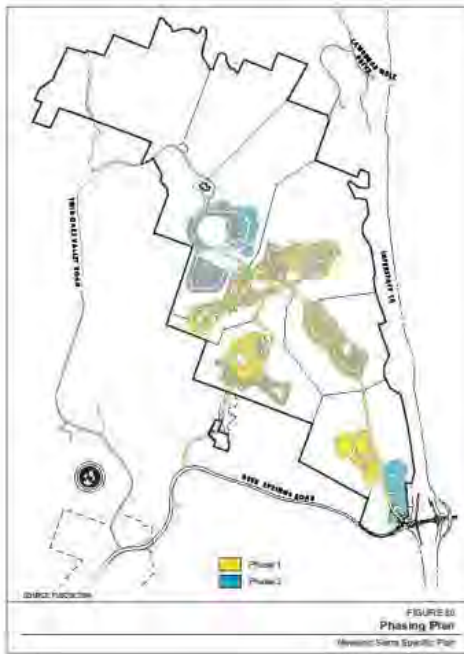


Figure 80 – 2016 (Specific Plan p. 241)

Specific Plan Amendments. The 2016 Specific Plan removed a statement that minor modifications will not require a Specific Plan amendment, and added language stating that no subsequent or supplemental EIR is required unless the County determines that one would be necessary under the CEQA guidelines, among other requirements for a revised Project EIR. *See* Amending the Specific Plan, § 4.2.1. Newland additionally added language stating that a non-minor modification may be processed without processing a formal amendment to the Specific Plan. *See id.*, § 4.2.2. Finally, Newland added language regarding the process for amending the Specific Plan if the minor modification factors are not present, and added County Specific Plan Amendment processing requirements that provide for additional environmental review if one of the determinations in section 4.2.1 is made. *See id.*, § 4.2.3. These changes appear to enable Newland to bypass yet another opportunity for public comment and review for modifications to the Specific Plan.

Wildlife. The 2016 Specific Plan removes language stating that the Project will provide for wildlife movement and connectivity throughout the site. Wildlife movement is important to ensure the biodiversity of the region, and that sensitive populations have adequate habitat. *See* General Plan Conformance, § 5.1.1. It is unclear what Project changes required removal of Newland's previous assurances, but the community and decision makers deserve to know how Project changes will impact wildlife movement.

Age Restrictions. For its age qualified community, Newland has increased the age qualification by five years to 55, from age 50 as contemplated in the 2015 Specific Plan. Some individuals previously interested in the community may now be ineligible, but Newland has provided no notification of this shift in policy. *See* Housing Element, § 5.5.

Evacuation. Newland has removed a claim that evacuation impacts will be completely mitigated. Instead, Newland merely states that evacuation impacts will be "lessened." *See* Safety Element, § 5.6. The extent and impact of Newland's change is unclear, but the community and decision makers deserve to know if impacts to their safety will not be completely mitigated. The Project site is located within a Very High Fire Hazard Severity Zone. During the fires in May 2014, area roads were at a standstill, and Interstate 15 and State Highway 78 both experienced closures. If evacuation routes are overcrowded, thousands of people will be placed in danger. Yet, Newland only promises evacuation impacts will be "lessened" without notifying the public of potential increases in this risk.

B. General CEQA Principles Favor Recirculation of a Revised NOP

1. CEQA Favors Early Disclosure of Potential Environmental Impacts and Public Participation for NOPs

The overarching goal of CEQA is to secure the most environmentally friendly projects through public involvement in the EIR process. *See generally No Oil v. City of Los Angeles*, 13 Cal. 3d 68 (1974) (an EIR serves to inform governmental agencies and the public of a project's environmental impacts); *see also Cty. of Orange v. Superior Court*, 113 Cal. App. 4th 1, 10 (2003) ("[O]ne of the major objectives of the CEQA process" is "to foster better (more

environmentally sensitive projects through revisions which are precipitated by the preparation of EIRs.”). Public involvement begins with the NOP, and CEQA favors early public review.

The underlying desire to ensure public participation in the environmental review process illustrates the need to recirculate a revised NOP for the Newland Project. “Public review is essential to CEQA. The purpose of requiring public review is ‘to demonstrate to an apprehensive citizenry that the agency has, in fact, analyzed and considered the ecological implications of its action....’ [P]ublic review and comment ... ensures that appropriate alternatives and mitigation measures are considered, and permits input from agencies with expertise in ... resources and conservation. Thus, public review provides the dual purpose of bolstering the public’s confidence in the agency’s decision and providing the agency with information from a variety of experts and sources.” *Envtl. Prot. Info. Ctr. v. California Dep’t of Forestry & Fire Prot.*, 44 Cal. 4th 459, 486 (2008); citing *Schoen v. Dep’t of Forestry & Fire Prot.*, 58 Cal. App. 4th 556, 573–574 (1997). Comments from interested parties in turn “allow the lead agency to identify, at the earliest possible time, the potential significant adverse effects of the project and alternatives and mitigation measures that would substantially reduce these effects.” *Laurel Heights Improvement Ass’n v. Regents of University of California*, 6 Cal. 4th 1112, 1131, 1132 (1993) (internal citations omitted).

In addition, CEQA Guidelines section 15083 recognizes the importance of early public consultation. Prior to completion of the draft EIR, the “lead agency may also consult directly with any person or organization it believes will be concerned with the environmental effects of the project.” CEQA Guidelines § 15083. The CEQA Guidelines note “[m]any public agencies have found that early consultation solves many potential problems that would arise in more serious forms later in the review process.” *Id.* This procedure should be combined “to the extent possible” in the NOP process. *Id.*

Preparing and recirculating a revised NOP when a project applicant revises their project documents is recognized as a matter of good practice that keeps reviewing agencies and the public well informed. *See* 1-22 California Environmental Law & Land Use Practice § 22.03. In light of the changes to the Newland Project, the County should prepare and recirculate a revised NOP; especially given the impacts the proposed changes will have on the region (*see* Section II.A).

Circulating revised NOPs is also a matter of common practice. The following unpublished cases provide some examples of agencies updating a project’s NOP to properly address changes in the project:

- *El Pueblo v. Kings Cty. Bd. of Supervisors*, 2012 Cal. App. Unpub. LEXIS 4984, *6, *68 (2012). A project expanding a landfill by 221.5 acres was revised in response to agency comments on traffic and water supply impacts. “In 2004, [the agency] prepared and circulated a notice of preparation of a draft subsequent environmental impact report and initial study. A notice of project modification, revised NOP and initial study were prepared and circulated the following year ...

[the revised] NOP stated the project could result in 100 additional daily peak truck round trips.” *Id.*

- *Advocates v. City of Atwater*, 2011 Cal. App. Unpub. LEXIS 2176, *4, *6 (2011). “In 2006, the [city] issued a notice of preparation, and one year later issued a revised NOP that described the differences between the 2006 project and revised project.” *Id.* The project had changed in two major ways—the city decided to build a new treatment plant rather than expand the existing one, and the size of the plant was downsized as a result of the decision to build a new plant.
- *Yuba Group Against Garbage v. City & Cty. of San Francisco*, 2015 WL 3473981, at *3 (2015). “After entering into the Cooperative Agreement, Yuba County circulated a revised NOP to provide notice that the City’s consideration of one or more agreements with Recology for the disposal and transportation of San Francisco’s waste will be addressed in the EIR.”

Public review of the Newland Project should not be undermined by an incomplete NOP. Because the NOP does not incorporate Newland’s changes to the Project, the public has not been given the opportunity to comment on the Project as it will be developed. This is contrary to CEQA’s underlying principles. Additionally, because CEQA requires early public consultation, these changes should be noted in a revised NOP, rather than a later environmental document. A new or revised NOP enables the County to address the potential impacts of the Project’s changes at the earliest possible time, thus alleviating potential problems that would resurface later in the environmental process. The County should revise and recirculate the NOP for the Newland Project to best serve CEQA’s objective to inform the public about the significant environmental effects of proposed activities at the earliest possible stage in the environmental review process.

2. Other CEQA Provisions Favor Recirculation

Alternatively, a reviewing court may borrow from the CEQA Guidelines requiring recirculation of an EIR to determine whether a revised NOP is required. “When significant new information is added to an [EIR] after notice has been given ... and consultation has occurred ... but prior to certification, the public agency shall give notice again ... and consult again ... before certifying the [EIR].” Pub. Res. Code § 219092.1. CEQA Guidelines section 15088.5(a) clarifies what information prompts recirculation. *See* CEQA Guidelines § 15088.5(a). Specifically, information prompting recirculation can include “changes in the project or environmental setting,” and is considered significant if the EIR “is changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project.” *Id.* “Recirculation is not mandated under section 21092.1 when the new information merely clarifies or amplifies the previously circulated draft EIR, but is required when it reveals, for example, a new substantial impact or a substantially increased impact on the environment.” *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova*, 40 Cal. 4th 412, 447 (2007).

Recirculation should also occur where new information reveals impacts to biological resources. In *Sierra Club v. Gilroy City Council*, the presence of the California tiger salamander was discovered after the close of the public comment period for the draft EIR. 222 Cal. App. 3d 30 (1990). In that matter, a study was commissioned demonstrating that due to the presence of the tiger salamander, the draft EIR had not properly addressed a potentially substantial adverse environmental effect. *Id.* Therefore, revision and recirculation were required and voluntarily undertaken by the agency. *Id.* Similarly, “discovery that a project encroached upon wetlands, when the text of the draft EIR indicated that the wetlands area would remain undeveloped, was a substantial change in circumstances requiring revision and recirculation of the EIR. The failure to do so ‘deprived the public, who relied upon the EIR’s representations, of meaningful participation regarding the issue of wetlands degradation,’ a significant adverse effect.” *Laurel Heights Improvement Ass’n*, 6 Cal. 4th at 1129 (internal citations omitted).

Additionally, recirculation was also required where an EIR failed to disclose a street would be extended over a ridge line, obstructing views. “[T]he opportunity for additional public comment was also required where an uncirculated EIR disclosed for the first time that, for mitigation purposes, a street would be extended through a ridge line resulting in a previously unidentified adverse visual impact.” *Laurel Heights Improvement Ass’n*, 6 Cal. 4th at 1132 (internal citations omitted).

Here, the Newland Project has proposed a multitude of changes, including altering the zoning density from that which is considered in the original NOP, weakening environmental protections, and adding noxious Project components. These changes “deprive[] the public the opportunity to comment,” and, therefore, could be considered “significant new information” to require recirculation of the Project’s NOP. Based on the substantial changes in the Project and the need to inform the public and decision makers of potential environmental impacts and to encourage public participation, the County should revise and recirculate Newland’s NOP.

II. THE 2015 NOP WAS SUBSTANTIVELY INADEQUATE FOR FAILURE TO IDENTIFY PROJECT IMPACTS

In addition to the Project changes between the 2016 and 2015 versions of the Specific Plan requiring the County to revise and recirculate the NOP, the original 2015 NOP is legally defective because it failed to adequately describe a number of the Project’s impacts. A NOP must contain sufficient information to enable the public and other agencies to make meaningful responses. CEQA Guidelines § 15082(a)(1). Because the 2015 NOP failed to address road-widening impacts to the region, as well as the Project’s intrusion into the City of Escondido’s sphere of influence, it did not provide the public with sufficient information to appropriately respond to the NOP.

A. Substantive and Procedural Requirements of a NOP

“When the lead agency determines that an EIR is necessary, it must notify all other responsible agencies which must, in turn, specify to the lead agency the scope and content of the EIR that is germane to that agency’s area of responsibility.” *Friends of Sierra Madre v. City of*

Sierra Madre, 25 Cal. 4th 165, 185 (2001) (citing Pub. Res. Code § 21080.4). The NOP serves that function.

If the lead agency on a project determines that an EIR is required, the lead agency must immediately send a NOP to each responsible agency. CEQA Guidelines § 15082(a). The NOP must also be sent to “any person who has filed a written request for notices with either the clerk of the governing body or ... the director of the agency.” Pub. Res. Code § 21092.2. The NOP must contain sufficient information to enable the agencies to make meaningful responses, including the following: a description of the project; its location, either by street address or on a map; and a statement of the projects probable environmental effects. CEQA Guidelines § 15082(a)(1).

Within 30 days after receiving the NOP, each responsible agency must provide the lead agency with specific detail about the scope and content of the environmental information related to the responsible agency’s area of statutory responsibility. This information must be included in the draft EIR. CEQA Guidelines §§ 15082, 15103. Responses to the NOP must, at a minimum, identify: the significant environmental issues and reasonable alternatives and mitigation measures which the responsible agency will need to have explored in the draft EIR; and whether the agency will be a responsible agency or trustee agency for the project. *Id.*, § 15082. A generalized list of concerns does not constitute an adequate response. *Id.*, § 15082(b)(1)-(b)(3). Members of the public are also allowed 30 days to provide comments on a NOP. *See* Pub. Res. Code § 21083.9 (requiring public scoping meeting to solicit comments); County of San Diego, Newland Sierra Project Notice of Preparation (Feb. 12, 2015) (noting comments due on or before a 30 day public review period expires).

B. Road-Widening Impacts and Other Impacts Not Analyzed in 2015 NOP

The NOP failed to provide sufficient notice of the impacts that accompany expanding Deer Springs Road to six lanes. Beyond the physical impact that the larger road will have on the area, expansion of Deer Springs Road will have significant impacts on cultural resources, biological resources, and a local retirement community. The NOP ignored these impacts, just as the 2009 Merriam Mountains EIR ignored road-widening impacts. The County should avoid the same pitfall and properly address these impacts in a revised NOP.

1. Cultural Resources

The NOP must be revised and recirculated because it minimized significant impacts to cultural resources that would be obliterated by proposed widening of Deer Springs Road by making only vague references to “one or more cultural resources within the project site” and one resource with the potential for human remains in the Initial Study. To the contrary, additional detail is widely available regarding multiple resources that would be impacted by the Project—and in particular by the widening of Deer Springs Road. Two tribal cultural sites are located at the eastern “mouth” of Deer Springs Canyon in an area through which Deer Springs Road runs. These sites appear to be extremely well known and documented, yet were not discussed in the NOP. For example, one of the sites, CA-SDI-4558, was partially excavated in 1977 and recently discussed in a book on California archaeology for its potential link between La Jolla area tribes

and other Luiseño descendants.² This finding was reinforced in the 2009 Merriam Mountains Project EIR's analysis for the feasibility of widening Deer Springs Road.

The Merriam Mountains EIR found that there is a potential for identified tribal human remains and cultural artifacts discovered at these sites to be impacted by widening Deer Springs Road. The EIR at section 9.2.3.1 states that, “[c]ultural resource sites identified as CA-SDI-4558 and CA-SDI-9822, both of which are within the Deer Springs Road corridor, have been previously tested and identified as significant under the County of San Diego and CEQA criteria.” Merriam Mountains EIR at § 9.2.3.1. The cultural resources survey noted the presence of pottery and cremated human remains on site, which could indicate sensitive Native American tribal resource sites that will require consultation with tribal officials prior to moving forward with any plans to widen Deer Springs Road. In addition, preliminary findings from a recent survey commissioned by the Golden Door, and conducted by Spindrift Archaeological Consulting (“Spindrift”), CA-SDI-9822 contains prehistoric rock art and seed grinding boulders. Cremations have been documented at the site. Spindrift identified tribal cultural sites that have not been disclosed in the County’s environmental documentation.³

Beyond the Merriam Mountains EIR, these important cultural resources sites have been discussed in various publications. A 1977 Caltrans report discussed CA-SDI-4558 at length. See Roger A. Cook, Preliminary Report: Archaeological Test Excavations at 4-SDI-4558, 4562, and 4562A, Caltrans, (April 1977) (“1977 Caltrans Report”).⁴ The report indicates the boundaries of the site run up against Deer Springs Road. *Id.* at 22. In addition to the findings mentioned above, the 1977 Caltrans Report suggested that CA-SDI-4558 should be nominated for inclusion in the National Register of Historic Places. *Id.* at 66. Further, the 1977 Caltrans Report explained in detail the significance of CA-SDI-4558. The site was occupied during the Pauma Complex, and at the time of the report, no other sites from that particular period had been intensively examined. *Id.* at i.

Whether or not CA-SDI-4558 has been included on the National Register of Historic Places,⁵ it likely qualifies for inclusion on the California Register of Historical Resources. In order to qualify for designation, a site must meet one of the following criteria: (1) the site must be associated with events that have made a significant contribution to the broad patterns of local or regional history or the cultural heritage of California or the United States; (2) the site must be

² “Another possible Pauma site is SDI-4558 in Moosa Canyon near Escondido, tested in 1977 by R. Cook of the California Department of Transportation. Apart from a few San Luis Rey pot sherds near the surface, excavations at SDI-4558 revealed 130 cm of Millingstone cultural deposits with several San Dieguito-like points in the upper levels. Pending further work, the stratigraphy and identification of a Pauma component at SDI-4558 remain equivocal.” Michael J. Moratto, CALIFORNIA ARCHAEOLOGY 152 (2014) (internal citations omitted).

³ Spindrift is currently finalizing a report that the Golden Door will submit to the County at a later date.

⁴ A copy of the 1977 Caltrans Report is attached as Exhibit C.

⁵ CA-SDI-4558 has not been listed on the public database of California Register of Historical Resources. Due to the confidential nature of sites included in the database, we are unable to determine as of this time whether CA-SDI-4558 has been included on the California Register of Historical Resources.

associated with the lives of persons important to local, California or natural history; (3) the site must embody the distinctive characteristics of a type, period, region, or method of construction or represent the work of a master or possess high artistic value; (4) the site must yield, or have the potential to yield, information important to the prehistory or history of the local area, California, or the nation. *See* Office of Historic Preservation, California Register, “Criteria for Designation,” http://ohp.parks.ca.gov/?page_id=21238. CA-SDI-4558 could meet the first or fourth criteria, because artifacts on the site have been linked to the prehistoric period. *See* 1977 Caltrans Report at 23, 36-37.

While specific known artifacts—CA-SDI-4558 and CA-SDI-9822—would be decimated by widening Deer Springs Road, the Project site is located an area generally rich in tribal history. In addition to the aforementioned sites, many others have been identified in the Moosa Canyon region and may be threatened by the Newland Project. A 1978 Caltrans report identifies four sites within the region. *See* Roger A. Cook, Final Report: Archaeological Test Excavations in Moosa Canyon, (Feb. 1978) (“1978 Caltrans Report”). The precise locations of these sites are unknown due to theft and vandalism concerns. The initial Spindrift findings indicate several other potential sites in the region, and based off of the presence of the sites within the creek corridor, the valley may be considered an archaeological district because the sites are all related as a landscape—especially in light of the presence of rock art and human remains in the area. However, given the abundance of sites located in the region, the NOP is deficient for failing provide information on the Project’s potential decimation of these cultural resources.

Further, the Pechanga Band of Luiseño Indians submitted a comment letter detailing their concerns and requesting consultation under Senate Bill (“SB”) 18. *See* Letter from Anna Hoover to Mark Slovick (Mar. 16, 2015) (“Pechanga Letter”). The Pechanga Letter highlights the importance of early consultation and adequate mitigation or avoidance of impacts to cultural resources. Over a year ago, Pechanga requested to assist the County in developing appropriate avoidance and preservation standards for the portions of the significant Luiseño village complex and related cultural resources. *Id.* at 1. Pechanga additionally requested an intensive archaeological survey to be completed on the project with participation by a Luiseño tribal monitor. *Id.* at 2. Consultation may identify geographic spaces yielding sacred places, and identify the proper means of treatment and management of such places to ensure their protection and preservation. *Id.* Early consultation ensures that Pechanga and other tribes have input in how their resources are handled. The NOP should provide sufficient information to put tribes on notice of the need for such consultation.

2. Biological Impacts

The County’s Initial Study also provides inadequate description of the extensive biological resources that could be impacted by the Project—and in particular by the widening of Deer Springs Road. The Golden Door recently commissioned a reconnaissance-level biological survey of the Deer Springs Road area by the Baranek Consulting Group, which used Schaefer Ecological Solutions as a sub-consultant. The resulting report determines that the region contains sensitive habitats and suitable habitats for a number of sensitive species, including coastal sage scrub, southern mixed chaparral, coast live riparian forest, and wetland communities. Schaefer Ecological Solutions, Biological Restraints Report, Deer Springs Road

Widening Project (March, 2016) (“Biological Report”).⁶ In addition, the California gnatcatcher, the golden eagle, and the American badger may be impacted by the proposed expansion of Deer Springs Road. Because the area contains sensitive habitats and suitable habitats for a number of sensitive species, impacts to sensitive resources should be avoided or minimized to the greatest extent practicable. *Id.* at § 5. The NOP fails to provide adequate notice of the potential for such impacts to enable the public to appropriately respond and develop mitigation measures.

Vegetation Communities. The Project area contains sensitive vegetation communities, including coastal sage scrub, southern mixed chaparral, coast live oak riparian forest, and jurisdictional waters and wetlands. Biological Report, § 5.1. Other vegetation communities, such as eucalyptus woodland, while not sensitive, are regulated through their habitat features, for example, trees that may provide nesting habitat for migratory birds regulated under the Migratory Bird Treaty Act. *Id.* Widening Deer Springs Road may potentially impact almost 30 percent of the available coast live oak riparian habitat, half of the available coastal sage scrub, and half of the available southern mixed chaparral habitat in the study area. *Id.* These vegetation communities are considered highly sensitive. *Id.*

California Gnatcatcher. The federally threatened California gnatcatcher was observed in 2002 at the intersection of Deer Springs Road and Highway 395 west of Interstate 15. Biological Report, § 5.2.2. Suitable gnatcatcher habitat—including the threatened coastal sage scrub—exists in the Project area. *Id.* at Table 1. The California gnatcatcher is covered by the NCMSCP and is a federally threatened species.⁷ In addition to following the NCMSCP’s guidance, Newland will be required to obtain a Habitat Loss Permit from the County under Section 4(d) of the Endangered Species Act. *Id.* at § 5.2.2. Therefore, impacts to gnatcatchers and gnatcatcher-suitable habitat must be avoided unless they can be permitted by an approved NCMSCP. *Id.* Avoidance measures may also include avoidance of the gnatcatcher breeding season (March 1 through August 15) during construction. *Id.*

Southwestern Pond Turtle. The southwestern pond turtle has historically been recorded in the Deer Springs Road vicinity. Biological Report, § 5.2.2. The species has been rapidly declining in the County due to habitat loss. Habitat for the species includes a series of ponds in the study area, and the likelihood of the species to occur in the area is moderate. *Id.*

Golden Eagle. Golden eagles have frequently been observed flying overhead and foraging in the Deer Springs Road vicinity, and would be impacted by the Project’s widening of Deer Springs Road due to the loss of habitat. Biological Report, § 3.3. Golden eagle foraging habitat includes extensive areas of open sage scrub, grasslands, recently burned chaparral, agricultural fields, and oak woodlands and forest, all present in the Project area. *Id.* at Table 1. Golden eagles nest on cliffs and large trees capable of supporting a large nest platform in open areas, also present near the Project site. *Id.*

⁶ The Biological Report is attached as Exhibit D.

⁷ Notice of Intent available at: <http://www.fws.gov/policy/library/2005/05-4926.html>.

The golden eagle is covered under the NCMSCP and the federal Bald and Golden Eagle Protection Act, 16 U.S.C. § 668. The golden eagle is rare in the region, and is currently being studied by the United States Geological Service (“USGS”) as part of the San Diego Association of Governments’ (“SANDAG”) Environment Mitigation Program (“EMP”). The EMP’s San Diego Mitigation and Monitoring Program has prepared regional monitoring and management strategies to implement the regional Natural Community Conservation Planning (“NCCP”) plans, including the NCMSCP, once approved. The United States Geological Survey is currently undertaking a regional golden eagle study, and plans to include the Project area. Biological Report, § 5.2.2.

American Badger. The NCMSCP-covered American badger has been observed within one mile of the Deer Springs Road Project area. Biological Report, § 5.2.2. The badger’s preferred habitat includes level, open areas in grasslands, agricultural areas, and open shrub habitats, in addition to coast live oak riparian forest. *Id.* at Table 1. The badger is regionally rare and is being studied as a part of the SANDAG EMP. Badgers require large territories and migrate over large distances. The species’ migration patterns could potentially be affected by the Deer Springs Road widening project from an increased risk of roadkill due to the increase of road width and traffic. *Id.* at § 5.2.2.

Mountain Lion. Mountain lions have been observed in the Project area, and are covered by the NCMSCP. Mountain lions may be affected by the road widening from an increased risk in roadkill due to the increase of road width and traffic. In addition, increased development as a cause or effect of the road widening may also increase the urban-wildlands interface and the risk of dangerous human interactions with mountain lions, which results in an increased potential for mountain lion extermination. Biological Report, § 5.2.2.

Sensitive Wetland Communities (Jurisdictional Waters and Wetlands). The expansion of Deer Springs Road will potentially destroy sensitive wetland communities. Biological Report, § 5.3. Vegetated and unvegetated wetlands associated with the stream south of Deer Springs Road would be regulated by the Army Corps of Engineers, the Regional Water Quality Control Board and California Department of Fish and Wildlife. Any impacts to the creek and associated federally or state-regulated wetlands would need to be avoided or minimized, and permitted by these federal and state agencies.

Wildlife Movement. Wildlife movement corridors are linear features that connect large patches of open space and provide habitat conditions for the movement of small and large animals. Biological Report, § 3.3. Wildlife corridors contribute to population viability by—among other things—providing access to adjacent habitat areas representing additional territory for foraging and mating, and also provide routes for colonization of habitat lands following local population extinctions or habitat recovery. *Id.*

The Project area is located within the confines of a canyon, bifurcated by an east-west flowing stream. The area is surrounded by natural and agricultural landscapes, hills, and low-density rural development, providing excellent opportunities for wildlife movement. Biological Report, § 3.3. Animal tracks and signs observed in and around the creek during the survey included bobcat, coyote, raccoon, and mule deer. *Id.* While these animals are not state or

federally protected, they are indicators of a healthy environment and functional urban-wildland interface. *Id.* at § 5.4. The latest information indicates that there is a significant regional wildlife corridor that would be substantially impacted or eliminated by Newland's proposed widening of County S12 in this location.

Deer Springs Road is currently constructed and operated as a 2-lane road that is crossed by wildlife during times of less traffic. Widening the road to a 4- or 6-lane configuration would inhibit wildlife movement due to the width of the road crossing, thus segregating the rich regional wildlife habitat, additionally resulting in the death of many animals. Biological Report, § 5.4.

Despite the potentially significant impact to many species' habitat, the NOP failed to provide adequately notice to the public of the potential for such impacts.

3. Retirement Community Impacts

A quiet retirement community located just south of Deer Springs Road near Mesa Rock Road will also be impacted by the proposed widening of Deer Springs Road. The grading required to expand the road will require the demolition of several homes in this community. Because the NOP did not provide notice of the impacts of grading and widening Deer Springs Road on that community, residents have not been properly informed that their homes are threatened by the Newland Project. The NOP failed to provide adequate information to ensure that members of this retirement community are aware that their homes are threatened by the Newland Project's expansion of Deer Springs Road.

4. City of Escondido Sphere of Influence

A portion of the project site falls within the City of Escondido's sphere of influence. The San Diego County Local Agency Formation Commission's ("LAFCO") map of the Escondido sphere of influence is attached hereto as Exhibit E. The map clearly shows the Escondido sphere of influence extends north of Deer Springs Road and west of Interstate 15 into the project site—notably covering the area designated as "village." Additional review and comment is required to ensure density zoning would be consistent between the County General Plan and the City of Escondido General Plan. The County has yet to acknowledge this issue. The responsible agencies should have the opportunity to review and comment to ensure their General Plans remain consistent, an opportunity not afforded to them under the 2015 NOP.

The North County Metro Community Plan ("NC Metro CP") is part of the County General Plan and includes the project site. The general goals and policies of NC Metro CP require the County to take the City of Escondido's planning into consideration. *See* NC Metro CP at Policy 1.⁸ NC Metro CP Policy 7 limits density on unincorporated County land within the

⁸ NC Metro CP Policy 1: A. "Because cities of the Subregion are closely related to the surrounding area in terms of public services, travel patterns, and community identity; and B. the cities and County are generally agreed on the spheres of influence boundaries, which were adopted by the Local Agency Formation Commission (LAFCO) the County will cooperate in the planning and regulating of growth in

Escondido sphere of influence to one unit per acre. Specifically, Policy 7 prohibits “new major and minor subdivisions within the adopted Escondido city spheres of influence if the density shown on the final subdivision or parcel map is greater than one dwelling unit per gross acre, unless: (1) *consistent with the general plan land use map*; or (2) the proposed project has sewers available and can obtain sewer lateral connections to an existing sewer main, in which case this policy shall not apply to the property.” *Id.* at 5 (emphasis added). This provision appears intended to limit the County’s ability to approve dense development within the City of Escondido’s sphere of influence. The County’s General Plan, therefore, limits the County to approving development at a density of one unit per acre within the City of Escondido’s sphere of influence unless the Escondido General Plan allows for additional density.

Currently, Escondido’s General Plan designates the portion of the Project site within its sphere of influence for very low density development. *See* Escondido General Plan Land Use Map. The northwest corner of the Escondido General Plan land use map includes the portion of the sphere of influence covering the part of the project site. It depicts this area as Rural Residential I (1 du/4, 8, 20 acres) and Estate I (1 du/1, 2, 4, 20 acres). *Id.* This density is equal to or less than one dwelling unit per acre, and therefore does not create an exception to NC Metro CP Policy 7. As a result, the County is not able to approve density greater than one unit per acre on that portion of the Project site, because it would be inconsistent with the County’s General Plan pursuant to NC Metro CP Policy 7.⁹ *See Sierra Club v. Kern Cty. Bd. of Supervisors*, 126 Cal. App. 3d 698, 703 (1981) (“[T]he general plan is required to be consistent within itself.”); *Concerned Citizens of Calaveras Cty.*, 166 Cal. App. 3d. 90, 97 (1985) (“A general plan must be reasonably consistent and integrated on its face. A document that, on its face, displays substantial contradictions and inconsistencies cannot serve as an effective plan because those subject to the plan cannot tell what it says should happen or not happen.”).

In addition, caselaw indicates that failure to consult with relevant agencies may violate CEQA. *See San Francisco Baykeeper, Inc. v. State Lands Comm’n*, 242 Cal. App. 4th 202 (2015). “CEQA requires that the lead agency consult with all responsible agencies and trustee agencies before determining whether an EIR is required for a project.” *Id.* at 228 (citing Pub. Res. Code § 21080.3). “Upon determining that a project requires preparation of an EIR, the lead agency ‘shall’ send notice of that determination (i.e. the NOP) ‘by certified mail or equivalent procedure to each responsible agency, the Office of Planning and Research, and those public agencies having jurisdiction by law over natural resources affected by the project that are held in trust for the people of the State of California.’” *Id.* at 229.

Here, the County failed to send the NOP to the City of Escondido, even though a portion of the proposed project is in Escondido’s sphere of influence and planned area for annexation.¹⁰

the unincorporated territory within each city’s sphere of influence. Future County decisions on proposed projects in the sphere areas will take each city’s planning objectives into consideration.”

⁹ Because the City of Escondido’s sphere of influence encompasses the area currently zoned as “village” in the County’s General Plan, the inability to develop at a high density further impacts the Leapfrog Policy arguments above in Section VII.J.2.

¹⁰ While a distribution list for the NOP is not readily available, the City of Escondido did not submit a comment letter on the NOP, leading to the likely conclusion that it was not notified. Even if the City of

Escondido is responsible for a portion of the land and resources that will be implicated by the Newland project. Therefore, the County should have notified the City of Escondido of the project to enable the City the opportunity to comment on the Project's impacts to property within its sphere of influence. Any draft EIR published pursuant to this NOP would be deficient due to failure to notify the City of Escondido and obtain input from the only agency that can provide input regarding Escondido's interest with its sphere of influence.

While "full compliance with the letter of CEQA is essential to the maintenance of its important public purpose," a violation of notice and consultation requirements requires a finding of prejudice. *San Francisco Baykeeper*, 242 Cal. App. 4th at 230. An error is prejudicial "where failure to comply with the law results in 'a subversion of the purposes of CEQA by omitting information from the environmental review process.'" *Id.* While *San Francisco Baykeeper* did not find the failure to notify the California Coastal Commission of the project to be prejudicial because there was no omission of pertinent information, that is not the case here. Failure to circulate the NOP to those impacted by the Project, and the minimization of the Project's impacts on important resources is prejudicial. By failing to circulate the NOP to the City of Escondido, the County will not obtain the City's input on regional transportation and biological resources issues, including the connection to the wildlife corridors that connect to other City preservation lands to the south and east. Only the City of Escondido can provide input on whether the Project conforms with its General Plan, or would significantly impact the City's important resources. The County has subverted CEQA's goal of securing the most environmentally friendly projects by denying the City the opportunity to comment on the many significant adverse impacts to the portion of the Project within the Escondido sphere of influence. Any subsequent draft EIR would be deficient without the City's input or notification, and therefore would have to be recirculated at a later date.

The intrusion into the Escondido sphere of influence creates an impermissible inconsistency that the County and Newland have yet to address. Further, failure to notify the City of Escondido of the Project resulted in a prejudicial violation of CEQA's notice and consultation provisions. Proper notification is necessary to ensure the public and other interested parties are fully aware of the issue.

C. The NOP Is Substantively Inadequate

The NOP failed to provide notice regarding these potential significant Project impacts. The Project will potentially decimate significant tribal cultural resources dating back to prehistoric times, and destroy the habitats of several threatened or endangered species, in addition to destroying sensitive wetland area. Further, the Project will force senior citizens to abandon their retirement homes in order for Deer Springs Road to be expanded. Community members and decision makers have had no notice of these impacts, despite being directly affected by them. Because the NOP failed to provide the public with notice regarding these impacts, it does not meet CEQA's substantive or procedural requirements requiring "sufficient

Escondido received the NOP, it would not know that the Project impacted its sphere of influence, because the County failed to disclose this in its NOP documentation.

information to enable the agencies to make meaningful responses.” CEQA Guidelines § 15082(a)(1).

III. ASSEMBLY BILL 52 SHOULD APPLY TO THE PROJECT

As discussed above, the substantial revisions made to the Project without notice by new submittals in January 2016 should require the County to circulate a new NOP. A new NOP would trigger the requirements of recently passed AB 52.¹¹ Alternatively, even if the County refuses to circulate new NOP, it should still consult with local tribes and follow the requirements of AB 52 because of the significant cultural resources that may be impacted by the Project. AB 52, which went into effect on July 1, 2015, creates a category called “tribal cultural resources” that must now be considered under CEQA. Previously, cultural resources were generally categorized into three subtopics: archaeological, historic, and paleontological. In addition to adding a new category for CEQA consideration, AB 52 seeks to address the capacity of tribal governments and lead agencies to handle tribal cultural resources issues, while ensuring tribal sovereignty is maintained.

A. AB 52’s Notice and Consultation Requirements

AB 52 establishes a consultation process with all California Native American tribes on the Native American Heritage Commission (“NAHC”) List, which contains federally and non-federally recognized tribes. As mentioned, AB 52 creates a new class of resources under CEQA: tribal cultural resources. A tribal cultural resource is defined as a site feature, place, cultural landscape, sacred place or object, which is of cultural value to a tribe; and is either (1) on or eligible for the California Historic Register or a local historic register; or (2) the lead agency, at its discretion, chooses to treat the resource as a tribal cultural resource. *See* Pub. Res. Code § 21074(a)(1)(A)-(B). AB 52 requires project proponents to consider tribal cultural values in determination of project impacts and mitigation. Additionally, AB 52 requires notice to certain tribes and meaningful consultation.

In order to invoke AB 52’s notice and timing requirements, a tribe must request to be on the Agency’s Notice List notified prior to determination of whether a negative declaration, mitigated negative declaration, or EIR is required for a project. The notice requirement is triggered for “projects that have a notice of preparation or a notice of negative declaration filed or mitigated negative declaration on or after July 1, 2015.” AB 52 Legislative Digest (Sept. 25, 2014).¹² The lead agency must provide written notification to the tribes that requested placement on the agency’s notice list within fourteen days of a decision to undertake a project or determination that a project application is complete. The notice must include a brief project description, the project’s location, lead agency contact information, and a statement informing the tribe that it has 30 days to request consultation. If the tribe requests consultation, the lead agency will begin the consultation process within 30 days of receiving the tribe’s request for

¹¹ The NOP issues in February 2015 did not trigger AB 52’s requirements, because such requirements apply only to NOP’s published on or after July 1, 2015.

¹² Available at: http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB52.

consultation. Holly Roberson, Office of Planning and Research, AB 52: A CEQA Guidelines Update for Tribal Cultural Resources at 6, (“AB 52 Presentation”).¹³

During consultation, the tribe and public agency will agree to mitigation measures, which in turn will be recommended for inclusion in the environmental document. Public agencies shall, when feasible, avoid damaging effects to tribal cultural resources. Mitigation measures may include the following: avoidance and preservation of the resources in place; treating the resource with culturally appropriate dignity; permanent conservation easements; and protecting the resource. *See* AB 52 Presentation at 7. Under Public Resources Code section 21080.3.2(b), consultation will end when either (1) the parties agree to mitigation measures or avoidance of a significant effect on tribal cultural resources; or (2) a party acting in good faith and after a reasonable effort, concludes that mutual agreement cannot be reached. Pub. Res. Code § 21080.3.2(b).

By July 1, 2016, the CEQA Guidelines Appendix G will be adopted to reflect AB 52’s updates. Specifically, the Office of Public Resources shall develop revisions to Appendix G that: (1) separate the consideration of paleontological resources from tribal cultural resources and update the relevant sample questions; and (2) add consideration of tribal cultural resources with relevant sample questions. *See* Office of Planning and Research, Discussion Draft of Proposed Changes to Appendix G of the CEQA Guidelines Incorporating Tribal Cultural Resources at 2 (Nov. 17, 2015)¹⁴; *see generally* Pub. Res. Code § 21083.09.

B. The County Should Adhere to AB 52’s Requirements in Processing the Project

AB 52 states that a “preference for historical and archeological resources of preservation in place, if feasible.” AB 52 § 1(b)(3). This preference could affect the widening of Deer Springs Road proposed by Newland. As previously mentioned, there are two sites with tribal artifacts of significant cultural value in close proximity to the north side of Deer Springs Road. CA-SDI-4558 and CA-SDI-9822 have been “previously tested and identified as significant under the County of San Diego and CEQA criteria . . . on the basis of human remains and a pictograph feature . . . bedrock milling features, and foundations from remains of residential structures.” *See* Deer Springs Road General Plan Amendment/Circulation Element at Chapter 9.2.3.1.¹⁵ These two sites are at risk of being destroyed by the widening of Deer Springs Road, and as a result, tribal consultation should occur to ensure their protection under AB 52.

We are unaware of any efforts to significantly involve tribes regarding the Project’s impacts on important tribal cultural resources. Failure to recirculate the NOP would exclude

¹³ Available at: https://www.opr.ca.gov/docs/OPR_AB_52_Presentation_Discussion_Draft.pdf.

¹⁴ Available at: https://www.opr.ca.gov/docs/Discussion_Draft_Appendix_G_Questions_re_Tribal_Cultural_Resources_Nov_17_2015.pdf.

¹⁵ The Deer Springs Road General Plan Amendment/Circulation Element was included as part of the EIR for the previous 2010 Merriam Mountains Project.

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impacted tribes from participating in the discussion of how to handle their significant cultural resources. By not updating the NOP, Newland would deny the tribes their rights under AB 52. Recirculation of a revised NOP would provide the Luiseño descendants the opportunity to consult with the lead agency regarding potential mitigation and treatment of important tribal cultural resources within the Newland Project. AB 52 is evidence that public policy favors tribal consultation where their resources are concerned. Given the significant project revisions, a new NOP addressing these revisions would ensure that the tribes are able to safeguard the sensitive tribal cultural resources within the Project's footprint.

IV. CONCLUSION

The County should revise and recirculate its NOP for the Newland Project because of the significant changes that were not fully disclosed in 2015. Recirculation ensures the public may adequately participate in the CEQA process. In addition, the County should provide a NOP because the version published in 2015 was legally defective in failing to provide notice of important potential impacts. Further, the County should adhere to the requirements of AB 52 instead of bypassing tribal consultation requirements while simultaneously obscuring the Project's impacts to significant tribal cultural resources.

Thank you for your time and attention to our comments. Please feel free to contact me at (858) 523-5400 or christopher.garrett@lw.com if you would like to discuss these matters further.

Best regards,

Christopher Garrett

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April 6, 2016

VIA EMAIL AND U.S. MAIL

Peter Eichar, Planner
 County of San Diego
 Planning & Development Services
 5510 Overland Avenue, Suite 310
 San Diego, California 92123

Re: NC-42 Property Specific Request's AB 52 Requirements and Biological Constraints for Deer Springs Road Expansion

Dear Mr. Eichar,

As you know, we represent the Golden Door Properties LLC (the "Golden Door"), an award-winning spa and resort that opened in 1958. This historic haven is situated on approximately 600 acres on the south side of Deer Springs Road in northern San Diego County ("North County") in a narrow valley enclosed by steep hillsides on three sides. The Golden Door focuses on the health and fitness of its guests, and its property encompasses a peaceful array of hiking trails, luxurious spa amenities, tranquil Japanese gardens, and a bamboo forest.

On December 3, 2015, the County of San Diego ("County") issued a notice of preparation ("NOP") for the NC-42 Property Specific Request ("PSR"). The Golden Door attended the scoping meeting for that NOP and submitted written comments on February 4, 2016. As discussed in detail in the Golden Door's February 4 comment letter, we have significant concerns about NC-42 and plans to urbanize our idyllic rural Twin Oaks Valley community.¹ In particular, the Golden Door is concerned that the density increase proposed by NC-42 would force a significant amount of new traffic from this development onto the proposed County Route S12 six-lane regional arterial running through the narrow Deer Springs Valley, which is otherwise planned to remain rural and undeveloped. Expansion of Deer Springs Road—which must be analyzed as part of NC-42's EIR—would result in significant impacts,

¹ Additionally, as you are aware, the Newland Real Estate Group, LLC ("Newland") has now proposed a revived Merriam Mountains project, known as the "Sierra" project (the "Newland Project") on the same property affected by NC-42. This property is located just across Deer Springs Road from the Golden Door's property. Newland's proposal includes 2,135 residential units, 81,000 square feet of commercial development, a school, and various parks and equestrian facilities.

particularly to tribal cultural resources and biological resources, which we discuss in more detail below.

I. TRIBAL CULTURAL RESOURCES NEAR DEER SPRINGS ROAD AND THE COUNTY'S OBLIGATIONS PURSUANT TO AB 52

At least two identified tribal cultural resources sites would be impacted by the expansion of Deer Springs Road that would accompany NC-42. As discussed in our February 4 comment letter, should the County proceed in its environmental analysis of NC-42, it must abide by Assembly Bill (“AB”) 52’s tribal notification and consultation requirements, among other mandated requirements, such as Senate Bill 18. AB 52 creates a new class of resources under CEQA—tribal cultural resources. A tribal cultural resource is defined as a site feature, place, cultural landscape, sacred place or object, which is of cultural value to a tribe that the lead agency, in its discretion, chooses to treat as a tribal cultural resource. *See* Pub. Res. Code § 21074(a)(1)(B). AB 52 requires project proponents to consider tribal cultural values in determination of project impacts and mitigation. Additionally, AB 52 requires notice to certain tribes and meaningful consultation.

AB 52’s notice and consultation requirements are triggered for “projects that have a notice of preparation or a notice of negative declaration filed or mitigated negative declaration on or after July 1, 2015.” AB 52 Legislative Digest (Sept. 25, 2014). Thus, AB 52’s requirements have been triggered for the NC-42 PSR, which issued its NOP on December 3, 2015. As noted, AB 52 requires the County to engage in additional study and consultation regarding projects that could affect tribal cultural resources. Construction of NC-42’s proposed density on the project site will require extensive grading, blasting, and excavation that could exhume fossils or cultural remains of Native American tribes in the area. In addition to project construction, any widening of Deer Springs Road in its current alignment could also result in a significant impact to cultural resources.

In particular, there are two sites with tribal artifacts of significant cultural value in close proximity to the north side of Deer Springs Road. Cultural resource sites identified as CA-SDI-4558 and CA-SDI-9822—both located in the Deer Springs Road corridor—have been “previously tested and identified as significant under the County of San Diego and CEQA criteria . . . on the basis of human remains and a pictograph feature . . . bedrock milling features, and foundations from remains of residential structures.” *See* Deer Springs Road General Plan Amendment/Circulation Element at Chapter 9.2.3.1. Further, one of the sites, CA-SDI-4558, was partially excavated in 1977 and recently discussed in a book on California archaeology for its potential link between La Jolla area tribes and other Luiseño descendants.² Preliminary findings from a recent survey commissioned by the Golden Door, and conducted by Spindrift

² “Another possible Pauma site is SDI-4558 in Moosa Canyon near Escondido, tested in 1977 by R. Cook of the California Department of Transportation. Apart from a few San Luis Rey pot sherds near the surface, excavations at SDI-4558 revealed 130 cm of Millingstone cultural deposits with several San Dieguito-like points in the upper levels. Pending further work, the stratigraphy and identification of a Pauma component at SDI-4558 remain equivocal.” Michael J. Moratto, CALIFORNIA ARCHAEOLOGY 152 (2014) (internal citations omitted).

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Archaeological Consulting (“Spindrift”), indicate that CA-SDI-9822 contains prehistoric rock art and seed grinding boulders. Cremations have been documented at the site.³

While specific sites containing important artifacts—CA-SDI-4558 and CA-SDI-9822—would be decimated by widening Deer Springs Road, NC-42 contains an area generally rich in tribal history. In addition to the aforementioned sites, many others have been identified in the Moosa Canyon region and may be threatened by the Deer Springs Road expansion and proposed density increase. A 1978 Caltrans report identifies four sites within the region. *See* Roger A. Cook, Final Report: Archaeological Test Excavations in Moosa Canyon, (Feb. 1978) (“1978 Caltrans Report”). The precise locations of these sites are unknown due to theft and vandalism concerns, but nevertheless illustrate the importance of tribal consultation under AB 52. The initial Spindrift findings indicate several other potential sites in the region, and based off of the presence of the sites within the creek corridor, the valley may be considered an archaeological district because the sites may be related as a landscape—especially in light of the presence of rock art and human remains in the area.

Per the requirements of AB 52, the County must provide notice to and consult with the Native American tribes culturally and traditionally affiliated with the region regarding the planned disturbance or eradication of CA-SDI-4558, CA-SDI-9822, and any additional tribal cultural resources that could potentially be impacted. During consultation, the tribes and County must agree to mitigation measures, which in turn will be recommended for inclusion in the environmental impact report (“EIR”). AB 52 requires the County to avoid damaging tribal cultural resources when feasible. Mitigation measures may therefore include, for example, avoidance and preservation of the resources in place. As such, the County should consult with local tribes to satisfy the requirements of AB 52, and ensure that proper mitigation measures are adopted for the preservation of CA-SDI-4558 and CA-SDI-9822.

II. EXTENSIVE BIOLOGICAL IMPACTS WOULD RESULT FROM WIDENING DEER SPRINGS ROAD

The Golden Door recently commissioned a reconnaissance-level biological survey of the Deer Springs Road area by the Baranek Consulting Group, which used Schaefer Ecological Solutions (“Schaefer”) as a sub-consultant. This report revealed that widening Deer Springs Road will have significant impacts to biological resources, which must be analyzed in NC-42’s EIR. Schaefer’s report demonstrates that the region contains sensitive habitats and suitable habitats for a number of sensitive species, including coastal sage scrub, southern mixed chaparral, coast live riparian forest, and wetland communities. Schaefer Ecological Solutions, Biological Restraints Report, Deer Springs Road Widening Project (April, 2016) (“Biological Report”).⁴ In addition, the federally protected California gnatcatcher, golden eagle, and American badger have been observed in the area and may be impacted by the proposed expansion of Deer Springs Road. *Id.* at § 5.2.2. Because the area contains sensitive habitats and

³ Spindrift is currently finalizing a report that the Golden Door will submit to the County at a later date.

⁴ A copy of the Biological Report is attached as Attachment 1.

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suitable habitats for a number of sensitive species, impacts to sensitive resources should be avoided or minimized to the greatest extent practicable. *Id.* at § 5.

Further, the expansion of Deer Springs Road from a 2-lane road to a 4- or 6- lane configuration would inhibit wildlife movement due to the width of the road crossing, thus segregating the rich regional wildlife habitat, additionally resulting in the death of many animals. Biological Report, § 5.4. The area is surrounded by natural and agricultural landscapes, hills, and low-density rural development, providing excellent opportunities for wildlife movement. *Id.* at § 3.3. Animal tracks and signs observed in and around the creek during Schaefer's survey included bobcat, coyote, raccoon, and mule deer. *Id.* While these animals are not state or federally protected—like the aforementioned California gnatcatcher, golden eagle, and American badger—they are indicators of a healthy environment and functional urban-wildland interface. *Id.* at § 5.4.

Additionally, we have reason to believe that Deer Springs Valley may contain active golden eagle nests and foraging habitat. We urge the County staff to directly consult with federal agencies that may have more detailed information.

In light of these potentially significant adverse impacts, the County must analyze the impacts of widening Deer Springs Road to biological resources in its PSR General Plan amendment.

III. CONCLUSION

NC-42's environmental analysis must account for foreseeable impacts, such as the widening of Deer Springs Road. Due to the significant tribal cultural and biological impacts that would result from widening Deer Springs Road, the County must analyze alternative alignments—such as the Golden Door's proposals to cluster any new development on the east side of the property near Mesa Rock Road in a transit-oriented design or to route County Route S12 through the Project site.

We note that the County has an independent duty to consider alternatives, and may in fact have its own ideas regarding other alternative routes and transportation facilities for County S12, beyond those suggested by Newland as part of its own project, or those alternatives suggested by the Golden Door or its own consultant. The County also needs to conduct its own assessment of engineering feasibility, construction costs, right of way acquisition costs, and biological and other resources that could be affected by any route chosen by the County for the ultimate planned 6 lanes plus trails width for County S12. The County should consider whether it should retain independent consultants for that assessment.

Additionally, the County should consult with Caltrans regarding necessary improvements to the Deer Springs Road Interchange that are needed to accommodate the widening of County Route S12 in this location, and the ultimate infrastructure the County has determined is needed to support the growth planned by NC-42. So far, County staff has apparently chosen to delegate this consultation and interchange design completely to Newland, a developer for single project, rather than have County staff directly consult with Caltrans staff. We note that Newland has

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refused to share its plans and submittals to Caltrans on this regional interchange reconstruction with the public.

We also urge the County to independently consult with relevant federal and state agencies regarding the feasibility of obtaining federal and state permits for the construction through Deer Springs Valley of widened County S12 needed for the development authorized by NC-42, rather than relying upon Newland to supply this information.

Early consultation with tribes to development adequate avoidance and mitigation measures as well as early detection of sensitive and protected vegetation and species is necessary to conducting a sufficient environmental review. The Golden Door encourages the County to adhere to the requirement of AB 52 and to perform a thorough biological analysis not only for the NC-42 project site, but of the narrow valley surrounding Deer Springs Road that would be impacted by the project.

Thank you for your time and attention to our comments. Please feel free to contact me at (858) 523-5400 or christopher.garrett@lw.com if you would like to discuss these matters further.

Sincerely,



Christopher W. Garrett
of LATHAM & WATKINS LLP

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Attachment

Biological Constraints Report



Biological Constraints Report
Deer Springs Road Widening Project



for **Baranek Consulting Group**
April, 2016



schaefer ecological solutions
regenerating nature

Biological Constraints Report

for the
Deer Springs Road Widening Project

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April 5, 2016



Table of Contents

Table of Contents i

List of Figures i

List of Tables i

1.0 Introduction 1

 1.1 Project Location 1

 1.2 Project Description 1

2.0 Survey Methods and Limitations 4

 2.1 Literature Review 4

 2.6. Survey Limitations 4

 2.7 Nomenclature 4

 3.1 Physical Characteristics 5

 3.2 Biological Resources 5

 3.2.1 Vegetation Communities 5

 3.3 Wildlife Movement 9

 3.4 Sensitive Species and Habitats 9

 3.5 Jurisdictional Areas 12

 4.1 Federal Endangered Species Act 13

 4.2 Clean Water Act 13

 4.3 Migratory Bird Treaty Act 13

 4.4 Bald and Golden Eagle Protection Act 13

 4.5 California Department Of Fish And Wildlife Fish and Game Code 13

 4.6 Natural Communities Conservation Plan / NCMSCP 14

 4.7 County of San Diego Resource Protection Ordinance 14

5.0 Constraints Analysis 15

 5.1 Vegetation Communities 15

 5.2 Sensitive Flora and Fauna 16

 5.2.1 Flora 16

 5.2.2 Fauna 16

 5.3 Sensitive Wetland Communities (Jurisdictional Waters and Wetlands) 17

 5.4 Wildlife Movement 18

 5.5 Consistency with the MSCP and Local Ordinances 18

 5.6 Conclusion 18

6.0 References 20

List of Figures

Figure 1. Regional Location 2

Figure 2. Project Map and Project Footprint 3

Figure 3. Vegetation Map 6

List of Tables

Table 1. Listed or Sensitive Plant and Animal Species with Potential to Occur 11

Table 2. Potential Impacts to Sensitive Resources 15

1.0 Introduction

This Biological Constraints Report was prepared to understand the biological opportunities and constraints presented by the proposed widening of Deer Springs Road west of Interstate 15 (I-15). Deer Springs Road is currently a two-lane circulation element which has been reclassified by the County of San Diego to a four-lane and potentially six-lane road to accommodate capacity for planned developments in the area, including the Newland Sierra Project. The purpose of this study is to provide a general understanding of the biological resources that are present within the widening footprint and surrounding area, to inform decisions that may have an impact on biological resources and to identify regulatory constraints and opportunities.

1.1 Project Location

The study area analyzed in this opportunities and constraints report is the approximately one-mile segment of Deer Springs Road from its intersection with Mesa Rim Rock Road, just west of I-15, to the Deer Springs Place intersection on the west (Figure 1, 2). It is part of unincorporated San Diego County immediately east of the City of San Marcos, mapped in the San Marcos USGS quadrangle. The current road alignment is located within a rural context featuring agricultural land uses, surrounded by natural hillsides, and lined by an unnamed tributary along the south side of the road (see photos). The footprint analyzed in this study includes the existing two-lane Deer Springs Road alignment plus an approximate corridor on either side of the road that would allow for the construction of a four-lane to six-lane road.

1.2 Project Description

The potential limits of grading and right-of-way (ROW) associated with widening Deer Springs Road from its existing two-lane road configuration to a six-lane prime arterial were derived from the Deer Springs Road General Plan Amendment/Circulation Element analysis contained in the Merriam Mountain Project EIR prepared by the County of San Diego (2009). According to the County Mobility Element, a six-lane prime arterial road consists of a six-lane divided road with a median contained within a 122- to 136-foot wide ROW. The median is intended to provide a separation between travel ways and not to be used for turning or entering adjacent properties. The ultimate road improvement design for the Deer Springs Road widening would be consistent with the County roadway classification requirements for a prime arterial, including medians, bike lanes and footpaths. The limits of grading identified in the General Plan Amendment/Circulation Element analysis completed for Merriam Mountain did not take into consideration construction level impacts of implementing the widening for Deer Springs Road.



Photo above and below: view of rural character and natural landscape looking toward the north-east of Deer Springs Road and valley.



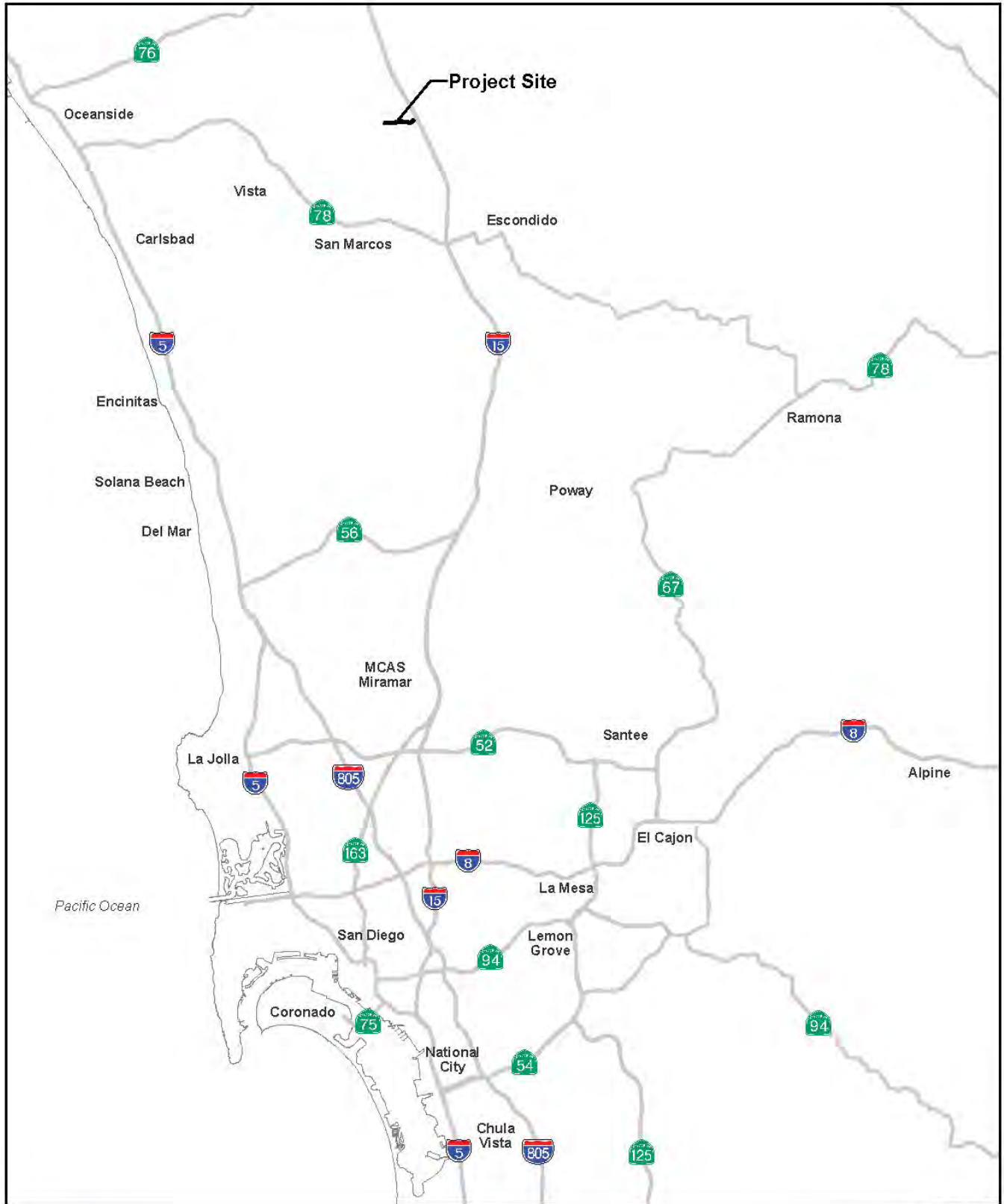
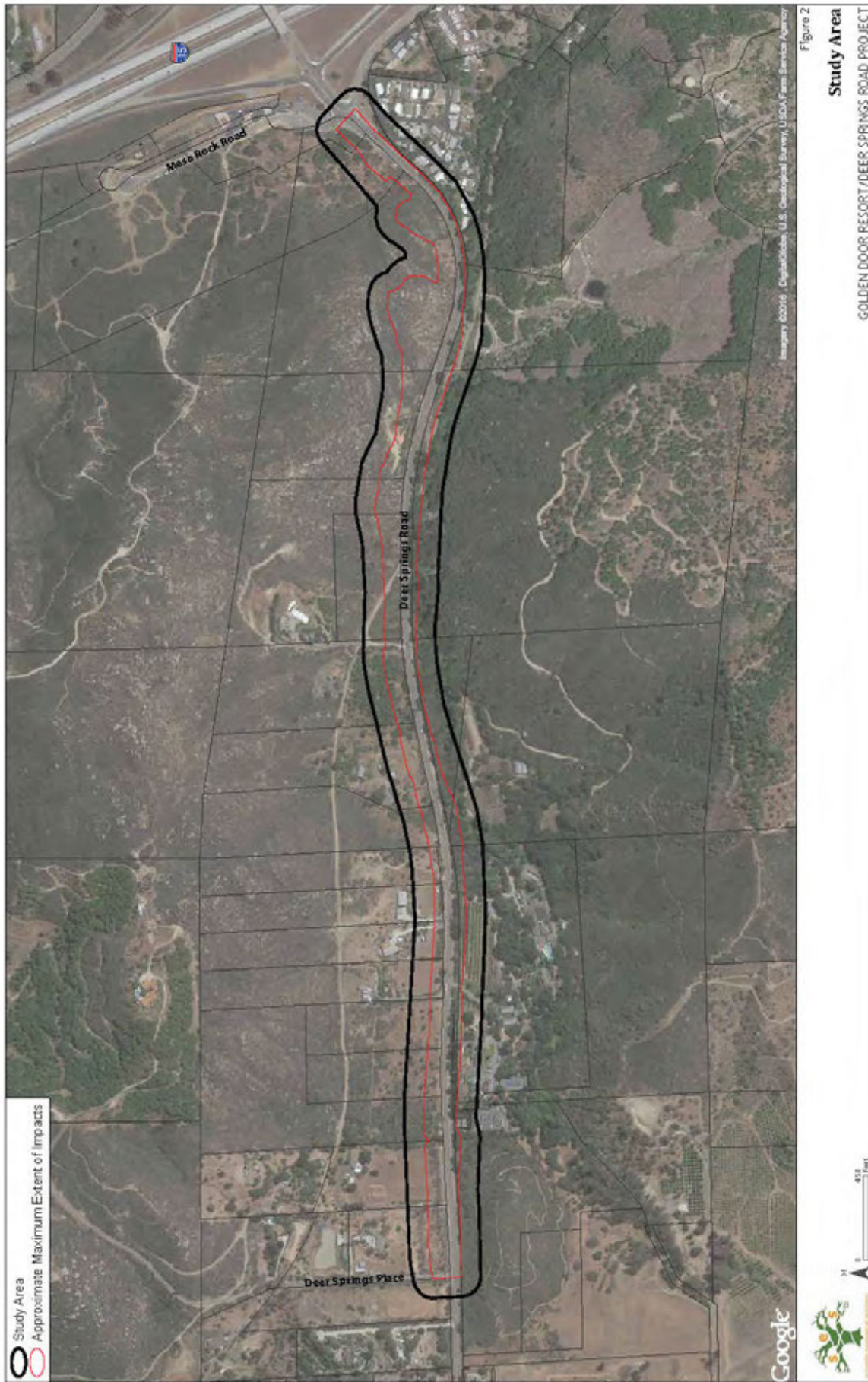


Figure 1

Project Location

GOLDEN DOOR RESORT / DEER SPRINGS ROAD PROJECT





2.0 Survey Methods and Limitations

Christina Schaefer, biologist with Schaefer Ecological Solutions, conducted a reconnaissance survey of the study area on March 2, 2016, from 9:30 am to 2:30 pm. At the time of the survey, the study area was conceptually identified and mapped using the proposed 6-lane road widening footprint (Figure 2). The biological survey consisted of a windshield and pedestrian survey of the road alignment within the study area. The car was stopped intermittently both sides of the road were surveyed on foot within the public ROW. The property of the Golden Door Spa Resort was surveyed on foot within the study footprint and beyond to understand potential indirect impacts to biological or wetlands resources. Habitat within the study area was assessed for suitability to support potentially occurring sensitive plant and animal species, including California gnatcatcher (*Poliotptila californica californica*), which is known to occur in the coastal sage scrub habitat north-east of the study area immediately west of I-15 and north of Deer Springs Road outside the survey area. Any incidental observation of wildlife species, or sign thereof, and sensitive plants were also recorded.

2.1 Literature Review

Prior to conducting biological surveys, potentially occurring sensitive biological resources were identified through a review of the following species databases: California Natural Diversity Database (CNDDB 2015), MSCP Species Database, U.S. Fish and Wildlife Service (2004), California Department of Fish and Game (2004), California Native Plant Society's (CNPS) Inventory of Rare and Endangered Vascular Plants (CNPS 2004), the San Diego Natural History Museum's (SDNHM) Bird and Mammal Atlas databases.

2.6. Survey Limitations

The survey was not a detailed, focused survey but rather a reconnaissance of the existing vegetation communities and potential habitats for any sensitive flora and fauna. Survey limitations include a diurnal wildlife bias. Wildlife species that are secretive in their habitats, nocturnally active, or may require trapping efforts to determine presence/absence would not have been observed or detected during the general wildlife surveys. Birds represent the largest component of the vertebrate fauna, and because most birds are active in the daytime, diurnal surveys maximize the number of observations of this portion of the fauna.

2.7 Nomenclature

Nomenclature used in this report follows the conventions used by the County of San Diego Planning and Development Services Department for planning, zoning, environmental review and biological analysis (http://www.sandiegocounty.gov/content/sdc/pds/Project_Planning_page.html). Vegetation community classifications follow Holland/Oberbauer (1986/2009).

3.0 Results and Existing Conditions

The following information provides details about the physical conditions and the biological resources mapped in the study area, including vegetation communities, flora, fauna, and wildlife movement.

3.1 Physical Characteristics

The study area surrounds Deer Springs Road between I-15 and Deer Springs Place in the Peninsular Range of California. The stretch of road between I-15 and Deer Springs Place is situated in a rural context in San Diego County east of the City of San Marcos. The landscape is characterized by natural hills on both sides of the road, native vegetation, granitic boulders, and rural/agricultural land uses. Elevations range between approximately 800 feet to 1,000 feet above mean sea level.

A blue-line creek runs along the southern extent of Deer Springs Road and bifurcates the Golden Door property in the study area. The creek is a narrow, natural drainage featuring sandy alluvial substrate and river rock/cobble mostly void of erosion and sedimentation. The creek is surrounded by riparian habitat and dominated by closed canopy coast live oak riparian forest.



Deer Springs Road looking east, lined with oak riparian habitat and steep hillsides covered with chaparral and blooming ceanothus.

3.2 Biological Resources

3.2.1 Vegetation Communities

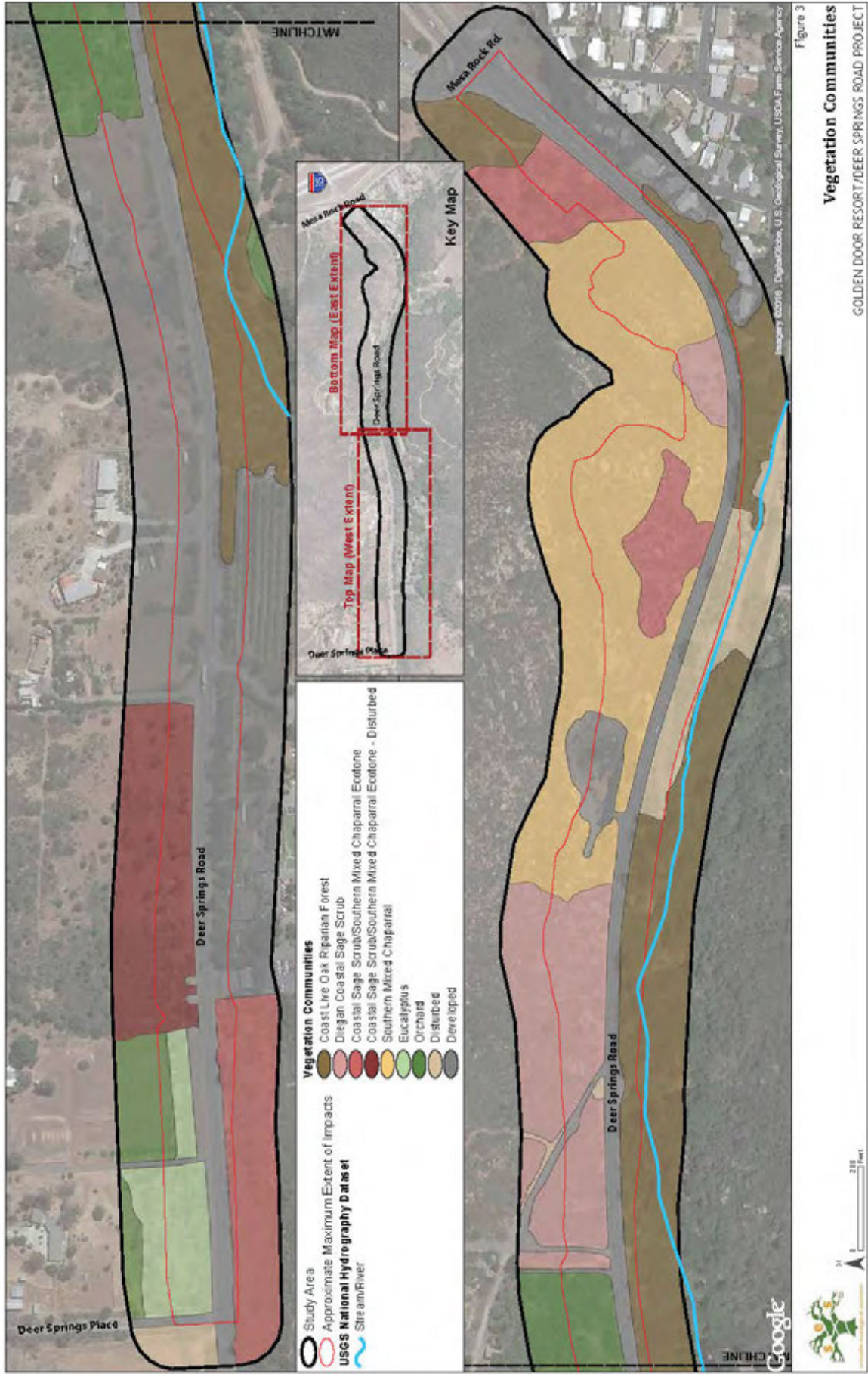
The dominant vegetation communities in the study area include coast live oak riparian forest, southern mixed chaparral, coastal sage scrub and an ecotone of coastal sage scrub/southern mixed chaparral. Other land covers are characterized by rural residential and include orchards and the development of Golden Door Resort and Spa, which incorporates native plant communities and agricultural, residential and institutional land uses (Figure 3).



Coastal sage scrub habitat typical for the study area.

Diegan Coastal Sage Scrub (32500)

Diegan coastal sage scrub (CSS) is considered a sensitive habitat by local, state, and federal regulatory agencies primarily because it supports a number of state- and/or federally-listed as threatened or endangered vascular plant and wildlife species (including most notably the federally-listed as threatened coastal California gnatcatcher). Diegan coastal sage scrub is considered a sensitive habitat under the MSCP, falling within Tier II of sensitive upland vegetation communities.





Coastal prickly pear
in the study area.

Diegan coastal sage scrub is regulated by the under the U.S. Fish and Wildlife Service (USFWS) pursuant to one of Sections 4(d), 7 and 10 of the FESA and by the California Department of Fish and Wildlife (CDFW) via the NCCP Act. Formerly widely distributed in the region, CSS has lost much of its historic range to development and agricultural conversion. In the wake of the recent wildfires, CSS-constituent shrubs are significantly reduced in stature and are therefore less conspicuous than prior to the fires. Constituent indicator species of CSS observed in the study area included California buckwheat (*Eriogonum fasciculatum*), California sagebrush (*Artemisia californica*), and black sage (*Salvia mellifera*). In addition, other common coastal sage and chaparral species such as Our Lord's candle (*Yucca whipplei*) and coastal prickly pear (*Opuntia littoralis*) are present in the CSS communities within the study area. Approximately 4.6 acres of CSS occur in the study area.

Southern Mixed Chaparral (37120)

Southern mixed chaparral (SMC) is composed of broad-leaved sclerophyllous shrubs that can reach 6 to 10 feet in height and form dense, often nearly impenetrable stands with poorly developed understories. Shrubs are generally tall and deep rooted, with a well-developed soil litter layer, high canopy coverage, low light levels within the canopy, and lower soil temperatures (Keeley and Keeley 1988). This vegetation community occurs on dry, rocky, often steep north-facing slopes with little soil. As conditions become more mesic, broad-leaved sclerophyllous shrubs that re-sprout from underground root crowns become dominant. Species present on site include chamise (*Adenostoma fasciculatum*), toyon (*Heteromeles arbutifolia*), and laurel sumac (*Malosma laurina*) and California lilac (*Ceanothus* sp.). Approximately 9.3 acres of southern mixed chaparral was mapped on the south-facing slopes north of Deer Springs Road.

Coastal Sage Scrub/Southern Mixed Chaparral Transition (37G00)

The central and northern portion of the study area appears to be a mix of CSS and SMC, forming an ecotone or transition, which occurs on the south-facing slopes north of Deer Springs Road. Some of



Southern mixed chaparral typical for the study area.



Blooming California lilac,
monkey flower, and chamise in
the study area.

this habitat is disturbed by previous agricultural land use or private residences. Approximately 8 acres of this ecotonal community occur in the study area.

Southern Coast Live Oak Riparian Forest (61310)

Southern coast live oak riparian forest (CLORF) is considered a sensitive habitat under the North County MSCP (NCMSCP). It is also conditionally regulated by the U.S. Army Corps of Engineers (Corps) and CDFW as a component of Corps-jurisdictional wetlands/Waters of the United States and CDFW-jurisdictional wetlands/riparian habitat pursuant to the Cowardin Wetland Classification System (Cowardin *et al.* 1979), respectively. The perennial/intermittent streams in the study area support substantial amounts of mature, recovering riparian



Oak riparian forest lining the tributary along Deer Springs Road.

woodland habitat. The dominant vegetation community surrounding the unnamed tributary in the study area is southern coast live oak riparian forest. Coast live oak (*Quercus agrifolia*) is the dominant tree species within this community. In addition, scattered western sycamore (*Platanus racemosa*), unidentifiable willow trees (*Salix* spp.), and small patches of mulefat (*Baccharis salicifolia*) occur within this community but are sub-dominant components of the community. Approximately 11.5 acres of this community occurs in the study area.

Disturbed Land (11300)

Disturbed habitats within the study area consist of barren or mostly barren areas impacted by human activities such as trails, fallow fields, or other barren areas created by human use. Plant species observed within the disturbed areas include a high percentage of non-native forbs and weeds. Approximately 2.6 acres of disturbed habitat occurs in the study area.

Eucalyptus Woodland (79100)

This category refers to non-native woodlands dominated by eucalyptus trees that are not maintained or artificially irrigated. Eucalyptus are native to Australia and have been planted in California as windbreaks or sources for wood because it is well adapted to the Mediterranean climate. Eucalyptus lines a portion of the north-western segment of the study area and also occur there as a eucalyptus grove. It is also interspersed in the riparian areas and on residential properties. Approximately 1.7 acres of eucalyptus woodland occurs in the study area.

Orchards/Vineyards (18100)

Orchards and other agricultural uses line Deer Springs Road; this land cover type consists of cultivated plants, fields, vineyards and orchards that are artificially irrigated, as well as fields that have naturalized into otherwise native habitat areas or were put in place by humans, usually for the purpose of beautification,

windbreaks, or other related purposes. The majority of agricultural uses within the survey boundaries consist of citrus groves. Approximately 3.7 acres of orchard land cover was mapped in the study area.

Urban / Developed (12000)

Urban/developed areas within the study area include permanently impacted areas such as structures, roads, and driveways as well as ornamental vegetation associated with the fringes of developments and spill-over from private yards. About 19.7 acres of developed land are found in the study area mainly along the northern segment of Deer Springs Road, the Golden Door facility and a trailer park in the south-eastern portion of the study area.

3.3 Wildlife Movement

Wildlife movement corridors are linear features that connect large patches of natural open space and provide habitat conditions for the movement of small and large animals (CBI 2003). They serve as avenues for dispersal and migration of animals, as well as the distribution of plants (e.g., via wildlife vectors). Wildlife corridors contribute to population viability in several ways. For example, they (1) assure continual exchange of genes between populations which helps maintain genetic diversity; (2) provide access to adjacent habitat areas representing additional territory for foraging and mating; (3) allow for a greater carrying capacity; and (4) provide routes for colonization of habitat lands following local population extinctions or habitat recovery from ecological catastrophes.

The survey area is located along a rural natural stream south of Deer Springs Road through a valley that provides excellent opportunities for wildlife movement. Animal tracks and sign observed in and around the creek during the reconnaissance survey included bobcat (*Felix concolor*), coyote (*Canis latrans*), raccoon (*Procyon lotor*), and mule deer (*Odocoileus hemionus*). Golden eagles (*Aquila chrysaetos canadensis*) have been observed foraging in the study area; an active nest was confirmed in the area in the spring of 2016. Mountain lion (*Puma concolor*) may also occur in the area.

3.4 Sensitive Species and Habitats

This section describes sensitive biological resources, including sensitive vegetation communities and jurisdictional resource regulated by federal and state laws and regulations, federally and state-listed species, species and habitats considered rare or sensitive under CEQA and the County of San Diego Draft NCMSCP. Sensitive habitats are those that are considered rare within the region, are considered sensitive by CDFW (Holland 1986), or that support sensitive plant or animal species.

Sensitive habitats are those that are considered rare within the region, are considered sensitive by CDFW (Holland 1986), listed as sensitive under the NCMSCP, or that support sensitive plant or animal species. The sensitive habitats that occur within the study area include southern coast live oak riparian forest, southern mixed chaparral and Diegan coastal sage scrub.

Sensitive species are defined as endangered, rare or threatened in Section 15380 of the CEQA Guidelines. Sensitive species are plants and animals that have been listed as endangered, threatened, or rare, or identified as candidates for listing pursuant to the Federal or California Endangered Species acts (FESA, CESA) or the Bald and Golden Eagle Protection Act (BGEPA). A species not listed by the endangered

species acts shall nevertheless be considered sensitive, if the species can be shown to meet the following criteria:

- When its survival and reproduction in the wild are in immediate jeopardy from one or more causes, including the loss of habitat, change in habitat, over-exploitation, predation, competition, disease, or other factors; or
- Although not presently threatened with extinction, the species is existing in such small numbers through all or a significant portion of its range that it may become endangered if its environment worsens; or
- The species is likely to become threatened or endangered within the foreseeable future throughout all or a significant portion of its range and may be considered threatened as the term is used in the FESA.
- If a species is covered by a Natural Community Conservation Program (NCCP), in this case the NCMSCP.

Species that are federally and state listed as threatened or endangered are afforded a degree of protection requiring a permit or consultation and specific mitigation measures before the project is allowed. Listed species are “in danger of extinction throughout all or a significant portion of its range” or “likely to become endangered in the foreseeable future.”

The status “State Species of Special Concern” and “Fully Protected Species” apply to animals not necessarily listed under the FESA or CESA, but which nonetheless are; (1) declining at a rate that could result in listing or (2) historically occurred in low numbers and known threats to their persistence currently exist. The CNPS Inventory of Rare and Endangered Vascular Plants of California is sanctioned by CDFW, and serves as a Species of Special Concern list for plants. Plant and wildlife Species of Special Concern and plants with a CNPS designation of 1a, 1b, and 2 observed or that could potentially occur in the survey area are analyzed as sensitive for the purposes of CEQA.

Potentially occurring species per the CNDDDB data are those that have been documented outside, but within 1 kilometer surrounding the study area. These species have the potential to occur on site based on habitat preferences and distribution. Federally designated critical habitat for the California gnatcatcher is mapped approximately 0.5 miles east of the study area, east of I-15, and about 1 mile north of the study area. The California gnatcatcher is a federally threatened species and is covered under the Draft NCMSCP. Potentially occurring or observed sensitive species are listed in Table 1. Furthermore, the County of San Diego regulates sensitive plant species in groups. Impacts to Narrow Endemic and County Group A and B plant species must be avoided to the maximum extent practicable. Groups C and D are required to be protected by using the design requirements and habitat-based mitigation requirements.

Table 1. Listed or Sensitive Plant and Animal Species with Potential to Occur

Species ¹	Status ²	Potential to Occur/Habitat
PLANTS		
San Diego thormmint (<i>Acanthomintha ilicifolia</i>)	FT/CE/1B/A NCMSCP covered (SAP), List A	Low. Listed annual plant species that only occurs in San Diego County in openings within coastal sage scrub, chaparral and native grassland. The species has been observed south of the study area.
Rainbow manzanita (<i>Arctostaphylos rainbowensis</i>)	--/--/1B/A NCMSCP covered, List A	Low. Endemic to northern San Diego and southern Riverside counties, most common in the lower elevation coastal Santa Ana Mountains in the area of Rainbow. Occurs in chaparral.
Summer holly (<i>Comarostaphylis diversifolia</i>)	FSC/--/1B/A NCMSCP covered, List A	Observed. Occurs in chaparral habitat on the Golden Door property.
Ramona horkelia (<i>Horkelia truncata</i>)	--/--/1B.3, List A	Occurs in chaparral in San Diego County and has been observed within 1 mile of the study area.
Nuttall's scrub oak (<i>Quercus dumosa</i>)	FSC/--/1B/A NCMSCP covered, List A	Observed. Occurs in chaparral and chaparral/coastal sage scrub ecotones on the Golden Door property.
Parry's tetracoccus (<i>Tetracoccus dioicus</i>)	FSC/--/1B/A NCMSCP covered, List A	Moderate. Occurs in chaparral and has been observed in the vicinity of the study area.
INVERTEBRATES		
Quino checkerspot Butterfly (<i>Euphydryas editha quino</i>)	FE/-- NCMSCP covered	Moderate. Occurs in open sage scrub and chaparral, which is present in the study area. Requires abundant nectar and primary host plant dwarf plantain (<i>Plantago erecta</i>). Not reported in project study area.
VERTEBRATES		
Reptiles		
Southwestern pond turtle (<i>Actinemys marmorata</i>)	FSC/CSC NCMSCP covered	Moderate. Found in ponds, lakes, rivers, streams, creeks, marshes, and irrigation ditches, with abundant vegetation. Habitat includes a number of reservoirs and cattle ponds in the study area.
Arroyo toad (<i>Anaxyrus californicus</i>)	FE/SSC NCMSCP covered	Low. This species is typically associated with gravelly or sandy washes, stream and river banks in the semiarid parts of the southwest. Potential habitat exists in the creek south of Deer Springs Rd., but no observations have been reported and no critical habitat has been designated in the study area.
Orange-throated whiptail (<i>Aspidocelis hyperythra</i>)	--/CSC NCMSCP covered	High. Occurs in open coastal sage scrub, chaparral and woodlands.
Two-striped garter snake (<i>Thamnophis hammondi</i>)	--/CSC NCMSCP covered	Moderate. Occurs in habitats associated with water. May occur in project area in the creek and reservoirs and cattle ponds.
Birds		
Cooper's hawk (<i>Accipiter cooperii</i>)	--/CSC	High. Typically found in riparian woodland and adjacent lands where they forage. Nests primarily in oak woodlands but occasionally in willows or eucalyptus in residential areas.
Coastal California gnatcatcher (<i>Polioptila californica californica</i>)	FT/CSC NCMSCP covered	High. May occur in coastal sage scrub in the project area. Previously reported from the project vicinity. Suitable habitat exists.

Golden eagle (<i>Aquila chrysaetos canadensis</i>)	BGEPA/CSC NCMSCP covered	Observed. Golden eagle foraging habitat includes extensive areas of open sage scrub, grasslands, recently burned chaparral, agricultural fields, and oak woodlands and forest. This species nests on cliffs and in large trees capable of supporting a large nest platform in open areas. Golden eagles nest in the study area.
Mammals		
American badger (<i>Taxidea taxus</i>)	--/CSC NCMSCP covered	Moderate. Badger occur in level, open areas in grasslands, agricultural areas, and open shrub habitats, but have also been reported in coast live oak riparian forest.
Mountain lion (<i>Felis concolor</i>)	--/CSP NCMSCP covered	High. Habitat is present, and anecdotal evidence/observations exists that mountain lion uses the study area as part of a territory.

¹ **Data Source:** The most recent versions of the following databases were queried within 1 kilometer of the survey area –ESP, SANDAG, CNDDDB, SDNHM, USFWS, CDFW, and USFS.

² **Status:** The format for the species status is [federal status] / [state and/or CNPS status]. A double dash"--"means that there is no official sensitivity status. Federal: FE – endangered, FT – threatened, BGEPA – Bald and Golden Eagle Protection Act, DL – federally delisted. State: SE – endangered, ST – threatened, SR – rare, CSC – California special concern, CSP – California protected species, FP – fully protected. NCMSCP covered – subject to regulations by the North County Multiple Species Conservation Program; SAP – Species Avoidance Policy (80% conservation). *California Native Plant Society (CNPS)*: List 1B – Plants rare, threatened, or endangered in California and elsewhere, List 2: Plants rare, threatened, or endangered in California, but more common elsewhere, List 3 – Plants about which we need more information, List 4 – Plants of limited distribution (a watch list). County of San Diego List A: plants that are rare, threatened or endangered in California or elsewhere.

3.5 Jurisdictional Areas

Non-wetland waters of the U.S. are based on the limits of the Ordinary High Water Mark (OHWM) as determined by erosion, the deposition of vegetation or debris, and changes in vegetation and soil characteristics. The determination of Corps jurisdictional wetlands require a routine determination according to the methods outlined in the Corps Wetland Delineation Manual (Environmental Laboratory 1987), the Arid West Wetland Delineation Supplement (August 2008) and the December 2, 2008 guidance letter from the Corps (to be amended in 2016). The Corps defines wetlands by the presence of three characteristics: hydrophytic vegetation, wetland hydrology, and hydric soils. CDFW jurisdictional wetlands and streams are defined according to the guidance presented in A Field Guide to Lake and Streambed Alteration Agreements Sections 1600–1607. (Environmental Services Division, 1994) consistent with to the USFWS approved Cowardin wetland classification system (Cowardin et al. 1979).

The study area includes a blue-line stream that runs along the southern portion of Deer Springs Road (Figure 3). Historical aerial photographs from 1938 show this creek meandering within the granitic escarpments of the foothills (www.historicaerials.com). The creek exhibits bed and bank and an OHWM, and contains hydrophytic plant species and signs of hydrology indicative of regulated wetlands. The creek is most likely under the jurisdictional authority of the Corps, Regional Water Quality Control Board (RWQCB), and CDFW; a formal wetlands delineation will need to be conducted for a conclusive jurisdictional determination. In addition, the creek would also be subject to the County of San Diego Resource Protection Ordinance (RPO), which prohibits impacts to wetlands.

4.0 Regional and Regulatory Context

The project site lies within the unincorporated County of San Diego and encompasses sensitive habitats and species under protection by the federal and state governments and the County of San Diego, as follows.

4.1 Federal Endangered Species Act

In the absence of an approved NCCP, impacts to federally listed species may be addressed under Section 10(a), or 7 of the federal Endangered Species Act (FESA). In addition, impacts to the threatened coastal California gnatcatcher or its coastal sage scrub habitat can also be addressed under Section 4(d) of the FESA. Section 10(a) allows issuance of permits for incidental take of endangered or threatened species, provided a habitat conservation plan (HCP), demonstrating how the take will be minimized and describing measures to ensure the species' survival, is approved. Section 7 describes a process of federal interagency consultation for use when the actions of one agency would affect a listed species.

4.2 Clean Water Act

Federal wetland regulation (non-marine issues) is guided by the Rivers and Harbors Act of 1899 and the Clean Water Act (CWA). The Rivers and Harbors Act deals primarily with discharges into navigable waters, while the purpose of the CWA is to restore and maintain the chemical, physical, and biological integrity of all Waters of the U.S. Permitting for projects filling Waters of the U.S. (including wetlands) is overseen by the Corps under Section 404 of the CWA. In addition, when a Section 404 permit is required, a CWA Section 401 Water Quality Certification is also required from the San Diego Regional Water Quality Control Board (RWQCB). For projects not requiring a Section 401 Water Quality Certification, the RWQCB may elect to regulate Waters of the State under the Porter-Cologne Act. If a CWA permit is required that might result in impacts to a federal-listed species, the Corps would be required to undergo a consultation with the USFWS pursuant to Section 7 of the FESA.

4.3 Migratory Bird Treaty Act

The Migratory Bird Treaty Act (MBTA) makes it unlawful to directly take any migratory bird or part, nest, or egg of such bird listed in wildlife protection treaties between the U.S. and other countries. Most bird species are protected under the MBTA.

4.4 Bald and Golden Eagle Protection Act

The Bald and Golden Eagle Protection Act is a U.S. federal statute that protect these two eagle species by prohibiting disturbance and take of the species, similar to that described in the Federal Endangered Species Act. The structure of the Act resembles the MBTA. The Act is administered by the USFWS and is tasked with recovering eagles from historic decline. Handling, studying, relocating nests, and collecting feathers and other parts requires permits issued by USFWS.

4.5 California Department Of Fish And Wildlife Fish and Game Code

The CDFW is responsible for issuing permits for impacts to state of California listed plant and animal species under Section 2081 of the California Fish and Game Code. Nests, eggs, chicks, and adults of all

birds, including raptors (Orders Strigiformes and Falconiformes), are protected under Fish and Game Code 3503.5. No state listed plant or animal species were detected on site, and impacts to the state-listed as endangered least Bell's vireo would be avoided, so no Section 2081 permit will be required. The CDFW is also responsible for issuing permits for impacts to state (CDFW) jurisdictional wetlands and wetland habitats. CDFW jurisdictional areas include both Corps jurisdictional areas and other areas with riparian vegetation that do not meet all three federal jurisdictional wetland criteria. Any impacts to CDFW jurisdictional areas will require a Streambed/Lake Alteration Agreement permit under California Fish and Game Code Section 1602.

4.6 Natural Communities Conservation Plan / NCMSCP

California's NCCP focuses largely on conserving large areas of native habitat and the habitats that link those areas to help preserve California's native fauna and flora at the landscape and regional levels. The County of San Diego has developed the NCMSCP that covers the study area. This NCMSCP will serve as a multiple species Habitat Conservation Plan (HCP) pursuant to section 10(a)(1)(B) of the federal Endangered Species Act (ESA), as well as a Natural Community Conservation Plan (NCCP) under the California NCCP Act. The Plan has been submitted to the Wildlife Agencies in support of applications for permits and authorizations for incidental take of listed, threatened, or endangered species or other species of concern and is expected to be adopted in 2016. The County will be issued an incidental take permit for species that are found to be covered by implementation of the plan.

The Plan area encompasses 294,849 acres in and around the unincorporated areas within the North County's land use jurisdiction. Most of the inland areas are made up of chaparral or oak woodland vegetation with several large river systems running east-west that contain extensive riparian woodlands and forests.

Under the proposed plan, the study area would fall within the NCMSCP Pre-Approved Mitigation Area (PAMA). The PAMA has been designated in sensitive habitats and biologically important areas to conserve, protect, and enhance biological functions and values, and contribute to the recovery of sensitive species within the Planning Area in perpetuity. The County's NCCP implementing document, the Biological Mitigation Ordinance (BMO), identifies sensitive biological resources, vegetation communities by sensitivity (Tier), thresholds for significance and mitigation ratios by sensitivity and mitigation site location. Habitats are classified in different tier levels based on scarcity or sensitivity.

4.7 County of San Diego Resource Protection Ordinance

The NCMSCP has not yet been approved, and in the interim, the County of San Diego's RPO applies to all projects in the unincorporated County that are covered under an approved NCCP. The RPO's intent is to increase the preservation and protection of the County's unique topography, natural beauty, diversity, and natural resources and a high quality of life for current and future residents of the County of San Diego. The RPO protects wetlands, floodplains, sensitive habitats, and steep hillsides from development and controls encroachment on these resources. A Resource Protection Study would be required by the County to adequately evaluate project impacts to RPO resources, including wetlands. Under the RPO, Mobility Element roads must make findings that there is no less environmentally damaging alternative alignment.

5.0 Constraints Analysis

The study area contains sensitive habitats and suitable habitats for a number of sensitive species. Impacts to sensitive resources should be avoided or minimized to the greatest extent practicable. Encroachment on habitats and resources regulated by the County's RPO or, once approved, NCMSCP must be limited in sensitive resources such as wetlands, floodplains, sensitive habitats and on steep hillsides. If impacts to sensitive resources are unavoidable they require mitigation in form of habitat conservation or creation/restoration pursuant to federal, State or local regulations and ordinances.

Pursuant to available information, background data and reconnaissance field visit, the following biological constraints were identified for the widening of Deer Springs Road within the study area.

5.1 Vegetation Communities

The study area contains sensitive vegetation communities, including coastal sage scrub, southern mixed chaparral, coast live oak riparian forest, and jurisdictional waters and wetlands. Other vegetation communities, such as eucalyptus woodland, while not sensitive are regulated through their habitat features, e.g., trees that could provide nesting habitat for migratory birds regulated under the MBTA. Vegetation communities are listed in Table 2 by sensitivity, Tier I being most sensitive and Tier IV least sensitive. Based on the impact boundaries the Deer Springs Road widening, the following impacts could potentially occur to vegetation communities and land cover types in the study area based on the potential limits of grading provided for the road widening project in the Merriam Mountain EIR (County 2009).

Table 2. Potential Impacts to Vegetation Communities

Holland Code	San Diego County Tier	Vegetation Community	Acres in Study Area	
			Existing	Impact
61310	Tier I	Coast Live Oak Riparian Forest (CLORF)	11.49	3.19
32500	Tier II	Diegan Coastal Sage Scrub (CSS)	4.58	2.62
37G00	Tier II	CSS-SMC Transition	4.68	2.01
37G00	Tier II	CSS/SMC Transition - Disturbed	3.28	1.35
37120	Tier III	Southern Mixed Chaparral (SMC)	9.26	4.84
11300	Tier IV	Disturbed	2.59	0.92
79100	Tier IV	Eucalyptus Woodland	1.72	1.17
18100	Tier IV	Orchards and Vineyards	3.67	1.31
12000	NA	Developed	19.72	10.52

Impact to sensitive vegetation communities could potentially amount to almost 30 percent of the available coast live oak riparian habitat, half of the available coastal sage scrub, and half of the available southern mixed chaparral habitat in the study area. These vegetation communities are considered sensitive and require mitigation of a ration up to 3:1 for Tier I communities (e.g., CLORF). In addition, impacts to agricultural resources such as citrus and avocado groves covered by the orchards and vineyards vegetation community may be regulated under the County of San Diego's Farmland of Local Importance advisory.

5.2 Sensitive Flora and Fauna

The study area contains sensitive habitats and suitable habitats for a number of sensitive species. No focused surveys were conducted for this constraints analysis, and impacts can only be determined and quantified upon further detailed analysis. Pursuant to available information, background data and reconnaissance field visit, the following sensitive flora and fauna were identified for the widening of Deer Springs Road within the study area.

5.2.1 Flora

Sensitive plant species have been observed within and adjacent to the study area. Specifically, the following NCMSCP-covered and Group A plant species could potentially be impacted by the project: summer holly, Ramona horkelia, Nuttall's scrub oak and Parry's tetracoccus. Because the reconnaissance survey performed for this effort would have not used methods to conclusively identify these species, sensitive plant surveys conducted at the appropriate time for highest detectability (e.g., blooming period) should be conducted to locate any individuals or populations of these and other sensitive plants and evaluate impacts to the species from the road widening. Impacts to these plants must be avoided to the maximum extent practicable; if unavoidable, impacts must not exceed 20 percent of the onsite population and in-kind preservation at a 1:1 to 1:3 ratio will be required. Once approved, the NCMSCP may have specific conservation and mitigation requirements for these species.

5.2.2 Fauna

California Gnatcatcher

The federally threatened California gnatcatcher (*Polioptila californica californica*) was observed in 2002 0.3 mile north of the study area at the intersection of Deer Springs Road and Highway 395 west of I-15; the species is a County of San Diego sensitive (Group 1) species and also covered by the NCMSCP. Suitable habitat for the gnatcatcher exists in the study area. The California gnatcatcher is a federally threatened species covered by the NCMSCP and primarily uses coastal sage scrub habitat for nesting and foraging. If the NCMSCP was not approved by the time the widening project was being planned and coastal sage scrub is impacted by the project, the applicant will be required to receive Habitat Loss Permit (HLP) from the County of San Diego under Section 4(d) of Section 4(d) of the Endangered Species Act. The County has reached its acreage limits and will no longer issue HLPs. Therefore, impacts to gnatcatchers and gnatcatcher-suitable habitat must be avoided unless they can be permitted by an approved NCMSCP. Avoidance measures may also include avoidance of the gnatcatcher breeding season (March 1 through August 15) during construction.

Southwestern Pond Turtle

The southwestern pond turtle (*Actinemys marmorata*) has historically been recorded from the study area. The species has been rapidly declining in the County due to habitat loss. The U.S. Geologic Survey (USGS) has been conducting a region-wide trapping study for SANDAG, the data for which should be considered when evaluating potential occurrence of this species in the study area. Habitat for the species include a series of ponds in the study area, and the likelihood of the species to occur in the study area is moderate. A habitat assessment should be conducted to evaluate whether focused surveys are needed to identify presence of the species.

Golden Eagle

The golden eagle (*Aquila chrysaetos canadensis*) has been observed foraging and nesting in the study area. A regional golden eagle study is currently being undertaken by the USGS in San Diego; the project area is part of this study and an active nest with chicks has been found in the study area in spring of 2016 (Robert Fisher, USGS, pers. comm. 2016). The species is a Group 1 species, covered under the NCMSCP and the federal Bald and Golden Eagle Protection Act. The widening of Deer Springs Road could potentially affect the species through direct mortality from roadkill; golden eagles may prey on roadkill and may become subject to a higher injury or death level than currently from increased traffic levels expected from the widened road. Indirect impacts may result from construction noise if the breeding season cannot be avoided, and from increased traffic noise that may affect the current nest location and could potentially cause nest abandonment. Further studies would be required to document impacts to this species.

American Badger

The NCMSCP-covered American badger (*Taxidea taxus*) has been observed within one mile south-west of the study area. Badgers require large territories and migrate over large distances. The species' migration patterns could potentially be affected by the road widening project from an increased risk of roadkill due to the increase of road width and traffic.

Mountain Lion

Mountain lion observations have been reported from the study area. Mountain lion is covered by the NCMSCP and could potentially be affected by the road widening from an increased risk in roadkill (see badger, above). Increased development as a cause or effect of the road widening may also increase the urban-wildlands interface and the risk of human interactions with mountain lions, which often carry the potential for mountain lions needing to be exterminated.

Both the golden eagle and badger have become regionally rare and are currently being studied by the USGS as part of the San Diego Associations of Governments (SANDAG) Environment Mitigation Program (EMP), a TransNet tax funded land acquisition, conservation and management program. The EMP's San Diego Mitigation and Monitoring Program (SDMMP) has prepared regional monitoring and management strategies to implement the regional NCCP plans, which will also include the implementation of the NCMSCP, once approved. Impacts to these species and their habitats may require mitigation.

5.3 Sensitive Wetland Communities (Jurisdictional Waters and Wetlands)

Vegetated and unvegetated wetlands associated with the blue-line stream south of Deer Springs Road would be regulated by the Corps, RWQCB, and CDFW. Under the current version of the County's RPO, impacts to wetlands are prohibited to conserve wetlands functions and values, including the conservation of sensitive habitats and waterways, and the protection of water quality. In addition, the County of San Diego also considers edge effects to natural drainages a potentially significant impact that would require mitigation. Edge effects are such indirect impacts as increasing human access, increasing pests or exotic species, altering natural drainages, and increase of noise and nighttime lighting.

Any impacts to the creek and associated federally or state-regulated wetlands would need to be avoided or minimized, and permitted by these federal and state agencies. If impacts could not be avoided, mitigation in form of wetlands creation (at ratio of 1:1 or higher) and restoration (at an additional ratio of 1:1 or higher) or the purchase of credits at an approved wetlands mitigation bank would be required by the regulatory

agencies and the County of San Diego. Since no approved mitigation bank currently sells credits in the services area around the project site, mitigation would likely require the purchase of offsite properties, habitat restoration, five-year post-restoration monitoring, securing of a conservation easement deeded to a third party, and the purchase of an endowment to manage the mitigation site in perpetuity.

5.4 Wildlife Movement

The survey area is located within the confines of a canyon/valley that is bifurcated by an east-west flowing blue-line stream. The area is surrounded by natural and agricultural landscapes, hills, and low-density rural development. The creek exhibits sign of wildlife use, including deer and coyote tracks traveling along and crossing the creek. Bobcat sign was also observed in the area. While neither of these species are federally or state listed or covered by the NCMSCP, they nevertheless are indicators of a healthy environment and functional urban-wildland interface. No studies identifying any formal wildlife corridors have been conducted in the area. However, evidence suggests that the study area is used by wildlife and connects major wildlife core areas west of I-15 within the PAMA of the NCMSCP.

While Deer Springs Road already exists, it is currently a two-lane road that would be crossed by wildlife during times of less traffic (e.g., at night). Widening the road to a four- or six-lane road would inhibit successful wildlife movement due to the width of the road crossing. A study conducted by the County of San Diego along Wildcat Canyon Road south of Ramona showed that road kill after road widening was higher than before widening in area not protected by a directional fence and wildlife under-crossings. Road kill within areas of directional fencing and wildlife tunnels/culverts had significantly lower roadkill occurrences (EDAW 2009).

5.5 Consistency with the MSCP and Local Ordinances

The project is located within the County of San Diego's NCMSCP Plan Area and within the PAMA. Once adopted, the project would be subject to the NCMSCP PAMA requirements as well as the County's BMO. The PAMA consist of important wildlife habitats in which conservation efforts will be focused, either through mitigation or conservation land acquisition from willing sellers. If a developer impacts habitat elsewhere, mitigation within the PAMA will reduce the amount of mitigation necessary. The protection of land within the PAMA is important for meeting the goals of the County conservation program. Impacts of lands within the PAMA are discouraged and require high mitigation ratios.

The lands within the Deer Springs Road widening footprint are included in the PAMA for the Draft NCMSP, and once adopted, PAMA-specific conservation and mitigation measures will apply. These measures will regulate impacts to sensitive biological resources, including NCMSCP-covered species, vegetation communities, federally and state-listed species, and narrow endemic plant species.

Agriculture is a major land use in North County. Therefore, farmland is specifically addressed in the NCMSCP. The County of San Diego encourages the conservation of farmland within the PAMA while also conserving the NCMSCP-covered species and habitat.

5.6 Conclusion

The project, as evaluated, would have potentially significant permanent impacts to biological resources, including direct and indirect impacts to sensitive vegetation communities, sensitive species, wildlife

movement and regulated waters and wetlands. Focused surveys for rare plants and animals, such as the California gnatcatcher, arroyo toad, and southwestern pond turtle, a wildlife movement study, and a formal wetlands delineation/determination are recommended to understand avoidance measures to be implemented by the project, and to quantify required mitigation.

At a minimum, a habitat assessment for southwestern pond turtle should be conducted by a herpetologist with documented pond turtle experience. In addition, golden eagle, southwestern pond turtle, and American badger information should be gathered from data currently collected by USGS. The potential for the occurrence of the federally endangered Quino checkerspot butterfly should also be evaluated based on the presence of host plants and nectaring plants. Furthermore, a wildlife movement study using cameras, wildlife tracking methods and a roadkill survey is recommended based on the tracks observed in the unnamed tributary along Deer Springs Road, and anecdotal wildlife observations. The results of a wildlife movement study would recommend the installation of wildlife crossings, including tunnels and culverts with a large enough opening ratio to allow animals to cross under the widened road.

A jurisdictional determination will be required to identify impacts to state and federal waters and wetlands. The unnamed tributary along Deer Springs Road lies within the footprint of the road widening and may need to be filled or rerouted. This would require authorization by the County of San Diego, which prohibits impacts to wetlands, a Clean Water Act Section 404 permit from the Corps, Clean Water Act Section 401 Water Quality Certification from RWQCB, and California Fish and Game Code Section 1600 Streambed Alteration Agreement from CDFW. Per these permits and the County's requirements, mitigation would be required through onsite habitat creation and restoration, acquisition of offsite properties and habitat creation and restoration, or the purchase of mitigation credits at an agency-approved mitigation bank (see discussion in Section 5.3). If on- or offsite mitigation would be pursued, conservation of the mitigation sites in perpetuity would be required through an approved conservation easement and the payment of an endowment to fund management of the mitigation sites in perpetuity. The endowment must be secured and the property managed by organizations (e.g., foundations and land trusts) approved by the Corps and CDFW. Restoration and conservation will also apply to mitigation for sensitive vegetation communities, specifically for oak woodlands and oak riparian forest (Tier I).

Analysis of biological resources and conservation/mitigation requirements are identified in the County's RPO and BMO, and may be dictated by the NCMSCP once the Plan is approved by the County. Avoidance measures for narrow endemic and NCMSCP-covered plant and animal species may need to be implemented. An analysis under the California Environmental Quality Act (CEQA) would need to be conducted to determine whether impacts are significant, require mitigation, and whether mitigation would reduce the impacts to a level below significance. Agriculture and farmlands may also specifically conserved under the NCMSCP once approved.

6.0 References

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April 8, 2016

VIA ELECTRONIC MAIL AND FEDERAL EXPRESS

Ashley Smith, Land Use/Environmental Planner
 County of San Diego
 Planning & Development Services
 5510 Overland Avenue, Suite 310
 San Diego, California 92123

Re: Engineering Design Information for Options for Alignment of County Route S12 to Reduce Environmental Impacts

Dear Ms. Smith:

As you know, we represent the Golden Door Properties LLC (the “Golden Door”). Adjacent to the Golden Door, the Newland Real Estate Group, LLC (“Newland”) has proposed a revised Merriam Mountains project, known as the “Sierra” project (the “Newland Project” or “Project”) on property located near Deer Springs Road. Newland’s proposal includes 2,135 residential units, 81,000 square feet of commercial development, a school, and various parks and equestrian facilities.

The Project also includes a proposal to build a new major east-west road to connect the various parts of the Project and widen County Route S12 to 4 to 6 lanes through Deer Springs Road. This new road would be located off-site from Newland’s development, rather than included within Newland’s development area and integrated into Newland’s project. This new road will also require Caltrans to undertake a major redesign and reconfiguration of the Deer Spring Road interchange. This letter transmits a conceptual report commissioned by the Golden Door that describes the feasibility of an on-site alignment for a major east-west road through Newland’s proposed development.

Background

The Golden Door opposes the Project. As we have discussed in previous letters, if the Project is built over our objection, it should be reduced in size and rely upon transportation options other than new roads or road widening. If, however, the Project must be built with new 4- or 6- lane (plus trails) widened County Route S12, we believe the new widened County S12

should be built in a location which minimizes or eliminates impacts to biological resources, including sensitive, endangered, and protected species; wildlife corridors; historic resources; tribal cultural resources; sensitive noise receptors; and community character.

As confirmed in our previous letters, the Golden Door has asked both Newland and County staff to analyze alternative alignments for County Route S12—rather than assuming that the road must be built through Deer Springs Valley. From a common sense perspective, it seems odd that the developer of a new major community would not design its project to include major new roads on the developer's own property. Additionally, we believe that the County has an obligation to study alternative alignments for Newland's road that could reduce or avoid significant environmental impacts. *See* 14 Cal. Code Regs. § 15126.2(a); Pub. Res. Code § 21081.5.

We have approached Newland about studying an "Option C" alignment for the road in addition to the Options A and B included in Newland's application. Newland's response thus far to the Golden Door has been that Option C is infeasible. We have specifically requested any information from Newland that supports that conclusion, but they have not yet provided us with any engineering or other information about their planning efforts involving a potential "Option C." We hope that you will take an independent look at these possible alternatives.

The Golden Door's Commissioned Concept Study for "Option C"

The Golden Door has hired Delane Engineering, Inc. to complete a technical memorandum (the "Memorandum") analyzing a Concept Alternative Alignment Study for County Route S12. As detailed in the attached Memorandum, an alternative alignment of expanded County Route S12 across Newland's own property—"Option C"—appears feasible from an engineering perspective, and would be comparable from an engineering and travel time perspective. For your reference, aerial photos of two proposed "Option C" alignments from the Memorandum are included below.



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We hope the County will use the Memorandum as the basis for retaining an independent engineering firm to conduct a complete evaluation and alternatives analysis for the County's environmental impact report under the California Environmental Quality Act. The analysis may also assist the County in the alternatives analysis that may be required for any federal permit or approvals from the Army Corps of Engineers, such as for wetlands impacts.

In addition, Delane's report identifies certain errors and inconsistencies in Newland's January 2016 submittals on proposed widening of Deer Springs Road.

Please note that the proposed Option C alignments in the attached Memorandum are conceptual. Both the County and Newland may conclude that there are other possible routes for an Option C approach beyond these preliminary concepts to provide an east-west route across Newland's property as part of their development plans. We look forward to the County's more detailed evaluation when the County takes an independent look at possible routes.

Thank you for your time and attention to our comments and the enclosed Memorandum. Please feel free to contact me at (858) 523-5400 or christopher.garrett@lw.com if you would like to discuss these matters further.

Best regards,

Christopher W. Garrett
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
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April 26, 2016

VIA ELECTRONIC MAIL AND FEDERAL EXPRESS

Ashley Smith, Land Use/Environmental Planner
 County of San Diego
 Planning & Development Services
 5510 Overland Avenue, Suite 310
 San Diego, California 92123

Re: Cultural Resources Reconnaissance Report in the Deer Springs Valley Region

Dear Ms. Smith:

As you know, we represent the Golden Door Properties LLC (the "Golden Door"), an award-winning spa and resort that opened in 1958. This historic haven is situated on approximately 600 acres on the south side of Deer Springs Road in northern San Diego County ("North County") in a narrow valley enclosed by steep hillsides on three sides. The Golden Door focuses on the health and fitness of its guests, and its property encompasses a peaceful array of hiking trails, luxurious spa amenities, tranquil Japanese gardens, and a bamboo forest.

We write to you regarding the proposed Newland Sierra Project (the "Project"), a revised Merriam Mountains project on property located near Deer Springs Road. Newland's proposal includes 2,135 residential units, 81,000 square feet of commercial development, a charter school, and various parks and equestrian facilities. The 2010 Merriam Mountains project required the expansion of Deer Springs Road from its current two-lane configuration, and the Newland Sierra Project includes a similar expansion of Deer Springs Road as one of several options for off-site transportation improvements.

The Golden Door opposes this Project. As we have discussed in previous letters, if the Project is built over our objection, it should be reduced in size and rely upon transportation options other than new roads or road widening. If, however, the Project must be built with a new 4- or 6- lane (plus trails) widened County Route S12, we believe the new widened County S12 should be built in a location which minimizes or eliminates impacts to biological resources, including sensitive, endangered, and protected species; wildlife corridors; historic resources; tribal cultural resources; sensitive noise receptors; and community character.

The Merriam Mountains EIR found that there is a potential for identified tribal human remains and cultural artifacts discovered at sites that would be impacted by widening Deer Springs Road. That EIR at section 9.2.3.1 states that “[c]ultural resource sites identified as CA-SDI-4558 and CA-SDI-9822, both of which are within the Deer Springs Road corridor, have been previously tested and identified as significant under the County of San Diego and CEQA criteria.” Merriam Mountains EIR at § 9.2.3.1. The Merriam Mountains project’s cultural resources survey noted the presence of pottery and cremated human remains on site, indicating sensitive Native American tribal resource sites that will require consultation with tribal officials prior to moving forward with any plans to widen Deer Springs Road.

In light of this, the Golden Door recently commissioned a cultural resources reconnaissance of the proposed widening of Deer Springs Road from Spindrift Archaeological Consulting, LLC. Arleen Garcia-Herbst, “Preliminary Results for Cultural Resources Reconnaissance of the Deer Springs Road Widening Project, City of San Marcos, County of San Diego, California” (April 2016) (“Cultural Resources Report”). A preliminary draft of the Cultural Resources Report is attached to this letter. We will provide a finalized version of the Cultural Resources Report with appendices to the County when it is completed. This report does not replace the analysis the County must conduct as a part of its environmental review.

The Cultural Resources Report is by no means exhaustive, but nonetheless discusses several sites that are within the Area of Potential Effects (“APE”) for widening Deer Springs Road. The reconnaissance includes a records search and literature review, indicating that five cultural resources have previously been recorded within a 200-foot radius of the Project APE. Cultural Resources Report at MS-1. Three cultural resources have been previously recorded within the Project APE. *Id.*

In addition, a field visit was conducted as a part of the inventory. In addition to the three previously identified cultural resource sites within the Project APE—CA-SDI-9822, CA-SDI-4558, and P-37-004369—two newly recorded resource sites were identified within the Project APE, GDS-001 and GDS-002. GDS-001 is a prehistoric site consisting of five bedrock milling features, each with one milling slick. Cultural Resources Report at 4-7. GDS-002 is also a prehistoric site adjacent to Deer Springs Road. *Id.* It contains a milling feature, and is approximately 250 feet to the east of CA-SDI-9822, lending support to the presence of additional cultural materials along Deer Springs Road. *Id.*

The field visit also identified two potential landscapes. The Cultural Resources Report proposes that the identified sites in the Deer Springs Valley may “form a prehistoric district and traditional cultural landscape used by the Pechanga Band of Luiseño Indians culture and meet the criteria specified in the National Register’s Criteria for Evaluation ... and [criteria] ... for the California Register.” Cultural Resources Report at 4-10. These sites will require extra inspection and recordation beyond the Project APE, and should be reported in a separate document. Further, the Cultural Resources Report proposes that the Golden Door itself may form a Designated Historic Landscape due to its distinctive buildings and surrounding landscapes, designed to emulate traditional Japanese architecture. *Id.* at 4-11.

As we have discussed in previous letters, given the close proximity of many cultural resources sites to Deer Springs Road—both previously identified and newly identified through the Spindrift field visit—the County should analyze alternatives that avoid widening Deer Springs Road, including an “Option C” route, which would run through Newland’s own property. Expanding Deer Springs Road in its current configuration may result in the destruction of the identified sites above, as well as any potentially unidentified sites. Under CEQA Guidelines section 15097, the County must mitigate or avoid significant environmental effects. As such, the County should take a deeper look at the potential impacts to cultural resources in its draft EIR for the Newland Project.

Thank you for your time and attention to our comments and the enclosed Cultural Resources Report. Please feel free to contact me at (858) 523-5400 or andrew.yancey@lw.com if you would like to discuss these matters further.

Best regards,



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PRELIMINARY RESULTS FOR
CULTURAL RESOURCES
RECONNAISSANCE OF THE
DEER SPRINGS ROAD
WIDENING PROJECT,
CITY OF SAN MARCOS,
COUNTY OF SAN DIEGO, CALIFORNIA

Prepared for

Golden Door Spa Resort
777 Deer Springs Road
San Marcos, CA 92069

Spindrift Project No. 2016-004

Prepared by Arleen Garcia-Herbst, RPA

April 2016



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TABLE OF CONTENTS

Executive Summary	ES-1
Section 1 Introduction	1-1
1.1 Project Location	1-1
1.2 Project Description	1-1
1.3 Area of Potential Effects (APE).....	1-5
1.4 Regulatory Context.....	1-5
1.5 Report Organization.....	1-5
Section 2 Setting	2-1
2.1 Existing Conditions	2-1
2.1 Regulatory Setting	2-7
Section 3 Methods	3-1
3.1 Personnel Qualifications	3-1
3.2 Records Search Methods	3-1
3.3 Native American Coordination Methods	3-2
3.4 Field Methods	3-2
Section 4 Results and Management Recommendations	4-1
4.1 Records Search results	4-1
4.2 Literature Review	4-1
4.3 Native American Coordination Results	4-3
4.4 Field Survey Results	4-3
4.5 Management Considerations	4-7
Section 5 References	5-1
Figures	
Figure 1	Vicinity Map
Figure 2	Location Map
Figure 3	Records Search Request Map
Figure 4	Survey Coverage Map
Appendices	
Appendix A	Records Search Confirmation
Appendix B	Native American Coordination
Appendix C	Project APE Photographs
Appendix D	Confidential DPR Forms
Figure 5	Confidential – Records Search Results Map

List of Acronyms and Abbreviations

AMSL	Above Mean Sea Level
APE	Area of Potential Effects
CEQA	California Environmental Quality Act
CHL	California Historical Landmarks
CHRIS	California Historical Resources Information System
City	City of San Marcos
CRHR	California Register of Historical Resources
CUP	Conditional Use Permit
CWSRF	Clean Water State Revolving Fund
CY	Cubic Yard
DPR	California Department of Parks and Recreation
EIR	Environmental Impact Report
EPA	United States Environmental Protection Agency
GPA	General Plan Amendment
MLD	Most Likely Descendant
NAHC	Native American Heritage Commission
NEPA	National Environmental Protection Act
NHPA	National Historic Preservation Act
NRHP	National Register of Historic Places
PI	Principal Investigator
RPA	Register of Professional Archaeologists
SDG&E	San Diego Gas & Electric
SPA	Specific Planning Area
SCIC	South Coastal Information Center
USGS	United States Geological Survey

National Archaeological Database

Author: Arleen Garcia-Herbst

Consulting Firm: Spindrift Archaeological Consulting

Report Date: April 2016

Report Title: Cultural Resources Reconnaissance for the Deer Springs Road Widening Project, City of San Marcos – County of San Diego, California

Prepared by: Spindrift Archaeological Consulting, 8895 Towne Centre Drive #105-248, San Diego, CA 92122

Submitted to: Golden Door Spa Resort

Project No. 2016-004

Acreage approximately 40.6 acres

Keywords: Deer Springs Road, Reconnaissance, GDS-001, GDS-002, P-37-004558/CA-SDI-4558, P-37-005951/CA-SDI-5951 and P-37-009822/CA-SDI-9822, Deer Springs Valley District and Traditional Cultural Landscape, Golden Door Spa Resort Historic Designed Landscape

EXECUTIVE SUMMARY

In 2016, the Golden Door Spa Resort retained Spindrift Archaeological Consulting, LLC (Spindrift) to conduct a cultural resources reconnaissance of the proposed Deer Springs Road Widening Project (hereafter known as Project) in the City of San Marcos (City). The entire Project Area of Potential Effects (APE) is composed of approximately 40.6 acres. The Project APE is located in San Diego County, California.

The reconnaissance included a records search and literature review. The records search results indicated eight (8) previous cultural resources studies were conducted within a 200-foot radius of the Project APE, and five (5) cultural resources have previously been recorded within a 200-foot radius of the Project APE.

Three (3) cultural resources have been previously recorded within the Project APE (Sites P-37-004558/CA-SDI-4558, P-37-005951/CA-SDI-5951 and P-37-009822/CA-SDI-9822).

A field site visit/reconnaissance was conducted as part of this inventory and the three previously identified cultural resources were identified on the ground surface within the Project APE, as well as two newly recorded resources (GDS-001 and GDS-002) and two potential landscapes (Deer Springs Valley District and Traditional Cultural Landscape, and Golden Door Spa Resort Historic Designed Landscape); recommendations for eligibility evaluations and the management of unanticipated discoveries are provided in this report.

SECTION 1 INTRODUCTION

In 2016, Spindrift was retained by Golden Door Spa Resort to conduct a cultural resources site visit/reconnaissance of a portion of the proposed Deer Springs Road Widening Project (Project APE), located in San Diego County (County), California. A pedestrian field site visit/Reconnaissance of the approximately 40.6-acre Project APE was required to identify potentially significant cultural resources (archaeological sites, historic buildings, structures, and objects) that could be affected by the project.

1.1 PROJECT LOCATION

The Project APE is located within the City of San Marcos (City). This project involves the widening of Deer Springs Road from Mulberry Drive (San Marcos City Limits) to Champagne Boulevard approximately 2.2 miles from Champagne Blvd/North Center City Parkway to County/City of San Marcos jurisdictional line (Figure 1). This project was requested by a Private Developer, San Diego-based Newland Real Estate Group, as part of the Newland Sierra Master Plan (County of San Diego, Department of Public Works 2015; Figueroa 2014). Newland Sierra is at the same location as the Merriam Mountains project that in early 2010 the county board of supervisors voted 3-2 against permitting it.

The Project APE includes the portion of the Deer Springs Road Widening Project area along Deer Springs Road between Interstate-15 on the east and Sarver Lane on the West. As shown on the United States Geological Survey (USGS) 7.5-minute San Marcos and Valley Center topographic quadrangles (1967, photorevised 1975), the Project APE is located within San Diego County (Figure 1).

1.2 PROJECT DESCRIPTION

The proposed Newland Sierra project includes two scenarios for improving Deer Springs Road (Grover 2015). Option A would reclassify Deer Springs Road from a 6.2 Prime Arterial (6-lane) to a 4.1A Major Road with Raised Median (4-lane) and a 2.1B Community Collector with Continuous Turn Lane (2-lane) in the Mobility Element of the General Plan. Under this option, the project would construct the segment of Deer Springs Road between Sarver Lane and Mesa Rock Road as a 2.1B Community Collector (2-lane), which would have higher capacity than the existing condition, and, according to Grover (2015), would improve the road to be consistent with County standards for this Mobility Element. The segments of Deer Springs Road south of Sarver Lane and east of Mesa Rock Road would be constructed as a 4.1A Major Road (4-lane) with auxiliary lanes as necessary, and a centerline realignment would be applied to the existing Deer Springs Road alignment in order to ensure a minimum of 750-foot turning radii along the entire alignment.

Option B would not reclassify Deer Springs Road; the roadway would remain as a 6.2 Prime Arterial (6-lane) in the Mobility Element of the General Plan (Grover 2015). Under this option, the project would construct the segment of Deer Springs Road from I-15 to 1,500 feet west of Mesa Rock Road as a 4.1A Major Road (4-lane), but would grade to the ultimate 6-lane configuration. The project would also construct the segment of Deer Springs Road from 1,500 feet west of Mesa Rock Road to just south of Sarver Lane as a 4.1A Major Road (4-lane); however, grading associated with this segment would not be to the ultimate 6-lane configuration, but rather to a 4-lane configuration.

SECTION ONE**Introduction**

Newland Real Estate Group's preferred option for Deer Springs Road is Option A. According to Grover's (2015) traffic modeling conducted for the proposed project, by constructing the east and west legs of Deer Springs Road to four lanes and keeping the center leg between Mesa Rock Road and Sarver lane at two lanes, the levels of service for all sections of Deer Springs Road fall into an acceptable range, except for the center two-lane segment. The center two-lane segment would remain at its current failing level of service during peak hours, as it is today. However, according to Grover (2015), there is a significant reduction in cut through trips since traffic on I-15 would be discouraged from using Deer Springs Road during peak hours. The added benefits, according to Grover (2015), include a reduction in environmental impacts (biological resources, cultural resources, traffic, aesthetics) as well as the preservation of the rural character of this segment. This approach is consistent with General Plan Goal M-2 (and, more specifically, Policy M-2.1), according to Grover (2015), which is intended to address roadways where adding capacity can induce additional traffic and growth, which would not be consistent with County Global Climate Change strategies. This approach is also consistent with Policy M-2.1, according to Grover (2015), in that it addresses a marginal deficiency where only a short segment of a road would operate at a deficient level of service, and operational improvements would be applied to improve traffic flow.

A Project Study Report (PSR) is being prepared by Caltrans, according to Grover (2015), to study alternatives for improving the I-15/Deer Springs Road interchange. These alternatives include southbound hook ramps at Mesa Rock Road south of Deer Springs Road, an eastbound to northbound loop ramp, a roundabout at the southbound ramps/Mesa Rock Road, and other potential configurations. The purpose of these alternatives is to increase the intersection spacing in order to eliminate queue spillover between intersections, thus reducing congestion. Removal of the existing southbound off-ramp will allow for expansion of the existing park-and-ride lot in the northeast quadrant of Deer Springs Road/Mesa Rock Road. The expanded park-and-ride lot will allow for enhanced ride sharing and public transit expansion opportunities.

Based on the Newland Sierra Project Initial Study (Slovick 2015), an analysis of records and a survey of the Newland Sierra property by a County of San Diego approved archaeologist, it has been determined that there are one or more historical resources within the Newland Sierra project site (likely Sites P-37-004558/CA-SDI-4558 and P-37-009822/CA-SDI-9822). These resources will be further evaluated in the Newland Sierra Project EIR and within a site specific Cultural Resources Report, neither of which is available yet for review (Rita Brandin, personal communication 2016), and all necessary mitigation measures will be described. Additionally, there is one archaeological resource present that could contain interred human remains. These resources include a prehistoric habitation site, consisting of dark midden, flakes, mano fragments, a large amount of shell, a pictograph, and bedrock milling features (P-37-009822/CA-SDI-9822). As outlined in CEQA Guidelines Section 15064.5, in the event that human remains are discovered during grading or construction of the project, the County would work with the appropriate Native Americans as identified by the Native American Heritage Commission (NAHC) as provided in Public Resources Code Section 5097.98 to ensure that all human remains would be appropriately treated or disposed of, with appropriate dignity, the human remains and any items associated with native American burials with the appropriate native Americans as identified by the NAHC. According to Slovic (2015), at least one of the resources identified above will be impacted by the Deer Springs Road Widening Project.

SECTION ONE**Introduction**

The former Merriam Mountains proposed residential development was conditioned upon the developer's widening Deer Springs Road from two to four lanes for a two-and-a-half mile stretch between Twin Oaks Valley Road and the Interstate-15. Since this widening requires the acquisition of private property, the County of San Diego may exercise its power of eminent domain on behalf of the developer, in the Newland Sierra Project's case the Newland Real Estate Group, in order to acquire the land from the necessary property owners. The County policy requires the satisfaction of five criteria before the use of eminent domain may be exercised on behalf of a developer:

1. The developer must have made reasonable offers based on a fair market value appraisal report and made every reasonable effort to acquire the property rights;
2. Alternative locations for the public project must have been considered and found impractical;
3. County staff must have deemed it unwise to abandon the public project altogether;
4. The developer must have agreed to pay all the county's costs, including land purchases and eminent domain proceedings; and
5. The Board of Supervisors must have mapped out the land to be acquired.

For the Merriam Mountains project, analysis of an offsite roadway improvement alternative along Deer Springs Road was provided in the Project EIR (Dudek 2007: 5-30). The Merriam Mountains project would have included offsite improvements along Deer Springs Road located to the south of the project site. Alternative F would have eliminated the at-grade alignment of Deer Springs Road. Instead, roadway improvements would include placing 30 feet of surcharged fill over two significant cultural resource sites (P-37-004558/CA-SDI-4558 and P-37-009822/CA-SDI-9822) near the Mesa Rock Road/Deer Springs Road intersection. According to Dudek (2007), placing a cap over the Resource Protection Ordinance (RPO) significant cultural sites would reduce impacts to the primary site area of P-37-009822/CA-SDI-9822, and leave the northern edge of the site within open space. A portion of site P-37-004558/CA-SDI-4558 within the Deer Springs Road alignment would be capped, while the remaining site area would be retained in open space. All of the onsite improvements associated with the proposed project would occur regardless of which off-site circulation improvement was implemented.

Under Alternative F a retaining wall ranging up to 63 feet high would have been constructed along the southern and northern edge of the roadway to raise its elevation. The retaining wall would be constructed of a segmented geo-reinforced wall. It should be noted that this alternative alignment for Deer Springs Road was included due to public interest in avoidance of the cultural resource sites (Dudek 2007).

Under Alternative F, impacts at two culturally significant sites (P-37-004558/CA-SDI-4558 and P-37-009822/CA-SDI-9822) would be substantially less, according to Dudek (2007), than under the proposed project as a result of capping and minimal disturbance of the sites would occur during construction. According to Dudek (2007), impacts to these areas are considered significant, but would be mitigated through data recovery. Alternative F, according to Dudek's (2007) Merriam Mountains EIR, would therefore have substantially lessened significant impacts to cultural resources.

Additionally, the Pechanga Band of Luiseño Indians (Hoover 2015) noted that the current Newland Sierra Project area is located within a culturally significant area of Luiseño territory that does contain at least

SECTION ONE**Introduction**

five Luiseño named places, including *Pavxin*, the spring located in the southern portion of the Project. According to Hoover (2015), this waterway, and the others on the Property, is directly associated with the previously recorded habitation areas within and adjacent to the Newland Sierra Project boundaries. Hoover (2015) also notes that there may be significant *tóota yixélval* (rock art) within or close to the Newland Sierra Project (and off-site improvements). The Tribe recommended that the County require an intensive archaeological survey to be completed on the Project with participation by a Luiseño tribal monitor. Further, the Tribe recommended that the final archaeological report include an adequate analysis, not only of the Project, but of the region as well. According to Hoover (2015), this area supported a dense pre-contact population and is an excellent area for a household archaeological study and regional ethnographic analysis. The Tribe also recommended that all cultural and archaeological resources be designed around for avoidance and preservation, as is supported by CEQA (Hoover 2015). The County should consult with the Tribe as part of compliance with both Senate Bill 18 (due to the need for a General plan Amendment) and Assembly Bill 52 if the notice of preparation for an environmental impact report is filed on or after July 1, 2015.

While the Tribe is not opposed to the Newland Sierra Project, they are opposed to any impacts this Project may have to tribal cultural resources (Hoover 2015). The Tribe's primary concerns stem from the Project's proposed impacts on Native American cultural resources. The Tribe is concerned about both the protection of unique and irreplaceable cultural resources, such as *Payómkawichum* village sites, sacred sites and archaeological items which would be displaced by ground disturbing work on the Project, and on the proper and lawful treatment of cultural items, Native American human remains and sacred items likely to be discovered in the course of the work. The Tribe requests to participate and partner with the County of San Diego in assuring that an adequate environmental assessment is completed, including all archaeological studies and analysis, and in developing all preservation, avoidance, monitoring and mitigation plans and measures for the duration of the Project.

The Tribe asserts that the Newland Sierra Project area is likely located within a *Payómkawichum* village complex (Hoover 2015). According to Hoover (2015), the development of the proposed master planned community will directly impact not only the physical resources but the sightlines of these habitations as well, and could potentially obscure the viewsheds of sacred/ceremonial sites. The influx of thousands of people, vehicles, pets, commercial activities and other sources of noise will further affect the natural quietness of the area, according to Hoover (2015). Because of the size, complexity and impact the Project will have on the surrounding landscape, the Tribe requested that visual and auditory impacts to cultural resources be thoroughly evaluated within the final document, including conducting a viewshed analysis, to determine whether line-of-sight obstructions will impact the sensitive resources in the area. According to Hoover (2015), the DEIR should take into account not only any cultural resources that are located within the Project boundaries (including any off-site improvements, such as the Deer Springs Road Widening Project), but also the village surrounding the Project, regardless whether it exists within an arbitrary one-mile radius, that might be impacted as well.

Cumulative impacts are also a major concern for the Tribe (Hoover 2015). According to the Tribe, the destruction of any "individual" cultural resource is detrimental to the whole cultural landscape and serves to further destroy the Tribe's traditional ancestral places. Improper recordation and analysis of features within a larger community or habitation context allows for the piecemealing of site recordation, which can result in improper eligibility determinations which leads ultimately to damage or destruction (Hoover

2015). As per the Tribe, it is important to acknowledge in the Project documentation that these are not renewable resources and thus the impairment or destruction of any site or resource is a cumulative impact.

1.3 AREA OF POTENTIAL EFFECTS (APE)

The Project APE consists of the horizontal and vertical limits of the project, and includes the area within which significant impacts or adverse effects to Historical Resources (CEQA) could occur as a result of the project. The Project APE, subject to environmental review under CEQA, consists of all areas where activities associated with the project are proposed. This includes areas proposed for construction, vegetation removal, grading, trenching, stockpiling, staging, paving, and other elements described in the official project description. The horizontal APE is illustrated in Figure 1 and measures approximately 40.6 acres in size.

The project ape also includes the maximum depth below the surface to which excavations for project foundations and facilities will extend. Thus, it includes all subsurface areas where archaeological deposits could be affected and varies across the project, depending on the type of infrastructure. Ground disturbance of up to 13 feet below the surface is assumed for road grading and utilities.

1.4 REGULATORY CONTEXT

To meet the regulatory requirements of this project, this cultural resources investigation was conducted pursuant to the provisions for the treatment of cultural resources in the CEQA (Pub. Res. Code § 21000 et seq.). The goal of CEQA is to develop and maintain a high-quality environment that serves to identify the significant environmental effects of the actions of a proposed project and to either avoid or mitigate those significant effects where feasible. CEQA pertains to all proposed projects that require state or local government agency approval, including the enactment of zoning ordinances, the issuance of conditional use permits, and the approval of development project maps.

CEQA (Title 14, CCR, Article 5, Section 15064.5) applies to cultural resources of the historical and prehistoric periods. Any project with an effect that may cause a substantial adverse change in the significance of a cultural resource, either directly or indirectly, is a project that may have a significant effect on the environment. As a result, such a project would require avoidance or mitigation of impacts to those affected resources. Significant cultural resources must meet at least one of four criteria that define eligibility for listing in the CRHR (Pub. Res. Code § 5024.1, Title 14 CCR, Section 4852). Resources listed on or eligible for inclusion in the CRHR are considered Historical Resources under CEQA.

1.5 REPORT ORGANIZATION

The following report documents the study and its findings and was prepared in conformance with the California Office of Historic Preservation's *Archaeological Resource Management Reports: Recommended Contents and Format*. Attachment A includes a confirmation of the records search with the CHRIS. Attachment B contains documentation of Native American outreach efforts. Attachment C

SECTION ONE**Introduction**

presents photographs of the Project APE. Attachment D includes copies of the confidential Department of Parks and Recreation (DPR) 523 series forms.

Sections 6253, 6254, and 6254.10 of the California Code authorize state agencies to exclude archaeological site information from public disclosure under the Public Records Act. In addition, the California Public Records Act (Government Code §6250 *et seq.*) and California's open meeting laws (The Brown Act, Government Code §54950 *et seq.*) protect the confidentiality of Native American cultural place information. Likewise, the Information Centers of the CHRIS maintained by the Office of Historic Preservation prohibit public dissemination of records search information. Attachment D was prepared as a confidential document, which is not intended for public distribution in either paper or electronic format.

SECTION 2 SETTING

The Project is located in the County of San Diego within the City of San Marcos (Figures 1 and 2).

2.1 Existing Conditions

This section establishes the context for the evaluation of cultural resources through an overview of the environmental setting, the prehistory, and the ethnographic identity of the Project APE, as well as the regulatory setting.

2.1.1 Natural Setting

The Newland Sierra Project and its associated off-site improvements, such as the Deer Springs Road Widening Project, are located within the unincorporated portion of the County of San Diego within the North County Metropolitan Subregional Plan area (Newland Sierra LLC 2015). The North County Metropolitan Subregional Plan area is comprised of many non-contiguous "island" areas interspersed among the cities of Escondido, San Diego, San Marcos, Vista, and Oceanside with the most easterly portion adjacent to Valley Center. The North County Metropolitan Subregional Plan area includes the communities of Hidden Meadows and Twin Oaks Valley. The majority of the Newland Sierra Project is located in the community of Twin Oaks Valley. The Newland Sierra Project is directly west of I-15, north of State Route 78 (SR-78), and south of State Route 76 (SR-76). The cities of Escondido and San Marcos are approximately 1 mile south of the Newland Sierra Project. The Newland Sierra Project consists of approximately 1,985 acres and is bounded by I-15 on the east, Deer Springs Road on the south, and Twin Oaks Valley Road on the west, with a small portion of the northwestern edge of Newland Sierra Project traversed by Twin Oaks Valley Road. Gopher Canyon Road is located approximately 1.5 mile north of the northern boundary of the Newland Sierra Project.

The Newland Sierra Project is located within the northern portion of the Merriam Mountains, a narrow chain of low mountains generally running north-south with a variety of east-west trending ridgelines and scattered peaks. These mountains originate near the northern end of the City of Escondido and are bordered by Gopher Canyon Road to the north, I-15 to the east, and Twin Oaks Valley Road to the west. Based on topography and geology, the Merriam Mountains extend from the Vista Flume, north of Golden Circle Drive in Escondido, north to Moosa Canyon. Merriam Mountains are approximately 8.5 miles long. The Site is situated on approximately 3 miles of the northern portion of the Merriam Mountains.

Vegetation on the Site consists of large blocks of Southern Mixed Chaparral with limited patches of Diegan Coastal Sage Scrub, Live Oak Woodlands, and Southern Willow Scrub and contains relatively few sensitive plant species due to its geographic location and constituent soils. Due to the dense nature of the chaparral covering most of the Site, wildlife movement is generally confined to existing dirt roads. Two well-developed riparian areas exist on the Site: one is west of I-15, draining into the south fork of Moosa Canyon and one is in the South Fork of Gopher Canyon, between the Merriam Mountains and the San Marcos Mountains.

SECTION TWO**Setting**

Large granodiorite outcroppings and pinnacles are common throughout this region and the Newland Sierra Project. The Newland Sierra Project contains undeveloped steep slopes and rock outcroppings that are visually prominent from the I-15 corridor. The South Fork of Moosa Canyon runs from the northern to northeastern vicinity of the Newland Sierra Project. In addition, the area is a tributary to the San Luis Rey River (to the north) through the South Fork of Gopher Canyon. The San Luis Rey River is an important riparian corridor containing extensive woodland vegetation, as well as rare and protected species. Tributaries to the San Marcos Creek are also located in the vicinity and flow southwest towards Batiquitos Lagoon.

The eastern and northern portions of the Site are located within the San Luis Rey-Escondido watershed, the largest hydrologic unit in the San Diego region. The southern portion is located in the Carlsbad Hydrologic Unit and San Marcos Hydrologic Area. The Site is also within the coastal subprovince of the Peninsular Ranges Geomorphic Province.

Natural topography of the Newland Sierra Project is composed of hills and valleys dominated by significant rock outcroppings with moderate to steeply sloping terrain. Elevation ranges from approximately 800 feet above mean sea level (AMSL) near the intersection of Deer Springs Road and I-15 to about 1,765 feet AMSL in the west central portion of the Newland Sierra Project.

2.1.2 Cultural Setting

The following sections have been excerpted from the County of San Diego Guidelines for Determining Significance, Cultural Resources: Archaeological and Historic Resources (GDS 2007) and serves to provide a comparative framework for the prehistory of the region and context for this inventory report. Archaeological evidence reveals that San Diego County has a long cultural history beginning approximately 10,000 years ago. The following cultural background discusses the characteristics of each cultural period of prehistory and history. The information that follows is reproduced with the permission of the author, *Dennis Gallegos*. The references cited in this section can be found in GDS (2007).

PRE-CONTACT BACKGROUND

The body of current research of Native American (Pre-Contact) occupation in San Diego County recognizes the existence of at least two major cultural traditions, discussed here as Early Period/Archaic and Late Period, based upon general economic trends and material culture. Within San Diego County, the Early Period/Archaic includes the period from 10,000 to 1,300 years ago, while the Late Period is from 1,300 years ago to historic (Spanish) contact. The Post-contact/Historic Period covers the time from Spanish contact to present. Terminology used for the past 10,000 year history of San Diego County includes a mixture of ideas of ordering archaeological sites using terms for peoples, collections of artifacts, and temporal time frames. The first ordering was by Malcolm Rogers who used the terms: Shell-Midden people, Scraper-Maker culture (scraper-makers), and Yuman (Rogers 1929). He later revised his chronology to use the terms San Dieguito (Scraper-Maker), La Jolla culture (Shell-Midden people) and Yuman (Rogers 1945). Claude Warren characterized the San Dieguito Tradition as: "... a wide range of scraper types made on side-struck flakes and finished by well controlled percussion flaking, leaf-shaped knives or large points of several varieties, leaf-shaped, lanceolate and slightly shouldered points in small number. Chipped stone crescents, often eccentric in form, hammerstones and flaked tools are few in

number. Milling stones and manos are noticeably absent" (Warren 1968). Warren's revision to Rogers' La Jolla culture, was called the Encinitas Tradition wherein he identifies: "...the majority of flaked stone tools being percussion flaked and made from local macrocrystalline rock. A large percentage of the tool assemblage is composed of chopping, scraping and cutting tools and hammerstones. Projectile points are rare and rather large, suggesting the use of darts, rather than bow and arrow. Ground stone items include large numbers of manos and milling stones usually shaped through use, and occasional items such as doughnut stones, discs and cogstones...Bone tools are rare but include awls, antler flakers, beads...Shell items are also limited, but include beads, pendants...Basketry is represented...Loosely flexed burials are found throughout the area..." (Warren et al. 1968). Warren has more recently updated his chronology and for the San Dieguito Tradition (Initial Occupation) has since included milling tools and a wider range of tools and food sources, and now discusses the potential of Transitional and intermediate stages of occupation to cover the past 10,000 years of Native American occupation in San Diego County (Warren 1998). Early Man in San Diego County was discussed by George Carter in the 1950s; however little to no evidence of Pleistocene human occupation supports this hypothesis (Carter 1957).

Early Period/Archaic

The Early Period/Archaic includes the San Dieguito, La Jolla and Pauma complexes, which are poorly defined, as are the interrelationships between contemporaneous inland, desert, and coastal assemblages (Gallegos 1987). Initially believed to represent big game hunters, the San Dieguito people are better typified as a hunting and gathering society. These people had a relatively diverse and non-specialized economy wherein relatively mobile bands accessed and used a wide range of plant, animal, and lithic resources. Movement of early groups from the California desert may have been spurred by the gradual desiccation of the vast pluvial lake system that dominated inland basins and valleys during the early to middle Holocene. This hypothesis is supported by the similarity between Great Basin assemblages and those of Early Holocene Archaic sites in San Diego County. Several researchers recognized the regional similarity of artifacts and grouped these contemporaneous complexes under the nomenclature of either the Western Pluvial Lakes Tradition or the Western Lithic Co-tradition (Bedwell 1970; Davis et al. 1969; Moratto 1984; Rogers 1939; Warren 1967).

Early migrations into San Diego County may have come from the north. Recent work on the northern Channel Islands near Santa Barbara demonstrates island occupation dating back to the terminal Pleistocene, roughly 11,600 years ago (Erlandson et al. 1996; Johnson et al. 2000). At this early date, a fully maritime-adapted population exploited shellfish and used seaworthy boats to ply channel waters. Fish were captured using bone gorges by 10,000 years ago (Rick et al. 2001). Such early dates are lacking for the adjacent Santa Barbara mainland; presumably because the rise in sea level brought about by post-Pleistocene deglaciation would have inundated sites along the late Pleistocene/early Holocene coastlines. At this time in San Diego County, the shoreline stood two to six kilometers (km) farther seaward than today's coast (Masters and Gallegos 1997). Therefore, any evidence for early coastal adaptation coeval with that of the northern Channel Islands may have been destroyed within this two to six km paleo-shoreline area by sea encroachment thousands of years ago.

The origin of coastal populations in San Diego County and subsequent interaction between these populations and Great Basin/desert groups is a subject of some debate (Gallegos 1987). Whether they migrated into San Diego County from the coast or inland, the first occupants immediately exploited

SECTION TWO

Setting

coastal and inland resources of plants, animals, shellfish, and fish (Gallegos 1991; Moriarty 1967; Kaldenberg 1982; Kyle et al. 1998).

The development of a generalized economic system indicates that the initial occupation, referred to here as San Dieguito can be placed within the general Archaic pattern. Archaic cultures occur within North America at slightly different times in different areas, but are generally correlated with local economic specialization growing out of the earlier Paleo-Indian Tradition (Willig et al. 1988). Archaic cultures are often represented by more diverse artifact assemblages and more complex regional variation than PaleoIndian traditions. This is generally thought to have resulted from the gradual shift away from a herd-based hunting focus to a more diverse and area specific economy.

The earliest known sites are found near coastal lagoons and river valleys of San Diego County. These sites are the Harris Site (CA-SDI-149), Agua Hedionda sites (CA-SDI- 210/UCLJ-M-15 and CA-SDI-10695), Rancho Park North (CA-SDI-4392/SDM-W-49), and Remington Hills (CA-SDI-11069), dating from 9,500 to 8,000 years ago. The northern San Diego County coastal lagoons supported large populations, circa 6,000 years ago, as shown by the numerous radiocarbon-dated sites adjacent to these lagoons. After 3,000 to roughly 1,500 years ago, there are fewer archaeological sites in northern San Diego County. This reduction in number of archaeological sites can be attributed to the slowing of the rise in sea level and concomitant siltation of coastal lagoons causing the depletion of shellfish and other lagoon resources (Gallegos 1985; Miller 1966; Warren and Pavesic 1963). Archaeological sites dated to circa 2,000 years ago are found in the Camp Pendleton area (Byrd and Reddy 2002), wherein shellfish (*Donax gouldii*) were collected from open-shore sandy beach habitat; and bay species were still abundant in San Diego Bay, and present but not as dominant in other lagoons. Batiquitos Lagoon and perhaps other lagoons reopened circa 1,500 years ago, therein producing shellfish, but not in the quantity, size or variety of shellfish as documented for the early to middle Holocene (Miller 1966, Gallegos 1985).

The La Jolla and Pauma complexes, which are referred to as following the San Dieguito Complex, may simply represent seasonal or geographic variations of the somewhat older and more general San Dieguito Complex. Inland Early/Archaic Period occupation sites have been reported in coastal settings, transverse valleys, sheltered canyons, benches and knolls (True 1958; Warren et al. 1961). In north San Diego County, noncoastal sites were termed "Pauma Complex" by True (1958, 1980), and were defined as containing a predominance of grinding implements (manos and metates), a general lack of shellfish remains, a greater tool variety, and express an emphasis on both gathering and hunting (True 1958, 1980; Warren et al. 1961; Waugh 1986).

Early Period/Archaic sites from 10,000 to 1,300 years ago within San Diego County include a range of sites that include coastal and inland valley habitation sites, inland hunting and milling camps, and quarry sites, usually in association with fine-grain metavolcanic material. Material culture assemblages during this long period are remarkably similar in many respects. These deposits may well represent a process of relative terrestrial economic stability and presumably slow cultural change. Though various cultural traits developed or disappeared during the long span of 10,000 to 1,300 years ago, there is a clear pattern of cultural continuity during this period.

Late Period

SECTION TWO**Setting**

During the Late Period (circa 1,300 to historic contact), a material culture pattern, similar to that of historic Native Americans, becomes apparent in the archaeological record. The economic pattern during this period appears to be one of more intensive and efficient exploitation of local resources. The prosperity of these highly refined economic patterns is well evidenced by the numerous Kumeyaay/Diegueño and Luiseño habitation sites scattered throughout San Diego County. This increase in Late Period site density probably reflects both better preservation of the more recent archaeological record and a gradual population increase within the region. Artifacts and cultural patterns reflecting this Late Period pattern include small projectile points, pottery, the establishment of permanent or semi-permanent seasonal village sites, a proliferation of acorn milling sites in the uplands, the presence of obsidian from the Imperial Valley source Obsidian Butte, and interment by cremation.

Luiseño occupation in northern San Diego County during the late Holocene has been viewed as an occupation that migrated from the desert to the coast (Rogers 1966), an incursion called "the Shoshonean Wedge" (Kroeber 1925). Late Period culture patterns were shared with groups along the northern and eastern periphery of San Diego County, incorporating many elements of their neighbors' culture into their own cultures. This transference and melding of cultural traits between neighboring groups makes positive association of archaeological deposits with particular ethnographically known cultures difficult. This is particularly true of the groups within San Diego County. Although significant differences exist between Luiseño and Kumeyaay/Diegueño cultures (including linguistic stock), the long interaction of these groups during the Late Period resulted in the exchange of many social patterns. Archaeologists must rely heavily on ethnographic accounts of group boundaries as recorded during the historic period, although it is not known how long these boundaries had been in place or the validity of these boundaries as presently reported.

Kroeber (1925) placed the Kumeyaay and Luiseño boundary between Agua Hedionda and Batiquitos Lagoon. According to Luomala (1978) the territory of the Ipai extended along the coast from the San Luis Rey River in the north to San Diego Bay in the south with San Felipe Creek marking the eastern boundary. The territory of the Tipai, the southern group, extended south from San Diego Bay to include parts of Mexico and the southern mountains. Florence Shipek (1993) identified the northern and southern Kumeyaay/Diegueño tribal boundary as:

In 1769, the Kumeyaay national territory started at the coast about 100 miles south of the Mexican border (below Santo Tomas), thence north to the coast at the drainage divide south of the San Luis Rey River including its tributaries. Using the USGS topographic maps, the boundary with the Luiseño then follows that divide inland. The boundary continues on the divide separating Valley Center from Escondido and then up along Bear Ridge to the 2240 contour line and then north across the divide between Valley Center and Woods Valley up to the 1880-foot peak, then curving around east along the divide above Woods Valley (Shipek 1993).

HISTORICAL BACKGROUND

The history of San Diego County is commonly presented in terms of Spanish, Mexican, and American political domination. A discussion of historic land use and occupation under periods of political rule by people of European and Mexican origin is justified on the basis of characteristics associated with each period, when economic, political, and social activities were influenced by the prevailing laws and

SECTION TWO**Setting**

customs. Certain themes are common to all periods, such as the development of transportation, settlement, and agriculture. Robinson (1969) provides a comprehensive account of public and privately owned land in California, with a discussion of laws, activities and events related to the development of the state.

Spanish Period (1769-1821)

The Spanish Period represents exploration, the establishment of the San Diego Presidio and missions at San Diego (1769) and San Luis Rey (1798), and *asistencias* (chapels) to the San Diego Mission at Santa Ysabel (1818) and to the San Luis Rey Mission at Pala (1816). Horses, cattle, agricultural foods and weed seeds, and a new architectural style and method of building construction were also introduced. Spanish influence continued after 1821 when California became a part of Mexico. For a period of time under Mexican rule, the missions continued to operate as in the past, and laws governing the distribution of land were also retained.

Mexican Period (1821-1848)

The Mexican Period includes the initial retention of Spanish laws and practices until shortly before secularization of the missions in 1834, a decade after the end of Spanish rule. Although several grants of land were made prior to 1834, vast tracts of land were dispersed through land grants offered after secularization. Cattle ranching prevailed over agricultural activities, and the development of the hide and tallow trade increased during the early part of this period. The Pueblo of San Diego was established and transportation routes were expanded. The Mexican Period ended in 1848 as a result of the Mexican-American War.

American Period (1848 to Present)

The American Period began when Mexico ceded California to the United States under the Treaty of Guadalupe Hidalgo. Terms of the treaty brought about the creation of the Lands Commission, in response to the Homestead Act of 1851 that was adopted as a means of validating and settling land ownership claims throughout the state. Few Mexican ranchos remained intact because of legal costs and the difficulty of producing sufficient evidence to prove title claims. Much of the land that once constituted rancho holdings became available for settlement by immigrants to California. The influx of people to California and the San Diego region resulted from several factors, including the discovery of gold in the state, the conclusion of the Civil War, the availability of free land through passage of the Homestead Act, and later, the importance of San Diego County as an agricultural area supported by roads, irrigation systems, and connecting railways. The growth and decline of towns occurred in response to an increased population and the economic boom and bust cycle in the late 1800s.

NATIVE AMERICAN PERSPECTIVE

In addition to the point of view discussed above, the County acknowledges that other perspectives exist to explain the presence of Native Americans in the region. The Native American perspective is that they have been here from the beginning as described by their creation stories. Similarly, they do not necessarily agree with the distinction that is made between different archaeological cultures or periods, such as “La Jolla” and “San Dieguito”. They instead believe that there is a continuum of ancestry, from

SECTION TWO**Setting**

the first people to the present Native American populations of San Diego. To acknowledge this perspective, consultation with affected Native American communities can be beneficial to fully understand the impact to cultural resources. The consultation is typically administered pursuant to Senate Bill 18 and Assembly Bill 52.

2.1 Regulatory Setting

The public stewardship and management of historical resources are provided for in the local, state and federal policies and regulations that form the basis for the County of San Diego's development review process. This project has been completed in accordance with all applicable regulations, provided in the County of San Diego Guidelines for Determining Significance, Cultural Resources: Archaeological and Historic Resources (GDS 2007), and per the cultural resources provisions of CEQA of 1970 (Public Resources Code §§ 21000–21177). Per these applicable regulations impacts to cultural resources associated with this project must be taken into consideration. These regulations are described in detail below.

2.1.1 Public Resources Code and CEQA

CEQA states that:

The Legislature further finds and declares that it is the policy of the state to. . . Preserve for future generations. . . Examples of the major periods of California history (Section 21001).

CEQA requires that before approving discretionary projects the Lead Agency must identify and examine the significant adverse environmental effects which may result from that project. A project that may cause a substantial adverse change in the significance of a historical resource is a project that may have a significant effect on the environment (Sections 15064.5(b) and 21084).

As it pertains to cultural resources, CEQA defines the term “historical resource” as the following:

- (1) A resource listed in, or determined to be eligible by the State Historical Resources Commission, for listing in the CRHR (Pub. Res. Code §5024.1, Title 14 CCR. Section 4850 et seq.).
- (2) A resource included in a local register of historical resources, as defined in section 5020.1(k) of the Public Resources Code or identified as significant in an historical resource survey meeting the requirements of section 5024.1(g) of the Public Resources Code, shall be presumed to be historically or culturally significant. Public agencies must treat any such resource as significant unless the preponderance of evidence demonstrates that it is not historically or culturally significant.
- (3) Any object, building, structure, site, area, place, record, or manuscript which a lead agency determines to be historically significant or significant in the architectural, engineering, scientific, economic, agricultural, educational, social, political, military, or cultural annals of California may be considered to be an historical resource, provided the lead agency's determination is supported by substantial evidence in light of the whole record.

SECTION TWO**Setting**

Generally, a resource shall be considered by the lead agency to be “historically significant” if the resource meets the criteria for listing on the CRHR (Pub. Res. Code §5024.1, Title 14, Section 4852) including the following:

- 1) It is associated with events that have made a significant contribution to the broad patterns of local or regional history, or the cultural heritage of California or the United States;
- 2) It is associated with the lives of persons important to local, California, or national history;
- 3) It embodies the distinctive characteristics of a type, period, region, or method of construction, or represents the work of a master or possesses high artistic values; or
- 4) It has yielded, or has the potential to yield, information important to the prehistory or history of the local area, California, or the nation.

The fact that a resource is not listed in, or determined eligible for listing in the CRHR, not included in a local register of historical resources (pursuant to section 5020.1(k) of the Public Resources Code), or identified in an historical resources survey (meeting the criteria in section 5024.1(g) of the Public Resource Code) does not preclude a lead agency from determining that the resource may be a historical resource as defined in Public Resources Code section 5020.1(j) or 5024.1.

According to CEQA (§15064.5b), a project that may cause a substantial adverse change in the significance of an historical resource is a project that may have a significant effect on the environment. CEQA defines a substantial adverse change as:

- (1) Substantial adverse change in the significance of an historical resource means physical demolition, destruction, relocation, or alteration of the resource or its immediate surroundings such that the significance of an historical resource would be materially impaired.
- (2) The significance of an historical resource is materially impaired when a project:
 - (A) Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its inclusion in, or eligibility for, inclusion in the CRHR; or
 - (B) Demolishes or materially alters in an adverse manner those physical characteristics that account for its inclusion in a local register of historical resources pursuant to section 5020.1(k) of the Public Resources Code or its identification in an historical resources survey meeting the requirements of section 5024.1(g) of the Public Resources Code, unless the public agency reviewing the effects of the project establishes by a preponderance of evidence that the resource is not historically or culturally significant; or
 - (C) Demolishes or materially alters in an adverse manner those physical characteristics of an historical resource that convey its historical significance and that justify its eligibility for inclusion in the CRHR as determined by a lead agency for purposes of CEQA.

SECTION TWO**Setting**

Section 15064.5(c) of CEQA applies to effects on archaeological sites and contains the following additional provisions regarding archaeological sites:

- (1) When a project will impact an archaeological site, a lead agency shall first determine whether the site is an historical resource, as defined in subsection (a).
- (2) If a lead agency determines that the archaeological site is an historical resource, it shall refer to the provisions of Section 21084.1 of the Public Resources Code, and this section, Section 15126.4 of the Guidelines, and the limits contained in Section 21083.2 of the Public Resources Code do not apply.
- (3) If an archaeological site does not meet the criteria defined in subsection (a), but does meet the definition of a unique archaeological resource in Section 21083.2 of the Public Resources Code, the site shall be treated in accordance with the provisions of section 21083.2. The time and cost limitations described in Public Resources Code Section 21083.2 (c-f) do not apply to surveys and site evaluation activities intended to determine whether the project location contains unique archaeological resources.
- (4) If an archaeological resource is neither a unique archaeological nor an historical resource, the effects of the project on those resources shall not be considered a significant effect on the environment. It shall be sufficient that both the resource and the effect on it are noted in the Initial Study or EIR, if one is prepared to address impacts on other resources, but they need not be considered further in the CEQA process.

Section 15064.5 (d) & (e) contain additional provisions regarding human remains. Regarding Native American human remains, paragraph (d) provides: (d) When an initial study identifies the existence of, or the probable likelihood, of Native American human remains within the project, a lead agency shall work with the appropriate Native Americans as identified by the Native American heritage Commission as provided in Public Resources Code §5097.98. The applicant may develop an agreement for treating or disposing of, with appropriate dignity, the human remains and any items associated with Native American burials with the appropriate Native Americans as identified by the Native American heritage Commission. Action implementing such an agreement is exempt from:

- (1) The general prohibition on disinterring, disturbing, or removing human remains from any location other than a dedicated cemetery (Health and Safety Code Section 7050.5).
- (2) The requirement of CEQA and the Coastal Act.

2.1.2 County of San Diego CEQA Significance

As stated above, if a resource is not listed in, or determined eligible for listing in the CRHR, and not included in a local register or not deemed significant in a historical resource survey it may nonetheless be historically significant. If a proposed project has the potential to effect a historical resource, the significance of that resource must be determined. The significance of a historical resource is based on the potential for the resource to address important research questions, as documented in a site specific

SECTION TWO**Setting**

technical report prepared as part of the environmental review process. Research priorities for the prehistoric, ethnohistoric and historic periods of San Diego County history are discussed in these guidelines and should be used in the determination of historical significance. As a baseline, the County of San Diego has established the following criteria to be used in the determination of significance under CEQA.

A number of criteria are used in identifying significant historic/archaeological resources and are based upon the criteria for inclusion in the San Diego County Local Register. Significance is assigned to districts, sites, buildings, structures, and objects that possess exceptional value or quality illustrating or interpreting the heritage of San Diego County in history, architecture, archaeology, engineering, and culture.

The San Diego County Local Register was modeled after the California Register. As such, a cultural resource is determined significant if the resource is listed in, or determined to be eligible for listing in the National Register of Historic Places, the California Register of Historical Resources, or the San Diego County Local Register of Historical Resources. Any resource that is significant at the National or State level is by definition significant at the local level.

The fact that a resource is not listed in, or determined to be eligible for listing in the California Register of Historical Resources; or is not included in a local register of historical resources (pursuant to Section 5020.1(k) of the Public Resources Code), or is not identified in an historical resources survey (meeting the criteria in Section 5024.1(g) of the Public Resources Code) does not preclude a lead agency from determining that a resource may be historical as defined in Public Resources Code section 5020.1(j) or 5024.1.

The following criteria must be considered when evaluating a resource's importance. The first four criteria were derived from the significance criteria found in the California Environmental Quality Act and the San Diego County Local Register of Historical Resources (Ordinance No.9493; San Diego County Administrative Code §396.7). The San Diego County Local Register is similar to both the National Register and California Register but is different in that significance is evaluated at the local level.

1. Resources associated with events that have made a significant contribution to the broad patterns of California or San Diego County's history and cultural heritage. Examples include resources associated with the Battle of San Pasqual (Mexican-American War, 1846), or gold mining in the Julian area (1870s), or a Kumeyaay settlement in the Cuyamaca Valley. Each of these resources would be considered significant because it is associated with an event that has made a significant contribution to the broad patterns of San Diego County's history and cultural heritage.
2. Resources associated with the lives of persons important to our past, including the history of San Diego County or its communities. Resources that are associated with the life of George W. Marston (Benefactor/Merchant/Civic Leader), Kate Sessions (Horticulturalist), John D. Spreckels (Investor/Developer), Ellen Browning Scripps (Philanthropist), Ah Quin (Chinese Merchant/Labor Contractor), Manuel O. Medina (Pioneer of the Tuna Industry), Jose Manuel Polton (Hatam [Kumeyaay Captain of the Florida Canyon Village]), or Jose Pedro Panto (Kumeyaay Captain of the San Pasqual Pueblo) illustrates this criteria because this list identifies examples of individuals that are important to the history of San Diego County or its communities.

3. Resources that embody the distinctive characteristics of a type, period, region (San Diego County), or method of construction, or represents the work of an important creative individual, or possesses high artistic values. Resources representing the work of William Templeton Johnson (Architect – Balboa Park, Serra Museum), Irving Gill (Architect – Bishop’s School), Lilian Rice (Rancho Santa Fe), or Hazel Waterman (Designer – Estudillo Adobe Restoration) would be considered significant because they represent the work of an important creative individual; or if a resource is identified as a Queen Anne, Mission Revival, Craftsman, Spanish Colonial, or Western Ranch Style structure, it would be significant because it embodies the distinctive characteristics of a type or period.
4. Resources that have yielded or may be likely to yield, information important in prehistory or history. Most archaeological resources contain information; however the amount of information varies from resource to resource. For example, a small lithic scatter will contain information, but it will be on a much more limited basis than that of a village or camp site. The information may be captured during initial recordation and testing of the site or may require a full data recovery program or additional treatment/mitigation. Any site that yields information or has the potential to yield information is considered a significant site. Most resources will be considered significant because they contain some information that contributes to our knowledge of history or prehistory. The criteria used to evaluate a single resource is the same criteria used to evaluate cumulative impacts to multiple resources outside the boundary of a project.
5. Although districts typically will fall into one of the above four categories, because they are not specifically identified, the following criterion is included which was obtained from the National Register:

Districts are significant resources if they are composed of integral parts of the environment not sufficiently significant by reason of historical association or artistic merit to warrant individual recognition, but collectively compose an entity of exceptional historical or artistic significance, or outstandingly commemorate or illustrate a way of life or culture. A traditional cultural landscape is an example a prehistoric district because individual sites must be considered within the broader context of their association with one another.

6. Resource Protection Ordinance (RPO). Cultural resources must be evaluated for both the CEQA as outlined in criteria 1-4 above, and the Resource Protection Ordinance pursuant to Section 2 of the ordinance. Under the Resource Protection Ordinance, cultural resources are considered RPO significant if they meet the definition of a RPO "Significant Prehistoric or Historic Site", as set forth in Section 3.1 above.
7. Human remains are considered “highly sensitive” by the County. As such, human remains require special consideration and treatment. Regulations require that if human remains are discovered, the County Coroner shall be contacted. In the event that the remains are determined to be of Native American origin, the Most Likely Descendant, as identified by the Native American Heritage Commission, shall be contacted in order to determine proper treatment and disposition of the remains. This criterion was included pursuant to the CEQA (§15064.5) and California State Code (PRC5097.98 and HSC7050.5). As such, a resource shall be considered significant if it contains

SECTION TWO**Setting**

any human remains interred outside of a formal cemetery. Mitigation measures will be developed on a case by case basis by the County archaeologist and the archaeological consultant. In addition, it is of the utmost importance to tribes that human remains be avoided whenever feasible.

8. Integrity is the authenticity of a resource's physical identity evidenced by the survival of characteristics that existed during the resource's period of significance. The evaluation of integrity is somewhat of a subjective judgment, but it must always be grounded in an understanding of a property's physical features and how they relate to its historical associations or attributes and context. Resources must retain enough of their historical character or appearance to be recognizable as historical resources and to convey the reasons for their significance. An evaluation of integrity is an essential part of determining significance for historical resources such as building, structures, and districts.

Integrity is evaluated through the assessment of a cultural resource's attributes, and may include location, design, setting, materials, workmanship, feeling, and association. It must be judged with reference to the particular criteria under which a resource is proposed for eligibility (structural, architectural, artistic, historic location, archaeological site, historic district). Alterations over time to a resource or historic changes in its use may themselves have historical, cultural, or architectural significance.

Attributes - Attributes are those distinctive features that characterize a resource. They should be evaluated and compared to other properties of its type, period, or method of construction.

Location - Location is the place where the property was constructed or the place where the historical event occurred. The actual location of an historical property, complemented by its setting, is particularly important in recapturing the sense of historical events and persons.

Design - Design is the combination of elements that create the historical form, plan, space, structure, and style of a property. This includes such elements as organization of space, proportion, scale, technology, ornamentation, and materials. Design can also apply to districts and to the historical way in which the buildings, sites, or structures are related. Examples include spatial relationships between major features; visual rhythms in a streetscape or landscape plantings; the layout and materials of walkways and roads; and the relationship of other features, such as statues, water fountains, and archaeological sites.

Setting - Setting is the physical environment of an historical property. It refers to the historical character of the place in which the property played its historical role. It involves how, not just where, the property is situated and its historical relationship to surrounding features and open space. The physical features that constitute the historical setting of an historical property can be either natural or manmade and include such elements as topographical features, vegetation, simple manmade paths or fences and the relationships between buildings and other features or open spaces.

SECTION TWO**Setting**

Materials - Materials are the physical elements that were present during the development period and are still present or, if materials have been replaced, the replacement(s) must have been based on the original. The property must be an actual historical resource, not a re-creation. For example, a Victorian style wood-frame dwelling that has been covered with reconstructed stucco has lost its integrity of materials. Conversely, an adobe wall that has been reconstructed with similar adobe mud, as opposed to adobe-simulate concrete, would retain its integrity of materials.

Workmanship - Workmanship is the physical evidence of the crafts of a particular culture or people during any given period in history. It is the evidence of the artisans' labor and skill in constructing or altering a building, structure, object, or site. It may be expressed in vernacular methods of construction and plain finishes or in highly sophisticated configurations and ornamental detailing. Examples of workmanship in historic buildings include tooling, carving, painting, graining, turning, and joinery. Examples of workmanship in precontact contexts include pottery, stone tools, basketry, rock art, bedrock milling, and stone structures.

To assess integrity one must:

- Define essential physical features that must be present to a high degree for a property to represent its significance;
- Determine whether the essential physical features are apparent enough to convey the property's significance; and
- Compare the property with similar properties in the locally significant theme.

A property that is significant for its historical association should retain the essential physical features that made up its character or appearance during the period of its association with the important event, historical pattern, or person(s). If the property is a site where there are no material cultural remains, such as a battlefield, the setting must be intact. If the historical building associated with the event, pattern, or person no longer exists, the property has lost its historical integrity.

A property important for illustrating a particular architectural style or construction technique must retain the physical features that constitute that style or technique. A property that has lost some historical materials or details can be considered if it retains the majority of the features that illustrate its style in terms of the massing, spatial relationships, proportion, pattern of windows and doors, texture of materials, and ornamentation. A property should not be considered if it retains some basic features conveying massing, but has lost the majority of the features that once characterized its style. Normally changes to a structure that are reversible will not affect integrity because they will be less than significant.

Properties being considered for the first five criteria above must not only retain the essential physical features, but the features must be visible enough to convey their significance and historical identity. This means that even if a property is physically intact, its integrity is

SECTION TWO**Setting**

questionable if its significant features are concealed under modern construction. Archaeological properties are the exception to this – by nature they may not require visible features to convey their significance.

Unless a resource is determined to be “not significant” based on the above criteria, it will be considered a significant resource. If it is agreed to forego significance testing on cultural sites, the sites will be treated as significant resources and must be preserved through project design. In addition, a treatment plan must be prepared that will include preservation of cultural resources.

SECTION 3 METHODS

Chapter 3 discusses the methods utilized during the cultural resources site visit/reconnaissance of the Project APE.

3.1 PERSONNEL QUALIFICATIONS

All phases of the cultural resources investigation were conducted by County of San Diego approved and Registered Professional Archaeologist Arleen Garcia-Herbst, C.Phil., RPA, who meets the Secretary of the Interior's Professional Qualifications Standards for a prehistoric and historical archaeologist. Fieldwork and reporting was completed by Ms. Garcia-Herbst. Mr. Martin Rosen, M.A., RPA, provided technical report review and quality assurance. Resumes are available upon request.

Ms. Garcia-Herbst is a Secretary of the Interior-qualified Archaeologist and has been professionally involved with cultural resources management in California and Hawaii since 2006. She has extensive experience with the cultural and paleontological resources requirements of the City and County of San Diego, CEQA, Hawai'i Revised Statutes and Administrative Rules, the National Environmental Policy Act (NEPA), and Section 106 of the National Historic Preservation Act (NHPA). She is a City of San Diego, County of San Diego, and County of Riverside Qualified Archaeologist. While Ms. Garcia-Herbst's professional focus is in California and Hawaii, she also has project experience in Arizona, Nevada, Germany, Peru, and Argentina. She received her B.A. from the University of Arizona (1996), and completed her M.A. at the University of California, Santa Barbara (UCSB, 2000), is advanced to candidacy (C.Phil., 2006) and working on completing her Ph.D. thesis at the University of California, Santa Barbara.

Mr. Rosen has over 40 years of experience as a cultural resource professional where he has worked extensively in southern California, and also in the Great Basin, the Southwest, and in Guatemala. He joined Spindrift in 2014, after starting his own small firm called Rosen Cultural Resources Consulting or RC2, working several years at ICF, and a 30-year career at Caltrans District 11 (San Diego and Imperial Counties), the last 10 spent as the senior cultural resources specialist. He was the District's Heritage Resources Coordinator from 1988 until his departure. At Caltrans, he ran numerous capital projects of every size, from small curve corrections, to major highway construction projects covering dozens of miles. He also had the sole responsibility of working with Local Jurisdictions who had received money from the Federal Highway Administration. He received his B.A. in 1974 and his M.A. in 1977, both from the University of California, Los Angeles. Mr. Rosen is a City of San Diego, County of San Diego, and County of Riverside Qualified Archaeologist, as well as a Registered Professional Archaeologist.

3.2 RECORDS SEARCH METHODS

A records search for the Project APE was completed by the South Coastal Information Center (SCIC) of the CHRIS at San Diego State University on 22 March 2016 (SCIC RSID #1140) (Appendix A; see records search request map in Figure 3). The purpose of the records search was to determine the extent of previous surveys within an approximately 200-foot (90-meter) radius of the proposed Deer Springs Road Widening Project location, and whether previously documented prehistoric or historic archaeological sites, architectural resources, or traditional cultural properties exist within this area.

SECTION THREE**Methods**

In addition to the official records and maps for archaeological sites and surveys in San Diego County, the following historic references were also reviewed: Historic Property Data File for San Diego County (Office of Historic Preservation 2013a); The National Register Information System website (National Park Service 2013); Office of Historic Preservation, California Historical Landmarks website (Office of Historic Preservation 2013b); California Historical Landmarks (Office of Historic Preservation 1996 and updates); and California Points of Historical Interest (Office of Historic Preservation 1992 and updates).

3.3 NATIVE AMERICAN COORDINATION METHODS

Spindrift contacted the California Native American Heritage Commission (NAHC) on 14 April 2016 to request a search of the Sacred Lands File for the Project APE. Native American coordination efforts are incomplete at this time.

3.4 FIELD METHODS

Field work was conducted by Spindrift Archaeologist Arleen Garcia-Herbst on 29 and 30 April 2016 during which the 40.6 acres of the Project APE were subjected to an pedestrian reconnaissance survey of the Project APE and focused site visits to previously recorded cultural resources (see survey coverage map in Figure 4). Notes were taken on the environmental setting and disturbances within the Project APE. The Project APE was mapped into a handheld Trimble Geo 6000 XH GPS unit which has decimeter accuracy. This GPS unit was also used to update the boundaries of any previously existing sites, and record the location of the new archaeological site encountered during survey.

The general morphological characteristics of the ground surface were inspected for indications of subsurface deposits that may be manifested on the surface, such as circular depressions or ditches, as well as above ground bedrock outcrops visible from Deer Springs Road were inspected for the presence of bedrock milling features. Whenever possible, the locations of subsurface exposures caused by such factors as rodent activity, water or soil erosion, or vegetation disturbances were examined for artifacts or for indications of buried deposits. No subsurface investigations or artifact collections were undertaken during the pedestrian survey.

SECTION 4 RESULTS AND MANAGEMENT RECOMMENDATIONS

Information about cultural resources in and around the Project APE comes from the records search and literature review.

4.1 RECORDS SEARCH RESULTS

The records search results indicated that eight (8) previous cultural resources studies (Table 1 in Appendix A) were conducted within a 200-foot radius of the Project APE, and five (5) cultural resources have previously been recorded within a 200-foot radius of the Project APE (Table 2 in Appendix A).

Three (3) cultural resources have been previously recorded within the Project APE. The previous studies were conducted between 1975 and 2007.

4.2 LITERATURE REVIEW

A review of California Inventory of Historic Resources (March 1976), indicated that there are no inventoried historic properties within the Project APE or within the vicinity of the Project APE.

Resources listed as California Historical Landmarks (CHL; Office of Historic Preservation 1996) and on the Office of Historic Preservation website (Office of Historic Preservation 2015) were reviewed. There are no inventoried CHLs within the Project APE or within the vicinity of the Project APE.

The Caltrans Historic Bridge Local Inventory (Caltrans 2013a) listed no historic bridges within 200-feet of the Project APE. Additionally, the Caltrans State Historic Bridge Inventory (Caltrans 2013b) listed no historic bridges within 200-feet of the Project APE.

Aerial photographs and maps of the project area were consulted in order to assist in determining the original contours and previous uses or disturbances to the project area. A summary of those findings is as follows:

- 1789-1885 San Diego County Historic Roads and Trails map: The Project APE appears intersect with a trail that follows the route of Historic State Highway 71, later signed as Historic US 395, and now I-15 (CHRIS 2016).
- 1872 San Diego County map: The Project APE appears to be located north of Rancho Vallecitos de San Marcos (Little Valleys of Saint Mark Ranch) (CHRIS 2016).
- 1938 aerial: The Project APE has largely not been developed and the eastern and western ends of the Project APE were used for agriculture. The area of the Golden Door Spa has several buildings and structures present. The western two-thirds of Deer Springs Road were located further south than its current alignment (Historic Aerials 2016).
- 1946 aerial: The Project APE has not been developed and the eastern and western ends of the Project APE were used for agriculture (Historic Aerials 2016).

SECTION FOUR**Results and Management Recommendations**

- 1948 24,000 Historic USGS 7.5 Minute Topographic Map, San Marcos and Valley Center Quadrangles: The Project APE shows no buildings but one camp site is noted within the records search radius and several other sites are drawn in in pencil including a camp and several milling sites (CHRIS 2016).
- 1953 aerial: The Project APE has not been developed and the eastern and western ends of the Project APE were used for agriculture. The western two-thirds of Deer Springs Road were realigned to its current alignment (Historic Aerials 2016).
- 1964 aerial: The Project APE has largely not been developed but a residential development has been constructed on the south side of Deer Springs Road near the US 395 and a single family residence has been constructed on the north side of Deer Springs Road near US 395 (Historic Aerials 2016).
- 1967 aerial: The Project APE remains unchanged (Historic Aerials 2016).
- 1980 aerial: The Project APE remains largely unchanged, but several building are constructed to the north and south of the Project APE just east of the Golden Door Spa and the bulk of the Japanese-style Golden Door Spa buildings have been constructed. The I-15 Interchange is under construction and Deer Springs Road is realigned to its current configuration on the east end of the Project APE (Historic Aerials 2016).
- 1989 aerial: The Project APE remains unchanged bu the I-15 Interchange has been constructed. The aerial coverage is now in color (Historic Aerials 2016).
- 1994 aerial: The Project APE remains unchanged. The aerial coverage is in black and white (Historic Aerials 2016).
- 1996 aerial: The Project APE remains largely unchanged but a small water retention feature has been constructed on the south side of Deer Springs Road (Historic Aerials 2016).
- 2002 aerial: The Project APE remains unchanged (Historic Aerials 2016).
- 2003 aerial: The Project APE remains largely unchanged but a few residences have been constructed on the north side of Deer Springs Road at the west end of the Project APE. The aerial coverage is now in color (Historic Aerials 2016).
- 2005 aerial: The Project APE remains largely unchanged but a few additional residences have been constructed on the north side of Deer Springs Road at the west end of the Project APE (Historic Aerials 2016).
- 2009 aerial: The Project APE remains largely unchanged but a few additional residences have been constructed on the north side of Deer Springs Road along the center of the Project APE (Historic Aerials 2016).
- 2010 aerial: The Project APE remains unchanged (Historic Aerials 2016).
- 2012 aerial: The Project APE remains unchanged (Historic Aerials 2016).

SECTION FOUR**Results and Management Recommendations**

Data regarding cultural resources in the Project APE were obtained from the Merriam Mountains Project EIR Cultural Resources chapter, which included a literature review, record search and field survey conducted by Gallegos & Associates (2007).

Eight previously recorded cultural resource sites (CA-SDI-4370, -4371, -4558, -5639, -5640, -9253, -9822, -10747H), one isolate (SDM-W-3880C) and one Historic Location are located in the Merriam Mountains Project boundary and off-site improvement areas. In addition, two newly recorded cultural resource sites (CA-SDI-17264 and CA-SDI-17265); and one new isolate (P-37-025968) were identified within the Merriam SP area. Sites CA-SDI-4370, CA-SDI-4371, CA-SDI-5639, and CA-SDI-5640 are outside the Deer Springs Road Widening Project APE, all milling stations that have been destroyed by development, and therefore are not identified as significant resources. The two isolates that have been identified within the Merriam Mountains Project site (SDM-W-3880C and P-37-025968), but not within the Deer Springs Road Widening Project APE, do not constitute a site according to the State of California and therefore are not considered significant. Sites CA-SDI-9253, -10747H, -17264, and -17265 are not within the Deer Springs Road Widening project APE, were tested and identified as not significant.

Sites CA-SDI-4558 and CA-SDI-9822 are both in the Deer Springs Road Widening Project APE, have been previously tested and identified as significant under the County of San Diego and California Environmental Quality Act (CEQA) criteria. On the basis of human remains and a pictograph feature at CA-SDI-9822, and that CA-SDI-4558 was identified as eligible for placement on the National Register of Historic Places, both sites are identified as significant. The 1901 historic structure/location identified within the project site is also identified as a significant resource; if present, subsurface privies, refuse dumps and architectural foundations could provide information on early homesteading in north San Diego County. Subsequent field-testing at these sites conducted by Gallegos & Associates in March 2004 redefined site boundaries. Implementation of the Merriam Mountains Project and off-site improvements would have resulted in significant unavoidable impacts to sites CA-SDI-4558 and CA-SDI-9822, which are both considered significant cultural sites under CEQA and the County's RPO.

4.3 NATIVE AMERICAN COORDINATION RESULTS

Native American coordination efforts are incomplete at this time. A complete record will be provided in Attachment B as part of a complete draft report.

4.4 FIELD SURVEY RESULTS

Field work was conducted by Spindrift Archaeologist Arleen Garcia-Herbst on 29 and 30 April 2016 during which the 40.6 acres of the Project APE were subjected to an pedestrian reconnaissance survey of the Project APE and focused site visits to previously recorded cultural resources. The study area is described in detail below.

Pedestrian survey revealed the majority of the west-east trending Project APE to be located adjacent to Deer Springs Road. Ground surface visibility was generally good to poor in the Project APE, due to the presense of dense vegetation cover and/or a thick layer of duff over the ground surface. Four of five previously recorded cultural resources were relocated within the Project APE and the immediate vicinity

SECTION FOUR**Results and Management Recommendations**

(P-37-004558, P-37-005950, P-37-005951, and P-37-009822). P-37-004369 was not relocated. Two new archaeological sites were identified as part of the field site visit (GDS-001 and GDS-002) within the Project APE.

4.4.1 Previously Recorded Sites

P-37-004369. This prehistoric period site was first recorded by May et al (1975) as a workshop and camp that was buried by alluvial fill and was exposed by a road cut. The width of the site could not be determined because a portion of the site was buried. The length of the site is approximately 225 feet but the cultural materials may have been dragged beyond their original extent due to the road grading. Approximately 6 inches of buried archaeological deposit was observed in the road and about 3 feet in the adjacent undisturbed area. The cultural materials included one hammerstone, six core fragments, hundreds of flakes, ten undesignated stone tools, and two rodent teeth and were interpreted to date to the Paleoindian Period/San Dieguito Complex (ca. 9500-6500 B.C.) and/or Archaic Period/Pauma Complex (ca. 6500 B.C.-A.D. 500).

This site was not relocated during the current study. The road cuts along Deer Springs Road to the north of the mapped site boundary did not show evidence of any cultural materials. Part of the ground surface within the mapped site boundary is covered by a Golden Door Spa Resort parking lot and a pump house and parking lot owned by Vallecitos Water District, or ground visibility is obscured by dense vegetation.

P-37-004558/CA-SDI-4558. Site CA-SDI-4558 was originally recorded by Malcolm Rogers as SDM-W-3415, however a site record form for SDM-W-3415 was not relocated. In 1971, Kearns updated site CA-SDI-4558 for the Interstate 15 project (Cupples 1977). Kearns described the site as a prehistoric occupation site consisting of metates, manos, flakes, and core and cobble tools. In 1977, a test program was conducted for site CA-SDI-4558 for the Department of Transportation (Cook et al. 1977). A total of thirty-five 1x1 m units were excavated, producing projectile points, manos, battered implements, debitage and marine shell. In addition, two possible hearth features were exposed during the test program. Disturbances noted at the time of the original test program included the destruction of the southern portion of the site by the construction of Deer Springs Road; the construction of a paved access road and horse corrals across the eastern portion of the site; removal of top soil at the far east portion of the site; the construction of two houses; and previous discing. Cook et al. (1977) stated that even with this amount of disturbance, a substantial cultural deposit (130-cm depth) was present at the site. On the basis of this previous work, site CA-SDI-4558 is identified as significant, under CEQA and the County Resource Protection Ordinance (Chris White - California Department of Transportation, personal communication).

In 2004, Gallegos & Associates conducted supplemental testing at site CA-SDI-4558 to clarify site boundaries for the Merriam Mountains Project (Guerrero et al. 2007). Testing at CA-SDI-4558 by Gallegos & Associates included recording milling features, excavation of 24 STPs, and artifact cataloguing and analysis. Total artifacts recovered from the supplemental test program included one biface, 75 debitage, two ground stone fragments, and 3.8 g of bone. Flake production from locally available nodules suggests flake tool use and/or biface production. Most likely, these tools were manufactured and used at the site, then transported elsewhere for use where tool-stone materials may not have been as readily accessible. Activities likely included some hunting and collection of plants. The

SECTION FOUR**Results and Management Recommendations**

presence of two ground stone tools fragments represents plant collection and processing. The remains and the range of small to medium mammal bone demonstrate the variety of foods collected, hunted, and processed. Disturbances observed at CA-SDI-4558 include Inodem trash and rodent disturbance.

Site CA-SDI-4558 was relocated during this study, appears to be in the same condition as reported by Guerrero et al. (2007). One historic residential foundation was identified in the central portion of the site, and another foundation was identified adjacent to the north of the site. Both foundations appear to be the remains of residential structures that were described by Cook et al. (1977).

Site CA-SDI-4558 is located within the Project APE development impact area and is classified as significant under CEQA and County of San Diego RPO criteria. A portion of this site would be directly impacted by Deer Springs Road improvements (Merriam Mountains Project EIR Impact CR-1). The remainder of this site was to be avoided and placed within an open space easement; however, indirect impacts would occur from construction, increased accessibility, and the potential for pothunters/looters (Merriam Mountains Project EIR Impact CR-2).

P-37-005950. This prehistoric site was first recorded by Aasved and Murray (1978) as three milling features, with a total of four slicks, and a light marine shell scatter consisting predominantly of *Chione californiensis* in a 46 x 15 meter area. The site has been disturbed by the grading of a fire break through the center of the site.

Site P-37-005950 was relocated during this study in 2016 and is located outside the Project APE but in the immediate project vicinity. Within the mapped site boundary, there is only one slab like boulder with possible milling slicks that are heavily weathered. This boulder also has a survey marker drilled in it and is located across the fire break from a survey stake with pink flagging tape and labeled "LS 5669". No marine shell was present on the ground surface. Other boulders within the site boundary were inspected and found to not contain any evidence of milling.

P-37-005951. Prehistoric Site P-37-005951 was first recorded by Aasved and Murray (1978) as one milling slick, a scatter of pot sherds, lithic artifacts, lithic debitage, marine shell and burned bone over a 61 x 46 meter area.

Site P-37-005951 was relocated during this study in 2016 and the southern third of the site located within the Project APE. Only the portion of the mapped site boundary in the public right of way could be inspected. The site has been disturbed by the construction of a single family residence and an asphalt and brick driveway, cement wall and grading. The majority of the mapped site boundary appears to be upslope from the residence and may be intact. However, just to the east of the driveway, a large boulder that appears to have been pushed and toppled onto its side during the construction of the residence and wall has a milling slick on the side of the boulder facing Deer springs Road. No other cultural materials were observed within the mapped site boundaries in the public right of way.

P-37-009822/CA-SDI-9822. Site CA-SDI-9822 was originally recorded by Rogers (n.d.) in the 1930s as a habitation site, consisting of a dark midden, flakes, mano fragments, a large amount of shell, and bedrock milling features. The southern portion of site CA-SDI-9822 has been destroyed by the construction of Deer Springs Road, however a cultural deposit may still be present south of the road. Site CA-SDI-9822 was updated by Hedges (1977), and a heavily weathered and exfoliated red

SECTION FOUR**Results and Management Recommendations**

pictograph design was identified on a rock face, situated in the east portion of the site. In 1990, site CA-SDI-9822 was again updated by Crull (1990). Crull (1990) reported that the site had been previously excavated by Palomar College between 1980 and 1989, with an average depth of 120-cm. Over fifty 1x2-m test units were excavated and as a result, a wide range of Late Period artifacts, including projectile points, pottery, bone tools, milling tools, shell beads, obsidian, glass trade beads, shell, bone, and human cremations were recovered. In addition, the site was radiocarbon-dated to 540±60 years B.P., however, this date is not reliable, as no documentation confirming the radiocarbon dating analysis was located at Palomar College (Guerrero et al. 2005; White and White n.d.).

During a field class survey, Palomar College students Diehl and Brown (1986) updated site CA-SDI-9822, yet the site form update was never submitted to the South Coastal Information Center. Ten bedrock milling features were documented and photographed by Diehl and Brown (1986). The southern portion of the site has been destroyed by the construction of Deer Springs Road and a manufactured home community south of Deer Springs Road. Crull (1990) reported that the habitation area and milling features are protected by a chain-link fence, however additional milling features, the pictograph feature, and surface artifacts are located outside of the fence. On the basis of this previous work, site CA-SDI-9822 is identified as significant, under CEQA and the County Resource Protection Ordinance.

In 2004, Gallegos & Associates conducted a survey for site CA-SDI-9822 for the Merriam Mountains Project (Guerrero et al. 2007). Site CA-SDI-9822 was relocated and the area outside of the fenced portion of site CA-SDI-9822 was surveyed to determine the site boundary. Twelve bedrock milling features and one pictograph feature were also documented. Disturbance noted included minor trash dumping within the site and foot traffic. As a result of the current study and an examination of the previous work conducted at the site by Palomar College, the site boundary for CA-SDI-9822 was redefined to include the milling features and the pictograph located outside of the fenced site area.

As of 2004, the location and/or conditions of the surviving collections previously recovered from site CA-SDI-9822 are uncertain. What is known is that portions of the collections reside at Palomar College under the curation of Phil Debarros, portions may reside with Leslie Quintero, unknown portions have been repatriated/reburied, and other portions have been lost. How much of the surviving collections retain some analytic viability is uncertain.

The catalog created by Gallegos & Associates represents the consolidation of a series of four portions of older catalogs that have been created by the Palomar College Archaeology Lab. These cataloging efforts were based on catalog cards that were recorded during the multitude of previous excavations conducted at CA-SDI-9822. A one to one comparison between catalog cards and the artifacts they represent has not been conducted by Palomar College or by Gallegos & Associates. The present catalog has identified a minimum of 9470 entries. The development of the Gallegos & Associates version of the catalog has identified a multitude of inherent errors. A tremendous effort has been made to "clean" these catalogs by identifying duplicate entries, erroneous entries, and general errors encountered during the data entry process.

Although the catalog does not function to provide information that may allow the analyst to answer the research questions that are generally developed by archaeologists, it does serve to verify the significance of the site under CEQA and the Country Resource Protection Ordinance. The catalog developed by Gallegos & Associates and serves to present some conception of the type and quantity of artifacts that

SECTION FOUR**Results and Management Recommendations**

have been identified at the CA-SDI-9822 and the nature of the assemblage itself. Although a one to one comparison of artifacts to catalog has not been conducted, verification of an approximate quantity of artifacts recovered from the site has been achieved by comparing the catalog to the unit level records possessed by Palomar College. It is currently understood that a minimum of 50 units (primarily 1x2-m in size) have been excavated at CA-SDI-9822. To date, a clear understanding of the prehistoric activities at CA-SDI-9822 has not been achieved. However, if the present catalog could be cross referenced with existing cultural materials and a series of collections from units with good integrity could be identified, that information may be utilized to provide an appropriate analysis and index of the prehistoric activities that occurred at CA-SDI-9822.

Site CA-SDI-9822 was relocated during this 2016 study. Bedrock milling features and the rock with the red pigment pictograph were relocated as part of this study. Surface artifacts noted by Gallegos (2007) were not observed during this study and were likely collected during previous studies at the site. Rodent disturbance, modern trash dumping and foot traffic were also noted by this study. The portion of the site to the south of Deer Springs Road is heavily vegetated and has been disturbed by the grading of Windsong Lane and other ancillary dirt roads as well as the presence of an avocado grove.

Site CA-SDI-9822 is located within the Project APE development area and is identified as significant under CEQA and RPO criteria. Portions of this site would be directly impacted by Deer Springs Road improvements (Merriam Mountains Project EIR Impact CR-3). The remainder of this site would be avoided and placed within an open space easement. Indirect impacts from increased accessibility and the potential for pot-hunters/looters would result to the remainder of this site from implementation of improvements to Deer Springs Road (Merriam Mountains Project EIR Impact CR-4).

4.4.2 Newly Identified Sites

GDS-001. This prehistoric site consists of five bedrock milling features, each with one milling slick, in a 150x40 meter area along a scenic hiking trail on the Golden Door Spa Resort property. The hillside had dense vegetation cover so no other cultural materials were observed in the site area.

GDS-002. Prehistoric Site GDS-002 consists of one bedrock milling feature with one slick and one mortar in a 5x3 meter area just south of Deer Springs Road in the Project APE. The immediate surrounding area did not indicate the presence of additional cultural materials but it has been disturbed by both the grading of Deer Springs Road to the north and a dirt road to the south of the feature. The adjacent area is used as an avocado grove and has been partially graded for the construction of a water retention feature. This milling feature is approximately 250 feet to the east of the mapped site boundary of Site P-37-009822/CA-SDI-9822 and lends support to the presence of additional cultural materials along the south side of the road associated with P-37-009822/CA-SDI-9822.

4.5 MANAGEMENT CONSIDERATIONS

Five cultural resources were identified within the Project APE. The potential for subsurface historic- and prehistoric-period cultural resources is generally considered high within the Project APE. The following recommendations

SECTION FOUR**Results and Management Recommendations****4.5.1 Eligibility Evaluations****4.5.1.1 Previously Recorded Sites**

P-37-4369. This prehistoric period was not relocated during the current study. The road cuts along Deer Springs Road to the north of the mapped site boundary did not show evidence of any cultural materials. Part of the mapped archaeological boundaries are covered by a Golden Door Spa Resort parking lot, a pump house and parking lot owned by Vallecitos Water District or ground visibility is obscured by dense vegetation.

A portion of site P-37-004369 may lie within the Project APE and has not been evaluated for the CRHR or NRHP. Evaluations of eligibility and a subsurface testing program to determine the presence or absence of in situ archaeological deposits within the portion of the site within the Project APE is recommended. The results and an evaluation of eligibility should be reported in a separate document.

P-37-004558/CA-SDI-4558. On the basis of previous work, the prehistoric component of site CA-SDI-4558 is identified as significant, under CEQA and the County Resource Protection Ordinance (Chris White - California Department of Transportation, personal communication), but has not been evaluated for the NRHP.

It is unknown if the SHPO has concurred with this recommendation, as no documentation was provided by the records search. If federal funds are obtained for this project, Section 106 compliance requires SHPO concurrence with the recommendation to be documented. Preservation in place by project redesign and avoidance of impacts or adverse effects to this eligible resource is recommended, if possible. If avoidance of impacts is not possible, then before construction, a subsurface testing program to determine the presence or absence of in situ archaeological deposits within the portion of the site within the Project APE and its integrity is recommended. The results and an evaluation of eligibility should be reported in a separate document.

Evaluations of eligibility to determine the historic residential structure's NRHP eligibility is recommended if federal funds are obtained for this project. The results and an evaluation of eligibility should be reported in a separate document. If the evaluation determines that the resource is significant, then because it is not being preserved in place, mitigation would involve detailed recordation of this resource.

Site CA-SDI-4558 is located within the Project APE development impact area and is classified as significant under CEQA and County of San Diego RPO criteria. A portion of this site would be directly impacted by Deer Springs Road improvements (Merriam Mountains Project EIR Impact CR-1). The remainder of this site was to be avoided and placed within an open space easement; however, indirect impacts would occur from construction, increased accessibility, and the potential for pothunters/looters (Merriam Mountains Project EIR Impact CR-2).

P-37-005950. This prehistoric site is located outside the Project APE but in the immediate project vicinity and has not been not been evaluated for the CRHR or NRHP. The Project will not affect any of the characteristics that would make this resource eligible for either the CRHR or NRHP. No further

SECTION FOUR**Results and Management Recommendations**

evaluations are required for compliance with CEQA or Section 106, as there is no significant impact or adverse effect.

P-37-005951. Prehistoric Site P-37-005951 was relocated during this study in 2016 and the southern third of the site located within the Project APE and has not been evaluated for the CRHR or NRHP. Evaluations of eligibility and a subsurface testing program to determine the presence or absence of in situ archaeological deposits within the portion of the site within the Project APE is recommended. The results and an evaluation of eligibility should be reported in a separate document.

P-37-009822/CA-SDI-9822. Site CA-SDI-9822 was identified as significant, under CEQA and the County Resource Protection Ordinance based on previous work. It is unknown if the SHPO has concurred with this recommendation, as no documentation was provided by the records search. If federal funds are obtained for this project, Section 106 compliance requires SHPO concurrence with the recommendation to be documented. Preservation in place by project redesign and avoidance of impacts or adverse effects to this eligible resource is recommended, if possible. If avoidance of impacts is not possible, then before construction, a subsurface testing program to determine the presence or absence of in situ archaeological deposits within the portion of the site within the Project APE and its integrity is recommended. The results and an evaluation of eligibility should be reported in a separate document.

Site CA-SDI-9822 is located within the Project APE development area and is identified as significant under CEQA and RPO criteria. Portions of this site would be directly impacted by Deer Springs Road improvements (Merriam Mountains Project EIR Impact CR-3). The remainder of this site would be avoided and placed within an open space easement. Indirect impacts from increased accessibility and the potential for pot-hunters/looters would result to the remainder of this site from implementation of improvements to Deer Springs Road (Merriam Mountains Project EIR Impact CR-4).

4.5.1.2 Newly Identified Sites

GDS-001. This prehistoric site consists of five bedrock milling features, each with one milling slick, in a 150x40 meter area along a scenic hiking trail on the Golden Door Spa Resort property. The hillside had dense vegetation cover so no other cultural materials were observed in the site area.

A portion of site GDS-001 may lie within the Project APE and has not been evaluated for the CRHR or NRHP. Evaluations of eligibility and a subsurface testing program to determine the presence or absence of in situ archaeological deposits within the portion of the site within the Project APE is recommended. The results and an evaluation of eligibility should be reported in a separate document.

GDS-002. Prehistoric Site GDS-002 consists of one bedrock milling feature with one slick and one mortar in a 5x3 meter area just south of Deer Springs Road in the Project APE. The immediate surrounding area did not indicate the presence of additional cultural materials but it has been disturbed by both the grading of Deer Springs Road to the north and a dirt road to the south of the feature. The adjacent area is used as an avocado grove and has been partially graded for the construction of a water retention feature. This milling feature is approximately 250 feet to the east of the mapped site boundary of Site P-37-009822/CA-SDI-9822 and lends support to the presence of additional cultural materials along the south side of the road associated with P-37-009822/CA-SDI-9822.

SECTION FOUR**Results and Management Recommendations**

A portion of site GDS-002 may lie within the Project APE and has not been evaluated for the CRHR or NRHP. Evaluations of eligibility and a subsurface testing program to determine the presence or absence of in situ archaeological deposits within the portion of the site within the Project APE is recommended. The results and an evaluation of eligibility should be reported in a separate document.

4.5.2 Deer Springs Valley District and Traditional Cultural Landscape

This study proposes that the above mentioned archaeological sites in the Deer Springs Valley together form a prehistoric district and traditional cultural landscape used by the Pechanga Band of Luiseño Indians culture and meet the criteria specified in the National Register's Criteria for Evaluation (Criteria D in 36 CFR 60.4; Parker and King 1998) and Criteria 4 in the implementing regulations for the California Register (California Code of Regulations, Title 14, Chapter 11.5, Section 4850 et seq) . One kind of cultural significance a property may possess, and that may make it eligible for inclusion in the Register, is traditional cultural significance. "Traditional" in this context refers to those beliefs, customs, and practices of a living community of people that have been passed down through the generations, usually orally or through practice. The traditional cultural significance of a historic property, then, is significance derived from the role the property plays in a community's historically rooted beliefs, customs, and practices. Examples of properties possessing such significance include:

- a location associated with the traditional beliefs of a Native American group about its origins, its cultural history, or the nature of the world;
- a rural community whose organization, buildings and structures, or patterns of land use reflect the cultural traditions valued by its long-term residents;
- a location where Native American religious practitioners have historically gone, and are known or thought to go today, to perform ceremonial activities in accordance with traditional cultural rules of practice; and
- a location where a community has traditionally carried out economic, artistic, or other cultural practices important in maintaining its historic identity.

A traditional cultural property, then, can be defined generally as one that is eligible for inclusion in the National Register because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community.

A portion of the Deer Springs Valley District and Traditional Cultural Landscape may lie within the Project APE and has not been evaluated for the CRHR or NRHP. Field inspection and recordation beyond the Project APE by a qualified archaeologist, qualified ethnographer and a Tribal consultant to inspect properties that form a part of this district and traditional cultural landscape, evaluations of eligibility by a qualified archaeologist and qualified ethnographer, and culturally sensitive consultation with the Pechanga Tribe among other interested stakeholders by the County of San Diego is recommended. The results and an evaluation of eligibility should be reported in a separate document.

SECTION FOUR**Results and Management Recommendations****4.5.3 Golden Door Spa Resort Designed Historic Landscape**

This study proposes that the Golden Door Spa Resort itself may form a Designed Historic Landscape. For the purposes of the National Register, a designed historic landscape is defined as any of the following (Keller and Keller n.d.):

- a landscape that has significance as a design or work of art;
- a landscape consciously designed and laid out by a master gardener, landscape architect, architect, or horticulturalist to a design principle, or an owner or other amateur using a recognized style or tradition in response or reaction to a recognized style or tradition;
- a landscape having a historical association with a significant person, trend, event, etc. in landscape gardening or landscape architecture; or
- a landscape having a significant relationship to the theory or practice of landscape architecture

and meet the criteria specified in the National Register's Criteria for Evaluation (Criteria C in 36 CFR 60.4; Keller and Keller n.d.) and Criteria 3 in the implementing regulations for the California Register (California Code of Regulations, Title 14, Chapter 11.5, Section 4850 et seq).

The Golden Door Spa Resort by its very nature is one of the types of Designed Historic Landscapes, namely a planned resort. The buildings and surrounding landscapes were designed and built to emulate traditional Japanese architecture containing a Japanese art collection dating as early as the 18th century Edo period, which includes traditional pieces such as flickering Kasuga lanterns that illuminate paths across the landscape (the largest collection of these lanterns outside of Japan), delicate rice paper room divider screens with charcoal brushstrokes, and a protective Temple Guardian that offers shelter. The landscape was purposefully designed to include Japanese Zen rock gardens; Roji, simple rustic gardens, for engaging with others over tea; kaiyu-shiki-teien, stroll gardens that engage visitors in the richness of the Japanese garden experience; and tsubo-niwa, courtyard gardens, where guests may enjoy nature in solitude. The spa's design may have also incorporated existing historic buildings and orchards dating to at least 1938.

A portion of the Golden Door Spa Resort Designed Historic Landscape may lie within the Project APE and has not been evaluated for the CRHR or NRHP. Field inspection and recordation beyond the Project APE by a qualified architectural historian or landscape architect to inspect properties that form a part of this Designed Historic Landscape, evaluations of eligibility, and consultation with the Golden Door Spa Resort among other interested stakeholders by the County of San Diego is recommended. The results and an evaluation of eligibility should be reported in a separate document.

The Lead Agency, the County of San Diego, is responsible for ensuring compliance with these recommendations because damage to significant cultural resources is in violation of CEQA and Section 106. Section 15097 of Title 14, Chapter 3, Article 7 of CEQA, *Mitigation Monitoring or Reporting*, "the public agency shall adopt a program for monitoring or reporting on the revisions which it has required in

SECTION FOUR

Results and Management Recommendations

the project and the measures it has imposed to mitigate or avoid significant environmental effects. A public agency may delegate reporting or monitoring responsibilities to another public agency or to a private entity which accepts the delegation; however, until mitigation measures have been completed the lead agency remains responsible for ensuring that implementation of the mitigation measures occurs in accordance with the program.”

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FIGURES

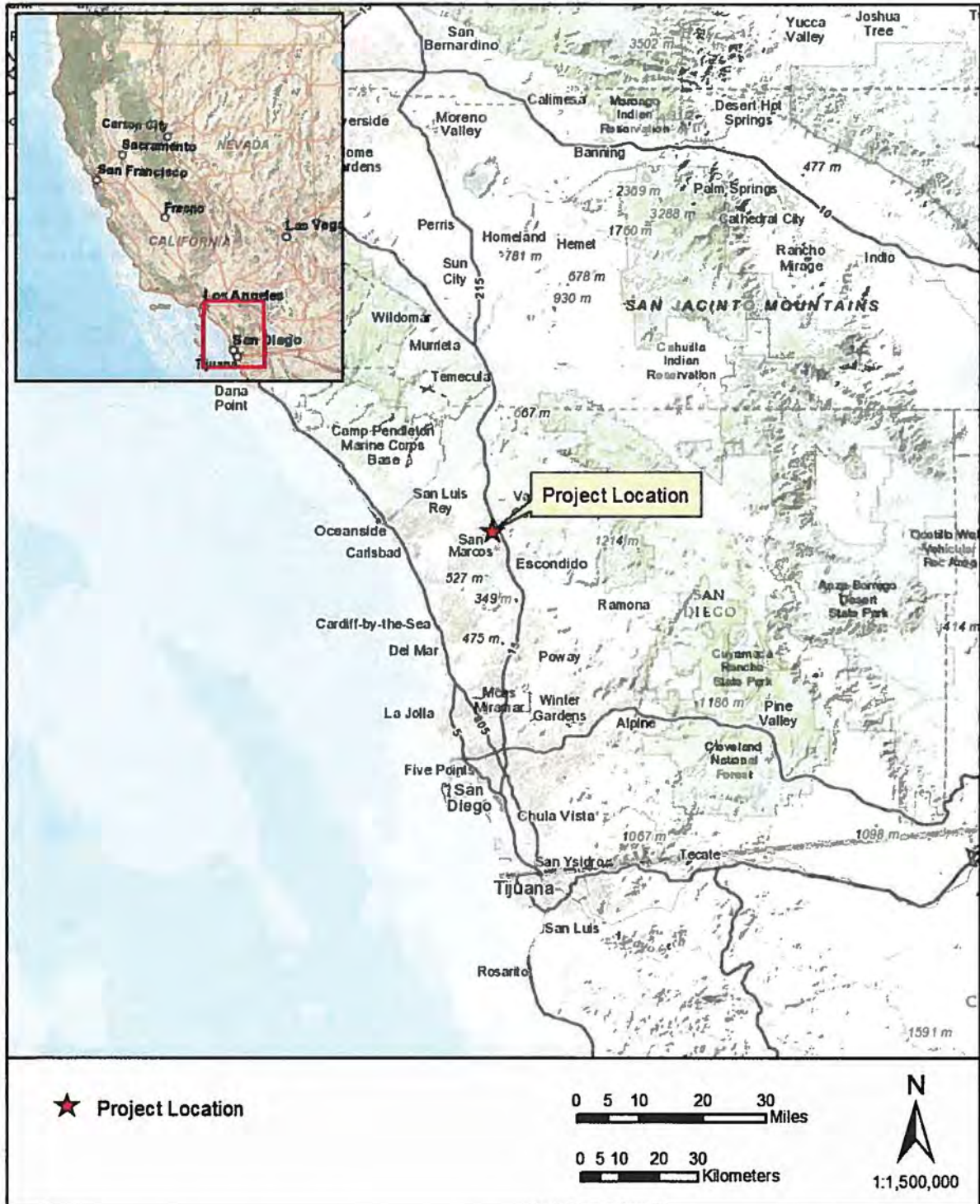


Figure 1. Project Location Map

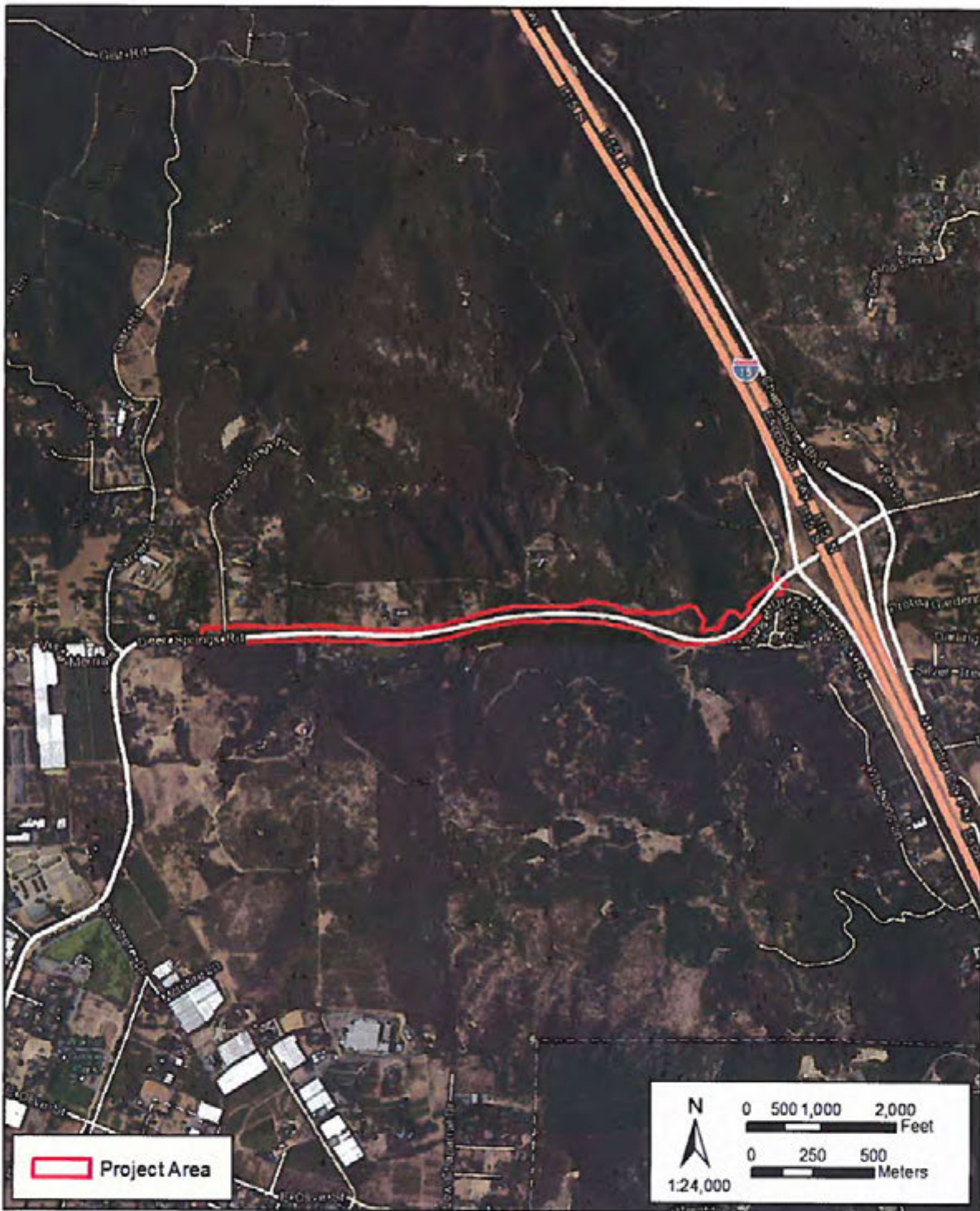


Figure 2. Project APE Map.

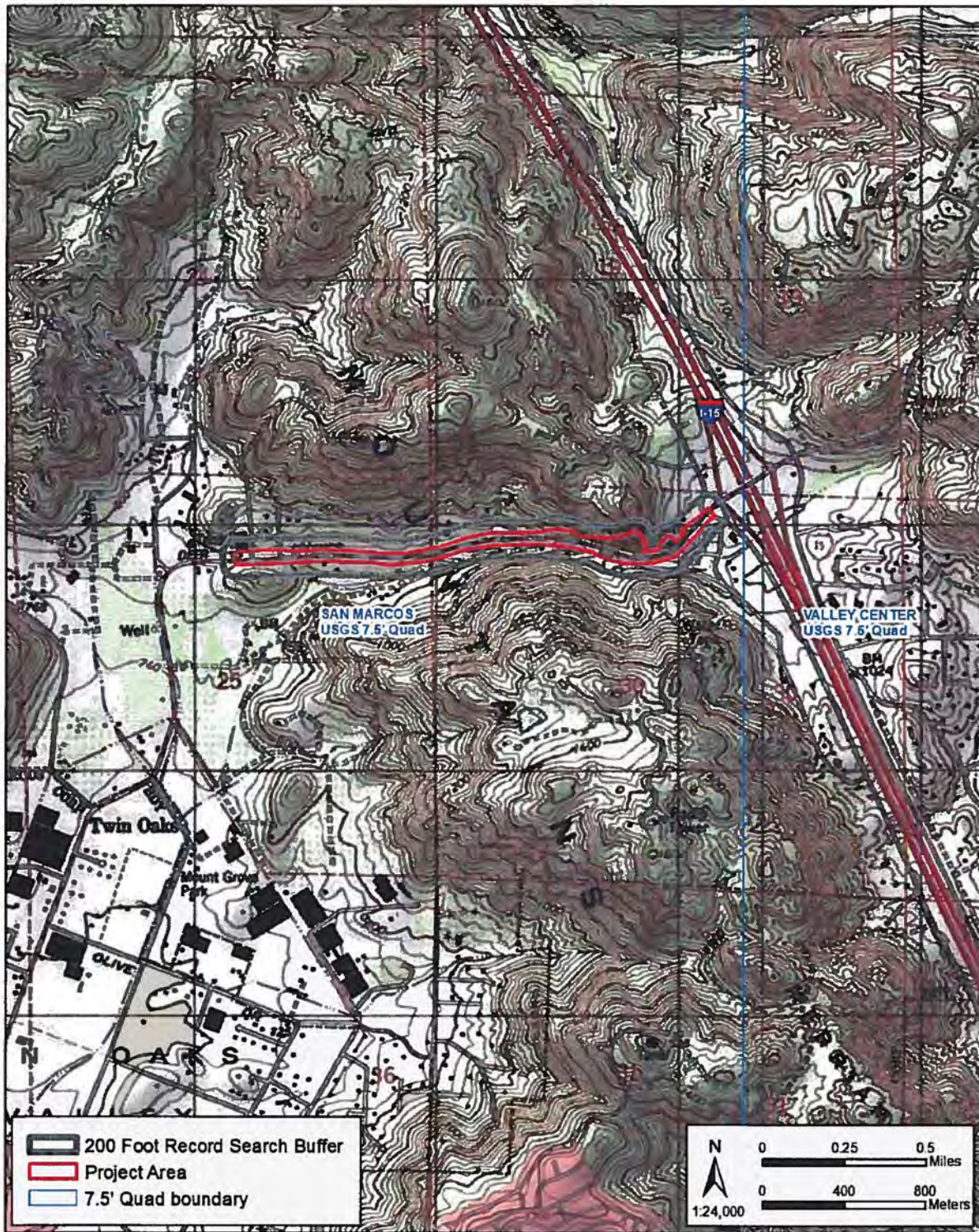


Figure 3. Records Search Boundary Map

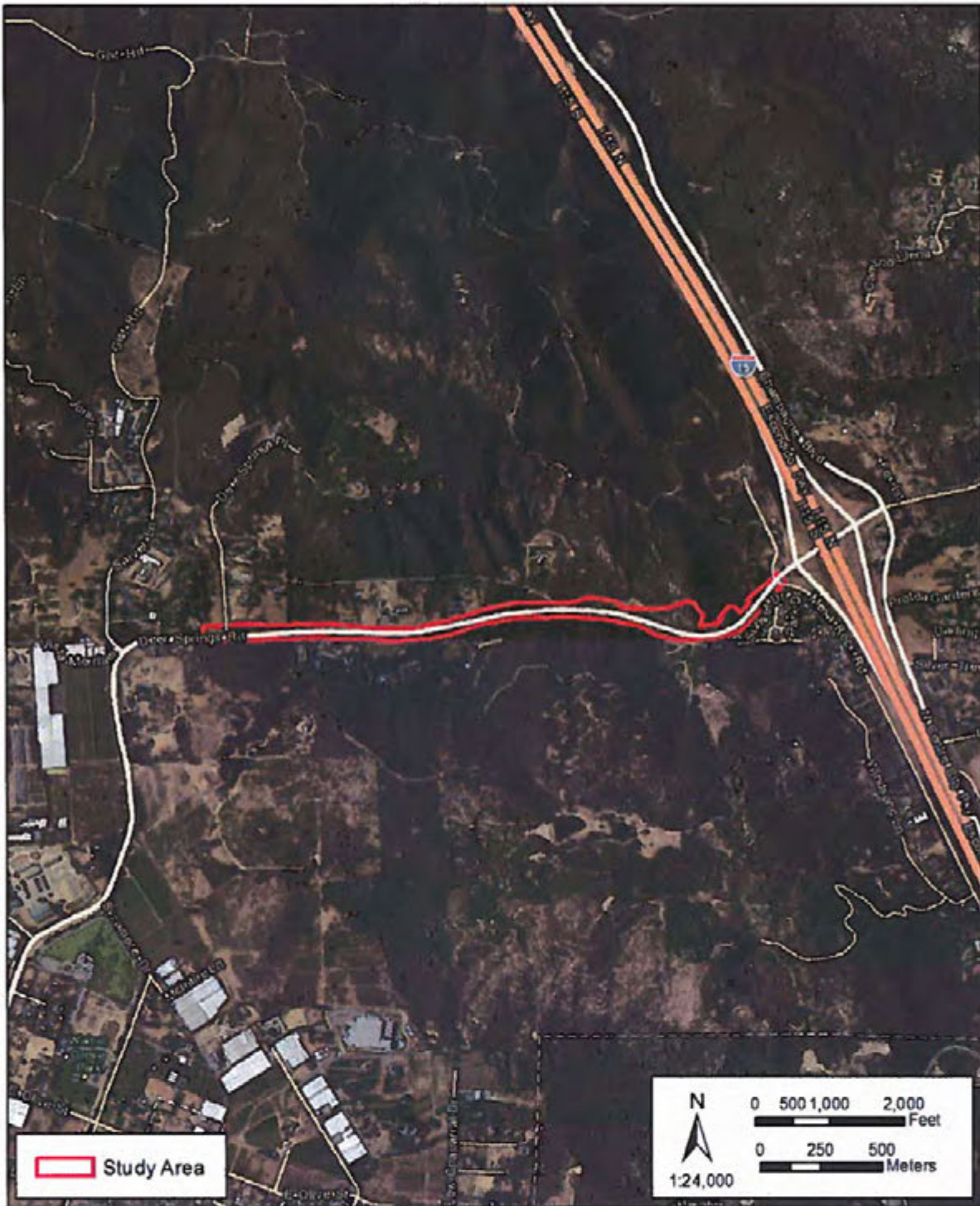


Figure 4. Reconnaissance Survey Coverage Map

APPENDIX A

TABLE 1. PREVIOUS INVESTIGATIONS WITHIN A 200-FOOT RADIUS OF THE PROJECT APE

REPORT NUMBER	AUTHOR	YEAR	REPORT TITLE	TYPE OF STUDY
SD-01354	SAN DIEGO COUNTY ARCHAEOLOGICAL SOCIETY	1975	ARCHAEOLOGICAL SENSITIVITY STUDY OF THE TWIN OAKS VALLEY, SAN DIEGO COUNTY, CALIFORNIA.	ARCHAEOLOGICAL, EXCAVATION
SD-02495	NEW HORIZONS PLANNING CONSULTANTS, INC.	1984	DRAFT ENVIRONMENTAL IMPACT REPORT SULLINS TECHNOLOGY PARK	OTHER RESEARCH
SD-02611	OLSEN, RICHARD AND ET AL	1991	ARCHAEOLOGICAL INVESTIGATION OF DEER SPRINGS ESTATES TWIN OAKS VALLEY, SAN DIEGO COUNTY, CALIFORNIA SURVEY REPORT	ARCHAEOLOGICAL, EVALUATION, FIELD STUDY
SD-05797	SAN DIEGO ARCHAEOLOGICAL SOCIETY	1975	ARCHAEOLOGICAL SENSITIVITY STUDY OF THE TWIN OAKS VALLEY, SAN DIEGO COUNTY CA	OTHER RESEARCH
SD-12459	GARDNER, JILL	2009	ARCHAEOLOGICAL MONITORING FOR THE SDG&E POLE REPLACEMENT PROJECT IN ESCONDIDO, SAN DIEGO COUNTY, CALIFORNIA (ETS 7851)	ARCHAEOLOGICAL, EVALUATION, OTHER RESEARCH
SD-12650	GUERRERO, MONICA, TRACY STROPES, AND DENNIS GALLEGOS	2007	CULTURAL RESOURCE REPORT FOR THE MERRIAM MOUNTAINS PROJECT COUNTY OF SAN DIEGO, CALIFORNIA	ARCHAEOLOGICAL, EVALUATION, OTHER RESEARCH
SD-14140	ROBBINS-WADE, MARY	2003	ARCHAEOLOGICAL RECORDS SEARCH AND LITERATURE REVIEW, VALLECITOS WATER DISTRICT MASTER PLAN UPDATE SAN DIEGO COUNTY, CALIFORNIA	ARCHAEOLOGICAL, EVALUATION, OTHER RESEARCH

TABLE 1. PREVIOUS INVESTIGATIONS WITHIN A 200-FOOT RADIUS OF THE PROJECT APE

REPORT NUMBER	AUTHOR	YEAR	REPORT TITLE	TYPE OF STUDY
SD-15069	ANDREW R. PIGNIOLO	2006	CULTURAL RESOURCE RECORD SEARCH AND SURVEY RESULTS FOR THE SPRINT SOLAR VIEW (DEER SPRINGS ROAD) CELL SITE PROJECT (CA6475C), AT 684 DEER SPRINGS ROAD, SAN DIEGO COUNTY, CALIFORNIA	ARCHAEOLOGICAL, FIELD STUDY, LITERATURE SEARCH, OTHER RESEARCH

TABLE 2. PREVIOUSLY RECORDED SITES WITHIN A 200-FOOT RADIUS OF THE PROJECT APE

SITE IDENTIFIER	PREHISTORIC OR HISTORIC	REPORT REFERENCE	WITHIN PROJECT APE
P-37-004369	PREHISTORIC WORKSHOP AND CAMP	N/A	NO
P-37-004558	PREHISTORIC HABITATION SITE AND HISTORIC RESIDENCE RUIN	SD-00542, SD-01962, SD-02495, SD-08764, SD-08766	YES
P-37-005950	PREHISTORIC BEDROCK MILLING SITE	N/A	NO
P-37-005951	PREHISTORIC BEDROCK MILLING SITE	N/A	YES
P-37-009822	PREHISTORIC HABITATION SITE AND ROCK ART	N/A	YES



South Coastal Information Center
 San Diego State University
 5500 Campanile Drive
 San Diego, CA 92182-5320
 Office: (619) 594-5682
 www.scic.org
 nick@scic.org

**CALIFORNIA HISTORICAL RESOURCES INFORMATION SYSTEM
 RECORDS SEARCH**

Company: Spindrift Archaeological Consulting
Company Representative: Arleen Garcia-Herbst
Date Processed: 3/22/2016
Project Identification: Deer Springs Road Widening Project 2016-004

Search Radius: 200 Feet

Historical Resources: YES
 Trinomial and Primary site maps have been reviewed. All sites within the project boundaries and the specified radius of the project area have been plotted. Copies of the site record forms have been included for all recorded sites.

Previous Survey Report Boundaries: YES
 Project boundary maps have been reviewed. National Archaeological Database (NADB) citations for reports within the project boundaries and within the specified radius of the project area have been included.

Historic Addresses: YES
 A map and database of historic properties (formerly Geofinder) has been included.

Historic Maps: YES
 The historic maps on file at the South Coastal Information Center have been reviewed, and copies have been included.

Summary of SHRC Approved CHRIS IC Records Search Elements	
RSID:	2256
RUSH:	yes
Hours:	1
Spatial Features:	14
Address-Mapped Shapes:	no
Digital Database Records:	0
Quads:	1
Aerial Photos:	0
PDFs:	Yes
PDF Pages:	33

APPENDIX B
(To be provided with draft report)

APPENDIX C
(To be provided with draft report)

APPENDIX D
CONFIDENTIAL
(To be provided with draft report)

From: Andrew.Yancey@lw.com
To: [Smith, Ashley](#)
Subject: Follow Up to Call re Documents Provided by the County
Date: Thursday, June 02, 2016 4:52:12 PM
Attachments: [RE Newland Sierra - Cultural Resources Technical Report \(3rd submittal\).msg](#)
[Newland Sierra - Agricultural Technical Report and Visual Technical Report \(2nd submittal\).msg](#)
[Newland Sierra TIF Meeting \(9215\) - staff reference sheet \(Attorney-Client Confidential\) follow-up info.msg](#)
[Newland Sierra TIF Meeting \(9215\) - staff reference sheet \(Attorney-Client Confidential\) follow-up info.msg](#)

Ashley – Thank you for speaking with Stephanie Saathoff and me today about documents provided to us via CD by the County last December regarding the Newland "Sierra" project. (I have attached an email exchange between myself and County staff members regarding the CD). As I stated in our discussion this morning, upon recent review of this CD, we determined that an email from Dudek (Newland's consultant) to County staff contained a "sharefile" link to project-related documents. By clicking this link, we accessed a file with documents that appear to be technical reports prepared for the Newland "Sierra" project. These documents were available by simply clicking the "sharefile" link, which provided access to a folder with several subfolders and documents. No log in information or password was required.

Per our discussion, you stated that the County did not intend to provide access to any "links" to documents from Dudek, because such documents would be considered "draft" technical reports. When I asked whether we could obtain such technical reports from the County through a more formal Public Records Act request, you stated that any technical reports regarding the Newland "Sierra" project possessed by the County at this time are "deliberative" and would be withheld, and that technical reports will not be available to the public until the Draft EIR for the Newland "Sierra" project is published.

Attached are two emails from Dudek to the County that were included on the CD provided to us by the County in response to a general request for project-related documents.

1. We had downloaded the documents from the "sharefile" folder link in the email from Brian Grover to Ashley Gungle titled "RE: Newland Sierra - Cultural Resources Technical Report (3rd submittal)," dated August 31, 2015. Based on our phone discussion with you this morning, however, we have now deleted the documents downloaded from the Dudek "sharefile" folder.
2. In addition, the CD provided to us by the County contained an email from Brian Grover to Ashley Gungle and Darin Neufeld titled "Newland Sierra - Agricultural Technical Report and Visual Technical Report (2nd submittal)," dated September 3, 2015, that appears to have a similar "sharefile" link. We have not attempted to access this link and have not downloaded documents from this link.

We have also deleted from our system the two emails from Dudek attached here.

We renew our request that the County provide us with technical reports submitted by Dudek to the County in the attached emails. We further request that the County provide us with all technical reports, including all drafts, relating to the Newland "Sierra" project. Please let us know if we need to provide a more formal PRA request or request these documents via other means.

In addition, I have attached an email that was also included on the CD that may include a County attorney and may invoke privilege. We have also deleted this email from our files.

Please confirm that this account of our discussion reflects your understanding of it. Also, please let us know how we may obtain the technical reports, including drafts, that have been submitted to the County for the Newland "Sierra" project.

Feel free to let us know if you would like to discuss this matter further. Thank you.

Andrew D. Yancey

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Milan	

July 6, 2016

VIA EMAIL AND U.S. MAIL

Vallecitos Water District
 201 Vallecitos De Oro
 San Marcos, CA 92069
 Attention: Diane Posvar

File No. 025388-0011

Re: The Golden Door's Comments Regarding Agenda Item 2.3 for the Vallecitos Water District Board of Directors' July 6, 2016 Meeting

Dear Directors Evans, Hernandez, Elitharp, Sannella, and Martin,

As you know, we represent the Golden Door Properties LLC ("Golden Door"), an award-winning spa and resort that opened in 1958. This historic haven is situated on approximately 600 acres on the south side of Deer Springs Road in northern San Diego County ("North County") and is a Vallecitos Water District (the "District") customer in District 1.

On January 6, 2016, the District approved a Water Supply Assessment and Verification ("WSA/WSV") for Newland Real Estate Group, LLC's ("Newland") revived Merriam Mountains project, which is known as the Newland "Sierra" Specific Plan ("Project"). The Golden Door submitted written comments and appeared at the January 6 meeting to oppose the Project and approval of the WSA/WSV. Per Agenda Item 2.3 for the District Board of Directors' July 6, 2016 meeting, we understand that the District intends to consider approval of a Revised WSA/WSV, which would allow additional demand for the Project.

As of approximately 1:45 p.m. today when the District's clerk returned a phone call from our office, the Revised WSA/WSV was not included as part of the District's Staff Report for Agenda Item 2.3 and could not be accessed through the District's website. As such, we request that the District postpone consideration of the Revised WSA/WSV until this document has been made available to the public with sufficient time to review its contents. Proceeding with Agenda Item 2.3 at this time could potentially violate the Ralph M. Brown Act and other procedural requirements prescribed by law.

The Golden Door continues to oppose the Project and approval of its WSA/WSV. Should the Board elect to consider the Revised WSA/WSV at this time, we would incorporate

our previous comments on this matter and have attached hereto for your consideration our January 6, 2016 comment letter.

We appreciate your consideration of our concerns, and we look forward to the opportunity to review the Revised WSA/WSV prior to the Board's consideration of its approval. Thank you.

Sincerely,



Andrew D. Yancey
of LATHAM & WATKINS LLP

Enclosures

cc: Kathy Van Ness, Golden Door
Jeffrey G. Scott, Vallecitos Water District General Counsel
Mark Slovick, County Planning and Development Services
Ashley Smith, County Planning and Development Services
Dan Silver, Endangered Habitats League
Doug Hageman, Newland
Paul Robinson, Hecht Solberg Robinson Goldberg & Bagley
Mark Dillon, Gatzke Dillon & Balance
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London	Singapore
Los Angeles	Tokyo
Madrid	Washington, D.C.
Milan	

August 4, 2016

VIA EMAIL AND FEDERAL EXPRESS

Vallecitos Water District
 201 Vallecitos De Oro
 San Marcos, CA 92069
 Attention: Diane Posvar

File No. 025388-0011

Re: The Golden Door's Concerns Regarding the Vallecitos Water District's Preparation of a Water Supply Assessment and Verification for the Newland "Sierra" Project

Dear Directors Evans, Hernandez, Elitharp, Sannella, and Martin,

As you know, we represent the Golden Door Properties LLC ("Golden Door"), an award-winning spa and resort that opened in 1958. This historic haven is situated on approximately 600 acres on the south side of Deer Springs Road in northern San Diego County ("North County"). It was the highest rated establishment in *Travel and Leisure's* recent list of the world's best destination spas. In addition, the Golden Door is a Vallecitos Water District (the "District") customer in District 1.

We understand that the District is preparing a revised Water Supply Assessment and Verification ("WSA/WSV") for Newland Real Estate Group, LLC's ("Newland") revived Merriam Mountains project, which is known as the Newland "Sierra" Specific Plan ("Project"). The District previously considered a WSA/WSV for the Project at its Board of Directors ("Board") meeting on January 6, 2016. The Golden Door submitted written comments on the record and appeared at that meeting to oppose approval of the WSA/WSV. The District approved the WSA/WSV over the Golden Door's objection.

In June of this year, the County of San Diego ("County"), which is the lead agency for the Project, requested a revised WSA/WSV due to Project changes that would result in additional water requirements. A revised WSA/WSV was prepared and scheduled to be considered at the District's July 6, 2016 Board meeting. Due to procedural concerns, consideration of the

LATHAM WATKINS

WSA/WSV was continued to a later date. We understand that the District is now preparing an additional revised version of the WSA/WSV.¹

Please note that it appears to us that the version of the Project studied in the most recent WSA/WSV differs in several important respects from the version of the Project included in Newland's application to the County and the County's Notice of Preparation ("NOP") for the Project that was released in 2015. It also appears that "your" version of the Project also differs from the Project as unilaterally changed by Newland in its January 2016 revised submittals to the County staff. It is confusing to have three different versions of the same Project being studied by different agencies. Each of these three "versions" of the Project may have different water demand requirements, as appears to be the case from Newland's consultant's submittals. We urge you to insist that your WSA/WSV be based on the same description of the Project as was contained in the NOP released by the County in 2015. If the District is going to study a changed project instead, the County should release a new and updated NOP for the project as revised before the District proceeds with its decision-making.

As discussed in more detail below, the Golden Door believes that structural deficiencies in the District's planning preclude approval of a revised WSA/WSV at this time. Among other deficiencies, the District's 2015 UWMP demonstrates a water supply *deficit* for normal, single dry, and multiple dry years in 2020, 2025, 2030, and 2035. The District cannot approve a WSA/WSV indicating it will have sufficient water supply to serve the Project if it is already facing a water supply deficit. As such, the District should delay consideration of the WSA/WSV until it has revised its 2015 UWMP to demonstrate it can meet its water demand in normal, single dry, and multiple dry years now and in the future.

Additionally, we understand that the District may wish to pursue new and additional water sources that are not now included in the 2015 UWMP in an effort to make up for that admitted deficit. These new and additional water sources may have a higher cost structure than the District's current costs for its wholesale water supply. In other words, the marginal cost of obtaining extra water to fill the deficit and serve Newland's Project may be substantially more than current water supplies.

The District's Board may want to consider putting in place a different subdistrict and establishing a different cost of service for this new group of customers who may require this more expensive water. Many of the District's existing customers might argue that the new customers in previously unplanned development should bear the full cost of this additional more expensive water, rather than having existing customers subsidize this extra water cost. We believe that the District must—before approving a WSA/WSV that claims the District can serve this development with its existing water supplies—provide justification for this different water

¹ The version of the WSA/WSV prepared for the July 6, 2016 Board meeting relied on the District's 2010 Urban Water Management Plan ("UWMP"). The District's 2015 UWMP, however, is the most recent UWMP. It is our understanding that the revised WSA/WSV being prepared at this time will rely on the District's 2015 UWMP. Based on this understanding, we will refrain from discussing the Water Code's requirement to rely only on the "most recently adopted" version of the UWMP. See Water Code § 10910(c)(2).

pricing for these new customers, if the District intends to move forward with that policy decision. We hope you will ask your staff if approval of the draft WSA/WSV prepared by Newland's consultant, which does not reference the higher cost of additional water supplies, will take away the Board's policy basis for establishing a differential rate structure for water supplies to this new development.

While we understand the revised WSA/WSV has not yet been prepared, we are providing you with general and structural comments now, in time for you to consider them before the new document is complete. Any clarification you can provide based on our comments would be beneficial for us and the general public in reviewing a revised WSA/WSV for the Project. Nonetheless, we believe the District's structural planning deficiencies preclude approval of a WSA/WSV for Newland's proposed urban densification of a quaint rural community at this time. We respectfully request that you instruct District staff to delay preparation of the Project's revised WSA/WSV until these issues have been resolved, including any revisions to the District's UWMP or acquisition of additional supplies. We appreciate your consideration of our concerns.

I. THE GOLDEN DOOR'S CONCERNS REGARDING THE NEWLAND PROJECT

A. Background Regarding Newland "Sierra" Project

Newland is proposing to construct an urban-style development in rural North County. This Project was proposed once before as the Merriam Mountains project, and was rejected by the County Board of Supervisors in 2010. At that time, the County's General Plan allowed for approximately 350 residential units on the property. The County's General Plan Update in 2011 decreased the density permitted on the Project site such that the site is largely zoned RL-20, allowing one residential unit per 20 acres, permitting approximately 100 units. This trend indicates the intent of local residents and the County to maintain the rural character of this area.

Newland's "Sierra" project, however, would include 2,135 residential units, 81,000 square feet of commercial development, a school, a vineyard, and various parks and equestrian facilities. The Project would be located across Deer Springs Road from the Golden Door, and would be located within the District's service boundaries. The County is currently preparing a draft environmental impact report ("EIR") for the Project.

The Golden Door has been actively monitoring the Project and has been in consultation with Newland, County Planning and Development Services staff, and other relevant agencies regarding the Project. The Golden Door has consistently stated its opposition to the Project in its public comments. In addition to concerns regarding water supply and wastewater service impacts, the Golden Door opposes this proposed urbanization of rural Twin Oaks Valley due to its detrimental traffic, greenhouse gas emissions, noise, biological, community character, cultural resources, and other impacts.

B. Background Regarding the Golden Door

The Golden Door focuses on the health and fitness of its guests. Its property encompasses a peaceful array of hiking trails, luxurious spa amenities, tranquil Japanese gardens, and a bamboo forest. Agricultural cultivation on the property includes avocado groves and fresh vegetable gardens as well as citrus and olive trees.

The Golden Door is committed to environmental stewardship and sustainability. It uses sustainable and bio-intensive agriculture practices and has eliminated guests' use of plastic water bottles. The owners are not seeking to expand the Golden Door in any way, but are seeking to further enhance the Golden Door according to its guiding principles, including the extensive sustainable agriculture on several surrounding acres.

As such, the Golden Door is concerned about Newland's proposal to implement urban-style development in a rural area of the unincorporated County—in particular the accompanying increase in water usage. The current drought has caused significant concerns for agriculture in rural North County and has emphasized the need to protect our current and future water supply. The unplanned intensification of use proposed by Newland threatens to cut further into the region's water supply to the detriment of the entire community.

II. WSA/WSV REQUIREMENTS

Specific projections about water availability must be developed prior to approval of a large development project. Water Code § 10910-12; 14 Cal. Code Regs. § 15155. A water supply assessment ("WSA") "shall include a discussion with regard to whether the total projected water supplies, determined to be available by the city or county for the project during normal, single dry, and multiple dry water years during a 20-year projection, will meet the projected water demand associated with the proposed project, in addition to existing and planned future uses, including agricultural and manufacturing uses." Water Code § 10910(c)(4). An environmental impact report ("EIR") prepared pursuant to the California Environmental Quality Act ("CEQA") must contain a WSA and make findings based on the WSA. Pub. Res. Code § 21151.9 (requiring compliance with Water Code section 10910 *et seq.*).

A water supply verification ("WSV") must determine that sufficient water supply is available to serve a project. Gov't Code § 66473.7(b)(1). SB 221, setting forth requirements for WSVs, was introduced, in part, because of pervasive non-compliance with the law requiring assessments. Assembly Committee on Local Government, Patricia Wiggins, Chair, Report on Senate Bill 221 (2001-2002) Reg. Sess. July 11, 2001, at p. 6 ("Chair Report"). WSVs are considered "fail-safe" because, a tentative subdivision map may *not* be approved if sufficient water supplies are not determined to be available. Chair Report at p. 6; *see also* Gov. Code § 66473.7(b)(1). "[W]ater supplies must be identified with more specificity at each step as land use planning and water supply planning move forward from general phases to more specific phases." *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova*, 40 Cal.4th 412, 433-34 (2007) ("*Vineyard*") (internal quotations omitted); *see also Preserve Wild Santee v. City of Santee*, 210 Cal.App.4th 260, 283 (2012).

Both a WSA and WSV require analysis of normal, single dry, and multiple dry years during a 20-year projection. Water Code § 10910(c)(4); Gov't Code § 66473.7(a)(2). "When [a WSV] rests on supplies not yet available to the water provider, it is to be based on *firm indications* the water will be available in the future, including written contracts for water rights, approved financing programs for delivery facilities, and the regulatory approvals required to construct infrastructure and deliver the water." *Preserve Wild Santee*, 210 Cal.App.4th at 283 (internal citations omitted) (emphasis added). A WSV must be based on substantial evidence. Gov't Code § 66473.7(c). The WSA/WSV, therefore, must actually demonstrate an adequate water supply to serve the Project and may not rest on mere aspirations.

III. THE DISTRICT LACKS SUFFICIENT WATER SUPPLY TO SERVE THE PROJECT

The District's 2015 UWMP admits that the District faces a "significant shortfall" in its projected supply. Vallecitos Water District 2015 Urban Water Management Plan ("District 2015 UWMP") at 7-3 ("If VWD water demands develop as called for in its Draft 2014 Master Plan, there will be a significant shortfall in projected supplies."); *see also id.* at 7-5. Tables from the District's 2015 UWMP (copied below) disclose water supply deficits in normal, single dry, and multiple dry-years. *Id.* at 7-3 to 7-4.

Table 7-2: Normal Year Supply and Demand Comparison				
	2020	2025	2030	2035
Supply totals (from Table 6-9)	6,914	8,011	8,794	9,198
Demand totals (from Table 4-3)	10,644	11,187	11,569	12,330
Difference	(3,730)	(3,176)	(2,775)	(3,132)

Table 7-3: Single Dry Year Supply and Demand Comparison				
	2020	2025	2030	2035
Supply totals	7,362	8,539	9,359	9,799
Demand totals	11,399	11,985	12,398	13,225
Difference	(4,037)	(3,446)	(3,039)	(3,426)

Table 7-4: Multiple Dry Years Supply and Demand Comparison					
		2020	2025	2030	2035
First year	Supply totals	7,359	8,533	9,349	9,781
	Demand totals	11,389	11,970	12,379	13,193
	Difference	(4,030)	(3,437)	(3,030)	(3,412)
Second year	Supply totals	7,494	8,691	9,518	9,958
	Demand totals	11,623	12,216	12,633	13,464
	Difference	(4,129)	(3,525)	(3,115)	(3,506)
Third year	Supply totals	7,691	8,922	9,763	10,216
	Demand totals	11,953	12,563	12,992	13,847
	Difference	(4,262)	(3,641)	(3,229)	(3,631)

Because the District's 2015 UWMP indicates that it does not project sufficient water supply to meet demand, the District cannot find sufficient supply exists to serve the Project. Gov't Code § 66473.7(b)(3) (requiring finding of sufficient water supply to be based on substantial evidence); *see also Vineyard*, 40 Cal.4th at 441 (requiring supply and demand to balance); *id.* at 444-45 (overturning water supply analysis for lack of substantial evidence). Here, instead of substantial evidence indicating that sufficient supply exists, substantial evidence demonstrates the opposite—that supply is inadequate to serve the Project.

IV. THE DISTRICT CANNOT DETERMINE ADEQUATE ADDITIONAL SUPPLIES WILL SERVE THE PROJECT UNDER ITS 2015 UWMP

If a WSA finds insufficient water supply to serve a project, the supplier must provide detailed plans for acquiring additional supplies.² Water Code § 10911(a). If a WSV relies on “projected” water supplies that are not currently available, the WSV must provide detailed information regarding the sources of the new water; financing for any capital outlays required; securing of any applicable federal, state, and local permits for infrastructure needed to deliver the water; and any “necessary regulatory approvals.” Gov. Code § 66473.7(d); *see also Preserve Wild Santee*, 210 Cal.App.4th at 283 (“When the verification rests on supplies not yet available to the water provider, it is to be based on *firm indications* the water will be available in the future, including written contracts for water rights, approved financing programs for delivery facilities, and the regulatory approvals required to construct infrastructure and deliver the water.”) (emphasis added).

“Speculative or unrealistic” sources—known as “paper water”—will not support an EIR's water supply analysis. *Vineyard*, 40 Cal.4th at 432. Future water supplies identified in a WSA/WSV “must bear a likelihood of actually proving available.” *Id.*

A. The District May Not Rely on “Conservation” Measures to Make Up For Its Water Supply Shortfall

Here, the District's 2015 UWMP relies on additional so-called “conservation” measures to make up for the difference between its projected supply and demand. District 2015 UWMP at 7-3, 7-5. The “conservation” measures referenced are essentially permanent water usage restrictions, previously thought to be applicable only during a “drought”—restrictions the District refers to as “rationing.” District 2015 UWMP at 8-1, 8-2, 8-5, 9-3. We doubt that the District intends to require existing customers to ration their water use—even in normal or wet years—for at least 20 years because this has been proposed by the developer's water consultant as a way of making up the “deficit” in the District's planning. Even if this were the District's intention, this fundamentally contradicts the basic principles of a UWMP, which do not allow the

² Such plans must include information concerning the “estimated total costs, and the proposed method of financing the costs, associated with acquiring additional water supplies[;] [a]ll federal, state, and local permits, approvals, or entitlements that are anticipated to be required in order to acquire and develop the additional water supplies[; and] [t]he estimated timeframes within which the public water system, or the city and county ... expects to be able to acquire additional water supplies.” Water Code § 10911(a).

District to first establish projected water needs of its customers based on the District's assumptions of the amount of water they need for their normal activities, and then to arbitrarily slash it by a "conservation factor" to make room for more water usage by extra growth. Further, the District cannot move forward with such forced rationing without consideration of whether such "conservation" by the District's existing customers is actually achievable or appropriate as a matter of public policy.

Even if such measures were imposed, the District would not make up for the difference between supply and demand. According to the San Diego County Water Authority ("SDCWA"), the District's wholesaler, "conservation" could only account for a 17 percent reduction by 2020. *Id.* at 9-1. As is apparent from the charts above, the District's supply deficit is projected to be more than 17% in normal, dry, and multiple dry years in 2020. Further, meeting conservation targets set by SB7 would only result in a 20 percent reduction by 2020 (*id.* at 5-1), which is also too little to make up for the District's supply deficit.

In addition, the District relies in part on a tiered rate structure and conservation pricing as part of its proposed water rationing requirements. District 2015 UWMP at 8-7, 9-4 to 9-5. Using tiered water rates for the purpose of conservation, however, has been found unconstitutional. *Capistrano Taxpayers Ass'n, Inc. v. City of San Juan Capistrano*, 235 Cal.App.4th 1493, 1516 (2015) (tiered pricing must be based on cost-of-service despite policy goals of conservation). As such, the District may not rely on a tiered rate structure to make up for its supply deficit. *Vineyard*, 40 Cal.4th at 439 (WSA/WSV inadequate because of "too great a degree of uncertainty regarding the long-term availability of water"). This is especially true given that the developer's water consultant has not provided the District with the factual basis to establish a tiered rate structure that could be applied to the customers in the Project because of the higher cost of obtaining additional water supplies.

Under the District's 2015 UWMP, the WSA/WSV would have to rely on "conservation" to make up for the supply deficit. An allocation to "conservation," however, lacks certainty because of potential legal flaws with certain "conservation" methods and the infeasibility of perpetual water rationing during dry, normal, and wet years. In addition, the amount of "conservation" projected, even if obtained, is insufficient to make up for the District's supply deficit. Reliance on "conservation," therefore, lacks the firm assurances required by a WSA/WSV. *Vineyard*, 40 Cal.4th at 433-434; Gov't Code § 66473.7; *see also* See California Department of Water Resources, *Guidebook for Implementation of Senate Bill 610 and Senate Bill 221 of 2001* (October 8, 2003) ("Guidebook") at 35, 61, 77. The District, therefore, should delay consideration of the Project's WSA/WSV until it has developed new sources to make up for the supply deficit indicated in its 2015 UWMP.

B. Upstream Supplies Are Too Uncertain to Constitute Firm Assurances of Water Supply

Although a WSA may be based on plans and policies that show that potential water supplies will be provided over a 20-year period, a WSV requires more substantial, and concrete documentation of the availability of those supplies—known as "firm assurances." *Vineyard*, 40 Cal.4th at 433-434; *see also* Gov't Code § 66473.7. Here, however, firm assurances are lacking

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because of uncertainty in upstream supply. *See Preserve Wild Santee*, 210 Cal.App.4th at 284-85 (CEQA document invalid for unexplained uncertainty regarding upstream supply).

According to the District's 2015 UWMP, the District receives 100% of its water from its wholesaler, SDCWA.³ District 2015 UWMP at 7-1. The WSA/WSV the District approved for the Project in January admitted that upstream water deliveries were approximately 10,000 AF *behind* 2015 projections due to drought and economic issues. WSA/WSV for Newland Sierra, approved Jan. 6, 2016, at 23. That document also discussed that the SDCWA's rights to water from the Metropolitan Water District are restricted by a preferential right to water that may not meet the needs of the SDCWA. *Id.* at 21.

Further, the SDCWA's 2015 UWMP provides demand projections for the District that are far below either the supply or demand projections included in the District's 2015 UWMP. *See* table below. The District should clarify why its UWMP's supply and demand projections differ significantly—on a magnitude of millions of gallons per day—from the SDCWA's demand projections. As set forth in SDCWA's 2015 UWMP, even if SDCWA met 100% of its projected demand for the District, supply would fall far short of the District's projected demand.

³ While potential allocations from the Claude "Bud" Lewis Desalination Plant in Carlsbad ("Carlsbad Desalination Plant") are mentioned as a potential source in the District's 2015 UWMP (District 2015 UWMP at 8-9) and the SDCWA's 2015 UWMP (SDCWA 2015 UWMP at 5-30), it is unclear whether supply from the Carlsbad Desalination Plant is factored into either the District's or SDCWA's projections. To the extent the WSA/WSV accounts for supply from the Carlsbad Desalination Plant, it must clearly describe whether this supply was already accounted for in the District's or SDCWA's UWMP projections in order to avoid double counting. Further, a WSA relying on a water supply that the supplier has not used before must "identify other public water systems or water service contractors that receive a water supply, have existing entitlements, water rights, or water service contracts to the same source of water." Guidebook at 19.

Table of the District's and SDCWA's Inconsistent Projections⁴

Projections	2020	2025	2030
District's 2015 UWMP Demand Projection ⁵	27,871,233	29,358,904	29,583,562
SDCWA 2015 UWMP Projected Demand for the District ⁶	14,191,034	17,164,759	18,468,163
Shortfall in SDCWA Projections	13,680,199	12,194,145	11,115,399
District's 2015 UWMP Supply Projection ⁷	18,942,466	21,947,945	24,093,151
SDCWA 2015 UWMP Projected Demand for the District ⁸	14,191,034	17,164,759	18,468,163
Shortfall in SDCWA Projections	4,751,432	4,783,186	5,624,988

Upstream supply, therefore, is too uncertain to support approval of a WSA/WSV for the Project at this time. *Preserve Wild Santee*, 210 Cal.App.4th at 284-85. Because the District appears to state in its 2015 UWMP that it receives 100% of its water from SDCWA, the District must find new sources to make up for the shortfall between SDCWA's projected demand for the District and the District's own projected supply and demand. If the District does have additional firm supplies beyond the SDCWA that are under contract, then the 2015 UWMP must first be amended to add these supplies before proceeding with any decision on the proposed WSA/WSV. The District should also confer with SDCWA and other upstream suppliers to provide firm assurances of sufficient supply to meet the District's demand—and the Project's—before considering a WSA/WSV, and then add those supplies to its 2015 UWMP. At the same time, the District should disclose the additional costs of these "extra supplies" and whether those extra costs will be spread across existing customers via higher rates for all customers, or whether the

⁴ All figures are provided in units of gallons per day. The District's 2015 UWMP and SDCWA 2015 UWMP use different units. To provide consistent unitization, figures of 325,851 gallons per acre foot and 365 days per year were used for conversions. All figures in this table are for "normal year" projections.

⁵ District 2015 UWMP at 4-3, Table 4-2.

⁶ San Diego County Water Authority Final 2015 Urban Water Management Plan (June 2016) ("SDCWA 2015 UWMP") at 2-13, Table 2-8.

⁷ District 2015 UWMP at 7-3, Table 7-2.

⁸ SDCWA 2015 UWMP at 2-13, Table 2-8.

District intends to set up a new tiered rate structure for the new customers who may create the need for the more expensive water.

V. THE DISTRICT'S 2015 UWMP RELIES ON WATER DEMAND FACTORS THAT HAVE NOT YET BEEN DETERMINED

Previous iterations of the Project's WSA/WSV applied water demand factors from the District's 2008 Master Plan to the various land uses in the Project. These water demand factors were generated from the 2010 UWMP—which is now outdated. As noted above, the District is required to use its 2015 UWMP to analyze the Project's impact on water supplies.

The District's 2015 UWMP provides water demand projections for various land uses, but fails to provide the water demand factors from which they were calculated.⁹ Further, these 2015 water demand factors were not disclosed in the developer's consultant's proposed WSA/WSV. Such obfuscation would prevent a WSA/WSV from fulfilling its requirements as an informational document. *Vineyard*, 40 Cal.4th at 442 (water supply information to be included in an EIR “must be presented in a manner calculated to adequately inform the public and decision makers....”). In addition, the District must clarify whether any water demand factors in the WSA/WSV already account for “conservation” in upstream plans and whether a new extra layer of more “conservation” can be assumed as part of this WSA/WSV, if it was not analyzed or assumed in the 2015 UWMP. Such transparency is imperative to avoid double-counting of “conservation,” especially if the District relies in any way on “conservation” measures to address supply deficits.

We understand that the District has not yet generated the more precise water demand factors for the new Master Plan, which is based upon the District's 2015 UWMP. We are informed that general water demand factors were used to generate the demand and supply figures in the District's 2015 UWMP, and that the updated 2014 Master Plan will include revised water demand factors that should be applied to the Project. It is incumbent upon the District to avoid using outdated water demand factors for the WSA/WSV. The District, therefore, should consider delaying the WSA/WSV until the new Master Plan has been approved.

VI. THE NEULAND PROJECT IS NOT INCLUDED IN THE LAND USE PLANS UNDERLYING THE DISTRICT'S 2015 UWMP

If the water demand associated with a proposed project was accounted for in the supplier's most recently adopted UWMP, the WSA/WSV may incorporate information from that plan. Water Code § 10910(c)(2); Gov't Code § 66473.7(c)(1). If the water demand was not accounted for in the most recently adopted UWMP, however, the WSA “shall include a discussion with regard to whether the public water system's total projected water supplies available during normal, single dry, and multiple dry water years during a 20-year projection will

⁹ While the District's 2015 UWMP cites the District's 2014 Draft Water, Wastewater and Recycled Master Plan as the source for its demand projections (*see* District 2015 UWMP at 4-3), this *draft* Master Plan has not been approved by the District's Board and is not available for public review.

meet the projected water demand associated with the proposed project, in addition to the public water system's existing and planned future uses, including agricultural and manufacturing uses." Water Code § 10910(c)(3). A WSA or WSV cannot rely on a UWMP if the UWMP did not analyze water supply for the project. *See Vineyard*, 40 Cal.4th at 434-35.

In reviewing the District's Water, Wastewater, and Recycled Water Master Plan Master Plan ("District's 2008 Master Plan") and 2015 UWMP, it appears that Newland's proposed Project is not included in the projected land use model. A map of "future land use" at Figure 2-2 of the District's 2008 Master Plan shows primarily "spaced rural residential" designations on Newland's proposed Project site. To the contrary, Newland is proposing to drastically increase density on much of the Project site. In addition, the District's 2008 Master Plan lists the Merriam Mountains project as a "known development," but the District's 2008 Master Plan cautions that "[s]hould new developments move forward, they will require separate analysis prior to being served by VWD." District 2008 Master Plan at 2-5 to 2-6 (Nov. 2010).

The District's 2015 UWMP used the approved land uses within its jurisdiction, including the County's Updated General Plan to determine the water demand for the UWMP. District 2015 UWMP 4-2 to 4-3.¹⁰ Projections for 2020, 2025, 2030 and 2035 "were developed by applying the SANDAG Regional Growth Forecast Series 13 Update coverage to these ultimate demand projections." *Id.* at 4-3. The SANDAG Series 13 Growth Forecast includes the adopted County General Plan land uses, and the current County General Plan does not include the land uses necessary for the development of the Project; therefore, the Project was not included in the land use assumptions used to develop the demand model for the 2015 UWMP.

Because no underlying land use plans include the Project, the revised WSA/WSV must provide a "separate analysis" and not simply rely on the District's planning documents.

VII. THE WSA/WSV MUST PROVIDE COHERENT AND ACCESSIBLE INFORMATION

Based on our review of the District's 2015 UWMP, the District's 2008 Master Plan, the SDCWA 2015 UWMP, and previous iterations of the Project's WSA/WSV, we are concerned that information is not being presented in a way that is easily accessible to the public and decision makers. A WSA/WSV must include consistent figures and coherent analysis. *See Vineyard*, 40 Cal.4th at 445 (environmental document fails because it "presents a jumble of seemingly inconsistent figures for future total area demand and surface water supply, with no plainly stated, coherent analysis of how the supply is to meet the demand. The reader attempting to understand the County's plan for providing water ... is left to rely on inference and speculation.").

Here, the District's 2015 UWMP, the District's 2008 Master Plan, the SDCWA 2015 UWMP, and previous iterations of the Project's WSA/WSV rely on a mixture of numeric

¹⁰ The County's General Plan Update in 2011 downzoned the Project site from approximately 350 residential units to approximately 100 residential units based on our analysis of the land use maps.

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bases—with water volume expressed in gallons per day, million gallons per day, million gallons per year, and acre feet per year. As such, it is very difficult for the public or decision makers to comprehend an apples-to-apples comparison of the data presented.

Further, if the WSA/WSV were to rely on a mixture of the District's 2008 Master Plan and 2015 UWMP, it would be relying on documents with different land use bases. The District's 2008 Master Plan is based on the County's 1979 General Plan, while the District's 2015 UWMP is based on the County's 2011 General Plan Update.

Data with unexplained discrepancies does not constitute substantial evidence. *Preserve Wild Santee*, 210 Cal.App.4th at 283-84.¹¹

VIII. THE WSA/WSV MUST INCLUDE A DISCUSSION OF FEASIBLE RECYCLED WATER USE OR IT WILL CONFLICT WITH THE COUNTY'S GENERAL PLAN

The County's General Plan requires use of recycled water in new development, when "feasible." San Diego County General Plan at 5-38 (Aug. 2011) (COS-19.2: "Recycled Water in New Development. Require the use of recycled water in development wherever feasible. Restrict the use of recycled water when it increases salt loading in reservoirs."); *see also id.* (Goal COS-19: "Sustainable Water Supply. Conservation of limited water supply supporting all uses including urban, rural, commercial, industrial, and agricultural uses."). "'Feasible' means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." Pub. Res. Code § 21061.1. Feasibility determinations must be based on detailed findings supported by substantial evidence. *See Preservation Action Council v. City of San Jose*, 141 Cal.App.4th 1336 (2006) (economic infeasibility based solely on competitive disadvantage found insufficient); *Ctr. for Biological Diversity v. Cty. of San Bernardino*, 184 Cal.App.4th 1342, 1357 (2010) (conclusory statement with no factual support found insufficient).

Previous iterations of the WSA/WSV have failed to discuss the feasibility of recycled water use for the Project. The District must analyze potential sources of recycled water for the Project in the WSA/WSV, including constructing an on-site treatment facility to generate reclaimed water. Such a facility may not be found infeasible merely because it would cut into Newland's profits. *See Uphold Our Heritage v. Town of Woodside*, 147 Cal.App.4th 587, 599 (2007).

The City of San Diego recently required the inclusion of an on-site treatment plant in the Quarry Falls project in the Mission Valley area in order to provide recycled water to the project. Such plants exist and are, therefore, physically feasible to build within the Newland Project site.

¹¹ In addition, figures in previous iterations of the Project's WSA/WSV did not match demand figures to underlying data from the plans on which they relied—once data was converted to equivalent measurement criteria. Because the District is preparing a revised WSA/WSV, we will not belabor such errors in prior iterations except to note that the revised WSA/WSV must provide consistent figures and coherent analysis.

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The District should also examine whether the District could provide recycled water from a downstream treatment plant, if an on-site plant is not preferred. Since the District is the planned provider of sewer and water services to the Project, it is the only agency that can supply the needed evidence to the County staff and Board of Supervisors and the only agency that can make the determination of "feasibility" required by the County General Plan, so that the County can then determine whether the Project can comply with the General Plan's very specific requirement for all new development.

IX. THE WSA/WSV'S PROJECT DESCRIPTION SHOULD NOT BE ADVOCACY FOR THE PROJECT

A previous iteration of the Project's WSA/WSV provides a project description including statements from the Newland Sierra web site, which promote the Project as "one of the most water-efficient communities ever built in San Diego County." The WSA/WSV, however, provides no evidence to support this promotional statement, and we are concerned that such language frames the WSA/WSV as Newland's marketing platform rather than a technical water supply analysis. Such hyperbole is improper. *See Gentry v. City of Murrieta*, 36 Cal.App.4th 1359, 1397 (1995) (agency must independently review documents prepared by applicant's consultants); *see also California Clean Energy Committee v. City of Woodland*, 225 Cal.App.4th 173, 194 (2014).¹²

X. THE WSA/WSV SHOULD AVOID THE ABSURD RESULT OF CLAIMING A MASSIVE DENSITY INCREASE WOULD RESULT IN LESS WATER USAGE

We understand that previous iterations of the Project's WSA/WSV have concluded that the Project would result in less water usage than the current allocation even though the Project proposes to increase density on the site by 20 fold. Such a finding defies logic and requires deeper analysis than unexplained reliance on contrived demand factors in order to provide substantial evidence of this conclusion. For example, the WSA/WSV should compare the Project's proposed demand not only to artificially generated demand factors, but also to current and historic water usage for the Project site. Analyzing past, current, and projected use would be consistent with the Guidebook's recommended demand analysis methodology. *See* Guidebook at 25, 67.

¹² Moreover, it is unclear if the project description provided by Newland is the same as that contained in Newland's application currently before the County. We have attempted on multiple occasions to inquire of the County and Newland whether, when, and to what extent changes have been made to the project description since Newland filed with the County in January 2015. While the County posted updated application materials on its website in January 2016, neither the County nor Newland has provided any summary of changes that clearly describes the parameters of the Project currently before the County. As stated above, if the District is going to study a project that differs from the project description provided in the County's NOP, the County should release a new and updated NOP for the project as revised before the District proceeds with its decision-making.

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XI. CONCLUSION

Thank you for your time and attention to our comments. Please feel free to contact me at (858) 523-5400 or christopher.garrett@lw.com if you would like to discuss these matters further.

Sincerely,

Christopher W. Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
Jeffrey G. Scott, Vallecitos Water District General Counsel
Mark Slovick, County Planning and Development Services
Ashley Smith, County Planning and Development Services
Dan Silver, Endangered Habitats League
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August 4, 2016

VIA ELECTRONIC MAIL AND FEDERAL EXPRESS

Ashley Smith, Land Use/Environmental Planner
 County of San Diego
 Planning & Development Services
 5510 Overland Avenue, Suite 310
 San Diego, California 92123

Re: Inconsistent Information Regarding Newland Sierra Project Description

Dear Ms. Smith:

As you know, we represent the Golden Door Properties LLC (the "Golden Door"), an award-winning spa and resort that opened in 1958. This historic haven is situated on approximately 600 acres on the south side of Deer Springs Road in northern San Diego County ("North County"). The Golden Door focuses on the health and fitness of its guests, and its property encompasses a peaceful array of hiking trails, luxurious spa amenities, tranquil Japanese gardens, and a bamboo forest.

We write to you regarding the proposed Newland Sierra Project (the "Project"), a revised Merriam Mountains project on property located near Deer Springs Road. Newland's proposal includes 2,135 residential units, 81,000 square feet of commercial development, a charter school, and various parks and equestrian facilities. Newland submitted an application for its project to the County on January 20, 2015, and the County issued a Notice of Preparation ("NOP") for the Project's environmental impact report ("EIR") on February 12, 2015. The Golden Door opposes this project.

We are concerned about conflicting information being provided by the County regarding the Project's components. It appears you may be misinformed, and as a result, have not been conveying accurate information to the public. As we have noted in previous letters, the Project changed without providing proper notice of the changes to the public. In January 2016, Newland submitted an extensively revised Specific Plan, Grading Plan, and Tentative Map to the County. Despite meaningful changes to the Project in these documents, the County failed to provide notice to community residents and interested parties and failed to circulate a revised NOP.

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Further, neither Newland nor the County have summarized the Project changes for the public, despite requests from the Golden Door and other interested parties.¹

In July 2016, the Vallecitos Water District (“VWD”) stated that it received a “notice” from the County regarding Project revisions. *See* July 6, 2016 VWD Staff Report re: Approval of a Revised Water Supply Assessment and Verification Report for the Newland Sierra Specific Plan.² The revised water supply assessment and verification (“WSA/WSV”),³ prepared by Newland’s water supply consultant, describes a project that is different from the Project described in the January 2016 Specific Plan, and from the Project as previously described in the County’s NOP in 2015. For instance, the WSA/WSV describes different park acreage than provided in the 2016 Specific Plan:

Neighborhood	2015 Specific Plan Park Acres	2016 Specific Plan Park Acres	Revised WSA/WSV Park Acres
Charter School	6	6	3.6
Valley	12.5	11.96	12.3
Mesa	3.8	3.75	4.1
Lower/Upper Knoll	10.3	9.22	9.5

Per email communication between you and VWD in June of this year, it appears Newland notified VWD of land use changes in March 2016. A copy of your email correspondence with VWD is attached hereto as **Attachment B**. In your subsequent email communication with us, however, you stated that no changes have been made since publication of Newland’s revised Specific Plan in January of 2016. A copy of your email correspondence with attorneys for the Golden Door in July of 2016 is attached hereto as **Attachment C**. The

¹ Newland submitted a letter to you on July 22, 2016 responding to the Golden Door’s April 4, 2016 letter requesting that the County issue a revised NOP and summary of Project changes. Newland’s letter did not clarify the extent of changes to the Project since the NOP. Newland merely responded to the Golden Door’s characterization of some Project changes by adding comments to one of two charts prepared by the Golden Door (Newland failed to address the Golden Door’s second chart). Newland did clarify whether there were any additional changes that were not noted in the Golden Door’s chart – which was prepared by sifting through hundreds of pages of documents and dense technical drawings. To date, the Golden Door is the only entity that has made any attempt whatsoever to determine the extent of Project changes. It is incumbent upon the County as lead agency and Newland as the applicant to provide an accurate project description—not the Golden Door. Still, neither the County nor Newland has described to the public the extent of Project changes since the County issued the Project’s NOP.

² A copy of the July 6, 2016 VWD Staff Report is attached as **Attachment A**.

³ We understand that VWD will not consider the version of the WSA/WSV discussed in its July 6, 2016 staff report, and is in the process of revising its WSA/WSV to account for more recent water planning documents. We are unaware, however, of any additional project description information being provided to VWD

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table above demonstrates differences in the park acreage assumed by Newland's January 2016 Specific Plan and the park acreage being analyzed by VWD in July. Because the WSA/WSV and the Specific Plan break down other land use acreage using different metrics, we cannot determine if there are further discrepancies between the two documents.

It is unclear what components are included in the most updated project description. What is more concerning is that it does not appear anyone at the County is able to pinpoint the most recent project description. Under CEQA, the County is responsible for maintaining an accurate and stable project description—not the developer. CEQA Guidelines § 15124; *see also Cty. of Inyo v. City of Los Angeles*, 71 Cal.App.3d 185 (1977) (an accurate, stable, and finite project description is an essential element of an informative and legally sufficient EIR under CEQA). If the County does not know what is in the project description, how can it fulfill its obligations as lead agency to provide the public with an accurate project description? It appears the County is not in possession of the latest project description information and should obtain such information from Newland as soon as possible, and provide this information to the public.

In addition, it is unclear how many times the project description has been altered since Newland filed its application in 2015—in no instance have the County and Newland sufficiently documented such changes or adequately informed the public. Further, the County has not updated the Project's description to reflect these changes, and has failed to maintain an accurate and stable project description pursuant to CEQA. Therefore, we request that the County update and maintain an accurate and complete project description on its website for the Newland Project and provide a summary of all changes.

It appears the County has been able to summarize project description changes in other instances. For example, the Lilac Hills Ranch Specific Plan Initiative Impact Report provides bullet point descriptions of modifications to the project description and a chart summarizing project description changes. *See Lilac Hills Ranch Specific Plan Initiative Impact Report at 3, 8-10 (Aug. 2, 2016)*, excerpts attached hereto as **Attachment D**. Why is the County able to summarize project description changes on other projects, but not Newland's? The County has an independent obligation to comply with CEQA. *See Friends of La Vina v. Cty. of Los Angeles*, 232 Cal.App.3d 1446, 1452 (1991). It is, therefore, the County's responsibility to obtain accurate information from Newland. Because Newland's failure to provide adequate information does not excuse the County of its obligations, we suggest the County take immediate steps to ensure it has the most recent and accurate information from Newland and is adequately conveying such information to the public through formal notice.

Further, the County may not include the VWD's WSA/WSV in the Project's draft EIR if the project description in the WSA/WSV does not match the project description noticed to the public. It is unfair for County staff to ask VWD to prepare and approve a WSA/WSV based on an inaccurate or outdated project description, or a project description which does not match the project description used by the County in its previous NOP. The most recent iteration of the Project's WSA/WSV analyzes the Project's water supply requirements based on the project description provided by Newland's water supply consultant, not the project description conveyed to the public by the County either in the NOP or currently on the County's website. The draft EIR should analyze the Project that has been noticed and described by the County, not the

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developer. See Pub. Res. Code § 21082.1(c)(1)-(2). Any WSA/WSV that does not analyze the proper project description could not adequately assess water supply requirements in compliance with CEQA. We believe that Newland has not provided the County with either accurate or consistent information regarding changes to the Project, resulting in misinformation to the public. County staff does not simply serve as a “mail drop” for the developer’s submittals, but instead has an independent duty to ensure that an accurate and consistent project description is used by all of the agencies involved with processing the project.

Thank you for your time and attention to this matter. Please feel free to contact me at (858) 523-5400 or christopher.garrett@lw.com if you would like to discuss this matter further.

Best regards,

Christopher W. Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

Enclosures

cc: Kathy Van Ness, Golden Door
Mark Slovick, County Planning and Development Services
Jeffrey Scott, General Counsel, Vallecitos Water District
Dan Silver, Endangered Habitats League
Doug Hageman, Newland
Paul Robinson, Hecht Solberg Robinson Goldberg & Bagley
Mark Dillon, Gatzke Dillon & Balance
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August 5, 2016

VIA EMAIL AND FEDERAL EXPRESS

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Re: Concerns re Improper Use of GHG Threshold of Significance Document for the Newland "Sierra" Project's GHG Impacts Analysis

Dear Mr. Eichar, Ms. Smith, and Ms. Pilsecker:

As you know, we represent the Golden Door Properties LLC (the "Golden Door"), an award-winning spa and resort that opened in 1958. This historic haven is situated on approximately 600 acres on the south side of Deer Springs Road in northern San Diego County ("North County"). It was the highest rated establishment in *Travel and Leisure's* recent list of the world's best destination spas.

We write to you regarding the County's recently released 2016 Climate Change Analysis Guidance setting forth new thresholds of significance for greenhouse gases ("GHG") which the County intends to use in processing new development projects ("GHG Threshold of Significance Document"), and its effect on the proposed Newland "Sierra" Project (the "Project"), a revised Merriam Mountains project on property located near Deer Springs Road. Newland's proposal includes 2,135 residential units, 81,000 square feet of commercial development, a charter school, and various parks and equestrian facilities. The Golden Door opposes this unplanned urbanization of rural Twin Oaks Valley. Based on comments from County staff and from Newland, we understand the County will use the GHG Threshold of Significance Document as

the basis of its GHG impacts analysis for the Project's draft environmental impact report ("EIR"). Newland has told the community in several sponsor group meetings that it was waiting on this GHG threshold to be released so that it could be included in the County's EIR for the Project.

The GHG Threshold of Significance Document is inconsistent with the County's General Plan and the General Plan EIR. The General Plan and General Plan EIR require preparation and certification of a Climate Action Plan ("CAP"), including an inventory of baseline GHG data, detailed GHG emissions reduction targets and deadlines, and enforceable measures to achieve specific reductions. The General Plan and General Plan EIR also require the County to develop related thresholds of significance for GHG emissions based on data compiled as part of the CAP. These requirements have been upheld by the courts. The GHG Threshold of Significance Document, however, sets thresholds of significance that are not based on the required baseline emissions data, contradict the General Plan's approach to GHG emissions reduction, and fail to ensure any emissions reductions. In fact, the GHG Threshold of Significance Document provides a threshold that allows *more GHG emissions* than the County's previous attempt to set GHG emissions thresholds—which was invalidated by the courts.

The GHG Threshold of Significance Document violates the County's General Plan, the General Plan EIR, and a court order. Because this attempt by County staff to provide guidance to project developers falls short of the requirements for a CAP and related thresholds of significance, it cannot serve as the basis for analysis of GHG impacts in the Project's draft EIR. We request that the GHG Threshold of Significance Document be set aside and publication of the Project's draft EIR be delayed until the County has certified a legally adequate CAP and related thresholds of significance as required by the County's General Plan and General Plan EIR and by a court order.

I. THE GOLDEN DOOR'S CONCERNS REGARDING THE NEWLAND PROJECT

A. Background Regarding Newland "Sierra" Project

Newland is proposing to construct an urban-style development in rural North County. This Project was proposed once before as the Merriam Mountains project, and was rejected by the County Board of Supervisors in 2010. Under the County's General Plan, the Project site is largely zoned RL-20, allowing one residential unit per 20 acres, permitting approximately 100 units. Newland's "Sierra" project, however, would include 2,135 residential units, 81,000 square feet of commercial development, a school, a vineyard, and various parks and equestrian facilities. The Project would be located across Deer Springs Road from the Golden Door.

The County issued a Notice of Preparation ("NOP") for the Project's EIR on February 12, 2015. At a community sponsor group meeting earlier this year, we were informed by County Planning and Development staff that the Project's EIR was being delayed until the County published staff-level guidance regarding GHG impacts analysis. As such, we believe the County intends to use the GHG Threshold of Significance Document as the basis for its GHG impacts analysis in the Project's draft EIR.

The Project is not included in the County's General Plan or in the San Diego Association of Government's ("SANDAG") 2015 Regional Transportation Plan/Sustainable Communities Strategy ("RTP/SCS"). This unplanned growth is located in a rural area far from urban and job centers, and will require long, single-occupant vehicle trips. The Project is also located far from any existing or planned transit infrastructure that could alleviate the transportation-related GHG impacts from this outdated auto-centric development proposal. As such, analysis of GHG impacts is a crucial aspect of the Project's EIR. The Golden Door opposes the Project, and the Project's potential to significantly impact efforts to curb global climate change is a fundamental driver in the Golden Door's opposition.

The Golden Door submitted a letter to the County over a year and a half ago requesting that the County delay consideration of the Project until additional planning had been completed to address GHG impacts in the County.¹ At that time, the Court of Appeal had recently upheld a trial court decision striking down the County's CAP. *See Sierra Club v. Cty. of San Diego*, 231 Cal.App.4th 1152 (2014).² The County has not yet approved a revised CAP, and we understand the earliest the Board of Supervisors would consider a revised CAP and related thresholds of significance is late 2017. The GHG Threshold of Significance Document is not a sufficient substitute for the CAP and related thresholds of significance.

B. Background Regarding the Golden Door

The Golden Door focuses on the health and fitness of its guests. Its property encompasses a peaceful array of hiking trails, luxurious spa amenities, tranquil Japanese gardens, and a bamboo forest. Agricultural cultivation on the property includes avocado groves and fresh vegetable gardens as well as citrus and olive trees.

The Golden Door is committed to environmental stewardship and sustainability. It uses sustainable and bio-intensive agriculture practices and has eliminated guests' use of plastic water bottles. The owners are not seeking to expand the Golden Door in any way, but are seeking to further enhance the Golden Door according to its guiding principles, including the extensive sustainable agriculture on several surrounding acres.

As such, the Golden Door is concerned about Newland's proposal to implement urban-style development in a rural area of the unincorporated County, far from job and urban centers

¹ A copy of the Golden Door's letter to Mark Slovic of County Planning & Development Services, dated January 20, 2015, is attached hereto as **Attachment A**.

² In a separate decision, the Court of Appeal had also invalidated SANDAG's RTP/SCS. *See Cleveland Nat'l Forest Found. v. San Diego Assn. of Gov'ts*, 231 Cal.App.4th 1056 (Dec. 16, 2014), *review granted and opinion superseded sub nom* (Mar. 11, 2015) (No. S223603). While SANDAG has approved a new RTP/SCS since that time as part of its "San Diego Forward" Regional Plan, the updated RTP/SCS does not include Newland's project in its land use assumptions. Unlike other jurisdictions which included planned general plan amendments in their SCS, the County and SANDAG decided to base their SCS only on the County's adopted General Plan.

and from transit infrastructure. This unplanned development would contradict modern planning principles and result in long single-occupant vehicle trips causing GHG emissions.

II. THE GHG THRESHOLD OF SIGNIFICANCE DOCUMENT IS DEFICIENT AS A MATTER OF LAW AND SHOULD BE SET ASIDE

A. The County's General Plan and General Plan EIR Require Certification of a Valid CAP and Related Thresholds of Significance Before the Newland Project May Be Processed

The County's updated General Plan, approved in 2011, requires preparation and certification of a CAP and a program to monitor and implement GHG reduction measures. San Diego County General Plan at 5-39 (Aug. 2011)³ ("COS-20.1: Climate Change Action Plan. *Prepare, maintain, and implement a climate change action plan* with a baseline inventory of GHG emissions from all sources; GHG emissions reduction targets and deadlines, and enforceable GHG emissions reduction measures.") (emphasis added); (COS-20.2, requiring a GHG emissions monitoring program and review of GHG reduction programs).

The General Plan's EIR also required preparation of a CAP as mitigation necessary for implementation of the General Plan. San Diego County General Plan Update EIR ("General Plan EIR"), State Clearinghouse No. 2002111067, § 2.17, at 2.17-30 (Aug. 2011).⁴ Mitigation Measure CC-1.2 sets forth the CAP's requirements: a baseline inventory of GHG emissions, detailed GHG emissions reduction targets and deadlines, and enforceable measures to achieve specific GHG emissions reductions by 2020 (17% reduction from County operations and 9% reduction from community emissions). *Id.* The CAP also requires monitoring and progress reports. *Id.* In addition, Mitigation Measure CC-1.8 requires the County to revise its thresholds of significance "*based on the [CAP].*" *Id.*, § 2.17, at 2.17-31 (emphasis added). Mitigation Measures CC-1.2 and CC-1.8 are currently in effect as enforceable conditions of the General Plan update approved in 2011. They have not been superseded or amended.

The CAP and related thresholds of significance are required by the General Plan, and are necessary to mitigate the General Plan's GHG impacts. The CAP has well-defined parameters and specific reduction targets that the County must meet. Further, the revised thresholds of significance must rely on the data compiled as part of CAP preparation; therefore, the thresholds of significance cannot precede the CAP.

³ The County General Plan can be accessed at <http://www.sandiegocounty.gov/pds/generalplan.html>.

⁴ The General Plan EIR can be accessed at <http://www.sandiegocounty.gov/content/sdc/pds/gpupdate/environmental.html>.

B. The County's First Attempt to Develop a CAP and Related Thresholds of Significance Was Set Aside by the Court

In 2012, the County certified a CAP ("2012 CAP"). The Sierra Club then filed a lawsuit challenging the 2012 CAP. The trial court ruled in favor of the Sierra Club, invalidating the 2012 CAP. The Court of Appeal then upheld the trial court ruling in 2014, holding that the 2012 CAP did not "ensure reductions" of GHG emissions. *Sierra Club v. Cty. of San Diego*, 231 Cal.App.4th at 1170, 1176. Subsequent to the Court of Appeal's decision, the trial court issued a Supplemental Writ of Mandate on April 14, 2015, which requires the County to set aside the 2012 CAP as well as the November 7, 2013 Guidelines for Determining Significance and Report Format and Content Requirements ("2013 GHG Significance Thresholds"). The Supplemental Writ of Mandate also requires the County to prepare a new CAP and thresholds of significance for GHG impacts in compliance with the California Environmental Quality Act ("CEQA"). A copy of the Supplemental Writ of Mandate is attached hereto as **Attachment B**.

Last month, the Sierra Club submitted a letter ("Sierra Club Letter") to County Counsel requesting that the County postpone consideration of the Newland Project, among others, until certification of a legally adequate CAP and related thresholds of significance—in accordance with the requirements of the General Plan and the General Plan EIR and in compliance with the Supplemental Writ of Mandate. A copy of the Sierra Club Letter is attached hereto as **Attachment C**. The Sierra Club Letter notes that (1) a valid CAP is required to adequately mitigate GHG impacts, (2) thresholds of significance based on data compiled in the CAP are required to adequately analyze GHG impacts, (3) the Newland Project's proposed General Plan Amendment would be inconsistent with General Plan provisions requiring a CAP and related thresholds of significance, and (4) approving the Newland Project without a valid CAP and related thresholds of significance would violate the Supplemental Writ of Mandate.

The GHG Threshold of Significance Document fails to remedy the legal issues raised in the Sierra Club Letter and contradicts the Supplemental Writ of Mandate. The GHG Threshold of Significance Document is not a CAP, and the thresholds therein are not based on the CAP—because the County has yet to certify a legally adequate CAP. As such, the GHG Threshold of Significance Document should be set aside, and it cannot serve as the basis for GHG analysis in the County's EIR for the Newland Project.

C. The GHG Threshold of Significance Document Cannot Provide a Basis for Analyzing GHG Impacts Consistent With The Policy Decisions Already Made In The County's General Plan

The GHG Threshold of Significance Document is a staff level document that has not been approved by the Board of Supervisors. It includes (1) an "efficiency metric" referred to as a "threshold," (2) "screening criteria," and (3) recommended mitigation measures. This is a discretionary action which constitutes a key County decision setting the yardstick that will be used in all County EIRs to measure whether or not a project has a significant adverse impact due to GHG emissions and whether it is consistent with the County's adopted GHG policies in the General Plan. See 14 Cal. Code Regs. § 15064.7(a).

The GHG Threshold of Significance Document is not a CAP and does not contain the elements required by General Plan Mitigation Measures CC-1.2 or CC-1.8. Consequently, while the provisions set forth in GHG Threshold of Significance Document may, or may not be, “wise” public policy decisions regarding GHG emissions, they are flatly inconsistent with the GHG requirements in the County’s General Plan and must be set aside.

1. The GHG Threshold of Significance Document Is an Improper Attempt to Set Thresholds of Significance Without Completing a CAP

In a section of the GHG Threshold of Significance Document titled “Significance Determination,” County Staff invents a “County Efficiency Metric” to use as a new way of measuring “acceptable” increases in GHG emissions. The GHG Threshold of Significance Document states that “[t]he County Efficiency Metric is the recognized and recommended method by which a project may make impact significance determinations.” GHG Threshold of Significance Document at 4. The County Efficiency Metric, therefore, is intended to serve as the County’s measuring stick for evaluating GHG impacts—i.e., its threshold of significance. *See* 14 Cal. Code Regs. § 15064.7(a) (“A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant.”); *see also* § 15064.4 (thresholds of significance for GHG impacts).

For analysis of GHG emissions in 2020, the County Efficiency Metric provides a threshold of 4.9 million tons of GHG emission *per person per year*. GHG Threshold of Significance Document at 6. This measurement only considers GHG emissions on a “per person per year” basis; there is no overall maximum or maximum for emissions from new development. *Id.* at 4-6. For a project buildout year after 2020, the County Efficiency Metric sets an annual average reduction rate of 5.2 percent between 2020 and 2050, which is borrowed from the Air Resources Board. *Id.* at 5. Similar to the 2020 measurement, this buildout year analysis under the County Efficiency Metric fails to provide any overall maximum and is not related to any data for existing or proposed development specific to San Diego County. *Id.* at 4-6. In fact, under the County Efficiency Metric—for 2020 or a subsequent buildout year—there is no limit to the total overall amount of GHG emissions so long as its “per person” limits are satisfied.

a. The County Efficiency Metric Fails to Fulfill the County’s General Plan and General Plan EIR’s Requirements

The County Efficiency Metric fails to meet the requirements of the General Plan and General Plan EIR, which clearly require a CAP as well as thresholds of significance based on the data compiled as part of the CAP. The County General Plan sets forth a set of GHG requirements and goals based on reducing the County’s total overall GHG emissions consistent with AB 32’s goals—which the General Plan EIR determined would be accomplished in San Diego County by a 17% reduction from County operations and a 9% reduction from community emissions by 2020. General Plan EIR, § 2.17, at 2.17-28, 2.17-30 (Mitigation Measure CC-1.2). The General Plan polices are not based on any “per person” or “per capita” metric for determining what was to be an “acceptable” increase in GHG emissions. In fact, the Court of

Appeal struck down the 2012 CAP, because it did not “ensure reductions” of GHG emissions. *Sierra Club v. Cty. of San Diego*, 231 Cal.App.4th at 1170.

Contrary to the General Plan and to the Court of Appeal’s guidance, the County Efficiency Metric requires no overall reduction, and could result in an overall GHG emissions increase so long as “per person” limits are satisfied. For example, the County could theoretically decide to open up large areas of open space, doubling the County’s overall population, and still satisfy the “Efficiency Metric” on a per person basis. This staff-authorized policy shift impermissibly conflicts with the General Plan and General Plan EIR and with the Court of Appeal’s opinion.

The County Efficiency Metric also does not provide any information as to how new growth or General Plan amendments affect the County’s overall total of emissions that was supposed to be reduced under the adopted General Plan. As a result, limitless GHG emissions increases could result from unplanned growth, even if it meets the County Efficiency Metric’s “per person” limits. The GHG Threshold of Significance Document’s failure to distinguish between planned and unplanned growth further renders it inadequate as a matter of law under the County’s General Plan and General Plan EIR.

While this might be a good or bad policy change by the County, this shift in policy expressly contradicts the General Plan and would require a General Plan Amendment to implement. *See Citizens of Goleta Valley v. Board of Supervisors*, 52 Cal.3d 553, 570-71 (1990) (requiring lead agency actions to be consistent with its General Plan under the State Planning and Zoning Law). County General Plan Policy COS 20.1 requires the County to develop a climate action plan with a “baseline inventory of GHG emissions from all sources” and “GHG emissions reduction targets and deadlines.” General Plan at 5-39. The “inventory” and “targets” set forth in the General Plan cannot be replaced by staff with a per person “efficiency metric.” The County’s latest GHG thresholds are also not consistent with the adopted CEQA mitigation measures that were part of the County’s General Plan, at the urging of the California Attorney General, since it provides no regulation or “measuring stick” of the County’s total emissions for the entire population.

b. The County Efficiency Metric Is Not Based on the San Diego County GHG Inventory Data Required by the General Plan and General Plan EIR

The GHG Threshold of Significance Document provides no data regarding GHG emissions in San Diego County and fails to base its thresholds on any data specific to San Diego County—for 2020 or a subsequent buildout year. *See* GHG Threshold of Significance Document at 4-7. The County’s thresholds of significance for GHG emissions must be based on baseline inventory data for San Diego County compiled as part of a CAP. At this time, however, that is impossible, because the County has not yet prepared and certified a revised CAP. Further, the GHG Threshold of Significance Document fails to provide a mechanism for review and monitoring of GHG emissions to determine the County’s progress in reaching overall GHG emissions reduction goals, as required by the General Plan and General Plan EIR.

c. The County Efficiency Metric Violates the Supplemental Writ of Mandate

Further, the County Efficiency Metric violates the Supplemental Writ of Mandate. Basing the GHG impacts significance determination on the County Efficiency Metric in Newland's draft EIR would undercut the purpose of the Supplemental Writ of Mandate requiring preparation of a CAP and related thresholds of significance. The County has a mandatory duty to process the Newland Project using only the thresholds required by the court's order, the County's General Plan, the General Plan EIR, and the County's adopted CEQA mitigation measures for the General Plan. The County cannot use unauthorized efficiency thresholds established by staff which contradict adopted County policy. This ruse is transparent and would not survive a legal challenge. *See* Pub. Res. Code § 21168.9(b) (court retains jurisdiction to enforce its writ under CEQA).

Moreover, the County Efficiency Metric allows for *more* per person GHG emissions than the 2013 thresholds that were struck down by the court. The County's 2013 GHG Significance Thresholds provided an "efficiency metric" of 4.32 metric tons of GHG emissions per person. *See* 2013 GHG Significance Thresholds at 24.⁵ The County Efficiency Metric permits up to 4.9 metric tons of GHG emissions per person—an increase of 0.58 tons per person over the 2013 GHG Significance Thresholds' level. GHG Threshold of Significance Document at 6. After having one GHG emissions threshold of significance struck down by the court, County staff cannot now authorize a threshold allowing *more* GHG emissions, thus being *less protective of the environment*.

d. The CEQA Guidelines Preclude Use of the County Efficiency Metric as a General Use Threshold of Significance

The GHG Threshold of Significance Document is insufficient as a threshold of significance for general use because it was not approved by the Board of Supervisors, did not undergo a public review process, and is not supported by substantial evidence. 14 Cal. Code Regs. § 15064.7(b) ("Thresholds of significance to be adopted for general use as part of the lead agency's environmental review process must be adopted by ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by substantial evidence."). After years of planning and approval of the General Plan Update—including its mandatory mitigation measures—County staff cannot now act without Board approval to implement a threshold of significance that reverses Board-approved requirements, contradicts a court order, and is less environmentally protective than a previous attempt to develop a threshold of significance that was overturned by the courts.

e. The County Efficiency Metric Must Be Set Aside

The County Efficiency Metric must be set aside as inconsistent with the General Plan, General Plan EIR, and the Supplemental Writ of Mandate, as well as CEQA Guidelines section 15064.7. Any attempt to base the Newland Project's significance determination for GHG

⁵ The 2013 GHG Significance Thresholds are attached hereto as **Attachment D**.

impacts on the County Efficiency Metric would be invalidated. The County's General Plan requirements were intended to regulate not just the final approval of County projects, but also the measuring sticks or thresholds used in County planning documents, such as draft EIRs. As such, it is not sufficient to wait until the County takes action on a final EIR; the Court must ensure that County staff perform their mandatory duty to comply with CEQA mitigation measures and the County's General Plan in any draft EIR they may release for the Newland Project.

2. The GHG Threshold of Significance Document's Screening Criteria Is Inconsistent with the General Plan, General Plan EIR, and Supplemental Writ of Mandate

The GHG Threshold of Significance Document's screening criteria is copied from a third party source and has no relationship to San Diego County's GHG emissions or planned development. The screening criteria is not based on an inventory prepared as part of a CAP. *See* GHG Threshold of Significance Document at 2. The GHG Threshold of Significance Document's "screening criteria" fails for the same reason as the County Efficiency Metric—it was not properly prepared based on data from a certified CAP, thus failing to comply with the General Plan and General Plan EIR and violating the Supplemental Writ of Mandate. The screening criteria provides no guidance as to whether a particular project is consistent with the overall County GHG reductions required by the General Plan, thus failing to provide an adequate "measuring stick." Further, the GHG Threshold of Significance Document fails to describe how application of the screening criteria in San Diego County will help achieve statewide goals, or how it will ensure that the County only approves projects which are consistent with the SANDAG Sustainable Communities Strategy, which is based on a specific projection of potential new development in unincorporated areas.

3. The GHG Threshold of Significance Document Recommendations Regarding Mitigation Measures Are Inconsistent with the General Plan, General Plan EIR, and Supplemental Writ of Mandate

While not setting forth specific mitigation measures, the GHG Threshold of Significance Document provides a non-exclusive list of four documents containing GHG mitigation measures. GHG Threshold of Significance Document at 7-8. Again, the GHG Threshold of Significance Document provides no analysis of the mitigation measures' applicability and appropriateness for San Diego County. The General Plan and General Plan EIR require a CAP to provide enforceable mitigation measures that will result in the County meeting a 17% reduction in GHG emission from County operations and a 9% reduction from community emissions by 2020. General Plan, § 2.17, at 2.17-30 (Mitigation Measure CC-1.2). The County's GHG mitigation measures must "ensure reductions" of GHG emissions. *Sierra Club v. Cty. of San Diego*, 231 Cal.App.4th at 1170.

The GHG Threshold of Significance Document falls far short of these standards, and provides no mechanism to measure the projected or actual effectiveness of such measures for mitigation of GHG impacts in San Diego County. While, as a matter of policy, the recommended mitigation measures may reduce GHG emissions, the staff-level GHG Threshold

of Significance Document is attempting an impermissible end-around to avoid the requirements of the General Plan, General Plan EIR, and Supplemental Writ of Mandate.

D. The GHG Threshold of Significance Document Fails To Provide For “Coordination” With Relevant Plans for GHG Emissions Reductions in San Diego County As Required By County General Plan Policy COS 20.3

The GHG Threshold of Significance Document is further insufficient because it fails to discuss relevant planning documents for GHG emissions reductions. County General Plan Policy COS-20.3 requires the County to collaborate with other agencies in the region for air quality planning: “Coordinate air quality planning efforts with federal and State agencies, SANDAG, and other jurisdictions.” General Plan at 5-39. The GHG Threshold of Significance Document contradicts this policy by providing a staff-level threshold of significance for the County without any regional collaboration; therefore, it cannot be implemented without a General Plan Amendment remedying this inconsistency. *See Sierra Club v. Kern Cty. Bd. of Supervisors*, 126 Cal.App.3d 698, 703 (1981) (requiring internal general plan consistency); Gov. Code § 65300.5.

Reducing GHG emissions requires a concerted planning and monitoring effort to determine how to meet specific targets on specific dates. Statewide law and policy, such as AB 32, SB 375, Executive Order S-3-05, and Executive Order B-30-15, set various goals and deadlines on the state level. Local jurisdictions then determine their own criteria for planning land use and transportation infrastructure to GHG emissions consistent with the statewide goals. The County’s General Plan and General Plan EIR set forth specific goals for 2020 and provide a framework to meet those goals through development of a CAP and related thresholds of significance.

In addition, SANDAG approved an RTP/SCS in 2015, which plans for GHG emissions reductions and establishes specific regional GHG reductions of 15% per capita by 2020 and 21% per capita by 2035 from the transportation sector, which it plans to accomplish through land use policy. San Diego Forward: The Regional Plan at 97 (Oct. 2015).⁶ The GHG Threshold of Significance Document provides no discussion of its consistency with SANDAG’s planned emissions reductions

Despite the requirements for a coordinated planning effort, the GHG Threshold of Significance Document functions as an island unto itself. It ignores the General Plan and General Plan EIR provisions that directly contradict provisions of the GHG Threshold of Significance Document. The GHG Threshold of Significance Document also provides no analysis of consistency with SANDAG’s RTP/SCS. This failure to even acknowledge such important planning documents is a failure to provide substantial evidence in support of the thresholds of significance and mitigation measures set forth in the GHG Threshold of Significance Document and violates the County’s own General Plan Policy COS-20.3. *See* 14

⁶ San Diego Forward: The Regional Plan can be accessed at http://www.sdfoward.com/pdfs/RP_final/The%20Plan%20-%20combined.pdf.

Cal. Code Regs. § 15064.7(b) (requiring a threshold of significance adopted for general use to be supported by substantial evidence).

E. The County Cannot Publish a Draft EIR for the Newland Project that Bases Its GHG Impacts Analysis on the GHG Threshold of Significance Document

1. Use of the GHG Threshold of Significance Document in the Newland Project's Draft EIR to Analyze GHG Impacts Would Violate the General Plan, General Plan EIR, and Supplemental Writ of Mandate

Based on comments from County staff, we understand that County's EIR for the Newland Project would rely on the GHG Threshold of Significance Document. The GHG Threshold of Significance Document, however, cannot provide the basis for the Project's GHG analysis. The County set forth in its General Plan and General Plan EIR specific requirements for the CAP and related thresholds of significance. The CAP must include a baseline inventory of the County's GHG emissions, reduction targets and deadlines, and enforceable mitigation measures to meet specific reduction targets. General Plan EIR at § 2.17, at 2.17-30 (Mitigation Measure CC-1.2). The County must then approve thresholds of significance based on the CAP. *Id.*, § 2.17, at 2.17-31 (Mitigation Measure CC-1.8). The GHG Threshold of Significance Document fails to fulfill these criteria.

Further, use of the GHG Threshold of Significance Document would impermissibly circumvent the Supplemental Writ of Mandate's requirements to prepare a new CAP and related thresholds of significance. If the County can bypass its court-ordered obligations by processing a project on Newland's scale based on staff-level guidance—that fails to meet the requirements of the court-ordered documents—the County could carry on business as usual in perpetuity without ever complying with the court's order. This violation of the Supplemental Writ of Mandate would not hold up under judicial scrutiny.

Relying on the GHG Threshold of Significance Document for Newland's GHG impacts analysis would prejudice the County's efforts to reduce GHG emissions consistent with its General Plan. The Project's rural location, far from urban and job centers and far from existing or planned transit infrastructure, causes long single-occupant vehicle trips that will result in substantial GHG emissions. Moreover, the Project is not included in the County's land use assumptions. It also was not included in SANDAG's land use assumptions when SANDAG developed its RTP/SCS's approach to limiting GHG emissions. *See* County Comment Letter to SANDAG, dated July 15, 2015, and Responses, attached hereto as **Attachment E**. As a result, Newland's substantial additive GHG emissions have not been accounted for in any planning documents. It is essential, therefore, that the County follow its legal mandates in evaluating the Project's GHG emissions to ensure a 17% reduction from County operations and a 9% reduction from community emissions by 2020. General Plan, § 2.17, at 2.17-30 (Mitigation Measure CC-1.2).

Further, the County has not provided the CAP's baseline inventory from which it can measure impacts from new development to determine if the development is consistent with the specific percentage reductions set forth in General Plan Mitigation Measure CC-1.2. This is

particularly important with regard to the Newland Project, which is unplanned growth. The General Plan and General Plan EIR require specific GHG emissions reduction targets by 2020, and there is no way for the public or decisionmakers to know whether the Project is consistent with those goals until the County has approved a legally adequate CAP and related thresholds of significance. On the contrary, the GHG Threshold of Significance Document provides a separate metric for determining the significance of GHG impacts, which contradicts the General Plan's overall reduction goal and instead allows for an overall increase in GHG emissions so long as "per person" limitations are met. The County cannot simultaneously pursue two contradictory approaches to mitigating GHG emissions impacts. Because the staff-level GHG Threshold of Significance Document contradicts the approach of the County's Board-approved General Plan and General Plan EIR, the GHG Threshold of Significance Document cannot serve as the basis for the Newland Project's EIR evaluation of GHG impacts.

In addition, the County has not provided GHG reduction targets and deadlines required by the CAP. As a result, it is impossible for the County's analysis of the Project's GHG impacts to determine whether the Project is consistent with such targets and deadlines.

2. Approval of the Newland Project Before Certification of a Revised CAP and Related Thresholds of Significance Can Be Used in the EIR's Analysis Would Result in Impermissible General Plan Inconsistency

Finally, approving the Project based on analysis under the GHG Threshold of Significance Document instead of a legally adequate CAP and related thresholds of significance would result in inconsistency with the County's General Plan. Project approvals must be consistent with the General Plan. *See Citizens of Goleta Valley*, 52 Cal.3d at 570-71. In addition, the General Plan is required to be consistent within itself. *See Sierra Club v. Kern Cty. Bd. of Supervisors*, 126 Cal.App.3d at 703; Gov. Code § 65300.5.

The General Plan's Conservation and Open Space Element requires certification of a CAP. General Plan at 5-39 (COS-20.1). The County's General Plan, therefore, depends on the CAP for consistency among its elements, and may not be "reasonably consistent and integrated on its face" without it. *Concerned Citizens of Calaveras Cty. v. Bd. of Supervisors*, 166 Cal.App.3d 90, 97 (1985). The County, consequently, is precluded from making a finding of General Plan consistency for the Project's proposed General Plan Amendment unless and until the County approves a legally adequate CAP and related thresholds of significance, and uses such documents to evaluate the Project's GHG impacts in its public CEQA review. Reliance on the staff-invented GHG Threshold of Significance Document is not an adequate substitute and will result in inconsistency with the General Plan.

III. PUBLICATION OF THE DRAFT EIR PRIOR TO CERTIFICATION OF A VALID CAP AND RELATED THRESHOLDS OF SIGNIFICANCE WOULD REQUIRE RECIRCULATION

Publication of the Project's draft EIR prior to approval of a legally adequate CAP and related thresholds of significance would require recirculation later. Recirculation is required when "significant new information is added to the EIR after public notice is given of the

availability of the draft EIR for public review ... but before certification.” 14 Cal. Code Regs. § 15088.5. “Information” may include “changes in the project or environmental setting as well as additional data or other information.” *Id.* New information is “significant” when the EIR is “changed in a way that deprives the public of a meaningful opportunity to comment upon a substantial adverse environmental effect of the project or feasible way to mitigate or avoid such an effect ... that the project’s proponents have declined to implement.” *Id.*; see also *Laurel Heights Improvement Assn. v. Regents of University of California*, 6 Cal.4th 1112, 1129 (1993). The CEQA Guidelines specifically require recirculation when the public is deprived of the opportunity to comment on mitigation measures. See 14 Cal. Code Regs. § 15088.5; see also *Clover Valley Foundation v. City of Rocklin*, 197 Cal.App.4th 200, 223 (2011) (“significant new information” includes a disclosure that a new significant environmental impact would result from the project).

Once a revised CAP is certified, the County would be required to analyze the Project pursuant to the new thresholds of significance based on the CAP and would likely be required to implement mitigation measures included in the CAP. The CAP would also provide a baseline inventory for the County’s GHG emissions. This baseline information, as well as the thresholds of significance and project-specific mitigation measures provided by the CAP, would constitute “significant new information” triggering recirculation. The County should not publish the Project’s draft EIR with a GHG analysis it knows to be invalid, and require multiple rounds of circulation and comment. If the County publishes the Project’s draft EIR before a valid CAP is certified, it will be depriving the public of an opportunity to comment on impacts that would result from measuring the Project’s emissions against the legally required baseline and on potential impacts from mitigation measures that may be required by the CAP. Instead, the County should withhold the Project’s EIR until such time as a valid CAP and related thresholds are certified by the County.

IV. THE COUNTY IS RESPONSIBLE FOR ANALYZING GHG IMPACTS AND CANNOT DELEGATE RESPONSIBILITY TO NEWLAND

The County is responsible for CEQA review and cannot rely on Newland to conduct the necessary environmental review, including analyzing the Project’s GHG impacts. The County, as the lead agency, must independently review and analyze the EIR, and circulate a draft EIR that reflects its independent judgment. Pub. Res. Code § 21082.1(c)(1)-(2); 14 Cal. Code Regs. § 15084(e) (“The draft EIR which is sent out for public review must reflect the independent judgment of the lead agency. The lead agency is responsible for the adequacy and objectivity of the draft EIR.”). When certifying the final EIR, the County must then make a specific finding that the document reflects its independent judgment. Pub. Res. Code § 21082.1(c)(1)-(2). The County must sufficiently exercise its independent judgment over the environmental analysis. *Friends of La Vina v. Cty. of Los Angeles*, 232 Cal.App.3d 1446, 1452-55 (1991) (requiring the lead agency to exercise its independent judgment in certifying an EIR).

The County, therefore, must perform an independent analysis of the Project’s GHG impacts and cannot rely only on the analysis submitted by Newland. In the absence of a valid CAP and related thresholds of significance pursuant to the County’s General Plan and General Plan EIR, the County cannot simply rubber stamp analysis that Newland claims is consistent

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with the staff-level GHG Threshold of Significance Document or any thresholds developed by Newland and its consultants on an ad hoc basis for the Project.

V. CONCLUSION

For the reasons discussed above, we request that the County set aside the GHG Threshold of Significance Document and delay publication of the Newland Project's EIR until the County has approved a legally adequate CAP and related thresholds of significance and the County has incorporated such analysis into the Project's EIR and provided an opportunity for public review and comment. Proceeding with Newland's EIR at this time is legally impermissible due to the deficiencies in the GHG Threshold of Significance Document and the absence of a legally valid CAP and thresholds of significance. The County must comply with the law, including the terms of its own General Plan and General Plan EIR, the requirements of the Supplemental Writ of Mandate, and CEQA Guidelines section 15064.7.

Thank you for your time and attention to this matter. Please feel free to contact me at (858) 523-5400 or christopher.garrett@lw.com if you would like to discuss this matter further.

Best regards,

Christopher W. Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

Enclosures

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Mark Slovick, County Planning and Development Services
Thomas Montgomery, Office of County Counsel
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August 15, 2016

VIA EMAIL AND FEDERAL EXPRESS

C. Ellen Pilsecker
 Office of County Counsel
 1600 Pacific Highway, Suite 355
 San Diego, CA 92101

Re: Response to Your August 10, 2016 Letter Refusing to Postpone Processing the Newland "Sierra" Project Pending Completion of a Climate Action Plan

Dear Ms. Pilsecker:

As you know from my letter of August 5, 2016, I represent the Golden Door Properties, LLC ("Golden Door") which is concerned about: (1) the failure of the County to follow through on the commitments it made with respect to greenhouse gas ("GHG") emissions when it adopted the new County General Plan in 2011; and (2) how this failure impacts the County's ongoing review of the Newland Real Estate Group, LLC ("Newland") Sierra Project which will have serious adverse impacts on the environment. One of the lawyers representing the Sierra Club, Jan Chatten-Brown, forwarded me your August 10, 2016 letter responding to the Sierra Club's July 26, 2016 letter.

I write because your most recent letter again reflects the County's unwillingness or inability to follow through on the commitments made in the 2011 General Plan, or to conform any of its planning processes to reflect those commitments. I wanted to illustrate the importance of this problem with respect to my client Golden Door and the Newland Project. This failure by the County continues to deprive the County staff and the public of the tools they need to measure the Newland project impact. The County's approach prevents it from complying with the California Environmental Quality Act ("CEQA") and prevents the public from understanding whether the Newland project is consistent with, or conflicts with, the County General Plan's GHG reduction goals or the Global Warming Solutions Act of 2006 ("AB 32").

This unwillingness or inability is a disservice to the development community, concerned organizations like my client, and members of the public. The development community, the public, and my client are all simply trying to understand how the GHG emissions from the Newland project (and the off-site roads and freeway interchange they proposed to service their development) combined with the many other new development projects now being processed simultaneously by County staff can be reconciled with (or provided with numerical calculations

in order to determine if they fall within or outside) the County's commitments to GHG reductions in the 2011 General Plan. This is especially true when many of the new development projects are like Newland's project are general plan amendments intended to add new growth and traffic in the County's unincorporated areas far above the expected growth studied and approved in the 2011 General Plan.

Curiously, your August 10th letter omits any reference to the County's recently issued document dated July 29, 2016: "2016 Climate Change Analysis Guidance: Recommended Content and Format for Climate Change Analysis Reports in Support of CEQA Documents" ("GHG Threshold of Significance Document.") County Planning staff and representatives of Newland have previously informed us and the relevant County Sponsor Groups reviewing the Newland Project that they plan to rely on the GHG Threshold of Significance Document for the GHG impacts analysis for the County's release of the Newland Sierra draft environmental impact report ("EIR"), and that release of this key document was required before the County could complete its GHG emissions impact analysis under CEQA.

Based on your letter's statement that County Planning staff will continue processing projects irrespective of the County's failure to certify a legally valid CAP, we understand that the County plans to continue processing the Newland project despite the substantial legal requirements which we and the Sierra Club have raised. The County's approach is disappointing, fails to give appropriate guidance to the public and the development community as to which projects will have acceptable GHG emissions and which projects will require GHG mitigation measures or GHG emission reduction alternative designs, and risks subjecting the County to protracted project-by-project litigation (that was invited in your letter) over its failure to comply with its own General Plan's requirement that GHG analysis rely on a legally adequate CAP.

I. RESPONSES TO THE COUNTY'S FLAWED CEQA ARGUMENTS

Among other things, the County's July 2016 GHG Threshold of Significance Document declares that all County Environmental Impact Reports ("EIRs") should answer the following question: "*Would the project [c]onflict with an applicable plan, policy or regulation adopted for the purpose of reducing the emission of greenhouse gases?*" GHG Threshold of Significance Document at 4.

Please note that the County General Plan is a binding County policy which is intended to reduce GHG emissions. San Diego County General Plan Update EIR ("General Plan EIR"), State Clearinghouse No. 2002111067, § 2.17, at 2.17-21 to 2.17-22 (Aug. 2011).¹ The County must prepare the specified Climate Action Plan ("CAP") in order to provide some basis for individual projects to determine whether or not their GHG emissions are consistent with, or conflict with, the County General Plan GHG reduction policies. *See id.*, § 2.17, at 2.17-30 to

¹ The General Plan EIR can be accessed at <http://www.sandiegocounty.gov/content/sdc/pds/gpupdate/environmental.html>.

2.17-31 (Mitigation Measures CC-1.2, CC-1.8); San Diego County General Plan at 5-39 (COS-20.1) (Aug. 2011).²

Additionally, the County's GHG Threshold of Significance Document (without any reference to the General Plan GHG reduction requirements) sets forth a new significance threshold concept—"The County Efficiency Metric." GHG Threshold of Significance Document at 4-7. The County Efficiency Metric is described as "the recognized and recommended method by which a project may make significance determination" for all County project EIRs. *Id.* at 4. The County staff has adopted or endorsed a GHG significance threshold, (which presumably they will now use in the County's Draft and Final EIRs), but has not made any determination as to whether this threshold complies with the County's previously adopted General Plan policies.

With this background, let me answer on behalf of my client Golden Door, several specific statements in your letter related to CEQA.

- A. The County Elected To A Develop A CAP As Its Mechanism To Defer Mitigation Of GHG Impacts From Development Projects Such as Newland's Project

Your August 10th letter states: "*[Sierra Club's] letter reflects a misunderstanding of the role of a CAP, and of the General Plan Update Environmental Impact Report (GPU EIR).*"

Answer: The role of the CAP was to provide specific numerical emissions numbers and GHG reduction requirements that could be applied to individual projects. The GPU EIR simply analyzed environmental impacts. Because the GPU EIR was criticized by the California Attorney General as failing to adequately address GHG emissions,³ the County adopted binding CEQA mitigation measures that were intended to ensure that the subsequent County decisions complied with the General Plan's specified GHG reduction requirements. It was the County's choice to defer any actual analysis of required GHG emissions reductions to a later and separate document. The analysis could have been included in the County's GPU EIR in 2011.

- B. Project-Level GHG Analyses In San Diego County, Such As Analysis Of The Newland Project GHG Emissions, Must Be Based On A Legally Adequate CAP

Your August 10th letter states: "*Just as the existence of a valid CAP does not guarantee a project's compliance with CEQA, the absence of a CAP does not preclude compliance.*"

² The County General Plan can be accessed at <http://www.sandiegocounty.gov/pds/generalplan.html>.

³ The California Attorney General's comments on the County's General Plan EIR can be accessed at http://www.sandiegocounty.gov/content/dam/sdc/pds/gpupdate/docs/BOS_Aug2011/EIR/G3.08_Section_S_State_Agencies.pdf.

Answer: The absence of CAP does preclude compliance with CEQA for a proposed project when the County has made no other alternative effort to determine whether the proposed project's emissions will be consistent with, or conflict with, the County's GHG reduction goals set forth in the County's adopted 2011 General Plan. The County's own GHG Threshold of Significance Document states that all EIRs must make a determination as to whether a project is consistent with adopted plans for the reduction of GHG emissions. The absence of the CAP, or some alternative mechanism, prevents the County from making that determination.

We do not argue that CEQA requires all project EIRs throughout the State to rely on a CAP for GHG analysis. Because the County elected to pursue a CAP as its required mechanism to mitigate the General Plan's GHG impacts, however, the County cannot now shirk its responsibility to comply with its own requirements by analyzing project GHG impacts pursuant to a legally adequate CAP or an equivalent document that provides the same information. Pub. Res. Code § 21081.6(b) (mitigation measures must be enforceable). Otherwise the County will fail to comply with General Plan EIR Mitigation Measures CC-1.2 and CC-1.8. Compliance with previously adopted CEQA mitigation measures is not optional, though the Board of Supervisors retains the discretion to amend or replace them following the requirements of CEQA.

C. A Legally Valid CAP Is Required For The County To Meet Its GHG Mitigation Obligations For the Newland Project Under Its Own Adopted General Plan

Your August 10th letter states: *"The absence of a CAP does not preclude the imposition of any necessary mitigation measure as a condition of approval of a particular project."*

Answer: "The absence of a CAP," (or some alternative yardstick and set of calculations for determining the amount of GHG reductions (or GHG "efficiency")) needed to meet the County's GHG reduction goal in the 2011 General Plan or AB 32, prevents the County from determining whether or not any mitigation is "necessary" in the first place. *See* General Plan, § 2.17, at 2.17-31 (Mitigation Measure CC-1.8); 14 Cal. Code Regs. §§ 15064.7(a), 15064.4. This absence (of the CAP or other replacement yardstick) also prevents the County from knowing the level or type of mitigation that may be required from the Newland Project to meet the County's own GHG reduction goal in the 2011 General Plan. Further, the absence (of the CAP or other replacement yardstick) also prevents the County from being able to determine whether a particular project, such as the Newland Project, has "significant" or "not significant" GHG emissions before or after mitigation.

D. The County Lacks An Adequate Yardstick To Determine Whether Mitigation Is Necessary For The Newland Project And Other Project-Level GHG Impacts To Meet The County's 2011 Adopted General Plan GHG Reduction Goal

Your August 10th letter states: *"If the EIR for a particular project identifies greenhouse gas (GHG) emissions as having a significant indirect impact, but the project does not adequately mitigate for that impact, the Sierra Club (or any interested party) may challenge the project's compliance with CEQA."*

Answer: Without the CAP or some alternative yardstick that is based on the County's General Plan goals, there is no way to determine if a particular project has a "significant indirect impact" or whether the particular project will or will not "adequately mitigate" for that impact. The County's General Plan contemplated that County staff itself would track GHG emissions and determine whether GHG reductions were needed from individual project, and the General Plan did not delegate this duty solely to third party enforcers such as the Sierra Club. In order to comply with the General Plan, the County staff itself must have some method for determining the amount of acceptable GHG emissions, (for example, 3,000 MT CO₂e, a threshold set by the South Coast Air Quality Management District in Los Angeles), and the amount of required reductions to reach that acceptable level to avoid a "significant indirect impact" and provide for "adequate mitigation."

The acceptable level of GHG level emissions for projects in San Diego County must be based on the County's 2011 General Plan, according to the plan the Board has adopted as binding County policy over five years ago. The County made the situation worse on July 29, 2016, by issuing a GHG significance threshold which is based on a per capita measurement—officially labeled as "The County Efficiency Metric"—that ignores total emissions. Under "The County Efficiency Metric," the County could approve an infinite amount of new development and population growth in San Diego County through hundreds of General Plan amendments, and still fully comply with the measure, which does not consider the total amount of GHG emissions and required quantity of GHG reductions. In fact, using a pure "efficiency" standard, the County staff would not even be required to calculate or count up the total amount of new additional GHG emissions associated with such additive growth, so that the County staff would have no idea whether the County would meet or exceed the County's own GHG emissions reduction commitment. Based on "The County Efficiency Metric," even this infinite growth would not have any "significant indirect impact" due to GHG emissions.

Your letter also does not make clear whether the County can approve a project which exceeds the level of additional GHG emissions from new development projects that would cause the County to fail to comply with the County's General Plan goal of GHG reductions necessary to reach the GHG reduction goal specified in the General Plan. Would having an unmitigated "*significant indirect effect*" due to GHG emissions, as you use the term in your letter, mean that the Newland Project or other development projects could not be approved because they would not comply with the County's General Plan? If your office has an opinion on that legal issue, at what point do you intend to share that with the development community and concerned members of the public such as my client the Golden Door.

E. The CAP Is A Required Mitigation Measure Of The General Plan EIR Which Was Intended To Be Used By County Staff To Evaluate Individual Projects

Your August 10th letter states: "*[T]he preparation of a CAP was one mitigation measure set forth in the GPU EIR to address GHG emissions from build out under the general plan. There were seventeen other mitigation measures specifically dealing with climate change.*"

Answer: This statement contradicts the County's own statement—as noted by the Court of Appeal—that "the County described the CAP as the most critical component of the County's

climate change mitigation efforts.” *Sierra Club v. Cty. of San Diego*, 231 Cal.App.4th 1152, 1168 (2014) (emphasis added). The CAP, as set forth in Mitigation Measure CC-1.2, is the only mitigation measure that provides numeric thresholds to meet AB 32’s goals. Under the General Plan, the CAP is required to achieve “comprehensive and enforceable” GHG emissions reduction to comply with AB 32. *See id.* at 1156, 1159, 1160. To now claim the CAP was just one of eighteen equally effective mitigation measures for GHG impacts is contrary to the facts and the County’s own statements. The CAP is the General Plan’s only mitigation measure for GHG impacts that meets AB 32’s goals.

Moreover, the County cannot pick and choose the CEQA mitigation measures with which it will comply. Mitigation measures must be enforceable, and the County’s failure to enforce them would violate CEQA. The County does not have the option of picking and choosing which previously adopted CEQA mitigation measures it intends to follow. *See* Pub. Res. Code § 21081.6(b); *Sierra Club v. Cty. of San Diego*, 231 Cal.App.4th at 1176.

II. RESPONSES TO THE COUNTY’S FLAWED GENERAL PLAN CONSISTENCY ARGUMENTS

A. Preparation And Implementation Of A CAP Are Necessary For General Plan Consistency

Your August 10th letter states: “*A project may be found consistent with the General Plan even if it is not ‘in perfect conformity with each and every general plan policy.’*”

Answer: Case law is clear that a project must comply with specific and mandatory General Plan policies involving the appropriate methodology for calculating potential impacts. *Endangered Habitats League, Inc., v. Cty. of Orange*, 131 Cal.App.4th 777, 789-90 (2005) (requiring consistency with specific, mandatory general plan policies for the methodology for calculating potential traffic impacts, as distinguished from permissive and aspirational policies); *Spring Valley Lake Assn. v. City of Victorville*, 248 Cal.App.4th 91, 101 (2016) (“[A] project’s consistency with a general plan’s broader policies cannot overcome a project’s inconsistency with a general plan’s more specific, mandatory and fundamental policies.”). Here, General Plan Goal COS-20 requires “[r]eduction of local GHG emissions contributing to climate change that meet or exceed requirements of the [AB32].” General Plan at 5-38. General Plan Policy COS-20.1 requires preparation and implementation of a CAP. *Id.* at 5-39. These are specific goals and policies: the County must prepare and implement a CAP in order to comply with AB 32’s GHG reduction requirements. The absence of a CAP, therefore, creates a General Plan inconsistency. Further, implementation of the CAP consistent with COS-20.1 would be impossible if project EIRs were able to simply ignore the CAP and evaluate project-level GHG impacts on an ad hoc basis or pursuant to the flawed GHG Threshold of Significance Document.

B. Processing Project EIRs Without A CAP Obstructs The General Plan's Goals And Policies

Your August 10th letter states: "*Approval of a development project would not obstruct [Policy COS 20.1]. Therefore, such a project would not be inconsistent with the General Plan.*"

Answer: Approving projects without evaluating their GHG impacts under a legally valid CAP would directly interfere with the CAP's purpose to reduce GHG emissions in compliance with AB 32 and insure that the County meets its GHG reduction goal. The CAP is a comprehensive measure that accounts for baselines GHG emissions in San Diego County and sets forth GHG reduction measures to meet specified reduction targets. General Plan EIR, § 2.17, at 2.17-30 (Mitigation Measures CC-1.2). Mitigation Measure CC-1.8 then requires thresholds of significance to be determined based on the CAP. *Id.*, § 2.17, at 2.17-31.

Permitting project approvals without GHG analysis under the CAP and related thresholds of significance would lack any "measuring stick" to determine if the project's GHG emissions fell with the CAP's framework for meeting AB 32's requirements. In particular, "The County Efficiency Metric," which allows for unlimited GHG emissions, would allow large projects resulting in substantial population increases to cause GHG emissions far in excess of the levels needed to meet AB 32's requirements pursuant to a legally valid CAP. The County staff has made no effort to determine whether and to what extent the "The County Efficiency Metric" was derived by the County's consultants based on a specific planned population and growth number expected from California in general and from expected population growth in unincorporated San Diego County based on the County's adopted 2011 General Plan. For example, did the County's GHG consultants who recommended "The County Efficiency Metric" based their recommendations on the assumption that there would be no increases in population beyond that expected by SANDAG based on the County's own 2011 General Plan. The failure to consider potential population growth renders it impossible for the County to determine the appropriate GHG emissions to include in the General Plan required CAP.

III. THE COUNTY GENERAL PLAN REQUIRES IT TO COORDINATE GHG EMISSIONS REDUCTION PLANNING WITH OTHER AGENCIES

Additionally, I would note that your letter does not explain how the County, in the absence of the CAP, can comply with the General Plan goal of coordinating with the GHG reduction plans of other regional agencies such as SANDAG, which adopted an RTP/SCS in October of 2015 which expressly did not incorporate the new growth in unincorporated areas included in County's pending general plan amendments. Further, the GHG Threshold of Significance Document fails to discuss relevant planning documents, thus violating County General Plan Policy COS-20.3. *See* General Plan at 5-39.

IV. THE COUNTY EFFICIENCY METRIC FAILS TO BRIDGE THE ANALYTIC GAP WITH SUBSTANTIAL EVIDENCE TO DEMONSTRATE COMPLIANCE WITH AB 32

“The County Efficiency Metric” purports to be the appropriate threshold of significance for project-specific EIRs’ GHG impacts analysis. The GHG Threshold of Significance Document, however, fails to “bridge the analytic gap” with substantial evidence from “The County Efficiency Metric’s” “per person” limits to the requirements of AB 32, Executive Order S-3-05, Executive Order B-30-15, and the Air Resources Board’s Scoping Plan. *See Ctr. for Biological Diversity v. Dept. of Fish and Wildlife*, 62 Cal.4th 204, 227 (2015) (“*CBD*”); *see also Topanga Assn. for a Scenic Community v. Cty. of Los Angeles* 11 Cal.3d 506, 515 (1974). In *CBD*, the California Supreme Court held that an EIR’s GHG analysis was insufficient because it failed to provide substantial evidence that statewide GHG reduction levels were an appropriate measuring stick at the project level—in part based on potential differences in new and existing development and differences in assumptions used in statewide models and in more local models. *CBD*, 62 Cal.4th at 225-27.

“The County Efficiency Metric” relies on a statewide service population and statewide GHG inventory to derive a “per person” limit of GHG emissions. GHG Threshold of Significance Document at 6. The GHG Threshold of Significance Document provides no data specific to San Diego County and makes no attempt to explain why calculation of “The County Efficiency Metric” based only on statewide data is appropriate for San Diego County. The document provides no information on what level of population was assumed for unincorporated San Diego County in this statewide service population number. Was it a number derived from the County’s 2011 General Plan or an earlier version of the General Plan, or did it assume that there would be additional amendments to the General Plan that would permit even greater population growth?

Further, the GHG Threshold of Significance Document does not differentiate between various types of development—whether new, existing, urban, rural, transit-oriented, auto-centric, or otherwise—and provides no discussion of why a single “per person” limit is appropriate for all types of development. For example, some projects will require off-site road improvements adding roads or lanes that could induce additional vehicle miles traveled (“VMT”). “The County Efficiency Metric’s” “per person” limits do not account for additional GHG emissions resulting from such increased VMT. Thus, the GHG Threshold of Significance Document fails to “bridge the analytic gap” with substantial evidence. For example, it provides no evidence at all relating to factors discussed by the California Supreme Court in *CBD* that are needed to relate “statewide” GHG percentage reductions and apply them to “individual projects.” *See* 62 Cal.4th at 225-226 (no evidence in the record that “*related that statewide level of reduction effort to the percentage of reduction that would or should be required from individual projects. . .*” and at 228 (“*no expert opinion stating that the [California Air Resources Board] Scoping Plan contemplates the same emissions reductions from new buildings as from existing building ones . . .*” (emphasis in original)). The County Efficiency Metric” is deficient as a matter of law.

In its 2011 General Plan and General Plan, the County selected the CAP as the mechanism to attempt to “bridge the analytic gap.” The CAP is required to provide baseline data specific to San Diego County and create thresholds of significance based on such data. Until certification of a legally adequate CAP and related thresholds of significance, however, it is impossible to determine whether the CAP provides substantial evidence to “bridge the analytic gap” and remedy “The County Efficiency Metric’s” deficiencies.

V. THE COUNTY'S FAILURE TO PROVIDE AN ADEQUATE MEASURING STICK CREATES UNCERTAINTY THAT IS DETRIMENTAL TO THE DEVELOPMENT COMMUNITY, ENVIRONMENTAL PROTECTION ADVOCATES, AND THE PUBLIC

The County's refusal to attempt to calculate or keep track of total GHG emissions from proposed new development—other than recommend “The County Efficiency Metric's” “per person” measurements, which could produce an unlimited total amount of GHG emissions with new General Plan amendments—is also unfair to the development community. Without a “yardstick” from the County as to the total amount of new GHG emissions allowed, or GHG emissions reductions needed, individual developers are left without any way to calculate whether or not their “particular project” will comply with the County's General Plan. Additionally, without a GHG “measuring stick,” developers such as Newland are given no incentive or obligation to develop new transit-oriented projects designed to utilize SANDAG's massive new investment in transit projects, and continue instead to develop “old style” sprawling projects requiring residents to live where transit is unavailable, thereby increasing GHG emissions.

The absence of the CAP (or any other form of alternative yardstick that is based on the County's quantified GHG reduction goals), combined with the County staff endorsed “County Efficiency Metric,” prevents the County from complying with both CEQA and the County's 2011 General Plan.

VI. CONCLUSION

The County's election to defer mitigation of its General Plan's GHG impacts and failure to certify an adequate CAP have caused a void in sound planning that impacts the development community, environmental protection advocates, and the general public. The County staff should release either the CAP or some other means for determining whether and to what extent additional growth such as the Newland Project can be allowed, beyond the County's adopted General Plan, and still allow the County to meet the goal of reducing GHG emissions enshrined in the County's General Plan.

The County cannot move forward processing the Newland project's EIR under the flawed GHG Threshold of Significance Document, which would permit unlimited GHG emissions in contrast to the requirements of the General Plan and General Plan EIR. The County must complete and certify and legally adequate CAP before moving forward with this project, because the CAP or equivalent document is needed before the County can adopt GHG thresholds of significance and determine which projects will conflict with the County General Plan.

While your letter invited the Sierra Club to file litigation to enforce GHG goals, we believe that such litigation would be wasteful for all concerned. The County's General Plan and the CAP were intended to provide a blueprint for future growth and GHG emissions reductions that developers and the public could all rely upon, without inviting third party litigation such as suggested by your letter.

LATHAM & WATKINS LLP

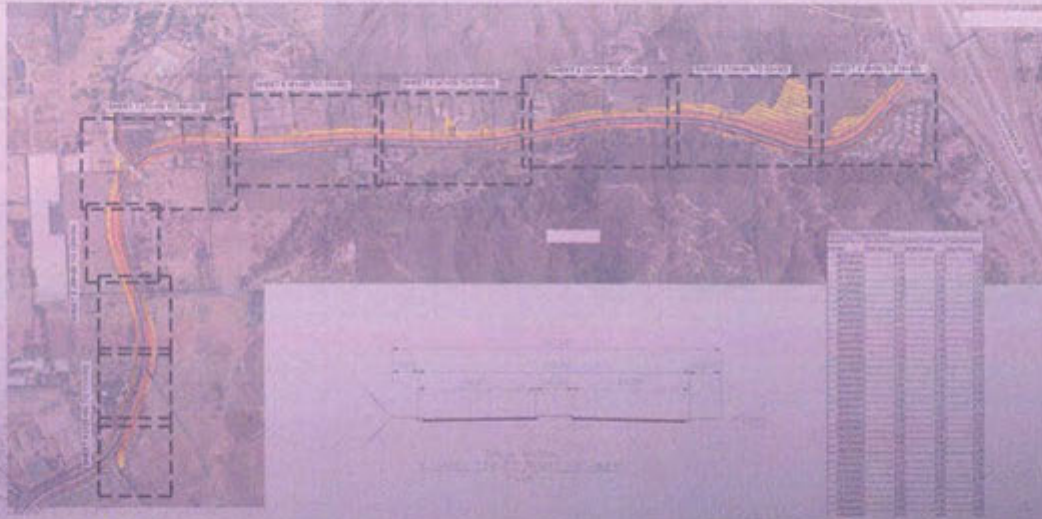
Thank you for your time and attention to this matter. Please feel free to contact me at (858) 523-5400 or christopher.garrett@lw.com if you would like to discuss this matter further.

Best regards,

Christopher W. Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
Mark Slovick, County Planning and Development Services
Ashley Smith, County Planning and Development Services
Peter Eichar, County Planning and Development Services
Dan Silver, Endangered Habitats League
Jan Chatten-Brown, Chatten-Brown & Carstens LLP
Doug Hageman, Newland
Paul Robinson, Hecht Solberg Robinson Goldberg & Bagley
Mark Dillon, Gatzke Dillon & Balance
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
Andrew Yancey, Latham & Watkins LLP



DELANE Engineering
Impact Analysis for Newland's Proposed Deer Springs Road Widening
Technical Memorandum and Exhibits
August 29, 2016



Commissioned by: The Golden Door

Technical
Memorandum





TECHNICAL MEMORANDUM

DATE	August 29, 2016
TO	Andrew Yancey – Latham and Watkins, LLP
CC	Kathy Van Ness – COO/GM Golden Door Resort Christopher Garrett – Latham and Watkins, LLP
FROM	John Prince, PE, PMP – DELANE Engineering, Inc.
SUBJECT	Impact Analysis for Newland's Proposed Deer Springs Road Widening

DELANE Engineering, a licensed engineering firm, has analyzed limited publicly available information and relied on its professional expertise to evaluate the potential impacts from Newland's proposal for widening Deer Springs Road as part of its "Sierra" project. This memorandum analyzes the proposed grading, drainage, and property impacts to properties along Deer Springs Road as a result of the eventual buildout of Deer Springs Road to six-lanes per the County General Plan (Buildout) in the location selected by Newland as well as Newland's proposed Phase 1 widening of Deer Springs Road from two to four-lanes. No environmental review has ever been performed for the Buildout scenario.¹ The study area is limited between Mesa Rock Road to the east and Mulberry Road to the west, as well as a portion of Sarver Lane. The Newland Preliminary Grading Plans prepared by Fuscoe Engineering dated January 22, 2016 (Phase 1, 4-Lane Option B) provide the basis for horizontal and vertical road alignment. For the most part, the Preliminary Grading Plans hold the south side of Deer Springs Roads and widen primarily to the North.

The analysis included herein shows that Newland's proposal for widening Deer Springs Road results in nearly 700,000 cubic yards of earthwork and 33 acres of private property impacts at Buildout. Buildout results in 155% more earthwork and 78% more property impacts than what is apparent from Newland's Preliminary Grading Plans. Furthermore, the Phase 1 improvements as proposed and shown on Newland's Preliminary Grading Plans for Deer Springs Road do not reflect the full extent of the anticipated impacts along the roadway. Phase 1 results in approximately 60% more earthwork and 36% more property impacts than what is apparent from Newland's Preliminary Grading Plans. A summary of inconsistencies found within the Newland Grading Plans, and additional potential impacts that are not apparent from the Newland Grading Plans, are included within this memorandum and associated exhibits, in addition to the table provided on **Page 3** summarizing earthwork volumes and impact areas. See **Page 6** regarding limitations to the accuracy of the findings presented herein.

Delane has also performed, under separate cover, concept level analysis of an alternative alignment for buildout of a four lane S-12 road through Newland's property, known as Option C. Delane requested access

¹ *In addition, the Project's Buildout will include improvements to the Deer Springs Road/1-15 interchange. Caltrans is currently analyzing these improvements, which we understand will be evaluated in a stand alone EIR, separate from the Newland Sierra project.*

to walk the Project site in order to more fully evaluate Option C, but Newland denied its request for walking access and offered time-limited vehicular access. Delane's work on Option C is referenced herein.

The following exhibits for the Buildout, 6-Lane and the Phase 1, 4-Lane (Option B) analyses included herein were prepared to convey the findings and impacts along the study corridor Deer Springs Road. They consist of the following:

Buildout, 6-Lane

Sheet 1 – Overview of Study Area / Summary Table of Area Impacts

Sheet 2 through 9 – Station by Station analysis of significant impacts to private property, driveways, trees, and other items relative to proposed grading and drainage improvements, starting from the east end at Mesa Road Rock and moving towards Mulberry Drive at the west end.

Phase 1, 4-Lane (Option B)

Sheet 1 – Overview of Study Area / Summary Table of Area Impacts

Sheet 2 through 9 – Station by Station analysis of significant impacts proposed by the Newland Grading Plans, but not necessarily conveyed on the Newland Grading Plans, starting from the east end at Mesa Road Rock and moving towards Mulberry Drive at the west end.

Sheet 10 - Photo Simulation at Newland proposed Retaining Wall (Station 18+00)

Sheet 11 – Extent of Major Slope Grading

Significant potential impacts were found during our analysis and are identified on the **Exhibits** incorporated into this memo by reference. As noted on the exhibits, major impacts of the Buildout 6-Lane scenario include:

- STA 14+00 – Grading and Drainage impacts to Deer Springs Oak Mobile Home Community
- STA 27+00 – Grading impacts to County Water Authority access road requires retaining walls and access verification
- STA 29+00 – Private residence impacted by road and requires removal
- STA 85+00 – Private businesses on either side of the intersection with Sarver lane are significantly impacted by way of access and partial loss of property use
- STA 91+00 – Significant impact to private agricultural property use and shade structure
- STA 100+00 – Impact to orchards and drip line of historic Oak tree
- STA 107+00 – Impact to parking, fencing, and trees of Twin Oaks House and Gardens Wedding Venue
- Throughout – Private fences, gates, and entry drives impacted by road and grading, some significantly increasing the steepness of the drive

On the following pages, **Table 1** provides a summary of impact areas and earthwork in comparing our analysis of the Buildout scenario (6-lane) and Phase 1 scenario (4-lane) versus the Phase 1 scenario as proposed/shown on Newland's Grading Plans. **Table 2** provides a summary of impact areas and earthwork

in comparing Option C1 and C2 (per memo and exhibits dated April 2016) versus the Building scenario (6-lane).

Table 1: Phase 1, 4-Lane Impact Comparison

	Earthwork/Blasting (thousand cubic yards)		Property Impacts ² (acres)		
	Cut	Fill	In ROW	Beyond	Total
Buildout 6-Lane (124-ft ROW, 1.5:1 slopes, as shown)	684	46	17.2	15.8	33.0
Phase 1, 4-Lane (Option B) (98-ft ROW per Newland Plans) ¹	268	37	11.0	7.5	18.5
6-Lane Comparative Differential (Buildout v. Newland Phase I Plans)	+416	+9	+6.2	+8.3	+14.5
	+155%	+24%	+56%	+111%	+78%
Phase 1, 4-Lane (Option B) (100-ft ROW, 1.5:1 slopes, more detailed independent analysis as shown)	430	40	11.8	13.5	25.2
Phase 1, 4-Lane (Option B) (98-ft ROW per Newland Plans) ¹	268	37	11.0	7.5	18.5
4-Lane Comparative Differential (Phase I Analysis as shown v. Newland Phase I Plans)	+162	+3	+0.8	+6.0	+6.7
	+60%	+8%	+7%	+79%	+36%

As shown in Table 1 above, the anticipated impacts of the 6-Lane Buildout scenario result in approximately 155% more earthwork and 78% more property impacts than is apparent on Newland's Preliminary Grading Plans. In addition, the actual anticipated impacts of the Phase 1 scenario result in approximately 60% more earthwork and 36% more property impacts than is apparent on Newland's Preliminary Grading Plans.

¹ Values represented for proposed roadway per Newland Plans are approximate and based on available topographic and property information. No field verification was performed. Property impacts are based on overlay of Newland Plan PDF's to SANGIS property line information so as to provide consistent comparison. SANGIS property lines do not match those as shown on Newland Plans, therefore the actual impacts will differ from those shown here.

² Property impacts for "outside" Right-of-Way would consist of slope and drainage easements and temporary construction easements on private property outside of the proposed public ROW. Impacts in "ROW" are those permanent private property take areas between the existing and proposed ROW limits.

Table 2: Buildout, 6-Lane Impact Comparison

	Earthwork/Blasting ³ (thousand cubic yards)		Property Impacts ⁵ (acres)		
	Cut	Fill	In ROW	Beyond	Total
Buildout 6-Lane (124-ft ROW, 1.5:1 slopes, as shown)	684	46	17.2	15.8	33.0
Option C1 ³ (per exhibits and memo April 2016)	1,900	1,725	11.1	15.7	26.8
Coincidental Newland Grading for Option C1 Areas ⁴	-800	-20	-	-	-
Option C1 Comparative Differential (v. Buildout 6-Lane)	+416	+1,659	-6.1	-0.1	-6.2
Option C2 ³ (per exhibits and memo April 2016)	1,250	5,650	10.9	28.1	39.0
Coincidental Newland Grading for Option C2 Areas ⁴	-500	-20	-	-	-
Option C2 Comparative Differential (v. Buildout 6-Lane)	+66	+5,584	-6.3	+12.3	+6.0

As shown in Table 2 above, the anticipated impacts of Option C1 and C2 result in significantly more earthwork than the 6-Lane Buildout scenario while property impacts for Option C1 are significantly less.

³The use of 1:1 slopes or retaining walls may allow for reduced earthwork quantities. For C2, fill volumes may be reduced by lowering the grade of the road on the west end and center section through design exceptions for maximum longitudinal road grade. Blasting volumes were not calculated due to lack of soils information available. The use of retaining walls was not deemed necessary due to this limited analysis. Based on biological, property, or other constraints, retaining walls may be desired.

⁴Earthwork volumes for Option C1 and C2 include areas where the Newland Sierra plans already propose grading. Earthwork proposed by Newland on the Preliminary Grading Plans is 10,700,000 cubic yards of cut and the same volume of fill. Areas where coincidental grading occurred were approximated and taken into account for differential Option C scenarios. Adjustments to the Newland Development to accommodate the proposed Option C may also yield less additional earthwork volumes.

⁵Property impacts for "outside" Right-of-Way would consist of slope and drainage easements and temporary construction easements. C1 does not account for the property impacts already proposed by the Newland Sierra development. Therefore, the differential for additional property impacts for C1 and C2 compared to B may be less than shown.

Discrepancies Found in Newland Preliminary Grading Plans

Upon initial review of the Newland Preliminary Grading Plans for Phase 1, 4-Lane Option B (Sheet 16), the following discrepancies within the Newland Preliminary Grading Plans were noted:

- Section H3/16 incorrectly shows six-lanes, instead of four-lanes as Phase 1 calls for. The correct section is H2 on sheet 2.
- The Right-of-Way (ROW) shown in plan view scales out at 98-ft wide and the median scales out at 12-ft (instead of 100-ft and 14-ft, respectively, per Section H2/2). Adding 2-ft will expand the grading daylight and impact limits. The analysis included herein was performed using 100-ft ROW.
- The purpose or need for the retaining wall shown from stations 17+00 to 19+00 is unclear.
- Storm Water Quality and Hydromodification infrastructure to satisfy Federal and State regulations are not accounted for, even at a conceptual level.
- The Sarver Lane plans call for 60-ft ROW inclusive of a 15-ft wide parkway/trail on the east side per Section B1 on Sheet 2, however 72-ft is called out in plan view and the overall layout of Sarver Lane is inconsistent with either. The analysis included herein assumes Sarver Lane to be constructed per Section B1 on Sheet 2.
 - Along those same lines, the Newland Plans do not address the drainage or private drive access along the west side of Sarver Lane at Deer Springs Road.
- The Phase 1, 4-Lane (Option B) design scenario should consider accommodating the 6-Lane (General Plan Buildout) because it may be constructed in the future. This may include a shift of the centerline for the Phase 1, 4-Lane road to the north which may cause additional impacts in the interim 4-Lane condition.
- The Newland Grading Plans propose a 745-ft curve radius. It is understood that a Design Exception has already been submitted and approved by the County for both the Phase 1 and Buildout scenarios at 745-ft. (The standard for 6-lane of this classification is 1700-ft, and 4-lane is 1200-ft). A larger radius would result in greater impact to private property, however a larger radius is safer and reduces the potential for motorists to run off the road.

Disclaimers Regarding Data Sources, Use of Data, and Accuracy of Findings

- All values represented within this memorandum and associated exhibits are approximate, and based on limited publically available information or inferred from others without independent verification.
- Topographic contour lines shown are accurate to 5-ft. No field verification was performed. For accurate earthwork and design analysis, the topographic information should be confirmed.
- Property lines were obtained from the SANGIS website. The linework does not match that shown on the Newland grading plans (the source is unknown). No verification was performed and no adjustments were made to the linework.
- For comparative purposes, only PDFs of the Fuscoe grading plans were available. No CAD files or quantities were available. The quantities and analysis for Deer Springs Road was approximated by attempting to duplicate the design. For the 100-ft Right-of-Way condition, the additional two feet was added only to the north side of the section. In addition, the Fuscoe grading plans use vertical datum NAVD-88, which is consistent with Caltrans, but not with the County and most typical municipal and private improvements. The difference in elevation from the Fuscoe plans to Option C analysis included herein is approximately 2.2-ft (Fuscoe higher). These differences have been taken into account for this analysis, however variations may still exist due to the approximate nature of the analysis.
- We understand significant tribal cultural resources are located in the vicinity of Deer Springs Road and could be impacted by the Buildout and/or Phase 1 scenario of Newland's proposed expansion. Because we are unaware of the exact location of these resources, we have not included them in this report.
- We understand Newland intends to orient its proposed widening of Deer Springs Road to the north of existing centerline. Delane's impact analysis attempts to honor this orientation to the north. However, it may be possible to orient a widening of Deer Springs Road more to the south, which would result in impacts not evaluated in this report.

End of memorandum

Attachments:

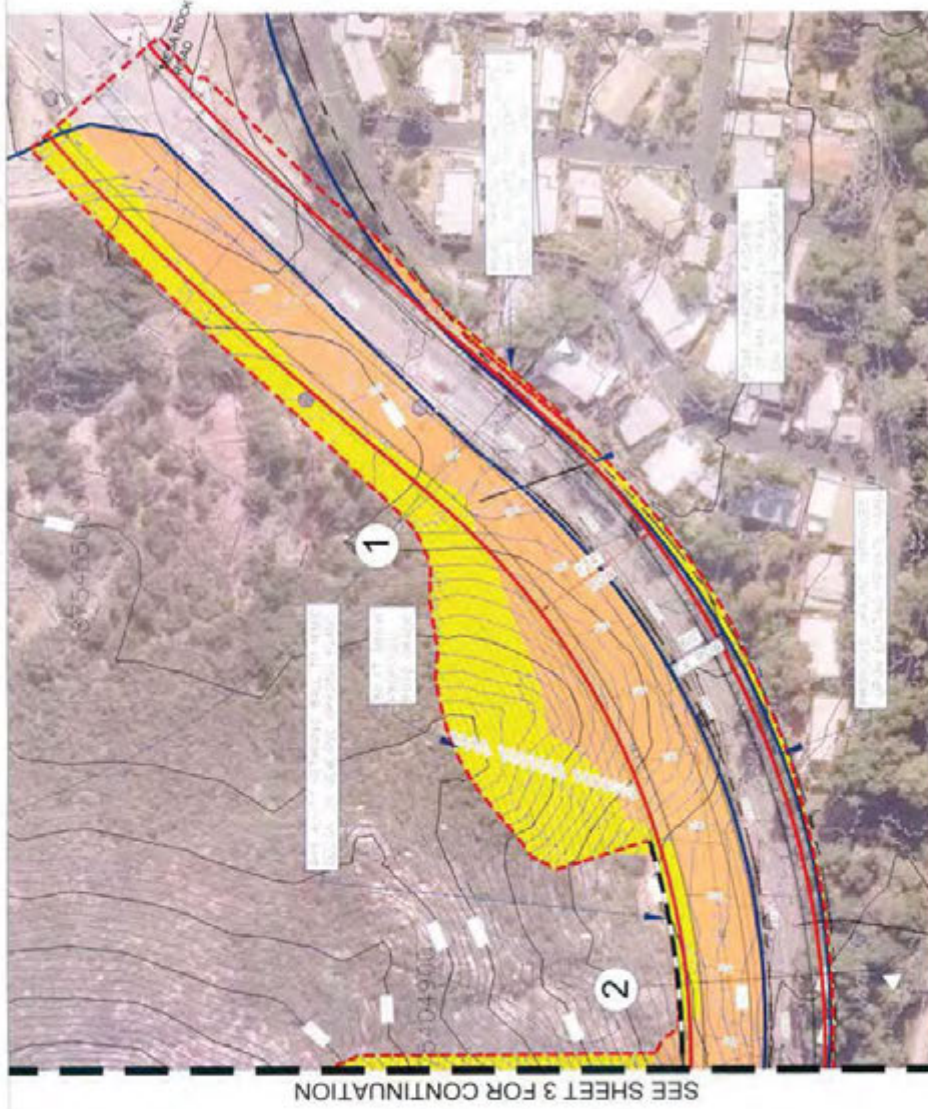
Conceptual 6-Lane Impact Analysis Sheets 1-9 dated August 29, 2016

Conceptual 4-Lane Impact Analysis Sheets 1-11 dated August 29, 2016



www.DelaneEngineering.com | Info@DelaneGroup.com

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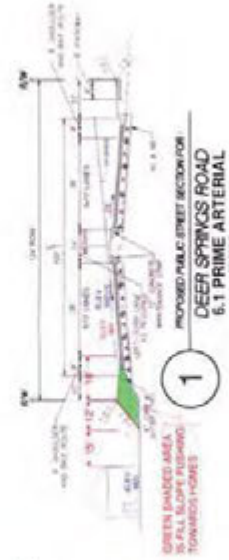
SEE SHEET 3 FOR CONTINUATION

LEGEND

- EXISTING 49-FT RIGHT-OF-WAY (ROW)
- PROPOSED 124-FT RIGHT-OF-WAY (ROW)
- APPROXIMATE SHADING LIMITS
- PHASE 1 IMPACT AREA (4-LANE ROAD) AS NEULAND SHOPS (DE-PT ROW)
- ADDITIONAL IMPACT AREA FOR BUILD-OUT CONDITION (6-LANE ROAD)
- CONCEPTUAL ASSUMED FLEET INLET, OVERFLOW INLET, STORAGE WALL, COLLECTION SYSTEM, AND DISCHARGE PIPING, STORM WATER MANAGEMENT COLLECTION AND REGULAR TREATMENT INFRASTRUCTURE IS NOT ADDRESSED IN NEULAND PLANS

DEER SPRINGS ROAD
CONCEPTUAL BUILD OUT
(6 LANE) IMPACT ANALYSIS

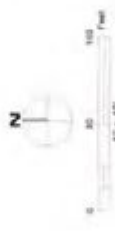
SAN DIEGO COUNTY, CA



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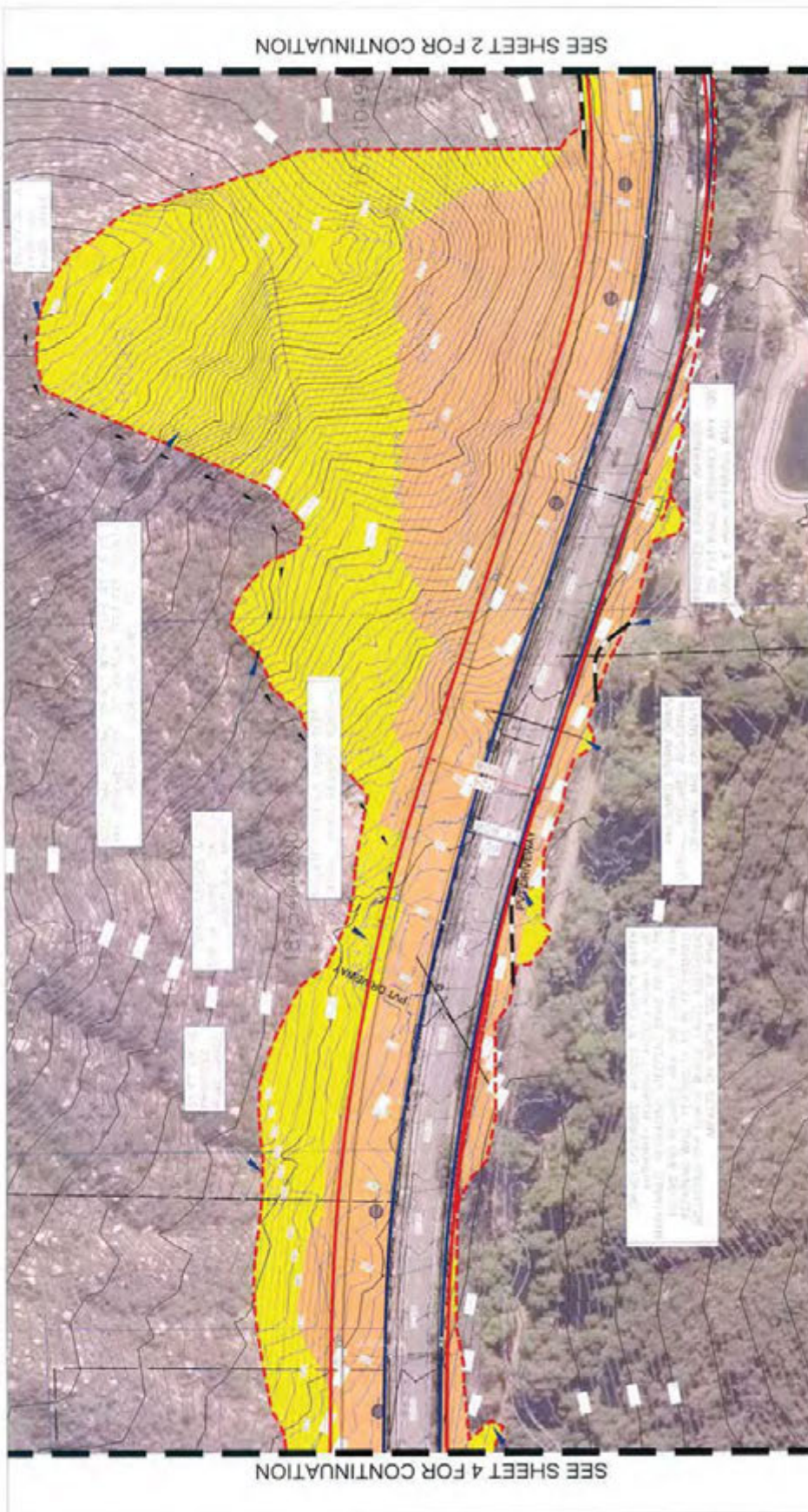
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SHEET 2 OF 9
(STA 8+00 TO 19+00)

AUGUST 29, 2016

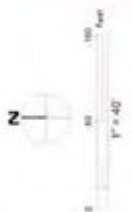
NOTE: ALL VALUES PRESENTED ARE PRELIMINARY AND APPROXIMATE, BASED ON NON-DEVELOPED SURVEY AND PROPERTY DATA.



EXISTING 80-FT RIGHT-OF-WAY (ROW)
 PROPOSED 124-FT RIGHT-OF-WAY (ROW)
 APPROXIMATE GRADING LIMITS
 PHASE 1 IMPACT AREA (4-LANE ROAD) AT VEHICLE SHOWS (28-FT ROW)
 ADDITIONAL IMPACT AREA FOR BUILD-OUT CONDITION (6-LANE ROAD)
 CONCEPTUAL ASSIGNED FILTER PALET, OVERFLOW INLET, STORAGE VAULT, COLLECTION SYSTEM, AND DISCHARGE PIPING, STORAGE AND MANAGEMENT COLLECTION, AND REGULATORY TREATMENT INFRASTRUCTURE IS NOT ADDRESSSED IN VEHICLE PLANS
 NOTE: ALL VALUES PRESENTED ARE PRELIMINARY AND APPROXIMATE, BASED ON NON-VEHICLED SURVEY AND PROPERTY DATA

- LEGEND**
- EXISTING 80-FT RIGHT-OF-WAY (ROW)
 - PROPOSED 124-FT RIGHT-OF-WAY (ROW)
 - APPROXIMATE GRADING LIMITS
 - PHASE 1 IMPACT AREA (4-LANE ROAD) AT VEHICLE SHOWS (28-FT ROW)
 - ADDITIONAL IMPACT AREA FOR BUILD-OUT CONDITION (6-LANE ROAD)
 - CONCEPTUAL ASSIGNED FILTER PALET, OVERFLOW INLET, STORAGE VAULT, COLLECTION SYSTEM, AND DISCHARGE PIPING, STORAGE AND MANAGEMENT COLLECTION, AND REGULATORY TREATMENT INFRASTRUCTURE IS NOT ADDRESSSED IN VEHICLE PLANS

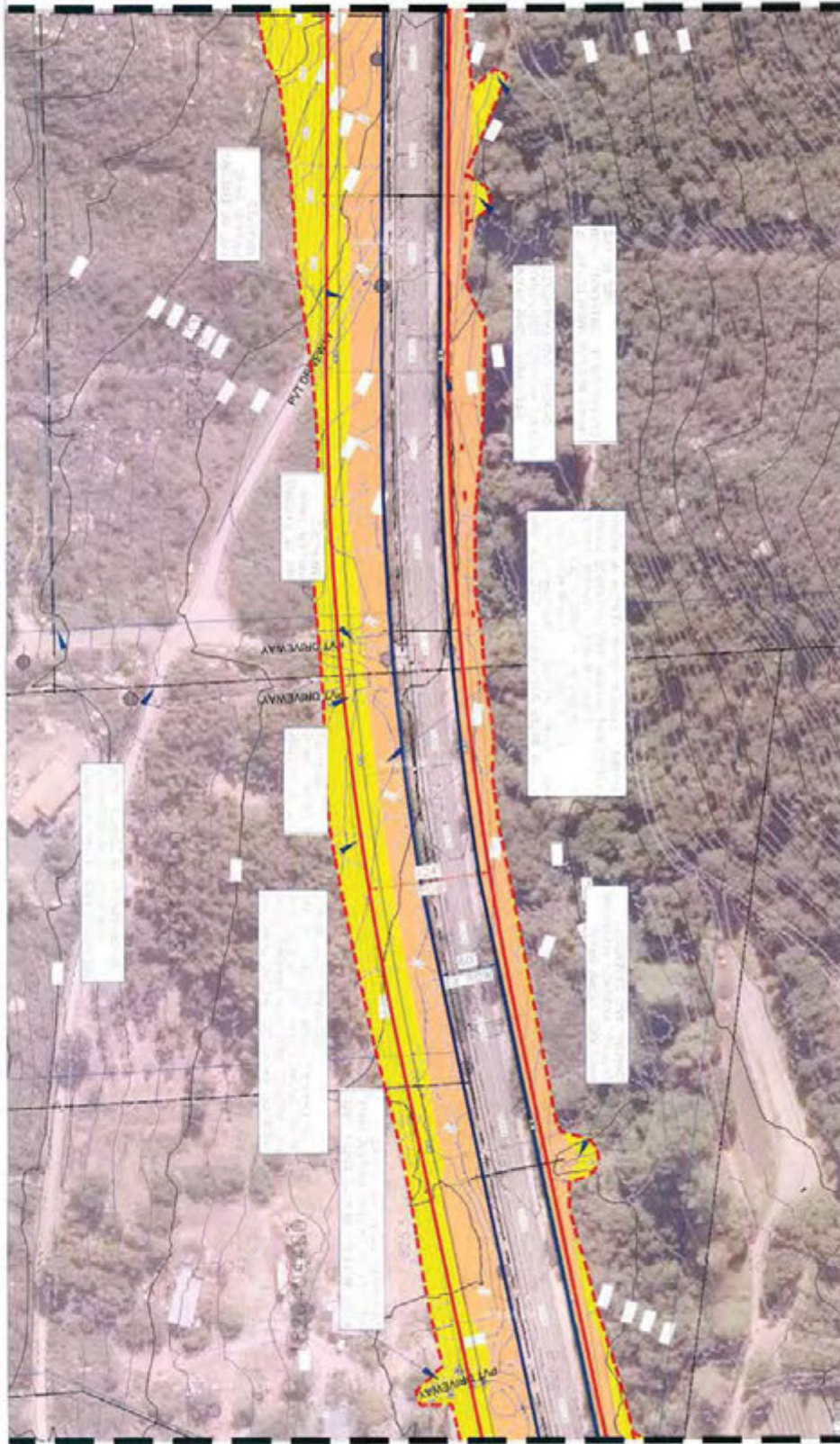
DEER SPRINGS ROAD
CONCEPTUAL BUILD OUT
(6 LANE) IMPACT ANALYSIS
 SAN DIEGO COUNTY, CA



SHEET 3 OF 9
 (STA 19+00 TO 33+00)
 AUGUST 29, 2016

SEE SHEET 2 FOR CONTINUATION

SEE SHEET 4 FOR CONTINUATION



SEE SHEET 3 FOR CONTINUATION

SEE SHEET 5 FOR CONTINUATION

LEGEND:

- EXISTING 60-FT RIGHT-OF-WAY (ROW)
- PROPOSED 124-FT RIGHT-OF-WAY (ROW)
- APPROXIMATE DRAINAGE LIMIT
- PHASE 1 IMPACT AREA (4-LANE ROAD) AS DETAIL SHOWN (95-FT ROW)
- ADDITIONAL IMPACT AREA FOR BUILD-OUT CONDITION (6-LANE ROAD)
- CONCEPTUAL ASSUMED FUTURE INLET, OVERFLOW INLET, STORMSEWER, COLLECTION SYSTEM AND DISCHARGE PIPING, STORM WATER MANAGEMENT COLLECTION AND REGULATORY TREATMENT INFRASTRUCTURE IS NOT ADDRESSSED ON THESE PLANS

- (Blue line)
- (Red line)
- - - (Red dashed line)
- (Orange shaded area)
- (Yellow shaded area)
- (White line with black dots)

**DEER SPRINGS ROAD
CONCEPTUAL BUILD OUT
(6 LANE) IMPACT ANALYSIS**

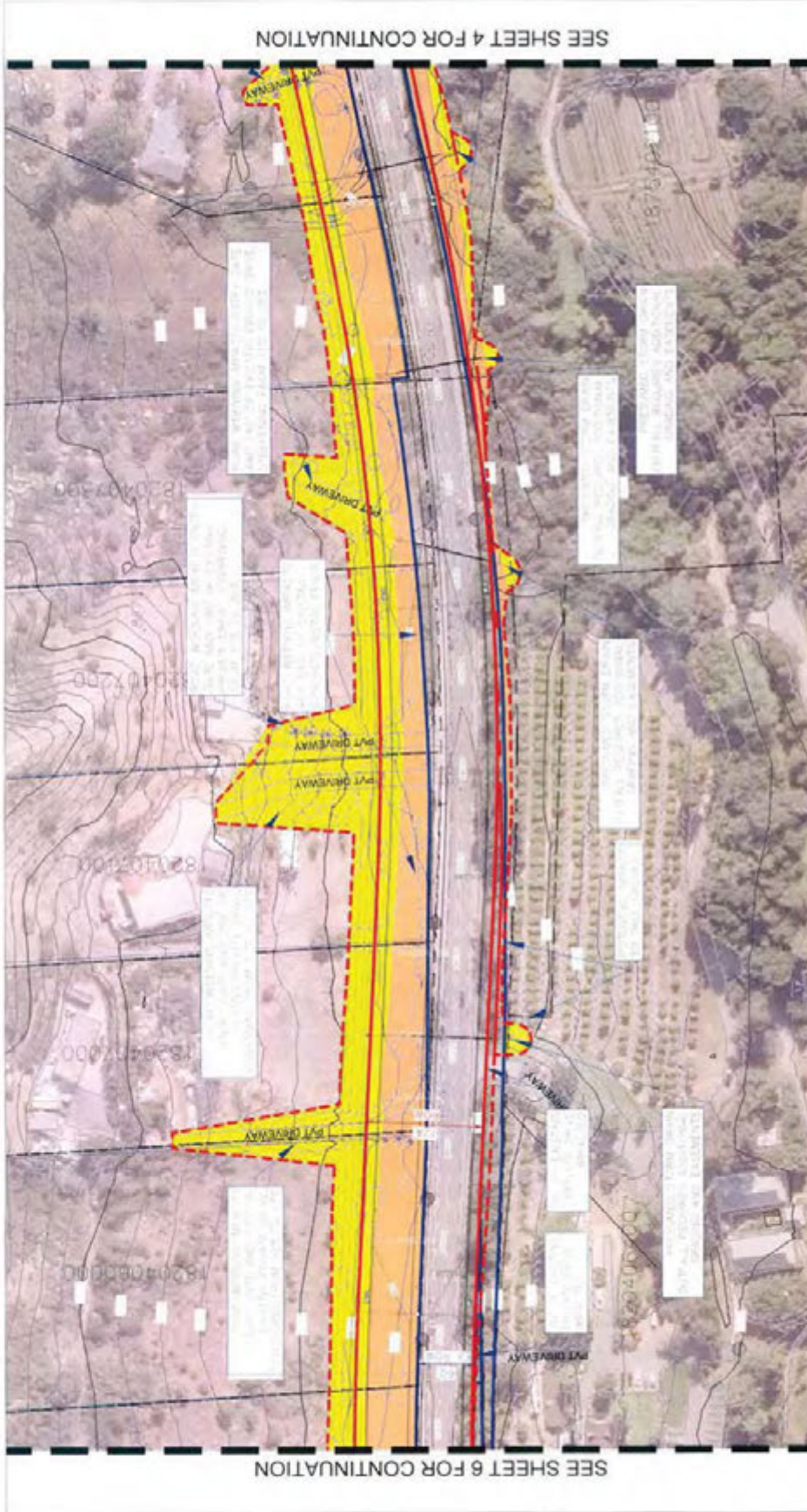
SAN DIEGO COUNTY, CA



**SHEET 4 OF 9
(STA 33+00 TO 47+00)**

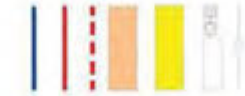
AUGUST 29, 2016

NOTE: ALL VALUES PRESENTED ARE PRELIMINARY AND APPROXIMATE, BASED ON NON-VERIFIED SURVEY AND PROPERTY DATA.



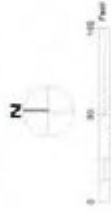
LEGEND

- EXISTING 60-FT RIGHT-OF-WAY (ROW)
- PROPOSED 124-FT RIGHT-OF-WAY (ROW)
- APPROXIMATE GRADING LIMITS
- PHASE 1 IMPACT AREA (4-LANE ROAD) AS NEAR-AS-BUILD SHEET (18-11-108)
- ADDITIONAL IMPACT AREA FOR BUILD-OUT CONDITION (8-LANE ROAD)
- CONCEPTUAL ASSUMED FILTER PALS, OVERFLOW INLET, STORAGE TANK, COLLECTION SYSTEM, AND DISCHARGE PIPING, STORM WATER MANAGEMENT COLLECTION AND REGULATION TREATMENT INFRASTRUCTURE IS NOT ADDRESSED ON NEAR-AS-BUILD PLANS
- NOTE: ALL VALUES PRESENTED ARE PRELIMINARY AND APPROXIMATE, BASED ON NON-CORRECT SURVEY AND PROPERTY DATA.



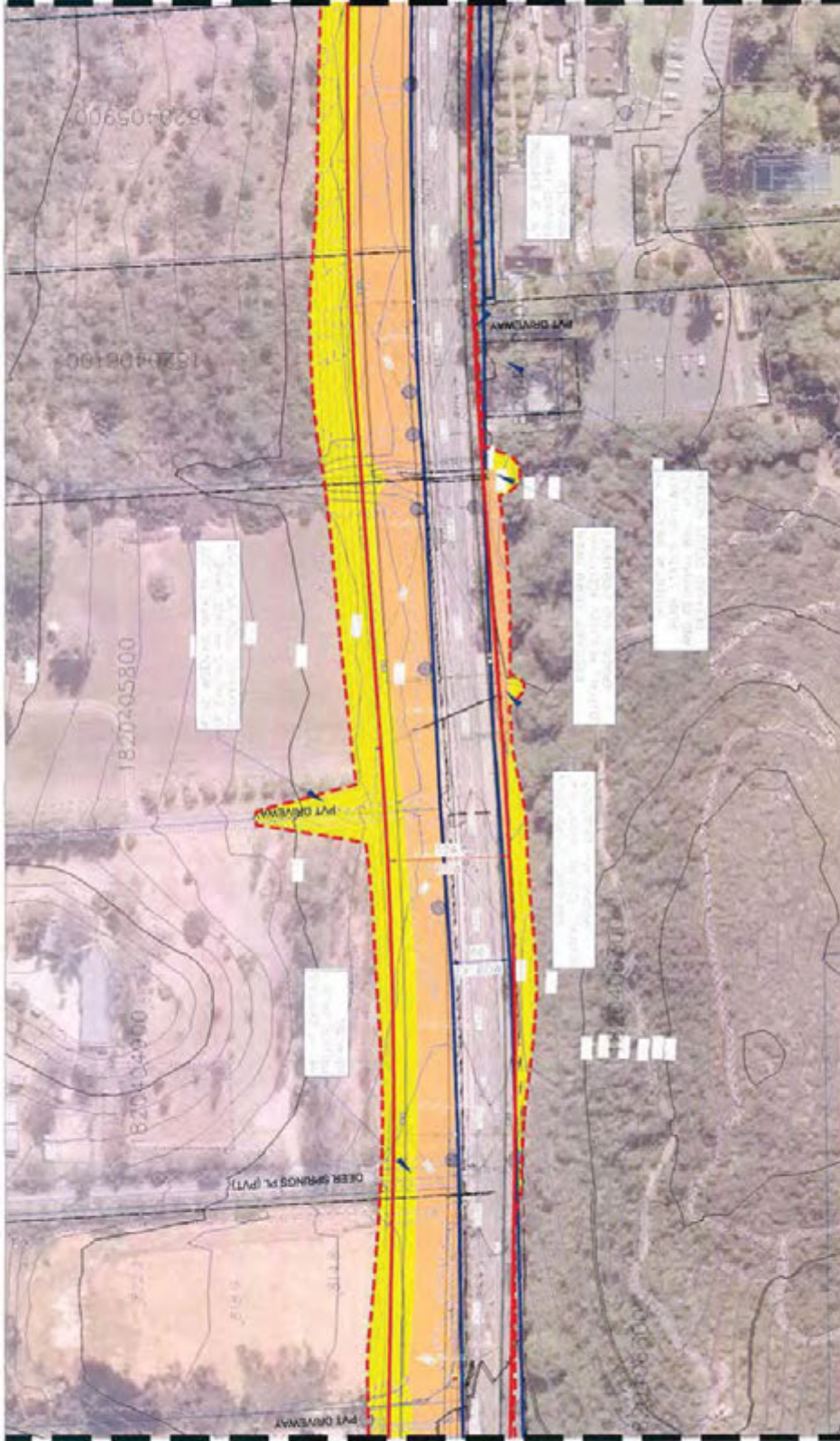
DEER SPRINGS ROAD
CONCEPTUAL BUILD OUT
(6 LANE) IMPACT ANALYSIS

SAN DIEGO COUNTY, CA



SHEET 5 OF 9
(STA 47+00 TO 61+00)

AUGUST 29, 2016



SEE SHEET 5 FOR CONTINUATION

SEE SHEET 7 FOR CONTINUATION



SHEET 6 OF 9
(STA 61+00 TO 75+00)

AUGUST 29, 2016



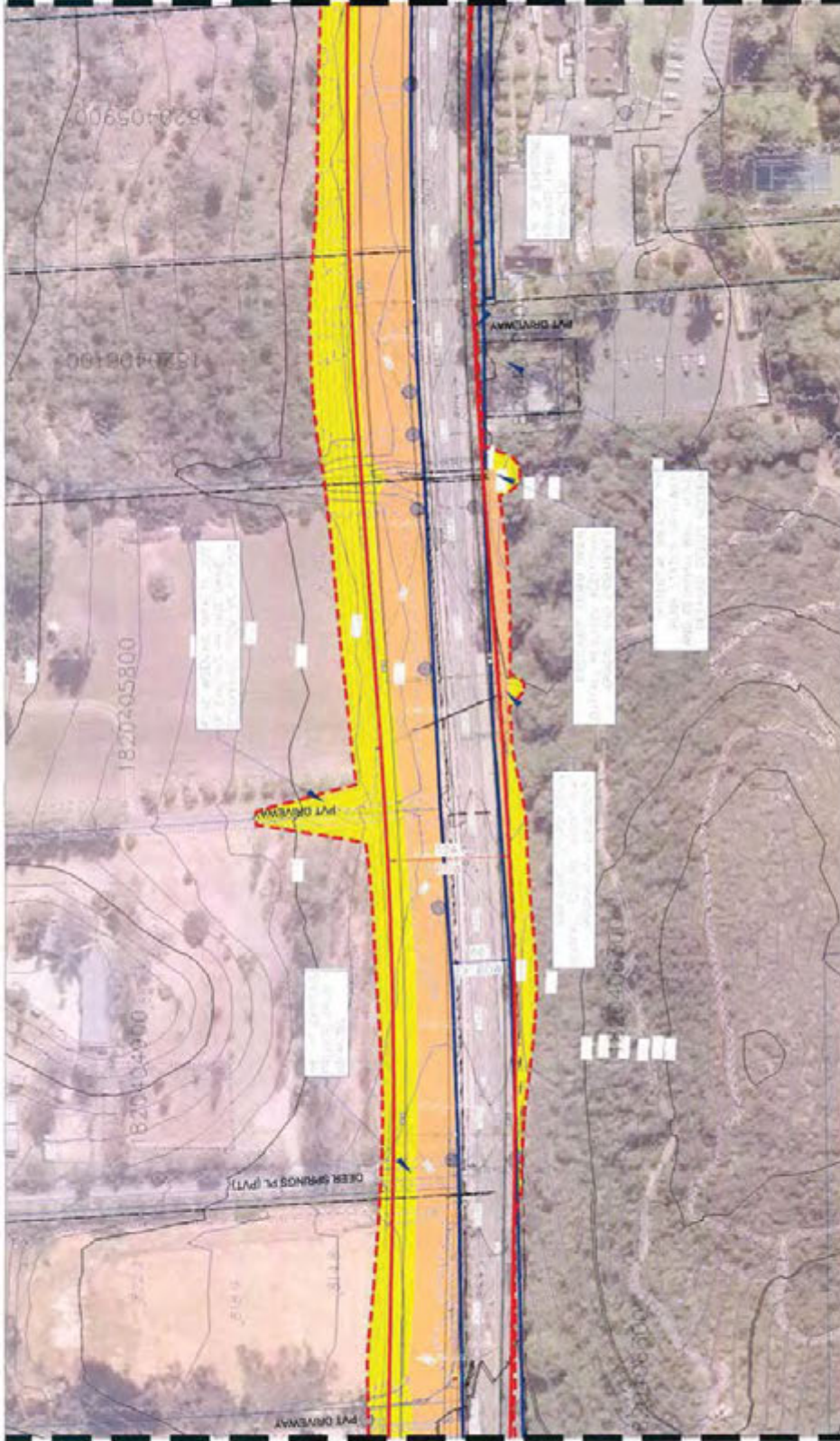
DEER SPRINGS ROAD CONCEPTUAL BUILD OUT (6 LANE) IMPACT ANALYSIS

SAN DIEGO COUNTY, CA

- EXISTING 60-FT RIGHT-OF-WAY (ROW)
- PROPOSED 124-FT RIGHT-OF-WAY (ROW)
- APPROXIMATE CHANGING LIMITS
- PHASE 1 IMPACT AREA (4-LANE ROAD) AS NEW AND SHIMS (148-FT ROW)
- ADDITIONAL IMPACT AREA FOR BUILD-OUT (SECTION 15-LANE ROAD)
- CONCEPTUAL AERATED FILTER INLET, OVERFLOW INLET, STORAGE TANK, COLLECTION SYSTEM, AND DISCHARGE PIPING, STORM WATER MANAGEMENT COLLECTION AND REGULATORY TREATMENT INFRASTRUCTURE IS NOT ADDRESSED ON NEW ROAD PLANS

LEGEND

NOTE: ALL VALUES PRESENTED ARE PRELIMINARY AND APPROXIMATE, BASED ON NON-SURVEYED SURVEY AND PROPERTY DATA.



SEE SHEET 5 FOR CONTINUATION

SEE SHEET 7 FOR CONTINUATION



SHEET 6 OF 9
(STA 61+00 TO 75+00)

AUGUST 29, 2016



DEER SPRINGS ROAD CONCEPTUAL BUILD OUT (6 LANE) IMPACT ANALYSIS

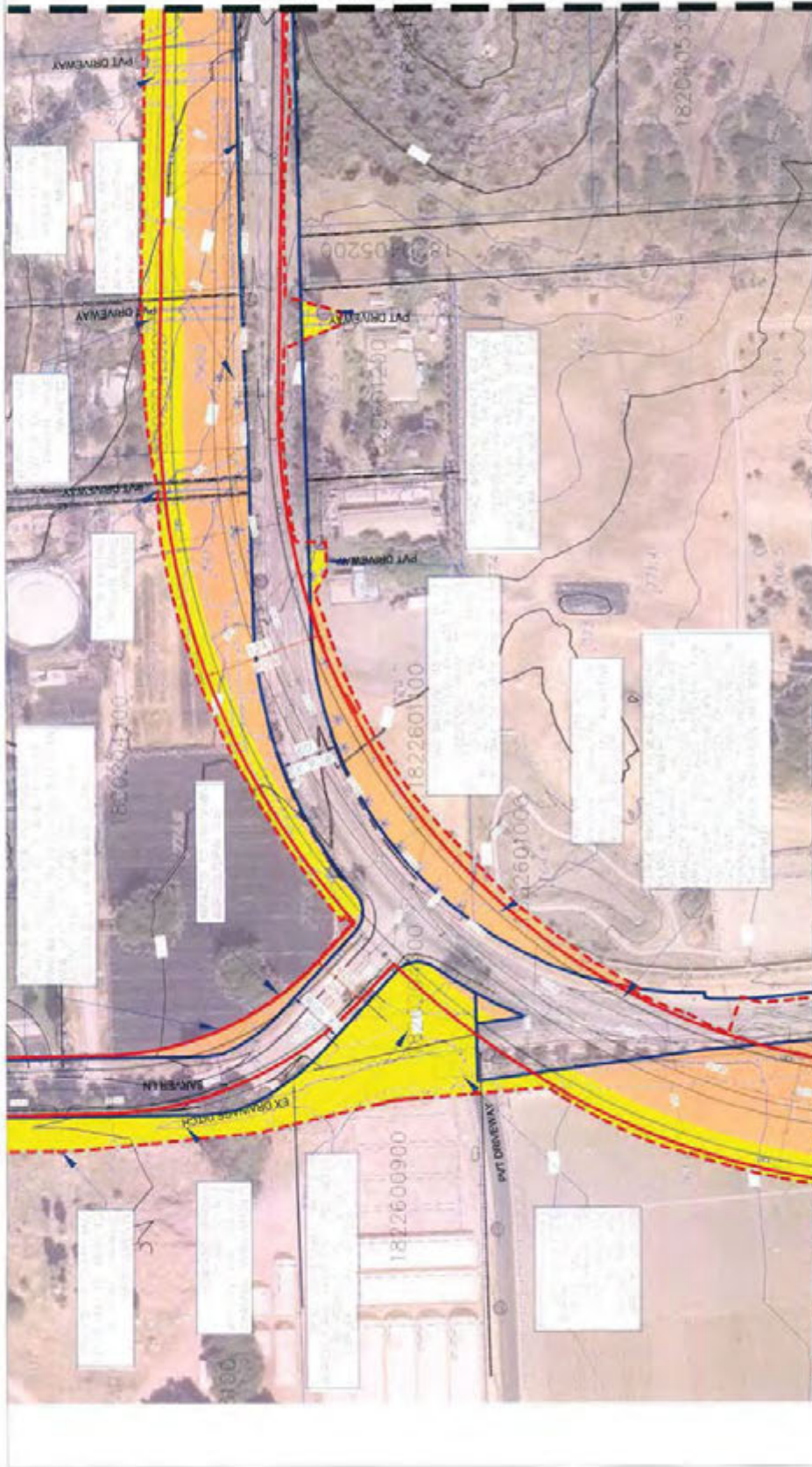
SAN DIEGO COUNTY, CA



LEGEND

- EXISTING 60-FT RIGHT-OF-WAY (ROW)
- PROPOSED 124-FT RIGHT-OF-WAY (ROW)
- APPROXIMATE CHANGING LIMITS
- PHASE 1 IMPACT AREA (4-LANE ROAD) AS REVENUE SHIMS (148-FT ROW)
- ADDITIONAL IMPACT AREA FOR BUILD-OUT (SECTION (5-LANE ROAD))
- CONCEPTUAL ADJACENT FILTER INLET, OVERFLOW INLET, STORAGE TANK, COLLECTION SYSTEM, AND DISCHARGE PIPING, STORM WATER MANAGEMENT COLLECTION AND REGULATORY TREATMENT INFRASTRUCTURE IS NOT ADDRESSED ON REVENUE PLANS

NOTE: ALL VALUES PRESENTED ARE PRELIMINARY AND APPROXIMATE, BASED ON NON-SURVEYED SURVEY AND PROPERTY DATA.



SEE SHEET 6 FOR CONTINUATION

SEE SHEET 8 FOR CONTINUATION

LEGEND

- EXISTING 60-FT RIGHT-OF-WAY (ROW)
- PROPOSED 74-FT RIGHT-OF-WAY (ROW)
- APPROXIMATE GRADING LIMITS
- PHASE 1 IMPACT AREA (4-LANE ROAD) AS NEARLAD 3000 (120-FT ROW)
- ADDITIONAL IMPACT AREA FOR BUILD-OUT CONDITION (6-LANE ROAD)
- CONCEPTUAL ASSUMED FUTURE WALK, OVERFLOW INLET, STORAGE TANK, COLLECTION SYSTEM, AND DISCHARGE PIPING, STORM WATER MANAGEMENT COLLECTION AND TREATMENT INFRASTRUCTURE IS NOT ADDRESSSED ON NEARLAD PLANS



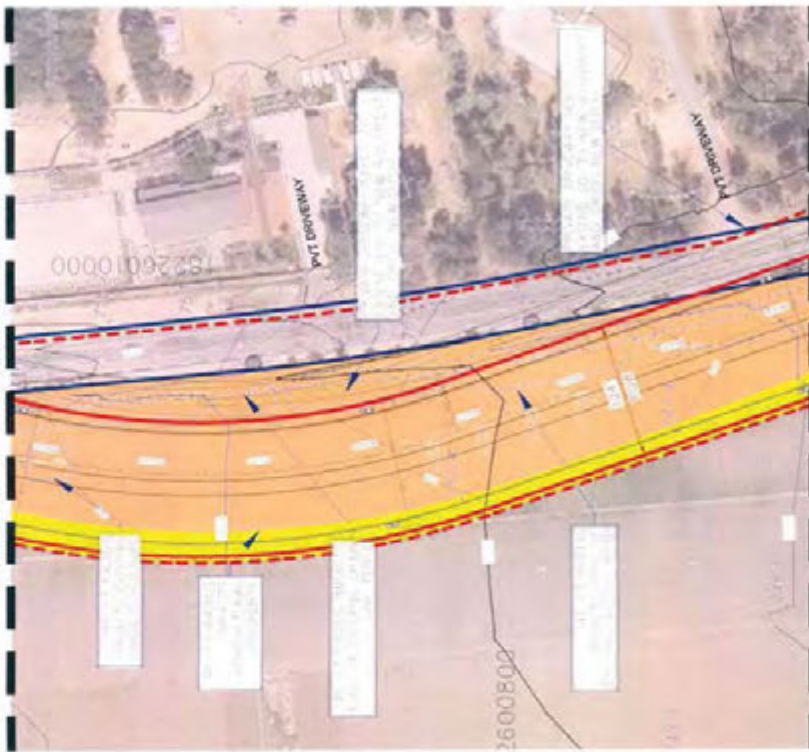
SHEET 7 OF 9
(STA 75+00 TO 89+00)

AUGUST 29, 2016

SAN DIEGO COUNTY, CA

NOTE: ALL VALUES PRESENTED ARE PRELIMINARY AND APPROXIMATE, BASED ON NON-ADJESSED SURVEY AND PROPERTY DATA.

SEE SHEET 7 FOR CONTINUATION



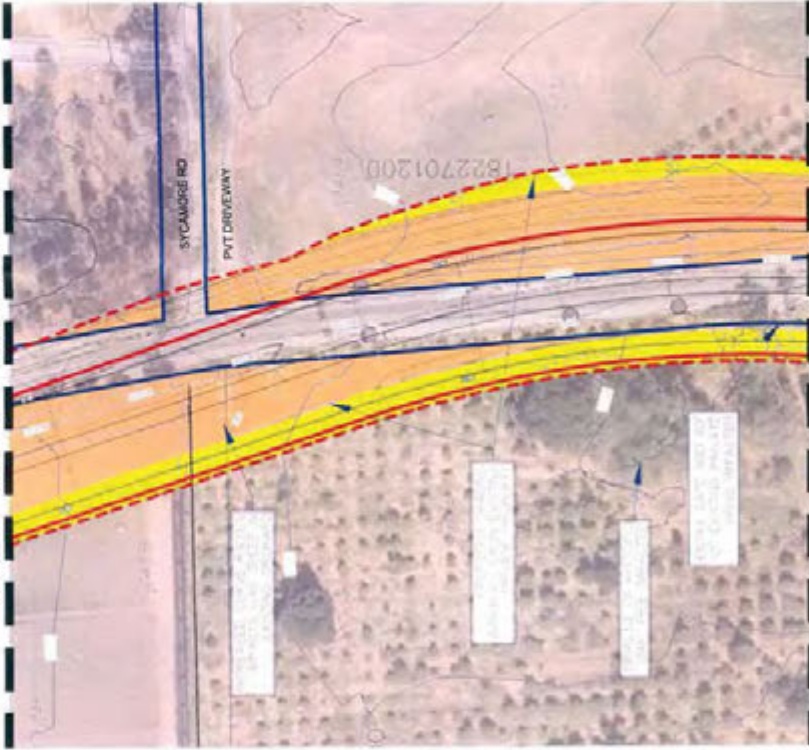
SEE ABOVE RIGHT FOR CONTINUATION

LEGEND

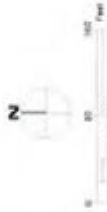
- EXISTING 80-FT RIGHT-OF-WAY (ROW)
- PROPOSED 124-FT RIGHT-OF-WAY (ROW)
- APPROXIMATE GRADELINE LIMITS
- PHASE 1 IMPACT AREA (4-LANE ROAD) AS NEARLAW 54065 (18-FT ROW)
- ADDITIONAL IMPACT AREA FOR BUILD-OUT CONDITIONS (6-LANE ROAD)
- CONCEPTUAL ASSUMED FILTER INLET, OVERFLOW INLET, STORAGE TANK, COLLECTION SYSTEM AND DISCHARGE PIPING, SCOUR WATER MANAGEMENT COLLECTION AND REGULATORY TREATMENT INFRASTRUCTURE IS NOT ADDRESSED ON NEARLAW PLANS

NOTE: ALL VALUES PRESENTED ARE PRELIMINARY AND APPROXIMATE, BASED ON NON-SERVED SURVEY AND PROPERTY DATA.

SEE BELOW LEFT FOR CONTINUATION



SEE SHEET 9 FOR CONTINUATION

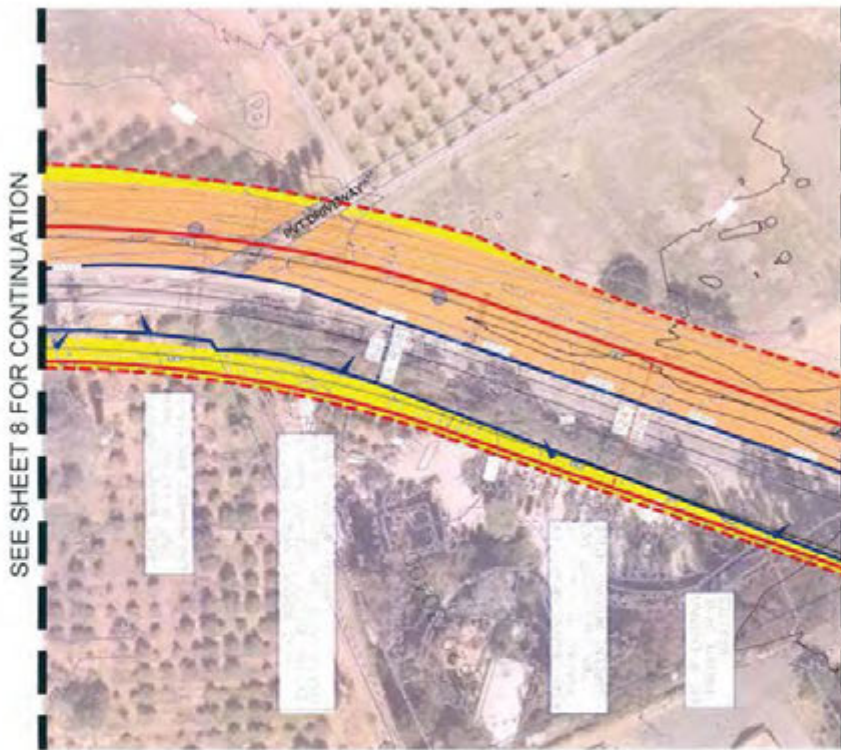


SHEET 8 OF 9
(STA 89+00 TO 103+00)

AUGUST 29, 2016

DEER SPRINGS ROAD
CONCEPTUAL BUILD OUT
(6 LANE) IMPACT ANALYSIS

SAN DIEGO COUNTY, CA



LEGEND

- EXISTING 60-FT RIGHT-OF-WAY (ROW)
- PROPOSED 124-FT RIGHT-OF-WAY (ROW)
- APPROXIMATE CHANGING LIMITS
- PHASE 1 IMPACT AREA (6-LANE ROAD) AS HERALD SHOPS (195-FT ROW)
- ADDITIONAL IMPACT AREA FOR BUILD-OUT CONDITION (191-LANE ROW)
- CONCEPTUAL ASSUMED FILTER RALET, OVERFLOW TANK, STORAGE VAULT, COLLECTION SYSTEM, AND DISCHARGE PIPING, STORM WATER MANAGEMENT COLLECTION AND REGULATORY RETENTION INFRASTRUCTURE (15-AS)

— 60-FT ROW
— 124-FT ROW
- - - CHANGING LIMITS
— PHASE 1 IMPACT AREA
— ADDITIONAL IMPACT AREA
— CONCEPTUAL INFRASTRUCTURE

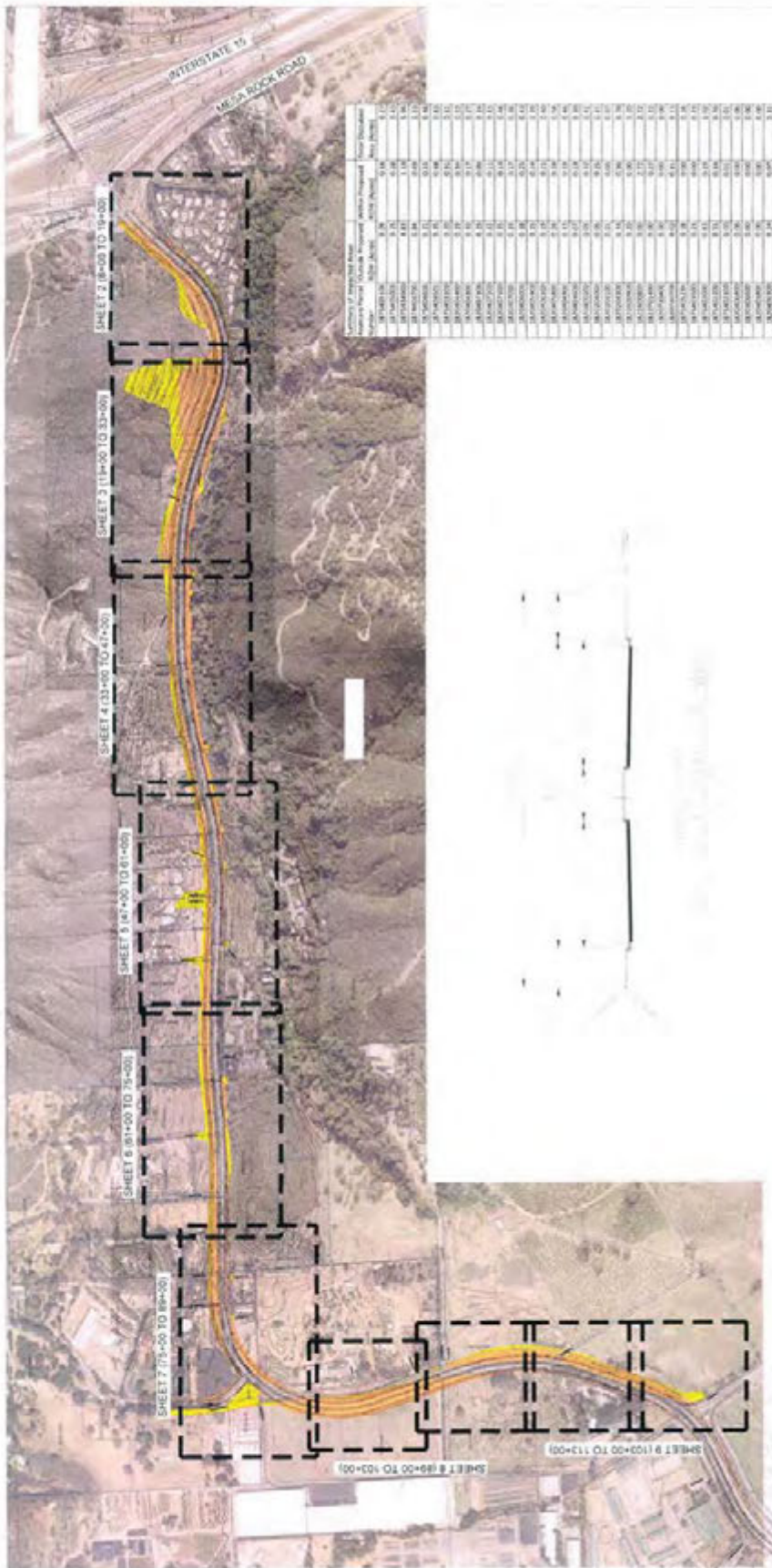


SHEET 9 OF 9
(STA 103+00 TO 113+00)

AUGUST 29, 2016

SAN DIEGO COUNTY, CA

NOTE: ALL VALUES PRESENTED ARE PRELIMINARY AND APPROXIMATE, BASED ON NON-VERIFIED SURVEY AND PROPERTY DATA.

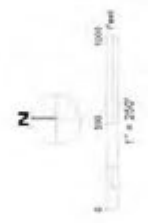


Stationing	Area (Acres)	Area (Sq. Ft.)	Area (Sq. Yds.)	Area (Sq. Meters)
0+00 - 10+00	1.00	136,000	10,000	40,469
10+00 - 20+00	1.00	136,000	10,000	40,469
20+00 - 30+00	1.00	136,000	10,000	40,469
30+00 - 40+00	1.00	136,000	10,000	40,469
40+00 - 50+00	1.00	136,000	10,000	40,469
50+00 - 60+00	1.00	136,000	10,000	40,469
60+00 - 70+00	1.00	136,000	10,000	40,469
70+00 - 80+00	1.00	136,000	10,000	40,469
80+00 - 90+00	1.00	136,000	10,000	40,469
90+00 - 100+00	1.00	136,000	10,000	40,469
100+00 - 110+00	1.00	136,000	10,000	40,469
110+00 - 113+00	0.30	40,800	3,000	12,377
Total	9.30	1,264,800	93,000	378,111



DELANE ENGINEERING

SHEET 1 OF 11
(STA 8+00 TO 113+00)

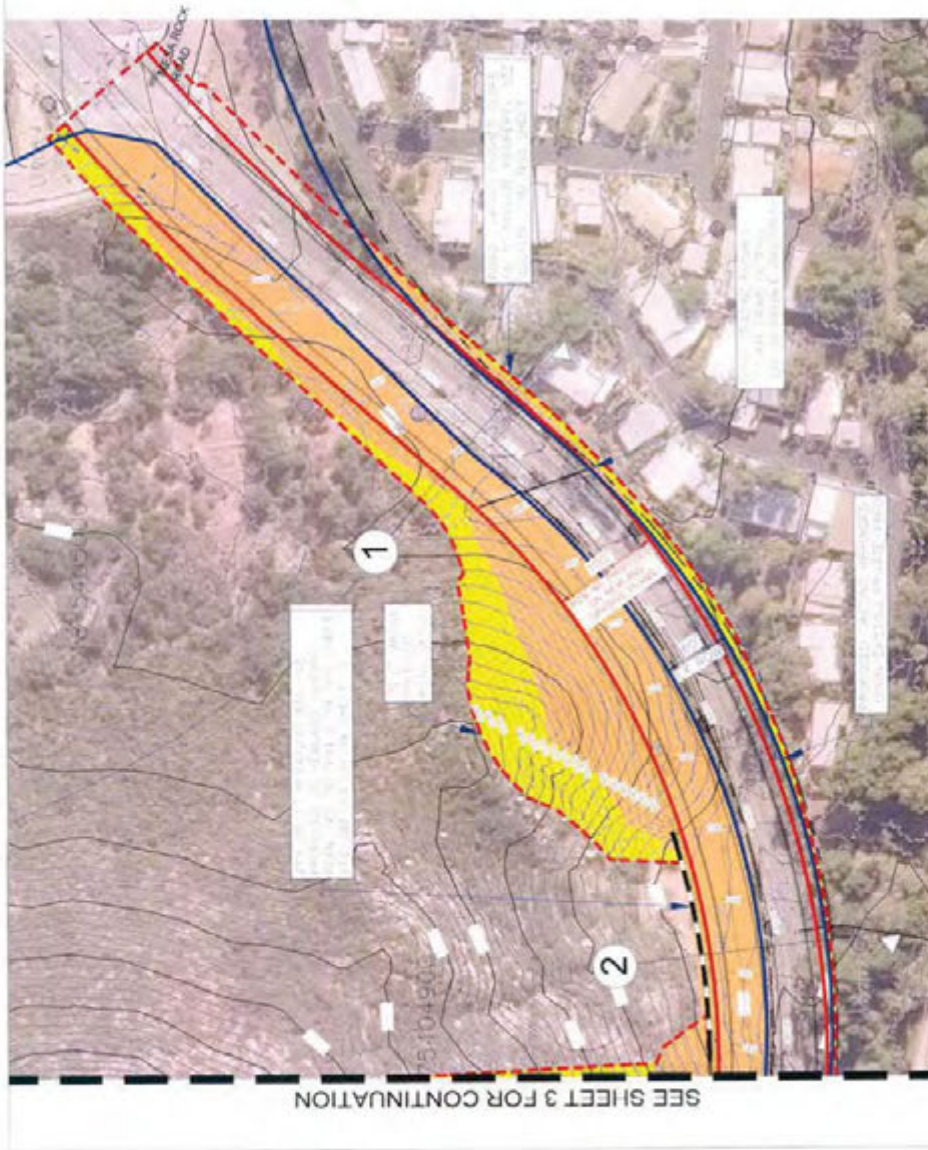


DEER SPRINGS ROAD
CONCEPTUAL PHASE 1
(4 LANE) IMPACT ANALYSIS

- Right of Way
- Impact Area
- Construction Area
- Proposed Road
- Existing Road

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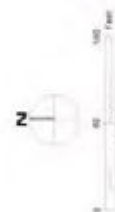
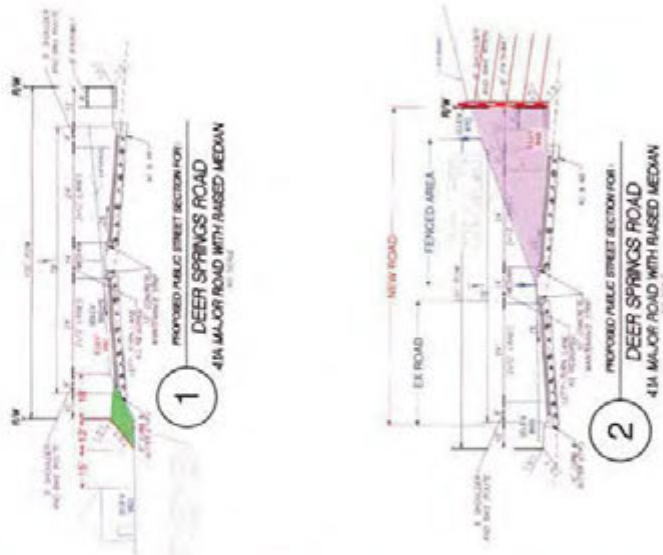
SEE SHEET 3 FOR CONTINUATION

LEGEND

- EXISTING 60-FT RIGHT-OF-WAY (ROW)
- PROPOSED 120-FT RIGHT-OF-WAY (ROW)
- APPROXIMATE GRADING LIMITS
- GRADING IMPACT AREA BEYOND ROW FOR NEW AND EXISTING GRADING PLANS
- IMPACT AREAS NOT SHOWN ON NEW AND EXISTING GRADING PLANS
- CONCEPTUAL ASSUMED CULVERT, INLET, STRUCTURE, SHEET, STORAGE AND DISCHARGE BOXES (3,000 GPM)
- WATER MANAGEMENT COLLECTION AND REGULATORY TREATMENT INFRASTRUCTURE IS NOT ADDRESSED ON NEW AND EXISTING GRADING PLANS

DEER SPRINGS ROAD
CONCEPTUAL PHASE 1
(4 LANE) IMPACT ANALYSIS

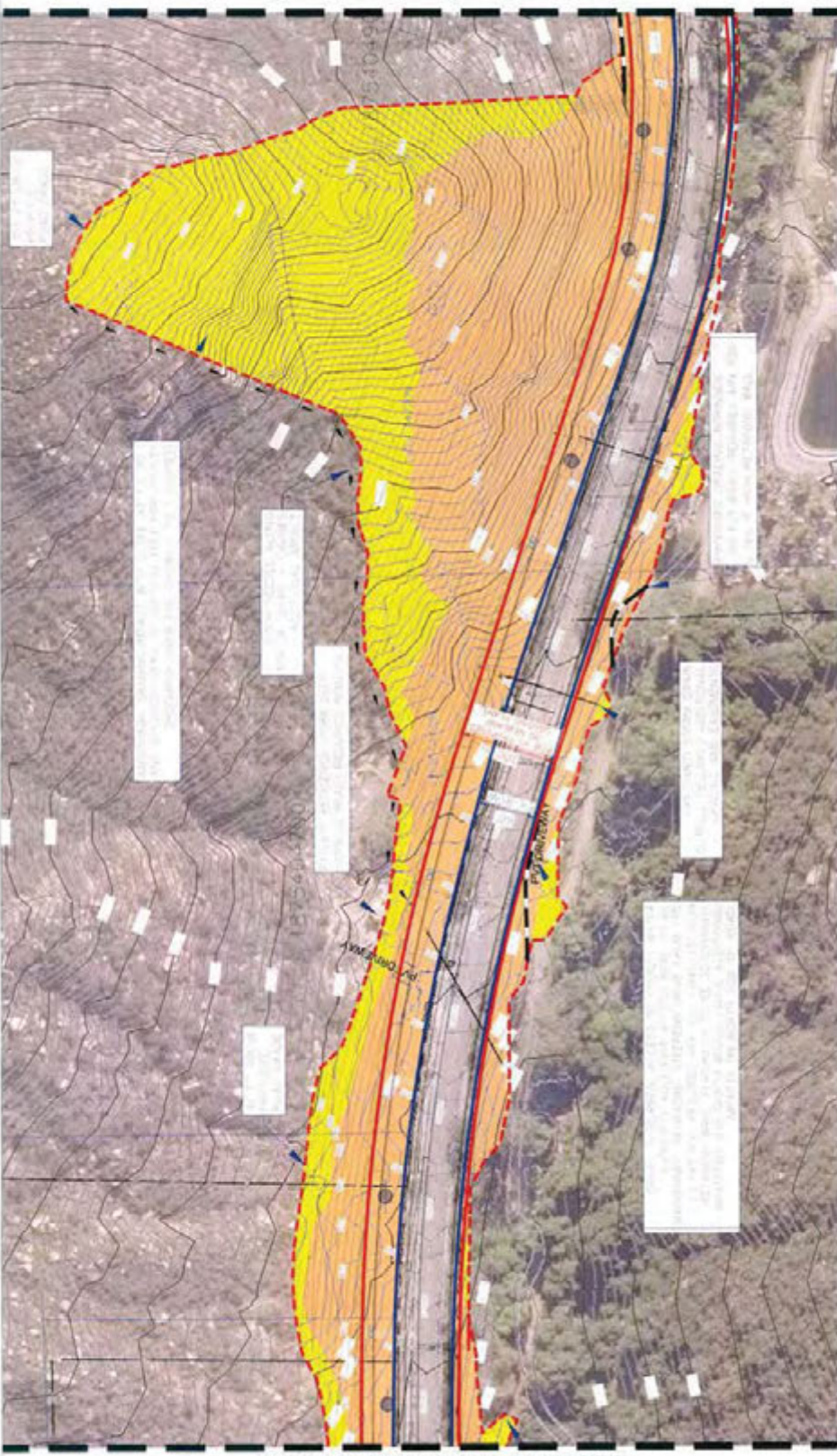
SAN DIEGO COUNTY, CA



SHEET 2 OF 11
(STA 8+00 TO 19+00)

AUGUST 29, 2016

NOTE: ALL VALUES PRESENTED ARE PRELIMINARY AND APPROXIMATE. BASED ON NON-REPERED SURVEY AND PROPERTY DATA.



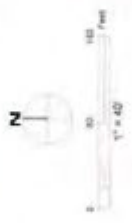
LEGEND

- EXISTING RIGHT-OF-WAY (ROW)
- PROPOSED 100-FT RIGHT-OF-WAY (ROW)
- APPROXIMATE GRADING LIMITS
- SPRINKLING/IMPACT AREA BEYOND ROW PER NEWLAND GRADING PLANS
- IMPACT AREAS NOT SHOWN ON NEWLAND GRADING PLANS
- CONSERVATION ASSIGNED FILTER BASIN, OVERFLOW BASIN, STORAGE BASIN, COLLECTION SYSTEM, AND DISCHARGE BASIN. STORM WATER MANAGEMENT COLLECTION AND REGULATORY TREATMENT INFRASTRUCTURE IS NOT ADDRESSED ON NEWLAND PLANS.

- (Blue line)
- (Red line)
- (Dashed red line)
- (Orange fill)
- (Yellow fill)
- (White fill)

**DEER SPRINGS ROAD
CONCEPTUAL PHASE 1
(4 LANE) IMPACT ANALYSIS**

SAN DIEGO COUNTY, CA



**SHEET 3 OF 11
(STA 19+00 TO 33+00)**

AUGUST 29, 2016

SEE SHEET 2 FOR CONTINUATION

SEE SHEET 4 FOR CONTINUATION

NOTE: ALL VALUES PRESENTED ARE PRELIMINARY AND APPROXIMATE, BASED ON NON-VERIFIED SURVEY AND PROPERTY DATA.

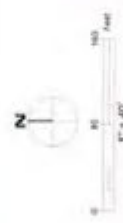


LEGEND

- EXISTING 65'-FT RIGHT-OF-WAY (ROW)
- PROPOSED 100'-FT RIGHT-OF-WAY (ROW)
- APPROXIMATE GRADING LIMITS
- GRADING/IMPACT AREA BEYOND ROW FOR WETLAND GRADING PLANS
- IMPACT AREAS NOT SHOWN ON WETLAND GRADING PLANS
- CONCEPTUAL ASSIGNED FILTER INLET, OVERFLOW INLET, STORAGE VAULT, COLLECTION SYSTEM AND DISCHARGE PIPING, STORM WATER MANAGEMENT COLLECTION AND REGULATORY TREATMENT INFRASTRUCTURE IS NOT ADDRESSED ON WETLAND PLANS

DEER SPRINGS ROAD
CONCEPTUAL PHASE 1
(4 LANE) IMPACT ANALYSIS

SAN DIEGO COUNTY, CA



SHEET 4 OF 11
(STA 33+00 TO 47+00)

AUGUST 29, 2016

NOTE: ALL VALUES PRESENTED ARE PRELIMINARY AND APPROXIMATE, BASED ON NON-VERIFIED SURVEY AND PROPERTY DATA.



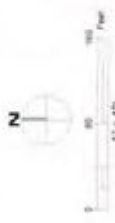
LEGEND

- EXISTING 60-FT RIGHT-OF-WAY (ROW)
- PROPOSED 100-FT RIGHT-OF-WAY (ROW)
- APPROXIMATE GRADING LIMITS
- GRADING/IMPACT AREA BEYOND ROW PER NEWLAND GRADING PLANS
- IMPACT AREAS NOT SHOWN ON NEWLAND GRADING PLANS
- CONCEPTUAL ASSIGNED FILTER ALETS, CHECKFLOWS, BUILT STORAGE TANKS, COLLECTION SYSTEM AND EXCHANGE POND, STORM WATER MANAGEMENT COLLECTION AND REGULATORY BUILDMENT INFRASTRUCTURE IS NOT ADDRESSED ON NEWLAND PLANS.



DEER SPRINGS ROAD
CONCEPTUAL PHASE 1
(4 LANE) IMPACT ANALYSIS

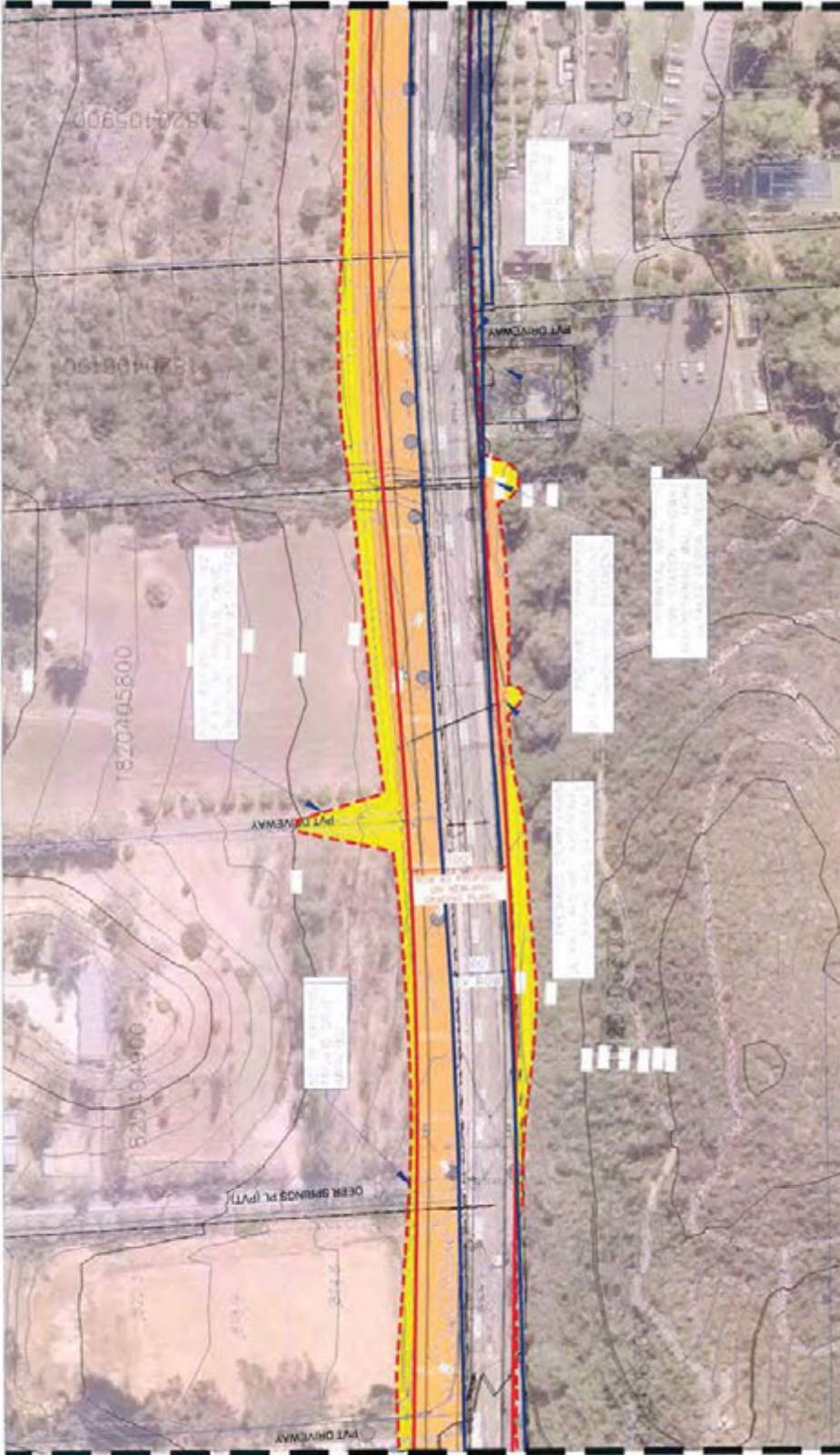
SAN DIEGO COUNTY, CA



SHEET 5 OF 11
(STA 47+00 TO 61+00)

AUGUST 23, 2016

NOTE: ALL VALUES PRESENTED ARE PROVISIONARY AND APPROXIMATE, BASED ON NON-VEHICULAR SURVEY AND PROPERTY DATA.



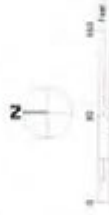
LEGEND

- EXISTING 60-FT RIGHT-OF-WAY (ROW)
- PROPOSED 100-FT RIGHT-OF-WAY (ROW)
- APPROXIMATE GRADING LIMITS
- GRADING/IMPACT AREA BEYOND ROW FOR NEWLAND GRADING PLANS
- IMPACT AREAS NOT SHOWN ON NEWLAND GRADING PLANS
- CONCEPTUAL ASSIGNED TRIP ALLEYS PERFLOW ALLEYS, STORAGE AREAS, EXHAUSTION SYSTEMS, AND STORM WATER MANAGEMENT COLLECTION AND REGULATORY TREATMENT INFRASTRUCTURE IS NOT ADDRESSED ON NEWLAND PLANS



DEER SPRINGS ROAD
CONCEPTUAL PHASE 1
(4 LANE) IMPACT ANALYSIS

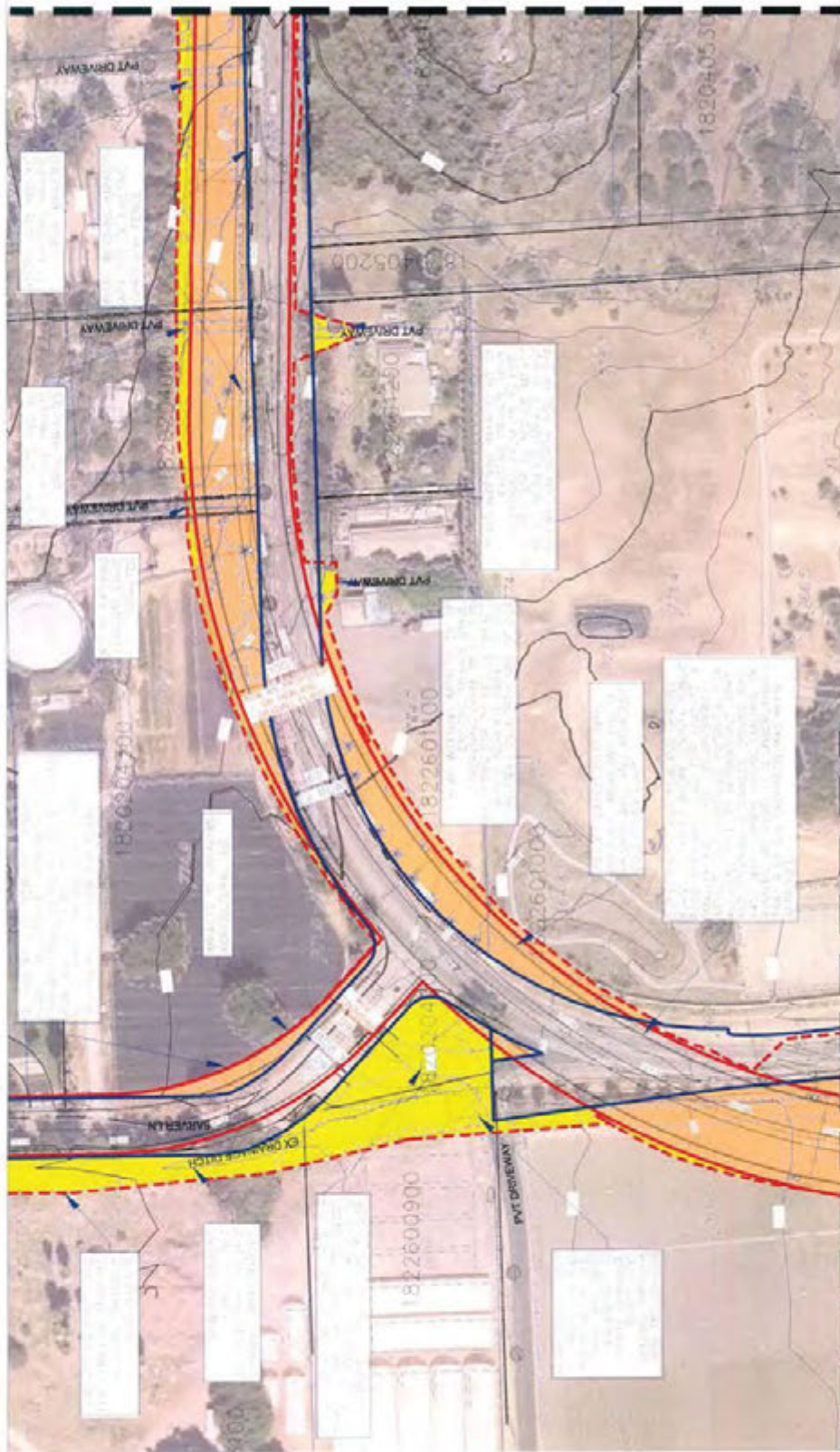
SAN DIEGO COUNTY, CA



SHEET 6 OF 11
(STA 61+00 TO 75+00)

AUGUST 29, 2016

NOTE: ALL VALUES PRESENTED ARE PRELIMINARY AND APPROXIMATE, BASED ON NON-CERTIFIED SURVEY AND PROPERTY DATA.



SEE SHEET 6 FOR CONTINUATION

SEE SHEET 8 FOR CONTINUATION

LEGEND

-  EXISTING 80-FT RIGHT-OF-WAY (ROW)
-  PROPOSED 100-FT RIGHT-OF-WAY (ROW)
-  APPROXIMATE GRADING LIMITS
-  GRADING IMPACT AREA BEYOND PER NEWLAND GRADING PLANS
-  IMPACT AREAS NOT SHOWN ON NEWLAND GRADING PLANS
-  CONCEPTUAL ASSUMED FILTER INLET, TRENCH OR INLET STORAGE
-  VALVE COLLECTION SYSTEM AND DISCHARGE POINT
-  STORM WATER MANAGEMENT COLLECTION AND REGULATORY TREATMENT INFRASTRUCTURE IS NOT ADDRESSED ON NEWLAND PLANS

DEER SPRINGS ROAD
 CONCEPTUAL PHASE 1
 (4 LANE) IMPACT ANALYSIS

SAN DIEGO COUNTY, CA

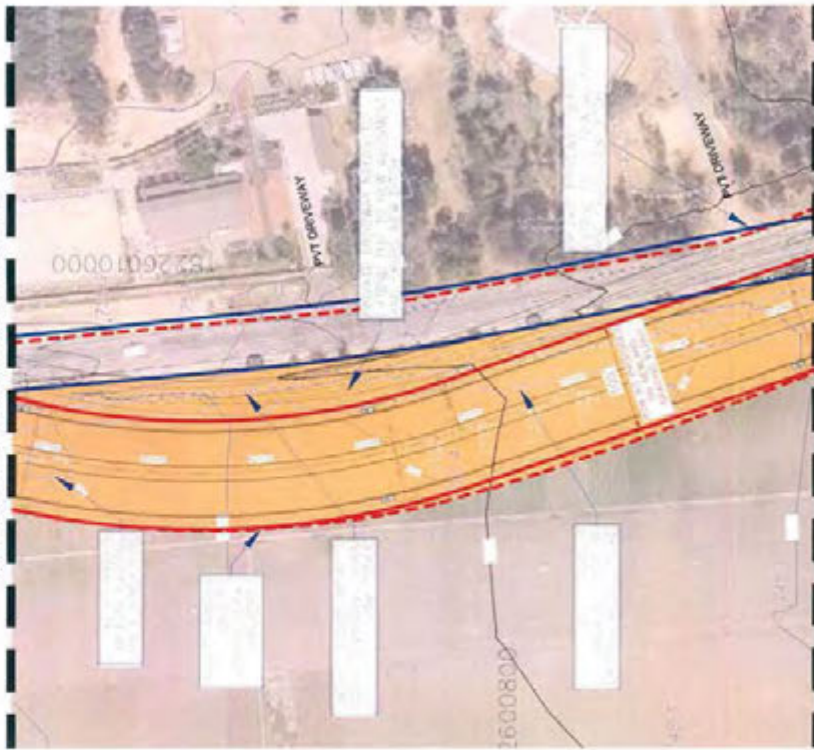


SHEET 7 OF 11
 (STA 75+00 TO 89+00)

AUGUST 29, 2016

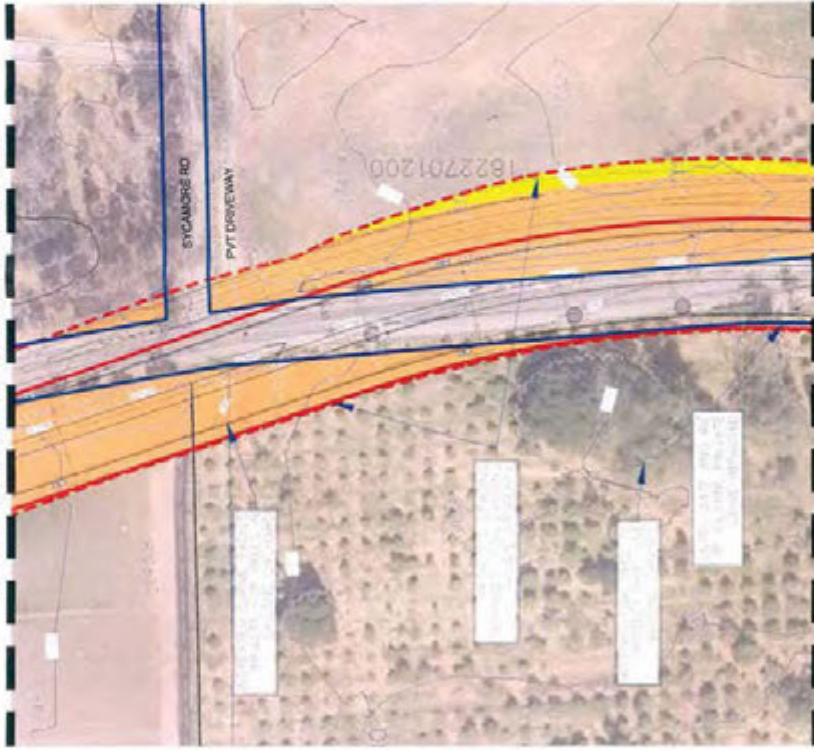
NOTE: ALL VALUES PRESENTED ARE PRELIMINARY AND APPROXIMATE, BASED ON NON-VERIFIED SURVEY AND PROPERTY DATA.

SEE SHEET 7 FOR CONTINUATION



SEE ABOVE RIGHT FOR CONTINUATION

SEE BELOW LEFT FOR CONTINUATION



SEE SHEET 9 FOR CONTINUATION

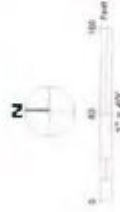
LEGEND

- EXISTING 50-FT RIGHT-OF-WAY (ROW)
- PROPOSED 100-FT RIGHT-OF-WAY (ROW)
- APPROXIMATE GRADING LIMITS
- GRADING/MARKET AREA BEYOND ROW FOR NEW/LANE GRADING PLANS
- IMPACT AREAS NOT SHOWN ON NEW/LANE GRADING PLANS
- CONCEPTUAL ASSUMED FILTER ANILET OVERFLOW INLET STORAGE POND AND PUMP AND TREATMENT PLANT
- WATER COLLECTION AND REGULATORY TREATMENT INFRASTRUCTURE IS NOT ADDRESSED ON NEW/LANE PLANS

DEER SPRINGS ROAD

CONCEPTUAL PHASE 1
(4 LANE) IMPACT ANALYSIS

SAN DIEGO COUNTY, CA

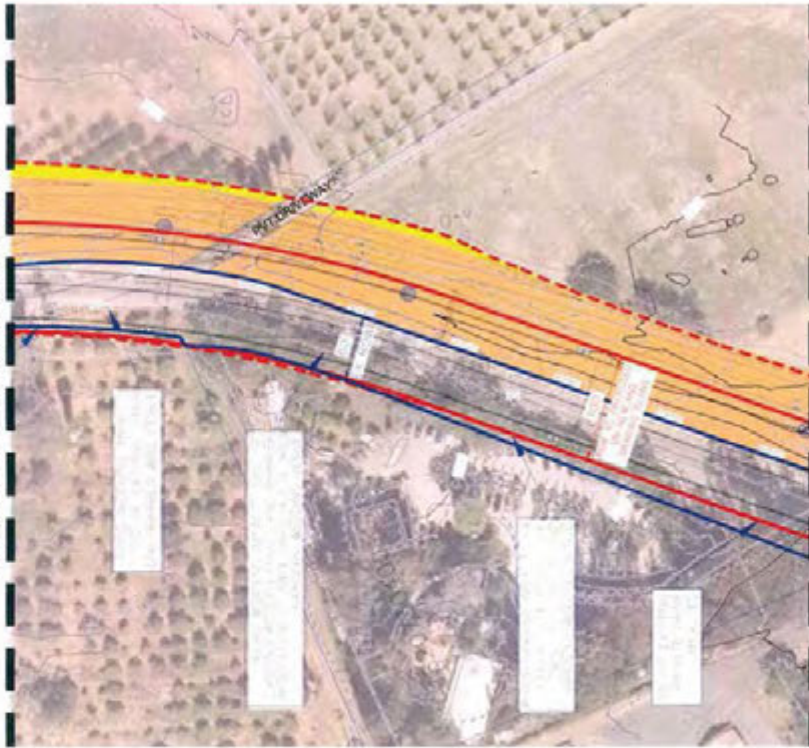


SHEET 8 OF 11
(STA 89+00 TO 103+00)

AUGUST 29, 2016

NOTE: ALL VALUES PRESENTED ARE PRELIMINARY AND APPROXIMATE, BASED ON NON-GEARED SURVEY AND PROPERTY DATA.

SEE SHEET 8 FOR CONTINUATION




SEE ABOVE RIGHT FOR CONTINUATION

SEE BELOW LEFT FOR CONTINUATION

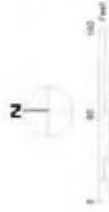


LEGEND

-  EXISTING 30-FT RIGHT-OF-WAY (ROW)
-  PROPOSED 30-FT RIGHT-OF-WAY (ROW)
-  APPROXIMATE GRADING LIMITS
-  GRADING/IMPACT AREA BEYOND ROW PER NEIGHBOR GRADING PLANS
-  IMPACT AREAS NOT SHOWN ON NEIGHBOR GRADING PLANS
-  CONCEPTUAL ASSUMED FILTER-WEED OVERFLOW ALLET, STORAGE VAULT, COLLECTION SYSTEM, AND DISCHARGE PIPING, STORM WATER MANAGEMENT, COLLECTION AND REGULATORY TREATMENT INFRASTRUCTURE IS NOT ADDRESSED ON NEIGHBOR PLANS

DEER SPRINGS ROAD
CONCEPTUAL PHASE 1
(4 LANE) IMPACT ANALYSIS

SAN DIEGO COUNTY, CA



SHEET 9 OF 11
(STA 103+00 TO 113+00)

AUGUST 29, 2016

NOTE: ALL VALUES PRESENTED ARE PRELIMINARY AND APPROXIMATE, BASED ON NON-VERIFIED SURVEY AND PROPERTY DATA.



SHEET 10 OF 11
(SIM SKETCH)

AUGUST 29, 2016

DEER SPRINGS ROAD
CONCEPTUAL PHASE 1
(4 LANE) IMPACT ANALYSIS

SAN DIEGO COUNTY, CA

NOTE: ALL VALUES PRESENTED ARE PRELIMINARY AND APPROXIMATE, BASED ON NON-METRIC SURVEY AND PROPERTY DATA



SHEET 11 OF 11
 (EXTENT OF MAJOR SLOPE
 GRADING)
 AUGUST 29, 2016

DEER SPRINGS ROAD
 CONCEPTUAL PHASE 1
 (4 LANE) IMPACT ANALYSIS

SAN DIEGO COUNTY, CA

NOTE: ALL VALUES PRESENTED ARE PRELIMINARY AND APPROXIMATE, BASED ON NON-VERIFIED SURVEY AND PROPERTY DATA

12670 High Bluff Drive
 San Diego, California 92130
 Tel: +1.858.523.5400 Fax: +1.858.523.5450
 www.lw.com

LATHAM & WATKINS LLP

September 6, 2016

VIA EMAIL AND U.S. MAIL

Vallecitos Water District
 201 Vallecitos De Oro
 San Marcos, CA 92069
 Attention: Diane Posvar

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Milan	

Re: Request to Delay Consideration of Newland Water Supply
 Assessment/Verification to Avoid a Conflict with the Impacted Area's
 Monthly Sponsor Group Meeting

Dear Directors Evans, Hernandez, Elitharp, Sannella, and Martin,

As you know, we represent the Golden Door, an award-winning spa and resort that opened in 1958. We understand that the Vallecitos Water District ("District") intends to consider a revised Water Supply Assessment and Verification ("WSA/V") for the Newland "Sierra" project at its September 21, 2016, Board of Directors meeting. This date conflicts with the Twin Oaks Valley Sponsor Group's ("TOVSG") monthly meeting. We understand that the TOVSG Chairman, Tom Kumura, as well as several other members of the community have requested that the District delay consideration of the Newland WSA/V until the District's next regularly scheduled meeting on October 5, 2016.

The Golden Door supports this request for a brief delay. The Newland project is located in the Twin Oaks Valley area; therefore, the members of its sponsor group will be most directly impacted by the project. As such, we think it would be appropriate for the District to accommodate community members seeking to share their comments about this project's water supply. In addition, as a business in the Twin Oaks Valley area, the Golden Door frequently sends representatives to attend the monthly TOVSG meetings, and we would prefer to avoid this conflict.

Delaying discussion of Newland's WSA/V to October 5 would enable members of affected community to attend both the TOVSG meeting and the District's meeting. If the District will not accommodate this brief delay, we request that, at the very least, the District schedule consideration of the Newland WSA/V as early as possible in its agenda for the September 21 meeting—to allow community members attending the District's meeting a chance to potentially attend a portion of the TOVSG meeting as well (which has a slightly later start time).

LATHAM & WATKINS^{LLP}

We appreciate your consideration of these concerns. Thank you.

Best regards,

Christopher W. Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
Jeffrey G. Scott, Vallecitos Water District General Counsel
Mark Slovick, County Planning and Development Services
Ashley Smith, County Planning and Development Services
Doug Hageman, Newland
Paul Robinson, Hecht Solberg Robinson Goldberg & Bagley
Mark Dillon, Gatzke Dillon & Balance
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
Andrew Yancey, Latham & Watkins LLP

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 San Diego, California 92130
 Tel. +1 858 523 5400 Fax: +1 858 523 5450
 www.lw.com

LATHAM & WATKINS^{LLP}

September 8, 2016

VIA FEDERAL EXPRESS

Ashley Smith, Land Use/Environmental Planner
 Mark Slovick, Planning Manager
 County of San Diego
 Planning & Development Services
 5510 Overland Avenue, Suite 310
 San Diego, California 92123

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Milan	

Re: DELANE Engineering Report re Impact Analysis for Newland's Proposed Deer Springs Road Widening

Dear Ms. Smith and Mr. Slovick:

As you know, we represent the Golden Door Properties LLC ("Golden Door"), an award-winning spa and resort that opened in 1958. This historic haven is situated on approximately 600 acres on the south side of Deer Springs Road in northern San Diego County. The Golden Door focuses on the health and fitness of its guests, and its property encompasses a peaceful array of hiking trails, luxurious spa amenities, tranquil Japanese gardens, and a bamboo forest.

We write to you regarding the proposed Newland Sierra Project ("Project"), a revised Merriam Mountains project on property located near Deer Springs Road. Newland's proposal includes 2,135 residential units, 81,000 square feet of commercial development, a charter school, and various parks and equestrian facilities—bringing urban style density to rural Twin Oaks Valley. The Golden Door opposes the Project.

As part of the Project, Newland proposes to widen Deer Springs Road, which currently exists as a two-lane country lane through rural Twin Oaks Valley. Newland's "Option B"—which we understand is the County's preferred option—would result in a six-lane configuration of Deer Springs Road per the County's General Plan classification, and would result in immediate construction of a Phase 1 four-lane configuration as a component of Newland's Project. Newland has provided multiple iterations of preliminary grading plans, the most recent of which is dated January 2016. These plans purport to show the grading contours for Newland's "Option B," but do not provide any plans for the six-lane Buildout scenario.

The Golden Door commissioned DELANE Engineering to evaluate the potential grading and property impacts from Newland's proposed Deer Springs Road widening—including the six-lane Buildout and the four-lane Phase 1 configurations—based on publicly available information. DELANE's analysis concludes that Newland's public documents significantly underestimate the potential grading and property impacts of both the six-lane Buildout and four-lane Phase 1

LATHAM & WATKINS LLP

configurations. DELANE further identifies various discrepancies in Newland's preliminary grading plans. I have enclosed five copies of DELANE's report for your review.

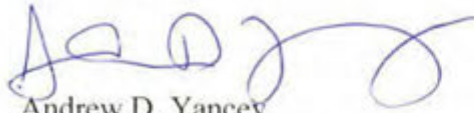
As we have noted in other communications with you, widening Deer Springs Road would result in significant tribal cultural, biological, property, and noise impacts. While the DELANE report does not specifically analyze tribal cultural, biological, or noise impacts, it indicates that the footprint of Newland's impacts will exceed the scope of what Newland is indicating at this time. This is particularly concerning with regard to tribal cultural resources, which are known to exist in close proximity to Deer Springs Road.

Further, the full extent of impacts from Newland's proposed widening of Deer Springs Road must be taken into account when considering an "Option C" route for County Road S12 through Newland's property—which would provide a total of six lanes between Twin Oaks Valley Road and Mesa Rock Road (two lanes on Deer Springs Road and four lanes on "Newland Sierra Parkway"). We reiterate our prior request that the County conduct a full environmental review of an "Option C" route and that the County coordinate with Caltrans regarding its re-design of the I-15/Deer Springs Road interchange to ensure that it provides one or more options for an interchange configuration directing trips onto the "Option C" route.

We would like to set up a meeting with you and members of the County's Public Works staff to further discuss these issues and ensure that the Project's environmental review encompasses the full extent of impacts from Newland's proposed widening of Deer Springs Road. A representative of DELANE Engineering will attend to present the technical aspects of this report. We will follow up telephonically to schedule a time for this meeting.

Thank you for your time and attention to this matter. Please feel free to contact me at (858) 523-5400 or andrew.yancey@lw.com if you would like to discuss this matter further.

Best regards,



Andrew D. Yancey
of LATHAM & WATKINS LLP

Enclosures

cc: Kathy Van Ness, Golden Door
John Prince, DELANE Engineering
Kim Baranek, Baranek Consulting
Dan Silver, Endangered Habitats League
Jacob Armstrong, Caltrans
Joe Hull, Caltrans
Doug Hageman, Newland
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October 3, 2016

VIA EMAIL

Vallecitos Water District
 201 Vallecitos De Oro
 San Marcos, CA 92069

Re: Request for Public Disclosure of Documents Cited in the Vallecitos Water District's Water Supply Assessment and Verification for the Newland "Sierra" Project

Dear Ms. Posvar

As you know, we represent the Golden Door Properties, LLC ("Golden Door"), in its opposition to the Newland "Sierra" project. The Golden Door is a Vallecitos Water District (the "District") customer in District 1. We have previously submitted comments concerning the District's preparation and consideration of a Water Supply Assessment and Verification ("WSA/WSV") for the Newland Project, which is scheduled to be considered as Agenda Item 2.1 at the District's Board of Directors' meeting on Wednesday, October 5.

We request that you direct this letter to the appropriate District staff members to provide the Golden Door and the public with copies of three documents that are cited and relied upon as part of the proposed WSA/WSV, but which have not been included in the WSA/WSV nor made available to the public:

1. "Draft 2014 Water, Wastewater and Recycled Water Master Plan." TBD. Prepared by Black & Veatch for Vallecitos Water District
2. "Master Plan of Water for the Newland Sierra Project." August 31, 2016. Prepared for Newland Sierra, LLC by Dexter Wilson Engineering, Inc.¹
3. "Technical Memorandum: Water Conservation Demand Study for Newland Sierra (San Diego County, California)." September 8, 2016. Prepared for Newland Sierra LLC by GSI Water Solutions, Inc.

¹ We note that three pages from the Master Plan of Water for the Newland Sierra Project are included as Appendix A to the WSA/WSV, but the remainder of the report is not provided in the record.

Without access to these documents, it is not possible for the public to obtain the information that should have been included within the proposed WSA/WSV and also determine whether the documents support the propositions for which they are cited or provide other evidence relevant to the District's consideration of the Newland Project's WSA/WSV. We and members of the public were unaware that these documents existed, and that they would be relied upon to provide essential information included in proposed WSA/WSV until the latest draft was released. They were not previously referenced in earlier drafts of the WSA/WSV. The documents were first referenced in the proposed WSA/WSV, which the District posted on its website on mid-day Friday.

The District has an obligation to develop a complete record and allow the public an opportunity to review the evidence on which it bases its decision. *See Gilroy Citizens for Responsible Planning v. City of Gilroy*, 140 Cal.App.4th 911, 918-919 (2006) (courts reviewing an agency's determination look for "adequacy, completeness and a good-faith effort at full disclosure"). In addition, without access to these documents and the information contained within them, and adequate time to review them, the Golden Door and members of the public are unable to exhaust their administrative remedies with regard to the information contained in these documents, and the issues the documents raise with respect to the WSA/WSV. Further, without the information contained in these separate documents which should have been included within the proposed WSA/WSV, the Golden Door and members of the public have not been provided with the full proposed WSA/WSV prior to the meeting. The Golden Door requests that the District provide the above referenced documents in the record and provide sufficient time for public review before considering the Newland Project's WSA/WSV.

LATHAM & WATKINS^{LLP}

Please feel free to contact me at (858) 523-5400 or christopher.garrett@lw.com if you would like to discuss this matter further. We request that you email the documents to us and post them on the District's website as soon as possible. Thank you.

Best regards,

Christopher W. Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
Jeffrey G. Scott, Vallecitos Water District General Counsel
Robert Scholl, Vallecitos Water District Senior Engineer
Mark Slovick, County Planning and Development Services
Ashley Smith, County Planning and Development Services
Dan Silver, Endangered Habitats League
Tom Kumura, Twin Oaks Valley Community Sponsor Group Chair
Wayne Dauber, Hidden Meadows Community Sponsor Group Chair
Margarette Morgan, Bonsall Community Sponsor Group Chair
Doug Hageman, Newland Real Estate Group
Paul Robinson, Hecht Solberg Robinson Goldberg & Bagley
Mark Dillon, Gatzke Dillon & Balance
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
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October 5, 2016

VIA EMAIL AND HAND DELIVERY

Vallecitos Water District
 201 Vallecitos De Oro
 San Marcos, CA 92069
 Attention: Diane Posvar
 (Five Copies Provided for Distribution to Board Members)

Re: The Golden Door's Concerns Regarding the Water Supply Assessment and Verification for the Newland "Sierra" Project

Dear Directors Evans, Hernandez, Elitharp, Sannella, and Martin,

As you know, we represent the Golden Door Properties, LLC ("Golden Door"), an award-winning spa and resort that opened in 1958. This historic haven is situated on approximately 600 acres on the south side of Deer Springs Road in northern San Diego County ("North County"). It was the highest rated establishment in *Travel and Leisure's* recent list of the world's best destination spas. In addition, the Golden Door is a Vallecitos Water District (the "District") customer in District 1 who relies upon the District for supplementary water for its agricultural and guest operations. The availability of water supplies from the District at current levels is essential for continued operations of the Golden Door.

This letter concerns Agenda Item 2.1 for the District Board of Directors' ("Board") October 5, 2016 meeting—approval of a Water Supply Assessment and Verification ("WSA/WSV") for Newland Real Estate Group, LLC's ("Newland") revived Merriam Mountains project, which is known as the Newland "Sierra" Specific Plan ("Project"). As discussed in more detail below, the Golden Door opposes the Project and has significant concerns about the WSA/WSV.

Upon learning that the District was preparing a revised WSA/WSV for the Newland Project, the Golden Door submitted to the District a detailed comment letter expressing our concerns, including that the District's planning documents demonstrate a significant 20-year supply deficit and cannot support approval of a WSA/WSV for the Project. We submitted this letter over two months ago—on August 4—to provide the District an opportunity to address these issues before considering the Project's WSA/WSV. A copy of the Golden Door's August 4, 2016 letter is attached hereto as **Attachment 1**. The resulting WSA/WSV, however, fails to address our concerns or remedy the underlying flaws in the District's planning documents. The

latest September draft of the WSA/WSV, (made available (in part) on Friday on the internet) adds new flaws and problems. There is key information which was not included in the draft of the WSA/WSV but appears to have been placed in separate documents—one of which has not been completed, and other dense technical documents that were distributed to the public only yesterday. Based on the partial information in the latest draft, the WSA/WSV is fatally flawed due to several factual and legal problems; it flatly fails to meet legal requirements for a WSA/WSV.

The District cannot approve the WSA/WSV and its finding that there is sufficient water supply for the Project, because:

- (1) the WSA/WSV's own analysis shows that there is insufficient water to serve the Project;
- (2) the District projects a 20-year supply deficit, making it unable to serve the Project;
- (3) the WSA/WSV improperly applies new unspecified mandatory rationing requirements on a District-wide basis—in contradiction to the District's 2015 Urban Water Management Plan ("District 2015 UWMP") and the District's approved water duty factors—to make up for the supply deficit;
- (4) the WSA/WSV improperly relies on the District's 2015 UWMP even though supply for the Newland Project was not included in the UWMP;
- (5) the WSA/WSV improperly assumes that the Project will implement demand reduction measures to meet a specific water conservation goal, even though it provides no analysis of the measures' effectiveness and the District lacks authority to implement such measures;
- (6) the WSA/WSV improperly relies on evidence from documents that do not exist or were not timely provided in the record or made publically available; and
- (7) the WSA/WSV's projections contradict the projections of its upstream wholesale supplier that demonstrate an even greater water supply deficit.

Upon approving the WSA/WSV, the District would be required to impose drastic mandatory rationing requirements on its customers to comply with its assumptions and requirements—as much as 36 percent over and above the conservation measures already implemented during the recent drought—so that it can approve a single developer's unplanned development proposal. These mandatory rationing requirements would be simultaneously infeasible, unfair, and inconsistent with the District's approved planning documents and decisions. The Golden Door requests that the Board reject the WSA/WSV or, in the alternative, delay consideration until the District has first reviewed and revised its previously adopted District-wide planning documents (which contradict the draft WSA/WSV) and adopted the unspecified mandatory conservation/rationing requirements relied upon in this WSA/WSV to account for the measures necessary to address its supply deficit.

I. THE GOLDEN DOOR'S CONCERNS REGARDING THE NEWLAND PROJECT

A. Background Regarding Newland "Sierra" Project

Newland is proposing to construct an urban-style development in rural North County. This Project was proposed once before as the Merriam Mountains project, and was rejected by the County Board of Supervisors in 2010. At that time, the County's General Plan allowed for approximately 350 residential units on the property. The County's General Plan Update in 2011 decreased the density permitted on the Project site such that the site is largely zoned RL-20, allowing one residential unit per 20 acres, permitting approximately 100 units. This trend indicates the intent of local residents and the County to maintain the rural character of this area.

The Newland Project, however, would include 2,135 residential units, 81,000 square feet of commercial development, a charter school, a vineyard, and various parks and equestrian facilities. The Project would be located across Deer Springs Road from the Golden Door, and would be located within the District's service boundaries. The County is currently preparing a draft environmental impact report ("EIR") for the Project. According to the District, the Project would add approximately 6,063 new residential customers, plus additional commercial buildings which will solely rely upon the District for their water supplies, including minimum supplies needed for health, safety, and sanitation. To our knowledge, on the Newland property there are currently no residential or other uses receiving their water from the District. There may have been planned agricultural uses on the Newland property in the past, but there are no agricultural water customers taking water in the Newland Project area.

The Golden Door has been actively monitoring the Project and has been in consultation with Newland, County Planning and Development Services staff, and other relevant agencies regarding the Project. The Golden Door has consistently stated its opposition to the Project in its public comments. In addition to concerns regarding water supply and wastewater service impacts, the Golden Door opposes this proposed urbanization of rural Twin Oaks Valley due to its detrimental traffic, greenhouse gas emissions, noise, biological, community character, cultural resources, and other impacts.

B. Background Regarding the Golden Door

The Golden Door focuses on the health and fitness of its guests. Its property encompasses a peaceful array of hiking trails, luxurious spa amenities, tranquil Japanese gardens, and a bamboo forest. Agricultural cultivation on the property includes avocado groves and fresh vegetable gardens as well as citrus and olive trees. A key part of its agricultural operations includes the purchase of supplementary water from Vallecitos Water District.

The Golden Door is committed to environmental stewardship and sustainability. It uses sustainable and bio-intensive agriculture practices and has eliminated guests' use of plastic water bottles. The owners are not seeking to expand the Golden Door in any way, but are seeking to further enhance the Golden Door according to its guiding principles, including the extensive sustainable agriculture on several surrounding acres.

As such, the Golden Door is concerned about Newland's proposal to implement urban-style development in a rural area of the unincorporated County—in particular the accompanying increase in water usage. The recent drought has caused significant concerns for agriculture in rural North County and has emphasized the need to protect our current and future water supply. The unplanned intensification of use proposed by Newland threatens to cut further into the region's water supply to the detriment of the entire community, including agricultural and hospitality businesses. This is especially true when the District planning on providing water service to the Newland Project is required to adopt additional mandatory "conservation" or rationing measures to restrict water supplies due to the District's current planned water deficit, in order to serve the Newland Project.

II. WSA/WSV REQUIREMENTS

Specific projections about water availability and future water supplies must be developed and approved prior to approval of a large development project. Water Code § 10910-12; 14 Cal. Code Regs. § 15155. A water supply assessment ("WSA") "shall include a discussion with regard to whether the total projected water supplies, determined to be available by the city or county for the project during normal, single dry, and multiple dry water years during a 20-year projection, will meet the projected water demand associated with the proposed project, in addition to existing and planned future uses, including agricultural and manufacturing uses." Water Code § 10910(c)(4). An EIR prepared pursuant to the California Environmental Quality Act ("CEQA") must contain a WSA and make findings based on the WSA. Pub. Res. Code § 21151.9 (requiring compliance with Water Code section 10910 *et seq.*).

A water supply verification ("WSV") must determine that sufficient water supply is available to serve a project. Gov. Code § 66473.7(b)(1). SB 221, setting forth requirements for WSVs, was introduced, in part, because of pervasive non-compliance with the law requiring assessments. Assembly Committee on Local Government, Patricia Wiggins, Chair, Report on Senate Bill 221 (2001-2002) Reg. Sess. July 11, 2001, at p. 6 ("Chair Report") (attached hereto as **Attachment 2**). WSVs are considered "fail-safe" because, a tentative subdivision map may *not* be approved if sufficient water supplies are not determined to be available. Chair Report at p. 6; *see also* Gov. Code § 66473.7(b)(1). "[W]ater supplies must be identified with more specificity at each step as land use planning and water supply planning move forward from general phases to more specific phases." *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova*, 40 Cal.4th 412, 433-34 (2007) ("*Vineyard*") (internal quotations omitted); *see also* *Preserve Wild Santee v. City of Santee*, 210 Cal.App.4th 260, 283 (2012). A WSV is required to provide "firm assurances" of adequate water supply. *Vineyard*, 40 Cal.4th at 434; *Preserve Wild Santee*, 210 Cal.App.4th at 283. Both a WSA and WSV require analysis of normal, single dry, and multiple dry years during a 20-year projection. Water Code § 10910(c)(4); Gov. Code § 66473.7(a)(2). "When [a WSV] rests on supplies not yet available to the water provider, it is to be based on *firm indications* the water will be available in the future, including written contracts for water rights, approved financing programs for delivery facilities, and the regulatory approvals required to construct infrastructure and deliver the water." *Preserve Wild Santee*, 210 Cal.App.4th at 283 (internal citations omitted) (emphasis added).

A WSV must be based on substantial evidence. Gov. Code § 66473.7(c). Substantial evidence does not include argument, speculation, unsubstantiated opinion, or evidence which is clearly inaccurate or erroneous. See *City of Hayward v. Trustees of California State University*, 242 Cal.App.4th 833, 839–840 (2015); *Parker Shattuck Neighbors v. Berkeley City Council*, 222 Cal.App.4th 768, 777 (2013); *City of Long Beach v. Los Angeles Unified Sch. Dist.*, 176 Cal.App.4th 889, 917–18 (2009); *Gentry v. City of Murrieta*, 36 Cal.App.4th 1359, 1422–23 (1995), as modified on denial of reh’g (Aug. 17, 1995); 14 Cal. Code Regs. §§ 15384; 15064(f)(5); see also *Laurel Heights Improvement Assn. v. Regents of University of California*, 47 Cal.3d 376, 409, n. 12 (1988) (“A clearly inadequate or unsupported study is entitled to no judicial deference.”). The WSA/WSV, therefore, must actually demonstrate an adequate water supply to serve the Project and may not rest on mere aspirations, “paper” supplies, or assumptions about future demands and supplies.

III. THE WSA/WSV’S OWN ESTIMATE SHOWS THAT INSUFFICIENT WATER SUPPLY WAS PROJECTED FOR THE NEWLAND PROJECT

If the water demand associated with a proposed project was “accounted for” in the supplier’s most recently adopted UWMP, the WSA/WSV may incorporate information from that plan. Water Code § 10910(c)(2); Gov. Code § 66473.7(c)(1). If the water demand was not “accounted for” in the most recently adopted UWMP, however, the WSA “shall include a discussion with regard to whether the public water system’s total projected water supplies available during normal, single dry, and multiple dry water years during a 20-year projection will meet the projected water demand associated with the proposed project, in addition to the public water system’s existing and planned future uses, including agricultural and manufacturing uses.” Water Code § 10910(c)(3). A WSA or WSV cannot rely on a UWMP if the UWMP did not analyze water supply for the project. See *Vineyard*, 40 Cal.4th at 434-35.

It is uncontested that the District’s 2015 UWMP was based on the County’s adopted General Plan, and did not include supplying water to the residential units proposed by Newland. As a result, the Newland Project’s over 6,000 new residents and other amenities were not “accounted for” in the UWMP.

Here, the WSA/WSV errs in relying solely on the District’s 2015 UWMP and failing to provide a separate analysis of normal, single dry, and multiple dry water years for the Project during a 20-year projection. Although the Golden Door has substantial concerns regarding the WSA/WSV’s improper approach to analyzing water supply for the Project—as described in greater detail below—even under the WSA/WSV’s flawed approach, the District cannot approve the WSA/WSV in reliance solely on the District’s 2015 UWMP.

A. The Project’s Demand To Serve New Residential Units Exceeds the Projected Demand for the District’s 2015 UWMP’s “No Project Alternative”

The WSA/WSV alleges that the District has sufficient water supply to meet the Project’s demand because the “No Project Alternative” (i.e., current zoning) projects a higher water demand than the WSA/WSV calculates for the Project. This is incorrect. On its face, the draft

WSA/WSV finds that the UWMP predicts that there will be insufficient water supplies to service the Project in the year 2020.

When accounting for the proposed conservation requirement, the WSA/WSV states that the Project's projected demand is 1,196 AFY. WSA/WSV at 4. To meet the District's demand in 2020, the WSA/WSV states that "Conservation Required" must cut demand by 36 percent. *Id.* When that requirement of 36 percent reduction through "Conservation Required" is applied to the "No Project Alternative," it results in a demand of 1,168 acre feet per year ("afy")—thus constituting the demand for the "No Project Alternative" in 2020. *Id.* Because the "No Project Alternative's" demand in 2020 (1,168 afy) is 28 afy less than the Project's demand in 2020 (1,196 afy), the WSA/WSV demonstrates that the UWMP does not project sufficient supply to meet the Project's demand.

B. The WSA/WSV Cannot Rely on the District's 2015 UWMP Because It Shows a Supply Deficit

The District's 2015 UWMP admits that the District faces a "significant shortfall" in its projected supply. District 2015 UWMP at 7-3 ("If VWD water demands develop as called for in its Draft 2014 Master Plan, there will be a significant shortfall in projected supplies."); *see also id.* at 7-5. The District's 2015 UWMP is attached hereto as Attachment 3. Tables from the District's 2015 UWMP (copied below) disclose water supply deficits in normal, single dry, and multiple dry-years ranging from 2.775 billion gallons per year to 4.262 billion gallons per year from 2020 to 2035. *Id.* at 7-3 to 7-4.

Table 7-2: Normal Year Supply and Demand Comparison				
	2020	2025	2030	2035
Supply totals (from Table 6-9)	6,914	8,011	8,794	9,198
Demand totals (from Table 4-3)	10,644	11,187	11,569	12,330
Difference	(3,730)	(3,176)	(2,775)	(3,132)

The figures shown in (red) as the "Difference" are a water deficit and expected shortage of water.

Table 7-3: Single Dry Year Supply and Demand Comparison				
	2020	2025	2030	2035
Supply totals	7,362	8,539	9,359	9,799
Demand totals	11,399	11,985	12,398	13,225
Difference	(4,037)	(3,446)	(3,039)	(3,426)

The figures shown in (red) as the "Difference" are a water deficit and expected shortage of water.

Table 7-4: Multiple Dry Years Supply and Demand Comparison					
		2020	2025	2030	2035
First year	Supply totals	7,359	8,533	9,349	9,781
	Demand totals	11,389	11,970	12,379	13,193
	Difference	(4,030)	(3,437)	(3,030)	(3,412)
Second year	Supply totals	7,494	8,691	9,518	9,958
	Demand totals	11,623	12,216	12,633	13,464
	Difference	(4,129)	(3,525)	(3,115)	(3,506)
Third year	Supply totals	7,691	8,922	9,763	10,216
	Demand totals	11,953	12,563	12,992	13,847
	Difference	(4,262)	(3,641)	(3,229)	(3,631)

The figures shown in (red) as the "Difference" are a water deficit and expected shortage of water.

Because the District's 2015 UWMP does not project sufficient water supply to meet demand, the District cannot find sufficient supply exists to serve the Project based on the UWMP. Gov. Code § 66473.7(b)(3) (requiring finding of sufficient water supply to be based on substantial evidence); *see also Vineyard*, 40 Cal.4th at 441 (requiring supply and demand to balance); *id.* at 444-45 (overturning water supply analysis for lack of substantial evidence). Here, instead of substantial evidence indicating that sufficient supply exists, substantial evidence demonstrates the opposite—that supply is inadequate. In fact, the District is bound as a matter of law to follow its own recently adopted 2015 UWMP. The District cannot make a decision and "verify" that water will exist when that "verification" contradicts a central feature of its key water planning document, the 2015 UWMP. *See e.g., Preserve Wild Santee*, 210 Cal.App.4th 260 at 284 ("[A]n unexplained discrepancy precludes the existence of substantial evidence to conclude sufficient water is likely to be available for the project." (quoting *Vineyard*, 40 Cal.4th at 439)).

C. The Newland Project's Density Is Not Included in the Land Use Plans on Which the UWMP Is Based

The District's 2015 UWMP used the approved land uses within its jurisdiction, including the County's Updated General Plan, to determine the water demand for the UWMP. District 2015 UWMP 4-2 to 4-3. Projections for 2020, 2025, 2030 and 2035 "were developed by applying the SANDAG Regional Growth Forecast Series 13 Update coverage to these ultimate demand projections." *Id.* at 4-3. The SANDAG Series 13 Growth Forecast includes the adopted County General Plan land uses. The current County General Plan, however, does not include the land uses necessary for the development of the Project; therefore, the Project was not included in the land use assumptions used to develop the demand model for the District's 2015 UWMP.

Because neither a draft nor an approved version of the District's 2014 Water, Wastewater, and Recycled Water Master Plan Master Plan ("District 2014 Master Plan") is available for public review, it is impossible to determine if the Project was included in the underlying land uses considered in that plan. However, the District's most recent approved Master Plan from 2008 ("District 2008 Master Plan") shows primarily "spaced rural residential" designations on Newland's proposed Project site. To the contrary, Newland is proposing to drastically increase density on much of the Project site. In addition, the District's 2008 Master Plan lists the Merriam Mountains project as a "known development," but the District's 2008 Master Plan cautions that "[s]hould new developments move forward, they will *require separate analysis* prior to being served by VWD." District 2008 Master Plan at 2-5 to 2-6 (Nov. 2010) (emphasis added), attached hereto as **Attachment 4**.

In any event, even if the District had previously planned for the possibility of providing water for agricultural uses on the Newland Project site, the provision of water for residential, commercial, or educational uses is a fundamentally different obligation. While shutting off or restricting water usage with mandatory rationing requirements for agricultural uses may lead to the elimination or restriction of agricultural crops, such water shutoffs or rationing for new apartments or homes presents serious health and safety concerns for the 6,000 plus occupants of those buildings who must have a minimum amount of water for their kitchens and bathrooms in order to survive. The WSA/WSV fails to account for this fundamental change in expected uses of the water under the Newland Project. While it is not clear how the District expects to address the existing large water shortages ("deficits" or negative "differences") projected in its 2015 UWMP, it will be far easier if the District does not have to shut off or ration water to new residents who would not otherwise be dependent on the District for their water.

IV. THE WSA/WSV IMPROPERLY RELIES UPON UNSPECIFIED "CONSERVATION" THAT MUST INVOLVE MANDATORY RATIONING REQUIREMENTS TO BE ADOPTED BY THE DISTRICT

A. The WSA/WSV's New District-Wide "Conservation Required"/Mandatory Rationing Requirements Contradict the District's 2015 UWMP

As discussed above, the District's 2015 UWMP shows a supply deficit in normal, single dry, and multiple dry years ranging from 2.775 billion gallons per year to 4.262 billion gallons

per year from 2020 to 2035, which precludes the District from relying solely on the UWMP in the WSA/WSV. District 2015 UWMP at 7-3 to 7-4. Where a UWMP shows a negative “Difference” between supply and demand (which should more properly be labeled as a “shortage” or “deficit”), the UWMP cannot “account for” (as set forth in the statutory language) the additional water demands of residential development that was not considered in the UWMP. To “account for” in this context means to demonstrate that there is a surplus of water that would serve these new residential customers. In an apparent attempt to mask this fatal flaw, the WSA/WSV sets forth unspecified mandatory rationing requirements—referred to as “Conservation Required” in the WSA/WSV—to make up the deficit between supply and demand. WSA/WSV at 26-27. The specific levels of “Conservation Required,” measured in afy, is the exact same amount as the District’s supply deficit in each year analyzed. These specific levels of mandatory rationing requirements, however, are not included in the District’s 2015 UWMP, which relied on water duty factors that set forth the projected per unit water demands for each customer.

It is improper for this project-specific WSA/WSV to introduce these District-wide “Conservation Required”/mandatory rationing requirements for the first time with no analysis or details as to what such rationing would involve, and whether these further reduced water demands are attainable by District customers under adopted water rationing measures. If the District intends to plan for reduced demand due to future water rationing measures, the District should first go back and amend its UWMP to set forth the new expected water demand levels that the District believes would result from the additional “Conservation Required”/water rationing measure.

The District failed to make any attempt to reconcile its demand numbers in the recently adopted UWMP with these new assumptions about measures to further reduce future demand. In fact, it appears that the “Conservation Required” numbers are just “invented numbers” without any evidentiary basis, intended to “paper over” the District’s expected water shortage. As the Court of Appeal stated in *Preserve Wild Santee*, a public agency may not simply “assume a solution to the problem of supplying water to a proposed project.” The draft WSA/WSV simply fails to address how, when, and where the “Conservation Required” will work to supply the missing water shown as a deficit in the District’s 2015 UWMP, just as the EIR in *Preserve Wild Santee* failed to provide any details as to how groundwater would provide supplies for a proposed lake. 210 Cal.App.4th at 286.

Additionally, even if the draft WSA/WSV did provide some details regarding the “Conservation Required”/mandatory rationing that the District will implement to make up the planned water supply deficit to supply the over 6,000 new residential users, the draft WSA/WSV would need to also provide a discussion of the “contingent” nature of the District’s water supply projections, including whether the “Conservation Required” measures would be feasible, would actually result in reductions, or mean “mandatory cut backs” for District customers on a permanent basis in the future. *Preserve Wild Santee*, 210 Cal.App.4th at 284-285.

1. The WSA/WSV Errs in Requiring Additional Mandatory Rationing Requirements When the District's Customers' Historic Level of Conservation Was Already Accounted for in the District's 2015 UWMP's Demand Projections

On September 21, 2016, the District approved new water duty factors. District Board of Directors Meeting Agenda (Sept. 21, 2016).¹ According to District staff, these water duty factors were used to project the District's demand for 2020, 2025, 2030, and 2035 in the District's 2015 UWMP, which provided the basis for the District-wide demand projections in the WSA/WSV.² Staff Report re: Modification of Unit Water Demands and Wastewater Unit Generation Factors (Duty Factors) Utilized for Estimating Water Demands and Wastewater Flows at 1 (Sept. 21, 2016); the District's September 21, 2016 Staff Report is attached hereto as **Attachment 5**. The District alleges the duty factors were derived from empirical evidence. *Id.* While the Golden Door commented on procedural concerns with the District's approval of the duty factors—including failure to comply with CEQA's notice and comment procedures—the District's approval locked it into using these duty factors to analyze demand. Use of any different water duty factors to estimate future District water demand would be illogical, arbitrary and capricious, and conflict with the District's own 2015 UWMP. For a new development project to be “accounted for” in the District's UWMP, it must use the same water duty factors as were used in the adopted UWMP itself and later adopted by the District Board at its September 21 meeting.

These duty factors already account for the District's historic level of conservation during the recent drought. Appendix B of the WSA/WSV provides a staff presentation on the water duty factors in the Draft 2014 Master Plan, which were used to develop the District's 2015 UWMP and the WSA/WSV. The presentation states that the duty factors were created using “**Actual Meter Readings** from all VWD water meter accounts from July 2008 to June 2014.” WSA/WSV at Appendix B (emphasis in original). The District's 2015 UWMP states that water demands for the District were created by using the water duty factors in the 2014 Draft Master Plan. District 2015 UWMP at 4-2. The water duty factors were applied “in VWD's Geographic Information System (GIS) database, all parcels in VWD's service area were attributed with their approved land use condition and unit water demands.” *Id.* at 4-3. The District's 2015 UWMP's demand projections, therefore, are the direct result of water duty factors created by using actual meter readings from land uses from 2008 to 2014.

The District's 2015 UWMP states that District customers have been very successful in reducing their overall water use through conservation: “VWD customers have demonstrated a strong propensity to respond to calls for water conservation whether as part of a long term commitment to water efficiency during times of adequate supply availability or when

¹ Video record of the District's approval of the duty factors, including the Golden Door's comments on the record, is available at <https://www.youtube.com/watch?v=h3H7XuDDWLs&feature=youtu.be>.

² The District has not provided an explanation as to why it first adopted the 2015 UWMP, and then afterwards adopted the “water duty factors” which were the basis for the demand projections. Nonetheless, both have now been formally adopted by the District.

extraordinary conservation measures are required, as experienced during the current 5-year drought and just prior during 2008 through 2011. This is evidenced by the steady reduction in water use and per-capita consumption since 2007 despite population, employment, and housing growth within the District.” District 2015 UWMP at 9-1.

Further, the District’s 2015 UWMP discusses State mandated reductions in water usage of 20 percent below baseline usage. District 2015 UWMP at 9-13. Table 5-1 in the District’s 2015 UWMP shows that baseline usage was determined using actual water usage between 1999 and 2008 calculated to be 199 gallons per day per capita (“gpcd”). The District’s 2015 UWMP continues to state that “VWD has calculated the 2015 target (90 percent of baseline per capita water usage) at 179.3 gpcd, and the 2020 target (80 percent of baseline per capita water usage) at 159.4 gpcd.” *Id.* It concludes that “the actual capita daily water use for the fiscal year ending in 2015 is 117 gpcd.” *Id.* at 9-14.

Based on these figures, actual water usage by District customers has been reduced from the 2008 baseline by 40 percent. Consequently, actual meter readings from the time period of the baseline year of 2008 to 2015—and thus, the water duty factors used to supply the demand projections in the District’s 2015 UWMP and the WSA/WSV—account for this significant reduction in water use. Consequently, significant conservation is already built into the District’s demand projections. Any *additional* rationing required to make up for the District’s projected shortfall would assume that further reductions in water use could magically occur even beyond to the 20-40 percent conservation already achieved and included as part of the water duty factors. This is obviously an “unexplained discrepancy” between (1) the expected water duty factors adopted by the District in the UWMP and as an independent Board action on September 21, and (2) the water demand factors calculated for the District based on additional water reductions through “Conservation Required”/water rationing listed in the WSA/WSV. Projects cannot be approved with “unexplained discrepancies” in their water supply analysis. *See Preserve Wild Santee*, 210 Cal.App.4th at 284 (project approval overturned where there were “unexplained discrepancies” between the WSA’s water demand projections and the EIR’s water demand projections for the same group of water users).

The WSA/WSV’s proposal to require an additional 36 percent demand reduction through further rationing *in addition to the historic demand reduction already achieved in response to the recent drought* is simply impractical, and the District has provided no evidence such an extreme level of rationing is feasible. Further, failure to disclose and explain this conflict between the WSA/WSV’s mandatory rationing requirements and the conservation already built into the demand projections is error.

2. The WSA/WSV Contradicts the District’s 2015 UWMP’s Statements Regarding Water from the Carlsbad Desalination Plant

Both the WSA/WSV and the District’s 2015 UWMP provide the same supply projections for 2020, 2025, 2030, and 2035. WSA/WSV at 26-27; District 2015 UWMP at 7-3 to 7-4.³

³ Even though the WSA/WSV and the District’s 2015 UWMP use different units for their projections, when the projections are converted to the same units they are the same. Concerns

Neither the WSA/WSV nor the District's 2015 UWMP provide a clear statement as to whether water supply from the Claude "Bud" Lewis Desalination Plant in Carlsbad ("Carlsbad Desalination Plant") is included in the supply projections; however, the WSA/WSV indicates the Carlsbad Desalination Plant water is included, contradicting language in the District's 2015 UWMP indicating that the Carlsbad Desalination Plant water is not included in its supply projections.

According to the WSA/WSV, "Table 7.1 demonstrates that *with implementation of the projects discussed* and planned water conservation efforts within the District, there will be adequate water supplies to serve the proposed Newland Sierra Project development along with existing and other future planned uses under normal year conditions." WSA/WSV at 25 (emphasis added). The "projects discussed" appear to be the Carlsbad Desalination Plant, with which the District has a contract to purchase 3,500 afy of desalinated water, and an agreement with the Olivenhain Municipal Water District ("Olivenhain MWD") for 2,750 afy of raw water. *Id.* at 24. Based on this description, it appears that both projects are included in the WSA/WSV's supply projections.

The District's 2015 UWMP, on the other hand, does not discuss the Olivenhain MWD water and suggests that the water from the Carlsbad Desalination Plant has not been included in the supply totals. District 2015 UWMP at 7-1 ("VWD currently purchases 100 percent of its potable water supply from the San Diego County Water Authority (SDCWA). Though VWD is guided by its Draft 2014 Water, Wastewater and Recycled Water Master Plan (Draft 2014 Master Plan) to assure future reliable water supplies, it is dependent on the water supply abilities of its wholesaler, the SDCWA."). Because the District contracted for water from the Carlsbad Desalination Plant outside of the SDCWA, it appears that the District's 2015 UWMP does not account for the Carlsbad Desalination Plan water in its supply projections.

The WSA/WSV and the District's 2015 UWMP reach the same supply figure but differ on what projects are included in the supply total, therefore, one must be incorrect. The WSA/WSV and the District's 2015 UWMP must be clarified to adequately describe the District's supply sources before the District can approve a WSA/WSV with "firm assurances" that it will have sufficient supply to serve the Project. As stated by the Court of Appeal in *Preserve Wild Santee*, a project cannot be approved where there are "unexplained discrepancies" in the water supply analysis. 210 Cal.App.4th at 284.

Further, a WSA relying on a water supply that the supplier has not used before must "identify other public water systems or water service contractors that receive a water supply, have existing entitlements, water rights, or water service contracts to the same source of water." See California Department of Water Resources, *Guidebook for Implementation of Senate Bill 610 and Senate Bill 221 of 2001* (October 8, 2003) ("Guidebook") at 19, attached hereto as **Attachment 6**. Because the District has not previously used the Carlsbad Desalination Plant for supply, it must comply with this requirement before approving the WSA/WSV.

regarding the difficulty in deciphering the District's various plans due to inconsistent unitization is discussed further in Section XII below.

3. The Contradictions in the WSA/WSV and the District's 2015 UWMP Regarding the Use of Mandatory Rationing Requirements to Make Up for the District's Supply Deficit Results in Legal Error

Instead of implementing new District-wide mandatory rationing requirements through a WSA/WSV for an individual development proposal without notice to its customers of this drastic District-wide policy change, the District should revise its UWMP subject to appropriate procedures, before considering the WSA/WSV.

Procedures for approving a new UWMP include submitting the draft UWMP to member agencies for review, and a 60-day notice for public hearing period for land use agencies in the District's jurisdiction. *See* Water Code § 10621(b). Once the UWMP is available for adoption, the District must notify the public of its intent to adopt the UWMP, and must make the plan available for public inspection. *Id.*, § 10642; Gov. Code § 6066. The District must then host a public hearing to allow community input regarding the District's UWMP implementation plan, and to provide information on the District's baseline values and water use targets. Water Code § 10608.26. The District must consider all public input and make a determination as to whether or not the UWMP shall be modified in response to public comment, or adopted as presented. *Id.*, § 10642. Public workshops are also necessary to ensure adequate committee review and comment. An amendment to an adopted UWMP also requires compliance with each of these steps for notification, public hearing, adoption, and submittal. *Id.*, § 10621(c).

Because the WSA/WSV's use of mandatory rationing to make up for the District's supply deficit contradicts the District's 2015 UWMP, the WSA/WSV cannot rely on the District's 2015 UWMP as the basis for finding that there will be sufficient water supply to serve the Project. *See* Water Code § 10910(c)(2); Gov. Code § 66473.7(c)(1). The WSA/WSV, therefore, is not based on substantial evidence. *See* Gov. Code § 66473.7(c); *see also* *City of Long Beach*, 176 Cal.App.4th at 917–18; *Gentry*, 36 Cal.App.4th at 1422–23. Unless and until the District has prepared a new or amended UWMP subject to these procedures, the District may not consider the new unspecified mandatory rationing requirements in the Project's WSA/WSV. Water Code § 10910(c)(3); Gov. Code § 66473.7(c); *see also* *Vineyard*, 40 Cal.4th at 434-35.

Similarly, the WSA/WSV's mandatory rationing requirements conflict with the approved water duty factors, which already account for significant conservation. Revisions to the District's water duty factors must also go through the appropriate process, including public workshops and notice and comment, and a separate Board vote before the revised duty factors take effect.

B. The “Conservation Required”/Mandatory Rationing Fails as a Matter of Law Because It Is a Mere Generality that Lacks Sufficient Certainty

The WSA/WSV includes no discussion or analysis of how the District will meet the demand reduction levels specified for “Conservation Required”/mandatory rationing. In fact, it appears the District merely reviewed its supply/demand tables, noted its supply deficit, and claimed that “Conservation Required”/mandatory rationing would result in the exact level of demand reduction needed to make up for its supply deficit. This is evident because the

“Conservation Required”/mandatory rationing was not included in the District’s 2015 UWMP. See 2015 District UWMP at 7-3 to 7-4. After the Golden Door’s August 4 letter identifying the issues posed by the District’s supply deficit, the District added this specific level of “Conservation Required”/mandatory rationing in order to make up for the supply deficit. The “Conservation Required”/mandatory rationing is the result of the District’s efforts to make a spreadsheet balance rather than reasoned analysis of specific measures that would achieve this level of demand reduction.

The District’s approach flatly contradicts its legal requirements to describe with certainty how such measures will be accomplished. Instead, it impermissibly relies on vague generalities. In *California Oak Foundation v. City of Santa Clarita*, the Court of Appeal determined an EIR was defective because it failed to discuss uncertainties with a 41,000 acre water entitlement. 133 Cal.App.4th 1219, 1240-41 (2005). In that case, the EIR discussed a *contingency plan* for alternative water sources, which it noted included short-term water exchanges, desalination, and groundwater pumping. The Court determined the discussion was inadequate, because the EIR failed to “analyze or quantify these alternative sources.” *Id.* (“These generalities, without details or estimates concerning the amount of water the programs might make available, are not a proper substitute for a discussion which allows those who did not participate in [the EIR’s] preparation to understand and meaningfully consider the issue at hand.”) (internal citations and quotations omitted).

Here, the WSA/WSV’s proposal for “Conservation Required”/mandatory rationing similarly fails. The WSA/WSV does not base the amount of “Conservation Required”/mandatory rationing on any empirical data or achievable plan. It simply enters numbers into a spreadsheet to make supply and demand balance with no consideration as to whether the required level of rationing is achievable. Further, the “Conservation Required”/mandatory rationing proposal is the District’s *only* proposal for making up for its supply deficit—whereas the flawed analysis in *California Oak Foundation* pertained merely to a *contingency plan*. The public has been deprived of this essential information to evaluate the District’s drastic proposed policy shift. It is impossible to understand how this “Conservation Required”/mandatory rationing would impact District customers, including requiring the fallowing of agricultural lands, permanently restricting outdoor watering, installing composting toilets, limiting showers, or any other water use restrictions that may be required to meet the District’s new unspecified requirements. District residents and businesses deserve an opportunity to understand the personal, financial, and economic impacts of the District’s proposed rationing requirements.

Further, the District is not currently receiving the benefit of reduced water usage that the District claims would result to the unspecified “Conservation Required” measures, since they are unspecified and unadopted by the District. This is a future “water supply” that is not currently available to the District, since these levels of “Conservation Required” are not occurring under the recently adopted duty factors based on current water meter readings. (In fact, the District recently repealed certain water use restrictions.) Government Code Section 66473.7(d) states that when a written verification relies upon “projected water supplies that are not currently available to the public water system” the verification must also be based on all four specific items listed in the statute. One of the statutorily required items is “any necessary regulatory

approvals” that are required in order to convey or deliver a sufficient water supply to the subdivision. In this situation, the District has not yet adopted the necessary “regulatory approvals” that would require District customers to conserve or cut back their projected water usage to the levels specified in the “Conservation Required” section of the WSA/WSV. Thus, the District has failed to comply with Section 66473.7(d) by failing to adopt the necessary “regulatory approvals” that would cause the District customers to comply with the “Conservation Required” source of water upon which the WSA/WSV relies. Just as in *California Oak Foundation*, “generalities” cannot substitute for the required regulatory approvals.

C. The WSA/WSV’s Unspecified “Conservation Required”/Mandatory Rationing Improperly Defers the District’s Decision-Making for Measures Necessary for the Implementation of Its Plan to Make Up for Its Projected Supply Deficit

The WSA/WSV’s failure to provide any specific plan or implement a binding legal mechanism—such as an ordinance—impermissibly defers action required to achieve the demand reduction necessary to make up for the District’s supply deficit. Because of this improper deferral, the “Conservation Required”/mandatory rationing requirements are vague and uncertain and cannot be relied upon to achieve specific demand reduction levels. As such, the WSA/WSV lacks firm assurances that the District can serve the Newland Project’s 6,000 plus new residents and other amenities. *Vineyard*, 40 Cal.4th at 434; *Preserve Wild Santee*, 210 Cal.App.4th at 283; Gov. Code § 66473.7.

In similar situations, CEQA plainly precludes deferral of mitigation measures necessary to reduce a project’s significant impacts. An agency cannot mitigate a project’s impacts by referring merely to a “generalized goal.” See *POET, LLC v. State Air Resources Bd.*, 218 Cal.App.4th 681, 740 (2013) (ARB’s statement that its “rulemaking would ‘ensure that there is no increase in NOx’” without more improperly deferred mitigation of increases in NOx emissions); *Communities for a Better Environment v. City of Richmond*, 184 Cal.App.4th 70, 93 (2010). In addition, a lead agency cannot rely on proposed mitigation measures without analysis of how the specific mitigation measures will achieve the requisite reduction in impacts. *Communities for a Better Environment*, 184 Cal.App.4th at 93 (finding mitigation deficient where “[n]o effort is made to calculate what, if any, reductions in the Project’s anticipated greenhouse gas emissions would result from each of these vaguely described future mitigation measures” and such mitigation measures were “nonexclusive, undefined, untested and of unknown efficacy”).

Here, the “Conservation Required”/mandatory rationing is necessary for the District to make up its supply deficit and serve the Project; yet, the implementation and achievement of the “Conservation Required”/mandatory rationing is improperly deferred with no assurances of its actual achievement and no specific performance standards applied to any sector, use, or timeframe. It is improper to assume future actions by the District and defer any description of the nature and type of requirements that the District will adopt in the future to make up for its supply deficit on a District-wide level via unspecified “Conservation Required”/mandatory rationing included in the WSA/WSV.

The District appears to impose on itself a requirement to ensure additional “Conservation Required”/mandatory rationing in order to resolve a supply deficit; therefore, the District must adopt those same “Conservation Required” measures at the same time it “verifies” that these measures will result in sufficient reduced water usage from the entire District in order to supply the Project’s 6,000 plus new residents, who will be wholly dependent on the District for their water needed for health, safety, and sanitation. It is also improper to assume that the Newland Project would obtain the requisite demand reduction via insufficiently analyzed demand reduction features that fail to set forth standards and details that provide a “reasonable expectation of compliance” with necessary mitigation.

D. Plans for Other Water Districts in the Region Do Not Show Similar Supply Deficits

Based on a review of other similarly situated water districts in the region, it appears the District stands alone in projecting such significant supply shortages in its UWMP. The Olivenhain MWD 2015 UWMP at table 7-2 shows the supply and demand comparison for the Olivenhain MWD in a Normal Year.⁴ Table 7-2 shows that supply totals in the years 2020 through 2035 match the demand totals. Deficits are shown in multiple dry years in the years 2030 and 2035, but the deficits constitute only a few hundred acre feet—not the thousands of acre feet deficit the District projects under every scenario in every year from 2020 through 2035.

Similarly, the Valley Center Municipal Water District’s (“VCMWD”) 2015 UWMP shows that VCMWD supplies will meet demands in Normal Years and shortages are only forecast in the later years of a three-year drought.⁵ The VCMWD UWMP notes that “carryover storage would be utilized in order to lessen the impacts of a supply shortfall.” VCMWD 2015 UWMP at 7-14. The VCMWD goes on to provide a critique of relying on extraordinary conservation to fill supply gaps.

It should be emphasized that the amount of extraordinary conservation savings expected to be achieved through mandatory measures, such as water-use restrictions, could be less than that experienced in the previous shortage periods due to demand hardening. Responsiveness to drought pricing and general price increases will diminish because remaining essential uses are less responsive to price. This will reduce customer discretionary demands and create less flexibility in the managing of demand during shortages, which will increase the importance of acquiring supplemental dry-year supplies to eliminate or reduce potential supply shortages. Long-term permanent conservation savings is critical to ensuring water is used most efficiently and will help avoid or minimize drought situations. *Due to potential demand hardening, shortage management measures such as water-use restrictions and drought pricing may not be as effective in the future in achieving necessary savings to help reduce the supply gap.*

⁴ The Olivenhain MWD 2015 UWMP is attached hereto as **Attachment 7**.

⁵ The VCMWD 2015 UWMP is attached hereto as **Attachment 8**.

Id. (emphasis added). This indictment of over-reliance on mandatory rationing to make up for a supply deficit is wholly unaddressed in the Newland Project's WSA/WSV. The WSA/WSV fails to discuss demand hardening or whether its specific projected demand reductions are achievable through its unspecified mandatory rationing program.

The City of Escondido's 2015 UWMP at sections 6.3.1 and 6.3.2 also shows supplies meeting demands in Normal and Single Dry years.⁶ Only in the third year of a drought scenario does the City of Escondido turn to additional conservation as a means to fill a projected supply gap. In contrast, the WSA/WSV relies on extraordinary conservation in Normal Years and to make up for the District's 2015 UWMP's substantial supply gap in all scenarios from 2020 to 2035. Although Escondido relies on conservation as a supply tool, it only occurs in a time of extraordinary weather conditions. The District's approach in the WSA/WSV, on the other hand, is that substantial mandatory rationing over and above what was accomplished in response to the recent drought must occur in perpetuity—even in Normal Years.

Based on this evidence, it appears unprecedented for similarly situated water districts to project significant supply shortages in their UWMPs and then cite to unspecified and previously unannounced "Conservation Required" or water rationing programs for all water district customers in WSA/WSVs for individual development projects in order to show they can supply sufficient water for the individual project.

V. THE WSA/WSV'S NEW UNSPECIFIED MANDATORY RATIONING REQUIREMENTS FAIL TO SUPPORT ITS FINDINGS THAT THE DISTRICT HAS FIRM ASSURANCES OF SUFFICIENT SUPPLY TO SERVE THE PROJECT

If a WSA finds insufficient water supply to serve a project, the supplier must provide detailed plans for acquiring additional supplies. Water Code § 10911(a). Such plans must include information concerning the "estimated total costs, and the proposed method of financing the costs, associated with acquiring additional water supplies[;] [a]ll federal, state, and local permits, approvals, or entitlements that are anticipated to be required in order to acquire and develop the additional water supplies[; and] [t]he estimated timeframes within which the public water system, or the city and county . . . expects to be able to acquire additional water supplies." Water Code § 10911(a).

If a WSV relies on "projected" water supplies that are not currently available, the WSV must provide detailed information regarding the sources of the new water; financing for any capital outlays required; securing of any applicable federal, state, and local permits for infrastructure needed to deliver the water; and any "necessary regulatory approvals." Gov. Code § 66473.7(d); *see also Preserve Wild Santee*, 210 Cal.App.4th at 283 ("When the verification rests on supplies not yet available to the water provider, it is to be based on *firm indications* the water will be available in the future, including written contracts for water rights, approved financing programs for delivery facilities, and the regulatory approvals required to construct

⁶ The City of Escondido's 2015 UWMP is attached hereto as **Attachment 9**.

infrastructure and deliver the water.”) (emphasis added). The WSV’s determination must be based on substantial evidence. Gov. Code § 66473.7(c).

“Speculative or unrealistic” sources—known as “paper water”—will not support an EIR’s water supply analysis. *Vineyard*, 40 Cal.4th at 432. Future water supplies identified in a WSA/WSV “must bear a likelihood of actually proving available.” *Id.* Here, the District’s proposed demand reduction through mandatory rationing cannot constitute a firm assurance of sufficient supply, because the WSA/WSV provides no analysis of whether or how the unspecified mandatory rationing requirements will achieve the specific demand reduction levels, and the District’s 2015 UWMP does not even include the new mandatory rationing requirements. Gov. Code § 66473.7(d).

A. The WSA/WSV’s New Unspecified Mandatory Rationing Requirements Cannot Provide Firm Assurances of Sufficient Supply to Serve the Project

The WSA/WSV indicates that a 36 percent demand reduction through mandatory rationing requirements is necessary for the District to make up for its supply deficit in 2020, and that a 26 percent reduction would be necessary in 2025 through 2035. WSA/WSV at 4. Neither the District’s 2015 UWMP nor the WSA/WSV, however, provide analysis of how mandatory rationing could achieve the demand reduction necessary to make up for the District’s supply deficit. In fact, substantial evidence in the record, contradicts the WSA/WSV’s finding. The WSA/WSV, therefore, fails to provide firm assurances that the District can meet the Project’s demand.

1. The District’s 2015 UWMP Contradicts the WSA/WSV

As discussed above, the District’s 2015 UWMP does not include the WSA/WSV’s specific demand reduction projections for its mandatory rationing requirements. The WSA/WSV, therefore, cannot rely on the District’s 2015 UWMP for firm assurances that it will have sufficient water to supply the Project’s 6,000 plus new residents based on new District-wide mandatory rationing requirements.

In fact, the District’s 2015 UWMP provides evidence that unspecified mandatory rationing would *not* result in sufficient demand reduction to make up for the District’s projected supply deficit. The WSA/WSV asserts that unspecified mandatory rationing would have to cause a 36 percent demand reduction in 2020 and 26 percent demand reduction in 2035 in order to make up for the District’s supply deficit. WSA/WSV at 4. The District’s 2015 UWMP states that the San Diego County Water Authority (“SDCWA”), which is the District’s wholesaler, indicates that “conservation” could only account for a 17 percent reduction by 2020. District 2015 UWMP at 9-1. Mandatory rationing, therefore, cannot make up for the District’s supply deficit through 2035 and would not even make up for half of the supply deficit in 2020. As such, the WSA/WSV fails to provide firm assurances of sufficient water supply to serve the Project.

2. The WSA/WSV Fails to Analyze the Feasibility and Effectiveness of District-Wide Mandatory Rationing

The WSA/WSV provides no discussion of how the District will achieve the specific demand reduction required to make up for its supply deficit through implementation of mandatory rationing requirements. The WSA/WSV merely lists various best management practices and State laws with no discussion of how these measures will achieve the specific demand reduction levels necessary for the District to make up for its project supply deficit. WSA/WSV at 17-20. The WSA/WSV fails to describe how much demand reduction will result from any particular measure. It does not discuss the feasibility of implementing any particular measures on the District's customers, including what percentage of the reduction will be achieved by various sectors (agricultural, industrial, residential, commercial, etc.) or how rationing requirements will be split between new development and retrofitting existing customers to meet the demand reduction requirements. Further, the WSA/WSV does not describe the cost of new mandatory rationing requirements—including retrofitting technology and installation, providing new facilities and infrastructure for recycled water, and enforcement costs—and whether and how the District will ensure sufficient funding to achieve these measures.

The level of water rationing the District proposes to implement on its customers through the WSA/WSV appears unprecedented in recent history. The WSA/WSV requires 36 percent demand reduction through unspecified mandatory rationing in order to make up for the District's supply deficit in 2020. WSA/WSV at 4. Yet, even under drought restrictions and pursuant to extraordinary efforts and sacrifices by District customers, the District achieved only a "25.6% water conservation reduction." *Id.* at 17. Moreover, as discussed in Section IV.A.1 above, that 25.6 percent reduction was already included in the WSA/WSV's demand projections, and any further demand reduction requires additive rationing requirements. The WSA/WSV provides no evidence that an increase of this extraordinary level of rationing will be achievable on a perpetual basis in normal, dry, and multiple dry year scenarios. Further, the WSA/WSV does not provide any examples of similarly situated water districts that have been able to achieve the high levels of demand reduction required to make up for the District's supply deficit nor provide any specific plan for their achievement.

The WSA/WSV's complete omission of analysis as to how or whether the District will be able to achieve sufficient demand reduction to make up for its supply deficit through unspecified mandatory rationing requirements fails to bridge the analytic gap between the evidence and the WSA/WSV's conclusion. *See Ctr. for Biological Diversity v. Dept. of Fish and Wildlife*, 62 Cal.4th 204, 227 (2015); *see also Topanga Assn. for a Scenic Community v. Cty. of Los Angeles* 11 Cal.3d 506, 515 (1974). The WSA/WSV fails to provide firm assurances of necessary water supply. Gov. Code §§ 66473.7(c)-(d).

Further, one conservation measure noted in the District's 2015 UWMP is not legally permissible under current California law. The District's 2015 UWMP relies in part on a tiered rate structure and conservation pricing as part of its proposed water rationing requirements. District 2015 UWMP at 8-7, 9-4 to 9-5. Using tiered water rates for the purpose of conservation, however, has been found unconstitutional. *Capistrano Taxpayers Assn., Inc. v. City of San Juan Capistrano*, 235 Cal.App.4th 1493, 1516 (2015) (tiered pricing must be based on cost-of-service

despite policy goals of conservation). As such, the District may not rely on a tiered rate structure to make up for its supply deficit. *Vineyard*, 40 Cal.4th at 439 (WSA/WSV inadequate because of “too great a degree of uncertainty regarding the long-term availability of water”). Any determination by the District which relies, even in part, upon water usage reductions based on illegal rate structures cannot be the basis for approval of the WSA/WSV. See *City of San Diego v. Board of Trustees of California State University*, 61 Cal.4th 945 (2015) (agency may not make a finding regarding feasibility of mitigation which relies upon incorrect statement of law).

Relying on unspecified mandatory rationing requirements for the District to make up its water supply deficit lacks certainty because neither the District’s 2015 UWMP nor the WSA/WSV provides any analysis demonstrating that the necessary extent of demand reduction is achievable through mandatory rationing. In fact, the District’s 2015 UWMP describes limitations on the effectiveness of rationing that preclude the level of demand reduction needed to make up for the supply deficit. The WSA/WSV’s reliance on mandatory water rationing for the District to make up for its supply deficit, therefore, lacks the firm assurances required by a WSA/WSV. *Vineyard*, 40 Cal 4th at 433-434; Gov. Code § 66473.7; Guidebook at 35, 61, 77..

B. The Impacts of the WSA/WSV’s Proposed Mandatory Rationing on Existing District Customers Have Not Been Analyzed

In addition to providing no evidence that its proposed unspecified mandatory rationing could achieve the demand reduction required to make up for the District’s supply deficit, the WSA/WSV also fails to provide any analysis of the cost or impacts to District customers. As noted in the WSA/WSV, during the recent drought, District customers achieved a “25.6% water conservation reduction,” which exceeded the State drought restrictions’ required reduction. WSA/WSV at 17. The District is now requiring its customers to exceed this extraordinary level of conservation so that the District may approve water supply for a single unplanned development proposal.

Yet, the District has provided no analysis of the cost of achieving this level of rationing. The District has failed to describe the levels of cutbacks required from different sectors, including the District’s many agricultural customers. The District has also failed to differentiate the level of rationing to be achieved by new development compared to the burden places on existing customers. In short, the District is forcing its customers into a black hole of mandatory rationing requirements with no idea how its customers will be impacted.

A recent column written by the general manager of Valley Center Municipal Water District warns of potential State-mandated command-and-control style water usage restrictions. Gary Arant, *Taking a Shower with Governor Brown*, Valley Roadrunner, Guest Opinion (Sept. 1, 2016) attached hereto as **Attachment 10**. Such restrictions could set per-person water restrictions as low 35, 45, or 55 gallons per day and require local water districts, such as the District, to monitor and enforce personal water usage. *Id.* Based on the absence of any specific demand reduction measures that the District has determined would fulfill its new mandatory rationing requirements, it is unclear if it would be forced to employ such a command-and-control style approach even in the absence of State requirements to do so. The District’s failure to

disclose the potential impacts of its new mandatory rationing requirements to its customers is improper.

VI. THE WSA/WSV IMPROPERLY ASSUMES CONSERVATION MEASURES TO BE INCORPORATED IN THE PROJECT

The WSA/WSV states that the Project will reduce demand from 1,624 afy to 1,196 afy—a reduction of 428 afy or 26 percent. WSA/WSV at 8. The WSA/WSV, however, does not provide firm assurances that this level of reduction is achievable. While the WSA/WSV provides a general discussions of measures that could result in demand reduction for the Project, it makes no effort to quantify such reductions and demonstrate that the 428 afy reduction is achievable. Further, the project-specific documents cited in the WSA/WSV were not timely made available for public review and cannot be independently verified by the public prior to this proceeding.⁷ As stated in Section IV.C above, the unanalyzed measures noted in the WSA/WSV for the Newland Project's demand reduction are insufficient and improperly deferred to a Project applicant with no assurance of implementation. See *POET, LLC*, 218 Cal.App.4th at 740; *Communities for a Better Environment*, 184 Cal.App.4th at 93.

One of the measures to reduce Project demand raises specific concerns regarding feasibility—grey water systems. WSA/WSV at 8. The WSA/WSV provides no analysis of the type of system or system capacity of the grey water systems Newland would install, nor does it even provide standards that such systems must meet to achieve the requisite demand reduction. The WSA/WSV also fails to discuss the feasibility of implementing grey water systems from a cost or availability standpoint. As of March 2015, one company—Nexus eWater—advertised itself as the world's first certified installer of grey water systems for residential use. See “Nexus eWater is World's First Company to Obtain NSF/ANSI Certification for Residential Grey Water Treatment,” Press Release (Mar. 13, 2015) http://cdn2.hubspot.net/hub/409087/file-2622223065-pdf/blog-files/NexuseWaterNSF-ANSI350pressrelease_final1.pdf?t=1475188113797 (attached hereto as **Attachment 11**.) Given this extremely limited availability of certified grey water systems which are legal to install in California, the District must provide specific analysis regarding feasibility of the specific grey water system proposed by Newland and Newland's plans for long term operation and maintenance that are required for these systems. The WSA/WSV must contain information on the make, model, and efficiency of the certified manufacturers equipment which Newland has included in its project application. The record contains no information at all regarding Newland's specific proposal. In order to “verify” that the grey water system will reduce water demands from Newland's new residential units, the District must be provided with the details of the equipment that will be used.

Further, the WSA/WSV lists the Green Building Code and State and local landscape efficiency ordinances, but fail to describe how they would achieve the specific demand reduction requirements for the Newland Project. WSA/WSV at 8. The WSA/WSV also fails to describe the extent to which any conservation from these existing laws was already accounted for in the District's approved demand projections and its 2015 UWMP. Moreover, the WSA/WSV notes

⁷ The lack of public availability of documents relied on by the WSA/WSV is discussed in more detail in Section VII below.

these existing laws were discussed in a study that was not timely provided as part of the record (as discussed in Section VII below).

In addition, the WSA/WSV provides no discussion of enforcement of any demand reduction measures that may be implemented as part of the Project. There is no discussion of potential fines or penalties for failure to comply with demand reduction measures. A recent news article indicates that the City of San Diego logged nearly 10,000 reports and investigations of alleged water wasting during approximately one year of drought restrictions, and that it issued almost 400 citations. *See* Roger Showley, “Fountains Flowing Again After Drought Restrictions Eased,” San Diego Union-Tribune (Sept. 22, 2016) <http://www.sandiegouniontribune.com/business/growth-development/sd-fi-fountains-20160921-story.html> (attached hereto as **Attachment 12**). The WSA/WSV provides no evidence that any demand reduction programs for the Project would be enforced.

Moreover, the District lacks the legal authority to impose enforceable conditions on the Project to implement demand reduction programs. The County, as lead agency, is responsible for “provid[ing] that measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures” Pub. Res. Code § 21081.6(c). In fact, District staff has admitted it lacks the legal authority to implement enforceable project conditions because it does not have land use authority. During the Board’s January 6, 2016 consideration of a previous version of the Project’s WSA/WSV, Dennis Lamb (who was then the District’s General Manager) stated that the District lacks land use authority. Vallecitos Water District Board of Directors Meeting (Jan. 6, 2016), Unofficial Transcript, video available at <https://www.youtube.com/watch?v=g796EP8hv6Y> (“The comment letters provided by . . . Latham Watkins, does have some points in there with respect to concerns over land use. . . . We do believe they have some valid points. But again, we’re the water district. We don’t have control over land use.”) (the unofficial transcript is attached hereto as **Attachment 13**). Without enforceable conditions, there are no firm assurances that the Project could meet the necessary demand reduction requirements.

The firm assurances required for a WSV cannot rest on mere aspirations. *See* Gov. Code §§ 66473.7(c)-(d); *Vineyard*, 40 Cal.4th at 432. The District, therefore, cannot rely merely on unevaluated hopes for conservation measures, including sufficient grey water systems use, to result in the specific 428 afy demand reduction required of the Project.

VII. THE WSA/WSV IMPROPERLY RELIES ON INFORMATION AND DOCUMENTS THAT ARE NOT INCLUDED IN THE WSA/WSV, ARE NOT OTHERWISE AVAILABLE TO THE PUBLIC, AND HAVE NOT BEEN APPROVED BY THE DISTRICT OR OTHER AGENCIES

The WSA/WSV is missing key facts and analysis necessary to support its conclusions, and in an effort to make up for these deficiencies improperly relies on documents that the District failed to provide as part of the record (or failed to timely provide) and are unavailable to the public. (One of these documents may not yet exist.) *See Gilroy Citizens for Responsible Planning v. City of Gilroy*, 140 Cal.App.4th 911, 918-919 (2006) (courts reviewing an agency’s determination look for “adequacy, completeness and a good-faith effort at full disclosure.”)

Citing to unavailable documents precludes any opportunity for public review, contrary to established environmental policy. *See e.g.* 14 Cal. Code Regs. § 15148 (allowing an environmental impact report to cite to publically available documents as technical support). A court may not uphold the WSA/WSV based on evidence not in the record. Code Civ. Proc. § 1094.5 (agency abuse of discretion is reviewed based off of substantial evidence in the record); *Ukiah Citizens for Safety First v. City of Ukiah*, 248 Cal.App.4th 256 (2016) (holding an addendum not included in administrative record cannot constitute substantial evidence to remedy errors in environmental documents).

Here, the WSA/WSV relies on three documents that were not attached to the WSA/WSV at the time it was made public and were not then available to the public. Without timely access to these document, it is not possible to determine whether these documents support the propositions for which they are cited or whether these document even exist. The three documents are as follows:

1. “Draft 2014 Water, Wastewater and Recycled Water Master Plan.” TBD. Prepared by Black & Veatch for Vallecitos Water District.
2. “Master Plan of Water for the Newland Sierra Project.” August 31, 2016. Prepared for Newland Sierra, LLC by Dexter Wilson Engineering, Inc.⁸
3. “Technical Memorandum: Water Conservation Demand Study for Newland Sierra (San Diego County, California).” September 8, 2016. Prepared for Newland Sierra LLC by GSI Water Solutions, Inc.

The WSA/WSV was made available to the public at approximately 2:00 p.m. on Friday afternoon, September 30, 2016, on the District’s website. Upon review of the WSA/WSV and being unable to locate publically available copies of the three above-referenced documents, the Golden Door sent a letter to the District on Monday, October 3, 2016, requesting copies of the documents and sufficient time to review them before the District’s consideration of the WSA/WSV. A copy of the Golden Door’s October 3, 2016 letter is attached hereto as **Attachment 14**.

On Tuesday morning, October 4, a member of the District’s staff responded to the Golden Door providing copies of the “Master Plan of Water for the Newland Sierra Project” and “Technical Memorandum: Water Conservation Demand Study for Newland Sierra (San Diego County, California). A copy of the District’s October 4, 2016 response is attached hereto as **Attachment 15**. While the Golden Door appreciates the District’s efforts to make these documents available upon request, they were not timely provided pursuant to the Brown Act. *See e.g.* Gov. Code § 54954.2. The Golden Door’s (and the public’s) opportunity to review these documents, therefore, has been detrimentally limited.

⁸ We note that three pages from the Master Plan of Water for the Newland Sierra Project are included as Appendix A to the WSA/WSV, but the remainder of the report was not attached to the WSA/WSV.

Further, the District's response admitted that the "Draft 2014 Water, Wastewater and Recycled Water Master Plan" does not exist. As such, it is improper for the WSA/WSV to rely on this document. Due its reliance on a non-existent document and documents not timely provided as part of the record, the WSA/WSV fails support its conclusions that the District is able to serve the Newland Project's approximately 6,000 new residents and other amenities.

In addition the WSA/WSV cites to Newland's Specific Plan application from January 2015. This is not the most recent version of Newland's Specific Plan. Newland submitted a revised Specific Plan to the County in January 2016. A copy of Newland's January 2016 Specific Plan is attached hereto as **Attachment 16**.⁹

VIII. UPSTREAM SUPPLIES RELIED UPON BY THE WSA/WSV ARE TOO UNCERTAIN TO CONSTITUTE FIRM ASSURANCES OF SUFFICIENT WATER SUPPLY

A WSV requires substantial, concrete documentation of the availability of those supplies—known as "firm assurances," which must be based on substantial evidence. *Vineyard*, 40 Cal.4th at 433-434; *see also* Gov. Code §§ 66473.7(c)-(d). Here, however, firm assurances are lacking because of evidence upstream supply is uncertain and documents prepared by the District's upstream wholesale provider contradict the WSA/WSV. *See Preserve Wild Santee*, 210 Cal.App.4th at 284-85 (CEQA document invalid for unexplained uncertainty regarding upstream supply).

A. The WSA/WSV's Own Uncertainty Regarding Upstream Supplies Fail to Provide Firm Assurances of Sufficient Water Supply

The District receives 100% of its water from its wholesaler, SDCWA. District 2015 UWMP at 7-1; WSA/WSV at 21. The WSA/WSV admits uncertainty in supply by SDCWA, because "due to drought and economic issues this past decade, increases in water deliveries have not developed at the previously projected rate." WSA/WSV at 25. Further, the WSA indicates that its projected supply is conditional upon the availability of upstream supplies and fails to adequately describe such availability with the requisite certainty. *Id.* at 26 ("***If*** Metropolitan, Water Authority and District supplies are developed as planned, along with achievement of conservation targets, then no shortages are anticipated within the District's service area in a single dry-year through 2035.") (emphasis added). This uncertainty within the WSA/WSV falls short of the firm assurances required of a WSV.

⁹ The Golden Door submitted a letter to the County on August 4, 2016 discussing the issues related to inconsistencies in its project description for the Newland Project. A copy of that letter is attached hereto as **Attachment 17**.

B. Upstream Projections Contradict the WSA/WSV's Projections and Provide Evidence of Additional an Supply Deficit Not Addressed Even By the WSA/WSV's Proposed Mandatory Rationing Requirements

The SDCWA's 2015 UWMP (attached hereto as **Attachment 18**) provides demand projections for the District that are far below the supply projections included in the WSA/WSV. Because the SDCWA supplies 100% of the District's water, the SDCWA's demand projections (upon which it determines its supply allocated to the District) should be equivalent to the District's supply projections. Here, however, there is a significant discrepancy in the SDCWA 2015 UWMP's demand projections and the WSA/WSV's District-wide supply projections.

The Golden Door has provided a chart (attached hereto as **Attachment 19**), which shows the demands estimated in the WSA/WSV (which are based on the duty factors and the District's 2015 UWMP) and the SDCWA's 2015 UWMP.¹⁰ For example, in a Normal Year the SDCWA projects that the District will use 15,896 afy, 19,227 afy, 20,687 afy, and 26,176 afy in the years 2020, 2025, 2030, and 2035 respectively. The WSA/WSV, however, indicates higher supply projections for District—21,219 afy, 24,586 afy, 26,986 afy, and 28,229 afy in the same years of 2020, 2025, 2030, 2035 respectively. The District, therefore, is indicating it has greater demand than there is supply that the SDCWA has allocated despite the fact the it obtains 100% of its water from the SDCWA.

These discrepancies are significant for six distinct reasons:

First, both the SDCWA's 2015 UWMP and the WSA/WSV purport to base their projections on SANDAG's 2050 Growth Projections which include the land uses in County of San Diego General Plan. SDCWA 2015 UWMP at 2-13, Table 2-8, n. 1 (stating that the demands noted in the table are "based on SANDAG 2050 Regional Growth Forecast.") The WSA/WSV also states that the "[p]rojected water demands for 2020, 2025, 2030, and 2035 were estimated based upon SANDAG's regional growth forecasts for the District." WSA/WSV at 16. If both SDCWA's and the District's projections were based on the same SANDAG Growth Projections, either one analysis is clearly incorrect, or different land use assumptions were made in the development of these documents.

Second, SDCWA's 2015 UWMP contradicts the WSA/WSV's finding that "the District's 2015 UWMP demonstrates that if Metropolitan, Water Authority and District supplies are developed as planned, along with achievement of conservation targets, then no shortages are anticipated within the District's service area in a normal, single dry or multiple dry-year through 2035." WSA/WSV at 3. Based on the SDCWA's projections, even if the SDCWA supplies the water necessary to meet its demands for the District, the District would have a significant supply deficit even if the District was able to meet its demand reduction goals through implementation of its proposed mandatory rationing requirements.

¹⁰ Because the District-wide supply projections in the WSA/WSV is equivalent to the District-wide supply projection in the District's 2015 UWMP, we refer only to the WSA/WSV in this section for the sake of simplicity.

Third, based on the SDCWA's projections, the District would need to achieve more than an additional 5,000 afy of conservation in 2020, 2025, and 2030.¹¹ In addition, using the SDCWA projections, in 2020 the VWD would need to achieve 51 percent demand reduction through its unspecified mandatory water rationing requirements in order to make up for its supply deficit. Under the same comparison scenario the mandatory rationing requirements in 2025, 2030 and 2035 would have to achieve 44 percent, 42 percent, and 31 percent reductions respectively—all of which exceed the demand reduction requirements projected in the WSA/WSV. WSA/WSV at 4, 26-28.

Fourth, the SDCWA's demand projections for the District already include "historic and projected water conservation." SDCWA 2015 UWMP at 2-13, Table 2-8, n. 2. The WSA/WSV's reliance on its proposed mandatory rationing requirements as a new supply, therefore, contradicts the SDCWA's 2015 UWMP projections.

Fifth, the SDCWA projections "[a]ssume[] member agency implementation of verifiable local supply projections." SDCWA 2015 UWMP at 2-13, Table 2-8, n. 4. Thus, it appears that SDCWA has already taken into account desalinated water and reclaimed water purchases that the WSA/WSV counts as local supply.¹² See WSA/WSV at 24.

Sixth, the District may have to draw from the SDCWA's Accelerated Forecast Growth water allocation in order to make up for its supply deficit. The Accelerated Forecast Growth water allocation is used to address any unexpected growth in the entire SDCWA territory from changes in land use or accelerated construction due to economic factors and is not accounted for in each member agency's allocation. SDCWA 2015 UWMP at 2-13, Table 2-8, n. 6. Based on the discrepancies noted herein, the District could have to use the entire allocation for the Accelerated Forecast Growth to make up its supply deficit. If that occurred, then the SDCWA would have no additional capacity to handle unplanned growth in the region. As a result, the discrepancies in the District's and SDCWA's projection could have implications for the entire region. Before "verifying" that the District can use some or all of this "Accelerated Forecast Growth" specifically identified SDCWA water supply, the District must obtain a "firm commitment" that this water has been exclusively reserved for the District's use for the Newland Project and will not be used for any other projects in the SDCWA service area. Without this commitment from SDCWA, it is impossible to know whether or not other projects or water agencies in the SDCWA service area are also planning on using this same water as a verified supply for their own projects. The burden is on the District to provide explicit evidence that there is no double-counting of this water supply for others. The record currently lacks this evidence.

¹¹ This amount exceeds the 3,500 afy of newly obtained desalinated water that the District has contracted for from the Carlsbad Desalination Plant.

¹² Discrepancies in the WSA/WSV's characterization of water from the Carlsbad Desalination Plant and the District's 2015 UWMP's characterization of that water is discussed in Section IV.A.2 above.

The WSA/WSV fails to describe and explain any of the discrepancies discussed above. These unexplained contradictions result in legal error. *Preserve Wild Santee*, 210 Cal.App.4th at 283-84. Upstream supply, therefore, is too uncertain to support approval of a WSA/WSV for the Project at this time. *Id.* at 284-85.

IX. THE WSA/WSV FAILS TO DISCUSS THE COST OF OBTAINING NEW SUPPLY TO SERVE THE PROJECT OR ITS ALLOCATION OR COSTS IMPLICATIONS OF DEMAND REDUCTION

The WSA/WSV attempts to address the District's projected water supply deficit by alleging—without supporting evidence—that new District-wide mandatory rationing requirements would make up for the supply deficit. As a result of its reliance only on rationing to address the supply deficit, the WSA/WSV fails to discuss the potential for obtaining new supply to make up for the District's supply deficit and provide sufficient water to serve the Project. The WSA/WSV, therefore, fails to discuss the implications of any new supply and how increased cost for a new supply or related new infrastructure would be allocated between Project residents and existing customers. In addition, the WSA/WSV fails to provide the necessary firm assurances for any new water supply as required by law, thus forfeiting the opportunity to serve the Project with a new supply or a mix of new supply and new rationing requirements. Instead, the District has locked itself into the WSA/WSV's proposed unspecified District-wide mandatory rationing requirements in order to serve this unplanned development proposal.

In addition, the WSA/WSV fails to discuss the cost implications of its proposed "Conservation Required"/mandatory rationing. If the unspecified measures pursued by the District to meet its demand reduction goals succeed in reducing demand, the District may have to increase per gallon water cost to customers in order to cover its fixed costs. As a result, District customers may pay the same or more to receive less water from the District. The District should provide a thorough analysis of the broader cost implications of its unspecified rationing proposal.

X. THE FACT THAT THE DISTRICT'S UWMP PROJECTED SUBSTANTIAL FUTURE WATER USE FOR AGRICULTURAL USES ON THE NEWLAND PROPERTY DOES NOT CURE THE DRAFT WSA/WSV'S DEFECTS

In response to our points above, we expect that Newland and the District will argue that the District's 2015 UWMP did include expected future water usage on the Newland site for agricultural uses in what the WSA/WSV calls the "No Project Alternative." Newland and the District will likely claim that they are absolved from further studying the District's ability to serve the Project, because Newland's proposal (which lacks project details) allegedly would result in less water use than projected in the District's 2015 UWMP, despite the addition of over 6,000 new residents, a commercial center, a school, and vineyard areas. First, there is currently little or no water use on Newland's property for any uses, and there do not appear to have been agricultural uses on the property for many years. So, this projected agricultural use, which was never subjected to a WSA or WSV, appears to be "paper" water use, not a current use of available District water.

Second, without details, there is no basis for concluding that the vineyard uses proposed by Newland in the project's landscape areas will use any less agricultural water, standing alone, than the District projected in the past. Newland has not explained how it can establish both agricultural uses and residential uses on the same property.

Third, the WSV requirement in Government Code section 66473.7(b)(1) only applies to new residential uses. Obviously, human health, sanitation, and safety is not as threatened by agricultural water shortages or deficits versus insufficient water for residential uses. The fact that the District previously planned to supply agricultural use to this property in the future does not magically eliminate the District's now reported water shortage and allow these past planned uses to provide a baseline for whether water is now actually available for new residents to use. The District cannot use a "plan to plan" baseline and cite to past proposed uses to suddenly make surplus water appear for new residential uses, when this water supply has never actually been used. *Communities for a Better Environment v. South Coast Air Quality Management Dist.*, 48 Cal.4th 310 (2010) (impacts of a proposed project must be compared to existing conditions, rather than to allowable conditions defined by a plan or regulatory framework, not hypothetical situations); *Keep Our Mountains Quiet v. County of Santa Clara*, 236 Cal.App.4th 714, 734 (2015) (same); *Neighbors for Smart Rail v. Exposition Metro Line Construction Authority*, 57 Cal.4th 439, 447 (2013) (an EIR "must delineate environmental conditions prevailing absent the project, defining a baseline against which predicted effects can be described and quantified."); Gov. Code § 66473.7(d) (where a verification relies on projected water supplies, the analysis must be based on specified criteria to conclude that water supplies will be sufficient).

Finally, the WSA/WSV fails to provide any temporal aspect of its comparative projections, including when the alleged agricultural uses included in the District's 2015 UWMP would be built compared to the Newland Project's build out schedule. The WSA/WSV assumes, instead, and without evidence, that sufficient supply exists to serve such alleged agricultural uses now.

XI. DROUGHT-LEVEL RESTRICTIONS PROHIBIT THE DISTRICT FROM APPROVING A NEW WATER SUPPLY

Based on District Ordinances 162 and 195, (attached hereto as **Attachments 20 and 21**) the District is generally precluded from approving new potable water services when restrictions reach Drought Level 3, requiring 40 percent reduction. *See also* District 2015 UWMP at 9-3. Here the WSA/WSV calls for as much as 36 percent reduction to meet the multiple dry year requirements in 2020. WSA/WSV at 26-27. Because the water duty factors already account for significant conservation, the 36 percent reduction figure is likely low, and it could easily reach over 40 percent. In addition, as discussed in Section VIII above, the SDCWA's projections show a more significant supply deficit that would require as much as a 51 percent reduction through "Conservation Required"/mandatory rationing in order to balance. This level surpasses the 40 percent threshold for Drought Level 3.

The WSA/WSV fails to provide any analysis of whether it can approve a new potable water source despite meeting or exceeding the 40 percent threshold noted in the District's ordinances Drought Level 3. Here, it appears the District is mandating Drought Level 3

restrictions (or more) in order to approve a new development project, in contradiction to its own ordinances which preclude it from approving water supply for a new development when it requires a 40 percent reduction. This unexplained contradiction is impermissible.

XII. THE WSA/WSV MUST PROVIDE COHERENT AND ACCESSIBLE INFORMATION

Based on our review of the WSA/WSV, the District's 2015 UWMP, the District's 2008 Master Plan, and SDCWA's 2015 UWMP, we are concerned that information is not being presented in a way that is easily accessible to the public and decision makers. A WSA/WSV must include consistent figures and coherent analysis. *See Vineyard*, 40 Cal.4th at 445 (environmental document fails because it "presents a jumble of seemingly inconsistent figures for future total area demand and surface water supply, with no plainly stated, coherent analysis of how the supply is to meet the demand. The reader attempting to understand the County's plan for providing water . . . is left to rely on inference and speculation.").

Here, the WSA/WSV, the District's 2015 UWMP, the District's 2008 Master Plan,¹³ the SDCWA 2015 UWMP, rely on a mixture of numeric bases—with water volume expressed in gallons per day, million gallons per day, million gallons per year, and acre feet per year. In particular, the supply and demand tables in the WSA/WSV provide figures in acre feet per year, while the supply and demand tables in the District's 2015 UWMP provides figures in millions of gallons per year. WSA/WSV at 26-27; District's 2015 UWMP at 7-3 to 7-4. As such, it is very difficult for the public or decision makers to comprehend an apples-to-apples comparison of the data presented.

Data with unexplained discrepancies does not constitute substantial evidence. *Preserve Wild Santee*, 210 Cal.App.4th at 283-84.

XIII. THE WSA/WSV CONFLICTS WITH THE COUNTY'S GENERAL PLAN PROVISIONS REGARDING RECYCLED WATER

The County's General Plan requires use of recycled water in new development, when "feasible." San Diego County General Plan at 5-38 (Aug. 2011) (COS-19.2: "Recycled Water in New Development. Require the use of recycled water in development wherever feasible. Restrict the use of recycled water when it increases salt loading in reservoirs.") (the County General Plan's Conservation Element is attached hereto as **Attachment 22**); *see also id.* (Goal COS-19: "Sustainable Water Supply. Conservation of limited water supply supporting all uses including urban, rural, commercial, industrial, and agricultural uses."). "'Feasible' means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors." Pub. Res. Code § 21061.1. Feasibility determinations must be based on detailed findings supported by substantial

¹³ While the WSA/WSV purports to rely on the District's Draft 2014 Master Plan, the District's most recent Master Plan that is available to the public is its 2008 Master Plan. Because we cannot ascertain the unitization figures for the District's undisclosed 2014 Master Plan, we note the 2008 Master Plan here.

evidence. See *Preservation Action Council v. City of San Jose*, 141 Cal.App.4th 1336 (2006) (economic infeasibility based solely on competitive disadvantage found insufficient); *Ctr. for Biological Diversity v. Cty. of San Bernardino*, 184 Cal.App.4th 1342, 1357 (2010) (conclusory statement with no factual support found insufficient).

The WSA/WSV fails to discuss the feasibility the Project's recycled water use, including constructing an on-site treatment facility to generate reclaimed water.¹⁴ While the WSA/WSV makes vague references to plumbing for grey water systems and other potential developer-proposed standards for recycled water, the WSA/WSV fails to discuss whether any such project components could feasibly result in recycled water use or the extent of any such use and provides no explanation of how such requirements would be enforceable.

The District must analyze the potential alternative of an on-site recycled water plant, and whether such a District facility may be superior in term of cost, reliability and water saving in comparison to the grey water recycling systems that are vaguely referred to the in WSA/WSV. Assuming both options are feasible (which must be analyzed by the District), which option provides the greater water reduction, is more reliable, and of less cost to the District?

The City of San Diego recently required the inclusion of an on-site treatment plant in the Quarry Falls project in the Mission Valley area in order to provide recycled water to the project. Such plants exist and are, therefore, physically feasible to build within the Newland Project site. The District should also examine whether the District could provide recycled water from a downstream treatment plant, if an on-site plant is not preferred. Since the District is the planned provider of sewer and water services to the Project, it is the only agency that can supply the needed evidence to the County staff and Board of Supervisors and the only agency that can make the determination of "feasibility" required by the County General Plan, so that the County can then determine whether the Project can comply with the General Plan's very specific requirement for all new development.

XIV. THE WSA/WSV ERRS IN INCORPORATING THE PROJECT APPLICANT'S ADVOCACY WITHOUT DISCLOSING ITS INDEPENDENT ANALYSIS

The WSA/WSV provides a project description including statements from the Newland Sierra web site, which promote the Project as "one of the most water-efficient communities ever built in San Diego County." WSA/WSV at 5. The WSA/WSV, however, provides no evidence to support this promotional statement, and we are concerned that such language frames the WSA/WSV as Newland's marketing platform rather than a technical water supply analysis. Such hyperbole is improper. See *Gentry v. City of Murrieta*, 36 Cal.App.4th 1359, 1397 (1995)

¹⁴ Such a facility may not be found infeasible merely because it would cut into the developer's profits. See *Uphold Our Heritage v. Town of Woodside*, 147 Cal.App.4th 587, 599 (2007).

(agency must independently review documents prepared by applicant's consultants); *see also California Clean Energy Committee v. City of Woodland*, 225 Cal.App.4th 173, 194 (2014).¹⁵

XV. ADDITIONAL POTENTIAL INCONSISTENCIES

In addition to the contradictions and inconsistencies raised above, it is unclear how the WSA/WSV reconciles its projections with the District's other per person projections. Based on a recent press release, an average single-family home in the District uses 8,976 gallons per month (based on 12 units and each unit being 748 gallons). *See* District Press Release, "Vallecitos Board of Directors Denies Proposed Rate Increase," (Sept. 27, 2016) attached hereto as **Attachment 23**. The WSA/WSV does not provide per person estimates of water supply, and it is not possible to determine if the new "Required Conservation"/mandatory rationing is included in the estimates the District is advertising to the public. Additional analysis and clarification is needed.

In addition, the District recently rescinded mandatory drought restrictions, but adopted a new ordinance implementing some of the drought restrictions in perpetuity. *See* "Vallecitos Water District Ends Restrictions on Outdoor Watering," San Elijo Life (July 7, 2016) attached hereto as **Attachment 24**. Despite this recent action, the WSA/WSV does not indicate whether the District's new restriction are accounted for in the demand factors for Newland or District-wide or whether they are included as part of the "Conservation Required"/mandatory rationing. Because the water duty factors were determined based on actual meter reading occurring during the drought, it appears these reduction measures—which apply some of the drought restrictions even in non-drought years—are already accounted for in demand and cannot constitute any portion of the additive "Conservation Required"/mandatory rationing necessary to make up for the District's water supply deficit. The WSA/WSV should clarify how these additional restrictions factor into its analysis.

It is also not clear that Newland has included in its forecasted water usage the water it will need to (a) use for road construction and dust control during grading activities, (b) for purposes of maintaining vegetation in any brush management zones for fire protection, and (c) for purposes of replanting or planting new vegetation in open space areas. Additionally, Newland has not made clear the amount of water that will be needed to support the equestrian trails and equestrian center, and to establish or reestablish vegetation affected by Newland's plans to allow large scale equestrian use of the open space areas.

XVI. CONCLUSION

For the reasons stated herein, we respectfully request the Board of Directors reject the WSA/WSV for the Newland Project. In the alternative, we request that the Board postpone consideration of this WSA/WSV until such time as the District has revised its underlying planning documents and the WSA/WSV to be legally adequate.

¹⁵ While we recognize that, unlike prior drafts or versions of the WSA/WSV, this version attributes the quote to Newland's website, the WSA/WSV still fails to provide any evidence or independent analysis to support Newland's marketing statement.

LATHAM & WATKINS LLP

Thank you for your time and attention to our comments. Please feel free to contact me at (858) 523-5400 or christopher.garrett@lw.com if you would like to discuss these matters further.

Best regards,

Christopher W. Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

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April 11, 2017

VIA EMAIL AND U.S. MAIL

Jacob Armstrong
 Caltrans District 11 – Planning Division
 Development Review Branch
 4050 Taylor Street, MS 240
 San Diego, CA 92110

Re: Response to Letter re VMT Analysis for Newland Sierra Project

Dear Mr. Armstrong:

I write to you on behalf of the Golden Door in response to your March 21, 2017 letter. We are concerned that your letter's characterization of the "Local Development – Intergovernmental Review Program Interim Guidance" ("Interim Guidance") document is inconsistent with the Interim Guidance's stated purpose and application to the Newland's proposed "Sierra" project in rural Twin Oaks Valley. As the State's experts on traffic impacts, it is important for Caltrans to follow its own mandatory guidance to implement State-wide policy to reduce vehicle miles traveled ("VMT"), especially for outdated auto-centric sprawl projects, like the Newland Project, proposed far from job centers and transit infrastructure.

We also encourage Caltrans to analyze its redesign of the Deer Springs Road/I-15 interchange as one project with the County's consideration of the Newland Project's development and off-site road widening. Further, Caltrans should coordinate with state and federal agencies with respect to the interchange redesign, in accordance with a recent decision of the California Supreme Court. While both parts of Newland's proposal should be analyzed as a single project, they both have the potential for significant biological and traffic impacts both independently and cumulatively. Caltrans also should consider the potential cumulative impacts in its analysis for the I-15 interchange redesign and in its comments on the Newland Project.

I. CALTRANS' MARCH 21, 2017 LETTER IGNORES STATE DIRECTIVES

We are concerned that Caltrans' letter's characterization of the Interim Guidance as a "desk reference" is inaccurate and fails to give proper weight to the Interim Guidance. District 11 cannot ignore the Interim Guidance document, especially with respect to the Newland Sierra project. The Interim Guidance makes clear that— until the Governor's Office of Planning and Research develops new CEQA Guidelines in response to SB 743—local districts should use the

Interim Guidance for formulating comments to local agencies instead of the 2002 Caltrans Guide for the Preparation of Traffic Impact Studies. *See* Interim Guidance at 4. Thus, the Interim Guidance is not merely a “desk reference,” but provides specific guidance for local districts to further the aims of SB 743, including commenting that a VMT analysis may be necessary for certain projects.¹

Likewise, Caltrans’ letter inaccurately construes the Interim Guidance’s application as limited to urban infill projects. The Interim Guidance provides guidance to determine whether to comment on site-specific projects and what types of comments to make based on the type of project and its location. For urban infill projects, local districts are expected to have minimal or no comments on these types because they are “well planned infill projects which are located close to transit, bike and pedestrian facilities which also have proximity benefits” to employment centers, services, and goods. Interim Guidance, Appendix A at 3. The Interim Guidance, however, provides specific guidance for “rural fringe” projects such as Newland Sierra, stating that urban infill projects will require less review and mitigation than rural fringe projects. For traditional suburban and rural fringe/undeveloped land projects, such as Newland Sierra, the Interim Guidance states:

[T]raditional suburban or rural fringe development ... generate higher VMT, and do not encourage walking or biking by their project design. ***Districts should make comments on ways projects can minimize VMT generation to meet VMT reduction goals from SB 743 and assist the State in meeting GHG reduction targets. Caltrans should press for significant connections to existing infrastructure to avoid a development relying solely on the existing local roadway system or SHS.*** Districts should also make comments on the ways the projects can improve internal circulation for all modes, better integrate with other nearby land uses, and provide a network of complete streets that benefits all users of the transportation system.

Interim Guidance, Appendix A at 3 (emphasis added). The Interim Guidance provides clear direction that Caltrans should provide comments on VMT (or request a VMT analysis if it has not been completed) for rural fringe projects such as Newland Sierra. This policy is consistent with State policy to reduce VMT, because it focuses on VMT-reduction for projects like Newland Sierra that follow an outdated sprawl model and locate new housing far from existing infrastructure, multi-modal and transit commuting opportunities, and significant job centers.

Moreover, local agencies in other jurisdictions have already begun implementing a VMT approach. For example, the City of Pasadena adopted VMT and vehicle trips performance

¹ As we discussed in our December 5, 2016 letter, the Interim Guidance states that Caltrans should request a VMT analysis be presented if it is not already provided by the lead agency. Interim Guidance at 5. The Interim Guidance states that “[t]hough SB 743 clarifies requirements for transportation analysis, a VMT analysis is already needed to meet other CEQA requirements.” *Id.* at 6.

metrics when it updated its CEQA thresholds in 2014. Pasadena's thresholds included VMT and other metrics to consider beyond simply vehicle congestion metrics, and its director of transportation noted that the new approach helped to manage congestion and traffic volumes without widening roads.²

II. EXPANDING DEER SPRINGS ROAD AND THE RELATED ACTION OF RECONSTRUCTING AND REPLACING THE INTERSTATE 15 INTERCHANGE WILL INCREASE VMT

Widening Deer Springs Road (as proposed by the Newland Sierra project), and redesigning the I-15 interchange at Deer Springs Road to accommodate this widening, as well as additional trips generated by the Newland Project, will have the potential to increase VMT. In OPR's Preliminary Evaluation of Transportation Metrics ("OPR Evaluation"), OPR notes that the state cannot "'build our way out of congestion' by adding roadway capacity because doing so induces additional vehicle travel. Therefore, accommodating better proximity of land uses and improving the overall efficiency of network performance is essential for providing and preserving access to destinations. Transit and active mode transportation options can play a key role in providing access to destinations and supporting proximity."³

Caltrans is the appropriate agency to raise this issue in comments on the Newland Project, and must consider induced VMT in conjunction with its I-15 interchange redesign. OPR has indicated that increasing roadway capacity in fact induces additional vehicle travel, thus increasing GHG emissions.

III. THE NEWLAND PROJECT AND CALTRANS' I-15 INTERCHANGE REDESIGN MUST BE ANALYZED AS ONE PROJECT DUE TO POTENTIAL BIOLOGICAL AND TRAFFIC IMPACTS⁴

In order to make sure Caltrans' comments on the Newland Project consider the full range of potential environmental impacts, we continue to encourage Caltrans to consider the Project—including on-site construction and improvements to County Route S12—and the Caltrans I-15 freeway interchange redesign at Deer Springs Road as a single project. Any consideration of the Project and interchange redesign separately would fail to account for all of the Project's potential impacts and would be unable to propose adequate mitigation. Separate consideration would be improper piecemealing under CEQA. *Nelson v. County of Kern*, 190 Cal.App.4th 252, 271 (2010) ("Environmental considerations may not be submerged by chopping a single CEQA project into smaller parts for piecemeal assessment. Rather, 'the whole of an action' or the entire

² See "Pasadena Ushers in Era of VMT Metrics," California Planning & Development Report (Apr. 6, 2015), available at: <http://www.cp-dr.com/articles/node-3713>. A copy of the article is attached hereto as **Exhibit A**.

³ OPR Evaluation at 8. A copy of OPR Evaluation is attached hereto as **Exhibit B**.

⁴ As noted in prior correspondence, it is also the Golden Door's position that impacts to tribal cultural resources and other significant environmental impacts require the interchange redesign to be analyzed as one project with the other components of the Newland Project under CEQA.

activity for which the approvals are being sought must be considered by the agency.”). In addition to the traffic impacts discussed in the Golden Door’s December 5, 2016 letter, the Newland Project—including on-site development, off-site road widening, and the interchange re-design—will cause cumulative biological impacts.

In particular, the Newland Project will likely cause habitat fragmentation by severing corridors along the west side of I-15 and along and across Deer Springs Road. Caltrans cannot analyze its interchange redesign in isolation from Newland’s project. Stand-alone evaluation of the interchange redesign would not account for the full extent of potential impacts.

Both the U.S. Fish and Wildlife Service (“USFWS”) and the California Department of Fish and Wildlife (“CDFW”) have provided comments on the area’s significant biological resource in response to the Newland Project’s NOP. CDFW notes that the “north-south habitat connectivity along I-15 is important for the [North County Multiple-Species Conservation Program].”⁵ Further, CDFW argues the Newland Project draft environmental impact report (“EIR”) should evaluate:

direct and indirect impacts the proposed development would have on the planned San Marcos-Merriam Mountains Core Area linkage and NC-MSCP planning unit goals, as well as north-south and east-west *wildlife movement through/across the site* (e.g., from open space Block 3 to other conserved areas on-site and designated PAMA off-site and *from areas east of I-15*, through the site and across Twin Oaks Valley/Deer Springs Road), including impacts to wildlife movement (including gnatcatchers, mammals and herpetofauna), loss of and fragmentation to habitat patches/blocks, corridor length/width, connectivity, etc.

CDFW Comment Letter at E-5 (emphasis added). Likewise, USFWS notes that the Newland Project is located on one of only two remaining large blocks of natural habitat west of I-15 in PAMA.⁶ Caltrans’ proposed I-15 interchange redesign will likely impact wildlife movement and the analysis provided in the Newland Project’s EIR. Likewise, the Newland Project will have significant ramifications on the area wildlife corridors which Caltrans must consider in its analysis for the I-15 interchange redesign.

CDFW expressly considers Caltrans’ involvement with respect to wildlife connections that may be impacted by the Newland Project. In fact, it appears meetings between the agencies have taken place. *“For example, at prior meetings, there were discussions about potentially acquiring excess Caltrans rights-of-ways along the easterly project boundary to enhance the proposed open space configuration and wildlife connections along the eastern border of the*

⁵ CDFW Comment Letter at E-4 (Mar. 11, 2015). A copy of the CDFW Comment Letter is attached hereto as **Exhibit C**.

⁶ USFWS Comment Letter at 2. A copy of the USFWS Comment Letter is attached hereto as **Exhibit D**.

Project.” CDFW Comment Letter at E-4 (emphasis added). Caltrans must be involved in mitigation for biological impacts for the Newland Project, and analysis of the interchange redesign along with other Project components is necessary to understand the Project’s full biological impacts, especially with respect to wildlife corridors and habitat fragmentation.

IV. CALTRANS MUST ALSO CONSULT WITH USFWS AND CDFW AND RECOGNIZE THEIR HABITAT ANALYSIS AND CATEGORIZATION UNDER THE RECENT BANNING RANCH SUPREME COURT DECISION

Caltrans must comply with CEQA for its I-15 interchange redesign, either as part of the overall Newland Project, or—apparently under a misguided interpretation of CEQA—as a separate standalone project. In either case, Caltrans is required under CEQA to consider the regulatory requirements and biological habitat analysis of the USFWS and CDFW.

These agencies have already responded to the County’s NOP for the Newland Project expressing concerns about wildlife and biological impacts along the eastern edge of the Newland Project adjacent to the interchange and describing their analysis of biological habitat and wildlife corridor preservation requirements. Caltrans should consult with and incorporate USFWS and CDFW’s requirements and regulatory policies as part of CEQA compliance for the interchange redesign and reconstruction, regardless of the CEQA document which is intended to cover that proposal. The California Supreme Court recently highlighted the need for such consultation:

An EIR project description must include ‘[a] list of related environmental review and consultation requirements [found in] federal, state, or local laws, regulations, or policies. To the fullest extent possible, the lead agency should integrate CEQA review with these related environmental review and consultation requirements.’ Toward that end, *agencies are encouraged to ‘[c]onsult[] with state and local responsible agencies before and during preparation of an environmental impact report so that the document will meet the needs of all the agencies which will use it.’* Here, the City ignored its obligation to integrate CEQA review with the requirements of the Coastal Act, and gave little consideration to the Coastal Commission’s needs.

Banning Ranch Conservancy v. City of Newport Beach, Cal. Supreme Court, Case No. S227473 at p. 19 (March 30, 2017). Based on this guidance from the Supreme Court just last month, Caltrans should consult with USFWS and CDFW to ensure that the interchange redesign impacts analysis is consistent with USFWS and CDFW’s regulatory policies and requirements—regardless of whether or not Caltrans is preparing its own environmental document under CEQA or working with the County of San Diego on the preparation of a combined environmental document for all parts of the Newland Project. Such consultation would include the possibility of using excess Caltrans right of way for mitigation for project impacts, as indicated by the agency letters referenced above.

Thank you for your time and attention to our comments. Please feel free to contact me at (858) 523-5400 or andrew.yancey@lw.com if you would like to discuss these matters further.

Best regards,



Andrew D. Yancey
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EXHIBIT A

Pasadena Ushers in Era of VMT Metrics

Josh Stephens on Apr 6, 2015

[Previous](#) | [Next](#)

Perhaps fittingly, one of the state's oldest, stateliest cities will be the first to institute one of the most sophisticated advances in planning tools since the slide rule. Not long ago, the City of Pasadena implemented metrics that measure projects' impacts under the California Environmental Quality Act in terms of vehicle miles traveled rather than level of service.

Pasadena is not only the first city in the state to adopt VMT metrics but may also be the first in the nation.

Pasadena's switch both responds to and precedes the adoption of Senate Bill 743. Passed in 2013 as an amendment to the California Environmental Quality Act, SB 743 will require cities to evaluate traffic impacts according to vehicle miles traveled, not to traditional level-of-service thresholds.

Those thresholds take a narrow view of mobility, measuring only the flow of vehicular traffic. This switch means that impacts need not be mitigated only by improving vehicular flow but also by almost any other program or mode — including public transit, cycling, pedestrian improvements, and many other methods.

SB 743 complements 2008's Senate Bill 375, which encourages dense development and alternative transportation in the effort to curb greenhouse gas emissions. Many planners considered CEQA ironically hostile to SB 375's goals in part because of its reliance on VMT. Projects that increased congestion at poorly rated intersections were considered to have significant negative impacts.

The Office of Planning and Research recently released draft guidelines for VMT metrics, with a final draft expected later this year. Pasadena, however, is well ahead of most of its peers.

In 2004, Pasadena adopted a development plan that favors further density in the city's already built-up urban core. In 2008, the city began the process of updating the land use and mobility elements of its general plan. Building on the 2004 development plan, the general plan update all but necessitated the adoption of VMT metrics (allowed, but not necessarily encouraged, under CEQA at the time), so city planners drafted theirs from scratch, years before SB 743 was drafted.

The Pasadena City Council voted to adopt the metrics in November, and they were implemented at the beginning of this year. The metrics will soon be integrated into the entire general plan and its environmental impact report.

"They realized that if we were going to transform our streets, we needed to measure whether a project is good or bad, figure out how to put the appropriate design into the project," said Pasadena Planning Director Vince Bertoni. "We had to measure traffic differently."

The LOS approach, born of 1950s-era management approaches, set up the paradoxical situation in which high-density development was often pushed away from city centers — where multiple transportation options are available — and out to urban fringes, where intersections are less congested even if they end up generating more and longer car trips.

"Over-reliance on level of service as the only indicator of success in our transportation systems is one of the biggest obstacles to infill development," said Jeffery Tumlin, principal and director of strategy at Nelson-Nygaard.

In many ways, Pasadena is the perfect city to usher in California's next chapter in smart growth. It is a metropolis in miniature, with a dense, mixed-use downtown, distinct thoroughfares, and stately suburban-style neighborhoods on its edges. The Old Pasadena commercial district instituted innovative parking reforms decades ago, and the city has embraced the Gold Line light rail.

"We're essentially down to nothing but infill development," said Fred Dock, Pasadena's director of transportation.

VMT therefore complements the direction in which Pasadena was already headed, even with the

inconveniences of LOS metrics.

"We don't widen the roads. We're managing congestion, we're managing traffic volumes, we're managing how signals operate," said Dock. "We're not able to add capacity in the sense that we would be able to mitigate a level-of-service impact."

Dock said that the inclusion of an impact fee will be crucial for the success of mitigation under the VMT metrics. Pasadena has used impact fees for amenities like parks for a decade. Dock said that impact fees can now be used for mitigation measures such as bike infrastructure and pedestrian plans and a host of other projects that can offset would-be VMT increases but would have been nearly meaningless under LOS metrics.

While embrace of VMT is a paradigm shift in the planning field, Pasadena may be an ideal proving ground, because the new metrics do not promise to have a significant impact on the city. They are expected to appear slowly, on a project-by-project basis.

"But what you're going to see is changes over time in terms of how people behave and move around," Bertoni added. He said that buildings might get taller and a few surface parking lots might disappear.

No matter what guidelines OPR sends to the Natural Resources Agency in the coming months, Pasadena is almost bound to have an easier time adopting VMT metrics than many other California cities will.

"The learning curve in Pasadena isn't going to be nearly as sharp as other places," said Bertoni. "In other places, you're going to have people who come to the table very leery of this and very cautious."

Bertoni cited instances when community members, with no apparently connection to professional planning, arrived at meetings proactively asking the city to move off LOS and go to VMT. "And they know what it means!" he said.

Nonetheless, cities around the state are expected to take notice of Pasadena's efforts. Bertoni said that he expects and welcomes inquires. "When you're at the cutting edge like we are, that's also part of your responsibility," said Bertoni.

Other early adopters, including Oakland and San Francisco, are not expected to release their draft metrics for months.

"There's a few cities that have been pioneering and gotten out in front of SB 743, which is helpful to us," said Chris Ganson, senior planner at the Governors Office of Planning and Research. "They're developing these methods that can be examples for other cities."

OPR is currently taking comments and working on the next draft of guidelines. Ganson said that the current draft has elicited "every flavor of response."

However long it takes California's other cities to become as comfortable with their VMT metrics as Pasadena is with its, Bertoni maintains that acceptance of VMT is inevitable not just in California, where it is mandated, but in places outside California too.

"This is where we are going not only as a city, as a region, as a country," said Bertoni.

Contacts & Resources:

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Fred Dock, Transportation Director, City of Pasadena, (626) 744-7311

Chris Ganson, Senior Planner, Office of Planning & Research, (916) 322-2318

Jeff Tumlin, Principal and Director of Strategy, Nelson/Nygaard, (415) 284-1544

Find OPR's SB 743 Guidelines Discussion Draft [here](#).

EXHIBIT B



EDMUND G. BROWN JR.
GOVERNOR

STATE OF CALIFORNIA
GOVERNOR'S OFFICE *of* PLANNING AND RESEARCH



KEN ALEX
DIRECTOR

Preliminary Evaluation of Alternative Methods of Transportation Analysis

December 30, 2013

As required by statute, the Governor's Office of Planning and Research is developing a new way to measure environmental impacts related to transportation. This is an opportunity both to reduce costs associated with environmental review, and, importantly, to achieve better fiscal, health and environmental outcomes. We need your help in this effort.

I. Introduction

On September 27, 2013, Governor Brown signed [Senate Bill 743](#) (Steinberg, 2013). Among other things, SB 743 creates a process to change analysis of transportation impacts under the California Environmental Quality Act (Public Resources Code section 21000 and following) (CEQA). Currently, environmental review of transportation impacts focuses on the delay that vehicles experience at intersections and on roadway segments. That delay is measured using a metric known as "level of service," or LOS. Mitigation for increased delay often involves increasing capacity (i.e. the width of a roadway or size of an intersection), which may increase auto use and emissions and discourage alternative forms of transportation. Under SB 743, the focus of transportation analysis will shift from driver delay to reduction of greenhouse gas emissions, creation of multimodal networks and promotion of a mix of land uses.

Specifically, SB 743 requires the Governor's Office of Planning and Research (OPR) to amend the CEQA Guidelines (Title 14 of the California Code of Regulations sections and following) to provide an alternative to LOS for evaluating transportation impacts. Particularly within areas served by transit, those alternative criteria must "promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses." (New Public Resources Code Section 21099(b)(1).) Measurements of transportation impacts may include "vehicle miles traveled, vehicle miles traveled per capita, automobile trip generation rates, or automobile trips generated." (*Ibid.*) OPR also has discretion to develop alternative criteria for areas that are not served by transit, if appropriate. (*Id.* at subd. (c).)

Though a draft of the Guidelines revisions is not required until July 1, 2014, OPR is seeking early public input into its direction. This document provides background information on CEQA, the use of LOS in transportation analysis, and a summary of SB 743's requirements. Most importantly, it also contains OPR's preliminary evaluation of LOS and different alternatives to LOS. It ends with a description of open

questions and next steps. In developing a better alternative to LOS, OPR will rely heavily on input from all stakeholders. We hope that you will share your thoughts and expertise in this effort.

Input may be submitted electronically to CEQA.Guidelines@ceres.ca.gov. Please include "LOS Alternatives" in the subject line. While electronic submission is preferred, suggestions may also be mailed or hand delivered to:

Christopher Calfee, Senior Counsel
Governor's Office of Planning and Research
1400 Tenth Street
Sacramento, CA 95814

Please submit all suggestions before **February 14, 2014 at 5:00 p.m.**

II. CEQA Background

Since SB 743 requires a change in the analysis of transportation impacts under CEQA, this section provides a brief overview of CEQA's requirements.

CEQA generally requires public agencies to inform decision makers and the public about the potential environmental impacts of proposed projects, and to reduce those environmental impacts to the extent feasible. The rules governing that environmental analysis are contained in the Public Resources Code, in the administrative regulations known as the CEQA Guidelines, and in cases interpreting both the statute and the CEQA Guidelines.

Many projects are exempt from CEQA. Typically, however, some form of environmental analysis must be prepared. If a project subject to CEQA will not cause any adverse environmental impacts, a public agency may adopt a brief document known as a Negative Declaration. If the project may cause adverse environmental impacts, the public agency must prepare a more detailed study called an Environmental Impact Report (EIR). An EIR contains in-depth studies of potential impacts, measures to reduce or avoid those impacts, and an analysis of alternatives to the project.

The key question in an environmental analysis is whether the project will cause adverse physical changes in the environment. CEQA defines the "environment" to mean "the *physical* conditions that exist within the area which will be affected by a proposed project, including land, air, water, minerals, flora, fauna, noise, or objects of historic or aesthetic significance." (Pub. Resources Code, § 21060.5 (emphasis added).) As this definition suggests, the focus of environmental review must be on physical changes in the environment. Generally, social and economic impacts are not considered as part of a CEQA analysis. (CEQA Guidelines, § 15131.)

Once an agency determines that an impact might cause a significant adverse change in the environment, it must consider feasible mitigation measures to lessen the impact. (Pub. Resources Code, § 21002.) Specifically, a lead agency may use its discretionary authority to change a project proposal to avoid or minimize significant effects. (CEQA Guidelines, § 15040(c).) The authority to mitigate must respect constitutional limitations, however. Mitigation measures must be related to a legitimate governmental

interest, and must be “roughly proportional” to the magnitude of the project’s impact. (CEQA Guidelines, § 15126.4(a)(4).)

III. Background on Measures of Automobile Delay

Many jurisdictions currently use “level of service” standards, volume to capacity ratios, and similar measures of automobile delay, to assess potential traffic impacts during a project’s environmental review. Level of service, commonly known as LOS, is a measure of vehicle delay at intersections and on roadway segments, and is expressed with a letter grade ranging from A to F. LOS A represents free flowing traffic, while LOS F represents congested conditions. LOS standards are often found in local general plans and congestion management plans.

Traffic has long been a consideration in CEQA. (See, e.g., *Fullerton Joint Union High School Dist. v. State Bd. of Education* (1982) 32 Cal. 3d 779, 794 (school district’s reorganization could potentially affect the environment by altering traffic patterns).) In 1990, the Legislature linked implementation of congestion management plans, including LOS requirements, with CEQA. (Gov. Code, § 65089(b)(4).) LOS has been an explicit part of CEQA analysis since at least the late 1990’s, when the sample environmental checklist in the CEQA Guidelines asked whether a project would exceed LOS standards. (See former CEQA Guidelines, App. G. § XV; see also, *Sacramento Old City Assn. v. City Council* (1991) 229 Cal. App. 3d 1011, 1033 (addressing claims of an EIR’s inadequacy related to level of service analysis).)

IV. Problems with using LOS in CEQA

Though, as explained above, LOS has been used in CEQA for many years, it has recently been criticized for working against modern state goals, such as emissions reduction, development of multimodal transportation networks, infill development, and even optimization of the roadway network for motor vehicles. The following are key problems with using LOS in CEQA:

LOS is difficult and expensive to calculate. LOS is calculated in several steps:

- First, the number of vehicle trips associated with a project must be estimated.
- Second, after estimating the number of vehicle trips generated by the project, an analysis requires assumptions about the path that those vehicles may take across the roadway network.
- Third, traffic levels must be estimated at points along the roadway network, as compared to traffic that might occur without the project.
- Fourth, microsimulation models are used to determine traffic outcomes of volume projections.

Thus, an analysis under LOS typically requires estimates of trip generation, estimates of trip distribution, conducting existing traffic counts at points along the network, and an analysis and comparison of traffic function at each point for future project and “no project” scenarios.

LOS is biased against “last in” development. Typical traffic analyses under CEQA compare future traffic volumes against LOS thresholds. A project that pushes LOS across the threshold triggers a significant impact. In already developed areas, existing traffic has already lowered LOS closer to the threshold. Because the LOS rating used to determine significance of the project’s impact is determined by total traffic (existing traffic plus traffic added by the project), infill projects disproportionately trigger LOS thresholds compared to projects in less developed areas.

LOS scale of analysis is too small. LOS is calculated for individual intersections and roadway segments. As traffic generated by a project fans out from the project, it substantially affects a few nearby intersections and roadway segments, then affects more distant intersections and roadway segments by a smaller amount. LOS impacts are typically triggered only at the nearby intersections and roadway segments where the change is greatest. Projects in newly developed areas typically generate substantially more vehicle travel than infill projects,¹ but that traffic is more dispersed by the time it reaches congested areas with intersections and roadway segments operating near the thresholds. As a result, while outlying development may contribute a greater amount of total vehicle travel and cause widespread but small increases in congestion across the roadway network, it may not trigger LOS thresholds. Further, piecemeal efforts to optimize LOS at individual intersections and roadway segments may not optimize the roadway network as a whole. Focusing on increasing vehicle flow intersection-by-intersection or segment-by-segment frequently results in congested downstream bottlenecks, in some cases even worsening overall network congestion.²

LOS mitigation is itself problematic. Mitigation for LOS impacts typically involves reducing project size or adding motor vehicle capacity. Without affecting project demand, reducing the size of a project simply transfers development, and its associated traffic, elsewhere. When infill projects are reduced in size, development may be pushed to less transportation-efficient locations, which results in greater total travel. Meanwhile, adding motor vehicle capacity may induce additional vehicle travel, which negatively impacts the environment and human health.³ It also negatively impacts other modes of transportation, lengthening pedestrian crossing distances, adding delay and risk to pedestrian travel, displacing bicycle and dedicated transit facilities, and adding delay and risk to those modes of travel.

LOS mischaracterizes transit, bicycle, and pedestrian improvements as detrimental to transportation. Tradeoffs frequently must be made between automobile convenience and the

¹ For information on the relationship between infill and compact development, and vehicle travel and GHG emissions, see [Growing Cooler, Evidence on Urban Development and Climate Change](#), September 2007.

² This phenomenon is called Braess’ Paradox. For a description, see Braess, Dietrich. 1968, translated 2005. “On a Paradox of Traffic Planning.” *Transportation Science*, 39 (4), pp. 446-450. ISSN 0041-1655. For prevalence, see Steinberg, Richard and Zangwill, Willard I. (1983) The prevalence of Braess’ paradox. *Transportation science*, 17 (3). pp. 301-318. ISSN 0041-1655

³ Duranton, Gilles, and Matthew A. Turner. 2011. “The Fundamental Law of Road Congestion: Evidence from US Cities.” *American Economic Review*, 101(6): 2616-52.

provision of safe and efficient facilities for users of transit and active modes. Since LOS measures the delay of motor vehicles, any improvement for other modes that might inconvenience motorists is characterized as an impediment to transportation.

Use of LOS thresholds implies false precision. Calculating LOS involves a sequence of estimates, with each step using the output of the previous step. Imprecision in an early step can be amplified throughout the sequence. While it is difficult to estimate the distribution of future trips across the network with a high level of precision, the calculation of congestion levels is highly sensitive to that estimate. Further, LOS is typically reported in environmental analyses without acknowledging potential uncertainty or error.

As a measurement of delay, LOS measures motorist convenience, but not a physical impact to the environment. Other portions of an environmental analysis will account for vehicular emissions, noise and safety impacts.

V. SB 743

SB 743 marks a shift away from auto delay as a measure of environmental impact. It does so in several ways.

First, it allows cities and counties to designate “infill opportunity zones” within which level of service requirements from congestion management plans would no longer apply. (See, SB 743, § 4 (amending Gov. Code, § 65088.4).)

Second, it requires OPR to develop criteria for determining the significance of transportation impacts of projects within transit priority areas, and further provides OPR with discretion to develop such criteria outside of transit priority areas. The Secretary for the Natural Resources Agency must then adopt the new criteria in an update to the CEQA Guidelines. (See, SB 743, § 5 (adding Pub. Resources Code § 21099).)

Third, and perhaps most importantly, once the CEQA Guidelines containing the new criteria are certified, “automobile delay, as described solely by level of service or similar measures of vehicular capacity or traffic congestion shall not be considered a significant impact on the environment pursuant to this division, except in locations specifically identified in the guidelines, if any.” (*Id.* at subd. (b)(2).)

SB 743 includes legislative intent to help guide the development of the new criteria for transportation impacts. For example, Section 1 of the bill states: “New methodologies under the California Environmental Quality Act are needed for evaluating transportation impacts that are better able to promote the state’s goals of reducing greenhouse gas emissions and traffic-related air pollution, promoting the development of a multimodal transportation system, and providing clean, efficient access to destinations.” Further, subdivision (b) of the new Section 21099 requires that the new criteria “promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses.” It also suggests several possible alternative measures of

potential transportation impacts, including, but not limited to: “vehicle miles traveled, vehicle miles traveled per capita, automobile trip generation rates, or automobile trips generated.”

Notably, SB 743 does not limit the types of projects to which the new transportation criteria would apply. Rather, it simply authorizes the development of criteria for the “transportation impacts of projects[.]” (New § 21099(b)(1); see also subd. (c)(1) (referring only to “transportation impacts”).) The Legislature intended the new criteria to apply broadly. An early version of this provision, in SB 731, would have limited the new criteria to “transportation impacts for residential, mixed-use residential, or employment center projects [on] infill sites within transit priority areas.” (See, SB 731 (Steinberg), amended in Assembly August 6, 2013.) Therefore, OPR will investigate criteria that would apply to all project types, including land use development, transportation projects, and other relevant project types.

An earlier version of SB 731 would have limited the application of these changes by determining that automobile delay is not an environmental impact only in transit priority areas. (See, SB 731(Steinberg), amended in Assembly September 9, 2013, at § 12 (“Upon certification of the guidelines by the Secretary of the Natural Resources Agency pursuant to this section, automobile delay, as described solely by level of service or similar measures of capacity or congestion within a transit priority area, shall not support a finding of significance”) (emphasis added).) As adopted in SB 743, however, automobile delay may only be treated as an environmental impact “in locations specifically identified in the guidelines, if any.” (New § 21099(b)(2).) Further, subdivision (c) explicitly authorizes OPR to develop criteria outside of transit priority areas. Given the statement of legislative intent that new transportation metrics are needed to better promote the state’s goals, OPR intends to investigate metrics and criteria that will apply statewide.

VI. OPR Goals and Objectives in Developing Alternative Criteria

In developing alternative transportation criteria and metrics, OPR must choose metrics that “promote the reduction of greenhouse gas emissions, the development of multimodal transportation networks, and a diversity of land uses.” (New Section 21099(b)(1).) In addition to this statutory directive, OPR will also weigh other factors in evaluating different criteria. Those additional factors include:

Environmental Effect. The California Supreme Court has directed that CEQA “be interpreted in such manner as to afford the fullest possible protection to the environment within the reasonable scope of the statutory language.” (*Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal. 3d 247, 259.) OPR, therefore, seeks to develop criteria that maximize environmental benefits, and minimize environmental harm.

Fiscal and Economic Effect. Our state and local governments have limited fiscal resources. The state’s planning priorities are intended to, among other things, strengthen the economy. (Gov. Code, § 65041.1.) In evaluating alternative criteria, OPR seeks criteria that will lead to efficient use of limited fiscal resources, for example by

reducing long run infrastructure maintenance costs, and to the extent relevant in the CEQA context, promotion of a stronger economy.

Equity. OPR will look for alternative criteria that treat people fairly. The state's planning priorities are intended to promote equity. (Gov. Code, § 65041.1.) OPR seeks to develop criteria that facilitate low-cost access to destinations. Further, OPR recognizes that in its update to the General Plan Guidelines, OPR must provide planning advice regarding "the equitable distribution of new public facilities and services that increase and enhance community quality of life throughout the community, given the fiscal and legal constraints that restrict the siting of these facilities." (Gov. Code, § 65040.12.) In addition, OPR must also provide advice on "promoting more livable communities by expanding opportunities for transit-oriented development so that residents minimize traffic and pollution impacts from traveling for purposes of work, shopping, schools, and recreation." (*ibid.*) Though this advice must be developed within the General Plan Guidelines, OPR recognizes that similar issues may be relevant in the context of evaluating transportation impacts under CEQA.

Health. OPR recognizes that "[h]ealthy and sustainable communities are the cornerstones of the state's long-term goals." (Environmental Goals and Policy Report, Discussion Draft (September 2013), at p. 26.) OPR will, therefore, look for alternative criteria that promote the health benefits associated with active transportation and that minimize adverse health outcomes associated with vehicle emissions, collisions and noise.

Simplicity. The purpose of environmental analysis is to inform the public and decision-makers of the potential adverse effects of a project. (Pub. Resources Code, § 21003(b).) Environmental documents must "be written in plain language and may use appropriate graphics so that decision makers and the public can rapidly understand the documents." (CEQA Guidelines, § 15140.) OPR, therefore, seeks to develop criteria that are as simple and easy to understand as possible. The criteria should enable the public and other interested agencies to participate meaningfully in the environmental review process.

Consistency with Other State Policies. SB 743 included legislative intent that the alternative criteria support the state's efforts related to greenhouse gas reduction and the development of complete streets. OPR will also be guided by the state's planning priorities, and in particular, the promotion of infill development, as described in Government Code section 65041.1.

Access to destinations. Even as it serves and impacts many other interests, the fundamental purpose of the transportation network is to provide access to destinations for people and goods. A transportation network does this by providing mobility and supporting proximity. In growing communities, some degree of roadway congestion is

inevitable⁴; we cannot “build our way out of congestion” by adding roadway capacity because doing so induces additional vehicle travel. Therefore, accommodating better proximity of land uses and improving the overall efficiency of network performance is essential for providing and preserving access to destinations. Transit and active mode transportation options can play a key role in providing access to destinations and supporting proximity.

The objectives described above need not be the only considerations in selecting alternative criteria. In fact, OPR invites your input into these objectives. *Are these the right objectives? Are there other objectives that should be considered?*

VII. Preliminary Evaluation of the Alternative Criteria

This section provides OPR’s preliminary evaluation of the alternative metrics set forth in SB 743, as well as other metrics suggested during our initial outreach. This preliminary evaluation asks whether the alternative satisfies the objectives set forth in SB 743, as well as OPR’s own objectives described above. It also attempts to identify which mitigation measures and project alternatives might flow from use of each candidate metric. Finally, this evaluation seeks to identify the level of difficulty of using each metric, including availability of models and data required.

Vehicle Miles Traveled

Variant 1: per capita for residential, per employee for employment centers, per trip for commercial
Variant 2: per person-trip for all projects

Vehicle Miles Traveled (VMT)⁵ is one of two metrics specified by SB 743 for consideration. VMT counts the number of miles traveled by motor vehicles that are generated by or attracted to the project. VMT captures motorized trip generation rates, thereby accounting for the effects of project features and surrounds. It also captures trip length, and so can also account for regional location, which is the most important single determinant of vehicle travel. Although VMT counts only motor vehicle trips, not trips taken by other modes, it registers the benefits of transit and active transportation trips insofar as they reduce motor vehicle travel. In this way, VMT captures the environmental benefits of transit and active mode trips.

Of the metrics we consider here, VMT is relatively simple to calculate. Assessing VMT is substantially easier than assessing LOS because it does not require counting existing trips, estimating project trip distribution, or traffic microsimulation for determining congestion. Assessing VMT requires only estimates of trip generation rates and trip length, and can be readily modeled using existing tools such as the U.S. Environmental Protection Agency’s EPA’s MXD model.

⁴ Duranton, Gilles, and Matthew A. Turner. 2011. “The Fundamental Law of Road Congestion: Evidence from US Cities.” *American Economic Review*, 101(6): 2616-52.

⁵ For additional information about VMT and its relationship to environmental impacts, see U.S. Environmental Protection Agency, “[Our Built and Natural Environments: A Technical Review of the Interactions Between Land Use, Transportation, and Environmental Quality](#) (2nd Edition),” June 2013.

Mitigation to reduce VMT can include designing projects with a mix of uses, building transportation demand management (TDM) features into the project, locating the project in neighborhoods that have transit or active mode transportation opportunities, or contributing to the creation of such opportunities. Since VMT is sensitive to regional location, it can also be mitigated by choosing a more central location for the project.

Used as a transportation metric under CEQA, VMT could encourage reduction of motor vehicle travel, increase transit and active mode transportation, and increase infill development.

Automobile Trips Generated

Per capita for residential, per employee for employment centers

Automobile trips generated (ATG) is one of two metrics specified by SB 743 for consideration. ATG counts the number of motor vehicle trips that are generated by or attracted to the project. ATG thereby accounts for the effects of project features and project surroundings (i.e., the availability of transit). It does not, however, account for the length of the trip, and therefore it does not account for regional location, the most important determinant of vehicle travel⁶. Although ATG counts only motor vehicle trips, not trips taken by other modes, it registers the benefits of transit and active transportation trips insofar as they reduce motor vehicle trips taken. In this way, ATG captures some of the environmental benefits of transit and active mode trips.⁷

Of all the metrics considered, ATG is the easiest to calculate. It does not require counts of existing traffic, estimation of project trip distribution, or traffic microsimulation for determining congestion. In fact, calculating ATG is simply the first step in calculating most of the other metrics, including LOS.

Mitigation for ATG can include locating a project in an area that facilitates transit or active mode transportation, such as an infill or transit oriented location, and including transportation demand management features in the project.

Used as a transportation metric under CEQA, ATG could encourage reduction of motor vehicle travel, increased active mode transportation, and increased infill development. Because it omits regional location, however, it may be less effective at achieving those ends than VMT.

Multi-Modal Level of Service

Multi-Modal Level of Service (MMLOS) is a metric of user comfort for travelers on various modes. Along with the traditional motor vehicle LOS metric, MMLOS includes additional ratings for transit, walking

⁶ Reid Ewing & Robert Cervero (2010) [Travel and the Built Environment](#), Journal of the American Planning Association, 76:3, 265-294, DOI: 10.1080/01944361003766766.

⁷ For more information on the ATG metric, see [Automobile Trips Generated: CEQA Impact Measure & Mitigation Program](#), City of San Francisco, October 2008.

and biking modes. It rates intersections and roadway segments, delivering an A through F grade for each mode at each location. However, like LOS, MMLOS does not account for the total extent of motor vehicle travel, just its effect near the project. It also does not examine the transportation system on the scale of an entire trip length for other modes. The most commonly used MMLOS methodology is that put forth by the 2010 Highway Capacity Manual.

Assessing MMLOS requires detailed data on existing conditions for each mode of travel at intersections and roadway segments analyzed, plus trip generation and distribution by mode from the project. MMLOS is more difficult to calculate than LOS. Further, the methodology for non-motorized modes continues to develop. MMLOS is the subject of expert debate. For example, increased pedestrian traffic may be a desirable environmental outcome rather than an impact to be mitigated. Meanwhile, reducing the number of motor vehicle lanes on a street with bicycle lanes can benefit cyclists, but can degrade MMLOS under the Highway Capacity Manual's methodology.

Impacts determined by MMLOS can be mitigated by adding motor vehicle capacity, improving transit service, and/or adding amenities for transit and active mode travelers. Since transportation facilities near infill projects often already support a variety of modes, projects in these locations may require more mitigation than projects further from these amenities, potentially discouraging infill development.

MMLOS could act either to increase or reduce motor vehicle travel, depending on the relative weight of ratings between modes. It could encourage development of transit and active mode facilities, potentially increasing use of those modes. However, because it would assign the burden of those mitigations to development, it has the potential to raise infill costs and thereby reduce infill development.

Fuel Use

Per capita for residential, per employee for employment centers, per trip for commercial

Fuel use counts the amount of fuel used by vehicle trips generated by or attracted to the project. In doing so, it captures motorized trip generation rates, thereby accounting for the effects of project features and surrounds. It also captures trip length, and so can also account for regional location, which is the most important single determinant of vehicle travel. Finally, it also captures fuel efficiency, which is affected by vehicle mix and traffic conditions. Although fuel use counts only motor vehicle trips, not trips taken by other modes, it registers the benefits of trips taken by other modes insofar as they reduce motor vehicle travel. In this way, Fuel Use captures the environmental benefits of transit and active mode trips.

Assessing Fuel Use with precision would require the application of microsimulation tools over the area affected by project motorized vehicle traffic. Alternately, a fuel efficiency multiplier could be applied to VMT, but that would eliminate sensitivity to roadway operations, rendering this metric equivalent to the VMT metric.

Mitigation for Fuel Use can include building in transportation demand management (TDM) features as part of the project, locating the project in neighborhoods that supply transit or active mode transportation opportunities. Also, because Fuel Use traces the full extent of motor vehicle trips and therefore is sensitive to regional location, it can also be mitigated by choosing a more central location for the project. Mitigation measures for Fuel Use might also include improving motor vehicle traffic operations and speeds. However, to the extent that these mitigation measures would induce demand, they would lose effectiveness. In the coming years, fuel efficiency improvements will necessitate shifting thresholds, and zero emissions vehicles could eventually render the metric irrelevant. Also, permeation of electric-drive vehicles with regenerative braking reduces the effect of traffic operations improvements on fuel use.

Used as a transportation metric under CEQA, Fuel Use would act to reduce motor vehicle travel, except where transportation operations improvements or capacity expansions induce more travel in the long run. It would tend to increase transit and active mode transportation, although it could penalize their operation if they have a negative effect on motor vehicle traffic operations. Finally, it would tend to increase infill development, with the same caveats.

Motor Vehicle Hours Traveled

Per capita for residential, per employee for employment centers, per trip for commercial

Motor Vehicle Hours Traveled (VHT) counts the time taken by motor vehicle trips generated by or attracted to the project. In doing so, it captures motorized trip generation rates, thereby accounting for the effects of project features and project surroundings. It also captures trip length, and so can account for regional location, which is the most important single determinant of vehicle travel. Finally, it also captures travel time, which is affected by traffic conditions. Although VHT counts only motor vehicle trips, not trips taken by other modes, it registers the benefits of trips taken by other modes insofar as they reduce motor vehicle travel. In this way, VHT captures the environmental benefits of transit and active mode trips.

Assessing VHT with precision would require the application of more sophisticated modeling tools than those needed to assess VMT. In some areas, those tools may not be available or data might not be available to support them.

Mitigation for VHT can include building in transportation demand management (TDM) features as part of the project, locating the project in neighborhoods that supply transit, or active mode transportation opportunities. Because VHT traces the full extent of motor vehicle trips and therefore is sensitive to regional location, it can also be mitigated by choosing a more central location for the project. In the near term, VHT could be mitigated by increasing travel speeds, e.g. by increasing vehicle capacity. In the long run, however, increased travel speeds generate additional vehicle travel, eventually re-congesting the roadway and congesting traffic. Increased vehicle speeds may also adversely affect bicycle and pedestrian travel.

As a metric, VHT could act to reduce motor vehicle travel, except if it were used to justify roadway expansion to create short-run benefit without considering long-run induced demand. VHT would in many cases tend to increase transit and active mode transportation, although it would penalize their operation if they have a negative effect on traffic operations. Finally, in some cases VHT would remove a barrier to infill development, although mitigation measures that increase roadway capacity could have the opposite effect.

Presumption of Less Than Significant Transportation Impact Based on Location

Development in centrally-located areas and areas served by transit generally impacts the regional transportation network substantially less than outlying development. Given the lower motor vehicle trip generation rates and shorter trip distances that have been shown for projects in such areas compared with projects elsewhere, project location could serve as predetermined “transportation-beneficial development” areas. Such areas might be presumed to cause less than significant regional transportation impacts. These areas could be mapped so as to be easily identified. Projects outside of such areas may require additional analysis, and mitigation if necessary, using one of the metrics described above.

VIII. Open questions and next steps

The discussion above described OPR’s initial impressions of several suggested transportation metrics. Many open questions remain at this point. Some of those open questions, as well as next steps, are set forth below.

1. SB 743 requires that whatever metric is developed, it must promote reductions in greenhouse gas emissions. Increases in roadway capacity for automobiles may lead to increases in noise, greenhouse gas emissions and other air pollutants. SB 743 similarly provides that air quality, noise, safety and other non-delay effects related to transportation will remain a part of a CEQA analysis.
 - a. Are there environmental impacts related to transportation other than air quality (including greenhouse gas emissions), noise and safety? If so, what is the best measurement of such impacts that is not tied to capacity?
 - b. Are there transportation-related air quality, noise and safety effects that would not already be addressed in other sections of an environmental analysis (i.e., the air quality section or noise section of an initial study or environmental impact report)? If so, what is the best measurement of such impacts that is not tied to capacity?
 - c. Would consistency with roadway design guidelines normally indicate a less than significant safety impact?

2. What are the best available models and tools to measure transportation impacts using the metrics evaluated above? SB 743 allows OPR to establish criteria “for models used to analyze transportation impacts to ensure the models are accurate, reliable, and consistent with the intent of” SB 743. Should OPR establish criteria for models? If so, which criteria?
3. SB 743 provides that parking impacts of certain types of projects in certain locations shall not be considered significant impacts on the environment. Where that limitation does not apply, what role, if any, should parking play in the analysis of transportation impacts?

OPR will continue conducting research and meeting with stakeholders while this preliminary evaluation is being publicly reviewed. Following the close of the comment period, OPR will evaluate the input it receives, and develop a discussion draft of the alternatives to LOS and relevant changes to the CEQA Guidelines. The public will be invited to provide input on that discussion draft. If necessary, OPR may further revise the discussion draft based on that input. OPR intends to transmit a final draft of the changes to the CEQA Guidelines to the Natural Resources Agency by July 1, 2014.

EXHIBIT C



State of California – Natural Resources Agency
 DEPARTMENT OF FISH AND WILDLIFE
 South Coast Region
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 San Diego, CA 92123
 (858) 467-4201
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EDMUND G. BROWN JR., Governor
 CHARLTON H. BONHAM, Director



March 12, 2015

Mr. Mark Slovick
 County of San Diego, Planning & Development Services
 5510 Overland Avenue, Suite 110
 San Diego, CA 92123-1239
 mark.slovick@sdcounty.ca.gov

Subject: Comments on the Notice of Preparation of a Draft Environmental Impact Report for the Newland Sierra General Plan Amendment, Specific Plan, Rezone and Tentative Map Project (PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ-15-001, PDS2015-TM-5597, LOG NO. PDS2015-ER-08-001), County of San Diego, California (SCH#2015021036)

Dear Mr. Slovick:

The California Department of Fish and Wildlife (Department) has reviewed the above-referenced Notice of Preparation (NOP) for a draft Environmental Impact Report (DEIR) for the Newland Sierra Project (SCH#2015021036) (Project) dated February 12, 2015. The comments provided herein are based upon information provided in the NOP for the DEIR (and associated reference materials including Dudek's December 2013 Memorandum), our knowledge of sensitive and declining vegetation communities, and ongoing regional habitat conservation planning in the County of San Diego (County). The Department is a Trustee Agency and a Responsible Agency pursuant to the California Environmental Quality Act (CEQA; §§15386 and 15381, respectively) and is responsible for ensuring appropriate conservation of the State of California's biological resources, including rare, threatened, and endangered plant and animal species, pursuant to the California Endangered Species Act (CESA, Fish and Game Code §2050 *et seq.*) and other sections of the Fish and Game Code. The Department is also responsible for the administration of the Lake and Stream Alteration Agreement Program (Fish and Game Code §1600 *et seq.*). The Department also administers the Natural Community Conservation Planning (NCCP) program (NCCP, Fish and Game Code §2800 *et seq.*). The County is a participant in the Natural Community Conservation Planning (NCCP) program. Currently, the County has an adopted South County Multiple-Species Conservation Program (MSCP), and is actively pursuing its draft North County MSCP (NC-MSCP). The NC-MSCP is a comprehensive habitat conservation planning program that attempts to preserve native habitats for a multitude of sensitive species for which the County, Fish and Wildlife Service, and California Department of Fish and Wildlife entered into a Planning Agreement (County of San Diego, 2014).

Mr. Mark Slovick
County of San Diego, Planning & Development Services
March 12, 2015
Page 2 of 3

The Project site consists of 51 parcels totaling approximately 1,985 acres located west of Interstate 15, north of Deer Springs Road, and east of Twin Oaks Valley Road within the Twin Oaks Valley and Hidden Meadows Communities of the North County Metropolitan Subregional Plan area (southern portion) and the Bonsall Community Planning area (northern portion) of the unincorporated San Diego County (County). The project would include the development of a

new master planned community consisting of 2,135 dwelling units, 81,000 square feet of general commercial uses, a six-acre charter school site, approximately 37 acres of parks and 1,202 acres of biological open space. Overall, the master-planned development would consist of seven planning areas focused around a town center located off Deer Springs Road in the southeastern corner of the site and include an extensive trail system including: 7.1 miles of multi-use pathways along the main road; 8.7 miles of internal pathways and trails within neighborhoods; two miles of multi-purpose trails through the open space area; and, 1.3 miles of secondary trails through the open space area. The project would require several County approvals, including a General Plan Amendment, Specific Plan, Rezone, Tentative Map and habitat loss permit (HLP). Access to the project site would be provided by two main access points along Deer Springs Road, with an additional access point provided at Camino Mayor off of Twin Oaks Valley Road. Earthwork for the Project is estimated to consist of 10,700,000 cubic yards of balanced cut/fill with construction anticipated to occur in three phases over a 5 to 10 year period. The project would require the extension of fire protection services (Deer Springs Fire Protection District), sewer and water utilities [Vallecitos Water District (VWD)] and natural gas and electricity utilities [San Diego Gas & Electric Company (SDG&E)].

The project site is located within the northern portion of the Merriam Mountains range, a narrow 8.5-mile-long chain of low mountains generally running north-south with a variety of east-west trending ridgelines and scattered peaks. The property is primarily undeveloped with on-site topography composed mostly of hills and valleys dominated by rock (granodiorite) outcroppings with moderate to steeply sloping terrain, with elevations ranging from approximately 660 feet above mean sea level (AMSL) near the northwestern end to approximately 1,750 feet AMSL in the west central portion of the Project site. Various dirt roads and trails that provide access to each parcel and service roads for existing water infrastructure traverse the project site. An abandoned quarry is located in the northwest portion of the project site and an abandoned private landing strip is located in the north central portion. Surrounding land uses to the north, west, and south of the project site include large-lot, single-family residential development, agricultural uses and conserved open space.

The project site is also located within the NC-MSCP planning area, within Planning Unit 9 (San Marcos-Merriam Mountains Core Area) and the Pre-Approved Mitigation Area (PAMA) and represents one (Merriam Mountains) of only two remaining large blocks of natural habitat west of Interstate 15 in the PAMA. Vegetation on the project site consists of large blocks of Southern Mixed Chaparral with interspersed patches of

Mr. Mark Slovick
County of San Diego, Planning & Development Services
March 12, 2015
Page 3 of 3

Diegan Coastal Sage Scrub, Coast Live Oak Woodlands, and Southern Willow Scrub. The South Fork of Moosa Canyon also runs from the northern to northeastern area of the project site. In addition, the habitat evaluation mapping for the County's draft NC-MSCP plan indicates that habitats on and adjacent to the project site are "moderate", "high", and "very high" habitat quality, and areas to the north, south, east, and west are also identified as PAMA.

The Department offers the comments and recommendations in the enclosure to assist in avoiding, minimizing, and adequately mitigating Project-related impacts to biological resources, and to ensure that the Project is consistent with ongoing regional habitat conservation planning efforts (i.e. that it would not preclude the preserve assembly or prevent the achievement of the biological goals anticipated under the NC-MSCP Subregional Plan). We appreciate the opportunity to comment on this NOP and look forward to further coordination with the County on this Project. If you have questions regarding our letter, please contact Randy Rodriguez (858) 637-7111 or Randy.Rodriguez@wildlife.ca.gov.

Sincerely,



Gail K. Sevens
Environmental Program Manager
South Coast Region

Enclosure: (9 pages)

cc: State Clearinghouse, Sacramento
Karen A. Goebel, U.S. Fish and Wildlife Service (Karen_Goebel@fws.gov)
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Mr. Mark Slovick
County of San Diego
March 11, 2015
Page E-1 of E-9

ENCLOSURE

California Department of Fish and Wildlife Comments and Recommendations:
NOP for the DEIR for the
Newland Sierra Project

NOP Comments

1. To enable the Department to adequately review and comment on the proposed Project from the standpoint of the protection of plants, fish, wildlife, and other biological resources, we recommend the following information be included in the DEIR:

A. A complete discussion of the purpose and need for, and description of, the proposed Project, including all staging areas and access routes to the construction and staging areas.

B. Analyses of a range of feasible alternatives to ensure that alternatives to the proposed Project are fully considered and evaluated. The analyses must include alternatives that avoid or otherwise minimize impacts to sensitive biological resources, particularly wetlands. Specific alternative locations should be evaluated in areas with lower resource sensitivity, where appropriate. For example, to provide for a larger, contiguous block of open space in the eastern and northern portion of the property, to minimize edge effects to onsite biological open space areas, and to maintain connectivity between on- and offsite areas designated for conservation, we recommend that the draft EIR include the following alternatives: 1) one that would remove the three easternmost development bubbles (i.e., areas identified by the County in a prior meeting as Towncenter, Terraces, and Hillside) and associated access roads; 2) another possible alternative to consider would remove the easterly half of the Mesa development area (located just northwest of Hillside) and the Terraces and Hillside areas (but retain the Towncenter area); and, 3) a third alternative that would move some of the development proposed in the central and eastern areas of the site to the old quarry locations (also see Comment No. 3).

C. A complete assessment of the flora and fauna within and adjacent to the project area; specifically, the DEIR should include:

- a) Discussions regarding the regional setting, pursuant to CEQA Guidelines, section 15125(c), with special emphasis on resources that are rare or unique to the region that would be affected by the Project. This discussion is critical to an assessment of environmental impacts.
- b) A current inventory of the biological resources (to include rare, threatened, and endangered, and other sensitive species) associated with each habitat type on site and within the area of potential effect. Species to be addressed should include all those which meet the CEQA definition (see CEQA Guidelines, § 15380). This should include sensitive fish, wildlife, reptile, and amphibian species. The Department's California Natural Diversity Data Base in Sacramento should be contacted at www.wildlife.ca.gov/biogeodata/ to obtain current information on any previously reported sensitive species and habitat, including Significant Natural Areas identified under Chapter 12 of the Fish and Game Code.
- c) Discussions regarding seasonal variations in use of the project area and vicinity by sensitive species, and acceptable species-specific survey procedures as determined through consultation with the Wildlife Agencies. Focused species-specific surveys, conducted in conformance with established protocols at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required.

Mr. Mark Slovick
County of San Diego
March 11, 2015
Page E-2 of E-9

D. A thorough discussion of direct, indirect, and cumulative Project-related impacts expected to adversely affect biological resources. All facets of the Project should be included in this assessment. Specifically, the DEIR should include:

- a) Specific acreages and descriptions of the types of wetlands, coastal sage scrub, and other habitats that would potentially be affected by the proposed Project or project alternatives. Maps and tables should be used to summarize such information.
- b) Detailed discussions, including both qualitative and quantitative analyses, of potential direct effects on listed and other sensitive species (fish, wildlife, plants) and their habitats within the area of impact of the proposed and alternative projects.
- c) Discussions regarding indirect Project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any designated and/or proposed or existing reserve lands (e.g., preserve lands associated with a NCCP).
- d) Impacts to wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated.
- e) Discussions of potential adverse impacts from lighting, noise, human activity, exotic species, and drainage. The latter subject should address: Project-related changes on drainage patterns on and downstream of the project site; the volume, velocity, and frequency of existing and post-project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-project fate of runoff from the Project site.
- f) If applicable, a discussion of the effects of any Project-related dewatering or ground water extraction activities to the water table and the potential resulting impacts on the wetland/riparian habitat, if any, supported by the surface and groundwater.
- g) Discussions regarding possible conflicts resulting from wildlife-human interactions at the interface between the development Project and natural habitats.
- h) A cumulative effects analysis as described under CEQA Guidelines, section 15130, assessing the impacts of the proposed Project in conjunction with past, present, and anticipated future projects, relative to their impacts on native plant communities and wildlife.

E. A thorough discussion of mitigation measures for adverse Project-related impacts on sensitive plants, animals, and habitats. Specifically, the DEIR should include/address:

- a) Measures to fully avoid and otherwise protect Rare Natural Communities from Project-related impacts. The Wildlife Agencies consider these communities as threatened habitats having both regional and local significance.
- b) Where avoidance is infeasible, mitigation measures that emphasize minimization of Project impacts. For unavoidable impacts, on-site habitat restoration or enhancement should be discussed in detail. If on-site mitigation is not feasible or would not be biologically viable (e.g., it would not adequately mitigate the loss of biological functions and values), off-site mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed. The Wildlife Agencies generally do not encourage the use of relocation, salvage, and/or transplantation as mitigation for impacts on rare, threatened, or endangered species. Studies have shown these efforts are experimental in nature and do not provide for the long-term viability of the target species.
- c) Mitigation measures to alleviate indirect Project-related impacts on biological resources, including measures to minimize changes in the hydrologic regimes on site, and means to convey runoff without damaging biological resources, including the morphology of on-site and downstream habitats.

Mr. Mark Slovick
County of San Diego
March 11, 2015
Page E-3 of E-9

- d) Where proposed grading or clearing is within 100 feet of proposed biological open space, or otherwise preserved sensitive habitats, a requirement for temporary fencing. Fencing should be placed on the impact side and should result in no vegetation loss within open space. All temporary fencing should be removed only after the conclusion of all grading, clearing, and construction activities.
- e) A requirement that a qualified biological monitor to be present during initial clearing, grading, and construction in sensitive habitat areas and/or in the vicinity of biological open space areas to ensure that conservation measures associated with resource agency permits and construction documents are performed. The biological monitor should have the authority to halt construction to prevent or avoid take of any listed species and/or to ensure compliance with all avoidance, minimization, and mitigation measures. Any unauthorized impacts or actions not in compliance with the permits and construction documents should be immediately brought to the attention of the Lead Agency and the Wildlife Agencies.
- f) Measures to protect, in perpetuity, the targeted habitat values of proposed preservation and/or restoration areas from direct and indirect negative impacts. The objective should be to offset the Project-induced qualitative and quantitative losses of wildlife habitat values. Permanent fencing should be installed between the impact area and biological open space and be designed to minimize intrusion into the sensitive habitats from humans and domestic animals, particularly cats. There should be no gates that would allow access between the development and biological open space. Additional issues that should be addressed include proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, etc.
- g) Development and implementation of a management and monitoring plan (MMP), including a funding commitment, for any on- and/or off-site biological open space easements, if applicable. An appropriate natural lands management organization, subject to approval by the County and Wildlife Agencies, should be identified. The MMP should outline biological resources on the site, provide for monitoring of biological resources, address potential impacts to biological resources, and identify actions to be taken to eliminate or minimize those impacts. A Property Analysis Record (PAR) or comparable method should be completed to determine the amount of funding needed for the perpetual management, maintenance, and monitoring of the biological conservation easement areas by the natural lands management organization. It should be demonstrated that the proposed funding mechanism would ensure that adequate funds would be available on an annual basis to implement the MMP. The natural lands management organization should submit a draft MMP, PAR results, and proposed funding mechanism to the Wildlife Agencies for review and approval prior to initiating construction activities; the final plan should be submitted to the Wildlife Agencies and the funds for implementing the MMP transferred within 90 days of receiving approval of the draft plan.

2. The Department recommends that measures be taken to avoid Project impacts to nesting birds. Migratory nongame native bird species are protected by international treaty under the Federal Migratory Bird Treaty Act (MBTA) of 1918 (50 C.F.R. Section 10.13). Sections 3503, 3503.5, and 3513 of the California Fish and Game Code prohibit take of all birds and their active nests including raptors and other migratory nongame birds (as listed under the Federal MBTA). Proposed Project activities (including, but not limited to, staging and disturbances to native and nonnative vegetation, structures, and substrates) should occur outside of the avian breeding season which generally runs from February 1 - September 1 (as early as January 1 for some raptors) to avoid take of birds or their eggs. If avoidance of the avian breeding season is not feasible, the Department recommends surveys by a qualified biologist with experience in conducting breeding bird surveys to detect protected native birds occurring in suitable nesting habitat that is to be disturbed and (as access to adjacent areas allows) any other such habitat within 300 feet of the disturbance area (within 500 feet for raptors). Project personnel, including all contractors working on site, should be instructed on the sensitivity of the area. Reductions in the nest buffer distance may be appropriate depending on the avian species involved, ambient levels of human activity, screening vegetation, or possibly other factors.

Mr. Mark Slovick
 County of San Diego
 March 11, 2015
 Page E-4 of E-9

3. The County and the Wildlife Agencies have met multiple times to discuss the proposed Newland-Sierra Project site, formerly known as Merriam Mountains, including the following dates: January 23rd, 2014; March 27th, 2014 (Site Visit); April 3rd, 2014; July 29th, 2014 (Site Visit); November 19th, 2014; and, most recently on February 19th, 2015. Based on our past meetings with the County, the Department has provided the following tenets that will guide any hardlined agreement negotiations for the Project:

- a) Though this is a new project, it is very similar to the Merriam Mountains project; however, all parties agree that it will be evaluated independent of the previous Merriam Mountains Project;
- b) Potential hardline discussion will be based on current conditions at the project site, in the North County Plan area, and in the County as a whole, as conditions have changed;
- c) A suite of species, not the coastal California gnatcatcher alone, is the driver for preservation at this location;
- d) The project should achieve a 25 percent development and 75 percent preservation ratio on-site to the maximum extent practicable; initial proposals only showed an approximate 60:40 ratio. For any portion of the 75 percent conservation that cannot be achieved on-site, the balance should be met by contributing land that adds value to the Merriam Mountains connection, preferably in the same NC-MSCP planning unit. Additional off-site conservation, if part of the proposal, should emphasize additional conservation of coastal sage scrub habitat. For example, at prior meetings, there were discussions about potentially acquiring excess Caltrans rights-of-ways along the easterly project boundary to enhance the proposed open space configuration and wildlife connections along the eastern border of the Project;
- e) The north-south habitat connectivity along I-15 is important for the NC Plan;
- f) Internal open space (e.g., block 3) is not acceptable for preservation credit;
- g) Removal of the northern access road to Lawrence Welk Court would improve preservation in the northern open space; however, there needs to be commitment by the County/Fire that a secondary access road would not be required at any time for the Project;
- h) Proposed trails need to be compatible with habitat preservation for wildlife.
- i) It must be demonstrated that restoration of the old quarry site can be achieved, considering the slope, soils and other factors in the area;
- j) Where vineyards are proposed in areas adjacent to proposed open space, best management practices that are effective and can be enforced should be included as part of any hardline agreement; and,
- k) Drought conditions have worsened and the site is old growth chaparral and prime for wildfire. The wildlife agencies need proof of fire district agreement or accepted Fire Protection Plan [also see 3.f)].

Based on our February 19th, 2015 meeting with the County, to ensure that the proposed project is consistent with the conservation goals of the draft NC-MSCP (see comment No. 4), we recommend that the DEIR fully analyze the following project alternatives: 1) an alternative that would remove the three easternmost development bubbles (i.e., areas identified by the County in a prior meeting as Towncenter, Terraces, and Hillside) and associated access roads; 2) an alternative that would be to remove the easterly half of the Mesa development area (located just northwest of Hillside) and the Terraces and Hillside areas (but retain the Towncenter area) to open up the easterly corridor and provide better connection along the northern and eastern portions of the property and to the south, while maximizing the conservation of coastal sage scrub; and, 3) an alternative that move some of the development proposed in the central and eastern areas of the site to the old quarry locations. The first two alternatives recommended for inclusion in the DEIR would substantially minimize project impacts to the draft PAMA, provide for a large, contiguous block of open space in the eastern and northern portion of the property, minimize edge effects to onsite biological open space areas, and maintain connectivity between on and offsite areas designated as draft PAMA within Planning Unit 9 and to other conservation efforts outside the NC-MSCP planning area. The last alternative would have the same benefits of the first two, but also conserve more coastal sage scrub and provide a better preserve design in the central area of the site while locating development in an existing disturbed area, closer

Mr. Mark Slovick
County of San Diego
March 11, 2015
Page E-5 of E-9

to access and eliminate the need to expend resources on restoration that may or may not be successful (see Comment No. 1).

4. As stated above, the proposed Project is located primarily within the PAMA, within the San Marcos-Merriam Mountains Core Area (Planning Unit 9) and is identified as a large block of habitat (typically 500 acres or more) that supports a viable population of multiple wildlife species and represents one of only two remaining large blocks of natural habitat west of Interstate 15 (I-15) in the PAMA. Site conditions and size currently facilitate the movement of small and larger mammals to traverse across to adjacent mostly undeveloped areas, such as the San Marcos Mountains located northwest of the project site. The draft NC-MSCP plan anticipates that approximately 75 percent of lands designated as PAMA would be conserved with 25 percent utilized for development and anticipates the following conservation goals for the San Marcos-Merriam Mountains Core Area (Planning Unit 9):

- a) Conserve oak woodlands, coastal sage scrub (particularly in Twin Oaks) to maintain populations and connectivity of coastal California gnatcatcher and other coastal sage scrub-dependent species, and chaparral on mafic or gabbro soils that support sensitive plant species, such as chaparral beargrass and Parry's tetracoccus, San Diego thormint (particularly in San Marcos Mountains), or California adolphia;
- b) Ensure that a core community of coastal California gnatcatcher and other coastal sage scrub-dependent species remains in the coastal sage scrub block in Twin Oaks;
- c) Conserve the north-south connectivity of coastal California gnatcatcher habitat along I-15 between the Riverside County line and the City of Escondido. Maintain the east-west connectivity of natural habitats on either side of I-15 for dispersal of coastal sage scrub community birds;
- d) Conserve the riparian and upland habitats of Gopher Canyon Creek for water quality and sensitive species, such as southwestern pond turtle and least Bell's vireo; and,
- e) Ensure the San Diego thormint population in the Palisades open space preserve is maintained and enhanced, if practicable.

Current project proposals have shown only about 60 percent conservation of lands designated as PAMA, which would not be consistent with the NC-MSCP reserve assembly targets and would fragment a core block of habitat that is planned to connect designated preserve areas with high value habitat within the NC-MSCP PAMA, including areas currently conserved to mitigate impacts to gnatcatchers and gnatcatcher habitat. Fragmentation reduces habitat quality and promotes increased levels of nest predation and brood parasitism, and ultimately, increased rates of local extinction (Wilcove 1985, Rolstad 1991, Saunders *et al.* 1991, Soulé *et al.* 1988). Connectivity among habitat reserve areas (i.e., connectivity among gnatcatcher habitat within the NC-MSCP PAMA) is essential for long-term maintenance of the viability of gnatcatcher in this area. Maintaining connectivity among these patches of gnatcatcher habitat serves to: (1) allow exchange of genetic material among populations; (2) allow recolonization of habitat patches from which gnatcatchers have been extirpated; and (3) allow relatively safe travel for gnatcatchers moving from one area to another. Fragmentation of habitat within core habitat areas and the narrowing of connections among blocks of remaining habitat for gnatcatchers are expected to reduce the function and value of these areas.

The DEIR should evaluate direct and indirect impacts the proposed development would have on the planned San Marcos-Merriam Mountains Core Area linkage and NC-MSCP planning unit goals, as well as north-south and east-west wildlife movement through/across the site (e.g., from open space Block 3 to other conserved areas on-site and designated PAMA off-site and from areas east of I-15, through the site and across Twin Oaks Valley/Deer Springs Road), including impacts to wildlife movement (including gnatcatchers, mammals and herpetofauna), loss of and fragmentation to habitat patches/blocks, corridor length/width, connectivity, etc.

Mr. Mark Slovick
 County of San Diego
 March 11, 2015
 Page E-6 of E-9

5. The Department recommends a 100-foot buffer from the riparian habitat in the major drainage of Moosa Canyon Creek. This habitat is expected, either currently or in time, to support sensitive riparian species such as the endangered least Bell's vireo. We further recommend that any limited encroachment (necessitated by site topography) from on-site trails not approach any closer than 50-feet to riparian/wetland habitat. The DEIR should include a map showing the location of all proposed trails.

6. The current project description includes several parks and fuel modification zones within the open space acreage. Parks and fuel modification zones are considered fully impacted by the Wildlife Agencies and cannot be included in biological open space proposed for conservation to offset impacts to sensitive resources and must be mitigated appropriately. The DEIR should clearly differentiate between biological open space that would be used as mitigation to offset Project impacts (natural open space) and open space (i.e., parks and fuel modification zones) that would be routinely impacted.

7. The Section 10 of the CEQA Initial Study (Environmental Checklist Form) indicates that the Project would require issuance of a County Habitat Loss Permit (HLP, Ordinance Nos. 8365, 8380, 8608, 8846, 9457, and 9671), which implements the interim 4(d) rule of the federal Endangered Species Act and the state Natural Community Conservation Planning (NCCP) Process Guidelines for loss of coastal sage scrub habitat during preparation of a NCCP-HCP. To approve an interim habitat loss application, the local agency must make the following findings:

- a) The proposed habitat loss is consistent with the interim loss criteria in the Conservation Guidelines and with any subregional process if established by the subregion;
- b) The habitat loss does not cumulatively exceed the 5% guideline;
- c) The habitat loss will not preclude connectivity between areas of high habitat values;
- d) The habitat loss will not preclude or prevent the preparation of the subregional NCCP (e.g., the loss would not foreclose future reserve planning options);
- e) The habitat loss has been minimized and mitigated to the maximum extent practicable;
- f) The habitat loss will not appreciably reduce the likelihood of the survival and recovery of listed species in the wild; and,
- g) The habitat loss is incidental to otherwise lawful activities.

The NC-MSCP Planning Agreement also establishes guidelines for interim projects while the Plan is being completed (Section 6.6, Interim Project Processing Interim Review Process and Exhibit B). The Interim Review guidelines identify that where a project will not affect CSS but will negatively affect (a) biological resources in areas mapped as "high value" and "very high value" based on the County's habitat evaluation models that utilize the best available information at the time, (b) areas mapped as "moderate" or "low" value that may be important for preserve assembly, and/or (c) proposed Covered Species or their habitat based on current biological surveys, the NCCP/4(d) findings shall be considered and preserve design principles shall be applied to the project including the following:

- a) On-site open space should provide a long-term biological benefit;
- b) On-site open space must protect habitat of equal or greater value as that being impacted. No isolated pockets of open space should be used for mitigation credit;
- c) Separate lots should be used whenever possible for on-site open space to help protect the biological value of the preserved areas;
- d) On-site open space shall contribute to regional conservation efforts;
- e) Open space design, to the extent known, should not reduce the biological diversity found on the site;
- f) Open space design shall maintain habitat connectivity between areas of high quality habitat;
- g) The most sensitive resources shall be protected to maximize long-term viability; and,
- h) Edge effects and habitat fragmentation shall be minimized by maximizing the surface area to perimeter ratio, preserving large blocks of contiguous open space. Edge effects shall be further

Mr. Mark Slovick
County of San Diego
March 11, 2015
Page E-7 of E-9

minimized by establishing buffers, providing fencing and/or permanent signs, and limiting trails and/or lighting.

The DEIR should include sufficient information and analysis to demonstrate how the project is consistent with the preliminary conservation objectives of the NC-MSCP (including the planning units goals for the San Marcos-Merriam Mountains Core Area, see Comment No. 4) and the Planning Agreement Exhibit B guidelines for interim projects and how it would meet the NCCP/4(d) findings required for the County to issue a HLP for impacts to coastal sage scrub (which are subject to Wildlife Agency approval).

8. The proposed Project is located adjacent to various lands that have been or are planned to be conserved for biological resources, including lands owned by the City of Oceanside located immediately to the north of the Project. The DEIR should evaluate the direct and cumulative effects that the proposed development would have on the adjacent existing and proposed conservation located in both jurisdictions. The analysis should include effects on these lands from the proposed Project, including direct and indirect impacts from: (a) increased public use of these open space areas from the Project's population; (b) lighting; (c) noise; (e) drainage; (f) landscaping and introducing vegetation, etc.

9. All plans for restoration/revegetation associated with the Project should be prepared by persons with expertise in southern California ecosystems and native plant revegetation techniques. Each plan should include, at a minimum: (a) the location of the mitigation site; (b) the plant species to be used, container sizes, and seeding rates; (c) a schematic depicting the mitigation area; (d) planting schedule; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation on site; (g) specific success criteria; (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and j) identification of the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity. The plan for restoring coastal sage scrub on 4.9 acres onsite and 4.7 acres offsite would require approval by the Wildlife Agencies as part of the federal/state authorization(s) for impacts to coastal sage scrub.

10. The Department is concerned about the potential direct and indirect effects to biological resources associated with the construction of pedestrian trails in areas proposed for designation as open space on site. We recommend that trails in open space be located to not bisect intact areas and instead be placed along the perimeter or edge of open space areas. The following information should be included in the DEIR regarding any proposed pedestrian trail: an aerial photograph with an overlay of the proposed alignment of the trail in relation to designated or proposed open space; specifications of the trail design; specification that the trail would be for hiking only; measures to avoid/minimize impacts related to hikers straying off-trail and/or trail use by unauthorized vehicles including bicycles; and a discussion of how the proposed location and use of the trail would be consistent with the County's draft NC-MSCP.

11. To increase potential habitat and functionality of on-site wildlife corridors, we recommend that any Project-graded slopes and fuel clearing areas requiring replanting be planted with compatible, low-fuel natives (e.g., cacti and other succulents) to minimize the potential for invasive species to spread into the proposed on-site mitigation/open space areas and into adjacent natural lands.

12. The County should ensure that all development-related landscaping proposed adjacent to on- or off-site habitat does not include exotic plant species that may be invasive to native habitats. Exotic species should be removed and replaced with native or non-invasive exotic species based on the California Invasive Plant Council's (Cal-IPC) "Invasive Plant Inventory" list that can be obtained from Cal-IPC's web site at <http://www.cal-ipc.org>. This list includes such species as pampas grass, fountain grass, myoporum, black locust, capeweed, tree of heaven, sweet alyssum, English ivy, French broom, Scotch broom, and Spanish broom. In addition, landscaping should not use plants that require intensive irrigation, fertilizers, or pesticides adjacent to preserve areas and water runoff from landscaped areas should be directed away from

Mr. Mark Slovick
County of San Diego
March 11, 2015
Page E-8 of E-9

the biological conservation easement area and contained and/or treated within the development footprint. The applicant should submit a draft list of species to be included in the landscaping to the Wildlife Agencies for approval at least 60 days prior to initiating Project impacts. Additionally, the applicant should also submit to the Agencies the final list of species to be included in the landscaping within 30 days of receiving approval of the draft list of species.

13. The NC-MSCP is still in-progress, and is expected to be completed in 2017. Until the NC-MSCP is completed and permit issued, the Department considers adverse impacts to a species protected by the California Endangered Species Act (CESA), for the purposes of CEQA, to be significant without mitigation. As to CESA, take of any endangered, threatened, or candidate species that results from the Project is prohibited, except as authorized by state law (Fish and Game Code, §§ 2080, 2085). Consequently, if the Project, Project construction, or any Project-related activity during the life of the Project will result in take of a species designated as endangered or threatened, or a candidate for listing under CESA, the Department recommends that the Project proponent seek appropriate take authorization under CESA prior to implementing the Project. Appropriate authorization from the Department may include an incidental take permit (ITP) or a consistency determination in certain circumstances, among other options [Fish and Game Code §§ 2080.1, 2081, subds. (b) and (c)]. Early consultation is encouraged, as significant modification to a project and mitigation measures may be required in order to obtain a CESA permit. Revisions to the Fish and Game Code, effective January 1998, may require that the Department issue a separate CEQA document for the issuance of an ITP unless the Project CEQA document addresses all Project impacts to CESA-listed species and specifies a mitigation monitoring and reporting program that will meet the requirements of an ITP. For these reasons, biological mitigation monitoring and reporting proposals should be of sufficient detail and resolution to satisfy the requirements for a CESA ITP.

14. The Department has regulatory authority with regard to activities occurring in streams and/or lakes that could adversely affect any fish or wildlife resource. For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream, or use material from a streambed, the project applicant (or "entity") must provide written notification to the Department pursuant to section 1600 *et seq.* of the Fish and Game Code. The project area supports aquatic, riparian, and wetland habitats. The DEIR should include a jurisdictional delineation of the creeks/drainages and their associated riparian habitats. The delineation should be conducted pursuant to the Service wetland definition adopted by the Department (Cowardin *et al.* 1979). Based on this notification and other information, the Department then determines whether a Lake and Streambed Alteration (LSA) Agreement is required. The Department's issuance of a LSA for a project that is subject to CEQA will require CEQA compliance actions by the Department as a Responsible Agency. As a Responsible Agency under CEQA, the Department may consider the City's DEIR for the project. We recommend that all wetlands and watercourses on-site, whether ephemeral, intermittent or perennial, should be retained and provided with substantial setbacks to preserve the riparian and aquatic values and maintain their value to on-site and off-site wildlife and plant populations. Moreover, to minimize additional requirements by the Department pursuant to section 1600 *et seq.* and/or under CEQA, the document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring, and reporting commitments for issuance of an SAA.¹

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¹ A notification package for a SAA may be obtained by accessing the Department's web site at www.wildlife.ca.gov/habcon/1600.

Mr. Mark Slovick
 County of San Diego
 March 11, 2015
 Page E-9 of E-9

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EXHIBIT D



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Ecological Services
 Carlsbad Fish and Wildlife Office
 2177 Salk Avenue, Suite 250
 Carlsbad, California 92008



In Reply Refer To:
 FWS-SDG-15B0150-15CPA0175

MAR 12 2015

Mr. Mark Slovick
 County of San Diego
 Department of Planning and Development Services
 5510 Overland Avenue, Suite 110
 San Diego, California 92123

Subject: Notice of Preparation of an Environmental Impact Report for the Newland Sierra Project, Unincorporated San Diego County, California

Dear Mr. Slovick:

We have reviewed the subject Notice of Preparation (NOP) of a Draft Environmental Impact Report (DEIR), dated February 12, 2015, which we received on March 5, 2015. The proposed Newland Sierra project encompasses 1,985 acres located west of Interstate 15, north of Deer Springs Road, and east of Twin Oaks Valley Road within unincorporated San Diego County (County). The proposed project would include the development of a new master planned community consisting of 2,135 homes, general commercial uses, school site, 37 acres of parks, and 1,202 acres of biological open space. In addition, the project would include an extensive trail system consisting of: 7.1 miles of multi-purpose pathways along the main road; 8.7 miles of internal pathways and trails within neighborhoods; and 3.3 miles of trails through the open space areas (2 miles of multi-purpose trail and 1.3 miles of secondary trails).

The primary concern and mandate of the U.S. Fish and Wildlife Service (Service) is the protection of public fish and wildlife resources and their habitats. The Service has legal responsibility for the welfare of migratory birds, anadromous fish, and endangered animals and plants occurring in the United States. The Service is also responsible for administering the Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), the Migratory Bird Treaty Act (16 U.S.C. 703), and the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668c). Our comments are based on the information provided in the NOP, our knowledge of sensitive and declining vegetation communities in the County, and our participation in regional conservation planning efforts.

One of our primary concerns is the potential impacts of the proposed project to assembling a subregional preserve system. The proposed project site is located within the planning area for the North County Multiple Species Conservation Program (NCMSCP). The NCMSCP is a comprehensive habitat conservation planning program that attempts to preserve native habitats for a multitude of sensitive species for which the County, Service, and California Department of Fish and Wildlife entered into a Planning Agreement (Revised and Amended May 12, 2014). The proposed project site and areas to the north, south, east, and west are identified as "Pre-approved Mitigation Area" (PAMA) in the draft NCMSCP plan. More specifically, the proposed project site is located

Mr. Mark Slovick (FWS-SDG-15B0150-15CPA0175)

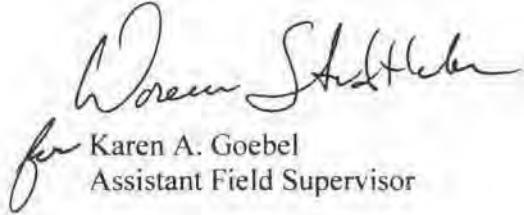
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within Planning Unit 9 (San Marcos-Merriam Mountains Core Area) and represents one (Merriam Mountains) of only two remaining large blocks of natural habitat west of Interstate 15 in the PAMA. In addition, the habitat evaluation maps of the County's draft NCMSCP plan indicates that habitats on and adjacent to the project site are "moderate", "high", and "very high" habitat quality.

To ensure that the proposed project is consistent with the conservation goals of the draft NCMSCP as well as Planning Unit 9 of the draft PAMA, we recommend that the DEIR fully analyze a project alternative that would remove the three development bubbles identified as Towncenter, Terraces, and Hillside (see Figure 1 which was provided to us by the County) and associated access roads. The re-design would minimize project impacts to the draft PAMA, provide for a large, contiguous block of open space in the eastern and northern portion of the property thereby contributing to assemblage of the San Marcos-Merriam Mountains Core Area, and maintain connectivity between on and offsite areas designated as draft PAMA and to other conservation efforts outside the NCMSCP planning area. To further assist you in evaluating the proposed project, we have provided the enclosed recommendations for inclusion in the DEIR.

We appreciate the opportunity to comment on the subject NOP and request that a copy of the DEIR be provided to our office upon its release. If you have any questions regarding this letter or require additional information, please contact Michelle Durflinger of our office at 760-431-9440, extension 356.

Sincerely,



Karen A. Goebel
Assistant Field Supervisor

Enclosure

cc: David Mayer, California Department of Fish and Wildlife, San Diego, California



Figure 1. Newland Sierra Conformed Plan. Provided by San Diego County

ENCLOSURE

To assist our review of the project and to assist the County in compliance with pertinent Federal statutes and laws, we recommend that the DEIR for the proposed Newland Sierra project contain the following information.

1. A complete discussion of the purpose and need for, and description of, the proposed project, including all ancillary facilities, staging areas, and access routes to the construction and staging areas.
2. A complete analysis of the effect that the project may have on completion and implementation of regional and/or subregional conservation programs including the County of San Diego's draft North County MSCP. We recommend that the County ensure that the development of this and other proposed projects do not preclude long-term preserve planning options.
3. A complete list and assessment of the flora and fauna within and adjacent to the project area, with particular emphasis upon identifying federally listed threatened, endangered, or proposed candidate species, and any locally unique species and sensitive habitats. Specifically, the DEIR should include:
 - a. Discussions regarding the regional setting with special emphasis on resources that are rare or unique to the region that would be affected by the project. This discussion is critical to an assessment of environmental impacts.
 - b. A current inventory of the biological resources associated with each habitat type on site and within the area of impact.
 - c. A thorough assessment of rare plants and rare natural communities.
 - d. A current inventory of rare, threatened, and endangered species on site and within the area of impact.
 - e. Discussions regarding seasonal variations in use by sensitive species of the project site as well as the area of impact on those species, using acceptable species-specific survey procedures as determined through consultation with the Service and the California Department of Fish and Wildlife, collectively the Wildlife Agencies. Focused species-specific surveys, conducted in conformance with established protocols at the appropriate time of year and time of day when the sensitive species are active or otherwise identifiable, are required.
4. A thorough discussion of direct, indirect, and cumulative impacts expected to adversely affect biological resources. All facets of the project should be included in this assessment. Specifically, the DEIR should provide:
 - a. Specific acreage and descriptions of the types of wetlands, scrub, and other sensitive habitats that will or may be affected by the proposed project or project alternatives. Maps and tables should be used to summarize such information.

- b. Detailed discussions, including both qualitative and quantitative analyses, of the potentially affected listed and sensitive species (fish, wildlife, plants), and their habitats on the proposed project site, area of impact, and alternative sites, including information pertaining to their local status and distribution. The anticipated or real impacts of the project on these species and habitats should be fully addressed.
 - c. Discussions regarding indirect project impacts on biological resources, including resources in nearby public lands, open space, adjacent natural habitats, riparian ecosystems, and any proposed Natural Community Conservation Planning (NCCP) protected lands.
 - i) Impacts to wildlife corridor/movement areas, including access to undisturbed habitats in adjacent areas, should be fully evaluated.
 - ii) Discussions of potential adverse impacts from lighting, noise, human activity, exotic species, and drainage. The latter subject should address: project-related changes on drainage patterns on and downstream of the project site; the volume, velocity, and frequency of existing and post-project surface flows; polluted runoff; soil erosion and/or sedimentation in streams and water bodies; and post-project fate of runoff from the project site.
 - d. Discussions regarding possible conflicts resulting from wildlife-human interactions at the interface between the development project and natural habitats. The zoning of areas for development projects or other uses that are nearby or adjacent to natural areas may inadvertently contribute to wildlife-human interactions.
5. A thorough discussion of mitigation measures for adverse project-related impacts on sensitive plants, animals, and habitats. Specifically, the DEIR should include/address:
- a. Where avoidance is infeasible, mitigation measures that emphasize minimization of project impacts. For unavoidable impacts, onsite habitat restoration or enhancement should be discussed in detail. If onsite mitigation is not feasible or would not be biologically viable (e.g., it would not adequately mitigate the loss of biological functions and values), offsite mitigation through habitat creation and/or acquisition and preservation in perpetuity should be addressed.
 - b. Mitigation measures to alleviate indirect project-related impacts on biological resources, including measures to minimize changes in the hydrologic regimes on site, and means to convey runoff without damaging biological resources, including the morphology of onsite and downstream habitats.
 - c. Where proposed grading or clearing is within 100 feet of proposed biological open space, or otherwise preserved sensitive habitats, a requirement for temporary fencing. Fencing should be placed on the impact side and should result in no vegetation loss within open space. All temporary fencing should be removed only after the conclusion of all grading, clearing, and construction activities.

- d. A requirement that a County-approved biological monitor to be present during initial clearing, grading, and construction in sensitive habitat areas and/or in the vicinity of biological open space areas to ensure that conservation measures associated with resource agency permits and construction documents are performed. The biological monitor should have the authority, and responsibility, to halt construction to prevent or avoid take of any listed species and/or to ensure compliance with all avoidance, minimization, and mitigation measures. Any unauthorized impacts or actions not in compliance with the permits and construction documents should be immediately brought to the attention of the County and the Wildlife Agencies.
- e. Plans for restoration and revegetation, to be prepared by persons with expertise in southern California ecosystems and native plant revegetation techniques. Each plan should include, at a minimum: (a) the location of the mitigation site; (b) the plant species to be used, container sizes, and seeding rates; (c) a schematic depicting the mitigation area; (d) planting schedule; (e) a description of the irrigation methodology; (f) measures to control exotic vegetation on site; (g) specific success criteria (e.g., percent cover of native and nonnative species; species richness); (h) a detailed monitoring program; (i) contingency measures should the success criteria not be met; and (j) identification of the party responsible for meeting the success criteria and providing for conservation of the mitigation site in perpetuity.
- f. Measures to protect, in perpetuity, the targeted habitat values of proposed preservation and/or restoration areas from direct and indirect negative impacts. The objective should be to offset the project-induced qualitative and quantitative losses of wildlife habitat values. Permanent fencing should be installed between the impact area and biological open space and be designed to minimize intrusion into the sensitive habitats from humans and domestic animals. There should be no gates that would allow access between the development and biological open space. Additional issues that should be addressed include proposed land dedications, monitoring and management programs, control of illegal dumping, water pollution, etc.
- g. Development and implementation of a management and monitoring plan (MMP), including a funding commitment, for any on and/or offsite biological open space easements, if applicable. An appropriate natural lands management organization, subject to approval by the County and Wildlife Agencies, should be identified. The MMP should outline biological resources on the site, provide for monitoring of biological resources, address potential impacts to biological resources, and identify actions to be taken to eliminate or minimize those impacts. A Property Analysis Record (PAR) or similar analysis should be completed to determine the amount of funding needed for the perpetual management, maintenance, and monitoring of the biological conservation easement areas by the natural lands management organization. It should be demonstrated that the proposed funding mechanism would ensure that adequate funds would be available on an annual basis to implement the MMP. The natural lands management organization should submit a draft MMP, PAR results, and proposed funding mechanism to the County and Wildlife Agencies for review and approval prior to initiating construction activities; the resulting final plan should be submitted to the County and Wildlife Agencies and the funds for implementing the MMP transferred within 90 days of receiving approval of the draft plan.

- h. To avoid impacts to nesting birds, the DEIR should require that all clearing and grubbing occur outside the avian breeding season. The general breeding season for nesting birds occurs approximately February 15 through September 15; however, raptors may begin breeding as early as January 1. If project construction is necessary during the avian breeding season, a qualified biologist should conduct a survey for nesting birds within 3 days prior to the work in the area to ensure no nesting birds in the project area would be impacted by the project. If an active nest is identified, a buffer shall be established between the construction activities and the nest so that nesting activities are not interrupted. The buffer shall be a minimum width of 300 feet (500 feet for raptors), shall be delineated by temporary fencing, and shall remain in effect as long as construction is occurring or until the nest is no longer active. No project construction shall occur within the fenced nest zone until the young have fledged, are no longer being fed by the parents, have left the nest, and will no longer be affected by the construction.

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May 15, 2017

VIA EMAIL AND FEDERAL EXPRESS

Mark Slovick, Planning Manager
 County of San Diego
 Planning & Development Services
 5510 Overland Avenue, Suite 310
 San Diego, California 92123

Re: The County's Responsibility Regarding Analysis of the Vallecitos Water District's Water Supply Assessment for the Newland Sierra Project

Dear Mr. Slovick:

As you know, we represent the Golden Door Properties, LLC ("Golden Door") in connection with its opposition to Newland Real Estate Group, LLC's ("Newland") revived Merriam Mountains project, which is known as the Newland "Sierra" Specific Plan ("Project"). As you may also be aware, the Golden Door filed suit against the Vallecitos Water District ("District"), challenging its approval and rescission of a Water Supply Verification and Assessment ("WSA/WSV") for the Project and its subsequent approval of the same document as a Water Supply Assessment ("WSA")—*Golden Door Properties, LLC, et al. v. Vallecitos Water District, et al.*, San Diego Superior Court Case No. 37-2016-00037559-CU-WM-NC ("Vallecitos Litigation"). The County of San Diego ("County") and Newland were named as real parties in interest to this lawsuit.

In the Vallecitos Litigation, the Golden Door challenges the WSA/WSV and WSA on numerous substantive and procedural grounds for, among other reasons, the WSA's requirement for up to 36% water supply reductions on all District customers in order for the District to be able to supply the Project with water. The District's underlying Urban Water Management Plan ("UWMP") shows a substantial water supply deficit in normal, dry, and multiple dry years over the next 20 years—thus necessitating such drastic supply reductions in order for it to serve the Newland Project. These proposed reductions are of significant concern to the Golden Door and other District customers, and could result in significant environmental impacts.

Last Friday, the Superior Court heard oral argument on Newland's demurrer in the Vallecitos Litigation. This morning, the Superior Court sustained Newland's demurrer, which results in dismissal of the case before the Court reaches the merits of the Golden Door's arguments. The primary basis for Newland's demurrer was that the County would be able to provide the Golden Door a complete administrative remedy through its CEQA process as lead

agency for the Newland Project. County Counsel filed a “joinder” to Newland’s demurrer, indicating the County endorses it.

We believe it is important for the Golden Door to respond to Newland’s demurrer and argument by attempting to exhaust the administrative remedy which Newland claims will be provided. While we maintain our right to appeal the Superior Court’s ruling on demurrer, we are contacting you immediately to emphasize the importance of the County’s duty to analyze and provide a remedy for the Golden Door’s—and other community members’—concerns regarding the District’s WSA and the impacts of the District’s service area-wide water supply cuts required for it to serve the Project.

To ensure you are fully informed regarding the issues raised by the Golden Door in the Vallecitos Litigation and throughout the administrative process for the District’s WSA—issues which Newland’s demurrer states are under the County’s purview—we are providing here an electronic disc¹ containing the administrative record and pleadings from the Vallecitos Litigation.

To provide the remedy that Newland has promised to the Court, the County staff must include these materials in the County’s record for the Newland Project and address the environmental impacts, legal issues, and other concerns raised in these documents—as well as County staff’s review, analysis and resolution of these issues—in the County’s draft environmental impact report (“Draft EIR”) for the Newland Project.

Assistant County Counsel Claudia Silva attended Friday’s demurrer hearing in the Vallecitos Litigation on behalf of the County and is already in possession of a copy of the administrative record and pleadings. We are providing her a copy of this letter as well. In addition, we are providing a copy of this letter to Assistant County Counsel William W. Witt, who we understand is handling the Newland Project EIR. We encourage you to confer with Ms. Silva and Mr. Witt to ensure the County is fulfilling the commitments made by Newland to the Court regarding the County staff’s efforts to analyze and resolve all of the claims and concerns raised by the Golden Door and other community members regarding the District’s WSA for the Newland Project.

At Friday’s demurrer hearing, when responding to concerns about whether the County would be able to provide an adequate remedy for concerns about the WSA, Ms. Silva stated that the County is not a “super-legislature.” While we recognize Ms. Silva’s concerns regarding the County’s jurisdiction, expertise, and resources to fully and independently analyze and provide appropriate relief for all of the issues and concerns raised regarding the District’s WSA, by joining in Newland’s demurrer before the Court, the County should now provide the administrative remedy promised to the Court. If the County were to refuse to fully consider all claims raised as represented by Newland’s counsel at the hearing and in the demurrer filing, the County has an obligation to correct the record before the Court and also should refer such

¹ Based on previous experience, we understand that County Planning staff prefers to receive large files via electronic disc. We are happy to provide paper copies or another electronic form of the documents upon request.

matters back to the District so it can revise its WSA and its underlying UWMP before the County publishes its Draft EIR for the Project.

Among the Golden Door's most pressing concerns about the District's WSA, which Newland has promised will be addressed by the County in its Draft EIR, is how the County will ensure adequate mitigation to achieve the 36% water supply reduction requirements to be imposed on existing district customers, such as the Golden Door. This 36% water supply reduction is set forth in the District's WSA's "Conservation Required" factor (a euphemism for mandatory rationing), and is shown in the WSA as necessary to provide a sufficient water supply to Newland. The Golden Door's comments and pleadings for the Vallecitos Litigation discuss the "Conservation Required" factor in more detail.

Failure by County staff to specifically define in the Draft EIR how these reductions will be achieved would improperly defer project mitigation and leave District customers, including the Golden Door, in persistent uncertainty regarding the Project's water supply impacts. *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 621 ("[I]t is improper to defer the formulation of mitigation measures until after project approval; instead, the determination of whether a project will have significant environmental impacts, and the formulation of measures to mitigate those impacts, must occur before the project is approved."). Where an agency fails to commit to mitigation and to specific performance standards, mitigation has been found to be improperly deferred in violation of the California Environmental Quality Act ("CEQA"). *Gray v. Cty. of Madera* (2008) 167 Cal.App.4th 1099, 1119.

Newland has represented to the Court that the County staff will not simply accept the WSA at face value in the Draft EIR. To provide the promised "administrative remedy" the County staff must independently review the document and ensure that the WSA is not built on unspecified and deferred "mitigation" to substantiate the essential 36% water usage reduction. (As we have described, the current record seems to have no justification, since the 36% figure conflicts with the District's UWMP and recently adopted "water duty factors" that predict essential water demands of District customers.)

In addition, the County must analyze the additional environmental impacts caused by any of the mitigation measures relied upon or to be implemented by the District to achieve the 36% water supply reduction, as well as the additional mitigation required for these secondary impacts. As the County is aware from the Sierra Club's recent lawsuit invalidating the County's first attempt at a Climate Action Plan, mitigation measures themselves may trigger the need for additional CEQA evaluation. *Sierra Club v. Cty. of San Diego* (2014) 231 Cal.App.4th 1152, 1174. For example, we believe that a 36% reduction will cause many businesses and agricultural operations, such as the Golden Door, to close—leading to decay and blight in the community.

To be consistent with Newland's position in its demurrer, the additional impacts and concerns the County's Draft EIR should address regarding the WSA include, without limitation:

- Whether the District's UWMP accounted for the Project's land use and the WSA's required District-wide water supply reductions consistent with the Water Code and CEQA;
- Whether San Diego County Water Authority's UWMP "accounted for" the Project's land use and the WSA's required District-wide water supply reductions consistent with the Water Code and CEQA;
- Whether the District approved the WSA under the appropriate legal standard when the District's counsel stated the District had "no discretion" with regard to the WSA;
- Whether the WSA constituted an improper amendment to the District's UWMP;
- Whether the WSA constituted an improper amendment to the District's water duty factors;
- Whether the WSA violates District Ordinance 198 by requiring water supply reduction levels that would trigger a moratorium on supplies for new development;
- Whether the WSA improperly relies on the District's 2014 Master Plan, which has not yet been completed or published;
- How, specifically, the Newland project will meet the demand reduction figures in the WSA, including proposed implementation of a grey water system;
- Whether the WSA improperly accounted for system savings;
- Whether the WSA included an improper plan-to-plan analysis;
- Whether—even under the District's flawed methodology—the UWMP shows adequate supply for the Project in all applicable years.

Concerns about water supply are very important to the Golden Door and other Twin Oaks Valley residents and businesses. As Newland has claimed that it is the County's responsibility to analyze and provide any necessary relief from all legal and substantive flaws in or impacts from the WSA, we would expect that Newland will want this analysis to be included in the County's Draft EIR.

If the County waits to include this information in the Final EIR, it would be necessary for the County to recirculate any Draft EIR released for public review that does not contain essential information, such as the specific water reduction mitigation measures or mandatory cutbacks that will be used to achieve the WSA's mandatory 36% reduction.

We would be happy to meet with you to discuss our concerns in more detail.

Thank you for your time and attention to this matter. Please feel free to contact me at (858) 523-5400 or andrew.yancey@lw.com if you would like to discuss these matters further.

Best regards,



Andrew D. Yancey
of LATHAM & WATKINS LLP

Enclosures

cc: Kathy Van Ness, Golden Door
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Claudia Silva, Esq., Assistant County Counsel
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May 17, 2017

VIA EMAIL AND FEDERAL EXPRESS

The Honorable Dianne Jacob, Chair
 Board of Supervisors
 San Diego County
 1600 Pacific Highway Room 335
 San Diego CA 92101

Re: Investigation Needed into Newland's Misleading Backroom Dealing For Its "Sierra" Project And Potential Implications For County Staff

Chairwoman Jacob and Members of the Board of Supervisors:

We represent the Golden Door Properties LLC (the "Golden Door"). Adjacent to the Golden Door's property, the Newland Real Estate Group, LLC ("Newland") has proposed a revised Merriam Mountains project, known as the "Sierra" project (the "Newland Project" or "Project"). Newland's proposal includes 2,135 residential units, 81,000 square feet of commercial development, a school, and various parks and equestrian facilities resulting in a population of over 6,000 residents, larger than the City of Del Mar.

We write today to request that the Board ensure that County staff does not advocate for the approval of the Newland Project with other public agencies, prior to the Board's own consideration of this previously rejected project.

Newland proposes to build its Project near Deer Springs Road in rural Twin Oaks Valley ("Project Site"), which is a crucial connection point for east-west and north-south connectivity for wildlife in the North County Multiple Species Conservation Program ("NC MSCP" or "Plan"). The Golden Door opposes the Newland Project and has corresponded extensively with staff members at the County's Department of Planning and Development Services ("County Planning Staff") regarding our concerns.

A few weeks ago, we were given documents from the U.S. Fish and Wildlife Service describing efforts by Newland and its allies to surreptitiously evade biological mitigation for the proposed Project and to undermine the NC MSCP. These documents only provide a limited view into Newland's actions, but they raise significant concerns about Newland's non-public negotiations with the U.S. Fish and Wildlife Service ("USFWS"), false claims Newland and its allies have made as part of such negotiations, and Newland's attempts to circumvent the proper channels at USFWS. The documents are attached as Exhibits A through E to this letter.

Newland may have involved in County Planning Staff in its actions, placing staff in a position where they appear to be the developers' advocates rather than neutral land use specialists processing projects for the public's benefit. If that is what has occurred, we do not believe it is appropriate for Newland to force County Planning Staff to advocate for proposed projects, especially where the Newland Project has been previously rejected by the Board, and conflicts with the County's General Plan and Subregional Plan adopted for this site in 2011.

We have only a limited view of these actions through the available documents. Therefore, we request that you ask staff to investigate these matters and determine whether Newland has recruited staff to advocate for its Project with other agencies prior to the Board's own consideration of the Project. It is possible that further investigation will vindicate the parties involved; however, based on the documents we have been able to review—attached to this letter—there is enough information to warrant further fact-finding on this matter.

The proposed Newland Project Site has high value biological characteristics and is an important part of the draft NC MSCP. We want to ensure that the public, including environmental groups and local communities, are part of any process to evaluate and mitigate for the biological impacts Newland's proposed development would cause on the Project Site.

I. FACTUAL BACKGROUND

A. Recently Obtained Documents Raise Concerns Regarding Newland's Efforts to Evade Biological Mitigation Outside of Public View

Our concerns regarding Newland's behind the scenes actions with regard to biological mitigation began when we obtained a copy of a "matrix" apparently prepared by a representative of the San Diego Building Industry Association ("BIA"). See **Exhibit A**. Newland's project manager and Vice-President, Rita Brandin, is also Vice-Chair of the BIA. We understand the BIA Matrix was provided to officials in the USFWS office in Washington, D.C., in an attempt to mislead the agency regarding USFWS's local Carlsbad office's negotiations with Newland regarding mitigation for the Project's biological impacts.

The BIA Matrix also appears intended to intimidate USFWS into refraining from commenting on development project in the California Environmental Quality Act ("CEQA") process—effectively implementing a gag order. It appears that when Newland was unable to convince USFWS's local Carlsbad office to eliminate important biological mitigation requirements for the Project, Newland, or San Diego BIA lobbyists acting on its behalf, attempted to go up the chain at USFWS in an effort to find a decision-maker less familiar with the facts on the ground who might be swayed by Newland's false statements.

Several attachments to the BIA Matrix are also attached here: a memo from Newland's Rita Brandin to the USFWS Regional Director in Sacramento (**Exhibit B**), a compilation of emails between Newland, the County, and USFWS and the California Department of Fish and

Wildlife (“CDFW”) (together with USFWS, the “Wildlife Agencies”) (**Exhibit C**¹), and letters from the Wildlife Agencies to the County regarding the Newland Project’s Notice of Preparation (“NOP”) (**Exhibit D** [USFWS], **Exhibit E** [CDFW]).

Our concerns about Newland’s efforts to evade biological mitigation appeared to be confirmed by materials provided *by County Planning Staff* at recent stakeholder meetings for the NC MSCP that show the Newland Project Site carved out of the NC MSCP as a “private project.” See **Exhibit F**.²

These maps (as proposed by County Planning Staff, apparently at Newland’s behest) show the Newland Project to be the *only unapproved project* and *the only project which conflicts with the County General Plan* to be carved out of the proposed NC MSCP and subject to different rules than the rest of the North County area.

B. NC MSCP Preparation and Purpose

Preparation of the NC MSCP has been ongoing for nearly 20 years now. The NC MSCP’s purposes include providing a regional, inter-connected preserve system and avoiding the need for project-by-project negotiations with multiple permitting processes. As such, it is critical that the NC MSCP be biology-driven and not provide special treatment for any particular developer. As part of the planning process, the County and the Wildlife Agencies have identified land with important biological characteristics, known as Pre-Approved Mitigation Areas (“PAMA”).

Protecting PAMA is critical to ensure conservation of contiguous blocks of habitat. We understand that a draft Plan, as proposed by the stakeholders, may be provided to the public later this year, and a Draft EIR for the NC MSCP may be published in 2018, with final approvals projected for 2020 and 2021. In addition to the County, the Wildlife Agencies must approve the NC MSCP before it takes effect.

During preparation of the Plan, projects proposed in the NC MSCP area are subject to an “interim process” outlined in a 2014 Planning Agreement signed by the County, USFWS, and CDFW. This interim process requires that projects be consistent with the NC MSCP’s preliminary species and habitat preservation goals and requires that project approvals not compromise the successful implementation of the NC MSCP. As such, consideration of NC MSCP consistency and goals is an integral part of any development project’s CEQA review for biological impacts and comments from the Wildlife Agencies—even before the Plan has been completed.

¹ We do not know the source of the highlighting and hand-written notes throughout the email compilation in Exhibit C or the highlighting in the memorandum in Exhibit B.

² Exhibit F is a copy of a slide from a PowerPoint presentation provided by the County showing Newland Project as the only unapproved project being pulled out of the NC MSCP. Exhibit F also contains two draft NC MSCP maps showing the Newland Project Site removed as a “private project.”

C. The Merriam Mountains/Newland Project Site

The proposed Newland Project is located on the same site as the failed Merriam Mountains project—approximately 2,000 acres in rural North County between Deer Springs Road and Gopher Canyon Road along the west side of I-15. The Project Site is located in Planning Unit 9 of the NC MSCP (San Marcos-Merriam Mountains Core Area) and sits on one of only two remaining large blocks of natural habitat west of I-15 in PAMA. A portion of the Project Site is located in Resource Conservation Area 23 of the North County Metro Community Plan. Draft NC MSCP habitat evaluation maps indicate that habitat on and adjacent to the Newland Project Site are moderate, high, and very high quality habitat. See **Exhibit G**.

D. The Board of Supervisors' Decisions to Keep the Project Site Rural: The Failed Merriam Mountains and the General Plan Update

The Merriam Mountains project, considered by the Board in 2010, proposed approximately 2,600 homes on the Project Site, which was zoned for just over 300 homes at that time. In 2005, the Merriam Mountains developer entered into a “Hardline Points of Agreement” with the County, USFWS, and CDFW (then titled California Department of Fish and Game) to allow for that project’s biological impacts. See **Exhibit H**. This 2005 “Hardline Points of Agreement” provided that, among other provisions, (1) the County was required to amend its Resource Protection Ordinance (“RPO”) to allow for the project design, (2) the project’s density would be consistent with the zoning in the General Plan Update, and (3) the developer would purchase an off-site mitigation property known as the “Captains Associates property.”

The Board rejected the Merriam Mountains project and refused to amend the prior General Plan to accommodate the development. Then in 2011, the Board approved its General Plan Update that *down-zoned* the Project Site to accommodate only approximately 100 homes and decided that the area should be preserved as rural lands. In both instances the Board has voted on the density for this site in the past decade, the Board has voted to maintain the site’s rural nature and protect its biological value.

E. The Proposed Newland Project’s Background

Despite the Board’s consistent votes to keep Twin Oaks Valley rural, Newland now seeks a General Plan Amendment to add a development that is larger than the City of Del Mar.

The County published its NOP for the Newland Project in February 2015. The Wildlife Agencies provided comments on the Newland Project’s NOP, emphasizing the importance of the Project Site within the NC MSCP for connectivity purposes. The Wildlife Agencies’ NOP letters raise several specific points regarding the site’s biological importance:

(1) the Project and areas on all sides are identified as PAMA in the NC MSCP;

(2) the proposed Project sits on one of only two remaining large blocks of natural habitat west of I-15 in PAMA;

(3) habitat evaluation maps for the draft NC MSCP indicate habitat on and adjacent to the Project Site are moderate, high, and very high quality habitat;

(4) north-south habitat connectivity along I-15 is important for the NC MSCP; and

(5) development on the Project Site could fragment core habitat planned to connect designated preserve areas.

See Exhibits D, E. In addition, the Wildlife Agencies proposed alternatives in which Newland would remove its development along the I-15, which would allow for some continued north-south connectivity on the Project Site.

On May 7, 2015, County Planning Staff issued a Scoping Letter for the Newland Project, which addressed the Project's consistency with the NC MSCP as a "major project issue."³ The Scoping Letter concedes that no hardline agreement has been approved for the Newland Project, noting that "if the Wildlife Agencies Hardline Agreement is not approved, the project would be required to comply with the North County Plan and its requirements for projects in [PAMA], including avoidance of critical populations of sensitive species and adherence to preserve design and linkage principles. If the North County Plan has not been approved prior to the project moving forward, the project will require compliance with the Habitat Loss Permit (HLP) Ordinance and the County and Wildlife Agencies Planning Agreement." Scoping Letter at 4.

Nearly a year after publishing its NOP, Newland submitted a revised Specific Plan and grading plans. The County published these documents on its website but did not issue a new NOP or provide any notice that the Project had been revised. Now, almost two-and-a-half years after publication of the Project's NOP, no further CEQA documentation has been published, and the public is unaware of any further changes the developer may have made.

II. NEWLAND'S APPARENT EFFORTS TO EVADE REQUIRED BIOLOGICAL MITIGATION

Unfortunately, based on available documents, it appears that Newland has used this time to engage in backroom dealing and attempts to weaken environmental protection requirements without any opportunity for public review or comment.

Based on our review of the available documents, it appears that Newland has pursued aggressive negotiations with the Wildlife Agencies to revive the 2005 "Hardline Points of Agreement" even though the Wildlife Agencies agreed, and the County admits, that the Newland Project is a "new" project with no approved hardline agreement. Newland has argued to the

³ The Scoping Letter is part of the County's files for the Newland Project and available online at <http://www.sandiegocounty.gov/content/dam/sdc/pds/regulatory/docs/newlandsierra/NewlandSierraScopingLetter.pdf>.

Wildlife Agencies that its Project is the same project as Merriam Mountains and has fought USFWS's mitigation proposals.

Further, the conditions of the 2005 "Hardline Points of Agreement" do not appear to have been fulfilled: (1) the County has not amended its RPO consistent with that agreement, (2) the Project is inconsistent with the 2011 General Plan Update because it proposes more than 20 times the allowed residential density, and (3) there is no evidence Newland has purchased the "Captains Associates property" which was specifically identified in this agreement as essential mitigation.

It appears that Newland's failure to convince the local USFWS office in Carlsbad to rely on an unfulfilled "points of agreement" for the defunct Merriam Mountains project caused Newland's lobbyists to go over the heads of the Carlsbad office to the USFWS Regional Office in Sacramento and to the USFWS office in Washington, D.C. From the material we have reviewed, Newland or lobbyists on Newland's behalf have seemingly fed these offices false information in an attempt to short-circuit the orderly preparation of the NC MSCP and CEQA review of the Newland Project's biological impacts.

In particular, the BIA Matrix and its attachments, which were provided to the USFWS office in D.C., includes multiple false statements about the Newland Project, including:

- (1) that there is an existing hardline agreement for the project (Exhibits B, C);
- (2) that the underlying land use designation on the Project Site is "largely unchanged" from when the Merriam Mountains project was considered and rejected (Exhibit B); and
- (3) that the USFWS Carlsbad office is requiring Newland "suspend" their project. (Exhibit C.⁴)

These assertions are simply false. As described above, there is no valid hardline agreement for the Project. Additionally, the underlying zoning on the Project Site has been cut to one-third of the prior allowance for residential; it is not "largely unchanged." Finally, the USFWS Carlsbad office told Newland they could go through the typical permitting process if they did not want to pursue the proposed off-site mitigation. Exhibit C.⁵ Any "suspension" of

⁴ Accusations that the Carlsbad USFWS offices are trying to "suspend" the Newland Project are included in an email exchange between consultant Steve Thompson and USFWS staff member Mendel Stewart on October 10 and 11, 2016.

⁵ References to the typical permitting process are included in an email exchange between Steve Thompson and Mendel Stewart on October 10 and 11, 2016. Further, the County's May 7, 2015 Scoping Letter for the Project indicates that Newland will need to obtain a Habitat Loss Permit if the NC MSCP is not completed prior to Project approval.

the Project is due to Newland's refusal to provide adequate on and off-site mitigation, not any action by the local USFWS office.

In fact, the BIA Matrix's false statements about the Newland Project, and about other projects, warranted a letter from the Endangered Habitats League—a long-time stakeholder in the NC MSCP process—titled “Correcting the Record,” which addresses the BIA Matrix's numerous falsehoods, attached hereto as **Exhibit I**.

In addition, it is troubling that the BIA matrix criticizes the local USFWS office for providing NOP comments on the Newland Project. *See* Exhibit A. Any attempt to silence an agency responsible for environmental protection from commenting on a development project is contrary the spirit of open public processes. Why would an expert agency not provide input within its realm of expertise? Moreover, why is Newland so concerned about what these wildlife experts working for the public good would say about their proposed Project?

It is also concerning that County Planning Staff is mentioned in and included on several of the email exchanges between Newland and USFWS, raising the question of the degree to which Newland is attempting to improperly involve County Planning Staff as a project-advocate behind closed doors for a project that contradicts the County's General Plan. Such activity would go far beyond merely processing a project, and any attempt by Newland to drag County Planning Staff into its closed door dealings should be investigated and disclosed to the public.

It is important that the Board and the public understand the process by which Newland has sought to minimize its biological mitigation requirements—and the degree to which Newland involved County Planning Staff in such efforts. Project design and mitigation are supposed to be developed through a public process under CEQA. It is unclear what actions Newland has taken, and forced County Planning Staff to take as advocates of the Project, in the almost two and half years since submitting its application, but the limited records we have been able to review indicate a process that is not transparent. Newland's efforts have attempted to minimize biological protection without the public knowing about it.

We hope you are able to provide additional information and an open and fair public process to evaluate this information.

III. NEWLAND'S ATTEMPTS TO OBTAIN SPECIAL TREATMENT IN THE NC MSCP AS A “PRIVATE PROJECT” “CARVE OUT” DESPITE BEING INCONSISTENT WITH THE COUNTY'S GENERAL PLAN

Materials recently provided to NC MSCP stakeholders by County Planning Staff show the Newland Project Site carved out of the NC MSCP as a “private project.” *See* Exhibit F. The Newland Project is the *only unapproved project* given such treatment. This “carve out” raises questions as to why this project that contradicts the County's General Plan would receive such special treatment when County Planning Staff has already determined in its May 7, 2015 Scoping Letter that the Project must comply with the NC MSCP.

The removal of the Project Site from the draft Plan would pre-determine the analysis and mitigation of biological impacts without an opportunity for public participation. The NC MSCP is not likely to be approved for several years, after the projected date for the Board's consideration of the Newland Project. The County and the Wildlife Agencies are required to consider the consistency of any proposed project with the NC MSCP's principles. Prematurely carving the Newland Project of the draft NC MSCP without any public process, therefore, prejudices consideration of the Project's biological impacts. This cart-before-the-horse approach is improper—especially here where the Board has voted to keep this Project Site rural.

Further consideration of the Newland Project's biological impacts without reference to its connectivity and importance for fulfillment the NC MSCP's goals would be incomplete and not provide adequate information to the public or decision-makers. Newland should not be able to avoid the NC MSCP's protections for PAMA and wildlife connections by seeking special treatment without any opportunity for public review and input before the Board takes any action.

The Wildlife and Habitat Conservation Coalition ("WHCC"), a group of environmental groups including many longtime stakeholders in the NC MSCP process, share this concern, as described more fully in a letter the WHCC submitted to the Board last month. *See Exhibit J.* The WHCC letter emphasizes (1) the need to for County Planning Staff to respect the General Plan in developing the NC MSCP and (2) that the Newland Project Site reverted to PAMA after rejection of the Merriam Mountains project. In accordance with WHCC's concerns, Newland should not be able to avoid the NC MSCP's protections for PAMA and wildlife connections by seeking special treatment without any opportunity for public review and input.

Protection of the Newland Project Site as PAMA carries significant biological importance, because it is one of only two remaining large blocks of natural habitat west of I-15 in PAMA.⁶ Carving the Newland Project out of the NC MSCP for a hardline agreement would itself violate the purpose of the NC MSCP. Additionally, carving out the Newland Project Site is particularly contradictory here, because Newland has failed to provide any of the additional biological protection measures that were supposed to accompany the 2005 "Hardline Points of Agreement" for the defunct Merriam Mountains project. Newland has not acquired the specified "Captains Associates" off-site mitigation property, it has not obtained an amendment from the County to the RPO, and its development proposal is not consistent with the County's General Plan. *See Exhibit H.*

Moreover, Newland's efforts to obtain a special carve out from the NC MSCP have occurred out of public view and without the input of local communities, including the County sponsor groups, which exist for the purpose of informing the County's decision-making process for land use matters in their local communities. The Twin Oaks Valley Sponsor Group ("TOVSG")—which is responsible for land use recommendations over most of the Newland Project Site—was left out of the process. In fact, the TOVSG made a special request to the

⁶ *See Exhibits D, E.* In addition, a report prepared by Megan Jennings, Ph.D., at the request of the Golden Door further demonstrates the biological value of the Newland Project Site and its importance for wildlife connectivity throughout North County. The report is attached as **Exhibit K.**

County inquiring about the purported NC MSCP carve out for the Newland Project.⁷ If any biological analysis for the Newland Project is occurring outside of the Project's own approval process, there should be a full CEQA review, including the requisite public input, for the Newland Project's biological impacts as part of the NC MSCP—and the Project's EIR should not be approved until the completion of any such separate process.

The County's General Plan was approved by the Board of Supervisors in 2011 after spending millions of dollars and facilitating a decade-long process with significant public input to determine the blueprint for the County's growth and development. Simply put, Newland's proposed project contradicts that blueprint by dropping a population the size of the City of Del Mar in an area with significant biological value that the Board has twice voted should remain rural. To now carve out a special exemption from the NC MSCP—and to do so without any public review or input—would starkly contradict the letter and spirit of the law, smart planning principles, due process, and efficient use of public resources.

We request that the Board direct County Planning Staff not to pursue any proposed special designation for the Newland Project Site in the NC MSCP prior to the Board's own consideration and any County approval or rejection of Newland's Project, and to publicly disclose Newland's efforts to obtain this backroom benefit.

IV. NEWLAND'S PATTERN OF OBFUSCATION AND HYPOCRISY

Newland filed its application with the County almost two and a half years ago. Since that time, they have apparently given contradictory statements in public and private and have sought to avoid public disclosure as much as possible.

- A year after filing its initial application Newland submitted a new Specific Plan and new grading plans to the County but refused to recirculate the Project's NOP or provide any public notice.
- Newland insists the re-design and reconstruction of the Caltrans interchange at I-15 and Deer Springs Road be evaluated in a separate process after the County considers the Project, even though the interchange re-design is triggered by Project-generated trips.
- When the Golden Door requested its biologist have supervised limited access to the Project Site, Newland refused, offering only a short, guided in-vehicle tour that could not accommodate biological investigation.

⁷ A letter from the TOVSG to the County requesting clarification of the Newland Project Site's status within the NC MSCP is attached as **Exhibit L**.

- Newland has also omitted from its grading plans critical impacts that are part of Newland's proposed widening of Deer Springs Road.⁸

In short, Newland has provided little information to the public or opportunities for public input over the nearly two and a half years that the County has been processing this Project.

Further, in attempting to negotiate less protective biological mitigation requirements with USFWS, Newland claimed that its project is the same as the Merriam Mountains project and should be able to rely on the 2005 "Hardline Points of Agreement." Yet, in public, Newland has adamantly denied it is the same project as the failed Merriam Mountains project.

In fact, Newland's Vice President and project manager, Rita Brandin, stated in an August 2014 article, "I believe that Newland's approach to planning is distinctly different than the prior developer." *Merriam Mountain Plans Receiving Mixed Reviews*, THE COAST NEWS, INLAND EDITION, Aug. 1, 2014. Yet, in a memorandum from Ms. Brandin to USFWS staff at the regional office in Sacramento, Ms. Brandin complains that Newland "is at an impasse with Service staff" due, in part, to the fact that "[USFWS] staff dismissed the relevancy of the prior Points of Agreement, maintaining that Newland was required to begin the permitting process as a *new project*." Exhibit B at 1-2 (emphasis added).

Now that Newland is telling state and federal wildlife agencies that it is not proposing a "new" project and is instead simply renewing the same project as previously rejected by the Board, why is the County even wasting public resources to process it?

Newland's renewed Merriam Mountains application has the same flaws which caused the Board to reject it in 2010. In explaining his vote against the Merriam Mountains project, Supervisor Roberts noted that the project suffered from too much 20th century planning: "Housing development will become much more urban, providing amenities the communities want and ask for, and transit connections that do more than just a token job of offering people transportation alternatives besides the automobile."⁹ Like the failed Merriam Mountains project, the Newland Project is located on the same Project Site far from urban and employment centers, which will require long automobile trips. Even as more transit options have developed County-wide since the Board considered the Merriam Mountains project, including the Bus Rapid Transit program ending in Escondido on I-15, Newland's renewed proposal includes no

⁸ Reports from Delane Engineering demonstrate these issues, have been submitted to the County by the Golden Door, and are on file with County Planning Staff. In addition, Delane presented this work to County Planning and Public Works Staff.

⁹ Supervisor Roberts' press release explaining his vote against the Merriam Mountains project is available on his website at <http://www.ronroberts.com/content/d4/en/media/mediacenter/mmountain.html>. "My own personal feeling is that the communities of the 21st century are going to be very, very different . . . they are going to have, as an integral part, public transit. They are going to be lower in their impacts in every way shape or form." Alison St. John, *Roberts Votes to Scuttle Merriam Mountain Project*, KPBS.ORG (Mar. 24, 2010).

provision for transit connections. Further, the Project itself is designed with a small commercial center in the extreme southeast corner, but most of the residential units are located far away across steep grades through curving internal loop roads sprinkled with cul-de-sacs.

The Newland Project poses the same 20th century planning problems as the previous Merriam Mountains project, yet Newland (apparently working with County Planning Staff) conveniently emphasizes its differences in public while disingenuously attempting to rely on the prior project's "agreements" to lobby for special benefits behind closed doors with federal and state wildlife agencies.

V. NEWLAND'S POTENTIAL INVOLVEMENT OF COUNTY PLANNING STAFF

It is unclear from the documents obtained to what degree Newland involved County Planning Staff in its attempts to avoid biological mitigation requirements. It is apparent, however, that Newland included County Planning Staff in some of its email correspondence and meetings with USFWS. *See* Exhibit C.¹⁰ It is also unclear what involvement, if any, County Planning Staff had in preparation or presentation of the false and misleading BIA Matrix. None of these documents were provided to us in our prior public record act requests to County staff about Newland's project.

We hope you will investigate these matters and provide the public additional information as to County Planning Staff's role, if any, in Newland's actions in lobbying these other agencies. County Planning Staff should also be asked to stop any lobbying of other agencies to persuade them to exclude Newland's project from the pending draft NC MSCP. Prior to Board action on the Project and any County approval, it is improper for Newland to place County Planning Staff in the position of project advocates before other agencies. County Planning Staff should not be asked to advocate for an unapproved development proposal that contradicts the County's General Plan and is located in an area that the Board has twice voted to keep rural.

¹⁰ A November 18, 2015 email from USFWS staff member Karen Goebel is addressed to Rita Brandin and County Planning Director, Mark Wardlaw; a January 15, 2016 email exchange between Mendel Stewart and Rita Brandin copies Mark Wardlaw; a October 10, 2016 email from consultant Steve Thompson refers to a "County rep;" and a September 9, 2015 email from County Planning Staff member Ashely Gungle to Rita Brandin forwards an email from Karen Goebel to Mark Wardlaw.

VI. CONCLUSION

Thank you for your time and attention to our comments. Please feel free to contact me at (858) 523-5400 or christopher.garrett@lw.com if you would like to discuss these matters further.

Best regards,

Christopher W. Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
Mark Wardlaw, County Planning and Development Services
Darin Neufeld, County Planning and Development Services
Mark Slovick, County Planning and Development Services
Ashley Smith, County Planning and Development Services
Peter Eichar, County Planning and Development Services
Crystal Benham, County Planning and Development Services
Karen A. Goebel, USFWS
Mendel Stewart, USFWS
Gail K. Sevrens, CDFW
Tom Kumura, Twin Oaks Valley Sponsor Group Chair
Margarette Morgan, Bonsall Sponsor Group Chair
Wayne Dauber, Hidden Meadows Sponsor Group Chair
Dan Silver, Endangered Habitats League
Laura Hunter, Wildlife and Habitat Conservation Coalition
George Courser, Sierra Club San Diego
Doug Hageman, Newland
Paul Robinson, Hecht Solberg Robinson Goldberg & Bagley
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May 22, 2017

Mary Kopaskie
 Chief, Advanced Planning Division
 County of San Diego Planning & Development Services
 5510 Overland Avenue, Ste. 310
 San Diego, CA 92123

Re: North County MSCP Steering Committee Presentation

Dear Ms. Kopaskie:

We represent Golden Door Properties LLC (the “Golden Door”). Adjacent to the Golden Door’s property, the Newland Real Estate Group, LLC (“Newland”) has proposed a revised Merriam Mountains project, known as the “Sierra” project (the “Newland Project” or “Project”). Newland’s proposal includes 2,135 residential units, 81,000 square feet of commercial development, a school, and various parks and equestrian facilities resulting in a population of over 6,000 residents, larger than the City of Del Mar.

Newland proposes to build its Project near Deer Springs Road in rural Twin Oaks Valley (“Project Site”), which is a crucial connection point for east-west and north-south connectivity for wildlife in the North County Multiple Species Conservation Program (“NC MSCP” or “Plan”). The Golden Door opposes the Newland Project and has corresponded extensively with County staff regarding our concerns.

Due to the Project Site’s high biological value and its important role for connectivity across the NC MSCP area, we are concerned about recent documents submitted by County staff for the NC MSCP Steering Committee presentations. We do not believe they reflect accurate information about the Newland Project.

In particular, draft plan materials distributed by the County indicate the Newland Project Site would be excluded from the draft Plan as a “hardline.” See **Attachment 1**, March 10, 2017 Steering Committee Meeting #2 Notes. As discussed in further detail in the attached letter from the Golden Door to the County Board of Supervisors (“Board”), this is inappropriate. See **Attachment 2**. The Board has not taken action to authorize special treatment for an unapproved development proposal that contradicts the General Plan and has twice been rejected by the Board. In any event, the erroneous assumption by County staff that Newland’s Project qualifies for “hardline” treatment seems to be based on two erroneous facts: (1) Newland’s incorrect representation that its 2017 Project is the “same project” as the prior Merriam Mountains project analyzed in a 2005 “Hardline Points of Agreement Document;” (2) a failure to note that

Newland's 2017 Project no longer includes the "Captains Associates" off-site mitigation parcel specifically referenced in the 2005 Document. As such, County staff should not be taking what would could be construed as an advocacy role for Newland and its Project.

Further, the draft NC MSCP documents showing the Newland Project Site carved out as a "private project" fail to cover the entire Newland Project, including off-site portions of the Project. *See Attachment 3.*¹ The County's proposal does not include all portions of the Newland Project, including: (1) the missing off-site mitigation lands discussed in the 2005 "Hardline Points of Agreement" Document Newland has attempted to revive; (2) the areas of land required for the six-lane Deer Springs Road plus trails included in Newland's application as "Option B"; (3) required off-site improvements to Twin Oaks Valley Road located to the west of the Newland Project; and (4) the reconstruction and expansion of the Deer Springs Road/I-15 interchange being studied by Caltrans for the Newland Project. It is unclear if Newland has disclosed the extent of the Project's footprint and impacts to the County staff working on the NC MSCP. While we disagree with any special treatment for the unapproved Newland Project in the NC MSCP, in any event, the County staff managing the NC MSCP should seek accurate information from the developer to allow it to consider the full extent of the Project's impacts, including off-site impacts and mitigation, before seeking concurrence for the state and federal wildlife agencies regarding the "Newland carve out." The information that County staff has provided to NC MSCP planning participants thus far on this point has been inaccurate.

We believe that County staff has previously stated that the U.S. Fish and Wildlife Service and the California Department of Fish and Wildlife must approve a new "Wildlife Agencies Hardline Agreement" for the Newland Project in order to be excluded from the NC MSCP Plan. *See* May 7, 2015 "Newland Sierra Scoping Letter" at page 4:

Please note that if the Wildlife Agencies Hardline Agreement is not approved, the project would be required to comply with the North County Plan and its requirements for projects in Pre-approved Mitigation Areas (PAMA), including avoidance of critical populations of sensitive species and adherence to preserve design and linkage principles.²

Both agencies have declined to approve such an Agreement. *See e.g.* USFWS and CDFW Responses to County's Notice of Preparation for the Newland Project.³ Therefore, it

¹ Attachment 3 is a copy of a slide from a PowerPoint presentation provided by the County showing Newland Project as the only unapproved project carved out of the NC MSCP, as well as two draft NC MSCP maps showing the Newland Project Site removed as a "private project." As discussed above, these maps fail to show the entire Newland Project.

² Available at:

<http://www.sandiegocounty.gov/content/dam/sdc/pds/regulatory/docs/newlandsierra/NewlandSierraScopingLetter.pdf>.

³ Available at:

http://www.sandiegocounty.gov/content/sdc/pds/Current_Protects/newlandsierra/NOP.html.

would not be appropriate for County staff preparing the draft NC MSCP Plan to contradict the County's 2015 scoping letter and attempt to rely upon a "2005 Hardline Points of Agreement" Document to exclude the Newland Project from the NC MSCP.

Further, it appears that County staff have proposed that several rare plant and animal species be removed from the NC MSCP list of covered species according to the materials on the County website. Among these is summer holly (or *comarostaphylis diversifolia*). The County, however, cannot write off impacts to species such as summer holly that require analysis and mitigation for the Newland Project outside the NC MSCP process. The County's North County Metro Community Plan specifically recognizes summer holly as an important species in Resource Conservation Area 23, which covers a portion of the Project Site. While we take no position in this letter as to the plant and animal species that should be covered under the NC MSCP, we note that plant and animal species not covered by the NC MSCP, including summer holly, must be separately analyzed and mitigated for as part of the Newland Project's environmental document as separate from any NC MSCP consistency analysis. We also hope you will consider whether it is appropriate for County staff working on the NC MSCP to seek to remove species which are designated as requiring protection in the County's adopted General Plan, without first seeking approval of an amendment to the General Plan to change those protections.

Finally, we understand that County staff has been made aware of vernal pools located on Newland's property. Yet, we have not seen any reference to such vernal pools or the potential federal endangered species (i.e. fairy shrimp) located in such pools in the County's documents for the NC MSCP or the Newland Project. Any vernal pools or the potential for vernal pools must be analyzed as part of the Project. Additionally, the presence of vernal pools does not appear to have been considered in the biological work that was done prior to the 2005 "Hardline Points of Agreement" Document and thus may not have been considered in the materials that County staff has prepared thus far for the NC MSCP analysis. We hope you will examine this issue.

LATHAM & WATKINS^{LLP}

Thank you for your time and attention to this matter. Please do not hesitate to contact me at 858.523.5400 or christopher.garrett@lw.com if you would like to discuss these matters further.

Best regards,

Christopher W. Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

Enclosures

cc: Kathy Van Ness, Golden Door
Mark Slovick, County Planning and Development Services
Ashley Smith, County Planning and Development Services
Dan Silver, Endangered Habitats League
Laura Hunter, Wildlife and Habitat Conservation Coalition
Doug Hageman, Newland
Paul Robinson, Hecht Solberg Robinson Goldberg & Bagley
Mark Dillon, Gatzke Dillon & Balance
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
Andrew Yancey, Latham & Watkins

ATTACHMENT 1

1. Steering Committee Meeting #2 Notes

Multiple Species Conservation Program – North County Plan Materials for: Steering Committee Meeting #3

Attendees:

PDS: Mark Wardlaw, Mary Kopaskie, Peter Eichar, Crystal Benham, Chelsea Oakes, Melanie Causey, Claudia Anzures, Tom Oberbauer, Stephanie Smith

DPR: Brian Albright, Deb Mosley

DPW: LeAnn Carmichael

CDFW: Dave Mayer, Carol Williams

SC: Eric Larson, Ann Van Leer, Dan Silver, Brad Bartlett, Jim Whalen, Frank Landis

Steering Committee Member:	Question/Comment/Topic:	Response/Way Forward:	Date Action Item Anticipated for Completion:
<ul style="list-style-type: none"> Ann V. 	<ul style="list-style-type: none"> Were non-producing agricultural lands included in the SITES model? Corridors may be able to be widened or previous agricultural lands may be able to be restored by selling those lands to conservancies. 	<ul style="list-style-type: none"> Agriculture is a vegetation type in our model, crop value and production were not factored into the model. 	<ul style="list-style-type: none"> Additional data will be discussed on 3/16.
<ul style="list-style-type: none"> Eric L. 	<ul style="list-style-type: none"> How timely is the agriculture data used in the SITES model? Does it reflect abandoned agricultural acreage? How this land is identified is important because we do not want farmers to lose their ability to replant later. 	<ul style="list-style-type: none"> We do not have an abandoned agriculture data set; agriculture was evaluated using aerial imagery and pesticide permit data, not on the ground observations. If a property is deemed to have the agriculture vegetation type, the property owner will not lose the ability to farm later if the property is currently fallow. 	<ul style="list-style-type: none"> Additional data will be discussed on 3/16.
<ul style="list-style-type: none"> Dan S. 	<ul style="list-style-type: none"> Does the Plan include a boundary adjustment method for future changes? It appears that lands with high habitat value located near the PAMA boundary were added to the PAMA, while lands of lower value were left out. Why weren't all remaining natural vegetation areas included in the PAMA? 	<ul style="list-style-type: none"> Yes, the Plan will allow for Boundary Adjustments within the PAMA boundary. Yes, that is correct – the analysis factored in the habitat value of lands in the SITES model. Many of the vegetated areas not included are not within the jurisdiction of the County (Tribal lands in trust, District Lands, USFS lands, etc.) and therefore cannot be included in the PAMA. 	<ul style="list-style-type: none"> Implementation methods will be discussed on 5/15.

Steering Committee Meeting #2 Notes

Steering Committee Member:	Question/Comment/Topic:	Response/Way Forward:	Date Action Item Anticipated for Completion:
<ul style="list-style-type: none"> Ann V. 	<ul style="list-style-type: none"> Were tribes consulted regarding the option to have their lands included in the draft Plan? 	<ul style="list-style-type: none"> Staff is currently working on conducting outreach to the tribes. Tribes have been consulted in previous efforts associated with the North County Plan, but staff is working to get updated data and information. 	<ul style="list-style-type: none"> County will provide update to Steering Committee on 6/7.
<ul style="list-style-type: none"> Jim W. 	<ul style="list-style-type: none"> Several corrections, additions, and/or deletions could potentially come about with the draft PAMA. It would be helpful if the County provided these options to the Steering Committee for discussion within the next few weeks. Can you provide these options as well as the maps shown in today's presentation for review, so that the Steering Committee can provide further discussion? 	<ul style="list-style-type: none"> Staff can provide the Steering Committee digital copies of the maps shown in today's presentation. 	<ul style="list-style-type: none"> County provided on 3/9.
<ul style="list-style-type: none"> Eric L. 	<ul style="list-style-type: none"> Understand the desire to expand PAMA. However, PAMA should not be expanded just because one believes the land has preservation value. There needs to be a scientific basis for the decision. It would be helpful if these maps were provided at the parcel level so we could review what properties are located within the PAMA & Linkages. 	<ul style="list-style-type: none"> Staff will provide maps at the parcel level to the Steering Committee. 	<ul style="list-style-type: none"> County provided on 3/9.
<ul style="list-style-type: none"> Dan S. 	<ul style="list-style-type: none"> Haven't all of the considered "private development projects" received Wildlife Agency concurrence? 	<ul style="list-style-type: none"> Some projects require more revisiting than others to verify that all mitigation has been completed. County staff will be working with the Wildlife Agencies to discuss private projects and how they are presented in the Plan. 	<ul style="list-style-type: none"> County will provide update to Steering Committee on 6/7.

Steering Committee Member:	Question/Comment/Topic:	Response/Way Forward:	Date Action Item Anticipated for Completion:
<ul style="list-style-type: none"> Frank L. 	<ul style="list-style-type: none"> Little pockets of habitat are devalued compared to large pockets. Those large pockets are located in East County, which will be most heavily affected by climate change. Most of our preserves are allocated in the East; however species will migrate west toward cooler areas, which also happens to be where land is most developed. This potential migration needs to be taken into account. 	<ul style="list-style-type: none"> The majority of the coastal region is not within the County's jurisdiction or has already been developed. Climate change is addressed in the Plan and will be discussed further in future meetings. 	<ul style="list-style-type: none"> Climate change will be discussed on 6/7.
<ul style="list-style-type: none"> Eric L. 	<ul style="list-style-type: none"> Is there a map showing the preserved areas located within the incorporated cities? 	<ul style="list-style-type: none"> Staff will provide a regional map that shows the location of various preserves. 	<ul style="list-style-type: none"> County provided on 3/9.
<ul style="list-style-type: none"> Frank L. 	<ul style="list-style-type: none"> What does the "NC" stand for on the linkage map? 	<ul style="list-style-type: none"> North County. 	<ul style="list-style-type: none"> No action item.
<ul style="list-style-type: none"> Dave M. 	<ul style="list-style-type: none"> When designing the Plan linkages, we considered and tried to buffer out narrow corridors to protect species by minimizing the impact of edge effects. 	<ul style="list-style-type: none"> Linkages and corridors will be discussed further in the Conservation Analysis. 	<ul style="list-style-type: none"> County will provide update on 4/25.
<ul style="list-style-type: none"> Ann V. 	<ul style="list-style-type: none"> Can you show the legitimate wildlife crossings on the linkage map? 	<ul style="list-style-type: none"> Staff will provide a map with important wildlife crossings. 	<ul style="list-style-type: none"> County provided on 3/9.
<ul style="list-style-type: none"> Frank L. 	<ul style="list-style-type: none"> Why do we need these corridors? It appears most Covered Species are relatively sedentary. 	<ul style="list-style-type: none"> Gnatcatcher is a major concern, as well as the other bird and butterfly species. Additionally, many of the Watch List species are mobile (i.e. mountain lion) and will be good indicators for Preserve connectivity. 	<ul style="list-style-type: none"> County will provide update on 3/16.

Steering Committee Member:	Question/Comment/Topic:	Response/Way Forward:	Date Action Item Anticipated for Completion:
<ul style="list-style-type: none"> • Dan S. 	<ul style="list-style-type: none"> • Concerned Newland Sierra will go into the Plan and draft EIR while still in a very premature phase. The Steering Committee will be in a problem area where they want to support the NCMSCP, but cannot support the inclusion of Newland. 	<ul style="list-style-type: none"> • The project was evaluated/considered in 2010. Though not brought to the Board of Supervisors, it included an agreement between the County, applicant, and Wildlife Agencies. • None of the projects will be solidified by their inclusion in the Plan – in order for a headline to be completed, Wildlife Agency concurrence is required, and this is something the County will continue to work on with the Wildlife Agencies. 	<ul style="list-style-type: none"> • County will provide update to Steering Committee on private projects on 6/7.
<ul style="list-style-type: none"> • Jim W. 	<ul style="list-style-type: none"> • If a developer is comfortable with their proposed footprint, it is at their own risk to engage in the Plan without project approval. 	<ul style="list-style-type: none"> • Comment noted. 	<ul style="list-style-type: none"> • No action item.
<ul style="list-style-type: none"> • Dave M. 	<ul style="list-style-type: none"> • The agencies have not agreed to the proposed private projects, but they have also not determined that the proposed development cannot be approved. Negotiations and discussions are still underway. 	<ul style="list-style-type: none"> • County and Wildlife Agencies will continue to work together on this issue. 	<ul style="list-style-type: none"> • County will provide update to Steering Committee on private projects on 6/7.
<ul style="list-style-type: none"> • Dan S. 	<ul style="list-style-type: none"> • I remain to be convinced that this Plan is succeeding in being a habitat-based plan based on the Covered Species list. 	<ul style="list-style-type: none"> • Several Watch List species may be monitored for Preserve connectivity/linkage success. • The corridors connect to other HCPs/conserved lands outside the County's jurisdiction. We don't have to monitor umbrella species to understand if the linkages are working. 	<ul style="list-style-type: none"> • County will provide update on 3/16.

Steering Committee Member:	Question/Comment/Topic:	Response/Way Forward:	Date Action Item Anticipated for Completion:
<ul style="list-style-type: none"> Dan S. 	<ul style="list-style-type: none"> Is the USFWS saying you already have the Watch List species taken care of? 	<ul style="list-style-type: none"> All species included on the covered species list require species-level monitoring and management. The PAMA was developed to cover a much larger species list. Therefore, the preserve is designed such that as lands are conserved, additional species (beyond the covered species) would receive protection. In that way, the Plan will protect more species than are on the Covered Species list, but the County will not be responsible for managing and monitoring those additional species. 	<ul style="list-style-type: none"> County will provide update on 3/16.
<ul style="list-style-type: none"> Jim W. 	<ul style="list-style-type: none"> What happens if a property has a species on their North County property that is covered under the South County Plan but not the North County Plan? We are concerned that CEQA is being used as "second bite" for additional mitigation for a species that was not given take coverage. 	<ul style="list-style-type: none"> The property/project would have to be reviewed for compliance with CEQA and adequate mitigation would need to be completed. 	<ul style="list-style-type: none"> County will provide update on 3/16.
<ul style="list-style-type: none"> Dan S. 	<ul style="list-style-type: none"> The South County MSCP was overtly a habitat-based plan, we protected certain species with the expectation that other species would fall under this protection umbrella. After reviewing the Covered Species list, it does not appear that enough species would be indirectly protected within these protected habitats. Where are the habitat umbrellas and where are the linkage umbrellas? 	<ul style="list-style-type: none"> Many of the Watch List species are the habitat and linkage "umbrella species". Additionally, "no longer covered species" will benefit from the proposed PAMA design. Coast-horned lizard (Covered Species) is also a good indicator species for disturbance. 	<ul style="list-style-type: none"> County will provide update on 3/16.
<ul style="list-style-type: none"> Jim W. 	<ul style="list-style-type: none"> Is it perceived that there will be more intensive management required for the North County Plan than the South County Plan due to the amount of disturbance and agriculture in North County? 	<ul style="list-style-type: none"> The mechanisms for monitoring and adaptive management will need to be more specific on how we respond to threats due to changes in HCP Plan requirements and due to the amount of existing development/agriculture in the North County. 	<ul style="list-style-type: none"> Monitoring and management will be discussed in detail on 6/7

Steering Committee Member:	Question/Comment/Topic:	Response/Way Forward:	Date Action Item Anticipated for Completion:
<ul style="list-style-type: none"> • Dan S. 	<ul style="list-style-type: none"> • In terms of preserve design, the Covered Species and Watch List species hold equal weight? 	<ul style="list-style-type: none"> • That is correct, both sets of species were used equally to ultimately design the PAMA. In addition, the PAMA was developed with other species in mind, such as those no longer on the Covered Species list or Watch List. 	<ul style="list-style-type: none"> • County will provide update on 3/16.
<ul style="list-style-type: none"> • Ann V. 	<ul style="list-style-type: none"> • Is the Watch List Species verses Covered Species approach a good idea the County and Wildlife Agencies collectively had, or is there data someone could review that indicates this is a feasible approach? Will this approach be feasible for conservancies to continue to manage and monitor their lands? 	<ul style="list-style-type: none"> • Both, the Watch List Species and Covered Species approach is based on the lessons learned from implementing the South County MSCP. The Watch List species are based on the species observed in the South County Plan that are helpful in designing and assessing the effectiveness of corridors within the Plan area. While these species are important for assessing the health and effectiveness of the Plan, the cost associated with species level management for these species is infeasible. By having both Covered Species and a Watch List, we can monitor the health of the Plan while receiving take coverage for the most sensitive species. 	<ul style="list-style-type: none"> • County will provide update on 3/16.
<ul style="list-style-type: none"> • Frank L. 	<ul style="list-style-type: none"> • If Shot Hole Borer eliminates habitat for several Covered Species, what happens to the Plan? If we lose umbrella species, how do we evaluate the success of the Plan? 	<ul style="list-style-type: none"> • The Plan incorporates analysis of both Unforeseen and Changed Circumstances. We recognize the amount of effort needed to combat the Shot Hole Borer, however we cannot prepare for all issues that may arise, especially if potential actions are outside of the Court's jurisdiction. The purpose of the Plan is to acknowledge any events that may come forward, however we cannot prepare for everything (Adaptive Management will be discussed in a later meeting). When the Wildlife Agencies make their findings, it is under the determination that there is sufficient habitat to protect these species in the long term. 	<ul style="list-style-type: none"> • Unforeseen and changed circumstances will be discussed on 5/15.

Steering Committee Member:	Question/Comment/Topic:	Response/Way Forward:	Date Action Item Anticipated for Completion:
<ul style="list-style-type: none"> Eric L. 	<ul style="list-style-type: none"> The PAMA design doesn't benefit these "no longer covered species"? 	<ul style="list-style-type: none"> The PAMA design does benefit these species, as these species were included in the SITES model to create the PAMA. The PAMA was designed to provide habitat for all 64 species that have been discussed. The number of species that the County can receive take coverage for is limited due to the cost associated with the level of monitoring and management required by the Wildlife Agencies. There are conservation benefits for all of these species, but not all of these species will receive take coverage. 	<ul style="list-style-type: none"> County will provide update on 3/16.
<ul style="list-style-type: none"> Dan S. 	<ul style="list-style-type: none"> Can these "no longer covered species" be tiered off? 	<ul style="list-style-type: none"> The Watch List species will be studied in the EIR, so they may be tiered off. The County will analyze whether or not it is feasible to include all 64 species in the environmental analysis. 	<ul style="list-style-type: none"> County will provide update on 3/16.
<ul style="list-style-type: none"> Eric L. 	<ul style="list-style-type: none"> If these "no longer covered species" are not in the Plan area, are abundant in the Plan area, or are not represented in the Plan area, why would we be required to mitigate for them under CEQA? 	<ul style="list-style-type: none"> Some of the plants on the "no longer covered species" list are nearing their northern range limit in the North County Plan, so they are not as abundant as in the South County. The vast majority of these "no longer covered species" will not need to be conserved outside of PAMA. It is unlikely to encounter them or encounter a significant population outside of PAMA, so we do not anticipate mitigation to be required for them on properties located outside of PAMA. 	<ul style="list-style-type: none"> County will provide update on 3/16.
<ul style="list-style-type: none"> Frank L. 	<ul style="list-style-type: none"> The "no longer covered species" sound more detrimental to developers looking to develop outside the PAMA. 	<ul style="list-style-type: none"> The County will ensure that the BMO clearly explains how to deal with species that are within and outside of PAMA, and also how to deal with species that are not on the covered list. 	<ul style="list-style-type: none"> County will provide update on 3/16.

Steering Committee Member:	Question/Comment/Topic:	Response/Way Forward:	Date Action Item Anticipated for Completion:
<ul style="list-style-type: none"> • Dan S. 	<ul style="list-style-type: none"> • If an analysis of these “no longer covered species” is not costly, it may be best to include them in the EIR. It would save a lot of people time and money down the road if. 	<ul style="list-style-type: none"> • Noted, staff will explore feasibility of analyzing the “no longer covered species” and inclusion in the EIR. 	<ul style="list-style-type: none"> • County will provide update on 3/16.
<ul style="list-style-type: none"> • Dave M. 	<ul style="list-style-type: none"> • The Light-footed Ridgway’s Rail cannot be issued take by a CEQA permit, the only way it can be covered is if it was covered under an NCCP. It may become a concern for developers in the future, as its occupied habitat has extended upstream from saltmarshes into riparian areas if there is cattail marsh or areas of cattail marsh. 	<ul style="list-style-type: none"> • Comment noted. 	<ul style="list-style-type: none"> • No action item.

ATTACHMENT 2

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May 17, 2017

VIA EMAIL AND FEDERAL EXPRESS

The Honorable Dianne Jacob, Chair
 Board of Supervisors
 San Diego County
 1600 Pacific Highway Room 335
 San Diego CA 92101

Re: Investigation Needed into Newland's Misleading Backroom Dealing For Its "Sierra" Project And Potential Implications For County Staff

Chairwoman Jacob and Members of the Board of Supervisors:

We represent the Golden Door Properties LLC (the "Golden Door"). Adjacent to the Golden Door's property, the Newland Real Estate Group, LLC ("Newland") has proposed a revised Merriam Mountains project, known as the "Sierra" project (the "Newland Project" or "Project"). Newland's proposal includes 2,135 residential units, 81,000 square feet of commercial development, a school, and various parks and equestrian facilities resulting in a population of over 6,000 residents, larger than the City of Del Mar.

We write today to request that the Board ensure that County staff does not advocate for the approval of the Newland Project with other public agencies, prior to the Board's own consideration of this previously rejected project.

Newland proposes to build its Project near Deer Springs Road in rural Twin Oaks Valley ("Project Site"), which is a crucial connection point for east-west and north-south connectivity for wildlife in the North County Multiple Species Conservation Program ("NC MSCP" or "Plan"). The Golden Door opposes the Newland Project and has corresponded extensively with staff members at the County's Department of Planning and Development Services ("County Planning Staff") regarding our concerns.

A few weeks ago, we were given documents from the U.S. Fish and Wildlife Service describing efforts by Newland and its allies to surreptitiously evade biological mitigation for the proposed Project and to undermine the NC MSCP. These documents only provide a limited view into Newland's actions, but they raise significant concerns about Newland's non-public negotiations with the U.S. Fish and Wildlife Service ("USFWS"), false claims Newland and its allies have made as part of such negotiations, and Newland's attempts to circumvent the proper channels at USFWS. The documents are attached as Exhibits A through E to this letter.

Newland may have involved in County Planning Staff in its actions, placing staff in a position where they appear to be the developers' advocates rather than neutral land use specialists processing projects for the public's benefit. If that is what has occurred, we do not believe it is appropriate for Newland to force County Planning Staff to advocate for proposed projects, especially where the Newland Project has been previously rejected by the Board, and conflicts with the County's General Plan and Subregional Plan adopted for this site in 2011.

We have only a limited view of these actions through the available documents. Therefore, we request that you ask staff to investigate these matters and determine whether Newland has recruited staff to advocate for its Project with other agencies prior to the Board's own consideration of the Project. It is possible that further investigation will vindicate the parties involved; however, based on the documents we have been able to review—attached to this letter—there is enough information to warrant further fact-finding on this matter.

The proposed Newland Project Site has high value biological characteristics and is an important part of the draft NC MSCP. We want to ensure that the public, including environmental groups and local communities, are part of any process to evaluate and mitigate for the biological impacts Newland's proposed development would cause on the Project Site.

I. FACTUAL BACKGROUND

A. Recently Obtained Documents Raise Concerns Regarding Newland's Efforts to Evade Biological Mitigation Outside of Public View

Our concerns regarding Newland's behind the scenes actions with regard to biological mitigation began when we obtained a copy of a "matrix" apparently prepared by a representative of the San Diego Building Industry Association ("BIA"). See **Exhibit A**. Newland's project manager and Vice-President, Rita Brandin, is also Vice-Chair of the BIA. We understand the BIA Matrix was provided to officials in the USFWS office in Washington, D.C., in an attempt to mislead the agency regarding USFWS's local Carlsbad office's negotiations with Newland regarding mitigation for the Project's biological impacts.

The BIA Matrix also appears intended to intimidate USFWS into refraining from commenting on development project in the California Environmental Quality Act ("CEQA") process—effectively implementing a gag order. It appears that when Newland was unable to convince USFWS's local Carlsbad office to eliminate important biological mitigation requirements for the Project, Newland, or San Diego BIA lobbyists acting on its behalf, attempted to go up the chain at USFWS in an effort to find a decision-maker less familiar with the facts on the ground who might be swayed by Newland's false statements.

Several attachments to the BIA Matrix are also attached here: a memo from Newland's Rita Brandin to the USFWS Regional Director in Sacramento (**Exhibit B**), a compilation of emails between Newland, the County, and USFWS and the California Department of Fish and

Wildlife (“CDFW”) (together with USFWS, the “Wildlife Agencies”) (**Exhibit C**¹), and letters from the Wildlife Agencies to the County regarding the Newland Project’s Notice of Preparation (“NOP”) (**Exhibit D** [USFWS], **Exhibit E** [CDFW]).

Our concerns about Newland’s efforts to evade biological mitigation appeared to be confirmed by materials provided *by County Planning Staff* at recent stakeholder meetings for the NC MSCP that show the Newland Project Site carved out of the NC MSCP as a “private project.” See **Exhibit F**.²

These maps (as proposed by County Planning Staff, apparently at Newland’s behest) show the Newland Project to be the *only unapproved project* and *the only project which conflicts with the County General Plan* to be carved out of the proposed NC MSCP and subject to different rules than the rest of the North County area.

B. NC MSCP Preparation and Purpose

Preparation of the NC MSCP has been ongoing for nearly 20 years now. The NC MSCP’s purposes include providing a regional, inter-connected preserve system and avoiding the need for project-by-project negotiations with multiple permitting processes. As such, it is critical that the NC MSCP be biology-driven and not provide special treatment for any particular developer. As part of the planning process, the County and the Wildlife Agencies have identified land with important biological characteristics, known as Pre-Approved Mitigation Areas (“PAMA”).

Protecting PAMA is critical to ensure conservation of contiguous blocks of habitat. We understand that a draft Plan, as proposed by the stakeholders, may be provided to the public later this year, and a Draft EIR for the NC MSCP may be published in 2018, with final approvals projected for 2020 and 2021. In addition to the County, the Wildlife Agencies must approve the NC MSCP before it takes effect.

During preparation of the Plan, projects proposed in the NC MSCP area are subject to an “interim process” outlined in a 2014 Planning Agreement signed by the County, USFWS, and CDFW. This interim process requires that projects be consistent with the NC MSCP’s preliminary species and habitat preservation goals and requires that project approvals not compromise the successful implementation of the NC MSCP. As such, consideration of NC MSCP consistency and goals is an integral part of any development project’s CEQA review for biological impacts and comments from the Wildlife Agencies—even before the Plan has been completed.

¹ We do not know the source of the highlighting and hand-written notes throughout the email compilation in Exhibit C or the highlighting in the memorandum in Exhibit B.

² Exhibit F is a copy of a slide from a PowerPoint presentation provided by the County showing Newland Project as the only unapproved project being pulled out of the NC MSCP. Exhibit F also contains two draft NC MSCP maps showing the Newland Project Site removed as a “private project.”

C. The Merriam Mountains/Newland Project Site

The proposed Newland Project is located on the same site as the failed Merriam Mountains project—approximately 2,000 acres in rural North County between Deer Springs Road and Gopher Canyon Road along the west side of I-15. The Project Site is located in Planning Unit 9 of the NC MSCP (San Marcos-Merriam Mountains Core Area) and sits on one of only two remaining large blocks of natural habitat west of I-15 in PAMA. A portion of the Project Site is located in Resource Conservation Area 23 of the North County Metro Community Plan. Draft NC MSCP habitat evaluation maps indicate that habitat on and adjacent to the Newland Project Site are moderate, high, and very high quality habitat. See **Exhibit G**.

D. The Board of Supervisors' Decisions to Keep the Project Site Rural: The Failed Merriam Mountains and the General Plan Update

The Merriam Mountains project, considered by the Board in 2010, proposed approximately 2,600 homes on the Project Site, which was zoned for just over 300 homes at that time. In 2005, the Merriam Mountains developer entered into a “Hardline Points of Agreement” with the County, USFWS, and CDFW (then titled California Department of Fish and Game) to allow for that project’s biological impacts. See **Exhibit H**. This 2005 “Hardline Points of Agreement” provided that, among other provisions, (1) the County was required to amend its Resource Protection Ordinance (“RPO”) to allow for the project design, (2) the project’s density would be consistent with the zoning in the General Plan Update, and (3) the developer would purchase an off-site mitigation property known as the “Captains Associates property.”

The Board rejected the Merriam Mountains project and refused to amend the prior General Plan to accommodate the development. Then in 2011, the Board approved its General Plan Update that *down-zoned* the Project Site to accommodate only approximately 100 homes and decided that the area should be preserved as rural lands. In both instances the Board has voted on the density for this site in the past decade, the Board has voted to maintain the site’s rural nature and protect its biological value.

E. The Proposed Newland Project’s Background

Despite the Board’s consistent votes to keep Twin Oaks Valley rural, Newland now seeks a General Plan Amendment to add a development that is larger than the City of Del Mar.

The County published its NOP for the Newland Project in February 2015. The Wildlife Agencies provided comments on the Newland Project’s NOP, emphasizing the importance of the Project Site within the NC MSCP for connectivity purposes. The Wildlife Agencies’ NOP letters raise several specific points regarding the site’s biological importance:

- (1) the Project and areas on all sides are identified as PAMA in the NC MSCP;
- (2) the proposed Project sits on one of only two remaining large blocks of natural habitat west of I-15 in PAMA;

(3) habitat evaluation maps for the draft NC MSCP indicate habitat on and adjacent to the Project Site are moderate, high, and very high quality habitat;

(4) north-south habitat connectivity along I-15 is important for the NC MSCP; and

(5) development on the Project Site could fragment core habitat planned to connect designated preserve areas.

See Exhibits D, E. In addition, the Wildlife Agencies proposed alternatives in which Newland would remove its development along the I-15, which would allow for some continued north-south connectivity on the Project Site.

On May 7, 2015, County Planning Staff issued a Scoping Letter for the Newland Project, which addressed the Project's consistency with the NC MSCP as a "major project issue."³ The Scoping Letter concedes that no hardline agreement has been approved for the Newland Project, noting that "if the Wildlife Agencies Hardline Agreement is not approved, the project would be required to comply with the North County Plan and its requirements for projects in [PAMA], including avoidance of critical populations of sensitive species and adherence to preserve design and linkage principles. If the North County Plan has not been approved prior to the project moving forward, the project will require compliance with the Habitat Loss Permit (HLP) Ordinance and the County and Wildlife Agencies Planning Agreement." Scoping Letter at 4.

Nearly a year after publishing its NOP, Newland submitted a revised Specific Plan and grading plans. The County published these documents on its website but did not issue a new NOP or provide any notice that the Project had been revised. Now, almost two-and-a-half years after publication of the Project's NOP, no further CEQA documentation has been published, and the public is unaware of any further changes the developer may have made.

II. NEWLAND'S APPARENT EFFORTS TO EVADE REQUIRED BIOLOGICAL MITIGATION

Unfortunately, based on available documents, it appears that Newland has used this time to engage in backroom dealing and attempts to weaken environmental protection requirements without any opportunity for public review or comment.

Based on our review of the available documents, it appears that Newland has pursued aggressive negotiations with the Wildlife Agencies to revive the 2005 "Hardline Points of Agreement" even though the Wildlife Agencies agreed, and the County admits, that the Newland Project is a "new" project with no approved hardline agreement. Newland has argued to the

³ The Scoping Letter is part of the County's files for the Newland Project and available online at <http://www.sandiegocounty.gov/content/dam/sdc/pds/regulatory/docs/newlandsierra/NewlandSierraScopingLetter.pdf>.

Wildlife Agencies that its Project is the same project as Merriam Mountains and has fought USFWS's mitigation proposals.

Further, the conditions of the 2005 "Hardline Points of Agreement" do not appear to have been fulfilled: (1) the County has not amended its RPO consistent with that agreement, (2) the Project is inconsistent with the 2011 General Plan Update because it proposes more than 20 times the allowed residential density, and (3) there is no evidence Newland has purchased the "Captains Associates property" which was specifically identified in this agreement as essential mitigation.

It appears that Newland's failure to convince the local USFWS office in Carlsbad to rely on an unfulfilled "points of agreement" for the defunct Merriam Mountains project caused Newland's lobbyists to go over the heads of the Carlsbad office to the USFWS Regional Office in Sacramento and to the USFWS office in Washington, D.C. From the material we have reviewed, Newland or lobbyists on Newland's behalf have seemingly fed these offices false information in an attempt to short-circuit the orderly preparation of the NC MSCP and CEQA review of the Newland Project's biological impacts.

In particular, the BIA Matrix and its attachments, which were provided to the USFWS office in D.C., includes multiple false statements about the Newland Project, including:

- (1) that there is an existing hardline agreement for the project (Exhibits B, C);
- (2) that the underlying land use designation on the Project Site is "largely unchanged" from when the Merriam Mountains project was considered and rejected (Exhibit B); and
- (3) that the USFWS Carlsbad office is requiring Newland "suspend" their project. (Exhibit C.⁴)

These assertions are simply false. As described above, there is no valid hardline agreement for the Project. Additionally, the underlying zoning on the Project Site has been cut to one-third of the prior allowance for residential; it is not "largely unchanged." Finally, the USFWS Carlsbad office told Newland they could go through the typical permitting process if they did not want to pursue the proposed off-site mitigation. Exhibit C.⁵ Any "suspension" of

⁴ Accusations that the Carlsbad USFWS offices are trying to "suspend" the Newland Project are included in an email exchange between consultant Steve Thompson and USFWS staff member Mendel Stewart on October 10 and 11, 2016.

⁵ References to the typical permitting process are included in an email exchange between Steve Thompson and Mendel Stewart on October 10 and 11, 2016. Further, the County's May 7, 2015 Scoping Letter for the Project indicates that Newland will need to obtain a Habitat Loss Permit if the NC MSCP is not completed prior to Project approval.

the Project is due to Newland's refusal to provide adequate on and off-site mitigation, not any action by the local USFWS office.

In fact, the BIA Matrix's false statements about the Newland Project, and about other projects, warranted a letter from the Endangered Habitats League—a long-time stakeholder in the NC MSCP process—titled “Correcting the Record,” which addresses the BIA Matrix's numerous falsehoods, attached hereto as **Exhibit I**.

In addition, it is troubling that the BIA matrix criticizes the local USFWS office for providing NOP comments on the Newland Project. *See* Exhibit A. Any attempt to silence an agency responsible for environmental protection from commenting on a development project is contrary the spirit of open public processes. Why would an expert agency not provide input within its realm of expertise? Moreover, why is Newland so concerned about what these wildlife experts working for the public good would say about their proposed Project?

It is also concerning that County Planning Staff is mentioned in and included on several of the email exchanges between Newland and USFWS, raising the question of the degree to which Newland is attempting to improperly involve County Planning Staff as a project-advocate behind closed doors for a project that contradicts the County's General Plan. Such activity would go far beyond merely processing a project, and any attempt by Newland to drag County Planning Staff into its closed door dealings should be investigated and disclosed to the public.

It is important that the Board and the public understand the process by which Newland has sought to minimize its biological mitigation requirements—and the degree to which Newland involved County Planning Staff in such efforts. Project design and mitigation are supposed to be developed through a public process under CEQA. It is unclear what actions Newland has taken, and forced County Planning Staff to take as advocates of the Project, in the almost two and half years since submitting its application, but the limited records we have been able to review indicate a process that is not transparent. Newland's efforts have attempted to minimize biological protection without the public knowing about it.

We hope you are able to provide additional information and an open and fair public process to evaluate this information.

III. NEWLAND'S ATTEMPTS TO OBTAIN SPECIAL TREATMENT IN THE NC MSCP AS A “PRIVATE PROJECT” “CARVE OUT” DESPITE BEING INCONSISTENT WITH THE COUNTY'S GENERAL PLAN

Materials recently provided to NC MSCP stakeholders by County Planning Staff show the Newland Project Site carved out of the NC MSCP as a “private project.” *See* Exhibit F. The Newland Project is the *only unapproved project* given such treatment. This “carve out” raises questions as to why this project that contradicts the County's General Plan would receive such special treatment when County Planning Staff has already determined in its May 7, 2015 Scoping Letter that the Project must comply with the NC MSCP.

The removal of the Project Site from the draft Plan would pre-determine the analysis and mitigation of biological impacts without an opportunity for public participation. The NC MSCP is not likely to be approved for several years, after the projected date for the Board's consideration of the Newland Project. The County and the Wildlife Agencies are required to consider the consistency of any proposed project with the NC MSCP's principles. Prematurely carving the Newland Project of the draft NC MSCP without any public process, therefore, prejudices consideration of the Project's biological impacts. This cart-before-the-horse approach is improper—especially here where the Board has voted to keep this Project Site rural.

Further consideration of the Newland Project's biological impacts without reference to its connectivity and importance for fulfillment the NC MSCP's goals would be incomplete and not provide adequate information to the public or decision-makers. Newland should not be able to avoid the NC MSCP's protections for PAMA and wildlife connections by seeking special treatment without any opportunity for public review and input before the Board takes any action.

The Wildlife and Habitat Conservation Coalition ("WHCC"), a group of environmental groups including many longtime stakeholders in the NC MSCP process, share this concern, as described more fully in a letter the WHCC submitted to the Board last month. *See Exhibit J.* The WHCC letter emphasizes (1) the need to for County Planning Staff to respect the General Plan in developing the NC MSCP and (2) that the Newland Project Site reverted to PAMA after rejection of the Merriam Mountains project. In accordance with WHCC's concerns, Newland should not be able to avoid the NC MSCP's protections for PAMA and wildlife connections by seeking special treatment without any opportunity for public review and input.

Protection of the Newland Project Site as PAMA carries significant biological importance, because it is one of only two remaining large blocks of natural habitat west of I-15 in PAMA.⁶ Carving the Newland Project out of the NC MSCP for a hardline agreement would itself violate the purpose of the NC MSCP. Additionally, carving out the Newland Project Site is particularly contradictory here, because Newland has failed to provide any of the additional biological protection measures that were supposed to accompany the 2005 "Hardline Points of Agreement" for the defunct Merriam Mountains project. Newland has not acquired the specified "Captains Associates" off-site mitigation property, it has not obtained an amendment from the County to the RPO, and its development proposal is not consistent with the County's General Plan. *See Exhibit H.*

Moreover, Newland's efforts to obtain a special carve out from the NC MSCP have occurred out of public view and without the input of local communities, including the County sponsor groups, which exist for the purpose of informing the County's decision-making process for land use matters in their local communities. The Twin Oaks Valley Sponsor Group ("TOVSG")—which is responsible for land use recommendations over most of the Newland Project Site—was left out of the process. In fact, the TOVSG made a special request to the

⁶ *See Exhibits D, E.* In addition, a report prepared by Megan Jennings, Ph.D., at the request of the Golden Door further demonstrates the biological value of the Newland Project Site and its importance for wildlife connectivity throughout North County. The report is attached as **Exhibit K.**

County inquiring about the purported NC MSCP carve out for the Newland Project.⁷ If any biological analysis for the Newland Project is occurring outside of the Project's own approval process, there should be a full CEQA review, including the requisite public input, for the Newland Project's biological impacts as part of the NC MSCP—and the Project's EIR should not be approved until the completion of any such separate process.

The County's General Plan was approved by the Board of Supervisors in 2011 after spending millions of dollars and facilitating a decade-long process with significant public input to determine the blueprint for the County's growth and development. Simply put, Newland's proposed project contradicts that blueprint by dropping a population the size of the City of Del Mar in an area with significant biological value that the Board has twice voted should remain rural. To now carve out a special exemption from the NC MSCP—and to do so without any public review or input—would starkly contradict the letter and spirit of the law, smart planning principles, due process, and efficient use of public resources.

We request that the Board direct County Planning Staff not to pursue any proposed special designation for the Newland Project Site in the NC MSCP prior to the Board's own consideration and any County approval or rejection of Newland's Project, and to publicly disclose Newland's efforts to obtain this backroom benefit.

IV. NEWLAND'S PATTERN OF OBFUSCATION AND HYPOCRISY

Newland filed its application with the County almost two and a half years ago. Since that time, they have apparently given contradictory statements in public and private and have sought to avoid public disclosure as much as possible.

- A year after filing its initial application Newland submitted a new Specific Plan and new grading plans to the County but refused to recirculate the Project's NOP or provide any public notice.
- Newland insists the re-design and reconstruction of the Caltrans interchange at I-15 and Deer Springs Road be evaluated in a separate process after the County considers the Project, even though the interchange re-design is triggered by Project-generated trips.
- When the Golden Door requested its biologist have supervised limited access to the Project Site, Newland refused, offering only a short, guided in-vehicle tour that could not accommodate biological investigation.

⁷ A letter from the TOVSG to the County requesting clarification of the Newland Project Site's status within the NC MSCP is attached as **Exhibit L**.

- Newland has also omitted from its grading plans critical impacts that are part of Newland's proposed widening of Deer Springs Road.⁸

In short, Newland has provided little information to the public or opportunities for public input over the nearly two and a half years that the County has been processing this Project.

Further, in attempting to negotiate less protective biological mitigation requirements with USFWS, Newland claimed that its project is the same as the Merriam Mountains project and should be able to rely on the 2005 "Hardline Points of Agreement." Yet, in public, Newland has adamantly denied it is the same project as the failed Merriam Mountains project.

In fact, Newland's Vice President and project manager, Rita Brandin, stated in an August 2014 article, "I believe that Newland's approach to planning is distinctly different than the prior developer." *Merriam Mountain Plans Receiving Mixed Reviews*, THE COAST NEWS, INLAND EDITION, Aug. 1, 2014. Yet, in a memorandum from Ms. Brandin to USFWS staff at the regional office in Sacramento, Ms. Brandin complains that Newland "is at an impasse with Service staff" due, in part, to the fact that "[USFWS] staff dismissed the relevancy of the prior Points of Agreement, maintaining that Newland was required to begin the permitting process as a *new project*." Exhibit B at 1-2 (emphasis added).

Now that Newland is telling state and federal wildlife agencies that it is not proposing a "new" project and is instead simply renewing the same project as previously rejected by the Board, why is the County even wasting public resources to process it?

Newland's renewed Merriam Mountains application has the same flaws which caused the Board to reject it in 2010. In explaining his vote against the Merriam Mountains project, Supervisor Roberts noted that the project suffered from too much 20th century planning: "Housing development will become much more urban, providing amenities the communities want and ask for, and transit connections that do more than just a token job of offering people transportation alternatives besides the automobile."⁹ Like the failed Merriam Mountains project, the Newland Project is located on the same Project Site far from urban and employment centers, which will require long automobile trips. Even as more transit options have developed County-wide since the Board considered the Merriam Mountains project, including the Bus Rapid Transit program ending in Escondido on I-15, Newland's renewed proposal includes no

⁸ Reports from Delane Engineering demonstrate these issues, have been submitted to the County by the Golden Door, and are on file with County Planning Staff. In addition, Delane presented this work to County Planning and Public Works Staff.

⁹ Supervisor Roberts' press release explaining his vote against the Merriam Mountains project is available on his website at <http://www.ronroberts.com/content/d4/en/media/mediacenter/mountain.html>. "My own personal feeling is that the communities of the 21st century are going to be very, very different . . . they are going to have, as an integral part, public transit. They are going to be lower in their impacts in every way shape or form." Alison St. John, *Roberts Votes to Scuttle Merriam Mountain Project*, KPBS.ORG (Mar. 24, 2010).

provision for transit connections. Further, the Project itself is designed with a small commercial center in the extreme southeast corner, but most of the residential units are located far away across steep grades through curving internal loop roads sprinkled with cul-de-sacs.

The Newland Project poses the same 20th century planning problems as the previous Merriam Mountains project, yet Newland (apparently working with County Planning Staff) conveniently emphasizes its differences in public while disingenuously attempting to rely on the prior project's "agreements" to lobby for special benefits behind closed doors with federal and state wildlife agencies.

V. NEWLAND'S POTENTIAL INVOLVEMENT OF COUNTY PLANNING STAFF

It is unclear from the documents obtained to what degree Newland involved County Planning Staff in its attempts to avoid biological mitigation requirements. It is apparent, however, that Newland included County Planning Staff in some of its email correspondence and meetings with USFWS. *See* Exhibit C.¹⁰ It is also unclear what involvement, if any, County Planning Staff had in preparation or presentation of the false and misleading BIA Matrix. None of these documents were provided to us in our prior public record act requests to County staff about Newland's project.

We hope you will investigate these matters and provide the public additional information as to County Planning Staff's role, if any, in Newland's actions in lobbying these other agencies. County Planning Staff should also be asked to stop any lobbying of other agencies to persuade them to exclude Newland's project from the pending draft NC MSCP. Prior to Board action on the Project and any County approval, it is improper for Newland to place County Planning Staff in the position of project advocates before other agencies. County Planning Staff should not be asked to advocate for an unapproved development proposal that contradicts the County's General Plan and is located in an area that the Board has twice voted to keep rural.

¹⁰ A November 18, 2015 email from USFWS staff member Karen Goebel is addressed to Rita Brandin and County Planning Director, Mark Wardlaw; a January 15, 2016 email exchange between Mendel Stewart and Rita Brandin copies Mark Wardlaw; a October 10, 2016 email from consultant Steve Thompson refers to a "County rep;" and a September 9, 2015 email from County Planning Staff member Ashely Gungle to Rita Brandin forwards an email from Karen Goebel to Mark Wardlaw.

VI. CONCLUSION

Thank you for your time and attention to our comments. Please feel free to contact me at (858) 523-5400 or christopher.garrett@lw.com if you would like to discuss these matters further.

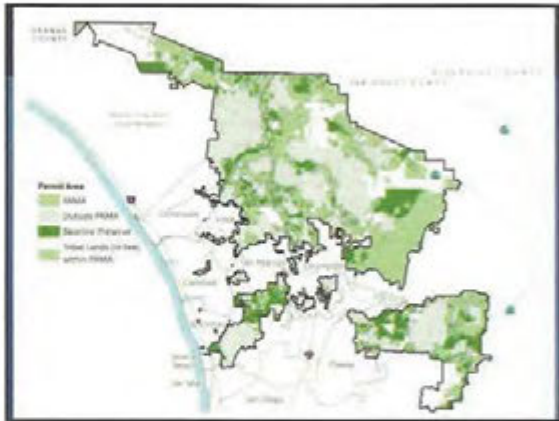
Best regards,

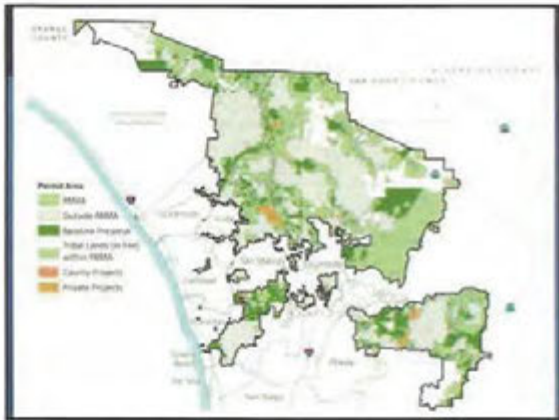
Christopher W. Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
Mark Wardlaw, County Planning and Development Services
Darin Neufeld, County Planning and Development Services
Mark Slovick, County Planning and Development Services
Ashley Smith, County Planning and Development Services
Peter Eichar, County Planning and Development Services
Crystal Benham, County Planning and Development Services
Karen A. Goebel, USFWS
Mendel Stewart, USFWS
Gail K. Sevrens, CDFW
Tom Kumura, Twin Oaks Valley Sponsor Group Chair
Margarette Morgan, Bonsall Sponsor Group Chair
Wayne Dauber, Hidden Meadows Sponsor Group Chair
Dan Silver, Endangered Habitats League
Laura Hunter, Wildlife and Habitat Conservation Coalition
George Courser, Sierra Club San Diego
Doug Hageman, Newland
Paul Robinson, Hecht Solberg Robinson Goldberg & Bagley
Mark Dillon, Gatzke Dillon & Balance
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
Andrew Yancey, Latham & Watkins

ATTACHMENT 3





Private Projects

Board Approved/Concurrence Pending from Wildlife Agencies:

- Butterfield Trails Ranch
- Campus Park West
- Meadowood
- Orchard Run
- Cumming Ranch
- Montecito Ranch

Pending Board Approval/Pending Concurrence from Wildlife Agencies:

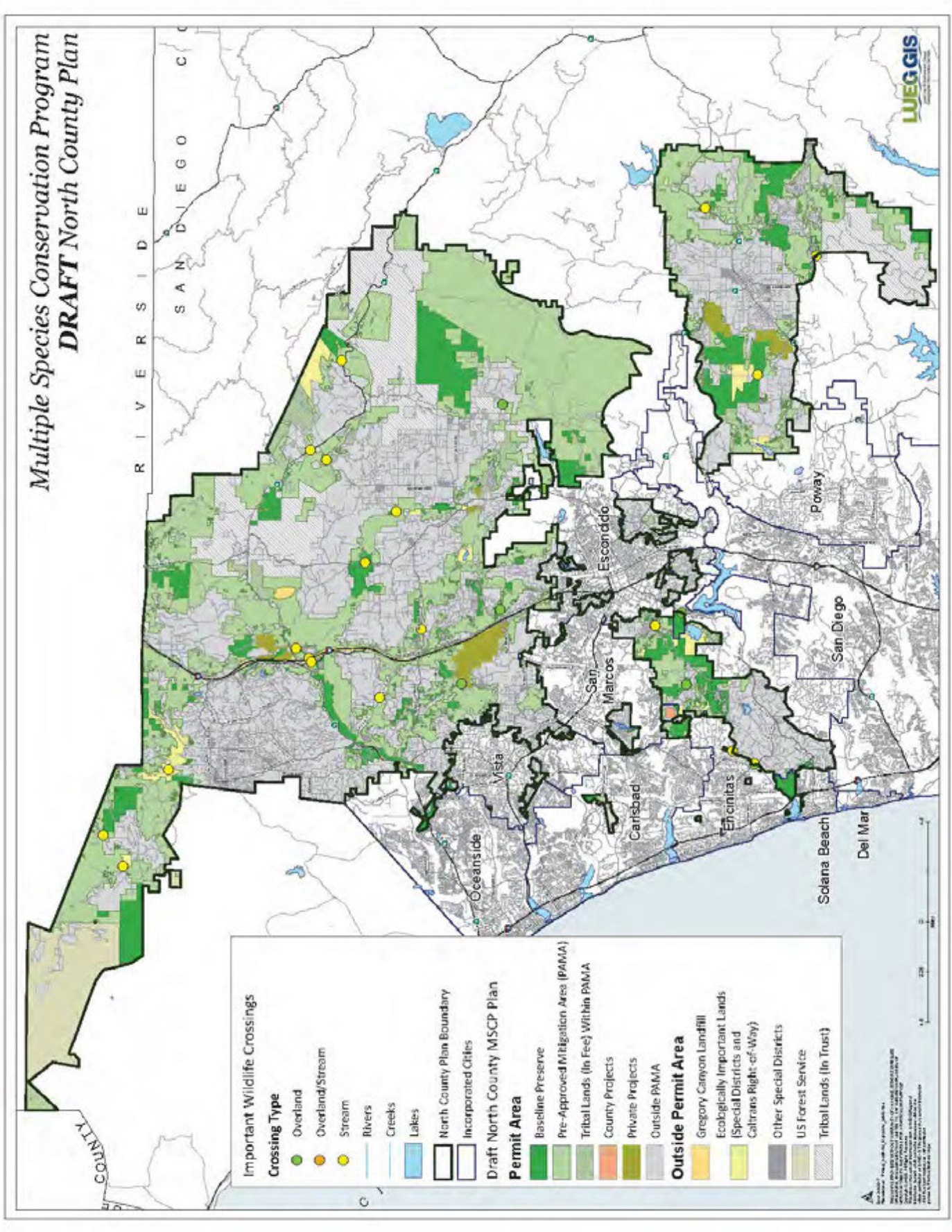
- Newland Sierra

24

Newland Sierra ⊗

*Multiple Species Conservation Program
DRAFT North County Plan*

LUEGGIS



Important Wildlife Crossings

Crossing Type

- Overland
- Overland/Stream
- Stream
- Rivers
- Creeks
- Lakes

North County Plan Boundary

- Incorporated Cities

Draft North County MSCP Plan

Permit Area

- Baseline Preserve
- Pre-Approved Mitigation Area (PAMA)
- Tribal Lands (In Fee) Within PAMA
- County Projects
- Private Projects
- Outside PAMA

Outside Permit Area

- Gregory Canyon Landfill
- Ecologically Important Lands (Special Districts and Caltrans Right-of-Way)
- Other Special Districts
- US Forest Service
- Tribal Lands (In Trust)

Scale bar: 0, 100, 200, 300 feet.

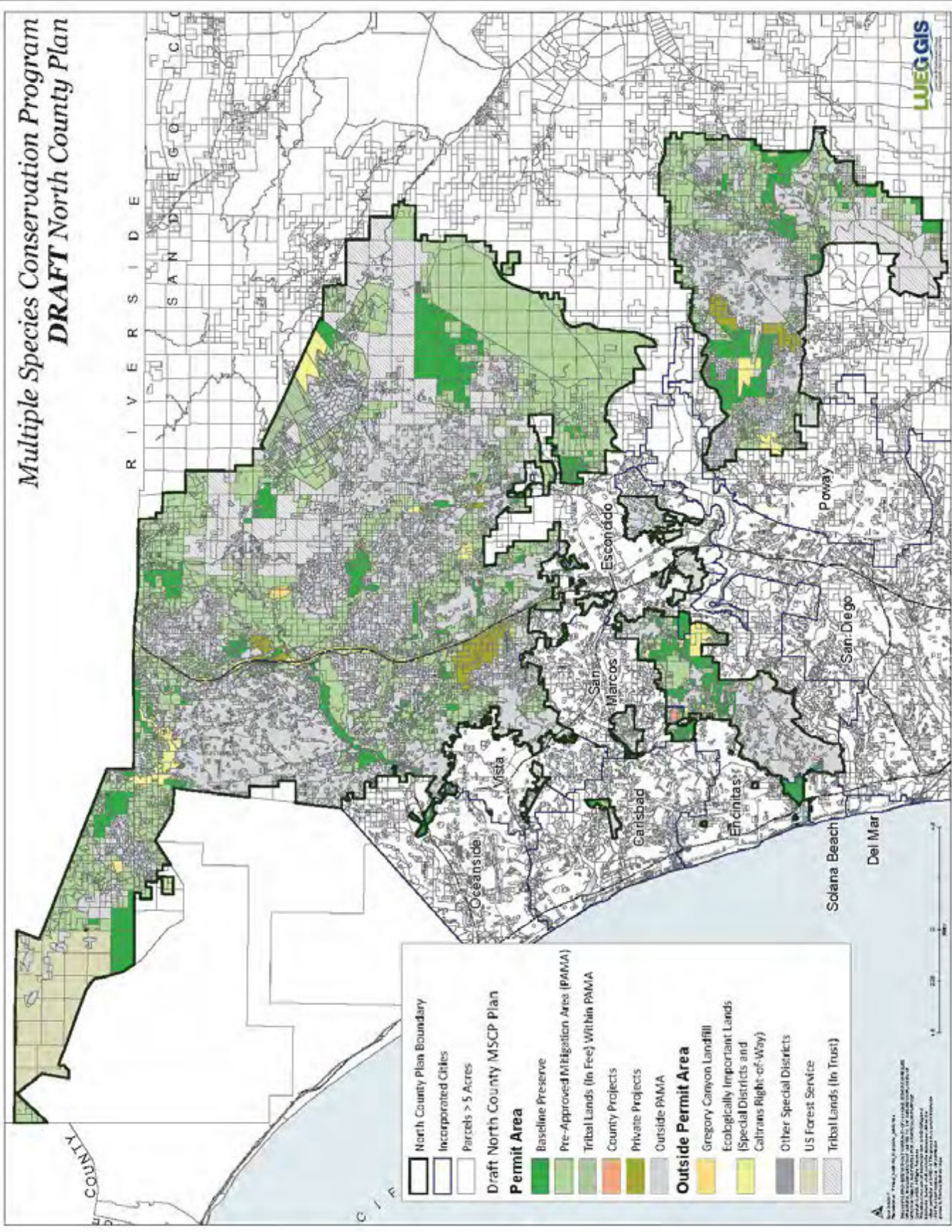
North arrow.

LUEGGIS logo and contact information.

*Multiple Species Conservation Program
DRAFT North County Plan*

R I V E R S I D E

LUERGIS



- North County Plan Boundary
- Incorporated Cities
- Parcels > 5 Acres
- Draft North County MSCP Plan**
- Permit Area**
- Baseline Preserve
- Pre-Approved Mitigation Area (PAMA)
- Tribal Lands (In Fee) Within PAMA
- County Projects
- Private Projects
- Outside PAMA
- Outside Permit Area**
- Gregory Canyon Landfill
- Ecologically Important Lands (Special Districts and Caltrans Right-of-Way)
- Other Special Districts
- US Forest Service
- Tribal Lands (In Trust)

Prepared by: LUERGIS, Inc. 10/2011
 Project: Multiple Species Conservation Program
 Draft North County Plan
 Map Scale: 1" = 1 Mile
 North Arrow: True North
 Date: 10/2011

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LATHAM & WATKINS LLP

July 12, 2017

VIA EMAIL

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Re: Fire Fee Payment Agreement for Newland Sierra Project (Agenda Item 10.a for July 12, 2017)

Dear President Osby, Vice President Slaughter, Secretary/Treasurer Sealey, Director Gordon, and Director Jackson:

We represent the Golden Door Properties LLC (the "Golden Door"), which is located on Deer Springs Road within the service territory of the Deer Springs Fire Protection District ("District"). Adjacent to the Golden Door, the Newland Real Estate Group, LLC ("Newland") has proposed a revised Merriam Mountains project, known as the "Sierra" project (the "Newland Project" or "Project") on property located near Deer Springs Road in unincorporated San Diego County ("County"). Newland's proposal includes 2,135 residential units, 81,000 square feet of commercial development, a school, and various parks and equestrian facilities. The Golden Door is concerned that this Project locates significant density in a backcountry area categorized as a very high fire hazard severity zone and that the Project would hinder evacuation efforts and emergency access in case of a fire by adding more than 4,600 vehicles to the community's transportation network during an evacuation. For these reasons, among others, the Golden Door opposes the Project.

We write to you regarding your consideration of the proposed Fire Fee Payment Agreement ("Agreement") between the District and Newland, which is Agenda Item 10.a for the District Board of Director's July 12, 2017 meeting.¹ We respectfully request that you delay any decision to approve the Agreement until after the County has made a final decision regarding Project approval.

¹ It is unclear from the District's agenda for the July 12, 2017 meeting whether consideration of the Agreement is an action item subject to a vote of the Board of Directors or is merely informational.

I. PROJECT STATUS AND PROCESS

The County is the lead agency for the Project under the California Environmental Quality Act (“CEQA”). At this time, the County has not approved the Project’s Environmental Impact Report (“EIR”).

On June 15, 2017, the County published a Draft EIR for the Project totaling over 8,000 pages. The Draft EIR includes analysis of the Project’s fire protection and facilities, access to the Project site for firefighters and other first responders, and evacuation from the Project site in case of a fire. The public comment period runs until August 14. The Golden Door—and other members of the public—intend to provide comments on the Draft EIR. In particular, the Golden Door has retained expert consultants to analyze and provide comments on the Draft EIR’s fire protection, emergency access, and evacuation analyses.

After the Draft EIR comment period closes, the County will be required to respond to comments and may make changes to the design of the proposed Project, the analysis of its impacts, or the proposed mitigation or alternatives to lessen or avoid those impacts. Then the County may circulate a Final EIR, incorporating any such changes. The Planning Commission may then consider the Project and recommend further changes. After the Planning Commission’s consideration, the Board of Supervisors may consider the Final EIR for certification and any other approvals for the Project. The Board of Supervisors may approve, reject, or recommend changes to the Project and its EIR. Any changes to the Project or analysis of its impacts may affect the District’s consideration of the Agreement.

II. THE AGREEMENT’S RELIANCE ON A CERTIFIED EIR IS IMPROPER AT THIS TIME

The proposed Agreement between the District and Newland states in Recital C that the County’s EIR “has determined that with the payment of the County’s required Fire Mitigation Fees . . . and pursuant to the Mitigation Fee Act, the Project will not have a significant impact on fire protection services and facilities. The EIR’s determination is based, in part, on the fact that payment of the required Fire Mitigation Fees would be satisfied by the Project pursuant to a fire fee payment agreement. This Agreement shall serve as the ‘fire fee payment agreement’ referenced in the Project’s EIR.”

At this time, however, there is no certified EIR on which the Agreement may rely. In fact, the County may reject the Project’s EIR or may make changes to the EIR prior to Project approval. The District’s approval of the Agreement at this time would be premature.

Further, it appears that approval of the Agreement would be a discretionary action, which would trigger requirements for a responsible agency action under CEQA. (14 Cal. Code Regs. § 15381; see also *RiverWatch v. Olivenhain Mun. Water Dist.* (2009) 170 Cal.App.4th 1186.) A responsible agency must consider a lead agency’s EIR and make certain findings. (See 14 Cal. Code Regs. §§ 15091, 15096.) Here, the Draft EIR notes that the Agreement and its associated fee is necessary for a finding of a “less than significant” impact to fire protection services and facilities. (See Draft Environmental Impact Report, Newland Sierra Project, County of San

Diego, State Clearing House No. 2015021036, at 3.5-15 (June 2017).² As a result, the District's approval of the Agreement is a necessary component of the Project—as described in the Draft EIR—and is subject to CEQA's requirements.

III. INADEQUATE NOTICE OF PROPOSED ACTION

It is unclear from the District's July 12, 2017 meeting agenda whether the Board of Directors may take action on the proposed Agreement and what action may be taken. Agenda item 10.a reads "Proposed Fire Fee Payment Agreement with Newland Sierra." No resolution or findings were attached or referenced in the agenda. A recent Court of Appeal case holds that inadequate notice of all action to be taken on an agenda item nullifies an agency's approval. (*Hernandez v. Town of Apple Valley* (2017) 7 Cal.App. 5th 194, 207-09.)

Further, an agency has an obligation to develop a complete record and allow the public an opportunity to review the evidence on which it bases its decision. (See *Gilroy Citizens for Responsible Planning v. City of Gilroy*, 140 Cal.App.4th 911, 918-919 (2006) ([courts reviewing an agency's determination look for "adequacy, completeness and a good-faith effort at full disclosure"].) Here, the Project's EIR has not been certified. The Project's design and analysis of its impacts and potential mitigation and alternatives is incomplete. As a result, the evidence on which the District would base a decision to approve the Agreement cannot be provided to the public as required, because it is not complete.

IV. CONCLUSION

Because the County has not certified the Project's EIR, the District should delay consideration of the Agreement. The Project would add over 6,000 new residents to the District's service area, which is an increase of approximately 50 percent. Before agreeing to the fees necessary to support such a significant increase in service requirements, the District should ensure it has reviewed the final Project design and environmental analysis.

Thank you for your time and attention to our comments. Please feel free to contact me at (858) 523-5400 or andrew.yancey@lw.com if you would like to discuss these matters further.

Best regards,



Andrew D. Yancey
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
Mark Slovick, County Planning and Development Services

² A copy of the Draft EIR's Chapter 3.5, Public Services, is attached hereto as Attachment A.

Ashley Smith, County Planning and Development Services
Dan Silver, Endangered Habitats League
Doug Hageman, Newland
Paul Robinson, Hecht Solberg Robinson Goldberg & Bagley
Mark Dillon, Gatzke Dillon & Balance
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
Christopher Garrett, Latham & Watkins

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Milan	

December 1, 2017

VIA EMAIL AND FEDEX

Rami Talleh, Deputy Director
 Planning and Development Services
 County of San Diego
 5510 Overland Avenue, Suite 310
 San Diego, CA 92123

Re: Response to Your August 24, 2017 Letter re North County MSCP Steering Committee Presentation

Dear Mr. Talleh:

As you know, we represent Golden Door Properties, LLC (“Golden Door”). We appreciate your August 24, 2017 response to our May 22, 2017 letter titled “North County MSCP Steering Committee Presentation.”

As you are aware, County of San Diego Planning and Development Services (“PDS”) is processing the proposed Newland Sierra project (“Project”). On May 7, 2015, PDS published a scoping letter (“Scoping Letter”) for the Project listing “Major Project Issues. (A copy of the Scoping Letter may be accessed online at <http://www.sandiegocounty.gov/content/dam/sdc/pds/regulatory/docs/newlandsierra/NewlandSierraScopingLetter.pdf>.) One of the Major Project Issues addressed in the Scoping Letter is “MSCP Draft North County Plan and Natural Communities Conservation Program (NCCP) Consistency.” (See Scoping Letter at 4, Attachment A Item 1-2.)

The Scoping Letter specifically addresses the potential for a hardline agreement for the Newland Project:

Please note that if the Wildlife Agencies Hardline Agreement is not approved, the project would be required to comply with the North County Plan and its requirements for projects in Pre-approved Mitigation Areas (PAMA), including avoidance of critical populations of sensitive species and adherence to preserve design and linkage principles. If the North County Plan has not been approved prior to the project moving forward, the project will require compliance with the Habitat Loss Permit (HLP) Ordinance and the County and Wildlife Agencies Planning Agreement.

(Scoping Letter at 4.) The Scoping Letter's decision in the absence of an approved hardline agreement or approval of the North County Multiple Species Conservation Program ("NC MSCP"), therefore, is to require the Newland Project to comply with the Planning Agreement, including its preliminary conservation objectives and requirements for pre-approved mitigation areas ("PAMA"). The public has received no notice from County staff that the Scoping Letter has been revoked or modified, and it remains posted on the County's website as of today's date.

As your letter notes, the U.S. Fish and Wildlife Service ("USFWS") and California Department of Fish and Wildlife ("CDFW," together the "Wildlife Agencies") must agree to any hardline included in the NC MSCP. The Wildlife Agencies have not agreed to the County's proposed hardline for the Newland Project. Consequently, the County should adhere to the Scoping Letter's decision and not assume a hardline for the purpose of environmental analysis—in either the project-specific environmental documents for the Newland Project or the County's draft of the NC MSCP.

The approach set forth in your August 24 letter contradicts the County's decision contained in the Scoping Letter. Your letter states on page 2 that "if [the Newland Project] is denied by the Board or significantly revised, it will be removed or modified within the Draft Plan." Under this approach, the hardline is assumed to be approved for the purpose of environmental analysis unless or until it is specifically denied. This assumption of a hardline contradicts the Scoping Letter's clear directive and decision that a hardline should not be relied upon unless or until it is specifically approved. The Scoping Letter was posted on the County's website and has been relied upon by members of the public in understanding the nature and scope of the County's environmental review for the Newland Project.

Further, the Newland Project's draft environmental impact report ("DEIR") adopted the same flawed approach as your letter, which contradicted the County's decision contained in the Scoping Letter. The DEIR determined the Project would result in a less than significant impact with regard to preventing or precluding preparation of the NC MSCP based on the DEIR's improper assumption of a hardline and the remainder of the future NC MSCP as the reason why there would be no significant adverse effect. (See Newland Sierra DEIR at 2.4-82, available at <http://www.sandiegocounty.gov/content/sdc/pds/ceqa/SP-15-001/NSDEIR.html>.) This assumption is inconsistent with the Scoping Letter's decision and represents completely circular logic in assuming a hardline for the purpose of environmental analysis for the Newland Project, even though no hardline has been approved by the County and the County has not completed any environmental review for its proposed NC MSCP or any hardline that may be proposed within the NC MSCP.

To break this "chain" of circular logic, the County must either: (1) first finish and certify the County's DEIR for the proposed NC MSCP containing the hardline before completing the Newland DEIR; or (2) rewrite the Newland DEIR to contain "standalone" biological analysis for potential impacts, including cumulative biological impacts and regional wildlife corridors, without assuming approval of the (as yet unapproved) NC MSCP and using the NC MSCP as a substitute.

The Golden Door submitted a comment letter and reports from expert biologists describing the flaws in the DEIR's biological analysis, improper assumption of a hardline, and inconsistency with the Planning Agreement's preliminary conservation objectives. A copy of the Golden Door's letter and attachments, as well as reports from expert biologists Megan Jennings and Schaefer Ecological Services, are provided on a disk included herein. Because the Newland DEIR and the NC MSCP are proceeding concurrently, and many comments on the DEIR are also relevant to the NC MSCP and its treatment of the Newland project site, we submit this material on the record with the County for consideration with respect to the NC MSCP.

In addition, various environmental organizations and public agencies also submitted comments on the Newland DEIR, which are relevant to the NC MSCP and its treatment of the Newland project site. We have included herein a second disk with these materials, which we also submit for the County's record and consideration of the NC MSCP. The comment letters on the second disk are from CDFW, USFWS, the California Department of Transportation, Endangered Habitats League (a letter and a report from expert biologist Hamilton Biological, Inc.), Sierra Club (San Diego), Environmental Center of San Diego, and the California Native Plant Society (San Diego).

Because the County is processing the Newland Project and the NC MSCP concurrently as separate projects, we are providing you these materials to ensure the County staff processing the NC MSCP is able to consider the same material as the County staff processing the Newland DEIR.

Thank you for your time and attention to this matter. Please do not hesitate to contact me at 858.523.5400 or christopher.garrett@lw.com if you would like to discuss these matters further.

Best regards,

Christopher W. Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

LATHAM & WATKINS^{LLP}

Enclosures

Cc (email):

Kathy Van Ness, Golden Door
Mark Wardlaw, PDS
Kathleen Flannery, PDS
Lisa Gordon, PDS
Mary Kopaskie, PDS
Mark Slovick, PDS
Ashley Smith, PDS
William W. Witt, Esq., Assistant County Counsel
Claudia G. Silva, Esq., Assistant County Counsel
Dan Silver, Endangered Habitats League
Laura Hunter, Wildlife and Habitat Conservation Coalition
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
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Milan	

December 19, 2017

VIA EMAIL AND U.S. MAIL

Ashley Smith
 Planning and Development Services
 County of San Diego
 5510 Overland Avenue, Suite 310
 San Diego, CA 92123

Re: Newland Sierra Failure to Comply with County Scoping Letter Requirements

Dear Ms. Smith:

As you know, we represent Golden Door Properties, LLC (“Golden Door”) in opposing the proposed Newland Sierra Project (“Project”). As you also know, we have been pro-actively communicating with the County of San Diego (“County”) staff and the applicant for several years concerning this project, including extensive comments on the Notice of Preparation (“NOP”) in March 2015 and Draft Environmental Impact Report (“DEIR”) in August 2017.

On May 7, 2015, the County issued a Scoping Letter to the Project applicant.¹ The Scoping Letter identified “issues” with the Project—including a more than 170-page Project Issues Checklist—that must be resolved by the applicant. Among the issues to be resolved, the Scoping Letter identified at least five “Major Project Issues,” which “may require substantial redesign of the proposed project or, if not resolved, would result in a recommendation for project denial by PDS.” The due date for the applicant to submit evidence of resolution of such issues was July 7, 2015.

The Project’s DEIR was published in June 2017, almost two years after the due date for resolution of the issues identified in the Scoping Letter. Throughout our years-long correspondence with the County about this Project, the County and applicant at various times refused to provide details about the Project to us—and many other members of the public. We were told that such details would be provided in the DEIR. Now that the DEIR has been published, however, not all of the promised information has been disclosed. In particular, the DEIR does not demonstrate that the issues identified in the County’s Scoping Letter have been

¹ The Scoping Letter has been made available online since 2015 at <http://www.sandiegocounty.gov/content/dam/sdc/pds/regulatory/docs/newlandsierra/NewlandSierraScopingLetter.pdf> and remains posted as of December 18, 2017. There are no revisions or updates to this letter.

adequately addressed. Before pointing out the crucial unresolved issues that remain from the Scoping Letter, the important point should be noted that in the interests of transparency and public notice, the County staff should post written copies of any updates or changes that were made to the Scoping Letter in subsequent correspondence with the applicant. It is unfair to the public for the County staff to announce one set of policies decisions in its Scoping Letter, and post the Scoping Letter for public examination, but then for the staff to secretly change the policy decisions they may have made in the Scoping Letter in subsequent private discussions with the applicant that were never documented and provided to the public.

Therefore, we ask that the staff post on the County's website, along with the Scoping Letter, written documentation of any decisions or changes that staff made to the Scoping Letter. We also ask that the County staff update the Newland EIR to include the original May 7, 2015 Scoping Letter, as well as any subsequent written correspondence from the staff to the applicant that may have changed the Scoping Letter.

To emphasize that the Newland DEIR's failure to follow the Scoping Letter is not a minor technicality or problem for the public, we would like to review the important policy decisions which staff made in the Scoping Letter, that appear to have been disregarded in the DEIR released to the public. For the sake of brevity and emphasis, this letter will focus on the five Major Project Issues identified by the County.

County Scoping Letter Major Project Issue #1 - Consistency with the San Diego County General Plan. The Scoping Letter requires further analysis of the Project for General Plan consistency and to ensure the Project "is in the public interest and would not be detrimental to public health, safety, and welfare." As discussed in more detail in the Golden Door's comment letter on the Project's DEIR, the Project is not consistent with County's General Plan, and the DEIR fails to provide adequate analysis.

The County Board of Supervisors has twice determined that the Project Site should remain rural. In 2010, the Board voted against the similar Merriam Mountains proposal, which would have added over 2,500 residential units to rural Twin Oaks Valley. Then, in 2011, after almost a decade of stakeholder input and millions of taxpayer dollars, the Board approved a General Plan that reduced the number of residential units permitted on the Project Site to approximately 100. That 2011 General Plan has provided the basis for other agencies' infrastructure planning—including SANDAG's 2015 Regional Transportation Plan/Sustainable Communities Strategy ("RTP/SCS"), which is necessary for meeting State reduction targets for greenhouse gas ("GHG") emissions and vehicle miles traveled ("VMT"). Notably, SANDAG's RTP/SCS does not include infrastructure improvements on I-15 to accommodate urban growth in the rural areas north of Escondido. Further, in previous staff reports on density increase proposals on the Project Site, County staff indicated that density increases that are less than what Newland proposes would require amendments to the General Plan's Guiding Principles and additional environmental review of the General Plan and recirculation of the General Plan EIR.

Now, before the County has even come close to building out the housing units designated in its General Plan, Newland has proposed to urbanize rural Twin Oaks Valley with over 6,000 new residents—a population the size of the City of Del Mar. Despite the drastic density increase

in this rural area and the divergence from the General Plan's principles, the Project's DEIR incredulously finds no significant land use impacts. No information provided to the public indicates that the Project has been revised since issuance of the Scoping Letter to comport with the General Plan. Instead, the DEIR's analysis relies on the conclusory premise that by seeking a discretionary amendment to certain selected parts of the County's General Plan to add the Project's proposed density, it automatically becomes General Plan-compliant. This is not so. This Project would open the backcountry to large-scale development in contrast to the balanced principles described in the General Plan and the emphasis on protecting rural community character.

In addition, the Project runs afoul of several specific General Plan policies. For example, the Project constitutes leapfrog development in violation of General Plan Policy LU-1.2. A previous staff report for another density increase on the Project Site raised this very issue. In addition, the DEIR relies on a "village" designation on part of the Project Site in its land use analysis; yet, no part of the Project Site is within a designated village boundary in the North County Metro Community Plan—which is part of the General Plan.

Further, the DEIR does not support a finding that the Project is in the public interest and would not be detrimental to public health, safety, and welfare. The Project's opening of the backcountry to massive sprawl development is contrary to the public interest as set forth in the General Plan. Project construction would pose various health risks, including the potential risk of subjecting construction workers and nearby residents to Valley Fever—which was not even studied in the DEIR. The Project also poses safety risks, as it is located entirely in a Very High Fire Hazard Severity Zone and would add thousands of vehicles to the area's evacuation routes for regional fire emergencies. These evacuation routes are already predicted by the traffic analysis to be at a standstill during normal days.

County Scoping Letter Major Project Issue #2 - MSCP Draft North County Plan and Natural Communities Conservation Program Consistency. The Project's DEIR and several letters from County staff indicate that the Newland Project proposes to achieve consistency with the North County Multiple Species Conservation Plan ("NC MSCP") by means of a so-called "hardline designation." The Scoping Letter specifically addresses the potential for a hardline agreement for the Newland Project:

Please note that if the Wildlife Agencies Hardline Agreement is not approved, the project would be required to comply with the North County Plan and its requirements for projects in Pre-approved Mitigation Areas (PAMA), including avoidance of critical populations of sensitive species and adherence to preserve design and linkage principles. If the North County Plan has not been approved prior to the project moving forward, the project will require compliance with the Habitat Loss Permit (HLP) Ordinance and the County and Wildlife Agencies Planning Agreement.

(Scoping Letter at 4.) The Scoping Letter's approach in the absence of an approved hardline agreement or approval of the NC MSCP, therefore, is to require the Project to comply with the Planning Agreement, including its preliminary conservation objectives and requirements for pre-

approved mitigation areas (“PAMA”). As you are aware, a hardline designation in the NC MSCP requires the agreement of the United States Fish and Wildlife Service and the California Department of Fish and Wildlife. Neither of these Wildlife Agencies has agreed to a hardline designation.

Consequently, the DEIR’s statement that there will instead be County reliance on an unapproved hardline agreement conflicts with the statement contained in the Scoping Letter.

County Scoping Letter Major Project Issue #3 – Deer Springs Road. The Scoping Letter notes that Deer Springs Road is classified as a six-lane Prime Arterial in the General Plan’s Mobility Element, but that Newland proposes Option A, which would reclassify Deer Springs Road as a two- and four-lane road and construct it as such, and Option B, which would not reclassify Deer Springs Road but would only build to four lanes.

The version of Option B described in the Scoping Letter would include grading a portion of Deer Springs Road to the ultimate six-lane configuration; however, Option B was later revised—subsequent to the public’s opportunity to review and comment on the NOP—to eliminate the requirement to grade a portion to six lanes. Newland and the County have not provided any explanation of the revision or analysis of the change in impacts. The Scoping Letter notes disagreement between County staff and the applicant regarding Deer Springs Road’s proposed configuration and requires further study and analysis of various options so that County staff can make a final recommendation.

As discussed in more detail in the Golden Door’s comment letter on the Newland DEIR, the DEIR’s analysis of Deer Springs Road is inconsistent and misleading and fails to provide adequate information about various options for its alignment. The analysis of Option B assumes six lanes of capacity although only proposing to construct four. No analysis of traffic impacts from Option B’s proposed four-lane capacity is provided in the DEIR. Yet, the analysis of other impacts (e.g., biology, air quality, noise, property) for Deer Springs Road Option B only considers grading and building four lanes—despite the assumption of extra capacity for a six-lane road in the traffic analysis. In addition, the DEIR’s traffic analysis improperly applied trip reduction credits for mixed land uses and an illusory transportation demand management program that inaccurately reduce the number of Project trips on to Deer Springs Road. As such, the impacts of various options for Deer Springs Road have not been analyzed as required by the Scoping Letter.

Further, the Scoping Letter requires that the Project’s “Traffic Impact Study should include future Year 2040 and Buildout traffic volumes approved by the County and Caltrans.” It appears that the traffic analysis for Deer Springs Road does not analyze impacts in 2040. Further, traffic volumes for Deer Springs Road were not “approved by Caltrans.” In fact, Caltrans submitted a comment letter on the Project’s DEIR noting that the DEIR inaccurately states that Caltrans has an interchange project at I-15 and Deer Springs Road that would mitigate traffic impacts and that the DEIR’s analysis should not rely on such mitigation. The traffic analysis for Deer Springs Road, therefore, has not been “approved by Caltrans,” but instead has been discredited.

County Scoping Letter Major Project Issue #4 - Off-Site Improvements. The Scoping Letter requires Newland to provide “suitable evidence” that it possesses the necessary property rights to construct off-site improvements without eminent domain. No such evidence was provided in the DEIR. In fact, the DEIR alludes to the potential for eminent domain on Sarver Lane, Deer Springs Road, and Camino Mayor. Eminent domain may be required in additional off-site locations. Further, we understand representatives of Newland are currently approaching various property owners in the area seeking to acquire property rights—more than two years after Newland was due to resolve issues in the Scoping Letter.

The Golden Door has submitted ample evidence to the County of potential property impacts due to proposed widening of Deer Springs Road as part of the Project. In August 2016, DELANE Engineering produced a technical study detailing property impacts from widening Deer Springs Road to both a four- and six-lane alignment—impacts that had been omitted from Newland’s plans provided by Fuscoe Engineering. DELANE also identified various errors in Fuscoe’s work. After release of the Project’s DEIR, DELANE followed up with an additional report confirming DELANE’s previous analysis and describing property impacts along Deer Springs Road that remained unaddressed—including impacts to private driveways and from proposed drainage channels.

Moreover, on Camino Mayor, Newland proposes significant improvements to a private road across property not owned by Newland. Property owners on Camino Mayor provided the County with extensive comments on the DEIR describing Newland’s lack of property rights. In addition, DELANE submitted a report describing property rights impacts and other issues with Newland’s proposals for Camino Mayor.

County Scoping Letter Major Project Issue #5 - Resource Protection Ordinance. The Project’s DEIR fails to adequately address the County’s Resource Protection Ordinance (“RPO”) as required by the Scoping Letter. Fifty-five percent of the Project Site contains RPO-defined slopes, and the Project would result in impacts to the California Coastal gnatcatcher and RPO-wetlands in violation of the RPO. Yet, instead of analyzing adequate mitigation for the Project’s RPO impacts, the County has proposed to simply exempt the 1,985-acre Project Site from the RPO. Simply changing the applicability of the ordinance does not mitigate impacts to the physical environment. It also fails to provide any analysis of RPO consistency as required by the Scoping Letter.

Further, even the proposed RPO exemption described in the DEIR is inadequate. As described in the DEIR, the proposed RPO exemption would exempt RPO compliance for impacts on the 1,985-acre Project Site. The exemption would not apply to any off-site impacts caused by the Project. The DEIR discloses temporary and permanent significant impacts to off-site RPO resources, including southern willow scrub, mulefat scrub, arundo dominated riparian, coast live oak woodland, and southern coast live oak riparian forest. Moreover, as discussed in more detail in the Golden Door’s comment letter on the DEIR, the County’s analysis significantly underestimates the Project’s off-site impacts, including impacts from grading and constructing a six-lane configuration for Deer Springs Road and an as yet undisclosed design for an interchange at I-15 and Deer Springs Road—as well as operation thereof. The Project’s RPO exemption does not exempt these off-site impacts from RPO-compliance; yet mitigation has not been

analyzed or proposed. Therefore, the DEIR has failed to provide the analysis of consistency with the Resource Protection Ordinance that the County staff specified in the Scoping Letter. The mere fact that the applicant has simply proposed an amendment from the RPO does not mean that the DEIR should omit the analysis of consistency that was specified in the Scoping Letter.

Finally, the Scoping Letter calls for a “Comprehensive Resource Management and Protection Program” to accompany any proposed RPO amendment; yet, none was provided in the DEIR. The DEIR provides a Resource Protection Plan (“RPP”) as Appendix H-2. This RPP, however, is not an actual plan, but merely regurgitates that biological analysis found elsewhere in the DEIR. It lacks performance standards and prescriptive statements against which Project consistency could be measured. Also, while the DEIR mentions a Resource Management Plan (“RMP”), mitigation measure M-BIO-8D defers RMP preparation to the future. M-BIO-8D notes the existence of two “conceptual” RMPs attached as Appendices L and M to Appendix D of the DEIR, but does not provide any specific and enforceable standards for a comprehensive RMP. Although the applicant had more than two years since issuance of the Scoping Letter to prepare a “Comprehensive Resource Management and Protection Program,” none has been provided in the DEIR to justify an RPO exemption. This further underscores that the DEIR has failed to provide any analysis of how the Newland project will comply with the RPO’s policies.

The absence of any details of the “Comprehensive Resource Management and Protection Program” indicates that an essential part of the applicant’s proposed project has not yet been provided to the public for review and analysis. Providing this missing part of the project in the Final EIR for the first time will deprive the public, and the federal and state resources agencies, of the opportunity to review and comment on the Plan, and to compare it to the protections that would have applied to the property if the applicant had not decided to ask for an exemption from the County’s RPO for its project.

* * *

Please provide evidence that the issues identified in the County’s Scoping Letter have been resolved and explain why such evidence was not included in the DEIR circulated for public review and comment earlier this year. Any written staff decisions and revisions to the Scoping Letter should be posted online for the public to examine. Otherwise, it appears that the DEIR has failed to comply with the County staff’s own Scoping Letter.

Without resolution of the Major Project Issues and all other issues on the Project Checklist, the County cannot treat the application for the Newland Sierra Project as complete and must cease processing the Project.

LATHAM & WATKINS^{LLP}

We thank you for your time and attention to this matter. We ask that you include this letter and your response in the administrative record for the Newland Sierra Project. Please do not hesitate to contact us should you have any questions or comments.

Best regards,

Christopher W. Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
Mark Slovick, County Planning and Development Services
William W. Witt, Office of County Counsel
Claudia Silva, Office of County Counsel
Dan Silver, Endangered Habitats League
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December 21, 2017

VIA EMAIL AND FEDERAL EXPRESS

Ashley Smith
 Planning and Development Services
 County of San Diego
 5510 Overland Avenue, Suite 310
 San Diego, CA 92123

Re: Report from Reax Engineering re Fire Modeling of Newland Sierra Impacts to Surrounding Area During Santa Ana Wind Events (Log No. PDS2015-ER-15-08-001; SCH No. 2015021036, Project Numbers: PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ-15-001, PDS2015-TM-5597, PDSXXXX-HLP-XXX)

Dear Ms. Smith:

As you know, we represent Golden Door Properties, LLC (“Golden Door”) in opposing the proposed Newland Sierra Project (“Project”). This letter transmits a report prepared by Reax Engineering that is included as **Attachment A**. The Reax report analyzes the fire risk from the proposed Project to the Golden Door and other surrounding properties. It provides a fire modeling analysis that takes into account Santa Ana wind conditions—conditions that were not analyzed in the County’s draft environmental impact report’s (“DEIR”) for the Project.

County staff did not make it clear that Newland DEIR’s wildfire analysis did not consider potential Santa Ana winds when the DEIR was released to the public. Recent events have caused the Golden Door to reassess existing and potential dangers from wildfire for the Golden Door property. During the Lilac Fire, the Golden Door chose to evacuate all of its guests due to the fire’s uncertain path. The Golden Door is continuing to update its planning for potential risks due to the spread of fire.

The recent Lilac Fire and several other major fires that burned hundreds of thousands of acres across the State occurred during Santa Ana winds and demonstrate how quickly fire can spread under such conditions, especially in sparsely developed rural areas. As you know, the Newland Project is proposed almost entirely in a Very High Fire Hazard Severity Zone. It is now clear that the DEIR did not analyze the potential for the spread of wildfire that might occur under similar conditions to the Lilac Fire, with potential Santa Ana wind gusts. The DEIR’s failure to include an analysis of fire risks during Santa Ana winds is a fatal omission under the California Environmental Quality Act (“CEQA”), and the County should recirculate the DEIR to analyze this important public safety issue.

In the absence of any information or wildfire modeling that could be performed by County staff or consultants in the DEIR, the Golden Door was forced to retain an expert to

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prepare an overview report, which is Attachment A. The Golden Door's August 14, 2017 comment letter discussed flaws in the DEIR's fire modeling methodology, and this report provides further information with respect to this issue that the Golden Door has already raised. County staff should review and consider additional evidence regarding the fire risk associated with the proposed Project, including the recent article published in the Voice of San Diego discussing development proposals in the County's high fire risk areas. (See **Attachment B**.) We have also attached a stand-alone .pdf document of a map that was included as part of the article depicting the location of proposed development projects in relation to the recent Lilac Fire and previously mapped high fire risk areas. (See **Attachment C**.) The County Planning staff may also wish to retain their own independent wildfire modeling consultant to perform an independent analysis of the cumulative wildfire risk associated with pending projects. In doing so, we would recommend that the staff retain a consultant who will include the potential for Santa Ana winds in the analysis.

The recent fires are a tragic reminder of the risks associated with locating new unplanned development in fire-prone rural areas. As a local business and member of the Twin Oaks Valley community, the Golden Door is concerned about risks to its property and that of its neighbors that would be caused by the Newland Sierra project. Although the formal comment period for the Project's DEIR closed prior to this new information, we ask that you provide responses to this letter and its attachments, recirculate the DEIR, and include this letter and attachments (as well as the County's response) in the County's administrative record to ensure the Planning Commission, Board of Supervisors, and general public are informed about the significant fire risks posed by the Project. In light of recent events highlighting the importance of protecting people and property from wildfires in the backcountry and given that the DEIR for Newland Sierra omits analysis of fire during Santa Ana wind conditions, full consideration of this material and the County's response to it is warranted. It is important for all concerned that these issues be publicly raised and discussed now, rather than waiting until hearings before the County Planning Commission or the County Board of Supervisors.

We thank you for your time and attention to this matter. Please do not hesitate to contact us should you have any questions or comments.

Sincerely,

Andrew D. Yancey

Andrew D. Yancey
of LATHAM & WATKINS LLP

Enclosures

cc: Kathy Van Ness, Golden Door
Mark Slovic, County Planning and Development Services
William W. Witt, Office of County Counsel
Claudia Silva, Office of County Counsel

LATHAM & WATKINS LLP

San Diego County Planning Commissioners
Dan Silver, Endangered Habitats League
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
Chris Garrett, Latham & Watkins

Attachment A



1921 University Ave. • Berkeley, CA 94704 • Phone 510-629-4930 • Fax 510-550-2639

Chris Lautenberger
lautenberger@reaxengineering.com

19 December 2017

Golden Door Properties, LLC
777 Deer Springs Road
San Marcos, CA 92069

Subject: Fire risk impacts of Proposed Newland Sierra Project on The Golden Door and Surrounding Area

At your request, dated October 14, 2017, I have reviewed the May 2017 Draft Environmental Impact Report (DEIR) and Fire Protection Plan (FPP) associated with the planned Newland Sierra development and analyzed potential fire/life safety impacts of this planned development to your property as well as the surrounding area.

Santa Ana winds

The biggest fire threat to The Golden Door associated with the Newland Sierra development involves ignition on land owned by Newland Sierra under Santa Ana winds. Santa Anas are hot and dry winds that blow through Southern California each year, usually between the months of October and April. Santa Anas occur when high pressure forms in the Great Basin (Western Utah, much of Nevada, and the Eastern border of California) with lower pressure off the coast of Southern California. This pressure gradient drives airflow toward the Pacific Ocean.

As air travels West from the Great Basin, orographic lift dries the air as it rises in elevation over mountain ranges. As air descends from high elevations in the Sierra Nevada, its temperature rises dramatically (~5 °F per 1000 ft decrease in elevation). A subsequent drop in relative humidity accompanies this rise in temperature. This drying/heating phenomenon is known as a katabatic wind. Relative humidity in Southern California during Santa Anas is often 10% or lower. Santa Ana winds typically blow from the Northeast toward the Southwest. Sustained Santa Ana winds of 40+ mph with gusts of 60+ mph are not uncommon in Southern California.

The seasonality of Santa Anas presents a severe fire problem in Southern California which typically sees little rain between May and November. This means that October, November, and December Santa Anas occur after a 6+ month drought when herbaceous surface fuels are completely cured and live woody fuel moisture (*i.e.*, water in shrub-like vegetation) is at yearly lows. Much of the existing vegetation in Southern California is mixed chaparral which is characterized by rapid rates of fire spread and is highly conducive to spotting due to large-scale ember generation. Newland Sierra's DEIR acknowledges that chaparral is the primary type of vegetation within the project footprint. See DEIR, Appendix C, Part 2, Section 1.3.2, page 6 which states "Vegetation onsite consists of large blocks of densely vegetated, senescent southern mixed

chaparral with limited patches of Diegan coastal sage scrub, live oak woodlands, and southern willow scrub.”

Given that hot dry Santa Anas occur in part of California that is vegetated by highly flammable chaparral at a time of year when fuel moisture content is at annual lows, it is not surprising that dozens of large loss fires have occurred in Southern California under Santa Ana winds. A partial list of historical damaging fires that have occurred in Southern California under Santa Ana winds is shown in Table 1.

Table 1. Partial list of fires damaging fires occurring under Santa Anas in Southern California.

Name	Date	County	Acres	Structures	Deaths
Bel Air	November 1961	Los Angeles	6,000	484	0
Laguna	September 1970	San Diego	175,000	382	8
Green Meadow	October 1993	Ventura	44,000	53	0
Laguna	October 1993	Orange	14,000	441	0
Cedar	October 2003	San Diego	273,000	2,820	15
Simi	October 2003	Ventura	108,000	37	0
Esperanza	October 2006	Riverside	41,000	34	5
Harris	October 2007	San Diego	90,000	548	8
Witch	October 2007	San Diego	198,000	1,650	2
Sayre	November 2008	Los Angeles	11,000	604	0
Poinsettia	May 2014	San Diego	600	28	1
Lilac	December 2017	San Diego	4,100	157	0
Thomas	December 2017	Ventura/SB	272,000*	1,024*	1*

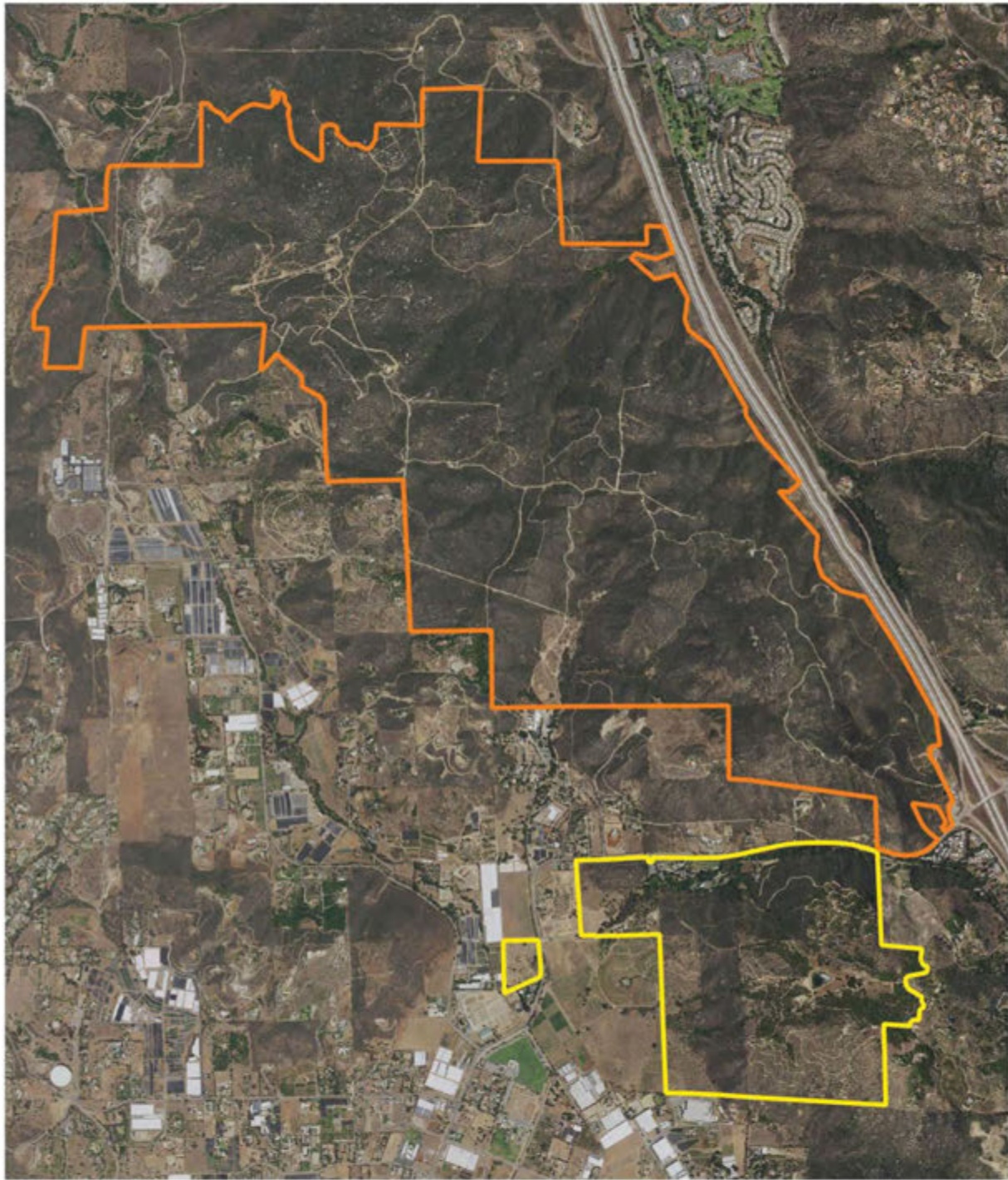
** As of December 19, 2017*

Relative locations of The Golden Door and Newland Sierra


Golden Door Properties owns just over 600 acres to the South of land owned by Newland Sierra. Figure 1 shows the location of land owned by Golden Door Properties relative to the planned Newland Sierra development with an orthoimagery basemap; Figure 2 is an analogous map with a hillshade background to provide a qualitative sense of the terrain in the area. Deer Springs Road runs East/West between the Golden Door and Newland Sierra. Mesa Rock Road currently dead ends at the Southeast corner of Newland Sierra’s land and, as part of the planned development, would be extended into land owned by Newland Sierra as a primary means of ingress and egress.

Recall from the preceding discussion that Santa Ana winds blow from the Northeast toward the Southwest. Inspection of Figure 1 and Figure 2 shows that fire originating on land owned by Newland Sierra during Santa Ana winds, particularly the Southeastern extent along Mesa Rock Road, would propagate directly toward The Golden Door and its neighbors to the South and West, including several hundred structures along Sarver Lane, Buena Creek Road, and Twin Oaks Valley Road. Given that most of the land owned by Newland Sierra is mixed southern chaparral that hasn’t burned in at least 100 years, fire originating on Newland Sierra land under Santa Ana winds would be characterized by rapid rates of spread toward the Southwest with large scale ember production and long-range (> 1 mile) spotting cause by ember showers blown by winds out of the Northeast.

One thing that is not immediately apparent from Figure 1 or Figure 2 is the elevation difference the planed Newland Sierra development and The Golden Door and its neighbors. As shown in Figure 3, Newland Sierra is located north of the East/West ridgeline North of The Golden Door. A view from The Golden Door looking up at land owned by Newland Sierra is shown in Figure 4. The significance of this elevation difference is that the effective spotting distance from fire on Newland Sierra land to property owned by the Golden Door and its neighbors is increased, meaning that even weak to moderate Santa Anas could generate embers capable of reaching The Golden Door or its neighbors and igniting vegetation and structures there.



0 1000 2000 3000 4000 ft





 Newland Sierra
 Golden Door

Figure 1. Location of parcels owned by Golden Door relative to parcels owned by Newland Sierra with orthoimagery background.

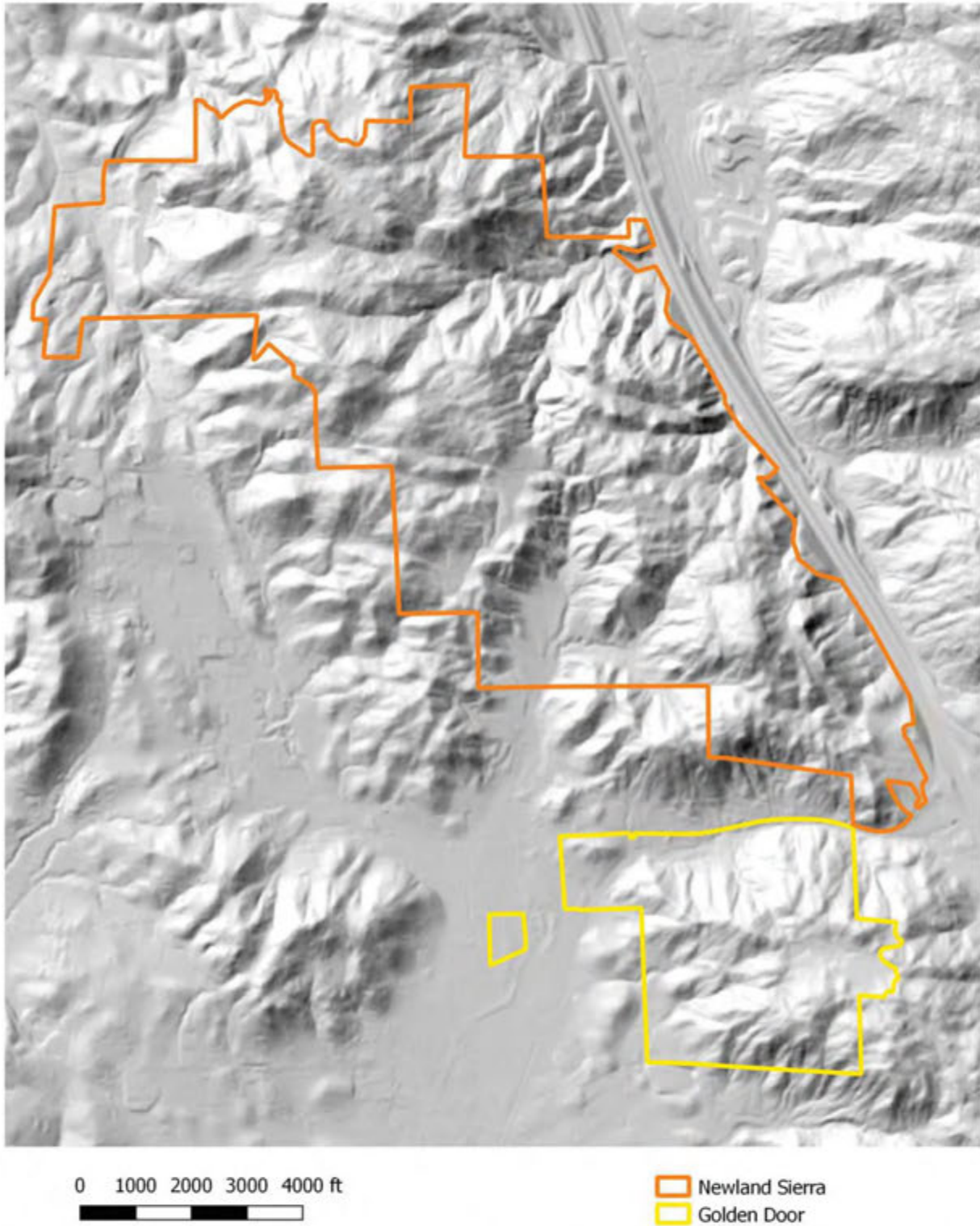


Figure 2. Location of parcels owned by Golden Door relative to parcels owned by Newland Sierra with hillshade background.



Figure 3. Photograph looking Northwest showing relative elevations of Newland Sierra and The Golden Door.



Figure 4. Photograph looking from The Golden Door toward Newland Sierra.

Fire Progression Analysis

Newland Sierra's Fire Protection Plan includes only static (FLAMMAP) fire modeling. FLAMMAP does not actually simulate fire spread across the landscape; it only quantifies potential fire behavior under constant environmental conditions assuming an area burns. The FLAMMAP modeling described in the FPP does not address how ignitions within Newland Sierra's footprint during Santa Anas could impact surrounding properties and neighbors including The Golden Door; rather only shows the change in potential that would be effected due to fuel treatments. However, such fuel treatments do very little to reduce potential fire consequences to The Golden Door and other neighbors.

Due to this oversight in the FPP, I conducted a transient fire progression analysis using ELMFIRE¹, a fire spread simulator that is similar to FARSITE. This fire progression analysis simulates movement of fire across the landscape and was conducted using the same basic assumptions as in Newland Sierra's Fire Protection Plan, *i.e.* 20-ft winds of 40 mph occurring concurrently with low dead and live fuel moistures. Fuel and topography inputs were taken from LANDFIRE 1.4.0 / LF 2014. Although the DEIR did not make available Geographic Information System (GIS) shapefiles showing the locations of roads and structures, a site plan from the DEIR .pdf document was orthorectified so that approximate locations of roads and structures could be determined. Fuels inputs were modified consistent with the presence of structures and fuel treatment zones as described in the FPP to facilitate modeling of post-development conditions. A point source ignition was placed in the Southeast part of the Newland Sierra's property in an area near the planned extension of Mesa Rock Road to simulate an anthropogenic ignition in that area. This is not the only location within the project footprint that ignition could occur, and resultant fire spread and potential impacts to other properties are dependent on the ignition location.

Three hours of simulated fire progression are shown in Figure 5 at half hour intervals. The vantage point is a birdseye isometric view looking over Highway 15 to the West down Deer Springs Road. Newland Sierra's property is shown as an orange outline (right hand side), and The Golden Door's property is shown as a yellow outline (left hand side). The fire perimeter is overlaid as red semi-transparent polygons.

Figure 5 shows that for this particular scenario, fire would reach Deer Springs Road and The Golden Door approximately 30 minutes after ignition. For ignition occurring at a different location, fire would enter other properties in a similar timeframe. Once this occurs, significant impacts to improved property, including structure loss, are likely to occur. Although this analysis does not include the effect of manual suppression on fire propagation, this is by design: fires burning through chaparral under moderate to strong Santa Anas are not amenable to direct attack and will burn until all available fuel is consumed or the winds stop.

¹ Lautenberger, C., "Wildland Fire Modeling with an Eulerian Level Set Method and Automated Calibration," *Fire Safety Journal* 62: 289-298 (2013).



Figure 5a. Modeled fire progression ½ hour after ignition under Santa Ana conditions.



Figure 5b. Modeled fire progression 1 hour after ignition under Santa Ana conditions.



Figure 5c. Modeled fire progression 1-½ hours after ignition under Santa Ana conditions.

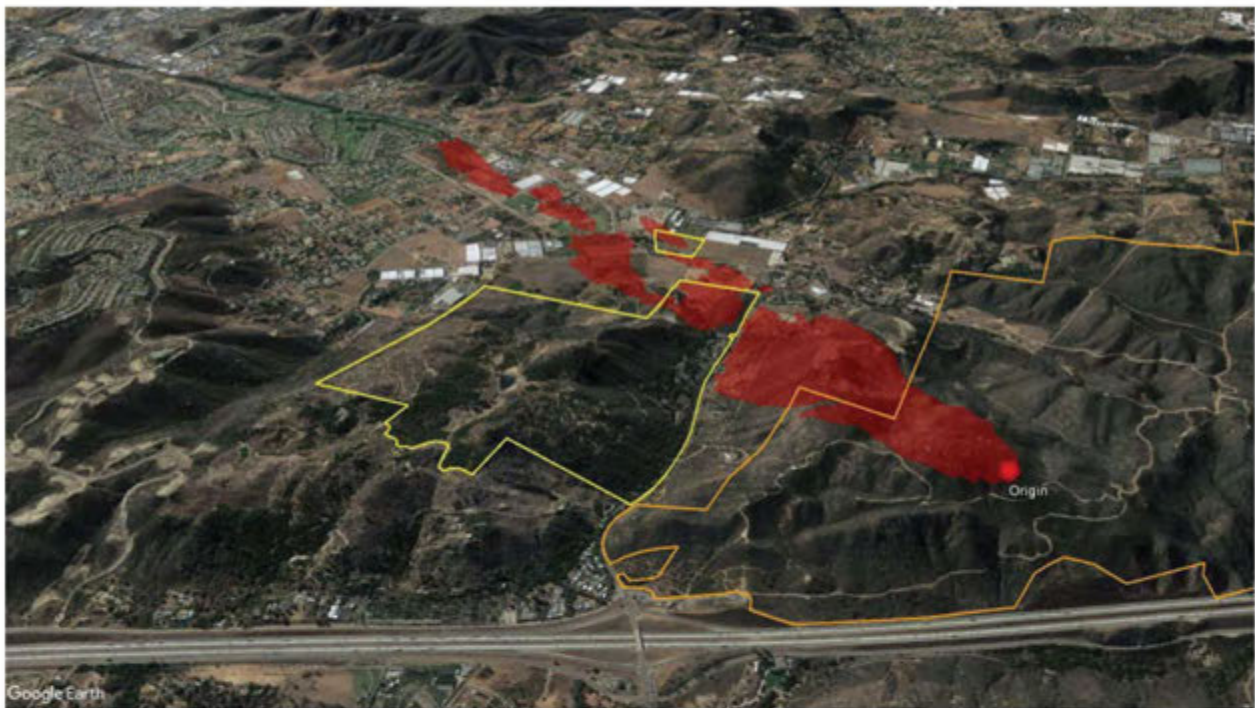


Figure 5d. Modeled fire progression 2 hours after ignition under Santa Ana conditions.



Figure 5e. Modeled fire progression 2-½ hours after ignition under Santa Ana conditions.

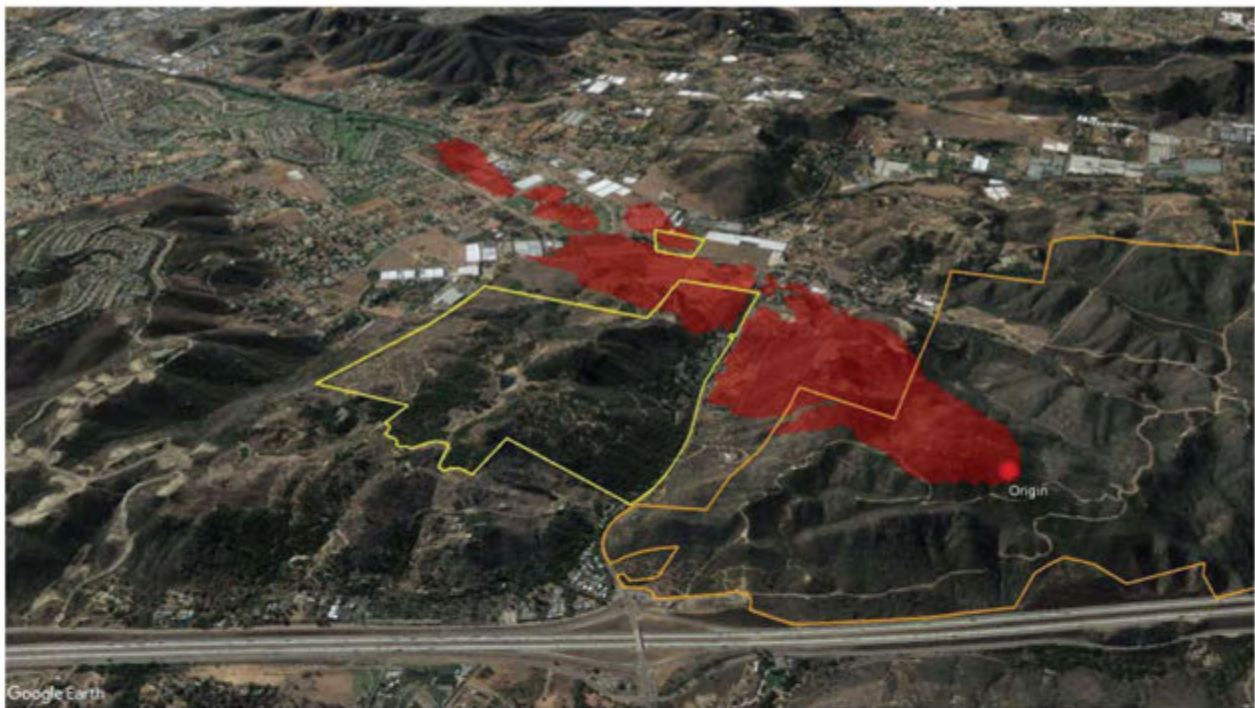


Figure 5f. Modeled fire progression 3 hours after ignition under Santa Ana conditions.

Based on this analysis, under moderate to strong Santa Ana winds:

- A fire that escapes initial containment efforts along Mesa Rock Road in the Southeast part of the planned Newland Sierra development will inevitably impact the Golden Door. Similarly, a fire igniting at other locations within Newland Sierra's footprint would be likely to impact other properties in the area.
- Such a fire traveling onto The Golden Door's property or its neighbors from Newland Sierra is likely to cause significant damage to existing vegetation and damage or destroy multiple structures.
- Such a fire is likely to reach The Golden Door within ½ hour after ignition. Entrapment will occur if emergency evacuation is not completed before the primary means of egress – a single road that exits through a gate onto Deer Springs Road – is blocked by fire and/or traffic congestion. A similar scenario may develop at neighboring properties, and it is conceivable that some residents may have less than ½ hour to evacuate.
- The highest risk of entrapment is associated with an overnight ignition under Santa Ana Conditions. Such a scenario would require Golden Door Staff to awaken as many as 42 guests, most of whom would be unfamiliar with their surroundings. Some may have mobility difficulties. Guests and staff (up to 140 workers may be on site at any given point in time) would evacuate in darkness, under high winds, with smoke in the air, in a wind-driven ember shower with multiple spot fires igniting. If entrapment occurs, burnover with multiple fatalities is likely.
- While this analysis was focused on the Golden Door, similar situations could develop at neighboring properties.

It is also important to point out that The Golden Door is not the only property that could be impacted by fire originating on Newland Sierra's land during Santa Ana conditions. Spotting distances for fire burning through chaparral under Santa Anas are on the order of 2-3 miles. Therefore, any properties within a 2-3 mile buffer of the planned Newland Sierra development could also be impacted by embers originating from fire burning there. Figure 6 shows a 2.5 mile buffer from Newland Sierra in the Southwest direction (because under Santa Ana winds this is the direction toward which the wind blows).

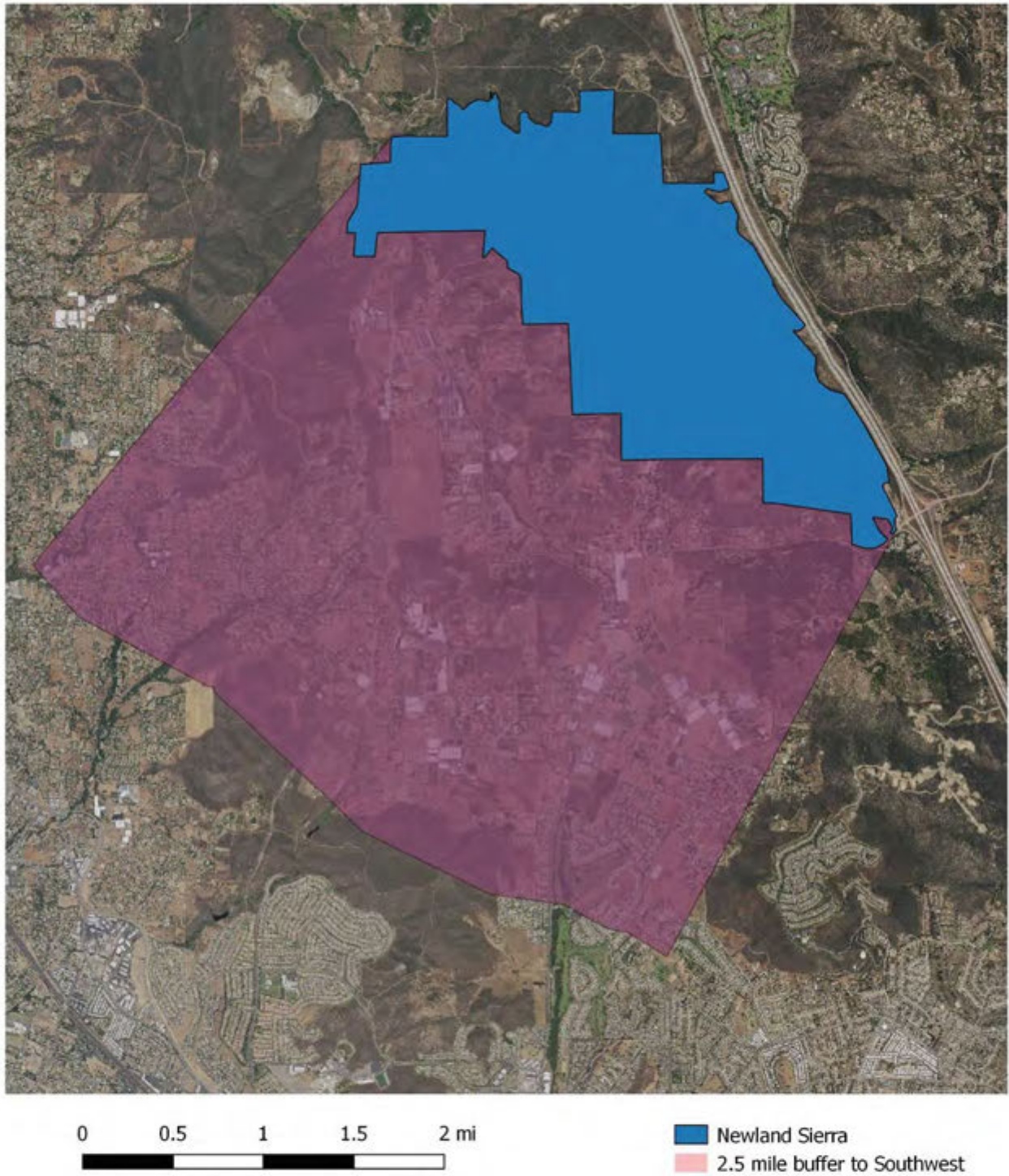


Figure 6. 2.5 mile to Southwest of Newland Sierra land.

It is notable that the 7 December 2017 Lilac Fire ignited approximately 5 miles north of the Newland Sierra project site and burned toward the Southwest under Santa Ana winds, ultimately destroying 157 structures. The Lilac Fire perimeter relative to Newland Sierra and The Golden Door is shown in Figure 7.

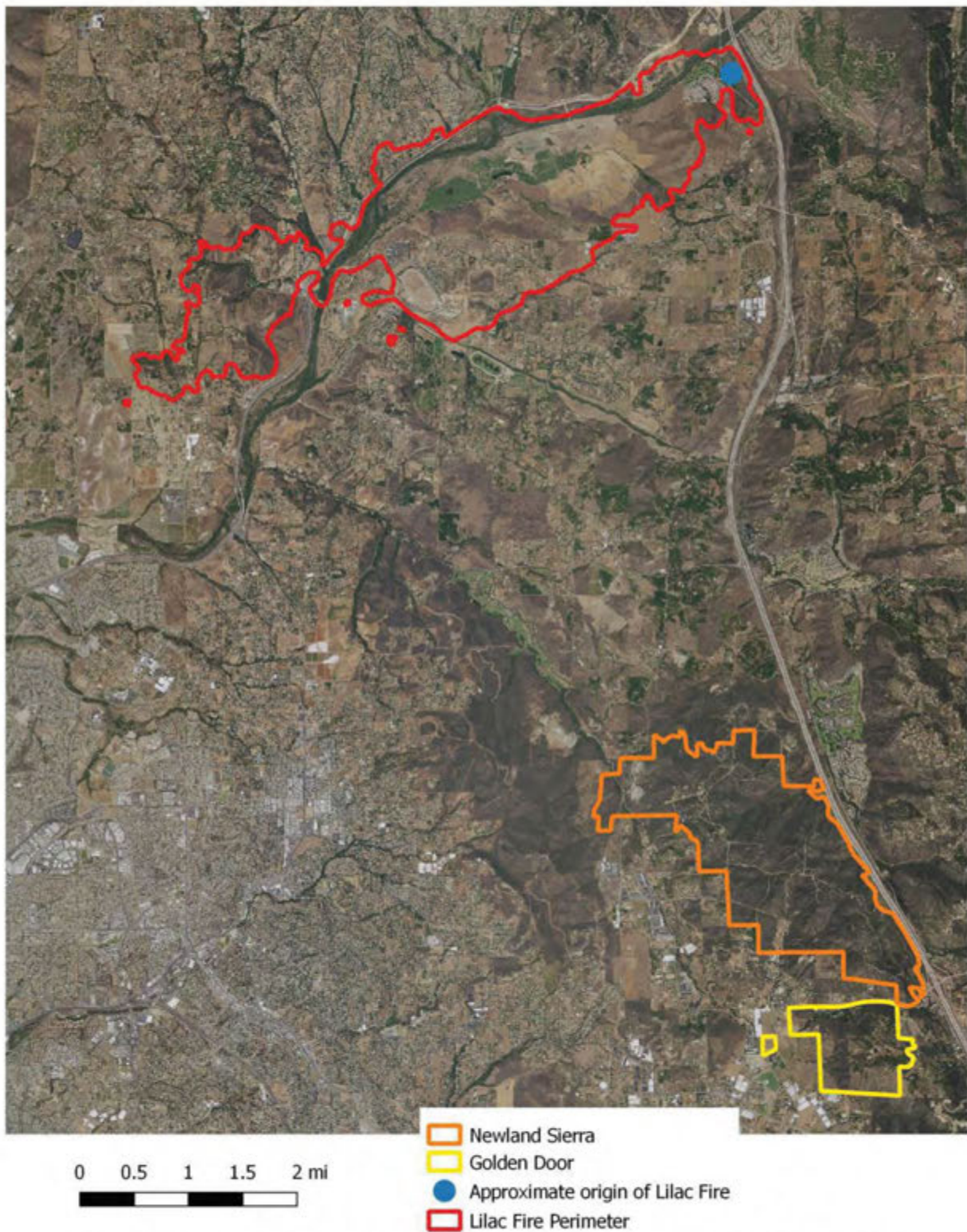


Figure 7. Location of Lilac Fire relative to Newland Sierra and The Golden Door.

19 December 2017



Increase in ignition probability associated with Newland Sierra development

The majority of wildland fires are caused by humans as opposed to natural causes such as lightning. Common anthropogenic causes of fire include arson/incendiary, equipment use, debris burning, smoking, vehicles, fireworks, electricity, and outdoor cooking (barbecuing). Structure fires sometimes spread and initiate wildland fires. For these reasons, it should be apparent that the presence of development in the wildland urban interface – which adds roads, structures, vehicles, and people to previously undeveloped areas – results in increased probability of fire starts.

While this conclusion is common sense, multiple scientific studies have concluded the same. A study that analyzed 27 years of data in Canada² concluded “Fire ignition densities decreased exponentially as distance to road or populated place increased, and largest ignition trends occurred closest to both variables.” Similarly, a 2007 study entitled “Human Influence on California Fire Regimes”³ stated:

We found highly significant relationships between humans and fire on the contemporary landscape, and our models explained fire frequency ($R^2 = 0.72$) better than area burned ($R^2 = 0.50$). Population density, intermix WUI, and distance to WUI explained the most variability in fire frequency, suggesting that the spatial pattern of development may be an important variable to consider when estimating fire risk.

For the above reasons, the planned Newland Sierra development greatly increases the probability of ignition occurring within its footprint, which is currently mostly undeveloped land designated for limited residential development (1 unit per 20 acres).

Summary and conclusions

- Risk is the combination (product) of probability and consequence.
- Due to increased presence of humans and vehicular traffic, the planned Newland Sierra development greatly increases the probability of fire occurring within the project footprint.
- Under Santa Ana winds, the consequences associated with a fire igniting within Newland Sierra’s footprint to the Golden Door and other neighbors are severe. Potential consequences include destruction of multiple structures and loss of life. Although Newland Sierra’s fire protection plan discusses fuel treatments that would be implemented, these fuel treatments do very little to reduce potential consequences to The Golden Door and other neighbors.
- Since the Newland Sierra project greatly increases the probability of fire occurrence but does essentially nothing to reduce potential consequences to The Golden Door and other neighbors, it greatly increases overall fire risk to these entities.

Sincerely,

A handwritten signature in blue ink that reads "Chris Lautenberger".

Christopher W. Lautenberger, PhD, PE

² Gralewicz, N.J., Nelson, T.A., Wulder, M.A., “Spatial and temporal patterns of wildfire ignitions in Canada from 1980 to 2006,” *International Journal of Wildland Fire* 21: 230-242 (2012).

³ Syphard, A.D., Radeloff, V.C., Keeley, J.E., Hawbaker, T.J., Clayton, M.K., Stewart, S.I., and Hammer, R.B., “Human influence on California fire regimes,” *Ecological Applications* 17 1388–1402 (2007).

Attachment B

- Voice of San Diego - <https://www.voiceofsandiego.org> -

County Officials Set to Consider Allowing Nearly 6,000 New Homes in High Wildfire Risk Areas

Posted By *Maya Srikrishnan* On December 12, 2017 @ 8:00 am



The site of the proposed Newland Sierra project, which would bring about 2,100 homes to an area at high risk for wildfires. / Photo by Jamie Scott Lytle

There's an invisible line where human development meets flammable vegetation, and it's where the most destruction from wildfires occurs.

It's called the wildland-urban interface. In San Diego, developers are looking to build nearly 6,000 more homes along this frontline.

“When I heard this fire started where it started, with those weather concerns, I was concerned,” North County Fire Protection District Chief Steven Abbott said at a public meeting in Fallbrook Saturday of the Lilac Fire.

The Lilac Fire destroyed more than 180 structures, roughly half of which were homes, considered in the wildland urban interface. Nearly 7,500 residents evacuated and several were injured, including firefighters.

County leaders may soon decide whether to let developers move forward with projects that would be located in areas of extreme wildfire danger, an approval the projects need because they’re proposed in areas where far fewer new homes were envisioned in the county’s long-term growth plan, approved in 2011.

In Houston, development decisions may have contributed to the devastation ^[1] caused by flooding from Hurricane Harvey.

In Southern California, the same may be true for wildfires.

A 2013 study ^[2] by the U.S. Geological Survey, for instance, found that sprawl projects built far away from existing development, often called leapfrog development, have led to more houses being lost to fire.

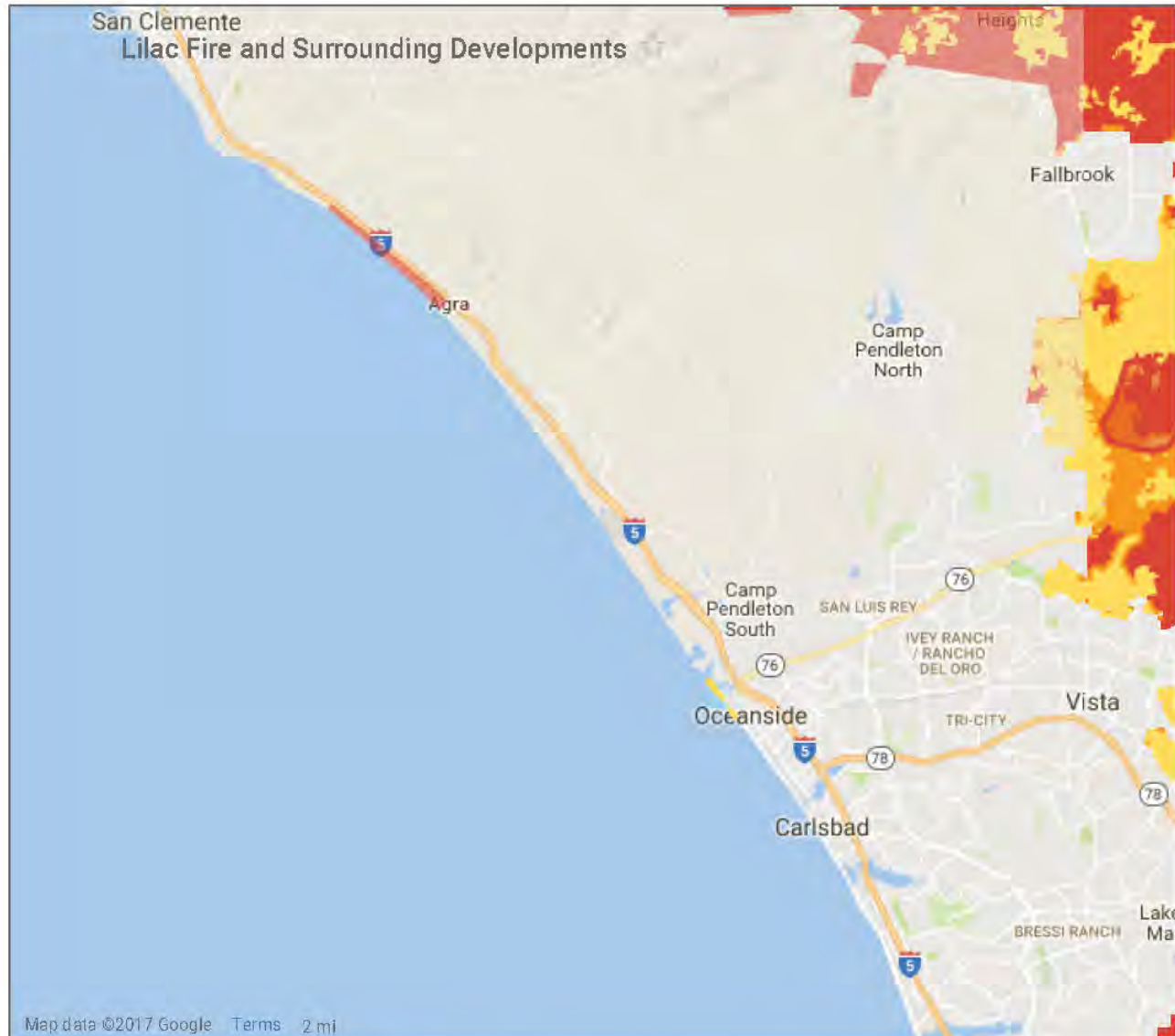
“The first set of homes are going to be in danger because they’ll be surrounded by wildland,” said Jon Keeley, one of the study’s authors. “Leapfrog, without a doubt, leads to the highest loss of homes.”

The safest way to build new housing is to build it near existing housing, the study found.

The large development projects still waiting for approval are not just located in severe wildfire risk areas ^[3]. Some are just on the other side of the I-15 from where the Lilac Fire burned. Some are in the same area as the 2014 Cocos Fire, which destroyed roughly 65 buildings ^[4], costing roughly \$28.5 million to contain and incurring an estimated \$29.8 million in property damage. They’re also near the 2007 Witch Fire, which amounted to roughly \$1.3 billion in damages ^[5], and the 2003 Cedar Fire, which destroyed 2,820 buildings and killed 15 people ^[6].

The projects are proposed in northeastern San Diego County because it's some of the last bare land for development in the county. But that's exactly why they're concerning, experts say: The risk is highest when the first developments go in, and eventually subsides when there is a much larger mass of buildings and people like in downtown San Diego, Oceanside or Escondido.

One of the projects, Lilac Hills Ranch ^[7], proposes roughly 1,700 homes on 600 acres of rolling hills in Valley Center. Harmony Grove South would add 463 homes around the corner from Valiano, another proposed development including 326 homes. Another Harmony Grove project of about 700 homes is already under construction. Newland Sierra, between Vista and Valley Center, would bring another 2,135 homes. Warner Ranch, near Pala, proposes another roughly 780 homes.



Keeley said this year's fires in Napa and Sonoma counties, where more than 40 people died and hundreds of homes and buildings were destroyed, showed the dangers of new development.

"That area had fires very similar to the fires they had this year in 1964, but no one died in those fires," Keeley said. "The primary thing that has changed wasn't the fire."

The increase in deaths and destruction was more likely due to the drastic increase in people populating Santa Rosa^[8], he said.

Richard Halsey, the director of the California Chaparral Institute, said from the minute you build a home in the wildland-urban interface, it becomes more and more dangerous, as

litter builds up, homes age, people accumulate stuff that could be flammable and let dried leaves or other brush build up in their gutters and yards. It's not until you reach a certain density, where most of the vegetation is removed from areas, that the danger diminishes.

Halsey said he's concerned about a project in his backyard in Escondido, Safari Highlands [9].

"That was in the fire corridor that the 2007 fire raged through," he said. "It's in an area pretty much identical to the area that burned in Santa Rosa, the neighborhoods being taken out by the Thomas Fire right now."

The large projects all require amendments to the county's growth blueprint because they would put more density than is currently allowed. The amendments must go through the county's Planning Commission and Board of Supervisors.

Newland Sierra is expected to come before the board in 2018.

Decision-makers can impose requirements on the developments that could minimize their fire risk. Valiano, for instance, would need to build new roads leading out of the property [10] to help with evacuation, according to its Fire Protection Plan, a document included in the county's development review process. Harmony Grove Village would build a new fire station if approved [11].

Developers for Lilac Hills Ranch, meanwhile, have not yet proposed how they'll ensure fire crews can reach homes in the project's furthest reaches within required fire response timelines – though early phases of the development can begin before they figure it out.

The most common needs for North County projects, according to the San Diego County Fire Authority, mostly deal with adequate roads into and out of the projects.

During the Cocos Fire, traffic gridlocked on Country Club Drive as residents tried to evacuate, according to some accounts [12]. The fire created the same problem for another nearby development, San Elijo Hills, near San Marcos. San Elijo Road led to all three exits out of the development and became gridlocked as thousands of residents fled.

Lilac Hills Ranch, which is roughly less than a mile from the Lilac Fire at the closest point of the two and roughly three to four miles from the center of the fire zone to the center of the

development, already tried to skirt development requirements related to fire and public safety.

A 2015 Voice of San Diego investigation ^[13] found that developers behind the project refused to pay for a new fire station for the more than 3,000 additional residents they would bring in to the area. The project would build 1,746 homes in a mostly rural area where current restrictions allow only 110 homes.

In fall 2015, the county's Planning Commission recommended the Board of Supervisors approve the project, but with several changes – including funding the construction of a new fire station ^[14].

But instead of agreeing to that stipulation, Lilac Hills' developers eventually opted to instead put the project before voters last November as Measure B. The initiative also specified ^[15] ways the project could avoid certain safety investments.

For instance, the developer had asked the county for exceptions to various road standards, so they wouldn't have to flatten hills, or widen country roads to accommodate the influx of traffic the development would bring.

In the initiative, they simply said that West Lilac Road – which was the easternmost boundary of the Lilac Fire, and one of the roads the Planning Commission said needed widening – didn't need to be changed.

The Lilac Hills ballot measure failed, but the project and others that would require amendments to the county general plan are not dead ^[16].

Keeley said there are known avenues to make at-risk developments safer, but politicians need to demand them.

"People already know what the best thing to do in those cases is," Keeley said. "If you ask any fire chief in the county, they'll tell you, you got to have access roads, you're going to need a way to get firefighters in the area. Fire chiefs in San Diego County know pretty clearly what makes development risky, and they do have a lot of suggestions how to make those developments succeed. If developers are trying to avoid that, that's a political question."

Halsey also said politicians should work on retrofitting existing buildings and homes to improve their fire safety – for example, by putting in automatic external sprinkler systems that could wet the entire house during wildfire risk.

“The climate is changing,” Halsey said. “If we’ve built in wildland areas, there are things we can do to strengthen them.”

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URL to article: <https://www.voiceofsandiego.org/topics/land-use/county-officials-set-consider-allowing-nearly-6000-new-homes-high-wildfire-risk-areas/>

URLs in this post:

[1] may have contributed to the devastation:

https://www.washingtonpost.com/graphics/2017/investigations/harvey-urban-planning/?utm_term=.ea73a9c83faf

[2] 2013 study: <http://www.werc.usgs.gov/ProductDetails.aspx?ID=4935>

[3] located in severe wildfire risk areas: <https://www.voiceofsandiego.org/topics/science-environment/developers-seek-permission-to-build-in-severe-wildfire-risk-areas/>

[4] destroyed roughly 65 buildings: <http://www.readysandiego.org/aar/may-2014-san-diego-county-wildfires/May-2014-San-Diego-County-Wildfires.pdf>

[5] amounted to roughly \$1.3 billion in damages: http://air-worldwide.com/_public/NewsData/001563/AIRCurrents_CaliWildfires.pdf

[6] destroyed 2,820 buildings and killed 15 people:

https://web.archive.org/web/20160623225606/http://www.lakesidehistory.org/CedarFire/cedar_fire_memorial.htm

[7] Lilac Hills Ranch: <http://www.voiceofsandiego.org/topics/land-use/developer-wont-take-no-for-an-answer-on-massive-lilac-hills-ranch-project/>

[8] drastic increase in people populating Santa Rosa:

<http://sonomacounty.ca.gov/CAO/Public-Reports/About-Sonoma-County/Population-Growth/>

[9] Safari Highlands: <https://www.escondido.org/safari-highlands-ranch-specific-plan.aspx>

[10] to build new roads leading out of the property:

<http://www.sandiegocounty.gov/content/dam/sdc/pds/regulatory/docs/VALIANO/FDEIR/FPP-pt1.pdf>

[11] would build a new fire station if approved:

<http://www.sandiegocounty.gov/content/dam/sdc/pds/ProjectPlanning/hgvs/Harmony>

%20Grove%20Village%20South%20Public%20Review/PDS2015-GPA-15-002-EIR-AppL-Fire_Protection_Plan.pdf

[12] according to some accounts:

<http://www.sandiegocounty.gov/content/dam/sdc/pds/regulatory/docs/VALIANO/FDEIR/publiccomments/Valiano%20Individual%20Comments%20L%20through%20O%20rev.pdf>

[13] Voice of San Diego investigation:

<https://www.voiceofsandiego.org/corrections/developer-wont-take-no-for-an-answer-on-massive-lilac-hills-ranch-project/>

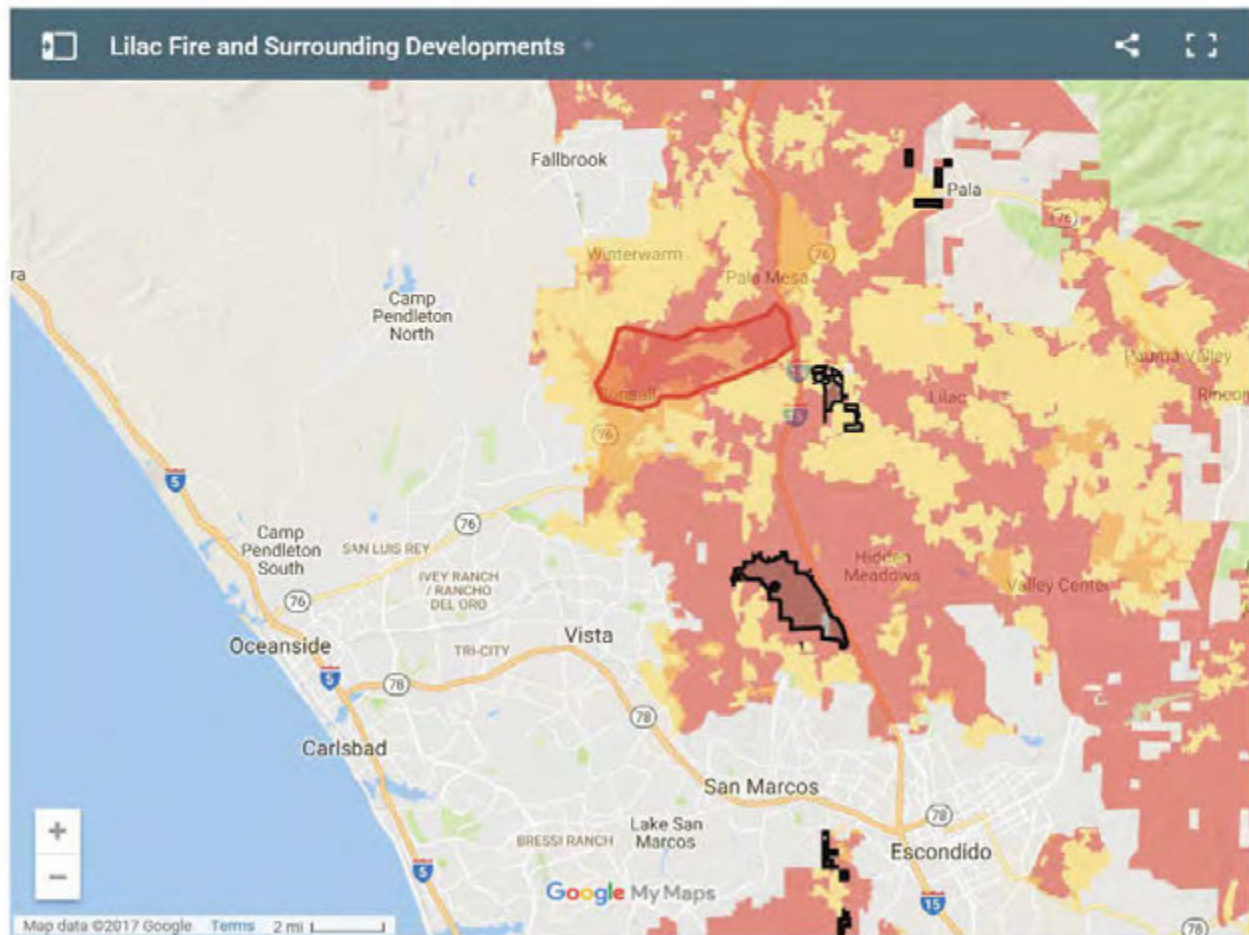
[14] of a new fire station: <http://www.voiceofsandiego.org/wp-content/uploads/2016/03/Planning-Commission-ACTION-SHEET-09-11-15.pdf>

[15] specified: <https://www.voiceofsandiego.org/topics/land-use/lilac-hills-initiative-includes-several-get-out-of-lawsuit-free-cards-for-developer/>

[16] are not dead: <https://www.voiceofsandiego.org/topics/land-use/lilac-hills-ranch-is-still-alive/>

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Attachment C



Maya Srikrishnan, *County Officials Set to Consider Allowing Nearly 6,000 New Homes in High Wildfire Risk Areas*, Voice of San Diego (Dec. 12, 2017)

<<https://www.voiceofsandiego.org/topics/land-use/county-officials-set-consider-allowing-nearly-6000-new-homes-high-wildfire-risk-areas>>

From: CHRISTOPHER.GARRETT@LW.com
To: Smith,Ashley; Slovick,Mark
Cc: jhamilton@cityofvista.com; Witt,William; Silva,Claudia; Fitzpatrick,Lisa; prouser@hotmail.com; dsilverla@me.com; kathyvanness@goldendoor.com; ssouthalf@theclarco.com; dmrke@theclarco.com; sackeml@cox.net
Subject: FW: Comment on Rancho Lomas Verdes Specific Plan Notice of Preparation
Date: Friday, January 05, 2018 5:35:42 PM
Attachments: [image001.jpg](#)
[image002.png](#)
[image003.png](#)
[image004.png](#)
[rancho_lomas_verdes_specific_plan.pdf](#)
[Map_of_Cumulative_Projects_from_Newland_EIR.pdf](#)

Ashley and Mark,

Below is an email that I just sent to John Hamilton, who is the environmental planner for the Rancho Lomas Verdes Specific Plan, for which the City of Vista received an application in 2011, —4 years before the now 3 year old Notice of Preparation released for the Newland Project. (City of Vista Project 52, Case Number PC6-057, Application submitted August of 2011) <https://gis.cityofvista.com/PlanningProjects/>

Unfortunately, it doesn't appear that this project was included in the cumulative projects studied in the Newland EIR. With the explosion of new development projects being planned for rural North County San Diego, it is obviously difficult to keep track of them all. It is especially difficult when there are separate Cities each doing their own planning for pieces of unincorporated County land that they propose to annex and convert to more intense development than is proposed in the adopted County General Plan. Perhaps the answer would be for the planning staffs of the North County cities, SANDAG, the County and southeastern Riverside agencies, to attempt to compile a single data base of planning applications, both large and small. Each small project may not individually have a large impact, and the traffic study areas for each small project may themselves be limited, but when added together in a cumulative study, the overall traffic impacts of these small projects, when added to larger projects, may be great. Because of the great number of motorists traveling north and south each day from Riverside, what happens in the 76/East Vista Way corridor also affects Gopher Canyon and the Interstate 15 corridor.

We just learned of this project yesterday, and wanted to get you this information as soon as possible without any delay. For some reason, the City of Vista Notice of Preparation attached does not show the County as a responsible or trustee agency. Therefore, it is quite possible that you did not receive a copy of the notice from the City of Vista. Perhaps you could call and check for other any projects like this that Oceanside, Vista, San Marcos or Escondido planning staff may be considering that have also been missed from the Newland EIR, or the separately released County PSR EIR.

Once you are sure that you have all the missing projects, like this project, including the ones we referenced in our letter last year, we would suggest that the cumulative impacts analysis in the Newland EIR be revised and recirculated for public comment. Another option would be to work with SANDAG staff to have them prepare an overall regional traffic study that includes all this newly proposed development not considered in the current adopted General Plans, and then use that study for consideration of any County General Plan amendments for the North County area. We are also concerned that the County should work with other agencies to consider whether the wildfire risk planning including in the County's existing Safety Element in the General Plan should be updated. Also, perhaps the County should consider revisions to their draft MSCP, if surrounding jurisdictions have proposed to annex and develop land which the County has designated as PAMA in its planning maps for the unincorporated area.

Regards,
Chris

From: Garrett, Christopher (SD)

Sent: Friday, January 5, 2018 5:12 PM

To: 'jhamilton@cityofvista.com' <jhamilton@cityofvista.com>

Cc: 'Ursula Sack & Joe Kreml' <sackreml@cox.net>; dsilverla@me.com; Seikkula, Samantha (SD) <Samantha.Seikkula@lw.com>; Yancey, Andrew (SD) <Andrew.Yancey@lw.com>; Margarette Morgan <Morgan7070@cox.net>; kathyvanness@goldendoor.com; Stephanie Saathoff - The Clay Company (ssaathoff@theclayco.com) <ssaathoff@theclayco.com>; Denise Price <dzprice@theclayco.com>; 'George Courser' <gcourser@hotmail.com>

Subject: Comment on Rancho Lomas Verdes Specific Plan Notice of Preparation

VIA EMAIL

John Hamilton, AICP

Environmental Planner

Community Development Department

200 Civic Center Drive

Vista, CA 92084-6275

Fax: (760) 639-6101

Dear Mr. Hamilton:

We are submitting comments on the attached Notice of Preparation for the Rancho Lomas Verdes Specific Plan Project on behalf of our client the Golden Door Spa.

While the Golden Door Spa is not expressing either opposition or support for the Rancho Lomas Verdes Specific Plan Project, we want to express our concerns about the new planning effort that the City of Vista is undertaking to plan for new intensive development for land which is outside the City's boundaries and outside the City's Sphere of Influence. The Golden Door strongly believes that all agencies should honor the County's General Plan, and not undertake planning efforts which bypass the Board of Supervisors to remove the land covered by the plan and place it within incorporated City boundaries.

Among other things, this results in fragmented planning by different City and County staff members. For example, even though the City of Vista has been processing this application that was submitted to the City of Vista over 6 and one half years ago, (City of Vista Project 52, Case Number PC6-057, Application submitted August of 2011) <https://gis.cityofvista.com/PlanningProjects/> --- this project has been ignored by the County of San Diego in its recently released EIR for the Newland Project, (See attached map of cumulative projects from the Newland EIR.)

North San Diego County faces a crisis in transportation planning. No one single county or city agency is looking at current plans plus the impacts of all the proposals for new urban development of rural North County. For example, when an agency only looks at a single new project, no effort is made to consider the combined impact of all these single projects on regional resources. Interstate 15 is projected to operate at Level of Service F during peak hours by the County of San Diego. This will lead to drivers seeking to avoid Interstate 15 by diverting traffic to SR 76 and connecting surface streets, such as Gopher Canyon Road or East Vista Way. Agencies such as SANDAG and Caltrans can only conduct regional transportation planning and forecasting if they can rely upon the adopted general plans of the County and incorporated Cities. This Rancho Lomas Verdes project has not been included in any of these regional plans, which relied upon the County and City of Vista adopted General Plans. Because so many proposed new projects are being planned outside of adopted plans, it is important that such approvals not go forward for consideration unless and until these regional plans can be updated with consideration of various scenarios that may occur, and facilities that must be expanded, before any project approvals are granted. If the City of Vista is going to go forward without comprehensive regional planning by SANDAG and the County, then the traffic study boundaries for the Rancho Lomas Verdes project must be expanded to extend to cover all these other cumulative projects, extending to Riverside County and down to the 78 corridor, and running from Interstate 5 to Interstate 15, to take into account the thousands of cars heading north and south each day within this region. With such regional comprehensive planning, agencies can determine if new transit facilities, such as light rail or express bus routes, should be built or extended to cover these regional needs.

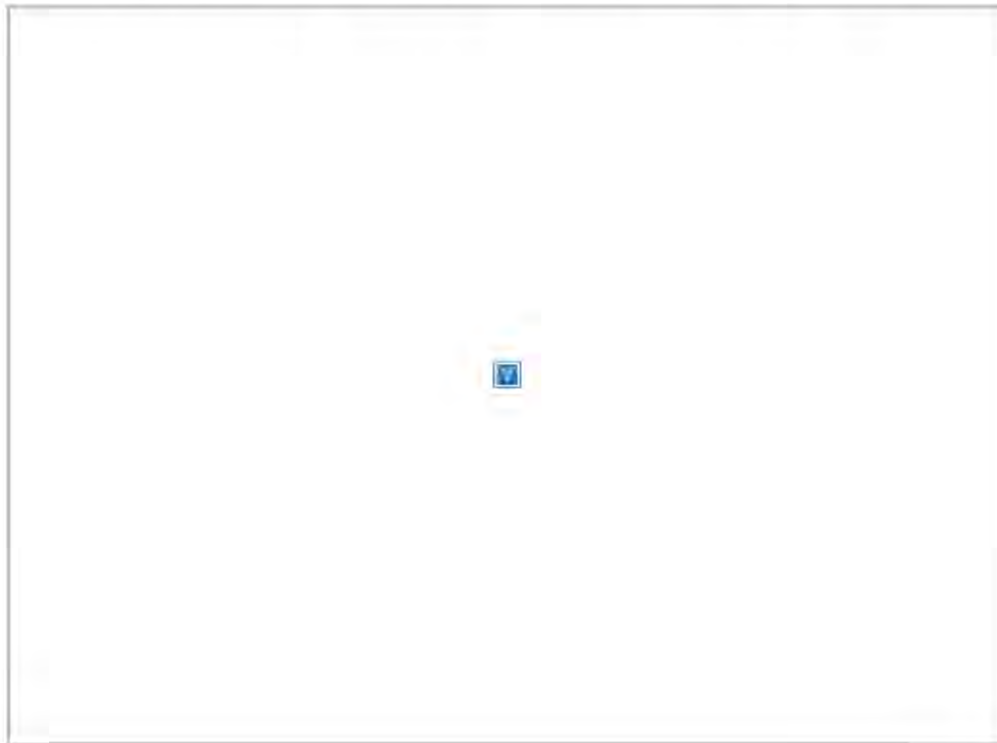
The EIR should also analyze the impact on the vehicle miles traveled ("VMT") and greenhouse gas emission reduction plans of SANDAG. SANDAG's current plan, approved by the California Air Resources Board, assumes that there will be no further development in rural areas that are not planned for new growth under existing general plans, and instead

1 - 750

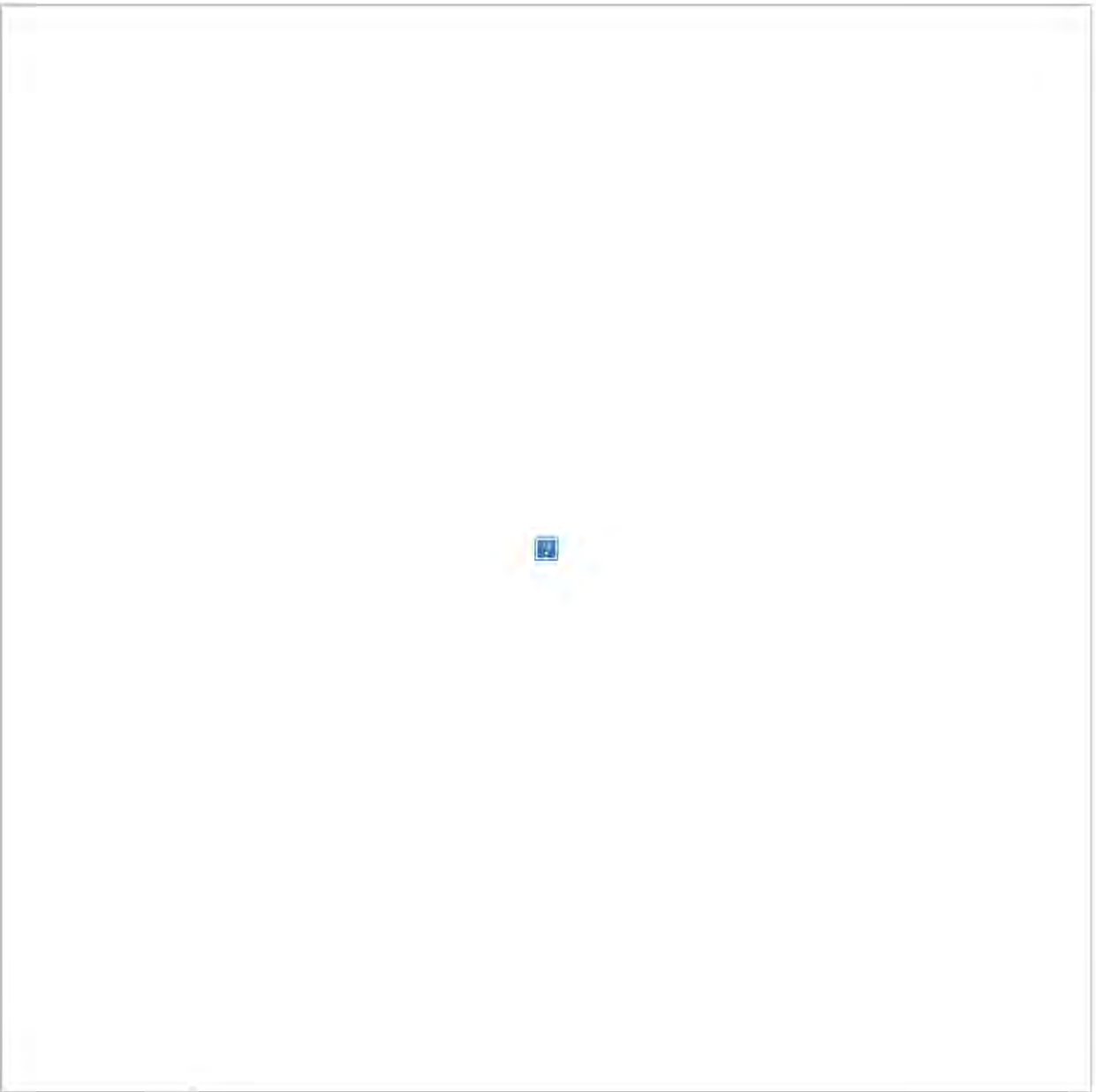
growth will occur only in "smart growth" areas designed by SANDAG in its adopted SCS/RTP. This project is not located in those smart growth areas, and will conflict with the attainment of the adopted plan's VMT reduction goals.

We are also concerned that the project conflicts with the regional plans to address wildfire risk and potential damage to biological resources. The project also appears to be located in an important biological wildlife corridor that extends from the proposed Newland Project development. Below are maps from County planning documents which illustrate that point. Any EIR prepared by the City of Vista should consider the cumulative impacts on wildfire risk, biological resources, traffic and other environmental resources from all the projects listed in the map of cumulative projects from the County's Newland EIR, and also the nearby Newland project itself, which is marked on the maps below. We urge you to closely coordinate with County staff, as well as staff at the Cities of San Marcos and Escondido which are also moving forward with new projects not previously included in their general plans.

The light green area below is Pre-Approved Mitigation Area (PAMA) in the County's draft MSCP which was supposed to receive special protection from new development and disruption to biological resources.



Here is a map of the Rancho Lomas Verdes Project outlined in purple. The Project in Black is the Newland Sierra Project. The Red indicates Very High Fire Severity area, Orange is High and Yellow is Moderate.



Regards,

Chris

Christopher W. Garrett

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Milan	

February 8, 2018

VIA EMAIL AND U.S. MAIL

Kim Kawada
 Chief Deputy Executive Director
 SANDAG
 401 B Street, Suite 800
 San Diego, CA 92101
 Kim.Kawada@sandag.org

Re: Modeling Analysis Needed re San Diego County Climate Action Plan

Dear Ms. Kawada:

We represent Golden Door Properties, LLC (“Golden Door”), a world-class spa, resort, and agricultural operation in the rural Twin Oaks Valley area of San Diego County. The Golden Door is committed to environmental stewardship and sustainability, and is proud that California is a leader in efforts to reduce greenhouse gas (“GHG”) emissions to combat the threat of global climate change.

We are writing with respect to the County’s proposed Climate Action Plan (“CAP”), which is set to be considered by the County Board of Supervisors on February 14, 2018. The Golden Door has been participating in public forums regarding the CAP for several years in an effort to ensure the CAP does not permit GHG emissions from sprawl development projects that would inhibit the County from doing its fair share to meet the State’s GHG reduction targets. In particular, we are concerned that the CAP’s GHG mitigation program for General Plan Amendment projects lacks any provisions for project siting or reduction of vehicle miles traveled (“VMT”), and would make it more difficult for SANDAG to meet its targets under SB 375.

If the County approves its CAP without changes next week, it would allow unlimited sprawl development with developers purchasing carbon offset credits from anywhere in the world rather than pursuing local trip length reductions or smart growth planning. SANDAG must analyze this proposal now to know how regional trip length forecasts will be impacted.

RTP/SCS. SANDAG’s Regional Transportation Plan/Sustainable Communities Strategy (“RTP/SCS”)¹ is based on land use assumptions obtained from the various local jurisdictions within SANDAG’s region. For the unincorporated County, the RTP/SCS relies upon the County’s existing General Plan land use designation, which were approved as part of the

¹ SANDAG’s RTP/SCS is part of the San Diego Forward: The Regional Plan, which was approved in 2015 and is available online at <https://www.sdfoward.com/>.

County's General Plan Update in 2011. The land use designations in the County's General Plan generally adhere to smart growth principles of locating density near existing infrastructure and transit.

Any amendment to the County's 2011 GPU would necessarily alter the VMT modelling performed by SANDAG to determine its VMT reductions in the current RTP/SCS. General Plan Amendments proposed on unincorporated County lands typically require densification of rural lands farther from existing infrastructure and transit than the 2011 GPU's planned density.

County's CAP. The County's proposed CAP provides strategies to reduce GHG emissions in the built environment and transportation, energy, solid waste, water and wastewater, and agriculture and conservation sectors to mitigate GHG emissions from planned growth included in the existing General Plan. These emissions reduction strategies are not intended to mitigate GHG emissions for projects that amend the General Plan – which cause GHG emissions and VMT over and above those considered in the approved General Plan's land use designations. Instead, for General Plan Amendment projects, the CAP relies on the purchase of carbon offset credits to mitigate GHG emissions from General Plan Amendment projects to “net zero.”² This offset program for General Plan Amendment projects does not require VMT reductions or that project siting be taken into consideration.

Need for Additional Modeling. No analysis has been performed to determine if the addition of sprawl development projects would inhibit SANDAG's efforts to reduce VMT and meet its SB 375 targets through its RTP/SCS. SANDAG submitted a comment letter to the County regarding the CAP and specifically requested that the CAP consider smart growth policies. In response to this comment, the County indicated that its CAP adheres to smart growth principles because it is consistent with the existing General Plan. The County's response, however, ignored that the CAP's mitigation plan for General Plan Amendments would allow for new sprawl projects to contradict the underlying smart growth principles in the General Plan. Rather than addressing any VMT reduction goals or requirements, or demonstrating their consistency with SANDAG's existing adopted VMT reduction strategy, the County has indicated that these new General Plan Amendments would address GHG mitigation solely through the purchase of carbon offset credits for their onsite emissions from anywhere in the world.³ No mitigation would be provided for any General Plan Amendment project's VMT impacts or increased GHG emissions associated with those VMT impacts.

Because these General Plan Amendment projects would necessarily alter the underlying inputs for SANDAG's previous VMT analysis and because no VMT reduction is required by the

² The CAP's offset program for General Plan Amendment projects is described as Mitigation Measure GHG-1 in Chapter 2.7 of its Final Supplemental EIR, which can be accessed online at https://www.sandiegocounty.gov/content/sdc/pds/ceqa/Climate_Action_Plan_Public_Review.html#volume3.

³ See Comment and Response L4-3 at <https://www.sandiegocounty.gov/content/dam/sdc/pds/advance/cap/publicreviewdocuments/FinalPublicReviewDocs/RTCs/L4.pdf>.

CAP for General Plan Amendment projects, we request that SANDAG re-run its VMT model for the RTP/SCS adding the land use densities for the General Plan Amendments currently in process with the County and any other scenarios that SANDAG deems appropriate. Only then will the public and decision makers be able to understand the impacts of the CAP's offset program for General Plan Amendment projects on SANDAG's VMT-reduction efforts.

This information must be provided by the County to the public and other agencies through the CEQA process. As the California Supreme Court emphasized last year in *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 942, public agencies must provide relevant information about "related regulations" of other agencies and their impact on a proposed project, rather than ignore that agency and its regulations. Here, the County has simply chosen to ignore the impact of its CAP and its "offsets for everyone from anywhere in the world" mitigation strategy upon the regulatory program for reduction of VMT administered by SANDAG. As the Supreme Court stated in *Banning Ranch Conservancy*:

To be prejudicial, a failure to account for related regulations must substantially impair the EIR's informational function. Here, the City's failure to discuss ESHA requirements and impacts was neither insubstantial nor merely technical. The omission resulted in inadequate evaluation of project alternatives and mitigation measures.

(2 Cal.5th, *supra*, at 942.)

Likewise, the County's failure to analyze how its expected new projects (that are allowed to move forward with GHG offsets alone) could increase VMT and interfere with the "related regulations" of SANDAG's attainment of VMT reductions required by CARB's goals was a prejudicial information deficiency. With the proper information about the impact of these project's on SANDAG's efforts to reduce VMT, the County could have considered mitigation measures and alternatives in its CAP which would support SANDAG's efforts, rather than thwart them. Instead, with this VMT information missing, no such mitigation measures or alternatives were considered. Indeed, no analysis was conducted to determine the extent that increased VMT resulting from the contemplated new projects would increase associated GHG emissions inevitably resulting from increased miles of travel.

A starting point for any consideration of SANDAG's efforts to attain VMT reduction goals is an analysis of how the expected cumulative General Plan Amendments noted by the County in its cumulative impacts analysis, may change SANDAG's current VMT conclusions. However, the County's EIR contains absolutely no analysis of this issue.

Now is the time to provide this analysis before the County Board of Supervisors considers the CAP and pre-approves a mitigation scheme that omits VMT-reduction requirements for sprawl General Plan Amendment projects. Waiting to perform the analysis on a project-by-project basis could be too late and could unfairly burden individual project applicants.

Potential SB 375 Target Increases. We also understand that CARB is recommending increased GHG reduction targets for SANDAG under SB 375. The prospect of these increased

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reduction targets further emphasizes the need for analysis now to understand the impact of the County CAP's proposal for General Plan Amendments. In 2017, SANDAG analyzed its ability to meet increased targets from CARB. As part of this process, SANDAG re-ran its models to consider *more* dense development patterns. It determined that more aggressive smart growth patterns would not yield significant GHG-reduction benefits.⁴

It does not appear, however, that SANDAG analyzed the impact of a *less* dense development pattern at that time. Because the County is considering large sprawl projects that would amend the General Plan's underlying land use assumptions, and the County is considering an offset purchase-based program for GHG mitigation for these projects, it is important that SANDAG perform the analysis needed to understand the impacts of this *less* dense development pattern.

Conclusion. We feel strongly that coordination between SANDAG and the County is necessary at this time to ensure our region can meet its fair share of the State's GHG emission reduction targets. As such, we request the above-described modeling work and any other pertinent analysis be performed immediately and shared with the County and the public prior to the County's consideration of its CAP on February 14. State policy makes clear that GHG emission reduction efforts should include a VMT reduction component and the VMT reduction yields important quality of life co-benefits, including reduction of toxic air pollutants, improved public health, decreased traffic congestion, and increased environmental justice.

Thank you for your time and attention to our comments. Please do not hesitate to contact us should you have any questions or comments.

Best regards,

Christopher W. Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

cc (email):

Kathy Van Ness, Golden Door
CARB Board Members
SANDAG Board Members
San Diego County Board of Supervisors
San Diego County Planning Commissioners
Kurt Karperos, CARB Deputy Executive Director
Muggs Stoll, SANDAG

⁴ A description of SANDAG's analysis from March 10, 2017, can be found on pages 42-50 of a submittal to CARB and accessed online at https://www.arb.ca.gov/cc/sb375/appendix_b_mpo_scenario_and_data_submittals_october_2017.pdf.

LATHAM & WATKINS^{LLP}

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Maggie Soffel, County of San Diego
Mark Slovick, County of San Diego
Ashley Smith, County of San Diego
William Witt, County Counsel
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London	Singapore
Los Angeles	Tokyo
Madrid	Washington, D.C.
Milan	

February 8, 2018

BY EMAIL AND U.S. MAIL

Lezlie Kimura Szeto
 Sustainable Communities Policy and Planning Section
 Manager
 California Air Resources Board
 1001 I Street
 P.O. Box 2815
 Sacramento, California 95812
Lezlie.Kimura@arb.ca.gov

Re: Coordinating SANDAG's SB 375 GHG Emissions Reduction Targets with County of San Diego GHG and Land Use Policy

Dear Ms. Kimura Szeto:

We represent Golden Door Properties, LLC ("Golden Door"), a world-class spa, resort, and agricultural operation in the rural Twin Oaks Valley area of San Diego County. The Golden Door is committed to environmental stewardship and sustainability, and is proud that California is a leader in efforts to reduce greenhouse gas ("GHG") emissions to combat the threat of global climate change. We appreciate the California Air Resources Board's ("CARB") efforts to implement aggressive policies to meet the State's GHG reduction targets.

We write in regard to San Diego's proposed Climate Action Plan ("CAP"), the San Diego Association of Governments' ("SANDAG") Regional Transportation Plan/Sustainability Communities Strategy ("RTP/SCS"), and CARB's SB 375 targets. If the County approves its CAP without changes next week, it would allow unlimited sprawl development with developers purchasing carbon offset credits from anywhere in the world rather than pursuing local trip length reductions or smart growth planning. SANDAG must analyze this proposal now to know how regional trip length forecasts will be impacted and if it will be able to meet CARB's current and proposed emissions reduction targets.

We understand that as part of efforts to achieve GHG-reductions in the transportation sector through SB 375, CARB is recommending increased GHG reduction targets for SANDAG. We are concerned, however, that CARB must carefully consider the ability of SANDAG to even meet existing GHG reduction targets in light of the County of San Diego's most recent land use planning and GHG-reduction policies which will likely interfere with SANDAG's ability to meet CARB's current SB 375 targets.

CARB has repeatedly emphasized that it believes a reduction in vehicle miles traveled (“VMT”) is a key component of reducing GHG emissions in order to meet statewide GHG reduction goals. The County’s pending CAP, set to be considered by the County Board of Supervisors on February 14, 2018, would allow the addition of sprawl development without corresponding reductions in VMT. In addition, County staff and elected officials have suggested in public forums that VMT is not a viable metric for GHG emissions reduction efforts.

As such, we request that CARB coordinate with SANDAG and the County before the County fast tracks sprawl development projects without regard for CARB’s more stringent GHG reduction targets. CARB’s targets are rightly predicated on smart growth land use planning. At this time, however, no analysis has been provided to determine whether SANDAG could meet these targets if the underlying land use assumptions are changed to match proposed new County policies which will deviate from the current County General Plan land use patterns used in the most recent RTP/SCS.

Put simply, if the County decides that it no longer cares about VMT as a metric for its General Plan policies, this will put SANDAG in the impossible position of attempting to meet VMT reduction targets in the face of the County’s plan to allow unlimited new development in rural areas so long as GHG offsets are purchased from some location around the globe. Neither the County nor SANDAG has provided an analysis of the specific VMT impacts from new proposed County General Plan changes included in the EIR for the County’s CAP. The County did not re-run SANDAG’s model with the sprawl projects being currently processed by the County that are not included in SANDAG’s model, which was based on the 2011 County General Plan and used for the 2015 SANDAG RTP/SCS.

Only by running this model can CARB and SANDAG determine whether SANDAG can meet its current SB 375 targets or CARB’s recommendation for more stringent targets in light of the County’s pending General Plan changes. Now is the time to provide such analysis to the public and decision makers and to coordinate CARB’s, SANDAG’s, and the County’s efforts to ensure San Diego County does its fair share to help the State meet its GHG emissions reduction targets.

I. CARB’S 2017 SCOPING PLAN AND SB 375 TARGETS EMPHASIZE THE IMPORTANCE OF VMT REDUCTIONS

In October 2017, CARB proposed updates to regional passenger GHG emissions reduction targets for California’s metropolitan planning organizations (“MPOs”). In December 2018, CARB approved an updated Climate Change Scoping Plan Update to address the use of GHG offset credits. Both documents emphasize the need to reduce VMT in order to meet statewide climate change goals.

A. CARB’s Staff Proposal for Increasing MPOs’ SB 375 GHG Emissions Reduction Targets

CARB staff has recommended increased GHG emissions reduction targets under SB 375 for the State’s MPOs and has emphasized the importance of VMT reduction in reaching those

targets. CARB staff is currently holding public workshops about the recommended target increases prior to CARB Board consideration early this year.

The revised targets call for “greater per capita GHG emission reductions from SB 375 than are currently in place, which for 2035, translate into targets that either match or exceed the emission reduction levels contained in the MPOs’ currently adopted SCSs. CARB staff believes that to achieve the intent of the legislation and to maximize community co-benefits, the *per capita GHG emission reduction targets should be achieved predominantly through strategies that reduce VMT.*” (CARB SB 375 Staff Proposal at p. 19.) In fact, “CARB’s recommended targets are equivalent to reducing VMT a half a mile per person per day.” (*Id.* at p. 28.) CARB recognized that SB 375 and other VMT reduction strategies “need to provide a 25 percent reduction in statewide per capita greenhouse gas emissions relative to 2005 by 2035” to meet the statewide goals. (*Id.* at p. 29.) For SANDAG, CARB staff has recommended a 2035 reduction target of 21%, which is higher than the 2035 target in SANDAG’s current RTP/SCS and higher than the 18% target requested by SANDAG.

B. CARB 2017 Scoping Plan Update

CARB’s 2017 Scoping Plan Update emphasizes the importance of reducing VMT as an integral component of GHG emissions reductions efforts:

To the degree a project relies on GHG mitigation measures, *CARB recommends that lead agencies prioritize on-site design features that reduce emissions, especially from VMT, and direct investments in GHG reductions within the project’s region that contribute potential air quality, health, and economic co-benefits locally.* For example, on-site design features to be considered at the planning stage include land use and community design options that reduce VMT, promote transit oriented development, promote street design policies that prioritize transit, biking, and walking, and increase low carbon mobility choices, including improved access to viable and affordable public transportation, and active transportation opportunities. Regionally, additional GHG reductions can be achieved through direct investment in local building retrofit programs that can pay for cool roofs, solar panels, solar water heaters, smart meters, energy efficient lighting, energy efficient appliances, energy efficient windows, insulation, and water conservation measures for homes within the geographic area of the project.

(CARB, 2017 Climate Change Scoping Plan at p. 102 [emphasis added].) CARB’s 2017 Scoping Plan Update also emphasizes the need to address VMT as an integral piece of GHG mitigation. “CARB staff is *more convinced than ever* that, in addition to achieving GHG reductions from cleaner fuels and vehicles, *California must also reduce VMT.*” (CARB, 2017 Climate Change Scoping Plan at p. 101 [emphasis added].) Further, the 2017 Scoping Plan Update emphasizes the co-benefits of VMT reduction, including reduction of toxic air pollutants,

improved public health, decreased traffic congestion, and increased environmental justice. These important quality of life factors are important to consider along with the GHG emissions reduction benefits of policies to reduce VMT.

II. THE COUNTY'S CAP INCLUDES AN OFFSET PROGRAM ALLOWING APPROVAL OF SPRAWL DEVELOPMENT WITHOUT APPROPRIATE REDUCTIONS IN VMT

The County's CAP proposes a mitigation program for General Plan Amendment projects (Mitigation Measure GHG-1) that relies on the purchase of carbon offset credits from anywhere in the world.¹ Mitigation Measure GHG-1 does not require VMT reduction. Mitigation Measure GHG-1 also does not require consistency with SANDAG's RTP/SCS, which is the region's plan for achieving GHG reductions by reducing VMT consistent with State law and CARB's targets.

SANDAG's RTP/SCS model for the unincorporated County is based on land use inputs from the County's approved 2011 General Plan Update ("2011 GPU"). The land use designations in the 2011 GPU are the product of over a decade of community input and stakeholder negotiations and are generally considered to adhere to smart growth principles of locating density near existing infrastructure and transit. Any amendment to the County's 2011 GPU would necessarily alter the VMT modelling performed by SANDAG to determine its VMT reductions in the current RTP/SCS. General Plan Amendments proposed on unincorporated County lands typically require densification of rural lands farther from existing infrastructure and transit than the 2011 GPU's planned density.

For example, the Newland Sierra project is a proposed General Plan Amendment being processed by the County that would add over 2,100 homes to an area currently zoned for 99 homes and is located between Escondido and the Riverside County line more than six miles from the nearest transit center. The General Plan Amendments proposed in the unincorporated County necessarily add long vehicle trips over and above those considered in the RTP/SCS model, which relied on the 2011 GPU's land use designations. The County's CAP does not consider project siting or VMT reduction strategies as mitigation for General Plan Amendment projects; instead, the CAP allows the General Plan Amendment projects to meet their GHG mitigation requirement by merely purchasing carbon offset credits from anywhere in the world. The County has not analyzed the impacts of this approach on County-wide VMT or on SANDAG's ability to meet its SB 375 requirements.

¹ Mitigation Measure GHG-1 provides geographic priorities for these offset projects, beginning with 1) project design features/on-site reduction measures; 2) off-site within the unincorporated areas of the County of San Diego; 3) off-site within the County of San Diego; 4) off-site within the State of California; 5) off-site within the United States; and 6) off-site internationally. No defined criteria is provided to determine the proportion of mitigation to be achieved each priority level. (CAP Final Supplemental Environmental Impact Report at p. 8-52.) At a County Planning Commission meeting on January 18, 2018, County staff indicated that such determinations would be made by staff after project approval and without public review.

SANDAG has analyzed the impact of aggressive land use policies to increase densification and determined that these policies would have minimal benefit for GHG emissions reduction efforts. Neither SANDAG nor the County, however, has analyzed the impacts of a *less* dense development pattern on unincorporated County lands and how such sprawl planning would inhibit VMT-reduction efforts. Yet, the County's CAP – expected to be approved by the Board of Supervisors next week – would pre-approve a GHG mitigation program for sprawl projects that relies on purchasing carbon offset credits while ignoring local VMT reduction and consistency with SANDAG's VMT-reduction plans.

As CARB considers increasing SANDAG's GHG emissions reduction targets, it should coordinate with SANDAG and the County to understand how policies currently under consideration by the County would impact SANDAG's ability to meet its existing and proposed emissions reduction requirements and ensure the public and decision makers are informed about the interrelation between these agencies' GHG reduction efforts.

III. COUNTY STAFF AND THE BOARD OF SUPERVISORS HAVE SUGGESTED THE COUNTY WILL DISREGARD CARB'S VMT REDUCTIONS DIRECTIVE

Recent public statements from County Supervisor Ron Roberts and County Planning Director Mark Wardlaw indicate an approach that supplants VMT reduction measures with vehicle and fuel technology programs. At the CARB Board of Directors meeting approving the 2017 Scoping Plan Update, San Diego County Supervisor Ron Roberts, who is also a member of the CARB Board, vehemently opposed the use of VMT as a metric:

I think it's one of the worst metrics. I said that when I was first here in 1995. It's a pathetic metric for anything. It's a political metric. It's not a performance metric. As we increasingly electrify vehicles, cars, and trucks, and buses, and everything else, you'll see that clearly. And I think you'll still — I think you'll see it today. We've seen it in San Diego County the relationship is an inverse one. And there's a lot of reasons for that. And this Air Board has been a strong part of that, and I'm very proud that that's the case. But I think it's something that we need to have a better understanding. And when you're measuring the wrong thing, it seems to me your chances of success are far more limited. So I've registered that concern in the past. A lot of people keep hanging their hat on it.

(CARB Board of Directors Meeting Transcript, December 14, 2017 at p. 80:6-21.)

In addition, at the San Diego County Planning Commission's January 18 hearing on the CAP, Planning Director Mark Wardlaw stated that "electric vehicle and fuel cell vehicle programs shift that fuel from the carbon-based to a non-carbon-based which addresses the intent of VMT reduction."

These comments by Supervisor Roberts and Director Wardlaw indicate a lack of concern regarding increased VMT within San Diego County from sprawl development projects. This approach contradicts CARB's emphasis on reducing VMT as an integral component of meeting the State's GHG emissions reduction targets. We encourage CARB to coordinate with SANDAG and the County to ensure VMT reductions remain a priority in land use planning and GHG mitigation. If VMT is to be discarded as a guidepost for GHG emission reduction policies in San Diego County or Statewide – as is preferred by Supervisor Roberts and Director Wardlaw – analysis of this policy shift should be performed and presented to the public and decision makers prior to implementation.

IV. CARB SHOULD COORDINATE WITH SANDAG AND THE COUNTY TO ENSURE SANDAG CAN MEET ITS SB 375 EMISSIONS REDUCTION TARGETS

In light of the comments from San Diego County land use planning officials and the CAP's sprawl-facilitating GHG mitigation program, more must be done to ensure coordination between the County and SANDAG. The County continues to fast track sprawl development – all while SANDAG seeks to meet increasingly stringent GHG reductions targets predicated on smart growth land use planning. SANDAG should request that the County run the same model SANDAG used for its RTP/SCS to evaluate the CAP's proposals. This model run should take into account cumulative impacts from General Plan Amendment projects that could be approved using Mitigation Measure GHG-1's offset program. The cumulative projects should include at least all General Plan Amendment proposals currently in process with the County, including the proposed Newland Sierra project – which published its draft EIR prior to publication of the Draft CAP. This is the only way to inform decision makers and the public of the CAP's potential impacts on County-wide VMT and ensure that SANDAG meet its SB 375 mandated targets. Only this analysis can demonstrate whether the CAP is consistent with SANDAG's VMT reduction plans in its RTP/SCS pursuant to SB 375.

Prior to the adoption of the new SB 375 targets, SANDAG must let CARB know if it cannot meet its VMT reduction goals due to the County's land use planning and insistence on considering sprawl development projects. If the County chooses to ignore VMT, there must be further coordination, disclosure, and understanding such that the State may weigh in on the County's approach and provide necessary guidance so that San Diego County can do its fair share to help the State meet its GHG emissions reduction targets.

Thank you for your time and attention to our comments. Please do not hesitate to contact us should you have any questions or comments.

Best regards,

Christopher W. Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

LATHAM & WATKINS LLP

cc (email):

Kathy Van Ness, Golden Door
CARB Board Members
SANDAG Board Members
San Diego County Board of Supervisors
San Diego County Planning Commissioners
Kurt Karperos, CARB Deputy Executive Director
Kim Kawada, SANDAG Chief Deputy Executive Director
Darin Neufeld, County of San Diego
Maggie Soffel, County of San Diego
Mark Slovick, County of San Diego
Ashley Smith, County of San Diego
William Witt, Office of County Counsel
Claudia Silva, Office of County Counsel
Dan Silver, Endangered Habitats League
George Courser, Sierra Club
Duncan McFetridge, Cleveland National Forest Foundation
Stephanie Saathoff, Clay Company
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February 12, 2018

County Board of Supervisors
 C/O Kevin Johnston, Land Use / Environmental Planner
 Planning & Development Services
 5510 Overland Avenue, Suite 310
 San Diego, CA 92123

Re: Property Specific Requests GPA DSEIR SCH No. 2015121012

Dear Mr. Johnston:

We represent Golden Door Properties, LLC (“Golden Door”), a world-class resort and agricultural operation in the rural Twin Oaks Valley area of San Diego County. The Golden Door is an industry leader in sustainability efforts, and has restored farming and beekeeping on its property—sharing its bounty at a community Farm Stand and through retail operations. As a local land owner, farmer, and employer, Golden Door honors its responsibility to our community by extending its support to local and regional organizations and well beyond. As such, the Golden Door is very interested in the environmental impacts of projects in the I-15 corridor and, we have been pro-actively communicating with the County of San Diego (“County”) staff on these issues for several years.

We have reviewed portions of the Draft Subsequent Environmental Impact Report (“DSEIR”) for the Property Specific Requests (“PSRs”) General Plan Amendment and Rezone with particular attention to the cumulative impacts of the PSRs on traffic along the I-15 corridor, and throughout inland North County. Although we are not taking position on any of the PSRs at this time, we are concerned that the County is moving forward with a large number of General Plan Amendments in the I-15 corridor without providing the public a clear understanding of the cumulative impacts on traffic, greenhouse gases (“GHG”), and vehicle miles traveled (“VMT”) for all of these proposals.

As you are aware, the proposed Newland Sierra Project’s cumulative impacts analysis shows Level of Service (“LOS”) F on over 25 miles of the I-15 freeway from Escondido to the Riverside County line at that project’s build out. Therefore, it is important that data for additional traffic from the PSRs – most of which are located near the I-15 corridor in North County – be available to the public for review. As noted in the attached memorandum from STC Traffic, Inc., the DSEIR does not provide any information on the impacts of the PSRs on the I-15 freeway and other major thoroughfares in the region. (See Attachment A.) Further, the DSEIR

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does not provide sufficient information to evaluate the traffic patterns and regional distribution of trips associated with the PSRs.

Although the PSR projects considered individually may not have a significant impact on State and regional thoroughfares, the cumulative impact of the 35,557 trips being generated by the PSRs must be taken into consideration as the County considers multiple proposals for significant unplanned development along the I-15 corridor. Full disclosure of these cumulative impacts—for traffic, GHG emissions, and VMT—is especially pressing when taken together with the other large General Plan Amendment proposals, like Newland Sierra, that are currently in process. Moreover, understanding the full scope of impacts from unplanned development proposals is extremely important given that SANDAG does not plan for any transportation infrastructure improvements to the I-15 corridor north of Escondido until at least 2050. Given SANDAG's current funding projection shortfalls, even such far distant future improvements may be in jeopardy.

In addition, the PSRs' GHG mitigation plan incorporates the flaws from Mitigation Measure GHG-1 from County's proposed Climate Action Plan that allows General Plan Amendment projects to rely solely on the purchase of carbon offset credits rather than reducing local VMT. This approach to GHG mitigation allows sprawl development projects to clog our local roadways while paying to offset GHG emissions on other continents. Based on the extensive unplanned development the County is currently processing along rural portions of the I-15 corridor in inland North County, drivers relying on I-15 and surrounding thoroughfares will likely be the first to feel the effects of the County's sprawl-facilitating policy changes. It is imperative, therefore, that the County provided full data about the scope of the traffic impacts in this region, including on I-15.

We ask that you provide the missing information noted in the attached memorandum from STC Traffic, Inc., so that the cumulative impacts to the I-15 and region can be fully understood. Thank you for your attention to this matter

Sincerely,

Andrew D. Yancey

Andrew D. Yancey
of LATHAM & WATKINS LLP

cc (email):

County Board of Supervisors
County Planning Commission
Kathy Van Ness, Golden Door
Twin Oaks Valley Community Planning Group
Bonsall Community Planning Group
Hidden Meadows Community Planning Group

LATHAM & WATKINS LLP

Valley Center Community Planning Group
Darin Neufeld, County of San Diego
Mark Slovick, County of San Diego
Ashley Smith, County of San Diego
William Witt, County Counsel
Claudia Silva, County Counsel
Dan Silver, Endangered Habitats League
Stephanie Saathoff, Clay Company
Denise Price, Clay Company
Christopher W. Garrett, Latham & Watkins

Attachment A

February 8, 2018



Latham & Watkins

Attention: Andrew Yancey
12670 High Bluff Drive
San Diego, CA 92130

**Subject: Traffic and Transportation Comments
County of San Diego Property Specific Requests (PSR) General Plan Amendment & Rezone SEIR**

Dear Andrew:

STC Traffic, Inc. has reviewed the following documents related to the County of San Diego Property Specific Requests (PSR) General Plan Amendment & Rezone:

- Chapter 1.0 Project Description, Location & Environmental Setting (County of San Diego, SEIR)
- Section 2.15 Transportation & Traffic (County of San Diego, SEIR)
- Transportation Impact Assessment, Final Report (Chen Ryan, September 2016)

In reviewing these documents, it is clear that collectively the proposed land use changes in the PSR will add 35,557 new vehicular trips to the roadway network. The Transportation Impact Assessment states that the trips associated with the PSR were distributed on the roadway network using the SANDAG Series 12 model, since the General Plan Model (Series 10) cannot be used for analysis. To determine the future forecast volumes for the Horizon Year condition, the net increase in trips associated with the proposed project in addition to trips associated with the 2014 General Plan Amendment and the County of San Diego General Plan Amendments in process were added to the Series 10 model volumes. This was done by calculating the net change in trips between the baseline Series 12 Model and each of the three following scenarios:

- Series 12 with GPA 2014
- Series 12 with GPA In Process
- Series 12 with PSR

The net increase in daily traffic volume for each of these scenarios was added to the Series 10 model volumes to determine both the future roadway segment volume and the net increase in daily traffic volume on each roadway segment related to the PSR project.

STC determined that the Transportation Impact Assessment does not provide figures illustrating the distribution and assignment of PSR related trips on the roadway network. STC then aimed to calculate the daily volumes using data provided in the technical appendix for the report. However, the following information is not provided in the Technical Appendix to the Transportation Impact Assessment (Chen Ryan, 2016) that would have allowed STC to conduct this independent assessment:

- Baseline Series 10 volumes in a format consistent with the model data
- Baseline Series 12 volumes (without GPA 2014, GPA in Process or PSR)

As a result, STC was unable to isolate the trips for each of these scenarios to evaluate the total new volumes added to roadways within the County. Therefore, the SEIR does not provide sufficient information to evaluate the traffic patterns and regional distribution of trips associated with the PSRs.

Although the individual PSR areas may generate low to moderate traffic when considered individually, collectively the regional impact of 35,557 new trips to non-County roadways is not evaluated or clearly described in the Transportation Impact Assessment. The rural nature of the locations where the proposed density increases are considered results in a significant portion of the new trips heading toward the I-15, SR-76, SR-78 and other regional facilities. At minimum, to adequately understand regional traffic volumes for the state and regional routes serving rural north San Diego County, trips to these non-county roadways and daily traffic volume information should be reported and evaluated.

This information was not disclosed in the Transportation Impact Assessment or clearly provided and easily accessible in the supporting documentation for the Transportation Impact Assessment. Such information is necessary to understand the cumulative traffic impacts in the rural north San Diego County region.

CLOSURE

Should you have any questions regarding the information provided herein, please contact me at (760) 585-4494.

Sincerely,
STC Traffic, Inc.

A handwritten signature in black ink, appearing to read "Dawn L. Wilson", with a long horizontal flourish extending to the right.

Dawn L. Wilson, PE TE
Principal Manager

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March 5, 2018

VIA EMAIL AND U.S. MAIL

Ashley Smith
 Planning and Development Services
 County of San Diego
 5510 Overland Avenue, Suite 310
 San Diego, CA 92123

Re: Newland Sierra (Log No. PDS2015-ER-15-08-001; SCH No. 2015021036, Project Numbers: PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ-15-001, PDS2015-TM-5597, PDSXXXX-HLP-XXX) – General Plan Inconsistency of GHG Mitigation

Dear Ms. Smith:

As you know, we represent Golden Door Properties, LLC (“Golden Door”), a world-class resort and agricultural operation in rural Twin Oaks Valley. The Golden Door is an industry leader in sustainability efforts, and has restored farming and beekeeping on its property, including the replanting of many new trees on the property—sharing its bounty at a community Farm Stand and through retail operations. As a local land owner, farmer, and employer, Golden Door honors its responsibility to our community by extending its support to local and regional organizations and well beyond. The Golden Door is committed to environmental stewardship and sustainability, and is proud that California is a leader in efforts to reduce greenhouse gas (“GHG”) emissions to combat the threat of global climate change.

We are writing to share our concern that the proposed Newland Sierra Project, as described in its Draft Environmental Impact Report (“DEIR”), would be inconsistent with existing and newly adopted County General Plan provisions requiring reduction of GHG emissions within unincorporated areas of San Diego County. The Board of Supervisors in its recent actions on February 14th has confirmed this inconsistency with the County’s General Plan. (Our comments address only the Newland Sierra Project. Our comments also do not relate to what the County may approve or not approve for new development projects if the County were

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to amend its General Plan policies to allow for the use of international or other “out of jurisdiction” offsets and remove the requirement for “local” reductions.¹⁾

We request that the County staff suspend further processing of the Newland Sierra Project due to its clear conflict with the County’s General Plan Conservation and Open Space Element. Projects which flatly conflict with the County’s General Plan should not be processed by staff nor should they be presented to the Planning Commission or Board of Supervisors.

If County staff believes that the Newland Sierra Project is consistent with the County General Plan Conservation and Open Space Element, we request that the County staff prepare and release to the public the County staff’s consistency analysis on this issue. No such consistency analysis has yet been provided to the public on this important issue.

I. BACKGROUND

As you are aware, we have been writing to the County about climate change, the Climate Action Plan (“CAP”), and the Newland Sierra Project since January 2015. The Golden Door has provided extensive comments about GHG issues for the CAP and the Newland Sierra Project and participated in the County’s recent proceedings to approve a CAP. One of the issues consistently raised by the Golden Door over the past several years is that the County’s General Plan requires GHG emissions reductions to occur within the County for the Newland Sierra Project. The 2011 General Plan included Goal COS-20, requiring “local” emissions reductions: “Reduction of local GHG emissions contributing to climate change that meet or exceed requirements of the *Global Warming Solutions Act of 2006*.”

A. The Golden Door Has Previously Notified the County of this Issue

The Golden Door raised this issue on multiple occasions. In the Golden Door’s August 14, 2017 letter on the Newland Sierra Project’s DEIR, we specifically noted that Newland’s offset program contradicted General Plan Goal COS-20: “The Project contravenes the General Plan EIR’s mitigation measures CC-1.2 and CC-1.8 and General Plan Goal COS-20 because its offsets may come from outside the County.” (Letter from C. Garrett [Latham & Watkins LLP for Golden Door] to A. Smith [County Planning and Development Services], at 38.)² We also raised this issue in our September 25, 2017 DSEIR letter on the CAP: “The CAP, therefore, was intended to mitigate impacts from GHG emissions *within San Diego County*. In addition, Goal COS-20 of the General Plan prioritizes ‘[r]eduction of *local* GHG emissions contributing to climate change that meet or exceed requirements of the *Global Warming Solutions Act of 2006*.’ (Emphasis added.)” (See Attachment A at 3 [emphasis in original letter].)

¹ While CEQA Guidelines Section 15126.4(c)(3) acknowledges that offsite measures, including carbon offsets, may be appropriate to mitigate a project’s GHG emissions, the General Plan imposes additional requirements that such offset reductions must occur locally.

² Golden Door’s letter is on file with the County as part of this project’s record.

B. A Plain Reading of Goal COS-20 Requires Emissions Reductions to Occur Within the County

Based on the plain language of Goal COS-20, the General Plan requires GHG emissions “reductions” to remain local. It does not allow for purchase of carbon offset credits from outside the County. While purchase of off-site mitigation credits from outside of the County may comply with the California Environmental Quality Act (“CEQA”) if certain criteria are met, the General Plan’s requirements are distinct from requirements under CEQA. Further, these emissions “reductions” are distinct in concept from CEQA’s requirement for “mitigation.” The County’s Conservation and Open Space Element refers to both “reductions” and “mitigation” depending on the context in which they are used. This distinction supports a plain reading that Goal COS-20 requires GHG emissions reductions to occur within the County despite any other permissible methods under CEQA.

C. Other Provisions of the Conservation and Open Space Element Support the Plain Reading

In addition, other provisions of the Conservation and Open Space Element support the plain reading of Goal COS-20. The General Plan’s Conservation and Open Space Element’s Guiding Principles discuss GHG emissions and emissions reduction efforts in conjunction with local air pollutants.

Energy production, transportation, and consumption are key contributors to greenhouse gases affecting climate change, poor local air quality, and a variety of other sustainability challenges. The Conservation and Open Space Element *encourages and supports land use development patterns and transportation choices that reduce pollutants and greenhouse gases*. In addition, the Element encourages renewable energy production, along with efficient energy use in buildings and infrastructure and minimizes the impacts of projects that can generate air pollutants.

(County General Plan at 5-3 [emphasis added].) In addition, the “Context” section of the Conservation and Open Space Element relating to Air Quality, Climate Change, and Energy discusses policies to reduce GHG emissions and local air pollutants:

There is a strong correlation between land use planning, transportation system planning, and the emission of air quality pollutants, greenhouse gases (GHG) that contribute to global climate change (GCC) and criteria pollutants that degrade air quality within a region. The primary opportunities to reduce air quality pollutants and GHG emissions are in the urbanized areas of the County where there are land use patterns that can best support the increased use of transit and pedestrian activities since most GHGs and air pollutants result from mobile source emissions. The unincorporated County can also be a part of the solution by producing development patterns that contribute to reducing the dependence on the automobile and by promoting development with lower energy demands.

The development of sustainable communities contributes to both the reduction in overall air pollutants as well as solving the larger challenges associated with GCC. A holistic approach to achieving sustainable communities requires the integration of a regionwide multi-modal transportation system with a significant reduction in the reliance on single-occupant motor vehicles, along with buildings that consume less through design and efficient building materials.

(*Id.* at 5-31 [emphasis added].) The Conservation and Open Space Element makes no mention of GHG reduction activities occurring outside of the unincorporated County.

D. Additional General Plan Provisions Support the Plain Reading

The General Plan's Guiding Principles further support the requirement for local GHG emissions reduction by illustrating the importance of local actions to reduce GHG emissions. Guiding Principle 7 reads as follows:

Maintain environmentally sustainable communities and reduce greenhouse gas emissions that contribute to climate change.

...

The County of San Diego can move towards sustainability and a reduction of GHG emissions by managing land development and building construction, conserving habitats and natural resources, providing efficient transportation and mobility systems, and developing its infrastructure and public services. As described for Guiding Principle 2, land should be developed more compactly, resulting in reduced automobile use and increased use of public transit, walking, and bicycling. This will result in less consumption of gasoline, generation of less air pollution and GHG emissions, the preservation of greater amounts of habitat and agricultural lands, and the improvement of the lifestyles and health of community residents. Locating residences closer to retail stores and jobs also increases the economic viability of those commercial entities. Providing new recreational facilities and access to the County's abundant open spaces can improve public health. Similarly, choices for alternative transportation modes including bus and transit systems, pedestrian routes, and bicycle paths should be expanded, as described in Guiding Principle 6. This will result in similar benefits to public health by increasing outdoor activities.

(*Id.* at 2-13 [emphasis in original].)

In addition, Goal LU-5 provides direction on the reduction of "local" GHG emissions through land use planning: "**Climate Change and Land Use.** A land use plan and associated development techniques and patterns that reduce emissions of local greenhouse gases in accordance with state initiatives, while promoting public health." (*Id.* at 3-27 [emphasis in original].)

The General Plan's guiding principles, goals, and policies support the plain reading of Goal COS-20, requiring GHG emissions reductions to occur locally.

II. THE COUNTY'S AMENDMENTS TO GENERAL PLAN GOAL COS-20 AND POLICY COS-20.1 ON FEBRUARY 14, 2018, CONFIRM THAT GHG EMISSIONS REDUCTIONS MUST BE OBTAINED WITHIN THE COUNTY

On February 14, 2018, the County approved the CAP. Over the Golden Door's objection—and similar objections of many other members of the public—the County approved a new program as part of the CAP that would allow General Plan Amendment projects to rely almost exclusively on carbon offset credit purchases from anywhere in the world. This program is inconsistent with General Plan policies requiring GHG reductions to occur within the unincorporated County.

At this same time in February, the County had the ability to amend the General Plan to allow for these non-“local” offset credit purchases. In fact, the Golden Door sent a letter to the County prior to approval of the CAP offering alternative language for the amendments to General Plan Goal COS-20 and Policy COS-20.1 that set forth the type of language that would be required for any General Plan Amendment projects to allow for international offset credits to satisfy the County's criteria for GHG emissions reductions.³ (This February 13 letter from the Golden Door is attached hereto as Attachment B.)

The County, however, rejected the Golden Door's alternative language. Instead, the County doubled down on the pre-existing General Plan policy to require “local” emissions “reductions”. In conjunction with its approval of the CAP, the County amended Goal COS-20 and Policy COS-20.1 to clarify that the “local” reductions required by the General Plan must occur within the “unincorporated County.” The amended version of Goal COS-20 in strikethrough and underline form reads as follows:

Reduction of ~~local~~ community-wide (i.e., unincorporated County) and County Operations GHG greenhouse gas emissions contributing to climate change that meet or exceed requirements of the Global Warming Solutions Act of 2006, as amended by Senate Bill 32 (as amended, Pavley, California Global Warming Solutions Act of 2006; emissions limit).

Because the County removed the word “local” from Goal COS-20 and replaced it with “community-wide (i.e., unincorporated County) and County Operations,” the County confirmed

³ If the County staff had accepted our proposed language, and proposed other conforming changes to the other related Conservation and Open Space Element and other General Plan policies, this would have addressed the issue of San Diego County General Plan consistency for the use of international offsets. As we have noted in other correspondence, CARB has approved of other land use projects which have utilized emissions from outside the local County or jurisdiction.

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the Golden Door's repeated position that the County General plan contains a specific policy requiring that "local" reductions are meant to be within the unincorporated County.

Moreover, the County amended Policy COS-20.1 – which requires preparation of the CAP – to add a similar requirement that emissions reductions occur within the unincorporated County. The amended version of Policy COS-20.1 in strikethrough and underline form reads as follows:

Prepare, maintain, and implement a ~~climate change action plan with a baseline inventory of GHG emissions from all sources; GHG emissions reduction targets and deadlines, and enforceable GHG emissions reduction measures.~~ Climate Action Plan for the reduction of community-wide (i.e., unincorporated County) and County Operations greenhouse gas emissions consistent with the California Environmental Quality Act (CEQA) Guidelines section 15183.5.

These amendments to General Plan Goal COS-20 and Policy COS-20.1 remove any ambiguity (if it existed before) about the geographic scope of the word "local" and clarify that the County's GHG emissions reductions are to occur within the unincorporated County. This action confirms the concerns previously raised by the Golden Door and creates an impasse of inconsistency for any attempt to rely on out-of-County offset credits for GHG emissions reductions.

It is difficult to understand all of the precise motivations of County staff, the Planning Commission and the Board of Supervisors in adopting this newly amended Conservation and Open Space General Plan language. We are certain, however, that a key motivating factor for this amendment to the General Plan language was the desire to reassure the public and California state officials that the County's General Plan goals and policies would in fact require a reduction in local emission within the unincorporated area of the County, rather than result in increases in those emissions.

As noted in multiple provisions of the County's General Plan, keeping GHG emissions reductions within the unincorporated would result in important co-benefits for County residents. These could include improved air quality and public health as well as decreased traffic congestion and economic stimulus. The California Air Resources Board ("CARB") has recognized the importance of these local co-benefits in its 2017 Scoping Plan. CARB's 2017 Scoping Plan emphasizes the importance of offset programs relying on local projects for emissions offsets:

To the degree a project relies on GHG mitigation measures, CARB recommends that lead agencies prioritize on-site design features that reduce emissions, especially from VMT, and direct investments in GHG reductions within the project's region that contribute potential air quality, health, and economic co-benefits locally. For example, on-site design features to be considered at the planning stage include land use and community design options that reduce VMT, promote transit oriented development, promote street

design policies that prioritize transit, biking, and walking, and increase low carbon mobility choices, including improved access to viable and affordable public transportation, and active transportation opportunities. Regionally, additional GHG reductions can be achieved through direct investment in local building retrofit programs that can pay for cool roofs, solar panels, solar water heaters, smart meters, energy efficient lighting, energy efficient appliances, energy efficient windows, insulation, and water conservation measures for homes within the geographic area of the project.

(CARB, 2017 Climate Change Scoping Plan at p. 102 [emphasis added]; attached hereto as Attachment C.) Keeping the reductions local would also help ensure enforcement and could stimulate growth by investing in the local green economy.

III. THE GENERAL PLAN'S REQUIREMENT THE GHG REDUCTIONS MUST BE OBTAINED WITHIN THE UNINCORPORATED COUNTY APPLIES TO THE NEWLAND SIERRA PROJECT

County staff has made clear that the Climate Action Plan does not apply to General Plan Amendment projects, such as the Newland Sierra Project. The following exchange between County staff and Supervisor Diane Jacob occurred at the February 14, 2018 meeting at which the Board of Supervisors approved the CAP:

County Staff Member: *That checklist is not used by General Plan Amendments. General Plan Amendments do not tier from the cap or are not afforded any streamlining benefits from the cap.* General Plan Amendments are not in the baseline inventory or the projections for the cap. They're simply analyzed as cumulative impacts and the county has feasible mitigation and we must apply feasible mitigation when there are cumulative impacts.

Supervisor Diane Jacob: Okay. I hear what you're saying. Explain to me: Number one on the checklist is "The proposed project, consistent with the existing General Plan, regional category land use designations and zoning designations." That's pretty clear. And then, also, "If yes, proceed to step two, which is 'Cap Measures Consistency of the Checklist.'" But then it does say, "If no, proceed to question two below." And then question two below, "Does the project include a land use element under a zoning designation amendment that would result in an equivalent or less GHG-intensive project when compared to the existing designations?" That doesn't seem to be consistent, to me, with what you just said.

County Staff Member: Supervisor Jacob, that piece of the checklist – So, what the checklist is meant to capture is general plan, consistent projects that are consistent with the density or intensity in the General Plan. *We recognize General Plan*

Amendments in process excluded, that there may be certain scenarios where a GPA comes into, for example, become consistent with or requires a rezone to be consistent with land use or vice-versa, that would afford those projects that aren't increasing any density or intensity an ability to use the checklist as well, because they would stay below that density that was approved in the 2011 General Plan.

(County Board of Supervisors Meeting Transcript at 114:15-116:5 (Feb. 14, 2018) [attached hereto as Attachment D].)

Although the CAP's checklist may not apply to the General Plan Amendment projects as described by County staff in their discussion with Supervisor Jacob,⁴ and such projects may not be eligible to tier off the CAP, amended General Plan Goal COS-20 and Policy COS-20.1 are part of the General Plan and apply to all projects in the County. Newly amended General Plan Goal COS-20 and Policy COS-20.1 must be applied to the Newland Sierra Project, and the County must make a finding that the project is consistent with those goals and policies prior to any decision on the Project. The Newland Sierra Project must analyze consistency with General Plan Goal COS-20 and Policy COS-20.1 – as amended – even if the staff has indicated that the remainder of the Board's February 14th actions on the CAP do not apply to General Plan Amendment projects.

It should be noted that the Newland Sierra Project does not now include any proposed amendment to County General Plan Conservation and Open Space Goal COS-20 and Policy COS-20.1 to create an exception to allow Newland Sierra to increase GHG emissions in unincorporated San Diego County so long as such local GHG emissions increases are offset by promised GHG reductions somewhere else in the United States or internationally. If Newland Sierra now intends to amend its project to include such an applicant proposed amendment to the Conservation and Open Space Element, the County's EIR for the project needs to be revised and recirculated to provide for such a proposed amendment, as well as to allow for public comment and environmental analysis of such an amendment.

IV. THE NEWLAND SIERRA PROJECT'S GHG MITIGATION IS INCONSISTENT WITH GENERAL PLAN GOAL COS-20 AND POLICY COS-20.1 BECAUSE IT ALLOWS FOR OUT-OF-COUNTY OFFSET CREDIT PURCHASES

The GHG mitigation proposed in the Newland DEIR is inconsistent with Goal COS-20 and Policy COS-20.1, because it relies on the purchase of carbon offset credits from outside the unincorporated County. M-GHG-1 in the Newland DEIR requires Newland to "purchase and retire carbon offsets in a quantity sufficient to offset 100 percent of the project's construction emissions." M-GHG-2 in the Newland DEIR requires Newland to "purchase and retire carbon offsets for the incremental portion of the project within the Site Plan in a quantity sufficient to

⁴ This is especially pertinent for projects such as the Newland Sierra Project, which increases proposed development intensities and densities above those set forth in the current General Plan (including the intensities and densities included in SANDAG's regional growth and VMT analysis).

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offset, for a 30-year period, the operational GHG emissions from that incremental amount of development to net zero.” Both M-GHG-1 and M-GHG-2 provide the following geographic priority scheme for GHG emissions reductions:

- 1) project design features/on-site reduction measures; 2) off-site within the unincorporated areas of the County of San Diego; 3) off-site within the County of San Diego; 4) off-site within the State of California; 5) off-site within the United States; and 6) off-site internationally.

(Newland Sierra DEIR at 2.7-48, 2.7-51.)

The Newland DEIR further indicates that only 18 percent of its operational emissions reductions will occur on-site; therefore, 82 percent will derive from off-site carbon credit purchases.⁵ (Newland Sierra DEIR at 2.7-47.) Further, the County has admitted in proceedings on the CAP that no off-site credits are currently available within the unincorporated County. As a result, 82 percent of Newland’s GHG emissions reductions for operational emissions will be obtained through off-site offset purchases outside of the unincorporated County—i.e., from geographic priority levels three through six. Moreover, the Newland Sierra DEIR only requires offset credits to be purchased from local sources to the extent such credits are “financially competitive in the global offset market.” This criteria essentially eliminates any prioritization of local offsets and allows the developer to purchase the least expensive credits available regardless of the potential benefits of local projects. This approach is inconsistent with General Plan Goal COS-20 and Policy COS-20.1.

For the Newland Sierra Project to be consistent with General Plan Goal COS-20 and Policy COS-20.1’s requirement that GHG emissions “reductions” be obtained within the unincorporated County, the County must either revise the DEIR’s mitigation measures or amend its General Plan. The County could revise the geographic priority levels in M-GHG-1 and M-GHG-2 to eliminate levels three through six. (See e.g., Attachment B at “Option Two” of Attachment B, Options.) This approach would clarify that the Project could only obtain off-site reductions within the unincorporated County. Additional analysis would be required to demonstrate that sufficient emissions reductions can be achieved in geographic priority levels one and two.

On the other hand, if the County allows Newland to obtain GHG emissions reductions from all six geographic priority levels, then Newland must revise its project application to include an applicant proposal to amend General Plan Goal COS-20 and Policy COS-20.1. (See e.g., Attachment B at “Option One” of Attachment B, Options.) In addition, the County would be required to amend the other relevant General Plan policies cited in this letter – and any other applicable General Plan policies – to specifically state that GHG emissions reductions may be obtained from international sources. In that event, analysis of the County-wide impacts of such a policy change would be required, as would a full analysis of vertical and horizontal General Plan

⁵ The Newland DEIR does not quantify on-site GHG emissions reduction for construction emissions.

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consistency. In any event, the Newland Sierra Project cannot be approved with Mitigation Measures M-GHG-1 and M-GHG-2 as currently drafted, because they are inconsistent with the plain language of General Plan Goal COS-20 and Policy COS-20.1.

It is important to note that this letter only addresses the consistency of the Newland Sierra Project with the County of San Diego's General Plan policies. This letter does apply to other County proposals or decisions. The Golden Door's position on whether, to what extent, and under what conditions GHG offsets may be used in the absence of a conflict with the County's General Plan has been described in other letters.⁶ Our concern noted in this letter is that the County has decided to adopt or reaffirm General Plan provisions which require local GHG emissions reduction and do not allow for local GHG emissions increases, while at the same time the County is continuing to process a contradictory project which provides for the use of international offsets to allow for local GHG emission increases in violation of the General Plan.

Thank you for your time and attention to our comments. Please do not hesitate to contact us should you have any questions or comments.

Best regards,

Christopher W. Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
County Board of Supervisors
County Planning Commission
Darin Neufeld, County Planning and Development Services
Mark Slovick, County Planning and Development Services
William W. Witt, Office of County Counsel
Claudia Silva, Office of County Counsel
Dan Silver, Endangered Habitats League
George Courser, Sierra Club
Duncan McFetridge, Cleveland National Forest Foundation
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
Andrew Yancey, Latham & Watkins

⁶ Indeed, the Golden Door has previously noted other projects using "out of jurisdiction offsets" under specified terms and conditions which have been approved by the California Air Resources Board.

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March 29, 2018

VIA EMAIL AND U.S. MAIL

Ashley Smith
 Planning and Development Services
 County of San Diego
 5510 Overland Avenue, Suite 310
 San Diego, CA 92123

Re: Newland Sierra (Log No. PDS2015-ER-15-08-001; SCH No. 2015021036, Project Numbers: PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ-15-001, PDS2015-TM-5597, PDSXXXX-HLP-XXX) – Transmittal of Report by Camille Sears Discussing Flaws in the Air Quality Analysis for the Newland Sierra Project

Dear Ms. Smith:

As you know, we represent Golden Door Properties, LLC (“Golden Door”), a world-class resort and agricultural operation in rural Twin Oaks Valley. The Golden Door has restored farming and beekeeping on its property, including the replanting of many new trees on the property—sharing its bounty at a community Farm Stand and through retail operations. The Golden Door has raised many concerns with the County about the proposed Newland Sierra Project and the impacts of adding urban density the size of the City of Del Mar in our rural community.

We write today with particular respect to the Project’s air quality and health impacts. Newland proposes ten years of construction that would involve at least 10,700,000 cubic yards of cut and fill. Air emissions are a significant concern for nearby residents and businesses. Attached is a report from Camille Sears—an expert air quality consultant and modeler with over 35 years of experience—which describes significant flaws in the air quality analysis and health risk assessment for the Newland Sierra Project’s Draft Environmental Impact Report (“DEIR”).

Ms. Sears’ report concludes that the Newland Sierra DEIR improperly omits modeling analysis of significant construction emissions, underestimates constructions emissions, fails to include wind erosion in its analysis, fails to disclose the crystalline silica content of on-site soil, and incorrectly models construction and operational emissions of diesel particulate matter. Her report describes flaws in methodology and significant impacts that were not previously

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identified. Ms. Sears' modeling runs show significant impacts to several residences and businesses in the area, including the Golden Door and the Deer Springs Oaks Mobile Home Park. The report demonstrates substantially worse impacts than what were identified in the DEIR.

These omissions and flawed analyses are significant legal errors that must be fixed. The County must provide adequate analysis of air emissions before the public and decisionmakers can understand the project's impacts. In this case, the DEIR must be recirculated for an additional comment period before publication of the final EIR so that the public has a chance to propose potential mitigation or alternatives for these impacts. (See *Communities for a Better Environment v. City of Richmond* (2010) 184 Cal.App.4th 70, 95 [recirculation required when important information omitted]; see also *Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1120; *Save Our Peninsula Committee v. Monterey Cty. Bd. of Supervisors* (2001) 87 Cal.App.4th 99, 130.)

Ms. Sears report is based on her review of the DEIR, including technical documents that were just recently provided to the Golden Door for review and analysis. In July 2017, during the public comment period for the Newland Sierra DEIR, Golden Door requested technical reports on air quality and greenhouse gas emissions under the Public Records Act. These technical reports provided the basis for the County's consultants' analysis in the DEIR; however, the files were not provided to the public as part of the DEIR. The County refused to provide the requested files. After several rounds of communications, the Golden Door was forced to file a lawsuit under the Public Records Act to obtain the documents, which the County eventually provided as part of a settlement agreement. Because the County did not provide these technical files as part of the DEIR, Ms. Sears' report is provided now at the earliest time possible and should be made part of the record in this matter and considered as part of the County's responses on the DEIR.

Thank you for your time and attention to our comments. Please do not hesitate to contact us should you have any questions or comments.

Best regards,

Andrew D. Yancey

Andrew D. Yancey
of LATHAM & WATKINS LLP

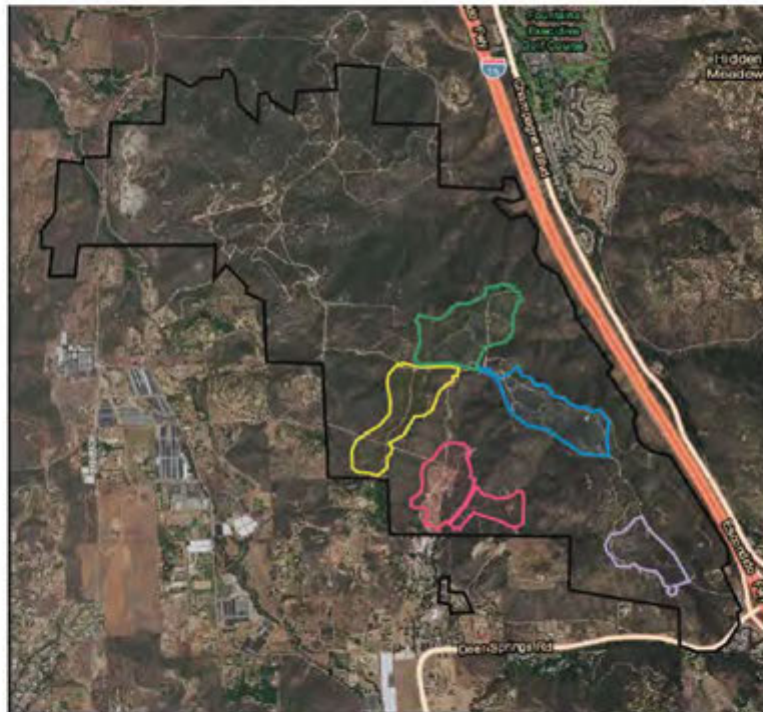
cc: Kathy Van Ness, Golden Door
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County Planning Commission
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Claudia Silva, Office of County Counsel

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Dan Silver, Endangered Habitats League
George Courser, Sierra Club
Duncan McFetridge, Cleveland National Forest Foundation
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
Chris Garrett, Latham & Watkins

Attachment

**Air Quality Comments
on the
Draft Environmental Impact Report
for the
Newland Sierra Project**



Prepared by:

Camille Sears

February 28, 2018

TABLE OF CONTENTS

1. Introduction..... 4

2. Corrected NSP Construction Fugitive Dust Emissions6

 2.1 CalEEMod is Inappropriate for Calculating NSP’s
 Construction Emissions.....6

 2.2 Summary of Corrected Emissions.....7

 2.3 Unpaved Road Fugitive Dust Emissions.....8

 2.4 Fugitive Dust Emissions from Bulldozer/ Crawler Tractors 10

 2.5 Fugitive Dust Emissions from Grading Equipment.....11

 2.6 Fugitive Dust Emissions from Rock Crushing 12

 2.7 Fugitive Dust Emissions from Wind Erosion 13

3. Air Dispersion Modeling Analysis of Corrected NSP Construction Fugitive
 Dust Emissions..... 15

 3.1 Meteorological Data and Background Air Quality 16

 3.2 NSP PM10 Impacts Exceed the 24-Hour PM10 CAAQS 16

 3.3 NSP PM2.5 Impacts Exceed the 24-Hour PM2.5 NAAQS 17

 3.4 NSP Wind Erosion Fugitive Dust Impacts 17

4. Health Risk Assessment of NSP Diesel Particulate Matter Emissions..... 17

 4.1 Excess Cancer Risks from Construction DPM Emissions..... 19

 4.2 Excess Cancer Risks from Operational DPM Emissions..... 20

5. Crystalline Silica..... 20

6. Concluding Remarks..... 20

Exhibits:

- A. Project Location and Emission Source Maps
- B. Phase 1 Construction: Fugitive Dust PM10 and PM2.5 Emission Calculations
- C. Escondido and KCRQ Meteorological Data: Wind Roses
- D. Air Concentration Maps: Phase 1 Construction PM10 and PM2.5
- E. Diesel Particulate Matter Health Risk Assessment: Emission Rate Inputs and Risk Calculations
- F. Diesel Particulate Matter Health Risk Assessment: Excess Cancer Risk Maps
- G. Curriculum vitae

1. Introduction

I reviewed the air quality and health risk assessment sections of the June 2017 Draft Environmental Impact Report (DEIR) for the proposed Newland Sierra Project (NSP), near Escondido, California. NSP is a planned community of residential, commercial, educational, and other uses on 1,985 acres (DEIR, p. S.0-1). In conjunction with the DEIR, I reviewed electronic CALEEMOD and Excel emission calculation files prepared by the DEIR-preparer, Dudek. I also reviewed AERMOD and HARP2 risk assessment input and output files prepared by Dudek.

The NSP DEIR addresses two general air quality aspects of the proposed project: construction activities and vehicle traffic occurring adjacent to the project site. The DEIR refers to the offsite vehicular traffic component as “operational emissions.”

The DEIR is tasked with determining whether NSP will cause significant environmental impacts, including effects on ambient air quality and health risks due to exposure of toxic air contaminants. The DEIR concludes that mitigated PM10 and PM2.5 emissions during construction activities will greatly exceed the significance thresholds established by the San Diego County Air Pollution Control District (SDAPCD) for these pollutants (DEIR, Air Quality Technical Appendix, p. 80). The DEIR also acknowledges that these significant PM10 and PM2.5 emissions will require air dispersion modeling to determine the magnitude and extent of air concentrations caused by these emissions:

In the event that emissions exceed these thresholds, modeling would be required to demonstrate that the project's total air quality impacts result in ground-level concentrations that are below the CAAQS and NAAQS, including appropriate background levels (DEIR, Air Quality Technical Appendix, p. 56).

The DEIR, however, fails to include any modeling analysis of these significant emissions. As such, the DEIR failed to prepare any ambient air quality modeling to determine whether NSP's construction emissions would violate National Ambient Air Quality Standard (NAAQS) or California Air Quality Standard (CAAQS). Moreover, the DEIR incorrectly calculates construction fugitive PM10 and PM2.5 emissions, under-estimating the likely daily quantities of these pollutants.

The NSP DEIR is extremely limited in its scope of air quality impact and health risk assessment. The DEIR includes only two air dispersion modeling analyses and subsequent health risk assessment: an assessment of health risks from construction diesel particulate matter (DPM) emissions, and an analysis of vehicle traffic DPM exposures to future residents of the NSP.

The construction DPM health risk assessment is limited to a small portion of the proposed project site, and includes only a fraction of the total construction DPM emissions. Furthermore, the health risk analysis is limited to assessing exposures in a relatively small area near the intersection of I-15 and Deer Springs Road.

The operational DPM health risk assessment focuses on future vehicle traffic emissions and the health risks to NSP residents. From the DEIR:

The purpose of this health risk assessment (HRA) is to determine the impact to the future residents and the school site of the proposed project due to toxic air contaminant (TAC) emissions resulting from diesel and gasoline vehicle traffic along I-15 and Deer Springs Road as well as from a nearby gas station (DEIR, Air Quality Technical Appendix, Appendix C, p. iii).

The DEIR does not assess operational excess cancer risks to areas outside the NSP site.

My analyses and comments address a number of shortcomings and omissions in the NSP DEIR. In summary, my comments address the following DEIR deficiencies:

- The DEIR incorrectly calculates fugitive dust PM10 and PM2.5 emissions from construction activities. I corrected these emissions using USEPA's AP-42 emission factors with appropriate inputs.
- The DEIR fails to assess fugitive dust PM10 and PM2.5 emissions from wind erosion. I calculated wind erosion emissions for the NSP site.
- The DEIR fails to include any air dispersion modeling of construction emissions for verifying compliance with the PM10 CAAQS and the PM2.5 NAAQS. I prepared air dispersion modeling of construction PM10 and PM2.5 emissions, including a modeling analysis of wind erosion emissions.
- The DEIR incorrectly models construction DPM emissions, which only covers a small portion of the project site. I prepared an air dispersion modeling analysis of construction DPM emissions for the entire project site, including a 9-year exposure DPM health risk assessment.
- The DEIR incorrectly models operational DPM emissions, which only assesses future exposures to areas within the project site. I prepared an air dispersion modeling analysis of operational DPM emissions for a grid of receptors covering areas within the project site, extending to adjacent offsite residential areas. I prepared a DPM health risk assessment for 9-year exposures at these receptors.

When construction fugitive dust emissions are corrected, NSP is projected to cause or contribute to exceedances of the 24-hour PM2.5 NAAQS and the 24-hour PM10 CAAQS. In addition, a proper assessment of construction and operational DPM emissions from NSP reveals significant excess cancer risks to areas not identified in the DEIR. Many of my assumptions took a non-conservative approach, resulting in likely under-reporting of emissions. Impacts are likely even more significant than shown in my analysis. The DEIR is clearly deficient and inadequate, and should be revised to address emission rate, air dispersion modeling, and health risk assessment shortcomings.

2. Corrected NSP Construction Fugitive Dust Emissions

As discussed above, the NSP DEIR includes PM10 and PM2.5 emission calculations from construction activities, but neglects to prepare any air dispersion modeling analyses of these emissions. My analyses address two deficiencies in the NSP DEIR: correcting the inappropriately-low PM10 and PM2.5 construction emissions presented in the DEIR and the complete lack of any air quality impact analyses of these emissions.

This section focuses on Phase 1 construction emissions for year 2018, which includes two broad categories, termed in the DEIR as site preparation and grading activities. The DEIR and appendices are silent on the detailed construction schedule by location within the NSP. For example, the DEIR includes construction scheduling for Phase 1 and Phase 2 activities, but provides no information on whether construction for all residential areas will occur at the same time (in parallel), or whether the construction of residential areas will occur sequentially.

Since the DEIR lacks any detailed information on the sequence of residential area construction, I had little choice but to distribute the daily construction emissions evenly over the entire Phase 1 construction area (See DEIR, Figure 1-32, Phasing Plan). This is a non-conservative approach (likely to under-predict air quality impacts), since the daily emissions are diluted over the maximum possible area of Phase 1 construction activities. The area of Phase 1 construction activities used in my air dispersion modeling analysis is shown in Exhibit A.

2.1 CalEEMod is Inappropriate for Calculating NSP's Construction Emissions

The DEIR relies on the CalEEMod program to calculate the majority of NSP's construction and operational emission rates. CalEEMod is a database program distributed by the California Air Pollution Control Officer's Association (CAPCOA) for use in preparing many emission inventory types. CalEEMod, however, is not reliable for calculating fugitive dust emissions from NSP's construction activities.

First, CalEEMod is in many ways a "black box," where the actual emission calculations and coding are not available to the user or reviewer. As used in the NSP DEIR, CalEEMod does not display individual calculations from construction fugitive dust activities, but rather groups the output by site location, activity, and year.

Second, CalEEMod does not include the correct emission calculation methodologies for many of the most significant construction activities. This is evidenced in the DEIR, where the DEIR-preparer relied on AP-42 emission factors to calculate rock crushing and blasting emissions (DEIR, Air Quality Technical Appendix, Appendix D). CalEEMod also lacks the ability to calculate fugitive dust emissions from wind erosion.

Furthermore, and more importantly, CalEEMod uses an inappropriate unpaved road emission factor in calculating fugitive dust emissions from onsite hauling activities, which are the most significant source of PM10 and PM2.5 emissions during NSP's construction activities. CalEEMod uses the AP-

42 emission factor for unpaved public roads when calculating construction fugitive dust emissions.¹ As specified in the AP-42 emission factor for unpaved roads, there are two emission calculation equations: one for industrial roads, and another for public roads. The unpaved public road emission factor is limited to vehicles weighing between 1.5 and 3.0 tons.² NSPs' haul truck weigh approximately 35 tons, on average, as detailed below. The industrial unpaved emission factor in AP-42, which is designed for vehicles weighing from 2 to 290 tons, is the appropriate equation to use in calculating NSP's haul truck trips on unpaved roads. Using the inappropriate unpaved road emission factor in the NSP DEIR results in substantial under-predictions of fugitive PM10 and PM2.5 emissions from NSP's haul trucks.

2.2 Summary of Corrected Emissions

Table 1 shows the DEIR-calculated peak daily mitigated construction fugitive dust emissions. The DEIR uses CalEEMod for calculating construction activity emissions, and USEPA AP-42 factors for calculating emissions from blasting and rock crushing.

Table 1: DEIR-calculated construction fugitive PM emissions

Activity	PM10 (lb/day)	PM2.5 (lb/day)
Construction Activities (Phase 1)	385.31	43.03
Blasting (Phase 1)	55.89	3.22
Rock Crushing (Phase 1)	71.03	12.70
Total maximum daily emissions:	512.23	58.95

Table 2 shows corrected mitigated construction fugitive dust emissions, using USEPA AP-42 factors for calculating emissions haul trucks on unpaved roads, grading, and rock crushing. I did not revise the DEIR's blasting emission rate calculations, because the DEIR did not provide sufficient information for me to verify the blasting schedule.

Table 2: Corrected AP-42 construction fugitive PM emissions

Activity	PM10 (lb/day)	PM2.5 (lb/day)
Construction Activities (Phase 1)	786.53	95.89
Blasting (Phase 1)	55.89	3.22
Rock Crushing (Phase 1)	138.41	19.74
Maximum daily emissions:	980.84	118.85

The corrected emission rates shown in Table 2 do not include combustion DPM sources, or fugitive dust from wind erosion. A complete listing of PM10 and PM2.5 emissions I included in air

¹ CAPCOA, CalEEMod User's Guide, Appendix A: Calculation Details for CalEEMod, October 2017, p. 30). Available at: http://www.aqmd.gov/docs/default-source/caleemod/02_appendix-a2016-3-2.pdf

² EPA, AP-42, Section 13.2.2 – Unpaved Roads, November 2006, Table 13.2.2-3. Available at: <http://www.epa.gov/ttn/chiefl/ap42/ch13/final/c13s0202.pdf>

dispersion modeling analyses are shown in Exhibit B, and it should be noted that I did not amend the DEIR's DPM emission rate calculations. The following sections discuss the corrected fugitive dust emission rate calculations I performed for unpaved haul roads, dozing, grading, rock crushing, and wind erosion.

2.3 Unpaved Road Fugitive Dust Emissions

NSP's haul truck activities will generate fugitive PM_{2.5} and PM₁₀ emissions when traveling on unpaved roads within the project site. As discussed above, the industrial unpaved road emission factor is the most appropriate equation for the weight and use of NSP's haul trucks. The emissions generated from this activity are mitigated by limiting the truck travel speed to 15 miles per hour (DEIR CalEEMod input and output files).

The equation used to calculate particulate matter (PM, or fugitive dust) emissions from NSP's haul truck traffic is obtained from EPA's air pollution emission factor equation for industrial unpaved roads.³ This equation is as follows:

$$E = [k(s/12)^a * (W/3)^b] * [(365-P)/365]$$

Where: E = emission factor in the same units as k

k = particle size multiplier:

0.15 lb/vehicle mile traveled (VMT) for PM_{2.5}

1.50 lb/VMT for PM₁₀⁴

s = road surface silt percentage (%)

W = average weight of vehicles (tons)

a = constant (0.9 for both PM_{2.5} and PM₁₀)

b = constant (0.45 for both PM_{2.5} and PM₁₀)

P = number of "wet" days with at least 0.254 mm (0.01 in) of precipitation during the averaging period

The values used for any of the variables in the above equation, s, W, and P, will have an impact on the final result, *i.e.*, the calculated particulate matter emission rates. Each of these inputs are discussed below.

Silt content (s)

Silt content is the fraction of silt in the unpaved road surface materials, with silt being defined as particles smaller than 75 micrometers in diameter.⁵ USEPA provides typical silt percentage values for unpaved roads at industrial facilities. My analysis uses an unpaved road silt fraction of 8.5%, which is the average silt fraction for construction sites listed by the USEPA.⁶ The DEIR also uses

³ *Id.*, p. 13.2.2-4.

⁴ *Id.*, Table 13.2.2-2.

⁵ *Id.*, p. 13.2.2-1.

⁶ *Id.*, Table 13.2.2-1.

8.5% silt for its calculations of unpaved road fugitive dust, but again, the DEIR uses the inappropriate public road unpaved road emission factor.

Truck weight (W)

Vehicle weights are the other main component of the AP-42 emission factor for calculating PM_{2.5} and PM₁₀ emission rates from unpaved roads. It is the average vehicle weight that is used for the emission calculation (usually the average of loaded and unloaded truck weights).⁷

The DEIR does not provide information on truck weights, with the CalEEMod emission calculation output files provided for my review list the Phase 1 construction haul trucks as being HHDT class.⁸ For my emission rate analysis, I calculated a mean truck weight of 34.6 tons, as follows:

- Unloaded truck weight: 16.5 tons (33,000 lbs)⁹
- Haul truck load: 16 cubic yards (DEIR, Air Quality Technical Report, Appendix A)
- Material density: 2.26 tons/cubic yard (Rock Crushing Emissions spreadsheet used in DEIR emissions calculations)
- Haul truck material weight: $16 \text{ yd}^3 * 2.26 \text{ tons/yd}^3 = 36.16 \text{ tons}$
- Loaded truck weight: $= 16.5 \text{ tons} + 36.16 \text{ tons} = 52.66 \text{ tons}$
- Average unloaded/loaded haul truck weight: $(16.5 \text{ tons} + 52.66 \text{ tons})/2 = 34.6 \text{ tons}$.

For comparison, the USEPA, in developing AP-42 Section 13.2.1, identifies an average vehicle weight of 35 tons for heavy duty diesel trucks.¹⁰ Heavier trucks result in higher fugitive dust emissions; as the weight of the trucks increase, so do the emissions.

Rainfall correction (P)

Short-term PM_{2.5} and PM₁₀ emission rates should not be calculated using a rainfall correction, as there are many consecutive days in San Diego County when there is no rainfall. Accordingly, my unpaved road fugitive dust emission rate calculations did not apply a rainfall correction to 24-hour PM_{2.5} and PM₁₀ emission rates.

Unpaved haul road PM_{2.5} and PM₁₀ emission rates, using the above-described methods, are calculated and presented in Exhibit B. Table 3 lists a summary of these daily emission rates.

Table 3: AP-42 Unpaved Road Fugitive PM Emissions

AP-42 Unpaved Road Emissions	PM10 (lb/day)	PM2.5 (lb/day)
Phase 1 Site Preparation	15.35	1.53
Phase 1 Grading Activities	430.77	43.08
Total:	446.12	44.61

⁷ *Id.*, p.13.2.2-6.

⁸ See CalEEMod Excel spreadsheet: Construction_Winter_OUTPUT.xls

⁹ <https://www.afdc.energy.gov/data/10380>

¹⁰ USEPA, Emission Factor Documentation for AP-42, Section 13.2.1, January 2011, p. 4-37; <http://www.epa.gov/ttn/chief/ap42/ch13/bgdocs/b13s0201.pdf>.

2.4 Fugitive Dust Emissions from Bulldozer/ Crawler Tractors

Equations used to calculate particulate matter (fugitive dust) emissions from the NSP's bulldozing and crawler tractors are obtained from EPA's air pollution emission factor equations for Western Surface Coal Mining, overburden material.¹¹ The bulldozing of overburden equations are as follows:

$$\text{PM}_{10} \text{ E} = k * [(1.0) * (s)^{1.5}] / (M)^{1.4} * (1-CE)$$

$$\text{PM}_{2.5} \text{ E} = k * [(5.7) * (s)^{1.2}] / (M)^{1.3} * (1-CE)$$

Where: E = emission factor in lb/hr

k = scaling factor:

0.75 scaling factor for PM₁₀

0.022 scaling factor for PM_{2.5}¹²

s = material silt percentage (%)

Increasing silt content will increase fugitive dust emissions

M = material moisture content (%)

Increasing moisture content will decrease fugitive dust emissions

CE = wet suppression control efficiency

Increasing control efficiency will decrease fugitive dust emissions

It should be noted that the DEIR and the CalEEMod inputs often contain discrepancies. For example, for Phase 1 site preparation, the DEIR lists four crawler tractors (DEIR, p.2.3-69), while the CalEEMod input and output files assume three wheeled dozers. For my calculations, I applied the CalEEMod input values, since these are the basis for Dudek's technical analysis.

I used the same material silt and moisture percentages as the DEIR, but I included both bulldozers and crawler/tractors in these bulldozing emission calculations. A crawler tractor is essentially a bulldozer propelled on tracks (like a military tank), while the DEIR specifies bulldozers as being wheeled.

The DEIR assumes a 61% fugitive dust control efficiency by applying water at specific intervals. The 61% control efficiency apparently comes from the South Coast Air Quality Management District (SCAQMD) CEQA Handbook Fugitive Dust Mitigation Tables, but the DEIR does not provide an actual reference.¹³

Bulldozing and crawler tractor PM_{2.5} and PM₁₀ emission rates, using the above-described methods, are calculated and presented in Exhibit B. Table 4 lists a summary of these daily emission rates.

¹¹ EPA, AP-42, Section 11.9 – Western Surface Coal Mining, October 1998, Table 11.9-1. Available at: <https://www3.epa.gov/ttn/chief/ap42/ch11/final/c11s09.pdf>

¹² *Id.*

¹³ http://www.aqmd.gov/ceqa/handbook/mitigation/fugitive/MM_fugitive.html

Table 4: AP-42 Bulldozing and Crawler Tractor Fugitive PM Emissions

AP-42 Bulldozing/ Crawler Tractor Emissions	PM10 (lb/day)	PM2.5 (lb/day)
Phase 1 Site Preparation	7.05	3.87
Phase 1 Grading Activities	25.83	14.20
Total:	32.88	18.07

2.5 Fugitive Dust Emissions from Grading Equipment

Equations used to calculate particulate matter (fugitive dust) emissions from the NSP's graders and scrapers are obtained from EPA's air pollution emission factor equations for Western Surface Coal Mining, overburden material.¹⁴ The grading of overburden equations are as follows:

$$\text{PM10 E} = k * [(0.051) * (s)^{2.0}] * (1-CE)$$

$$\text{PM2.5 E} = k * [(0.040) * (s)^{2.5}] * (1-CE)$$

Where: E = emission factor in lb/VMT

k = scaling factor:

0.60 scaling factor for PM10

0.031 scaling factor for PM2.5¹⁵

s = material silt percentage (%)

Increasing silt content will increase fugitive dust emissions

CE = wet suppression control efficiency

Increasing control efficiency will decrease fugitive dust emissions

The DEIR assumes a 61% fugitive dust control efficiency by applying water at specific intervals

CalEEMod does not include emission calculations for scrapers, thus the DEIR substantially under-estimates this fugitive dust emission component. I used the same material silt percentage as the DEIR, but I included both graders and scrapers in these grading emission calculations as both types of equipment generate fugitive dust emissions. A scraper is a large mechanical device that excavates and then stores the material it excavates, while a grader consists of only a blade to move and shape material.¹⁶ In terms of fugitive dust potential, a scraper can cause much more emissions than a grader, due to the mechanical rasping and excavation activities of the scraper.

I applied the same USEPA AP-42 emission factors for both scrapers and graders, which will almost certainly under-estimate emissions from scrapers. USEPA AP-42 Section 13.2.3 (Heavy Construction Operations) indicates fugitive emissions from scrapers are much greater than from

¹⁴ EPA, AP-42, Section 11.9 – Western Surface Coal Mining, October 1998, Table 11.9-1. Available at: <https://www3.epa.gov/ttn/chief/ap42/ch11/final/c11s09.pdf>

¹⁵ *Id.*

¹⁶ Images of construction equipment can be found at: <https://www.slideshare.net/isnindian/scraper-rippergraderdozer>

graders. USEPA's scraper particulate matter emission factor is approximately 20 lb/VMT PM, which is roughly four time greater than the emission factor for scrapers. I chose to use USEPA's scraper emission factor for graders due to the lower emission factor rating for scrapers.¹⁷ This is a non-conservative approach that likely result in under-reporting emissions.

Grader and Scraper PM2.5 and PM10 emission rates, using the above-described methods, are calculated and presented in Exhibit B. Table 5 lists a summary of these daily emission rates. The DEIR did not assume any graders or scrapers for Phase 1 site preparation.

Table 5: AP-42 Grader and Scraper Tractor Fugitive PM Emissions

AP-42 Grader/ Scraper Emissions	PM10 (lb/day)	PM2.5 (lb/day)
Phase 1 Site Preparation		
Phase 1 Grading Activities	307.53	33.21
Total:	307.53	33.21

2.6 Fugitive Dust Emissions from Rock Crushing

Equations used to calculate particulate matter (fugitive dust) emissions from the rock crushing emissions are obtained from USEPA's air pollution emission factor equations for Crushed Stone Processing (AP-42 Section 11.9.2) and Aggregate Handling and Storage Piles (AP-42 Section 13.2.4). I did not revise the DEIR stone crushing emissions, but the DEIR used an anomalously low wind speed for calculating fugitive dust emissions during crushed stone drops and transfers.

The material handling equation is as follows:

$$E = k * [(0.0032) * (U/5)^{1.3}] / (M/2)^{1.4} * (1-CE)$$

Where: E = emission factor in lb/hr

k = scaling factor:
 0.35 scaling factor for PM10
 0.053 scaling factor for PM2.5¹⁸

U = mean wind speed during emission period (mph)
 Increasing wind speed will increase fugitive dust emissions

M = material moisture content (%)
 Increasing moisture content will decrease fugitive dust emissions

CE = wet suppression control efficiency
 Increasing control efficiency will decrease fugitive dust emissions

¹⁷ EPA, AP-42, Section 13.2.3 – Heavy Construction Operations, January 1995, Table 13.2.3-1. Available at: <https://www3.epa.gov/ttn/chief/ap42/ch13/final/c13s02-3.pdf>

¹⁸EPA, AP-42, Section 13.2.4 – Aggregate Handling and Storage Piles, November 2006, p. 13.2.2-4. Available at: <https://www3.epa.gov/ttn/chief/ap42/ch13/final/c13s0204.pdf>

The DEIR analysis assumed a mean wind speed of 2.98 mph, obtained as the average of all wind speeds included in the 2010-2012 Escondido meteorological data used in the DEIR DPM health risk assessment. Because the appropriate analysis for an EIR relies on peak daily emissions, the DEIR's approach will under-estimate fugitive dust from rock crushing material handling. Construction emissions are limited to hours 0700 through 1600 (DEIR DPM Health Risk Assessment Modeling Inputs), so peak wind speeds during this period should be used in the material handling fugitive dust emission rate calculations. I calculated the peak average wind speed during hours 0700 – 1600 to be 11.6 mph, again using the 2010-2012 Escondido meteorological data.

The DEIR assumes a 3% moisture content for material handling and did not apply any control (mitigation) measures to this activity. As these values seem reasonable given the project material and activities, I did not revise these DEIR assumptions.

Rock crushing and subsequent material handling PM2.5 and PM10 emission rates, using the above-described methods, are calculated and presented in Exhibit B. Table 6 lists a summary of these daily emission rates.

Table 6: AP-42 Rock Crushing and Handling Fugitive PM Emissions

AP-42 Rock Crushing and Material Handling Emissions	PM10 (lb/day)	PM2.5 (lb/day)
Phase 1 Site Preparation		
Phase 1 Grading Activities	138.41	19.74
Total:	138.41	19.74

2.7 Fugitive Dust Emissions from Wind Erosion

As discussed above, the DEIR failed to consider wind erosion emissions in verifying compliance with emissions significance criteria or ambient air quality standards. Furthermore, CalEEMod does not have the ability to address wind erosion emissions. From the CalEEMod User's Guide:

Wind-blown fugitive dust is not calculated in CalEEMod because of the number of input parameters required such as soil type, moisture content, wind speed, etc. This limitation could result in underestimated fugitive dust emissions if high wind and loose soil are substantial characteristics for a given land use/construction scenario.¹⁹

Fugitive dust emissions from wind erosion activities are typically calculated using USEPA's emission factors for industrial wind erosion.²⁰ USEPA's industrial wind erosion equation is as follows:

¹⁹ CAPCOA, CalEEMod User's Guide, Technical Paper, July 2011, p. 4). Available at: <http://www.aqmd.gov/docs/default-source/calceemod/techpaper.pdf>

²⁰ EPA, AP-42, Section 13.2.5 – Industrial Wind Erosion, November 2006. Available at: <https://www3.epa.gov/ttn/chieff/ap42/ch13/final/c13s0205.pdf>

$$P = 58*(u^* - u_t^*)^2 + 25*(u^* - u_t^*)$$

$$P = 0 \text{ for } u^* \leq u_t^*$$

Where:

u^* = friction velocity (m/s)

u_t^* = threshold friction velocity (m/s)

$u^* = 0.053 * u_{10}^*$

u_{10}^* = fastest mile of reference anemometer for period between disturbances (m/s)

The fastest two-minute wind speed of 30 mph or greater equals a fastest mile

The 2010 – 2012 Escondido meteorological data do not include the fastest two-minute wind speed information necessary for calculating wind erosion emissions. To overcome this deficiency, I processed five years of meteorological data (2013 – 2017) from the McClellan – Palomar Airport (KCRQ), which is a National Weather Service ASOS site that measures two-minute wind speed data.²¹ KCRQ is roughly 15 kilometers west of the NSP site, while the Escondido data were measured about 11 kilometers south of the NSP site.

To illustrate the potential for wind erosion fugitive dust emissions (as PM10) in the NSP area, I assessed one wind event comprising peak easterly Santa Ana winds exceeding two-minute wind speeds of approximately 30 mph. This event occurred on May 13, 2014, and was a dry easterly wind event (wind blowing from the east towards the coast). I also assessed potential wind erosion emissions from this event using the Pacific Northwest National Laboratory (PNNL) DUSTRAN model, which was validated by comparing DUSTRAN-calculated dust concentrations with observations of wind erosion on the US Department of Energy's Hanford Site in southeastern Washington.²² A summary of the fugitive dust emissions (as PM10) calculated by USEPA AP-42 Section 13.2.5 and DUSTRAN are shown in Table 7.

Table 7: Wind Erosion Fugitive PM10 Emission Rate Calculations

Wind Erosion PM 10 Emission Calculations for May 13, 2014	AP42, 13.2.5	DUSTRAN
Threshold friction velocity (m/s):	0.62	0.42
Total particulate emissions (g/m ²):	1.98	11.05
Maximum particulate emissions (g/m ²):	1.69	4.36
Area or subarea (m ²):	1,109,040	1,109,040
Total particulate emissions (tons/day):	2.43	13.50
Total particulate emissions (pounds/day):	4,851	27,006

As can be seen from Table 7, extremely large quantities of fugitive PM10 emissions are possible during wind erosion events at the NSP site, greatly exceeding the quantities identified in the DEIR from mechanically-induced fugitive dust sources. This is particularly true for the DUSTRAN

²¹ ASOS is an acronym for Automated Surface Observing Systems; see: <http://www.nws.noaa.gov/ost/asostech.html>

²² Shaw, William J., et al. at PNNL, An evaluation of the wind erosion module in DUSTRAN, Atmospheric Environment, 42 (2008), pp. 1907–1921.

emission rate calculations. The area of wind erosion emissions (1,109,040 square-meters), is the Phase 1 construction area of the Hillside, Knoll, Mesa, Terraces, and Valley residential area developments.

Wind erosion PM10 emission rates, using the above-described methods, are calculated and presented in Exhibit B. For purposes of air dispersion modeling described below, I limited my analysis to the USEPA industrial wind erosion (AP-42 Section 13.2.5) calculations, which are significantly lower than those calculated by DUSTRAN.

3. Air Dispersion Modeling Analysis of Corrected NSP Construction Fugitive Dust Emissions

I prepared air dispersion modeling of 24-hour PM10 and PM2.5 impacts from NSP's construction emissions, using USEPA's AERMOD model, version 16216r. This is the latest version of the model. For this analysis, the pollutants of concern are the 24-hour PM2.5 NAAQS and the 24-hour PM10 CAAQS. The 24-hour PM10 CAAQS is $50 \mu\text{g}/\text{m}^3$, represented as the absolute highest 24-hour value. The 24-hour PM2.5 NAAQS is $35 \mu\text{g}/\text{m}^3$, represented as the 8th-highest 24-hour value averaged over three years.

I modeled the construction fugitive dust emissions using AREAPOLY sources covering the areas of Phase 1 construction activities. These areas are shown in Exhibit A, and total 1,109,040 square-meters. As described earlier, I evenly-distributed the calculated emissions throughout these areas, which is likely to under-estimate modeled impacts.

AREAPOLY sources require the following AERMOD inputs:

- A source identifier number or name;
- Source Location X (Easting) coordinate (UTM Zone 11, NAD83);
- Source Location Y (Northing) coordinate (UTM Zone 11, NAD83);
- Source base elevation (meters above sea level);
- Emission flux of PM10 and PM2.5 ($\text{g}/(\text{s}\cdot\text{m}^2)$);
- Release height of the area source (meters);
- Number of polygon vertices;
- X and Y coordinates for each polygon vertex (UTM Zone 11, NAD83);
- Initial vertical dispersion of the area source plume (SZ_0 , in meters).

I assessed release heights equal to 5.0 meters and initial vertical dispersion (SZ_0) of 2.33 meters (5 meters/ 2.15) for each AREAPOLY source modeled. With the exception of wind erosion emissions, I modeled all emission sources using a unit emission rate (since each source is modeled separately). For AREAPOLY PM10 sources (other than wind erosion), I used a unit emission rate of $1.00\text{E}-05 \text{ g}/(\text{s}\cdot\text{m}^2)$. For AREAPOLY PM2.5 sources (other than wind erosion), I used a unit emission rate of $1.00\text{E}-06 \text{ g}/(\text{s}\cdot\text{m}^2)$. This is a standard air quality modeling practice known as "chi-over-Q," which allows efficient post-processing of modeled results using the actual emission rate of each pollutant for each source. This method is particularly useful for modeling sources with many pollutants, or scenarios with multiple or changing emission rates, since the source only needs to be modeled once.

The unit emission rate output can be post-processed with the actual emission rate of each pollutant without having to re-run the model each time. I used the actual calculated hourly PM10 emission rates when modeling wind erosion impacts.

Modeled source and receptor locations also require terrain elevation data, in meters above sea level. I obtained the terrain elevation data for these locations using the National Elevation Dataset (NED) GeoTiff file for the area, which includes the NSP site and the surrounding locations. GeoTiff is a binary file that includes data descriptors and geo-referencing information necessary for extracting terrain elevations. I extracted terrain elevations from 1/3rd arc-second (10-meter resolution) NED files using USEPA's AERMAP program, v. 11103. AERMAP is included in the regulatory-approved AERMOD modeling system.

3.1 Meteorological Data and Background Air Quality

I used 2010 – 2012 Escondido meteorological data for modeling fugitive dust emissions and assessing compliance with the 24-hour PM10 CAAQS and 24-hour PM2.5 NAAQS. This is the same meteorological data set used in DEIR for preparing their DPM health risk assessment. For wind erosion emissions, I used KCRQ 2013 – 2017 meteorological data, as this data set has wind measurements necessary for calculating wind erosion emissions. Wind roses of the 2010-2012 Escondido meteorological data and the 2013 – 2017 KCRQ data are shown in Exhibit C.

Air quality data are used to determine whether an area is attaining state and national ambient air quality standards. These data are also used to develop background air quality levels, which are then added to project-incremental impacts to determine compliance with the applicable CAAQS and NAAQS.

Background PM2.5 and PM10 air quality data are available from the SDAPCD site in Escondido, which was closed in 2015. Although the site is no longer operating, it is applicable for background particulate matter levels as it is in relatively close-proximity to NSP. For 2015, PM10 was not measured for a complete year at Escondido. The maximum 24-hour PM10 concentration measured at Escondido in 2015 was 30 $\mu\text{g}/\text{m}^3$. For years 2013 – 2015, the 24-hour PM2.5 design concentration (in the form of the PM2.5 NAAQS) was 26.8 $\mu\text{g}/\text{m}^3$.²³

3.2 NSP PM10 Impacts Exceed the 24-Hour PM10 CAAQS

I performed air dispersion modeling to calculate the highest 24-hour PM10 concentrations attributable to NSP's construction activities, modeled with three-years of Escondido meteorological data. The modeling shows significant violations of the 24-hour PM10 CAAQS (50 $\mu\text{g}/\text{m}^3$), extending well beyond the NSP site. Importantly, the modeled 24-hour PM10 impacts exceed the CAAQS without the addition of background levels. A map showing the locations of 24-hour PM10 impacts from NSP's construction emissions, overlaid onto aerial imagery, are shown in Exhibit D. This map includes two 24-hour PM10 isopleths: 100% of the CAAQS (50 $\mu\text{g}/\text{m}^3$) and 200% of the CAAQS (100 $\mu\text{g}/\text{m}^3$). These isopleth maps do not include the background PM10 concentrations

²³ SDAPCD, Annual Air Quality Monitoring Network Plan: 2015, July 2016.

discussed in Section 3.1.

3.3 NSP PM2.5 Impacts Exceed the 24-Hour PM2.5 NAAQS

I also performed air dispersion modeling to calculate eighth-highest 24-hour PM2.5 concentrations attributable to NSP, averaged over three-years of modeled Escondido meteorological data. The modeling shows violations of the 24-hour PM2.5 NAAQS ($35 \mu\text{g}/\text{m}^3$) when including background PM2.5 data measured at Escondido. Maps showing the locations of 24-hour PM2.5 impacts from NSP's construction emissions, overlaid onto aerial imagery, are shown in Exhibit D. These isopleth maps are presented two ways: without and with the background PM2.5 concentrations discussed in Section 3.1. The map showing 24-hour PM2.5 impacts without background values includes isopleths of 10 and $15 \mu\text{g}/\text{m}^3$, which are levels chosen to depict modeled concentrations near the NSP site boundary. The map showing 24-hour PM2.5 impacts with background values includes a $35 \mu\text{g}/\text{m}^3$ isopleth, which is the 24-hour PM2.5 NAAQS.

3.4 NSP Wind Erosion Fugitive Dust Impacts

I modeled NSP wind erosion emissions using May 13, 2014 meteorological data from the KCRQ ASOS site. As discussed above, I only assessed the wind erosion emissions calculated using USEPA's industrial wind erosion equations, which are much smaller than those calculated by PNNL's DUSTRAN program.

Since wind erosion is limited to two hours during the wind conditions of May 13, 2014, I assessed both one-hour and 24-hour PM10 impacts. One-hour PM10 impacts from wind erosion exceed $200 \mu\text{g}/\text{m}^3$ well-beyond the NSP site boundary, while 24-hour PM10 impacts are roughly $20 \mu\text{g}/\text{m}^3$ at the NSP boundary. The 24-hour wind erosion PM10 impacts will exacerbate the already significant 24-hour PM10 CAAQS violations that are modeled to occur from NSP's mechanical construction activities. While there are no one-hour CAAQS or NAAQS levels established for PM10, the one-hour PM10 impacts may contribute to acute adverse health effects, including asthma.²⁴ Maps showing the locations of one-hour and 24-hour PM10 impacts from NSP wind erosion emissions, overlaid onto aerial imagery, are shown in Exhibit D.

4. Health Risk Assessment of NSP Diesel Particulate Matter Emissions

Diesel engine exhaust is classified by the State of California as a toxic air contaminant (TAC) and as a chemical known to cause cancer in humans.²⁵ Diesel engine exhaust is also a Proposition 65 listed carcinogen, which requires notification to individuals when the exposure exceeds the No Significant Risk Level (NSRL) of 10 per million excess cancer risk.²⁶

²⁴ Delfino, Ralph J., et. al., Association of Asthma Symptoms with Peak Particulate Air Pollution and Effect Modification by Anti-inflammatory Medication Use, *Environmental Health Perspectives*, 110, 10, 2002, pp. A607 – A617.

²⁵ California Office of Environmental Health Hazard Assessment, Health Risk Assessment for Diesel Exhaust, May 1998.

²⁶ California Office of Environmental Health Hazard Assessment, Safe Drinking Water and Toxic Enforcement Act of 1986, Chemicals Known to the State to Cause Cancer or Reproductive Toxicity, June 19, 2015.

Although there are many toxic constituents in diesel exhaust, e.g. benzene, aldehydes, and metals, it is diesel particulate matter (DPM) that is used to assess excess cancer risks from diesel engine exhaust. The California Air Resources Board (CARB) and the California Office of Environmental Hazard Assessment (OEHHA) developed a DPM inhalation cancer potency factor which is used to assess diesel engine exhaust excess cancer risks. From OEHHA and CARB:

The inhalation cancer potency factor was derived from whole diesel exhaust and should be used only for impacts from the inhalation pathway (based on diesel PM measurements). The inhalation impacts from speciated emissions from diesel-fueled engines are already accounted for in the inhalation cancer potency factor.²⁷

The DPM inhalation cancer potency factor, with units of inverse air concentration ($(\mu\text{g}/\text{m}^3)^{-1}$), is used to convert DPM air concentrations to a unitless value of excess cancer risk. For DPM, OEHHA and CARB have identified an inhalation cancer potency factor of $3.00\text{E}-04 (\mu\text{g}/\text{m}^3)^{-1}$, and an oral potency slope of $1.1 (\text{mg}/(\text{kg}\cdot\text{day}))^{-1}$ for dose calculations.²⁸

Using OEHHA's 2015 Health Risk Assessment Guidelines, I calculated the excess cancer risk from exposure to $1.0 \mu\text{g}/\text{m}^3$ of DPM for the first nine years of a child's life, from birth onwards. This is the most sensitive 9-year period of life, and OEHHA has developed age sensitivity factors and age-specific breathing rates for children which greatly increase the excess cancer risk compared to the same exposure for adults.²⁹ Applying OEHHA's guidelines, I calculate an excess cancer risk of $6.27\text{E}-04$ (627 per million) for exposure to $1.0 \mu\text{g}/\text{m}^3$ of DPM for the first nine years of a child's life. This value, which is calculated and shown in Exhibit E, is applied during post-processing of the modeled DPM air concentrations.

As discussed above, the DEIR incorrectly models construction DPM emissions, only covering a small portion of the project site and assessing only a fraction of the total construction DPM emissions. I prepared an air dispersion modeling analysis and health risk assessment (HRA) of construction DPM emissions for the entire project site, including a 9-year exposure DPM HRA.

The construction DPM emissions I modeled in this HRA are presented in Exhibit E. Consistent with the 24-hour PM₁₀ and PM_{2.5} modeling analyses, I distributed these DPM emissions evenly over the entire Phase 1 construction area. This approach is likely to underestimate DPM air concentrations and associated health risks, but is necessitated by the lack of construction sequence information in the DEIR.

The DEIR also incorrectly models operational DPM emissions, and only assesses future exposures to areas within the NSP site. I prepared an air dispersion modeling analysis of operational DPM emissions for a wide-area of receptors, which forms the basis for a 9-year exposure DPM HRA. For

²⁷ Consolidated Table of OEHHA/ARB Approved Risk Assessment Health Values, Updated February 23, 2017, p. 15.

²⁸ Id., p. 7.

²⁹ California Office of Environmental Health Assessment, Air Toxics Hot Spots Program Risk Assessment Guidelines, Guidance Manual for Preparation of Health Risk Assessments, February 2015.

the operational DPM HRA, I used the same source and DPM emission rate information assessed in the DEIR, but added additional receptors to assess off-site and additional on-site exposures.

I limited the operational DPM HRA to the off-site vehicle emissions assessed in the DEIR, omitting the gas station since fueling operations do not directly emit DPM. These off-site vehicle activities are modeled as adjacent AERMOD volume sources, which require the following inputs:

- A source identifier number or name;
- Source Location X (Easting) coordinate (UTM Zone 11, NAD83);
- Source Location Y (Northing) coordinate (UTM Zone 11, NAD83);
- Source base elevation (meters above sea level);
- Emission rate of DPM (g/s);
- Center height of the volume source (meters);
- Initial horizontal dispersion of the area source plume (SYINIT – meters).
- Initial vertical dispersion of the area source plume (SZINIT – meters).

Consistent with the DEIR, I applied a series of adjacent volume sources, using the following parameters:

- Release height = 1.6 meters for I-15, Mesa Rock Rd. to I-15, and Mesa Rock Rd. to I-15 segments;
- SYINIT = road width/2.15 = 13.58 meters for I-15;
- SYINIT = road width/2.15 = 6.53 meters for Mesa Rock Rd. to I-15;
- SYINIT = road width/2.15 = 6.77 meters for Deer Springs Rd.;
- SZINIT = 1.6/2.15 = 0.74 meters for I-15, Mesa Rock Rd. and Deer Springs Rd. segments.³⁰

I modeled all DPM sources for NSP's operational HRA with a unit emission rate of 1.0 g/s. This will facilitate post-processing using actual DPM emission rates by source, and the calculated excess cancer risk associated with 1.0 $\mu\text{g}/\text{m}^3$ of DPM exposure.

For both construction and operational emissions, modeled unit emission rate DPM concentrations are post-processed with both actual emission rates and 9-year excess cancer risk health risk multipliers. Modeled construction and operational DPM emission rates, including excess cancer risk post-processing inputs, are shown in Exhibit E.

4.1 Excess Cancer Risks from Construction DPM Emissions

I performed air dispersion modeling to calculate period average construction DPM concentrations, modeled with three-years of Escondido meteorological data. These DPM air concentrations are converted to excess cancer risk values using the construction emissions and risk calculation information provided in Exhibit E. Maps showing the locations of 5 and 10 per million excess cancer risks from NSP's construction DPM emissions, overlaid onto aerial imagery, are shown in

³⁰ USEPA, Haul Road Workgroup Final Report Submission to EPA-OAQPS, March 2, 2012, pp. 4-6.

Exhibit F. The 10 per million risk isopleth represents DPM exposures at the SDAPCD excess cancer risk significance level; the 5 per million risk isopleth is one-half the significance level ((DEIR, Air Quality Technical Appendix, Appendix C, p. iv).

4.2 Excess Cancer Risks from Operational DPM Emissions

I performed air dispersion modeling to calculate period average operational DPM concentrations, modeled with three-years of Escondido meteorological data. These DPM air concentrations are converted to excess cancer risk values using the operational emissions and risk calculation information provided in Exhibit E. Maps showing the locations of 5 and 10 per million excess cancer risks from NSP's construction DPM emissions, overlaid onto aerial imagery, are shown in Exhibit F. The 10 per million risk isopleth represents DPM exposures at the SDAPCD excess cancer risk significance level; the 5 per million risk isopleth is one-half the significance level.

5. Crystalline Silica

The DEIR obliquely addresses crystalline silica emissions, but fails to identify the crystalline silica content of the NSP site soils and subsequent fugitive dust emissions. This is a relatively simple measurement, but the DEIR has not performed this task. Given the magnitude of the fugitive dust emissions, and resulting ambient air concentrations of PM10 and PM2.5, this is a significant omission in the DEIR.

California has established a chronic reference exposure level of $3.0 \mu\text{g}/\text{m}^3$ for crystalline silica.³¹ The DEIR should obtain site-specific crystalline silica content data of the NSP site soils, and apply these mass-fraction levels to annual-average modeled PM10 emissions caused by construction activities.

6. Concluding Remarks

Corrected construction fugitive dust emissions will cause modeled impacts above the 24-hour PM10 CAAQS ($50 \mu\text{g}/\text{m}^3$) and 24-hour PM2.5 NAAQS ($35 \mu\text{g}/\text{m}^3$). Wind erosion events can add significantly to the air quality impacts caused by NSP's construction activities. In addition, construction and operational DPM emissions result in excess cancer risks greater than the 10 per million significance threshold. The NSP DEIR failed to identify these significant findings.

The DEIR assesses construction emissions (although incorrectly) within the project site, but fails to quantify PM10 and PM2.5 emissions that will be associated with off-site road widening and construction. This is particularly important for residential and other uses along Deer Springs Road, including the Golden Door Resort, which will be exposed to impacts from both NSP's on-site and off-site construction emissions.

The DEIR modeling uses actual terrain data for its limited modeling analyses. My re-analyses of the DEIR shortcomings also use actual terrain elevations (obtained using AERMAP). This, however, is

³¹ Consolidated Table of OEHHA/ARB Approved Risk Assessment Health Values, Updated February 23, 2017, p. 11.

not necessarily a complete analysis of possible air quality impacts. The USEPA acknowledges potential concerns regarding modeled impacts in areas of terrain that are both lower and higher than the emission source.³² In essence, and most importantly for the NSP site location, AERMOD does not account for downslope flow that can occur during stable conditions, thus under-estimating modeled impacts in areas downslope of the emission sources. Furthermore, AERMOD may not adequately calculate air impacts in areas upslope from emission sources. The area surrounding the NSP site includes areas of terrain that are both lower and higher than the emission source terrain elevations, depending on the plume travel direction.

To address this concern, the DEIR air dispersion modeling should be assessed with both actual and flat terrain for sources and receptors, as is currently required by the South Coast Air Quality Management District (SCAQMD).³³ In other words, the DEIR should assess ambient air impacts in two ways: using the AERMOD default method of using actual terrain and the non-default method of applying flat terrain. The maximum ambient air impacts from these two methods is to be used for assessing compliance with the NAAQS, CAAQS, or other standards. From the SCAQMD:

If some receptors are lower and some receptors are higher than the base elevation of the source, AERMOD should be run twice – once using the default option and the second time using the non-default option. The maximum ground-level concentration from both runs should be reported.

The NSP DEIR should be revised and recirculated to address the emission rate, air dispersion modeling, and health risk assessment shortcomings discussed above.

Thank you for the opportunity to provide comments on the NSP DEIR. My CV is attached as Exhibit G.

In summary, I hold B.S. (1978) and M.S. (1980) degrees in Atmospheric Science from the University of California at Davis. I specialize in atmospheric dispersion modeling, which uses regulatory-approved computer programs to estimate chemical concentrations in the air. I have prepared well over 1,000 air dispersion modeling analyses requiring on-site or site-specific meteorological data. I have extensive experience with many different air dispersion programs, including the ISC, AERMOD, OCD, MPTER, COMPLEX-I, CRSTER, and other plume models, as well as the MESOPUFF, MESOPUFF II, INPUFF, and CALMET/CALPUFF puff models. In addition, I have prepared hundreds of health risk assessments of major air toxics sources in California and the United States.

I also have extensive experience calculating air pollution emissions, including fugitive dust sources from scores of complex projects. In 2010, I provided detailed comments to USEPA regarding revision of AP-42 Section 13.2.1, Paved Roads. I have been qualified to calculate fugitive dust emissions in United States District Court proceedings.

³² https://www3.epa.gov/ttn/scram/7thconf/aermod/aermod_implmtn_guide_3August2015.pdf, p. 9.

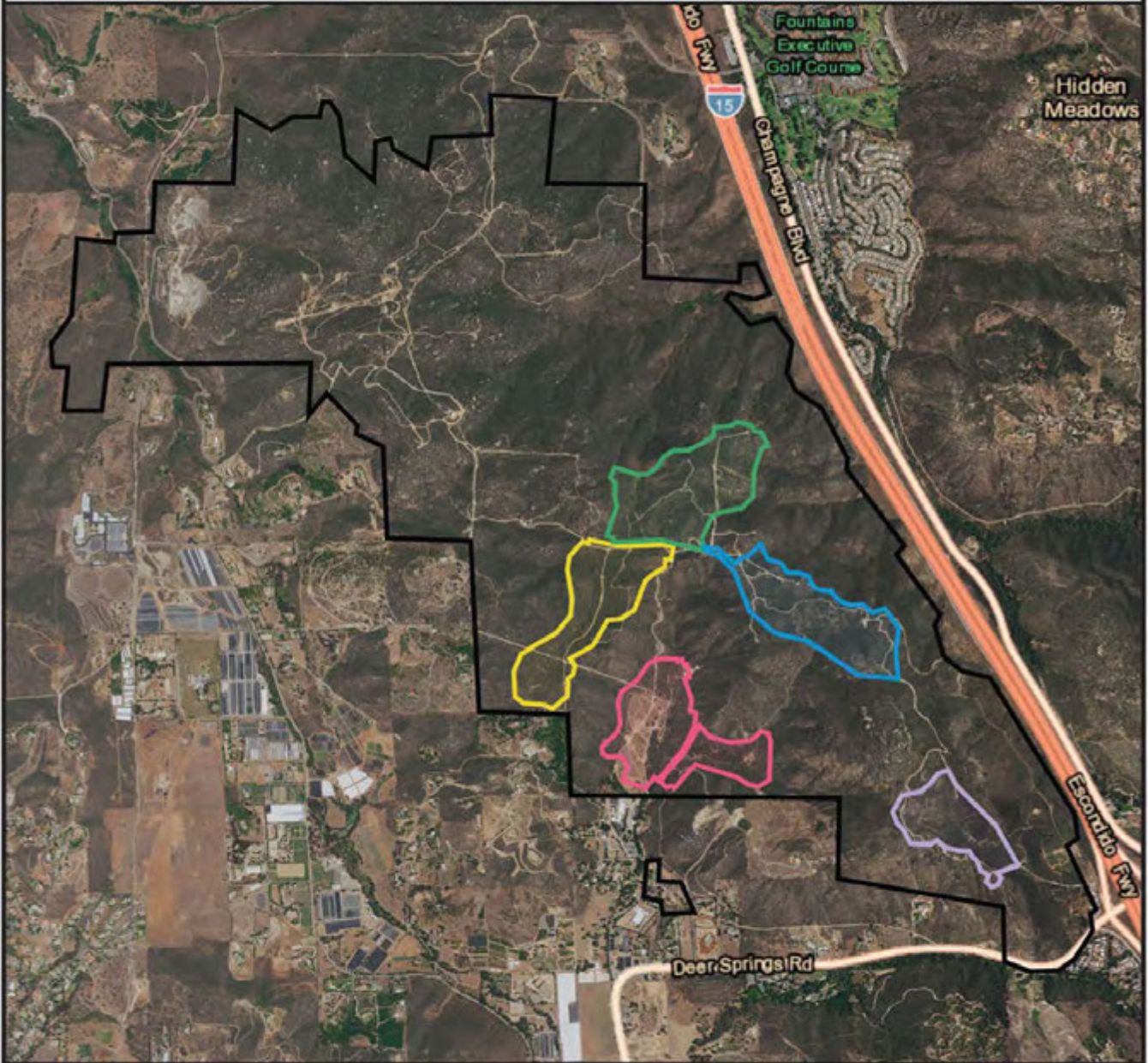
³³ <http://www.aqmd.gov/home/library/air-quality-data-studies/meteorological-data/modeling-guidance>.







Exhibit A:

Project Location and Emission Source Maps

Newland Sierra Project

Phase 1 Construction Activities

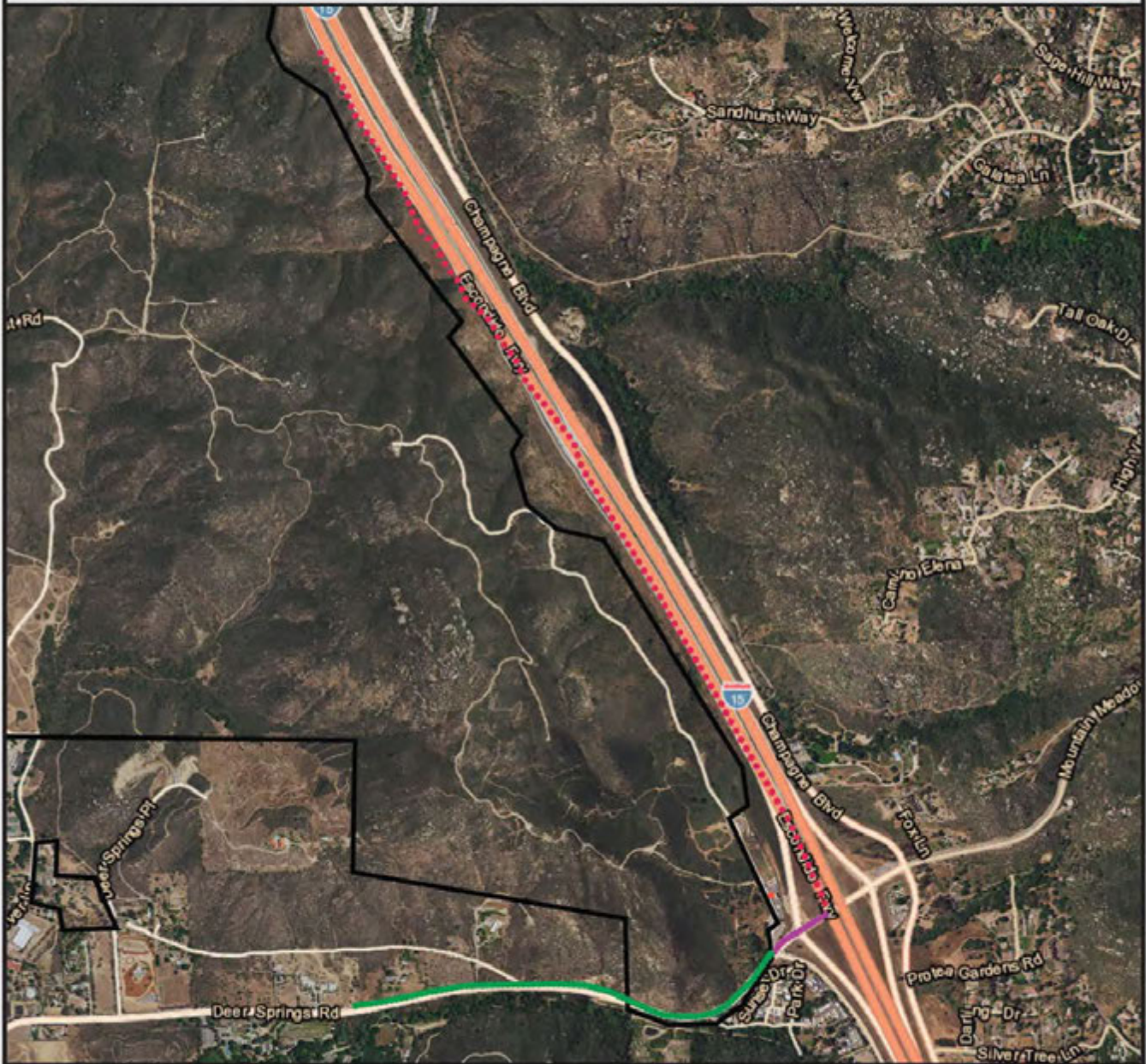


- | | |
|--|--|
|  Knoll |  Valley |
|  Mesa |  Terraces |
|  Hillside |  Project Boundary |



Newland Sierra Project

DEIR Modeled Operational Sources



- Deer Springs 1
- Deer Springs 2
- I15
- Gas Station
- Project Boundary



Exhibit B:

Phase 1 Construction
Fugitive Dust PM10 and PM2.5 Emission Calculations

Calculation of Unpaved Roadway Emissions
 AP-42 Program Emission Factors
 Equation from AP-42 Chapter 13.2.2, November 2006, Equations 1a, 2

Newland Sierra Phase 1 Construction: Site Preparation

$$E_{(lb\ PM_{i}/VMT)} = [k(s/12)^a * (W/3)^b] * [(365-P)/365]$$

value of a		
PM2.5	PM10	PM30
0.9	0.9	0.7

Input Variables

Description	Variable	Value
Particle size multiplier for PM2.5 (lb/VMT)	k	0.15
Particle size multiplier for PM10 (lb/VMT)	k	1.5
Particle size multiplier for PM30 (lb/VMT)	k	4.9
Road surface silt percentage (%)	s	8.500
Constant for PM2.5, PM10, PM30	b	0.45
Number of days in the averaging period	N (days)	---
Operating hrs/day	(hrs)	
Number of days with at least 0.254 mm (0.01 in) of precipitation during the averaging period.	P (days)	0
Control Efficiency	CE	0%

Number of wet days set to 0 for 24-hr qcalcs
 (No rain during 24-hour period)

Vehicle Weight and VMT

Vehicle Type	Empty Weight (tons)	Loaded Weight (tons)	Average Vehicle Weight (tons)	VMT/day	Days/Yr	VMT/Yr
Size group 1	16.5	52.7	34.6	4.65		1,753.10

Qcalcs

Paved Roadway Emissions		$E_{(lb/VMT)}$	(lb/day)	(g/s)
Size group 1	PM2.5	0.33	1.5349	
	PM10	3.30	15.3487	
	PM30	11.56	53.72	

VMT/day: 4.6452

360 haul trips
 31 days
 0.4 One-way distance (mi)
 1 trip multiplier

Calculation of Unpaved Roadway Emissions

AP-42 Program Emission Factors

Equation from AP-42 Chapter 13.2.2, November 2006, Equations 1a, 2

Newland Sierra Phase 1 Construction: Grading

$$E_{(lb\ PM_{x}/VMT)} = [k(s/12)^a * (W/3)^b] * [(365-P)/365]$$

value of a		
PM2.5	PM10	PM30
0.9	0.9	0.7

Input Variables

Description	Variable	Value
Particle size multiplier for PM2.5 (lb/VMT)	k	0.15
Particle size multiplier for PM10 (lb/VMT)	k	1.5
Particle size multiplier for PM30 (lb/VMT)	k	4.9
Road surface silt percentage (%)	s	8.500
Constant for PM2.5, PM10, PM30	b	0.45
Number of days in the averaging period	N (days)	---
Operating hrs/day	(hrs)	
Number of days with at least 0.254 mm (0.01 in) of precipitation during the averaging period.	P (days)	0
Control Efficiency	CE	0%

Number of wet days set to 0 for 24-hr qcalcs
(No rain during 24-hour period)

Vehicle Weight and VMT

Vehicle Type	Empty Weight (tons)	Loaded Weight (tons)	Average Vehicle Weight (tons)	VMT/day	Days/Yr	VMT/Yr
Size group 1	16.5	52.7	34.6	130.37		1,753.10

Qcalcs

Paved Roadway Emissions		$E_{(lb/VMT)}$	(lb/day)	(g/s)
Size group 1	PM2.5	0.33	43.0771	
	PM10	3.30	430.7707	
	PM30	11.56	1507.66	

VMT/day: 130.3690

290071 haul trips

890 days

0.4 One-way distance (mi)

1 trip multiplier

Newland Sierra: Phase 1 Site Preparation PM10
Bulldozing of Overburden
 From AP-42, Chapter 11.9 - Western Surface Coal Mining

$$\text{PM15 } E = [(1.0) * (s)^{1.5}] / (M)^{1.4} \quad \text{(from AP-42, Table 11.9-1; bulldozing overburden)}$$

Where,

E = Emission rate for PM15 (lb/hr)

s = Material silt content (%)

M = Material Moisture Content (%)

EXP1 = 1.5

EXP2 = 1.4

Material Silt Content =	6.90 %
Material Moisture Content =	7.90 %
Scaling Factor =	0.75
Control Efficiency (Wet Suppression) =	61 %
Hours/Day of Bulldozing =	8.00 Hrs/Day
E =	0.39 lb/hr PM15
E =	0.29 lb/hr PM10
E =	2.35 lb/day PM10
Number of dozers:	3.00
Total emissions:	7.04584 lb/day PM10

Newland Sierra: Phase 1 Site Preparation PM2.5

Bulldozing of Overburden

From AP-42, Chapter 11.9 - Western Surface Coal Mining

$$\text{PM30 E} = [(5.7) * (s)^{1.2}] / (M)^{1.3} \quad \text{(from AP-42, Table 11.9-1; bulldozing overburden)}$$

Where,

E = Emission rate for PM30 (lb/hr)

s = Material silt content (%)

M = Material Moisture Content (%)

EXP1 = 1.2

EXP2 = 1.3

Material Silt Content = 6.90 %

Material Moisture Content = 7.90 %

Scaling Factor = 0.105

Control Efficiency (Wet Suppression) = 61 %

Hours/Day of Bulldozing = 8.00 Hrs/Day

E = 1.54 lb/hr PM30

E = 0.16 lb/hr PM2.5

E = 1.29 lb/day PM2.5

Number of dozers: 3.00

Total emissions: 3.8730 lb/day PM2.5

Newland Sierra: Phase 1 Grading PM10

Bulldozing of Overburden

From AP-42, Chapter 11.9 - Western Surface Coal Mining

$$PM15 E = [(1.0) * (s)^{1.5}] / (M)^{1.4}$$

(from AP-42, Table 11.9-1; bulldozing overburden)

Where,

E = Emission rate for PM15 (lb/hr)

s = Material silt content (%)

M = Material Moisture Content (%)

EXP1 = 1.5

EXP2 = 1.4

Material Silt Content =	6.90 %
Material Moisture Content =	7.90 %
Scaling Factor =	0.75
Control Efficiency (Wet Suppression) =	61 %
Hours/Day of Bulldozing =	8.00 Hrs/Day
E =	0.39 lb/hr PM15
E =	0.29 lb/hr PM10
E =	2.35 lb/day PM10
Number of dozers:	11.00
Total emissions:	25.8347 lb/day PM10

Newland Sierra: Phase 1 Grading PM2.5

Bulldozing of Overburden

From AP-42, Chapter 11.9 - Western Surface Coal Mining

$$PM_{30} E = [(5.7) * (s)^{1.2}] / (M)^{1.3}$$

(from AP-42, Table 11.9-1; bulldozing overburden)

Where,

E = Emission rate for PM30 (lb/hr)

s = Material silt content (%)

M = Material Moisture Content (%)

EXP1 = 1.2

EXP2 = 1.3

Material Silt Content = 6.90 %

Material Moisture Content = 7.90 %

Scaling Factor = 0.105

Control Efficiency (Wet Suppression) = 61 %

Hours/Day of Bulldozing = 8.00 Hrs/Day

E = 1.54 lb/hr PM30

E = 0.16 lb/hr PM2.5

E = 1.29 lb/day PM2.5

Number of dozers: 11.00

Total emissions: 14.2009 lb/day PM2.5

Newland Sierra: Phase 1 Site Preparation PM10
Grading of overburden
 From AP-42, Chapter 11.9 - Western Surface Coal Mining

$$\text{PM10 E} = k * 0.051 * (s)^{2.0} \quad \text{(from AP-42, Table 11.9-1; grading)}$$

Where,

E = Emission rate for PM10 (lb/VMT)

s = Grader speed (mph)

EXP1 = 2.0

Mean grader speed = 7.10 mph (from AP-42, Table 11.9-3; grading)
 k scaling Factor = 0.60 adjust from PM15 to PM10

Control Efficiency (Wet Suppression) = 61 %

Hours/Day of grading = 8.00 Hrs/Day

Number of graders/scrapers =

VMT/day of grading = 12.53 VMT/day

E = 1.00 lb/VMT PM15

E = 0.60 lb/VMT PM10

E = 7.5381 lb/day PM10

AP-42 Section 13.2.3 (Heavy Construction Operations) indicates fugitive emissions from scrapers are much greater than from graders. Scraper EF is approx. 20 lb/VMT PM, with EF rating of E.

Acres	Blade width (ft)	VMT	days	VMT/day
565	12	388.4375	31	12.53024

Newland Sierra: Phase 1 Site Preparation PM2.5

Grading of overburden

From AP-42, Chapter 11.9 - Western Surface Coal Mining

$$PM2.5 E = k * 0.040 * (s)^{2.5} \quad \text{(from AP-42, Table 11.9-1; grading)}$$

Where,

E = Emission rate for PM2.5 (lb/VMT)

s = Grader speed (mph)

EXP1 = 2.5

Mean grader speed = 7.10 mph (from AP-42, Table 11.9-3; grading)
 k scaling Factor = 0.031 adjust from PM30 to PM2.5

Control Efficiency (Wet Suppression) = 61 %

Hours/Day of grading = 8.00 Hrs/Day

Number of graders/scrapers =

VMT/day of grading = 12.53 VMT/day

E = 2.10 lb/VMT PM30

E = 0.06 lb/VMT PM2.5

E = 0.8139 lb/day PM2.5

AP-42 Section 13.2.3 (Heavy Construction Operations) indicates fugitive emissions from scrapers are much greater than from graders. Scraper EF is approx. 20 lb/VMT PM, with EF rating of E.

Acres	Blade width (ft)	VMT	days	VMT/day
565	12	388.4375	31	12.53024

Newland Sierra: Phase 1 Grading PM10
Grading of overburden
 From AP-42, Chapter 11.9 - Western Surface Coal Mining

$$\text{PM10 E} = k * 0.051 * (s)^{2.0} \quad \text{(from AP-42, Table 11.9-1; grading)}$$

Where,

E = Emission rate for PM10 (lb/VMT)

s = Grader speed (mph)

EXP1 = 2.0

Mean grader speed = 7.10 mph (from AP-42, Table 11.9-3; grading)
 k scaling Factor = 0.60 adjust from PM15 to PM10

Control Efficiency (Wet Suppression) = 61 %

Hours/Day of grading = 8.00 Hrs/Day
 Number of graders/scrapers = 9.00
 VMT/day of grading = 511.20 VMT/day

E = 1.00 lb/VMT PM15

E = 0.60 lb/VMT PM10

E = 307.5343 lb/day PM10

AP-42 Section 13.2.3 (Heavy Construction Operations) indicates fugitive emissions from scrapers are much greater than from graders. Scraper EF is approx. 20 lb/VMT PM, with EF rating of E.

Newland Sierra: Phase 1 Grading PM2.5
Grading of overburden
 From AP-42, Chapter 11.9 - Western Surface Coal Mining

$$\text{PM2.5 } E = k \cdot 0.040 \cdot (s)^{2.5} \quad \text{(from AP-42, Table 11.9-1; grading)}$$

Where,

E = Emission rate for PM2.5 (lb/VMT)

s = Grader speed (mph)

EXP1 = 2.5

Mean grader speed = 7.10 mph (from AP-42, Table 11.9-3; grading)
 k scaling Factor = 0.031 adjust from PM30 to PM2.5

Control Efficiency (Wet Suppression) = 61 %

Hours/Day of grading = 8.00 Hrs/Day
 Number of graders/scrapers = 9.00
 VMT/day of grading = 511.20 VMT/day

E = 2.10 lb/VMT PM30

E = 0.06 lb/VMT PM2.5

E = 33.2065 lb/day PM2.5

AP-42 Section 13.2.3 (Heavy Construction Operations) indicates fugitive emissions from scrapers are much greater than from graders. Scraper EF is approx. 20 lb/VMT PM, with EF rating of E.

Newland Sierra Rock Crusher Emissions Per Crushing Facility

Production Rate Information

2,500	cu yd/day
2.26	tons/cu yd
5,650	ton/day

Drop Operations Formula

$EF(PM) = (k \cdot 0.0032) \cdot (U/5)^{1.3} / (M/2)^{1.4}$	
$k (PM_{10}) =$	0.35
$k (PM_{2.5}) =$	0.053
$U =$	11.60 mph
$M =$	3 %

Equipment Type	Throughput	PM ₁₀		PM _{2.5}	
	Tons/day	Emission Factor (lb/ton)	Daily (lb/day)	Emission Factor (lb/ton)	Daily (lb/day)
Hopper Loading	5,650	0.001896	10.71	0.000287	1.622
Primary Crusher	5,650	0.00054	3.05	0.0001	0.565
Conveyor Transfer	5,650	0.000046	0.26	0.000013	0.073
Screen 1	5,650	0.00074	4.18	0.00005	0.283
Conveyor Transfer	1,695	0.000046	0.08	0.000013	0.022
Conveyor Transfer to Pile	1,695	0.001896	3.21	0.000287	0.487
Conveyor Transfer	3,955	0.000046	0.18	0.000013	0.051
Secondary Crusher	3,955	0.00054	2.14	0.000100	0.396
Conveyor Transfer	3,955	0.000046	0.18	0.000013	0.051
Screen 2	3,955	0.00074	2.93	0.00005	0.198
Conveyor Transfer	3,955	0.000046	0.18	0.000013	0.051
Conveyor Transfer to Pile	3,955	0.001896	7.50	0.000287	1.135
Total Rock Crushing			34.60		4.93

Notes:

- Emission Factors from AP-42, Section 11.19.2 (Crushed Stone Processing), Table 11.19.2-2 (controlled factors).
- Emission Factor for drop operation (conveyor to product pile) from AP-42, Section 13.2.4 (Aggregate Handling and Storage Piles), Equation 1. Wind speed is obtained from peak mean value of Escondido 2010-12 met data, hours 0700-1600. Moisture content is assumed to be 3%.

Phase 1

No. of Rock Crushing Facilities 4

	PM ₁₀	PM _{2.5}
Total Rock Crushing	138.4114	19.7388

Mitigated Construction PM10 and PM2.5 Emissions (lb/day)

		Fugitive PM10 (lb/day)	Exhaust PM10 (lb/day)	Fugitive PM2.5 (lb/day)	Exhaust PM2.5 (lb/day)
P1 Site Preparation					
Location					
Fugitive Dust	Onsite	7.0458		3.8730	
Off-road	Onsite		0.0660		0.0660
Hauling	Onsite	15.3487	0.0016	1.5349	0.0016
P1 Grading					
Location					
Dozers/crawler tractors	Onsite	25.8347		14.2009	
Graders/scrapers	Onsite	307.5343		33.2065	
Off-road	Onsite		0.6395		0.6395
Hauling	Onsite	430.7707	0.0458	43.0771	0.0438
Rock Crushing Fugitives	Onsite	138.4114		19.7388	
Rock Crushing Generator	Onsite	3.9400		3.9400	
Blasting	Onsite	55.8919		3.2245	
Sum:		984.7776	0.7529	122.7957	0.7509
Sum with blasting:		985.5305	lb/day	123.5466	lb/day
Area (m ²):		1109040		1109040	
MODHRS:		9	0700-1600	9	0700-1600
Daily MODHR average:	Q (g/s-m ²):	1.2441E-05		1.5596E-06	
Annual average:		Q (g/s-m ²): 1.0634E-05		1.3331E-06	
Q Hrs:	2808				
Mod Hrs:	3285				

Summary of Wind Erosion Emissions
Calculated by AP-42 Section 13.2.5 and DUSTAN

Wind Erosion PM 10 Emission Calculations for May 13, 2014	AP42, 13.2.5	DUSTAN
Threshold friction velocity (m/s):	0.62	0.42
Total particulate emissions (g/m ²):	1.98	11.05
Maximum particulate emissions (g/m ²):	1.69	4.36
Area or subarea (m ²):	1,109,040	1,109,040
Total particulate emissions (tons/day):	2.43	13.50
Total particulate emissions (pounds/day):	4,851	27,006

Summary of Wind Erosion Emission Calculation Inputs AP-42 Section 13.2.5 and DUSTRAN

Particle size multiplier (K): 0.5 PM10 (AP-42, Section 13.2.5, Table 13.2.5-1)
 ANHT: 7.92 meters
 Surface threshold ustar: 0.62 m/s (AP-42, Section 13.2.5, Table 13.2.5-2)
 Surface area: 1,109,040 m²

Site-specific roughness length: 0.005 m

DUSTRAN inputs (User's Manual, Section 2.5.2):

Threshold friction velocity for dry soil:		0.2 m/s			
Gillette & Passi Factor C:		1.00E-02 g/(m ⁻⁶ s ³)			
Soil Texture Class	Fraction (β)	Uplift availability (γ)	Dust productivity factor (δ)	δ (Normalized)	
Clay (<2 μm)	0.34	0.08	0.027	0.045	
Small Silt (2-20 μm)	0.28	1.00	0.280	0.467	
Large Silt (20-50 μm)	0.28	1.00	0.280	0.467	
Sand (50-100 μm)	0.10	0.12	0.012	0.020	
Sum:		1.00		1.00	

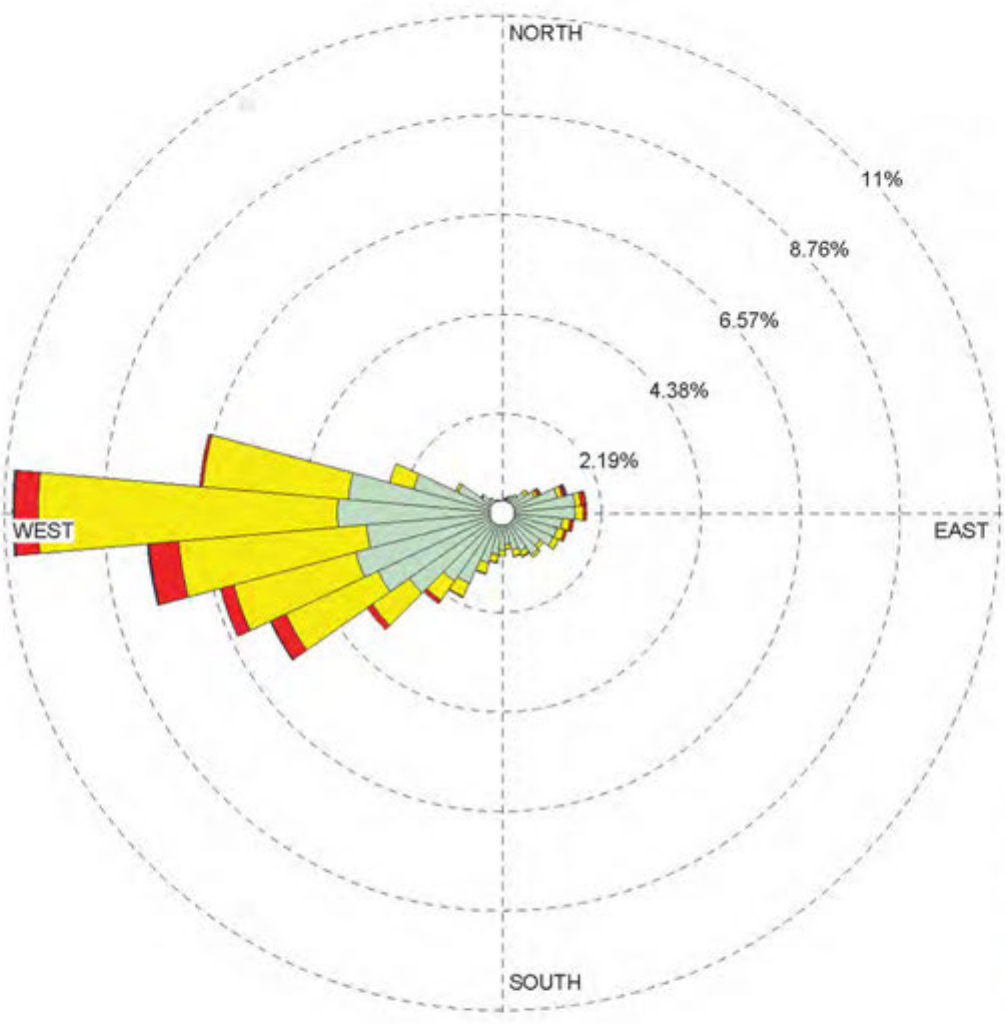
Maximum water adsorption (w'): 7.4 %
 Dust flux adj. for sand particles(G'): 1.02
 Vegetation mask (α): 1.00 (1.00 = no vegetation; 0.00 = complete vegetation coverage)
 Gravimetric soil moisture content (w): 12.0 %
 Soil wetness factor (f_w): 2.10
 Threshold friction velocity for moist soil: 0.42 m/s

Exhibit C:

Escondido and KCRQ Meteorological Data
Wind Roses

WIND ROSE PLOT: **Escondido 2010-2012**
AERMET 14134 with SA

DISPLAY:
Wind Speed
Direction (blowing from)



WIND SPEED
(Knots)

- >= 21.58
- 17.11 - 21.58
- 11.08 - 17.11
- 7.00 - 11.08
- 4.08 - 7.00
- 0.97 - 4.08

Calms: 27.42%

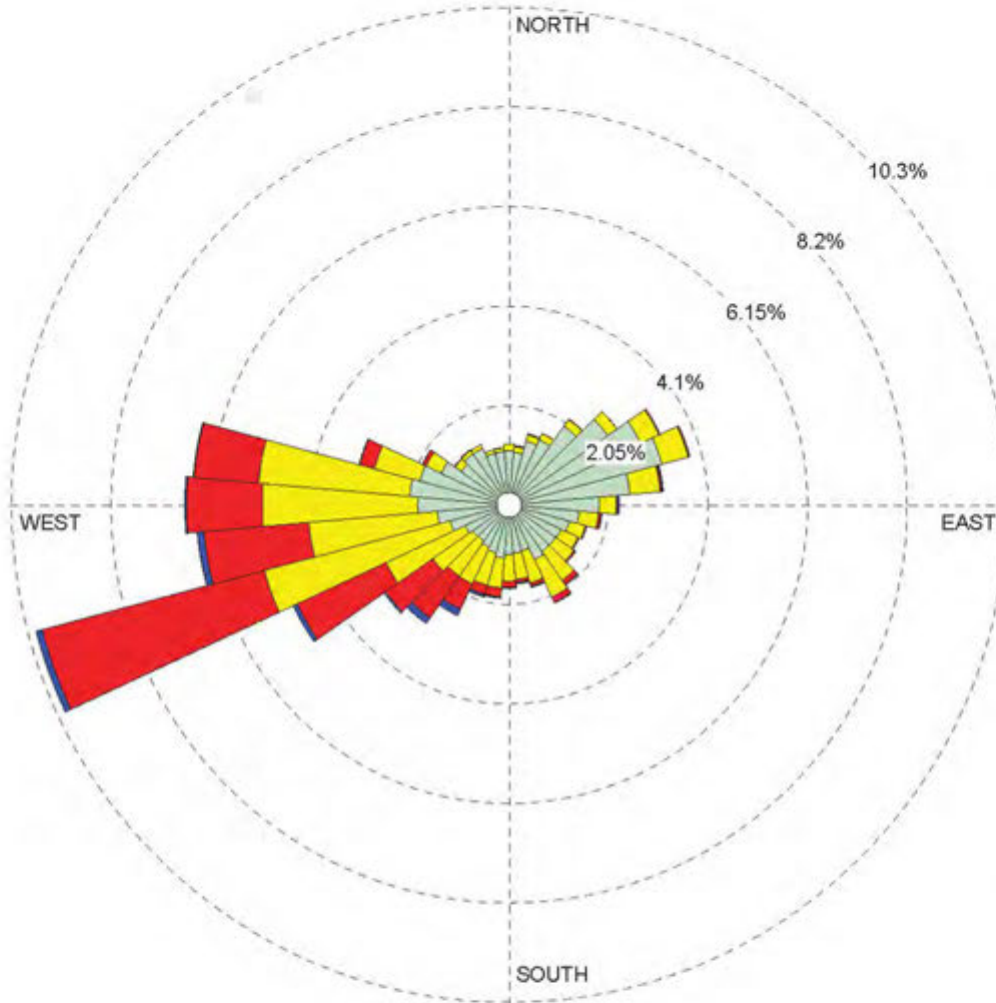
COMMENTS:	DATA PERIOD:	COMPANY NAME:	
	Start Date: 1/1/2010 - 00:00 End Date: 12/31/2012 - 23:59	MODELER:	
	CALM WINDS:	TOTAL COUNT:	
	27.42%	26289 hrs.	
	AVG. WIND SPEED:	DATE:	PROJECT NO.:
	2.59 Knots	2/5/2018	

WIND ROSE PLOT:

KCRQ; KNKX: 2013-2017
AERMET 16216, no ADJ_U*

DISPLAY:

Wind Speed
Direction (blowing from)



WIND SPEED
(Knots)

- >= 21.58
- 17.11 - 21.58
- 11.08 - 17.11
- 7.00 - 11.08
- 4.08 - 7.00
- 0.97 - 4.08

Calms: 1.59%

COMMENTS:

DATA PERIOD:

Start Date: 1/1/2013 - 00:00
End Date: 12/31/2017 - 23:59

COMPANY NAME:

MODELER:

CALM WINDS:

1.59%

TOTAL COUNT:

43660 hrs.

AVG. WIND SPEED:

4.47 Knots

DATE:

2/10/2018

PROJECT NO.:

Precipitation Conditions for Determining Seasonal Bowen Ratios
 (Based on 1981 through 2010 Precipitation Data from Oceanside Marina (USC00046377))

Year	Winter Dec-Feb	Spring Mar-May	Summer Jun-Aug	Fall Sep-Nov	Year Jan-Dec	Winter Dec-Feb	Spring Mar-May	Summer Jun-Aug	Fall Sep-Nov	Year Jan-Dec
1981	3.35	2.91	0.04	2.00	8.30	Dry	Average	Dry	Average	Average
1982	5.56	7.75	0.18	2.20	15.69	Average	Wet	Average	Wet	Wet
1983	7.35	8.45	0.31	4.50	20.62	Wet	Wet	Wet	Wet	Wet
1984	4.41	0.91	0.09	1.60	7.01	Average	Dry	Dry	Average	Dry
1985	2.91	0.58	0.00	3.85	7.34	Dry	Dry	Dry	Wet	Dry
1986	5.18	3.23	0.01	2.04	10.46	Average	Average	Dry	Average	Average
1987	6.33	0.79	0.00	3.35	10.48	Average	Dry	Dry	Wet	Average
1988	5.80	3.59	0.27	1.28	10.94	Average	Wet	Wet	Average	Average
1989	1.16	1.32	0.03	0.63	3.15	Dry	Dry	Dry	Dry	Dry
1990	3.68	1.57	0.74	0.54	6.54	Dry	Dry	Wet	Dry	Dry
1991	4.82	5.31	0.00	0.25	10.39	Average	Wet	Dry	Dry	Average
1992	8.84	3.24	0.22	0.18	12.48	Wet	Average	Wet	Dry	Average
1993	12.42	1.33	1.16	0.64	15.55	Wet	Dry	Wet	Dry	Wet
1994	3.50	3.48	0.00	0.06	7.04	Dry	Wet	Dry	Dry	Dry
1995	9.34	6.59	0.50	0.10	16.54	Wet	Wet	Wet	Dry	Wet
1996	6.42	1.20	0.04	3.28	10.94	Average	Dry	Dry	Wet	Average
1997	5.60	0.91	0.00	2.82	9.53	Average	Dry	Dry	Wet	Average
1998	11.13	5.51	0.00	1.45	18.09	Wet	Wet	Dry	Average	Wet
1999	2.21	2.12	0.00	0.00	4.33	Dry	Average	Dry	Dry	Dry
2000	3.97	1.76	0.00	2.37	8.10	Dry	Dry	Dry	Wet	Average
2001	7.75	1.57	0.01	1.09	10.42	Wet	Dry	Dry	Dry	Average
2002	2.80	0.95	0.00	1.59	5.34	Dry	Dry	Dry	Average	Dry
2003	4.02	3.91	0.36	0.77	9.06	Dry	Wet	Wet	Dry	Average
2004	6.54	0.72	0.00	5.48	12.73	Average	Dry	Dry	Wet	Average
2005	11.31	2.09	0.00	1.77	15.17	Wet	Average	Dry	Average	Wet
2006	1.82	2.69	0.19	0.22	4.91	Dry	Average	Wet	Dry	Dry
2007	3.37	0.80	0.24	0.44	4.86	Dry	Dry	Wet	Dry	Dry
2008	6.25	0.13	0.00	1.90	8.28	Average	Dry	Dry	Average	Average
2009	3.91	0.08	0.00	0.32	4.31	Dry	Dry	Dry	Dry	Dry
2010	14.36	2.29	0.01	4.24	20.90	Wet	Average	Dry	Wet	Wet
2011	4.24	3.06	0.19	3.03	10.52	Dry	Average	Wet	Wet	Average
2012	4.09	2.19	0.00	1.20	7.48	Dry	Average	Dry	Dry	Dry
2013	1.72	2.05	0.00	1.59	5.36	Dry	Average	Dry	Average	Dry
2014	5.40	0.87	0.09	0.80	7.16	Average	Dry	Dry	Dry	Dry
2015	1.13	2.10	0.91	1.77	5.91	Dry	Average	Wet	Average	Dry
2016	5.26	2.28	0.00	1.49	9.03	Average	Average	Dry	Average	Average
2017	10.43	1.55	0.03	0.28	12.29	Wet	Dry	Dry	Dry	Average
Averages:	5.88	2.59	0.15	1.70	10.32					

Precipitation units: inches

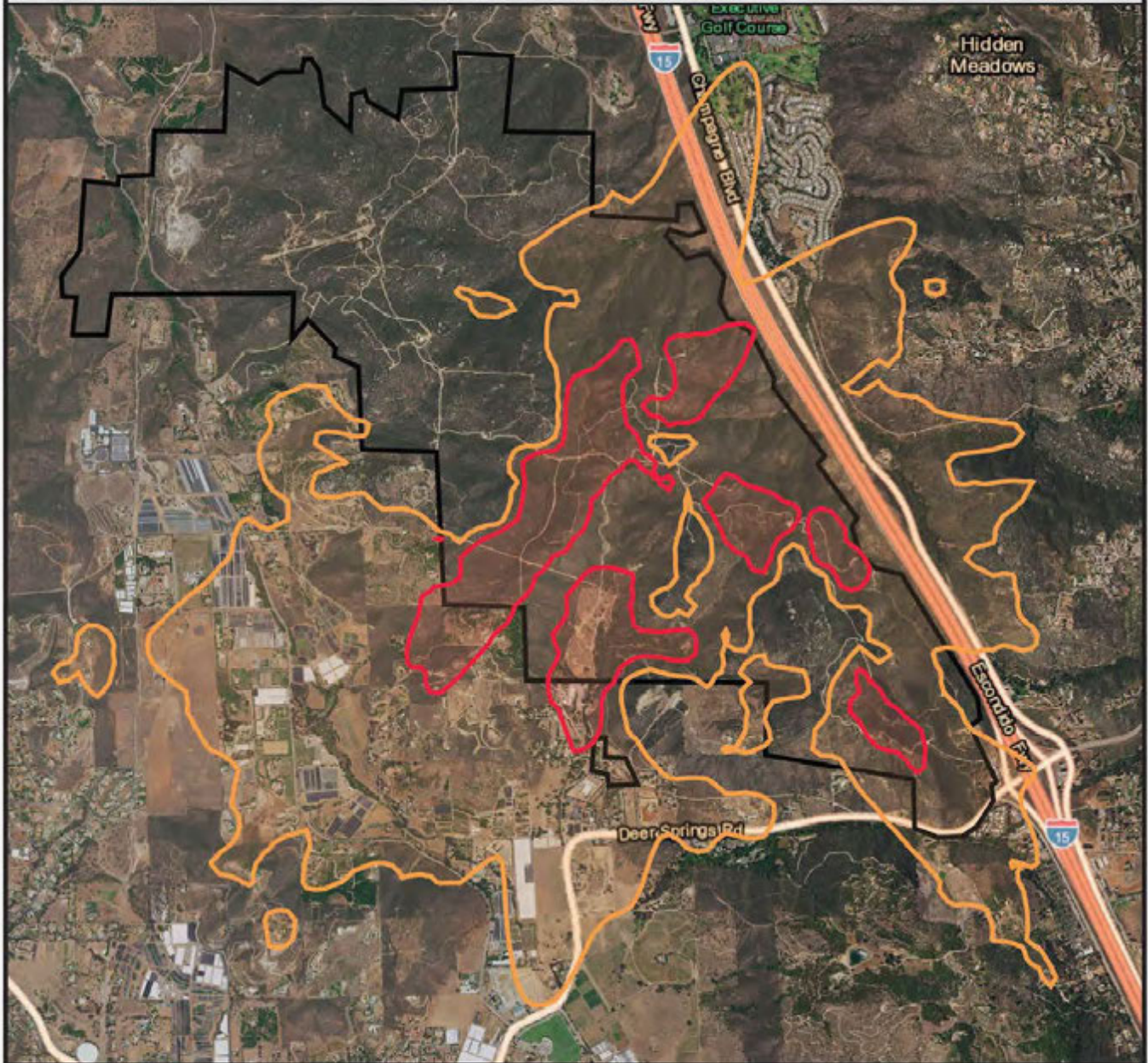
Average precipitation based on 1981 -- 2010 data




Exhibit D:

Air Concentration Maps
Phase 1 Construction PM10 and PM2.5

Newland Sierra Project Phase 1 Construction Emissions

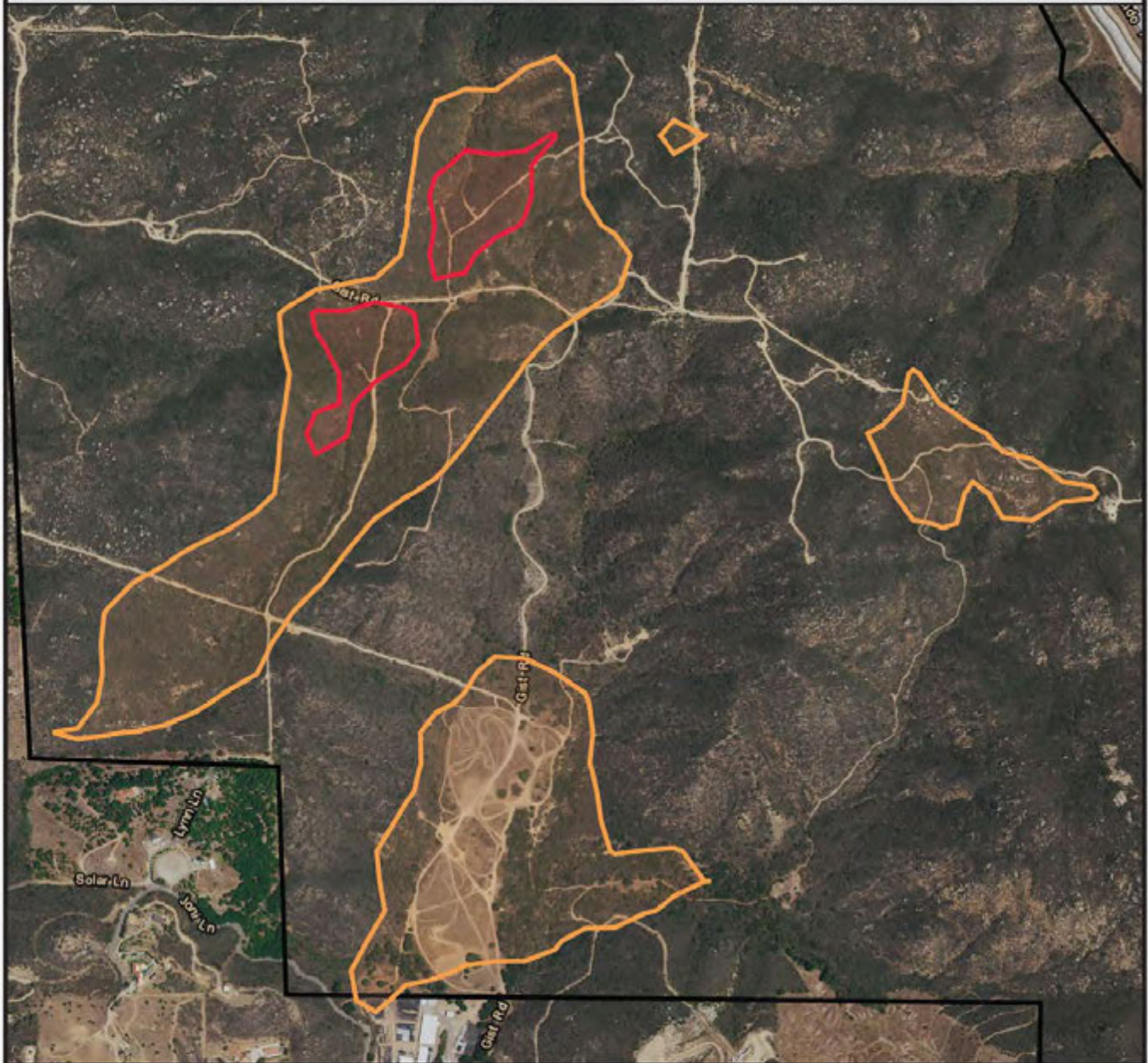
24-Hour PM₁₀ Concentrations without Background Levels
Modeled with AERMOD 16216r, 2010-12 Escondido Meteorological Data






-  50 µg/m³ (CAAQS)
-  100 µg/m³
-  Project Boundary



Newland Sierra Project Phase 1 Construction Emissions
24-Hour PM2.5 Concentrations without Background Levels
Modeled with AERMOD 16216r, 2010-12 Escondido Meteorological Data

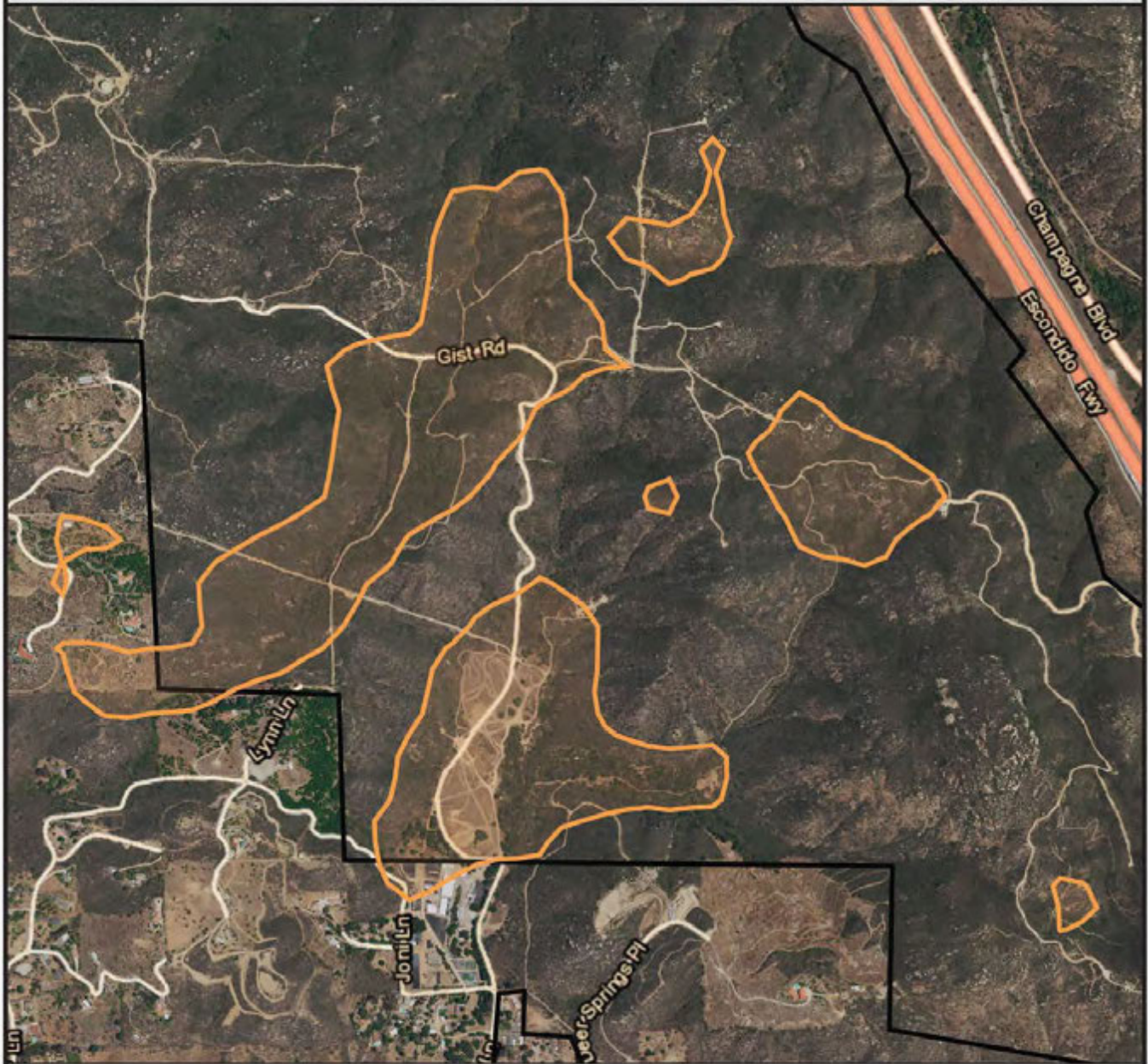


-  10 µg/m³
-  15 µg/m³
-  Project Boundary



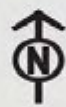
Newland Sierra Project Phase 1 Construction Emissions

24-Hour PM_{2.5} Concentrations Including 26.8 µg/m³ Background Level
Modeled with AERMOD 16216r, 2010-12 Escondido Meteorological Data



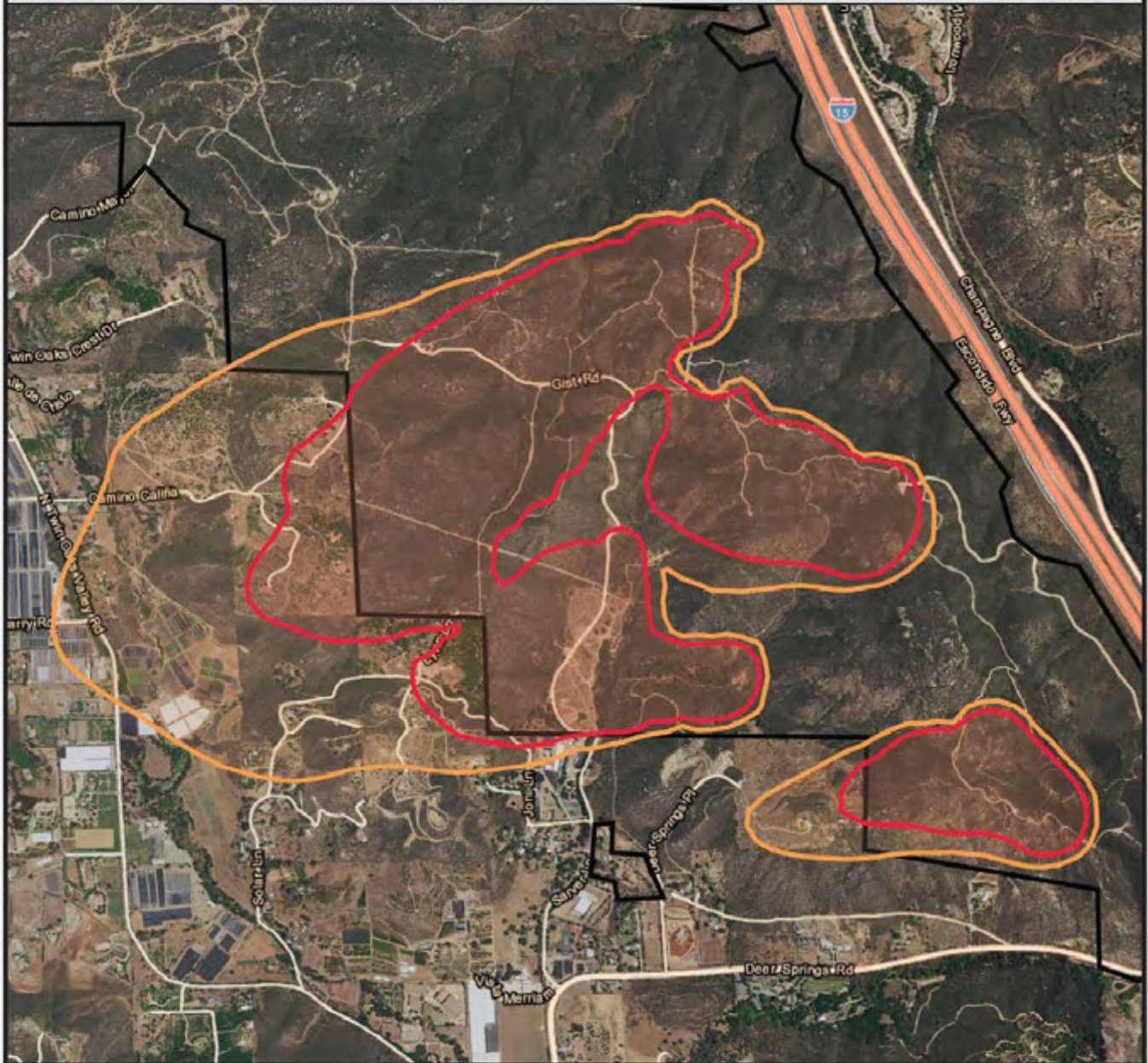
35 µg/m³ (NAAQS)

Project Boundary



Newland Sierra Project Phase 1 Construction

1-Hour PM10 Concentrations from Wind Erosion Emissions
Modeled with AERMOD 16216r, 5/13/2014 KCRQ Meteorological Data

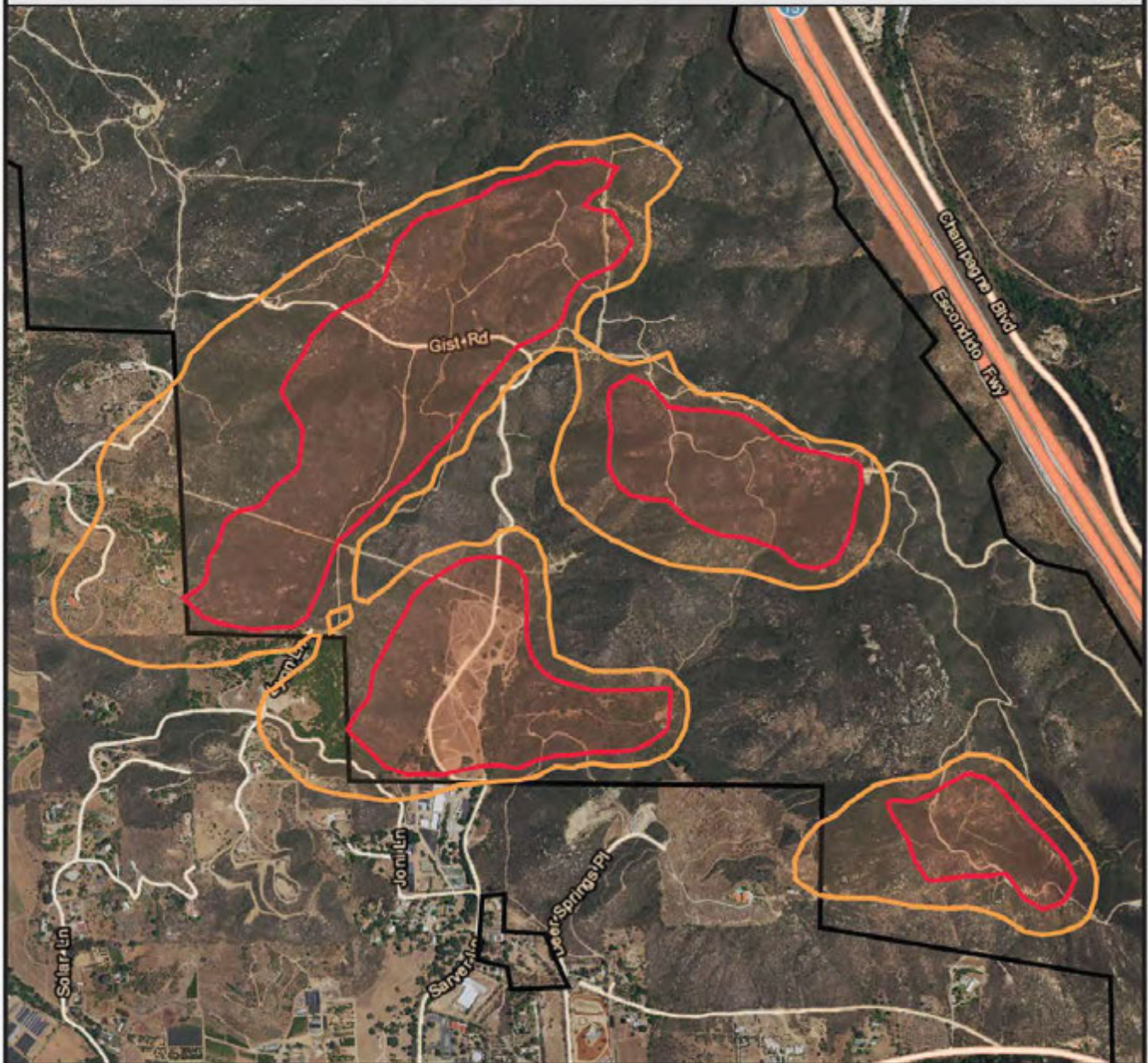


- 100 $\mu\text{g}/\text{m}^3$
- 200 $\mu\text{g}/\text{m}^3$
- Project Site



Newland Sierra Project Phase 1 Construction

24-Hour PM10 Concentrations from Wind Erosion Emissions
Modeled with AERMOD 16216r, 5/13/2014 KCRQ Meteorological Data



- 10 µg/m³
- 20 µg/m³
- Project Boundary



Exhibit E:

Diesel Particulate Matter Health Risk Assessment
Emission Rate Inputs and Risk Calculations

9-Year Excess Cancer Risk
 From Exposure to 1.0 ug/m³ DPM
 First 9-Years of Life

DPM	3 rd Trimester	0<2 years	2<9 years	2<16 years	16<30 years	16<70 years	Year	ECR for year
Mean inh (m ³ /kg-day)	0.225	0.658	0.535	0.452	0.210	0.185	1	1.71E-04
95% inh (m ³ /kg-day)	0.361	1.090	0.861	0.745	0.335	0.290	2	1.71E-04
Age Sensitivity Factor	10.0	10.0	3.0	3.0	1.0	1.0	3	4.06E-05
Duration (years)	0.25	2.0	7.0	14.0	14.0	54.0	4	4.06E-05
FAH (% at home)	1.00	1.00	1.00	1.00	0.73	0.73	5	4.06E-05
CPF ((mg/(kg-day)) ⁻¹)	1.1						6	4.06E-05
URV (ug/m ³) ⁻¹	3.00E-04						7	4.06E-05
chi (ug/m ³)	1.00E+00						8	4.06E-05
ECR	3.00E-04						9	4.06E-05
							9-yr total:	6.27E-04
95% tile inh	3 rd Trimester	0<2 years	2<9 years	2<16 years	16<30 years	16<70 years	ECR	
Dose-air (mg/(kg-day))	3.61E-04	1.09E-03	8.61E-04	7.45E-04	2.45E-04	2.12E-04		
ECR - AB2588 9-yr	1.42E-05	3.43E-04	2.84E-04				6.41E-04	
ECR - AB2588 30-yr	1.42E-05	3.43E-04		4.92E-04	5.38E-05		9.02E-04	
ECR - AB2588 70-yr	1.42E-05	3.43E-04		4.92E-04		1.80E-04	1.03E-03	
Adult ECR - no ASF	8.32E-07	6.65E-06		4.66E-05		1.80E-04	2.34E-04	

**Construction DPM Emissions
and Excess Cancer Risk Post-Processing Inputs**

Year	CALEEMOD DPM	Generator DPM (lb/yr)	Construction DPM (lb/yr)	MODHRS/yr	DPM (g/s-m ²)	Mult for Post- Processing PM10	ECR for year from 1.0 µg/m ³ DPM	Total yearly multiplier for per million ECR Output
2018	240.80	810.67	1051.47	3285	3.6365E-08	3.6365E-03	1.71E-04	6.2288E-01
2019	349.00	810.67	1159.67	3285	4.0107E-08	4.0107E-03	1.71E-04	6.8698E-01
2020	422.20	810.67	1232.87	3294	4.2522E-08	4.2522E-03	4.06E-05	1.7260E-01
2021	307.80	296.90	604.70	3285	2.0914E-08	2.0914E-03	4.06E-05	8.4888E-02
2022	294.60	296.90	591.50	3285	2.0457E-08	2.0457E-03	4.06E-05	8.3035E-02
2023	171.60		171.60	3285	5.9348E-09	5.9348E-04	4.06E-05	2.4089E-02
2024	141.80		141.80	3294	4.8908E-09	4.8908E-04	4.06E-05	1.9852E-02
2025	99.40		99.40	3285	3.4378E-09	3.4378E-04	4.06E-05	1.3954E-02
2026	105.60		105.60	3285	3.6522E-09	3.6522E-04	4.06E-05	1.4824E-02
2027	95.80		95.80	3285	3.3132E-09	3.3132E-04		
AREAPOLY sum: 1,109,040 m ²				First 9-yr average:	First 9-yr risk sum multiplier:			1.7231E+00

9-yr risk sum from 1 µg/m³ DPM: 6.27E-04

ECR for year does not include 3rd trimester risk
Risk calcs begin at birth

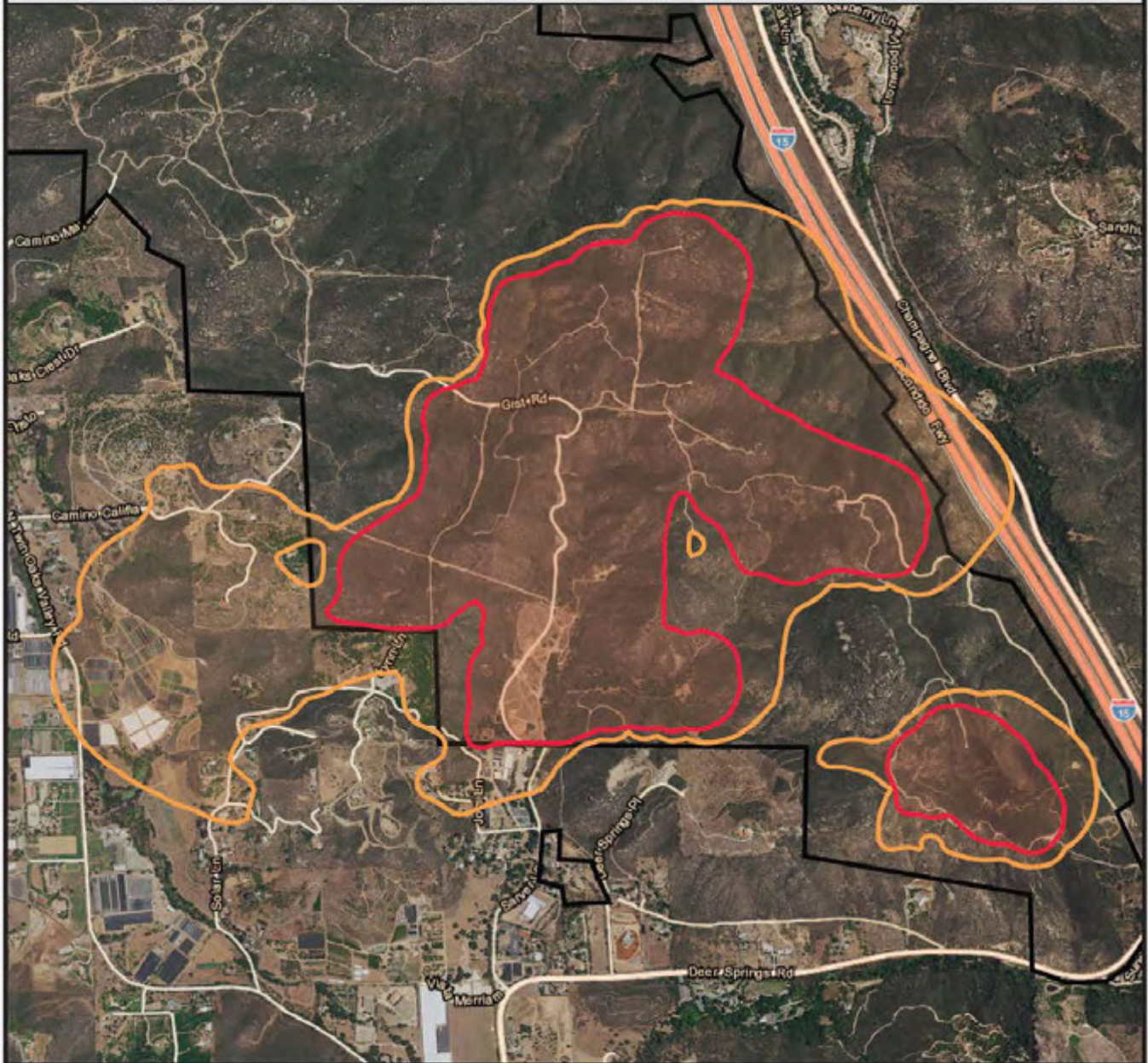
**Operation DPM Emissions
and Excess Cancer Risk Post-Processing Inputs**




SRCGRP	SRCRNG	NVOL	DPM (lb/yr)	DPM (g/s) per source	9-yr risk sum from 1.0 $\mu\text{g}/\text{m}^3$ DPM:	Total multiplier for 9-yr per million ECR Output
I5	L0000001-L0000098	98	105.146	1.54324E-05	6.27E-04	9.68E-03
MESA	L0004838-L0004851	14	1.232	1.26575E-06	6.27E-04	7.94E-04
DEER	L0004852-L0004940	93	11.553	1.78681E-06	6.27E-04	1.12E-03

Exhibit F:

Diesel Particulate Matter Health Risk Assessment
DPM Excess Cancer Risk Maps

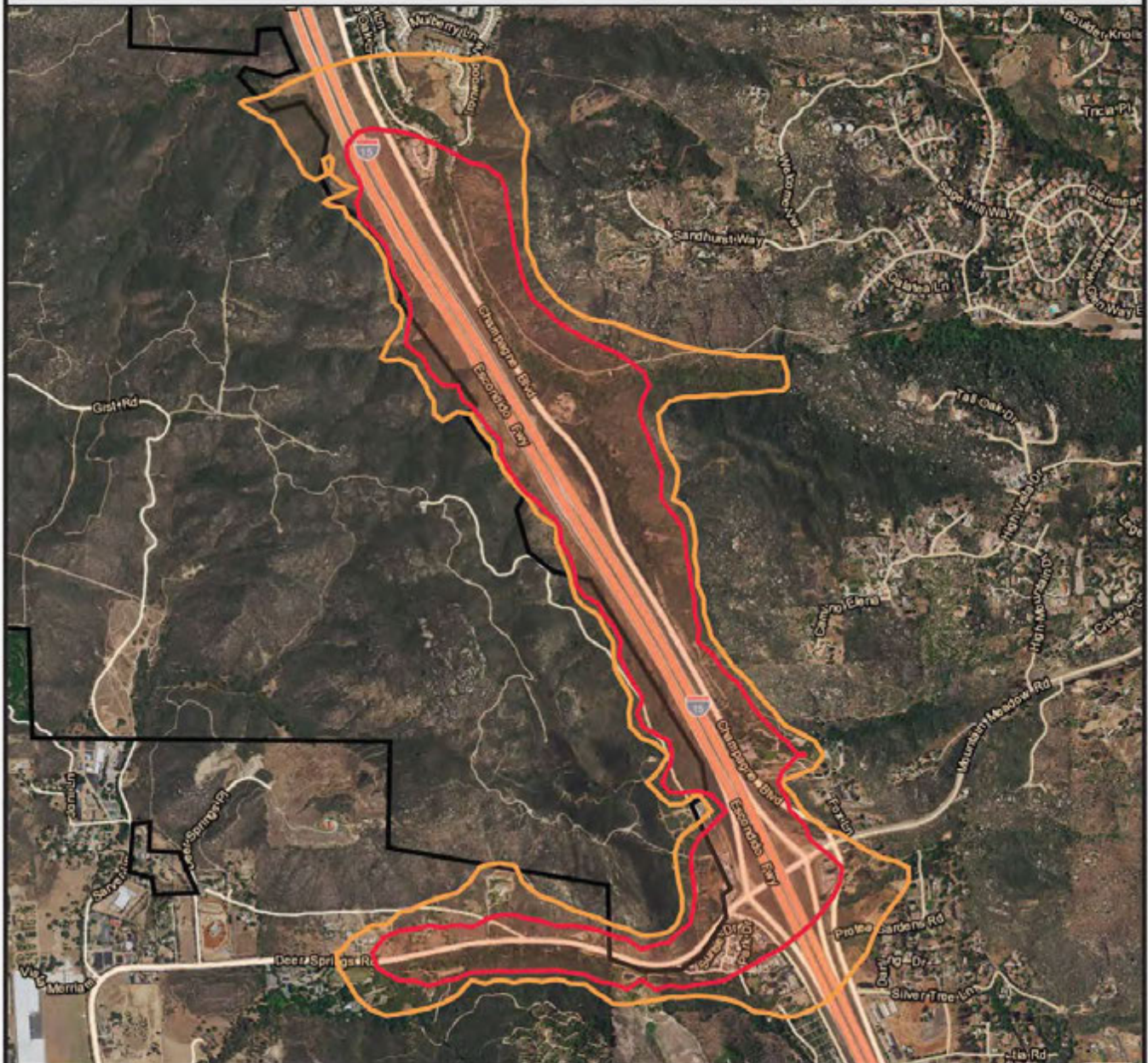
Newland Sierra Project Phase 1 Construction DPM Emissions 9-Year Excess Cancer Risks from Diesel Particulate Matter Modeled with AERMOD 16216r, 2010-12 Escondido Meteorological Data



-  5 per million ECR
-  10 per million ECR
-  Project Boundary



Newland Sierra Project Phase DEIR Operation DPM Emissions 9-Year Excess Cancer Risks from Diesel Particulate Matter Modeled with AERMOD 16216r, 2010-12 Escondido Meteorological Data



- 5 per million ECR
- 10 per million ECR
- Project Boundary

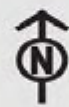


Exhibit G:

Curriculum Vitae

Camille Marie Sears

Tel: (805) 640-5208

e-mail: camillesears@gmail.com

Summary

I have over 35 years of regulatory and private-sector experience in air quality impact analyses, health risk assessments, meteorological monitoring, and geographic information systems. I specialize in litigation support; I have successfully provided testimony in numerous cases, both as an individual consultant and as part of a team of experts.

Education

- M.S., Atmospheric Science, University of California, Davis, 1980.
- B.S., Atmospheric Science, University of California, Davis, 1978.

Air Dispersion Modeling

- I am experienced in applying many different air dispersion models, including programs still in the development phase. I have prepared well over 1,000 air dispersion modeling analyses requiring the use of on-site or site-specific meteorological data. These runs were made with the USEPA ISC, OCD, MESOPUFF, INPUFF, CALPUFF, ISC-PRIME, AERMOD, COMPLEX-I, MPTER, and other air dispersion models.
- I prepared and submitted technical comments to the USEPA on beta-testing versions of AERMOD; these comments are being addressed and will be incorporated into the model and instructions when it is ready for regulatory application.
- I am experienced in performing air dispersion modeling for virtually every emission source type imaginable. I have modeled:
 - Refineries and associated activities;
 - Mobile sources, including cars, trains, airplanes, trucks, and ships;
 - Power plants, including natural gas and coal-fired;
 - Smelting operations;
 - Area sources, such as housing tracts, biocides from agricultural operations, landfills, highways, fugitive dust sources, airports, oil and gas seeps, and ponds;
 - Volume sources, including fugitive emissions from buildings and diesel construction combustion emissions;
 - Small sources, including dry cleaners, gas stations, surface coating operations, plating facilities, medical device manufacturers, coffee roasters, ethylene oxide sterilizers, degreasing operations, foundries, and printing companies;
 - Cooling towers and gas compressors;
 - Diatomaceous earth, rock and gravel plants, and other mining operations;
 - Offshore oil platforms, drilling rigs, and processing activities;
 - Onshore oil and gas exploration, storage, processing, and transport facilities;
 - Fugitive dust emissions from roads, wind erosion, and farming activities;
 - Radionuclide emissions from actual and potential releases.
- I have extensive experience in modeling plume depletion and deposition from air releases of particulate emissions.
- As a senior scientist, I developed the Santa Barbara County Air Pollution Control District (SBAPCD) protocol on air quality modeling. I developed extensive modeling capabilities for the SBAPCD on VAX 8600 and Intel I-860 computer systems; I acted as systems analyst for the SBAPCD air quality modeling system; I served as director of air quality analyses for numerous major energy projects; I performed air quality impact analyses using inert and photochemical models, including EPA, ARB and private-sector models; I performed technical review and evaluating air quality and wind field models; I developed software to prepare model inputs consistent with the SBAPCD protocol on air quality modeling for OCD, OCDCPM, MPTER, COMPLEX-I/II and ISC.
- I provided detailed review and comments on the development of the Minerals Management Service OCD model. I developed the technical requirements for and

supervised the development of the OCDCPM model, a hybrid of the OCD, COMPLEX-I and MPTER models.

- I prepared the "Modeling Exposures of Hazardous Materials Released During Transportation Incidents" report for the California Office of Environmental Health Hazard Assessment (OEHHA). This report examines and rates the ADAM, ALOHA, ARCHIE, CASRAM, DEGADIS, HGSYSTEM, SLAB, and TSCREEN models for transportation accident consequence analyses of a priority list of 50 chemicals chosen by OEHHA. The report includes a model selection guide for adequacy of assessing priority chemicals, averaging time capabilities, isopleth generating capabilities, model limitations and concerns, and model advantages.
- I am experienced in assessing uncertainty in emission rate calculations, source release, and dispersion modeling. I have developed numerous probability distributions for input to Monte Carlo simulations, and I was a member of the External Advisory Group for the California EPA *Air Toxics Hot Spots Program Risk Assessment Guidelines, Part IV, Technical Support Document for Exposure Assessment and Stochastic Analysis*.

Health Risk Assessment

- I have prepared more than 300 health risk assessments of major air toxics sources. These assessments were prepared for AB 2588 (the Air Toxics "Hot Spots" Information and Assessment Act of 1987), Proposition 65, and other exposure analysis activities. More than 150 of these exposure assessments were prepared for Proposition 65 compliance verification in a litigation support setting.
- I reviewed approximately 300 other health risk assessments of toxic air pollution sources in California. The regulatory programs in this review include AB 2588, Proposition 65, the California Environmental Quality Act, and other exposure analysis activities. My clients include the California Attorney General's Office, the Los Angeles County District Attorney's Office, the SBAPCD, the South Coast Air Quality Management District, numerous environmental and community groups, and several plaintiff law firms.
- I am experienced in assessing public health risk from continuous, intermittent, and accidental releases of toxic emissions. I am experienced in generating graphical presentations of risk results, and characterizing risks from carcinogenic and acute and chronic noncarcinogenic pollutants.
- I am experienced in communicating adverse health risks discovered through the Proposition 65 and AB 2588 processes. I have presented risk assessment results in many public settings -- to industry, media, and the affected public.
- For four years, I was the Air Toxics Program Coordinator for the SBAPCD. My duties included: developing and managing the District air toxics program; supervising District staff assigned to the air toxics program; developing District air toxics rules, regulations, policies and procedures; management of all District air toxics efforts, including AB 2588, Proposition 65, and federal activities; developing and tracking the SBAPCD air toxics budget.
- I have prepared numerous calculations of exposures from indoor air pollutants. A few examples include: diesel PM₁₀ inside school buses, formaldehyde inside temporary school buildings, lead from disturbed paint, phenyl mercuric acetate from water-based paints and drywall mud, and tetrachloroethene from recently dry-cleaned clothes.

Litigation Support

- I have prepared numerous analyses in support of litigation, both in Federal and State Courts. I am experienced in preparing F.R.C.P. Rule 26(a)(2) expert reports and providing deposition and trial testimony (I have prepared eight Rule 26 reports). Much of my work is focused on human dose and risk reconstruction resulting from multiple air emission sources (lifetime and specific events).

- I am experienced in preparing declarations (many dozens) and providing expert testimony in depositions and trials (see my testimony history).
- I am experienced in providing support for legal staff. I have assisted in preparing numerous interrogatories, questions for depositions, deposition reviews, various briefs and motions, and general consulting.
- Recent examples of my work include:
 - DTSC v. Interstate Non-Ferrous; United States District Court, Eastern District of California (2002).*
In this case I performed air dispersion modeling, downwind soil deposition calculations, and resultant soil concentrations of dioxins (TCDD TEQ) from historical fires at a smelting facility. I prepared several Rule 26 Reports in my role of assisting the California Attorney General's Office in trying this matter.
 - Akee v. Dow et al.; United States District Court, District of Hawaii (2003-2004).*
In this case I performed air dispersion modeling used to quantify air concentrations and reconstruct intake, dose, excess cancer risk, and noncancer chronic hazard indices resulting from soil fumigation activities on the island of Oahu, Hawaii. I modeled 319 separate AREAPOLY pineapple fields for the following chemicals: DBCP, EDB, 1,3-trichloropropene, 1,2-dichloropropane, and epichlorohydrin. I calculated chemical flux rates and modeled the emissions from these fumigants for years 1946 through 2001 (56 years) for 34 test plaintiffs and 97 distinct home, school, and work addresses. I prepared a Rule 26 Expert Report, successfully defended against Daubert challenges, and testified in trial.
 - Lawrence O'Connor v. Boeing North America, Inc., United States District Court, Central District of California, Western Division (2004-2005).*
In this case I performed air dispersion modeling, quantified air concentrations, and reconstructed individual intake, dose, and excess cancer risks resulting from approximately 150 air toxics sources in Los Angeles and Ventura Counties, California. I prepared these analyses for years 1950 through 2000 (51 years) for 173 plaintiffs and 741 distinct home, school, and work addresses. I prepared several Rule 26 Reports, and the case settled on the eve of trial in September, 2005. Defendants did not attempt a Daubert challenge of my work.
- I have prepared scores of individual and region-wide health risk assessments in support of litigation. These analyses include specific sub-tasks, including: calculating emission rates, choosing proper meteorological data inputs, performing air dispersion modeling, and quantifying intake, dose, excess cancer risk, and acute/chronic noncancer health effects.
- I have prepared over 150 exposure assessments for Proposition 65 litigation support. In these analyses, my tasks include: reviewing AB 2588 risk assessments and other documents to assist in verifying compliance with Proposition 65; preparing exposure assessments consistent with Proposition 65 Regulations for carcinogens and reproductive toxicants; using a geographic information system (Atlas GIS) to prepare exposure maps that display areas of required warnings; calculating the number of residents and workers exposed to levels of risk requiring warnings (using the GIS); preparing declarations, providing staff support, and other expert services as required. I have also reviewed scores of other assessments for verifying compliance with Proposition 65. My proposition 65 litigation clients include the California Attorney General's Office, the Los Angeles County District Attorney's Office, As You Sow, California Community Health Advocates, Center for Environmental Health, California Earth Corps, Communities for a Better Environment, Environmental Defense Fund, Environmental Law Foundation, and People United for a Better Oakland.

Geographic Information Systems

- ArcGIS: I am experienced in preparing presentation and testimony maps using ArcView versions 3 through 9.3. I developed methods to convert AutoCAD DXF files to ArcView polygon theme shape files for use in map overlays.

- I have created many presentation maps with ArcView using MrSID DOQQ and other aerial photos as a base and then overlaying exposure regions. This provides a detailed view (down to the house level) of where air concentrations and health risks are projected to occur.
- Using ArcView, I have created numerous presentations using USGS Topographic maps (as TIFF files) as the base on to which exposure regions are overlaid.
- MapInfo for Windows: I prepared numerous presentation maps including exposure isopleths, streets and highways, and sensitive receptors, labels. I developed procedures for importing Surfer isopleths in AutoCAD DXF format as a layer into MapInfo.
- Atlas GIS: I am experienced in preparing presentation maps with both the Windows and DOS versions of Atlas GIS. In addition to preparing maps, I use Atlas GIS to aggregate census data (at the block group level) within exposure isopleths to determine the number of individuals living and working within exposure zones. I am also experienced in geocoding large numbers of addresses and performing statistical analyses of exposed populations.
- I am experienced in preparing large-scale graphical displays, both in hard-copy and for PowerPoint presentations. These displays are used in trial testimony, public meetings, and other litigation support.
- I developed a Fortran program to modify AutoCAD DXF files, including batch-mode coordinate shifting for aligning overlays to different base maps.

Ozone and Long-Range Transport

- I developed emission reduction strategies and identified appropriate offset sources to mitigate project emissions liability. For VOC offsets, I developed and implemented procedures to account for reactivity of organic compound species for ozone impact mitigation. I wrote Fortran programs and developed a chemical database to calculate ozone formation potential using hydroxyl radical rate constants and an alkane/non-alkane reactive organic compound method.
- I provided technical support to the Joint Interagency Modeling Study and South Central Coast Cooperative Aerometric Monitoring Program. With the SBAPCD, I provided technical comments on analyses performed with the EKMA, AIRSHED, and PARIS models. I was responsible for developing emissions inventory for input into regional air quality planning models.
- I was the CEQA project manager for the Santa Barbara County Air Quality Attainment Plan Environmental Impact Report (EIR). My duties included: preparing initial study; preparation and release of the EIR Notice of Preparation; conducting public scoping hearings to obtain comments on the initial study; managing contractor efforts to prepare the draft EIR.
- I modified, tested, and compiled the Fortran code to the MESOPUFF model (the precursor to CALPUFF) to incorporate critical dividing streamline height algorithms. The model was then applied as part of a PSD analysis for a large copper-smelting facility.
- I am experienced in developing and analyzing wind fields for use in long-range transport and dispersion modeling.
- I have run CALPUFF numerous times. I use CALPUFF to assess visibility effects and both near-field and mesoscale air concentrations from various emission sources, including power plants.

Emission Rate Calculations

- I developed methods to estimate and verify source emission rates using air pollution measurements collected downwind of the emitting facility, local meteorological data, and dispersion models. This technique is useful in determining whether reported source emission rates are reasonable, and based on monitored and modeled air concentrations, revised emission rates can be created.

- I am experienced in developing emission inventories of hundreds of criteria and toxic air pollutant sources. I developed procedures and programs for quantifying emissions from many air emission sources, including: landfills, diesel exhaust sources, natural gas combustion activities, fugitive hydrocarbons from oil and gas facilities, dry cleaners, auto body shops, and ethylene oxide sterilizers.
- I have calculated flux rates (and modeled air concentrations) from hundreds of biocide applications to agricultural fields. Emission sources include aerial spraying, boom applications, and soil injection of fumigants.
- I am experienced in calculating emission rates using emission factors, source-test results, mass-balance equations, and other emission estimating techniques.
- I have been qualified in Federal court to provide opinions on calculating emission rates from fugitive sources of particulate matter.

Software Development

- I am skilled in computer operation and programming, with an emphasis on Fortran 95.
- I am experienced with numerous USEPA dispersion models, modifying them for system-specific input and output, and compiling the code for personal use and distribution. I own and am experienced in using the following Fortran compilers: Lahey Fortran 95, Lahey Fortran 90 DOS-Extended; Lahey F77L-EM32 DOS-Extended; Microsoft PowerStation 32-bit DOS-Extended; and Microsoft 16-bit.
- I configured and operated an Intel I-860 based workstation for the SBAPCD toxics program. I created control files and recoded programs to run dispersion models and risk assessments in the 64-bit I-860 environment (using Portland Group Fortran).
- Using Microsoft Fortran PowerStation, I wrote programs to extract terrain elevations from both 10-meter and 30-meter USGS DEM files. Using a file of discrete x,y coordinates, these programs extract elevations within a user-chosen distance for each x,y pair. The code I wrote can be run in steps or batch mode, allowing numerous DEM files to be processed at once.
- I have written many hundreds of utilities to facilitate data processing, entry, and quality assurance. These utility programs are a "tool chest" from which I can draw upon to expedite my work.
- While at the SBAPCD, I designed the ACE2588 model - the first public domain multi-source, multi-pathway, multi-pollutant risk assessment model. I co-developed the structure of the ACE2588 input and output files, supervised the coding of the model, tested the model for quality assurance, and for over 10 years I provided technical support to about 200 users of the model. I was responsible for updating the model each year and ensuring that it is consistent with California Air Pollution Control Officer's Association (CAPCOA) Risk Assessment Guidelines.
- I developed and coded the ISC2ACE and ACE2 programs for distribution by CAPCOA. These programs were widely used in California for preparing AB 2588 and other program health risk assessments. ISC2ACE and ACE2 contain "compression" algorithms to reduce the hard drive and RAM requirements compared to ISCST2/ACE2588. I also developed ISC3ACE/ACE3 to incorporate the revised ISCST3 dispersion model requirements.
- I developed and coded the "HotSpot" system - a series of Fortran programs to expedite the review of air toxics emissions data, to prepare air quality modeling and risk assessment inputs, and to prepare graphical risk presentations.
- I customized ACE2588 and developed a mapping system for the SBAPCD. I modified the ACE2588 Fortran code to run on an Intel I-860 RISC workstation; I updated programs that allow SBAPCD staff to continue to use the "HotSpot" system - a series of programs that streamline preparing AB 2588 risk assessments; I developed a risk assessment mapping system based on MapInfo for Windows which linked the MapInfo mapping package to the "HotSpot" system.
- I developed software for electronic submittal of all AB 2588 reporting requirements for the SBAPCD. As an update to the "HotSpot" system software, I created software that

allows facilities to submit all AB 2588 reporting data, including that needed for risk prioritization, exposure assessment, and presentation mapping. The data submitted by the facility is then reformatted to both ATDIF and ATEDS formats for transmittal to the California Air Resources Board.

- I developed and coded Fortran programs for AB 2588 risk prioritization; both batch and interactive versions of the program were created. These programs were used by several air pollution control districts in California.

Air Quality and Meteorological Monitoring

- I was responsible for the design, review, and evaluation of an offshore source tracer gas study. This project used both inert tracer gas and a visible release to track the onshore trajectory and terrain impaction of offshore-released buoyant plumes.
- I developed the technical requirements for the Santa Barbara County Air Quality/Meteorological Monitoring Protocol. I developed and implemented the protocol for siting pre- and post-construction air quality and meteorological PSD monitoring systems. I determined the instrumentation requirements, and designed and sited over 30 such PSD monitoring systems. Meteorological parameters measured included ambient temperature, wind speed, wind direction, sigma-theta (standard deviation of horizontal wind direction fluctuations), sigma-phi (standard deviation of vertical wind direction fluctuations), sigma-v (standard deviation of horizontal wind speed fluctuations), and sigma-w (standard deviation of vertical wind speed fluctuations). Air pollutants measured included PM₁₀, SO₂, NO, NO_x, NO₂, CO, O₃, and H₂S.
- I was responsible for data acquisition and quality assurance for an offshore meteorological monitoring station. Parameters measured included ambient temperature (and delta-T), wind speed, wind direction, and sigma-theta.
- In coordination with consultants performing air monitoring for verifying compliance with Proposition 65 and other regulatory programs, I wrote software to convert raw meteorological data to hourly-averaged values formatted for dispersion modeling input.
- Assisting the Ventura Unified School District, I collected air, soil, and surface samples and had them analyzed for chlorpyrifos contamination (caused by spray drift from a nearby citrus orchard). I also coordinated the analysis of the samples, and presented the results in a public meeting.
- Using summa canisters, I collected numerous VOC samples to characterize background and initial conditions for use in Santa Barbara County ozone attainment modeling. I also collected samples of air toxics (such as xylenes downwind of a medical device manufacturer) to assist in enforcement actions.
- For the California Attorney General's Office, I purchased, calibrated, and operated a carbon monoxide monitoring system. I measured and reported CO air concentrations resulting from numerous types of candles, gas appliances, and charcoal briquettes.

Support, Training, and Instruction

- For 10 years, I provided ACE2588 risk assessment model support for CAPCOA. My tasks included: updating the ACE2588 risk assessment model Fortran code to increase user efficiency and to maintain consistency with the CAPCOA Risk Assessment Guidelines; modifying the Fortran code to the EPA ISC model to interface with ACE2588; writing utility programs to assist ACE2588 users; updating toxicity data files to maintain consistency with the CAPCOA Risk Assessment Guidelines; developing the distribution and installation package for ACE2588 and associated programs; providing technical support for all users of ACE2588.
- I instructed approximately 20 University Professors through the National Science Foundation Faculty Enhancement Program. Instruction topics included: dispersion modeling, meteorological data, environmental fate analysis, toxicology of air pollutants, and air toxics risk assessment; professors were also trained on the use of the ISC2ACE dispersion model and the ACE2 exposure assessment model.

- I was the instructor of the Air Pollution and Toxic Chemicals course for the University of California, Santa Barbara, Extension certificate program in Hazardous Materials Management. Topics covered in this course include: detailed review of criteria and noncriteria air pollutants; air toxics legislation and regulations; quantifying toxic air contaminant emissions; criteria and noncriteria pollutant monitoring; air quality modeling; health risk assessment procedures; health risk management; control/mitigating air pollutants; characteristics and modeling of spills and other short-term releases of air pollutants; acid deposition, precipitation and fog; indoor/occupational air pollution; the effect of chlorofluorocarbons on the stratospheric ozone layer. I taught this course for five years.
- I have trained numerous regulatory staff on the mechanics of dispersion modeling, health risk assessments, emission rate calculations, and presentation mapping. I provided detailed training to SBAPCD staff in using the HARP program, and in comparing and contrasting ACE2588 analyses to HARP.
- Through UCSB Extension, I taught a three-day course on dispersion modeling, preparing health risk assessments, and presentation mapping with Atlas GIS and MapInfo.
- I hold a lifetime California Community College Instructor Credential (Certificate No. 14571); Subject Matter Area: Physics.
- I have presented numerous guest lectures – at universities, public libraries, farm groups, and business organizations.

Indoor Air Quality

- I prepared mercury exposure assessments caused by applying indoor latex paints containing phenylmercuric acetate as a biocide.
- Using a carbon monoxide monitor, I examined CO concentrations inside rooms of varying sizes and with a range of ventilation rates. Indoor sources of CO emissions included gas appliances and candles. I also examined CO concentrations within parking garages.
- I calculated air concentrations of tetrachloroethene inside homes and cars from offgassing dry-cleaned clothes.
- I examined air concentrations of formaldehyde inside manufactured homes and school buildings. I also calculated formaldehyde exposures from carpet emissions within homes.
- I assessed lead air exposures and surface deposition from deteriorating lead-based paint applications within apartments. I also calculated lead air concentrations and associated exposures resulting from milling of brass pipes and fittings.
- While employed by the SBAPCD, I assisted with exposure assessment and awareness activities for Santa Barbara County high-exposure radon areas.
- I calculated BTEX air concentrations and health risks inside homes from leaking underground fuel tanks and resultant contaminated soil plumes. I also assessed indoor VOC exposures and remediation options with the AERIS model.
- I have assessed indoor air concentrations from numerous volatile organic compound sources, including printing operations, microprocessor manufacturing, and solvent degreasing activities.
- I calculated indoor emission flux rates and air concentrations of elemental mercury for plaintiff litigation support purposes. This analysis included an exposure reconstruction (home, school, workplace, outside, and other locations) for 16 plaintiffs who had collected spilled mercury in their village. The study required room volume calculations, air exchange rates, exposure history reconstruction, mercury quantity and droplet size estimation, elemental mercury flux rate calculations (including decay with time), and resultant air concentration calculations. I calculated both peak acute (two-hour) and 24-hour average concentrations.
- I calculated emission rates of lead from disturbed paint surfaces. I then calculated indoor air concentrations of lead for plaintiff litigation support purposes.

Publications

- To establish a legal record and to assist in environmental review, I prepared and submitted dozens of detailed comment letters to regulatory and decision-making bodies.
- I have contributed to over 100 Environmental Impact Statements/Reports and other technical documents required for regulatory decision-making.
- I prepared two software review columns for the *Journal of the Air and Waste Management Association*.
- Correlations of total, diffuse, and direct solar radiation with the percentage of possible sunshine for Davis, California. *Solar Energy*, 27(4):357-360 (1981).

Employment History

- Self-Employed Air Quality Consultant 1992 to 2018
- Santa Barbara County APCD, Senior Scientist 1988 to 1992
- URS Consultants, Senior Scientist 1987 to 1988
- Santa Barbara County APCD, Air Quality Engineer 1983 to 1987
- Dames and Moore, Meteorologist 1982 to 1983
- UC Davis, Research Associate 1980 to 1981

Testimony History

- People of the State of California v. McGhan Medical, Inc.
Deposition: Two dates: June - July 1990
- People of the State of California v. Santa Maria Chili
Deposition: Two dates: August 1990
- California Earth Corps v. Johnson Controls, Inc.
Deposition: October 26, 1995
- Larry Dale Anderson v. Pacific Gas & Electric
Deposition: January 4, 1996
Arbitration: January 17, 1996
- Adams v. Shell Oil Company
Deposition: July 3, 1996
Trial: August 21, 1996
Trial: August 22, 1996
- California Earth Corps v. Teledyne Battery Products
Deposition: January 17, 1997
- Marlene Hook v. Lockheed Martin Corporation
Deposition: December 15, 1997
- Lawrence O'Connor v. Boeing North America, Inc.
Deposition: May 8, 1998
- Bristow v. Tri Cal
Deposition: June 15, 1998
- Abeyta v. Pacific Refining Co.
Deposition: January 16, 1999
Arbitration: January 25, 1999
- Danny Aguayo v. Betz Laboratories, Inc.
Deposition: July 10, 2000
Deposition: July 11, 2000
- Marlene Hook v. Lockheed Martin Corporation
Deposition: September 18, 2000
Deposition: September 19, 2000
- Tressa Haddad v. Texaco
Deposition: March 9, 2001

- California DTSC v. Interstate Non-Ferrous
United States District Court, Eastern District of California,
Case No. CV-F-97 50160 OWW LJO
Deposition: April 18, 2002
- Akee v. Dow et al.
United States District Court, District of Hawaii,
Case No. CV 00 00382 BMK
Deposition: April 16, 2003
Deposition: April 17, 2003
Deposition: January 7, 2004
Trial: January 17, 2004
Trial: January 20, 2004
- Center for Environmental Health v. Virginia Cleaners
Superior Court of the State of California
County of Alameda, Case No. 2002 07 6091
Deposition: March 4, 2004
- Application for Certification for Small Power Plant Exemption – Riverside Energy
Resource Center. Docket No. 04-SPPE-01.
Evidentiary Hearing Testimony before the California Energy Resource Conservation
And Development Commission: August 31, 2004
- Lawrence O'Connor v. Boeing North America, Inc.
United States District Court, Central District of California,
Western Division. Case No. CV 97-1554 DT (RCx)
Deposition: March 1, 2005
Deposition: March 2, 2005
Deposition: March 3, 2005
Deposition: March 15, 2005
Deposition: April 25, 2005
- Clemente Alvarez, et al, v. Western Farm Service, Inc.
Superior Court of the State of California
County of Kern, Metropolitan Division. Case No. 250 621 AEW
Deposition: April 11, 2005
- Gary June et al. v. Union Carbide Corporation & UMETCO Minerals Corporation
United States District Court, District of Colorado,
Case No. 04-CV-00123 MSK-MJW
Deposition: January 9, 2007
- Alberto Achas Castillo, et al. v. Newmont Mining Corporation, et al.
District Court, Denver County, Colorado,
Case No. 01-CV-4453
Deposition: February 19, 2007
Deposition: February 20, 2007
Arbitration: March 6, 2007
Arbitration: March 7, 2007
- Jacobs Farm/Del Cabo Inc. v. Western Farm Service, Inc.
Superior Court of the State of California
County of Santa Cruz, Case No. CV 157041
Deposition: May 8, 2008
Deposition: August 26, 2008
Trial: September 18, 2008
Trial: September 24, 2008

- Environmental Law Foundation et al. v. Laidlaw Transit Inc. et al.
Superior Court of the State of California
County of San Francisco, Case No. CGC-06-451832
Deposition: July 8, 2008
- Application of NRG Texas Power, LLC for State Air Quality Permit No. 79188 and Prevention of Significant Deterioration Air Quality Permit PSD-TX-1072.
State Office of Administrative Hearings Docket No. 582-08-0861;
TCEQ Docket No. 2007-1820-AIR.
Deposition: February 12, 2009
Hearing: February 24, 2009
- Application of IPA Coletto Creek, LLC for State Air Quality Permit No. 83778 and Prevention of Significant Deterioration Air Quality Permit PSD-TX-1118 and for Hazardous Air Pollutant Major Source [FCAA § 112(G)] Permit HAP-14.
State Office of Administrative Hearings Docket No. 582-09-2045;
TCEQ Docket No. 2009-0032-AIR.
Deposition: September 21, 2009
Hearing: October 16, 2009
- Application of Las Brisas Energy Center, LLC for State Air Quality Permit No. 85013 and Prevention of Significant Deterioration Air Quality Permit PSD-TX-1138 and for Hazardous Air Pollutant Major Source [FCAA § 112(G)] Permit HAP-48 and Plantwide Applicability Permit PAL41.
State Office of Administrative Hearings Docket No. 582-09-2005;
TCEQ Docket No. 2009-0033-AIR.
Deposition: October 9, 2009
Hearing: November 5, 2009
Hearing: November 6, 2009
- Abarca, Raul Valencia, et al. v. Merck & Co., Inc., et al.
United States District Court, Eastern District of California,
Case No. 1:07-CV-00388-OWW-DLB
Phase 1 Deposition: April 13, 2010
Daubert Hearing: October 7, 2010
Daubert Hearing: October 13, 2010
Daubert Hearing: October 14, 2010
Rule 706 Expert Hearing: December 2, 2010
Phase 1 Trial: February 10, 2011
Phase 2 Deposition: September 19, 2012
- Commonwealth of Kentucky, Energy and Environment Cabinet, File No. DAQ-41109-048. Sierra Club, Kentucky Environmental Foundation, and Kentuckians for the Commonwealth v. Energy and Environment Cabinet, Division for Air Quality, and East Kentucky Power Cooperative, Inc.
Deposition: August 31, 2010
- Dorsey, Michael J., et al. v. Mid-Pacific Country Club
First District Court, State of Hawaii
Case No. 12-1-0158-01
Deposition: November 17, 2013
- Global Community Monitor, et al. v. Lumber Liquidators, Inc. et al.
Superior Court of the State of California
County of Alameda. Case No. RG14733979
Deposition: January 8, 2016
Deposition: March 1, 2016

- Scott D. McClurg, et al. v. Mallinckrodt, Inc., et al.
United States District Court, Eastern District of Missouri, Eastern Division
Case No. 4:12-CV-00361-AGF
Deposition: July 12, 2017
Deposition: July 13, 2017
Deposition: September 27, 2017

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March 30, 2018

VIA EMAIL AND FEDEX

Ashley Smith
 Planning and Development Services Department
 County of San Diego
 5510 Overland Avenue, Suite 310
 San Diego, CA 92123
 Email: Ashley.Smith2@sdcountry.ca.gov

Re: Requirement to Fully Evaluate Water Conservation Feasibility and Impacts in Newland Sierra EIR

Dear Ms. Smith:

I am writing on behalf of my client, Golden Door Properties, LLC (“Golden Door”), regarding the Court of Appeal’s recent decision in *Golden Door Properties, LLC v. Vallecitos Water District*. The appellate court’s written opinion,¹ as well as the statements of the court at the hearing for this case,² highlighted the critical role of the County of San Diego in fully and faithfully analyzing both the feasibility and potential impacts of the significant water conservation measures (approx. 36% cutback for all existing water customers) that the Vallecitos Water District has stated will be required in order to ensure that there is enough water for the Newland Sierra project.

In sum, the Court of Appeal’s opinion highlighted critical deficiencies in the draft environmental impact report (“EIR”) for the Newland Sierra project. The County’s duty as lead agency under the California Environmental Quality Act is to correct these deficiencies—including a request to the District to modify, correct, or supplement its WSA and receipt of a revised water supply assessment (“WSA”)—and recirculate the draft EIR along with the revised WSA for further public review and comment.

As we have explained in our prior correspondence,³ the County’s role as lead agency in the CEQA EIR process is indeed “to independently review the [WSA] document and ensure that

¹ A copy of the Court of Appeal’s written opinion is attached hereto as Enclosure 1.

² An unofficial transcript of the argument and hearing before the Court of Appeal in San Diego on March 16, 2018, is attached hereto as Enclosure 2.

³ See, e.g., Letter from Latham & Watkins on behalf of The Golden Door, dated August 14, 2017, at pp. 79-105; Letter from Latham & Watkins on behalf of The Golden Door, dated May 15, 2017, *RE: The*

the WSA is not built on unspecified and deferred ‘mitigation’ to substantiate the essential 36% water usage reduction.” The Court of Appeal affirmed this principle in its written opinion, stating that the County’s “function” under the CEQA process is to “to review the information in the WSA and to evaluate *any* objections and challenges to the accuracy of the information and analysis.” (Encl. 1 [Slip opinion at p. 23 (emphasis added)].)⁴ The Court of Appeal also explained that “if the County does not properly perform its statutory obligations, Golden Door will have the right to seek a judicial remedy in the CEQA process.” (*Ibid.*) In other words, the County may not simply defer to the District’s conclusions in its WSA without independently evaluating those conclusions, including on issues regarding the District’s authority to implement drastic, permanent/long-term conservation mandates on existing customers throughout the District.

Unfortunately, the draft EIR for the Newland Sierra project does not undertake this analysis, stating only that previous efforts to conserve water to a level of a “25.6 percent reduction in water use demonstrates that Vallecitos’ customers can respond to calls for water conservation”⁵ The draft EIR does not otherwise discuss whether this conservation level (either a 25.6% reduction or the 36% reduction that will be required as indicated by the District’s WSA) is actually “feasible,” nor does it disclose the potential impacts of such a drastic cutback on existing customers or on the environment. Additionally, the draft EIR fails to point to any official decision by the District to adopt or implement those cutbacks, such as the adoption of a new District ordinance regarding water usage, including any amendment to the District’s Urban Water Management Plan (“UWMP”) that would be required in order make such a decision and any other official action required by District Ordinance No. 198.

“Feasible” is defined clearly by CEQA: “‘Feasible’ means capable of being accomplished in a successful manner within a reasonable period of time, taking into account *economic, environmental, legal, social*, and technological factors.” (14 Cal. Code Regs., section 15364 [emphasis added].) But, as noted, the Newland Sierra draft EIR does not actually evaluate whether the 36% cutback required to accommodate the project is “capable of being accomplished in a successful manner within a reasonable period of time, taking into account *economic, environmental, legal, social*, and technological factors.” The draft EIR just assumes, based on unique circumstances of the past, that a level of 25.6% reduction can be achieved. The draft EIR does not evaluate whether a greater 36% cutback could be achieved, particularly given the legal obstacles we have identified in our previous correspondence. These “legal factors” include the fact that the governing UWMP does not provide that the District’s supply deficit will be achieved solely through “Conservation Required” on existing customers. The County has not disclosed or analyzed the fact that a formal amendment to the UWMP under the Water Code

County's Responsibility Regarding Analysis of the Vallecitos Water District's Water Supply Assessment for the Newland Sierra Project.

⁴ See also p. 3, explaining that the decision “does not preclude Golden Door from challenging the WSA in the CEQA proceedings and/or challenging any later-approved Water Verification under applicable statutory procedures.”; p. 24, explaining that “The lead agency *must* evaluate the comments and include written responses to the comments in the final EIR.” (emphasis added).

⁵ Newland Sierra Draft EIR, Chapter 2.14, at p. 2.14-39.

must be undertaken and approved by the District before the project may proceed. Similarly, another “legal factor” affecting the feasibility of District-wide, permanent/long-term conservation mandates includes the fact that District Ordinance No. 198 generally prohibits new potable water connections under Drought Response Level 3, which is the level that the District would need to enact in order to achieve a District-wide 36% conservation mandate.

Notably, the Court of Appeal also highlighted the requirement in Water Code section 10911 that requires the District to “set[] forth the measures that are being undertaken to acquire and develop those water supplies.” Simply stating without any detail or analysis that “Conservation Required” will make up for the entirety of the 25% to 36% supply deficits in future years does not comply with Section 10911, particularly given the legal obstacles that we have noted for enacting such drastic permanent water conservation mandates.

As the Court of Appeal aptly noted in its written opinion, “Thus, even assuming the WSA concludes that water supply deficits can be remedied solely by conservation measures, this does not necessarily mean the District *has the authority to implement those measures.*” (Enclosure 1 [Slip opn. at p. 21 (emphasis in original)].) The Court of Appeal underscored this point again in its opinion, writing “If Golden Door shows during the CEQA process that the current Water Management Plan would preclude the District from requiring the level of conservation set forth in the WSA, the disclosure of this fact would be potentially relevant in determining whether the water supply would be sufficient for the project demands.” (*Ibid.*)

Though the draft EIR notes that District Ordinance 198 and the UWMP exist, it does not provide any substantive disclosure or discussion regarding the impact of these legal requirements and limitations on the feasibility of this level of conservation mandates (36% reduction across all existing customers).

Finally, it is important to note that the Court of Appeal expressed similar concerns to those expressed by the Golden Door regarding the District’s WSA:

- Justice O’Rourke: “It doesn’t sound like very good water management from what you are portraying to build a subdivision and users that you can’t support. South Africa now has a couple of cities undergoing similar problems with this very moment of running out of water.” (Enclosure 2 [March 16 hearing transcript, at p. 7].)
- Justice Haller: “I think all of us have great concern over your concern about the water.” (*Id.* at p. 8.)

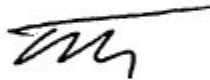
As the Court of Appeal explained, “When a WSA ‘is found to be incomplete or to contain inaccurate information or faulty analysis, the lead agency should request the water supplier to modify, correct or supplement the WSA.’” (Enclosure 1 [Slip opn. at p. 22].) Consistent with this explanation of the law, the Golden Door requests that the County direct the District to modify, correct, or supplement the WSA to provide an honest and complete analysis of water supply in the District under sections 10910 and 10911 of the Water Code. A revised WSA should include, among other things, detail regarding the water conservation mandates

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contemplated by the District to accommodate its water supplies to make way for the project, i.e., "the measures that are being undertaken to acquire and develop [the District's] water supplies."

Thank you for your consideration, and we look forward to seeing how the County addresses these important concerns.

Best regards,



Taiga Takahashi
of LATHAM & WATKINS LLP

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ENCLOSURE 1

ENCLOSURE 1

Filed 3/26/18

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

GOLDEN DOOR PROPERTIES, LLC,

Plaintiff and Appellant,

v.

VALLECITOS WATER DISTRICT,

Defendant and Respondent;

COUNTY OF SAN DIEGO et al.,

Real Parties in Interest and
Respondents.

D072280

(Super. Ct. No.
37-2016-00037559-CU-WM-NC)

APPEAL from a judgment of the Superior Court of San Diego County, Ronald Frazier, Judge. Affirmed.

Latham & Watkins, Christopher W. Garrett and Taiga Takahashi for Plaintiff and Appellant.

Law Offices of Scott & Jackson and Jeffrey G. Scott for Defendant and Respondent.

Thomas E. Montgomery, County Counsel, and Claudia G. Silva, Assistant County Counsel, for Real Party in Interest and Respondent the County of San Diego.

Gatzke Dillon & Ballance, Mark J. Dillon, Michael P. Masterson and David Hubbard for Real Party in Interest and Respondent Newland Sierra, LLC.

Newland Sierra, LLC seeks to build a large residential development in an unincorporated rural area of northeastern San Diego County (County). An adjacent property owner, Golden Door Properties, LLC (Golden Door), filed a lawsuit against the public water supplier for the proposed project (Vallecitos Water District (District)), and named Newland Sierra and the County as real parties in interest. In the amended complaint, Golden Door challenged two statutory assessments in which the District concluded there is sufficient water supply for the project. The court sustained a demurrer without leave to amend on grounds of lack of finality, failure to exhaust remedies, and mootness. We affirm.

OVERVIEW

As part of its lead agency review under the California Environmental Quality Act (CEQA), the County requested the District to prepare two statutory documents known as a Water Supply Assessment (WSA) and a Water Verification to analyze water availability for the project. (See Wat. Code, § 10910; Gov. Code, § 66473.7.)¹ The

¹ All unspecified statutory references are to the Water Code.

District prepared the WSA and Water Verification in a single combined document. After a public hearing, the District's board approved the report and transmitted it to the County.

Before the County analyzed the District's report and incorporated it into its environmental impact report (EIR), Golden Door filed a writ of mandate petition and complaint, requesting the superior court to declare the Water Verification invalid because it contained flawed analysis, was inconsistent with the District's general water planning document, and violated applicable statutes.

In response, the District rescinded its Water Verification and reissued the report solely as a WSA. Golden Door then amended its complaint to include this fact. In its amended complaint, Golden Door asserted similar challenges to the WSA and also requested that the court address its challenges to the Water Verification (despite that it no longer existed) as an exception to the mootness doctrine.

Defendants successfully demurred to the amended complaint, and Golden Door contends the court erred on numerous grounds. We reject these contentions. Golden Door's challenges to the WSA are barred because governing law precludes claims against a public water supplier for an alleged inadequate WSA while the CEQA process is ongoing. (*California Water Impact Network v. Newhall County Water Dist.* (2008) 161 Cal.App.4th 1464, 1477-1491 (*California Water*)). Golden Door's challenges to the rescinded Water Verification are moot and there are no valid exceptions to the mootness doctrine under the circumstances of the case. This affirmance does not preclude Golden Door from challenging the WSA in the CEQA proceedings and/or challenging any later-approved Water Verification under applicable statutory procedures.

FACTUAL AND PROCEDURAL BACKGROUND

We summarize the facts based on the properly pleaded allegations, inferences from the factual allegations, information in materials attached to the complaint, and matters properly subject to judicial notice. (See *Yvanova v. New Century Mortgage Corp.* (2016) 62 Cal.4th 919, 924.)

In January 2015, Newland Sierra submitted an application to the County (the lead agency under CEQA) for its proposed development. The proposal includes a planned community with 2,135 homes, 81,000 square feet of commercial development, a school, vineyards, open space conservation areas, parks, and equestrian facilities.

The next month, the County issued a notice of preparation of the project's EIR. The County then requested the District (the water supplier for the project area) to prepare a WSA and a Water Verification for the proposed project. Under applicable statutes, the purpose of these documents is to evaluate whether total water supplies during a specified period will meet the projected water demand of a proposed project. (See *Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40 Cal.4th 412, 433 (*Vineyard*)). Although the documents have a similar objective, the function of each document and the rules governing challenges to each document differ.

The WSA is primarily an informational report for CEQA purposes. Governing law requires CEQA lead agencies to request the potential water supplier to prepare a WSA. (See §§ 10910-10911; Gov. Code, § 66473.7.) After receiving the WSA, the lead agency must consider the analysis as part of the basis for disclosing whether sufficient water supplies exist for the project. (*Vineyard, supra*, 40 Cal.4th at pp. 428-435.)

Objections to the conclusions or analysis contained in a WSA are generally limited to challenges brought in the EIR process or as part of a Water Verification proceeding. (*California Water, supra*, 161 Cal.App.4th at pp. 1477-1491.)

Unlike the WSA, a Water Verification can be prepared by the water supplier at any time during the approval process and is not necessarily part of the EIR analysis. (See *Vineyard, supra*, 40 Cal.4th at p. 433.) The agency may prepare the Water Verification as a stand-alone document or as part of a WSA report. A Water Verification is a precondition to the project's final subdivision map approval, and is required to provide "firm assurances" of adequate water supply. (*Vineyard, supra*, 40 Cal.4th at p. 434.) A Water Verification thus serves as a fail-safe mechanism: a subdivision generally cannot be approved until and unless the local water agency determines there is sufficient water to supply the project. The water supplier can rely on a WSA in preparing the Water Verification. (Gov. Code, § 66473.7, subd. (c)(2).) A local agency or any other interested party has 90 days from the issuance of the Water Verification to bring a writ of mandate petition challenging the report. (Gov. Code, §§ 66499.37, 66473.7, subds. (b)(2), (o).)

On October 5, 2016, after a public hearing, the District adopted the combined WSA and a Water Verification report (Combined Report) that concluded there was sufficient water supply for the Newland Sierra project. Three weeks later, Golden Door filed a superior court action against the District, challenging the District's approval of the Combined Report, and seeking to prohibit the County from using or relying on the report

in its CEQA analysis. Golden Door named the County and Newland Sierra as real parties in interest.

In the lawsuit, Golden Door alleged the conclusions in the Combined Report were flawed in numerous ways. Of relevance here, Golden Door asserted that the conclusions were predicated on water conservation measures that would substantially reduce water availability for existing users. It maintained that this compelled conservation was inconsistent with: (1) the District's Urban Water Management Plan (Water Management Plan), a planning document that must be prepared every five years to evaluate the region's water supply and demand over a 20-year period (§§ 10620, 10621); and (2) certain "water duty factors" adopted in September 2016.

Golden Door claimed the Water Management Plan projects a 20-year *water supply deficit* under all scenarios—showing a deficit in 2020, 2025, 2030, and 2035 in normal, dry, and multiple dry year scenarios. Golden Door alleged that "[i]n an attempt to mask this fatal flaw," the Combined Report relies on a " 'Conservation Required' " figure that creates "a new rationing requirement" that allegedly "makes up as much as 36 percent of the District's demand." Golden Door maintained that this new conservation requirement will apply "perpetually on a District wide-basis" in contradiction to the Water Management Plan, and therefore it constituted a de facto amendment to the Water Management Plan and water duty factors, without providing the statutorily-required notice and comment periods. (See §§ 10621, 10642, 10608.26.) Golden Door further alleged that the conservation measures identified in the Combined Report violate District

Ordinance No. 198, which sets forth the District's drought management plan, including a process for instituting drought response levels.

In response to the complaint, Newland Sierra requested (with the County's support) that the District rescind its action approving the Combined Report, and instead issue the report solely as a WSA (and defer the adoption of a Water Verification until a later stage of the project). On November 16, 2016, the District's board agreed with this proposal and adopted the WSA as a single report (without the Water Verification). The resolution vacating the Combined Report stated that "the Board of Directions of the District deems it would serve the best interests of the District and the public served to avoid costly litigation by rescinding the action approving the [Combined Report]."

The newly approved WSA report contained conclusions and analysis essentially identical to the Combined Report. The WSA concludes that "with development of the resources identified, there will be sufficient water supplies over a 20-year planning horizon to meet the projected demand of the proposed Project and the existing and other planned development projects within the District's service area." The WSA states that "Conservation is an important component of the District's water supply plan to meet future demands, fulfilling as much as . . . approximately 36% of the demand requirements . . . to meet 2020 demands under multi-dry year conditions, but lessening over time to . . . approximately 26% of the demand requirements . . . in 2025 through 2035."

Golden Door then filed an amended writ of mandate petition and complaint. The first six causes of action seek declaratory relief challenging the conclusions of the rescinded Water Verification. The seventh through thirteenth causes of action challenge

the legal adequacy and validity of the WSA. The allegations identified the same alleged deficiencies as were identified in the initial petition/complaint. On its challenge to the (rescinded) Water Verification, Golden Door added that the matter was not moot because (1) "the District's ability to verify a water supply for the [Project] is a matter of continuing public interest and the need for the [Water Verification] is highly likely to recur" despite that the actual "verification may not occur for several years"; (2) property owners and voters in a potential County referendum concerning the proposed project need to have a current understanding as to "whether the District could legally verify the Newland Project's water supply"; and (3) "[b]ecause the District re-approved the same water availability analysis in both the [Combined Report] and [the reissued WSA], it is highly likely that the District would re-approve the existing analysis for a [Water Verification] on a later date"

Newland Sierra filed a demurrer, asserting: (1) the first through fifth causes of action challenging the Water Verification are moot and not ripe because the District rescinded the Water Verification on November 16, 2016, and Golden Door's allegations do not establish grounds for an exception to the mootness doctrine; (2) the seventh through thirteenth causes of action challenging the WSA are unmeritorious because the District's act of approving the WSA is not a "final act" for purposes of mandamus review

and/or Golden Door failed to exhaust its administrative remedies provided in the CEQA statutory scheme, relying on *California Water, supra*, 161 Cal.App.4th 1464.²

The County and the District also filed demurrers, and both joined in Newland Sierra's supporting memorandum of points and authorities.

In its tentative ruling, the court found in defendants' favor based on its conclusion that Golden Door's challenge to the Water Verification was moot, and the challenges to the WSA were premature, citing *California Water*. At the hearing on the motion, Golden Door's counsel focused on the WSA challenge, and stated he agreed *California Water* "stands for the general proposition that challenges to [WSA's] can only be brought after there's an approved environmental impact report Therefore . . . we were pleading uphill when we filed this case" But counsel argued this is an "appropriate case" to make an exception because Golden Door's challenges concern the inconsistency between the WSA and the Water Management Plan (and Ordinance 198), and the County will not consider those issues in the CEQA process because they concern procedural matters and constitute de facto amendments of the District's governing rules. In support, Golden Door's counsel discussed the County's "silence" in the demurrer proceedings:

"[T]he County has been strangely silent in these proceedings. . . . [¶] . . . Instead of filing a pleading saying, 'Yes, every claim that's been raised in this petition and complaint, every one of those claims will be adjudicated by the County. Don't worry. We're the agency that has this administrative remedy. It is an available administrative remedy. It's timely, and we will look at all these issues.' Instead, we

² Newland Sierra also challenged the sixth cause of action on separate grounds, but because Golden Door concedes the demurrer was proper on this cause of action, we need not discuss these grounds.

just have a simple joinder and silence from the County about whether we're going to see that. [¶] . . . [¶]

"So without a commitment by the County to provide that type of review of all those issues rather than just a weighing of, on the face of [the WSA], does it say [there is sufficient] water [I]n these unique circumstances[,] . . . we don't think we have an available administrative remedy.

"And in part, what I'm concerned about is the developer, [which has] filed the only [memorandum of points and authorities] here, will say, 'You have a great remedy,' and then when the County issues [the EIR] and we say, 'Wait a minute, there're all these problems with the WSA,' they'll say, 'Too bad. It's not our purview. We're just a CEQA agency. We just weigh it as a piece of evidence.' "

Newland Sierra's counsel countered that the case fell squarely within the *California Water* decision, and Golden Door would have the opportunity to raise all of the challenges raised in its current complaint in the CEQA action:

"Every one of those arguments needs to be presented to the County as a basis for invalidating the EIR's water supply section, and the County will then have the full record before it and it will make the call. It will make the judgment call. . . . [¶] So everything you heard today . . . is the outline, the transcript, the script for what needs to be presented to the County . . . once the draft EIR is released, and it's not even out yet. So we've got to get the EIR out. It's got to be vetted publicly. It's got to go through hearing processes. Counsel's going to . . . have remedies. They just have to be patient."

The court then asked, "You're saying they do have the administrative remedy?"

Newland Sierra's counsel responded:

"They do have an administrative remedy [¶] . . . [¶] And counsel can use every one of those arguments to try to convince the County . . . to deny this project. . . . And if they're successful, the project could be denied and at which time litigating over advisory water supply documents on a project that was never approved would be just a colossal waste of everyone's time, energy, money, and resources, including this Court's. [¶] . . . [¶] . . . [I]f the water situation is so dire with so many deficiencies and shortfalls and

deficits, then the County—under the WSA law [as interpreted in *California Water*], . . . is free to accept/reject that WSA. They're free to request additional information. It's a process, and we have to allow the process, and counsel at bottom has to wait. They have remedies."

After Newland Sierra's counsel completed this argument, assistant County counsel Claudia Silva made a brief comment: "Good afternoon, your Honor. I just wanted to address very quickly the County's silence. Until there's a certified [EIR] or at least a draft EIR that's gone out . . . [.] [¶]. . . [¶] . . . the role of the County is in that EIR process, and that's the scope of our role, not to sit as a super legislature over the [D]istrict on this particular WSA process."

Golden Door's counsel responded:

"What Ms. Silva said I think proves my point, which is . . . that the County can accept or reject the information in the document. None of them say that the County will review whether or not it conflicts with the [D]istrict's . . . Water Management Plan. None of them say that the County will determine whether or not it conflicts with a prior ordinance which the [D]istrict adopted which said 'No new water hookups if you're cutting existing users back over 30 percent.' . . .

"And so simply we have a situation where—and the law is simply that [the WSA] just floats around as an informational document. The [D]istrict won't even be a party to the CEQA proceedings. . . . [S]ince [the County] [doesn't] sit as a super legislature or a super-judiciary . . . where they adjudicate the validity of the WSA, we'll never get that determination and we'll never get to the 36 percent cutback that's embodied in their set aside."

After taking the matter under submission, the court issued a final judgment adhering to its tentative ruling and sustained the demurrer without leave to amend. The court found the challenges to the Water Verification are moot because the Water Verification was "rescinded" and the court was "not persuaded" the asserted exceptions to

the mootness doctrine applied. The court further found the principles set forth in *California Water* barred Golden Door's challenges to the WSA.

DISCUSSION

I. *Review Standard*

"On appeal from a judgment dismissing an action after sustaining a demurrer without leave to amend, the 'reviewing court gives the complaint a reasonable interpretation, and treats the demurrer as admitting all material facts properly pleaded.' [Citation.] It 'is error for a trial court to sustain a demurrer [if] the plaintiff has stated a cause of action under any possible legal theory.' " (*Soto v. Motel 6 Operating, L.P.* (2016) 4 Cal.App.5th 385, 389.)

We apply a de novo review, and are not bound by the trial court's construction of the complaint. (*Soto, supra*, 4 Cal.App.5th at p. 389.) We accept as true the well-pleaded material facts, as well as the reasonable inferences that may be drawn from these facts. (*Fremont Indem. Co. v. Fremont General Corp.* (2007) 148 Cal.App.4th 97, 111.) "Whether the plaintiff will be able to prove these allegations is not relevant; our focus is on the legal sufficiency of the complaint." (*Los Altos Golf and Country Club v. County of Santa Clara* (2008) 165 Cal.App.4th 198, 203, italics omitted.)

II. *Challenges to WSA*

A. *Applicable Law*

In the CEQA process, the lead agency must request a WSA from the water supplier before approving a specified project (including the Newland Sierra project). (§ 10910, subs. (b), (c)(1).) The WSA must evaluate whether the total water supplies

during a 20-year period will meet the projected water demand of the proposed project. (§ 10910, subd. (c)(4).) The water supplier may incorporate into the WSA information from the water system's most recent Water Management Plan, if the plan contained an evaluation of the potential project demand. (§ 10910, subd. (c)(2).) But if the plan did not include this information, the WSA for the project "shall include a discussion" as to "whether the public water system's total projected water supplies available during normal, single dry, and multiple dry water years during a 20-year projection will meet the projected water demand associated with the proposed project, in addition to the public water system's existing and planned future uses" (§ 10910, subd. (c)(3).)

The WSA shall also identify any existing water supply entitlements, water rights, or water service contracts relevant to the identified water supply for the proposed project, and describe the quantities of water received in prior years by the public water system under the existing water supply entitlements, water rights, or water service contracts. (§ 10910, subd. (d)(1).) "If, as a result of its assessment, the public water system concludes that its water supplies are, or will be, insufficient, the public water system shall provide to the city or county its plans for acquiring additional water supplies, setting forth the measures that are being undertaken to acquire and develop those water supplies." (§ 10911, subd. (a).)

The statutes specify the timeframe for preparing and submitting a WSA. Specifically, the "governing body" of each public water system is required to "approve" the WSA at a regular or special meeting and must submit the WSA to the lead agency not later than 90 days from the date on which the request was received. (§ 10910, subd.

(g)(1).) If the water supplier fails to submit the WSA, the lead agency may seek a writ of mandamus to compel the water supplier to comply. (§ 10910, subd. (g)(3).) After the water supplier provides the WSA to the lead agency, the lead agency must include the WSA in any CEQA environmental documents prepared for the project, and may include an evaluation of the information contained in the WSA. (§ 10911, subds. (b), (c).) Based on its evaluation, the lead agency "shall determine, based on the entire record, whether projected water supplies will be sufficient to satisfy the demands of the project, in addition to existing and planned future uses. If the [lead agency] determines that water supplies will not be sufficient, [it] shall include that determination in its findings for the project." (§ 10911, subd. (c).)

B. California Water

Ten years ago, the *California Water* court extensively reviewed this statutory scheme in addressing an environmental organization's (C-WIN) challenge to a water district's WSA in factual circumstances very similar to those found here. (*California Water, supra*, 161 Cal.App.4th at pp. 1478-1481.) There, a water agency prepared a WSA at the request of the CEQA lead agency (the City) that was conducting a CEQA evaluation of a proposed industrial/business park development. (*Id.* at p. 1473.) Before the City had an opportunity to review and evaluate the WSA and incorporate it into the EIR, C-WIN filed a writ of mandate petition and complaint in the superior court, alleging the WSA was legally deficient and misleading in various respects. (*Id.* at p. 1474.) As here, the challenger named the water district, the lead agency, and the project developer as defendants or real parties in interest. (*Id.* at p. 1474 & fn. 7.)

These defendants moved for judgment on the pleadings, raising several arguments, including: (1) under the applicable statutes the WSA was a "technical informational document and not a final act or determination" subject to judicial review; and (2) the challenger (C-WIN) failed to exhaust its administrative remedies and was required to first raise objections with the lead agency in the EIR proceedings. (*California Water, supra*, 161 Cal.App.4th at pp. 1474-1475.) The trial court agreed, and granted the motion for judgment on the pleadings without reaching the merits of C-WIN's challenges. (*Id.* at p. 1475.) The Court of Appeal affirmed on both alternative grounds. (*Id.* at pp. 1482-1491.)

Regarding the first (finality) ground, the court explained that a public agency's determination is not subject to judicial challenge until it is final in the sense that the agency " 'possesses "no further power to reconsider or rehear the claim," ' " and that whether an administrative determination is final depends on the governing statutes. (*California Water, supra*, 161 Cal.App.4th at pp. 1485-1486.) After reviewing the WSA statutes, the court concluded the Legislature did not intend the WSA to be final for purposes of the mandamus remedy because its primary purpose in the EIR process is an informational tool, and not a final action for purposes of ensuring or requiring water supply. (*Ibid.*)

The court explained: "[T]he code is . . . clear that nothing in the WSA itself or the statutes governing its preparation actually imposes any duty upon the water supplier to provide water services to the project. (See . . . § 10914.) Thus, . . . the WSA is . . . a technical, informational advisory opinion of the water provider. Though the WSA is

required by statute to include an assessment of certain statutorily identified water supply issues and is required to be included in the EIR, the WSA's role in the EIR process is akin to that of other informational opinions provided by other entities concerning potential environmental impacts—such as traffic, population density or air quality. The fact that the duties of the water provider in preparing the WSA and responsibility of the lead agency in requesting the WSA are committed to statute does not change the fundamental nature of the WSA itself as an advisory and informational document." (*California Water, supra*, 161 Cal.App.4th at p. 1486.)

The court also supported its conclusion by discussing legislative history showing that the WSA requirement "was motivated by a concern that certain counties and cities were either ignoring or inadequately considering water supply issues prior to approving new developments. While the Legislature wanted to ensure that lead agencies thoroughly considered water supply issues and wanted to add transparency to the entire process, the Legislature committed the final determination on water supply issues to the lead agency, *not the water providers*. Indeed an earlier iteration of the WSA law that gave the water providers ultimate determination of whether insufficient water supplies constituted 'significant environmental effects under CEQA' was rejected because opponents viewed it as shifting land use decisionmaking authority from the cities and counties to water suppliers." (*California Water, supra*, 161 Cal.App.4th at p. 1486.)

The court additionally considered the related Water Verification statutes: "[O]n the same day the Legislature enacted [the WSA law], it also enacted [the law] which provides nonagency third parties with an opportunity to seek judicial intervention [to

challenge a Water Verification] under Government Code section 66473.7 to compel a water system to comply with the [W]ater [V]erification law. That the Legislature omitted the right to third party judicial intervention from [the WSA statutes] is instructive as to how the WSA should be viewed in the larger context of the EIR process. The WSA is but an interlocutory and preliminary step in the EIR process, and in general, interim determinations are not subject to mandamus review." (*California Water, supra*, 161 Cal.App.4th at p. 1486.)

The court also emphasized the lead agency's review powers after the water agency's "final" approval of its WSA: "Once the WSA is approved by the water provider's governing board the WSA is submitted to the lead agency. The lead agency may then evaluate the information included in the WSA. [(§ 10911, subd. (c).)] [This] power to 'evaluate' the WSA necessarily invests the lead agency with the authority to consider, assess and examine the quality of the information in the WSA and endows the lead agency with the right to pass judgment upon the WSA. *While the lead agency must include the WSA in the EIR, the lead agency is not required to accept the WSA's conclusions. The lead agency may in evaluating the WSA accept or disagree with the water provider's analysis or may request additional information from the water provider. In any event, the lead agency is required by statute to make the ultimate determination, based on the entire record, whether water supplies are sufficient.* [(§ 10911, subd. (c).)]

The lead agency may make a finding that adequate water supplies exist (or do not exist) to meet the project's anticipated demand, even if that finding is inconsistent with the

conclusions in the [WSA]." (*California Water, supra*, 161 Cal.App.4th at p. 1487, italics added, fn. omitted.)

The *California Water* court thus concluded: "[B]ecause the adoption of a WSA does not create a right or entitlement to water service or impose, expand, or limit any duty concerning the obligation of a public water system to provide certain service and because the lead agency has a separate (from the water provider's WSA) and independent obligation to assess the sufficiency of water supplies for the proposed project, . . . the WSA is not a final agency decision, determination or action as that term is used in the context of mandamus relief. Under the WSA law framework, the 'final' decision for the purposes of writ review occurs only after the lead agency acts—completes its obligations under the WSA and CEQA." (*California Water, supra*, 161 Cal.App.4th at pp. 1487-1488.)

The *California Water* court also found C-WIN was barred from judicially challenging the WSA by the separate (but functionally similar) administrative exhaustion doctrine, explaining the "exhaustion requirement[] . . . avoid[s] . . . premature interruption of administrative processes, allowing an agency to develop the necessary factual background of the case, letting the agency apply its expertise and exercise its statutory discretion, and administrative efficiency and judicial economy." (*California Water, supra*, 161 Cal.App.4th at pp. 1489-1490.) C-WIN argued this doctrine was inapplicable because it could not obtain relief in the CEQA process as the "'City had no authority to disapprove, modify or set-aside the WSA'" (*Id.* at p. 1490.) The *California Water* court disagreed, reiterating that a lead agency has the statutory authority

"to evaluate the WSA and the concomitant duty to make the final determination on the sufficiency of water supplies," and is empowered "to approve or disapprove the WSA or to request the Water District to revise, modify, amend or supplement the WSA." (*Ibid.*) The court emphasized "the adequacy of the WSA will [be subject to] judicial review" in the CEQA process, noting that a prior EIR for the same project had been successfully challenged based on a deficient water analysis. (*Id.* at p. 1491.)

The court further noted that to the extent C-WIN was arguing the lead agency had no authority to review its challenges to the WSA, this argument should be made first to the administrative agency: " [I]t lies within the power of the administrative agency to determine in the first instance and before judicial relief may be obtained whether a given controversy falls within its granted jurisdiction.' " (*California Water, supra*, 161 Cal.App.4th at p. 1491.) The court also observed that requiring exhaustion of administrative remedies "conserves the parties' and the court's resources and avoids the possibility of multiple and simultaneous litigation as well as inconsistent rulings concerning the same project. In addition, . . . a direct challenge to a WSA in the middle of the EIR review proceedings could delay the review process and could preclude the lead agency from completing and certifying the EIR within the timeframes required under CEQA." (*Ibid.*)

C. California Water Bars Golden Door's WSA Challenges

As a sister Court of Appeal, we are not bound by *California Water*. (*Mega Life & Health Ins. Co. v. Superior Court* (2009) 172 Cal.App.4th 1522, 1529.) But we choose to follow its holding because we find its analysis persuasive. On our own independent

review of the applicable statutes, we agree with the court's reasoning and conclusion. For purposes of mandamus review, a WSA is not final when it is approved by the water supplier and the administrative exhaustion doctrine generally requires the applicant to first challenge the WSA through the CEQA process.

Golden Door does not identify grounds to show *California Water* improperly interpreted the governing statutes, and instead argues its holding should not bar this action because Golden Door will not have an available remedy in the CEQA process under the unique circumstances of this case. We find these arguments unavailing.

First, Golden Door contends the WSA constitutes a "de facto amendment" of the Water Management Plan, to which the CEQA process is inapplicable, and thus Golden Door cannot obtain relief in the CEQA process. It asserts that the WSA declares future year supply deficits will be "resolved solely through" conservation measures and there is no support in the existing Water Management Plan to permit water supply problems to be addressed in this fashion. Golden Door thus argues the WSA has effectively amended the Water Management Plan for all future projects. Golden Door likewise emphasizes its allegations that the WSA is inconsistent with District Ordinance 198, which requires specific findings before instituting drought procedures, and argues that the WSA constitutes an improper amendment of this ordinance. Golden Door thus contends that if it is not permitted to challenge the WSA at this time (outside the EIR process), the public will be at risk of "being force-fed" Water Management Plan amendments and District Ordinance 198 determinations in the future, and the WSA determinations will become "baked into" the District's water analysis process.

These arguments reflect a misunderstanding of the WSA's function in the environmental review process. Even assuming the WSA is inconsistent with the Water Management Plan or a District ordinance, this does not mean that it *changes* these documents. As discussed in *California Water*, the WSA does not create a right or entitlement to water service, and is solely an informational report. (*California Water, supra*, 161 Cal.App.4th at pp. 1486, 1487-1488; § 10914.) Thus, even assuming the WSA concludes that water supply deficits can be remedied solely by conservation measures, this does not necessarily mean the District *has the authority to implement those measures*.

Golden Door characterizes the claimed inconsistencies between the WSA and the Water Management Plan as procedural defects, but this does not take Golden Door's challenge outside the normal CEQA process for challenging a WSA. If Golden Door shows during the CEQA process that the current Water Management Plan would preclude the District from requiring the level of conservation set forth in the WSA, the disclosure of this fact would be potentially relevant in determining whether the water supply would be sufficient for the project demands. (See, e.g., *Preserve Wild Santee v. City of Santee* (2012) 210 Cal.App.4th 260, 274-275, 282-286 [rejecting a WSA in an EIR because it did not explain a substantial discrepancy between the estimated water demand for a project and the available water supply].) Moreover, as the *California Water* court observed, whether the lead agency has the authority to consider certain challenges to a WSA should be considered in the first instance by the administrative agency (here the

County), and not by the courts. (*California Water, supra*, 161 Cal.App.4th at pp. 1490-1491.)

Golden Door next argues this case is distinguishable from *California Water* because it has alleged facts showing it would be futile to challenge the WSA in the CEQA process. In support, Golden Door relies on its allegation that: "'County staff have stated that they intend to rely upon the [WSA] as approved by the District and that they will not reexamine the facts or analysis used by the District in approving the [WSA].'" Even assuming this allegation is true, it would not preclude Golden Door from challenging the County's acceptance of an allegedly flawed WSA report. When a WSA "is found to be incomplete or to contain inaccurate information or faulty analysis, the lead agency should request the water supplier to modify, correct or supplement the WSA." (*California Water supra*, 161 Cal.App.4th at p. 1487, fn. 21.) If, as Golden Door suggests, the County will not perform this statutory obligation to review the accuracy of the information provided in the informational documents (particularly when such information has been challenged in the EIR process), an objector can challenge the EIR through the statutory procedures. Thus, the claim that the County will not perform its duties is premature and, as in *California Water*, it is not subject to attack through a direct challenge to the WSA.

Golden Door additionally relies on the brief remark made by the assistant County counsel during the hearing on the demurrer: "I just wanted to address very quickly the County's silence. Until there's a certified [EIR], or at least a draft EIR that's gone out[.]"

... [¶] ... [¶] ... the role of the County is in that EIR process, and that's the scope of our role, not to sit as a super legislature over the [D]istrict on this particular WSA process."

Golden Door argues this statement confirms the County has no intention of evaluating the correctness of the WSA's conclusions. Golden Door's characterization of County counsel's remarks is not reasonable. Viewed in context, County counsel was responding to Golden Door's counsel's argument that he was concerned his client would not have the opportunity to raise challenges to the WSA in the CEQA process because the County merely joined in Newland Sierra's arguments and never affirmatively stated that it would " 'look at all these issues.' " Reasonably understood, County counsel's response to this concern was to emphasize the *timing* of its participation in the environmental evaluation process. County counsel correctly described that the local agency does not become involved in the water supplier's analysis *until* the EIR evaluation, explaining, "that's the scope of our role, not to sit as a super legislature over the district *on this particular WSA process.*" (Italics added.) This statement does not suggest the County will not perform its function to review the information in the WSA and to evaluate any objections and challenges to the accuracy of the information and analysis. In any event, as discussed above, if the County does not properly perform its statutory obligations, Golden Door will have the right to seek a judicial remedy in the CEQA process.

Golden Door's reliance on *Action Apartment Ass'n v. Santa Monica Rent Control Bd.* (2001) 94 Cal.App.4th 587 is misplaced. In that case, the court held the administrative remedies were inadequate as applied to a landlord seeking relief from a

law regarding the payment of interest earned on security deposits. Although we agree with *Action Apartment* that the existence of an administrative remedy does not bar a judicial action *if* the administrative remedy would be inadequate, Golden Door has not shown the remedy is inadequate given the statutory scheme governing WSA's and EIR's.

Golden Door requests that we take judicial notice of portions of the draft EIR for the project, and argues that these portions confirm the County will not effectively analyze or understand flaws in the WSA, including the District's improper reliance on conservation measures to satisfy new water demands arising from the project. We decline to take judicial notice of this document. The draft EIR was circulated for public comment in June 2017, one month after the trial court judgment in the case. It is a fundamental appellate principle that an appellate court reviews the judgment based on the record at the time the court made its challenged rulings. (See *Reserve Insurance Co. v. Pisciotta* (1982) 30 Cal.3d 800, 813.)

Moreover, the draft EIR would not change the result in this case because it does not support Golden Door's assertion that it does not have an adequate remedy in the EIR process. A draft EIR is not a final document. The public (including Golden Door) will have the opportunity to review and comment on the information contained in the draft EIR, including identifying omissions or flaws in the analysis and/or asserting that the document does not sufficiently or accurately identify possible environmental impacts. (Cal. Code Regs., tit. 14, §§ 15200, 15204, subd. (a).) The lead agency must evaluate the comments and include written responses to the comments in the final EIR. (Cal. Code Regs., tit. 14, § 15088, subd. (a).) If a party believes the responses do not sufficiently

address its concerns, it may seek judicial review. Given this process, the allegation that a *draft* EIR does not discuss or resolve Golden Door's concerns with the WSA does not mean Golden Door does not have an adequate remedy in the CEQA process. The existence of the draft EIR underscores the propriety of the *California Water* decision.

III. *Challenges to Verification*

Golden Door also challenges the court's ruling sustaining the demurrer on the first through fifth causes of action that challenge the Water Verification.

The first five causes of action seek declaratory relief determining that the Water Verification (contained in the rescinded Combined Report) violates applicable law because it fails to provide "firm assurances" of sufficient water supplies for the project, fails to adequately analyze potential groundwater impacts, and fails to ensure priority of water to low income households.

A necessary predicate for declaratory relief is the existence of an actual, present controversy between the parties. (*Linda Vista Village San Diego Homeowners Association, Inc. v. Tecolote Investors, LLC* (2015) 234 Cal.App.4th 166, 181; *Otay Land Co. v. Royal Indem. Co.* (2008) 169 Cal.App.4th 556, 562-563.) "For a probable future controversy to constitute an 'actual controversy,' however, the probable controversy must be ripe." (*Environmental Defense Project of Sierra County v. County of Sierra* (2008) 158 Cal.App.4th 877, 885 (*Environmental Defense*)). "A 'controversy is "ripe" when it has reached . . . the point that the facts have sufficiently congealed to permit an intelligent and useful decision to be made.'" (*Ibid.*) Whether an "actual controversy" exists is a

question of law. (*Wilson & Wilson v. City Council of Redwood City* (2011) 191 Cal.App.4th 1559, 1582.)

There is no present controversy concerning the Water Verification because the District rescinded its approval of this document. Therefore the matter is moot. (See *National Ass'n of Wine Bottlers v. Paul* (1969) 268 Cal.App.2d 741, 743, 746-748 [case challenging agency's orders moot after marketing order was rescinded].) Seeking to avoid this bar, Golden Door contends the dispute is highly "likely to recur" because it is reasonable to conclude the District will issue the same or similar Water Verification later in the approval process. Golden Door relies on the fact that the District reissued the identical Combined Report, except that it called the document a "WSA."

An appellate court retains discretion to decide a moot issue under various circumstances, including if the case presents an important issue of public interest that is likely to recur. (See *Californians for Alternatives to Toxics v. California Dept. of Pesticide Regulation* (2006) 136 Cal.App.4th 1049, 1069; *County of Fresno v. Shelton* (1998) 66 Cal.App.4th 996, 1006.) This exception is inapplicable here.

First, it is speculative to conclude the issue will recur, i.e., that District will issue the same Water Verification. As discussed, the WSA will undergo scrutiny in the EIR administrative process (by the lead agency, other agencies, and the public, including potential judicial challenges). It is certainly possible that during this process the analysis of water supplies will change, triggering needed modifications to the Water Verification. Further, the Water Verification need not be issued until the final subdivision map phase (Gov. Code, § 66473.7), which—as Golden Door concedes in its amended complaint—

"may not occur for several years." At that time, there may be different District board members, a different Water Management Plan, and different facts surrounding water supply and demand issues in the relevant geographic areas. Although Golden Door alleged that the District is likely to adopt the same Water Verification, this claim is speculative in light of the record before us. In reviewing a ruling on a demurer, we disregard "conclusions of fact or law, opinions, speculation, or allegations contrary to law or judicially noticed facts." (*Shea Homes Ltd. Partnership v. County of Alameda* (2003) 110 Cal.App.4th 1246, 1254.)

This case is distinguishable from our recent decision in *Cleveland National Forest Foundation v. San Diego Association of Governments* (2017) 17 Cal.App.5th 413. In *Cleveland National*, this court considered a case remanded from the California Supreme Court after the high court held a portion of an EIR was inadequate. (*Id.* at pp. 421-422.) The issue for our consideration was whether the entire case should be remanded to the trial court, or whether we should rule on the contentions relating to the portions of the EIR that the California Supreme Court did not address. (*Id.* at pp. 422-424.) The public entity argued the issues were moot because the existing EIR would need modifications. (*Id.* at p. 423.) But the majority of this court rejected this claim, noting there was no evidence in the record that the EIR had been decertified and could no longer be relied upon. (*Id.* at pp. 423-424.)

Here, by contrast, the evidence is undisputed that the Water Verification no longer exists and cannot be relied upon for a project approval, and there is no evidentiary basis

for concluding a new Water Verification would be the same or similar to the former Water Verification. Thus, any opinion would be advisory.

Golden Door relies on a line of cases recognizing that declaratory relief may be appropriate if the facts show a public entity will continue to engage in the challenged practice in the future. (See, e.g., *Environmental Defense, supra*, 158 Cal.App.4th at pp. 886-887; *California Alliance for Utility etc. Education v. City of San Diego* (1997) 56 Cal.App.4th 1024, 1029-1030.) Those cases are distinguishable because they contain facts showing (or supporting a reasonable inference) that the challenged actions will continue. For example, in *Environmental Defense*, the public entity "made it clear" it would continue engaging in the same challenged zoning practice "in the future." (158 Cal.App.4th at p. 886.) In this case, there are no factual allegations from which we can draw a reasonable inference that the District would reissue the *same* Water Verification in the future.

Golden Door notes that the District has an alleged practice of issuing a WSA and Water Verification as a single document, and argues we should infer from this fact that the new Water Verification will be the same as the existing WSA. This inference is not reasonable. It may be reasonable to infer that when the two statutorily-required documents are issued at the same time, they will have the same or similar analyses and conclusions. But when, as here, the WSA and Water Verification will likely be issued years apart, this logic of the inference falls away.

Further, contrary to Golden Door's assertions, the fact that the District vacated the Water Verification to avoid the current litigation does not mean the issue is ripe. The

Legislature provided public water agencies the discretion to wait until the final subdivision map process to approve a Water Verification. (Gov. Code, § 66473.7; see *Vineyard, supra*, 40 Cal.4th at p. 433.) Although an agency has the authority to issue the Verification earlier and to combine it with the WSA, the agency can reasonably decide that by doing so and triggering an immediate challenge, the agency would be subjecting the public to unnecessary litigation costs before there is any certainty that the project will be approved and will move forward. This decision does not show any form of bad faith or suggest the issue is not moot.

Additionally, the question of the propriety of any approved Water Verification will not evade review, an important factor in finding an exception to the mootness doctrine. (See *Cleveland National Forest Foundation v. San Diego Association of Governments* (2017) 3 Cal.5th 497, 511; *In re Conservatorship of Person of John L.* (2010) 48 Cal.4th 131, 142, fn. 2.) If the County certifies the EIR and approves the project, the project cannot move forward (i.e. no final subdivision map can be approved) *until* the District approves a new Water Verification showing its ability to provide a "sufficient water supply that will meet the projected demand associated with the proposed [development]." (Gov. Code, § 66473.7, subd. (c); *Vineyard, supra*, 40 Cal.4th at p. 453.) The statutes provide that once the water supplier approves the Water Verification, a third party objector (such as Golden Door) may bring a judicial challenge to the report's analysis and/or conclusions. (Gov. Code, §§ 66473.7, subd. (o), 66499.37.)

Finally, we find unhelpful Golden Door's focus on the fact that water supply and demand issues are matters of strong public interest. We agree with this fact, but the

specific question before us here concerns the adequacy of a Water Verification to ensure a project has sufficient water supply in a situation when the Water Verification has not yet been issued. There is no public interest in issuing an advisory opinion on this matter, particularly because it would bypass the specific statutory scheme governing challenges to a Water Verification and would potentially overlap with the County's consideration of the same issues with respect to the WSA. There is no public interest in permitting premature judicial intervention. The project cannot go forward without a certified EIR and a Water Verification. In its appellate brief, Newland Sierra acknowledges that Golden Door "retains the right to challenge the EIR, the WSA prepared for the EIR, and the Water Verification" at the appropriate times. The County and the District expressly joined in this brief, which necessarily includes this acknowledgment.

DISPOSITION

Judgment affirmed. Appellant to bear respondents' costs on appeal.

HALLER, J.

WE CONCUR:

NARES, Acting P. J.

O'ROURKE, J.

KEVIN J. LANE, Clerk of the Court of Appeal, Fourth Appellate District, State of California, does hereby Certify that the preceding is a true and correct copy of the Original of this document/order/opinion filed in this Court, as shown by the records of my office.

WITNESS, my hand and the Seal of this Court.

03/26/2018

KEVIN J. LANE, CLERK

By A. Galvez
Deputy Clerk



Unofficial Transcript
Golden Door Properties v. Vallecitos Water District
March 16, 2018

<u>Speaker</u>	<u>Dialogue</u>
Justice Nares	(Beginning of audio recording) ... Justice Haller and to my left is Justice O'Rourke. This panel will hear Golden Door Properties versus Vallecitos Water District and Newland Sierra. Come forward please. I think Justice McConnell already told you about the time limits, etc. That's number 40. You can state your name as you make your presentation.
Mr. Garrett	Ready for me to be at the podium?
Justice Nares	Yes. Oh, we need more chairs.
Mr. Scott	No, no, no, that's okay. We can sit over here. We just wanted to make our appearances.
Justice Nares	Are you sure, because –
Mr. Scott	Yes.
Justice Nares	Very well. Once we start hearing from the other side, you can make your appearances at that time. Thank you. Counsel?
Mr. Garrett	<p>Good afternoon your honor, my name is Chris Garrett, Latham and Watkins, and I'm representing the Golden Door, the appellant today. We obviously have the burden here, and I wanted – I do think in this situation, we're dealing with the facts as pleaded in our First Amended Complaint, and I do think it's very important to talk about those facts as we pled them.</p> <p>The growth and infrastructure for growth is vitally important for California's today. It's vitally important to us as an agricultural and hospitality operation. We have 35,000 to 40,000 trees. We just purchased 10,000 new avocado citrus trees to be planted. We use some water from Vallecitos. We also use water from groundwater.</p> <p>What's happening with water and water infrastructure is extremely important. And it's extremely important to us as a member of the community that there be the infrastructure and the water supplies in place for growth – thus, our interest in this case.</p> <p>California has a very clear and specified way to make sure that we have enough water and water infrastructure for our projects. That consists of everything we cited in our brief. I'm not going to go through that in detail</p>

ENCLOSURE 2

ENCLOSURE 2

<u>Speaker</u>	<u>Dialogue</u>
	<p>but obviously, the Urban Water Management Plans, which are the cookbooks for making sure that there's enough water there before houses are built, plans are made, things are committed, and there are the two stages: the water supply assessment and the water supply verification.</p> <p>We are one of 70,000 water users who depend on Vallecitos for water. As alleged in our First Amended Complaint, the District first adopted –</p>
Justice Haller	<p>You know, it might be a little more helpful to get to what really are the issues, and the issue is I think whether or not, the decision is final for purposes of you being able to act upon it, whether you exhausted your administrative remedies. We're very familiar with what's in your complaint. I just think that might be a better use of your time.</p>
Mr. Garrett	<p>Right. Thank you very much.</p> <p>The decision that the District took – there were two of them – in October and November of 2016. The first decision was embodied in a document labeled Water Supply Verification. The second decision, the decision was made again in the document labeled Water Supply Assessment.</p> <p>In our view, this is a very extraordinary document. It could have been called a resolution. It could have been called a district ordinance. It could have been called a banana. And our point, this was not the run of mill water supply assessment that was ultimately adopted in November.</p> <p>This water supply assessment had something in it which no other water supply assessment which has ever been reviewed by a court had in it, and that is a District commitment to a – the “Conservation Required” number for all of the Vallecitos customers. All 70,000 of them. What the District did in order to balance the books and to show that there was enough water to allow for new connections was to say we are 35% short in 2020 for our users in a normal water year. So, how do we balance those books? And this is shown in appellant's appendix 517 which includes the table from the Water Supply Assessment. Those books in 2020 where the supply was 21,000 acre-feet, the demand total which they estimated in the latest water – Urban Water Management Plan was 32,000 and then there – that's a difference of 11,447 acre-feet for the total demand in the District, a deficit was shown in the Urban Water Management Plan.</p> <p>So, how did they balance the books and come up with enough water to serve new development? They added a factor which they called</p>

<u>Speaker</u>	<u>Dialogue</u>
	“Conservation Required,” which basically the decision that we’re going to force existing users to cut back from the demands that we’ve already estimated they would normally have.
Justice Haller	Again, we are aware of that. The question I’m try to get you to is, is the Water Supply Assessment a final – is final for legal purposes?
Mr. Garrett	Right.
Justice Haller	It’s now a part of EIR, and there’s full opportunity within that process for it to be – it is an informational document. I know you are very unhappy with it. Water is very important.
	This project can never be completed unless, at the end of the day, the EIR gets through and is not challenged and, number 2, that there is – that the subdivision map is approved and one of the approvals has to be sufficient water. And I know you don’t think that this WSA is valid and I understand what you are saying. But what we are trying to get to is, is this the right time or the right forum to be challenging it.
Mr. Garrett	Let me give you the shortest most precise answer I can. This WSA included the “Conservation Required” number. That was a final decision. As shown in the County’s environmental impact report, that was treated as a final decision – a commitment by the District to reduce the 70,000 existing users’ water usage from what was shown in Urban Water Management Plan by 35 percent. There will be no review of that decision in the County’s EIR. That’s the water supply assessment which is normally –
Justice Haller	That it becomes part of the EIR that it cannot be challenged like any other informational document within the EIR?
Mr. Garrett	Well I think the answer is –
Justice Haller	Or is that –
Mr. Garrett	Maybe no. Maybe no and we are very concerned because –
Justice Haller	Well, one of the things that has to be looked at in a EIR is the supply of water. Is it not?
Mr. Garrett	Yes, that’s right.

<u>Speaker</u>	<u>Dialogue</u>
Justice Haller	And if – the public, you, neighbors, any number of people have the right to say: This simply is not supported; it's not reliable.
Mr. Garrett	Right. And the EIR which we would request the Court take judicial notice of from the County says –
Justice Haller	Now it's just a draft EIR, correct?
Mr. Garrett	That's right, the draft –
Justice Haller	And the draft EIR had not been adopted at the time of the hearing?
Mr. Garrett	Right.
Justice Haller	Okay.
Mr. Garrett	Your honor, and I think what we want to say is it's indicative of why our administrative remedy in this case is not adequate because that commitment to the "Conservation Required" is not going to be reviewed by the County in the EIR CEQA process.
Justice Haller	Well, it's not a matter of them reviewing it. It's a matter of they have to put it out for public comment.
Mr. Garrett	Right.
Justice Haller	And then it is subject to criticism from the public is it not?
Mr. Garrett	That's right.
Justice Haller	Alright, and if they don't follow that process, that's a basis to challenge the EIR is it not?
Mr. Garrett	If the information is lacking – for example, in this court in the Save Wild Santee, found the information lacking, then you're right. There is a remedy at that point to say, County, you made the wrong call, the information doesn't support the conclusion that there is enough water there – the factual information.
	That whole statutory scheme is based on the concept that the water supply assessment is information, not decision-making by the District. It doesn't embody – in this case, the water assessment embodies a decision.

<u>Speaker</u>	<u>Dialogue</u>
Justice O'Rourke	What we are trying to ask you is what would preclude you from raising this point later?
Mr. Garrett	Your honor, I think what would happen and what has happened so far in the draft, which may happen when the County if they approve the project and certify the final, is they assume the 35 percent "Conservation Required" in 2020 from all 70,000 users is a given – is a touchstone which they, the County, can't review.
Justice O'Rourke	It's not – that doesn't answer the question. What precludes you from raising these issues later?
Mr. Garrett	Well the standard – in a CEQA case, you weigh the information, and the question is, was the County's decision supported by substantial evidence.
Justice O'Rourke	Can't you say the information provided by the water district is spurious and not credible and below the proven needs of the users? Can't you say that later? Our concern is this – that you're seeking a premature decision or should be say the advisory opinion from this court.
Mr. Garrett	Yes.
Justice O'Rourke	That's where we are getting at.
Justice Nares	That's really the heart of our concern.
Mr. Garrett	Yes. Understood. And in most cases, the water supply assessment is just information but what I'm saying here is that the County – there is a decision buried in here which the County is not reviewing.
Justice O'Rourke	But if the County won't let you raise the point, you come here on a writ, can't you?
Mr. Garrett	Yes.
Justice Haller	Or you can come here and (inaudible) about what they did based on that.
Mr. Garrett	And we will attempt to raise as much as we can.
Justice Haller	And you can challenge the EIR on that basis as well, can you not?
Mr. Garrett	Well, we can challenge the EIR, and what I would like to example is that it's not clear what we will have same ability to challenge this decision

<u>Speaker</u>	<u>Dialogue</u>
	that's embedded in this WSA in the CEQA process or in the Water Supply Verification process.
Justice Haller	We have 90 days after that is adopted. Do you know?
Mr. Garrett	We can file the actions. We can file the lawsuits. But it's – what the issue is, is whether the County's decision that there was enough water for the project, is it supported by substantial evidence. So in that situation, the court is looking to see if there is evidence there. They are not weighing the evidence.
	The County doesn't sit – as counsel for the County said in the trial court hearing, it doesn't sit as a super legislature. So the County is not reviewing and saying, was that a wise decision by the District to order that 35% cut back.
Justice Haller	But –
Justice O'Rourke	But if you want an advisory opinion from us that it's not enough water, so that when you want to challenge everything down the road, you can point to our decision. It's a judicial determination of your point.
Mr. Garrett	Well, let me put it this –
Justice O'Rourke	I'm not sure we are equipped to give you that at this juncture, or at any juncture.
Mr. Garrett	We're not – I'm not asking for a judicial decision that there is not enough water. What I'm asking for is the judicial decision that our first amended complaint stated a cause of action that embedded in the WSA was a decision by the District which was an invalid decision to order –
Justice O'Rourke	It amounts to the same thing though doesn't it?
Mr. Garrett	No, I don't – with all due respect your honor –
Justice O'Rourke	But you've got it nicely packaged and tight in the (inaudible) but that's basically what you are asking for counsel.
Mr. Garrett	Well, I have searched and I have never found in a CEQA case, a situation where a lead agency like the County looks at a decision that one of the advisory decisions had made and says that is an incorrect legal decision; we the County sitting as the super legislature rule that that ordered 35% cutback which makes the books balanced that that was an invalid

<u>Speaker</u>	<u>Dialogue</u>
	cutback because it conflicted with the District's Urban Water Management Plan.
Justice O'Rourke	It doesn't sound like very good water management from what you are portraying to build a subdivision and users that you can't support. South Africa now has a couple of cities undergoing similar problems with this very moment of running out of water.
Mr. Garrett	And your honor, we do have a process in place and ordinarily, the process works. What happened here was embedded in the decision-making. First, it was a water supply verification. I mean, literally, the same words and we could challenge and the statute very clearly said we can sue can challenge that water supply verification and we did. That was how this case started. No one disagreed when we first filed our lawsuit against exactly those same words that we had a cause of action and that we were entitled to bring it because the Legislature specifically said there was a 90-day statute of limitations for the water supply verification. The label was changed. They changed it to water supply assessment. If they changed it to district resolution or district ordinance, I believe you would agree that we have a cause of action to say that ordinance is invalid because it conflicts with the Urban Water Management Plan.
Justice Haller	So, you are saying that we should look below the surface so to speak and call it for what it is?
Mr. Garrett	I think in this situation when you are looking at a demurrer and we pled it with a great deal of specificity, we pled –
Justice O'Rourke	Can you allege that they are involved in a deceptive scheme by changing the labeling? What if you alleged it was –
Mr. Garrett	The only – what we alleged was that it word for word the same. They changed the label. And the only explanation given in the preceding was that they wanted to avoid costly litigation.
Justice Haller	Wait – what they did was they invalidated the WSV. It's not as if they changed labels. They have the right – the WSA can be filed at – the verification plan can be filed either with the EIR at the same time at that or at a later proceeding. They initially filed them together, then when this litigation occurred, they decided we are not going to fight that battle right now. So they

<u>Speaker</u>	<u>Dialogue</u>
	therefore, invalidated that. So what's before us only is the WSA, which will become a part of the EIR.
Mr. Garrett	Your honor, I don't think we disagree. I just do want to say that the facts are that there was a single document. The heading was WSA/WSV. And that's what we sued on. And that – at that time everyone agreed that was a valid lawsuit. After our lawsuit was filed, the exact – this is what we pled – I mean, this is – I'm not making this up from – the exact same document was approved. But the title was changed and one footnote was changed. That's what we pled. That was the demurrer that the –
Justice Haller	I think all of us have great concern over your concern about the water. Your biggest issue here is whether you are just premature as we have been trying to discuss with you.
Mr. Garrett	Right, and let me just – again, I'd rather answer your questions than say anything, but to go back to the question about WSA, I agree – normally, it would be premature. We just have an unusual fact pattern here which was decided on demurrer and I believe –
Justice Nares	Have you seen this fact pattern in any other water case?
Mr. Garrett	No, I haven't.
Justice Haller	So, you don't think the water case out of Los Angeles – really, yours is virtually on point?
Mr. Garrett	No, I don't because in that situation and C-WIN there was no –
Justice Haller	Factual difference.
Mr. Garrett	There was no allegation that the District – it was actually the city in approving the water supply assessment – was changing – was making a decision about that would affect all 70,000 users like requiring them to cut back. And in C-WIN, there was no argument that the water supply assessment conflicted with the Urban Water Management Plan. So, I mean, to us, those are two distinguishing things.
Justice Haller	I think – the time for you to address the WSA is in connection with the EIR –
Mr. Garrett	Right.

<u>Speaker</u>	<u>Dialogue</u>
Justice Haller	And the time to address the W – water verification is at the point in time when final approval is being given and you have complete rights to be able to do that.
Mr. Garrett	I agree with everything you said. I don't disagree with any of that except in the last sentence, the last phrase that you used, the nuances – if you look at the standard of review that is court or the trial court would apply, in looking at the County's decision to certify the EIR, the standard of decision there does not allow the court – first of all, the water district is not a party to that proceeding. So, the court does not have jurisdiction to say that the District acted improperly in making a decision in within that WSA.
Justice O'Rourke	They have the power to say there's not enough water.
Mr. Garrett	Yes they do.
Justice O'Rourke	Based on the record.
Mr. Garrett	Let me give you a counterfactual.
Justice O'Rourke	Done that many times at the court haven't we?
Mr. Garrett	I would submit that if the District had adopted an ordinance that said, we've decided to cut things back. We are going cut thing things back by 35 percent. You know, our books don't balance right now. We are the only District in the state where they don't balance. We have this huge – we're going to change that and we are going to force all the District residents to cut back by that amount. Just assume that happened and assume it was supported by substantial evidence and they had details about how they were going to do that. And then they adopted this WSA, I'd be out of luck. Because at that point, there would be evidence in the record that the District had made a decision that justified that departure from the Urban Water Management Plan. So, for in that situation, I have no cause of action against the County for saying you were wrong when you said there was not enough – there was sufficient water because the County relied upon a District decision that all the users were going to be forced to cut back by 35 percent. So, it's that decision which I don't – I believe under the standard of review under CEQA, it's not clear that we'll be able to raise that issue, that legal issue. And again, the court –

<u>Speaker</u>	<u>Dialogue</u>
Justice Haller	Counsel, you may want to be careful about certain statements you're making today because they may come back to bite you in the CEQA.
Mr. Garrett	May come back to haunt me. Right – well, that's true. But I imagine that the court will rule what the appropriate way is on the law regardless of what I say today. And I'll have to act upon that. And at least I will know that I did not fail to sue when I needed to sue. So I would say that. And again I would say secondly, we have the problem of the – what standard of review for the County to use and in this situation, we have the facts shown in our request for judicial notice where the County did except the District's decision to cut back. I mean, an integral part of their discussion about the water and the draft EIR is – this all makes sense. There will be these cutbacks. The District has said they will cause these cutbacks to take place. And unless, in a challenge that EIR, it is certain that my client can say, that assumption about that District decision is an incorrect decision. You the County should have looked beyond that and weighed whether that was the correct policy decision by the District or the correct legal decision by the District. Then, it's very difficult to say that the County's made a mistake.
Justice Haller	Well we'll see what the public has to say during the public period.
Mr. Garrett	I neglected to save any time for rebuttal.
Justice Nares	You may save time for rebuttal.
Mr. Garrett	Thank you.
Justice Nares	Everybody is going to be heard.
Mr. Garrett	Okay. Thank you.
Mr. Hubbard	Good afternoon. My name is David Hubbard. I will be speaking on the behalf of Newland Sierra. I'm not sure if counsel for the County or the water district intends to make a presentation. I think they are available to answer questions of the panel.
Justice Nares	And who do you represent?
Mr. Hubbard	I represent Newland Sierra.
Justice Nares	Okay.

<u>Speaker</u>	<u>Dialogue</u>
Mr. Hubbard	<p>Real Party in Interest. I'd really just like to make couple of quick points. The trial court properly followed the very clear directions that are provided in the C-WIN case. And in that case, the court held as a matter of law, a WSA is not a decisional document. It's not a final document that represents an action by the water district. It is informational only. The court even likened it to technical report that gets attached to an EIR. And for that reason, the court in C-WIN determined as a matter of law, the time and place to challenge anything associated with the WSA is during the CEQA process: make your comments known to lead agency, exhaust your administrative remedies, and if you are not happy with the result from the CEQA process, then you go and file a petition for writ of mandate in the superior court, and you can challenge the WSA at that point. As to – and that's what the court held, and that's what should happen in this case, and there is no prejudice to anyone here. No argument that Golden Door would like to make, no remedy that they would seek is foreclosed by letting the CEQA process run its course and then giving them the opportunity to sue at that point.</p> <p>But there is another issue that has gotten somewhat lost here. And that is Golden Door has yet another opportunity to challenge the WSA and that's through Government Code 66473.7 subdivision o. And what happens under that provision is that any member of the public that does not agree with the sufficiency of the water verification that the water district must issue before Newland Sierra can turn any dirt on their project at all, any person who is upset, doesn't agree with it, doesn't believe that the grounds on which the water verification was issued are sound, they can within 90 days to challenge it.</p> <p>Both of those remedies remain open for Golden Door. But we are just not there yet. The CEQA process has to complete itself. The County has to decide whether they want to approve this project at all. They may not. And if they decide to deny the project, all this goes away. But if they approve the project, still nothing can happen at Newland Sierra until they get their project specific water verification from the water district.</p> <p>And once that water verification is issued, Golden Door or any other person who wants to challenge it has ninety days to do so. And all of those issues about how the conservation requirements might be imposed or what – who's going to be affected by them, all of those things can be adjusted at that time.</p> <p>Again we're just not there yet. So, the fundamental point is that the demurrer takes nothing away from Golden Door. They lose nothing by it. All it requires is that they await the final decision from the County</p>

<u>Speaker</u>	<u>Dialogue</u>
	and the water district. I'm happy to answer any questions you might have.
Justice Nares	Apparently none. Thank you.
Mr. Hubbard	Thank you.
Justice Nares	Anyone else wish to be heard? Just a second. Okay. Then, you may close.
Mr. Garrett	<p>One thing that counsel just said is that after the EIR is finished, we can challenge the WSA at that time. That's actually not a correct statement. Again, the form of action is we can sue the County and we can say the County made the wrong decision in certifying the EIR and made the wrong decision because its decision wasn't supported by substantial evidence on certain issues, on water for whatever example. We cannot sue to overturn the WSA. There is no remedy for that. It's not provided under CEQA. It's not provided under the Water Code. The water district is not a party. So the WSA is a document that what was adopted in November of 2016 will stand regardless of what happens in CEQA.</p> <p>That's also true under the water supply verification process. And again, as we pled, that document embodies a present decision by the District – a decision at that time in 2016 to cut us all back by 35 percent – “Conservation Required.” Again, that's what we pled. And we believe that to be the case.</p> <p>We already here are facing the 35 percent cutback and neither the CEQA remedy nor the WSV remedy will allow us to overturn that decision. We literally have no other forum where the District will be a party. Where we can adjudicate the merits of the decision that is located there.</p> <p>The other thing I wanted to mention is that in the WSV process, the Legislature specifies that the WSA is substantial evidence. So, when we get to the WSV process, if you reject my lawsuit today and the – goes forward and the WSV can happen at any time whether or not the EIR is certified or not certified, the first thing is that the WSA is substantial evidence.</p> <p>Is the court in that situation in reviewing a WSV allowed to pierce that evidence and go behind it and say, we're going to go back several years to 2016 and decide that the WSA was wrongly taken and the conservation decision made in that WSA was wrongly decided by that</p>

<u>Speaker</u>	<u>Dialogue</u>
	District for various legal reasons under the Water Code or the Urban Water Management Plan?
	Again, I don't believe that the statute makes that clear at that time. We will make that argument if our lawsuit is rejected here but I would submit to the court that we run a substantial risk of not being able to overturn that decision and being faced with a substantial evidence review with the WSA that embodies decisions, and the court is going to say that was a policy decision by the District so we can't disregard that. The other question is what happens –
Justice O'Rourke	You've made your record for a due process argument down the road haven't you –
Mr. Garrett	Well, I would love –
Justice O'Rourke	– for the hearing you are entitled to.
Mr. Garrett	I would love to say that due process applies to every legal challenge to every project but there are times when there are not remedies or you have to choose the right remedy, and if you don't pick the right remedy, you're out of luck. The last thing I wanted to say was that what happens if the project is rejected? What if the County says, no we're not going to approve the project for some other reason. What if the WSV isn't approved? The WSA still stands. It still embodies this cutback by 35%, and what are we to think? The District now decided that all 70,000 of us must cut back, and we don't have the water up to 2035, and this water is being saved, if you will, for new development and the existing users have to cutback.
	Now that maybe a great policy decision by the District, but I submit its a policy decision that has to be made by the District via an ordinance, a resolution, and if they make that decision, it needs to be consistent with the Urban Water Management Plan. And, so we have no remedy in that situation either. Thank you.
Justice Nares	Thank you very much. Thank you, the matter is submitted.

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April 11, 2018

VIA EMAIL AND U.S. MAIL

Ashley Smith
 Planning and Development Services
 County of San Diego
 5510 Overland Avenue, Suite 310
 San Diego, CA 92123

Re: Newland Sierra (Log No. PDS2015-ER-15-08-001; SCH No. 2015021036, Project Numbers: PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ-15-001, PDS2015-TM-5597, PDSXXXX-HLP-XXX) – Transmittal of Report by Megan Jennings, Ph. D., re Biological Resource Planning with Respect to the Newland Sierra Project

Dear Ms. Smith:

As you know, we represent Golden Door Properties, LLC (“Golden Door”), a world-class resort and agricultural operation in rural Twin Oaks Valley. The Golden Door has restored farming and beekeeping on its property, including the replanting of many new trees on the property—sharing its bounty at a community Farm Stand and through retail operations. The Golden Door has raised many concerns with the County about the proposed Newland Sierra Project and the impacts of adding urban density the size of the City of Del Mar in our rural community.

We write today with particular respect to the Project’s biological resources analysis. The Golden Door and expert biologist Megan Jennings, Ph. D., have previously raised concerns regarding the Project’s impacts on wildlife connectivity and habitat fragmentation, and have provided comments to the County describing the draft environmental impact report’s (“DEIR”) flaws in analyzing these impacts. Attached is an additional report from Dr. Jennings supplementing prior comments. This report discusses the interrelation of wildfire risk and cumulative development projects to the proposed Project’s biological impacts. In particular, her report discusses the need for corridor redundancy as part of sound biological planning.

LATHAM & WATKINS LLP

Please consider this report as part of the record for the Newland Project. Thank you for your time and attention to our comments. Please do not hesitate to contact us should you have any questions or comments.

Best regards,

Andrew D. Yancey

Andrew D. Yancey
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
County Board of Supervisors
County Planning Commission
Darin Neufeld, County Planning and Development Services
Mark Slovick, County Planning and Development Services
William W. Witt, Office of County Counsel
Claudia Silva, Office of County Counsel
Dan Silver, Endangered Habitats League
George Courser, Sierra Club
Duncan McFetridge, Cleveland National Forest Foundation
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
Chris Garrett, Latham & Watkins

Attachment

Effects of Wildfire on Wildlife and Connectivity

Prepared by: Megan K. Jennings, Ph.D.

January 23, 2018

Introduction

In southern California, where human impacts from development are limiting habitat connectivity for wide-ranging vertebrate species, fire is a disturbance regime that may also fragment habitats, further impacting those species. Although fire is a natural process in the southwestern U.S., increasing human development near open spaces has led to unnatural fire regimes with increased fire starts and an increased potential for vegetation-type conversion as a result. In the biodiversity hotspot of southern California, many studies have focused on the effects of urbanization and landscape fragmentation on wildlife. However, there has been relatively little attention to how human-mediated landscape fragmentation may influence natural disturbance processes, like wildfire, and how these synergistic disturbances impact wildlife populations.

Both fire frequency and size are increasing in southern California and are correlated with increasing anthropogenic development and human population growth in the region (Syphard et al. 2007, 2009). These studies suggest that at high human population densities, fire is eliminated from the ecosystem when contiguous vegetation necessary to carry fire is broken up by asphalt, concrete, and buildings. However, at intermediate human densities, housing developments and roadways are a source of increased fire ignitions which then spread into wildlands (Syphard et al. 2007, 2009). Both scenarios (too little fire, too frequent fire) present potential threats for species and community dynamics in southern California as shifts in the natural fire regime, coupled with increasing habitat fragmentation, have the potential to impact wildlife populations, communities, and entire ecosystems. In the highly urbanized landscape of southern California, long-term impacts such as habitat fragmentation and loss and shifts in disturbance regimes like the natural fire cycles, have resulted in persistent landscape changes (Syphard et al. 2009).

This report focuses on the impacts to wildlife connectivity posed by the proposed Newland Sierra project in the context of wildfires and the need for corridor redundancy. The Newland Sierra project proposes to build more than 2,100 homes on the I-15 corridor in the unincorporated portion of San Diego County between Escondido and Temecula. The project would be located in the area proposed for the North County Multiple Species Conservation Program (NCMSCP) on a site that has been identified as pre-approved mitigation area (PAMA).

As described in my previous reports (Jennings 2017a, 2017b), this project poses risks to wildlife connectivity in the area and could compromise overall design objectives of the NCMSCP. The proposed Newland Sierra project will significantly affect high quality core habitat and wildlife movement for both more common and sensitive and protected species to a degree that is not mitigated by the project design. The proposed project will have long-term direct and indirect impacts on wildlife from roadways, increased human activity, edge effects, human activity, and increasing fire frequency on wildlife movement. Due to the risks of wildfire and the numerous cumulative projects proposed along the I-15 corridor in northern San Diego County and southern Riverside County, it is particularly important to account for corridor redundancy in considering the Newland Sierra project. Regional connectivity plans must provide corridor redundancy to serve the range of species that may need to move between patches of habitat (Pinto and Keitt

2009, McRae et al. 2012), and to buffer against landscape disturbances, such as wildfires (Mcrae et al. 2008, McRae et al. 2012, Cushman et al. 2013, Olson and Burnett 2013). The biological analysis in the project's draft environmental impact report lacked sufficient consideration of these issues.

Impacts of Wildfires and Shifting Fire Frequencies on Wildlife

Disturbances that occur at large spatial scales, such as Santa Ana wind-driven fires in southern California, like the recent Lilac Fire in San Diego County, are most likely to change landscape configuration, or pattern, which can lead to change in resource availability, environmental features, and corresponding responses in the structure of populations and communities, all key metrics to landscape integrity (Sousa 1984, Pickett and White 1985, Fraterrigo and Rusak 2008, Turner 2010). Large-scale landscape changes, particularly fragmentation (Gardner et al. 1993), have been shown to alter biotic interactions, and lead to a loss of connectivity evidenced by a decline in dispersal, reduced survival rates (Riley et al. 2003), and limited gene flow (Riley et al. 2006). In southern California, the two disturbances that overlap and interact, fire and human development, are the predominant drivers of the landscape. In this region, empirical evidence suggests a shift is underway in the disturbance regime (Keeley and Fotheringham 2003, Safford and Van de Water 2014).

Shifts in fire regime typically involve changes to fire intensity, size, frequency, type, seasonality, and severity (Flannigan et al. 2000). Fire-return intervals, the average time between two fire events, in the shrubland habitats like the areas where the Lilac Fire occurred and the Newland-Sierra development is proposed were historically 30 to 100 years. In similar areas of the County, fires are 33% more frequent now than pre-settlement, due in large part to increased development and roadways (Figure 1; Keeley et al. 1999, Safford and Van de Water 2014). This shifting disturbance regime with shortened intervals between fires interrupts the successional cycle, reduces plant diversity, and results in vegetation and habitat type change to non-native and grass dominated landscapes (Keeley 2005), reducing habitat suitability and connectivity for species dependent on intact shrubland landscape. Shifting weather patterns resulting from climate change may also contribute to the alteration of fire regimes in southern California. Climate models predict that temperatures will increase and humidity will decrease (Miller and Schlegel 2006). Under these conditions, Santa Ana winds, the hot, dry winds from the deserts in the east, may occur more often and later in the season when fuels loads are highest (Miller and Schlegel 2006, Guzman-Morales et al. 2016). The concurrent disturbances of expanding human development and a shifting climate may alter how fire structures the landscape. Extensive development, particularly in exurban areas, results in increases in human-caused ignitions and fires of large spatial extents (Syphard and Keeley 2015), as well as an overall increase in fire threat (Figure 2), which can have long-lasting impacts on the landscape and wildlife habitat.

Many wildlife species that occur in the Mediterranean-type ecosystems of southern California have adapted to wildfires. Wildlife exhibit differential responses to wildfires depending on the availability of refugia and species' mobility, which determine their susceptibility to impacts from the direct effects of the fire. Habitat and diet breadth, population size and growth rates, as well as landscape connectivity can affect post-fire colonization and overall resilience to these types of stochastic events. While some research efforts in southern California have taken advantage of the

natural experiment presented by San Diego's 2003 and 2007 wildfires to gather information about bird (Mendelsohn et al. 2008), small mammal (Brehme et al. 2011, Diffendorfer et al. 2012), large mammal (Schuette et al. 2014), and herpetofauna (Rochester et al. 2010) responses to wildfire, there is much to learn about individual- and population-level responses, in particular as it relates to increasing fire frequency. Linking the effects of shifting fire regimes on wildlife where frequent fire may result in vegetation type conversion from shrublands to grass-dominated habitats (Keeley 2005, Keeley and Brennan 2012) is a significant challenge. There is evidence of the effect of increasing fire frequency on some species, such as the iconic coastal sage scrub species, the threatened California gnatcatcher (*Polioptila californica californica*). Already challenged by habitat loss and fragmentation in the coastal regions of southern California, frequent fires have degraded habitat for the gnatcatcher (Winchell and Doherty 2014) as California sagebrush (*Artemisia californica*), laurel sumac (*Malosma laurina*), and white sage (*Salvia apiana*), key habitat elements for the bird, have been replaced by non-native annual grasses in areas that have experienced repeated fires. Habitat specialists and small species are not the only ones subject to the impacts of increasing fire frequency. Despite the fact that mountain lions (*Puma concolor*) are highly mobile and able to move away from fires, the species is potentially at risk from vegetation-type conversion to non-native annual grasslands (Jennings et al. 2016). Although this species may tolerate grasslands when moving between habitats (Zeller et al. 2014), habitat fragmentation between San Diego County and the Santa Ana Mountains to the north has limited gene flow and resulted in inbreeding for the southern California population (Ernest et al. 2014), a situation which further habitat degradation, particularly as a result of increasing fire frequency, could worsen.

Wildfire and Connectivity

Habitat connectivity is essential to climate-smart landscape strategies (Heller and Zavaleta 2009) and strengthens ecosystem resilience to additional stressors such as habitat fragmentation (Beier and Gregory 2012), and other disturbances, e.g., fire and disease (Noss 1991, Hilty et al. 2006). Across much of southern California, the state's Natural Community Conservation Planning (NCCP) program and the federal Habitat Conservation Plan (HCP) have been used to establish conservation networks to protect natural communities and prevent further habitat fragmentation (Ogden Environmental and Energy Services 1996, Riverside County 2003). Although the direct effects of anthropogenic landscape alteration, namely habitat loss and fragmentation, are paramount in this region (Soulé 1991, Crooks 2002, Beier et al. 2006), the indirect effects of intense human development such as changing patterns of natural disturbance regimes, e.g. wildfire, may present an equally large risk to landscape integrity. As human populations in southern California have grown dramatically over the last century, particularly in coastal areas, short fire-return intervals paired with habitat fragmentation, may have synergistic and long-term impacts on landscape connectivity that present a formidable conservation challenge. Given that these disturbances exert measurable impacts individually (Lindenmayer et al. 2008, Turner 2010), it is likely that the synergistic effects of shifting disturbance regimes and fragmentation present a serious threat to landscape connectivity (Turner 2010).

Given the importance of landscape connectivity to ensuring population viability and persistence, accurate assessments of physical and functional connectivity are critical. Dynamic landscape processes, like wildfires, may impede movement for many species in the short-term, but an altered fire regime may permanently alter landscape linkages. In particular, shifting disturbance

regimes, like the increase in fire frequency and size reported in southern California, may have synergistic impacts that erode landscape connectivity if efforts are not made to buffer the number or impacts of fire on landscape linkages. New approaches to identifying factors that impair physical and functional connectivity are needed to develop mitigation strategies to maintain landscape connectivity if urbanization is considered on fire-frequent landscapes, with a particular focus on the coastal areas that are most impacted by development, and foothills and valleys where the wildland-urban interface is most at risk for increases in fire frequencies and consequential type conversion.

Building resilience into these networks of conserved lands can be approached from two perspectives: 1) reducing ignitions in fire-prone areas, and 2) account for these altered disturbance dynamics in conservation planning efforts like the Draft NCMSCP. Robust measures to reduce ignitions should be employed. However, reducing ignitions alone is unlikely to protect San Diego County's open spaces from fire and must be paired with complementary approaches to provide for habitat and connectivity when fires do occur. This includes planning for redundancy in linkages connecting habitat patches (Pinto and Keitt 2009). Because a single path is unlikely to equally serve all individuals of a species, let alone all potential species that may need to move between patches of habitat, multiple corridors between landscape blocks are often necessary (Pinto and Keitt 2009, McRae et al. 2012). Furthermore, this redundancy can also buffer against uncertainty and dynamic processes, particularly disturbances, on the landscape (Mcrae et al. 2008, McRae et al. 2012, Cushman et al. 2013, Olson and Burnett 2013). As discussed in my previous comments on the Newland Sierra draft environmental impact report, the project's biological analysis is deficient in its consideration of corridor redundancy. Threats to wildlife connectivity from wildfire emphasize the need to consider corridor redundancy with respect to Newland Sierra and the NCMSCP.

Furthermore, the assessment of connectivity and redundancy to provide for wildlife movement under a variety of conditions must be conducted at a regional scale. For San Diego County, this means consideration of conservation planning efforts and acquisitions as well as development projects in Orange and Riverside Counties. In particular, the Santa Ana-Palomar landscape linkage that has been identified as a critical movement corridor for many species (South Coast Wildlands 2008), most notably the mountain lion (Vickers et al. 2015), spans both San Diego and Riverside Counties and could be affected by several development projects that could limit functional connectivity in northern San Diego County.

Together with the cumulative projects proposed in this region, Newland Sierra could restrict wildlife movement in northern San Diego County as well as any opportunities to build resilience into a regional connectivity plan by providing for corridor redundancy. The Merriam Mountains area is currently one of the few shrub-dominated open spaces in San Diego County that has not experienced overly frequent wildfires which lead to increased risk of vegetation-type conversion from shrublands to non-native annual grasslands (Figure 1). Preserving a relatively intact landscape, such as the Merriam Mountains, is critical to developing a functional preserve system for the NCMSCP. However, the proposed Newland-Sierra Project's new roadways, increased traffic, homes, and increased wildland-urban edge are all known sources of fire ignitions in southern California (Syphard and Keeley 2015) that will threaten to increase the fire frequency in this area, which is already at high risk of fire due to the site's vegetation and terrain features

(Figure 2), as well as the risk of vegetation-type conversion. These same project elements will also further restrict wildlife movement in an area where movement is already constrained. The synergistic effects of restricted movement and habitat degradation caused by increasing fire frequency could greatly reduce connectivity in this region and threaten the functionality of the proposed preserve network under the NCMSCP. Figure 1 illustrates that few linkages remain in San Diego County that are not challenged by crossing urban development or areas that have burned repeatedly and are at risk for weed incursion, habitat degradation, and vegetation-type conversion. When dynamic landscape processes are considered, effective planning for landscape connectivity will require consideration of all potential projects that may affect wildlife movement as well as the synergistic disturbances that also affect landscape connectivity. The NCMSCP provides an opportunity for this type of regional wildlife connectivity planning, but individual development proposals considered in isolation and without adequately accounting for regional corridor redundancy could threaten the overall effectiveness of the planning process.

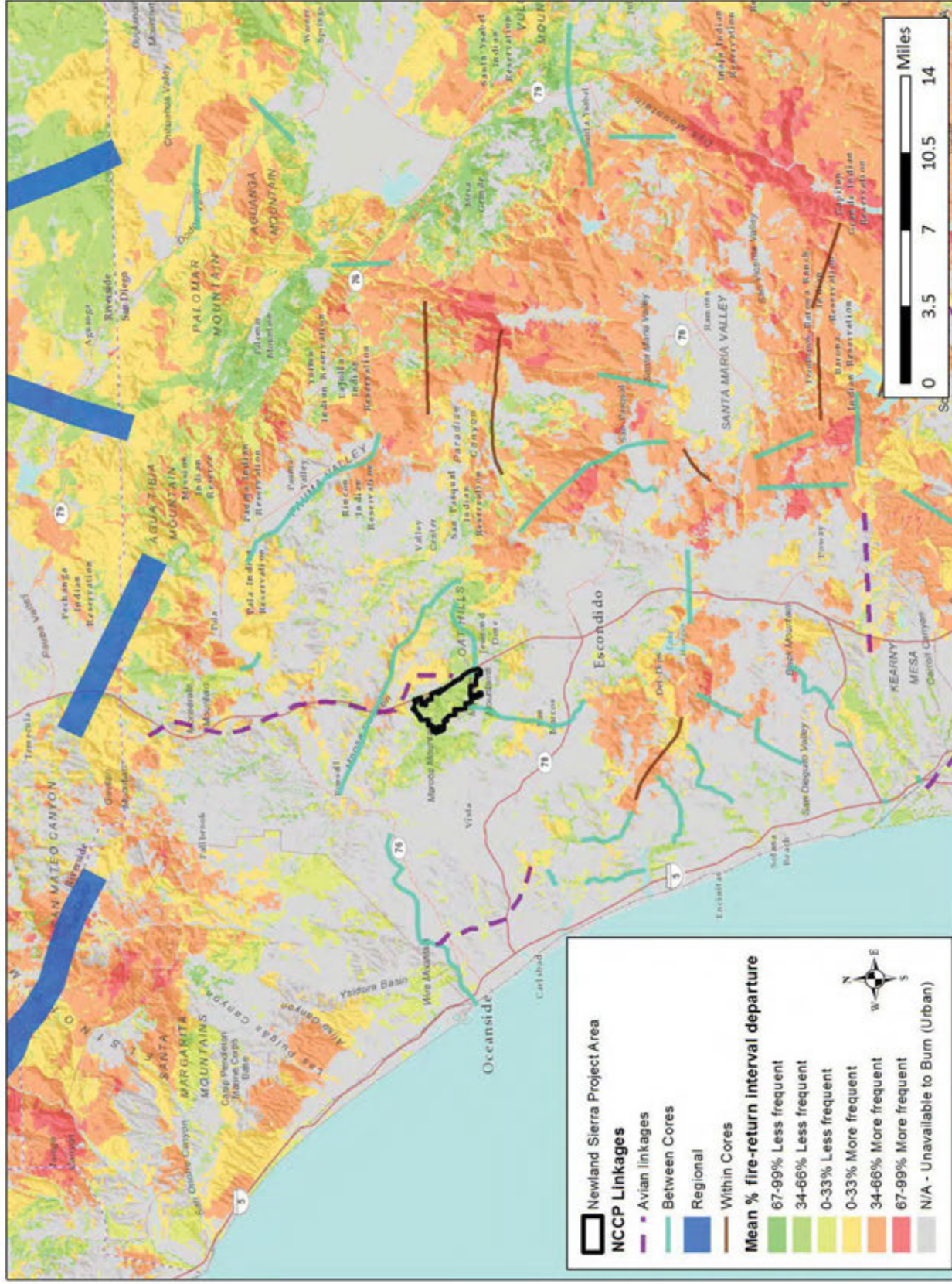


Figure 1. Map of fire-return interval departure (Safford and Van de Water 2014) for northern San Diego County and linkages identified in the Management Strategic Plan Connectivity documents for San Diego's NCCP areas.

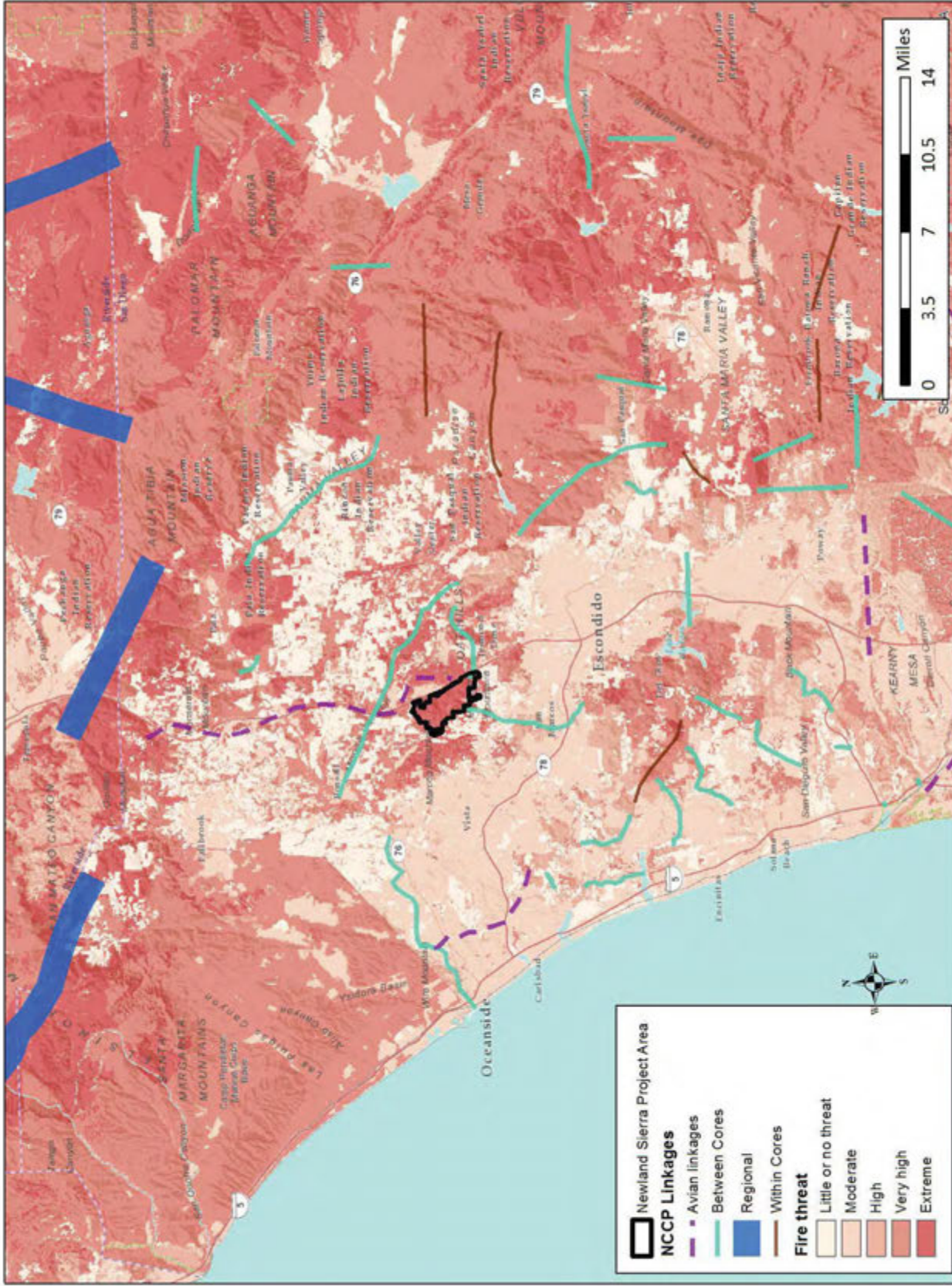


Figure 2. Map of fire threat for northern San Diego County as classified by California's Fire and Resource Assessment Program and linkages identified in the [Management Strategic Plan Connectivity documents](#) for San Diego's NCCP areas.

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April 12, 2018

VIA EMAIL AND U.S. MAIL

Josh Menvielle
 Land Use/Environmental Planner
 County of San Diego
 Planning & Development Services
 5510 Overland Avenue, Suite 310
 San Diego, CA 92123

Re: County's Incomplete Response to Golden Door's Public Records Act Request Regarding the Draft NC MSCP and Newland Sierra Project Site

Dear Mr. Menvielle:

I am writing on behalf of Golden Door Properties, LLC ("Golden Door") regarding its August 8, 2017 request under the Public Records Act for records relating to the North County Multiple Species Conservation Program ("NC MSCP") and the Newland Sierra project site. We thank you for your response; however, your response appears incomplete. Several of our requests were not met, and some documents appear to have been improperly withheld or redacted. We ask that you supplement your response within 10 calendar days of the date of this letter and provide any necessary clarifications regarding the County's basis for withholding certain information.

As you know, the Golden Door opposes the Newland Sierra project and has reviewed and commented on the County's environmental documents for that project. The biological analysis in the draft environmental impact report ("DEIR") for the Newland project relies on a proposed "hardline" designation for the project site in the NC MSCP—a plan that is in draft form and has not been published, despite previous representations that the draft plan would be made publicly available by the end of 2017. In order to more fully understand the County's purported justification for this proposed "hardline" designation, the Golden Door requested information from the County under the Public Records Act. The County has repeatedly asserted that it has scientific evidence to support its characterization of the Newland project site as a "hardline" in the NC MSCP; yet, this information has not been provided to the public. The documents produced by the County in response to the Golden Door's August 8, 2017 request fail to support the County's claims and raise significant concerns about the characterization of the Newland site as a "hardline" project in the draft NC MSCP. The effect of this failure is compounded because the Newland Sierra project's DEIR relies on these unsupported claims and illusory analysis regarding the NC MSCP to make significance determinations under the California Environmental Quality Act ("CEQA").

Unless the County provides this underlying analysis and evidence as previously requested, we must conclude that the inclusion of the Newland Sierra project in the NC MSCP was the result of a political concession in favor of a developer advocating for an unapproved amendment to the General Plan and not the result of an actual, good faith, substantive planning effort based on biological principles and evidence or an objective and good faith environmental review. The absence of this evidence calls into question the veracity of the following statements made in the County's June 5, 2017 letter (from County Planning and Services Director Mark Wardlaw):

- “[I]nclusion of the Project in the Draft Plan does not, in any manner, indicate County support for the Project or provide the Project with an approval advantage.”
- “The Project’s inclusion in the Draft Plan reflects the County’s view that the Project’s proposed development footprint and open space preserve area should be considered within the conservation analysis for the Draft Plan but does not give the project any preferential treatment or eliminate any mitigation requirements.”
- “A fundamental piece of the Draft Plan will be a conservation analysis that forms the scientific basis upon which the Wildlife Agencies will base their biological opinions and findings in order to issue the County an Incidental Take Permit per the Act. The conservation analysis is currently in a working draft form that includes a preliminary analysis of potential impacts in the planning area, as well as an analysis of potential build-out of a preserve through mitigation, avoidance, and land acquisition. In order to complete this analysis, the County conducted an assessment of potential projects that are currently expected to occur within the planning area for the Draft Plan.”

Should any such evidentiary support actually exist, the County must provide it to the public and re-circulate the Newland Sierra DEIR. If no such evidentiary support exists – which would be contrary to the County’s prior public statements – the County must remove any analysis or conclusions relying upon the non-existent biological analysis in the Newland Sierra DEIR and recirculate the document.

I. THE COUNTY HAS FAILED TO PROPERLY DISCLOSE PUBLIC RECORDS IN RESPONSE TO THE GOLDEN DOOR’S REQUEST.

The Golden Door’s August 8, 2017 records request cited specific language from (1) a June 5, 2017 letter from County Planning and Services Director Mark Wardlaw (**Attachment A**) and (2) a May 23, 2017 draft of the NC MSCP, and requested various documents and communications regarding the same. The County, however, has failed to provide such documents, which include a preliminary conservation analysis, documents pertaining to County biologists, a specific request from a project applicant, and specific biological surveys. Notably, we are now approaching a year that these issues continue to be unresolved, and the public has still not seen a revised draft of the NC MSCP or the explanations or analysis that Mr. Wardlaw promised in his letter from last June. Notably, Mr. Wardlaw repeatedly stated in his June 5, 2017

letter that a new draft NC MCSP, along with supporting evidence, would be released to the public for review “by the end of 2017.” Nearly half-way through 2018, we have yet to see this new draft or the supporting evidence that the County asserts exists but refuses to disclose.

Preliminary Conservation Analysis. The Golden Door requested the “preliminary conservation analysis” referenced in Mr. Wardlaw’s June 5, 2017 letter and various communications pertaining thereto. The documents produced by the County do not appear to include a “preliminary conservation analysis.” The County produced a document titled “Preliminary Comments on the Conservation Strategy Methodology by FWS for discussion at 4-13-17 meeting w/ County.” This document is attached as **Attachment B**. Attachment B appears to be a list of comments prepared by the U.S. Fish and Wildlife Service (“USFWS”) responding to a separate “conservation analysis” with specific page references. The underlying document to which the USFWS comments respond, however, is not provided. Further, the “preliminary conservation analysis” noted in Mr. Wardlaw’s letter appears to reference a document prepared by “County biologists,” not a document prepared by USFWS.¹

Please provide the “preliminary conservation analysis” referenced in Mr. Wardlaw’s letter and the authors and date of such document. Please also provide all related documents and communications, as requested in the Golden Door’s August 8, 2017 letter, to the extent such documents have not already been disclosed. Should the County determine that any records or portions of records might be exempt from disclosure, pursuant to Government Code section 6253, please disclose the non-exempt portion of the document and redact the portion the County asserts is exempt from disclosure and state the specific legal basis upon which such information is being withheld.

County Biologists. The Golden Door requested communications related to the Newland Sierra project site and the “County biologists” referenced in Mr. Wardlaw’s June 5, 2017 letter. The documents produced by the County do not identify any “County biologists” and do not provide any contracts or other documents demonstrating a relationship between any biologists and the County that demonstrate the existence of any “County biologists.” The County’s own CEQA Guidelines require a memorandum of understanding following a specific form to be executed with consultants, such as any “County biologists” providing analysis for the NC MSCP.²

Two email chains produced by the County include communications with Tom Oberbauer of AECOM. One email chain from December 19, 2016, includes an email sent from County staff member Alexandra Elias to Mr. Oberbauer in which she asks whether Mr. Oberbauer is “doing

¹ The complete sentence in Mr. Wardlaw’s June 5, 2017 letter referencing the “preliminary conservation analysis” reads as follows: “In conducting the preliminary conservation analysis, *County biologists* believe that the open space design and future preservation of the 1,209 acres of land that the Project proposes complements the anticipated preserve and Pre-Approved Mitigation Area for the Draft Plan.” (Emphasis added.)

² The County’s CEQA Guidelines, including a sample memorandum of understanding, are available online at <http://www.sandiegocounty.gov/pds/docs/CEQAGDLN.pdf>.

the ‘project review’ of the proposed Newland hardline for consistency with the Planning Agreement/NC Plan.” This email is attached as **Attachment C**. No response to Ms. Elias’s question is provided.

The second email chain ranges from December 7, 2016, to December 19, 2016, and includes a request from Ms. Elias to Mr. Oberbauer to “have a biologist that knows the NC plan look at a proposed hardline for a project to ensure that making findings can be made prior to including it in the Plan.” Ms. Elias goes on to note that draft findings and “other bio info” have already been prepared and are ready for Mr. Oberbauer’s review. In a subsequent email on this chain, Mr. Oberbauer states that he can review the information. The name of the project referenced in this second email chain is not provided, and no responsive analysis from Mr. Oberbauer is included. This second email chain is attached as **Attachment D**. We also note that portions of Attachment D have been improperly redacted. (Discussed further below.)

Based on review of the County’s production, therefore, it appears that the County considers Mr. Oberbauer to be its sole biologist, the County lacks any formal agreement with Mr. Oberbauer, and the County is unable to produce any biological analysis provided by Mr. Oberbauer. Moreover, it appears that Mr. Oberbauer was provided with findings and “other bio info” that had been prepared by someone else and that he did not provide any unique analysis or data. In addition, we note that Mr. Oberbauer is not included on the County’s list of approved CEQA consultants (**Attachment E**). Finally, Mr. Wardlaw’s letter referred to “County biologists” in the plural, but the documents produced by the County provide no indicia of any other individual that could potentially be construed as one of the “County biologists” referenced by Mr. Wardlaw.

Please provide the names of all “County biologists” referenced in Mr. Wardlaw’s letter, describe the relationship of such biologists to the County, and provide any documents, including contracts or other agreements, setting forth or describing the relationship between such biologists and the County. Please also provide all related documents and communications, as requested in the Golden Door’s August 8, 2017 letter, to the extent such documents have not already been disclosed. Should the County determine that any records or portions of records might be exempt from disclosure, pursuant to Government Code section 6253, please disclose the non-exempt portion of the document and redact the portion the County asserts is exempt from disclosure and state the specific legal basis upon which such information is being withheld.

Applicant’s Request. The Golden Door requested documents and communications related to the “applicant’s request” that the Newland Sierra project site be included as a “hardline” project in the draft NC MSCP, which is noted in a May 23, 2017 draft of the NC MSCP. The County produced no such request from the “applicant,” which is presumably Newland Sierra. Please provide the “applicant’s request” referenced in the May 23, 2017 draft of the NC MSCP and all related documents and communications, as requested in the Golden Door’s August 8, 2017 letter, to the extent such documents have not already been disclosed. Should the County determine that any records or portions of records might be exempt from disclosure, pursuant to Government Code section 6253, please disclose the non-exempt portion of the document and redact the portion the County asserts is exempt from disclosure and state the specific legal basis upon which such information is being withheld. Please note that any

communications from Newland Sierra or its representatives to the County regarding the NC MSCP may not be subject to any claim of privilege, because Newland Sierra is not a party to the NC MSCP.

Biological Surveys. The Golden Door requested specific “[b]iological surveys” referenced in the May 23, 2017 draft NC MSCP, which purportedly were conducted between 2000 and 2015, as well as related documents and communications. The County’s disclosure did not include any biological surveys. Please provide the “[b]iological surveys” referenced in the May 23, 2017 draft of the NC MSCP and all related documents and communications, as requested in the Golden Door’s August 8, 2017 letter, to the extent such documents have not already been disclosed. Should the County determine that any records or portions of records might be exempt from disclosure, pursuant to Government Code section 6253, please disclose the non-exempt portion of the document and redact the portion the County asserts is exempt from disclosure and state the specific legal basis upon which such information is being withheld.

II. THE COUNTY IMPROPERLY WITHHELD AND REDACTED DOCUMENTS

In addition to our concerns that the County failed to provide documents responsive to the Golden Door’s request, we are concerned that certain documents and information have been improperly withheld or redacted. The California Public Records Act dictates that public records must be disclosed to the public, upon request, unless there is a legal basis not to do so. The County has asserted blanket privilege and withholding claims, without providing the specific basis for nondisclosure of the information. Any exemption to disclosure is narrowly construed. (*County of Los Angeles v. Superior Court* (2012) 211 Cal.App.4th 57, 63.)

Withheld Documents. Your letter dated September 8, 2017, states that “several” email chains were withheld pursuant to the attorney-client privilege and that two email chains were withheld because they would reflect or reveal the deliberative process between staff and management.

For the several email chains withheld pursuant to the attorney-client privilege, the County provides no information aside from its assertion of privilege. Please describe each email withheld pursuant to the attorney-client privilege, including the individuals sending or receiving the emails, the email’s date, the specific request from the Golden Door to which the email is responsive, and the basis for the privilege. In addition, please disclose whether any such emails have been shared with third parties, such as Newland Sierra, which may break any otherwise applicable privilege asserted by the County. Or, pursuant to Government Code section 6253, redact the portions of these records that the County asserts is privileged and produce the remainder of the document that is non-privileged, such as the email headers with factual information regarding the sender, addressees, cc’s, bcc’s, transmittal date and time, etc. Without such information, it is impossible for us to evaluate the County’s assertions of privilege with the information available to us.

For the two email chains withheld subject to the deliberative process privilege, a brief, conclusory, and insufficient description is provided. When asserting the deliberative process privilege, the burden is on the party asserting the privilege to establish the conditions for the

privilege. (See *Citizens for Open Gov't v. City of Lodi* (2012) 205 Cal.App.4th 296, 306; *Humane Society of U.S. v. Superior Court* (2013) 214 Cal.App.4th 1233, 1267.) Here, your September 8, 2017 letter describes that the two email chains withheld pursuant to the deliberative process privilege pertained to internal discussions regarding questions received from the public and a general policy statement about avoiding “chilling” staff’s communication. While we do not dispute the principles of this general policy statement about “chilling,” mere recitation of generally applicable policy is insufficient to invoke the deliberative process privilege. (*Citizens for Open Gov't, supra*, 205 Cal.App.4th at 307.) In addition, the deliberative process privilege is provided for senior public officials, not all levels of agency staff. (See *Regents of University of California v. Superior Court* (1999) 20 Cal.4th 509, 540.) The deliberative process privilege also is reserved for formulation of government policy, not any communication among or between staff members. (*Ibid.*).

Further explanation is required, and we request that for each withheld email you provide, at least, the individuals sending or receiving the emails, the email’s date, the specific request from the Golden Door to which the email is responsive, the question from the public being discussed, and a thorough description of the public’s interest in non-disclosure of each specific email in the importance CEQA places on public disclosure of information relating to a public agency’s environmental analysis. In addition, please disclose whether any such emails have been shared with third parties, such as Newland Sierra, which may break any otherwise applicable privilege asserted by the County. Or, pursuant to Government Code section 6253, redact the portions of these records that the County asserts is privileged and produce the remainder of the document that is non-privileged, such as the email headers with factual information regarding the sender, addressees, cc’s, bcc’s, transmittal date and time, etc. Without such information, it is impossible for us to evaluate the County’s assertions of privilege with the information available to us.

Redacted Document. In addition, the County redacted significant portions of an email chain between Mr. Oberbauer and County staff, which has been attached as **Attachment D**, including non-privileged information contained in the email headers. (See, e.g., California Civil Discovery Practice (4th ed Cal CEB) § 3.8 [“The privilege, however, protects only the content of the communication; it does not immunize the underlying facts from disclosure.”].) We are unaware of any privilege protecting the biologist’s communications with the County, and we ask that the County provide more detail on the basis for redacting the emails, including the factual information contained in the email headers. The basis for such redactions was not discussed in your letter of September 8, 2017. It appears that an attorney may be included on the email chain via a “gmail” account; therefore, more information is needed to understand any attorney-client relationship that may be implicated and how privilege is implicated for the redacted portions of the email chain. The County cannot properly claim a blanket privilege based on the mere inclusion of an attorney on the email.

Further, we do not believe the emails constitute a “deliberative process” because the biologist is not a member of the agency, nor is the County in the process of evaluating an action or making a decision. (Gov. Code §§ 6254(k), 6255; *Rogers v. Superior Court* (1993) 19 Cal.App.4th 469, 478 [citing *American Civil Liberties Union v. Deukmejian* (1982) 32 Cal.3d

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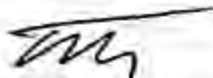
440, 447]; see also *Times Mirror Co. v. Superior Court* (1991) 53 Cal.3d 1325, 1342.) The County must clarify its reasoning behind asserting the deliberative process privilege.

Moreover, we are concerned this email chain may have been shared with representatives of the Newland Sierra or other third parties that may break any otherwise applicable privilege, if one exists. We request the County to explain whether the emails have been shared with any third party and the basis for any assertion of the privilege with such parties.

Because these emails may contain important information regarding biological issues necessary for the public to adequately participate in the NC MSCP process and to understand the Newland Sierra DEIR's reliance on such information, please provide a response within 10 calendar days of the date of this letter. It has been nearly a year since the County asserted to us that evidence for the Newland Sierra project's inclusion in the NC MSCP indeed exists but, to date, no evidence to support that claim has been made available. Accordingly, if we do not hear back within a reasonable time period, please be advised that we are prepared to exercise our rights under Government Code sections 6258 and 6259 to judicial review of the propriety of the County's disclosure in this matter.

We thank you for your time and attention to this matter. Please do not hesitate to contact us should you have any questions or comments.

Sincerely,



Taiga Takahashi
LATHAM & WATKINS LLP

Cc (email):

Mark Wardlaw, County Planning and Development Services
Kathleen Flannery, County Planning and Development Services
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Kathy Van Ness, Golden Door

Attachment A



County of San Diego

MARK WARDLAW
DIRECTOR

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June 5, 2017

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RESPONSE TO "INVESTIGATION NEEDED INTO NEWLAND'S MISLEADING BACKROOM DEALING FOR ITS 'SIERRA' PROJECT AND POTENTIAL IMPLICATIONS FOR COUNTY STAFF"

Dear Mr. Garrett,

At the request of the County Board of Supervisors and Chief Administrative Officer Helen Robbins-Meyer, Planning & Development Services (PDS) is responding to your May 17, 2017 letter titled "Investigation Needed into Newland's Misleading Backroom Dealing for Its 'Sierra' Project and Potential Implications For County Staff."

Background

As you know, the County is currently processing an application submitted by Newland Sierra LLC for a proposed development project (Project) located north of Deer Springs Road, directly west of Interstate 15 in the North County Metropolitan Subregional Plan and Bonsall Community Plan areas, within unincorporated San Diego County. The Project includes a General Plan Amendment, Specific Plan, Rezone, and Tentative Map to subdivide approximately 1,985 acres into 2,135 dwelling units, 81,000 square feet of commercial space, a 6-acre school site, approximately 36 acres of public and private parks, 19 miles of trails and approximately 1,209 acres of biological open space. While the Project is located on a site similar to that on which the former Merriam Mountains project was proposed, it is a new application and includes a new project description.

County's Role in the Process

As the lead agency, PDS completes an independent evaluation of private land development applications, including the Project, for compliance with applicable County, State and Federal laws, regulations and ordinances. As such, PDS is not an advocate for or against the Project, but acts in an independent regulatory capacity as the lead agency for the Project. Based on its independent evaluation of the Project's compliance with applicable requirements, PDS will

Christopher W. Garrett
June 5, 2017
Page 2

formulate a recommendation for the Planning Commission and then the Board of Supervisors (Board) who has the ultimate authority to (i) certify or decline to certify an Environmental Impact Report (EIR) for the Project; and (ii) approve or deny the Project. In addition, and as described more fully below, during the processing of the Project by the County, there will be extensive opportunities for public review and comment, including input from the appropriate community/ sponsor group, public review and comment of the Draft EIR, and public hearings held by both the Planning Commission and the Board about the Project and the evaluation. This is in addition to the public EIR scoping meeting and Notice of Preparation (NOP) public review period that have already occurred for the Project.

As part of the County's independent evaluation of projects, PDS consults with other agencies which may have additional permitting authorities. Your letter raises concerns that PDS staff are included on emails between the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) (collectively referred to as Wildlife Agencies) and the applicant. However, it is common practice for the County, a project applicant, and the Wildlife Agencies to communicate where a project will require approvals and/or concurrence from both the County and the Wildlife Agencies. It is also standard practice for the County to elevate issues within an agency to pursue issue resolution. The County's role in communicating with other agencies does not include advocating or lobbying these agencies to approve projects. The County has not traveled to the USFWS Regional Office in Sacramento or to the USFWS office in Washington, D.C. on behalf of the project applicant to circumvent working with the local USFWS Carlsbad Office.

While the County facilitates the public input process and consults with outside agencies, it should be clarified that the Building Industry Association (BIA) is independent from the County. None of the analysis or determinations made by PDS were based on the BIA matrix nor did the County have any involvement in its preparation. Lastly, PDS recovers the full cost of services related to the processing land development permit applications through deposit accounts that are paid for by project applicants. PDS does not use public funds to process permit applications.

Public Participation in the Process

A Draft EIR is being prepared for the Project by the applicant and will be released for a 60-day public review and comment period. All public comments received during the comment period are responded to and included in a Final EIR to be presented to the Planning Commission and Board at noticed public hearings for consideration and action. The Project will also likely require permits from the California Regional Water Quality Control Board and the U.S. Army Corps of Engineers and will, therefore, also likely undergo public review in accordance with the National Environmental Policy Act (NEPA).

Impacts to biological resources are studied as part of the California Environmental Quality Act (CEQA) and NEPA processes and appropriate mitigation is required to be provided. Through analysis of the biological resources onsite, it has been determined that the Project will result in impacts to Diegan coastal sage scrub (CSS) and result in the need for "take" of the California gnatcatcher, a federally listed threatened species. In accordance with the Endangered

Christopher W. Garrett
June 5, 2017
Page 3

Species Act (Act), there are currently three options for the Project to pursue take authorization for the California gnatcatcher including: (i) obtaining a Section 7 permit; (ii) obtaining a Section 10 permit; or (iii) through the issuance of and concurrence on a Habitat Loss Permit (HLP) in accordance with Section 4(d) of the Act, State Natural Community Conservation Planning (NCCP) Act Conservation Guidelines and Process Guidelines, and the County's HLP Ordinance implementing the 4(d) process. The applicant's pursuit of these permits requires the County's involvement with and determinations by the Wildlife Agencies.

Multiple Species Conversation Program – Draft North County Plan (Draft Plan)

The Project is also located within the planning area for the Multiple Species Conservation Plan – Draft North County Plan (Draft Plan), a regional multi-species Habitat Conservation Plan (HCP) and NCCP currently being prepared for consideration and approval by the Board and the Wildlife Agencies. Should the Draft Plan be approved, it would provide a fourth option for the Project to pursue take authorization for the California gnatcatcher.

As part of the effort to develop the Draft Plan, the County is conducting stakeholder outreach and engagement to gather input and feedback from interested parties as we work with the Wildlife Agencies to develop the Draft Plan. The County intends to release a public review of the Draft Plan and kick-off scoping for the environmental documentation process by the end of 2017, including the issuance of a NOP.

Currently, the County shows the Project site as a proposed “hardline” (preserve and development area defined) project within the Draft Plan. As was done in the previous public review of a prior iteration of the Draft Plan that was released in 2009, the anticipated public review of the Draft Plan will include supplemental information within an appendix that explains and justifies why certain projects were included as proposed hardlines. Information provided below indicates some of the rationale for including proposed hardline projects, which will be fully articulated in the public review of the Draft Plan that is anticipated for release at the end of 2017. It should also be noted that although the Wildlife Agencies accepted a hardline for the former Merriam Mountains project, this Project does not propose to revise or rely upon that hardline, but instead proposes a new hardline based on the current proposed Project.

In order for a project to be included as a hardline within the approved Multiple Species Conservation Plan – North County Plan (Final Plan), the project footprint to be developed and the footprint to be preserved, including any offsite mitigation areas, must be concurred upon by the Wildlife Agencies, the project proponent, and the County. While the Project is the only proposed project included within the current Draft Plan that has not yet received Board approval, inclusion of the Project in the Draft Plan does not, in any manner, indicate County support for the Project or provide the Project with an approval advantage. The Project will separately need Board approval as required by applicable laws and ordinances, and if it is denied by the Board or significantly revised, it will be removed or modified within the Draft Plan. In addition to the Board's required approval of the Project, the Wildlife Agencies will also need to approve take, either through the incidental take permit for the Final Plan or via one of the other options listed above.

Christopher W. Garrett
June 5, 2017
Page 4

The Project's inclusion in the Draft Plan reflects the County's view that the Project's proposed development footprint and open space preserve area should be considered within the conservation analysis for the Draft Plan but does not give the project any preferential treatment or eliminate any mitigation requirements. A fundamental piece of the Draft Plan will be a conservation analysis that forms the scientific basis upon which the Wildlife Agencies will base their biological opinions and findings in order to issue the County an Incidental Take Permit per the Act. The conservation analysis is currently in a working draft form that includes a preliminary analysis of potential impacts in the planning area, as well as an analysis of potential build-out of a preserve through mitigation, avoidance, and land acquisition. In order to complete this analysis, the County conducted an assessment of potential projects that are currently expected to occur within the planning area for the Draft Plan.

The main purpose of identifying projects and including them as proposed hardlines is so they can be properly incorporated in the conservation analysis of the Draft Plan. Inclusion of the Project as a proposed hardline does not exempt the project from or eliminate the need for the Project to provide mitigation for its biological impacts under either the Act or CEQA. In conducting the preliminary conservation analysis, County biologists believe that the open space design and future preservation of the 1,209 acres of land that the Project proposes complements the anticipated preserve and Pre-Approved Mitigation Area for the Draft Plan. As a result, the Project has been included in the Draft Plan and, to be included in the Final Plan, the Wildlife Agencies must concur. The Final Plan will also have to be approved by the Board.

The County appreciates your interest in the evaluation of the Project application and the formulation of the Draft Plan. You have been included on PDS's notification list to receive a notice of the availability of public review of the Draft EIR for the Project. We look forward to receiving additional comments from the Golden Door on the Draft EIR when it is released. If you have any questions about the Project, please contact the Project Manager, Ashley Smith at (858) 495-5375 or Ashley.Smith2@sdcounty.ca.gov or Planning Manager, Mark Slovick at (858) 495-5172 or Mark.Slovick@sdcounty.ca.gov.

Sincerely,



MARK WARDLAW, Director
Planning & Development Services

cc: County Board of Supervisors
Helen Robbins-Meyer, Chief Administrative Officer
Sarah Aghassi, Deputy Chief Administrative Officer
William Witt, County Counsel
Victor Avina, Policy Advisor, District 1
Adam Wilson, Policy Advisor, District 2
Jason Paguio, Policy Advisor, District 3

Christopher W. Garrett

June 5, 2017

Page 5

Adrian Granda, Policy Advisor, District 4
Melanie Wilson, Policy Advisor, District 5
Michael Fris, Assistant Regional Director, USFWS
Mendel Stewart, Field Supervisor, USFWS
Karen A. Goebel, Assistant Field Supervisor, USFWS
Ed Pert, South Coast Regional Manager, CDFW
Gail K. Sevrens, Environmental Program Manager, CDFW
Andrew Yancey, Latham & Watkins
Dan Silver, Endangered Habitats League
Denise Price, Clay Co.
Doug Hageman, Newland
George Courser, Sierra Club San Diego
Kathy Van Ness, Golden Door
Laura Hunter, Wildlife and Habitat Conservation Coalition
Mark Dillon, Gatzke Dillon & Balance
Paul Robinson, Hecht Solberg Robinson Goldberg & Bagley
Stephanie Saathoff, Clay Co.
Bonsall Community Sponsor Group
Hidden Meadows Community Sponsor Group
Twin Oaks Valley Community Sponsor Group

Attachment B

Preliminary Comments on the Conservation Strategy Methodology by FWS for discussion at 4-13-17 meeting w/County

Document needs a summary of conservation policies and regulations (if there are any) and how those apply to assumptions regarding conservation analysis (e.g. wetlands, vernal pools, narrow endemics) – do any of these policies override potential impacts regardless of whether an occurrence is in or out of the PAMA

B.1.1 pp B-5: Private development impacts within the Permit Area should not be compared to impacts in the Plan Area, by definition the permit area is the area where all impacts will occur.

It is not clear from footnote on table B-1 and text on page B-6 whether or not the agriculture clearing is inclusive to the impacts for single-family homes/private development or is additive.

Pp B-6, exemptions up to 4500 ac of ag impacts with no mitigation; text states 2000 inside PAMA and 4500 outside PAMA which totals 8500 ac?

Covered Sp Analysis pp B-7: impacts to species est. for future discretionary private development and hardline projects...does not include County projects? Need to clarify/consistent use of the term discretionary private development projects vs single family homes

What is “sustainable species occurrences: replacing itself overtime? We need to be assessing core populations not just individual occurrences

B.1.3 (pp B-8) Not clear what the conservation objectives are based on ...a the proportion of natural vegetation, species habitat and occurrences...?

Species Observation (pp B-9): what are the timeframes of the observation data.

Species Occurrence (pp B-9): the use of the 0.25mi linear distance may not be appropriate for all species or all observations.

Pp B-10 description of the areas outside the Permit Area....verify that these areas were excluded from the analysis..(Gregory canyon to be put back in)

Pp B-12 how is County’s mitigation (for County projects, single family homes and agricultural) accounted for in estimating contribution to Preserve Assembly (will this be acquisition of new lands or use of existing County baseline lands?)

Table B-2 and B-3: May need to consider changing mitigation ratios, recommend that css mitigate in kind.

Vegetation Analysis (Based on review of overall methodology and then the specific analysis for Scrub)

Vegetation Community Conservation - Table B-4

- What is last row “various natural vegetation communities” include
- What about Agriculture – is there a targeted amount that needs to be conserved?

- Not clear how Avoidance Ordinance acreage was calculated – is this the steep slopes that will be avoided? Foot note refers to appendix B which is this document
- What is the difference between columns 6 “estimated acquisition...” and 7 “estimated additional conserved private land” which refers to a footnote that says these would be from “purchase of conservation easements”
- Estimated acquisition by public agencies is 20,860 – of this 10,708 are identified as mitigation for single family residence and 4,500 for agricultural expansion – Will the mitigation for County projects also be included in this column? If you do not account for county project mitigation, there still is only 5,652 identified to meet “nccp” standards or to be purchased by Wildlife Agencies

Please explain the basis for assuming that 10% will be avoided outside PAMA – It seems that the assumption of what will be avoided due to steep slopes would be the same regardless of whether it is in or out of PAMA

For each vegetation community –

- What does the acreage of the first table under important planning unit represent? If it is the PAMA/Preserve – why does it not always match the summary of the Veg 1B table – see santa margarita scrub 4,816 versus 5016 (the rest match for scrub – did not check other veg types) – Also, since planning units are limited to the PAMA/Preserve, it is awkward to track impacts versus conservation within planning units – It may make more sense to define planning units more broadly so that we can then evaluate impacts in a given area versus conservation.
- Can you expand the Veg 1B tables to include impacts by unit, similar to the conservation? Also, can you add a column that shows the total acreage to be conserved (i.e. Baseline+some percentage of PAMA+hardline)– location matters since not all units are important for specific species

Table B-5 Single family residence

- Need some assessment of where single family impacts will occur
- Estimated conservation for each vegetation type is not a required conservation objective, but the impacts were estimated by vegetation type? Need to get clarification
- Does the impact assessment (9,811) include lands that can subdivide and then invoke the exemption?
- County is committing to purchase 10,708 acres of habitat to mitigate for these impacts – is it in kind? How will it be tracked relative to the impacts – rough step? And where will it occur – same planning unit?
- Section 3.3.1 New Single family residential exemptions states that the allowances maybe exceeded for fire protection and reference to the fire MOU – this is an incorrect assumption – the fire MOU only addresses existing structures as of the date of the MOU (1997) – it does not cover new development.

Agriculture

- Need some assessment of where impacts are likely to occur

- Footnote 1 on table B-1 implies that County is committing to mitigate at a 1:1 ratio – will it be in kind? Within same unit? How will it be tracked?

Table B-6 and B-7: how were avoidance assumptions determined and how relates to the % avoided patch sizes; explain basis of assumptions..

Pp B-21. If avoidance of scrub habitat primarily occurs on steep slopes this strategy may be problematic for species analysis (eg if species does not prefer steep slopes such as the CAGN)

Table B-Veg1B: Are Tribal Lands in Fee excluded from the Planning Units?

Table B-Veg1E

- Footnote 2 states that it is assumed that 50% of small patches and 70% of med and large patches will be avoided within the PAMA – what is this based on, how will it be implemented – the reference to section 3.4.1 of the HCP does not provide any additional information
- If there is only 14,466 acres of scrub habitat within the PAMA as shown in the first column, how can the conservation objective in table B-Veg 1G be 17,500?

Table B-Veg1F

- If Table IE estimates that 6,059 acres of the PAMA have development potential – how does the County assure that only 1,842 acres will be impacted within the PAMA?

Table B-Veg1G

- Please clarify what the basis is for the total conservation objective – does this represent the goal that was put into the SITES model? 2010 analysis (table 16) had a goal of conserving 80% within PAMA which equaled 62% conservation in Plan Area for scrub
- Please explain footnote 1 – 8% of 8,407 does not equal 735 – also, what is the basis for assuming 8% and how is this different then the acquisition column?

Species Analysis – (did not evaluate goals, objectives, management or monitoring that is included in HCP – all of this is relevant to overall conservation analysis)

Assumption that there will be no impacts to baseline preserve species occurrence seems flawed in that there are covered activities that can occur there

Sustainable occurrences — “can replace itself over time within a particular geographic location within the Plan Area” - definition is too general, how do you define location, over what period of time – who decides

Core areas and core species populations should be identified as part of the conservation objectives and included in the analysis of impacts and conservation

Need some assessment of where single family and agricultural impacts will occur – if the only known occurrences will be impacted by these activities, offsetting measures may not be feasible

Table B-9 – vegetation communities too broad for some of the species

Dun skipper – delete grassland and make consistent with text in species section

San Diego button-celery – delete scrub, chaparral, grassland, meadow and seep

Spreading navarretia – delete scrub, chaparral, grassland, meadow and seep

Spadefoot – not sure any one veg community is appropriate – needs ponded water

SKR – should be grassland

Spineflower – soil is more relevant than veg community

Thornmint – soil is more relevant than veg community

Species Predictive Models – Not great for most species on covered species list – may work for more of the watch species list – probably ok for vp species, riparian species, horned lizard

For SKR, Gnatcatcher, ARTO, and spineflower need to use more refined models (some may have already been developed by others ie gnatcatcher model).

If the model is no good, then just explain why and then don't include in the text - Harbison's dun skipper, Hermes Copper, Western spadefoot toad,

golden eagle – may work for identifying foraging habitat, but nest sites and territories need to be addressed, more recent data should be available from USGS.

Table B-10 – for vernal pools, there are specific soils that support them in plan area (e.g. Placentia) – does parent material and texture capture this specificity?

Species Specific Tables (broad comments, not species specific)

- Can the dates of the occurrences be added to the “C” tables
- G tables – is assumption that all mitigation is just based on vegetation or for some species does occupancy need to be demonstrated?
- Can impact and conservation to be broken down by unit
- H tables – how will the acquisition track with impacts? Will specific vegetation or predicted habitat be targeted?
- Is there a summary table for each species – combine tables G and H in some fashion so reader can assess overall impacts and conservation

Issues to be clarified/resolved in order to do analysis

Permit area (take occurs) and Plan area (covered activities and conservation): do we need to differentiate for the purposes of this plan because impacts on conservation lands (within the Plan

Area) from management activities would not be covered if they are not within the Permit area.
When using the term outside PAMA does this mean the Permit Area or Plan Area?

Does the conservation from the hardline projects functionally contribute to the Preserve?

Need an inventory and consensus on baseline preserve lands contribution to the Preserve (extent of recreation, fragmentation, other potentially conflicting uses; BLM MOU still valid; management and monitoring consistent with the Plan)

How to ensure distribution of conservation within Planning Units: vegetation target range; species core areas/occurrences.

Attachment C

-----Original Message-----

From: Oberbauer, Tom [mailto:Tom.Oberbauer@aecom.com]

Sent: Thursday, August 17, 2017 11:10 AM

To: Benham, Crystal <Crystal.Benham@sdcounty.ca.gov>; Eichar, Peter <Peter.Eichar@sdcounty.ca.gov>

Subject: FW: Species for North County Plan

From: Elias, Alexandra [mailto:Alexandra.Elias@sdcounty.ca.gov]

Sent: Monday, December 19, 2016 9:52 AM

To: Oberbauer, Tom

Subject: RE: Species for North County Plan

Tom, you're also doing the "project review" of the proposed Newland hardline for consistency with the Planning Agreement/NC Plan?

Thanks for all you're doing (the week before Christmas!!)

Alex

From: Oberbauer, Tom [mailto:Tom.Oberbauer@aecom.com]

Sent: Monday, December 19, 2016 9:47 AM

To: keoni.calantas@icfi.com <<mailto:keoni.calantas@icfi.com>>

Cc: Harris, Susan; Elias, Alexandra

Subject: Species for North County Plan

Hello Keoni:

Susan Harris is out sick. She has asked me to ask you to send me the species accounts as soon as you finish with them. If there are some that you don't think you will have time to work on, you can send those to me as well. I will have time to work on them today through Wednesday.

Thanks

Tom Oberbauer

Senior Scientist

Tom.oberbauer@aecom.com <<mailto:Tom.oberbauer@aecom.com>>

AECOM

401 West A Street, Suite 1200, San Diego, California 92101

619 610 7660

www.aecom.com <<http://www.aecom.com>>

Attachment D

From: [Oberbauer, Tom](#)
To: [Benham, Crystal](#); [Eichar, Peter](#)
Subject: FW: review of "hardline" project (attorney client confidential)
Date: Thursday, August 17, 2017 11:10:58 AM

-----Original Message-----

From: Slovick, Mark [<mailto:Mark.Slovick@sdcounty.ca.gov>]
Sent: Monday, December 19, 2016 5:10 PM
To: Oberbauer, Tom
Cc: Claudia Anzures; Smith, Ashley; Elias, Alexandra
Subject: Re: review of "hardline" project (attorney client confidential)

Thanks Tom. Yes let's plan on discussing at 9:30 tomorrow. If you're available in person that would be great, but we can also call you if that's easier just let us know. We will meeting with our Director in our Drake conference room if you plan to attend in person.

Thanks again,

Mark Slovick, Planning Manager
County of San Diego | Planning & Development Services T. 858.495.5172<tel:858.495.5172>

Sent from my iPhone

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From: Slovick, Mark [<mailto:Mark.Slovick@sdcounty.ca.gov>]
Sent: Monday, December 19, 2016 12:56 PM
To: Claudia Anzures; Smith, Ashley; Oberbauer, Tom
Cc: Elias, Alexandra
Subject: RE: review of "hardline" project (attorney client confidential)

Hi Tom and Claudia,

Sorry for not getting back to you sooner, but are you available tomorrow to discuss with our Director at around 9:30 or 10 am?

Thanks,

Mark Slovick, Planning Manager
County of San Diego | Planning & Development Services T. 858.495.5172

From: Claudia Anzures [<mailto:claudia.anzures@gmail.com>]
Sent: Thursday, December 15, 2016 1:22 PM
To: Smith, Ashley
Cc: Oberbauer, Tom; Slovick, Mark; Elias, Alexandra

Subject: Re: review of 'hardline" project (attorney client confidential)

I could meet on Tuesday morning.
I am out of town on Wednesday and Thursday next week.

Claudia Anzures

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CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION

On Thu, Dec 15, 2016 at 1:11 PM, Smith, Ashley
<Ashley.Smith2@sdcountry.ca.gov<<mailto:Ashley.Smith2@sdcountry.ca.gov>>> wrote:
Hi Tom and Claudia,

I've been asked to set up a meeting for early next week to go over any feedback that Tom may have following his review. What is your availability Tuesday morning? If that doesn't work, what about Wednesday or Thursday?

Thanks,

Ashley

Ashley Smith, Land Use/ Environmental Planner COUNTY OF SAN DIEGO | Planning & Development Services
T. 858.495.5375<tel:(858)%20495-5375>

From: Oberbauer, Tom [<mailto:Tom.Oberbauer@aecom.com><<mailto:Tom.Oberbauer@aecom.com>>]
Sent: Wednesday, December 14, 2016 4:04 PM
To: Claudia Anzures
Cc: Smith, Ashley; Slovick, Mark; Elias, Alexandra
Subject: RE: review of 'hardline" project (attorney client confidential)

Hello Claudia:

I am going to think about it a bit more and provide more feedback on Monday if that is OK for the timeline.

Thanks

Tom Oberbauer

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To: Oberbauer, Tom
Cc: Smith, Ashley, Slovic, Mark
Subject: RE: review of "hardline" project

Great, thanks. Right now we are planning to put it on a flash drive and get it down to you. Does that work?

From: Oberbauer, Tom [<mailto:Tom.Oberbauer@aecom.com>]
Sent: Wednesday, December 07, 2016 4:17 PM
To: Elias, Alexandra
Subject: RE: review of "hardline" project

Hello Alex:

I can look at it on Monday.

Thanks

Tom Oberbauer
From: Elias, Alexandra [<mailto:Alexandra.Elias@sdcountry.ca.gov>]
Sent: Wednesday, December 07, 2016 2:14 PM
To: Oberbauer, Tom
Cc: Claudia Anzures (claudia.anzures@gmail.com <<mailto:claudia.anzures@gmail.com>>); Slovic, Mark
Subject: review of "hardline" project

Tom:

We need to have a biologist that knows the NC plan look at a proposed hardline for a project to ensure that making findings can be made prior to including it in the Plan.

I believe we have the draft HLP findings and other bio info ready for review (Mark Slovic will confirm and send asap), but I wanted to make sure you could block out some time for this.

Thank you so much in advance.
Alex

Attachment E

**COUNTY OF SAN DIEGO
CEQA CONSULTANTS LIST FOR PRIVATELY INITIATED PROJECTS**

KEY FOR SUBJECT AREA ABBREVIATIONS

- AG AGRICULTURAL RESOURCES
- AQ AIR QUALITY
- AR ARCHAEOLOGICAL RESOURCES
- BI BIOLOGICAL RESOURCES
- EP EIR PREPARER
- FP FIRE PROTECTION PLANNING
- GW GROUNDWATER
- HS HISTORIC RESOURCES
- MN MINERAL RESOURCES
- NO NOISE
- RP REVEGETATION PLANNING
- TT TRANSPORTATION & TRAFFIC
- VA VISUAL ANALYSIS

Pursuant to the County CEQA Guidelines, Planning & Development Services (PDS) selects lists of individuals (not firms) that are approved to prepare CEQA documents for the County for privately initiated projects through a Request for Qualifications (RFQ) and selection process. Consultant lists are reestablished periodically. Applicants are responsible for selecting and direct contracting with specific consultants from the County's list to prepare CEQA documents for private projects. Prior to the first submittal of a CEQA document prepared by a listed consultant for a private project, the applicant, consultant, consultant's firm (if applicable) and County shall execute a Memorandum of Understanding (MOU) or similar agreement that addresses payment, communications, confidentiality of information, and report preparation and handling. Consultants that prepare CEQA documents for County initiated projects will continue to be selected through the standard County procurement processes.

CEQA CONSULTANTS LIST - AGRICULTURAL RESOURCES

Last Name	First Name	Firm	Address	City	ST	ZIP	Phone	Email
Biddulph	Bobbette	ESA	9191 Towne Centre Drive, Suite 340	San Diego	CA	92122	858-638-0900	bbiddulph@esassoc.com
Chagala	James	Chagala & Associates	10324 Meadow Glen Way East	Escondido	CA	92026	760-751-2691	jchagala@hotmail.com
Domeier	Jennifer	RECON Environmental, Inc.	1927 Fifth Avenue	San Diego	CA	92101	619-308-9333	jdomeier@reconenvironmental.com
Greco	F. James	T&B Planning Consultants, Inc.	8885 Rios San Diego, Suite 227	San Diego	CA	92108	619-325-0290	jgreco@tbplanning.com
Marcin	Dennis	Helix Environmental Planning, Inc.	8100 La Mesa Boulevard, Suite 150	La Mesa	CA	91941	619-462-1515	dennism@helixepi.com
Shamlou	Shawn	Dudek & Associates	605 Third Street	Encinitas	CA	92024	760-479-4228	sshamlou@dudek.com
Unverzagt	Lance	RECON Environmental, Inc.	1927 Fifth Avenue	San Diego	CA	92101	619-308-9333	lanceu@recon-us.com

Established March 9, 2007

Supplemented December 22, 2014

CEQA CONSULTANTS LIST - AIR QUALITY

Last Name	First Name	Firm	Address	City	ST	ZIP	Phone	Email
Alberson	Michael	Geosphere Consultants, Inc.	1150 Hamilton Drive	Escondido	CA	92029	760-294-5000	malberson@wavesenv.com
Boparai	Poonam	Ascent Environmental, Inc.	455 Capitol Mall, Suite 300	Sacramento	CA	958144	858-354-4151	Poonam.Boparai@ascentenvironmental.com
Brugger	Ron	LSA Associates, Inc.	20 Executive Park, Suite 200	Irvine	CA	92614	949-553-0666	ron.brugger@lsa-assoc.com
Bull	Charles	RECON Environmental	1927 Fifth Avenue, Suite 200	San Diego	CA	92101	619-308-9333	cbull@recon-us.com
Byrne	Dana	PAN Environmental	11551 Corte Playa Las Brisas, Suite 110	San Diego	CA	92124	858-560-6585	dbyrne@panenvironmental.com
Cohen	Scott		5920 Friars Road, Suite 103	San Diego	CA	92108	619-694-8670	scohen@seseconsulting.com
Deckman	David	Dudek & Associates	11641 Blocker Drive, Suite 240	Auburn	CA	95603	530-885-8232	ddeckman@dudek.com
Dramko	Joanne	Helix Environmental Planning, Inc.	7578 El Cajon Boulevard, Suite 200	La Mesa	CA	91942	619-462-1515	JoanneD@helixepi.com
Gottfredson	David	RECON Environmental	1927 Fifth Avenue, Suite 200	San Diego	CA	92101-2358	619-308-9333	dgottfredson@recon-us.com
Hendrix	Michael	Chambers Group, Inc.	17671 Cowan Avenue, Suite 100	Irvine	CA	92614	949-261-5414	
Kurtz	James	Bon Terra Psomas	2 Executive Circle, Suite 175	Irvine	CA	92614	714-444-9199	jkurtz@bonterraconsulting.com
Louden	Jeremy	LDN Consulting	446 Crestcourt Lane	Fallbrook	CA	92028	760-473-1253	jlouden@ldnconsulting.net
Maddux	Bill	RECON Environmental	1927 Fifth Avenue	San Diego	CA	92101	619-308-9333	wmaddux@reconenvironmental.com
O'Bannon	Joe	OB-1 Air Analyses	9909 Huennekens Street, Suite 206	San Diego	CA	92121	760-691-6486	joe@ob1air.com
Qureshi	Haseeb	Urban Crossroads	41 Corporate Park, Suite 300	Irvine	CA	92606	949-660-1994	hqureshi@urbanxroads.com
Rous	Heidi	PCR Services Corporation	80 South Lake Avenue, Suite 570	Pasadena	CA	91101	626-204-6170	h.rous@pcrmet.com
Silverman	Sam	Terry A. Hayes Associates, LLC	8522 National Boulevard, Suite 102	Culver City	CA	90232	310-839-4200	ssilverman@webtaha.com
Slavick	Michael	Helix Environmental Planning, Inc.	7578 El Cajon Boulevard, Suite 200	La Mesa	CA	91941	619-462-1515	mslavick@helixepi.com
Tavares	Rick	Investigative Science & Engineering, Inc.	1134 D Street, PO BOX 488	Ramona	CA	92065	760-787-0016	rtavares@ise.us
Thompson	Valerie	Scientific Resource Associated	927 Wilbur Avenue	San Diego	CA	92109	858-488-2867	vltsra@earthlink.net
Vander Pluym	Duane	Rincon Consultants, Inc.	790 East Santa Clara Street	Ventura	CA	93001	805-641-1000	duane@rinconconsultants.com
Vermillion	Nicole	PlaceWorks	3 MacArthur Place, Suite 1100	Santa Ana	CA	92707	714-966-9220	nvermillion@placeworks.com

Established March 9, 2007

Supplemented July 26, 2013

CEQA CONSULTANTS LIST - ARCHAEOLOGICAL RESOURCES

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Established September 8, 2006

Supplemented May 5, 2016

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Established March 9, 2007

Supplemented May 5, 2016

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Established March 9, 2007

Supplemented May 5, 2016

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Established September 8, 2006

Supplemented December 22, 2014

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Established March 9, 2007

Supplemented May 5, 2016

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Established August 1, 2007

Supplemented July 26, 2013

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Established September 8, 2006

Supplemented July 26, 2013

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Harding	Jerrica	T&B Planning, Inc.	1419 University Avenue, Suite C	San Diego	CA	92103	619-501-6041	jharding@tbplanning.com
Hoffman	Amy	HELIX Environmental Planning, Inc.	7578 El Cajon Boulevard, Suite 200	La Mesa	CA	91942	619-462-1515	amyh@helixepi.com
Jewell	Alex	Kimley-Horn and Associates, Inc.	11919 Foundation Place, Suite 200	Gold River	CA	95670	916-859-3625	alex.jewell@kimley-horn.com
Leiba	Angela	URS Corporation of Americas (Urs Corp.)	4225 Executive Square, Suite 1600	La Jolla	CA	92037	858-812-8252	angela.leiba@urs.com
Lewis	Brad	Helix Environmental Planning, Inc.	7578 El Cajon Boulevard, Suite 200	San Diego	CA	91942	619-462-1515	bradl@helixepi.com
Maroltz	Nicole	RBF Consulting	9755 Clairemont Mesa Boulevard, Suite 100	San Diego	CA	92124	858-614-5060	nmaroltz@rbf.com
Molentin	Scott	Estrada Land Planning, Inc.	755 Broadway Circle, Suite 300	San Diego	CA	92101	619-238-0143	smolentin@estradaandplan.com
Preciado	David	Estrada Land Planning, Inc.	755 Broadway Circle, Suite 300	San Diego	CA	92101	619-238-0143	Dpreciado@EstradaLandPlan.com
Saunders	Joshua	Dudek	605 Third Street	Encinitas	CA	92024	760-479-4283	jsaunders@dudek.com
Shapouri	Alli	Shapouri & Associates	PO BOX 676221	Rancho Santa Fe	CA	92067	858-756-8340	alli@shapouri.com
Singleton	Michael	KTU+A	3916 Normal Street	San Diego	CA	92103	619-294-4477	mike@ktua.com
Sweezy	Michael	Dudek	605 Third Street	Encinitas	CA	92024	760-479-4253	msweezy@dudek.com

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Supplemented May 5, 2016

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April 17, 2018

VIA HAND DELIVERY

San Diego County Board of Supervisors
 County Board of Supervisors
 1600 Pacific Highway, Room 402
 San Diego, CA 92101
 Attn: Clerk of the Board of Operations

Re: Housing Affordability within San Diego County; Agenda Item 5

Dear Supervisors Cox, Jacob, Gaspar, Roberts, and Horn:

As you know, we represent the Golden Door Properties LLC (the “Golden Door”), which owns and operates an award-winning spa and resort that opened in 1958, along with sustainable agricultural operations. Adjacent to the Golden Door, the Newland Real Estate Group, LLC (“Newland”) has proposed a revised Merriam Mountains project, known as the “Sierra” project (the “Newland Sierra Project” or “Project”) on property located near Deer Springs Road. Newland’s proposal includes 2,135 residential units but fails to include a necessary affordable housing component.

We understand the Board is considering requesting the Chief Administrative Officer to investigate options to promote construction of homes in the unincorporated region and to close the housing gap. The Golden Door has employees of all income levels who need access to more affordable housing within North County. However, the proposed Newland Sierra Project is not located on a site that the County has identified for new housing construction in the North County metro area (see, e.g., Smart Growth Opportunity Areas, Figure H-2, General Plan Housing Element), it does not provide any affordable housing, and its market analyses are outdated and are inaccurate. Newland Sierra defines “affordable” as “assuming 4.0 percent interest rate, 10 percent down payment and a 35 percent of household income for housing.” However, interest rates today are higher (4.625%) and rising, and federal standards define “affordable” as costing “no more than 30% of the monthly household income for rent *and* utilities.”¹ And Newland

¹ See Enclosure 1; see also U.S. Dept. of Housing and Urban Development, *Affordable Housing*, https://www.hud.gov/program_offices/comm_planning/affordablehousing/ (last visited Apr. 17, 2018); San Diego Housing Federation, *Frequently Asked Questions*, <https://www.housingsandiego.org/find-housing-faq> (last visited Apr. 17, 2018).

Sierra has refused to commit to legally commit to providing affordable housing, incorrectly claiming on its website that the County has no such requirements.²

Accordingly, if the County were to approve the Newland Sierra Project, it would violate the County's General Plan because the Project lacks the required affordable housing which is expressly specified as necessary in the County's General Plan. (See General Plan Policy H-1.9; see also Government Code § 65300.5, *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 635-636 [project must comply with specific and mandatory general plan policies].)

Existing County Policies Require an Affordable Housing Component for General Plan Amendment Projects. The County's General Plan already contains a policy requiring that **“developers [] provide an affordable housing component when requesting a General Plan amendment for large-scale residential project[s] when this is legally permissible.”** (General Plan, Policy H-1.9)(emphasis supplied). Current California law does make a mandatory “affordable housing component” legally permissible. Thus, the Board of Supervisors has the existing legal authority under California law to require an affordable housing component in every project that requires a General Plan amendment, as specified in Policy H-1.0. Thus, the Chief Administrative Officer and County Counsel, and the Board of Supervisors, have a mandatory duty under the County's adopted General Plan to require affordable housing conditions that are “legally permissible” under California law in order to implement the County's existing affordable housing policy embodied in Policy H-1.0

As it stands now, the County Board of Supervisors is required to impose a condition requiring an affordable housing component for projects seeking a General Plan amendment. The pending Newland Sierra project does not contain such an affordable housing component, and therefore is inconsistent with the existing General Plan. The courts have explained what “legally permissible” means within the context of affordable housing:

[I]t is well established that *price controls are a constitutionally permissible form of regulation with regard to real property* as well as to other types of property or services. . . . Accordingly, just as it would be permissible for a municipality to attempt to increase the amount of affordable housing in the community and to promote economically diverse developments by *requiring all new residential developments to include a specified percentage of studio, one-bedroom, or small-square-footage units, there is no reason why a municipality may not alternatively attempt to achieve those same objectives by requiring new developments to set aside a percentage of its proposed units for sale at a price that is affordable to moderate- or low-income households.*

² See Enclosure 2; see also Newland Sierra *FAQ*, *Types of Housing*, <https://www.newlandsierra.com/faq/> (last visited Apr. 17, 2018).

(*California Building Industry Assn. v. City of San Jose* (2015) 61 Cal.4th 435 [emphasis added] (“*CBIA*”).) Therefore, the County may impose price control requirements on proposed new developments or require new residential developments to include a specified percentage of affordable units. The pending Newland Sierra project does not include either, despite the County’s General Plan policy requiring “legally permissible” action to ensure that General Plan amendment projects include an affordable housing component.

The County May Immediately Impose an Affordable Housing Requirement on Newland Sierra. Implementing a requirement for a percentage of affordable homes within a new development is something the County can immediately implement and is required to implement under the express provisions of the General Plan. The General Plan policy is already in place that imposes a requirement on the pending Newland Sierra Project. Here, there is a clear nexus between the imposition of affordable housing requirements on development and the effects on the region. (See e.g. *San Remo Hotel L.P. v. City and County of San Francisco* (2002) 27 Cal.4th 643 [government may impose permitting condition without running afoul of the Takings Clause if it demonstrates an essential nexus and reasonable relationship between the permitting condition and a deleterious public impact of the development].)

In any event, the California Supreme Court has ruled that no “nexus” requirement applies to a condition requiring an affordable housing component for a residential development project. (*CBIA, supra*, 61 Cal.4th at 474-75, 479 [rough proportionality/nexus requirements do not apply to restrict developer’s use of property].) The Supreme Court relied upon *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854 to reach this conclusion. (*Id.* at 475-76.) *Ehrlich* involved the imposition of conditions on a case-by-case basis, rather than through a broader inclusionary housing ordinance, enabling a greater amount of discretion for the deployment of the city’s police power. (*Ehrlich, supra*, 12 Cal.4th at 869.) As such, the County may rely on its existing General Plan and implement appropriate inclusionary zoning requirements as a project condition on Newland Sierra prior to project approval. (*CBIA*, 61 Cal.4th at 477 [“Moreover, as we have explained above, the validity of the ordinance’s requirement that at least 15 percent of a development’s for-sale units be affordable to moderate- or low-income households does not depend on an assessment of the impact that the development itself will have on the municipality’s affordable housing situation.”].)

Though the law on this issue is firmly established, i.e., the County certainly does have the authority today to impose an affordable housing condition on the Newland Sierra project, if County Counsel somehow disagrees with this legal conclusion and believes that further steps are needed to make an affordable housing component “legally permissible,” then County Counsel should be directed to prepare any appropriate documents needed to implement this mandatory portion of the adopted General Plan, and any processing of the current General Plan amendment project of Newland Sierra project, should be suspended until the County adopts an ordinance to implement its own General Plan requirements. The County could simply impose the same requirement for affordable housing as upheld by the California Supreme Court in the City of San Jose case, using the wording of any ordinance or conditions adopted by the City of San Jose. Along with any other General Plan change or zoning ordinance amendment that is included in the Newland project approvals, County staff and the County Counsel can simply include project

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conditions and/or an ordinance adopting affording housing requirements approved in the San Jose case, at the same time as the Board considers any other project approvals.

We ask that the County Chief Administrative Officer and County Counsel be directed to immediately propose project conditions or any other legal documents required to implement General Policy H-1.9 for the Newland project, and no further processing of the Newland project should occur until these actions are taken to implement General Plan Policy H-1.9. If County Counsel concludes that General Plan Policy H-1.9 is unenforceable, and the County lacks the legal authority to impose conditions requiring affordable housing components under the terms of that Policy, the Board should request County Counsel to describe the reasons for this conclusion.

Failure to pay attention the mandatory requirements of General Plan Policy H-1.9 will only result in needless delays and disruptions in any decisions the Board may make with respect to new developments covered by this Policy, such as Newland.

We thank you for your time and attention to our comments, and ask that they be incorporated both into the administrative record for the Newland Sierra Project and this Agenda Item 5. Please do not hesitate to contact me should you have any questions.

Best regards,

Christopher Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
Darin Neufeld, County Planning and Development Services
Mark Slovick, County Planning and Development Services
Ashley Smith, County Planning and Development Services
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
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April 17, 2018

VIA EMAIL & US MAIL

Ashley Smith
Planning and Development Services
County of San Diego
5510 Overland Avenue, Suite 310
San Diego, Ca 92123

Re: Revised Independent Analysis of Zoning Regulations, Constraints and Development Potential of Newland Owned Commercial Parcels Report prepared by Delane Engineering

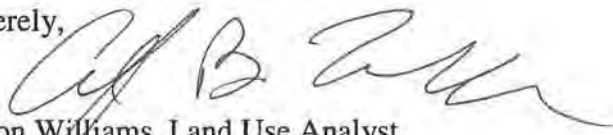
Dear Ms. Smith

Please find enclosed a revised report by Delane Engineering regarding the "Independent Analysis of Zoning Regulations, Constraints and Development Potential of Newland Owned Commercial Parcels." Our office previously submitted the report with our comment letter on the Draft Environmental Impact Report for the Newland Sierra Project. The previously submitted report incorrectly showed that Newland Sierra owned land currently occupied by the AM/PM gas station at Mesa Rock Road. This has been corrected, and the exhibits to the report have also been revised to reflect this change.

The revision, however, does not change the conclusion of the report which finds that due to regulatory and environmental constraints on the site a maximum of 618,000 square feet of office professional uses, and 77,000 square feet of general commercial uses could be built on the portions of the Newland Sierra Project site currently designated for office commercial and general commercial, for a total of 695,000 square feet. Therefore, the report finds that the site would not accommodate the 2 million square feet of commercial retail space including "big box" retail, claimed by Newland Sierra and repeated often by Newland Sierra in media reports and at community meetings.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Clifton Williams, Land Use Analyst
LATHAM & WATKINS LLP

Enclosure



TECHNICAL MEMORANDUM

DATE	August 4, 2017 Rev. March 29, 2018 (revised developable area removing parcels not owned by Newland)
TO	Andrew Yancey – Latham and Watkins, LLP
FOR	Kathy Van Ness – COO/GM Golden Door Resort
FROM	John Prince, PE, PMP – DELANE Engineering, Inc.
SUBJECT	Independent Analysis of Zoning Regulations, Constraints, and Development Potential of Newland Owned Commercial Parcels

According to the June 2017 Draft Environmental Impact Report (DEIR) prepared for the Newland Sierra Development, the entire project area is currently zoned for 99 dwelling units and 58.2 acres of commercial office space (53.6 acres of C30, Office Professional, and 4.6 acres of C36, General Commercial). The Newland project proposes amending the General Plan and zoning to allow for the project's proposed 2,135 dwelling units and 81,000 square feet (SF) of commercial retail (C-5). See **Figure 1** for a land use breakdown from the Project Description section of the Newland DEIR.

The Newland DEIR claims that the 58.2 acres of currently zoned commercial property yields 2,008,116 SF of potential development under the Existing General Plan and that the proposed zoning changes result in similar or fewer overall land use and traffic impacts. The Newland DEIR also concludes that 2,008,116 SF of commercial development is feasible on the project site, and marketing material distributed by Newland at public meetings suggests the commercial parcels could include “big box” retail stores.

The Newland DEIR does not provide any detail on how the parcels would support over 2 million SF of development and does not own all the parcels. Per the County Zoning ordinance, development on the parcels is limited to two-stories and 35-ft in total height, with setbacks up to 60-ft. In addition, much of the property lies on “steep slopes”. Per the County Resource Protection Ordinance (RPO), steep slopes are defined as those natural slopes exceeding 25% in slope gradient and are a protected resource. Over 30% of the area of the commercial parcels qualifies as steep slopes per the RPO. As shown in **Figure 2**, the percent of steep slope area in several of the parcels exceeds 10% of the parcel area and requires an open space easement on the area of steep slopes (the yellow and red colored areas of Figure 2). Proposed development is not allowed to encroach more than 10% into an open space easement. In addition to steep slopes as a protected resource, the entire site consists of significant sloping that increases development costs and reduces development potential.

As shown in **Figure 3**, deducting for area of steep slopes and parking (at County ordinance rate of 4 stalls per thousand SF) yields a total developable building area available of 309,000 SF for C30 Office Professional and 38,500 SF for C36 General Commercial for a total of 347,500 SF. At 2 story height

restriction, the total building square footage feasible is 618,000 SF for C30 Office Professional and 77,000 SF of C36 General Commercial, for a total building square footage of 695,000 SF¹. Note that there are additional potential constraints not taken into account that may further reduce feasible building square footage, including slope grading and earthwork, views, cost, economic viability, and other environmental factors.

The C30 zone does not allow “big box” retail stores. Section 2300 of the County Zoning Ordinance states that the intent of the C30 zone is as follows: “The C30 Use Regulations are intended to create and enhance areas where administrative, office and professional services are the principal and dominant use. It is also intended that uses involving high volumes of vehicular traffic be excluded from the C30 Use Regulations. Typically, the C30 Use Regulations would be applied near residential areas, have a scale and appearance compatible with and complementary to the adjacent residential use, and have pedestrian as well as vehicular access.”

The C36 General Commercial Zone does allow General Retail Sales which would include “big box” retail. However, as noted approximately 77,000 SF of retail would be allowed, which is smaller than the typical Costco (144,500 SF), Home Depot (105,000 SF), or Wal-Mart supercenter store (182,000 SF).² The 4.6 acres zoned C36 is bisected by Mesa Rock Road, further diminishing the ability for the property to develop in a single block, as would be required for any type of large format retail. Small convenience store retail, akin to the existing AM/PM minimart is more likely.

The Newland DEIR claims that the trip generation and distribution of the proposed residential development would be similar to and offset by the current commercial property. However, while the commercial parcels are limited to the far southeast corner of the entire project site, the Newland Sierra project as proposed sprawls out far across the hillsides northwest of the commercial parcels. Proposed project trip distribution is then spread out through three project access roads (Mesa Rock Road, Sarver Lane, and Twin Oaks Valley Road) causing further travel to and from the freeway and increased traffic on Deer Springs Road. However, when current land use is compared to proposed land use, it is apparent that trip distribution for the commercial parcels (if fully developed to current general plan) would result in differing trip distribution, with all traffic required to access the parcels from Mesa Rock Road. This is not addressed in the Newland project documents.

Finally, any development of only the commercial properties would not result in the environmental impacts and earth moving, blasting, noise, and other construction related impacts of the proposed Newland development across its nearly 2,000 acre site.

¹ The high level conceptual footprint designs provided in this memorandum are for the purpose of approximating the buildable area on the Newland Sierra project site under the existing General Plan and are not to be construed as a development proposal or design-level engineering.

² http://investor.costco.com/phoenix.zhtml?c=83830&p=irol-homeprofile_pf; <https://corporate.homedepot.com/about>; <http://stock.walmart.com/investors/investor-resources/faqs/default.aspx>

Figure 1 – Existing Land Use (per Newland DEIR)

Commercial and Residential Yield Analysis (Existing Land Use Regulations)

Land Use	Acres	Allowable Density per General Plan	Number of Units/Square Feet
SR-10 (0%–25% slope)	19.6	1 dwelling unit/10 acres	5*
SR-10 (25%+)	0.0	1 dwelling unit/20 acres	0
RL-20	1,907.8	1 dwelling unit/20 acres	94
C-1	4.6	0.70 floor area ratio	140,263 square feet
C-2	53.6	0.80 floor area ratio	1,867,853 square feet
Total	1,985 acres	-	99 dwelling units and 2,008,116 square feet

Source: Appendix C

* One dwelling unit per parcel per existing legal lot

SR-10 = Semi-Rural 10; RL-20 = Rural Land; C-1 = General Commercial; C-2 = Office Professional

FIGURE 2 - STEEP SLOPES

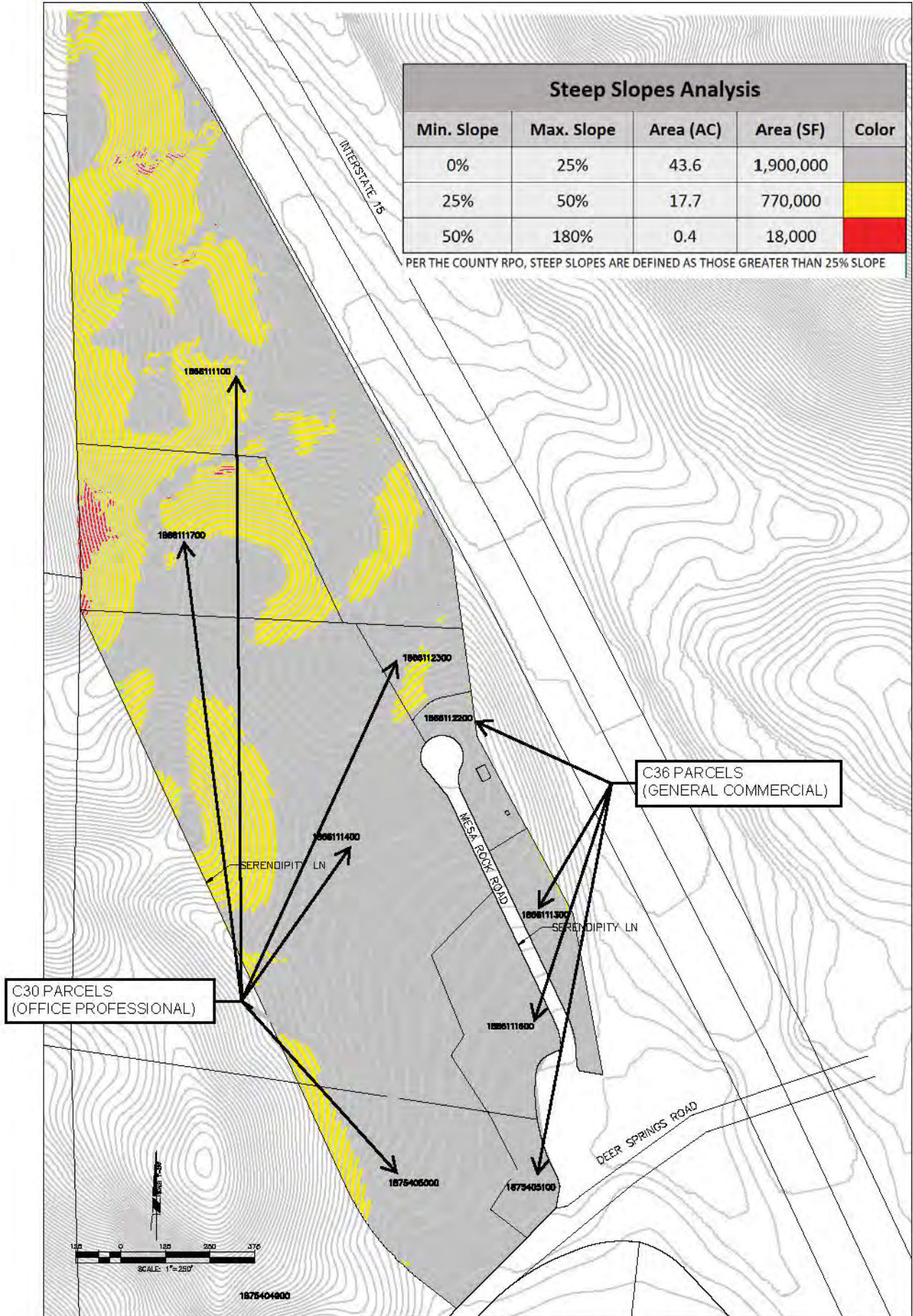
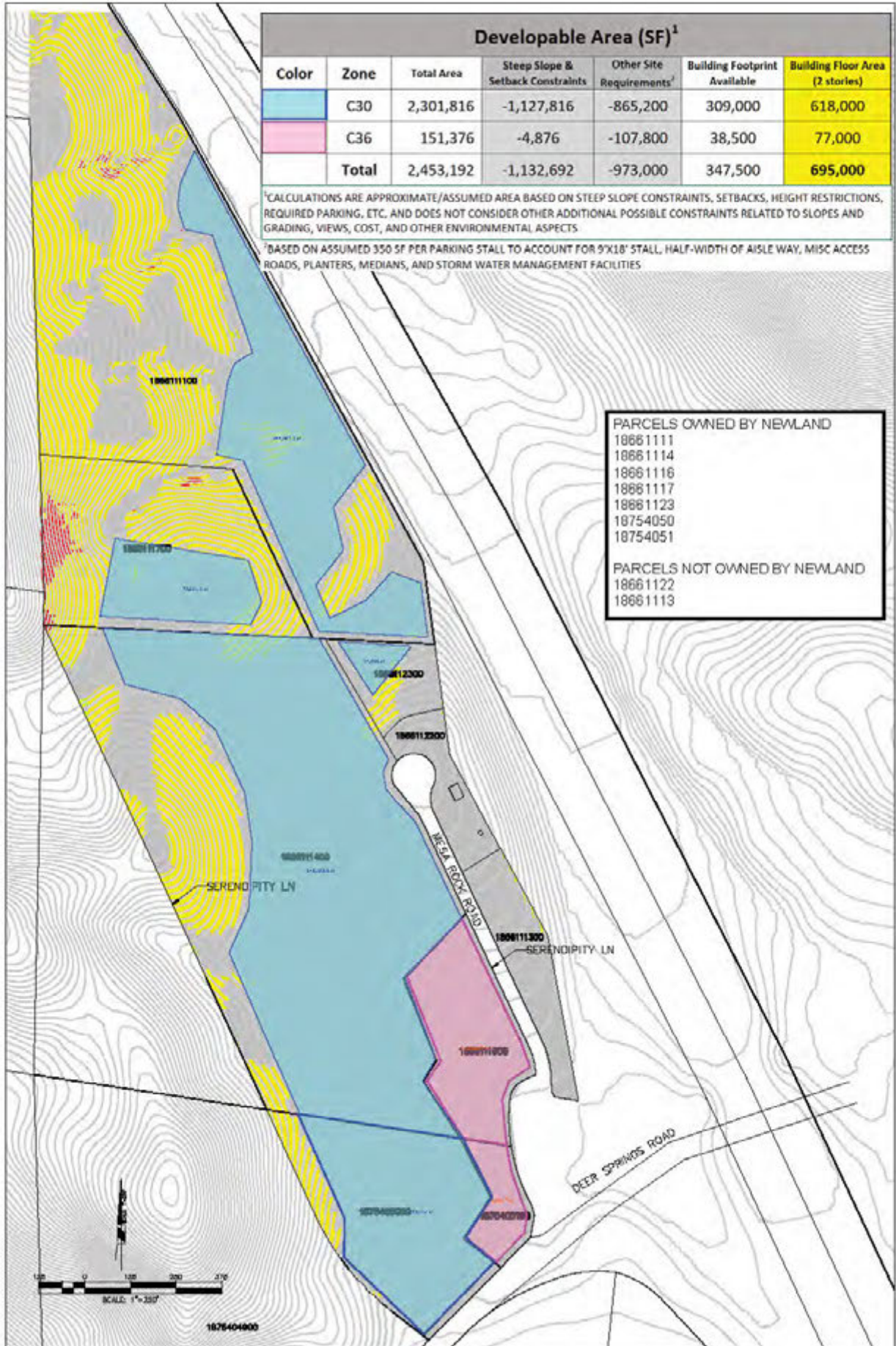


FIGURE 3 - DEVELOPABLE AREA



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April 25, 2018

VIA EMAIL

Ashley Smith
 Planning and Development Services
 County of San Diego
 5510 Overland Avenue, Suite 310
 San Diego, CA 92123

Re: Request for Recirculation of Draft Environmental Impact Report for the Newland Sierra Project Due to Misleading and Inaccurate Claims

Dear Ms. Smith:

I am writing on behalf of my client, Golden Door Properties, LLC (“Golden Door”) to request that the County of San Diego withdraw the existing the Draft Environmental Impact Report (“EIR”), SCH No. 2015021036, and revise and recirculate it, pursuant to the California Code of Regulations, Title 14, section 15088.5(a)(4). Section 15088.5(a)(4) requires an EIR to be recirculated when it is “so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded.”

That is the case here, because the project applicant, along with its primary environmental consultant (Dudek), have consistently and inaccurately set forth to the public a fundamentally inaccurate and misleading project comparison that includes “two million square feet of office space and big box retail” (See Enclosure 1: April 13, 2018 mailing by project applicant to County residents; see also Draft EIR at p. 1-34 [Project Description Chapter, asserting that “existing General Plan land use designations would allow approximately 99 residential dwelling units and 2,008,116 square feet of commercial space.”) This oft-repeated statement by the project proponent and Dudek is false, and relying upon this assertion in the draft EIR leaves the County extremely vulnerable to liability under the California Environmental Quality and the Code of Civil Procedure section 1021.5.

Dudek’s analysis is fundamentally flawed under Section 15088.5 for the following reasons.

First, under the California Environmental Quality Act (“CEQA”), an agency must use a reasonable measure of the environment’s state absent the project to decide whether a given project’s environmental effects are likely to be significant—typically referred to as the “baseline.” The baseline consists of “the physical environmental conditions in the vicinity of the project, as they exist at the time . . . environmental analysis is commenced . . .” (California

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Code of Regulations, title 14, section 15125, subd. (a) [commencing with section 15000, the “CEQA Guidelines”].)

Dudek and Newland’s repetition of the project’s comparison to “two million square feet of office space and big box retail” is a clear violation of CEQA Guidelines section 15125—it is clear that “two million square feet of office space and big box retail” is a completely imaginary description of “the physical environmental conditions in the vicinity of the project, as they exist at the time . . . environmental analysis is commenced”

Second, the case law is clear—indeed the California Supreme Court has explained—that **“An approach using hypothetical allowable conditions as the baseline results in ‘illusory’ comparisons that ‘can only mislead the public as to the reality of the impacts and subvert full consideration of the actual environmental impacts,’ a result at direct odds with CEQA’s intent.”** (*Communities for a Better Environment v. South Coast Air Quality Mgmt. Dist.* (2010) 48 Cal. 4th 310, 322 [emphasis added]; see also *San Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal. App. 4th 645, 658 [“the baseline environmental setting must be premised on realized physical conditions on the ground, as opposed to merely hypothetical conditions allowable under existing plans”].)

As in *Communities for a Better Environment* and *San Joaquin Raptor Rescue Center*, Dudek and Newland’s repetition of the project’s comparison to “two million square feet of office space and big box retail” is directly at odds with CEQA’s intent. There is no entitled right to “two million square feet of office space and big box retail” in this area. There is no historical precedent for “two million square feet of office space and big box retail” in this area. There are no pending applications for “two million square feet of office space and big box retail” in this area. There is no market demand for “two million square feet of office space and big box retail” in this area. (Enclosure 2: Cushman & Wakefield Demand Study, dated July 31, 2017 [“[T]here does not appear to be significant demand for office space in the subject’s designated site area. . . . [T]here is little to no current demand for retail development at the subject’s site.”].) When considering site-specific constraints and other County requirements, it is not physically possible to locate “two million square feet of office space and big box retail” in this area. (Enclosure 3: Delane Engineering, Independent Analysis of Zoning Regulations, Constraints, and Development Potential of Newland Owned Commercial Parcels.) Finally, the “two million square feet of office space and big box retail” claim is contradicted by the SANDAG Series 12, 2050 Growth Forecast, which projected fewer than 500,000 square feet of commercial uses in this area, not 2,000,000 square feet, *using inputs validated by the County of San Diego*. (Enclosure 4: Professional Land Use Analysis of SANDAG Growth Forecast Data on Newland Sierra Project Site Commercial Area.) Accordingly, there is no reasonable justification for using “two million square feet of office space and big box retail” as the environmental baseline for comparison for the project, nor is it appropriate to incorporate into the “No Project” or “Existing General Plan” alternatives.

Yet this erroneous and misleading baseline infects not only the applicant’s communications to the public on this project, but also the analysis in the draft EIR. For example, Chapter 2.14 uses “projected” water demand based on full build-out of General Plan conditions. (DEIR at p. 2.14-67 [Table 2.14-1].) Using this purely hypothetical baseline, Dudek asserts that

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the project will result in a “35 percent reduction in water use compared with the 2011 General Plan water demand.” (*Id.* at p. 2.14-45.) Notably, Dudek fails to provide a comparison of the project’s water use based on existing conditions, which does not include “two million square feet of office space and big box retail.” Newland makes similar claims regarding other significant, adverse environmental impacts, stating that the addition of a population the size of the City of Del Mar in this currently largely undeveloped area will somehow result in “less peak hour traffic.” (Enclosure 1.) (E.g., *Woodward Park Homeowners Assn., Inc. v. City of Fresno* (2007) 150 Cal.App.4th 683, 691 [“the environmental impact report usually measured the project’s impacts by comparing it to a massive hypothetical office park, instead of comparing it to the vacant land that actually exists at the project site. This hypothetical office park was a legally incorrect baseline, which resulted in a misleading report of the project’s impacts.”].)

Third, the “two million square feet of office space and big box retail” claim is not supported by any substantial evidence. CEQA Guidelines section 15384 explains that “substantial evidence” may not include “Argument, speculation, unsubstantiated opinion or narrative, [or] evidence which is clearly erroneous or inaccurate.” Dudek and Newland’s assertion that the Project site could support “two million square feet of office space and big box retail,” either as a matter of the market or physical feasibility, constitutes “Argument, speculation, unsubstantiated opinion or narrative, [or] evidence which is clearly erroneous or inaccurate.” The spurious claim of “two million square feet of office space and big box retail” comes from an overly simplistic and fundamentally misleading calculation of the total acreage zoned for General Commercial and Office-Professional multiplied by the maximum floor-area ratio for the site.¹ But common sense dictates that the maximum hypothetical development intensity, which does not account for other restrictions from site topography, height limits, setbacks, market demand, etc., does not mean that development to the maximum hypothetical intensity is physically possible, much less “reasonably foreseeable.” As the evidence shows, “two million square feet of office space and big box retail” is neither physically possible nor economically foreseeable. (See Enclosures 2 and 3.)

Fourth, the purported “two million square feet of office space and big box retail” claim is not even consistently applied in the Draft EIR, as if even Dudek’s sub-consultants do not really believe it. For example, the Draft EIR traffic study concedes that “two million square feet of office space and big box retail” on the project site is unlikely, by assessing traffic trips for the “general plan” condition corresponding to far fewer than “two million square feet of office space and big box retail” (about 850,000 to 942,000 square feet). (See Enclosure 5: STC Traffic, Inc. Newland Sierra Office Trip Generation Assessment.)

It is this type of clear and inherent contradiction in the Draft EIR analysis that renders it “so fundamentally and basically inadequate and conclusory in nature that meaningful public review and comment were precluded” such that the current Draft EIR must be withdrawn, revised to correct the severe deficiencies identified here, and recirculated for a new public review, comment, and response period. For the County to proceed in reliance upon this clearly

¹ 53.6 acres Office-Professional * 43,560 s.f. per acre * maximum FAR of 0.8, plus 4.6 acres of General-Commercial * 43,560 s.f. per acre * maximum FAR of 0.7.

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faulty analysis will leave the County exposed to high risk of legal vulnerability under CEQA and other applicable laws. County staff should insist that Dudek and the applicant revise its analysis to comply with legal requirements.

If you have any questions, please do not hesitate to contact me.

Very truly yours,



Taiga Takahashi
of LATHAM & WATKINS LLP

Enclosures

- 1: Newland Sierra Public Mailer, April 13, 2018
- 2: Cushman & Wakefield, Demand Study, Proposed Newland Sierra Town Center (July 2017)
- 3: Delane Engineering, Independent Analysis of Zoning Regulations, Constraints, and Development Potential of Newland Owned Commercial Parcels
- 4: Technical Memorandum, SANDAG Growth Forecast Data on Newland Sierra Project Site Commercial Area
- 5: STC Traffic, Inc. Newland Sierra Office Trip Generation Assessment.

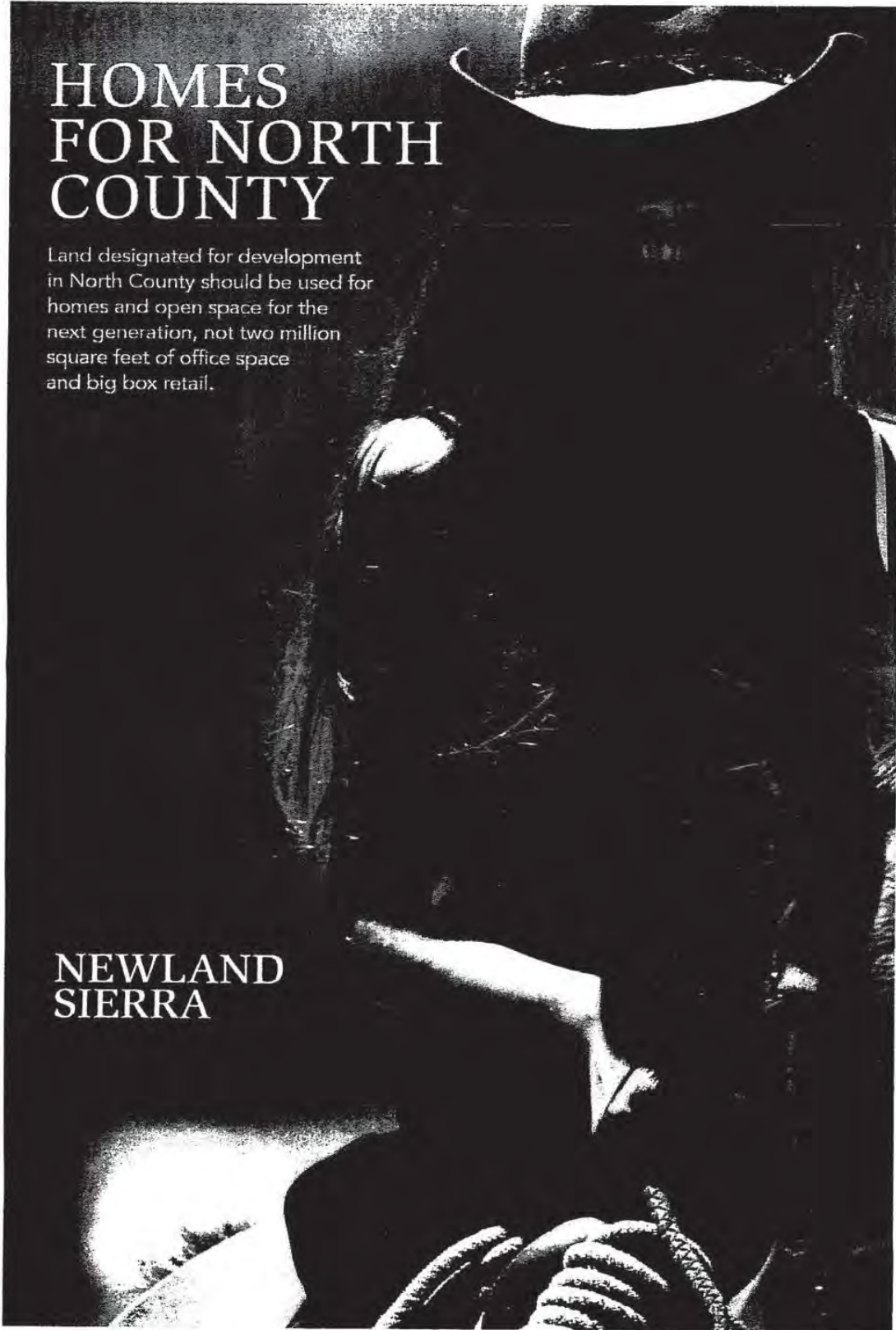
cc: Mark Wardlaw, County Planning and Development Services
Mark Slovick, County Planning and Development Services
William W. Witt, Esq., Office of County Counsel
Claudia Silva, Esq., Office of County Counsel
Brian Grover, Dudek
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
Christopher W. Garrett, Esq., Latham & Watkins LLP
Andrew Yancey, Esq., Latham & Watkins LLP
Kathy Van Ness, Golden Door

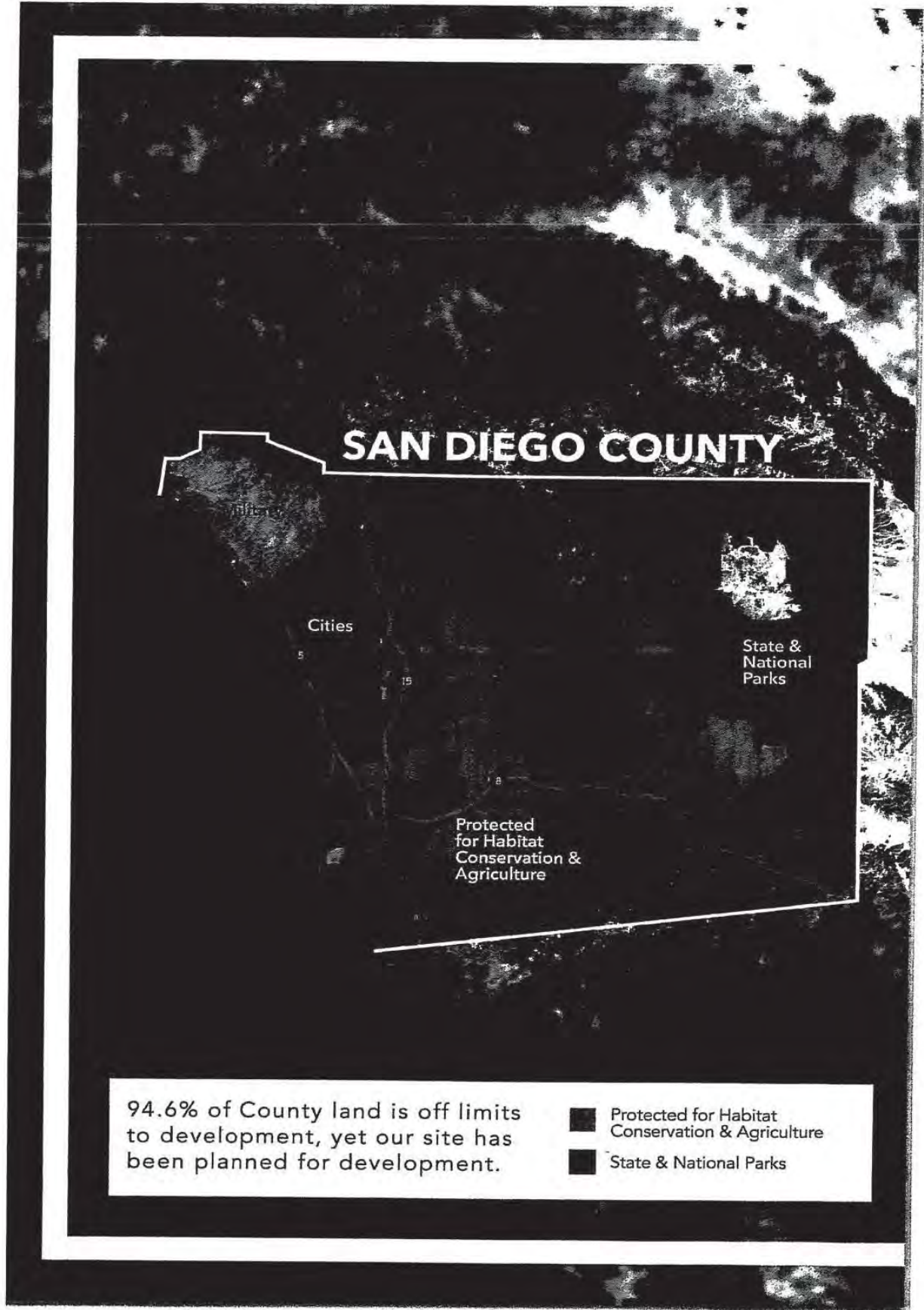
ENCLOSURE 1

HOMES FOR NORTH COUNTY

Land designated for development in North County should be used for homes and open space for the next generation, not two million square feet of office space and big box retail.

NEWLAND
SIERRA





94.6% of County land is off limits to development, yet our site has been planned for development.

- Protected for Habitat Conservation & Agriculture
- State & National Parks

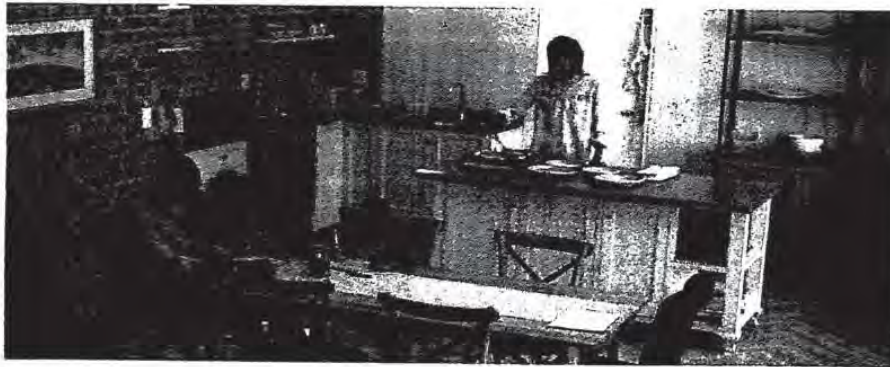
A BETTER CHOICE

With 94.6 percent of unincorporated County land set aside and protected, how we plan and develop the remaining 5.4 percent is important to the future of every resident of San Diego County.

Currently, on a site one mile from Escondido and San Marcos, the County General Plan calls for two million square feet of office space, big box retail and parking (equal in size to the Westfield North County Mall), along with 99 large estates spread out on big lots.

In contrast, Newland Sierra provides what is most needed in the community, homes and open space. Our plan leaves 61 percent of the property as public open space, along with 36 acres of parks and 19 miles of trails. There will be about one home per acre, located in seven smaller neighborhoods nestled between ridges, within the valleys.

This results in less peak hour traffic, 52 percent less water use, planned additional conservation areas and added fire protection. It will also be San Diego County's first carbon-neutral community.



This information is provided based on current development concepts and is subject to governmental review and approvals. Actual development of the property may vary from the materials presented herein and are therefore, subject to change without notice.

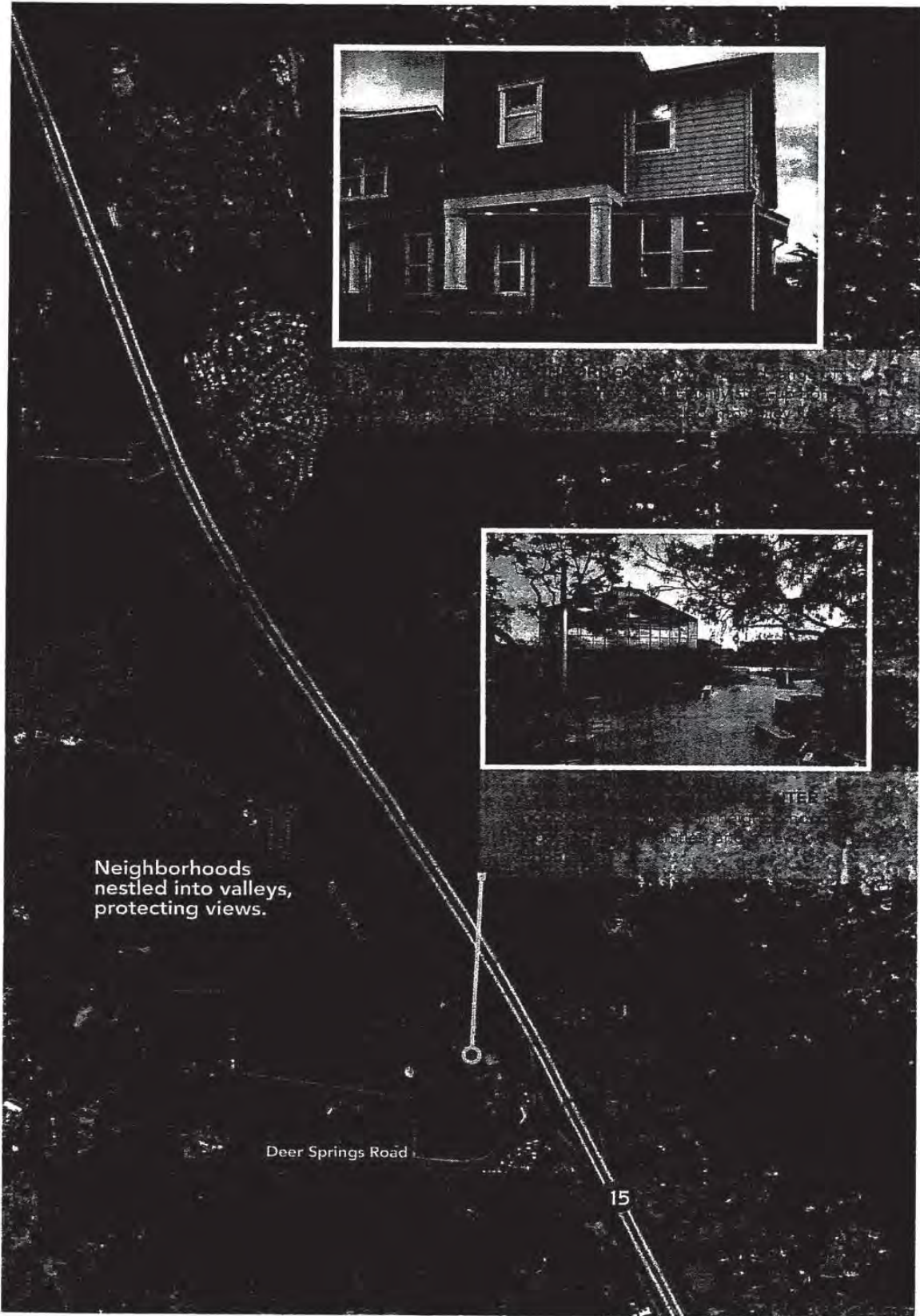
A PLAN THAT FITS NORTH COUNTY'S CHARACTER

61% OPEN SPACE

36 acres of public parks and 19 miles of trails will promote both active and passive outdoor recreation.



Neigh
nestle
prote



Neighborhoods
nestled into valleys,
protecting views.

Deer Springs Road

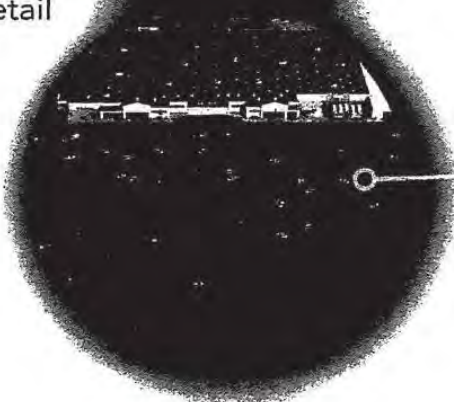
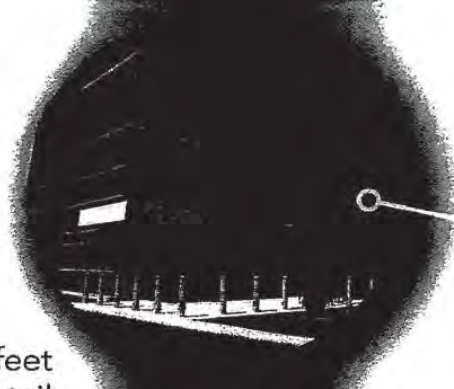
15

THE CURRENT GENERAL PLAN IS NOT WHAT NORTH COUNTY NEEDS

99 estate
homes on
large lots



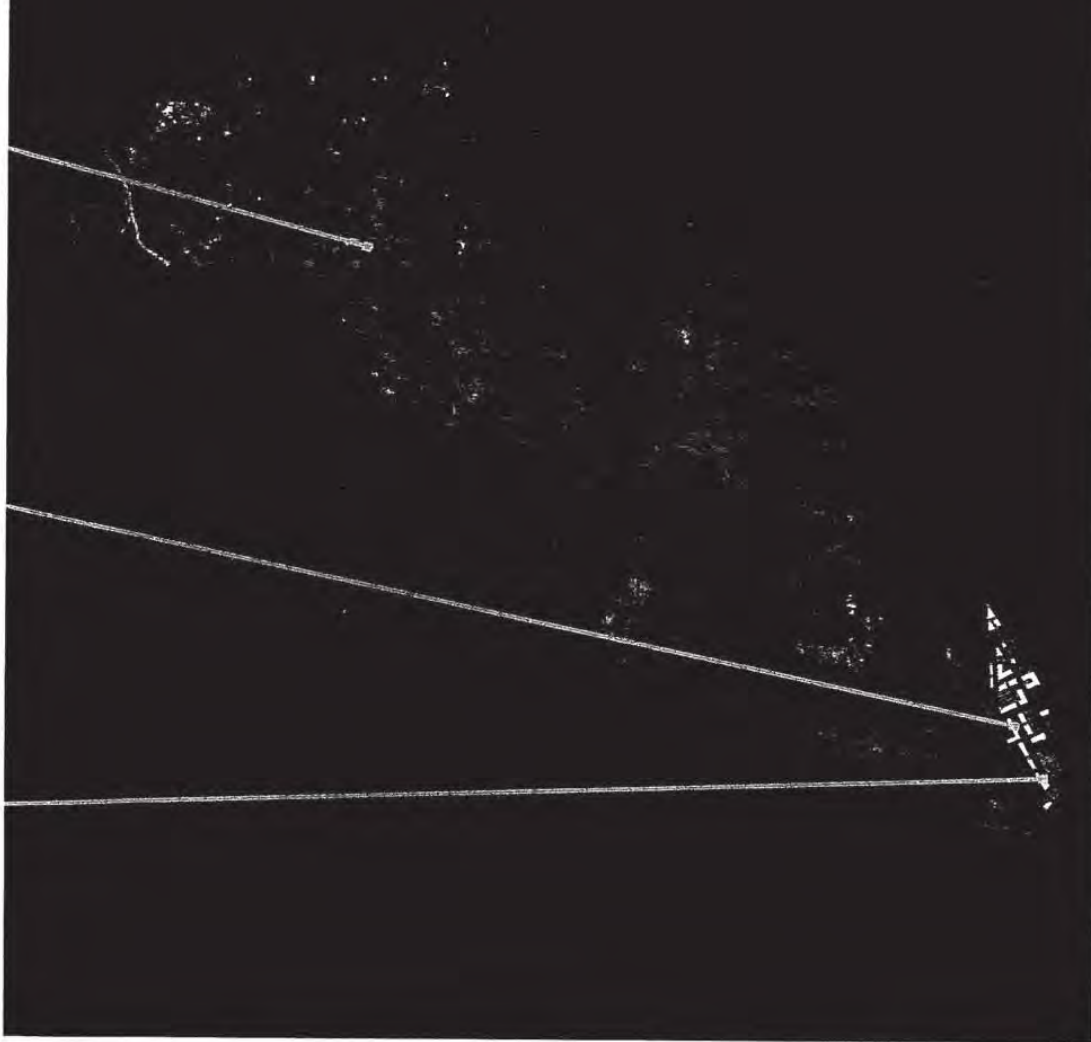
2 million square feet
of office & retail

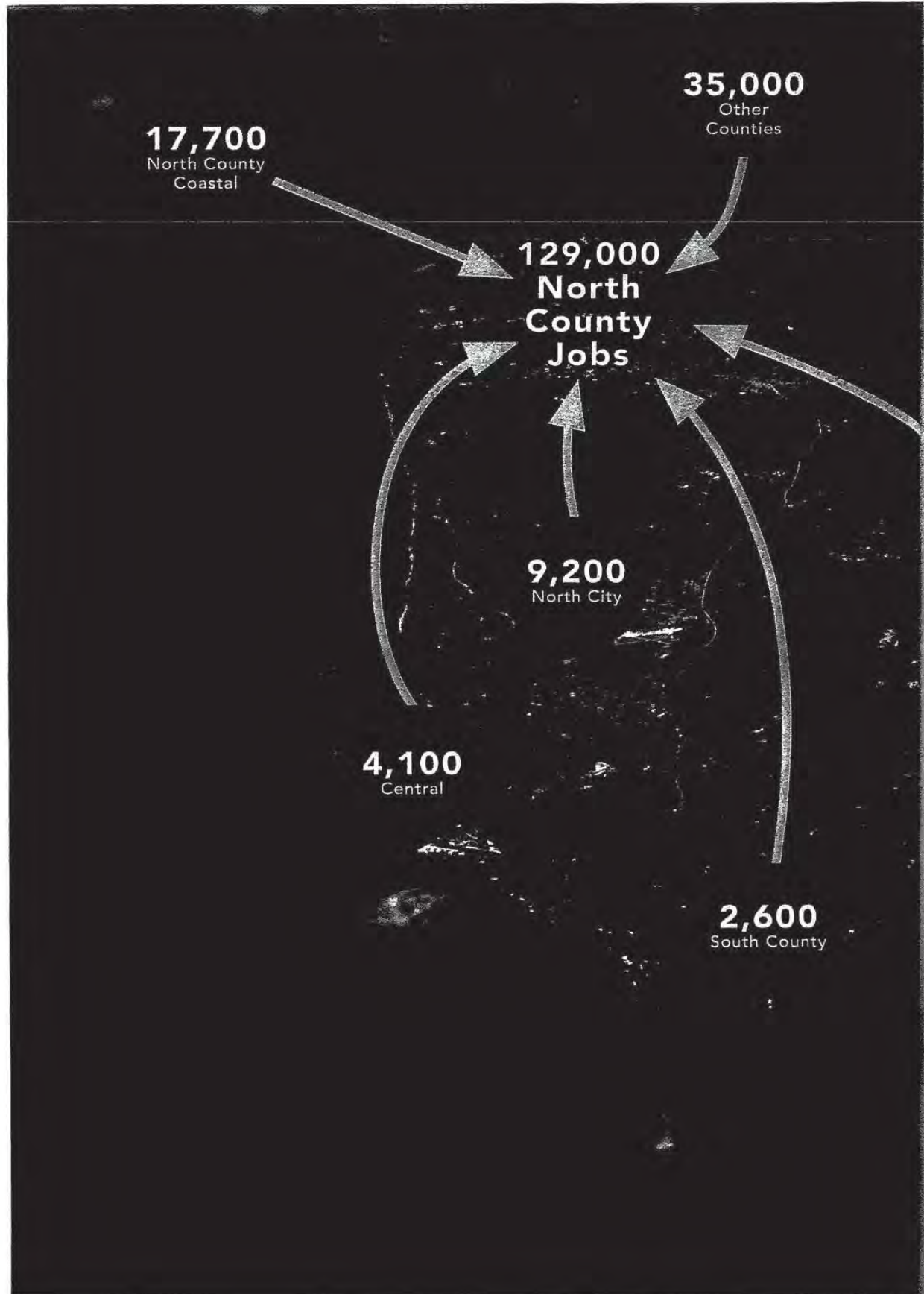


CURRENT GENERAL PLAN

Today, the San Diego County General Plan calls for massive development of retail and office along the freeway, plus 99 estate homes on large lots.

This results in more peak hour traffic, more water use and no public parks or open space.





HOMES WHERE THEY ARE NEEDED

Inland North County enjoys 129,000 jobs according to SANDAG, but 74,000 of those are filled by inbound commuters. Commuting is not sustainable for families, and it is not good for traffic, nor the environment. There is no better place to locate new housing than Newland Sierra.

6,030
East County

54,370

LIVE & WORK
IN THE AREA

SANDAG's 2016
report states 74,000
people commute to
inland North County
every day.



74,630

DAILY COMMUTERS

DEDICATED PUBLIC OPEN SPACE

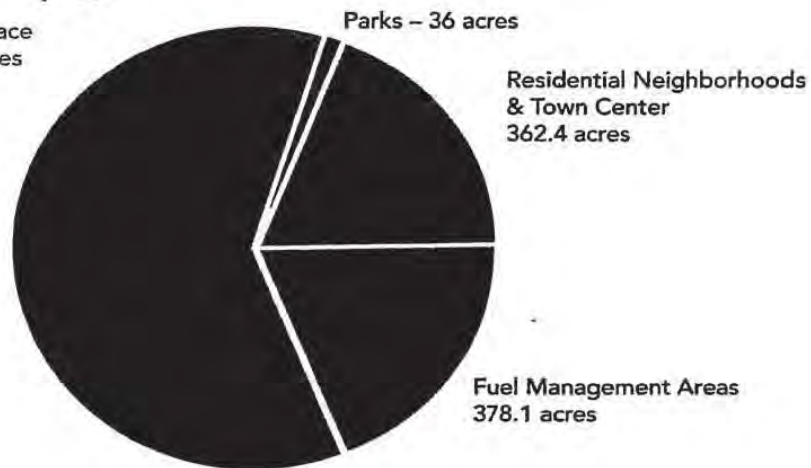
Of the Newland Sierra property's 1,986 acres, 1,209 will be preserved as permanent public open space.

Of the remaining 777 acres, nearly half (378 acres) will remain open space devoted to carefully maintained brush management areas, along with 36 acres of parks and 19 miles of trails.

Our design preserves the property's natural character and dramatic topography, while providing the opportunity for an incredible amount of open space that would be preserved forever.

61 %

Open Space
1,209 acres



NEWLAND SIERRA
LAND USE



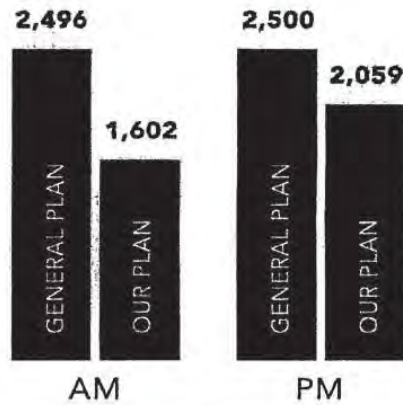
LESS PEAK HOUR TRAFFIC AND WATER USE



TRAFFIC

To alleviate existing problems and accommodate new houses, Deer Springs Road will be widened to four lanes from I-15 into the City of San Marcos. The I-15 interchange will also be improved.

Twin Oaks Valley Road will be widened to four lanes from Deer Springs Road to beyond Buena Creek Road to address current congestion problems.



Peak hour traffic will be reduced by nearly 1,000 trips in the mornings and 500 trips in the evenings compared to the General Plan.





 **WATER**

Newland Sierra reduces the property's water needs by 51% as compared to the uses in the current General Plan.

Our neighborhoods are designed to be a model for smart water use. Each home is required to have drought tolerant landscaping, while rainfall and runoff will be captured and directed into bioswales for landscaping and to recharge the aquifer.



ACRE-FEET OF PROJECTED WATER USE

**GSI Water Conservation Report*





With thoughtful planning and abundant opportunities for outdoor recreation, Newland Sierra supports both a sustainable environment and a sustainable lifestyle.



A COMMITMENT TO SUSTAINABILITY

Newland Sierra will be the most environmentally sustainable master-planned community in San Diego.



SOLAR PANELS

All homes will feature solar panels to offset residential electricity consumption, and community buildings and street lights will also be solar-powered.



VEHICLE CHARGERS

To encourage electric vehicle use, each home will be equipped with an electric vehicle charger, helping to reduce energy needs and emissions.



ELECTRIC BICYCLES

Electric bike stations will be placed throughout the neighborhoods to provide residents with alternative transportation within the community.



SHUTTLES ON & OFF SITE

A shuttle system will connect residents internally to the community parks and amenities, and externally to the public transportation network.

Newland Sierra will result in no net increase in greenhouse gas emissions. We will be the first 100 percent carbon-neutral plan in San Diego.

JOIN US

Let us know you support our plans and we'll be
in touch with ways you can help bring homes to
North County for the next generation.

www.newlandsierra.com
linda@newlandsierra.com
(760) 571-9204

**NEWLAND
SIERRA**

SIERRA

April 13, 2018

[REDACTED]
Encinitas, CA 92024 [REDACTED]

Dear [REDACTED]

Just like any local will tell you, North County San Diego is a special place to live, with just the right balance of urban convenience, small-town feel and beautiful natural surroundings. As a planner and a builder, I don't hesitate to say that this community is unique, in all the right ways.

Yet it's no secret that the area finds itself in a tricky spot. Many large local employers and a burgeoning regional economy are stacked against the same challenge facing the whole county and state – not enough homes for working families, with prices steadily moving further and further out of reach.

In this context, there's a choice to be made – embrace an opportunity to help solve the problem, or keep moving toward a future where young families and workers are priced out of the area, forcing many to commute hours to and from work every day.

Our team at Newland Sierra believes we have the better choice for North County.

Included along with this letter is a fact booklet describing our approach and plan for the property just north of San Marcos, which provides new, affordable homes for North County's next generation while leaving more than 60 percent of the land as permanent public open space.

The San Diego County General Plan has specifically set this land aside for new development. It currently calls for two million square feet of office space, parking structures and big box retail, along with 99 estate-style homes spread out on big lots. That plan simply does not fit the community, and it does not address the county's housing needs.

Our vision is different, and better suited to the situation today. We're proposing a General Plan Amendment that provides a range of home types, and leaves more than 1,200 acres of the property as public open space, along with 36 acres of parks, and 19 miles of trails. New commercial development is designed to cater to the neighborhoods, with amenities like a grocery store, restaurants and a dry cleaner, as opposed to more big box retail or large office buildings.

Newland Sierra will add a new stock of homes that are right-priced for the area, allowing new families to stay and grow here in North County, and for empty nesters to find the right fit for their changing lives. And as a result of years of detailed study and thoughtful planning, our plan produces less traffic, reduces water needs, and improves fire protection compared to the current General Plan.

The enclosed booklet also describes how the plan has been designed to preserve the site's natural character and dramatic topography, with buildings nestled between ridges and within valleys, almost entirely out of view. We are also proud to share that Newland Sierra will be a carbon-neutral development, with all emissions from the project managed through sustainable planning features or investment in carbon credits.

This property will be developed. The question is how. Our plan will provide a range of new homes to meet the needs of North County's next generation, while opening more than 60 percent of the property as new public open space. The existing General Plan fills much of this space with luxury estates we don't need, along with massive office and big box retail development that doesn't fit.

I hope you agree Newland Sierra is the better plan for North County. Please take a moment and review the fact booklet. Then let us know what you think by completing and returning the enclosed postage-paid card. You can also send an email to linda@newlandsierra.com or give us a call at (760) 571-9204.

We hope to hear from you, and thanks.

Sincerely,

A handwritten signature in black ink that reads "Rita Brandin". The signature is written in a cursive style with a large, sweeping initial "R".

Rita Brandin

Senior Vice President and Development Director

ENCLOSURE 2



DEMAND STUDY

Proposed Newland Sierra Town Center
Deer Springs Road & I-15
Unincorporated Area of North San Diego County,
San Diego County, CA 92069

IN A CONSULTING ASSIGNMENT

As of July 31, 2017

Prepared For:

Golden Door Properties, LLC
777 Deer Springs Road
Unincorporated Area of North San Diego County, CA
92069

Prepared By:

Cushman & Wakefield Western, Inc.
Valuation & Advisory
4747 Executive Drive, 9th Floor
San Diego, CA 92121
Cushman & Wakefield File ID: 17-38503-900283



CUSHMAN & WAKEFIELD WESTERN, INC.
4747 EXECUTIVE DRIVE, 9TH FLOOR
SAN DIEGO, CA 92121



Town Center

Deer Springs Road & I-15

**Unincorporated Area of North San Diego County,
San Diego County, CA 92069**

August 08, 2017

Ms. Kathy Van Ness
Golden Door Properties, LLC
777 Deer Springs Road
Unincorporated Area of North San Diego County, CA 92069

Re: A Demand Study for the Newland Sierra Town Center,
located at the northwest corner of Deer Springs Road & I-15
Unincorporated Area of North San Diego County, San Diego County, CA 92069

Cushman & Wakefield File ID: 17-38503-900283

Dear Ms. Van Ness:

In fulfillment of our agreement as outlined in the Letter of Engagement dated July 25, 2017, we are pleased to transmit our findings in the form of a demand study of the above referenced property.

The subject property consists of 2,535,192 square feet of land located in San Diego County, CA 92069. The subject property is located on the northwest corner of Deer Springs Road and Freeway I-15, in the City of Unincorporated Area of North San Diego County, County of San Diego. The site is unimproved hillside with steep terrain, sloping downward from West to East toward Freeway I-15.

This letter is invalid as an opinion of demand if detached from the report, which contains the text, exhibits, and Addenda.

Respectfully submitted,

CUSHMAN & WAKEFIELD WESTERN, INC.



Peter Savage, MAI, SRA
Director
CA Certified General Appraiser
License No. AG004946
peter.savage@cushwake.com
858.334.4013 Office Direct

Summary of Salient Facts and Conclusions

Client:	Golden Door Properties, LLC.
Intended Use:	This report is intended to provide an opinion of the existing market demand for office and commercial development of the subject property (Town Center) at the site of the Newland Sierra project.
Intended User:	This report was prepared for inclusion into a comment package to the County of San Diego regarding the proposed Newland Sierra development project and is not intended for any other users.
Identification of Real Estate:	Town Center site at the site of the proposed Newland Sierra project. Located at the northwest corner of Deer Springs Road & I-15. Unincorporated Area of North San Diego County, San Diego County, CA 92069.
Highest & Best Use (As if Vacant):	A commercial and residential use built to a density supportable by market demand.
Highest & Best Use (As Improved)	The site is unimproved hillside with steep terrain, sloping downward from West to East toward Freeway I-15
Current Ownership:	Newland Sierra LLC
Date of Inspection:	July 31, 2017
Date of Report:	August 08, 2017

Summary of Critical Observations

SUMMARY OF CRITICAL OBSERVATIONS

The strengths and weaknesses analysis applies both specifically (attributes internal or specific to the subject) and generally (external or economic considerations that influence the subject).

Strengths

- The subject is located adjoining Freeway I-15 which is the singular access from San Diego County to Riverside County.

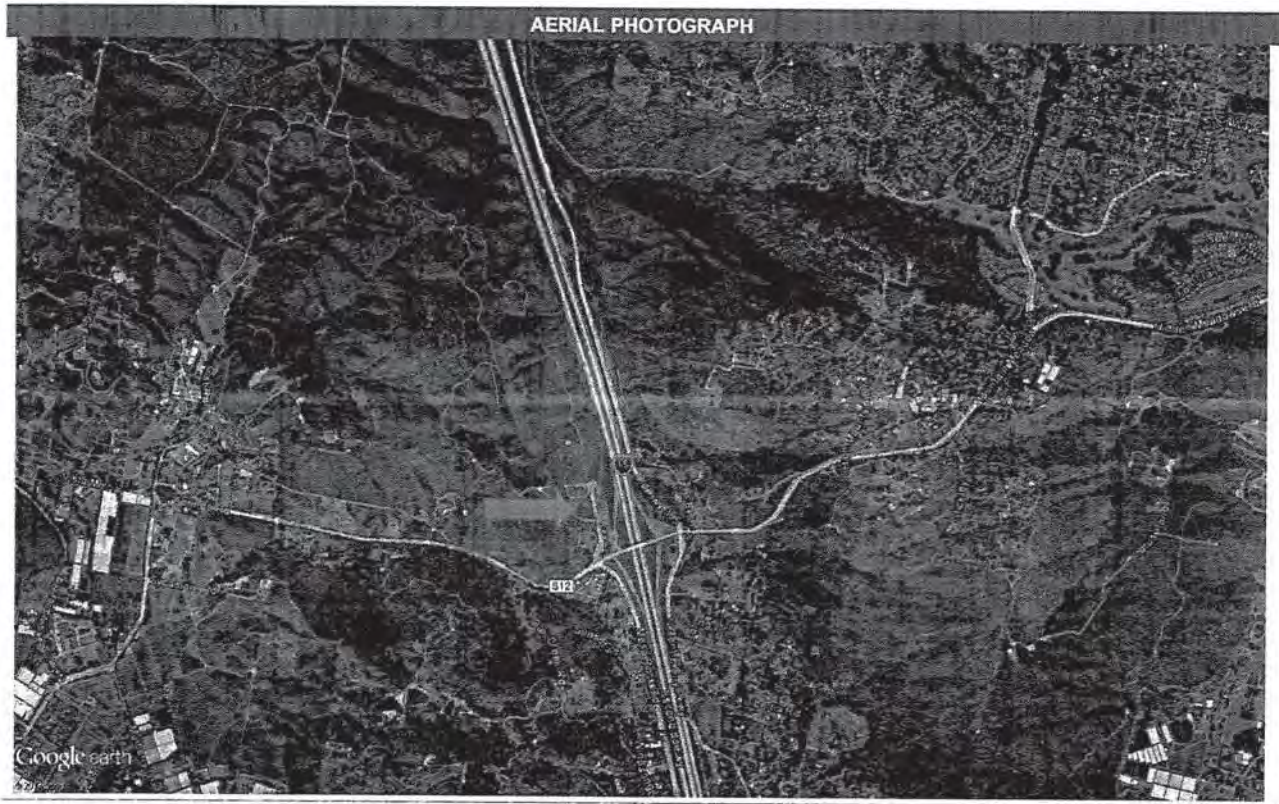
Weaknesses

- The subject's site is steep and will be difficult to develop. At present, there is insufficient homes to support any significant commercial development on the site.

Conclusions

Based on the preceding strengths and weaknesses, the subject property's specific zoned use does not appear to be a feasible development at this time.

Property Photographs



NORTHEAST CORNER OF DEER SPRINGS RD. & I-15



SUBJECT – LOOKING WEST FROM MESA ROCK ROAD



SUBJECT – LOOKING NORTH FROM MESA ROCK RD.



Table of Contents

Summary of Salient Facts and Conclusions	4
Property Photographs	6
Scope of Work	10
Overview	10
Regional Analysis	11
Demographic Trends	14
Economic Trends	17
Conclusion	22
Local Area Analysis	23
Neighborhood Analysis	24
Location	24
Access / Transportation	24
Demographics	24
Employment	24
Amenities / Services	24
Land use	24
Conclusions	24
Property Analysis	26
Site Description	26
Zoning	30
Market Demand Analysis –	31
Residential	31
Office Market Analysis	32
Retail Market Analysis	34
CONCLUSIONS DEMAND (CURRENT)	35
Residential	35
Office	35
Retail	36
Assumptions and Limiting Conditions	37
Addenda Contents	39

Scope of Work

Overview

Scope of work is the type and extent of research and analyses involved in an assignment. To determine the appropriate scope of work for the assignment, we considered the intended use of the appraisal, the needs of the user, the relevant characteristics of the subject property, and other pertinent factors. Our concluded scope of work is summarized below, and in some instances, additional scope details are included in the appropriate sections of the report:

Research

- We inspected the property and its environs. Physical information on the subject was obtained from the property owner's representative, public records, and/or third-party sources.
- Regional economic and demographic trends, as well as the specifics of the subject's local area were investigated. Data on the local and regional property market (supply and demand trends, rent levels, etc.) was also obtained. This process was based on interviews with regional and/or local market participants, primary research, available published data, and other various resources.
- Other relevant data was collected, verified, and analyzed. Property data was obtained from various sources (public records, third-party data-reporting services, etc.) It is, however, sometimes necessary to rely on other sources deemed reliable, such as data reporting services.

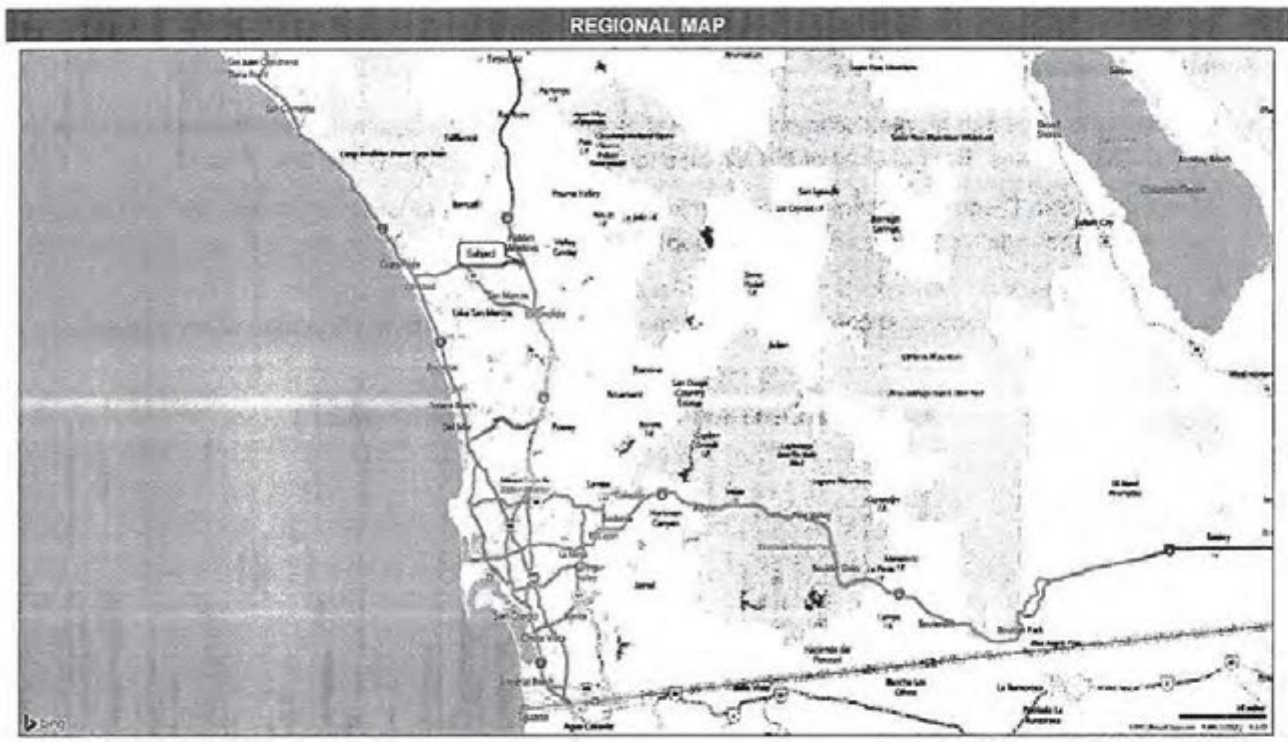
Analysis

- Based upon the subject property characteristics, prevailing market dynamics, and other information, we developed an opinion of the market's demand for commercial use on the subject property.
- We analyzed the data gathered using generally accepted methodology to arrive at a probable demand.

This report is intended to comply with the reporting requirements outlined under USPAP for consulting assignment. Cushman & Wakefield Western, Inc. has an internal Quality Control Oversight Program. This Program mandates a "second read" of all appraisals. Assignments prepared and signed solely by designated members (MAIs) are read by another MAI who is not participating in the assignment. Assignments prepared, in whole or in part, by non-designated appraisers require MAI participation, Quality Control Oversight, and signature.

For this assignment, Quality Control Oversight was provided by Trevor Chapman, MAI.

Regional Analysis



Regional Analysis

Market Definition

San Diego County is the second largest county by population in the state of California, with approximately 3.3 million residents, according to Experian Marketing Solutions' 2016 estimates. To the north, the county is bordered by Orange and Riverside County, and Imperial County to the east. San Diego is located north of Mexico, sharing a border with Tijuana. As a coastal community, the region is home to miles of beaches and mild-semi-arid climate, making it a desirable residential and commercial location. One of the strongest technology hubs in Southern California, the region also home to one of the largest concentrations of military defense services in the world, with military facilities hosting the United States Navy, Coast Guard and Marine Corps. Over the past three years as recovery has taken its course, construction and consumer spending has picked alongside substantial employment and income growth.

Further considerations are as follows:

- According to Experian Market Solutions' 2016 estimates, San Diego County is the fifth most populous county in the United States. Roughly half of the region's total population resides in the City of San Diego.
- The City of San Diego is the region's economic hub and home to well over half of the jobs and nearly three-quarters of the region's largest employers including Qualcomm, Sony Electronics, Inc., and Sempra Energy.

The San Diego-Carlsbad Metropolitan Statistical Area (MSA) is encapsulated within San Diego County, and is located at the southwestern-most corner of the continental United States. Below is a map of the region:

SAN DIEGO-CARLSBAD, CA METROPOLITAN STATISTICAL AREA (MSA)



Source: Cushman & Wakefield Valuation & Advisory

Current Trends

San Diego County's expanding economy is driven by the region's diverse industry base and above-average employment opportunities. According to the State of California Employment Development Department, nonfarm employment in the region gained 18,200 jobs over the twelve month period ending in April 2017. San Diego County reported an unemployment rate of 3.8 percent as of April 2017, 1.0 percent below the state rate of 4.8 percent and 60 basis points below the national rate of 4.4 percent reported during the same month. The region's economy continues to expand with the professional & business services, high-tech, biotech and government sectors propelling regional employment growth. Unemployed workers continue to be absorbed as mid-wage jobs are increasing, however at a slower rate than exhibited over previous year. Recent layoffs by some of the region's major employers, including Qualcomm, have hindered growth in recent years, however displaced workers have made their way into the professional & business services sector, which is expected to be the primary driving force behind improving labor markets and income growth in the near term. Despite high business and real estate costs in the region, San Diego County is expected to exhibit positive economic trends in the near-term.

Further points for consideration include:

- After experiencing a slowdown in recent years, San Diego's biotechnology and nanotechnology clusters have again began to flourish. Biotech firms in the region are successfully raising early as well as growth stage capital, while others are either planning significant IPOs or are being acquired by larger-scale biotech and pharmaceutical companies. The San Diego-based pharmaceutical firm Tocagen filed the largest IPO the region has seen in the past three years of \$98.0 million in April 2017, while Forge Therapeutics has raised \$15.0 million in Series A financing, among a number of other regional firms. Growth in these leading industries will contribute to the expanding professional service payrolls through the near term.
- San Diego's specialization in military intelligence has enabled further expansion of the region's defense sector. Over first quarter 2017, numerous defense firms including General Atomics, Northrop Grumman, General Dynamics, QED Systems, Boeing and BAE Systems have received contracts amounting to over \$1.0 billion for items ranging from military IT to electromagnetic aircraft launch systems, support systems and unmanned aerial vehicles. Additionally in March 2017, the region was awarded \$1.6 million in federal grants from the Department of Defense's Office of Economic Adjustment to support the region's leading defense contractors. Despite some expected volatility and upside risks, San Diego's defense sector is positioned to grow through the near term.
- Demolition work began on Manchester Financial Group's \$1.3 billion redevelopment of the Navy Broadway Complex in downtown San Diego, home the U.S. Navy's southwest regional headquarters. Plans for the mixed-use Manchester Pacific Gateway call for eventually replacing the entire campus with a new 17-story Navy office building, a 1,100-room convention center hotel, a 260-room boutique hotel, nearly 300,000 square feet of retail space. The development is expected to be completed over the next three years, creating more than 2,400 construction jobs and nearly 3,000 permanent jobs in the region.
- San Diego International Airport (SAN) officials have approved moving forward with plans to build a new \$229.5 million federal inspection services facility in Terminal 2 of the airport. Slated for completion in June 2018, an accelerated construction schedule was implemented to support anticipated growth at the airport, which currently handles more than 300,000 international passengers annually. According to airport officials, international air travel in 2018 is anticipated to contribute \$432.0 million in annual economic impact to the region.

- The U.S. Navy presented six construction firms with contracts collectively amounting to \$500.0 million over the next five years during first quarter 2017. The construction deals call on the firms for the design and development of the Naval Special Warfare Command Coastal Campus at Naval Base Coronado, one of the region's major employers. Three of the construction companies are local San Diego firms, including Harper Construction Co., RQ Construction LLC and Soltek Pacific Construction Co. The development, among many others in San Diego County, will contribute to employment growth in the region's construction sector in the near term, projected at 1.6 percent growth through 2021.
- According the California Association of Realtors, home prices in San Diego County have exceeded values reported during the region's peak in 2007. As of March 2017, median closing prices for existing, single-family homes rose 3.8 percent year-over-year, to \$571,000. Additionally, single-family home sales increased 42.3 percent over the previous month and 8.2 percent over the previous year. Experts have suggested that the lack of inventory, low mortgage rates, and an imbalance between home construction and demand have helped increase housing prices.

Demographic Trends

Demographic Profile

San Diego's median age of 35.0 years is 3.0 years lower than the national median age of 38.0 years. The region outperforms the nation in terms of affluence and educational attainment with an average annual income of \$93,540 and 34.7 percent of its population holding Bachelor's degrees or higher. In comparison, only 29.0 percent of the nation's population holds a Bachelor's or advanced degree. San Diego's relative economic strengths can be attributed to the region's strong high-tech, biotech and professional services sectors, which provide high-wage positions and often require advanced degrees. Age and educational attainment contribute to the raised income levels in San Diego and relatively strong professional & business services sector, attracting high net worth individuals that should further elevate the region's demographics.

Further considerations regarding San Diego County's demographic trends are as follows:

- According to Experian Marketing Solutions, San Diego's median annual household income is currently \$64,907, 19.1 percent higher than the national average of \$54,505.
- San Diego County outperforms the U.S. in terms of households earning annual incomes of greater than \$100,000, with 30.3 percent of the region's households versus 23.0 percent of the nation.
- San Diego's demographics have fueled growth in industries that require advanced education. These sectors include biotechnology, business and professional service sectors. The chart below provides a demographic comparison between San Diego and the United States:

Demographic Characteristics San Diego MSA vs. United States 2016 Estimates		
Characteristic	San Diego MSA	United States
Median Age (years)	35.0	38.0
Average Annual Household Income	\$93,540	\$78,425
Median Annual Household Income	\$64,907	\$54,505
<i>Households by Annual Income Level:</i>		
<\$25,000	18.6%	23.0%
\$25,000 to \$49,999	20.9%	23.4%
\$50,000 to \$74,999	16.7%	18.3%
\$75,000 to \$99,999	13.4%	12.4%
\$100,000 plus	30.3%	23.0%
<i>Education Breakdown:</i>		
< High School	14.4%	13.9%
High School Graduate	19.1%	28.1%
College < Bachelor Degree	31.8%	29.0%
Bachelor Degree	21.6%	18.2%
Advanced Degree	13.1%	10.9%

Source: © 2016 Experian Marketing Solutions, Inc. •All rights reserved•
Cushman & Wakefield Valuation & Advisory

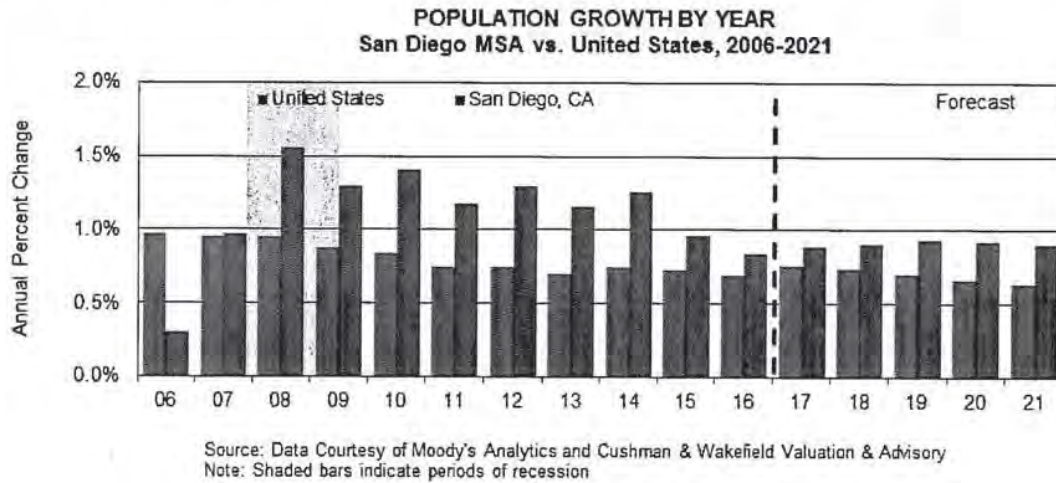
Population

According to Experian Marketing Solutions' 2016 estimates, the San Diego-Carlsbad MSA is home to a population of 3.3 million individuals. Over the past decade, San Diego's annual population growth of 1.2 percent followed national population growth trends closely. Since 2006, the region's population expansion has fluctuated between 1.0 and 1.5 percent, with further growth hindered by the high cost of living, business costs, and rising home values. Population growth in the San Diego area has historically outpaced that of the national average, as the favorable climate conditions and diverse economy make Southern California a primary location for individuals, families, and businesses. Despite the high cost of living (26.0 percent higher than the national average according to Moody's Analytics), the region has a young, well-educated employment base. San Diego's population is primarily concentrated along the 20-mile Pacific Coast. The greatest population densities, not surprisingly, are located in proximity to the region's few major freeways—Interstate 5 (I-5), Interstate 805 (I-805), Interstate 8 (I-8), and Interstate 15 (I-15).

The following highlights the key statistics for population growth for San Diego County:

- With a current population of 3.3 million individuals, San Diego grew at an average annual rate of 1.2 percent between 2006 and 2016. Over the corresponding period, the national population fell short of the region's growth by 40 basis points, reporting growth of 0.8 percent.
- Through 2021, San Diego's population is forecast to grow at an average rate of 0.9 percent. In comparison the population of the United States' is expected to grow at an average annual rate of 0.7 percent. Population growth may however be hindered as the San Diego housing market continues to appreciate. As housing prices and the overall cost of living continue to increase, lower-income residents will likely seek opportunities in more affordable markets.

The following graph compares historical and projected population growth between San Diego and the United States:



The following table compares historical and forecasted population growth trends for the San Diego-Carlsbad MSA and the United States between 2006 and 2021:

Annualized Population Growth San Diego-Carlsbad Metropolitan Statistical Area 2006-2021						
Population (000's)	2006	2016	Forecast 2017	Forecast 2021	Compound Annual Growth Rate 06-16	Compound Annual Growth Rate 17-21
United States	298,379.9	323,127.5	325,555.7	334,625.1	0.8%	0.7%
San Diego-Carlsbad, CA	2,947.3	3,317.7	3,347.1	3,471.2	1.2%	0.9%

Source: Data Courtesy of Moody's Analytics, Cushman & Wakefield Valuation & Advisory

Households

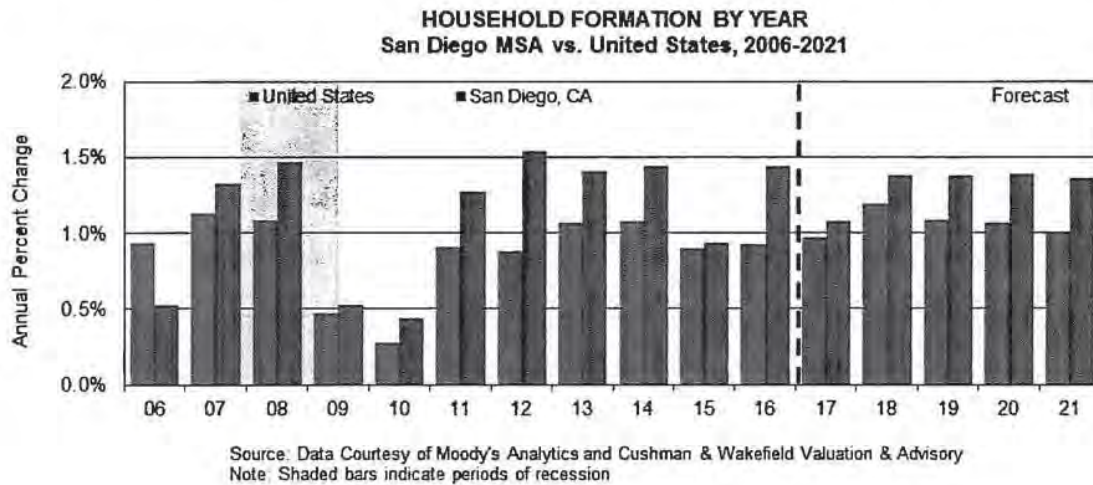
Between 2006 and 2016, household formation trends in San Diego outpaced the national growth by 30 basis points annually. Household formation trends in San Diego appear to mirror overall population gains, which is also similar to the performance for the nation. Over the past decade, household formation and population growth both averaged 1.2 percent annually, as the housing market recovered, income levels increased steadily, and the millennial generation entered the first-time home buyers' market. In March 2017, the California Association of Realtors reported an increase single-family home sales of nearly 8.2 percent over the previous year. Additionally single family permits in the region have increased in 2016 over the previous year, and are projected to continue increasing into the near term. The rise in home sales has been supported by the rise in income levels, which have kept pace with national rates, and the reaccelerating of high-tech and biotech, and professional services performance in the region. Through 2021, San Diego's household formation is projected to increase to an average annual rate of 1.4 percent, outperforming the nation's projected average.

Further considerations regarding San Diego County's household formation are:

- Annual household growth between 2006 and 2016 averaged 1.2 percent in San Diego County, 30 basis points higher than the nation's ten-year average growth rate of 0.9 percent.

- The projected five-year average household growth rate for San Diego County is forecasted at 1.4 percent, 30 basis points higher than the expected national average household growth rate of 1.1 percent.
- Household formation growth is limited by the available land for development and fluctuating single-family permits in the region. The tightness of the market has caused higher housing prices, and the high cost of living is likely to impede future population growth, ultimately pushing low to middle class residents out of the area.

The following graph compares historical and projected household formation between San Diego County and the United States:



Economic Trends

Gross Metro Product

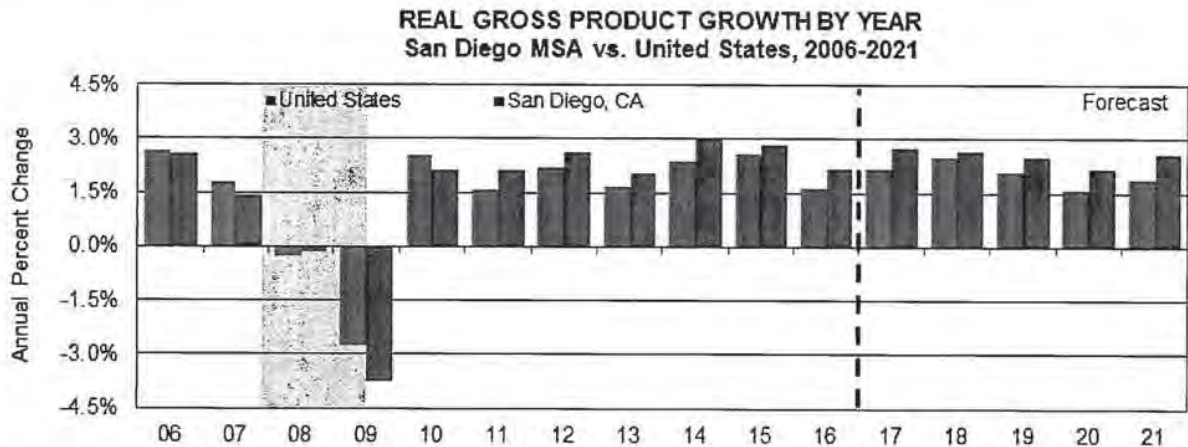
Between 2006 and 2016, San Diego's Gross Metro Product (GMP) grew by 1.4 percent annually, exceeding the nation's Gross Domestic Product (GDP) annual growth rate of 1.3 percent over the same period. A large share of the region's GMP output is produced by high-value industries including the high-tech, biotechnology and defense sectors. Historically, San Diego's Gross Metro Product growth trends have closely followed that of the nation. The most recent economic recession left a significant impact on the region and caused San Diego's GMP growth to decrease to lows of negative 4.2 percent in 2009, 1.4 percentage points lower than the national average during this period. Recovering from the last recession, San Diego has since surpassed the GMP growth trend of the nation over 2016. As the region continues to expand, San Diego's GMP growth is forecasted to exceed that of the nation through 2021, and reach peak growth of 2.7 percent in 2018.

Some notable considerations include:

- Between 2006 and 2016, the region averaged a 1.4 percent annual growth in GMP, 10 basis points higher than the average annual growth of 1.3 percent exhibited by the U.S. over the same time period.
- Over the next five years, San Diego's average annual GMP growth rate is projected to further accelerate to 2.5 percent annually, 50 basis points above the 2.0 percent projected rate of the nation over the same period. As indicated by its relative growth in GMP, the San Diego area is poised for a sustainable, long-term rate of growth.

- Growth in the San Diego region will be driven by expanding its professional and business services and technology sectors, as well as the strengthening of the construction sector. Increased consumer confidence coupled with income growth in the market have contributed to the expansion of the San Diego MSA's economy over the past decade, a trend that is expected to continue in the near term.

The following graph compares historical and projected real gross product growth between San Diego County and the United States:



Source: Data Courtesy of Moody's Analytics and Cushman & Wakefield Valuation & Advisory
Note: Shaded bars indicate periods of recession

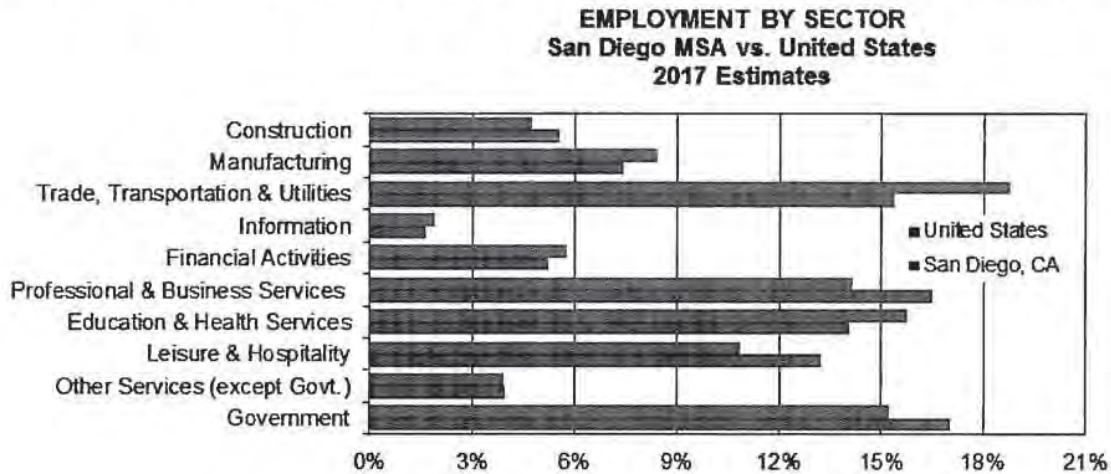
Employment Distribution

San Diego's industry sector composition includes economic diversity comparable to that of the nation. The region's industry mix is heavily weighted in the government, professional & business services, and trade, transportation & utilities sectors. Industries of the professional & business services sector, including biotech, defense, information technology and software engineering, have contributed significantly in terms of employment in the region over the past decade. Continued defense contracts will support employment and income stability in the region, while technology production and the bioscience sector in the area promote growth and fare well in the global economy. According to forecasts by Moody's Analytics, San Diego's main employment sectors are expected to remain healthy and contribute to employment growth in the near term.

Additional considerations regarding employment distribution in San Diego County are as follows:

- San Diego is most heavily weighted in the government and profession & business services sectors, holding employment shares of 17.0 percent and 16.5 percent, respectively. These leading sectors are more heavily weighted in the region's employment distribution than the nation, holding shares 1.7 percent and 2.4 percent greater than the nation, respectively.
- San Diego is relatively underweighted in the trade, transportation & utilities and education & health services sectors, compared to the nation, despite these sectors holding significant employment shares in the region (15.4 percent and 14.1 percent, respectively). However, the education & health services sector is expected to see some of the most significant growth in the region of 1.8 percent through the near term.

The chart below compares employment by industry sector between San Diego County and the United States:



Major Employers

San Diego's list of major employers reflects the region's relative strengths in its leading sectors including government, education and healthcare and high-tech sectors. The government sector accounts for the largest share of total nonfarm employment, as half of the region's major employers are military units. Despite being underweighted in comparison to the nation, nearly half of the largest employers in San Diego fall in the education and health services sector. The San Diego MSA is home to two Fortune 500 corporations, Qualcomm Inc. and Sempra Energy, ranked 110th and 279th respectively on the national list as of year-end 2016. Over the previous year, Qualcomm has moved up in the ranks from 123rd place, while Sempra Energy fell nine spots from the previous year's list. Despite layoffs in recent years, Qualcomm employs approximately 13,500 professionals, while Sempra Energy has approximately 5,000 employees in the San Diego region. Two other San Diego based companies, CareFusion Corp. and PriceSmart made Fortune's larger compilation of top 1,000 companies.

Additional considerations regarding San Diego County's major employers include:

- The government sector, specifically the military, has a great influence on the employment climate in San Diego. San Diego County's largest employer, the Marine Corps Base Camp Pendleton, continues to take on more employees and anchors to the local economy. Currently, there are more than 100,000 individuals employed by the United States Navy in the region.
- Despite the education & health services sector being underweighted in San Diego compared to the nation, the region's second largest employer, the University of California, San Diego, falls in the sector. The university currently employs 29,287 individuals. Although the top ten employers in the region, a number of educational institutes additionally contribute to employment numbers in the sector, including San Diego State University with 5,064 employees and the San Diego Community College District with 4,733 employees.
- As for the private sector employers in San Diego, Sharp Health is the region's largest private employer with 16,896 employees while Scripps Health is a close second with 14,644 employees.

The table below lists the top employers in terms of total employees in the San Diego County MSA:

Largest Employers San Diego-Carlsbad, CA		
Company	No. of Employees	Business Type
Marine Corps Base Camp Pendleton	43,331	Military
University of California, San Diego	29,287	Education
Naval Base Coronado (incl. North Island NAS)	23,985	Military
Naval Base San Diego	22,092	Military
Sharp Health	16,896	Healthcare
Scripps Health	14,644	Healthcare
Qualcomm Inc.	13,500	Technology
Naval Base Point Loma	12,464	Military
Marine Corps Air Station Miramar	10,152	Military
Kaiser Permanente	7,535	Healthcare

Source: San Diego Business Journal Book of Lists 2016, Guide to Military Installations and Cushman & Wakefield Valuation & Advisory

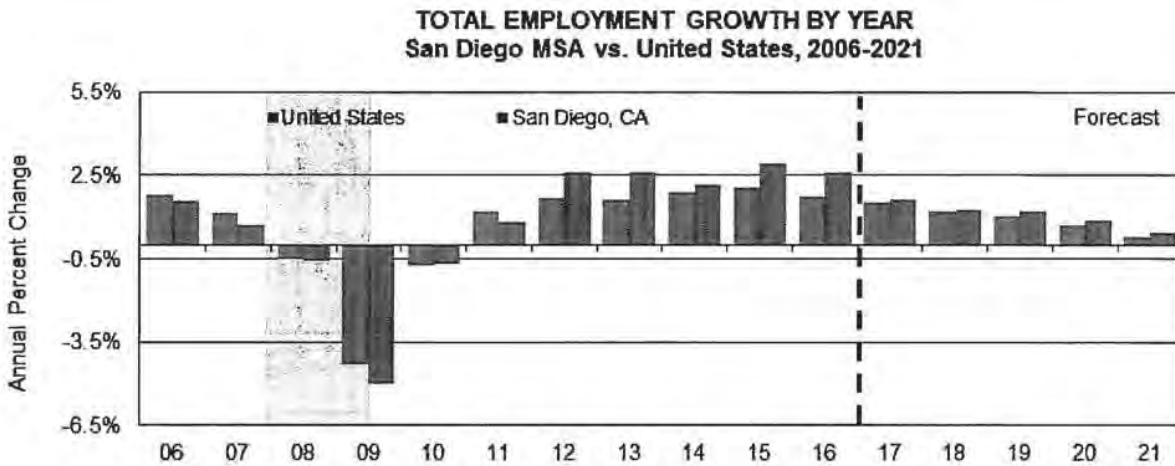
Employment Growth

Between 2006 and 2016, San Diego's total nonfarm employment averaged 0.8 percent growth annually, as significant losses were reported during the period of the last recession. The San Diego MSA has historically outperformed the nation with consistent year-over-year employment growth, however the impact of the last recession caused the region to trail national employment growth averages. Leading into and through the recession, San Diego's employment growth consistently fell short, reporting a record low growth rate of negative 5.0 percent in 2009. Coming out of the recent recession, San Diego has recorded a positive employment growth trend, with the region outperform the nation once again as of 2012. This performance trend alongside above-average income growth is expected to continue through 2021, as the region's high-tech sector fuels job growth and acts as a catalyst for the professional services job sector.

Employment sector trends are as follows:

- From 2006 to 2016, San Diego's annual employment growth average of 0.8 percent exceeded the nation's annual growth rate of 0.6 percent by 20 basis points during the same period.
- Extending the forecasted period through 2021, San Diego is expected to report average employment growth of 0.9 percent annually, 10 basis points higher than the national projected average annual growth rate of 0.8 percent over the same period. Growth will be supported by gains in the education & health services (1.8 percent), professional & business services (1.4 percent) and leisure & hospitality (1.4 percent) sectors.
- Professional & business services payroll expansion is projected to outpace overall employment growth in the region through 2021, with average annual growth of 1.4 percent. Highly-skilled professional sectors will be the driving force behind the region's improving labor market and above-average income growth.
- Biotechnology will propel the economy, although the outlook is more uncertain than in previously years. San Diego's biotechnology firms will continue to be an area of strength in the region, raising capital with ease for further growth. While the outlook is positive, risks are weighted to the downside.

The following graph compares historical and projected total employment growth between San Diego County and the United States:



Source: Data Courtesy of Moody's Analytics and Cushman & Wakefield Valuation & Advisory
 Note: Shaded bars indicate periods of recession

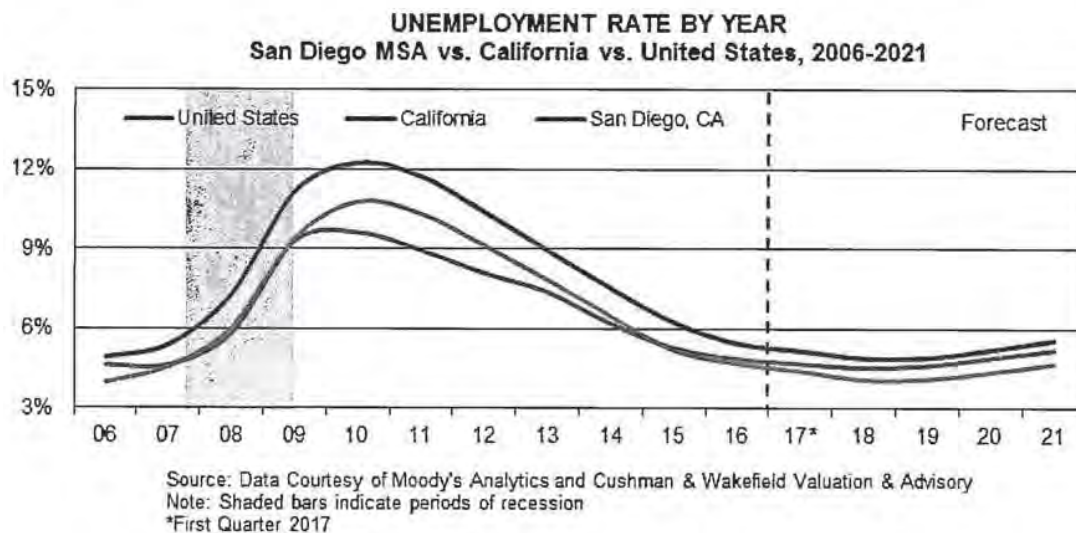
Unemployment

According to the Bureau of Labor Statistics' April 2017 data, the San Diego-Carlsbad MSA's unemployment rate is currently at 3.8 percent, 80 basis points below the rate reported during the same month of the previous year. The region's unemployment rate trended well below the state of California's average, reported at 4.8 percent, as well as the national rate of 4.4 percent as of April 2017. Through the near term, San Diego's unemployment rate is expected to maintain a similar rate, while remaining below state and national rates. San Diego's economy is projected to strengthen in the coming quarters, generating additional jobs that will continue to reduce the region's unemployment rate.

Notable points concerning the region's unemployment rate are as follows:

- Over the past decade between 2006 and 2016, San Diego County averaged an unemployment rate of 7.1 percent, 30 basis points higher than the national average of 6.8 percent for the same time period. The outlook for the next five years will be more favorable than the national projections.
- Unemployment in the region peaked during 2010 to 10.8 percent and declined steadily in subsequent years as economy recovery following the recession ran its course. Although improvements are expected in the near term, the local unemployment rate will remain slightly above the pre-recessionary record low of 4.0 percent recorded in 2006.
- Looking forward, Moody's Analytics forecasts that increased hiring will have significant positive impact on the unemployment rate in San Diego County. Through 2021, the unemployment rate is expected to remain below the 5.0 percent range, averaging at about 4.3 percent, while the national average is expected to be 4.8 percent during the same period.

The following graph compares historical and projected unemployment rate between San Diego County and United States:



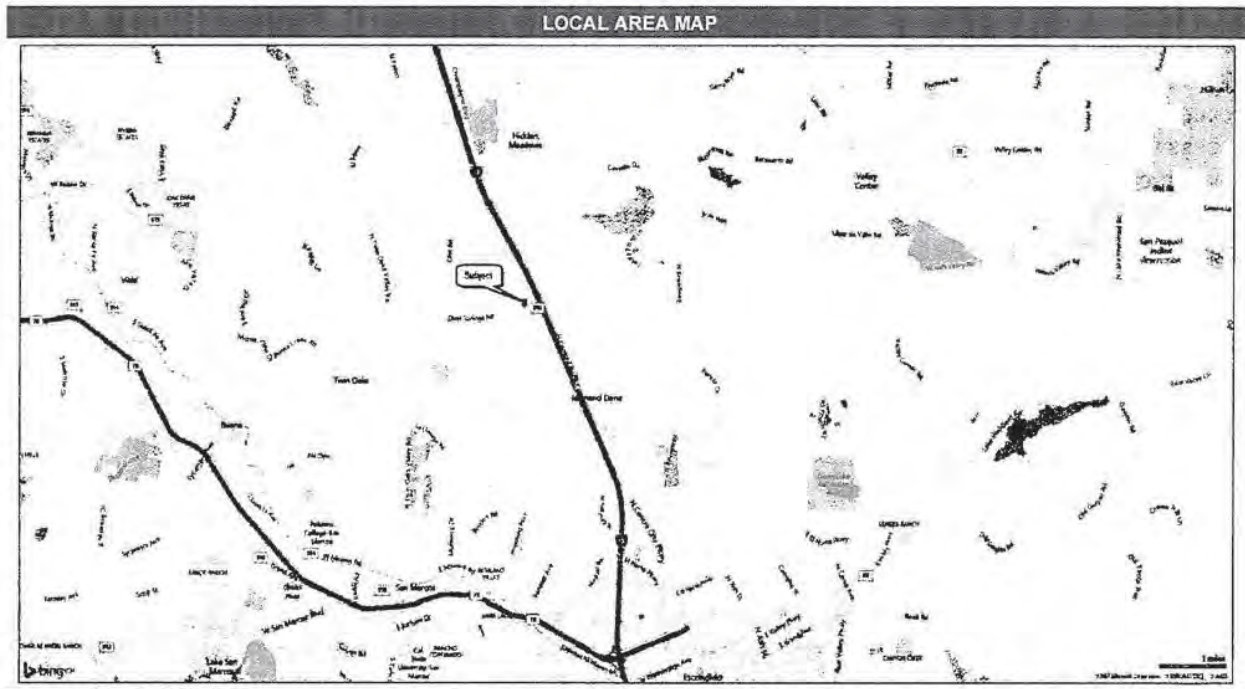
Conclusion

San Diego County's demographics and high-wage employment growth have supported economic expansion following the last recession. Despite slowing pace in recent years, the region continues to outperform the nation, with a similar trend expected in the near term. The region's diversified employment base will continue to compare favorably with the United States, although job growth will slow to the nation as the economy reaches full employment. The majority of employment growth will be driven by the high-skill professional and business services sector, with the high-tech and defense sectors continuing to support the region's economic growth. The high business and housing cost may dampen the region's growth, but forecasts are optimistic that the region's strong demographics and highly educated population will be able to mitigate these high costs. The layoffs at Qualcomm have had an impact on the region's performance, but in the long term, will continue to be a major factor in the area's growth. San Diego County is expected to continue as an above-average performer moving forward, keeping pace with the state and exceeding national growth in the near term.

Further considerations are as follows:

- San Diego's rising professional & business services sector is largely based on high-tech, pharmaceutical, military technology and software industries. Growth of jobs requiring high-skill and education levels will be the driving force behind the region's improving labor market and above-average income growth in the near term.
- The relative strength of the defense sector and specialization in military intelligence will contribute to the region's expansion modestly. After experiencing setbacks in recent year, the industry is positioned to experience growth despite upside risks.
- San Diego's desirable coastal location and high quality of life will continue to attract a younger, well-educated, and relatively affluent population to the area. The county's diversified economy makes the region an attractive choice for businesses as well.

Local Area Analysis



Neighborhood Analysis

Location

The community of Twin Oaks is located approximately 2½ miles north of the city of Escondido, west of Interstate 15 (I-15), west of the unincorporated Valley Center area, and south of Old Castle Road. Downtown San Diego is located 35± miles to the south and the closest beaches are located 15± miles to the southwest within the city of Carlsbad. The southern-most city of Riverside County, Temecula, is located 15± miles to the north along I-15. The community encompasses approximately 8 square miles of unincorporated territory in San Diego County characterized by mountainous terrain, rolling hills, some gently sloping valley floors, and rock outcroppings. The community is nestled amongst the rolling terrain of a mountaintop, several hundred feet above the I-15 corridor. No major watercourses cross the area.

Access / Transportation

The community is primarily accessed via the Mountain Meadow Road/Deer Springs Road exit off I-15. Mountain Meadow Road is a 4-lane secondary road which travels up the mountain to a network of 2-lane minor roads that provide access to the homes of the community. I-15 travels north and south, just east of the community, providing northern access to areas of San Diego and Riverside Counties. To the south, I-15 provides access to the cities of Escondido, San Marcos, and San Diego. State Highway 78 (SH-78) is located in the city of Escondido and provides access to the cities of San Marcos, Vista, Carlsbad, and Oceanside to the west. McClellan Palomar Airport, located 13± miles to the southwest in the city of Carlsbad, provides the nearest certified public carrier service.

Demographics

According to Experian Marketing Solutions Inc., the community (3-mile radius) consisted of 18,473 residents in 2016. The median household income increased from \$73,539 in 2000 to \$105,073 in 2016. Empty nesters and retirees have primarily resided in the community from the 1970s and 1980s, when most of the development occurred. However, some developments have attracted families as well.

Employment

According to www.city-data.com, industries providing employment to the area include education, health, and social services, professional, scientific, management, administrative, waste management, and retail. Employees commute to the nearby cities of Escondido, San Marcos, Vista, or throughout San Diego County as I-15 and SH-78 provide good access to major employment centers. A number of locally owned businesses support some of the community's needs.

Amenities / Services

The Lawrence Welk Resort is located just north of the community along I-15 and also includes a golf course. The nearest medical center is located in Escondido. Fallbrook Community Airpark is located 12± miles to the northwest. Palomar College and University of California State University-San Marcos are located within 7± miles to the south in the city of San Marcos.

Land use

The majority of homes were custom built during the 1970s and 1980s on larger lots. More recently, home prices have been in the \$600,000 to \$800,000 range, with some homes above \$1,000,000.

Conclusions

The community of Twin Oaks is located in northern San Diego County just north of the city of Escondido. Downtown San Diego is located 35± miles to the south and the closest beaches are located 15± miles to the southwest within the

city of Oceanside. The community encompasses approximately 8 square miles of unincorporated territory in San Diego County characterized by mountainous terrain, rolling hills, some gently sloping valley floors, and rock outcroppings. The community has good access to I-15 but is more distant from community services and employment. However, as Twin Oaks has attracted many retirees and empty nesters, employment is not as critical as amenities and lifestyle.

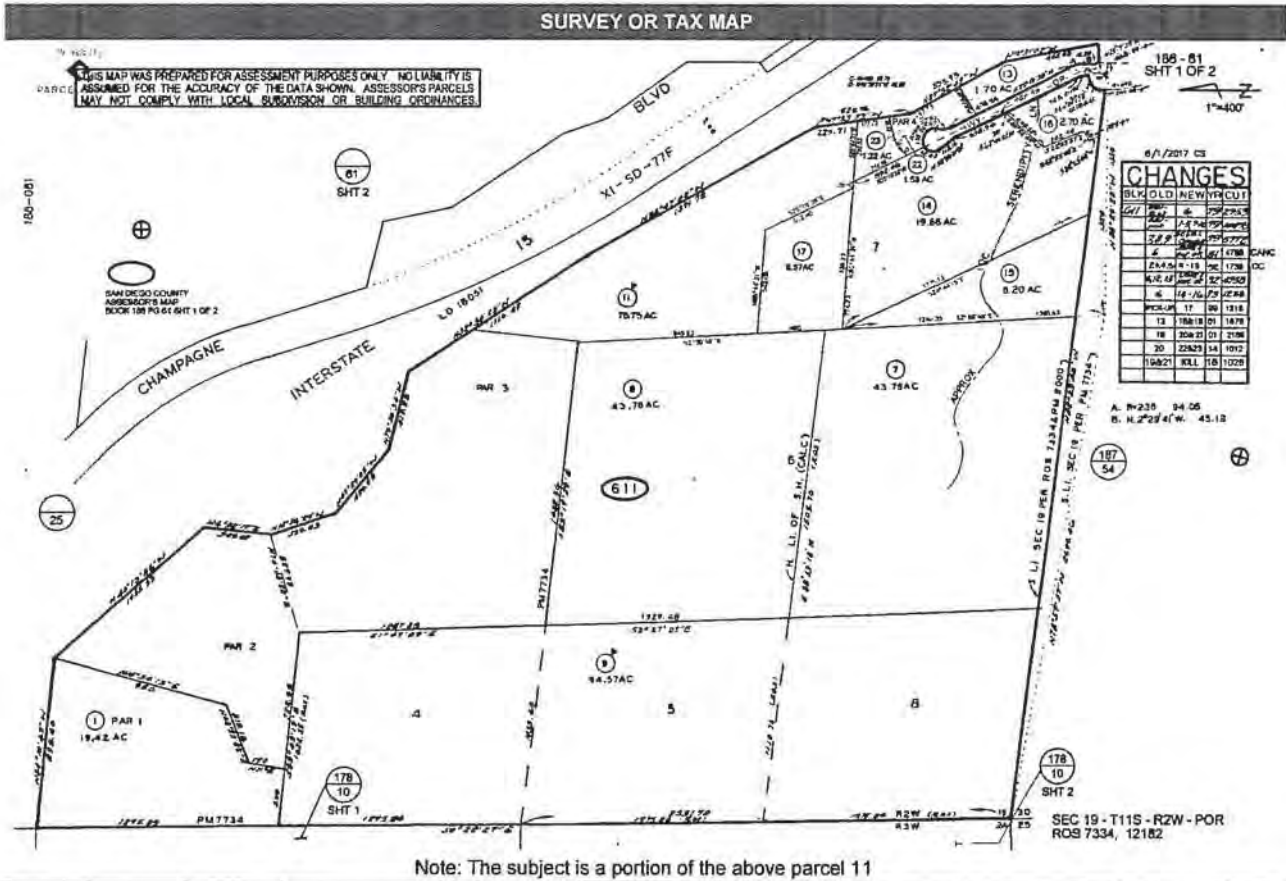
DEMOGRAPHIC SUMMARY								
		1.0-mile	3.0-mile	5.0-mile	San Diego-Carls	County of	State of	
		Radius	Radius	Radius	CBSA	San Diego	California	
POPULATION STATISTICS								
	2000	420	14,565	92,955	2,811,573	2,811,573	33,859,695	
	2016	555	18,473	117,598	3,324,463	3,324,463	39,320,109	
	2021	594	19,475	123,657	3,453,445	3,453,445	40,894,935	
Compound Annual Change								
	2000 - 2016	1.76%	1.50%	1.48%	1.05%	1.05%	0.94%	
	2016 - 2021	1.37%	1.06%	1.01%	0.76%	0.76%	0.79%	
HOUSEHOLD STATISTICS								
	2000	178	5,788	31,503	994,042	994,042	11,498,173	
	2016	215	6,891	38,538	1,162,742	1,162,742	13,319,273	
	2021	231	7,262	40,678	1,211,692	1,211,692	13,886,580	
Compound Annual Change								
	2000 - 2016	1.19%	1.10%	1.27%	0.98%	0.98%	0.92%	
	2016 - 2021	1.45%	1.05%	1.09%	0.83%	0.83%	0.84%	
AVERAGE HOUSEHOLD INCOME								
	2000	\$81,071	\$73,539	\$60,512	\$63,255	\$63,255	\$65,671	
	2016	\$117,205	\$105,073	\$85,232	\$93,540	\$93,540	\$92,715	
	2021	\$135,520	\$121,940	\$99,301	\$109,040	\$109,040	\$108,428	
Compound Annual Change								
	2000 - 2016	2.33%	2.26%	2.16%	2.48%	2.48%	2.18%	
	2016 - 2021	2.95%	3.02%	3.10%	3.11%	3.11%	3.18%	
OCCUPANCY								
	Owner Occupied	86.51%	82.56%	60.58%	52.73%	52.73%	54.15%	
	Renter Occupied	13.49%	17.44%	39.42%	47.27%	47.27%	45.85%	

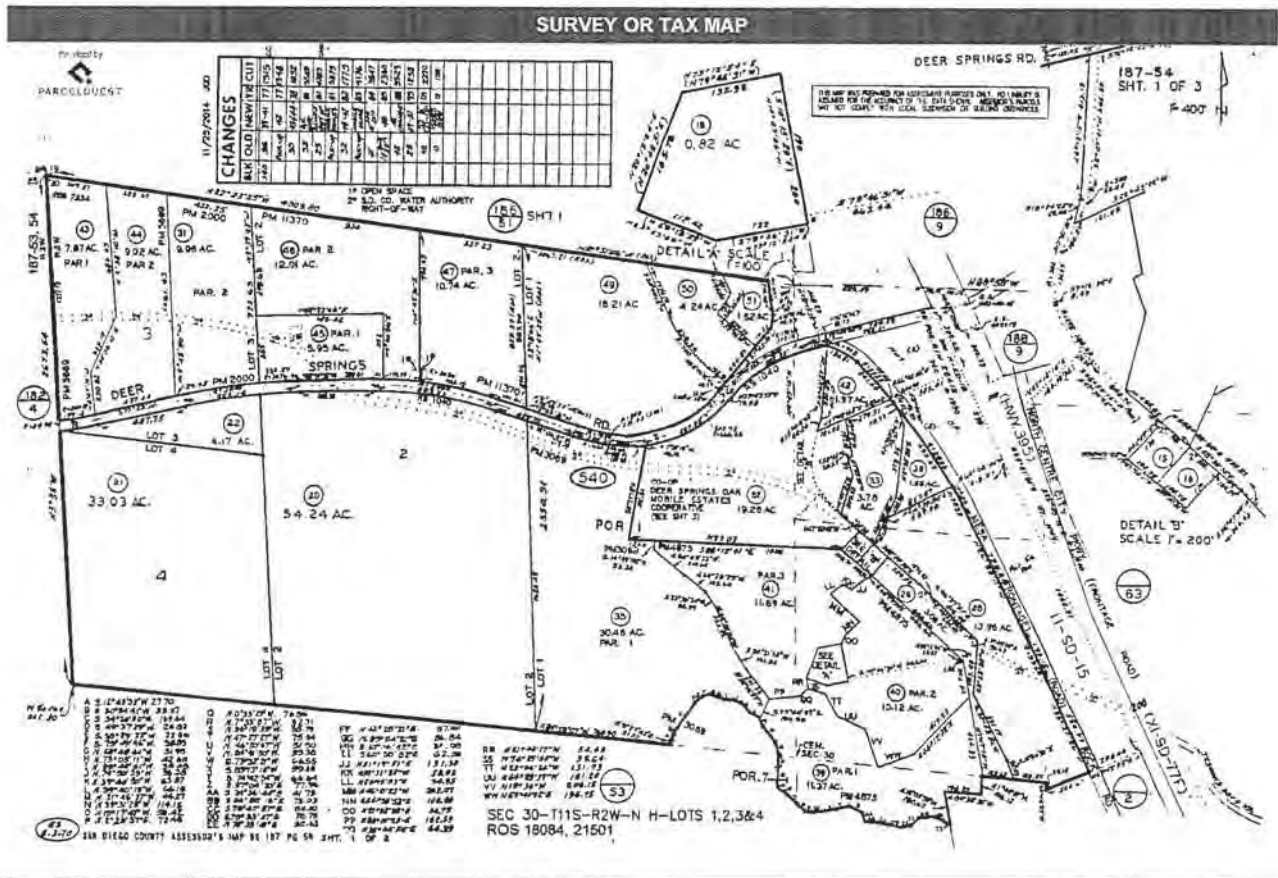
SOURCE: © 2016 Experian Marketing Solutions, Inc. All rights reserved

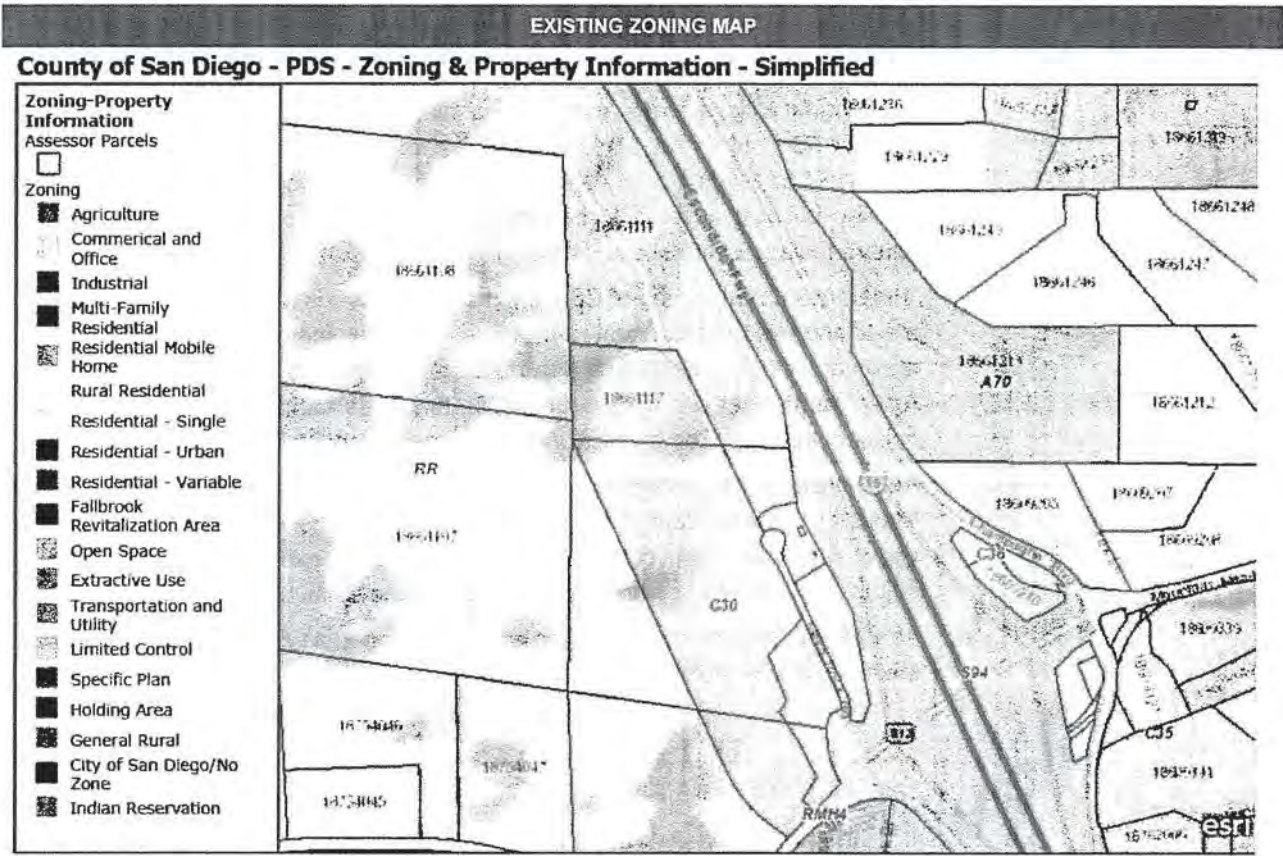
Property Analysis

Site Description

Shape:	Irregularly shaped
Topography:	Hilly
Primary Land Area:	58.200 acres / 2,535,192 square feet (A portion of the total 1,985 acre master-planned community)
Frontage/Access/Visibility:	The subject property has frontage on the following streets: Mesa Rock Road and Deer Springs Road. Access is considered good for the subject's current condition. Visibility is good.
Site Improvements:	The site is unimproved hillside with steep terrain, sloping downward from West to East toward Freeway I-15
Land Use Restrictions:	We were not given a title report to review. We do not know of any easements, encroachments, or restrictions that would adversely affect the site's use. However, we recommend a title search to determine whether any adverse conditions exist.
Flood Zone Description:	The subject property is located in flood zone X (Areas determined to be outside the 500 year flood plain) as indicated by FEMA Map 06073C0752H, dated May 16, 2012. The flood zone determination and other related data are provided by a third party vendor deemed to be reliable. If further details are required, additional research is required that is beyond the scope of this analysis.
Seismic Hazard:	Though Southern California generally has earthquake faults and associated hazard areas, the subject is not known to be within a designated earthquake fault hazard zone.
Overall Site Utility:	The subject site irregular in shape, but is functional for its current use.
Location Rating:	Good







Zoning

LAND USE DESIGNATIONS

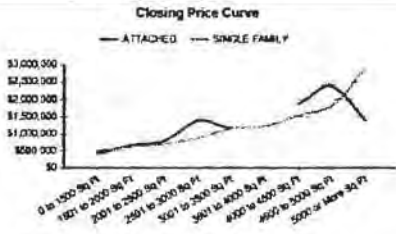
Zoning:	<p>Existing: C30 (Office-Professional) and C35 (General Commercial / Limited Residential)</p> <p>Proposed: C34 (General Commercial / Residential Use)</p>
Discussion:	<p>Nonresidential building intensity is expressed as a maximum floor-area ratio (FAR). A floor- area ratio (FAR) is the ratio of the gross building square footage on a lot to the net square footage of the lot or parcel.</p> <p>Under the current zoning of C30, the maximum FAR (Floor Area Ratio) is .80 of the site area for Village areas and .45 for semi-rural areas. Based on the estimated site area at 53.6 acres, at a maximum, this translates to a total building area from 1,050,667 to 2,008,116 square feet. However, this does not mean that all of the allowed building area could be physically or economically constructed, as the net square footage of the site is unknown.</p> <p>Under the current zoning of C34, the maximum FAR is .70 of the site area for Village areas and .45 FAR for semi-rural areas. The estimated site area is 4.6 acres. At a maximum, this translates to a total building area from 90,169 to 140,263 square feet. Again, as the net site area is unknown, this does not mean that all of the allowed building area could be physically or economically constructed.</p> <p>According to the County of San Diego's General Plan, the maximum FAR is provided based on regional categories to guide intensity of development. This denotes the upper range for each component, but there is no expectation that this would be achieved when each component is applied in the same area.</p> <p>As well, the maximum density for lands designated as Semi-Rural is also based on the slope of the site.</p>

Market Demand Analysis –



Market Activity Dashboard

Report Date: 8/1/2017, Month: May 2017
San Diego-Carlsbad-San Marcos, CA



	Total Number of Closings						Average Closing Price			Average Living Sq Ft			Average \$/Sq. Ft.			Average Mortgage Amount		
	Current Period	One Year Prior	Two Years Prior	Current Period	One Year Prior	Two Years Prior	Current Period	One Year Prior	Two Years Prior	Current Period	One Year Prior	Two Years Prior	Current Period	One Year Prior	Two Years Prior	Current Period	One Year Prior	Two Years Prior
By Product Type																		
ATTACHED	1,380	32%	1,259	33%	1,284	31%	\$487,647	\$459,428	\$426,278	1,216sf	1,225sf	1,242sf	\$407	\$358	\$341	\$372,489	\$359,844	\$341,135
OTHER/UNKNOWN	176	4%	131	3%	157	4%	\$401,607	\$286,977	\$331,723	1,557sf	1,556sf	1,477sf	\$352	\$232	\$194	\$407,292	\$282,057	\$234,671
SINGLE FAMILY	2,752	64%	2,550	65%	2,641	69%	\$746,699	\$706,656	\$669,013	2,943sf	2,956sf	2,850sf	\$374	\$340	\$325	\$659,088	\$540,101	\$609,134
Total	4,318	100%	3,940	100%	4,082	100%	\$649,153	\$612,362	\$579,625	1,768sf	1,782sf	1,799sf	\$384	\$354	\$328	\$499,163	\$400,456	\$453,519
By Sale Type																		
FORECLOSURE	49	1%	138	3%	160	4%				1,915sf	1,589sf	1,545sf				NA	NA	NA
REGULAR RESALE	3,944	91%	3,470	89%	3,541	87%	\$648,148	\$610,165	\$580,307	1,761sf	1,773sf	1,779sf	\$385	\$357	\$331	\$495,356	\$478,360	\$448,540
REO SALE	130	3%	100	3%	216	5%	\$540,010	\$455,806	\$460,075	1,535sf	1,720sf	1,659sf	\$357	\$311	\$290	\$507,052	\$424,635	\$428,727
NEW SALE	193	4%	155	4%	165	4%	\$739,229	\$799,992	\$714,979	2,566sf	2,584sf	2,916sf	\$339	\$349	\$312	\$567,943	\$577,806	\$578,334
Closing Price Curve																		
ATTACHED	Price Line	\$413,112	\$563,773	\$900,707	\$1,306,500	\$1,189,273												
	\$/Sq. Ft.	\$409.74	\$397.23	\$367.05	\$511.56	\$363.73												
SINGLE FAMILY	Price Line	\$496,128	\$519,991	\$713,036	\$884,550	\$1,155,490												
	\$/Sq. Ft.	\$435.23	\$354.34	\$319.53	\$323.47	\$359.57												

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Residential

As can be seen in the chart above, home sales and pricing have increased over the past two years, with attached product indicating a 31 percent increase. During the same time period, average home size decreased slightly from 1,789 to 1,768 square feet, resulting in an increase in price points from \$328 to \$384 per square foot, a 17 percent increase. As well, foreclosure activity has also been declining over the same time period.

Numerous articles in the San Diego Union and elsewhere describe the lack of affordable housing in the San Diego County. Many subdivisions and master-planned communities have been proposed to address this concern, but have some difficulty in obtaining approvals. The subject's previous efforts to obtain entitlements under the master-planned community known as Merriam Mountains was rejected by the County Board of Supervisors back in 2010. A recent proposal under new ownership, envisions less density (2,135 homes instead of 2,600 homes) and is currently in the entitlement process with the County of San Diego.

Office Market Analysis

The following is a summary of the office market in the outlying North San Diego County area (which includes the subject's area), as of the 2nd quarter 2017, according to CoStar Analytics.

Overview

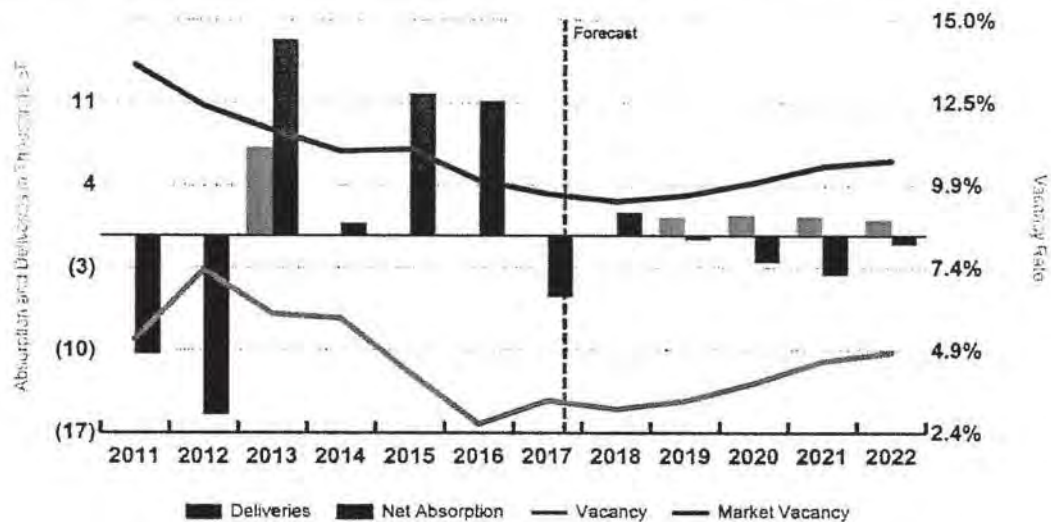
Outlying SD County N Office			
12 Mo. Deliveries in SF (000)	12 Mo. Net Absorption (000)	Vacancy Rate	12 Mo. Rent Growth
0	-7	3.8%	4.1%

KEY INDICATORS

Current Quarter	RBA (000)	Vacancy Rate	Gross Asking Rent	Availability Rate	Net Absorption (000)	Net Deliveries (000)	Under Const. (000)
4 & 5 Star	—	N/A	N/A	N/A	—	—	0
3 Star	120	1.7%	\$26.44	5.2%	(2)	—	0
1 & 2 Star	614	4.2%	\$18.34	5.9%	0	—	0
SUBMARKET	735	3.8%	\$19.64	5.8%	(2)	—	0

Annual Trends	12 Month Change	Hist. Avg.	Fcst. Avg.	Peak	When	Trough	When
Vacancy	0.9%	3.5%	3.8%	7.8%	2013 Q2	0.6%	2006 Q4
Net Absorption (000)	(7)	2	(1)	35	2010 Q1	(45)	2008 Q3
Net Deliveries (000)	0	3	1	25	2003 Q2	0	2012 Q4
Rent Growth	4.1%	2.4%	2.7%	15.1%	2001 Q1	-10.4%	2009 Q3
Sales (\$ millions)	\$5	\$3	N/A	\$16	2017 Q2	\$0	2012 Q3

NET ABSORPTION, NET DELIVERIES AND VACANCY RATE



Overview

Outlying SD County N Office

SUBMARKET SUPPLY AND DEMAND HISTORY AND FORECAST

Year	Inventory			Net Absorption		
	SF (000)	Growth (000)	% Growth	SF (000)	% Growth	Construction Ratio
2022	741	1	0.2%	(1)	-0.1%	--
2021	740	2	0.2%	(3)	-0.5%	--
2020	738	2	0.2%	(2)	-0.3%	--
2019	736	2	0.2%	0	0.0%	--
2018	735	0	0.0%	2	0.3%	0.0
2017	735	0	0.0%	(5)	-0.7%	--
2016	735	0	0.0%	12	1.6%	0.0
2015	735	0	0.0%	12	1.8%	0.0
2014	735	0	0.0%	1	0.2%	0.0
2013	735	8	1.0%	17	2.5%	0.5
2012	727	0	0.0%	(15)	-2.2%	--
2011	727	0	0.0%	(10)	-1.5%	--
2010	727	0	0.0%	15	2.2%	0.0
2009	727	15	2.2%	23	3.4%	0.7
2008	712	2	0.3%	(43)	-6.1%	--
2007	709	0	0.0%	0	0.0%	--
2006	709	0	0.0%	15	2.1%	0.0
2005	709	0	0.0%	(3)	-0.5%	--

As can be seen from the charts, vacancies have been increasing with nothing under construction and a negative in net absorption. The expected trend through 2022 is for little to no growth in the office market. The conclusion is that there is little to no demand for office space in the subject's location.

Existing office and other employment centers are located along the Highway 78 corridor and in the City of Escondido. It appears that the existing development adequately serves the region.

Retail Market Analysis

The following is a summary of the retail market in the outlying North San Diego County area (which includes the subject's area), as of the 2nd quarter 2017, according to CoStar Analytics.

Overview

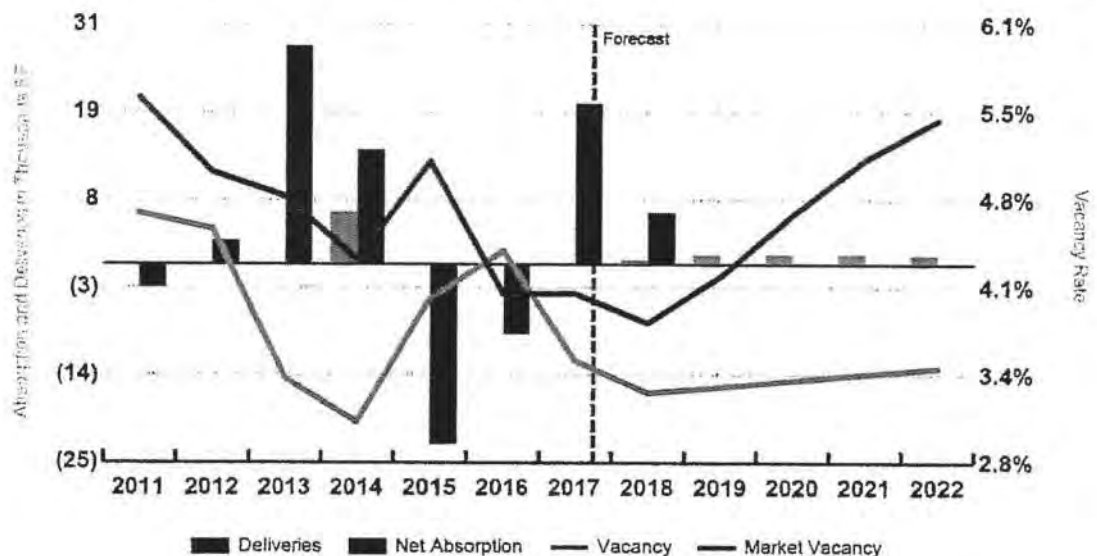
Outlying SD County N Retail			
12 Mo. Deliveries in SF (000)	12 Mo. Net Absorption (000)	Vacancy Rate	12 Mo. Rent Growth
0	-4	4.0%	2.1%

KEY INDICATORS

Current Quarter	RBA (000)	Vacancy Rate	Asking Rent	Availability Rate	Net Absorption (000)	Net Deliveries (000)	Under Const. (000)
Mall	146	7.5%	\$21.70	7.5%	0	--	0
Power Center	--	N/A	N/A	N/A	--	--	0
Neighborhood Center	550	4.7%	\$19.95	11.8%	(2)	--	0
SUBMARKET	2,445	4.0%	\$19.47	5.8%	(3)	--	0

Annual Trends	12 Month Change	Hist. Avg.	Fest. Avg.	Peak	When	Trough	When
Vacancy	0.2%	2.2%	3.4%	5.4%	2011 Q2	0.0%	2000 Q3
Net Absorption (000)	(4)	(5)	2	32	2013 Q3	(81)	2009 Q4
Net Deliveries (000)	0	1	1	7	2014 Q4	0	2009 Q1
Rent Growth	2.1%	0.9%	0.3%	5.4%	2007 Q1	-5.8%	2010 Q1
Sales (\$ millions)	\$3	\$11	N/A	\$36	2007 Q1	\$1	2009 Q2

NET ABSORPTION, NET DELIVERIES AND VACANCY RATE



Overview

Outlying SD County N Retail

SUBMARKET SUPPLY AND DEMAND HISTORY AND FORECAST

Year	Inventory			Net Absorption		
	SF (000)	Growth (000)	% Growth	SF (000)	% Growth	Construction Ratio
2022	2,446	1	0.0%	0	0.0%	—
2021	2,445	1	0.0%	0	0.0%	—
2020	2,444	1	0.1%	0	0.0%	—
2019	2,442	1	0.0%	0	0.0%	—
2018	2,441	1	0.0%	7	0.3%	0.1
2017	2,441	0	0.0%	21	0.9%	0.0
2016	2,441	0	0.0%	(9)	-0.4%	—
2015	2,441	0	0.0%	(23)	-1.0%	—
2014	2,441	7	0.3%	15	0.6%	0.5
2013	2,434	0	0.0%	28	1.2%	0.0
2012	2,434	0	0.0%	3	0.1%	0.0
2011	2,434	0	0.0%	(3)	-0.1%	—
2010	2,434	0	0.0%	(2)	-0.1%	—
2009	2,434	0	0.0%	(81)	-3.4%	—
2008	2,434	0	0.0%	23	1.0%	0.0
2007	2,434	0	0.0%	(4)	-0.2%	—
2006	2,434	0	0.0%	(46)	-1.9%	—
2005	2,434	4	0.1%	4	0.1%	1.0

Though slightly better than the office market with a lower (and stabilizing) vacancy, there is no retail construction and a slight negative absorption expected through 2022.

Existing retail as well as community and regional centers are located along the Highway 78 corridor and in the City of Escondido. It appears that the existing development adequately serves the region.

CONCLUSIONS DEMAND (CURRENT)

Residential

Those factors typically gauged to determine demand for housing would indicate that demand in this submarket should improve in the future. As discussed, growth rates are expected to continue in San Diego County and the North County Inland MSA area in the long-term. It is anticipated that as remaining residential land inventory decreases in San Diego County, those projects available closer to employment centers should capture a larger market share of effective demand for housing. Though product continues to be absorbed and builders incentives have declined, pricing increases may plateau as interest rates are expected to increase.

In summary, overall long-term demand factors for San Diego County and the subject's submarket are positive. In the near-term, the upward pricing trends appear to be slowing and future interest rate increases may have an effect on absorption.

Office

Currently, office use is mostly located in the Escondido, San Marcos and Vista areas along the Route 78 corridor. Office workers in these areas generally commute from areas outside the trade area. There is no current construction of office and a net negative (2,000 sf) absorption as of the 2nd quarter 2017. Thus, there does not appear to be significant demand for office space in the subject's designated site area.

Retail

As stated in the Retail Market discussion, there is little to no current demand for retail development at the subject's site.

Assumptions and Limiting Conditions

"Report" means the appraisal or consulting report and conclusions stated therein, to which these Assumptions and Limiting Conditions are annexed.

"Property" means the subject of the Report.

"Cushman & Wakefield" means Cushman & Wakefield, Inc. or its subsidiary that issued the Report.

"Appraiser(s)" means the employee(s) of Cushman & Wakefield who prepared and signed the Report.

The Report has been made subject to the following assumptions and limiting conditions:

- No opinion is intended to be expressed and no responsibility is assumed for the legal description or for any matters that are legal in nature or require legal expertise or specialized knowledge beyond that of a real estate appraiser. Title to the Property is assumed to be good and marketable and the Property is assumed to be free and clear of all liens unless otherwise stated. No survey of the Property was undertaken.
- The information contained in the Report or upon which the Report is based has been gathered from sources the Appraiser assumes to be reliable and accurate. The owner of the Property may have provided some of such information. Neither the Appraiser nor Cushman & Wakefield shall be responsible for the accuracy or completeness of such information, including the correctness of estimates, opinions, dimensions, sketches, exhibits and factual matters. Any authorized user of the Report is obligated to bring to the attention of Cushman & Wakefield any inaccuracies or errors that it believes are contained in the Report.
- The opinions are only as of the date stated in the Report. Changes since that date in external and market factors or in the Property itself can significantly affect the conclusions in the Report.
- The Report is to be used in whole and not in part. No part of the Report shall be used in conjunction with any other analyses. Publication of the Report or any portion thereof without the prior written consent of Cushman & Wakefield is prohibited. Reference to the Appraisal Institute or to the MAI designation is prohibited. Except as may be otherwise stated in the letter of engagement, the Report may not be used by any person(s) other than the party(ies) to whom it is addressed or for purposes other than that for which it was prepared. No part of the Report shall be conveyed to the public through advertising, or used in any sales, promotion, offering or SEC material without Cushman & Wakefield's prior written consent. Any authorized user(s) of this Report who provides a copy to, or permits reliance thereon by, any person or entity not authorized by Cushman & Wakefield in writing to use or rely thereon, hereby agrees to indemnify and hold Cushman & Wakefield, its affiliates and their respective shareholders, directors, officers and employees, harmless from and against all damages, expenses, claims and costs, including attorneys' fees, incurred in investigating and defending any claim arising from or in any way connected to the use of, or reliance upon, the Report by any such unauthorized person(s) or entity(ies).
- Except as may be otherwise stated in the letter of engagement, the Appraiser shall not be required to give testimony in any court or administrative proceeding relating to the Property or the Appraisal.
- The Report assumes (a) responsible ownership and competent management of the Property; (b) there are no hidden or unapparent conditions of the Property, subsoil or structures that render the Property more or less valuable (no responsibility is assumed for such conditions or for arranging for engineering studies that may be required to discover them); (c) full compliance with all applicable federal, state and local zoning and environmental regulations and laws, unless noncompliance is stated, defined and considered in the Report; and (d) all required licenses, certificates of occupancy and other governmental consents have been or can be obtained and renewed for any use on which the value opinion contained in the Report is based.
- The physical condition of the improvements considered by the Report is based on visual inspection by the Appraiser or other person identified in the Report. Cushman & Wakefield assumes no responsibility for the soundness of structural components or for the condition of mechanical equipment, plumbing or electrical components.
- Unless otherwise stated in the Report, the existence of potentially hazardous or toxic materials that may have been used in the construction or maintenance of the improvements or may be located at or about the Property was not considered in arriving at the opinion of value. These materials (such as formaldehyde foam insulation, asbestos insulation and other potentially hazardous materials) may adversely affect the value of the Property. The Appraisers are not qualified to detect such substances. Cushman & Wakefield recommends that an environmental expert be employed to determine the impact of these matters on the opinion of value.
-

- In the event of a claim against Cushman & Wakefield or its affiliates or their respective officers or employees or the Appraisers in connection with or in any way relating to this Report or this engagement, the maximum damages recoverable shall be the amount of the monies actually collected by Cushman & Wakefield or its affiliates for this Report and under no circumstances shall any claim for consequential damages be made.
- If the Report is referred to or included in any offering material or prospectus, the Report shall be deemed referred to or included for informational purposes only and Cushman & Wakefield, its employees and the Appraiser have no liability to such recipients. Cushman & Wakefield disclaims any and all liability to any party other than the party that retained Cushman & Wakefield to prepare the Report.
- Any estimate of actual cash value, if included within the agreed upon scope of work and presented within this Report, is based upon an agreed upon procedure with the client as identified by the client within their definition. C&W makes no warranties regarding the accuracy or relevance of this estimate.
- Unless otherwise noted, we were not given a soil report to review. However, we assume that the soil's load-bearing capacity is sufficient to support existing and/or proposed structure(s). We did not observe any evidence to the contrary during our physical inspection of the property. Drainage appears to be adequate.
- Unless otherwise noted, we were not given a title report to review. We do not know of any easements, encroachments, or restrictions that would adversely affect the site's use. However, we recommend a title search to determine whether any adverse conditions exist.
- Unless otherwise noted, we were not given a wetlands survey to review. If subsequent engineering data reveal the presence of regulated wetlands, it could materially affect property value. We recommend a wetlands survey by a professional engineer with expertise in this field.
- Unless otherwise noted, we observed no evidence of toxic or hazardous substances during our inspection of the site. However, we are not trained to perform technical environmental inspections and recommend the hiring of a professional engineer with expertise in this field.
- By use of this Report each party that uses this Report agrees to be bound by all of the Assumptions and Limiting Conditions, Hypothetical Conditions and Extraordinary Assumptions stated herein.

Addenda Contents

Addendum A: Qualifications of the Appraiser

Addendum A:
Qualifications of the Appraiser



Peter M. Savage, MAI, SRA

Director

Valuation & Advisory

Practice Group Member | Residential Development

Cushman & Wakefield Western, Inc.

Professional Expertise

Mr. Savage joined Cushman & Wakefield Western, Inc. Valuation & Advisory in 2006 and has specialized in residential development including appraising subdivisions, mixed-use properties and master planned communities. Mr. Savage began his career in real estate lending with California Federal Savings in 1974. After reaching management level in 1979, he joined Cuffaro Appraisal Services as a residential appraiser. Mr. Savage obtained the SRA and SRPA designations, becoming partner under the name of Cuffaro, Savage & Associates. In 1990 Mr. Savage opened Savage & Associates which became Certified Appraisals. He obtained the MAI designation in 1997 while operating Certified Appraisal.

Mr. Savage specializes in residential development properties including subdivisions and master planned communities. In addition, appraisal and consulting assignments include vacant land, office buildings, industrial buildings, business/industrial parks, shopping centers, industrial complexes, commercial properties, apartment buildings and mixed-use properties.

Appraisal assignments have been performed in San Diego County, San Luis Obispo County, Ventura County, Los Angeles, Riverside County and Imperial County, as well as in the states of Arizona and Idaho.

Memberships, Licenses, Professional Affiliations and Education

- Designated Member, Appraisal Institute (MAI #11293). As of the current date, Peter M. Savage, MAI has completed the requirements of the continuing education program of the Appraisal Institute.
- Certified General Real Estate Appraiser in the following state:
 - California – AG004946
- Senior Real Property Appraiser, Appraisal Institute (SRPA)
- Designated Senior Residential Appraiser of the Appraisal Institute (SRA)
- Bachelor of Science degree in Real Estate, San Diego State University, 1976
- Mr. Savage has served on the board of directors for the San Diego chapter of the Appraisal Institute as well as chairing the education committee.

CALIFORNIA



ENCLOSURE 3

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April 17, 2018

VIA EMAIL & US MAIL

Ashley Smith
Planning and Development Services
County of San Diego
5510 Overland Avenue, Suite 310
San Diego, Ca 92123

Re: Revised Independent Analysis of Zoning Regulations, Constraints and Development Potential of Newland Owned Commercial Parcels Report prepared by Delane Engineering

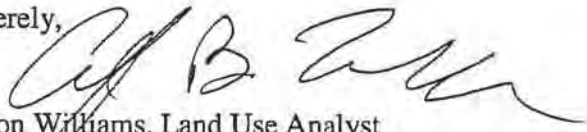
Dear Ms. Smith

Please find enclosed a revised report by Delane Engineering regarding the "Independent Analysis of Zoning Regulations, Constraints and Development Potential of Newland Owned Commercial Parcels." Our office previously submitted the report with our comment letter on the Draft Environmental Impact Report for the Newland Sierra Project. The previously submitted report incorrectly showed that Newland Sierra owned land currently occupied by the AM/PM gas station at Mesa Rock Road. This has been corrected, and the exhibits to the report have also been revised to reflect this change.

The revision, however, does not change the conclusion of the report which finds that due to regulatory and environmental constraints on the site a maximum of 618,000 square feet of office professional uses, and 77,000 square feet of general commercial uses could be built on the portions of the Newland Sierra Project site currently designated for office commercial and general commercial, for a total of 695,000 square feet. Therefore, the report finds that the site would not accommodate the 2 million square feet of commercial retail space including "big box" retail, claimed by Newland Sierra and repeated often by Newland Sierra in media reports and at community meetings.

If you have any questions, please do not hesitate to contact me.

Sincerely,



Clifton Williams, Land Use Analyst
LATHAM & WATKINS LLP

Enclosure



TECHNICAL MEMORANDUM

DATE	August 4, 2017 Rev. March 29, 2018 (revised developable area removing parcels not owned by Newland)
TO	Andrew Yancey – Latham and Watkins, LLP
FOR	Kathy Van Ness – COO/GM Golden Door Resort
FROM	John Prince, PE, PMP – DELANE Engineering, Inc.
SUBJECT	Independent Analysis of Zoning Regulations, Constraints, and Development Potential of Newland Owned Commercial Parcels

According to the June 2017 Draft Environmental Impact Report (DEIR) prepared for the Newland Sierra Development, the entire project area is currently zoned for 99 dwelling units and 58.2 acres of commercial office space (53.6 acres of C30, Office Professional, and 4.6 acres of C36, General Commercial). The Newland project proposes amending the General Plan and zoning to allow for the project's proposed 2,135 dwelling units and 81,000 square feet (SF) of commercial retail (C-5). See **Figure 1** for a land use breakdown from the Project Description section of the Newland DEIR.

The Newland DEIR claims that the 58.2 acres of currently zoned commercial property yields 2,008,116 SF of potential development under the Existing General Plan and that the proposed zoning changes result in similar or fewer overall land use and traffic impacts. The Newland DEIR also concludes that 2,008,116 SF of commercial development is feasible on the project site, and marketing material distributed by Newland at public meetings suggests the commercial parcels could include “big box” retail stores.

The Newland DEIR does not provide any detail on how the parcels would support over 2 million SF of development and does not own all the parcels. Per the County Zoning ordinance, development on the parcels is limited to two-stories and 35-ft in total height, with setbacks up to 60-ft. In addition, much of the property lies on “steep slopes”. Per the County Resource Protection Ordinance (RPO), steep slopes are defined as those natural slopes exceeding 25% in slope gradient and are a protected resource. Over 30% of the area of the commercial parcels qualifies as steep slopes per the RPO. As shown in **Figure 2**, the percent of steep slope area in several of the parcels exceeds 10% of the parcel area and requires an open space easement on the area of steep slopes (the yellow and red colored areas of Figure 2). Proposed development is not allowed to encroach more than 10% into an open space easement. In addition to steep slopes as a protected resource, the entire site consists of significant sloping that increases development costs and reduces development potential.

As shown in **Figure 3**, deducting for area of steep slopes and parking (at County ordinance rate of 4 stalls per thousand SF) yields a total developable building area available of 309,000 SF for C30 Office Professional and 38,500 SF for C36 General Commercial for a total of 347,500 SF. At 2 story height

restriction, the total building square footage feasible is 618,000 SF for C30 Office Professional and 77,000 SF of C36 General Commercial, for a total building square footage of 695,000 SF¹. Note that there are additional potential constraints not taken into account that may further reduce feasible building square footage, including slope grading and earthwork, views, cost, economic viability, and other environmental factors.

The C30 zone does not allow “big box” retail stores. Section 2300 of the County Zoning Ordinance states that the intent of the C30 zone is as follows: “The C30 Use Regulations are intended to create and enhance areas where administrative, office and professional services are the principal and dominant use. It is also intended that uses involving high volumes of vehicular traffic be excluded from the C30 Use Regulations. Typically, the C30 Use Regulations would be applied near residential areas, have a scale and appearance compatible with and complementary to the adjacent residential use, and have pedestrian as well as vehicular access.”

The C36 General Commercial Zone does allow General Retail Sales which would include “big box” retail. However, as noted approximately 77,000 SF of retail would be allowed, which is smaller than the typical Costco (144,500 SF), Home Depot (105,000 SF), or Wal-Mart supercenter store (182,000 SF).² The 4.6 acres zoned C36 is bisected by Mesa Rock Road, further diminishing the ability for the property to develop in a single block, as would be required for any type of large format retail. Small convenience store retail, akin to the existing AM/PM minimart is more likely.

The Newland DEIR claims that the trip generation and distribution of the proposed residential development would be similar to and offset by the current commercial property. However, while the commercial parcels are limited to the far southeast corner of the entire project site, the Newland Sierra project as proposed sprawls out far across the hillsides northwest of the commercial parcels. Proposed project trip distribution is then spread out through three project access roads (Mesa Rock Road, Sarver Lane, and Twin Oaks Valley Road) causing further travel to and from the freeway and increased traffic on Deer Springs Road. However, when current land use is compared to proposed land use, it is apparent that trip distribution for the commercial parcels (if fully developed to current general plan) would result in differing trip distribution, with all traffic required to access the parcels from Mesa Rock Road. This is not addressed in the Newland project documents.

Finally, any development of only the commercial properties would not result in the environmental impacts and earth moving, blasting, noise, and other construction related impacts of the proposed Newland development across it’s nearly 2,000 acre site.

¹ The high level conceptual footprint designs provided in this memorandum are for the purpose of approximating the buildable area on the Newland Sierra project site under the existing General Plan and are not be to construed as a development proposal or design-level engineering.

² http://investor.costco.com/phoenix.zhtml?c=83830&p=irol-homeprofile_pf; <https://corporate.homedepot.com/about>; <http://stock.walmart.com/investors/investor-resources/faqs/default.aspx>;

Figure 1 – Existing Land Use (per Newland DEIR)

Commercial and Residential Yield Analysis (Existing Land Use Regulations)

Land Use	Acres	Allowable Density per General Plan	Number of Units/Square Feet
SR-10 (0%–25% slope)	19.6	1 dwelling unit/10 acres	5*
SR-10 (25%+)	0.0	1 dwelling unit/20 acres	0
RL-20	1,907.8	1 dwelling unit/20 acres	94
C-1	4.6	0.70 floor area ratio	140,263 square feet
C-2	53.6	0.80 floor area ratio	1,867,853 square feet
Total	1,985 acres	-	99 dwelling units and 2,008,116 square feet

Source: Appendix C

* One dwelling unit per parcel per existing legal lot

SR-10 = Semi-Rural 10; RL-20 = Rural Land; C-1 = General Commercial; C-2 = Office Professional

FIGURE 2 - STEEP SLOPES

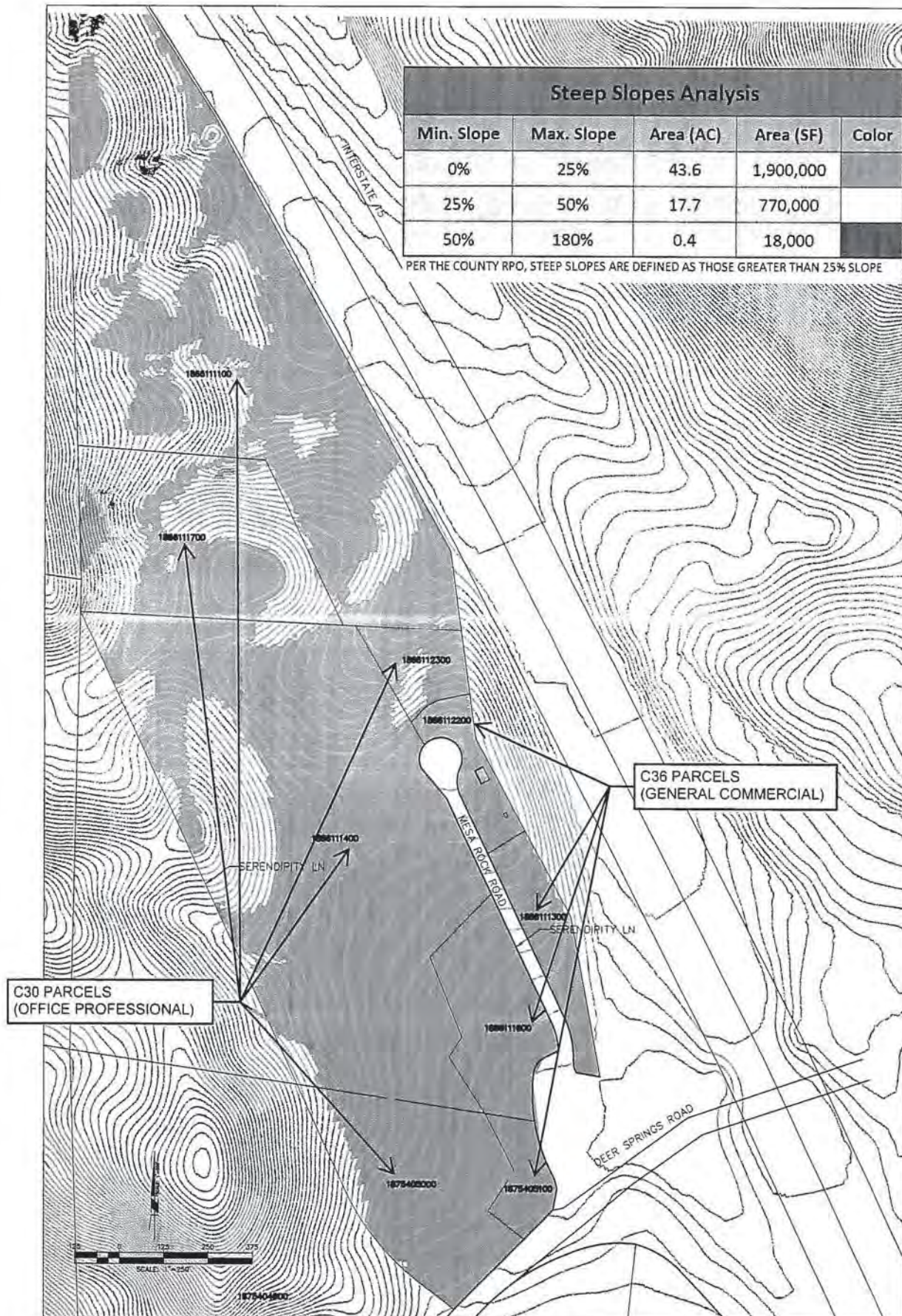
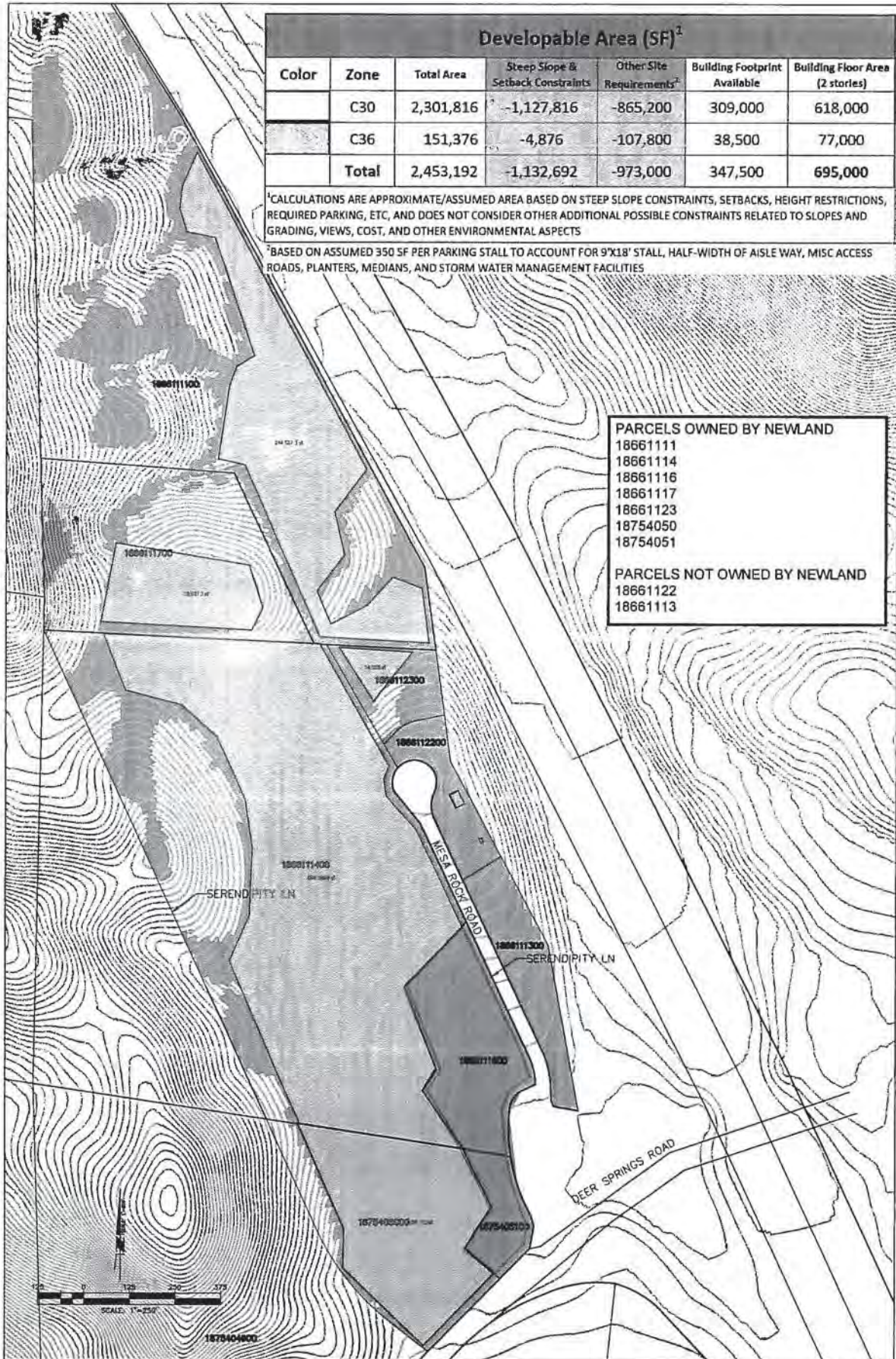


FIGURE 3 - DEVELOPABLE AREA



ENCLOSURE 4

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TECHNICAL MEMORANDUM

April 17, 2018

From: Clifton Williams, Land Use Analyst
Subject: SANDAG Growth Forecast Data on Newland Sierra Project Site Commercial Area

The following technical land use memorandum reviews and evaluates information from the San Diego Association of Governments (“SANDAG”) on the land use assumptions made in the SANDAG Series 12, 2050 Growth Forecast, for the area zoned C36 Office Commercial and C30 General Commercial on the Newland Sierra Project site.

Newland Sierra, LLC (“Newland” or the “Project Applicant”) claims in its draft environmental impact report (“EIR”), marketing brochures, and web site, that “2 million square feet of office space and big box retail” could currently be built within the commercially zoned areas of the Newland Sierra Project site. SANDAG’s Series 12 model contradicts this claim. This especially important, because the model assumptions were provided to SANDAG by the County of San Diego, and the results of the model runs were validated by the County of San Diego.

I. BACKGROUND

SANDAG is the regional planning agency in San Diego County and is responsible for regional planning of transportation infrastructure throughout the County. SANDAG is made up of the governments of 18 city jurisdictions and the County of San Diego. SANDAG is the regional clearinghouse for demographic and land use data, and it use this date to create detailed growth projections for the County of San Diego, which informs regional resource allocations for transportation, housing, and other local, state and federal funds.

SANDAG produces demographic growth models to aid in the allocation of resources throughout the San Diego region. According to the SANDAG web site,¹ “The SANDAG forecasts are used by policymakers and the general public, as well as by public and private agencies throughout the region. For example, SANDAG uses the forecasts to develop the

¹ SANDAG, *About SANDAG*, <http://sandag.org/index.asp?fuseaction=about.home>.

LATHAM & WATKINS^{LLP}

Regional Transportation Plan (RTP), the Regional Comprehensive Plan (RCP), and the Air Quality Conformity Plan. Local jurisdictions use the forecasts for general plan updates and capital facilities planning, including environmental impact reports (EIR), as well as for local transportation planning. Other agencies, such as the San Diego County Water Authority and the San Diego Regional Energy Office, use aspects of the SANDAG forecasts to develop plans for providing these essential services.”

According to Section 3.1 (page 33) of the 2050 Regional Growth Forecast Process and Model Documentation (relevant excerpts provided in Exhibit A):

Determining the amount and location of housing unit and employment capacity in the region is a key to allocating the long-range regional forecast to jurisdictions, communities, and neighborhoods. These capacities represent key policy inputs to the forecasting process, reflecting current land use plans and policies, as well as the implementation of smart growth development strategies throughout the region.

II. SERIES 12 MODEL

The Series 12 model is the model that currently contains all of the land use inputs provided by the regional jurisdictions and was used to generate the 2050 Regional Growth Forecast. The Series 12 model was created concurrently with the approval of the County General Plan Update in 2011 and includes all of the land use assumptions provided by the County of San Diego that reflect the land uses in the General Plan Update.

SANDAG uses land use inputs provided by jurisdictions around the County to develop a model that shows where growth will occur and how traffic patterns will emerge throughout the region. According to Section 3.1 (page 33) of the 2050 Regional Growth Forecast Process and Model Documentation:

For the 2050 Regional Growth Forecast, SANDAG staff worked directly with local jurisdictions to understand how local land use plans and policies might change and evolve in the next forty years. Through this process the 2050 Regional Growth Forecast is based primarily on local land use plans, many of which have been updated in the past four years, and also includes draft plan updates and more robust redevelopment assumptions within existing plans under the assumption that more existing lands may be redevelopable given the longer time horizon of the forecast (forty years, for this forecast, as compared with twenty five years in other forecasts).

Therefore, the assumptions in the growth forecast reflect the agency’s determination of the land uses that will occupy a given site.

III. MODEL DEVELOPMENT

A. How the County is Broken into Units

According to Section 3.2 (page 34) (Exhibit A) of the 2050 Regional Growth Forecast Process and Model Documentation, "SANDAG uses a multilevel geographic reference system. The foundation of the system is the Master Geographic Reference Area (MGRA). The approximately 21630 MGRAs are the result of overlaying several layers of geographic boundaries: census tracts, community planning areas, city boundaries, spheres of influence, and zip codes. Census tracts also are split using other criteria (e.g. ridgelines) to develop traffic analysis zones for use in the transportation models. Housing unit and employment capacity is determined for each MGRA."

B. Jurisdictional Input

According to Section 3.2 (page 34) of the 2050 Regional Growth Forecast Process and Model Documentation:

Before the capacities can be calculated, a great deal of land use inputs must be gathered and corroborated. SANDAG relies heavily on the involvement of the local jurisdiction staffs for this task. First, a set of maps is prepared for local review. ...

The local jurisdictions reviewed a full set of maps in 2008 in preparation for the 2050 Forecast released in 2010. Each of the maps depicted a different aspect of land use: (1) planned land uses (i.e. the general or community plan), (2) existing land uses, (3) areas that are fully or partially constrained from development for policy or environmental reasons, and (4) areas that have the potential to redevelop (change use) or infill (intensify the existing use). The local planners reviewed each map for completeness and accuracy, noting any corrections directly on the maps. In addition, they provided SANDAG with information about any "site specific" projects. These are development projects that are currently under construction or have final approval and financing. As the maps were returned, SANDAG staff made the necessary edits to the various GIS databases. This process was an iterative process, involving more than a year's worth of effort on the part of SANDAG and local staff, to update land use and cross-check it against local records.

The inputs for the unincorporated areas were handled differently. At the time of the forecast, the County was engaged in a major update to its general plan. The County had created an interim land use layer that was being considered for adoption by the Board of Supervisors. This land use layer, known as the Referral Map draft of the County's General Plan Update, along with relevant constraint overlays, were modeled for the 2050 Forecast.

The Referral Map ultimately became the adopted County General Plan.

The Model Documentation goes on to state at pages 34 and 35:

Once the databases are updated, the process of determining housing and employment capacity begins. ... In the next step, the CAPACITY program computes the housing unit and/or employment capacity for each development type code within each parcel. ... Employment densities are based on observed regional parameters and are specific to more than 50 different employment land uses.

C. Accuracy Validation and Jurisdictional Sign Off

According to Section 3.2 (page 36) of the 2050 Regional Growth Forecast Process and Model Documentation:

Once a capacity database is created, it is subjected to a series of computerized checks for consistency and accuracy. If inconsistencies or inaccuracies are discovered, the source of these are determined and corrected and the capacity database is recalculated. This process is iterated until an acceptable capacity database is created.

The data are aggregated for jurisdictions and community plan areas. Tables illustrating existing housing units and employment and housing and employment capacities are constructed and sent to each jurisdiction for their review and comment. If a jurisdiction determines that the capacities generated by the capacity program are inconsistent with their current plans and policies, the inconsistencies are noted and corrected and the capacity database is recomputed and subjected to the computerized checks. The new capacities then are forwarded to the jurisdictions for their review. This process is repeated until there is consensus among the jurisdictions that the capacity database is a reasonable representation of their current plans and policies or likely land use alternatives based on draft plans nearing completion.

IV. NEWLAND SIERRA SANDAG SERIES 12 MODEL LAND USE ASSUMPTIONS

A. SANDAG Information

Information on land use assumptions used in the Series 12, 2050 Growth Forecast for the Newland Sierra Project site was obtained by Clifton Williams, Land Use Analyst for Latham & Watkins LLP, from Rachel Cortes, Ph.D, Associate Regional Models Analyst with SANDAG.

B. Newland Sierra Project Site MGRAs

The MGRAs included in the Newland Sierra Site are shown on the map provided by Rachel Cortes and attached as Exhibit B. The area of the Project site currently zoned C36 Office Professional and C30 General Commercial adjacent to and north of Mesa Rock Road are wholly within MGRA 16980 and 16974.

C. MGRA Site Assumptions

Rachel Cortes at SANDAG provided an Excel Spreadsheet (Exhibit C) which includes the employment capacity and housing capacity in each MGRA on the Project site. It is important to note that the SANDAG Regional Growth Forecast does not forecast buildout square footage for commercially designated property. Instead, the Model determines Employment Capacity within each MGRA if commercial land uses are indicated.

- The Employment Capacity for MGRA 16980 is 1,117 employees,
- The Employment Capacity for MGRA 16974 is 246 employees.
- Therefore, the total forecasted employees for these sites is 1,363 employees.

V. TRANSLATING EMPLOYMENT CAPACITY INTO BUILDING SQUARE FOOTAGE.

A. Methodology

To determine the building square footage projected in a particular MGRA, Employment Capacity can be multiplied by a common ratio of square feet per employee. The City of San Diego used this methodology in the Final Environmental Impact Report for the City of San Diego's 2007 General Plan Update ("General Plan EIR") (relevant excerpts provided in Exhibit D). The methodology is detailed in section 3.18 of the General Plan EIR at page 3.18-3, which states:

It is important to note that the SANDAG 2030 Regional Growth Forecast does not forecast building square footage. The City based the 2004 and 2030 building square feet estimates on the SANDAG (Series 11) 2030 Regional Growth Forecast for Civilian Employment. For the purposes of this Program EIR, the City derived the building square footage estimates from the forecast by using typical square feet per employee by land use designation (retail, office, and industrial) ratios.

B. Employment to Commercial Square Footage Conversion

The City of San Diego used the following table at page 3.18-5 of the General Plan EIR, to convert the employees to building square footage for various commercial land use types:

Generalized Land Use Type	Description	Square Foot per Employee
Visitor Commercial	Hotel/Motel (Lo-Rise)	1400
Visitor Commercial	Hotel/Motel (Hi-Rise)	1000
Visitor Commercial	Resort	1000
Industrial	Heavy Industry	550
Industrial	Industrial Parks	400
Industrial	Light Industry-General	400
Industrial	Warehousing and Public	800
Retail Commercial	Wholesale Trade	500
Retail Commercial	Regional Shopping	450
Retail Commercial	Community Shopping	400
Retail Commercial	Neighborhood Shopping	350
Retail Commercial	Specialty Commercial	300
Retail Commercial	Automobile Dealerships	300
Retail Commercial	Store-Front	300
Retail Commercial	Other Retail Trade	300
Office Commercial	Office (High-Rise)	300
Office Commercial	Office (Lo-Rise)	300
Office Commercial	Government Office/Civic	300

The table shows that Office Commercial uses convert at a rate of 300 square feet per employee. A Hughes Marino study (Exhibit E) states that, "today's office worker averages 175 square feet of space – down from 225 square feet in 2010, and 275 square feet in 2007." Therefore, the ratio of square feet per employee is likely less today.

C. Commercial Square Footage on Newland Sierra Project Site

According to the Project Description in the Draft EIR for the Newland Sierra Project at page 1-29, the existing community plan land use designations for commercial area on the Project site include 4.6 acres of General Commercial and 53.6 acres of Office Professional. Therefore, the total number of commercial acres on the site is 58.2 acres. It should be noted that the acreage described in the Newland Sierra DEIR are the commercial acres owned by Newland Sierra and are part of the Project site. However, MGRA 16980 and 16974 also include the existing AM/PM mini-mart and gasoline station which are not part of the Newland Sierra Project site. It is impossible to further parse the employment capacity within the MGRA, so the total commercial square footage for Newland Sierra must be reduced by the square footage of the AM/PM mini-mart site.

The City of San Diego table above includes 450 square feet per employee for Regional Shopping and 300 square feet per employee for Office Commercial uses. Property designated Office Professional comprises 92% of the commercial area on the Project site and is therefore the dominant land use type within the MGRAs. If a factor of 350 square feet per employee were used to determine the commercial square footage planned on the property, it would appear to take into account the difference between Regional Shopping and Office Commercial uses and provide a conservative estimate of the building square footage.

LATHAM & WATKINS LLP

VI. CONCLUSION

Based on the 1,363 employees estimated in the Series 12, 2050 Growth Forecast for the Newland Sierra Project site, and a conversion rate of 350 square feet per employee, the maximum amount of commercial square footage projected by the SANDAG 2050 Growth Forecast for the Project site is 477,050 square feet.

350 square feet per employee (x) 1,363 employees = 477,050 square feet

As noted above, the land use assumptions for the site were provided by the County of San Diego to SANDAG, and the conclusions of the model runs were verified with the County of San Diego before they were included in the 2050 Growth Forecast. Therefore, the demographic profile of the site is not only the determination of SANDAG, but it is also the determination of the County of San Diego.

The Newland Sierra's public pronouncements that the project site supports a building capacity of "2,008,116 square feet of commercial space" or "two million square feet of office space and big box retail" are inconsistent with the projections in the SANDAG 2050 Growth Model, which were verified and validated by the County of San Diego.

CLIFTON WILLIAMS

As a Land Use Analyst, Clif Williams works on complex governmental entitlement and regulatory matters and with governmental entities throughout the western United States.

Profile / Expertise

- Land use and entitlement for all forms of real estate development
- California Environmental Quality Act (CEQA)
- Regulatory diligence prior to purchase or sale
- Government affairs and strategic planning and communications with government entities

Experience

Prior to joining Latham, Mr. Williams served as Chief of Staff to the San Diego City Council President, and served as the Committee Consultant to the San Diego City Council's Land Use and Housing Committee and the Natural Resources Committee.

Mr. Williams has participated in the entitlement of energy generation and infrastructure projects, commercial office parks, shopping malls, large housing tracts, and mixed-use, transit oriented developments throughout California and the western United States. Mr. Williams has also completed property diligence for the acquisition of billion dollar real estate portfolios, and for lenders on large commercial projects.

Mr. Williams' experience includes:

- US\$1 billion expansion of a regional shopping mall to add 750,000 square feet of retail space and 200 residential units in the City of San Diego.
- Entitlements and regulatory affairs for the development of a 200-MW wind farm in the unincorporated San Diego County, California

- Entitlement and regulatory matters for the permitting of a 15-story, class A office building in San Diego, California
- Land use and regulatory diligence on a US\$1 billion real estate acquisition portfolio with property throughout California
- Property diligence throughout San Diego County, California to find a location for a new peaker power plant
- Research and development of "highest and best use" and value maximization for property owner condemned for a regional freeway
- Entitlement for the redevelopment of a sand and gravel quarry into a transit-oriented mixed use development with 1800 residential units and 160,000 square feet of commercial retail and office space
- Consultation on land use initiatives and referenda
- Entitlement and agency interaction at all levels including City, Coastal Commission, Regional Water Quality Control Board and State Lands Commission, for the largest desalination facility in the western United States.



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Recognition Highlights

Board Member, San Diego County Taxpayers Association

EXHIBIT A

CHAPTER 3: LAND USE PLANS AND POLICIES

3.1 ROLE OF PLANS AND POLICIES IN THE FORECAST

Determining the amount and location of housing unit and employment capacity in the region is a key to allocating the long-range regional forecast to jurisdictions, communities, and neighborhoods. These capacities represent key policy inputs to the forecasting process, reflecting current land use plans and policies, as well as the implementation of smart growth development strategies throughout the region. Land use data collected from the local jurisdictions provides policy inputs to both the Urban Development Model (UDM) and the Interregional Commute Model (IRCM).

The four previous forecasts dealt with the land use plan update issue in different ways. The Series 8 Forecast, released in 1995, simply assumed slight residential density increases across the board in all jurisdictions. That approach was criticized as being arbitrary, and not addressing the nexus between land use and transportation.

The 2020 Forecast, released in 1999, was the first SANDAG attempt to model future smart growth development patterns. Residential and employment capacity was added throughout the urban areas of the region in the form of transit-oriented development within walking distance of approximately 150 current and future transit stops, called transit focus areas (TFA). In areas where several TFAs were clustered, however, the resulting land use patterns sometimes were too far removed from current plans, causing concern for some jurisdictions.

The 2030 Cities/County Forecast was developed as a component of the Regional Comprehensive Plan (RCP). This forecast was based on current plans and policies of the incorporated jurisdictions and the draft General Plan update for unincorporated areas.

Like the 2030 Cities/County Forecast, no smart growth areas other than those contained in the current plans and policies of the jurisdictions were included in the land use assumptions for the 2030 Regional Growth Forecast Update.

For the 2050 Regional Growth Forecast, SANDAG staff worked directly with local jurisdictions to understand how local land use plans and policies might change and evolve in the next forty years. Through this process the 2050 Regional Growth Forecast is based primarily on local land use plans, many of which have been updated in the past four years, and also includes draft plan updates and more robust redevelopment assumptions within existing plans under the assumption that more existing lands may be re-developable given the longer time horizon of the forecast (forty years, for this forecast, as compared with twenty five years in other forecasts).

3.2 HOUSING AND EMPLOYMENT CAPACITY

SANDAG uses a multilevel geographic reference system. The foundation of the system is the Master Geographic Reference Area (MGRA). The approximately 21630 MGRAs are the result of overlaying several layers of geographic boundaries: census tracts, community planning areas, city boundaries, spheres of influence, and zip codes. Census tracts also are split using other criteria (e.g. ridgelines) to develop traffic analysis zones for use in the transportation models. Housing unit and employment capacity is determined for each MGRA.

Before the capacities can be calculated, a great deal of land use inputs must be gathered and corroborated. SANDAG relies heavily on the involvement of the local jurisdiction staffs for this task. First, a set of maps is prepared for local review. For the City of San Diego there is a map set for each community planning area. The 17 other cities receive maps depicting activity within their general plan boundaries.

The local jurisdictions reviewed a full set of maps in 2008 in preparation for the 2050 Forecast released in 2010. Each of the maps depicted a different aspect of land use: (1) planned land uses (i.e. the general or community plan), (2) existing land uses, (3) areas that are fully or partially constrained from development for policy or environmental reasons, and (4) areas that have the potential to redevelop (change use) or infill (intensify the existing use). The local planners reviewed each map for completeness and accuracy, noting any corrections directly on the maps. In addition, they provided SANDAG with information about any "site specific" projects. These are development projects that are currently under construction or have final approval and financing. As the maps were returned, SANDAG staff made the necessary edits to the various GIS databases. This process was an iterative process, involving more than a year's worth of effort on the part of SANDAG and local staff, to update land use and cross-check it against local records.

The inputs for the unincorporated areas were handled differently. At the time of the forecast, the County was engaged in a major update to its general plan. The County had created an interim land use layer that was being considered for adoption by the Board of Supervisors. This land use layer, known as the Referral Map draft of the County's General Plan Update, along with relevant constraint overlays, were modeled for the 2050 Forecast.

Once the databases are updated, the process of determining housing and employment capacity begins. The program GPALL evaluates current land use, planned land use, the existence of constraints, redevelopment potential, and other characteristics to determine the appropriate development type code. The development type code is used in the Urban Development Model (UDM) to determine where activity can occur during the forecast period. Sixteen types of land are identified through the program (listed in Table 5). For forecasting purposes, redevelopment is defined as a change of use, and infill means an intensification of the same use. Agricultural Redevelopment is a special case. In many parts of the region, land in existing agricultural use is actually planned for some other use, and may eventually develop with that other use. Therefore, unless the underlying general or community plan category is Agriculture, or there is a constraint to development, land in agricultural use is considered to be developable for nonagricultural uses.

Table 5
Development Type Codes

Code	Description
1	Developed
2	Constrained or Unusable
3	Vacant Developable
4	Employment Infill
5	Single Family Infill
6	Multifamily Infill
7	Residential to Employment Redevelopment
8	Single Family to Multifamily Redevelopment
9	Mobile Home to Residential Redevelopment
10	Agricultural Redevelopment
11	Employment to Residential Redevelopment
12	Employment to Employment Redevelopment
13	Residential to Road Way or Freeway
14	Employment to Road Way or Freeway
15	Employment or Residential to Mixed Use
16	Vacant to Mixed Use

In the next step, the CAPACITY program computes the housing unit and/or employment capacity for each development type code within each parcel. By definition, areas assigned a development type code of 1 or 2 have no remaining capacity. Also by definition, areas that are vacant or agricultural and developable (codes 3 and 10) always have remaining capacity, which is calculated as:

$$\text{Remaining Capacity} = \text{Acres} \times \text{Density}$$

Housing unit densities are prescribed by the general or community plan. Most plans use density ranges, such as 4 to 8 units per acre (du/acre), and the local planners identify where within each range development usually occurs. On vacant land, the midpoint (50 percent) of the range is typical, which in this case means the land planned for 4-8 du/acre would develop at 6 units per acre. On redevelopment or infill land, 75 percent of the range is common. Therefore, a 4 to 8 du/acre range would yield either 7 units per acre. Employment densities are based on observed regional parameters and are specific to more than 50 different employment land uses.

Remaining capacity for nonagricultural redevelopment areas (codes 7, 8, 9, 11, 12, 15) also is calculated using the above formula. In these cases, however, existing activity is removed first. For example, in areas that have the potential to redevelop from existing single family use to multifamily use (code 8), single family units are removed before the multifamily units are added. The removal of existing activity means that areas can have negative capacity. For example, in areas identified with the potential for residential to employment redevelopment (code 7), the existing housing would be replaced with nonresidential activity, and the housing unit capacity would be a negative number equal to the number of existing units in the year 2008. Potential infill areas (codes 4, 5, 6) add units or employment to the already existing activity up to, but not exceeding, the prescribed density. There is no loss of activity in infill areas.

Program output comprises database tables that are used in the allocation modules of UDM. The derivation of capacity is illustrated in Figure 9.

Once a capacity database is created, it is subjected to a series of computerized checks for consistency and accuracy. If inconsistencies or inaccuracies are discovered, the source of these are determined and corrected and the capacity database is recalculated. This process is iterated until an acceptable capacity database is created.

The data are aggregated for jurisdictions and community plan areas. Tables illustrating existing housing units and employment and housing and employment capacities are constructed and sent to each jurisdiction for their review and comment. If a jurisdiction determines that the capacities generated by the capacity program are inconsistent with their current plans and policies, the inconsistencies are noted and corrected and the capacity database is recomputed and subjected to the computerized checks. The new capacities then are forwarded to the jurisdictions for their review. This process is repeated until there is consensus among the jurisdictions that the capacity database is a reasonable representation of their current plans and policies or likely land use alternatives based on draft plans nearing completion.

Figure 9
Capacity Derivation

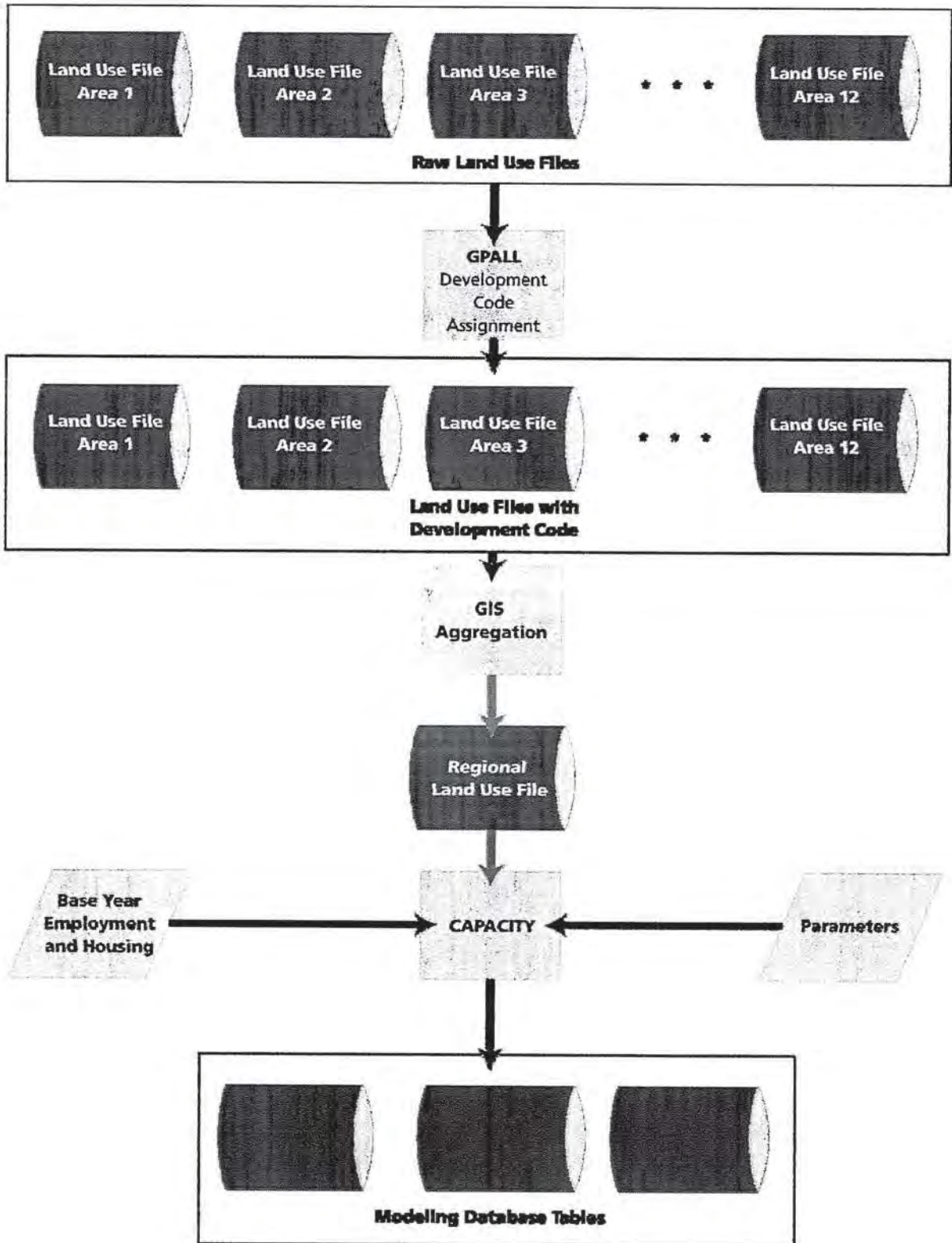


EXHIBIT B



EXHIBIT C

1 - 1065

EX C - Emp and hu capacity sr13.xlsx

mgra	emp_civ	cap_emp_c	housing_st	cap_housing_stock
16876	0	0	1	21
16967	0	1	0	12
16968	0	0	0	23
16969	0	0	0	9
16970	1	0	8	12
16971	22	0	7	0
16972	10	0	18	1
16973	0	0	0	16
16974	0	246	0	7
16976	8	0	2	8
16977	8	0	26	0
16978	37	0	29	9
16980	16	1101	0	1
17012	1	0	6	7
17013	0	0	6	0
17014	1	3	0	3
19100	0	0	32	0

EXHIBIT D

As part of the SANDAG forecast process, the City provides land use inputs to SANDAG addressing the feasibility of development to existing conditions and constraints that may limit future development. By 2030, SANDAG forecasts that approximately 107,400 additional multifamily units could be built within the City, which is a 54 percent increase in multifamily units from 2004 consistent with adopted community plan land use designations. Overall, when including the additional single-family units, SANDAG forecasts a 24 percent increase in the total number of units by 2030.

It is important to note that the SANDAG 2030 Regional Growth Forecast does not forecast building square footage. The City based the 2004 and 2030 building square feet estimates on the SANDAG (Series 11) 2030 Regional Growth Forecast for Civilian Employment. For the purposes of this Program EIR, the City derived the building square footage estimates from the forecast by using typical square feet per employee by land use designation (retail, office, and industrial) ratios. The City used building square footage estimates for 2030, so that it could be compared relationship to the theoretical build out scenario as part of the environmental analysis. Since uses with lower employment densities, such as industrial, typically have more square footage per employee than uses with higher employment densities, such as office, it is difficult to use gross estimate of total square footage as an indicator of employment growth.

The SANDAG 2030 forecast uses an econometric forecast for regional employment population growth for the San Diego region based on national and statewide forecasts that incorporate demographic and economic factors. SANDAG uses employees per acre by land use types rather than building square footage in the forecast process. Between 2004 and 2030, SANDAG forecasts that the civilian employment will increase by 24 percent in the City.

SANDAG forecasts that the percentage increase for both new housing units and civilian jobs are at 24 percent for the City. The forecast indicates that jobs to housing ratio (civilian employment per housing unit) increases less than one percent from 1.60 in 2004 to 1.61 by 2030. During this same period, that employment density in the City increases by 10 percent from 24.8 to 27.4 civilian employments per developed employment acre.

Comparison between the Theoretical Build Out and the SANDAG 2030 Forecast Scenarios

Although the theoretical build-out scenario does not have a time horizon associated with it, there could be substantially more development than forecasted under the Year 2030 scenario. When comparing the two scenarios, there could be 24 percent more total housing units (which would be predominantly multifamily) and 298 percent more non-residential building square feet. The theoretical build-out scenario assumes for residential development that existing land uses, located on plan designated multifamily land, would redevelop or infill at the maximum point of their adopted community plan residential density range. For non-residential (commercial and industrial uses), the analysis assumes that all existing land uses, located on plan designated non-residential land, would redevelop or infill at the maximum allowed zoning ordinance FAR.

**Table 3.18-2
Comparison between the Theoretical Build Out Scenario and
the SANDAG 2030 Forecast Scenario for Total Non-Residential Square Feet**

SANDAG 2030 Forecast (Estimates)				Theoretical Build Out				
Base Year	Horizon Year	Change from Existing Conditions		Theoretical	Change from Existing Conditions		Change from 2030 Forecast	
2004	2030	Numeric	Percent	Build Out	Numeric	Percent	Numeric	Percent
203,833,250	275,702,300	71,869,050	35%	1,097,680,700	893,847,450	439%	821,978,400	298%

Notes:

- 1) The theoretical build-out scenario was prepared solely for the purposes of the General Plan Environmental Impact Report only and should not be used for any other long range planning purposes.
- 2) Build -out scenario refers to the theoretical maximum build out of all lands within the planning area in accordance with assigned land use designations.
- 3) The SANDAG 2030 Regional Growth Forecast does not forecast building square footage. The 2004 and 2030 building square feet estimates are based on the SANDAG (Series 11) 2030 Regional Growth Forecast for Civilian Employment. The building estimates were derived from the forecast by using typical square feet per employee by land use designation (retail, office, and industrial) ratios as in the table below.

Generalized Land Use Type	Description	Square Foot per Employee
Visitor Commercial	Hotel/Motel (Lo-Rise)	1400
Visitor Commercial	Hotel/Motel (Hi-Rise)	1000
Visitor Commercial	Resort	1000
Industrial	Heavy Industry	550
Industrial	Industrial Parks	400
Industrial	Light Industry-General	400
Industrial	Warehousing and Public	800
Retail Commercial	Wholesale Trade	500
Retail Commercial	Regional Shopping	450
Retail Commercial	Community Shopping	400
Retail Commercial	Neighborhood Shopping	350
Retail Commercial	Specialty Commercial	300
Retail Commercial	Automobile Dealerships	300
Retail Commercial	Store-Front	300
Retail Commercial	Other Retail Trade	300
Office Commercial	Office (High-Rise)	300
Office Commercial	Office (Lo-Rise)	300
Office Commercial	Government Office/Civic	300

Notes:

- 1) The theoretical build-out scenario for square feet assumes the full utilization of the allowable zoning ordinance floor area ratio (FAR) for land that is designated for retail, office, and industrial uses, except for downtown. The theoretical build-out scenario includes the build out building square footage that is reported in the 2006 adopted Downtown Community Plan.
- 2) Although theoretically possible based only on the allowable maximum floor area ratio, there could be constraints in place that would limit or reduce the feasibility of additional square footage at the maximum floor area ratio, such as physical constraints, regulatory constraints, or market conditions.
- 3) The (Series 11) 2030 Region Growth Forecast allocated additional multifamily units to multifamily designated land considered more feasible for future development.
- 4) The (Series 11) 2030 Region Growth Forecast was approved by the SANDAG Board for planning purposes in September 2006. The 2030 Forecast uses the Year 2004 as a base year and 2030 as the forecast horizon year.

EXHIBIT E

< Back to News

Size Matters

Jason Hughes | January 5, 2016 | Hatch



t f l e

Why small spaces need big perks to keep employees happy.

By Jason Hughes

The tech industry has done amazing things for humanity and its contributions

are ubiquitous in virtually everything we do. It comes as no surprise that the tech industry also forced the old-school commercial office space world to re-evaluate its boring, vanilla, box-like past. With the help of creative architects and planners, office space is striking a balance between work and life.

For the first half of the 20th century, office space consisted of wooden desks grouped in rows, sometimes hundreds of them. In the '60s, Herman Miller created the office cubicle, which has since been demonized as one step removed from living under a freeway overpass. The idea was to provide at least a minimal sense of privacy for individuals. And while that was transformative, we've now come full-circle with many companies returning to completely open workstations and virtually zero privacy. Unlike the old days, however, the new office model boasts a generous amount of community space peppered with areas for individual seclusion.

Most of us remember the days of studying at library carrels in a 2' x 3' desk with partitions to minimize distractions. Including room for a chair that "area" consisted of about 15 square feet of space. Working in a minimal space for short bursts is tolerable. And studying for midterms in a library carrel in order to avoid your noisy roommate is different than working a full-time job. But is cramming bodies into less space the right long-term move?

Today's office worker averages 175 square feet of space – down from 225 square feet in 2010, and 275 square feet in 2007. Now, at 78% of the size from the pre-2010 era (64% of pre-2007), are companies benefiting? Are their employees?

Yes – and no. Everyone has read about Google's amazing cafeterias, massage rooms, and park-like environments, but many company decision-makers look at Google's offices and focus only on the high-density employee benching areas. They want to implement that, but not the perks. These companies are reverting to the pre-'60s era of cramming bodies into space. In the short run, companies with this mindset find themselves "real estate

efficient,” but see employee engagement and culture plummet over time. This ultimately results in decreased retention and poor recruiting, and can be the beginning of a long, downward corporate spiral.

Google and other leading tech companies have invested millions of dollars hiring psychology experts to understand how good office space design and efficiencies can be exploited to create positive economic returns. Piggybacking on their learning has its benefits, but only if you emulate all aspects – not just the fiscally friendly ones!

While tech companies have lessened the stigma of minimizing space per employee, many others who seek to emulate them forget how overwhelmingly generous they are with their perks. Google’s philosophy is to “create the happiest, most productive workplace in the world.” Most planning experts are pushing for a substantial increase in amenity space – often devoting upwards of 15% of the entire space to cafeterias, game rooms, etc. This is in addition to ample collaboration and meeting space.

So what’s next? What else will the Googles of the world teach the rest of us about office space? Many progressive companies are now fine-tuning the “engagement” aspect of their space. That includes having space employees truly look forward to being in, where they can share ideas while also having the privacy they need at times. How fortunate would society be if employees everywhere felt like “going to the office” was a wonderful privilege rather than a necessary evil?

We can all learn from the tech leaders who have charted the best ways before us. Less is not more when it comes to office space. Those who sacrifice overall space efficiencies in the name of economics will suffer long-term mediocrity as a result.

This article first appeared in [Hatch](#), a publication of San Diego Magazine.

Jason Hughes is chairman, CEO, and owner of Hughes Marino, an award-winning commercial real estate company with offices in San Diego, Orange County, Los Angeles, San Francisco, Silicon Valley and Seattle. A pioneer in the field of tenant representation, Jason has exclusively represented tenants and buyers for more than 25 years. He writes about topics in commercial real estate from a tenant's perspective on his blog, [Downtown Dirt](#). Contact Jason at 1-844-NO-CONFLICT or jason@hughesmarino.com to learn more.

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ENCLOSURE 5

April 24, 2018



Latham & Watkins, LLP
 Attention: Andrew Yancey
 12670 High Bluff Drive
 San Diego, CA 92130

Subject: Newland Sierra Office Trip Generation Assessment

Dear Andrew:

STC Traffic, Inc. was asked to review the trip generation associated with the County General Plan land use. The table below, extracted from the Newland Sierra Traffic Impact Analysis report (LLG, May 2017), indicates that the General Plan land uses are forecast to generate 20,969 trips per day. The General Plan includes 4.94 acres of General Commercial, 53.64 acres of Office Professional and 99 estate residential dwelling units.

**TABLE 11-1
 COMPARISON OF TRIP GENERATION - GENERAL PLAN LAND USES VERSUS PROPOSED PROJECT**

Land Use	Quantity	Rate *	Daily Trip Ends (ADT)	AM Peak Hour		PM Peak Hour	
				% of ADT	Vol	% of ADT	Vol
A. Existing General Plan Land Uses							
Non-Residential							
General Commercial	4.64 Acres	1,200 /Acre	5,568	4%	223	10%	557
Office Professional	53.64 Acres	300 /Acre	16,092	14%	2,253	13%	2,092
Gross Non-Residential			21,660		2,476		2,649
Non-Residential Internal Capture & Pass-By							
Retail Internal Trips (5%) ^b			(278)		(11)		(28)
Passby Reduction ^c (25% Daily and AM and 40% PM of Retail only)			(1,323)		(53)		(212)
Net Non-Residential			20,059		2,412		2,409
Residential							
Residential (Estate)	99 DU ^d	12 /DU	1,188	8%	95	10%	119
Gross Residential			1,188		95		119
Residential Internal Capture ^e			(278)		(11)		(28)
Net Residential			910		84		91
Gross Project			22,848		2,571		2,768
Net Existing General Plan			20,969		2,496		2,500
B. Proposed Project^f			22,208		1,602		2,059
Net Increase(+) / Decrease (-)			1,240		-895		-441

1 - 1076

Newland Sierra Office Trip Generation Assessment

April 24, 2018

Page 2 of 3

STC was asked to determine the total square footage associated with the trip generation calculated for the project site. Since the trip generation is based on acreage, the total trips were divided by the square footage trip generation rate for the same uses to determine the total square footage associated with the forecast trips.

Land Use	General Plan Forecast Trips (acres)	Trip Generation Rate (trips/ksf)	Estimated Square Footage based on Trips
General Commercial	5,568 vpd	120/ksf	46,500 sf
Professional Office	16,092 vpd	20/ksf	804,600 sf
TOTAL SQUARE FOOTAGE			851,100 SF

SANDAG Trip Generation Rates were used to forecast the volumes in both the LLG study and in the table above. However, the SANDAG Trip Generation Rate for Standard Commercial Office Building is 100,000 square feet or less. Over 100,000 sf the Office Park rate should be considered. An office park generates trips at a rate of 200 trips per acre when compared to the standard commercial office rate of 300 trips per acre. By applying the 200 trips per acre, the Professional Office trip generation is reduced to 10,728 trips per day.

Using the adjusted trip generation rate for the Office Park Use, the table below was generated to forecast the total square footage on the site.

Land Use	General Plan Forecast Trips (acres)	Trip Generation Rate (trips/ksf)	Estimated Square Footage based on Trips
General Commercial	5,568 vpd	120/ksf	46,500 sf
Office Park	10,728 vpd	12/ksf	894,000 sf
TOTAL SQUARE FOOTAGE			940,500 SF

In either scenario (Professional Office or Office Park), the total square footage falls well below 1 million square feet. If the project were to develop at either 1 million or 2 million square feet, the trip generation for the site would be much higher than what was reflected in the TIA:

Estimated Trips @ The Office Park Rate (200/acre or 12/ksf)

1000 ksf @ 12 / ksf = 12,000

2000 ksf @ 12 / ksf = 24,000

Estimated Trips @ The Standard Office Rate (300/acre or 20/ksf)

1000 ksf @ 20 / ksf = 20,000

2000 ksf @ 20 / ksf = 40,000

Information circulated by Newland Sierra and included on their project webpage (<https://www.newlandsierra.com>) Frequently Asked Questions tab states that:

“The County’s General Plan currently contains Land Use Designations for this property that would provide for 99 residential units, and over 2 million square feet of commercial and retail zoning (roughly the same size as two campuses for Cal State San Marcos).”

The analysis provided in this letter demonstrates that the traffic associated with General Plan analysis provided in the Newland Sierra TIA (LLG, May 2017) does not support the 2 million square feet statement. The trips evaluated for the General Plan are estimated to reflect less than 1 million square feet of combined retail and office. A 2 million square foot project would generate twice the traffic and require twice the overall acreage (based on the trip generation rates only) than what was evaluated in the TIA.

Newland Sierra Office Trip Generation Assessment

April 24, 2018

Page 3 of 3

CLOSURE

This analysis demonstrates that the 2 million square feet of retail claim included in the project website and information distributed by the project is inconsistent with the traffic analysis conducted for the project TIA.

If you have any questions about the information provided here, please call me at (760) 560-6605.

Sincerely,
STC Traffic, Inc.

A handwritten signature in black ink, appearing to read "Dawn L. Wilson", with a long horizontal flourish extending to the right.

Dawn L. Wilson, PE TE
Principal / Project Manager

12670 High Bluff Drive
 San Diego, California 92130
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May 8, 2018

Jennifer Seeger
 Assistant Deputy Director
 California Dept. of Housing and Community Development
 Division of Housing Development
 2020 W. El Camino Avenue, Suite 500
 Sacramento, California 95833

Re: San Diego County Housing Element

Dear Ms. Seeger:

We represent Golden Door Properties LLC (the “Golden Door”), which owns and operates an award-winning spa and resort that opened in 1958, along with sustainable agricultural operations. Adjacent to the Golden Door, the Newland Sierra, LLC (“Newland”) has proposed a revised Merriam Mountains project, known as the “Sierra” project (the “Newland Sierra Project” or “Project”) on property located near Deer Springs Road. Newland’s proposal includes 2,135 residential units but fails to include a necessary affordable housing component. Further, the County of San Diego is failing to implement the Housing Element which the County adopted in August of 2011, updated in April of 2017, and which your Department approved in the letter attached hereto as **Attachment A**. In particular, the County is failing to comply with General Plan Policy H-1.9 regarding the provision of affordable housing. This policy states that:

Affordable Housing through General Plan Amendments.
 Require developers to provide an affordable housing component when requesting a General Plan amendment for a large-scale residential project when this is legally permissible.

Unfortunately, the County staff is failing to propose conditions that will require an affordable component in the Newland Sierra Project, and Newland contends that it is not required to provide any affordable housing. The Newland Sierra Project requires a General Plan amendment that the County has been processing since May 7, 2015. The County has the legal authority to impose conditions requiring an affordable housing component as set forth in General Plan Policy H-1.9, but as of yet, neither County staff nor the County Counsel have proposed those conditions for this project.

The Golden Door is opposed to any project on the Newland property that requires an amendment to the General Plan land use element or an exemption from the County’s Resource Protection Ordinance. Nonetheless, if the County intends to amend its General Plan and convert

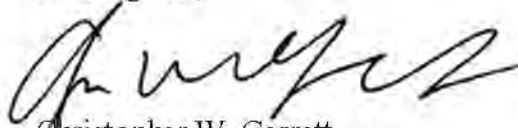
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this rural land, and completely exempt the project from the County's Resource Protection Ordinance, the County must nonetheless comply with Policy H-1.9.

We ask that your office take steps to investigate and remedy the County's failure to implement this key portion of its General Plan. The County's failure to comply with this mandatory policy can only delay or disrupt the County's overall planning for new housing in the County and its ability to provide affordable housing.

We have raised these issues with the Board of Supervisors and County staff at the Board's meeting of April 18, 2018, as set forth in the attached letter (**Attachment B**). However, the Board has so far decided to take no action on this matter. We therefore look to the Department for assistance in this matter.

Best regards,



Christopher W. Garrett
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
Darin Neufeld, County Planning and Development Services
Mark Slovick, County Planning and Development Services
Ashley Smith, County Planning and Development Services
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
Taiga Takahashi, Latham & Watkins

ATTACHMENT A

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



June 15, 2017

Ms. Helen N. Robbins-Meyer, Chief Administrative Officer
County of San Diego
1600 Pacific Highway, Room 209
San Diego, CA 92101

Dear Ms. Robbins-Meyer:

**RE: County of San Diego's 5th Cycle (2013-2021) Four-Year Update, Adopted
Housing Element**

Thank you for submitting San Diego County's housing element adopted March 15, 2017 and initially received for review on May 1, 2017 with a corrected version received for review on May 22, 2017. Pursuant to Government Code (GC) Section 65585(h), the Department is reporting the results of its review.

The Department is pleased to find the adopted housing element in full compliance with State housing element law (Article 10.6 of the Government Code). The adopted element was found to be substantially the same as the revised draft element the Department's October 26, 2016 review determined met statutory requirements.

Pursuant to GC Section 65588(e)(2)(B) a local government in the SANDAG region that did not adopt a fourth planning period housing element by January 1, 2009 shall revise its housing element every four years, unless the local government met both of the following conditions: 1) adopted the fourth revision no later than March 31, 2010; and 2) completes any rezoning identified in the fourth revision by June 30, 2010. The County did not meet the requirements of GC 65588(e)(2)(B); therefore, it is subject to the four-year revision requirement until the County has adopted at least two consecutive revisions by the applicable due dates. Adoption of this housing element meets the requirements of the first four-year update. Provided the County adopts a housing element pursuant to the requirements of GC 65585 on or before the due date for 6th cycle housing elements, it will meet the second four-year update requirement and return to an eight-year update schedule.

Please note the County now meets specific requirements for State funding programs designed to reward local governments for compliance with State housing element law. Please see the Department's website for specific information about State funding programs at <http://www.hcd.ca.gov/grants-funding/active-funding/index.shtml>.

For your information, on January 6, 2016, HCD released a Notice of Funding Availability (NOFA) for the Mobilehome Park Rehabilitation and Resident Ownership Program (MPRRP). This program replaces the former Mobilehome Park Resident Ownership Program (MPROP) and allows expanded uses of funds. The purposes of this new

Ms. Helen N. Robbins-Meyer, Chief Administrative Officer
Page 2

program are to loan funds to facilitate converting mobilehome park ownership to park residents or a qualified nonprofit corporation, and assist with repairs or accessibility upgrades meeting specified criteria. This program supports housing element goals such as encouraging a variety of housing types, preserving affordable housing, and assisting mobilehome owners, particularly those with lower-incomes. Applications are accepted over the counter beginning March 2, 2016 through June 30, 2017. Further information is available on the Department's website at: <http://www.hcd.ca.gov/grants-funding/active-funding/mprop.shtml> .

The Department appreciates the assistance and cooperation Mr. Noah Alvey, Planning Manager, and Mr. Timothy Vertino, Land Use/Environmental Planner, provided throughout the course of the housing element review. The Department wishes the San Diego County success in implementing its housing element and looks forward to following its progress through the General Plan annual progress reports pursuant to GC Section 65400. If the Department can provide assistance in implementing the housing element, please contact Robin Huntley, of our staff, at (916) 263-7422.

Sincerely,



Jennifer Seeger
Assistant Deputy Director

ATTACHMENT B

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Los Angeles	Singapore
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Milan	Washington, D.C.

April 17, 2018

VIA HAND DELIVERY

San Diego County Board of Supervisors
 County Board of Supervisors
 1600 Pacific Highway, Room 402
 San Diego, CA 92101
 Attn: Clerk of the Board of Operations

Re: Housing Affordability within San Diego County; Agenda Item 5

Dear Supervisors Cox, Jacob, Gaspar, Roberts, and Horn:

As you know, we represent the Golden Door Properties LLC (the "Golden Door"), which owns and operates an award-winning spa and resort that opened in 1958, along with sustainable agricultural operations. Adjacent to the Golden Door, the Newland Real Estate Group, LLC ("Newland") has proposed a revised Merriam Mountains project, known as the "Sierra" project (the "Newland Sierra Project" or "Project") on property located near Deer Springs Road. Newland's proposal includes 2,135 residential units but fails to include a necessary affordable housing component.

We understand the Board is considering requesting the Chief Administrative Officer to investigate options to promote construction of homes in the unincorporated region and to close the housing gap. The Golden Door has employees of all income levels who need access to more affordable housing within North County. However, the proposed Newland Sierra Project is not located on a site that the County has identified for new housing construction in the North County metro area (see, e.g., Smart Growth Opportunity Areas, Figure H-2, General Plan Housing Element), it does not provide any affordable housing, and its market analyses are outdated and are inaccurate. Newland Sierra defines "affordable" as "assuming 4.0 percent interest rate, 10 percent down payment and a 35 percent of household income for housing." However, interest rates today are higher (4.625%) and rising, and federal standards define "affordable" as costing "no more than 30% of the monthly household income for rent *and* utilities."¹ And Newland

¹ See Enclosure 1; see also U.S. Dept. of Housing and Urban Development, *Affordable Housing*, https://www.hud.gov/program_offices/comm_planning/affordablehousing/ (last visited Apr. 17, 2018); San Diego Housing Federation, *Frequently Asked Questions*, <https://www.housingsandiego.org/find-housing-faq> (last visited Apr. 17, 2018).

Sierra has refused to commit to legally commit to providing affordable housing, incorrectly claiming on its website that the County has no such requirements.²

Accordingly, if the County were to approve the Newland Sierra Project, it would violate the County's General Plan because the Project lacks the required affordable housing which is expressly specified as necessary in the County's General Plan. (See General Plan Policy H-1.9; see also Government Code § 65300.5, *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 635-636 [project must comply with specific and mandatory general plan policies].)

Existing County Policies Require an Affordable Housing Component for General Plan Amendment Projects. The County's General Plan already contains a policy requiring that **“developers [] provide an affordable housing component when requesting a General Plan amendment for large-scale residential project[s] when this is legally permissible.”** (General Plan, Policy H-1.9)(emphasis supplied). Current California law does make a mandatory “affordable housing component” legally permissible. Thus, the Board of Supervisors has the existing legal authority under California law to require an affordable housing component in every project that requires a General Plan amendment, as specified in Policy H-1.0. Thus, the Chief Administrative Officer and County Counsel, and the Board of Supervisors, have a mandatory duty under the County's adopted General Plan to require affordable housing conditions that are “legally permissible” under California law in order to implement the County's existing affordable housing policy embodied in Policy H-1.0

As it stands now, the County Board of Supervisors is required to impose a condition requiring an affordable housing component for projects seeking a General Plan amendment. The pending Newland Sierra project does not contain such an affordable housing component, and therefore is inconsistent with the existing General Plan. The courts have explained what “legally permissible” means within the context of affordable housing:

[I]t is well established that *price controls are a constitutionally permissible form of regulation with regard to real property* as well as to other types of property or services. . . . Accordingly, just as it would be permissible for a municipality to attempt to increase the amount of affordable housing in the community and to promote economically diverse developments by *requiring all new residential developments to include a specified percentage of studio, one-bedroom, or small-square-footage units, there is no reason why a municipality may not alternatively attempt to achieve those same objectives by requiring new developments to set aside a percentage of its proposed units for sale at a price that is affordable to moderate- or low-income households.*

² See Enclosure 2; see also Newland Sierra *FAQ*, *Types of Housing*, <https://www.newlandsierra.com/faq/> (last visited Apr. 17, 2018).

(*California Building Industry Assn. v. City of San Jose* (2015) 61 Cal.4th 435 [emphasis added] (“*CBIA*”).) Therefore, the County may impose price control requirements on proposed new developments or require new residential developments to include a specified percentage of affordable units. The pending Newland Sierra project does not include either, despite the County’s General Plan policy requiring “legally permissible” action to ensure that General Plan amendment projects include an affordable housing component.

The County May Immediately Impose an Affordable Housing Requirement on Newland Sierra. Implementing a requirement for a percentage of affordable homes within a new development is something the County can immediately implement and is required to implement under the express provisions of the General Plan. The General Plan policy is already in place that imposes a requirement on the pending Newland Sierra Project. Here, there is a clear nexus between the imposition of affordable housing requirements on development and the effects on the region. (See e.g. *San Remo Hotel L.P. v. City and County of San Francisco* (2002) 27 Cal.4th 643 [government may impose permitting condition without running afoul of the Takings Clause if it demonstrates an essential nexus and reasonable relationship between the permitting condition and a deleterious public impact of the development].)

In any event, the California Supreme Court has ruled that no “nexus” requirement applies to a condition requiring an affordable housing component for a residential development project. (*CBIA, supra*, 61 Cal.4th at 474-75, 479 [rough proportionality/nexus requirements do not apply to restrict developer’s use of property].) The Supreme Court relied upon *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854 to reach this conclusion. (*Id.* at 475-76.) *Ehrlich* involved the imposition of conditions on a case-by-case basis, rather than through a broader inclusionary housing ordinance, enabling a greater amount of discretion for the deployment of the city’s police power. (*Ehrlich, supra*, 12 Cal.4th at 869.) As such, the County may rely on its existing General Plan and implement appropriate inclusionary zoning requirements as a project condition on Newland Sierra prior to project approval. (*CBIA*, 61 Cal.4th at 477 [“Moreover, as we have explained above, the validity of the ordinance’s requirement that at least 15 percent of a development’s for-sale units be affordable to moderate- or low-income households does not depend on an assessment of the impact that the development itself will have on the municipality’s affordable housing situation.”].)

Though the law on this issue is firmly established, i.e., the County certainly does have the authority today to impose an affordable housing condition on the Newland Sierra project, if County Counsel somehow disagrees with this legal conclusion and believes that further steps are needed to make an affordable housing component “legally permissible,” then County Counsel should be directed to prepare any appropriate documents needed to implement this mandatory portion of the adopted General Plan, and any processing of the current General Plan amendment project of Newland Sierra project, should be suspended until the County adopts an ordinance to implement its own General Plan requirements. The County could simply impose the same requirement for affordable housing as upheld by the California Supreme Court in the City of San Jose case, using the wording of any ordinance or conditions adopted by the City of San Jose. Along with any other General Plan change or zoning ordinance amendment that is included in the Newland project approvals, County staff and the County Counsel can simply include project

LATHAM & WATKINS^{LLP}

conditions and/or an ordinance adopting affording housing requirements approved in the San Jose case, at the same time as the Board considers any other project approvals.

We ask that the County Chief Administrative Officer and County Counsel be directed to immediately propose project conditions or any other legal documents required to implement General Policy H-1.9 for the Newland project, and no further processing of the Newland project should occur until these actions are taken to implement General Plan Policy H-1.9. If County Counsel concludes that General Plan Policy H-1.9 is unenforceable, and the County lacks the legal authority to impose conditions requiring affordable housing components under the terms of that Policy, the Board should request County Counsel to describe the reasons for this conclusion.

Failure to pay attention the mandatory requirements of General Plan Policy H-1.9 will only result in needless delays and disruptions in any decisions the Board may make with respect to new developments covered by this Policy, such as Newland.

We thank you for your time and attention to our comments, and ask that they be incorporated both into the administrative record for the Newland Sierra Project and this Agenda Item 5. Please do not hesitate to contact me should you have any questions.

Best regards,

Christopher Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
Darin Neufeld, County Planning and Development Services
Mark Slovick, County Planning and Development Services
Ashley Smith, County Planning and Development Services
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
Taiga Takahashi, Latham & Watkins

ENCLOSURE 1



Personal Home Mortgage Loans Today's Mortgage Rates and Refinance Rates

Today's Mortgage Rates and Refinance Rates

Print

Be sure to use APR, which includes all fees and costs, to compare rates across lenders. Rates below include zero discount points. Use our [Product Comparison Tool](#) for rates customized to your specific home financing need.

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Product	Interest Rate	APR	
Conforming and Government Loans			
30-Year Fixed Rate	4.625%	4.684%	
30-Year Fixed-Rate VA	4.375%	4.684%	
20-Year Fixed Rate	4.375%	4.470%	
15-Year Fixed Rate	4.125%	4.264%	
7/1 ARM	4.375%	4.755%	
5/1 ARM	4.250%	4.791%	
Jumbo Loans — Amounts that exceed conforming loan limits			
30-Year Fixed-Rate Jumbo	4.500%	4.521%	
15-Year Fixed-Rate Jumbo	4.250%	4.287%	
7/1 ARM Jumbo	4.000%	4.538%	
10/1 ARM Jumbo	4.250%	4.537%	

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Average 30 Year Fixed Mortgage Rates

Report Date	Current Interest Rate	Change	Prior Year	YOY Change
MND's 30 Year Fixed (daily survey)				
Apr 16 2018	4.50% (-)	+0.00	4.04%	0.46
Apr 13 2018	4.50% (-)	+0.01	4.05%	0.45
Apr 12 2018	4.48% (-)	+0.02	4.08%	0.41
Apr 11 2018	4.47% (-)	-0.02	4.18%	0.29
Apr 10 2018	4.48% (-)	+0.00	4.17%	0.32
Apr 09 2018	4.48% (-)	+0.01	4.17%	0.32
Apr 06 2018	4.48% (-)	-0.01	4.15%	0.33
Apr 05 2018	4.48% (-)	+0.01	4.14%	0.35
MBA 30 Year Fixed (weekly)				
Mar 18 2018	4.68% (0.46)	-0.01	4.36%	0.32
Mar 11 2018	4.69% (0.45)	0.04	4.30%	0.39
Mar 04 2018	4.65% (0.58)	0.01	4.36%	0.29
Freddie Mac 30 Year Fixed (weekly)				
Apr 06 2018	4.42% (0.40)	0.02	4.14%	0.28
Apr 01 2018	4.40% (0.50)	-0.04	4.14%	0.26
Mar 25 2018	4.44% (0.50)	-0.01	4.30%	0.14

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Average 30 Year Fixed Mortgage Rates

Mortgage News Daily, MBA, and Freddie Mac

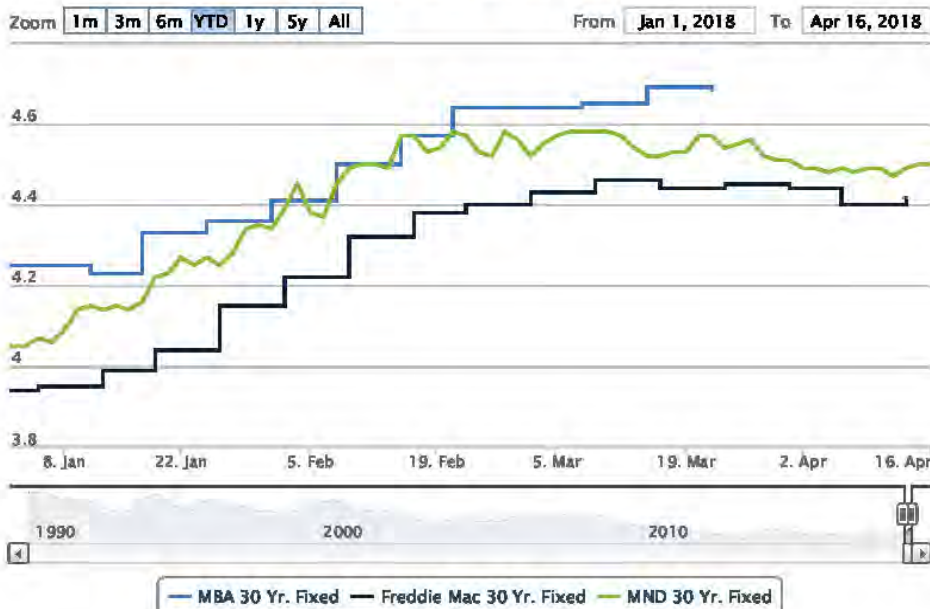


CHART TIPS:

- Tooltip Text:** Mouse over any series or point.
- Zoom:** Click and drag area to zoom.
- Add / Remove Series:** Click series name in the legend.

SOURCE:

Mortgage News Daily
Mortgage Bankers Association
Freddie Mac

About this Data



Affordable Housing

Who Needs Affordable Housing?

Families who pay more than 30 percent of their income for housing are considered cost burdened and may have difficulty affording necessities such as food, clothing, transportation and medical care. An estimated 12 million renter and homeowner households now pay more than 50 percent of their annual incomes for housing. A family with one full-time worker earning the minimum wage cannot afford the local fair-market rent for a two-bedroom apartment anywhere in the United States.

Where Can Individuals Find Assistance?

Individuals looking for assistance can:

- Find rental, homebuyer, and homeowner assistance
- Find resources for homeless persons, including, youth, veterans, and the chronically homeless
- Find help for victims of foreclosure and Hurricane Sandy and for persons living with HIV/AIDS

What is HUD Doing to Support Affordable Housing?

Within the Office of Community Planning and Development, the Office of Affordable Housing Programs (OAHP) administers the following grant programs designed to increase the stock of housing affordable to low-income households.

The HOME Investments Partnerships Program (HOME) provides grants to States and local governments to fund a wide range of activities including 1) building, buying, and/or rehabilitating housing for rent or homeownership or 2) providing direct rental assistance to low-income families. It is the largest Federal block grant program for State and local governments designed exclusively to create affordable housing for low-income households.

The National Housing Trust Fund (HTF) supports the acquisition, new construction, or reconstruction of rental units for extremely low-income families or families with incomes below the poverty line, whichever is greater.

HUD's Office of Housing and Office of Public and Indian Housing also administer programs to increase the amount of affordable housing available for low-income households across the nation.

What Information Does HUD Provide?

The HUD Exchange provides a hub for HOME Program information, tools and templates, research, evaluations, best practices, guides, training manuals, and more including:

- HOME Laws and regulations
- Policy guidance (Policy Memos, HOME FACTS, HOMEfires)
- HOME Frequently Asked Questions (FAQs)
- HOME Dashboard Reports and other HOME Reports

Related tools and resources can be accessed through HOME Topics.

The HUD Exchange also provides:

- Email Updates** – To receive CPD communications about program policy, upcoming trainings, resources, reporting deadlines, technical assistance, and more, sign up on the HUD Exchange Mailing List.
- Training Opportunities** – For information on upcoming events, self-paced online training, and recorded webinars, go to Training and Events.
- Grantee Information** – To view amounts awarded to organizations under HUD programs over the past several years, go to CPD Allocations and Awards. To learn more about the agencies and organizations that have received funding, visit About Grantees.
- Assistance with Reporting System Questions** – If you have a question related to eCon Planning Suite or IDIS, please submit your question and get a response through Ask A Question.
- In-depth Advising** – To learn about extended communication or long-term assistance available to CPD grantees, visit Technical Assistance.

If you are an organization with a policy question related to HOME, or National Housing Trust Fund (HTF) please contact your local HUD Field Office for assistance.

How Can My Organization Receive Funds?

Participating jurisdictions receive HOME grants through a formula to fund housing programs which meet local needs and priorities. To find out about how to apply for HOME assistance in your community, contact an agency nearest to your community.

ENCLOSURE 2

NEWLAND SIERRA (/)

Stay Updated

San Diego's First Carbon Neutral Community

Benefits of a Specific Plan Compared to the Current General Plan

Minimizing Traffic Impacts

Reducing Vehicle Miles from the Community

Managing the Threats of Wildfires

Promoting Water Conservation

Types of Housing

Q: What types of housing will be built?

A: A mixture of for-sale homes is proposed. No apartments or rental homes are proposed. The homes will be a variety of single-family detached homes, attached townhomes, cluster homes, age-targeted, and larger lot single-family homes.

Share your thoughts with us by clicking [here \(/contact\)](#)

Q: Will there be any rental units?

A: No rental apartment buildings are proposed for the community.

Share your thoughts with us by clicking [here \(/contact\)](#)

Q: Are there any "affordable housing" requirements for the community?

A: The County of San Diego does not require subsidized or otherwise "income-restricted" housing to be provided in a project. However, we do plan to have a variety of housing types available, including some at price points that are attainable for middle-income families.

Share your thoughts with us by clicking [here \(/contact\)](#)

Community Character

Parks

4/17/2018

FAQ

Trails and Open Space

Wildlife

Vineyards

Commercial Area

Schools

Grading

Miscellaneous

CONTACT US (/CONTACT)



[\(http://www.newlandcommunities.com/\)](http://www.newlandcommunities.com/)



[\(http://nashcommunities.com/\)](http://nashcommunities.com/)

Equal Housing Opportunity

*The project description is part of the Specific Plan and draft EIR for the project. The specific details of the project description are subject to refinement as it moves through the approval process.

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EQUAL HOUSING OPPORTUNITY

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May 10, 2018

VIA EMAIL

William Witt, Esq., Sr. Deputy County Counsel
Office of County Counsel
County of San Diego
County Administration Center
1600 Pacific Highway, Room 355
San Diego, CA 92101
Email: william.witt@sdcounty.ca.gov

**Re: Enforcement of Affordable Housing Requirements for
Newland Sierra Project**

Dear Mr. Witt:

We understand that you may be handling legal matters regarding the County staff’s processing of the developer’s application for the Newland project. We write to ask you to ensure that the staff include a required “affordable housing component” that enforces County General Plan Housing Element Policy H-1.9 in their recommendations on the project, which the developer appears to have violated in its proposed project. We already have raised this issue before with the County in our April 17th letter to the Board of Supervisors (enclosed hereto as Attachment B to **Enclosure 1**), but we are writing to you directly to provide you with relevant legal authority and suggestions about how the staff could address the issue.

As you know we prefer to raise our client’s concerns as early as possible in the process, rather than waiting for the public hearings. It is possible that our concerns are unnecessary, since it is possible that the County staff will include a required “affordable housing component” that enforces County General Plan Housing Element Policy H-1.9 in their recommendations on the project. Furthermore, we expect that our comments may be met with the response that the County must adopt an “ordinance” before imposing a Housing Element Policy H-1.9 affordable housing condition. This is not correct, but we believe that raising the issue directly with you now in this letter gives County Counsel sufficient time to draft any affordable housing ordinance, which could be included along with any ordinance that may be drafted by your office to exempt Newland from the Resource Protection Overlay Ordinance.

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In particular, we wanted to alert you to a decision of the Superior Court of the County of Monterey in *Carmel Valley Association v. County of Monterey*, No. 17CV000131 (Apr. 24, 2018).

In *CVA v. Monterey*, the court held that the county's 7+ year delay in adopting revisions to its zoning ordinance to conform to the clear requirements of its general plan constituted an arbitrary and capricious abuse of discretion, based on the requirements of Government Code section 65860(c). (See pp. 15-17 of attached **Enclosure 2**.) Section 65860(c) states: "In the event that a zoning ordinance becomes inconsistent with a general plan by reason of amendment to the plan, or to any element of the plan, the zoning ordinance shall be amended within a reasonable time so that it is consistent with the general plan as amended."

As we have previously noted to the County (see Attachment B to **Enclosure 1**: April 17, 2018 Letter to County), General Plan Housing Element Policy H-1.9 is a clearly expressed, mandatory requirement that there be "an affordable housing component" provided as part of any "General Plan amendment for a large-scale residential project when this is legally permissible." The language of the General Plan Housing Element is sufficiently clear and mandatory such that no implementing ordinance is required in order for the policy to be enforced – in particular, with regards to the Newland Sierra project, which does not include any affordable housing component. Without such a component, the County cannot make the required findings of general plan consistency for the proposed Newland Specific Plan or the proposed Newland vesting tentative maps.

We note that Housing Element Policy H-1.9 has been part of the General Plan since at least the General Plan Update adopted in 2011. In 2012, the County stated that the policy would be implemented within "0-3 years."¹ So when initially adopted, it was intended that an implementing ordinance would be enacted by 2015. In 2013, the County changed this timeline to "2-7 years," delaying the implementing ordinance for this policy past 2015.² Notably, in 2017, the County disclosed that no additional resources were required to implement Housing Element Policy H-1.9.³ This means that as of last year, either the County determined that it did not need an implementing ordinance to enforce the requirements of General Plan Housing Element Policy H-1.9, or that there was no reason for why an implementing ordinance should be further delayed. Thus, if an implementing ordinance were required, it seems likely that a court would find the County's now 7-year delay in conforming its zoning ordinance to the clear requirement of the

¹ See County of San Diego, 2012 General Plan Progress Report, available at https://www.sandiegocounty.gov/content/dam/sdc/pds/advance/2012_GP_Progress_Report.pdf, at A-4.

² See County of San Diego, 2013 General Plan Progress Report, available at <https://www.sandiegocounty.gov/content/dam/sdc/pds/gpupdate/docs/GP-APRs/GP-APR2013.pdf>, at A-4

³ See County of San Diego, 2017 General Plan Implementation Plan, available at https://www.sandiegocounty.gov/content/dam/sdc/pds/gpupdate/docs/GP/Implementation%20Plan_v2017.pdf.

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General Plan Housing Element Policy H-1.9 to be unreasonable and in violation of Government Code section 65860.

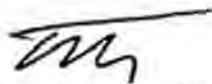
Accordingly, we again urge the County to enforce General Plan Housing Element Policy H-1.9 as we requested (both in writing and in person) several weeks ago at the April 17, 2018 meeting of the Board of Supervisors, through conditions attached to the Newland project. Further, if the County contends that it requires an implementing ordinance, even though that appears to contradict the statement in the 2017 Implementation Plan that no additional resources are required, then the County should start immediately in devising and adopting that ordinance.

This should not be difficult or complicated considering the clearly expressed requirement for affordable housing as part of General Plan amendment projects in Housing Element Policy H-1.9. (See, e.g., **Enclosure 3**: Excerpt from City of San Diego North City Future Urbanizing Area Framework Plan.)⁴ The County should start immediately and pursue the matter with due diligence. The proposed ordinance could be heard by the Planning Commission this summer, either along with or before its consideration of the Newland project.

I also wanted to note that our concerns on this issue do not mean that our client approves of the Newland project if it contains a Housing Element Policy H-1.9 condition. This issue is important to our client the Golden Door because, if this and other projects are to be approved, many of the hospitality and agricultural workers on our client's property could benefit from the availability of affordable housing. The Golden Door draws many of its employees from the local community. My client believes the Newland project has been proposed for the wrong site, with the wrong design, but if it is going to be recommended for approval by County staff despite these objections, it should actually include an affordable housing component as required by the County General Plan. The fact that the Newland project does not contain any affordable housing as defined by the County's Housing Element underscores that the project – though it will add a new population the size of the City of Del Mar in a currently mostly undeveloped and uninhabited area – is not intended by Newland to provide any affordable housing to the community.

Please include this comment letter in the administrative record for the project. Thank you for your time and attention to this matter.

Very truly yours,



Taiga Takahashi
of LATHAM & WATKINS LLP

cc: Mark Wardlaw, County of San Diego PDS

⁴ Available at

https://www.sandiego.gov/sites/default/files/legacy/planning/community/profiles/ncfua/pdf/nfcu_final_102314.pdf.

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Ashley Smith, County of San Diego PDS
Claudia Silva, Assistant County Counsel
Stephanie Saathoff, Clay Co.
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ENCLOSURE 1

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May 8, 2018

Jennifer Seeger
 Assistant Deputy Director
 California Dept. of Housing and Community Development
 Division of Housing Development
 2020 W. El Camino Avenue, Suite 500
 Sacramento, California 95833

Re: San Diego County Housing Element

Dear Ms. Seeger:

We represent Golden Door Properties LLC (the “Golden Door”), which owns and operates an award-winning spa and resort that opened in 1958, along with sustainable agricultural operations. Adjacent to the Golden Door, the Newland Sierra, LLC (“Newland”) has proposed a revised Merriam Mountains project, known as the “Sierra” project (the “Newland Sierra Project” or “Project”) on property located near Deer Springs Road. Newland’s proposal includes 2,135 residential units but fails to include a necessary affordable housing component. Further, the County of San Diego is failing to implement the Housing Element which the County adopted in August of 2011, updated in April of 2017, and which your Department approved in the letter attached hereto as **Attachment A**. In particular, the County is failing to comply with General Plan Policy H-1.9 regarding the provision of affordable housing. This policy states that:

Affordable Housing through General Plan Amendments.
 Require developers to provide an affordable housing component when requesting a General Plan amendment for a large-scale residential project when this is legally permissible.

Unfortunately, the County staff is failing to propose conditions that will require an affordable component in the Newland Sierra Project, and Newland contends that it is not required to provide any affordable housing. The Newland Sierra Project requires a General Plan amendment that the County has been processing since May 7, 2015. The County has the legal authority to impose conditions requiring an affordable housing component as set forth in General Plan Policy H-1.9, but as of yet, neither County staff nor the County Counsel have proposed those conditions for this project.

The Golden Door is opposed to any project on the Newland property that requires an amendment to the General Plan land use element or an exemption from the County’s Resource Protection Ordinance. Nonetheless, if the County intends to amend its General Plan and convert

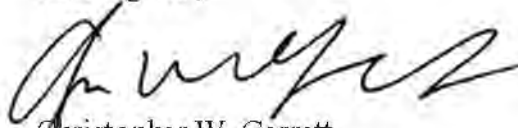
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this rural land, and completely exempt the project from the County's Resource Protection Ordinance, the County must nonetheless comply with Policy H-1.9.

We ask that your office take steps to investigate and remedy the County's failure to implement this key portion of its General Plan. The County's failure to comply with this mandatory policy can only delay or disrupt the County's overall planning for new housing in the County and its ability to provide affordable housing.

We have raised these issues with the Board of Supervisors and County staff at the Board's meeting of April 18, 2018, as set forth in the attached letter (**Attachment B**). However, the Board has so far decided to take no action on this matter. We therefore look to the Department for assistance in this matter.

Best regards,



Christopher W. Garrett
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
Darin Neufeld, County Planning and Development Services
Mark Slovick, County Planning and Development Services
Ashley Smith, County Planning and Development Services
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
Taiga Takahashi, Latham & Watkins

ATTACHMENT A

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF HOUSING POLICY DEVELOPMENT**

2020 W. El Camino Avenue, Suite 500
Sacramento, CA 95833
(916) 263-2911 / FAX (916) 263-7453
www.hcd.ca.gov



June 15, 2017

Ms. Helen N. Robbins-Meyer, Chief Administrative Officer
County of San Diego
1600 Pacific Highway, Room 209
San Diego, CA 92101

Dear Ms. Robbins-Meyer:

**RE: County of San Diego's 5th Cycle (2013-2021) Four-Year Update, Adopted
Housing Element**

Thank you for submitting San Diego County's housing element adopted March 15, 2017 and initially received for review on May 1, 2017 with a corrected version received for review on May 22, 2017. Pursuant to Government Code (GC) Section 65585(h), the Department is reporting the results of its review.

The Department is pleased to find the adopted housing element in full compliance with State housing element law (Article 10.6 of the Government Code). The adopted element was found to be substantially the same as the revised draft element the Department's October 26, 2016 review determined met statutory requirements.

Pursuant to GC Section 65588(e)(2)(B) a local government in the SANDAG region that did not adopt a fourth planning period housing element by January 1, 2009 shall revise its housing element every four years, unless the local government met both of the following conditions: 1) adopted the fourth revision no later than March 31, 2010; and 2) completes any rezoning identified in the fourth revision by June 30, 2010. The County did not meet the requirements of GC 65588(e)(2)(B); therefore, it is subject to the four-year revision requirement until the County has adopted at least two consecutive revisions by the applicable due dates. Adoption of this housing element meets the requirements of the first four-year update. Provided the County adopts a housing element pursuant to the requirements of GC 65585 on or before the due date for 6th cycle housing elements, it will meet the second four-year update requirement and return to an eight-year update schedule.

Please note the County now meets specific requirements for State funding programs designed to reward local governments for compliance with State housing element law. Please see the Department's website for specific information about State funding programs at <http://www.hcd.ca.gov/grants-funding/active-funding/index.shtml>.

For your information, on January 6, 2016, HCD released a Notice of Funding Availability (NOFA) for the Mobilehome Park Rehabilitation and Resident Ownership Program (MPRRP). This program replaces the former Mobilehome Park Resident Ownership Program (MPROP) and allows expanded uses of funds. The purposes of this new

Ms. Helen N. Robbins-Meyer, Chief Administrative Officer
Page 2

program are to loan funds to facilitate converting mobilehome park ownership to park residents or a qualified nonprofit corporation, and assist with repairs or accessibility upgrades meeting specified criteria. This program supports housing element goals such as encouraging a variety of housing types, preserving affordable housing, and assisting mobilehome owners, particularly those with lower-incomes. Applications are accepted over the counter beginning March 2, 2016 through June 30, 2017. Further information is available on the Department's website at: <http://www.hcd.ca.gov/grants-funding/active-funding/mpprop.shtml> .

The Department appreciates the assistance and cooperation Mr. Noah Alvey, Planning Manager, and Mr. Timothy Vertino, Land Use/Environmental Planner, provided throughout the course of the housing element review. The Department wishes the San Diego County success in implementing its housing element and looks forward to following its progress through the General Plan annual progress reports pursuant to GC Section 65400. If the Department can provide assistance in implementing the housing element, please contact Robin Huntley, of our staff, at (916) 263-7422.

Sincerely,



Jennifer Seeger
Assistant Deputy Director

ATTACHMENT B

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April 17, 2018

VIA HAND DELIVERY

San Diego County Board of Supervisors
 County Board of Supervisors
 1600 Pacific Highway, Room 402
 San Diego, CA 92101
 Attn: Clerk of the Board of Operations

Re: Housing Affordability within San Diego County; Agenda Item 5

Dear Supervisors Cox, Jacob, Gaspar, Roberts, and Horn:

As you know, we represent the Golden Door Properties LLC (the "Golden Door"), which owns and operates an award-winning spa and resort that opened in 1958, along with sustainable agricultural operations. Adjacent to the Golden Door, the Newland Real Estate Group, LLC ("Newland") has proposed a revised Merriam Mountains project, known as the "Sierra" project (the "Newland Sierra Project" or "Project") on property located near Deer Springs Road. Newland's proposal includes 2,135 residential units but fails to include a necessary affordable housing component.

We understand the Board is considering requesting the Chief Administrative Officer to investigate options to promote construction of homes in the unincorporated region and to close the housing gap. The Golden Door has employees of all income levels who need access to more affordable housing within North County. However, the proposed Newland Sierra Project is not located on a site that the County has identified for new housing construction in the North County metro area (see, e.g., Smart Growth Opportunity Areas, Figure H-2, General Plan Housing Element), it does not provide any affordable housing, and its market analyses are outdated and are inaccurate. Newland Sierra defines "affordable" as "assuming 4.0 percent interest rate, 10 percent down payment and a 35 percent of household income for housing." However, interest rates today are higher (4.625%) and rising, and federal standards define "affordable" as costing "no more than 30% of the monthly household income for rent *and* utilities."¹ And Newland

¹ See Enclosure 1; see also U.S. Dept. of Housing and Urban Development, *Affordable Housing*, https://www.hud.gov/program_offices/comm_planning/affordablehousing/ (last visited Apr. 17, 2018); San Diego Housing Federation, *Frequently Asked Questions*, <https://www.housingsandiego.org/find-housing-faq> (last visited Apr. 17, 2018).

Sierra has refused to commit to legally commit to providing affordable housing, incorrectly claiming on its website that the County has no such requirements.²

Accordingly, if the County were to approve the Newland Sierra Project, it would violate the County's General Plan because the Project lacks the required affordable housing which is expressly specified as necessary in the County's General Plan. (See General Plan Policy H-1.9; see also Government Code § 65300.5, *California Native Plant Society v. City of Rancho Cordova* (2009) 172 Cal.App.4th 603, 635-636 [project must comply with specific and mandatory general plan policies].)

Existing County Policies Require an Affordable Housing Component for General Plan Amendment Projects. The County's General Plan already contains a policy requiring that **“developers [] provide an affordable housing component when requesting a General Plan amendment for large-scale residential project[s] when this is legally permissible.”** (General Plan, Policy H-1.9)(emphasis supplied). Current California law does make a mandatory “affordable housing component” legally permissible. Thus, the Board of Supervisors has the existing legal authority under California law to require an affordable housing component in every project that requires a General Plan amendment, as specified in Policy H-1.0. Thus, the Chief Administrative Officer and County Counsel, and the Board of Supervisors, have a mandatory duty under the County's adopted General Plan to require affordable housing conditions that are “legally permissible” under California law in order to implement the County's existing affordable housing policy embodied in Policy H-1.0

As it stands now, the County Board of Supervisors is required to impose a condition requiring an affordable housing component for projects seeking a General Plan amendment. The pending Newland Sierra project does not contain such an affordable housing component, and therefore is inconsistent with the existing General Plan. The courts have explained what “legally permissible” means within the context of affordable housing:

[I]t is well established that *price controls are a constitutionally permissible form of regulation with regard to real property* as well as to other types of property or services. . . . Accordingly, just as it would be permissible for a municipality to attempt to increase the amount of affordable housing in the community and to promote economically diverse developments by *requiring all new residential developments to include a specified percentage of studio, one-bedroom, or small-square-footage units, there is no reason why a municipality may not alternatively attempt to achieve those same objectives by requiring new developments to set aside a percentage of its proposed units for sale at a price that is affordable to moderate- or low-income households.*

² See Enclosure 2; see also Newland Sierra *FAQ*, *Types of Housing*, <https://www.newlandsierra.com/faq/> (last visited Apr. 17, 2018).

(*California Building Industry Assn. v. City of San Jose* (2015) 61 Cal.4th 435 [emphasis added] (“*CBIA*”).) Therefore, the County may impose price control requirements on proposed new developments or require new residential developments to include a specified percentage of affordable units. The pending Newland Sierra project does not include either, despite the County’s General Plan policy requiring “legally permissible” action to ensure that General Plan amendment projects include an affordable housing component.

The County May Immediately Impose an Affordable Housing Requirement on Newland Sierra. Implementing a requirement for a percentage of affordable homes within a new development is something the County can immediately implement and is required to implement under the express provisions of the General Plan. The General Plan policy is already in place that imposes a requirement on the pending Newland Sierra Project. Here, there is a clear nexus between the imposition of affordable housing requirements on development and the effects on the region. (See e.g. *San Remo Hotel L.P. v. City and County of San Francisco* (2002) 27 Cal.4th 643 [government may impose permitting condition without running afoul of the Takings Clause if it demonstrates an essential nexus and reasonable relationship between the permitting condition and a deleterious public impact of the development].)

In any event, the California Supreme Court has ruled that no “nexus” requirement applies to a condition requiring an affordable housing component for a residential development project. (*CBIA, supra*, 61 Cal.4th at 474-75, 479 [rough proportionality/nexus requirements do not apply to restrict developer’s use of property].) The Supreme Court relied upon *Ehrlich v. City of Culver City* (1996) 12 Cal.4th 854 to reach this conclusion. (*Id.* at 475-76.) *Ehrlich* involved the imposition of conditions on a case-by-case basis, rather than through a broader inclusionary housing ordinance, enabling a greater amount of discretion for the deployment of the city’s police power. (*Ehrlich, supra*, 12 Cal.4th at 869.) As such, the County may rely on its existing General Plan and implement appropriate inclusionary zoning requirements as a project condition on Newland Sierra prior to project approval. (*CBIA*, 61 Cal.4th at 477 [“Moreover, as we have explained above, the validity of the ordinance’s requirement that at least 15 percent of a development’s for-sale units be affordable to moderate- or low-income households does not depend on an assessment of the impact that the development itself will have on the municipality’s affordable housing situation.”].)

Though the law on this issue is firmly established, i.e., the County certainly does have the authority today to impose an affordable housing condition on the Newland Sierra project, if County Counsel somehow disagrees with this legal conclusion and believes that further steps are needed to make an affordable housing component “legally permissible,” then County Counsel should be directed to prepare any appropriate documents needed to implement this mandatory portion of the adopted General Plan, and any processing of the current General Plan amendment project of Newland Sierra project, should be suspended until the County adopts an ordinance to implement its own General Plan requirements. The County could simply impose the same requirement for affordable housing as upheld by the California Supreme Court in the City of San Jose case, using the wording of any ordinance or conditions adopted by the City of San Jose. Along with any other General Plan change or zoning ordinance amendment that is included in the Newland project approvals, County staff and the County Counsel can simply include project

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conditions and/or an ordinance adopting affording housing requirements approved in the San Jose case, at the same time as the Board considers any other project approvals.

We ask that the County Chief Administrative Officer and County Counsel be directed to immediately propose project conditions or any other legal documents required to implement General Policy H-1.9 for the Newland project, and no further processing of the Newland project should occur until these actions are taken to implement General Plan Policy H-1.9. If County Counsel concludes that General Plan Policy H-1.9 is unenforceable, and the County lacks the legal authority to impose conditions requiring affordable housing components under the terms of that Policy, the Board should request County Counsel to describe the reasons for this conclusion.

Failure to pay attention the mandatory requirements of General Plan Policy H-1.9 will only result in needless delays and disruptions in any decisions the Board may make with respect to new developments covered by this Policy, such as Newland.

We thank you for your time and attention to our comments, and ask that they be incorporated both into the administrative record for the Newland Sierra Project and this Agenda Item 5. Please do not hesitate to contact me should you have any questions.

Best regards,

Christopher Garrett

Christopher W. Garrett
of LATHAM & WATKINS LLP

cc: Kathy Van Ness, Golden Door
Darin Neufeld, County Planning and Development Services
Mark Slovick, County Planning and Development Services
Ashley Smith, County Planning and Development Services
Stephanie Saathoff, Clay Co.
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ENCLOSURE 1



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30-Year Fixed-Rate VA	4.375%	4.684%
20-Year Fixed Rate	4.375%	4.470%
15-Year Fixed Rate	4.125%	4.264%
7/1 ARM	4.375%	4.755%
5/1 ARM	4.250%	4.791%
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30-Year Fixed-Rate Jumbo	4.500%	4.521%
15-Year Fixed-Rate Jumbo	4.250%	4.287%
7/1 ARM Jumbo	4.000%	4.538%
10/1 ARM Jumbo	4.250%	4.537%

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MND's 30 Year Fixed (daily survey)				
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Apr 13 2018	4.50% (-)	+0.01	4.05%	0.45
Apr 12 2018	4.48% (-)	+0.02	4.08%	0.41
Apr 11 2018	4.47% (-)	-0.02	4.18%	0.29
Apr 10 2018	4.48% (-)	+0.00	4.17%	0.32
Apr 09 2018	4.48% (-)	+0.01	4.17%	0.32
Apr 06 2018	4.48% (-)	-0.01	4.15%	0.33
Apr 05 2018	4.48% (-)	+0.01	4.14%	0.35
MBA 30 Year Fixed (weekly)				
Mar 18 2018	4.68% (0.46)	-0.01	4.36%	0.32
Mar 11 2018	4.69% (0.45)	0.04	4.30%	0.39
Mar 04 2018	4.65% (0.58)	0.01	4.36%	0.29
Freddie Mac 30 Year Fixed (weekly)				
Apr 08 2018	4.42% (0.40)	0.02	4.14%	0.28
Apr 01 2018	4.40% (0.50)	-0.04	4.14%	0.26
Mar 25 2018	4.44% (0.50)	-0.01	4.30%	0.14

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Average 30 Year Fixed Mortgage Rates

Mortgage News Daily, MBA, and Freddie Mac

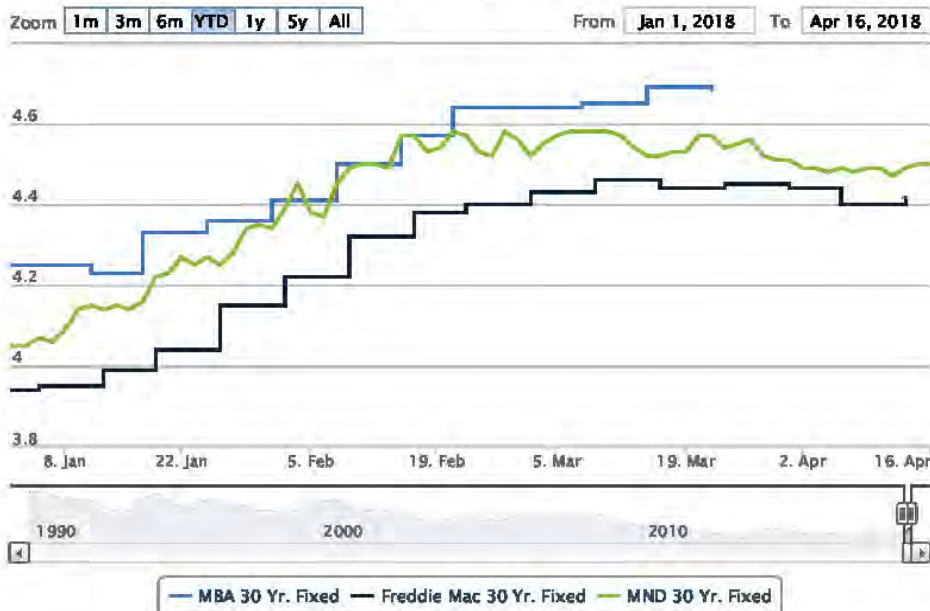


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SOURCE:

Mortgage News Daily
Mortgage Bankers Association
Freddie Mac

About this Data



Affordable Housing

Who Needs Affordable Housing?

Families who pay more than 30 percent of their income for housing are considered cost burdened and may have difficulty affording necessities such as food, clothing, transportation and medical care. An estimated 12 million renter and homeowner households now pay more than 50 percent of their annual incomes for housing. A family with one full-time worker earning the minimum wage cannot afford the local fair-market rent for a two-bedroom apartment anywhere in the United States.

Where Can Individuals Find Assistance?

Individuals looking for assistance can:

- Find rental, homebuyer, and homeowner assistance
- Find resources for homeless persons, including, youth, veterans, and the chronically homeless
- Find help for victims of foreclosure and Hurricane Sandy and for persons living with HIV/AIDS

What is HUD Doing to Support Affordable Housing?

Within the Office of Community Planning and Development, the Office of Affordable Housing Programs (OAHP) administers the following grant programs designed to increase the stock of housing affordable to low-income households.

The HOME Investments Partnerships Program (HOME) provides grants to States and local governments to fund a wide range of activities including 1) building, buying, and/or rehabilitating housing for rent or homeownership or 2) providing direct rental assistance to low-income families. It is the largest Federal block grant program for State and local governments designed exclusively to create affordable housing for low-income households.

The National Housing Trust Fund (HTF) supports the acquisition, new construction, or reconstruction of rental units for extremely low-income families or families with incomes below the poverty line, whichever is greater.

HUD's Office of Housing and Office of Public and Indian Housing also administer programs to increase the amount of affordable housing available for low-income households across the nation.

What Information Does HUD Provide?

The HUD Exchange provides a hub for HOME Program information, tools and templates, research, evaluations, best practices, guides, training manuals, and more including:

- HOME Laws and regulations
- Policy guidance (Policy Memos, HOME FACTS, HOMEfires)
- HOME Frequently Asked Questions (FAQs)
- HOME Dashboard Reports and other HOME Reports

Related tools and resources can be accessed through HOME Topics.

The HUD Exchange also provides:

- Email Updates** – To receive CPD communications about program policy, upcoming trainings, resources, reporting deadlines, technical assistance, and more, sign up on the HUD Exchange Mailing List.
- Training Opportunities** – For information on upcoming events, self-paced online training, and recorded webinars, go to Training and Events.
- Grantee Information** – To view amounts awarded to organizations under HUD programs over the past several years, go to CPD Allocations and Awards. To learn more about the agencies and organizations that have received funding, visit About Grantees.
- Assistance with Reporting System Questions** – If you have a question related to eCon Planning Suite or IDIS, please submit your question and get a response through Ask A Question.
- In-depth Advising** – To learn about extended communication or long-term assistance available to CPD grantees, visit Technical Assistance.

If you are an organization with a policy question related to HOME, or National Housing Trust Fund (HTF) please contact your local HUD Field Office for assistance.

How Can My Organization Receive Funds?

Participating jurisdictions receive HOME grants through a formula to fund housing programs which meet local needs and priorities. To find out about how to apply for HOME assistance in your community, contact an agency nearest to your community.

ENCLOSURE 2

NEWLAND SIERRA (/)

Stay Updated

San Diego's First Carbon Neutral Community

Benefits of a Specific Plan Compared to the Current General Plan

Minimizing Traffic Impacts

Reducing Vehicle Miles from the Community

Managing the Threats of Wildfires

Promoting Water Conservation

Types of Housing

Q: What types of housing will be built?

A: A mixture of for-sale homes is proposed. No apartments or rental homes are proposed. The homes will be a variety of single-family detached homes, attached townhomes, cluster homes, age-targeted, and larger lot single-family homes.

Share your thoughts with us by clicking [here \(/contact\)](#)

Q: Will there be any rental units?

A: No rental apartment buildings are proposed for the community.

Share your thoughts with us by clicking [here \(/contact\)](#)

Q: Are there any "affordable housing" requirements for the community?

A: The County of San Diego does not require subsidized or otherwise "income-restricted" housing to be provided in a project. However, we do plan to have a variety of housing types available, including some at price points that are attainable for middle-income families.

Share your thoughts with us by clicking [here \(/contact\)](#)

Community Character

Parks

4/17/2018

FAQ

[Trails and Open Space](#)

[Wildlife](#)

[Vineyards](#)

[Commercial Area](#)

[Schools](#)

[Grading](#)

[Miscellaneous](#)

CONTACT US (/CONTACT)



[\(http://www.newlandcommunities.com/\)](http://www.newlandcommunities.com/)



[\(http://nashcommunities.com/\)](http://nashcommunities.com/)

Equal Housing Opportunity

*The project description is part of the Specific Plan and draft EIR for the project. The specific details of the project description are subject to refinement as it moves through the approval process.

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EQUAL HOUSING OPPORTUNITY

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ENCLOSURE 2

FILED

APR 24 2018

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF MONTEREY

CLERK OF THE SUPERIOR COURT
Sally Lopez DEPUTY

1 Carmel Valley Association, Inc., a California)
 2 nonprofit corporation,)
 3)
 4 Petitioner)
 5 vs.)
 6 County of Monterey; Board of Supervisors of the)
 7 County of Monterey, and DOES 1 THROUGH)
 8 15,)
 9 Respondents,)
 10 Rancho Canada Venture LLC, Carmel)
 11 Development Company; R. Alan Williams; Does)
 12 16 through 30, inclusive)
 13)
 14 Real Parties in Interest.)

CASE NO.: 17CV000131

Intended Decision

12 This matter came on for court trial on February 2, 2018. All sides were represented
13 through their respective attorneys. The matter was argued and taken under submission.
14

15 This intended decision resolves factual and legal disputes, and shall suffice as a statement
16 of decision as to all matters contained herein. (Cal. Rules of Court, rule 3.1590(c)(1).)

Background

18 On April 22, 2004, the Lombardo Land Group submitted a development project
19 application to the County of Monterey. (AR 7222-7225.) The application was for a Combined
20 Development Permit, rezoning, use permit, General Plan Amendment, a Specific Plan, and a
21 Vesting Tentative Map for a "a proposed mixed-income new neighborhood." (AR 7222, 7224.)
22 The Applicant proposed 280 units,¹ of which 50% would be deed-restricted Affordable and
23 Workforce units. (AR 7224.)
24

25 In January 2008, the County circulated a Draft Environmental Impact Report (DEIR) for
26 what it identified as the "Rancho Canada Village Specific Plan." (AR 214.) That DEIR received
27

28 ¹ The Applicant subsequently changed its proposal to seek the creation of 281 units. (AR 237.)

1 56 comment letters, many of which criticized its adequacy on a number of substantive grounds.
2 (See, e.g., AR 8923, 9397-9401, 9596-9608, 19050-19116.) At that time, the firm preparing the
3 DEIR was also working on an EIR for the County's General Plan update. That project took
4 priority, forcing the Applicant to wait for its completion to proceed. (AR 11347-11348.)

5 The new General Plan went into effect on October 26, 2010. (AR 13574.) It included
6 changes to the Carmel Valley Master Plan (CVMP). CVMP Policy CV-1.6 established a new
7 residential subdivision building limit of 266 new residential lots or units in Carmel Valley. (AR
8 103, 11807, 11824.)² In recognition of the proposed Project, the 2010 General Plan established a
9 Special Treatment Area (CVMP Policy CV-1.27) of "[u]p to 40 acres" for the Project site. (AR
10 14036.) Within that Special Treatment Area, residential development was allowed at "a density
11 of up to 10 units/acre,"³ and was required to include "a minimum of 50% Affordable/Workforce
12 Housing." (*Ibid.*)

13
14
15 Further, the 2010 General Plan raised the minimum affordable housing requirement for
16 all new housing development across the County to 25%, and committed the County to amending
17 its Inclusionary Housing Ordinance, Monterey County Code Chapter 18.40 (Inclusionary
18 Housing Ordinance or Ordinance) to reflect this change. (AR 13583.) To date, no such
19 amendment has occurred.
20
21

22
23 ² The findings, General Plan EIR, and Final EIR all recite that the original version of the
24 2010 General Plan contained a residential unit cap of 266 units. (AR 103, 3738, 11807, 11824.)
25 However, the actual language of the General Plan refers to a residential unit cap of 200 units.
(AR 13616.) No party explains this discrepancy. The difference, however, is irrelevant to the
26 court's analysis. For ease of reference, the court assumes throughout this decision that the initial
27 cap was 266 units.

28 ³ Notwithstanding this density designation, the Special Treatment Area is still subject to the
building cap. (AR 13616 ["[n]ew residential subdivision Carmel Valley shall be limited to
creation of 200 new units"], 14031.)

1 Finally, the General Plan mandated that, within 12 months, the County develop a
2 Development Evaluation System (DES) in order to assess new development projects proposed
3 outside of certain priority development areas based on a pass-fail grading system. (AR 13578-
4 13579.) The General Plan defines "Community Areas, Rural Centers and Affordable Housing
5 Overlay districts" as "the top priority for development in the unincorporated areas of the
6 County" (AR 13578.) The County has not yet promulgated the DES.

8 Following the adoption of the General Plan, several lawsuits were filed, including one
9 brought by Petitioner. (AR 19524.) Petitioner and the County ultimately reached a settlement,
10 agreeing to an amendment to CVMP Policy CV-1.6 to reduce the residential subdivision limit in
11 Carmel Valley from 266 new units to 190 new units. (AR 19964-19983; see also AR 3738.) The
12 Board approved this amendment on February 12, 2013. (AR 14031-14032.) Of the 190-unit cap,
13 24 of the units were reserved for another property, meaning that, absent a general plan
14 amendment, the Project was limited to 166 units. (AR 13617, 3738.)

16 Rather than abandoning the Project and commencing the permitting and environmental
17 review process anew, Real Parties developed a new 130-unit alternative (Alternative), which it
18 claimed was intended to "respond[] to various concerns raised by the public during the
19 processing of the [] [P]roject." (AR 18768.) Real Parties explained to the County that the
20 Alternative addressed "most, if not all, of the concerns expressed by the public, and which
21 include[d] flood control, utility, recreational, water supply, moderate income housing and other
22 features that would benefit the community." (AR 18771.) Real Parties provided the County with
23 extensive information on the Alternative, including proposed maps, property development
24 standards, and a detailed description of the specific Project impacts the Alternative would
25 alleviate. (AR 18768-18782.) Nevertheless, Real Parties insisted that the Alternative was "not a
26 resubmittal for a new project." (AR 18770.)
27
28

1 Real Parties then worked with the County and its EIR consultant to prepare a
2 Recirculated Draft Environmental Impact Report (RDEIR), to include, inter alia, a lengthy
3 discussion of the Alternative. (AR 17126-17130, 1348-1372.) Real Parties asked the EIR
4 consultant to "provide an equal level of analysis of the 130-unit alternative" and the Project. (AR
5 17142.) To accomplish this task, the EIR consultant was forced to put the analysis of the
6 Alternative in the "Project Description" chapter along with the Project, rather than in the
7 Alternatives chapter.
8

9 On June 1, 2016, the County released the RDEIR. (AR 18541.) The RDEIR's "Project
10 Description" chapter discussed both the Project and the Alternative, in significant, and roughly
11 equivalent, detail. (AR 1321, 1348-1372.) The remaining six alternatives were described as
12 before, in less detail, in the RDEIR's alternatives chapter. The RDEIR concluded that the 130-
13 unit Alternative was the "environmentally superior alternative." (AR 18537, 18541-18543.) In
14 November 2016, the County issued its Final Environmental Impact Report (FEIR).⁴
15

16 On November 9, 2016, County Planning Staff recommended that the Planning
17 Commission advise the County Board of Supervisors (the Board) to approve the 130-unit
18 Alternative and certify the EIR. (AR 4099.) Staff also explained that, under the Alternative, an
19 amendment to the Special Treatment Area language in CVMP Policy CV-1.27 would be required
20 to reduce the affordability requirement from 50% to 20%. (AR 4107.) At the subsequent hearing
21 on November 16, 2016, the Planning Commission voted 4-3 to adopt staff's recommendation to
22 recommend approval of the Alternative and certification of the FEIR. (AR 5256-5279.)
23 However, the Planning Commission did not recommend that the Board adopt the proposed
24 General Plan amendment, because it did not secure a majority of the Commission's vote. (AR
25 5347-5348.)
26

27
28 ⁴ The FEIR eliminated one alternative due to a change in ownership of the relevant property.
(AR 134, 3803-3806, 3808-3809.)

1 On December 13, 2016, the Board unanimously approved the 130-unit Alternative based
2 upon a revised vesting tentative map submitted by Real Parties in Interest (Real Parties). (AR
3 5360-5361.) The Board also approved a General Plan amendment to the CMVP Policy CV-1.27
4 Special Treatment Area for the Rancho Canada property, reducing the 50% of
5 affordable/workforce housing to 20%, and rezoning the Property from public quasi-public to
6 Medium Density Residential for 129 lots, and Low Density Residential for the Alternative's Lot
7 130. (AR 5361.) As to inclusionary housing, the Board stated:

9 "Finding NO. 18: INCLUSIONARY HOUSING: The Alternative complies with the
10 Inclusionary Housing Ordinance requirement to provide a minimum of 20% onsite affordable
11 housing units. (MCC, Chapter 18.40) Unusual circumstances exist making it appropriate to
12 modify the requirements of the Inclusionary Ordinance so that 20% Moderate-income housing,
13 as proposed by the Alternative, is allowed in-lieu of the 8% Moderate-income, 6% Low-income
14 and 6% Very Low income." (AR 143.)

15
16 Finally, the Board adopted Condition No. 112, which required Real Parties to comply
17 with the Ordinance by constructing 25 on-site rental units affordable to moderate-income
18 households. (AR 211.)

19 *Administrative Record*

20 The court admitted the approximately 30,000-page administrative record into evidence.

21
22 Together with its opposition brief, the County filed a supplemental administrative record
23 comprised of 1) omitted public comments on the 2008 DEIR; 2) the County 2015-2023 Housing
24 Element, dated January 26, 2016; and 3) a Board Order entitled "2016 Annual Progress Report
25 for the General Plan and Housing Element, and accompanying staff report," dated July 18, 2017.

26 Petitioner does not object to the addition of omitted public comments on the 2008 DEIR.
27 Consequently, the court admits these comments into the administrative record.
28

1 Petitioner does object, however, to the additions of the Housing Element and Board Order
2 to the record. Petitioner notes that the Housing Element “does not qualify as part of the record of
3 proceedings” under Public Resources Code, § 21167.6, subdivision (e). Petitioner maintains that
4 the Board Order should not be part of the record because it did not exist at the time the Board
5 approved the Project, December 13, 2016, and is hence “extra-record evidence.”
6

7 Petitioner has two claims against the County: 1) its claim that the County has failed to
8 implement the General Plan, brought under Code of Civil Procedure section 1085; and 2) its
9 claim that the County improperly approved the Project in violation of the California
10 Environmental Quality Act (CEQA),⁵ brought under Code of Civil Procedure section 1094.5.
11 The County offered both the Board Order and the Housing Element in response to Petitioner’s
12 General Plan implementation arguments under Code of Civil Procedure section 1085, not as to
13 project approval. “[A] proceeding in mandate [under section 1085] may consider ‘all relevant
14 evidence, including facts not existing until after the petition for writ of mandate was filed.’
15 [Citations.]” (*Negro v. Superior Court* (2014) 230 Cal.App.4th 879, 895.) Accordingly, whether
16 the Housing Element is deemed “part of the record of proceedings” under Public Resources
17 Code, § 21167.6, subdivision (e), is irrelevant. Similarly, the fact that the Board Order did not
18 exist at the time the Board approved the Project is immaterial, since the Order does not relate to
19 Petitioner’s project-specific claims.
20

21
22 Consequently, the court admits both documents into the administrative record.

23 *Requests for Judicial Notice*

24 The County seeks judicial notice of three documents: 1) MCC Chapter 18.40; 2)
25 the County’s 2015-2023 Housing Element; and 3) Petitioner’s Petition for Writ of Mandate
26 against the County filed on November 24, 2010 in this court, case number M109442.
27

28 ⁵ See Public Resources Code section 21000 et seq.

1 The court takes judicial notice of MCC Chapter 18.40, as it must since it is
2 relevant, under Evidence Code section 451, subdivision (a).

3 The County intended its request as to the Housing Element as an alternative
4 ground for admission should this court deny the County's attempt to amend the administrative
5 record. Because the court has admitted this document into the record, judicial notice is
6 unnecessary.
7

8 The court takes judicial notice of Petitioner's Petition for Writ of Mandate against
9 the County filed on November 24, 2010, case number M109442, as a record of a court of this
10 state, under Evidence Code section 452, subdivision (d)(1).

11 *Discussion*

12 **1.0 Petitioner raises several claims under Code of Civil Procedure section 1085.**

13 Petitioner seeks writs of traditional mandate under Code of Civil Procedure section
14 1085. Petitioner argues that 1) the County must be compelled to implement the DES; 2) the
15 County must be compelled to amend its Inclusionary Housing Ordinance to conform to the 2010
16 General Plan; 3) the County erred in finding that the Alternative was consistent with General
17 Plan Policy LU-1.19; 4) the Alternative is inconsistent with the Ordinance, because the County
18 erred in its calculation of the minimum number of affordable housing units; and 5) the County
19 erred by departing from the Ordinance's requirement that the affordable housing units provided
20 be distributed among households of varying defined levels of income.
21

22 The County responds that 1) its decision not to implement the DES and failure to
23 amend its Ordinance were legislative acts justified by the County's prioritization of other tasks;
24 2) the Alternative was consistent with General Plan Policy LU-1.19 because although there is no
25 DES, the Board analyzed the Alternative against the criteria set forth in Policy LU-1.19; 3) the
26 Board's calculation of the minimum number of affordable housing units was not arbitrary and
27 capricious; and 4) unusual circumstances supported excepting the Alternative from the
28

1 Ordinance's requirement that the affordable housing units provided meet specified income
2 requirements.

3 Additionally, 1) the County contends that Petitioner has waived its right to challenge the
4 County's failure to timely adopt the DES; and 2) that Petitioner has failed to exhaust its
5 administrative remedies as to its claims that the County did not timely adopt the DES or amend
6 its Inclusionary Housing Ordinance. Because these arguments are threshold matters, the court
7 will address them first.

9 **1.1 Petitioner has not waived its right to challenge the County's failure to timely**
10 **adopt the DES.**

11 The County maintains that, by virtue of a clause in a settlement agreement, Petitioner has
12 waived its right to challenge the County's failure to timely adopt the DES. Petitioner responds
13 that the release does not cover such claims.

14 On November 24, 2010, Petitioner filed a petition for writ of mandate against the County
15 alleging CEQA violations relating to the 2010 General Plan Update. The parties eventually
16 entered into a settlement agreement. (AR 19964-19983.) As part of that agreement, executed on
17 September 24, 2012, Petitioner released the County and its Board from all claims as of the
18 Agreement's effective date "arising from or relating to certification of the Final EIR for the 2010
19 Monterey County General Plan and approval of the 2010 Monterey County General Plan as
20 adopted by the Board of Supervisors on October 26, 2010." (AR 19967.) The County notes that
21 Petitioner's claim regarding the County's failure to timely promulgate the DES within 12 months
22 of the 2010 General Plan's effective date was ripe on October 26, 2011. It therefore contends that
23 the claim was subject to the release.

24 The County's argument is without merit. The release related only to claims concerning
25 the certification of the FEIR and the County's approval of the General Plan. Petitioner's claim
26
27
28

1 regarding the timeliness of the DES implementation is not such a claim; it relates to the
2 implementation of the General Plan, not the General Plan's FEIR, or approval process.

3 **1.2 Petitioner's claims are not barred for failure to exhaust its administrative**
4 **remedies.**

5 The County asserts that Petitioner has failed to exhaust its administrative remedies as to
6 its claims that the County did not timely adopt the DES or amend its Inclusionary Housing
7 Ordinance. The County insists that Petitioner was required to exhaust all available administrative
8 appeals and to raise its precise objections to the County's General Plan implementation "in a
9 manner that [would have given] the County notice of and an opportunity to act on the issue."

10 **1.2.1 The "Appeal Exhaustion" doctrine does not apply.**

11 The County insists that Petitioner's objections to the County's General Plan
12 implementation efforts were never properly before the Board of Supervisors because those
13 objections were only raised in the context of the Project approval process.

14 "[W]here an administrative remedy is provided by statute, relief must be sought from the
15 administrative body and this remedy exhausted before the courts will act." (*Abelleira v. District*
16 *Court of Appeal* (1941) 17 Cal.2d 280, 292.) "Exhaustion of administrative remedies is a
17 jurisdictional prerequisite to resort to the courts." (*Campbell v. Regents of University of*
18 *California* (2005) 35 Cal.4th 311, 321, internal citations omitted.) Nevertheless, the exhaustion
19 doctrine does not apply when the relevant statute under which review was offered does not
20 establish "clearly defined machinery for the submission, evaluation and resolution of complaints
21 by aggrieved parties." (*Rosenfield v. Malcolm* (1967) 65 Cal.2d 559, 566.)

22 The County fails to identify any procedure in the County Code or General Plan that
23 Petitioner could have followed to place their specific objections before the Board outside the
24 context of the Project. Simply put, no such administrative remedy was available, and hence, the
25 exhaustion doctrine does not apply. (*Id.* at p. 566.)

1 **1.2.2 The “Issue Exhaustion” doctrine does not apply.**

2 The County argues that Petitioner is required to satisfy what it calls “issue exhaustion.”
3 According to the County, Petitioner was required to present its exact objections below so that the
4 County would have had the opportunity to act and render litigation unnecessary.

5 The County’s argument relies entirely on citations to CEQA and administrative mandate
6 cases. (See, e.g., *Resource Defense Fund v. Local Agency Formation Com.* (1987) 191
7 Cal.App.3d 886, 894 [CEQA]; *Evans v. City of San Jose* (2005) 128 Cal.App.4th 1123, 1136
8 [County redevelopment plan reviewed under Code Civ. Proc., § 1094.5].) This is no accident.
9 CEQA expressly mandates such “issue exhaustion.” (Pub. Resources Code, § 21177, subd. (a).)
10 The rule also applies in administrative mandamus petitions under Code of Civil Procedure
11 section 1094.5 (*City of Walnut Creek v. County of Contra Costa* (1980) 101 Cal.App.3d 1012,
12 1019.) In both cases, the actions are direct appeals from administrative proceedings at which an
13 agency could act to resolve a party’s objections, such as by modifying the project or rejecting it
14 in its entirety. Were there no such rule, a party could “withhold any defense then available to
15 [her] or make only a perfunctory or ‘skeleton’ showing in the hearing and thereafter obtain an
16 unlimited trial de novo, on expanded issues, in the reviewing court. [Citation.]” (*Pegues v. Civil*
17 *Service Com.* (1998) 67 Cal.App.4th 95, 104, italics in original.) The rule is thus necessary “to
18 preserve the integrity of the administrative proceedings and to endow them with a dignity beyond
19 that of a mere shadow-play,’ [Citation.]” (*Id.* at pp. 1019-1020.)

20 Here, Petitioner’s challenges to the County’s General Plan implementation are brought as
21 part of its petition for writ of *traditional* mandate under Code of Civil Procedure section 1085,
22 not section 1094.5. It is true that Petitioner simultaneously seeks CEQA relief for its claims
23 related to the Project, but the County’s exhaustion argument does not relate to those claims. As
24 to Petitioner’s general plan implementation claims, no hearing or other administrative process
25
26
27
28

1 occurred.⁶ Nevertheless, the County complains that Petitioner raised the relevant issues but only
 2 did so “in conjunction with the Project.” But as discussed *ante*, the County does not identify any
 3 administrative procedure during which Petitioner could have raised these issues outside the
 4 context of the Project approval process. Regardless, Petitioner stated its precise objections in
 5 detail below, both orally and in writing. (E.g., AR 5422, 5435, 20102, 20105, 20333.)
 6

7 1.3 Standard of Review.

8 Petitioner seeks writs of mandate compelling the County to implement the DES and to
 9 amend its Inclusionary Housing Ordinance to conform to its General Plan. The County contends
 10 that its failure to take either action stemmed from deliberate decisions to prioritize other
 11 mandatory General Plan tasks. The County insists that these decisions were legislative in
 12 character. Petitioner responds that the decisions were not legislative because they did not involve
 13 enacting or amending the General Plan but rather, 1) as to the DES, failing to implement that
 14 Plan’s mandatory direction; and 2) as to the Inclusionary Housing Ordinance, failing to
 15 implement the Government Code’s mandatory statutory command.
 16

17 Code of Civil Procedure section 1085 “permits judicial review of ministerial duties as
 18 well as quasi-legislative and legislative acts. Mandate will lie to compel performance of a clear,
 19 present and usually ministerial duty in cases where a petitioner has a clear, present and beneficial
 20 right to performance of that duty. [Citation.]” (*County of Del Norte v. City of Crescent*
 21 *City* (1999) 71 Cal.App.4th 965, 972.) “A ministerial act is an act that a public officer is required
 22 to perform in a prescribed manner in obedience to the mandate of legal authority and without
 23 regard to his own judgment or opinion concerning such act’s propriety or impropriety, when a
 24

25
 26 ⁶ Code of Civil Procedure section 1085 nonetheless applies when one of the three mandatory
 27 criteria of Code of Civil Procedure section 1094.5 are not met. (See *O.W.L. Foundation v. City of*
 28 *Rohnert Park* (2008) 168 Cal.App.4th 568, 585.) These criteria include whether the agency
 decision was “made as a result of a proceeding in which by law a hearing is required to be given,
 evidence is required to be taken and discretion in the determination of facts is vested in a public
 agency.” (*Ibid*, internal citations omitted.)

1 given state of facts exists. Discretion, on the other hand, is the power conferred on public
2 functionaries to act officially according to the dictates of their own judgment. [Citation.]”
3 (*Rodriguez v. Solis* (1991) 1 Cal.App.4th 495, 501-502.) Hence, “[w]here a statute or ordinance
4 clearly defines the specific duties or course of conduct that a governing body must take, that
5 course of conduct becomes mandatory and eliminates any element of discretion.” (*Great Western*
6 *Savings & Loan Assn. v. City of Los Angeles* (1973) 31 Cal.App.3d 403, 413.) “Mandamus has
7 long been recognized as the appropriate means by which to challenge a government official’s
8 refusal to implement a duly enacted legislative measure.” (*Morris v. Harper* (2001) 94
9 Cal.App.4th 52, 58; *Brown v. Chiang* (2011) 198 Cal.App.4th 1203, 1231.)

11 Legislative action is the formulation of a rule to be applied in future cases. (*McGill v*
12 *Regents of Univ. of Cal.* (1996) 44 Cal.App.4th 1776, 1785.) Legislative action includes the
13 adoption or amendment of a general plan (*Yost v. Thomas* (1984) 36 Cal.3d 561, 570),
14 “investigation and information gathering in aid of, or as a basis for, prospective legislation”
15 (*Carrancho v. California Air Resources Bd.* (2003) 111 Cal.App.4th 1255, 1266), adoption of a
16 general zoning ordinance (*San Diego Bldg. Contractors Assn. v. City Council* (1974) 13 Cal.3d
17 205, 212), and the determination of jurisdictional boundaries (*City of Santa Cruz v. Local Agency*
18 *Formation Com.* (1978) 76 Cal.App.3d 381, 387). “Review of a local entity’s legislative
19 determination is through ordinary mandamus under section 1085.” (*Mike Moore’s 24-Hour*
20 *Towing v. City of San Diego* (1996) 45 Cal.App.4th 1294, 1303.) “Such review is limited to an
21 inquiry into whether the action was arbitrary, capricious or entirely lacking in evidentiary
22 support. [Citation.]” (*Corona-Norco Unified School Dist. v. City of Corona* (1993) 17
23 Cal.App.4th 985, 992.) When undertaking this inquiry, “the court may not substitute its judgment
24 for that of the agency, and if reasonable minds may disagree as to the wisdom of the agency’s
25 action, its determination must be upheld. [Citation.]” (*Helena F. v. West Contra Costa Unified*
26 *School Dist.* (1996) 49 Cal.App.4th 1793, 1799.) Moreover, the court ““must ensure that an
27
28

1 agency has adequately considered all relevant factors, and has demonstrated a rational
2 connection between those factors, the choice made, and the purposes of the enabling statute.’
3 [Citation.]” (*Western States Petroleum Assn. v. Superior Court* (1995) 9 Cal.4th 559,
4 577.) Courts conduct this limited review “out of deference to the separation of powers between
5 the Legislature and the judiciary, to the legislative delegation of administrative authority to the
6 agency, and to the presumed expertise of the agency within its scope of authority.” (*California*
7 *Hotel & Motel Assn. v. Industrial Welfare Com.* (1979) 25 Cal.3d 200, 212.)

9 Accordingly, the court must determine “whether the [County] had a ministerial duty
10 capable of direct enforcement or a quasi-legislative duty entitled to a considerable degree of
11 deference.” (*Carrancho, supra*, 111 Cal.App.4th at p. 1266.) Because they involve discretionary
12 decisions within the core ambit of an agency, “[q]uasi-legislative administrative decisions are
13 properly placed at that point of the continuum at which judicial review is more deferential;
14 ministerial and informal actions do not merit such deference, and therefore lie toward the
15 opposite end of the continuum.” (*Western States Petroleum Assn., supra*, 9 Cal.4th at p. 576.)
16 Whether the provision at issue “impose[s] a ministerial duty, for which mandamus will lie, or a
17 mere obligation to perform a discretionary function is a question of statutory interpretation.
18 [Citation.]” (*AIDS Healthcare Foundation v. Los Angeles County Dept. of Public Health* (2011)
19 197 Cal.App.4th 693, 701.) In making such a determination, “[w]e examine the ‘language,
20 function and apparent purpose’ of the statute. [Citation.] . . . ‘Even if mandatory language
21 appears in [a] statute creating a duty, the duty is discretionary if the [public entity] must exercise
22 significant discretion to perform the duty.’ [Citation.]” (*Ibid.*)

25 **1.4 The County’s failure to implement the DES was not an abuse of its discretion.**

26 General Plan Policy LU-1.19 mandates that the DES “shall be established within 12
27 months of adopting this [2010] General Plan,” or October 26, 2011. The DES has not yet been
28 implemented.

1 Petitioner argues that the County had a mandatory, ministerial duty to comply with this
2 Policy by timely promulgating the DES. The County contends that its failure to act was a
3 legislative decision based on 1) numerous obstacles to the task's completion, including lawsuits,
4 resultant amendments to the General Plan, and reduced staffing; and, based in part on these
5 obstacles, 2) a discretionary choice to prioritize other mandatory General Plan tasks. The County
6 notes that, over the past three years it has worked with the public and stakeholders to develop the
7 DES and that "the final development of the DES will be a priority" going forward. It maintains
8 that its decision to prioritize other tasks was not arbitrary or capricious. Petitioner responds that
9 the County's inaction was not a legislative act because while amending a General Plan may be
10 legislative, implementing Plan policies is not.

11
12 General Plan Policy LU-1.19 contains mandatory language. Nevertheless, the County
13 must exercise "significant discretion" in developing the DES. (*Sonoma AG Art, LLC v.*
14 *Department of Food and Agriculture* (2004) 125 Cal.App.4th 122, 127, citation omitted.) Policy
15 LU-1.19 requires the County to develop "a pass-fail system" to assess proposed projects and
16 their impact on County resources. (AR 13579.) Additionally, the County must devise "a
17 mechanism to quantitatively evaluate development in light of the policies of the General Plan
18 and the implementing regulations, resources and infrastructure, and the overall quality of the
19 development." (*Ibid.*) That mechanism must include nine criteria, but the County has the
20 discretion to include additional criteria if it deems them necessary. (*Ibid.*)

21
22 Further, the County must make discretionary decisions with respect to the devotion of
23 limited resources to the development of the DES. The County is in a far better position than this
24 court to allocate these resources appropriately in light of other priorities and budgetary
25 constraints. Consequently, the court concludes that the County's decision as to the timing of its
26 implementation of the DES is legislative in character, and may be overridden only if it is
27
28

1 “arbitrary, capricious or entirely lacking in evidentiary support. [Citation.]” (*Corona-Norco*
 2 *Unified School Dist., supra*, 17 Cal.App.4th at p. 992.)

3 The 2010 General Plan required the County to draft over 100 new ordinances, plans, and
 4 programs to implement the Plan’s Policies and goals. (AR 21029, 21034.) This process has
 5 required “interdepartmental coordination, obtaining technical information from county
 6 consultants, and scoping with stakeholders through extensive public outreach.” (AR 21034.)
 7 Moreover, since the Plan’s adoption, the County’s Planning Department has experienced
 8 significant turnover, with several key positions still vacant. (AR 21029.) In addition, litigation
 9 over the General Plan led to settlements requiring the adoption of General Plan amendments.
 10 (AR 21035-21036.) These issues required the County to “reallocate staff resources to process
 11 current planning entitlements, in accordance with the Permit Streamlining Act.” (*Ibid.*)
 12 Nevertheless, the County has applied the DES’ criteria to projects where applicable, ensuring the
 13 intent of the Policy has been observed. (AR 106.) Finally, the County has shown that
 14 development of the DES remains a priority. (See, e.g. AR 21026, 21030, 21040-21041.)

15 The court cannot therefore say that the County’s decision to prioritize other legislative
 16 tasks is an abuse of its discretion entitling Petitioner to a writ of traditional mandate.⁷

17
 18
 19 **1.5 The County’s failure to timely amend the Inclusionary Housing Ordinance**
 20 **was an abuse of its discretion.**

21
 22 General Plan Policy LU-2.13 requires “consistent application of an Affordable Housing
 23 Ordinance that requires 25% of new housing units be affordable to very low, low, moderate, and
 24 workforce income households.” (AR 13583.) Policy LU-2.13 also mandates that any such
 25 ordinance require that 6% of units be affordable to “very low-income households”; 6% of units

26
 27 ⁷ This conclusion should not be construed as an approval of the County’s lengthy period of
 28 inaction. The court concludes only that, in the absence of arbitrary and capricious decision-
 making, the question whether the County’s inaction was appropriate is a political one, which lies
 outside the court’s purview.

1 be affordable to "low-income households"; 8% of units be affordable to "moderate-income
2 households"; and 5% of units be affordable to "Workforce I income households." (AR 13584.)

3 The Ordinance is inconsistent with Policy LU-2.13's 25% affordable housing
4 requirement, because it requires only 20% of "the total number of units approved for the
5 residential development" to be inclusionary. (MCC, § 18.40.070.A.) The Ordinance is also
6 inconsistent with Policy LU-2.13's mandated distribution of housing units among different
7 income levels, because it does not require that 5% of new inclusionary units be affordable to
8 "Workforce I income households." (See MCC, § 18.40.110.A.)

9
10 Although the General Plan does not contain a specific time trigger for the necessary
11 amendments, state planning and zoning law provides that the County "shall" amend the
12 Ordinance "within a reasonable time so that it is consistent with the general plan as amended."
13 (Gov. Code, § 65860, subd. (c).) No such amendment has yet occurred. Accordingly, Petitioner
14 argues that the County had a mandatory, ministerial duty to comply with state planning and
15 zoning law by timely amending its Inclusionary Housing Ordinance to conform to the General
16 Plan. Petitioner further argues that the more than seven years since the General Plan was enacted
17 — and hence, when the inconsistency arose — is not a "reasonable time" in which to act. The
18 County contends that its failure to act was a legislative decision based on 1) a weighing of
19 "competing interests," such as "the economic downturn"; 2) the fact that "very few inclusionary
20 units [] have been produced"; and 3) "outside deadlines" such as "the deadline to adopt the
21 Housing Element." The County claims it has been proceeding "diligently" as to the amendment
22 process in the past few years.

23
24
25 Government Code section 65860, subdivision (c), mandates that the County amend its
26 Ordinance to conform to the 2010 General Plan "within a reasonable time." "The obvious
27 purpose of subdivision (c) is to ensure an orderly process of bringing the regulatory law into
28 conformity with a new or amended general plan" (*Leshar Communications, Inc. v. City of*

1 *Walnut Creek* (1990) 52 Cal.3d 531, 546.) But while that section contains mandatory language,
2 the enactment and amendment of zoning ordinances are legislative acts. (*Johnston v. City of*
3 *Claremont* (1958) 49 Cal.2d 826, 835; *Yost, supra*, 36 Cal.3d at pp. 570-571.) Consequently, the
4 arbitrary and capricious standard applies to the question of whether the County has unreasonably
5 delayed its amendment of the Ordinance. (*Corona-Norco Unified School Dist., supra*, 17
6 Cal.App.4th at p. 992.)

8 The County's delay was arbitrary and capricious. The County delayed its amendment on
9 many of the same grounds as it deferred development of the DES, namely myriad other
10 important tasks necessitated by the amendment of the General Plan and a paucity of staff
11 available to address those tasks. (AR 21029, 21034-21036.) But unlike the DES, which as
12 discussed *ante*, required significant time and discretion to develop, amending the Ordinance to
13 conform it to the General Plan would require nothing more than approving the specific
14 percentages already decided by the County, as set forth in Policy LU-2.13. (AR 13583-13854.)

16 Further, the suggestion that this act was not a priority for the County is unreasonable. The
17 general plan is the "constitution for future development located at the top of the hierarchy of
18 local government law regulating land use." (*DeVita v. County of Napa* (1995) 9 Cal.4th 763, 773,
19 internal citations omitted.) Hence, "[a] zoning ordinance that is inconsistent with the general plan
20 is invalid when passed [citations] and one that was originally consistent but has become
21 inconsistent *must be brought into conformity with the general plan*. [Citation.]" (*Leshner, supra*,
22 52 Cal.3d at p. 541, italics added; Gov. Code, § 65860, subd. (a) [zoning ordinances *shall be*
23 *consistent with the general plan . . .*"].)

25 The County's attempt to justify its inaction based on "competing interests and outside
26 deadlines" is also unpersuasive. The County references a passage in its Housing Element in
27 which it states, "due to the recent economic crisis, very little new development has been
28 constructed in the County and few new inclusionary units have been produced." (AR 20914.)

1 Contrary to the County's suggestion, the observation that little development, including "few new
2 inclusionary units" underscores the need for *more* inclusionary development. Regardless, the
3 statement is conclusory, and the County has not cited supporting evidence in the record. (See
4 *People v. Bassett* (1968) 69 Cal.2d 122, 139 [substantial evidence "must be reasonable in nature,
5 credible, and of solid value; it must actually be 'substantial' proof of the essentials which the law
6 requires in a particular case"].) Similarly, the County's statement in briefing that "outside
7 deadlines (such as deadlines to receive grant monies)" justify its failure to act is unsupported by
8 either explanation or citation to the record. Further, the other statement the County references
9 from its Housing Element, that it "anticipates revisiting the Inclusionary Housing Ordinance to
10 ensure consistency with the General Plan and reflect market condition" (AR 20980), is
11 inadequate assurance in light of the County's already considerable delay. Finally, the fact that the
12 County has discussed the need to revise the Ordinance at a Housing Advisory Committee
13 meeting is insufficient to establish that the County is acting diligently. (AR 17705-17709.)

14
15
16 The court recognizes that it owes the County significant deference in reviewing its
17 inactivity for abuse of discretion. (*California Hotel & Motel Assn., supra*, 25 Cal.3d at p. 212.)
18 Nevertheless, even that broad deference has limits. (*American Coatings Assn., Inc. v. South*
19 *Coast Air Quality Dist.* (2012) 54 Cal.4th 446, 461 [even under arbitrary or capricious review, a
20 "reasonable basis for the decision" is required]; see also *Halaco Engineering Co. v. South*
21 *Central Coast Regional Com.* (1986) 42 Cal.3d 52, 79 [the arbitrary or capricious standard
22 "encompasses," *inter alia*, "conduct not supported by a fair or substantial reason"].) In short, the
23 court cannot say that the County's delay of over seven years in implementing a simple
24 amendment to its Inclusionary Housing Ordinance was reasonable. (Gov. Code, § 65860, subd.
25 (c).)
26

27 **1.6 The Alternative is consistent with General Plan Policy LU-1.19.**
28

1 Petitioner contends that the County erred in finding that the Alternative was consistent
2 with General Plan Policy LU-1.19. Petitioner further contends that without a DES, any finding of
3 consistency with that Policy is *per se* improper. The County responds that although it has not
4 enacted a DES, it nevertheless evaluated the Alternative in light of the criteria prescribed by
5 Policy LU-1.19. (See AR 106-109.) Petitioner does not challenge the substance of the County's
6 evaluation. Instead, Petitioner replies that these criteria were nonexclusive and that their
7 application is valid only in the context of a quantitative, pass-fail system, as the Policy envisions
8 the DES will be.

10 As to the County's general plan consistency findings, the court must assess whether the
11 County "acted arbitrarily, capriciously, or without evidentiary basis. [Citation.]" (*Concerned*
12 *Citizens of Calaveras County v. Board of Supervisors* (1985) 166 Cal.App.3d 90, 96.) The
13 County's consistency findings "can be reversed only if [they are] based on evidence from which
14 no reasonable person could have reached the same conclusion. [Citation.]" (*A Local & Regional*
15 *Monitor v. City of Los Angeles* (1993) 16 Cal.App.4th 630, 648.) The Board's reading of its
16 General Plan "comes to this court with a strong presumption of regularity." (*Sequoyah Hills*
17 *Homeowners Assn. v. City of Oakland* (1993) 23 Cal.App.4th 704, 717.) "This is because the
18 body which adopted the general plan policies in its legislative capacity has unique competence to
19 interpret those policies when applying them in its adjudicatory capacity. [Citation.]" (*Save our*
20 *Peninsula Committee v. Monterey County Board of Supervisors* (2001) 87 Cal.App.4th 99, 142.)
21 This court's role "is simply to decide whether [County] officials considered the applicable
22 policies and the extent to which the proposed project conforms with those policies. [Citations.]"
23 (*Sequoyah Hills, supra*, 23 Cal.App.4th at pp. 719-720.)

26 The Board determined that the purposes underlying Policy LU-1.19 could be adequately
27 served by evaluating the Alternative in light of the Policy's minimum criteria. Specifically, it
28 found, "the fact that the County has not adopted the DES does not preclude consideration of the

1 project. This resolution includes evaluation of this development in accordance with Policy LU-
2 1.19.” (AR 106.) The Board explained that “based on the specific facts associated with this
3 application it is determined that the project would pass the DES, if a pass/fail scoring system
4 were in place.” (*Ibid.*) And, after a discussion of the Alternative’s consistency with the majority
5 of the criteria, the Board concluded that the Alternative was consistent with Policy LU-1.19. (AR
6 107-109.)
7

8 The Board engaged in a thorough analysis of the DES’ criteria; its finding that the
9 Alternative is consistent with Policy LU-1.19 is not “arbitrar[y], capricious[], or without
10 evidentiary basis. [Citation.]” (*Concerned Citizens of Calaveras County, supra*, 166 Cal.App.3d
11 at p. 96.) The court cannot say “no reasonable person could have reached the same conclusion.
12 [Citation.]” (*A Local & Regional Monitor, supra*, 16 Cal.App.4th at p. 648.) It is possible that the
13 Board would have reached a different conclusion if a formal DES were existent, but it is not this
14 court’s role to so speculate. (*Sequoyah Hills, supra*, 23 Cal.App.4th at pp. 719-720.)
15

16 Petitioner argues that even if the above is so, the use of a pass-fail system is a
17 fundamental, mandatory policy to which the Alternative must conform. The court disagrees. It is
18 true that “the nature of the policy and the nature of the inconsistency are critical factors to
19 consider.” (*Families Unafraid to Uphold Rural El Dorado County v. El Dorado County Bd. of*
20 *Supervisors* (1998) 62 Cal.App.4th 1332, 1341.) “A project is inconsistent if it conflicts with a
21 general plan policy that is fundamental, mandatory, and clear. [Citation.]” (*Endangered Habitats*
22 *League, Inc. v. County of Orange* (2005) 131 Cal.App.4th 777, 782.) “In other words, a project’s
23 consistency with a general plan’s broader policies cannot overcome a project’s inconsistency
24 with a general plan’s more specific, mandatory and fundamental policies. [Citations.]” (*Spring*
25 *Valley Lake Association v. City of Victorville* (2016) 248 Cal.App.4th 91, 101.) But these
26 principles do not apply here.
27
28

1 Policy LU-1.19 provides that, for certain areas, including the one in which the Project is
2 located, a DES “shall be established *The system shall be a pass-fail system and shall include*
3 *a mechanism to quantitatively evaluate development in light of the policies of the General Plan*
4 *and the implementing regulations, resources and infrastructure, and the overall quality of the*
5 *development.” (AR 13578-13579, italics added.) Policy LU-1.19’s mandatory language applies*
6 *to the requisite elements of the DES once established, not to specific projects.*

8 **1.7 The Alternative is only partially consistent with the Inclusionary Housing**
9 **Ordinance.**

10 Petitioner argues that the Alternative is inconsistent with the Inclusionary Housing
11 Ordinance in two ways. First, Petitioner maintains that the County erred in its calculation of the
12 minimum number of affordable housing units by considering only new units as opposed to total
13 units. Second, Petitioner asserts that the County erred by departing from the Ordinance’s
14 requirement that the affordable housing units provided be distributed among moderate-, low-,
15 and very-low-income households.

17 Before reaching these arguments, it is necessary to address the standard of review.
18 Petitioner argues that the court independently reviews the County’s interpretation of the
19 ordinance. The County responds that its determination that the Alternative conformed to its
20 ordinance is entitled to deference.

21
22 Petitioner is correct that, to the extent that the Board’s decision rests on its interpretation
23 of the ordinance, “a question of law is presented for our independent review. [Citation.]” (*MHC*
24 *Operating Limited Partnership v. City of San Jose* (2003) 106 Cal.App.4th 204, 219.) However,
25 the County is correct that its interpretation is entitled to deference. (*Ibid.*) Indeed, “[t]he
26 appropriate mode of review . . . is one in which the judiciary, although taking ultimate
27 responsibility for the construction of the statute, accords great weight and respect to the
28 administrative construction.” (*International Business Machines v. State Bd. of*

1 *Equalization* (1980) 26 Cal.3d 923, 931, fn. 7.) "How much weight to accord an agency's
 2 construction is situational, and greater weight may be appropriate when an agency has a
 3 comparative interpretive advantage over the courts, as when the legal text to be interpreted is
 4 technical, obscure, complex, open-ended, or entwined with issues of fact, policy, and discretion."
 5 (*American Coatings Assn., Inc., supra*, 54 Cal.4th at p. 461, internal citations omitted.) Further, a
 6 body which adopts an ordinance "in its legislative capacity has unique competence to interpret
 7 th[e] [ordinance] when applying [it] in its adjudicatory capacity." (*Save our Peninsula*
 8 *Committee, supra*, 87 Cal.App.4th at p. 142.)

10 **1.7.1 The County's calculation of the minimum number of affordable**
 11 **housing units was reasonable.**

12
 13 Petitioner contends that the County erred in its calculation of the minimum number of
 14 affordable housing units. The Inclusionary Housing Ordinance provides, "To satisfy its
 15 inclusionary requirement on-site, a residential development must construct inclusionary units in
 16 an amount equal to or greater than twenty (20) percent of the total number of units approved for
 17 the residential development" (MCC, § 18.40.070.A.)⁸ The Project will provide 25 such
 18 units. The Project consists of 130 units, but five of these units already exist. If the calculation is
 19 based on the total number of units, the Ordinance would require 26 units. If instead, as the
 20 County determined, only new units need be considered, only 25 units would be required.
 21
 22 Petitioner argues that the term "total number of units" means what it says. The County interprets

23
 24 ⁸ Normally, General Plan Policy LU-1.19 would require development in the Project area to
 25 contain 35% affordable housing. (AR 13579.) Additionally, Policy LU-2.13 requires amendment
 26 of the Ordinance to mandate that "25% of new housing units be affordable to very low, low,
 27 moderate, and workforce income households." (AR 13583.) However, as part of the approvals,
 28 the Board amended the text of CVMP Policy CV-1.27, which addresses the specific area in
 which the Project is located, to clarify, "*Notwithstanding any other General Plan policies,*
 residential development may be allowed with a density of up to 10 units/acre in this area with a
 minimum 20% affordable housing." (AR 145, italics in original.) The amended language
 effectively renders the portions of General Plan Policies LU-1.19 and LU-2.13 quoted above
 inapplicable to the Project.

1 the Ordinance to refer only to new construction, noting that the County Code defines “residential
2 development” as the construction of “new or additional dwelling units and/or lots.” (MCC, §
3 18.40.040.Y.)

4 Petitioner’s interpretation is not without merit. However, this court owes considerable
5 deference to the Board because that body adopted the Ordinance in its legislative capacity (*Save*
6 *our Peninsula, supra*, 87 Cal.App.4th at p. 142) and because interpretation of the Ordinance is
7 “entwined with issues of fact, policy, and discretion.” (*American Coatings Assn., Inc., supra*, 54
8 Cal.4th at p. 461, internal citations omitted.) Moreover, the County’s interpretation is both
9 reasonable and supported by the text of the Ordinance.
10

11 As used in MCC section 18.40.070.A, the term “total number of units approved” is
12 modified twice by the term “residential development,” which is defined as the construction of
13 “new or additional dwelling units and/or lots.” (MCC, § 18.40.040.Y.) This is logical; the term
14 “development” implies new or modified property. Likewise, the Ordinance’s stated purpose
15 repeatedly emphasizes development:
16

17 “The purposes of this Chapter are to enhance the public welfare, benefit the property
18 being *developed*, assure compatibility between future housing *development* and the housing units
19 affordable to persons of very low, low, and moderate income, and ensure that remaining
20 *developable* land in the County is utilized in a manner consistent with State and local housing
21 policies and needs.” (MCC, § 18.40.030, italics added.)
22

23 In short, the County did not err in its interpretation of the Ordinance.

24 **1.7.2 The County’s decision to exempt the Project from the normal**
25 **distribution of affordable housing units was not supported by**
26 **substantial evidence.**

27 Finally, Petitioner disputes the Board’s finding that the Project complied with the
28 Ordinance notwithstanding that it would construct 25 rental units affordable to moderate-income

1 households only. The County claims that “unusual or unforeseen circumstances” justified this
 2 departure from the normal distribution of affordable housing units among households of different
 3 income levels.

4 MCC section 18.40.110.A requires projects to set aside 8% of the total units in the
 5 development for moderate-income households, 6% for low-income households, and an additional
 6 6% for very-low-income households.⁹ The Ordinance also provides that this distribution may be
 7 departed from where “as a result of unusual or unforeseen circumstances, it would not be
 8 appropriate to apply, or would be appropriate to modify, the requirements of this Chapter . . .
 9 based on substantial evidence, supporting that determination.” (MCC, § 18.40.050.B.2.)

10 Here, the Board found “unusual or unforeseen circumstances” present. Although not
 11 expressly stated, it appears the Board concluded that the reduction in the area unit cap effected
 12 by the County’s 2013 amendment to the CVMP was the relevant unforeseen circumstance.¹⁰
 13 Thus, the Board cited the applicant’s representation “that due to the significant reduction in units
 14 proposed between the Project and the Alternative it is not financially feasible to comply with the
 15 Inclusionary Ordinance’s requirements, particularly related to providing low and very low-
 16
 17
 18

19 ⁹ The Ordinance defines these terms as referring to households “with an annual income
 20 which does not exceed one hundred twenty (120) percent of the median income, adjusted for
 21 household size” [moderate-income household]; “with an annual income which does not exceed
 22 HUD’s annual determination for low income households with incomes of eighty (80) percent of
 23 the median income, adjusted for household size” [low-income household]; and “with an annual
 24 income which does not exceed HUD’s annual determination for very low income households
 25 earning fifty (50) percent of median income, adjusted for household size” [very-low-income
 26 household]. (MCC, § 18.40.040.Q, T, and BB.)

27 ¹⁰ By contrast, the County’s choice of the 130-unit Alternative alone was not an “unusual or
 28 unforeseen circumstance.” The County had the power to approve the Project or an alternative,
 especially if the County adjudged that alternative less harmful to the environment than the
 Project. (Pub. Resources Code, §§ 21002-21002.1, 21004; Guidelines, § 15002, subd. (a)(3);
Dusek v. Redevelopment Agency (1985) 173 Cal.App.3d 1029, 1041 [rejecting claim that CEQA
 was violated where the agency approved a narrower project than the one described in an EIR].)

1 income units.” (AR 143.) In support of this finding, the County referenced two letters from local
 2 banks, both of which state that bank financing would not be available if the Alternative complied
 3 with the Ordinance’s requirements. (AR 20413-20414.) Petitioner contends that this evidence is
 4 insufficient because, inter alia, it is unsure “what these letters are responding to and the nature of
 5 the request.”¹¹ Petitioner does not elaborate, but the court agrees with its underlying sentiment;
 6 the bank letters lack sufficient foundation to constitute substantial evidence.
 7

8 “Substantial evidence”¹² requires evidence of ‘ponderable legal significance.’ [Citation.]
 9 It is not synonymous with ‘any’ evidence.” (*Newman v. State Personnel Bd.* (1992) 10
 10 Cal.App.4th 41, 47.) Thus, “[s]ubstantial evidence is relevant evidence that a reasonable mind
 11 might accept as adequate to support a conclusion. Such evidence must be reasonable, credible,
 12 and of solid value.” (*California Youth Authority v. State Personal Bd.* (2002) 104 Cal.App.4th
 13 575, 584-585, internal citations omitted.) Further, substantial evidence “‘must actually be
 14 ‘substantial’ proof of the essentials which the law requires in a particular case.’ [Citations.]”
 15 (*United Professional Planning, Inc. v. Superior Court* (1970) 9 Cal.App.3d 377, 392-393.)
 16 Expert opinion may constitute substantial evidence, but only if the expert’s opinion is “based on
 17 conclusions or assumptions supported by evidence in the record. Opinion testimony which is
 18
 19

20 ¹¹ Petitioner further contends that 1) it is “unclear” whether Real Parties “currently have bank
 21 financing for the Project”; and 2) “difficulty obtaining bank financing” is not an unusual or
 22 unforeseen circumstance. Petitioner’s arguments mischaracterize the County’s point. It is
 23 irrelevant whether Real Parties currently have bank financing. The County relies on the letters to
 24 support the applicant’s claim that it would be financially infeasible to comply with the
 25 Ordinance’s prescribed allocation of affordable housing units. Moreover, “difficulty obtaining
 26 bank financing” is not the unusual or unforeseen circumstance at issue. Rather, as stated above,
 27 the amendment of the CVMP’s unit cap and resulting development of the Alternative was the
 28 “unforeseen circumstance” that the applicant argued rendered strict compliance with the
 Ordinance economically infeasible. (See AR 20413-20414.)

26 ¹² MCC Chapter 18.40 does not define “substantial evidence.” The court presumes that the
 27 County intended the term to be defined and applied as it has been in other contexts, such as, for
 28 example, in review of a petition for writ for administrative mandate. (Code Civ. Proc., § 1094.5,
 subd. (c).)

1 conjectural or speculative 'cannot rise to the dignity of substantial evidence.' [Citation.]”

2 (*Roddenberry v. Roddenberry* (1996) 44 Cal.App.4th 634, 651.)

3 Neither letter is of “ponderable legal significance” because 1) neither letter explains in
4 sufficient detail how the “unforeseen circumstance” rendered it economically infeasible for Real
5 Parties to comply with the Inclusionary Housing Ordinance; and 2) the record does not document
6 any of the assumptions upon which the relevant opinions are based. (*Newman, supra*, 10
7 Cal.App.4th at p. 47.) The first letter, from Monterey County Bank, states “the loss in revenue
8 generated by an increase in the percentage or allocation of inclusionary housing renders your
9 project economically infeasible to enable us to offer you bank financing. These requested
10 changes to the inclusionary housing would result in insufficient cash flow and profit necessary to
11 support bank financing.” (AR 20413.) The letter does not provide any basis for its conclusion of
12 a potential “loss in revenue.” (*Ibid.*) The letter details neither the revenue the Project would
13 generate nor the resulting loss in revenue from complying with the Ordinance. Similarly, the
14 letter speaks of “insufficient cash flow and profit,” but because the bank does not tie these terms
15 to specific numbers, it is impossible to determine whether this conclusion is reliable. (*Ibid.*)

16 Nor is the 1st Capital Bank letter substantial evidence of financial infeasibility. The Bank
17 states that financing is “problematic” and that “in discussions” between unnamed parties “we
18 have considered the inclusion of 6% low and 6% very low levels of affordability for the
19 inclusionary homes in rendering this determination.” (AR 20414.) The Bank follows with a
20 conclusory paragraph suggesting that only Real Parties’ preferred outcome “may be considered
21 to qualify for loan financing.” (*Ibid.*) The letter provides no support for either point.

22 Finally, the County asserts that the Board of Supervisors also based its decision on the
23 belief that “moderate income housing fit the particular needs of Carmel Valley.” The County
24 bases this claim on a single statement by a Supervisor made at the December 13, 2016 Board of
25 Supervisors meeting at which the Alternative was approved. (AR 5485.) There, the Supervisor
26
27
28

1 opined that exempting the Alternative from the normal distribution of affordable housing was
 2 “eminently reasonable” based on, *inter alia*, “the area’s existent affordable housing including the
 3 Pacific Meadow and more.” (AR 5485:5-8.) The Supervisor offered no further explanation or
 4 supporting facts. (*Ibid.*) Likewise, the County fails to cite to evidence in the record substantiating
 5 the comment. Absent evidentiary support, the comment does not constitute substantial evidence.
 6 (See *California Youth Authority, supra*, 104 Cal.App.4th at pp. 584-585.)
 7

8 Put simply, the conclusory opinions set forth in the bank letters and in the
 9 aforementioned testimony “cannot rise to the dignity of substantial evidence.” (*Roddenberry,*
 10 *supra*, 44 Cal.App.4th at p. 651, citation omitted.)

11 **2.0 Petitioner brings several CEQA Claims.**

12 Petitioner raises a number of claims under CEQA. Specifically, Petitioner contends that
 13 1) the EIR’s Project Description is unstable and “shifting”; 2) Real Parties effectively abandoned
 14 the Proposed Project in favor of the Alternative, but feigned otherwise; and 3) the EIR did not
 15 analyze a reasonable range of alternatives.
 16

17 Real Parties respond that 1) the Project Description is not unstable because the 281-Unit
 18 Project and the 130-Unit Alternative are differentiated throughout the EIR; 2) the Project
 19 remained the true project throughout the EIR process; and 3) the EIR analyzed a sufficient range
 20 of legally feasible alternatives.
 21

22 **2.1 The EIR’s Project Description is not “shifting” or “unstable.”**

23 Petitioner argues that the EIR’s Project Description “straddles” both the Project and the
 24 Alternative, impermissibly shifting between them, causing confusion, and vitiating the EIR’s
 25 function as a vehicle for public participation in the environmental review process.

26 “The purpose of an environmental impact report is to identify the significant effects on
 27 the environment of a project, to identify alternatives to the project, and to indicate the manner in
 28 which those significant effects can be mitigated or avoided.” (Pub. Resources Code, § 21002.1.)

1 To meet these goals, an EIR must adequately define the project. “[A]n accurate, stable and finite
2 project description is the *sine qua non* of an informative and legally sufficient EIR. The defined
3 project and not some different project must be the EIR’s bona fide subject.” (*County of Inyo v.*
4 *City of Los Angeles* (1977) 71 Cal.App.3d 185, 199.) “[O]nly through an accurate view of the
5 project may the public and interested parties and public agencies balance the proposed project’s
6 benefits against its environmental cost, consider appropriate mitigation measures, assess the
7 advantages of terminating the proposal and properly weigh other alternatives. [Citation.]” (*San*
8 *Joaquin Raptor Rescue Center v. County of Merced* (2007) 149 Cal.App.4th 645, 655.) “A
9 curtailed, enigmatic or unstable project description draws a red herring across the path of public
10 input.” (*County of Inyo, supra*, 71 Cal.App.3d at pp. 197-198.) Nevertheless, “[t]he CEQA
11 reporting process is not designed to freeze the ultimate proposal in the precise mold of the initial
12 project; indeed, new and unforeseen insights may emerge during investigation, evoking revision
13 of the original proposal.” (*Id.* at p. 199.)

16 “With respect to an EIR’s project description, only four items are mandatory: (1) a
17 detailed map with the precise location and boundaries of the proposed project, (2) a statement of
18 project objectives, (3) a general description of the project’s technical, economic, and
19 environmental characteristics, and (4) a statement briefly describing the intended uses of the EIR
20 and listing the agencies involved with and the approvals required for implementation.
21 (Guidelines, § 15124.)” Aside from these four items, the Guidelines advise that the project
22 description should not ‘supply extensive detail beyond that needed for evaluation and review of
23 the [project’s] environmental impact.’ (Guidelines, § 15124.)” (*California Oak Foundation v.*
24 *Regents of University of California* (2010) 188 Cal.App.4th 227, 269-270.)

26 Petitioner’s argument relies heavily on *County of Inyo, supra*, 71 Cal.App.3d 185. There,
27 the City of Los Angeles proposed to increase groundwater pumping to supply growing water
28

1 needs. (*Id.* at p. 189.) The EIR initially described the project as “a proposed increase of 51 cfs¹³
2 in the long-term subsurface extraction rate and an increase of 65 cfs in the high-year rate, these
3 increases being destined solely for ‘unanticipated’ uses within the Owens Valley.” (*Ibid.*)
4 However the EIR went on to discuss proposals “far broader than the initially described project”
5 including a water conservation program, rearrangement of reservoir operations, and the
6 extraction of groundwater at a significantly higher rate than proposed in the initial project
7 description. (*Id.* at p. 190.) Further, the EIR shifted between these descriptions repeatedly, as did
8 the final approval resolution. (*Id.* at pp. 190-191.) Consequently, the court concluded the City’s
9 “selection of a narrow project as the launching pad for a vastly wider proposal frustrated
10 CEQA’s public information aims.” (*Id.* at pp. 199-200.)

11
12 *County of Inyo* is distinguishable. Here, the RDEIR does not shift between differing
13 descriptions of the project. Instead, the Project Description chapter of the RDEIR demarcates
14 between the 281-Unit Proposed Project and the 130-Unit Alternative:

15
16 “The Rancho Cañada Village Project (Proposed Project) would develop an 81-plus-acre
17 area within the West Course at Rancho Cañada Golf Club in Carmel Valley, California, an
18 unincorporated area of Monterey County (County). The project site would be comprised of a mix
19 of residential and recreational uses, including a 281-unit residential neighborhood and 39 acres
20 of permanent open space and common areas within the 81-plus acres.

21
22 “The 130-Unit Alternative is proposed as a planned unit development (PUD) on
23 approximately 82 acres. This alternative proposes similar uses as the Proposed Project but with a
24 lower number of overall units and lower density.” (AR 1348, fn. omitted.)

25 The RDEIR goes on to note that the Project and the Alternative are proposed for the same
26 geographical location. (AR 1349.) However, it then describes them separately. The RDEIR
27

28 ¹³ The term “cfs” denotes “cubic feet per second” of water extracted.

1 begins with a detailed description of the Project, setting forth the distribution of proposed
 2 housing, open space and common areas, a restoration and mitigation plan, neighborhood parks, a
 3 circulation framework, utilities, drainage, design guidelines, and construction plans. (AR 1352-
 4 1364.) The RDEIR then presents a similar level of detail as to the Alternative. (AR 1364-1373.)
 5 Throughout the RDEIR, the Project and the Alternative are clearly differentiated (see, e.g., AR
 6 18430), and the Project is consistently identified (See, e.g. AR 1315, 1352 [describing the
 7 Project as “a 281-unit residential neighborhood”]; 1840).¹⁴

9 Accordingly, Petitioner’s claim that the Project Description is “unstable” is meritless.

10 **2.2 The EIR’s Project Description is not accurate.**

11 Petitioner also argues that the EIR’s Project Description is inaccurate to the extent it
 12 suggests that the Proposed Project, not the Alternative, is the true project.

14 “The EIR’s function is to ensure that government officials who decide to build or approve
 15 a project do so with a full understanding of the environmental consequences and, equally
 16 important, that the public is assured those consequences have been taken into account.”

17 (*Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova* (2007) 40
 18 Cal.4th 412, 449.) These goals cannot be accomplished without an accurate project description.

19 (*County of Inyo, supra*, 71 Cal.App.3d at p. 199 [“an accurate, stable and finite project
 20 description is the *sine qua non* of an informative and legally sufficient EIR”].) “An accurate
 21 project description is necessary for an intelligent evaluation of the potential environmental
 22 effects of a proposed activity.” (*San Joaquin Raptor, supra*, 27 Cal.App.4th at p. 730.)

24 As the RDEIR recognized, the 2010 General Plan and 2013 amendment to the CVMP
 25 effectively limited residential subdivision development in Carmel Valley to 166 new units. (AR

26
 27 ¹⁴ Additionally, the Project did not proceed from a narrow description to a “vastly wider
 28 proposal.” (*Id.* at pp. 199-200.) In fact, the reverse is true. The Alternative is significantly
 narrower than the Project; it was designed in part to reduce Project impacts. (AR 1365, 18541,
 18768.)

1 1319.) To facilitate the Project, then, “the residential unit cap from residential subdivision would
2 need to be raised to 305 units.” (*Ibid.*) Shortly thereafter, Real Parties developed the 130-unit
3 Alternative. (AR 18768.)

4 Real Parties provided the County with extensive information on the Alternative,
5 including proposed maps, property development standards, and a detailed description of the
6 specific impacts the Alternative would alleviate. (AR 18768-18782.) Real Parties asked the EIR
7 consultant to “provide an equal level of analysis of the 130-unit alternative” and the Project. (AR
8 17142.) However, to accomplish this task, the EIR consultant was forced to put the analysis of
9 the Alternative in the “Project Description” chapter along with the Project, rather than in the
10 Alternatives chapter. (*Ibid.*) Thus, the RDEIR’s “Project Description” chapter discussed both the
11 Project and the Alternative, in significant, and roughly equivalent, detail. (AR 1321, 1348-1372.)

12 The remaining six alternatives were described as before, in much less detail, in the
13 RDEIR’s alternatives chapter. (AR 1843-1856.) Neither Real Parties nor the County offer any
14 explanation why the Alternative was treated differently than the other six alternatives. Only the
15 Alternative was analyzed “at a level of detail equal to that for the Proposed Project.” (AR 1321.)
16 Of the remaining six alternatives,¹⁵ only two, Alternatives 1 (the No-Project Alternative) and 4
17 (the Low Density Alternative) would satisfy the CVWP’s unit cap. (AR 1322-1323, 1325.) The
18 RDEIR rejected both of these alternatives for failure to meet basic project objectives. (AR 1322,
19 1325.) Perhaps most tellingly, the Project itself failed to meet the CVWP’s unit cap, a point the
20 County expressly discussed in its findings. (AR 135.)

21 Real Parties note that CEQA does not prohibit the County from structuring its
22 EIR in this fashion. Indeed an EIR need not follow any particular format so long as it contains
23 the information required by CEQA and the Guidelines. (Cal. Code of Regs., tit. 14 (Guidelines),

24
25
26
27
28 ¹⁵ As mentioned *ante*, the FEIR subsequently eliminated one of these alternatives due to a
change in ownership of necessary land. (See fn. 2, *supra*; AR 134, 3803-3806, 3808-3809.)

1 § 15120, subd. (a).) Lead agencies may tailor their EIRs "to different situations and intended
 2 uses . . . consistent with the guidelines . . ." (Guidelines, § 15160.) Here however, the error is
 3 not specifically the way in which the EIR is structured. Rather, the EIR's structure evinces that
 4 the Alternative was the actual project under consideration.

5 "The defined project and not some different project must be the EIR's bona fide subject."
 6 (*County of Inyo, supra*, 71 Cal.App.3d at p. 199.) The Project's history demonstrates that the
 7 "Alternative" effectively replaced the Project as the true project under consideration, and that
 8 consequently, the existing Project Description is inaccurate. Absent an accurate project
 9 description, the EIR could not fulfill its central function to provide sufficient information to
 10 allow the public and decision-makers to "ascertain the project's environmentally significant
 11 effects, assess ways of mitigating them, and consider project alternatives." (*Sierra Club, supra*,
 12 163 Cal.App.4th at p. 533; *County of Inyo, supra*, 71 Cal.App.3d at pp. 192-193.) In short, the
 13 EIR's inaccurate project description violated CEQA.¹⁶

16 2.3 The EIR's Alternatives analysis does not satisfy CEQA.

17
 18
 19
 20
 21 ¹⁶ Petitioner asserts a number of other indicators in the record in support of this conclusion.
 22 None are persuasive. For example, Petitioner observes that the vesting tentative map approved
 23 by the Board was not the original map, but rather, "a wholly new map" for the Alternative. (AR
 24 98.) However, CEQA authorizes the County to adopt an alternative rather than the project
 25 proposed, particularly if the County determines that alternative would be less harmful to the
 26 environment. (Pub. Resources Code, §§ 21002-21002.1, 21004; Guidelines, § 15002, subd.
 27 (a)(3).) "Decisionmakers . . . have the flexibility to implement that portion of a project which
 28 satisfies their environmental concerns." (*Dusek, supra*, 173 Cal.App.3d at p. 1041.) Additionally,
 Petitioner erroneously suggests that the Alternative, rather than the Project was considered by the
 Planning Commission. In fact, the staff report reveals that both were considered. (AR 4104-
 4119.) The page that Petitioner cites in the record (AR 4123) is a page from staff's Draft
 Resolution to the Planning Commission. Regardless, the court's conclusion makes it unnecessary
 to discuss these and Petitioner's other arguments along these lines.

1 Finally, Petitioner argues that the six alternatives analyzed in the EIR¹⁷ do not represent a
2 reasonable range of alternatives. The court notes that, because the Alternative was actually the
3 Project, only five true alternatives were considered. The court also notes that the alternatives
4 analysis was fatally skewed because it was undertaken in comparison to the Project, not the
5 Alternative. (Pub. Resources Code, § 21002.1 [one purpose of an EIR is “to identify alternatives
6 to the project”]; Guidelines, § 15126.6 [“[t]he EIR shall include sufficient information about
7 each alternative to allow meaningful evaluation, analysis, and comparison *with the proposed*
8 *project*”].) But even were this not the case, the alternatives analysis would still be deficient.

9
10 Petitioner contends that three of the alternatives were infeasible because they proposed
11 densities in excess of the 190-unit cap established by CVMP Policy CV-1.6. Real Parties respond
12 that the settlement did not divest the County’s land use authority or police power to approve
13 alternatives in excess of the cap through a general plan amendment, and hence the alternatives
14 were legally feasible.

15
16 “The core of an EIR is the mitigation and alternatives sections.” (*Citizens of Goleta*
17 *Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, 565.) An EIR must examine “a range of
18 reasonable alternatives.” (Guidelines, § 15126.6, subd. (a).) CEQA establishes no categorical
19 legal imperative as to the scope of alternatives to be analyzed in an EIR; no set number of
20 alternatives is necessary to constitute a legally adequate range. (*Citizens of Goleta Valley, supra*,
21 52 Cal.3d at p. 566.) The court will uphold the County’s “selection of alternatives unless it is
22 ‘manifestly unreasonable’ or inclusion of an alternative does not ‘contribute to a reasonable
23 range of alternatives.’ [Citation.]” (*Bay Area Citizens v. Association of Bay Area*
24 *Governments* (2016) 248 Cal.App.4th 966, 1018.) This determination is “subject to a rule of
25

26
27 ¹⁷ Petitioner focuses on the RDEIR, which contained *seven* alternatives, overlooking that the
28 change to *six* alternatives did not occur until the FEIR. (See fn. 2, *supra*.) This distinction does
not affect the court’s analysis, however.

1 reason.” (*Laurel Heights Improvement Assn. v. Regents of University of California* (1988) 47
2 Cal.3d 376, 407.)

3 Additionally, the alternatives examined must be “potentially feasible.” (Guidelines, §
4 15126.6, subd. (a).) For these purposes, “feasible” is defined as “capable of being accomplished
5 in a successful manner within a reasonable period of time, taking into account economic,
6 environmental, legal, social, and technological factors.” (Guidelines, § 15364.) “[A]n alternative
7 is not feasible where there is no way to legally implement it. [Citation.]” (*Uphold Our Heritage*
8 *v. Town of Woodside* (2007) 147 Cal.App.4th 587, 602.)

9
10 As discussed *ante*, CVMP Policy CV-1.6 limits development in the relevant area to 190
11 new units, for which 24 are already accounted. (AR 14031-14032.) And, as Petitioner suggests,
12 three of the five true alternatives proposed exceed the Policy’s unit cap; both the FEIR and the
13 County’s findings acknowledge that approving any of these alternatives would require a General
14 Plan amendment. (AR 135-136, 3738.) It is also true that the settlement agreement between
15 Petitioner and the County does not “restrict the County’s land use authority or police power in
16 any way with respect to future legislative, administrative or other actions by the County.” (AR
17 19972.) Hence, Real Parties are correct that the three alternatives were legally feasible. Indeed,
18 had the Board approved one of the three relevant alternatives, it could have simultaneously
19 amended the general plan to raise the unit cap. The Board took exactly this step by amending
20 CMVP Policy CV-1.27 as part of its Resolution certifying the FEIR and approving a Combined
21 Development Permit for the Alternative. (AR 98, 102.)

22
23
24 But the mere fact that the three relevant alternatives were legally feasible does not mean
25 they were *practically* feasible. Amending the General Plan to enlarge the cap would have
26 violated the County’s settlement agreement with Petitioner. (AR 3738.) While the County had
27 the power to do this, it is clear that it did not have the will. The County’s own findings explain
28 that the inconvenience, expense, and political costs to the County were too great to make any of

1 the four relevant alternatives “capable of being accomplished in a successful manner within a
 2 reasonable period of time, taking into account economic, environmental, legal, social, and
 3 technological factors.” (Guidelines, § 15364; see *Citizens for Open Government v. City of*
 4 *Lodi* (2012) 205 Cal.App.4th 296, 313 [EIR properly rejected alternative uses for a site because
 5 the site was zoned only for a particular use].) Hence, as to Alternative 3, which proposed a 186
 6 unit project (AR 1849-1852), the County explained:

8 “The 190-unit cap was instituted as a result of settlement of litigation and retaining the
 9 cap avoids unnecessary controversy over the maximum level of residential development
 10 that is allowable within the CVMP area and avoids potential renewal of litigation under
 11 the settlement agreement. From a policy standpoint, the Medium-Density Alternative is
 12 not acceptable because it does not comply with the CVMP unit cap” (AR 135).

13 The County drew the same conclusion as to Alternatives 5 and 6, both of which proposed 281-
 14 unit projects (AR 136), and as to the “Proposed Project” itself (AR 135).

15 Only two alternatives, Alternatives 1 (the No-Project Alternative) and 4 (the Low Density
 16 Alternative) would satisfy the CVWP’s unit cap. (AR 1322-1323, 1325.) Although CEQA
 17 requires an EIR to explore a “no project” alternative (Guidelines, § 15126, subd. (e)), that
 18 “alternative” is not a true alternative because, by definition, it would meet “*almost none of the*
 19 *project’s objectives.*” (*Watsonville Pilots Assn v. City of Watsonville* (2010) 183 Cal.App.4th
 20 1059, 1090, italics in original.) Consequently, the EIR effectively examined only a single
 21 feasible alternative.

22 CEQA requires that an EIR provide “enough of a variation to allow informed decision
 23 making. [Citation.]” (*Mann v. Community Redevelopment Agency* (1991) 233 Cal.App.3d 1143,
 24 1151.) A single alternative cannot fairly be termed a “reasonable range of potentially feasible
 25 alternatives that will foster informed decision-making and public participation.” (Guidelines, §
 26 15126.6, subd. (a).) The court therefore concludes that the County’s selection of alternatives was
 27 “manifestly unreasonable,” in violation of CEQA. (*Federation of Hillside and Canyon*
 28 *Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1265.)

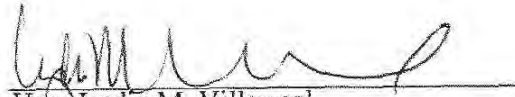
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Disposition

The petition for writ of mandate is partially granted. Petitioner's request for a writ compelling the County to develop and promulgate the DES is denied. The remainder of the requested writ relief is granted.

The court directs Petitioner's attorney to prepare an appropriate judgment and writ consistent with this ruling, present them to opposing counsel for approval as to form, and return them to this court for signature.

Dated: 4/24/18


Hcn. Lydia M. Villarreal
Judge of the Superior Court

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CERTIFICATE OF MAILING
(Code of Civil Procedure Section 1013a)

I do hereby certify that I am employed in the County of Monterey. I am over the age of eighteen years and not a party to the within stated cause. I placed true and correct copies of the **Intended Decision** for collection and mailing this date following our ordinary business practices. I am readily familiar with the Court's practices for collection and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Services in Salinas, California, in a sealed envelope with postage fully prepaid. The names and addresses of each person to whom notice was mailed is as follows:

William P. Parkin, Esq.
Yuchic Pearl Kan, Esq.
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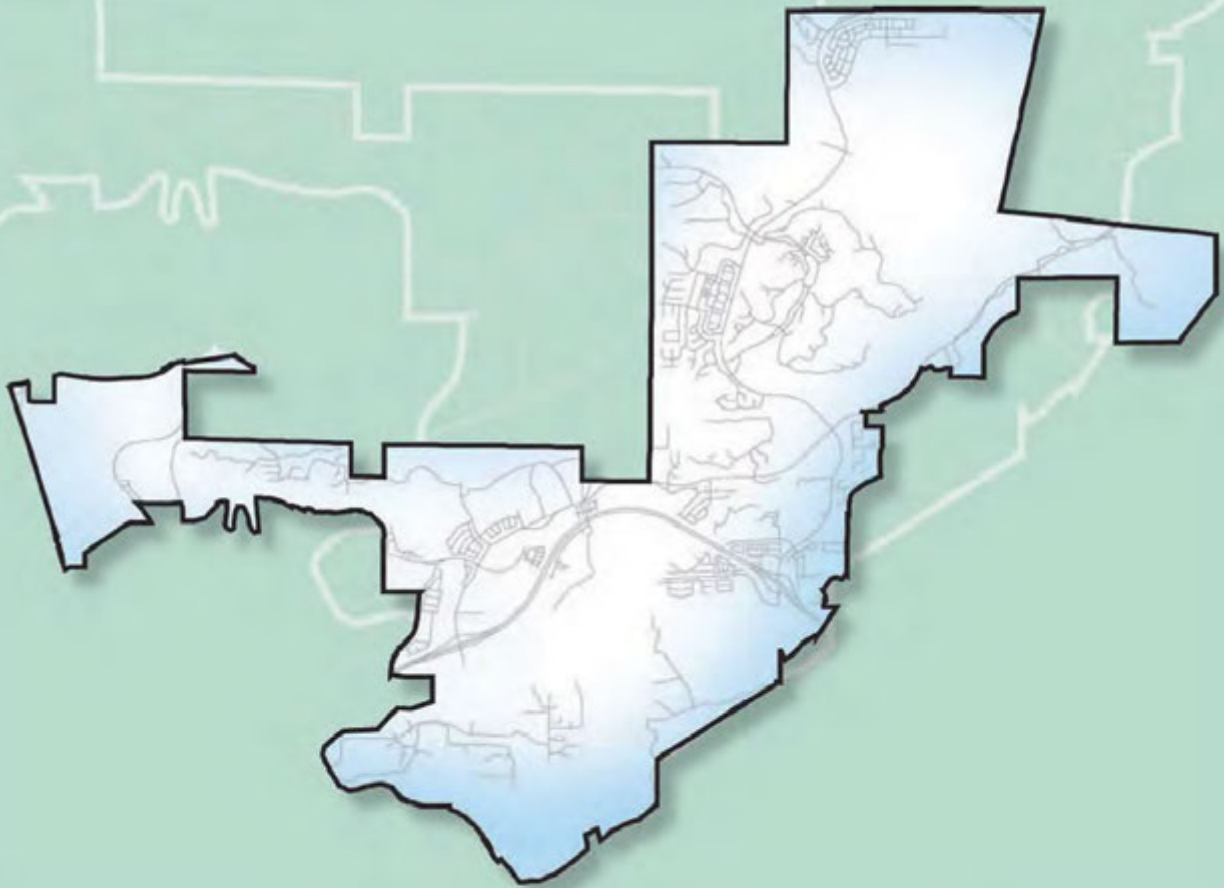
Jacqueline M. Zischke
Attorney at Law, PC
P.O. Box 1115
Salinas, California 93902

Dated: APR 24 2018

Chris Ruhl, Clerk of the Superior Court,
Sally Lopez, Deputy Clerk

ENCLOSURE 3

North City Future Urbanizing Area Framework Plan



THE CITY OF SAN DIEGO

**NORTH CITY FUTURE
URBANIZING AREA
FRAMEWORK PLAN**

City of San Diego Planning Department
202 C Street, MS 4A
San Diego, CA 92101



Printed on recycled paper.

This information, or this document (or portions thereof), will be made available in alternative formats upon request.

7. AFFORDABLE HOUSING AND HOUSING FOR PERSONS WITH SPECIAL NEEDS

Section 3, Land Use, defines the location, amount, and type of housing to be built in the NCFUA. Principles for the design of residential areas are included in **Section 4, Urban Design**. The principles in this section address housing needs that are unlikely to be satisfied by the market, but that must be met in order to create diverse communities meeting the needs of San Diego residents.

7.1 GUIDING PRINCIPLES: HOUSING

- 7.1a Include housing affordable to all income levels in the NCFUA.
- 7.1b Provide the area's "fair share" of affordable housing and housing for persons with special needs, consistent with the City's Housing Element and the Regional Fair Share Distribution prepared by SANDAG.
- 7.1c Recognize that market economics will not result in the production of housing units for low-income households without specific requirements that they be included in development projects.
- 7.1d Funds collected by the City in lieu of construction of affordable dwelling units within the NCFUA shall be retained for future construction of affordable units within the NCFUA and shall not be distributed for use citywide.

7.2 IMPLEMENTING PRINCIPLES: INCLUSIONARY HOUSING REQUIREMENTS

- 7.2a Apply to residential development projects the inclusionary requirements in effect for the NCFUA under the City's planned residential development provisions. These requirements specify that residential development projects must provide housing on-site, affordable to low-income families as certified by the San Diego Housing Commission.

This requirement can be fulfilled by: 1) a set aside of no less than 20 percent of the units for occupancy by, and at rates affordable to, families earning no more than 65 percent of median area income, adjusted for family size, or 2) a dedication of developable land of equivalent value. The affordable units must remain affordable for the life of the unit and should be phased proportionate to development of the market-rate units. The bedroom composition of the affordable units should be similar to that of the market-rate units. Developers of projects with ten or fewer housing units and projects falling within the estate and very low-density residential category may, at the discretion of the City, satisfy the requirements of the inclusionary program by donating to the City an amount of money equivalent to the cost of achieving the level of affordability required by the inclusionary program.

- 7.2b Affordable units should be dispersed throughout the NCFUA, primarily in or near the compact communities.
- 7.2c In planning for the NCFUA, recognize that the mandated level of affordability will require that developers be granted a density increase of 25 percent over the otherwise maximum allowable residential density, as well as at least one additional concession or incentive as described in California Government Code section 65913.4. Subarea planning studies should anticipate the awarding of the density bonus in analyzing demand for public facilities and in projecting future population.
- 7.2d If the City of San Diego adopts a citywide inclusionary housing program, the citywide program will take precedence.
- 7.2e If the City of San Diego adopts a citywide inclusionary housing program that includes measures to offset the cost of providing affordable housing, such as incentives relating to permit processing, development standards, and project financing, these offsets should apply in the NCFUA.

7.3 IMPLEMENTING PRINCIPLES: HOUSING FOR PERSONS WITH SPECIAL NEEDS

- 7.3a Consistent with State Law (Welfare and Institutions Code Section 5115 et seq), recognize the 24-hour care of six or fewer mentally disordered or otherwise handicapped persons as residential use. Therefore, facilities caring for such persons in residential structures are not required to obtain conditional use permits. (However, state licensing is required in all cases).
- 7.3b Recognize the need for group housing and housing for persons with special needs or desires. Such housing can include congregate care for elderly persons, single-room occupancy hotels, housing for temporary workers, housing with supportive services such as daycare built into the development, and co-housing (an alternative form of housing which combines individual units with facilities for shared meals, child care and other support services) by establishing that, such uses are welcome in the NCFUA in areas designated by the Framework Plan for buildings and activities of compatible type and intensity. Encourage the siting of such housing during subarea plan preparation.
- 7.3c Encourage developers to work with builders and operators of group housing during subarea and project planning, and to integrate such housing into their projects.

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May 14, 2018

VIA EMAIL

William Witt, Esq., Sr. Deputy County Counsel
 Office of County Counsel
 County of San Diego
 County Administration Center
 1600 Pacific Highway, Room 355
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Re: Enforcement of County Contracting Requirements for Newland Sierra Project

Dear Mr. Witt:

I am writing on behalf of my client Golden Door Properties LLC (“Golden Door”) regarding what appears to be the use of unauthorized/unapproved consultants for the Newland Sierra Project environmental impact report (“EIR”). We understand that you may be handling legal matters regarding the County staff’s processing of the developer’s application for the Newland project. This letter concerns Newland’s compliance with the County of San Diego’s CEQA contracting rules, as set forth in the County’s officially approved CEQA Guidelines. I am writing to you to request that processing of this project halt until this matter is resolved. (If you are not the County Counsel responsible for this type of matter, please forward this letter to the individual in your office who would be responsible for handling this matter.)¹

The County of San Diego CEQA Guidelines² state clearly that consultants used to author technical studies in support of EIRs for projects within the County’s jurisdiction must be pre-approved through inclusion on the County’s “CEQA Consultants List for Privately Initiated

¹ I have also cc’d your client to this letter in case your office is not the appropriate office to initially handle this matter.

² Available at <https://www.sandiegocounty.gov/content/dam/sdc/pds/docs/CEQAGDLN.pdf> (“All technical studies and environmental impact reports (EIRs) for privately initiated projects not prepared by staff shall be prepared by a consultant on the County of San Diego CEQA Consultant List for Privately Initiated Projects, to be further known as the ‘CEQA Consultant List.’”).

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Projects,”³ unless the retention of such consultants have been secured “through the standard County procurement processes.”

These approved consultant list requirements have been included in the County’s CEQA Guidelines to assure that the consultants retained are objective, qualified, and retained by the County using fairly applied and standard consultant contract terms in any agreement with the County.⁴ The contracting rules and procedure set forth in the County’s CEQA Guidelines ensure that County has examined the record of performance, professional qualifications, and specialized experience, among other things, of potential consultants, that staff have access to all the relevant consultant documents and work product, and as a result the public is given access to these same documents through the Public Records Act. Failure to hire the approved consultants on the list, with the approved standard form contracts, frustrates the public’s interest in objectivity and transparency in work on public documents.

We also note that there has been recently a considerable amount of controversy regarding what appears to be the County’s plan to “bundle” or “batch” several General Plan amendment applications this summer in order to avoid new potential Supervisors and/or potential voter initiatives that may be chosen by the voters this fall.⁵ The County’s unprecedented rush to approve these projects has required short-circuiting either or both of the County’s traditional planning practices (such as meaningful involvement and consultation of community sponsor groups) and the County’s clearly expressed legal requirements (such as the CEQA contracting requirements discussed herein). We suspect, therefore, that the County may be engaged in an improper pattern and practice of allowing EIR technical studies to be authored by unauthorized and unvetted consultants. Can you confirm that no other project that may be scheduled to go before the Planning Commission or the Board of Supervisors this summer or fall has used, in the project draft or final EIR, consultants not listed on the County’s approved CEQA consultant list?

Upon our review of the Newland draft EIR and the County’s disclosure so far of documents in relation to a request under the Public Records Act, it seems clear that the Newland draft EIR has violated the clear requirements of the County’s CEQA Guidelines.

³ Available at

<https://www.sandiegocounty.gov/content/dam/sdc/pds/ProjectPlanning/docs/CeqaConsultantsList.pdf>.

⁴ See, e.g., County of San Diego CEQA Guidelines, at A-6–A-7 (“Consultants may be removed from the CEQA Consultant List at any time for any of the following reasons: ... Quality of judgment, i.e., objective and scientific, regarding determination of environmental significance of impacts.”), & Attachment B (Form Memorandum of Understanding Environmental Impact Report / Technical Study Preparation).

⁵ See, e.g., J. Harry Jones, *Provision allowing county to expedite housing projects draws ire* *Provision allowing county to expedite housing projects draws ire*, S.D. UNION TRIB. (May 12, 2018), available at <http://www.sandiegouniontribune.com/business/growth-development/sd-no-development-bundle-20180504-story.html>.

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In particular, we noted that the following technical studies offered in support of the Newland EIR do not have authors that appear on the County's "CEQA Consultants List for Privately Initiated Projects":

Name	Firm	Topic Area	EIR Reference
Unspecified	Ecology Artisans	Agricultural Resources	Appendix GG, Newland Sierra Agricultural Alternative Report
Robert Stroh	Leighton & Associates	Groundwater	Appendix J-4, Groundwater Resources, Newland Sierra, San Diego County, California
Unspecified	Fusco Engineering	Transportation & Traffic	Appendix HH, Newland Sierra Parkway Feasibility Study, Evaluation of Alternatives to Widening of Deer Springs Road
Katy Cole, Greg O'Donnell, and Ronald T. Milam	Fehr & Peers	Transportation & Traffic	Appendix R-2, Newland Sierra VMT Analysis to Respond to SB 743
Katy Cole, Ryan Caldera	Fehr & Peers	Transportation & Traffic	Appendix R-3, Newland Sierra TDM Program - VMT Reduction Evaluation

Though we received some CEQA contracts in response to our October 10, 2017 request under the Public Records Act, we noted that there were no contracts disclosed in regards to the consultants listed above.⁶

⁶ On October 10, 2017, my firm requested under the Public Records Act "Any and all documents submitted to the County pursuant to the aforementioned contracts or agreements," among other categories of documents. On October 20, this was subsequently confirmed to the County as including "all documents and communications in the County's possession provided by such third party to the County, provided by the County to that third party, or otherwise shared between the County and that third party pertaining to the Newland Sierra Project's environmental review." After receiving a relatively limited disclosure of documents in October and November 2017, I inquired as to the completeness of the County's disclosure in an email letter to the County on April 10, 2018. I have yet to receive a substantive response to my April inquiry other than that a response is forthcoming, and so I assume that the County does not have any additional contracts responsive to the October 10th request. To be clear, we still consider the County's disclosure in response to the October 10 request to have been inadequate and still await the County's further response or disclosure. Finally, as you know, we prefer to raise our client's concerns as early as possible in the process. It seems that sufficient time has passed, given our multiple requests under the Public Records Act, to presume that the County does not have evidence that the unauthorized consultants noted herein were properly retained pursuant to the County's CEQA Guidelines (i.e., through inclusion on the approved list or retention "through the standard County procurement processes.")

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Because the County's CEQA Guidelines clearly require the use of specifically authorized consultants for these issue areas, the Newland EIR may not incorporate these technical studies and cannot proceed in its current form. Fortunately, we believe that the County has options that may resolve this problem, going forward:

Option 1: Halt processing of the Newland project until the County amends its approved CEQA consultants list to include the consultants listed above and each of the consultants noted above execute the standard contract as described in the County's CEQA Guidelines. Upon execution of any new contract, the consultant should review, revise, and update his/her work on the Newland project following the requirements of the County's contracting rules, as well as provide access to all his/her documents used for this work product to County staff as required by that contract. The revised and updated work should be made available to the public, as well as the documents made available to County staff, prior to any action on the Newland project by the Planning Commission.

Option 2: Halt processing of the Newland project, delete the technical studies noted above from the Newland EIR, provide Newland the opportunity to provide whatever analysis County staff believes is necessary to replace the deleted technical studies but using approved CEQA consultants, and recirculate the draft EIR for a new round of public review and comment pursuant to the CEQA Guidelines.

We believe that further processing and/or certification of the Newland EIR using these unauthorized consultants violates the County's clear CEQA consulting contracting rules. We hope that the County will remedy this serious error by halting processing the Newland project until the Newland EIR comes into compliance, either by amending the approved consultants list or by re-doing the affected technical studies and EIR analysis using approved consultants.

We would appreciate a response to this letter by May 23, 2018, so we can determine how best to proceed. If we do not hear from you by then, we will assume that the County intends to take no action and will proceed with processing the Newland EIR using these unauthorized consultants and technical studies, and we will proceed accordingly, which may include seeking judicial intervention for enforcement of its CEQA contracting rules.⁷

Please include this comment letter in the administrative record for the project, and thank you for your time and attention to this matter.

⁷ Judicial intervention is warranted presently, since the Newland EIR has been released using unauthorized consultants, i.e., in violation of the County's CEQA Guidelines. Therefore, waiting to challenge the Newland EIR on this basis only after the County has rendered its decision on the project is not an adequate remedy. As the case law demonstrates, a local government's CEQA Guidelines are enforceable. (See, e.g., *Benton v. Board of Supervisors* (1991) 226 Cal.App.3d 1467, 1474-75; *Kennedy v. City of Hayward* (1980) 105 Cal.App.3d 953, 960 & fn.10; *AAGLA v. City of Los Angeles* (2001) 90 Cal.App.4th 1162, 1173; *California Bldg. Indus. Ass'n v. Bay Area Air Quality Mgmt. Dist.* (2016) 2 Cal.App.5th 1067, 1088; see also *Golden Door Properties, LLC v. County of San Diego* (37-2016-00037402, Apr. 28, 2017) Superior Court San Diego, Minute Order, at p. 8.)

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Very truly yours,



Taiga Takahashi
of LATHAM & WATKINS LLP

cc: Mark Wardlaw, County of San Diego PDS
Darin Neufeld, County of San Diego PDS
Ashley Smith, County of San Diego PDS
William Pettingill, Chief Deputy County Counsel
Claudia Silva, Assistant County Counsel
Stephanie Saathoff, Clay Co.
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May 24, 2018

VIA FEDERAL EXPRESS AND EMAIL

C Wayne Dauber, Chair
 Hidden Meadows Community Sponsor Group
 28117 Par View Court
 Escondido, CA 92026-6951

Dear Mr. Dauber:

Thank you for the opportunity to participate in the Hidden Meadows Sponsor Group meeting of April 26, 2018. As you know we represent Golden Door Properties in opposition to the Newland Sierra Project. We have listened closely to the concerns of the Hidden Meadows Sponsor Group and believe that issues related to the I-15 / Deer Springs Road Interchange are of particular importance to the Sponsor Group.

On several occasions, including the meeting of April 26, members of the Sponsor Group have asked representatives of Newland Sierra when the replacement interchange would be constructed. Newland Sierra has repeatedly claimed that the Project would be conditioned so that the interchange would be required to be built prior to the County allowing for additional building permits beyond 330 homes. This was clearly stated again at the April 26 Sponsor Group meeting by Project Manager Scott Molloy.

In the video of the meeting attached to this letter, during questioning by Hidden Meadows Sponsor Group members about the interchange, Newland Sierra Project Manager Scott Molloy at time index 1:13:00 states:

"The County's going to condition our Project to complete the interchange improvements before they'll issue that 331st building permit. So if we haven't finished the interchange by that building permit threshold, we can't get any more building permits."

We have just received new documents that do not seem to be consistent with Mr. Malloy's statement. However, it is possible that the new documents that we received are not accurate. Since this concerns a crucial issue for the Hidden Meadows area, we wanted to call it to your attention.

Through a Public Records Act request to Caltrans, (that was triggered by a letter we received from a San Diego Union Tribune reporter, who in turn had received the letter from a Newland representative), we obtained a document which contains draft Project conditions related

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to the interchange that were discussed via email between Caltrans and representatives of the County.

In a December 19, 2017 email from Nick Ortiz at the County of San Diego (copied to Ashley Smith with the County) to representatives of Caltrans, Mr. Ortiz includes a copy of draft Newland Sierra permit conditions from the County of San Diego related to the interchange which state:

By the 370th EDU of any phase, improve or agree to improve and provide security for the I-15/Deer Springs Road Interchange Improvements, including the intersection of Deer Springs Road with the I-15 Southbound and Northbound Ramps and associated capacity enhancing improvements to the overpass, per the selected interchange configuration, design, and construction package approved by Caltrans through the three phase PID-PA&ED-PS&E process ("Interchange Improvements"). All of the above shall be to the satisfaction of Caltrans, the Director of PDS and the Director of Public Works.

(a copy of this email is enclosed with this letter)

This condition is significantly different from the commitment that was made by Mr. Molloy at the Hidden Meadows Sponsor Group meeting. As noted above, Mr. Molloy stated that the interchange would need to be finished "before they'll issue the 331st building permit," while the draft condition states that Newland Sierra must only, "*improve or agree to improve and provide security for the I-15/Deer Springs Road Interchange Improvements.*"

Therefore, under this draft condition, Newland Sierra could agree to improve the interchange and bond for the improvements, without any assurance that the interchange would be constructed or open to traffic, while Newland completed the construction of homes or sold the project to individual builders and developers. This is significant, because due to the typically lengthy CEQA/NEPA process that must be followed by Caltrans, and the methodical design and engineering of all Caltrans projects, under this condition, the entire 2,135 units in the Newland Sierra Project could be constructed before the interchange is even started. In addition, if Caltrans were to decide not to approve the interchange project, or if an environmental or technical issue delayed the interchange indefinitely, Newland Sierra would still be able to continue building homes and complete construction of its project, even though the required traffic mitigation had not been provided.

These draft conditions were obtained by our office through a Public Records Act request to Caltrans and do not necessarily represent the final conditions of approval that will be presented to the Planning Commission and the Board of Supervisors as part of the Newland Sierra Project approvals.

Newland has been less than transparent during this process, and therefore we have only the documents made available to us to understand how the interchange will be conditioned with the Project. As you know, we continue to believe that the interchange must be considered as part of the overall Newland Sierra Project and the interchange design and impacts of that design should be fully analyzed and considered in the Newland Sierra EIR. However, the County has

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allowed Newland to defer this important mitigation measure and offer no analysis at this time. If the County maintains the condition language presented to Caltrans, it may provide Newland Sierra with a loophole that could allow Newland to move forward without providing the interchange.

We felt that it was important to make you aware of this important information to ensure that the Hidden Meadows Sponsor Group is given accurate information. We encourage you to ask Newland Sierra and the County to clarify this condition of approval to your group due to its' importance to your community. While Mr. Neufeld and Ms. Smith were present at the April 26th meeting, perhaps they were not in a position to provide the County staff's proposed conditions of approval on the required timing of construction and opening of the new redesigned and replacement interchange for traffic use, or correct Mr. Molloy if his statement was not consistent with the planned staff recommendation.

We are also sending a copy of this letter to Mr. Molloy in hopes he could give you directly the updated information about whether (1) his April 26th statement to the Hidden Meadows Sponsor Group, or (2) the draft condition of approval that Mr. Ortiz of County staff prepared, contains the more accurate information about the timing of completion of construction and opening of the new interchange. Perhaps Mr. Molloy or Mr. Ortiz will also provide you with any of staff's recommended final conditions of approval, since this issue is so important to your community.

If you feel it appropriate, you may share my letter and the enclosed draft condition with other interested people in the Sponsor Group.

As you know, the question of how and when Caltrans and Newland might build a replacement interchange on Interstate 15 and Deer Springs Road is a crucial issue for our client, Golden Door Properties. Like everyone else in the community, Golden Door relies upon this interchange for daily access to their homes and property, and for evacuation during emergencies.

Sincerely,



Clifton B. Williams, Land Use Analyst
of LATHAM & WATKINS LLP

cc: Darren Neufeld, County of San Diego
Ashley Smith, County of San Diego
Nick Ortiz, County of San Diego
Scott Molloy, Newland Sierra
Tom Kumura, Twin Oaks Valley Sponsor Group
Margarette Morgan, Bonsall Sponsor Group

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Kathy Van Ness, Golden Door
J. Harry Jones, San Diego Union Tribune

Williams, Clifton (SD)

From: Ortiz, Francisco "Nick" <Francisco.Ortiz@sdcounty.ca.gov>
Sent: Tuesday, December 19, 2017 2:30 PM
To: ROBINSON, KERI E@DOT; Fox, Ann M@DOT; Abboud, Roy@DOT
Cc: Smith, Ashley; Hauser, Everett; Perez, Diana
Subject: NEWLAND SIERRA: follow-up to 11/2/17 meeting
Attachments: Newland Sierra_ EIR Section 2.13_Transportation and Traffic.docx; Newland Sierra_Response to Comment Letter A-2_Caltrans.docx; A-2_CALTRANS.pdf; Newland Sierra_Draft Interchange Conditions of Approval.docx

Hi Keri, Ann, & Roy,

As a follow-up to our November 2, 2017 Newland Sierra meeting, attached are copies of the following documents:

1. EIR Traffic Section with your requested addition highlighted on page 2.13-4
2. County's draft responses to Caltrans Newland Sierra EIR comment letter
3. Caltrans bracketed comment letter
4. Draft interchange conditions

We hope that these documents address your comments and suggestions. If possible, can you please review these documents by Friday, January 12th and let us know if you have any remaining concerns.

Please contact me or Ashley Smith (858-495-5375) if you have any questions.

Thank you and Happy Holidays.

F.Nick Ortiz
County of San Diego, Department of Planning & Development Services

Advance Planning Division, Transportation Planning section

5510 Overland Ave, Suite 310, San Diego, CA 92123

Roads#1 -- PUBLIC ROAD IMPROVEMENTS:

- By the 24th EDU of any phase, improve or agree to improve and provide security for **Deer Springs Road**, from Mesa Rock Road to the Interstate 15 (I-15) Southbound Ramps to Public Mobility Element Major Road with Auxiliary Lanes (4.1A) Standard or to a design standard with equivalent capacity in the event the improvements are part of or must conform to the **Interchange Improvements** (as defined in Condition ___ below). All of the above shall be to the satisfaction of Caltrans, the Director of PDS and the Director of Public Works. In the event the referenced improvements are included in and to be constructed as part of the **Interchange Improvements**, the satisfaction of this condition necessarily may be deferred to completion of the Interchange Improvements required to be constructed as a separate condition herein.
- By the 370th EDU of any phase, improve or agree to improve and provide security for the **I-15/Deer Springs Road Interchange Improvements**, including the intersection of Deer Springs Road with the I-15 Southbound and Northbound Ramps and associated capacity enhancing improvements to the overpass, per the selected interchange configuration, design, and construction package approved by Caltrans through the three phase PID-PA&ED-PS&E process ("**Interchange Improvements**"). All of the above shall be to the satisfaction of Caltrans, the Director of PDS and the Director of Public Works.

ROADS#3 – ROAD DEDICATION (ON-SITE AND OFF-SITE)

- Dedicate per separate document off-site right-of-way for **Deer Springs Road** in accordance with Public Road Standards for a **Major Road with Auxiliary Lanes (4.1A)**, to a width a determined per the Project Study Report – Project Development Support (PSR-PDS), from Mesa Rock Road to Interstate 15 (I-15), to the satisfaction of Caltrans and the Director of PDS and the Director of Public Works.

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Los Angeles	Singapore
Madrid	Tokyo
Milan	Washington, D.C.

May 31, 2018

VIA EMAIL

Ashley Smith
Planning and Development Services
County of San Diego
5510 Overland Avenue, Suite 310
San Diego, CA 92123

Re: Newland Sierra (Log No. PDS2015-ER-15-08-001; SCH No. 2015021036, Project Numbers: PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ-15-001, PDS2015-TM-5597, PDSXXXX-HLP-XXX) – Failure to Properly Analyze and Mitigate Biological Impacts

Dear Ms. Smith:

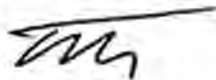
As you are aware, we represent Golden Door Properties, LLC (“Golden Door”), a world-class resort and agricultural operation in rural Twin Oaks Valley. The Golden Door has restored farming and beekeeping, including replanting many new trees, on its property, and shares its products through a community Farm Stand and other retail operations. The Golden Door has raised many concerns with the County about the proposed Newland Sierra Project and the impacts of adding urban density the size of the City of Del Mar in our rural community.

We write today with respect to the Project’s biological resources impacts, as follow-up to our letters dated May 22, 2017 (to the County) and May 21, 2018 (to the U.S. Fish & Wildlife Service, on which County staff were copied) and County staff’s letters to us dated June 5 and August 25, 2017 regarding the North County MSCP. As noted in the attached memorandum, there are many procedural and substantive deficiencies in the draft EIR and project application materials. We believe that these defects are of sufficient severity that the project application cannot proceed until these defects are corrected and the project’s environmental review documents are re-published to the public for review and comment under CEQA and other laws.

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Thank you for your time and attention to our comments. Please do not hesitate to contact us should you have any questions or comments.

Best regards,



Taiga Takahashi
of LATHAM & WATKINS LLP

Enclosure

cc: Darin Neufeld, County Planning and Development Services
Mark Slovick, County Planning and Development Services
William W. Witt, Office of County Counsel
Claudia Silva, Office of County Counsel
Dan Silver, Endangered Habitats League
George Courser, Sierra Club
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
Christopher Garrett, Latham & Watkins
Kathy Van Ness, Golden Door

May 31, 2018

**Comment on Newland Sierra Project's
Inadequate Biological Resources Analysis**

I. THE PROJECT'S EXEMPTION FROM THE RESOURCE PROTECTION ORDINANCE CANNOT EXEMPT IT FROM THE CEQA SIGNIFICANCE THRESHOLDS.

The significance threshold for biological resources is clear. As stated on page 2.4-81 of the draft EIR, "A significant impact would result if: ... The project would conflict with one or more local policies or ordinances protecting biological resources ... The project would impact any amount of wetlands or sensitive habitat lands as outlined in the Resource Protection Ordinance (RPO)." The Resource Protection Ordinance defines "sensitive habitat lands" as including not only wetlands, but also "steep slope lands." (County Code § 86.602(c).)

The Draft EIR erroneously asserts that "Impacts would be reduced to less than significant with implementation of M-BIO-8D, M-BIO-8A, and M-BIO-12" (draft EIR at pp. 2.4-134–135) but fails to discuss or analyze the fact that the Project's Resource Protection Plan admits that the project is not consistent with the RPO. (Dudek Resource Protection Plan for the Newland Sierra Project (April 2017) at pp. 4-5 ["County Staff and the Wildlife Agencies agree that the proposed Newland Sierra Project (project) is not feasible to implement if the County RPO is strictly applied to areas outside of the designated biological open space"]; see also draft EIR at p. 3.3-39 ["The project must also be in conformance with the RPO. However, the project is not strictly in conformance with RPO"].) Clearly, if the Newland project cannot be implemented due to the RPO, the project is necessarily fundamentally inconsistent and incompatible with the RPO's requirements. This is undoubtedly a significant impact under the County's CEQA significance thresholds. Newland's proposed exemption from the RPO, which would only take place after project approval, cannot exempt it from the significance threshold, which is applied before project approval.

II. THE PROJECT'S BIOLOGICAL ANALYSIS IS MISSING CRUCIAL INFORMATION.

A. The Project analysis does not resolve impacts to the natural fire regime.

Page 2.4-97 of the draft EIR states that "If the natural fire regime is suppressed, longer-than-natural fire return intervals can result in excessive buildup of fuel loads so that when fires do occur, they are catastrophic. Unnaturally long fire intervals can also result in senescence of plant communities, such as chaparral, that rely on shorter intervals for rejuvenation. The potential cumulative indirect project impacts would be significant (Impact BI-C-1)." (See also p. 2.4-65.)

The Draft EIR goes on to summarily conclude that "Potential cumulative indirect impacts would be significant and would be reduced to less than significant through mitigation measures M-BIO-8A through M-BIO-8E, which would provide for habitat management and conservation of open space areas that would allow for unimpeded wildlife movement and use. This impact would also be mitigated through M-BIO-10 through M-BIO-12." There is no discussion of the project's impacts on natural fire regimes. (See also Jennings, 2018: "Both scenarios (too little fire, too frequent fire) present potential threats for species and community dynamics in southern California as shifts in the natural fire regime, coupled with increasing habitat fragmentation, have the potential to impact wildlife populations, communities, and entire ecosystems.")

Only two mitigation measures address fire (M-BIO-8C and M-BIO-11) but neither discuss the project's impacts on natural fire regimes. In fact, if the project does indeed attain its goal "To minimize the potential exposure of the project Site to fire hazards" (p. 2.4-120), this would constitute creating "Unnaturally long fire intervals [which] can also result in senescence of plant communities, such as chaparral, that rely on shorter intervals for rejuvenation." Nothing in the

May 31, 2018

**Comment on Newland Sierra Project's
Inadequate Biological Resources Analysis**

draft EIR addresses this impact, and its failure to do so prevents the EIR from providing a legally adequate CEQA analysis.

B. The Project analysis does not conduct an adequate biological analysis of the impacts of the new interchange and instead illegally defers this analysis to another agency.

Page 2.4-123 of the draft EIR provides a deferred mitigation measure for the impacts of the new interchange, which the draft EIR concedes “may have the potential to impact or remove biological resources, including RPO wetlands.” The draft EIR then concludes that further study by Caltrans will “ensure potential impacts to biological resources remain less than significant.” This a classic example of illegally deferred mitigation.

It is axiomatic that in the right circumstances, an agency may defer the implementation of mitigation measures provided that the mitigation is enforceable and effective. What the agency may not do, however, is purport to make a significance conclusion based on the future study of the impact. That is exactly what the draft EIR does here. M-BIO-13 only states that Caltrans “should prepare, or cause to be prepared, a biological resources study to evaluate these potential impacts.” The County cannot make a significance conclusion based on a future study. In addition, M-BIO-13 contains no provisions to “ensure potential impacts to biological resources remain less than significant.”

The impropriety of M-BIO-13 is even clearer when the draft EIR itself discloses that the Newland clearly does know some detail of the scope and nature of the new interchange. For example, Figure 6D of the RPP clearly shows the outline of some design of the new interchange – accordingly, the draft EIR must analyze these impacts and not defer them for future study by another agency.

C. The Project's analysis regarding off-site wetlands is not supported by substantial evidence.

Table 3 of the RPP at page 22 asserts that impacts of off-site RPO wetlands is identical for either Option A or Option B. This appears to define common sense, given that Option A proposes “approximately 6,600-foot-long section of the segment of Deer Springs Road between Sarver Lane and Mesa Rock Road to a 2.1B Community Collector (two lanes of travel with a continuous center turn lane). The balance of the road southwest into the city of San Marcos and east to I-15, including its intersections with Sarver Lane and Mesa Rock Road, would be improved to a 4.1A Major Road (a four-lane road with a raised median),” whereas Option B proposes to “construct the entire length of the road from the I-15 interchange to its intersection with Twin Oaks Valley Road as a four-lane road, with an approximately 7,600-foot-long section of the road between Sarver Lane and Mesa Rock Road as a 4.1B Major Road (four lanes of travel with a continuous center turn lane), and the balance of the road, including its intersections with Sarver Lane and Mesa Rock Road, as a 4.1A Major Road.” Because Option A and Option B propose different widths to Deer Springs Road, the impacts to wetlands should also be different. But the RPP asserts the impact is identical. This cannot be the case unless Option A and Option B were identical, which they are not. Indeed, except for this one table, the entirety of the 70-page RPP makes no distinction between Option A and Option B—a severe informational deficiency that renders the draft EIR to be fundamentally incomplete and unable to legally proceed in its current form under CEQA.

May 31, 2018

**Comment on Newland Sierra Project's
Inadequate Biological Resources Analysis**

This, along with other inconsistencies identified in our other correspond, render the draft EIR fundamentally inadequate under CEQA and it requires substantial revision and recirculation before proceeding on for further review.

D. The Project analysis fails to identify or analyze inconsistency with the General Plan's resource protection requirements.

The General Plan generally requires compliance with the County's Resource Protection Ordinance. (See 2017 County General Plan Implementation Plan, at pp. 30, 36, 39.)¹ The project proposes to exempt itself from the Resource Protection Ordinance; therefore, it cannot be deemed to have complied with the applicable General Plan Policies. (As noted in the Implementation Plan, these include M-2.3, M-4.5, LU-6.1, COS-2.1, COS-2.2, COS-2.3, COS-3.1, COS-3.2, LU-7.2, COS-6.3, COS-6.4, S-3.1, S-3.2, S-3.3, LU-6.8, COS-5.3, COS-12.2, S-8.1, S-8.2, and S-9.6.)

Though the draft EIR asserts that the project's RPP is the "functional equivalent" to the RPO, as noted in our August 2017 comment letter, there is no analysis or evidence that substantiates this conclusory assertion. Similarly, there is no analysis or evidence that the RPP complies with the applicable General Plan Policies noted herein.

E. The Project analysis fails to analyze the project under the County's Biological Mitigation Ordinance.

The EIR is also defective because it does not include an appropriate analysis of Biological Mitigation Ordinance requirements. Page 2.4-90 of the draft EIR claims that "The Biological Mitigation Ordinance does not apply to the draft North County Plan planning area. Therefore, no impacts to Biological Resource Core Areas would occur." This is an improper analysis under CEQA. The current publicly available draft North County MSCP (<https://www.sandiegocounty.gov/content/dam/sdc/pds/mscp/docs/MSCPNorthCountyPlan.pdf>) at pages 13-14 states that "The County's BMO (Appendix A) will be the primary instrument for determining mitigation requirements for discretionary development projects." Appendix A (<https://www.sandiegocounty.gov/content/dam/sdc/pds/mscp/docs/AppendixANCBMO.pdf>) presents draft Biological Mitigation Ordinance requirements for the North County MSCP area. If the project is going to take "credit" for being in the draft North County MSCP area (which it does, see, for example, page 3.3-44 of the draft EIR, asserting that "The proposed project is currently designated as 'Proposed Hardline Area' in the North County MSCP"), then it must also analyze the requirements of the current draft, including the draft Biological Mitigation Ordinance for the North County MSCP area. Otherwise, it is a defective analysis that does not meet CEQA's requirements. (See, e.g., *Banning Ranch Conservancy v. City of Newport Beach* (2017) 2 Cal.5th 918, 941 ["For all the reasons stated above, the Banning Ranch EIR is insufficient. The City did provide a detailed biological analysis of project impacts, which may have been adequate were Banning Ranch not in the coastal zone. But, however technically accurate the City's analysis might otherwise be, it fell short by failing to account for the Coastal Act's ESHA protections."].)

¹ Available at

https://www.sandiegocounty.gov/content/dam/sdc/pds/gpupdate/docs/GP/Implementation%20Plan_v2017.pdf.

May 31, 2018

**Comment on Newland Sierra Project's
Inadequate Biological Resources Analysis**

F. The Project's analysis of impacts to California gnatcatcher is not supported by substantial evidence.

The draft EIR notes that a large portion of the project site (over 700 acres) is designated as "critical habitat" for the California gnatcatcher, which is a federally protected species under the Endangered Species Act. (Draft EIR at p. 2.4-28.) The draft EIR then dismisses the critical habitat designation and concludes there will be a less than significant impact because "the project was designed to avoid 33 percent (25.2 acres) of the suitable habitat" (*Id.* at p. 2.4-93.) The threshold for significance makes no mention of "suitable habitat" – rather, it states broadly that an impact will be significant if the project "would reduce the likelihood of survival and recovery of listed species in the wild." (*Id.* at p. 2.4-81.) The draft EIR fails to provide any analysis regarding whether the project's impact on "critical habitat" "would reduce the likelihood of survival and recovery" of California gnatcatcher. The draft EIR cannot dismiss the critical habitat designation and focus only on "suitable habitat for nesting." As noted by the U.S. Fish & Wildlife Service, critical habitat "contain[s] features essential to the conservation of an endangered or threatened species and that may require special management and protection. Critical habitat may also include areas that are not currently occupied by the species but will be needed for its recovery."² "Nesting" is not the only important factor in the "survival and recovery of listed species in the wild"; "physical or biological features needed for life processes" must also be considered. These include: "space for individual and population growth and for normal behavior; cover or shelter; food, water, air, light, minerals, or other nutritional or physiological requirements; sites for breeding and rearing offspring; and habitats that are protected from disturbances or are representative of the historical geographical and ecological distributions of a species ... unoccupied areas that are essential for the conservation of the species." The draft EIR's failure to consider these factors renders it an inadequate document under CEQA.

G. The Project does not adequately mitigate for impacts to oak root zones.

The draft EIR states that there will be a requirement for 58.8 acres of mitigation for the project's impacts to oak root zones. (Draft EIR at p. 2.4-173.) The draft EIR also asserts that the project will provide "excess" mitigation of 2.1 acres. (*Ibid.*) This is a clear informational error that requires correction and recirculation, because the discrepancy in the calculation cannot be dismissed by mere "rounding error." The mitigation table discloses that the project will mitigate approximately 38.5 acres (21.7 on-site and 16.8 off-site). The mitigation requirement is approximately 58.8 acres; accordingly there is a mitigation *deficit of 21 acres*, not an excess of "2.1" acres. This failure to properly analyze and mitigate these impacts is sufficient to find the draft EIR legally inadequate. (See, e.g., *Lotus v. Department of Transportation* (2014) 223 Cal.App.4th 645.)

H. The Project analysis' conclusory assertion regarding impacts to wildlife crossings is not supported by substantial evidence.

Even though the project proposes to substantially expand the width of Deer Springs Road (to double or even triple its current size, from 2 lanes to 4 or 6 lanes), the draft EIR concludes, without any evidence, that "Wildlife are expected to cross Deer Springs Road and Twin Oaks Valley Road similar to current conditions, because the open space configuration would allow for continued movement to the south and west." Open space to the north and east does not determine the viability of wildlife crossings; rather, as noted by biological experts,

² See <https://www.fws.gov/endangered/what-we-do/critical-habitats-faq.html>.

May 31, 2018

**Comment on Newland Sierra Project's
Inadequate Biological Resources Analysis**

wildlife crossings are also impacted by the width of the road and traffic volumes, both of which the project proposes to substantially increase. These impacts require mitigation, but the project proposes none other than "open space":

- "to adequately ensure there is functional connectivity for wildlife to move to and from the open space in the San Marcos Mountains, appropriately sited and designed wildlife crossing structures need to be installed along Twin Oaks Valley Road." (Jennings, 2017);
- "The proposed increase in the size of Deer Springs Road, the improvements to the I-15 interchange, as well as the expansion of the footprint of development in the immediate vicinity of the I-15 interchange would be exceptionally difficult to plan so that wildlife could continue to move through the area, particularly given the importance of north-south movement through this area ... Appropriately sized, spaced, sited, and designed structures must be included in the design of the road to allow for wildlife movement to avoid increasing the mortality effect of the road and limit the degree of the barrier effect that will occur when the road is widened. Furthermore, incorporating the addition of wildlife crossing structure." (Jennings, 2017);
- "Other roads of concern in the proposed project are Camino Mayor and the proposed section of Mesa Rock Road that would bisect the proposed central section of "open space". These two roads would also need to incorporate appropriate wildlife crossing structures to limit the impacts of these roadways on habitat and movement." (Jennings, 2017).

However, having "open space" does not address the actual increased physical difficulty of wildlife crossing what is currently a 2-lane road as compared to what the project proposes to be at least a 4-lane road or even 6-lane road. There is simply no substantial evidence in the record that "Wildlife are expected to cross Deer Springs Road and Twin Oaks Valley Road similar to current conditions" even when Deer Springs Road is widened to double or triple its current size.

I. The Project analysis impermissibly fails to include an evaluation of a "non-MSCP hardline" alternative.

Planning Director Mark Wardlaw wrote in a letter dated June 5, 2017, that:

In order for a project to be included as a hardline within the approved Multiple Species Conservation Plan - North County Plan (Final Plan), the project footprint to be developed and the footprint to be preserved, including any offsite mitigation areas, must be concurred upon by the Wildlife Agencies, the project proponent, and the County. While the Project is the only proposed project included within the current Draft Plan that has not yet received Board approval, inclusion of the Project in the Draft Plan does not, in any manner, indicate County support for the Project or provide the Project with an approval advantage.

May 31, 2018

**Comment on Newland Sierra Project's
Inadequate Biological Resources Analysis**

(See also Letter from R. Talleh, Deputy Director, Planning & Development Services, County of San Diego, *RE: Response to "North County MSCP Steering Committee Presentation"* (Aug. 25, 2017).)

However, the Newland Project draft EIR assumes the Project's inclusion in the "hardline" areas in the draft North County MSCP. Because the North County MSCP is still in draft form and still requires concurrence from federal and state wildlife agencies—and if it is indeed true that "inclusion of the Project in the Draft Plan does not, in any manner, indicate County support for the Project or provide the Project with an approval advantage"—the Project's environmental review documents must evaluate a "non-MSCP hardline" alternative. This alternative would analyze the Project under the possibility that the project site is not included with the MSCP hardline areas.

Failure to include a "non-MSCP hardline" alternative effectively concedes that the Project is going to be included within the North County MSCP hardline area and therefore is a violation of CEQA's rule against piecemealing project approvals. Assuming that the Project site will be designated as "hardline" in the North County MSCP does, in fact, "indicate County support for the Project or provide the Project with an approval advantage" if there is no evaluation of an alternative that does not assume the hardline designation.

Further, failure to analyze a "non-MSCP hardline" alternative or continuing to assume that the Newland Project will be designated as "hardline" in the final North County MSCP violates several mandatory general plan policies. First, as noted in our May 21 letter, General Plan Policy COS-1.4 requires the County to "collaborate," with federal and state wildlife agencies regarding resource preservation. Assuming the inclusion of the Newland project within the MSCP hardline areas before the North County MSCP has been approved violates this policy. Similarly, assuming the inclusion of the Project within the MSCP hardline areas prior to public review and comment on the current draft of the North County MSCP violates General Plan Policy COS-1.10. General Plan Policy COS-1.10 requires the County to "Ensure an open, transparent, and inclusive decision-making process by involving the public throughout the course of planning and implementation of habitat conservation plans and resource management plans." The County's assumption that the Newland Project will be approved as a hardline area in the North County MSCP effectively evades public involvement and input regarding whether the Project Site should be included as a hardline area.

To remedy these errors, the Newland EIR must either include the evaluation of a "non-MSCP hardline" alternative or it must be delayed until after the draft North County MSCP has been approved.

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June 13, 2018

VIA EMAIL

Ashley Smith
 Planning and Development Services
 County of San Diego
 5510 Overland Avenue, Suite 310
 San Diego, CA 92123

Re: Newland Sierra (Log No. PDS2015-ER-15-08-001; SCH No. 2015021036, Project Numbers: PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ-15-001, PDS2015-TM-5597, PDSXXXX-HLP-XXX) – Newland Sierra Project Inconsistency with North County MSCP

Dear Ms. Smith:

As you are aware, we represent Golden Door Properties, LLC (“Golden Door”), a world-class resort and agricultural operation in rural Twin Oaks Valley. The Golden Door has restored farming and beekeeping, including replanting many new trees, on its property, and shares its products through a community Farm Stand and other retail operations. The Golden Door has raised many concerns with the County about the proposed Newland Sierra Project and the impacts of adding urban density the size of the City of Del Mar in our rural community.

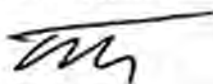
We write today with respect to the Project’s critical inconsistencies with the draft North County MSCP, as a follow-up and supplemental comment to our prior correspondence, in particular our letters dated May 21, 2018, and May 31, 2018. As noted in the enclosed report by Dr. Megan Jennings, there are many procedural and substantive deficiencies in the draft EIR with regarding to this issue. In particular, the draft EIR’s assumption that the Newland project will be designated as “hardline” in the draft North County MSCP “will threaten the functionality of the preserve in the central coastal zone of the [Gopher Canyon-Twin Oaks] plan area.” We believe that these defects are of sufficient severity that the project’s review and processing cannot proceed until these defects are corrected and the project’s environmental review documents are re-published to the public for review and comment under CEQA and other laws. Specifically, the County must evaluate a non-MSCP hardline alternative in the Newland EIR. As noted by the Fourth District Court of Appeal, a valid CEQA analysis should include an evaluation of the project against the current regulations, e.g.: “[E]stimates based on current

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regulations were also required since the anticipated revised regulations had not yet been enacted.” As you know, the draft North County MSCP has not yet been enacted.

Thank you for your time and attention to our comments. Please do not hesitate to contact us should you have any questions or comments.

Best regards,



Taiga Takahashi
of LATHAM & WATKINS LLP

Enclosure

cc: Darin Neufeld, County Planning and Development Services
Mark Slovick, County Planning and Development Services
William W. Witt, Office of County Counsel
Claudia Silva, Office of County Counsel
Dan Silver, Endangered Habitats League
George Courser, Sierra Club
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
Christopher Garrett, Latham & Watkins
Kathy Van Ness, Golden Door

ENCLOSURE

Draft North County Multiple Species Conservation Plan Issues Relating to the Proposed Newland Sierra Project

Megan K. Jennings, Ph.D.

June 12, 2018

Based on a review of the May 23, 2017 working draft of the North County Multiple Species Conservation Plan (NC MSCP), there are several issues of NC MSCP consistency and feasibility as it relates to the proposed Newland Sierra project and the proposed hardline of the project area in this draft of the NC MSCP. The proposed Newland Sierra project will preclude implementation of the conservation goals of the NC MSCP, challenging connectivity and the overall functionality of the reserve design of the NC MSCP as well as vegetation conservation targets.

Connectivity and Reserve Design Issues

The proposed open space design for the Newland Sierra project is inconsistent with the conservation and connectivity goals of the North County MSCP and precludes resilient reserve design in the western portion of the plan area.

Proposed Hardline Not Reviewed or Approved by Wildlife Agencies

The proposed hardline of the Newland Sierra project was put into the draft plan by the County at the developer's request but not yet been reviewed by wildlife agencies or been available for public comment. Hardline projects are areas where development impact areas and the preserved open space areas have been predetermined and hardlined for the purposes of a conservation plan. Hardline projects are included and analyzed in Habitat Conservation Plans approved pursuant to 16 U.S.C. section 1539(a)(2)(A) and Natural Community and Conservation Planning Act (California Fish and Game Code section 2800 et seq.) plans such as the NC MSCP. These plans must receive concurrence from the U.S. Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) prior to implementation.

In the case of the NC MSCP, the plan must also be approved by the County Board of Supervisors. To date, the NC MSCP has received neither the required concurrence from the wildlife agencies nor the approval of the Board of Supervisors. The determination to place this area into hardline is in direct conflict with the management goals of the NC MSCP and is based on an inadequate assessment of connectivity and is in direct conflict with Wildlife Corridor Conservation Goal and Actions (p. 5-83) stated in the Draft NC MSCP dated May 2017 (and see below).

Connectivity Design of Project Inconsistent with NC MSCP Corridor Conservation Goal and Actions

The main goal relating to connectivity is to "conserve wildlife corridors within the Preserve, and connect adjacent HCP core areas for a range of wildlife species."

More specifically, the Corridor Conservation Actions (p. 5-83) state that:

- Large contiguous blocks of habitat are preferred
- Stepping stones are not a goal, rather a minimum
- Corridors should have edge buffering
- Design should consider factors that impact wildlife passage like human developments, edge effects, roads and driveway, reduced structural and compositional diversity of vegetation, agricultural cultivation, free roaming pets, lighting, and noise

- Whenever possible, include deliberate redundancies linking cores in more than one way to establish and/or retain functional connectivity

The proposed design of open space “Blocks” and “Corridors” in the Newland Sierra project is not consistent with these draft guidelines for connectivity planning and implementation in the NC MSCP. Instead, the proposed design separates the second largest block of open space remaining in the Draft NC MSCP Plan area in three separate blocks. The three separate blocks are 870.2, 153.9, and 185 acres and are described as “interconnected” (DEIR, p. 2.4-1). All are considered “medium” in size according to the Draft NC MSCP (pp. 4-4 to 4-5), and two are on the small end of medium. These three blocks are separated from each other by large sections of the development, roads, or passage through narrow pinch points that constrain wildlife movement. The design creates stepping stones that are separated and confined by the proposed development features and the “corridors” are not buffered from these effects. Furthermore, the most likely movement pathways in the proposed plan area will be permanently altered by development.

In the DEIR, the two smaller habitat blocks (Block 2 and Block 3) in the proposed project are included in a description of the proposed open space design as “large, interconnected open space blocks within the project” (DEIR, p. 2.4-1). The size of the proposed open spaces under the proposed development plan are compared to that of other preserved lands in the vicinity of the project area (DEIR, Table 2.4-24, p. 2.4-168) to assert that the two smaller habitat blocks (Block 2 and Block 3) in the proposed project are of adequate size and support a reserve design consistent with the Draft NC MSCP. However, what this in fact demonstrates is that the project would take the second largest block of habitat remaining west of I-15 in the NC MSCP Plan area and fragment it resulting in three smaller “medium” blocks, as defined by the Draft NC MSCP (pp. 4-4 to 4-5), two of which are on the small end of medium. This is directly in conflict with the stated connectivity and conservation planning goals of the NC MSCP.

In addition, the flawed logic justifying the open space design that would fragment this large habitat block ignores the fact that the configuration and location of these blocks is just as important as their size to supporting wildlife movement. Reducing the overall size of the habitat patch in this area will significantly impact wildlife habitat and movement and cannot be adequately mitigated by an open space design that introduces more fragmentation and exposure to edge effects.

Site-Specific Connectivity Issues

Under the Draft NC MSCP, the Valley Center Planning Unit (PU) and Gopher Canyon-Twin Oaks PU would more appropriately be treated as one piece, similar to the Santa Margarita-Mt. Olympus PU that crosses over I-15. The pre-approved mitigation area (PAMA) in the combination of these two units primarily functions to preserve wildlife connectivity, particularly east-west connectivity across I-15, and as such, should be interconnected when considering the stated goals and conservation actions for each PU. The Merriam Mountains is critical to accomplishing conservation actions stated in each of these Planning Units.

For the Valley Center PU, there is a Conservation Action that states (bold type added to emphasize critical elements of the NC MSCP objectives and actions that are threatened by the proposed Newland-Sierra hardline):

Conserve land within this Planning Unit to ensure the ecological functionality of the Valley Center Linkage (see Section 5.4)

Issue: However, there is a conflict between specific proposed activities in the Newland-Sierra hardline area and this NC MSCP action, because the Merriam Mountains area is a key pinch point for this implementing this action.

For the Gopher Canyon-Twin Oaks PU, one Conservation Action is to:

Conserve land to provide for wildlife movement between the Gopher Canyon-Twin Oaks Planning Unit and conserved lands within adjacent MHCP Plan Areas (San Marcos).

Issue: Again, there is a conflict between specific proposed activities in the Newland-Sierra hardline area and this NC MSCP action, because the Merriam Mountains area is a key pinch point towards accomplishing this goal.

Further, in the section on Regional Linkages under Section 5.4 “Preserve Connectivity” (p. 5-69), the description of the Valley Center Linkage (NC3) acknowledges “Several impediments to connectivity exist within this linkage including Interstate 15 and Old Highway 395. Portions of Moosa Creek, particularly west of Interstate 15, are heavily constrained by existing agricultural and residential development.”

As such, the Merriam Mountains area should be considered in planning for landscape connectivity between Valley Center and Bonsall, in particular for species that may move along ridges or mid-slopes and through chaparral rather than riparian areas.

The I-15 linkage should also have a wide buffer so as not to incur edge effects from adjacent development, wherever possible. There is already development in a number of locations along this linkage, so preserving larger blocks of high quality habitat for resting and foraging along the corridor are important for its functioning as a stepping stone corridor.

Vegetation Community Conservation Issues

There are no specific vegetation community conservation acreage targets for each of the North County NC MSCP Planning Units (PUs), but this the scale at which impacts will occur and preservation of these vegetation communities requires a consideration of the spatial distribution of intact communities of each vegetation type as well as the distribution of the proposed activities (e.g., development projects such as the Newland Sierra project) that will fragment the natural vegetation in those areas.

There are 15,645 acres of chaparral vegetation, the predominant vegetation type in the Merriam Mountains, currently in the baseline preserve of the NC MSCP For chaparral vegetation. Another 24,885 acres of chaparral is within Pre-approved Mitigation Area (PAMA) and an additional 9,470 acres are likely to be acquired by public agencies and land conservancies.

The goal for this vegetation type is to establish: “Large areas of conserved chaparral vegetation, featuring a variety of chaparral types, throughout the Plan Area sufficient to maintain sustainable occurrences of covered species utilizing this habitat.”

The distribution of the types of chaparral vegetation mentioned is not mapped or described in the NC MSCP. According to the SANDAG vegetation layer, the Merriam Mountains chaparral is southern mixed chaparral.

Chaparral Objectives (bold type added to emphasize the critical element of the NC MSCP objectives and actions threatened by the proposed Newland-Sierra hardline):

- Conserve a total of X acres of chaparral vegetation featuring a variety of chaparral types, within publicly held and privately owned conserved lands (including Baseline Preserve).
- **Maintain the viability** of 15,645 acres of chaparral vegetation within the Baseline Preserve

- Conserve X acres of chaparral vegetation within the PAMA through avoidance and mitigation for private development projects during the 50-year permit term.
- Conserve X acres of chaparral vegetation within the PAMA through acquisition by public agencies and land conservancies during the 50-year permit term.

Chaparral Conservation Actions (bold type added to emphasize critical elements of the NC MSCP objectives and actions that are threatened by the proposed Newland-Sierra hardline):

- 1) **Conserve chaparral vegetation throughout the PUs, particularly within the Santa Margarita-Mount Olympus (PU-1), Guejito-Pauma (PU-2), and Ramona (PU-8) PUs**

Issue: There is a conflict between specific proposed activities in the Newland-Sierra hardline area and this NC MSCP objective, because the viability of entire vegetation communities cannot be accomplished if conservation targets are focused only on certain locations within the Plan Area. These targets must be set in a programmatic fashion (i.e., at the PU level), not on an ad-hoc, project-by-project basis.

- 2) **Conserve large areas of chaparral contiguous with other natural vegetation communities to provide linkages and corridors for covered species and other sensitive species within the plan area.**
- 3) **Manage chaparral vegetation within conserved lands to benefit covered species, including Hermes copper butterfly, Del Mar manzanita, and Encinitas baccharis**

Issue: There is a conflict between specific proposed activities in the Newland-Sierra hardline area and this NC MSCP objective, because this objective cannot be achieved if there are very few conserved lands within a PU. Acquisitions and conservation in PAMA must also be targeted to benefit covered species.

- 4) **Implement the North County BMO, RPO, and Conservation Subdivision Program to require avoidance, minimization, and mitigation measures for impacts to chaparral vegetation for private and public projects**

Issue: The Newland Sierra project should be held to this standard. The draft EIR proposes to exempt the project entirely from the RPO and essentially asserts that there are no requirements or standards of the BMO that may be applied, even though there is a draft BMO for North County in the draft NC MSCP.

Although the Objectives for the planning unit focus on the viability of natural vegetation within the baseline preserve, the 321 acres in the Gopher Canyon-Twin Oaks PU make up less than 7% of the chaparral vegetation within the PU. The viability of the vegetation is dependent on what is happening in the surrounding environs. This includes fragmentation that may introduce or increase the spread of invasive plants and increased fire risk that, through repeated fires at short intervals, could result in vegetation type conversion from chaparral to non-native annual grasses in this planning unit.

Fire-return intervals (the average time between two fire events) in southern Californian shrubland habitats are now 30% shorter now than during pre-settlement (Keeley *et al.* 1999, Safford *et al.* 2011). This shifting disturbance regime with shortened intervals between fires interrupts the successional cycle, reduces plant diversity, and can result in large-scale vegetation type conversion to non-native annual grasslands (Zedler *et al.* 1983, Bachelet *et al.* 2001, Lenihan *et al.* 2003, Syphard *et al.* 2006, Keeley and Brennan 2012), and has been linked to increased human development, particularly at intermediate densities (Syphard *et al.* 2007, 2009). As human populations in southern California have grown dramatically over the last century, particularly in coastal areas, short fire-return intervals paired with habitat fragmentation may have synergistic and long-term impacts on landscape connectivity that present a formidable conservation challenge.

In the NC MSCP Plan Area, the proposed hardline for the Newland Sierra project would result in loss and degradation of over 35% of the chaparral vegetation in the Gopher Canyon-Twin Oaks PU (1,760 acres out of 4,779). Overall, this represents a nearly 23% reduction of native cover across the entire planning unit (1,760 acres out of 7,752), contrary to chaparral Conservation Action 1.

With only 719 acres of baseline preserve in this PU to start with and over 7,000 acres of natural vegetation, development of greater than one-quarter of the land available for PAMA in this Planning Unit will threaten the functionality of the preserve in the central coastal zone of the plan area.

This is particularly concerning because the Gopher Canyon-Twin Oaks PU is one of only three PUs west of the I-15, and it is a critical component of the western portion of the plan area.

Further, the loss and fragmentation of this large, contiguous block of chaparral is inconsistent with Conservation Action 2 because potential linkages between the Valley Center PU immediately to the east will be separated and there will be no viable connection between the chaparral vegetation in these two PUs. This connection is important because the Valley Center PU is primarily made up of long, linear strings of preserve and PAMA, and large core areas are needed adjacent to these areas to preserve viable vegetation communities and populations of covered and listed plant and animal species.

In addition, if the NC MSCP covered species associated with chaparral are to maintain viable populations, then distribution of adequate blocks of contiguous habitat comprised of chaparral vegetation should be preserved throughout the plan area, rather than just in the 3 largest Planning Units (Santa Margarita-Mount Olympus, Guejito-Pauma, and Ramona), which are primarily east of I-15. These covered species include western spadefoot toad, coast horned lizard, golden eagle, and pallid bat.

Accordingly, it is critical that these important programmatic biological conservation issues are resolved through the NC MSCP process, before the Newland Sierra project should assume either the nature or extent of the NC MSCP's treatment of the Merriam Mountains area in developing any project in this area. Given the importance of the Merriam Mountains area to biological conservation objectives and actions in the draft NC MSCP and as set forth in federal and state laws and regulations, the best practice would be for the NC MSCP to be fully studied, analyzed, and approved before moving forward with any consideration of large-scale development in the Merriam Mountains area.

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June 14, 2018

VIA EMAIL

Ashley Smith
Planning and Development Services
County of San Diego
5510 Overland Avenue, Suite 310
San Diego, CA 92123

**Re: Newland Sierra (Log No. PDS2015-ER-15-08-001; SCH No. 2015021036,
Project Numbers: PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-
REZ-15-001, PDS2015-TM-5597, PDSXXXX-HLP-XXX) –
Failure to Properly Analyze and Mitigate Impacts from Noise**

Dear Ms. Smith:

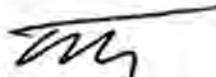
As you are aware, we represent Golden Door Properties, LLC (“Golden Door”), a world-class resort and agricultural operation in rural Twin Oaks Valley. The Golden Door has restored farming and beekeeping, including replanting many new trees, on its property, and shares its products through a community Farm Stand and other retail operations. The Golden Door has raised many concerns with the County about the proposed Newland Sierra Project and the impacts of adding urban density the size of the City of Del Mar in our rural community.

We write today with respect to the Project’s noise impacts, as follow-up and supplemental to our prior correspondence. As noted in the attached memorandum, there are many procedural and substantive deficiencies in the draft EIR with regarding to this issue. We believe that these defects are of sufficient severity that the project’s review and processing cannot proceed until these defects are corrected and the project’s environmental review documents are re-published to the public for review and comment under CEQA and other laws.

LATHAM & WATKINS^{LLP}

Thank you for your time and attention to our comments. Please do not hesitate to contact us should you have any questions or comments.

Best regards,



Taiga Takahashi
of LATHAM & WATKINS LLP

Enclosure

cc: Darin Neufeld, County Planning and Development Services
Mark Slovick, County Planning and Development Services
William W. Witt, Office of County Counsel
Claudia Silva, Office of County Counsel
Dan Silver, Endangered Habitats League
George Courser, Sierra Club
Stephanie Saathoff, Clay Co.
Denise Price, Clay Co.
Christopher Garrett, Latham & Watkins
Kathy Van Ness, Golden Door

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4 June 2018

Kathy Van Ness
Golden Door Properties, LLC
777 Deer Springs Road
San Marcos, California

SUBJECT: Newland Sierra – San Diego County, California
Acoustic and Vibration Review

Dear Ms. Van Ness:

Per your request, we have reviewed the following sections of the Draft Environmental Impact Report (DEIR) for the Newland Sierra Project (dated June 2017) in San Diego County, California with the primary focus the potential significant impacts to the existing operations at the Golden Door.

- Section 2.10 Noise
- Section 2.13 Traffic and Circulation
- Appendix Q: Noise Report (by DUDEK)
- Appendix R: Traffic Impact Analysis (by LLG)

In summary, the current Newland project assessment is incomplete. First, it does not fully address regulatory requirements; it does not include a proper noise survey of the project site and vicinity that establishes baseline conditions with appropriate confidence. Second, the Newland studies have not proposed mitigation measures for identified significant impacts; rather they propose deferred analysis or classifies them as unavoidable. We disagree with such positions for the reasons noted herein.

The study is missing an assessment of noise and vibration at the Golden Door property, where quiet ambient conditions are required for operation. Some construction activities identified in the study would likely be disturbing and clearly audible above ambient conditions, even if the San Diego County noise limits are met. The Newland technical analysis should, but does not, address these conditions.

NOISE AND VIBRATION CRITERIA

The Newland technical analysis is generally missing an assessment of noise and vibration impacts to the Golden Door facility, located south-west of the project along Deer Springs Road. This assessment should be included given the Golden Door's proximity to Deer Springs Road and the project site. This receiver (the Golden Door property) should be assessed using the standards for residential uses and NSLUs since it includes sleeping facilities, and meets the following definition from *San Diego County Guidelines for Determining Significance* (dated January 2009):

1.1.6 Noise Sensitive Land Use (NSLU)

Any residence, hospital, school, hotel, resort, library, or similar facility where quiet is an important attribute of the environment.

This type of facility relies on quiet ambient conditions with minimal intruding noise common in a rural area to operate successfully. Existing ambient conditions should be maintained to avoid significant impacts and such an assessment is required for CEQA items XI.c and XI.d discussed below.

NOISE SURVEY

The noise study by DUDEK is incomplete as it has not properly documented existing ambient noise levels in the project vicinity. Only daytime short-term noise measurements (20 mins long) were taken (primarily next to existing roadways). This is insufficient to establish ambient noise conditions (CEQA Items XI.c & d) or to address regulatory requirements (CEQA Item XI.a).

Noise standards in the San Diego County General Plan are in terms of CNEL, which is the average noise level over 24-hours. Accordingly, CNEL inherently requires noise measurements over 24-hour period, at a minimum. Measurements were only taken during mid-day and do not allow for establishing the full range of noise exposure, particularly for congested segments such as Deer Springs Road (currently Traffic Level of Service F). (Refer to definitions of common acoustical terms attached to this letter.)

Statistical noise metrics (such as L90 and L99) (typically required to properly establish existing ambient conditions) are missing from the noise study. We anticipate ambient noise levels are very low away from the road on the Golden Door property and a survey of these conditions should be considered to properly evaluate the impact of construction related noise as discussed in the sections below.

Newland Sierra
Acoustic Review of DEIR
4 June 2018
Page 3 of 11

The Newland technical analysis does not use proper instrumentation. Measured daytime levels were as low as 39 dBA, which is near the noise floor (lowest measurable level) of the sound level meter used in the Newland technical analysis (SoftdB Piccolo). This type of instrument may not be adequate in conducting 24-hour noise surveys since nighttime and early morning ambient noise levels are expected to be at or below this level.

Reported existing conditions on Deer Springs Road should be further evaluated and compared to the noise study performed for the San Diego County General Plan Update (FEIR Dated August 2011, Section 2.11), which reports existing noise levels close to 10 dB lower (64 dBA CNEL) than the DUDEK study at a similar distance from the road (100 feet). It is difficult to evaluate the credibility or merits of the Newland technical analysis without analysis as to why existing noise levels are different in the General Plan Update analysis.

TRAFFIC NOISE MODELING

The Newland noise study has not clearly documented the basis of modeling for future conditions without the project. This is key in assessing noise under CEQA Items a, b and c as described in the sections below.

The study has not included adequate documentation of modeled future conditions with the proposed road changes along Deer Springs Road (Options A and B) including adding new lanes (e.x. 6 lane vs 4 lane vs 2 lane with shared turning lane), grading and realignment that all affect traffic noise exposure. Without this information, the accuracy of the modeled future conditions cannot be verified.

CEQA ITEM XI.a – Noise exposure exceeding codes and standards

Traffic Noise

The study is missing assessment of project generated traffic noise against the following noise limits in the San Diego County General Plan (Table N-2, Items 1 & 3). A proper noise survey with minimum 24-hour measurements is required to address these limits as described in the section above.

- 60 dBA CNEL at existing or future noise sensitive land uses (NSLU)
- 65 dBA CNEL at existing commercial land uses

The Newland study has only partially assessed project noise against the following significance criteria (*San Diego County Guidelines for Determining Significance*). The Newland study has not properly documented existing conditions (see Noise Study section above). Further, the basis of the traffic noise modeling may be flawed and require revisiting as described below.

Newland Sierra
Acoustic Review of DEIR
4 June 2018
Page 4 of 11

- 3 dB increase over existing, at “documented noisy site” (exceeding standards above)
- 10 dB increase over existing
- 2 dB increase over existing, inclusive of non-project conditions

Future traffic noise on Deer Springs Road without the project may be overpredicted, considering that this road and nearby intersections are currently operating at Level of Service LOS F as described in the Traffic Impact Analysis (Appendix R1a), which would limit traffic noise due to reduced speed during congestion. Traffic noise should be assessed under free traffic flow conditions (typically at LOS C), as this would result in worst-case noise exposure.

The predicted noise levels appear to be based on the expansion of Deer Springs Road according to the San Diego County General Plan, but this may not be an accurate representation of future conditions for the following reasons.

First, this roadway expansion may not be an active project or may not occur at all (could be accepted at LOS F), consistent with the *Regional Connectivity* policy in the Mobility Element of the San Diego County General Plan, considering this roadway is already beyond capacity:

“Regional connectivity issues would apply when congestion on State freeways and highways causes regional travelers to use County roads, resulting in congestion on the County road network. Rather than widening County roads to accommodate this traffic, the deficiencies in the regional road network should be addressed.”

Future traffic on this road (without the project), if expanded, may not increase, because traffic flow may be limited by the service level of the I-15 interchange area, as the Deer Springs Road segment and turning lanes were accepted at LOS E/F per the Mobility Element of the current general plan.

Furthermore, Caltrans reportedly has no projects in this area, including the I-15 interchange, and has stated that the traffic impact study is “insufficient and misleading” (see letter from Roy Abboud dated August 10, 2017). Since the Newland study appears to be the basis for future traffic noise analysis, it needs to be revised to address any changes in the traffic analysis

General Construction Noise

Section 3.3 of the report provides only a generic assessment of noise and vibration from general construction activities such as grading, earthmoving, batch processing and others. Assessment is only included for residential receivers near the proposed project entrance (I-15 interchange) and is missing assessment for other NSLUs such as residences and the Golden

Newland Sierra
Acoustic Review of DEIR
4 June 2018
Page 5 of 11

Door property along Deer Springs Road. Assessment of construction of Deer Springs Road is also missing.

The study concludes the following are potentially significant impacts but proposes no mitigation (discussed below):

- On-site construction of Town Center neighborhood
- Construction on Mesa Rock Road at proposed project entrance

The study has incorrectly determined the following impacts to be less than significant due to “project design features” such as properly maintained construction equipment, generic setbacks from sensitive receivers, and others, but provides no quantitative evidence to support this claim (mitigation discussed below).

- Construction staging areas
- Equipment repair
- Portable Rock-Crushing/Processing Facility

Construction Related Traffic Noise

Construction traffic on Deer Springs Road is improperly assessed by comparing the anticipated number of vehicles on the road to what appears to be the peak hour and average daily traffic volume (ADT). Construction traffic is typically comprised of large trucks and other heavy vehicles, which generate higher noise levels than typical automobiles.

According to observations made during the Newland noise study, traffic on Deer Springs Road is primarily automobiles, with trucks accounting for less than 5% total volume. Construction traffic would therefore be out of character for this existing rural area and should instead be assessed based on noise increase over ambient conditions and the county’s limits at sensitive receivers.

Other Construction Activities

Some other construction activities may include blasting, pile driving, rock crushing, cement batch plant, and possibly others. The Newland study confirms such activities will likely be used for this project. The Newland study does not include a technical assessment of blasting noise but identifies it as a potentially significant impact requiring further analysis (mitigation discussed below).

The Newland study has not properly analyzed noise from pile driving, claiming the county’s impulsive noise limits do not apply since the pile driver would not generate noise for more than 20% of the hour, which is below the county’s threshold of 25% of the measurement time

Newland Sierra
Acoustic Review of DEIR
4 June 2018
Page 6 of 11

(*San Diego County Guidelines for Determining Significance, Noise, Section 4.2.C*). However, the claimed 20% use time is based on a generic “use factor” used by noise prediction software issued by the Federal Highway Administration (FHWA). The Newland study does not even attempt to make an estimate of actual usage time. A project specific analysis should therefore be provided based on the actual and detailed project construction schedule and plan as discussed in the mitigation section below.

CEQA ITEM XI.b – Excessive exposure to groundborne vibration or noise

Construction Vibration

The study only provides generic assessment of construction vibration but confirms various activities including grading, blasting, and others are potentially significant. Specific assessment including all sensitive receivers near the project site and along Deer Springs Road should be carried out. Such assessment currently does not exist.

CEQA ITEM XI.c & d – Substantial permanent or temporary increase in ambient noise

Traffic Noise

Increases in traffic noise above existing conditions in the project vicinity would need to be reassessed once a proper noise study has been completed as discussed in the section above.

Construction Noise & Vibration

The study is missing an assessment of construction noise and vibration in comparison to local ambient conditions, and this would require a proper study as discussed above. Assessment should include the full range of planned construction processes such as blasting, batch processing, grading etc. as well as construction related traffic that may be out of character for this rural area. This assessment should be used to author specifications that are included in bidding and contract documents to accurately reflect project delivery methods that would affect construction costs.

Ambient noise levels on the Golden Door property are likely very low (40 dBA or less), particularly away from the road, and we anticipate construction activities such as blasting, pile driving and construction on Deer Springs Road would be clearly audible as estimated in Table 1 below. This type of facility requires a quiet environment, and such a large increase in noise levels would be disruptive and alternatives to loud construction methods (such as pile driving) may need to be required if there is no other feasible mitigation. This is particularly important for this large-scale development where construction reportedly could span close to 10 years.

TABLE 1 – Estimated Construction Noise at Golden Door Property

Example Activity	Ref. Level at 50 ft (Lmax) ¹	Setback on Golden Door property	Predicted Noise Level ²	Increase above Ambient (est. 40 dBA)
Blasting	94 dBA	2,000 ft	62 dBA	+22 dB
		5,000 ft	54 dBA	+14 dB
		10,000 ft	48 dBA	+8 dB
Pile Driving	101 dBA	2,000 ft	69 dBA	+29 dB
		4,000 ft	63 dBA	+23 dB
Batch Plant	83 dBA	5,400 ft	44 dBA	+4 dB
Grading (Deer Springs Road)	85 dBA	50 ft	85 dBA	+45 dB
		600 ft	64 dBA	+24 dB
Compactor (Deer Springs Road)	80 dBA	100 ft	74 dBA	+34 dB
		600 ft	59 dBA	+19 dB
Paver (Deer Springs Road)	77 dBA	100 ft	71 dBA	+31 dB
		600 ft	56 dBA	+16 dB
Concrete Mixer Truck (Deer Springs Road)	79 dBA	100 ft	73 dBA	+33 dB
		600 ft	58 dBA	+18 dB
NOTES:				
1. Based on data in the Roadway Noise Construction Model issued by Federal Highway Administration				
2. Worst case assessment assuming direct line of sight to construction				

MITIGATION MEASURES

Traffic Noise

The study states mitigation for traffic noise is infeasible due to adverse community response but provides no assessment of potential benefits for this project, which is required by CEQA in order for the public to make informed decisions.

Noise barriers are a common and effective mitigation for traffic noise and would likely benefit NSLUs (such as the Golden Door) along project impacted roadways such as Deer Springs Rd. There are a limited number of driveways on Deer Springs Road and periodic breaks in a noise barrier for driveways would not render these barriers ineffective. Any NSLUs that would receive limited or no benefit from installing noise barriers should be clearly identified in the study and mitigation and/or alternatives proposed.

The remaining traffic noise mitigation such as reduced speed limits and other traffic calming measures may not be undesirable since they may also be considered for traffic congestion relief on already overcrowded roadways such as Deer Springs Road.

Newland Sierra
Acoustic Review of DEIR
4 June 2018
Page 8 of 11

General Construction Noise & Vibration

Except for impulsive types of activities (discussed below), the Newland study only recommends deferred analysis (for vibration) or cites “project design features” that would likely not mitigate construction noise since they are generally considered industry standard practice (such as properly maintained construction equipment with working mufflers). The Newland study also states these project design features have already been considered in the assessment and therefore cannot be proposed as mitigation.

A proper study needs to first predict anticipated noise and vibration exposure during various construction phases, identify impacted areas and develop specific mitigation measures quantitatively shown to reduce impacts below threshold of significance. For some high-noise and vibration activities (such as pile driving, jackhammer, etc.), the only feasible mitigation may be use of alternative construction methods, and this should be confirmed with mock-up testing of such activities prior to EIR approval. The Newland study fails to employ the proper methodology.

In addition, use of noise barriers to mitigate construction noise should be based on a project specific study used to evaluate feasibility and identify specific locations, heights and extents for such mitigation measures. This is essential since noise attenuation provided by a barrier varies greatly depending on barrier height and location of source, receiver and barrier and topographical parameters.

A construction noise and vibration monitoring plan should be included as a mitigation measure to ensure regulatory noise limits continue to be met throughout construction and to provide a quantifiable record in the event of complaints. This measure should also establish protocols for mitigation if regulatory noise or vibration limits are exceeded such time restrictions, use of sound barriers and possibly others. The plan should include procedures to be followed when noise and vibration limits are exceeded. This is also recommended by Caltrans guidelines for construction vibration (*Transportation and Construction Vibration Guidance Manual*, September 2013).

Blasting Noise & Vibration

The Newland study states that blasting will be used on this project and would be the primary source of construction vibration but only proposes deferred analysis for mitigation. This is not consistent with CEQA, which requires such studies be part of the EIR process and used to develop mitigation measures for identified significant impacts.

Newland Sierra
Acoustic Review of DEIR
4 June 2018
Page 9 of 11

A project specific blasting study should be included in the EIR that identifies and includes all sensitive receivers in the project vicinity that may be impacted, including the Golden Door property. Given the proximity to existing residential uses, a pilot study of limited blasting should be undertaken to develop appropriate mitigation or determine if such activities should even be allowed, as it is conceivable that alternative construction methods may be warranted to control noise and vibration levels.

The Newland study only requires blasting vibration to meet the county's limit of 1 in/sec PPV (*San Diego County Guidelines for Determining Significance, Noise, Section 4.2.C*). However, this criteria may not be stringent enough given the sensitive nature of the surrounding uses.

Blasting noise and vibration should be assessed against the existing local ambient conditions since blasting noise would be out of character in this rural area. In the absence of a specific study used to establish appropriate limits above the existing ambient, we recommend limits of 50 dB (linear) for airborne noise and 0.02 in/sec PPV for vibration levels, based on the *Transportation and Construction Vibration Guidance Manual*, issued by Caltrans September 2013.

Blasting noise and vibration monitoring should be included as discussed above for general construction activities.

Where blasting would exceed noise and vibration levels discussed above, alternative demolition methods should be used. This could include manual methods (such as saw-cutting), expansive demolition (expansive mortar), electrical rock disintegration, and possibly others.

Future Development

This project proposes a large mixed-use development in a primarily rural area, and over time the project may encourage further development in this area. Future development should be assessed against the current ambient conditions to avoid incrementally allowing higher and higher noise and levels at nearby NSLUs. This mitigation measure should be considered for the proposed Specific Plan for the development area.

* * *

Newland Sierra
Acoustic Review of DEIR
4 June 2018
Page 10 of 11

Please do not hesitate to contact our office if you have any questions.

Sincerely,



Nathan Sibon
Associate

Reviewed By,



Chris Papadimos, INCE
Principal

Enclosures: Definitions of Common Acoustical Terms
 Curriculum Vitae – Nathan Sibon
 Curriculum Vitae – Chris Papadimos

DEFINITIONS OF COMMON ACOUSTICAL TERMS

Decibel, dB – A unit describing the amplitude of sound, defined as 20 times of the logarithm of the ratio of the sound pressure measured to the reference pressure (20 μ Pa).

A-weighted Sound Level, dBA – The sound pressure measured using the A-weighting filter network that de-emphasizes the very low and very high frequency components of the sound spectrum in a manner similar to the frequency response of the human ear and correlates well with subjective reactions to noise.

Ambient Noise – The sound level in a given environment usually comprised of many sources in many directions near and far with no particular sound dominant. It is defined as L_{99} or the noise level exceeded 99% of the time.

Background Noise - The total noise from all sources other than the source of interest. It is often defined as L_{90} or the noise level exceeded 90% of the time.

Community Noise Equivalent Level, CNEL – The average A-weighted noise level in a 24-hour day, obtained after adding 5 dB to evening hours (7:00 pm to 10:00 pm) and 10 dB to sound levels measured in the night (between 10:00 pm and 7:00 am).

Day/Night Noise Level, L_{dn} (or DNL) – The average, 24-hour A-weighted noise level, obtained after adding 10 dB to levels measured at night (10:00 pm to 7:00 am).

Integrated or Equivalent Noise Level, L_{eq} – The energy average A-weighted noise level during the measurement period.

Sound level meter - An instrument that measures sound in dB. Various features are incorporated into such instrument including frequency bands, integration of sound over time and display of average, minimum, and maximum levels.

Sound pressure level - the ratio, expressed in decibels, of the mean-square sound pressure level to a reference mean-square sound pressure level that by convention has been selected to approximate the threshold of hearing (0.0002 μ bar)

Frequency – The number of times per second that the oscillation of a wave of sound or that of a vibrating body repeats itself, expressed in Hertz (Hz).

Octave band - The frequency range of one octave of sound frequencies. The upper limit is always twice the frequency of the lower limit. Octave bands are identified by the geometric mean frequency or center between the lower limit and the upper limit.

NATHAN SIBON **ASSOCIATE**

Mr. Sibon has been with our consulting practice since July 2014 after graduating from Columbia College Chicago with a B.S. in Acoustics. Since then, Mr. Sibon has been closely working under the direction of Mr. Papadimos and rapidly gaining practical consulting experience including all aspects of community and environmental noise and vibration.

Specifically, he has experience in establishing criteria to address local and state regulations, carrying out environmental surveys, analyzing traffic and construction impacts, developing and implementing mitigation strategies, and reviewing of environmental studies.

Mr. Sibon strives to provide meaningful, project specific solutions through clear understanding of the client's goals and early project involvement. He works on specific tasks associated with current projects either independently or under the direction of senior staff.

PROJECT EXPERIENCE

- 410 Noor - South San Francisco, CA - Acoustical study for proposed residential development under the departure path for San Francisco International Airport.
- Golden Gate Recreation Center - Oakland, CA - Noise remediation for rooftop mechanical equipment for community center to comply with local code.
- Hakone Gardens - Saratoga, CA - Participated in an acoustic study to address special event noise in the surrounding area for compliance with local code.
- Lagunitas Country Club - Ross, CA - Measured and assessed club noise to the surrounding residential community for environmental compliance.
- Rancho McHolland - Hemet, CA - Peer review of EIR for analyzing potential noise impacts for new gas station and carwash near existing residential neighborhoods.
- Raymond-Ticen Winery - St. Helena, CA - Measured and analyzed special event noise emissions at the winery and assessed potential impact to the project vicinity.
- Rotten Robbie - Sebastopol, CA - Participated in the review and analysis of car wash noise and evaluation of noise control options for local code compliance.
- Safari Highlands - Escondido, CA - Peer review of EIR for large-scale residential development to analyze potential noise and vibration impacts to surrounding areas.
- Safari Kid - Hayward, CA - Acoustic consulting for outdoor play area for daycare facility and develop mitigation for compliance with local code.
- St. Mary's Medical Center - San Francisco, CA - Facility mechanical equipment noise remediation to meet local code at surrounding residences.
- Suprema Meats - Oakland, CA - Participated in a noise study and peer review to assess facility potential impacts to the surrounding neighborhood.

CHRISTOPHER PAPADIMOS, INCE ***PRINCIPAL***

CHRISTOPHER PAPADIMOS is an acoustical consultant with close to 30 years of professional experience in measuring, assessing and developing mitigation strategies for projects with acoustical and vibration requirements.

Since 1989, he has worked continuously on a large number of projects for various types of facilities involving environmental acoustics, noise and vibration control for mechanical systems, structural noise and vibration, and architectural acoustics. Projects include residential and commercial buildings, institutional and government buildings, worship and performing spaces, and transportation and industrial facilities.

Mr. Papadimos has authored numerous acoustical studies for various project types. Transportation noise and vibration studies include freeways and rail systems, road widening and improvement projects, and airport facilities. Other studies include residential, commercial and mixed use developments, and various types of industrial facilities.

Mr. Papadimos favors a practical approach of early integration of acoustical requirements into each project. He is experienced in establishing acoustical criteria, undertaking site and building surveys, developing and implementing mitigation strategies, reviewing construction methods and providing options for remedial solutions. He has participated on research projects, provided expert testimony and remains actively involved in the development of technical standards and guidelines.

PROFESSIONAL ENGAGEMENTS

- Papadimos Group – Founding Principal (January 2005 to present)
- Cerami & Associates – Associate Principal (April 2004 to December 2004)
- Shen Milsom & Wilke – Associate (May 2001 to March 2004)
- Illingworth & Rodkin – Senior Consultant (January 1999 to May 2001)
- Frank Hubach Associates – Consultant (May 1995 to December 1998)
- Illingworth & Rodkin – Consultant (July 1989 to May 1995)

EDUCATIONAL BACKGROUND

- University of California at Los Angeles , B. Sc. Mechanical Engineering, (1989) Magna Cum Laude, Departmental Scholar, Dean's and Honor Lists
- Airport Noise Planning using INM Computer Modeling, Engineering Program, University of Texas at Austin, 1993

PROFESSIONAL SOCIETIES

- ASHRAE – Past Chair for Technical Committee and Member
- Institute of Noise Control Engineering – Full Member
- AMCA – Voting Member for Standard Development

PROJECT EXPERIENCE (Partial List)

- 410 Noor - South San Francisco, CA - Acoustical study for proposed residential development under the departure path for San Francisco International Airport.
- BART Subway Extension to SFO, Colma, CA - Noise and vibration consultant and expert witness to the Coalition of Colma Cemeteries.
- Bay Bridge Pile Demonstration Project - San Francisco, CA - Participated on environmental studies for the eastern span bridge replacement project.
- Black Dog Amphitheater - Burnsville, MN - Acoustic studies for new amphitheater to the surrounding communities
- Boot & Shoe Restaurant - Oakland, CA - Expert witness and peer review for restaurant remodel that included outdoor dining next to residential.
- Cal Memorial Stadium - Berkeley, CA - Acoustic consulting and expert witnessing for large renovation project to address community concerns.
- Community Pool - Calistoga, CA - Expert witness and analysis for new community pool project to limit noise emissions to surrounding residential areas.
- Caltrans Soundwall Studies - Participated in before and after noise studies to study the effectiveness of sound barriers under various weather conditions.
- Davies Vineyards Winery - St. Helena, CA - Provided acoustic review to address among other activities from a rooftop patio and amplified music.
- Emerystation Center - Emeryville, CA - Provided acoustic consulting services for new buildings and tenant improvement projects for code compliance.
- Foster City Aircraft Noise Exposure - Assessment of SFO aircraft noise to the City of Foster City for General Plan land use compatibility.
- Genentech Campus - South San Francisco, CA - Acoustic consulting for Hilltop Office Building 35, Employee Center, Central Plant Facility.
- Golden Gate Recreation Center - Oakland, CA - Noise remediation for rooftop mechanical equipment for community center to comply with local code.
- Hakone Gardens - Saratoga, CA - Completed acoustic study for event center to comply with local noise conditions and served as expert witness.
- Harold Smith & Sons - St Helena, CA - Completed acoustic study for materials handling and cement mixing facility that included noise control options.
- Livermore Municipal Airport - Livermore, CA - Acoustic studies to mitigate aircraft noise to nearby recently completed residential developments
- Macae Energy Center - Environmental noise studies for power generation complex in the rain forest to comply with World Bank regulations - Macae, Brazil

PROJECT EXPERIENCE (continued)

- McCarran International Airport - Las Vegas, NV - Sound insulation studies for mixed-use development projects near the airport.
- Mercy Retirement and Care Center - Oakland, CA - Noise control for backup diesel generator to comply with local code.
- Oakland International Airport - Participated in sound insulation review studies for existing residential developments near the airport.
- Rancho McHolland - Hemet, CA - Peer review of EIR for analyzing potential noise impacts for new gas station and carwash near existing residential neighborhoods.
- Rotten Robbie - Sebastopol, CA - Peer review of car wash noise control options.
- Safari Highlands - Escondido, CA - Acoustic review of large-scale residential development to address environmental concerns including on wildlife.
- Safari Kid - Hayward, CA - Acoustic consulting for outdoor play area for daycare facility and develop mitigation for compliance with local code.
- St. Mary's Medical Center - San Francisco, CA - Community noise for facility mechanical equipment for surrounding residential areas.
- Stanford Hospitals and Clinics - Provided acoustic and vibration consulting services for the hospital replacement and existing hospital renovation projects.
- Stanford University - Palo Alto, CA - new construction and renovation projects including Old Chemistry, James H Clark Center, Lucas MRS Center, Crown Hall.
- Suprema Meats - Oakland, CA - Expert witness for facility noise remediation
- Sweetwater Saloon - Mill Valley, CA - Noise mitigation for nightclub expansion and renovation to limit noise emissions to surrounding areas.
- UGGPP Energy Center - San Francisco International Airport - Noise studies and attendance to energy commission hearings for new 1200 MW power plant.
- Wallingford Energy Center - Wallingford, Connecticut - 250 MW Simple Cycle Power Facility - comprehensive acoustical services.
- Warren Hall Seismic Retrofit, California State University at Hayward - Conducted noise and vibration feasibility studies for the seismic retrofit of this building.
- Westside Road Winery - Healdsburg, CA - Prepared acoustic study for facility expansion to include event center to address potential environmental impacts.
- UCSF Parnassus and Mission Bay Campuses, San Francisco, CA - Acoustic and vibration consulting for multiple new and existing research facilities.
- Valle Del Sol Master Planning - Feasibility studies for proposed large-scale mixed-use development near the Albuquerque International Airport.

**Attachment E –
PLANNING DOCUMENTATION**

COUNTY OF SAN DIEGO TRACT TM 5597 RPL²
TENTATIVE MAP
NEWLAND SIERRA



LEGEND

ITEMS: STDS, DIMS, SYMBOL

- 1. 1/8" = 1' (SEE PLAN)
- 2. 1/4" = 1' (SEE PLAN)
- 3. 1/2" = 1' (SEE PLAN)
- 4. 3/4" = 1' (SEE PLAN)
- 5. 1" = 1' (SEE PLAN)
- 6. 1 1/2" = 1' (SEE PLAN)
- 7. 2" = 1' (SEE PLAN)
- 8. 3" = 1' (SEE PLAN)
- 9. 4" = 1' (SEE PLAN)
- 10. 6" = 1' (SEE PLAN)
- 11. 8" = 1' (SEE PLAN)
- 12. 10" = 1' (SEE PLAN)
- 13. 12" = 1' (SEE PLAN)
- 14. 15" = 1' (SEE PLAN)
- 15. 18" = 1' (SEE PLAN)
- 16. 24" = 1' (SEE PLAN)
- 17. 30" = 1' (SEE PLAN)
- 18. 36" = 1' (SEE PLAN)
- 19. 42" = 1' (SEE PLAN)
- 20. 48" = 1' (SEE PLAN)
- 21. 54" = 1' (SEE PLAN)
- 22. 60" = 1' (SEE PLAN)
- 23. 66" = 1' (SEE PLAN)
- 24. 72" = 1' (SEE PLAN)
- 25. 78" = 1' (SEE PLAN)
- 26. 84" = 1' (SEE PLAN)
- 27. 90" = 1' (SEE PLAN)
- 28. 96" = 1' (SEE PLAN)
- 29. 102" = 1' (SEE PLAN)
- 30. 108" = 1' (SEE PLAN)
- 31. 114" = 1' (SEE PLAN)
- 32. 120" = 1' (SEE PLAN)

WATER AND SEWER
...
SCHOOL DISTRICTS
...
FIRE DISTRICTS
...
EXISTING ZONING
...
PROPOSED ZONING
...
CROSS/NET AREA
...
NUMBER OF LOTS
...
CONDOMINIUM STATEMENT
...
FINAL MAP/PASSING STATEMENT
...

DESIGN STANDARDS

- STANDARDS FOR PUBLIC UTILITIES WITHIN THE PROJECT SHALL BE AS SHOWN ON THE UTILITY MAPS AND SHALL BE IN ACCORDANCE WITH THE SAN DIEGO PUBLIC UTILITIES COMMISSION REGULATIONS.
- STANDARDS FOR PUBLIC UTILITIES CROSSING WITHIN THE PROJECT SHALL BE AS SHOWN ON THE UTILITY MAPS AND SHALL BE IN ACCORDANCE WITH THE SAN DIEGO PUBLIC UTILITIES COMMISSION REGULATIONS.
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PRIVATE MAINTENANCE
...
ASSASSORS PARCEL NUMBERS
...
OWNERS
...
STREET LIGHT STATEMENT
...
PARK LAND DEDICATION STATEMENT
...
CONDOMINIUM STATEMENT
...
FINAL MAP/PASSING STATEMENT
...

GENERAL PLAN / REGIONAL CATEGORY

TAX RATE

COMMUNITY PLAN

ASSESSORS PARCEL NUMBERS

OWNER/DEVELOPER

ENGINEER OF WORK

OWNER/DEVELOPER

ENGINEER OF WORK

NEWLAND SIERRA
TENTATIVE MAP
SHEET 1 OF 14

FUSCOE
ENGINEERING

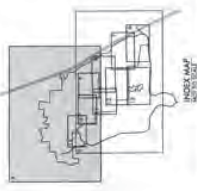
SHEET INDEX

1. SHEET 1
2. SHEET 2
3. SHEET 3
4. SHEET 4
5. SHEET 5
6. SHEET 6
7. SHEET 7
8. SHEET 8
9. SHEET 9
10. SHEET 10
11. SHEET 11
12. SHEET 12
13. SHEET 13
14. SHEET 14

COUNTY OF SAN DIEGO TRACT TM 5597 RPL 2
TENTATIVE MAP
NEWLAND SIERRA

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146	1.21
147	1.21
148	1.21
149	1.21
150	1.21
151	1.21
152	1.21
153	1.21
154	1.21
155	1.21
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167	1.21
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174	1.21
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184	1.21
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192	1.21
193	1.21
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SHEET 4 OF 14



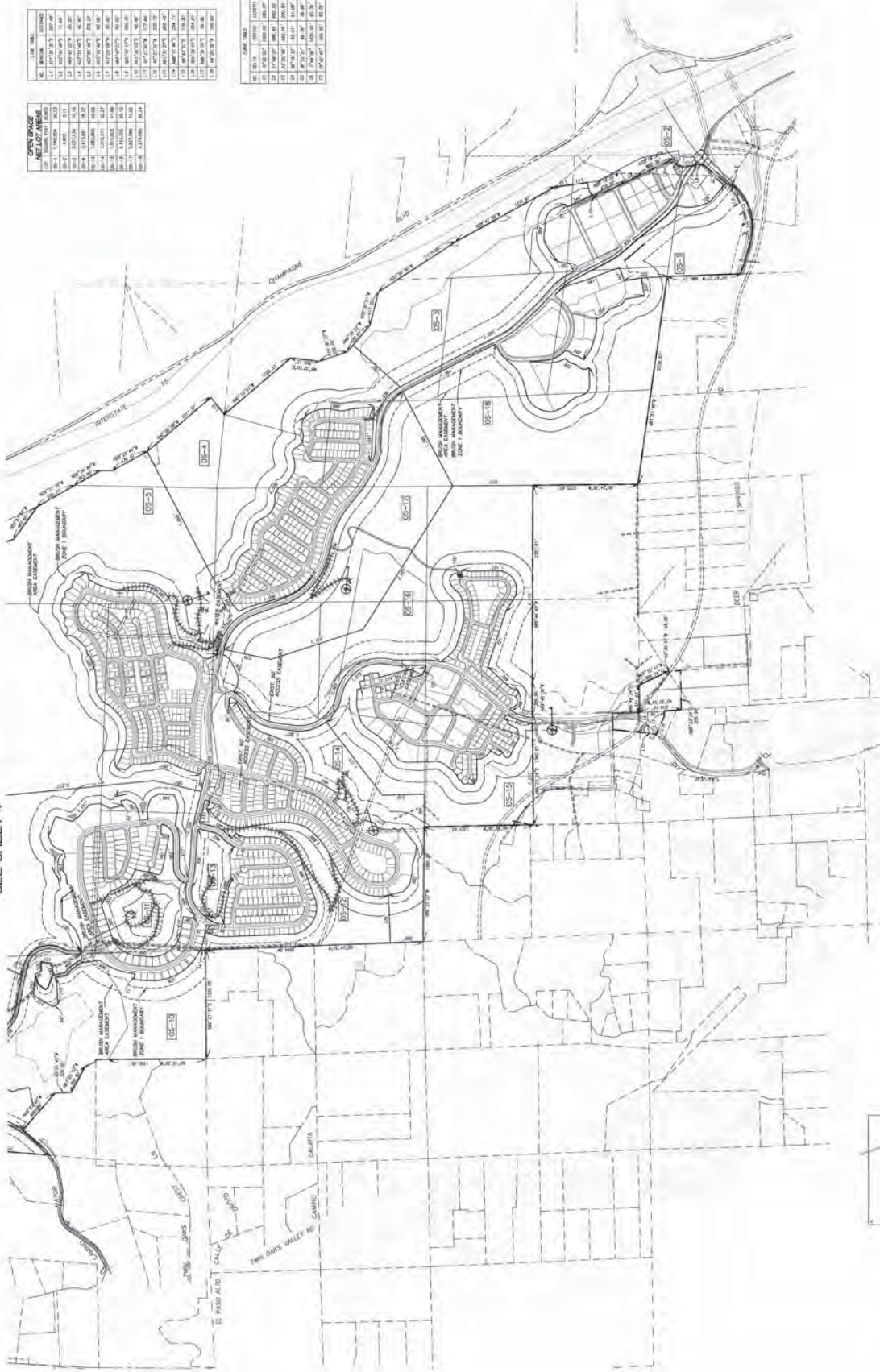
ENGINEER OF WORK
FUSCOE ENGINEERS & ARCHITECTS
10000 SAN DIEGO AVENUE, SUITE 100
SAN DIEGO, CALIFORNIA 92126
TEL: 619-594-1111
WWW.FUSCOE.COM

SEE SHEET 5



COUNTY OF SAN DIEGO TRACT TM 5597 RPL²
 TENTATIVE MAP
 NEWLAND SIERRA

SEE SHEET 4

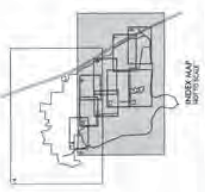


TRACT	AREA	PERCENTAGE
1	1.00	100.00
2	1.00	100.00
3	1.00	100.00
4	1.00	100.00
5	1.00	100.00
6	1.00	100.00
7	1.00	100.00
8	1.00	100.00
9	1.00	100.00
10	1.00	100.00
11	1.00	100.00
12	1.00	100.00
13	1.00	100.00
14	1.00	100.00
15	1.00	100.00
16	1.00	100.00
17	1.00	100.00
18	1.00	100.00
19	1.00	100.00
20	1.00	100.00
21	1.00	100.00
22	1.00	100.00
23	1.00	100.00
24	1.00	100.00
25	1.00	100.00
26	1.00	100.00
27	1.00	100.00
28	1.00	100.00
29	1.00	100.00
30	1.00	100.00
31	1.00	100.00
32	1.00	100.00
33	1.00	100.00
34	1.00	100.00
35	1.00	100.00
36	1.00	100.00
37	1.00	100.00
38	1.00	100.00
39	1.00	100.00
40	1.00	100.00
41	1.00	100.00
42	1.00	100.00
43	1.00	100.00
44	1.00	100.00
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98	1.00	100.00
99	1.00	100.00
100	1.00	100.00

SHEET 5 OF 14

FUSCOE ENGINEERS, INC.
 10000 SAN DIEGO AVENUE, SUITE 100
 SAN DIEGO, CALIFORNIA 92131
 (619) 594-1100

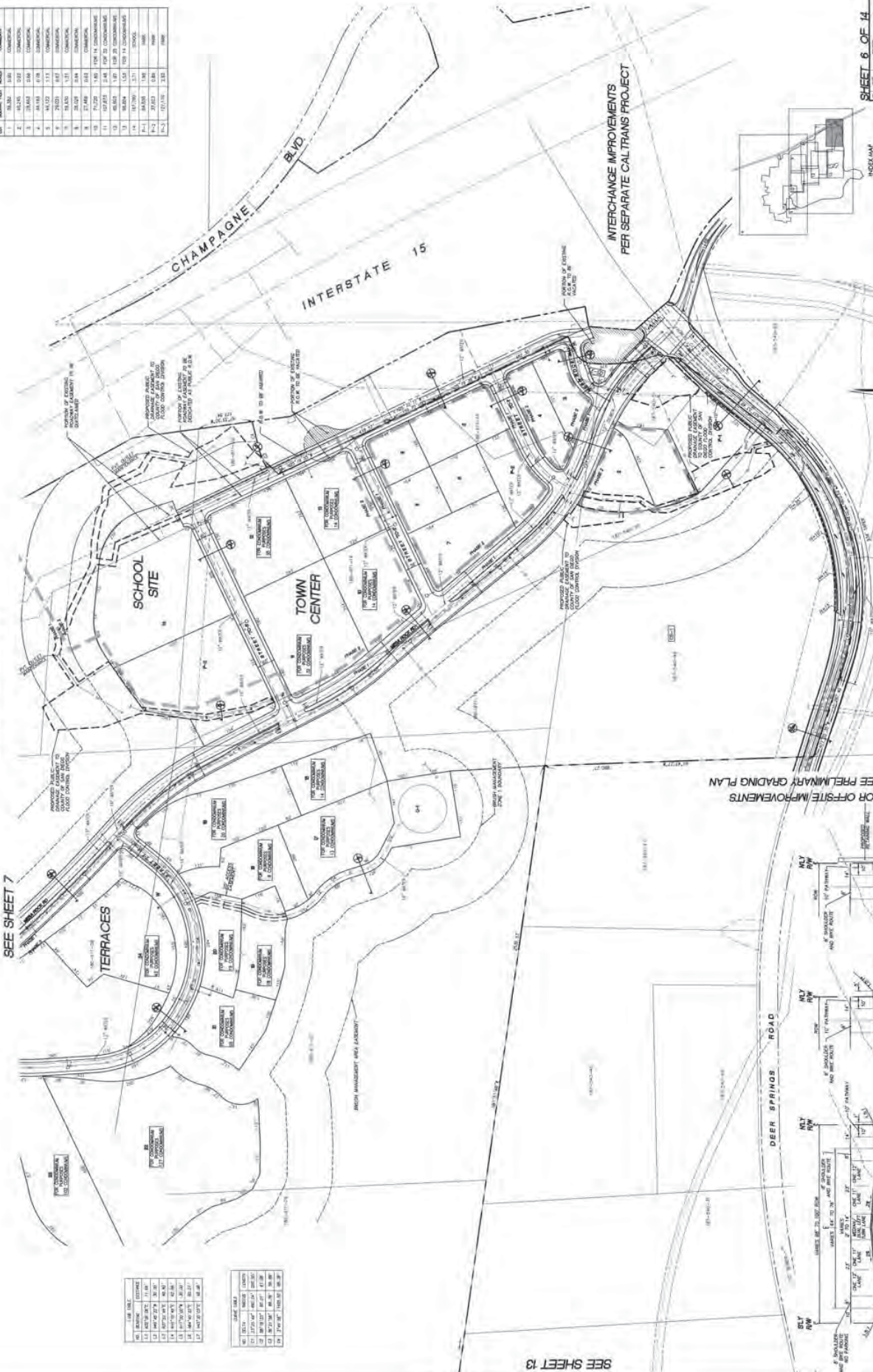
ENGINEER OF WORK
 TRACT MAP NO. 5597 RPL²
 NEWLAND SIERRA
 DATE: 10/15/11



COUNTY OF SAN DIEGO TRACT TM 5597 RPL²
TENTATIVE MAP
NEWLAND SIERRA

NET LOT AREAS

LOT	SQUARE FEET AREA	COMMENT
1	16,352	1.39 AC
2	18,125	1.32 AC
3	16,250	1.18 AC
4	18,125	1.32 AC
5	18,125	1.32 AC
6	18,125	1.32 AC
7	24,225	1.74 AC
8	18,125	1.32 AC
9	24,225	1.74 AC
10	18,125	1.32 AC
11	127,875	9.20 AC
12	18,125	1.32 AC
13	18,125	1.32 AC
14	18,125	1.32 AC
15	18,125	1.32 AC
16	18,125	1.32 AC
17	18,125	1.32 AC
18	18,125	1.32 AC
19	18,125	1.32 AC
20	18,125	1.32 AC
21	18,125	1.32 AC
22	18,125	1.32 AC
23	18,125	1.32 AC
24	18,125	1.32 AC
25	18,125	1.32 AC
26	18,125	1.32 AC
27	18,125	1.32 AC
28	18,125	1.32 AC
29	18,125	1.32 AC
30	18,125	1.32 AC
31	18,125	1.32 AC
32	18,125	1.32 AC
33	18,125	1.32 AC
34	18,125	1.32 AC
35	18,125	1.32 AC
36	18,125	1.32 AC
37	18,125	1.32 AC
38	18,125	1.32 AC
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42	18,125	1.32 AC
43	18,125	1.32 AC
44	18,125	1.32 AC
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83	18,125	1.32 AC
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85	18,125	1.32 AC
86	18,125	1.32 AC
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91	18,125	1.32 AC
92	18,125	1.32 AC
93	18,125	1.32 AC
94	18,125	1.32 AC
95	18,125	1.32 AC
96	18,125	1.32 AC
97	18,125	1.32 AC
98	18,125	1.32 AC
99	18,125	1.32 AC
100	18,125	1.32 AC



BASE MAP

NO.	SECTION	OWNER
1	12	DR. WALTER P. HARRIS JR.
2	13	DR. WALTER P. HARRIS JR.
3	14	DR. WALTER P. HARRIS JR.
4	15	DR. WALTER P. HARRIS JR.
5	16	DR. WALTER P. HARRIS JR.
6	17	DR. WALTER P. HARRIS JR.
7	18	DR. WALTER P. HARRIS JR.
8	19	DR. WALTER P. HARRIS JR.
9	20	DR. WALTER P. HARRIS JR.
10	21	DR. WALTER P. HARRIS JR.
11	22	DR. WALTER P. HARRIS JR.
12	23	DR. WALTER P. HARRIS JR.
13	24	DR. WALTER P. HARRIS JR.
14	25	DR. WALTER P. HARRIS JR.
15	26	DR. WALTER P. HARRIS JR.
16	27	DR. WALTER P. HARRIS JR.
17	28	DR. WALTER P. HARRIS JR.
18	29	DR. WALTER P. HARRIS JR.
19	30	DR. WALTER P. HARRIS JR.
20	31	DR. WALTER P. HARRIS JR.
21	32	DR. WALTER P. HARRIS JR.
22	33	DR. WALTER P. HARRIS JR.
23	34	DR. WALTER P. HARRIS JR.
24	35	DR. WALTER P. HARRIS JR.
25	36	DR. WALTER P. HARRIS JR.
26	37	DR. WALTER P. HARRIS JR.
27	38	DR. WALTER P. HARRIS JR.
28	39	DR. WALTER P. HARRIS JR.
29	40	DR. WALTER P. HARRIS JR.
30	41	DR. WALTER P. HARRIS JR.
31	42	DR. WALTER P. HARRIS JR.
32	43	DR. WALTER P. HARRIS JR.
33	44	DR. WALTER P. HARRIS JR.
34	45	DR. WALTER P. HARRIS JR.
35	46	DR. WALTER P. HARRIS JR.
36	47	DR. WALTER P. HARRIS JR.
37	48	DR. WALTER P. HARRIS JR.
38	49	DR. WALTER P. HARRIS JR.
39	50	DR. WALTER P. HARRIS JR.
40	51	DR. WALTER P. HARRIS JR.
41	52	DR. WALTER P. HARRIS JR.
42	53	DR. WALTER P. HARRIS JR.
43	54	DR. WALTER P. HARRIS JR.
44	55	DR. WALTER P. HARRIS JR.
45	56	DR. WALTER P. HARRIS JR.
46	57	DR. WALTER P. HARRIS JR.
47	58	DR. WALTER P. HARRIS JR.
48	59	DR. WALTER P. HARRIS JR.
49	60	DR. WALTER P. HARRIS JR.
50	61	DR. WALTER P. HARRIS JR.
51	62	DR. WALTER P. HARRIS JR.
52	63	DR. WALTER P. HARRIS JR.
53	64	DR. WALTER P. HARRIS JR.
54	65	DR. WALTER P. HARRIS JR.
55	66	DR. WALTER P. HARRIS JR.
56	67	DR. WALTER P. HARRIS JR.
57	68	DR. WALTER P. HARRIS JR.
58	69	DR. WALTER P. HARRIS JR.
59	70	DR. WALTER P. HARRIS JR.
60	71	DR. WALTER P. HARRIS JR.
61	72	DR. WALTER P. HARRIS JR.
62	73	DR. WALTER P. HARRIS JR.
63	74	DR. WALTER P. HARRIS JR.
64	75	DR. WALTER P. HARRIS JR.
65	76	DR. WALTER P. HARRIS JR.
66	77	DR. WALTER P. HARRIS JR.
67	78	DR. WALTER P. HARRIS JR.
68	79	DR. WALTER P. HARRIS JR.
69	80	DR. WALTER P. HARRIS JR.
70	81	DR. WALTER P. HARRIS JR.
71	82	DR. WALTER P. HARRIS JR.
72	83	DR. WALTER P. HARRIS JR.
73	84	DR. WALTER P. HARRIS JR.
74	85	DR. WALTER P. HARRIS JR.
75	86	DR. WALTER P. HARRIS JR.
76	87	DR. WALTER P. HARRIS JR.
77	88	DR. WALTER P. HARRIS JR.
78	89	DR. WALTER P. HARRIS JR.
79	90	DR. WALTER P. HARRIS JR.
80	91	DR. WALTER P. HARRIS JR.
81	92	DR. WALTER P. HARRIS JR.
82	93	DR. WALTER P. HARRIS JR.
83	94	DR. WALTER P. HARRIS JR.
84	95	DR. WALTER P. HARRIS JR.
85	96	DR. WALTER P. HARRIS JR.
86	97	DR. WALTER P. HARRIS JR.
87	98	DR. WALTER P. HARRIS JR.
88	99	DR. WALTER P. HARRIS JR.
89	100	DR. WALTER P. HARRIS JR.

SEE SHEET 13

INTERCHANGE IMPROVEMENTS PER SEPARATE CALTRANS PROJECT

FOR OFFSITE IMPROVEMENTS SEE PRELIMINARY GRADING PLAN



FUSCOE
INCORPORATED
2330 MAIN STREET, SUITE 100
SAN DIEGO, CALIFORNIA 92108
TEL: 619.434.3333
FAX: 619.434.3334
WWW.FUSCOE.COM

ENGINEER OF WORK
JAMES G. STINEBAUGH, P.E., C.E. No. 14608
MARTIN G. MESSING, P.E., C.E. No. 14609

REGISTERED PROFESSIONAL ENGINEER

SHEET 6 OF 14

PROPOSED MULTIPLE SECTION FOR DEER SPRINGS ROAD 48' WALKER ROAD WITH INTERMITTENT TURN LANES



COUNTY OF SAN DIEGO TRACT TM 5597 RPL²
 TENTATIVE MAP
 NEWLAND SIERRA

NET LOT AREAS	
LOT	NET LOT AREA
16	15,422.22
17	16,144.44
18	16,866.67
19	17,588.89
20	18,311.11
21	19,033.33
22	19,755.56
23	20,477.78
24	21,200.00
25	21,922.22
26	22,644.44
27	23,366.67
28	24,088.89
29	24,811.11
30	25,533.33
31	26,255.56
32	26,977.78
33	27,700.00
34	28,422.22
35	29,144.44
36	29,866.67
37	30,588.89
38	31,311.11
39	32,033.33
40	32,755.56
41	33,477.78
42	34,200.00
43	34,922.22
44	35,644.44
45	36,366.67
46	37,088.89
47	37,811.11
48	38,533.33
49	39,255.56
50	39,977.78
51	40,700.00
52	41,422.22
53	42,144.44
54	42,866.67
55	43,588.89
56	44,311.11
57	45,033.33
58	45,755.56
59	46,477.78
60	47,200.00
61	47,922.22
62	48,644.44
63	49,366.67
64	50,088.89
65	50,811.11
66	51,533.33
67	52,255.56
68	52,977.78
69	53,700.00
70	54,422.22
71	55,144.44
72	55,866.67
73	56,588.89
74	57,311.11
75	58,033.33
76	58,755.56
77	59,477.78
78	60,200.00
79	60,922.22
80	61,644.44
81	62,366.67
82	63,088.89
83	63,811.11
84	64,533.33
85	65,255.56
86	65,977.78
87	66,700.00
88	67,422.22
89	68,144.44
90	68,866.67
91	69,588.89
92	70,311.11
93	71,033.33
94	71,755.56
95	72,477.78
96	73,200.00
97	73,922.22
98	74,644.44
99	75,366.67
100	76,088.89

AREA SCHEDULE	
AREA	AREA SCHEDULE
1	RESIDENTIAL
2	COMMERCIAL
3	INDUSTRIAL
4	OFFICE
5	RETAIL
6	RESTAURANT
7	BAR
8	CASINO
9	AMUSEMENT
10	RECREATION
11	SPORTS
12	ENTERTAINMENT
13	CONVENTION
14	CONFERENCE
15	EXHIBITION
16	TRADING
17	FINANCIAL
18	LEGAL
19	ACCOUNTING
20	ENGINEERING
21	ARCHITECTURE
22	DESIGN
23	RESEARCH
24	DEVELOPMENT
25	MANUFACTURING
26	WAREHOUSING
27	DISTRIBUTION
28	LOGISTICS
29	TRANSPORTATION
30	HAZARDOUS WASTE
31	NON-HAZARDOUS WASTE
32	WATER TREATMENT
33	SEWER TREATMENT
34	WASTE TO ENERGY
35	RECYCLING
36	LANDFILL
37	INCINERATION
38	BIOMASS
39	SOLAR
40	WIND
41	HYDROELECTRIC
42	GEOTHERMAL
43	OTHER



SEE SHEET 8

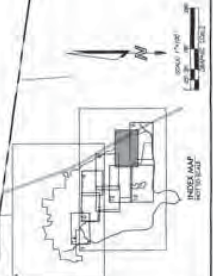
SEE SHEET 11

SEE SHEET 13

SHEET 7 OF 14



ENGINEER OF WORK
 FUSCOE ENGINEERS
 10000 San Diego Avenue, Suite 100
 San Diego, CA 92126
 (619) 594-1100
 www.fuscoeng.com



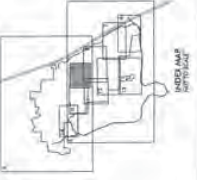
COUNTY OF SAN DIEGO TRACT TM 5597 RPL 2
TENTATIVE MAP
NEWLAND SIERRA



SHEET 9 OF 14



ENGINEER OF WORK
JEFFREY S. MASON
30745 MARYLAND AVE., SUITE 100
SAN DIEGO, CA 92123
PH: 619-477-0474
WWW.FUSCOE.COM



LOT NUMBER	TOTAL AREA (SQ. FT.)	NET LOT AREA (SQ. FT.)	ZONING DESIGNATION
1	10,000	9,800	R-1
2	10,000	9,800	R-1
3	10,000	9,800	R-1
4	10,000	9,800	R-1
5	10,000	9,800	R-1
6	10,000	9,800	R-1
7	10,000	9,800	R-1
8	10,000	9,800	R-1
9	10,000	9,800	R-1
10	10,000	9,800	R-1
11	10,000	9,800	R-1
12	10,000	9,800	R-1
13	10,000	9,800	R-1
14	10,000	9,800	R-1
15	10,000	9,800	R-1
16	10,000	9,800	R-1
17	10,000	9,800	R-1
18	10,000	9,800	R-1
19	10,000	9,800	R-1
20	10,000	9,800	R-1
21	10,000	9,800	R-1
22	10,000	9,800	R-1
23	10,000	9,800	R-1
24	10,000	9,800	R-1
25	10,000	9,800	R-1
26	10,000	9,800	R-1
27	10,000	9,800	R-1
28	10,000	9,800	R-1
29	10,000	9,800	R-1
30	10,000	9,800	R-1
31	10,000	9,800	R-1
32	10,000	9,800	R-1
33	10,000	9,800	R-1
34	10,000	9,800	R-1
35	10,000	9,800	R-1
36	10,000	9,800	R-1
37	10,000	9,800	R-1
38	10,000	9,800	R-1
39	10,000	9,800	R-1
40	10,000	9,800	R-1
41	10,000	9,800	R-1
42	10,000	9,800	R-1
43	10,000	9,800	R-1
44	10,000	9,800	R-1
45	10,000	9,800	R-1
46	10,000	9,800	R-1
47	10,000	9,800	R-1
48	10,000	9,800	R-1
49	10,000	9,800	R-1
50	10,000	9,800	R-1
51	10,000	9,800	R-1
52	10,000	9,800	R-1
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56	10,000	9,800	R-1
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61	10,000	9,800	R-1
62	10,000	9,800	R-1
63	10,000	9,800	R-1
64	10,000	9,800	R-1
65	10,000	9,800	R-1
66	10,000	9,800	R-1
67	10,000	9,800	R-1
68	10,000	9,800	R-1
69	10,000	9,800	R-1
70	10,000	9,800	R-1
71	10,000	9,800	R-1
72	10,000	9,800	R-1
73	10,000	9,800	R-1
74	10,000	9,800	R-1
75	10,000	9,800	R-1
76	10,000	9,800	R-1
77	10,000	9,800	R-1
78	10,000	9,800	R-1
79	10,000	9,800	R-1
80	10,000	9,800	R-1
81	10,000	9,800	R-1
82	10,000	9,800	R-1
83	10,000	9,800	R-1
84	10,000	9,800	R-1
85	10,000	9,800	R-1
86	10,000	9,800	R-1
87	10,000	9,800	R-1
88	10,000	9,800	R-1
89	10,000	9,800	R-1
90	10,000	9,800	R-1
91	10,000	9,800	R-1
92	10,000	9,800	R-1
93	10,000	9,800	R-1
94	10,000	9,800	R-1
95	10,000	9,800	R-1
96	10,000	9,800	R-1
97	10,000	9,800	R-1
98	10,000	9,800	R-1
99	10,000	9,800	R-1
100	10,000	9,800	R-1

COUNTY OF SAN DIEGO TRACT TM 5597 RPL²
 TENTATIVE MAP
 NEWLAND SIERRA

SEE SHEET 14

SEE SHEET 9

SEE SHEET 11



LOT	AREA	NET LOT AREA	COMMENTS
101	1.11	1.11	
102	1.11	1.11	
103	1.11	1.11	
104	1.11	1.11	
105	1.11	1.11	
106	1.11	1.11	
107	1.11	1.11	
108	1.11	1.11	
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196	1.11	1.11	
197	1.11	1.11	
198	1.11	1.11	
199	1.11	1.11	
200	1.11	1.11	

LOT	AREA	NET LOT AREA	COMMENTS
201	1.11	1.11	
202	1.11	1.11	
203	1.11	1.11	
204	1.11	1.11	
205	1.11	1.11	
206	1.11	1.11	
207	1.11	1.11	
208	1.11	1.11	
209	1.11	1.11	
210	1.11	1.11	
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212	1.11	1.11	
213	1.11	1.11	
214	1.11	1.11	
215	1.11	1.11	
216	1.11	1.11	
217	1.11	1.11	
218	1.11	1.11	
219	1.11	1.11	
220	1.11	1.11	
221	1.11	1.11	
222	1.11	1.11	
223	1.11	1.11	
224	1.11	1.11	
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230	1.11	1.11	
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232	1.11	1.11	
233	1.11	1.11	
234	1.11	1.11	
235	1.11	1.11	
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240	1.11	1.11	

SHEET 10 OF 14



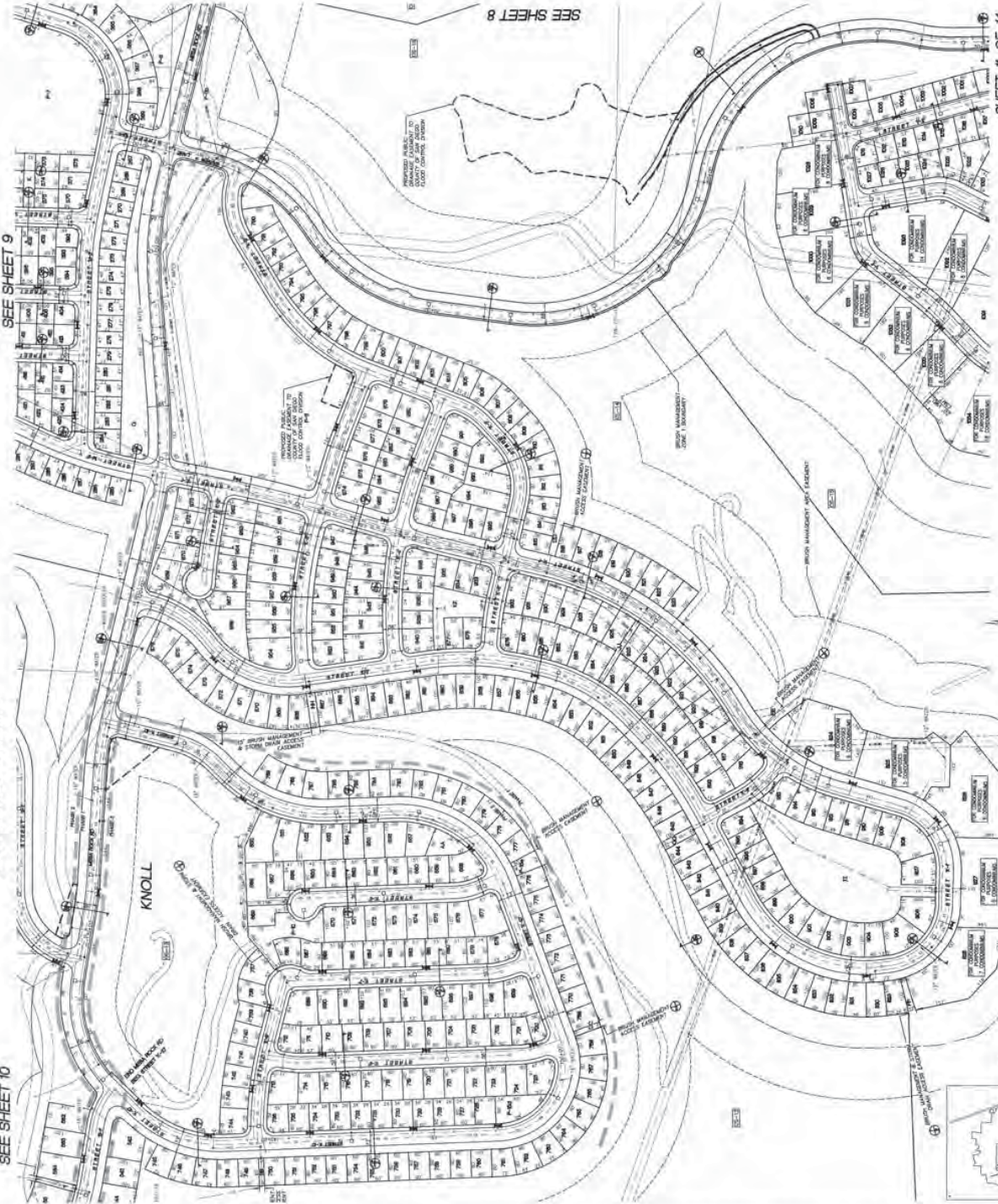
ENGINEER OF WORK
 FUSCOE
 10000 SAN DIEGO ROAD, SUITE 100
 SAN DIEGO, CALIFORNIA 92121



NET LOT AREA TAKEN FROM RECORDS



COUNTY OF SAN DIEGO TRACT TM 5597 RPL²
TENTATIVE MAP
NEWLAND SIERRA



FUSCO
ENGINEERS & ARCHITECTS
11111 San Diego Avenue, Suite 100
San Diego, CA 92126
Tel: 619-594-1111
Fax: 619-594-1112

ENGINEER OF WORK
FOR THE TENTATIVE MAP
DATE: 08/14/2018
BY: [Signature]

PROPOSED SECTION FOR IMPROVED ACCESS TO LOT 1

WOOD LAMP
WOOD LAMP

SEE SHEET 10

SEE SHEET 12

NET LOT AREA	
LOT	NET LOT AREA
101	5,000.00
102	5,000.00
103	5,000.00
104	5,000.00
105	5,000.00
106	5,000.00
107	5,000.00
108	5,000.00
109	5,000.00
110	5,000.00
111	5,000.00
112	5,000.00
113	5,000.00
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194	5,000.00
195	5,000.00
196	5,000.00
197	5,000.00
198	5,000.00
199	5,000.00
200	5,000.00

NET LOT AREA	
LOT	NET LOT AREA
201	5,000.00
202	5,000.00
203	5,000.00
204	5,000.00
205	5,000.00
206	5,000.00
207	5,000.00
208	5,000.00
209	5,000.00
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245	5,000.00
246	5,000.00
247	5,000.00
248	5,000.00
249	5,000.00
250	5,000.00

NET LOT AREA	
LOT	NET LOT AREA
251	5,000.00
252	5,000.00
253	5,000.00
254	5,000.00
255	5,000.00
256	5,000.00
257	5,000.00
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295	5,000.00
296	5,000.00
297	5,000.00
298	5,000.00
299	5,000.00
300	5,000.00

NET LOT AREA	
LOT	NET LOT AREA
301	5,000.00
302	5,000.00
303	5,000.00
304	5,000.00
305	5,000.00
306	5,000.00
307	5,000.00
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329	5,000.00
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331	5,000.00
332	5,000.00
333	5,000.00
334	5,000.00
335	5,000.00
336	5,000.00
337	5,000.00
338	5,000.00
339	5,000.00
340	5,000.00

NET LOT AREA

LOT 1: 5,000.00

LOT 2: 5,000.00

LOT 3: 5,000.00

LOT 4: 5,000.00

LOT 5: 5,000.00

LOT 6: 5,000.00

LOT 7: 5,000.00

LOT 8: 5,000.00

LOT 9: 5,000.00

LOT 10: 5,000.00

LOT 11: 5,000.00

LOT 12: 5,000.00

LOT 13: 5,000.00

LOT 14: 5,000.00

LOT 15: 5,000.00

LOT 16: 5,000.00

LOT 17: 5,000.00

LOT 18: 5,000.00

LOT 19: 5,000.00

LOT 20: 5,000.00

LOT 21: 5,000.00

LOT 22: 5,000.00

LOT 23: 5,000.00

LOT 24: 5,000.00

LOT 25: 5,000.00

LOT 26: 5,000.00

LOT 27: 5,000.00

LOT 28: 5,000.00

LOT 29: 5,000.00

LOT 30: 5,000.00

LOT 31: 5,000.00

LOT 32: 5,000.00

LOT 33: 5,000.00

LOT 34: 5,000.00

LOT 35: 5,000.00

LOT 36: 5,000.00

LOT 37: 5,000.00

LOT 38: 5,000.00

LOT 39: 5,000.00

LOT 40: 5,000.00

COUNTY OF SAN DIEGO TRACT TM 5597 RPL 2
 TENTATIVE MAP
 NEWLAND SIERRA

SEE SHEET 12



PROPOSED PRIVATE STREET SECTION FOR
 PRIVATE STREET P-1
 SEE SHEET

PARCEL TABLE

LOT	AREA (ACRES)	AREA (SQ FT)	COMMENTS
01	300.00	81.74	1,237,000
02	517.92	148.15	1,981,000
03	380.74	104.17	1,417,000
04	171.18	47.18	607,000
05	204.87	56.92	721,000
06	306.35	84.81	1,081,000
07	350.00	97.22	1,241,000
08	54.00	14.96	190,000
09	24.47	6.71	86,000
10	11.08	3.05	39,000
11	258.12	71.42	907,000
12	52.12	14.48	184,000
13	52.12	14.48	184,000
14	204.79	56.88	717,000

NET LOT AREAS

LOT	NET LOT AREA (ACRES)	NET LOT AREA (SQ FT)
01	300.00	81.74
02	517.92	148.15
03	380.74	104.17
04	171.18	47.18
05	204.87	56.92
06	306.35	84.81
07	350.00	97.22
08	54.00	14.96
09	24.47	6.71
10	11.08	3.05
11	258.12	71.42
12	52.12	14.48
13	52.12	14.48
14	204.79	56.88

SEE SHEET 6

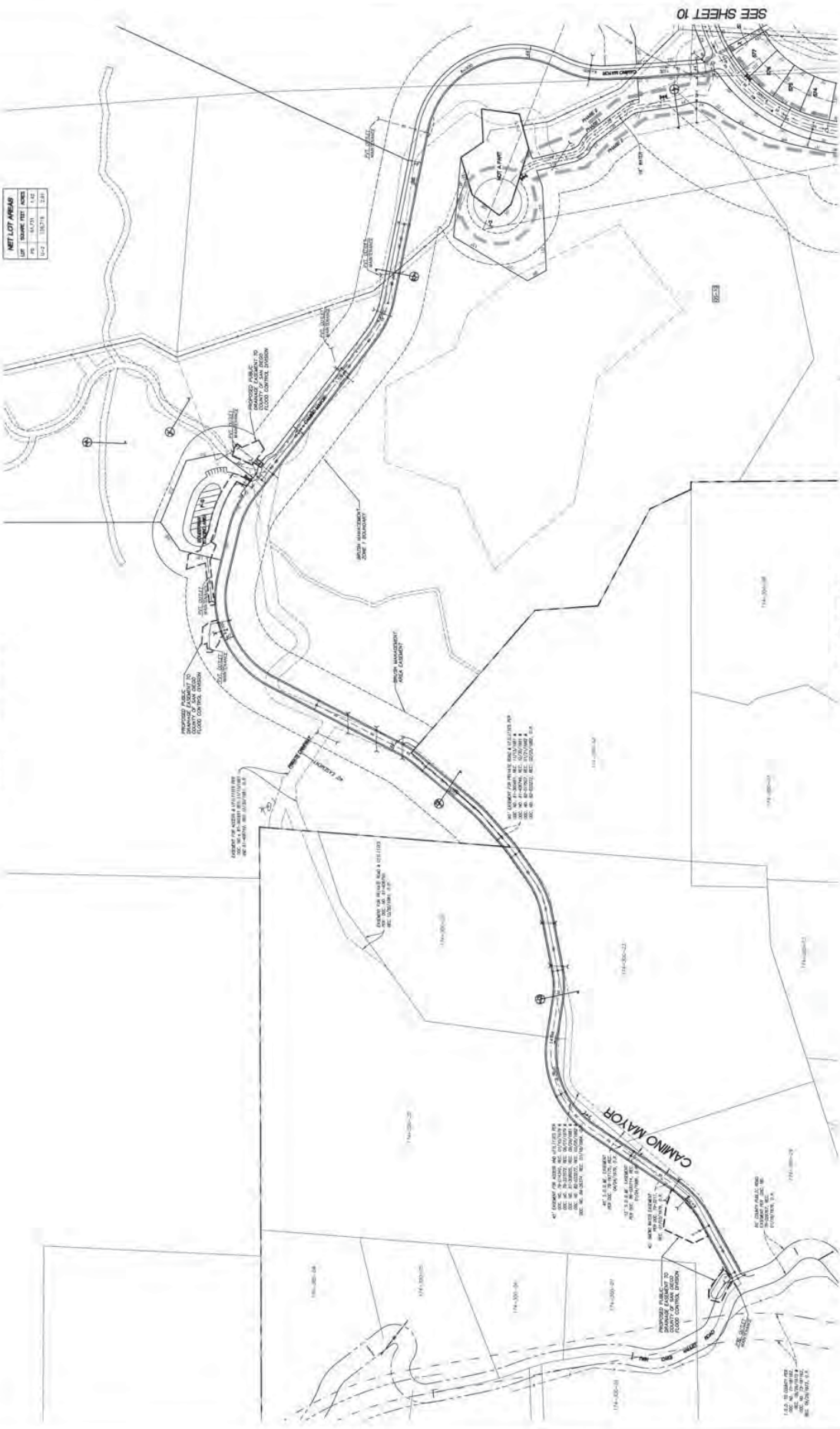
FUSCOE ENGINEERS
 ENGINEERS OF RECORD
 10000 San Diego Avenue, Suite 100
 San Diego, California 92121
 Tel: 619.594.1100 Fax: 619.594.1101

ENGINEER OF WORK
 [Signature]
 [Stamp]

SEE SHEET 13 OF 14

COUNTY OF SAN DIEGO TRACT TM 5597 RPL 2
TENTATIVE MAP
NEWLAND SIERRA

NET LOT AREAS	
LOT	THANKS FIRST AREAS
101	1.82
102	1.82
103	1.82
104	1.82
105	1.82
106	1.82
107	1.82
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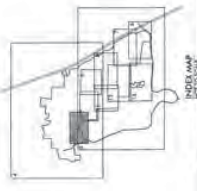
SEE SHEET 10

SEE SHEET 10

SHEET 14 OF 14



ENGINEER OF WORK
MARK A. FUSCOE, P.E.
No. 12345
State of California
1/10/10



COUNTY OF SAN DIEGO TRACT TM 5597 RPL 2
PRELIMINARY GRADING PLAN
NEWLAND SIERRA
BY THE ENGINEER FOR THE COUNTY OF SAN DIEGO

TOPOGRAPHY

CONTOUR INTERVAL: 5 FEET
ELEVATION: 1000 FEET
DATE: 01/15/10

PROPOSED GRADING

PROPOSED GRADING: 1000 FEET
DATE: 01/15/10

PROPOSED IMPROVEMENTS

PROPOSED IMPROVEMENTS: 1000 FEET
DATE: 01/15/10

APPLICANT

APPLICANT: 1000 FEET
DATE: 01/15/10

ENGINEER

ENGINEER: 1000 FEET
DATE: 01/15/10

LEGAL DESCRIPTION

LEGAL DESCRIPTION: 1000 FEET
DATE: 01/15/10

SOLAR ACCESS NOTE

SOLAR ACCESS NOTE: 1000 FEET
DATE: 01/15/10

SPECIAL ASSESSMENT ACT STATEMENT

SPECIAL ASSESSMENT ACT STATEMENT: 1000 FEET
DATE: 01/15/10

STREET LIGHT STATEMENT

STREET LIGHT STATEMENT: 1000 FEET
DATE: 01/15/10

PARK AND RECREATION STATEMENT

PARK AND RECREATION STATEMENT: 1000 FEET
DATE: 01/15/10

COMMUNITY STATEMENT

COMMUNITY STATEMENT: 1000 FEET
DATE: 01/15/10

WATER AND SEWER

WATER AND SEWER: 1000 FEET
DATE: 01/15/10

SCHOOL DISTRICTS

SCHOOL DISTRICTS: 1000 FEET
DATE: 01/15/10

FIRE DISTRICTS

FIRE DISTRICTS: 1000 FEET
DATE: 01/15/10

EXISTING ZONING

EXISTING ZONING: 1000 FEET
DATE: 01/15/10

PROPOSED ZONING

PROPOSED ZONING: 1000 FEET
DATE: 01/15/10

CROSSNET AREA

CROSSNET AREA: 1000 FEET
DATE: 01/15/10

NUMBER OF LOTS

NUMBER OF LOTS: 1000 FEET
DATE: 01/15/10

ASSESSORS PARCEL NUMBERS

ASSESSORS PARCEL NUMBERS: 1000 FEET
DATE: 01/15/10

OWNERS

OWNERS: 1000 FEET
DATE: 01/15/10

GENERAL PLAN / REGIONAL CATEGORY

GENERAL PLAN / REGIONAL CATEGORY: 1000 FEET
DATE: 01/15/10

TAX RATE

TAX RATE: 1000 FEET
DATE: 01/15/10

COMMUNITY PLAN

COMMUNITY PLAN: 1000 FEET
DATE: 01/15/10

PRIVATE MAINTENANCE

PRIVATE MAINTENANCE: 1000 FEET
DATE: 01/15/10

DESIGN STANDARDS

DESIGN STANDARDS: 1000 FEET
DATE: 01/15/10

WATER AND SEWER

WATER AND SEWER: 1000 FEET
DATE: 01/15/10

SCHOOL DISTRICTS

SCHOOL DISTRICTS: 1000 FEET
DATE: 01/15/10

FIRE DISTRICTS

FIRE DISTRICTS: 1000 FEET
DATE: 01/15/10

EXISTING ZONING

EXISTING ZONING: 1000 FEET
DATE: 01/15/10

PROPOSED ZONING

PROPOSED ZONING: 1000 FEET
DATE: 01/15/10

CROSSNET AREA

CROSSNET AREA: 1000 FEET
DATE: 01/15/10

NUMBER OF LOTS

NUMBER OF LOTS: 1000 FEET
DATE: 01/15/10

ASSESSORS PARCEL NUMBERS

ASSESSORS PARCEL NUMBERS: 1000 FEET
DATE: 01/15/10

OWNERS

OWNERS: 1000 FEET
DATE: 01/15/10

GENERAL PLAN / REGIONAL CATEGORY

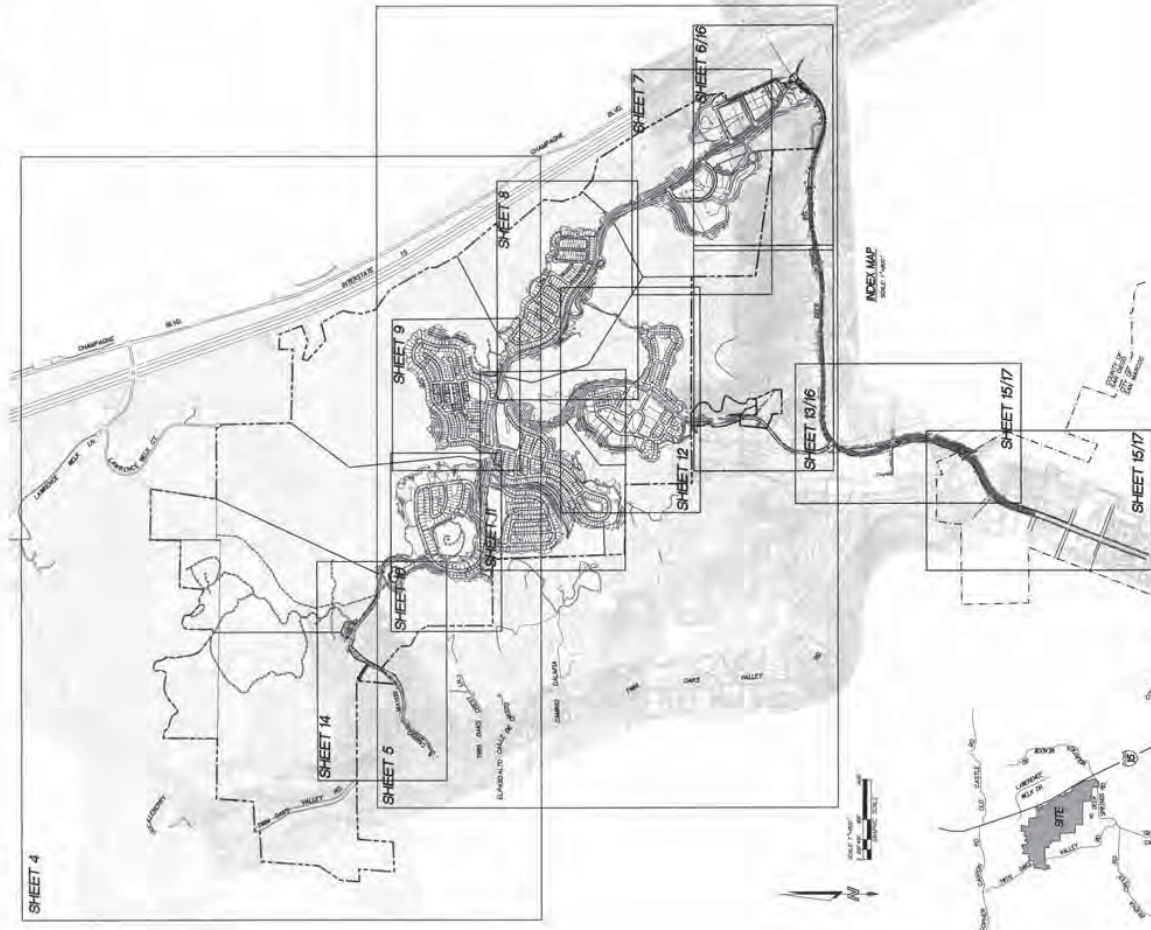
GENERAL PLAN / REGIONAL CATEGORY: 1000 FEET
DATE: 01/15/10

TAX RATE

TAX RATE: 1000 FEET
DATE: 01/15/10

COMMUNITY PLAN

COMMUNITY PLAN: 1000 FEET
DATE: 01/15/10



LEGEND table with columns for SYMBOL, STD. DIMS., and SYMBOL. Includes symbols for various features like roads, utilities, and boundaries.

DESIGN STANDARDS section containing detailed technical specifications for the grading plan, including references to local codes and standards.

ASSESSORS PARCEL NUMBERS table listing parcel numbers and their corresponding owner information.

GENERAL PLAN / REGIONAL CATEGORY table listing various categories and their associated tax rates.

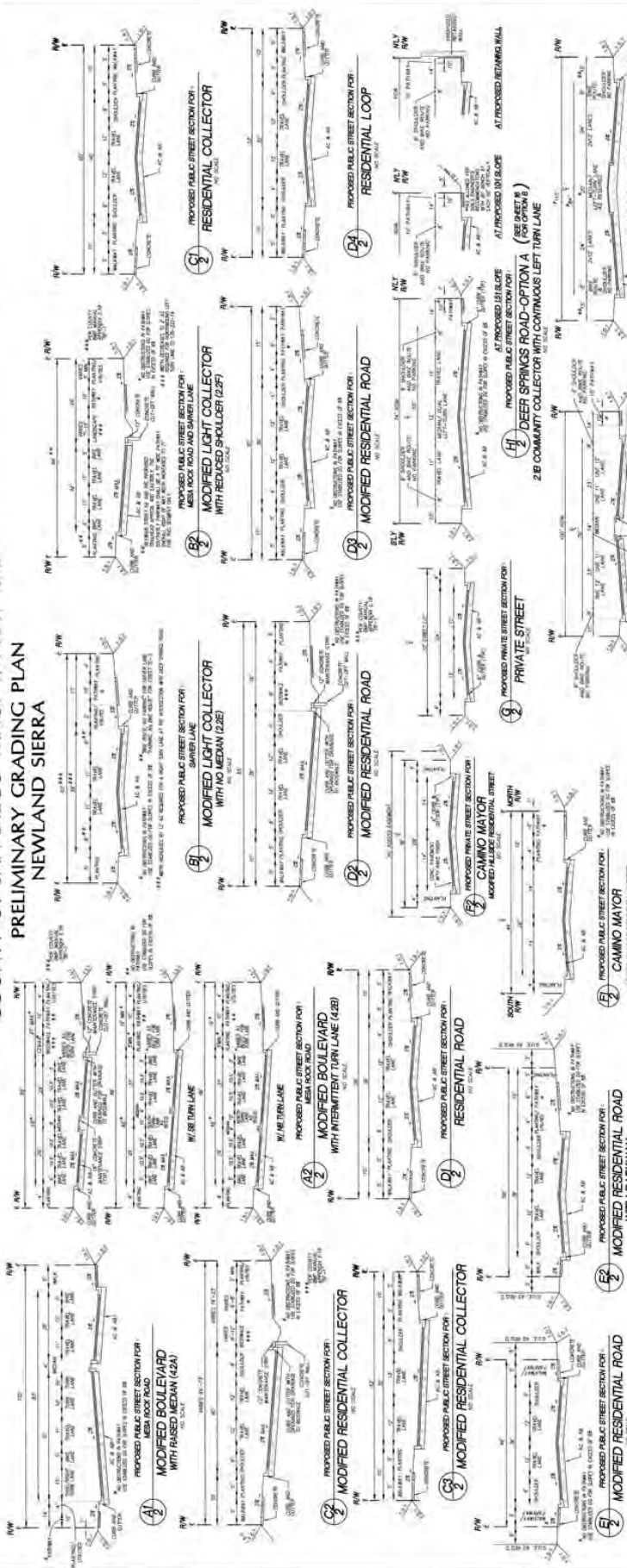
WATER AND SEWER, SCHOOL DISTRICTS, FIRE DISTRICTS, EXISTING ZONING, PROPOSED ZONING, CROSSNET AREA, NUMBER OF LOTS, ASSESSORS PARCEL NUMBERS, OWNERS, GENERAL PLAN / REGIONAL CATEGORY, TAX RATE, COMMUNITY PLAN, PRIVATE MAINTENANCE, DESIGN STANDARDS, WATER AND SEWER, SCHOOL DISTRICTS, FIRE DISTRICTS, EXISTING ZONING, PROPOSED ZONING, CROSSNET AREA, NUMBER OF LOTS, ASSESSORS PARCEL NUMBERS, OWNERS, GENERAL PLAN / REGIONAL CATEGORY, TAX RATE, COMMUNITY PLAN, PRIVATE MAINTENANCE, DESIGN STANDARDS.

NEWLAND SIERRA PRELIMINARY GRADING PLAN SHEET 1 OF 17. Includes logos for the engineering firm and other project-related information.

OWNER/DEVELOPER, ENGINEER OF WORK, and other project management contact information.

SHEET INDEX table listing the sequence of sheets in the project set.

COUNTY OF SAN DIEGO TRACT TM 5597 RPL 2
PRELIMINARY GRADING PLAN
NEWLAND SIERRA



EXISTING ZONING

PROPOSED ZONING

STREET LANDSCAPING STANDARDS

ENGINEER OF WORK

FUSCOE

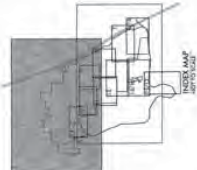
SHEET 2 OF 17

The right side of the sheet contains zoning maps and landscaping standards. The zoning maps show the transition from existing zoning to proposed zoning for each road section. The landscaping standards provide detailed specifications for street landscaping, including tree types, heights, and spacing. The engineer of work information includes the name and contact details of the engineering firm. The Fuscoe logo and sheet number are also present.

COUNTY OF SAN DIEGO TRACT TM 5597 RPL²
PRELIMINARY GRADING PLAN
NEWLAND SIERRA

NO.	BEARING	DIANCE (FEET)
1	S 41° 52' 30" E	165.00
2	S 68° 51' 00" E	83.43
3	S 17° 53' 00" E	204.33
4	S 84° 00' 00" E	146.00
5	S 70° 00' 00" E	100.00
6	S 17° 53' 00" E	204.33
7	S 68° 51' 00" E	83.43
8	S 41° 52' 30" E	165.00
9	N 17° 53' 00" E	204.33
10	N 68° 51' 00" E	83.43
11	N 17° 53' 00" E	204.33
12	N 41° 52' 30" E	165.00
13	N 68° 51' 00" E	83.43
14	N 17° 53' 00" E	204.33
15	N 17° 53' 00" E	204.33
16	N 68° 51' 00" E	83.43
17	N 41° 52' 30" E	165.00
18	N 17° 53' 00" E	204.33
19	N 68° 51' 00" E	83.43
20	N 17° 53' 00" E	204.33
21	N 41° 52' 30" E	165.00
22	N 68° 51' 00" E	83.43
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NO.	BEARING	DIANCE (FEET)
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2	S 68° 51' 00" E	83.43
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4	S 84° 00' 00" E	146.00
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6	S 17° 53' 00" E	204.33
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SHEET 4 OF 17

RUSCOE
REGISTERED PROFESSIONAL ENGINEER
No. 1224, State of California
1435 W. WASHINGTON ST., SUITE 200
SAN ANTONIO, CA 92102
TEL: (510) 532-8500 FAX: (510) 532-8501
WWW.RUSCOE-ENGINEERS.COM

ENGINEER OF WORK
DATE: 04/25/11
PROJECT: TM 5597 RPL²
SHEET NO. 4 OF 17
BY: [Signature]

SEE SHEET 5



COUNTY OF SAN DIEGO TRACT TM 5597 RPL 2
 PRELIMINARY GRADING PLAN
 NEWLAND SIERRA

SEE SHEET 4



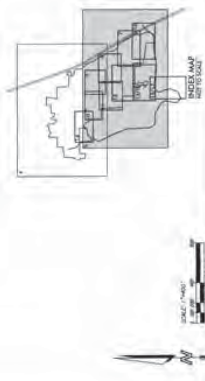
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100	10000.00

SHEET 5 OF 17

FUSCOE ENGINEERS INC.
 10000 LINDSEY DRIVE, SUITE 100
 SAN DIEGO, CALIFORNIA 92121
 (619) 594-1225
 www.fuscoengineers.com

ENGINEER OF WORKS
 AUTO. LICENSE NO. 18,163
 REGISTERED PROFESSIONAL ENGINEER
 CIVIL ENGINEERING
 DATE: 10/28/2010

PROJECT: TRACT TM 5597 RPL 2
 SHEET: 5 OF 17



COUNTY OF SAN DIEGO TRACT TM 5597 RPL 2
PRELIMINARY GRADING PLAN
NEWLAND SIERRA

SEE SHEET 7

SEE SHEET 7



SEE SHEET 13



INTERCHANGE IMPROVEMENTS
PER SEPARATE CALTRANS PROJECT

DEER SPRINGS ROAD OPTION A
SEE SHEET 16 FOR OPTION B

SHEET 6 OF 17



ENGINEER OF WORKS
FUSCOE
10000 Camino del Rio South, Suite 110
San Diego, California 92108
PH: 619-594-8800 FAX: 619-594-8801
WWW.FUSCOE.COM

NO.	DATE	REVISION

COUNTY OF SAN DIEGO TRACT TM 5597 RPL 2
 PRELIMINARY GRADING PLAN
 NEWLAND SIERRA

SEE SHEET 8

SEE SHEET 11

SEE SHEET 13



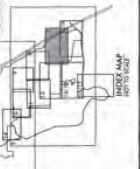
SHEET 7 OF 17



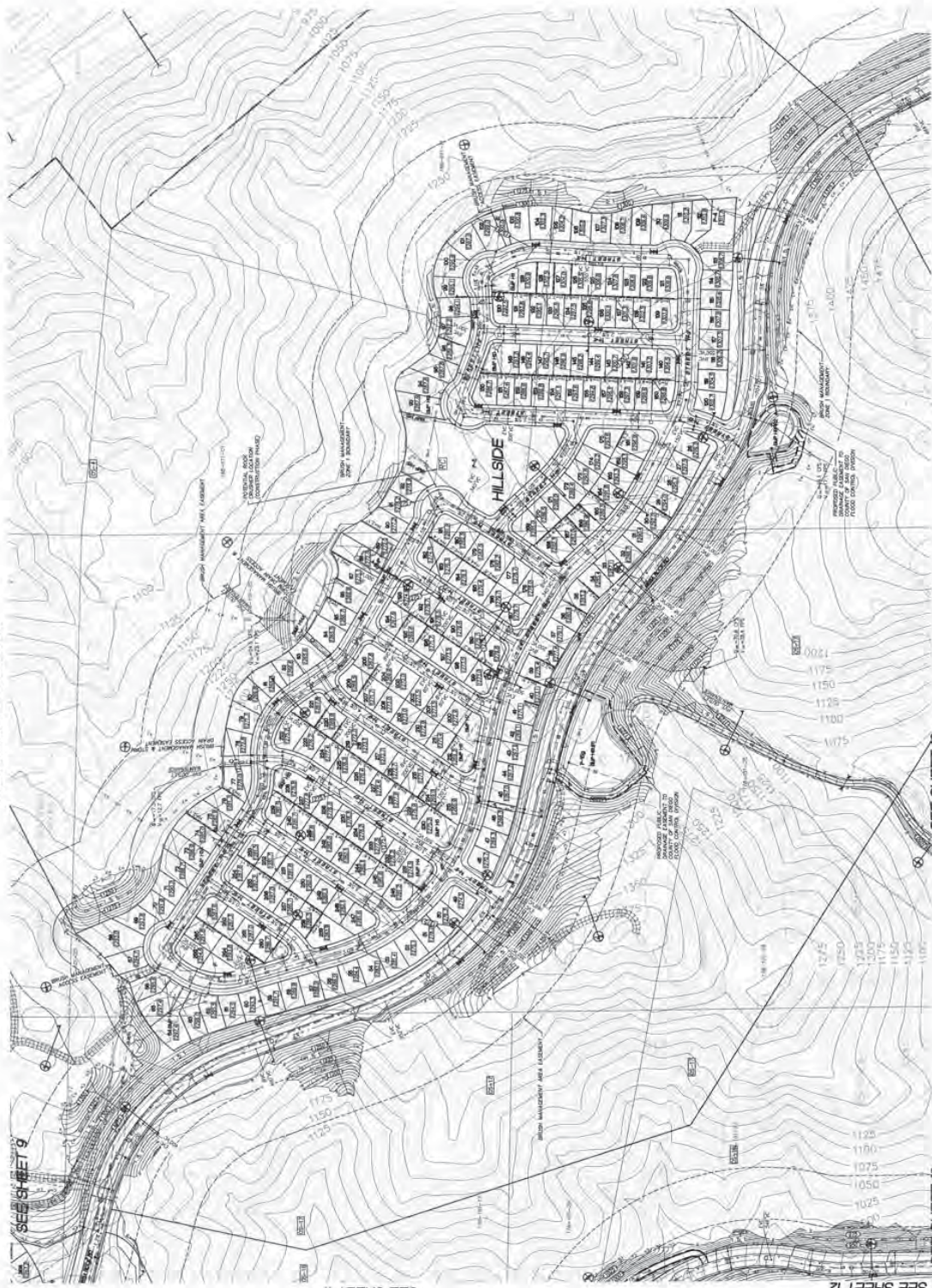
ENGINEER OF WORK
 LICENSE NO. 10000
 REGISTERED PROFESSIONAL ENGINEER
 CIVIL ENGINEERING
 STATE OF CALIFORNIA

NO.	DATE	DESCRIPTION	BY	CHKD.
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3	02/10/00	ISSUED FOR CONSTRUCTION	JL	ML
4	02/15/00	ISSUED FOR CONSTRUCTION	JL	ML
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SEE SHEET 6



COUNTY OF SAN DIEGO TRACT TM 5597 RPL 2
PRELIMINARY GRADING PLAN
NEWLAND SIERRA



SEE SHEET 9

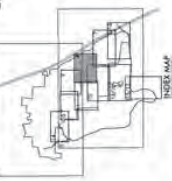
SEE SHEET 11

SEE SHEET 12

SEE SHEET 12

SEE SHEET 7

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49	11/15/11
50	11/15/11



ENGINEER OF WORK
 FUSCOE CONSULTANTS, INC.
 11000 SAN DIEGO AVENUE, SUITE 100
 SAN DIEGO, CALIFORNIA 92121
 TEL: 619-594-1100 FAX: 619-594-1101

SHEET 8 OF 17

COUNTY OF SAN DIEGO TRACT TM 5597 RPL 2 PRELIMINARY GRADING PLAN NEWLAND SIERRA



NOTES: SEE DRAWING FOR GRADING AND FINISH SURFACE ELEVATIONS.
 1" = 40' SHEET 11

NO.	DESCRIPTION	AREA	GRADE
1	AREA 1	...	...
2	AREA 2	...	...
3	AREA 3	...	...
4	AREA 4	...	...
5	AREA 5	...	...
6	AREA 6	...	...
7	AREA 7	...	...
8	AREA 8	...	...
9	AREA 9	...	...
10	AREA 10	...	...



ENGINEER OF WORKS
 PROFESSIONAL SEAL AND SIGNATURE
FUSCOE
 CONSULTANTS
 10010 N. BURNING OAK DRIVE, SUITE 100
 DANA POINT, CALIFORNIA 92629
 (949) 441-0300
 www.fuscoec.com

SHEET 9 OF 17

COUNTY OF SAN DIEGO TRACT TM 5597 RPL 2
PRELIMINARY GRADING PLAN
NEWLAND SIERRA



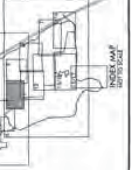
SEE SHEET 14

SEE SHEET 14

SEE SHEET 9

SEE SHEET 11

NO.	DESCRIPTION	AREA (SQ. FT.)	VOLUME (CU. YD.)
1	DEMOLITION		
2	EXCAVATION		
3	FILL		
4	RETAINMENT WALLS		
5	LANDSCAPING		
6	CONCRETE		
7	ASPHALT		
8	GRAVEL		
9	SOIL REMEDIATION		
10	OTHER		
TOTAL			



SHEET 10 OF 17

FUSCO
ENGINEERS

ENGINEER OF WORK
 JOHN W. FUSCO, P.E.
 10000 SAN DIEGO AVENUE, SUITE 100
 SAN DIEGO, CALIFORNIA 92131
 (619) 594-1100

COUNTY OF SAN DIEGO TRACT TM 5597 RPL 2
PRELIMINARY GRADING PLAN
NEWLAND SIERRA



SEE SHEET 10

SEE SHEET 9

SEE SHEET 8

SEE SHEET 12

SEE SHEET 12

SHEET 11 OF 17



ENGINEER OF WORK
FUSCOE ENGINEERS, INC.
1400 SAN DIEGO AVENUE, SUITE 200
SAN DIEGO, CALIFORNIA 92108
TEL: 619-594-4400
FAX: 619-594-4401

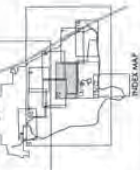
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COUNTY OF SAN DIEGO TRACT TM 5597 RPL²
PRELIMINARY GRADING PLAN
NEWLAND SIERRA



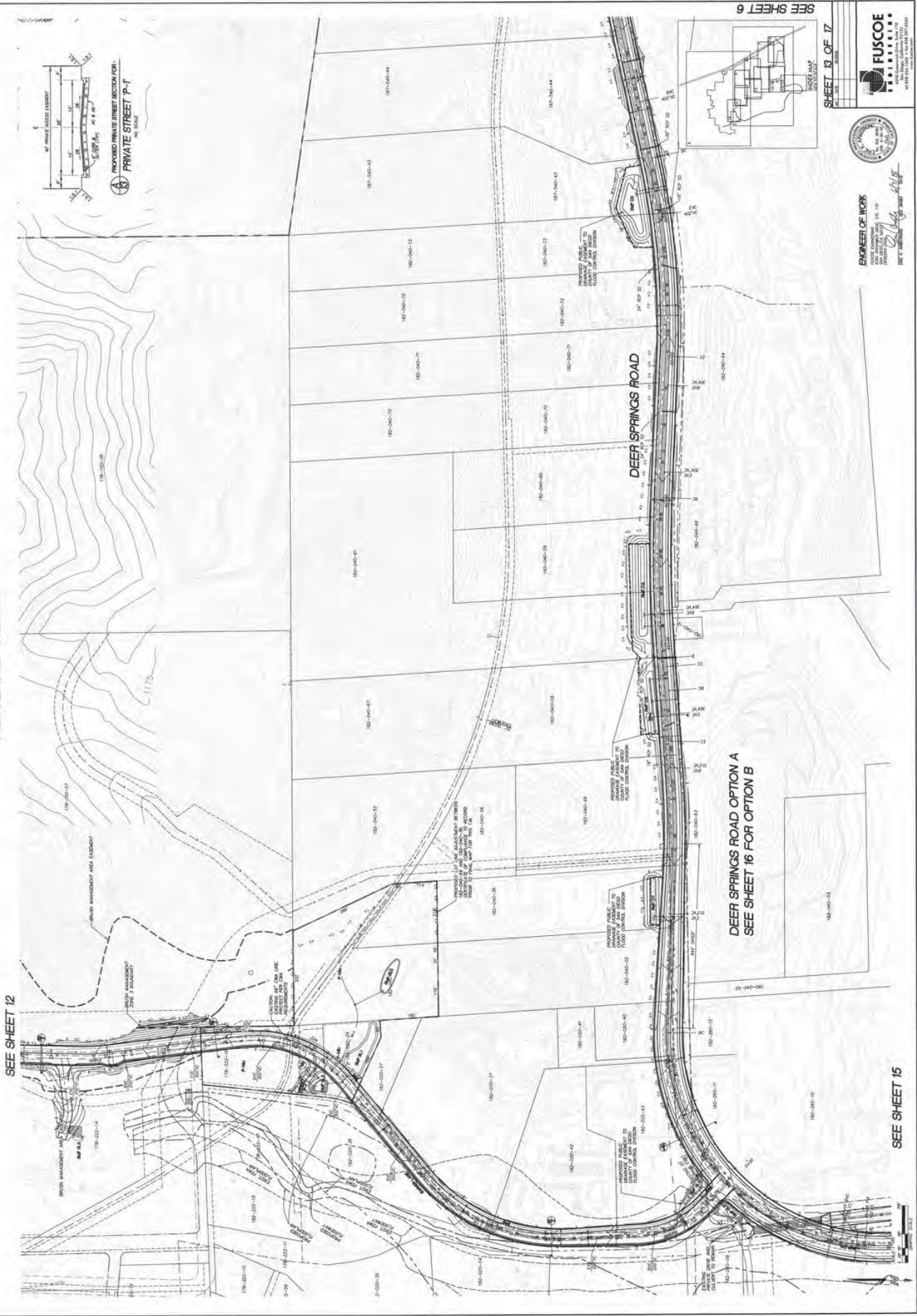
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18	ISSUED FOR PERMITTING	08/11/11	J. GARCIA	J. GARCIA
19	ISSUED FOR PERMITTING	08/11/11	J. GARCIA	J. GARCIA
20	ISSUED FOR PERMITTING	08/11/11	J. GARCIA	J. GARCIA



ENGINEER OF RECORD
FUSCOE
 10000 SAN DIEGO AVENUE, SUITE 100
 SAN DIEGO, CALIFORNIA 92121
 TEL: 619-594-1100 FAX: 619-594-1101

SHEET 12 OF 17

COUNTY OF SAN DIEGO TRACT TM 5597 RPL²
PRELIMINARY GRADING PLAN
NEWLAND SIERRA



SEE SHEET 12

DEER SPRINGS ROAD OPTION A
SEE SHEET 16 FOR OPTION B

SEE SHEET 15

SEE SHEET 6

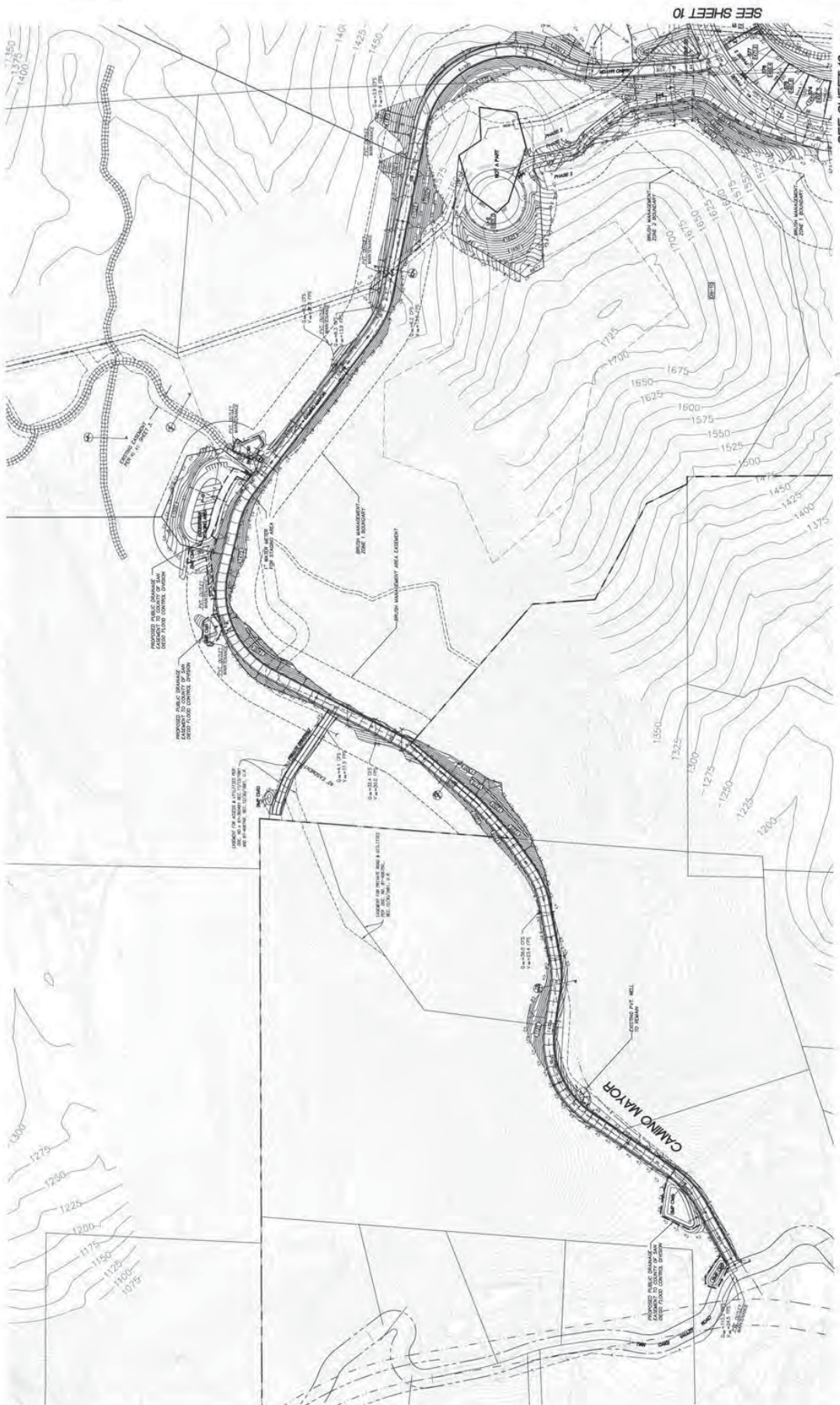
SHEET 13 OF 17

FUSCOE
INCORPORATED
1000 AVENUE 66, SUITE 100
SAN DIEGO, CALIFORNIA 92108
TEL: 619-594-1100
FAX: 619-594-1101
WWW.FUSCOE.COM



ENGINEER OF WORK
DAVID J. FUSCOE, P.E.
No. 44788
08/2008
STATE OF CALIFORNIA

COUNTY OF SAN DIEGO TRACT TM 5597 RPL 2
 PRELIMINARY GRADING PLAN
 NEWLAND SIERRA



NO.	DATE	DESCRIPTION	BY	CHKD.
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6	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
7	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
8	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
9	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
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24	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
25	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
26	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
27	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
28	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
29	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
30	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
31	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
32	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
33	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
34	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
35	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
36	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
37	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
38	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
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41	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
42	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
43	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
44	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
45	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
46	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
47	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
48	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
49	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]
50	11/15/11	REVISED FOR COMMENTS	J. M. [Signature]	[Signature]

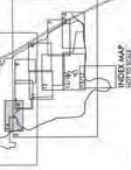
SEE SHEET 10

SEE SHEET 11

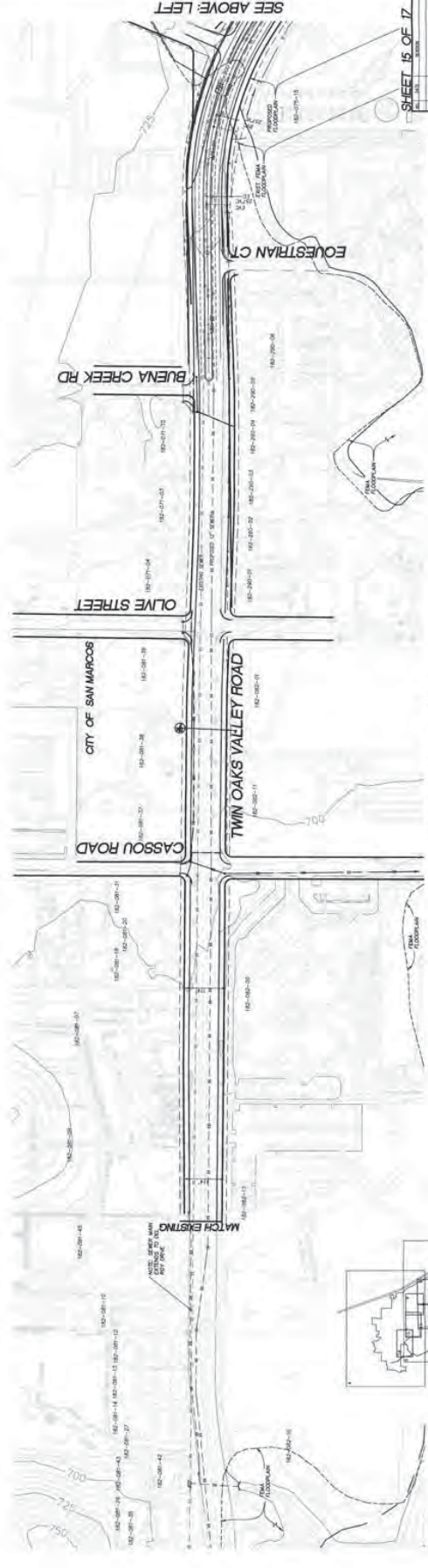
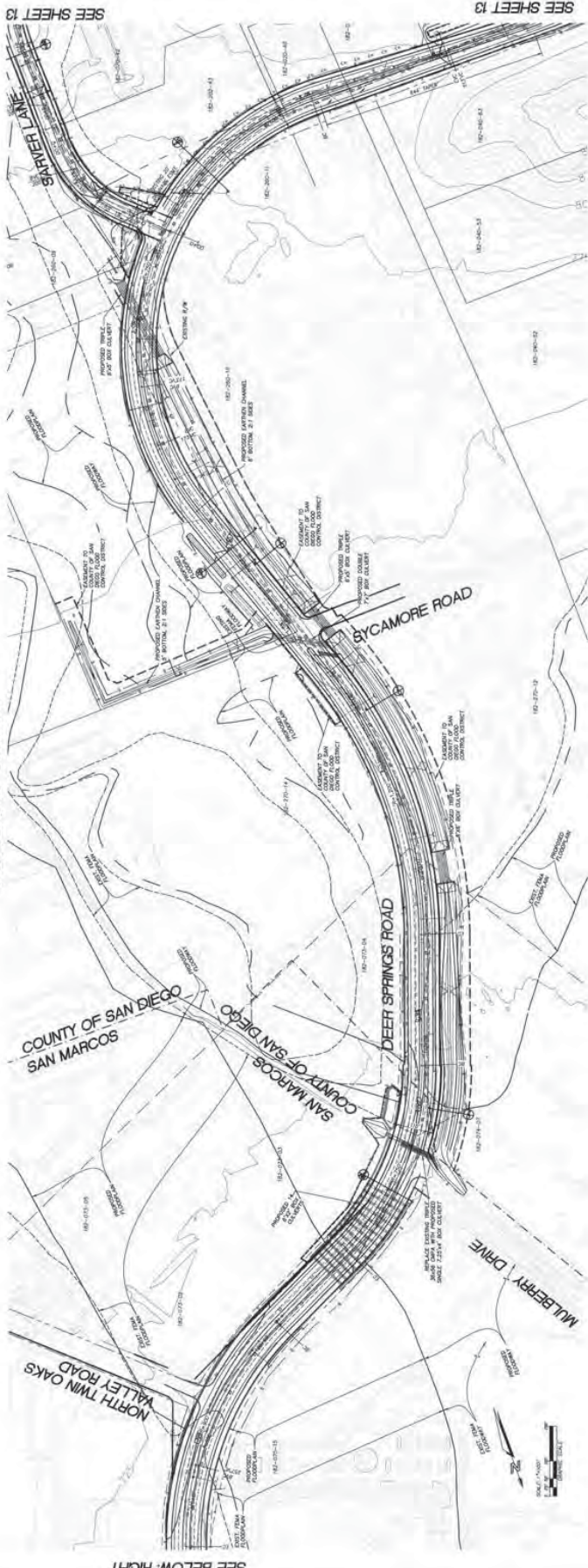
ENGINEER OF WORK
 J. M. [Signature]
 11/15/11

FUSCOE
 11/15/11

SHEET 14 OF 17



COUNTY OF SAN DIEGO TRACT TM 5597 RPL 2
PRELIMINARY GRADING PLAN
NEWLAND SIERRA



DEER SPRINGS ROAD OPTION B
SEE SHEET 17 FOR OPTION A

FUSCOE
INCORPORATED
REGISTERED PROFESSIONAL ENGINEER
No. 12345, State of California
1234 Main Street, San Diego, CA 92101
Tel: 619-123-4567

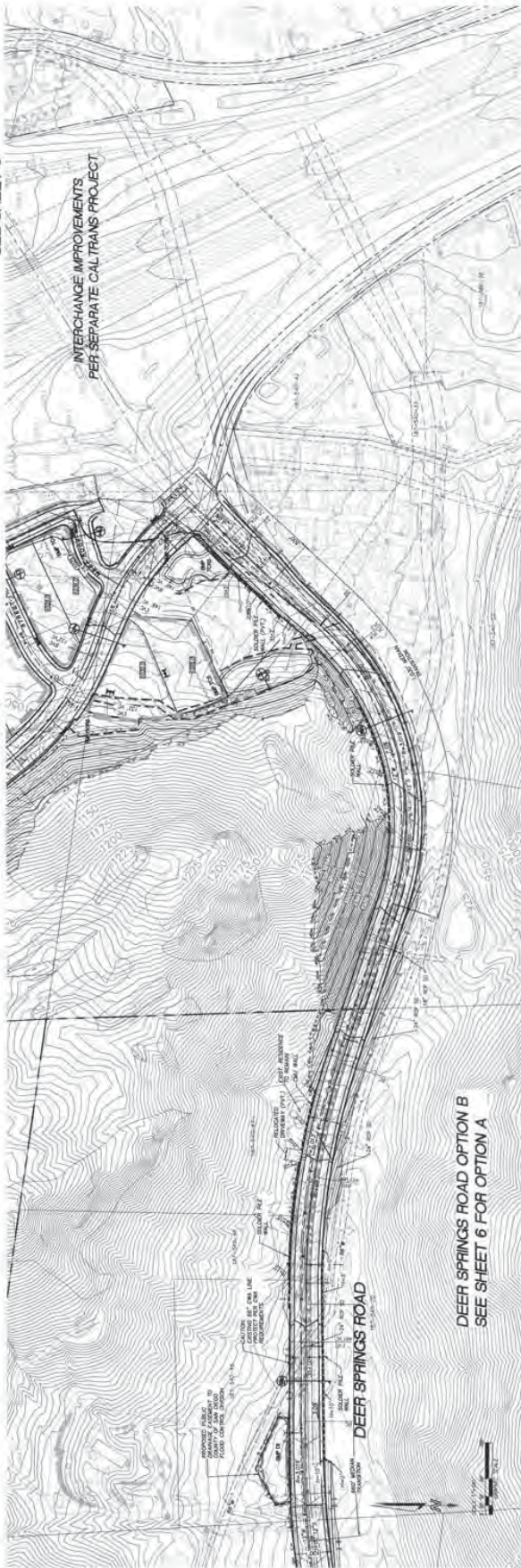
ENGINEER OF WORK
PROJECT NUMBER: 12345
DATE: 12/31/2023
SCALE: AS SHOWN
BY: [Signature]



COUNTY OF SAN DIEGO TRACT TM 5597 RPL 2
PRELIMINARY GRADING PLAN
NEWLAND SIERRA

SEE SHEET 6

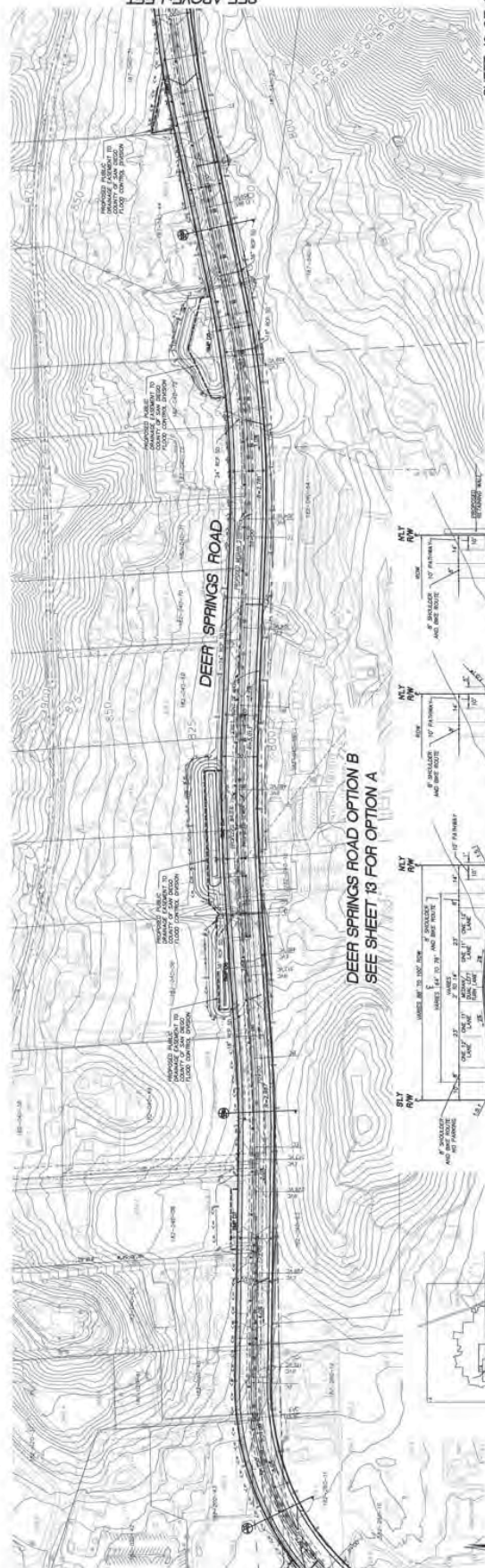
INTERCHANGE IMPROVEMENTS
PER SEPARATE CALTRANS PROJECT



SEE BELOW: RIGHT

DEER SPRINGS ROAD OPTION B
SEE SHEET 6 FOR OPTION A

SEE ABOVE: LEFT



SEE SHEET 17

DEER SPRINGS ROAD OPTION B
SEE SHEET 13 FOR OPTION A

SHEET 16 OF 17



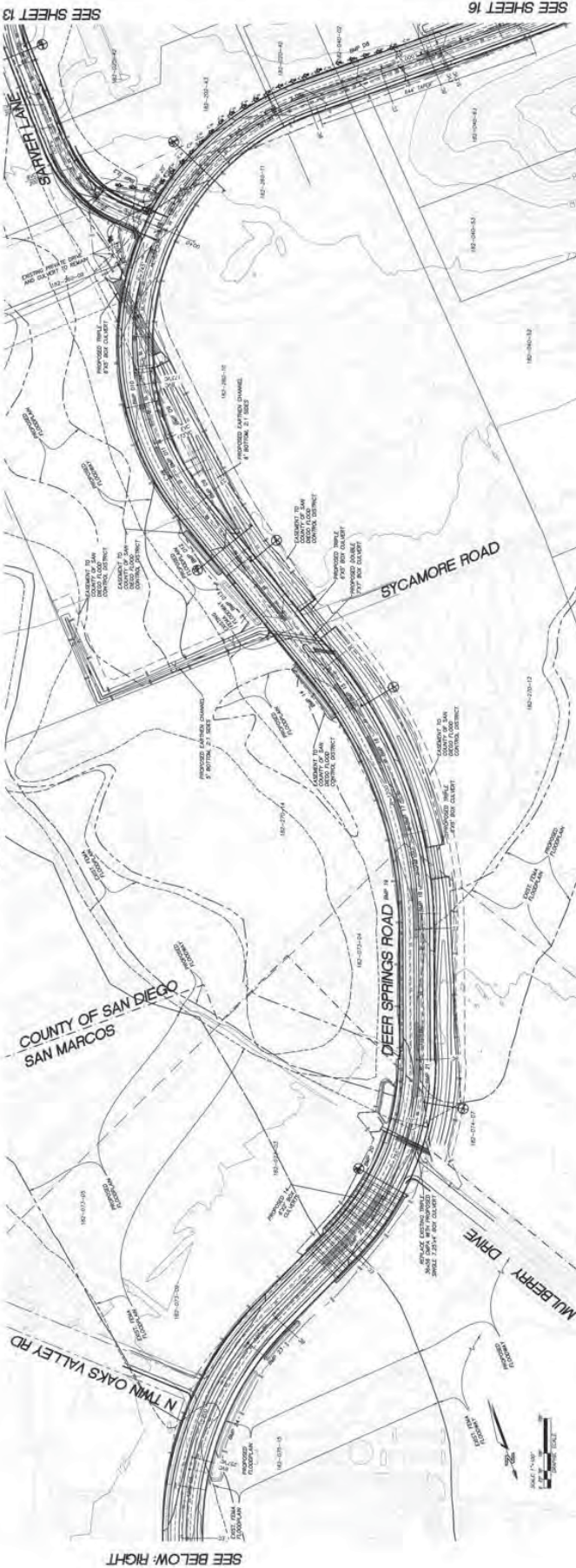
ENGINEER OF WORK
NAME: [Signature]
DATE: [Date]
PROJECT: [Project Name]

AT PROPOSED USE SLOPE
AT PROPOSED RETAINING WALL

PROPOSED PUBLIC STREET SECTION FOR:
DEER SPRINGS ROAD
418 MAJOR ROAD WITH INTERMITTENT TURN LANES
NO SCALE



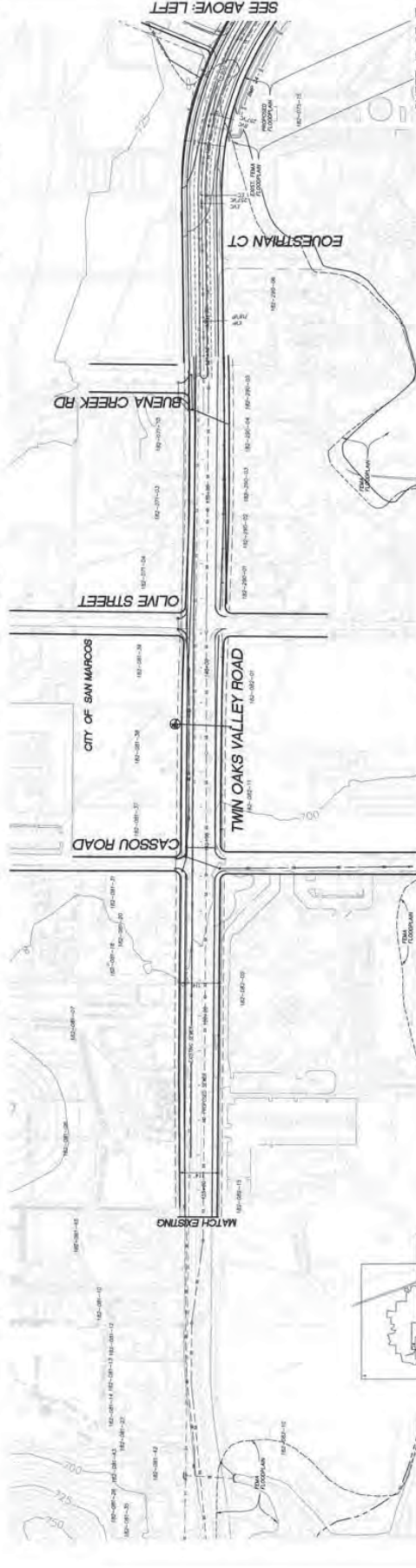
COUNTY OF SAN DIEGO TRACT TM 5597 RPL 2
 PRELIMINARY GRADING PLAN
 NEWLAND SIERRA



SEE BELOW: RIGHT

SEE SHEET 13

SEE SHEET 16



SEE ABOVE: LEFT

SHEET 17 OF 17

FUSCOE
 ENGINEERS, ARCHITECTS & PLANNERS
 10000 La Jolla Village Drive, Suite 100
 San Diego, CA 92121-4411
 (619) 591-1100
 FAX: (619) 591-1101

ENGINEER OF WORK
 [Signature]
 [Stamp]

DEER SPRINGS ROAD OPTION B SEE SHEET 15 FOR OPTION A





County of San Diego

RICHARD E. CROMPTON
DIRECTOR

DEPARTMENT OF PUBLIC WORKS
5510 OVERLAND AVE, SUITE 410
SAN DIEGO, CALIFORNIA 92123-1237
(858) 694-2212 FAX: (858) 694-3597
Web Site: www.sdcountry.ca.gov/dpwl

June 14, 2018

Newland Sierra, LLC
4790 Eastgate Mall, Suite 150
San Diego, CA 92121

NEWLAND SIERRA – DESIGN EXCEPTION REQUESTS

The Department of Public Works (DPW) and Department of Planning & Development Services (PDS) have reviewed the requested public road design exceptions (18) submitted for the proposed Newland Sierra development (attached). The requests are summarized for the following roadway facilities:

1. Mesa Rock Road (Section A1): Request is to reduce shoulder to five feet as bike lane on both sides, parking prohibition, and reduce the parkway to five feet along the eastern side and fourteen feet along the western side.
2. Mesa Rock Road (Section A2): Request is to delete eight foot shoulders, reduce six foot bike lanes to five feet, parking prohibition, reduce parkway to four feet, delete center crown, increase max grade from nine percent to twelve percent, reduce minimum lane width to ten-and-a-half feet.
3. Sarver Lane (Section B1): Request is to reduce parkway to five feet, utilize shoulders as bike routes (at eight feet), parking prohibition and reduce design speed for horizontal and vertical curves.
4. Sarver Lane and Mesa Rock Road (Section B2): Request is to reduce parkway to five feet one side, modify shoulders to five feet for bike lanes, parking prohibition, delete center crown, increase max grade from nine percent to twelve percent.
5. Residential Collector (Section C1): Request is to reduce horizontal curve from 300' to 100'.
6. Residential Collector (Section C2): Request is to delete center crown and reduce horizontal curve to 200'.

7. Residential Collector (Section C3): Request is to reduce horizontal radius to 150', delete eight foot shoulder on one side, and use one-way traffic flow from Mesa Rock Road.
8. Residential Road (Section D1): Request is to reduce minimum horizontal curve from 300' to 200'.
9. Residential Road (Section D2): Request is to delete the center crown.
10. Residential Road (D3): Request is to reduce minimum horizontal curve from 200' to 100'.
11. Residential Road (D4): Request is to reduce horizontal curve from 200' to 100'.
12. Residential Road (Section E1): Request is to reduce parkways to five feet and reduce minimum horizontal curve from 200' to 100'.
13. Residential Road (Section E2): Request is to reduce parkways to five feet and reduce minimum horizontal curve from 200' to 100'.
14. Hillside Residential Street (Section F1): Request is to reduce parkway to four feet and reduce right of way to forty-four feet.
15. Deer Springs Road (Section H1 – 2 Lanes with painted median): Request is to provide no pedestrian provision within the southerly parkway, parking prohibition, reduce 14' raised median to a 12' wide painted median, and reduce lanes widths from 12' to 11'.
16. Deer Springs Road (Section H2 – 4 Lanes with raised median): Request is to provide no pedestrian provision within the southerly parkway, reduce horizontal curve radius to 750' with a design speed of 45 MPH, prohibit parking, and reduce the width of two of the four lanes from 12' to 11'.
17. Deer Springs Road (Section H3 – 4 Lanes with painted median): Request is to provide no pedestrian provision within the southerly parkway, parking prohibition, use of painted median with variable width of 14' to 2', and reduce the width of two of the four lanes from 12' to 11'.
18. Intersection Spacing: Intersection requests are approved as presented in the submittal of June 2017, attached for reference.

Exception requests are dated June 2017.

The responses are separated into two categories: 1) Mesa Rock Road, Sarver Lane, and on-site roads; and 2) Deer Springs Road.

Mesa Rock Road & On-site roads

County staff can support and recommend approval of exceptions #1 through #14 and #18.

Deer Springs Road

County staff can support and recommend approval of exception Section H2 (#16)

County staff does not support exception requests Section H1 (#15) and Section H3 (#17). Staff recommends the applicant construct Deer Spring Road from Mesa Rock Road to 900 feet east of Sarver lane to a four lane Major Road with raised median (4.1A) consistent with the Public Road Standards that will include parking prohibition and a reduction in lane width of two of the four lanes from 12' to 11'.

Basis for staff's recommendation:

Section H1 (#15): Staff does not support the two-lane Section H1 as presented as an alternative for Deer Spring Road from Mesa Rock Road to 900 feet east of Sarver lane. If the Board selects the applicant's option, staff recommends at a minimum, a raised median instead of a painted median be included as part of the section features for safety purposes with turn lanes and median openings allowed at appropriately determined locations based on the proposed median breaks/access openings shown in the Deer Springs Road Median Break Study dated January 24, 2017 (attached) and prepared by Fuscoe Engineering.

H3 (#17): Staff does not support the four-lane Section H3 as presented as an alternate for Deer Spring Road from Mesa Rock Road to 900 feet east of Sarver lane. If the Board selects the applicant's option, staff recommends at a minimum, a raised median instead of a painted median be included as part of the section features for safety purposes with turn lanes and median openings allowed at appropriately determined locations based on the proposed median breaks/access openings shown in the Deer Springs Road Median Break Study dated January 24, 2017 (attached) and prepared by Fuscoe Engineering.

Please contact Mark Slovick, PDS Planning Manager, at (858) 495-5172 or Mark.Slovick@sdcounty.ca.gov.

Sincerely,

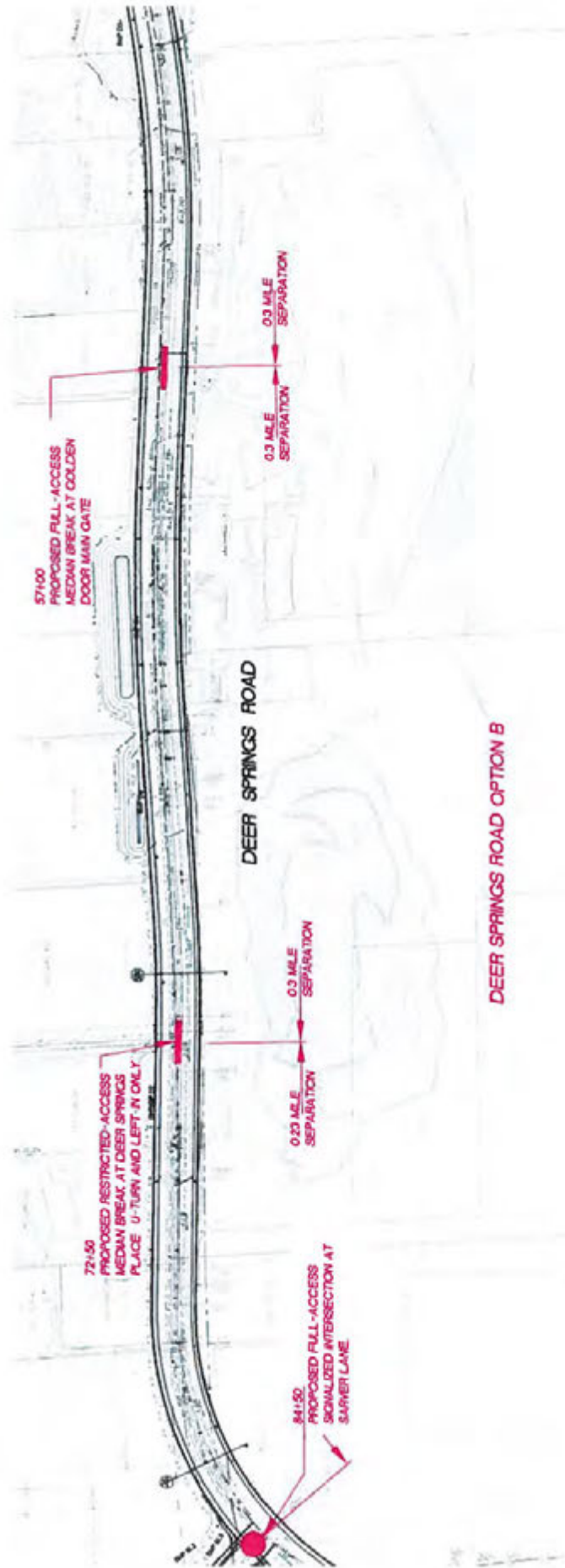
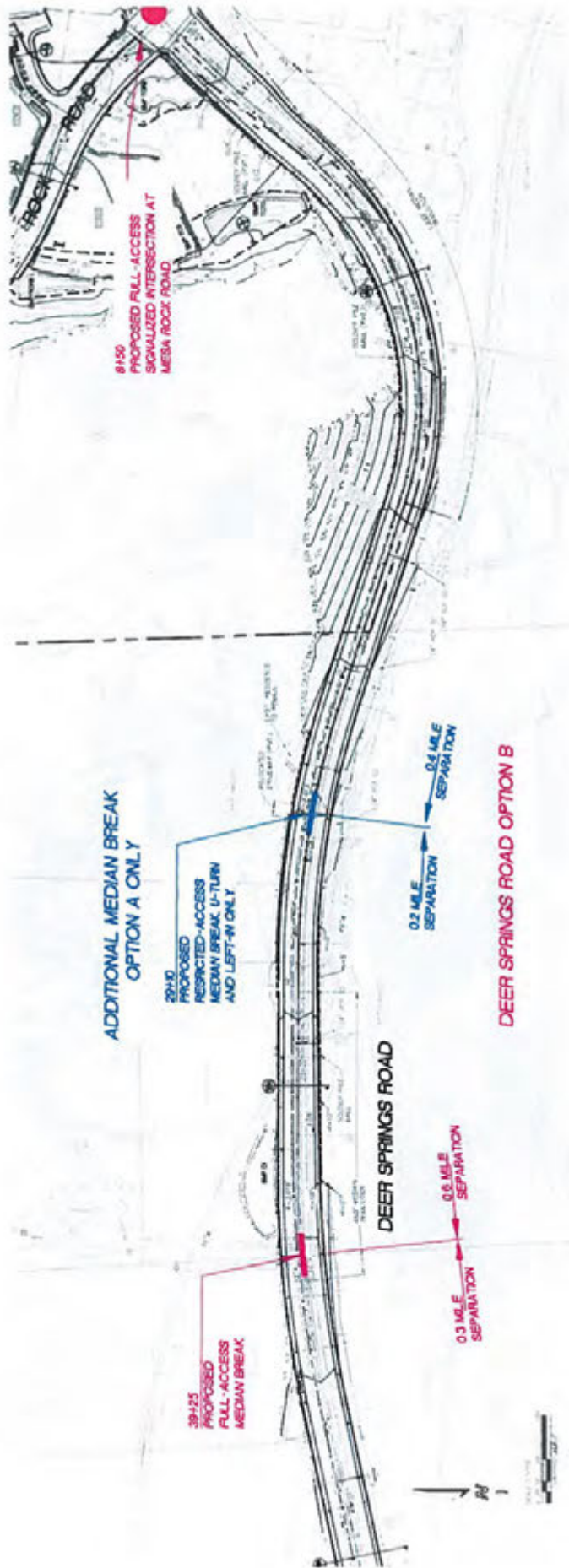


RICHARD E. CROMPTON, P.E.
Director

email cc:

Jarrett Ramaiya, Chief, Land Development
Nick Ortiz, Project Manager, Planning & Development Services
Diana Perez Project Manager, Planning & Development Services
Mark Slovick, Planning Manager, Planning & Development Services
Murali Pasumarthi, Traffic Manager, Public Works
Zoubir Ouadah, County Traffic Engineer, Public Works

Attachment: Deer Springs Road Median Break Study dated January 24, 2017





County of San Diego

MARK WARDLAW
DIRECTOR

PLANNING & DEVELOPMENT SERVICES
5510 OVERLAND AVENUE, SUITE 310, SAN DIEGO, CA 92123
(858) 694-2962 • Fax (858) 694-2555
www.sdcounty.ca.gov/pds

KATHLEEN A. FLANNERY
ASSISTANT DIRECTOR

June 14, 2018

Newland Sierra, LLC
4790 Eastgate Mall, Suite 150
San Diego, CA 92121

NEWLAND SIERRA – REQUEST FOR A MODIFICATION TO PRIVATE ROAD STANDARDS

The Department of Planning & Development Services (PDS) has reviewed the requested design modifications to Private Road Standards submitted for the proposed Newland Sierra development (attached and dated June 2017). The requests are summarized for the following roads:

1. Hillside Residential Street (Section F2): Request is to reduce parkway to four feet and reduce right of way to forty feet; corner sight distance at Twin Oaks Valley Road/Camino Mayor intersection based on prevailing speed.
2. Hillside Residential Street (Section Alt. F2): Request is to reduce parkway to varying between five feet and two feet and reduce right of way to forty feet; reduce minimum horizontal radius to 100' and reduce design speed to 20 MPH (and incorporate lighting and signage to the satisfaction of the Director of Public Works); corner sight distance at Twin Oaks Valley Road/Camino Mayor intersection based on prevailing speed.

County staff can support and recommend approval of exception Section F2 (#1) and Section Alt. F2 (#2).

Please contact Mark Slovick, PDS Program Manager, at (858) 495-5172 or Mark.Slovick@sdcounty.ca.gov.

Sincerely,

A handwritten signature in blue ink that reads "Kathleen Flannery".

Kathleen Flannery
ASSISTANT DIRECTOR

email cc:

Jarrett Ramaiya, Chief, Land Development

Nick Ortiz, Project Manager, Planning & Development Services

Diana Perez Project Manager, Planning & Development Services

Ashley Smith, Planning Manager, Planning & Development Services



County of San Diego, Planning & Development Services
PROJECT FACILITY AVAILABILITY - SCHOOL ZONING DIVISION

Please type or use pen
 (Two forms are needed if project is to be served by separate school districts)

Newland Sierra, LLC Owner's Name (858) 875-8219 Phone 9820 Towne Centre Drive, Ste. 100 Owner's Mailing Address Street San Diego CA 92121 City State Zip	ORG _____ ACCT _____ ACT _____ TASK _____ DATE _____ ELEMENTARY _____ HIGH SCHOOL _____ UNIFIED _____
--	--

Sc

DISTRICT CASHIER'S USE ONLY

SECTION 1. PROJECT DESCRIPTION TO BE COMPLETED BY APPLICANT

A. **LEGISLATIVE ACT**

- Rezones changing Use Regulations or Development Regulations
- General Plan Amendment
- Specific Plan
- Specific Plan Amendment

B. **DEVELOPMENT PROJECT**

- Rezones changing Special Area or Neighborhood Regulations
- Major Subdivision (TM)
- Minor Subdivision (TPM)
- Boundary Adjustment
- Major Use Permit (MUP), purpose: _____
- Time Extension...Case No. _____
- Expired Map...Case No. _____
- Other _____

C. Residential Total number of dwelling units 2,135

Commercial Gross floor area 81,000 s.f.

Industrial Gross floor area _____

Other Gross floor area 33,000 s.f. (school)

D. Total Project acreage 1985 Total number lots 1202

Applicant's Signature: John G. Branlin, Newland Sierra LLC Date: 1/14/15

Address: 9820 Towne Centre Dr., San Diego, CA 92121 Phone: 858-875-8219

(On completion of above, present to the district that provides school protection to complete Section 2 below.)

Assessor's Parcel Number(s)
(Add extra if necessary)

See Attached	

Thomas Guide Page 1089 Grid B6

Mesa Rock Road & Deer Springs Road
 Project address _____ Street _____

North County Metro Subregion 92069
 Community Planning Area/Subregion _____ Zip _____

SECTION 2: FACILITY AVAILABILITY TO BE COMPLETED BY DISTRICT

SAN MARCOS UNIFIED SCHOOL DISTRICT

District Name: _____

If not in a unified district, which elementary or high school district must also fill out a form?

Indicate the location and distance of proposed schools of attendance.

Elementary: TWIN OAKS ELEMENTARY SCHOOL 1 CASSOU ROAD miles: 2

Junior/Middle: WOODLAND PARK MIDDLE SCHOOL 1270 ROCK SPRINGS ROAD miles: 5.8

High school: MISSION HILLS HIGH SCHOOL 1 MISSION HILLS COURT miles: 5.7

This project will result in the overcrowding of the elementary junior/school high school. (Check)

Fees will be levied or land will be dedicated in accordance with Education Code Section 17620 prior to the issuance of building permits.

Project is located entirely within the district and is eligible for service.

The project is not located entirely within the district and a potential boundary issue may exist with the ESCONDIDO USD school district.

Khary A. Knowles **KHARY KNOWLES**
 Authorized Signature _____ Print Name _____

DIRECTOR 760-290-1227
 Print Title _____ Phone _____

On completion of Section 2 by the district, applicant is to submit this form with application to:
 Planning & Development Services, Zoning Counter, 5510 Overland Ave. Suite 110 San Diego, CA 92123



County of San Diego, Planning & Development Services
PROJECT FACILITY AVAILABILITY - SCHOOL
 ZONING DIVISION

Please type or use pen
 (Two forms are needed if project is to be served by separate school districts)

Newland Sierra, LLC (858)875-8219
 Owner's Name Phone

4790 Eastgate Mall, Suite 150
 Owner's Mailing Address Street

San Diego CA 92121
 City State Zip

ORG _____
 ACCT _____
 ACT _____
 TASK _____
 DATE _____

ELEMENTARY _____
 HIGH SCHOOL _____
 UNIFIED _____

Sc

DISTRICT CASHIER'S USE ONLY

SECTION 1. PROJECT DESCRIPTION **TO BE COMPLETED BY APPLICANT**

A. LEGISLATIVE ACT

Rezones changing Use Regulations or Development Regulations
 General Plan Amendment
 Specific Plan
 Specific Plan Amendment

B. DEVELOPMENT PROJECT

Rezones changing Special Area or Neighborhood Regulations
 Major Subdivision (TM)
 Minor Subdivision (TPM)
 Boundary Adjustment
 Major Use Permit (MUP), purpose: _____
 Time Extension... Case No. _____
 Expired Map... Case No. _____
 Other _____

C. Residential Total number of dwelling units 1,112
 Commercial Gross floor area 81,000 s.f.
 Industrial Gross floor area _____
 Other Gross floor area 33,000 s.f.

D. Total Project acreage 1985 Total number lots 1,293

Assessor's Parcel Number(s)
 (Add extra if necessary)

See Attached	

Thomas Guide Page 1089 Grid B6
 Mesa Rock Road & Deer Springs Road
 Project address Street
 North County Metro Subregion
 Community Planning Area/Subregion Zip

Applicant's Signature: Esther Brander Date: 6/21/2016
 Address: 4790 Eastgate Mall, Suite 150, San Diego CA 92121 Phone: (858)875-8219

(On completion of above, present to the district that provides school protection to complete Section 2 below.)

SECTION 2: FACILITY AVAILABILITY **TO BE COMPLETED BY DISTRICT**

If not in a unified district, which elementary or high school district must also fill out a form?

District Name: _____

Indicate the location and distance of proposed schools of attendance.

Elementary: Reidy Creek Elementary miles: 3.9
 Junior/Middle: Kinson Middle miles: 5.1
 High school: _____ miles: _____

This project will result in the overcrowding of the elementary junior/school high school. **(Check)**
 Fees will be levied or land will be dedicated in accordance with Education Code Section 17620 prior to the issuance of building permits.
 Project is located entirely within the district and is eligible for service.
 The project is not located entirely within the district and a potential boundary issue may exist with the _____ school district.

Kuss Decker Russ Decker
 Authorized Signature Print Name
Director, Facilities Planning & Constr. (760)432-2194
 Print Title Phone

On completion of Section 2 by the district, applicant is to submit this form with application to:
 Planning & Development Services, Zoning Counter, 5510 Overland Ave. Suite 110 San Diego, CA 92123

Newland Sierra APNs

172-091-07
172-220-14, 16 and 18
174-190-12, 13, 20, 41, 43 and 44
174-210-01, 05, 07, 08, 11, 12, 17 and 18
174-211-04, 05, 06 and 07
174-280-11 and 14
174-290-02
178-100-05 and 26
178-101-01, 16, 17, 25 through 28
178-221-09
180-020-29
182-040-36 and 69
186-250-13
186-611-01, 07 through 09, 11, 14 through 17, and 23
187-540-49 through 51



August 12, 2016

BOARD OF EDUCATION

Gary Altenburg, DDS
Paulette Donnellon
Joan Gardner
Zesty Harper

SUPERINTENDENT

Luis A. Rankins-Ibarra, Ed.D.

Ms. Linda Bailey, President
Community Strategies Group, Inc.
1108 Rosehill Court
Escondido, California 92025

Subject: Newland Sierra Development

Dear Ms. Bailey,

This letter will serve as the project service availability letter for the County of San Diego.

The District intends to actualize the unlimited potential of every learner by our focus on four goals:

- Provide a high quality and rigorous instructional program;
- Build a collaborative culture, which promotes creativity, responsibility, and trust;
- Ensure our students, staff and all stakeholders are safe and secure; and
- Remain fiscally solvent.

In order to implement these goals for all our students, including those students residing in new and growing developments, fees are collected from new developments to mitigate these demands. While they do not support all the pressures put on the District with the addition of students from new developments, they do allow us to remain true to these goals.

A portion of the proposed project is within the attendance boundaries of Reidy Creek Elementary School and Rincon Middle School. Together, these schools serve students from Transitional Kindergarten through Grade Eight. These schools may exceed capacity due to new student growth from this proposed development and others in the school boundary areas as they now exist. It cannot be known at this time if the boundaries will, or will not, change in the future to meet changing student demand.

If you have any further questions or comments, please feel free to contact me.

Sincerely,

Russ Decker
Director, Facilities Planning and Construction

Cc: Michael Taylor

RD/mlw

**CARILYN GILBERT
EDUCATION CENTER**

2310 Aldergrove Ave.
Escondido, CA 92029
Tel (760) 432-2400
www.eusd.org



County of San Diego, Planning & Development Services
PROJECT FACILITY AVAILABILITY - SCHOOL ZONING DIVISION

Sc

Please type or use pen
 (Two forms are needed if project is to be served by separate school districts)

Newland Sierra, LLC (858)875-8219
 Owner's Name Phone

4790 Eastgate Mall, Suite 150
 Owner's Mailing Address Street

San Diego CA 92121
 City State Zip

ORG _____
 ACCT _____
 ACT _____
 TASK _____
 DATE _____

ELEMENTARY _____
 HIGH SCHOOL _____
 UNIFIED _____

DISTRICT CASHIER'S USE ONLY

SECTION 1. PROJECT DESCRIPTION TO BE COMPLETED BY APPLICANT

A. LEGISLATIVE ACT
 Rezones changing Use Regulations or Development Regulations
 General Plan Amendment
 Specific Plan
 Specific Plan Amendment

B. DEVELOPMENT PROJECT
 Rezones changing Special Area or Neighborhood Regulations
 Major Subdivision (TM)
 Minor Subdivision (TPM)
 Boundary Adjustment
 Major Use Permit (MUP), purpose: _____
 Time Extension... Case No. _____
 Expired Map... Case No. _____
 Other _____

C. Residential Total number of dwelling units 1,112
 Commercial Gross floor area 81,000 s.f.
 Industrial Gross floor area _____
 Other Gross floor area 33,000 s.f.

D. Total Project acreage 1985 Total number lots 1,293

Assessor's Parcel Number(s)
 (Add extra if necessary)

See Attached	

Thomas Guide Page 1089 Grid B6
 Mesa Rock Road & Deer Springs Road
 Project address Street
 North County Metro Subregion
 Community Planning Area/Subregion Zip

Applicant's Signature: Ita Brandin Date: 6/21/2016
 Address: 4790 Eastgate Mall, Suite 150, San Diego CA 92121 Phone: (858)875-8219
 (On completion of above, present to the district that provides school protection to complete Section 2 below.)

SECTION 2: FACILITY AVAILABILITY TO BE COMPLETED BY DISTRICT

District Name: Esccondido Union High School District
 If not in a unified district, which elementary or high school district must also fill out a form?
Esccondido Union School District

Indicate the location and distance of proposed schools of attendance.
 Elementary: _____ miles: _____
 Junior/Middle: _____ miles: _____
 High school: Esccondido High School miles: 8

This project will result in the overcrowding of the elementary junior/school high school. (Check)
 Fees will be levied or land will be dedicated in accordance with Education Code Section 17620 prior to the issuance of building permits.
 Project is located entirely within the district and is eligible for service.
 The project is not located entirely within the district and a potential boundary issue may exist with the school district.

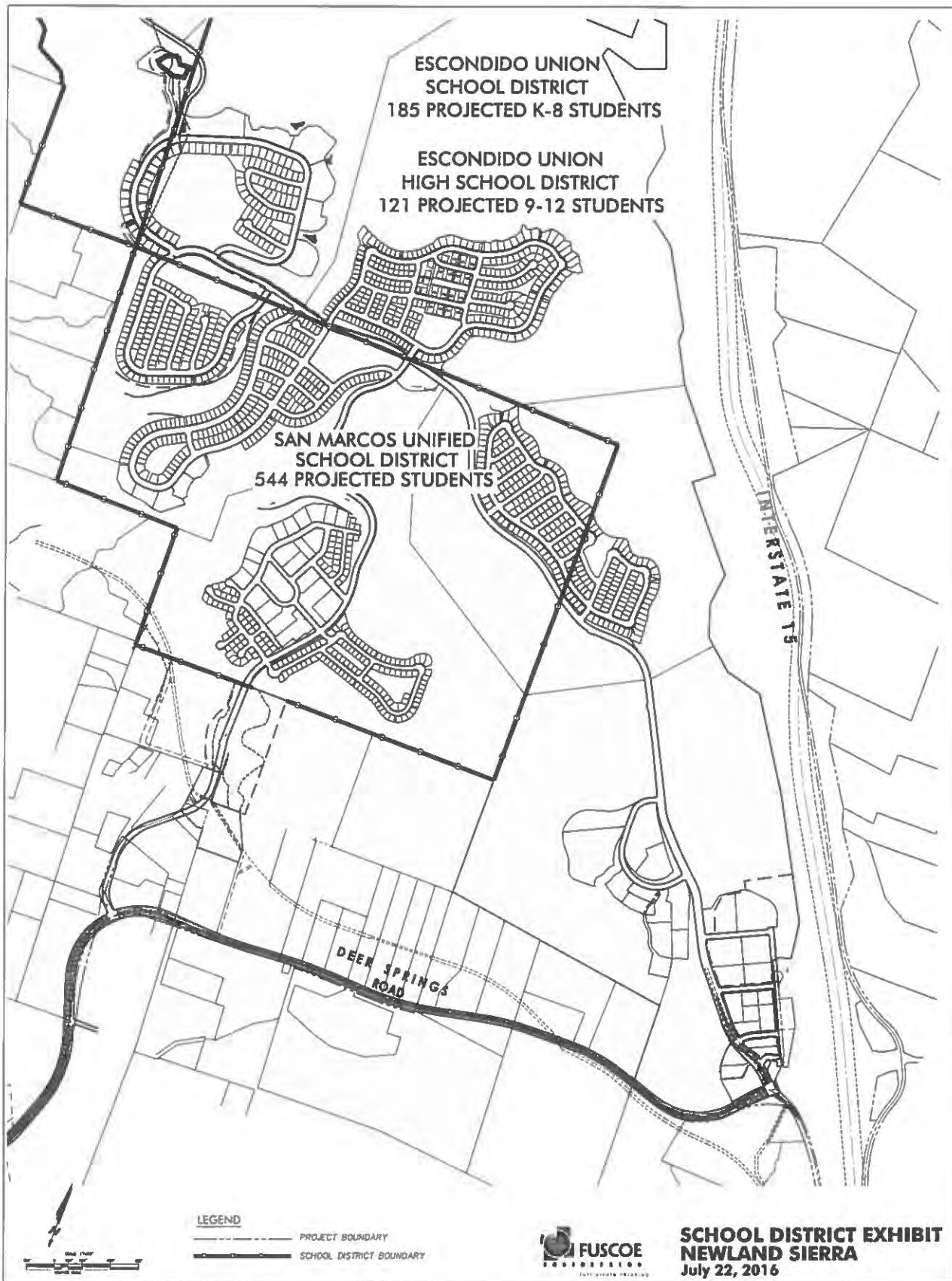
Authorized Signature: [Signature] Print Name: MICHAEL SIMONSON
 Assistant Superintendent Business Svcs Phone: 760 291 3210

On completion of Section 2 by the district, applicant is to submit this form with application to:
 Planning & Development Services, Zoning Counter, 5510 Overland Ave. Suite 110 San Diego, CA 92123



Newland Sierra APNs

172-091-07
172-220-14, 16 and 18
174-190-12, 13, 20, 41, 43 and 44
174-210-01, 05, 07, 08, 11, 12, 17 and 18
174-211-04, 05, 06 and 07
174-280-11 and 14
174-290-02
178-100-05 and 26
178-101-01, 16, 17, 25 through 28
178-221-09
180-020-29
182-040-36 and 69
186-250-13
186-611-01, 07 through 09, 11, 14 through 17, and 23
187-540-49 through 51



Escondido Union Elementary School District (K-8) & Escondido Union High School District (K-12) 787 units

School Level	Age Qualified - no students	SFD Generation Rate	Number of SFD	Total Students SFD	Attached Generation Rate	Number of Attached	Total Students Attached	Total Students
Elementary School (Grade K-5)	325	0.2949	246	72.5454	0.1235	541	66.8135	139.3589
Middle School (Grades 6-8)	325	0.0832	246	20.4672	0.0466	541	25.2106	45.6778
High School (9-12)	325	0.1364	246	33.5544	0.1617	541	87.4797	121.0341
Total	325	0.5145	246	126.567	0.3318	541	179.5038	306.0708

San Marcos Unified School District (K-12) (1,023 units)

School Level	SF Detached Generation Rate	Number of SFDU	Total Students SFD	Attached Generation Rate	Number of Attached	Total Students Attached	Total Students
Elementary School (Grade K-5)	0.2780	676	187.928	0.2323	347	80.6081	268.5361
Middle School (Grades 6-8)	0.1321	676	89.2996	0.1025	347	35.5675	124.8671
High School (9-12)	0.1635	676	110.526	0.1169	347	40.5643	151.0903
Total	0.5736	676	387.7536	0.4517	347	156.7399	544.4935



County of San Diego, Planning & Development Services
PROJECT FACILITY AVAILABILITY - SEWER
ZONING DIVISION

Form header section with fields for Owner's Name (NEWLAND SIERRA, LLC), Phone (858-875-8219), Mailing Address (4790 EASTGATE MALL), City (SAN DIEGO), State (CA), Zip (92121), and District Cashier's Use Only section with fields for ORG, ACCT, ACT, TASK, DATE, and AMT \$.

S

SECTION 1: PROJECT DESCRIPTION TO BE COMPLETED BY APPLICANT. Includes checkboxes for subdivision types (Major, Minor, Specific Plan, Rezone, etc.), residential/commercial/industrial/other details, and project acreage/lot information. Includes Assessor's Parcel Number(s) table and project address details (Thomas Guide Page 1089, Grid B6, Mesa Rock Road @ Deer Springs Rd., North County Metro Subregion 92069).

SECTION 2: FACILITY AVAILABILITY TO BE COMPLETED BY DISTRICT. Includes District name (VALLECITOS WATER DISTRICT), checkboxes for project location and facility availability, and authorized signature (INGRID STICHTER - ENG TECH II, 760-752-7133, 11/7/2016).

THIS DOCUMENT IS NOT A COMMITMENT OF FACILITIES OR SERVICE BY THE DISTRICT. On completion of Section 2 by the district, applicant is to submit this form with application to: Planning & Development Services, Zoning Counter, 5510 Overland Ave. Suite 110 San Diego, CA 92123



1 - 1253

ASSESSOR'S PARCEL NUMBERS (Legal Parcels)

172-091-07	178-101-01
172-220-14	178-101-16
172-220-16	178-101-17
172-220-18	178-101-25
174-190-12	178-101-26
174-190-13	178-101-27
174-190-20	178-101-28
174-190-41	178-221-09
174-190-43	178-222-16
174-190-44	182-020-28
174-210-01	182-020-29
174-210-05	182-040-36
174-210-07	182-040-69
174-210-08	186-250-13
174-210-17	186-611-01
174-210-18	186-611-07
174-211-04	186-611-08
174-211-05	186-611-09
174-211-06	186-611-11
174-211-07	186-611-14
174-280-11	186-611-15
174-280-14	186-611-16
174-290-02	186-611-17
178-100-05	186-611-23
178-100-26	187-540-49
	187-540-50
	187-540-51

1 - 1254

Rezone (Reclassification) from C36, C30, RR, A70, S92 and S82 to C34, RU, A70 and OP zone.



County of San Diego, Planning & Development Services
PROJECT FACILITY AVAILABILITY - WATER
 ZONING DIVISION

Please type or use pen

NEWLAND SIERRA, LLC Owner's Name 4790 EASTGATE MALL SUITE 150 Owner's Mailing Address SAN DIEGO CA 92121 City State Zip	858-875-8219 Phone Street 92121 Zip DISTRICT CASHIER'S USE ONLY
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W

SECTION 1. PROJECT DESCRIPTION

TO BE COMPLETED BY APPLICANT

- A. Major Subdivision (TM) Specific Plan or Specific Plan Amendment
 Minor Subdivision (TPM) Certificate of Compliance:
 Boundary Adjustment
 Rezone (Reclassification) from ATTACHED to ATTACHED zone
 Major Use Permit (MUP), purpose:
 Time Extension Case No.
 Expired Map Case No.
 Other
- B. Residential Total number of dwelling units 2 135
 Commercial Gross floor area 81 000 SF
 Industrial Gross floor area
 Other Gross floor area 33 000 SF (SCHOO.)
- C. Total Project acreage 1.986 Total number of lots 1.293
- D. Is the project proposing the use of groundwater? Yes No
 Is the project proposing the use of reclaimed water? Yes No

Assessor's Parcel Number(s)
 (Add extra if necessary)

Thomas Guide Page 1089 Grid B6
 Mesa Rock Rd @ Deer Springs Rd.
 Project address Street
 North County Metro Subregion 92069
 Community Planning Area/Subregion Zip

Owner/Applicant agrees to pay all necessary construction costs, dedicate all district required easements to extend service to the project and COMPLETE ALL CONDITIONS REQUIRED BY THE DISTRICT

Applicant's Signature Rob Brandlin Date 10/25/16
 Address 4790 Eastgate Mall Suite 150 San Diego CA 92121 Phone 858-875-8219

(On completion of above, present to the district that provides water protection to complete Section 2 below.)

SECTION 2: FACILITY AVAILABILITY

TO BE COMPLETED BY DISTRICT

- District Name: VALLECITOS WATER DISTRICT Service area _____
- A. Project is in the district
 Project is not in the district but is within its Sphere of Influence boundary, owner must apply for annexation.
 Project is not in the district and is not within its Sphere of Influence boundary
 The project is not located entirely within the district and a potential boundary issue exists with the _____ District
- B. Facilities to serve the project ARE ARE NOT reasonably expected to be available within the next 5 years based on the capital facility plans of the district. Explain in space below or on attached _____ (Number of sheets) **SEE ATTACHED STUDY**
 Project will not be served for the following reason(s) _____
- C. District conditions are attached. Number of sheets attached: _____
 District has specific water reclamation conditions which are attached. Number of sheets attached: _____
 District will submit conditions at a later date.
- D. How far will the pipeline(s) have to be extended to serve the project? _____

This Project Facility Availability Form is valid until final discretionary action is taken pursuant to the application for the proposed project or until it is withdrawn, unless a shorter expiration date is otherwise noted

Authorized Signature [Signature] Print Name INGRID STICHTER
 Print Title ENG TECH II Phone 760-752-7133 Date 11/7/2016

NOTE: THIS DOCUMENT IS NOT A COMMITMENT OF SERVICE OR FACILITIES BY THE DISTRICT
 On completion of Section 2 and 3 by the District, applicant is to submit this form with application to
 Planning & Development Services - Zoning Counter, 5510 Overland Ave, Suite 110, San Diego, CA 92123



1 - 1256

ASSESSOR'S PARCEL NUMBERS (Legal Parcels)

172-091-07	178-101-01
172-220-14	178-101-16
172-220-16	178-101-17
172-220-18	178-101-25
174-190-12	178-101-26
174-190-13	178-101-27
174-190-20	178-101-28
174-190-41	178-221-09
174-190-43	178-222-16
174-190-44	182-020-28
174-210-01	182-020-29
174-210-05	182-040-36
174-210-07	182-040-69
174-210-08	186-250-13
174-210-17	186-611-01
174-210-18	186-611-07
174-211-04	186-611-08
174-211-05	186-611-09
174-211-06	186-611-11
174-211-07	186-611-14
174-280-11	186-611-15
174-280-14	186-611-16
174-290-02	186-611-17
178-100-05	186-611-23
178-100-26	187-540-49
	187-540-50
	187-540-51

Rezone (Reclassification) from C36, C30, RR, A70, S92 and S82 to C34, RU, A70 and OP zone.



MARK WARDLAW
Director

County of San Diego
PLANNING & DEVELOPMENT SERVICES

DARREN GRETLER
Assistant Director

5510 OVERLAND AVENUE, SUITE 110, SAN DIEGO, CALIFORNIA 92123
INFORMATION (658) 694-2960
TOLL FREE (800) 411-0017
www.sdcounty.ca.gov/pds

LAW ENFORCEMENT SERVICES

SDC PDS RCVD 9-18-14

Newland Sierra (formerly Merriam Mountains)

Case Number

Project Name

Planning and Development Services (PDS) is responsible for processing projects in accordance with all applicable policies, ordinances, and regulations. When reviewing a discretionary project, the Department is charged with determining if adequate law enforcement services are or will be available to the project concurrent with need and if new or expanded law enforcement facilities are needed as a result of the subject project or as a result of the cumulative projects in the vicinity. The adequacy of law enforcement services is determined by considering the project's consistency with the Safety Element of the San Diego County General Plan (Law Enforcement). Policy S12-1 of the Law Enforcement Section speaks to coordinating new law enforcement facilities and services with new development in ways that sustain the provision of comprehensive services at levels consistent with substantially similar areas of the County. The issue with respect to the California Environmental Quality Act (CEQA) is whether the project alone, or cumulatively, generates the need for new or physically altered law enforcement facilities. CEQA requires the environmental impacts associated with the provision of new or altered facilities to be analyzed.

To assist the PDS in evaluating a project's compliance with the Safety Element and determining the project's environmental impacts, please provide answers questions 1-7 below:

- 1) The project is within the **San Marcos** command area.
- 2) The existing facility within the command area is **Pending** square feet in size.
- 3) Estimated population in the command area is **San Marcos (city) 87,027/Unincorporated 32,855**. (Source: SANDAG)
- 4) Number of sworn personnel currently serving in the command area is **97**
- 5) The project will result in the need for **5 (per the last Inter-Departmental Correspondence in July, 2009)** additional sworn personnel. (See additional comments).

- 6) If additional staff is needed, would this necessitate new or expanded facilities?
Please circle YES or **NO** and provide a written explanation supporting the response.
- 7) Provide any recommendations on design criteria and/or comments relative to other law enforcement concerns specific to the project.

To assist the Sheriff's Department with this request, PDS has attached:

- A vicinity map and a project plan/map
- A brief project description, including pertinent raw data (e.g., the total number of residential units, the estimated population at buildout, the total square footage and type of commercial or industrial activity, traffic counts, etc.)
- Information (if any) regarding the proposed use that may have implications for law enforcement. For example, will the project generate hazardous materials, or does it involve the manufacture or distribution of controlled substances?

Please review the attached information and complete and return this form to PDS, Sami Real, no later than _____ (21 days) along with any other supplemental information that would be helpful in evaluating the project's impacts on law enforcement services and facilities.

If you have any questions regarding this request or need additional information, please contact Sami Real, Chief with the Planning and Development Services, at (858) 694-3722.

Smith, Ashley

From: Raver, Deena <Deena.Raver@sdsheriff.org>
Sent: Tuesday, June 28, 2016 1:03 PM
To: Smith, Ashley
Subject: RE: Newland Sierra

You are correct. And thanks. I am glad to be back to work.

Thanks,

Deena

From: Smith, Ashley [<mailto:Ashley.Smith2@sdcounty.ca.gov>]
Sent: Tuesday, June 28, 2016 11:09 AM
To: Raver, Deena
Subject: Newland Sierra

Hi Deena,

Thanks for your message confirming that the attached 2014 completed form is still applicable to the project. I just wanted to confirm that the 18,530 square foot figure you provided was intended to replace the highlighted "pending" note in the attached form.

Sorry to hear you've been sick...hope you're feeling better!

Ashley

Ashley Smith, Land Use/ Environmental Planner
COUNTY OF SAN DIEGO | Planning & Development Services
5510 Overland Avenue | Suite 310 | San Diego | CA | 92123
T. 858.495.5375 | F. 858.694.3373 | MAIN 858.694.2960
PDS Website <http://www.sdcounty.ca.gov/pds/index.html>
PDS Mapping Service <http://gis.co.san-diego.ca.us/>



County of San Diego, Planning & Development Services
PROJECT FACILITY AVAILABILITY - FIRE
ZONING DIVISION

Form header section with fields for Owner's Name (Newland Sierra, LLC), Phone ((858) 875-8219), Owner's Mailing Address (9820 Towne Centre Drive, Suite 100, San Diego, CA 92121), and District Cashier's Use Only section.

SECTION 1. PROJECT DESCRIPTION TO BE COMPLETED BY APPLICANT

Section 1 details including project type (Rezoning), Assessor's Parcel Number(s) (See attached), residential/commercial/industrial/other breakdown, and total project acreage (1.989).

OWNER/APPLICANT AGREES TO COMPLETE ALL CONDITIONS REQUIRED BY THE DISTRICT. Applicant's Signature: [Signature], Date: 11/3/14, Address: 9820 Towne Centre Drive, Suite 100, Phone: (858) 875-8219.

SECTION 2: FACILITY AVAILABILITY TO BE COMPLETED BY DISTRICT

Section 2 details including District Name (Deer Springs Fire Protection District), location of primary fire station (Deer Springs, Sta. #2, 1521 Deer Springs Rd., San Marcos, CA), and facility availability conditions.

SECTION 3. FUELBREAK REQUIREMENTS

Section 3 details including fuelbreak requirements (100 feet of clearing) and authorized signature of Chris Amestoy, Fire Chief, dated 11/4/14.

DEPARTMENT OF TRANSPORTATION

DISTRICT 11
4050 TAYLOR STREET, M.S. 240
SAN DIEGO, CA 92110
PHONE (619) 688-3193
FAX (619) 688-4299
TTY 711
www.dot.ca.gov



*Making Conservation
a California Way of Life.*

January 11, 2018

11-SD-15
PM 36.64
Newland Sierra Project
DEIR SCH#2015021036

Mr. Nick Ortiz
County of San Diego
5510 Overland Avenue, Suite 310
San Diego, CA 92123

Dear Mr. Ortiz:

The California Department of Transportation (Caltrans) appreciates the opportunity to have reviewed the revised Draft Environmental Impact Report (DEIR) from November 2, 2017 for the Newland Sierra project (SCH#2015021036), which will be located in the northeasterly quadrant of Interstate 15 (I-15) and Deer Springs Road overcrossing. Caltrans would like to make the following comments:

An Intersection Control Evaluation (ICE) shall be submitted to and approved by Caltrans in order to finalize the mitigation concept at the Deer Springs Interchange.

Caltrans is satisfied that the other previous comments from our August 10, 2017 letter have been adequately addressed.

Caltrans appreciates the opportunity to review and comment on your project. If you have any questions, please contact Roy Abboud of the Caltrans Development Review Branch at (619) 688-6968 or by e-mail at roy.abboud@dot.ca.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Keri Robinson".

KERI ROBINSON, Acting Branch Chief
Local Development and Intergovernmental Review Branch

c: Ashley Smith (County of San Diego)
Mark Slovick (County of San Diego)

**Attachment F –
ENVIRONMENTAL FINDINGS**

ENVIRONMENTAL FINDINGS

I. CEQA FINDINGS

- A.** Find that the Planning Commission has reviewed and considered the Environmental Impact Report for the proposed project dated June 2018 on file with Planning & Development Services as Environmental Review Number PDS2015-ER-15-08-001 before making its recommendation on the project.
- B.** Certify that the Environmental Impact Report (EIR) dated June 2018 on file with Planning & Development Services as Environmental Review Number PDS2015-ER-15-08-001 has been completed in compliance with the California Environmental Quality Act and the State CEQA Guidelines, that the EIR was presented to the Board of Supervisors and that the Board of Supervisors reviewed and considered the information contained therein before approving the project, and that the EIR reflects the independent judgment and analysis of the Board of Supervisors.
- C.** Adopt the findings concerning mitigation of significant environmental effects pursuant to CEQA Guidelines section 15091. (Attachment H)
- D.** Adopt the Statement of Overriding Considerations pursuant to State CEQA Guidelines Section 15093. (Attachment H)
- E.** Adopt the Decision and Explanation Regarding Recirculation of the Draft Environmental Impact Report pursuant to State CEQA Guidelines Section 15088.5(e). (Attachment H)
- F.** Adopt the Mitigation Monitoring and Reporting Program as incorporated into the project conditions of approval pursuant to CEQA Guidelines Section 15091(d).

II. OTHER ENVIRONMENTAL FINDINGS

- A.** Find that plans and documentation have been prepared for the proposed project that demonstrate that the project complies with the Watershed Protection, Stormwater Management, and Discharge Control Ordinance (County Code, section 67.801 et seq.).

**Attachment G –
ENVIRONMENTAL DOCUMENTATION**

**FINDINGS REGARDING SIGNIFICANT EFFECTS PURSUANT
TO STATE CEQA GUIDELINES SECTIONS 15090, 15091 AND
15093**

Newland Sierra Project

**PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ-15-001,
PDS2015-TM-5597, PDS2015-ER-15-08-001**

SCH No. 2015021036

June 2018

CEQA Findings and Statement of Overriding Considerations

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CEQA Findings and Statement of Overriding Considerations

I. INTRODUCTION

The Board of Supervisors (“Board”) of the County of San Diego (“County”) hereby certifies that the Board has reviewed and considered the information contained in the Final Environmental Impact Report (“EIR”), identified below, for the Newland Sierra Project (“project” or “Proposed Project”). The Board further certifies that the Final EIR has been completed in compliance with the California Environmental Quality Act (“CEQA”), Public Resources Code §§21000 et seq., the State CEQA Guidelines, California Code of Regulations, Title 14, §§15000 et seq. (“CEQA Guidelines”), and the County’s EIR Report Format and General Content Requirements, and that the Final EIR reflects the independent judgment of the Board. (Pub. Resources Code § 21082.1(c)(3).) In certifying the Final EIR as adequate under CEQA, the Board hereby adopts these CEQA Findings and Statement of Overriding Considerations.

These findings and statement of overriding considerations address the environmental effects associated with the project, which is located in the community of Twin Oaks within unincorporated San Diego County. This statement is made pursuant to the California Environmental Quality Act (“CEQA”; Pub. Resources Code, §21000 et seq.), specifically Public Resources Code sections 21081, 21081.5, and 21081.6; and the State CEQA Guidelines (Cal. Code Regs., tit. 14, §15000 et seq.), specifically sections 15091 and 15093. The potentially significant effects of the Project were identified in both the Newland Sierra Project Draft EIR (June 2017) and Final EIR (June 2018) (collectively, “Final EIR”).

Public Resources Code section 21081 and State CEQA Guidelines section 15091 require that the lead agency, in this case the County of San Diego, prepare written findings for identified significant impacts, accompanied by a brief explanation of the rationale for each finding. Specifically, State CEQA Guidelines section 15091 states, in part, that:

- (a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects accompanied by a brief explanation of the rationale for each finding. The possible findings are:
 - (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effects as identified in the final EIR.
 - (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
 - (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

CEQA Findings and Statement of Overriding Considerations

If significant impacts cannot be mitigated to less than significant levels, the decision-making agency is required to balance, as applicable, the benefits of the proposed project against its significant unavoidable environmental impacts when determining whether to approve the project. (Pub. Resources Code, § 21081, CEQA Guidelines § 15093.) If the benefits of a proposed project outweigh the significant unavoidable adverse environmental impacts, the adverse effects may be considered “acceptable.”

The Final EIR for the project identified potentially significant effects that could result from Project implementation. However, the Board finds that the inclusion of certain specified mitigation measures as part of the project approval will reduce many, but not all, of those effects to less-than-significant levels. Those impacts not reduced to less-than-significant levels are identified as impacts to: aesthetics, air quality, mineral resources, noise, population and housing, and transportation and traffic; and are overridden due to specific project benefits. (*See*, Section - XIII, Statement of Overriding Considerations, below).

Therefore, in accordance with CEQA, Pub. Resources Code, § 21081, and the CEQA Guidelines, sections 15091 and 15092, the Board certifies the Final EIR for the Newland Sierra project, adopts these findings, the statement of overriding considerations, and the attached Mitigation Monitoring and Reporting Plan (“MMRP”), and approves the Newland Sierra project. In adopting the MMRP for the project, the Board finds that the MMRP meets the requirements of Public Resources Code section 21081.6 by providing for the implementation and monitoring of measures intended to mitigate potentially significant effects of the project.

The Board further adopts the following related project approvals to facilitate implementation and development of the Newland Sierra project: (i) General Plan Amendment PDS2015-GPA-15-001; (ii) Specific Plan PDS2015-SP-15-001; (iii) Rezone PDS2015-REZ-15-001; (iv) Tentative Map PDS2015-TM-5597; and (iv) draft Habitat Loss Permit PDSXXXX-HLP-XXX.

A. Project Description

1) Project Location

The project is within the North County Metropolitan Subregional Plan area in the unincorporated portion of the San Diego County. The majority of the project area (1,888 acres) is located within the Twin Oaks community, with a small portion (97 acres) of the project area situated in the Bonsall community. The project is directly west of I-15, north of State Route 78 (SR-78), and south of State Route 76 (SR-76). The site is bounded by I-15 on the east, Deer Springs Road on the south, and Twin Oaks Valley Road on the west, with a small portion of the northwestern edge traversed by Twin Oaks Valley Road. The cities of Escondido and San Marcos are approximately 1 mile south of the project Site, the city of Vista is approximately 3 miles west of the project Site, the city of Oceanside is approximately 5 miles northwest of the project Site, and the city of Carlsbad is approximately 7 miles southwest of the project Site.

CEQA Findings and Statement of Overriding Considerations

2) Summary of Project Description

The proposed project is a planned community of residential, commercial, educational, park, and open space uses on 1,985 acres. Approximately 1,209 acres, or 61 percent of the project, would be dedicated as onsite open space and another 212 acres would be dedicated as offsite open space. The Community is the first large-scale planned community in San Diego County to achieve a 100 percent reduction in the project's construction and operational GHG emissions.

The County General Plan Community Development Model guided the design and development pattern of the seven interrelated neighborhoods (also referred to as planning areas) with 2,135 residential dwelling units. The highest densities and greatest diversity of land uses are located in the project's Town Center neighborhood, which includes a maximum of 81,000 square feet of neighborhood-serving commercial uses, 95 multi-family housing units, a 6-acre school site, and park uses. The Community's remaining six neighborhoods include the balance of the project's homes along with community open space, parks, scenic overlooks, bike lanes, community gardens and vineyards, and walkable trails and pathways.

a. Project Components

- **Town Center:** The Town Center would be located off Deer Springs Road, east of the primary access road (Mesa Rock Road) in the southernmost portion of the Site. The Town Center would include 95 residential dwelling units, 81,000 square feet of commercial space, a 6-acre school site, and 5.73 gross acres of parks.
- **Terraces Neighborhood:** The Terraces neighborhood would be located directly northwest of the Town Center and would include 446 residential dwelling units consisting of two- and three-story townhomes and three-story townhomes with tandem garages.
- **Hillside Neighborhood:** The Hillside neighborhood would be located north of the Terraces planning area, and would include 241 residential dwelling units and 2.29 gross acres of parks. It would be composed of single-family detached homes with lots ranging in size from 4,500 square feet to 5,000 square feet, as well as age-targeted lots intended in neighborhoods that cater to, but are not restricted to, adults 55 years and older.
- **Mesa Neighborhood:** The Mesa neighborhood would be located north of Hillside, east of the Knoll, and southeast of the Summit neighborhoods. This planning area would be entirely composed of age-qualified single-family lots and age-qualified single-family clusters on lots ranging from 3,000 to 6,000 square feet centered around a park. The Mesa neighborhood would include 325 residential units and 4.10 gross acres of parks.

Age-qualified lots are intended in neighborhoods that offer homes and Community amenities specifically for adults 55 years and older, where housing must include at least one person who is 55 years or older as a permanent resident. The term "cluster" describes a neighborhood in which housing is clustered on relatively small lots with a larger amount of

CEQA Findings and Statement of Overriding Considerations

common area shared by the homeowners, as well as shared common areas such as a courtyard, motor court, or open space.

- **Summit Neighborhood:** The Summit neighborhood would be the northernmost area of project development comprised of 151 residential dwelling units on lots ranging from 6,000 to 7,500 square feet and 1.98 gross acres of parks (including an equestrian staging area). The Summit planning area would contain grade-adaptive large lots, family lots, and clusters designed to maximize views.
- **Knoll Neighborhood:** The Knoll neighborhood would be located south of the Summit, southwest of the Mesa, and north of the Valley neighborhoods. This planning area would be composed of single-family homes with lots ranging from 4,500 to 5,000 square feet, in addition to family clusters. The Knoll would include 372 residential units and 9.51 gross acres of parks. The residential units in this neighborhood would consist of single-family lots and clusters. The Knoll design would preserve the primary knolls in the area.
- **Valley Neighborhood:** The Valley neighborhood would be located northwest of the Terraces and south of the Knoll neighborhoods. This planning area would be composed of clusters, townhomes, and single-family homes with lots ranging from 3,500 to 4,000 square feet. It would include 505 residential units and 12.26 gross acres of parks.
- **Conservation and Open Space:** The proposed open space design would consist of two large, continuous blocks of open space habitat situated within the northern half and along the eastern boundary of the project Site, as well as a large third block of open space in the center of the project Site, connecting all of the open space acreage to the open space located south and east of the project Site. The project would dedicate and permanently preserve approximately 1,209 acres of on-site open space, and an additional 212 acres of off-site open space for a total preserve acreage of 1,421 acres (72 percent of the project Site acreage).

The majority of the proposed open space is located within the northern half of the project, which has the greatest potential to support wildlife due to the east/west connection with the San Marcos Mountains. In addition, the northern half is positioned to take maximum advantage of interconnected blocks of habitat. The northern portion provides a diverse representation of the natural and environmental conditions that occur within the larger project area. Open space is also provided along the eastern boundary of the project, adjacent to I-15, which serves as important habitat for coastal California gnatcatcher (*Poliophtila californica californica*) and other wildlife species.

The proposed open space design includes a diverse array of natural resources and environmental features, including sensitive habitat, ridgetops, hill tops, and rocky outcrops. Although the majority of this area consists of dense chaparral, it also includes a diverse representation of the vegetation communities that occur on the project Site and in the vicinity, including riparian forest and scrub, coastal sage scrub, non-native grassland, and oak woodland. The two largest riparian areas located within the open space portion of the project

CEQA Findings and Statement of Overriding Considerations

Site are the south fork of Gopher Canyon Creek and the south fork of Moosa Canyon Creek. The open space area contains a diversity of environmental characteristics, including representative populations of special-status plant and animal species; existing dirt trails and canyon bottoms currently used by wildlife for movement across the Site; and the north/south-trending tributary to Gopher Canyon Creek along Twin Oaks Valley Road, which provides linkage opportunities to the San Marcos Mountains.

In addition to the on-site open space dedication, the project would preserve approximately 212 acres of Pre-Approved Mitigation Area (PAMA) land within the draft North County Multiple Species Conservation Program (MSCP) area as part of the project's overall conservation strategy.

- ***Sustainable Planning and Design:*** The proposed project would promote sustainability through Site design that would conserve energy, water, open space, and other natural resources. The project would offer defining attributes, including a commitment to carbon neutrality by offsetting 100 percent of the project's construction and operational greenhouse gas (GHG) emissions through the life of the project. As part of this commitment, the project would implement core sustainable development features, including solar on all residential units and a network of solar-powered street lights; low-water-use landscaping throughout the Community, with restrictions on the use of turf; possible indoor pre-plumbing for grey water systems in single-family residential dwelling units, if feasible; electric vehicle chargers in single-family garages and electric vehicle charging stations in commercial areas; and integration of community gardens and vineyards throughout the Community. The project would also implement a Transportation Demand Management (TDM) program to reduce automobile trips, both internal and external to the Community.
- ***Parks and Trails:*** The project would include approximately 36 gross acres of parks throughout the project Site. Open space for active recreation would be included at each Community park and at the joint-use school field. Several neighborhood-scale parks and pocket parks are also proposed, which would include amenities such as open lawn areas, multi-use courts, picnic areas, children's play areas, pools, community gardens, a dog park, and an equestrian staging area.

The project also includes a Community-wide trail network to act as the connective thread to unite the various neighborhood parks, creating a link to open space trails and walkability throughout the Community. The project includes bike lanes; an extensive trail system consisting of roadside pathways within the linear greenbelts; and multi-use trails.

- ***Landscape:*** The landscape character of the proposed project is informed by the natural terrain. Five landscaping features are proposed: parkways and streetscapes, basins and swales, vineyards, enhanced landscape areas, and fuel modification zones. Drought-tolerant plant species would be selected to create a distinctly native character. This allows a softer visual blend with the surrounding landscape while serving the fire protection needs of the

CEQA Findings and Statement of Overriding Considerations

project. Street trees would be required along all internal neighborhood streets. In addition, Community agriculture would be promoted through the creation of community gardens.

- ***Mobility and Circulation:*** The project Site would have two primary access roads along Deer Springs Road at Mesa Rock Road and Sarver Lane, with an additional access point at Camino Mayor off North Twin Oaks Valley Road. The Mesa Rock Road access will be built as a six-lane entry road with a median that transitions into a four-lane divided road farther into the Site, and then into a two-lane undivided roadway until it reaches the Sarver Lane access where it will transition into a three-lane undivided roadway. The Sarver Lane intersection at Deer Springs Road would be signalized. Sarver Lane would be widened to 52 feet at the intersection to provide one northbound lane and two southbound lanes, transitioning to a width of 38 feet of pavement, then transitioning to a width of 32 feet within the project Site. The loop road on-site is primarily designed with a width of 32 feet and will include striped bike lanes and a 10-foot-wide multi-use pathway along its entire length. Camino Mayor would be widened to 28 feet wide at the intersection of Twin Oaks Valley Road to provide one travel lane in each direction.

The project's other residential streets would be 32 to 40 feet wide and traverse within planning areas. An electric bike share program would be included to further link the neighborhoods to one another and reduce internal vehicle trips. Additionally, the project would include bike lanes, an extensive trail system consisting of roadside pathways within the linear greenbelts, and pathways.

The project would also necessitate improvements off-site to the Deer Springs Road/I-15 Interchange, Deer Springs Road, Twin Oaks Valley Road, Buena Creek Road, Monte Vista Drive, S. Santa Fe Avenue, and various intersections as mitigation measures to reduce traffic impacts.

Deer Springs Road

The improvements to Deer Springs Road (mitigation measures M-TR-8 through M-TR-10) would involve two options. Option A would improve an approximately 6,600-foot-long section of the segment of Deer Springs Road between Sarver Lane and Mesa Rock Road to a 2.1B Community Collector (two lanes of travel with a continuous center turn lane). The balance of the road southwest into the city of San Marcos and east to I-15, including its intersections with Sarver Lane and Mesa Rock Road, would be improved to a 4.1A Major Road (a four-lane road with a raised median). Option A would reclassify Deer Springs Road in the County's General Plan Mobility Element from a 6.2 Prime Arterial (six-lane) to a 4.1A Major Road with Raised Median and a 2.1B Community Collector with Continuous Turn Lane classifications. The centerline of Deer Springs Road would be realigned to ensure a minimum 750-foot turning radii along the entire alignment.

Option B would construct the entire length of the road from the I-15 interchange to its intersection with Twin Oaks Valley Road as a four-lane road, with an approximately 7,600-foot-

CEQA Findings and Statement of Overriding Considerations

long section of the road between Sarver Lane and Mesa Rock Road as a 4.1B Major Road (four lanes of travel with an intermittent center turn lane), and the balance of the road, including its intersections with Sarver Lane and Mesa Rock Road, as a 4.1A Major Road. Option B would not reclassify Deer Springs Road; the roadway would remain as a 6.2 Prime Arterial (six-lane) in the Mobility Element. The centerline of Deer Springs Road would be realigned to ensure a minimum 750-foot turning radii along the entire alignment. Both Option A and Option B would provide increased capacity on Deer Springs Road relative to existing conditions, although when considering level of service, only Option B would meet the County's level-of-service standards at project buildout.

- **Transportation Demand Management:** The project would include a TDM Program that would reduce the project's impacts on the surrounding street network while striving to achieve countywide air quality/GHG reduction goals. The TDM Program is organized into three main types of strategies: land use strategies, commute/travel services for residents, and commute services for employees. The strategies developed as part of the TDM Program have been incorporated into the project as Project Design Features (PDFs).
- **Water:** The Vallecitos Water District (VWD) would provide potable water to the Project. A 1.3-million-gallon water tank and an extensive network of water mains currently exist within the project site. The project's would relocate some existing water mains, construct new water mains, and construct two new water tanks (one to serve the project and one for VWD's larger water supply system). The existing water tank would remain (subject to future VWD replacement) and a new water tank would be built immediately west of it to serve the project. An additional water tank in the southern portion of the Terraces neighborhood would serve the larger VWD service area. Establishment of this water supply would occur through the expansion/extension of existing supply pipelines and water tanks located within and adjacent to the project Site. The precise alignment and sizing of the project's water facilities would be determined by VWD during final design. Off-site water improvements would be completed in accordance with the approved water master plan prepared for the project.
- **Wastewater:** VWD would provide sewer service to the project. The majority of the project site would require annexation into a Sewer Improvement District prior to sewer service being available. An existing 8-inch-diameter public sewer main owned by VWD is located approximately 0.25 mile south of the project Site in Sarver Lane. The project would require onsite improvements including 8-inch-diameter to 12-inch-diameter gravity sewers. The precise alignment and sizing of the project's wastewater facilities would be determined by VWD during final design. Off-site sewer improvements would be completed in accordance with the approved sewer master plan prepared for the project.
- **Stormwater Facilities:** The project would incorporate stormwater facilities to manage stormwater quality, hydromodification impacts, and peak flow attenuation. The facilities would include a network of vegetated swales and bioretention basins integrated into the

CEQA Findings and Statement of Overriding Considerations

design of the project's street system and neighborhoods, as well as flood control basins. In addition to on-site facilities, drainage and water quality improvements would be constructed for off-site road improvements where those facilities are substandard or do not exist today. Such off-site improvements would correct existing off-site drainage issues such as overtopping and flooding, and would address water quality treatment.

- **Natural Gas and Electricity:** Natural gas and electricity in the project area are provided by San Diego Gas & Electric (SDG&E). The project would include extension of these utilities to the project site to provide service for the project. All on-site gas and electric distribution lines would be undergrounded.
- **Fire Safety:** The project site is located within the Deer Springs Fire Protection District (DSFPD) and is designed to provide wildfire defensibility and minimize the risk of structural loss. The proposed project will pre-pay the County Fire Mitigation Fee pursuant to a Fire Fee Payment Agreement with the DSFPD which would also provide funding beyond the required County Fire Mitigation Fee to augment the DSFPD's capabilities for continued provision of timely service to its primary jurisdictional area, including the project Site.

A Fire Protection Plan (FPP) was prepared for the project (Appendix N of the Final EIR) to evaluate and identify the potential fire risk associated with the project's land uses, and identify requirements for water supply, fuel modification and defensible space, emergency access, building ignition and fire resistance, fire protection systems, and wildfire emergency pre-planning, among other pertinent fire protection criteria. The FPP generates and memorializes the fire safety requirements of the DSFPD and the San Diego County Fire Authority, along with project-specific measures based on the Site, its intended use, and its fire environment. A separate FPP was prepared for the portion of the project that occurs within the San Marcos Fire Protection District (SMFPD) jurisdiction, considering the proposed Site plan, land use, the potential impact from the land use on the SMFPD and the potential impact from wildfire on the project. The FPP for within SMFPD jurisdiction likewise provides for fire safety that is consistent with the code or provides the same practical effect by requiring additional measures.

DSFPD travel times to the project Site meet the County General Plan standard of 5 minutes or less for all structures; and water availability and flow are consistent with DSFPD requirements, including fire flow and hydrant distribution. The project's road improvements were designed to facilitate access for emergency apparatus and personnel throughout the site, and an additional access road (Camino Mayor) would provide residents and emergency access vehicles access to the project Site. These features, along with the ignition resistance of all buildings; interior sprinklers; and pre-planning, training, and awareness, would assist responding firefighters through prevention, protection, and suppression capabilities.

The project site currently has characteristics that, under certain conditions, have the potential to facilitate fire spread. Under extreme conditions, wildfires on the Site would burn

CEQA Findings and Statement of Overriding Considerations

erratically and aggressively and result in significant ember production. Once the project is built, the on-site fire potential would be lower than its current condition due to conversion of wildland fuels to managed landscapes, extensive fuel modification areas, improved accessibility to fire personnel, and construction of structures built to the latest ignition-resistant building codes.

In addition, an evacuation plan has been prepared for the project (Appendix N of the Final EIR) that indicates how the project would evacuate during a wildfire emergency. The evacuation plan has been prepared in coordination with DSFPD and San Diego County such that it does not conflict with existing evacuation and pre-plans.

- **Construction:** Build out of the project is anticipated to occur in two phases over approximately 10 years in response to market demands and in accordance with a logical and orderly expansion of roadways, public utilities, and infrastructure. All cut and fill quantities would be balanced within the boundaries of the project Site and the improvements to Deer Springs Road and Sarver Lane immediately off Site, and no soil export would be required. All grading activities, blasting, and rock-crushing operations are anticipated to be completed by the end of 2022 when major earthwork activity would be completed for both phases. Individual blasting or rock-crushing activities during Phases 1 and 2 would occur sequentially and would not overlap. Details of the construction schedule including heavy construction equipment hours of operation and duration; worker, vendor, and hauling trips; and equipment mix are discussed in the Final EIR Section 2.3, Air Quality.

b. Associated Project Approvals

The following project approvals also need to be secured to authorize build-out of the Newland Sierra project:

- **General Plan Amendment:** The project proposes amendments to the County General Plan Regional Categories Map, the General Plan Mobility Element, the North County Metropolitan Subregional Plan and Bonsall Community Plan and the I-15 Corridor Scenic Preservation Guidelines, North County Metro I-15 Design Corridor Map. The General Plan Amendment would amend the North County Metropolitan Subregional Plan map to change the General Commercial, Office Professional, Semi-Rural 10, and Rural Land 20 designations to Village Core Mixed Use (C-5), Semi-Rural 1 (SR-1), and Open Space – Conservation (OS-C). A portion of the Site (Sierra Farms) located along Sarver Lane would remain under its current designation of Semi-Rural 10 (SR-10). The General Plan Amendment would add language into the North County Metropolitan Subregional Plan describing the Specific Plan. The General Plan Amendment would designate all on-site land within the Bonsall Community Plan as Open Space – Conservation (OS-C).
- **Specific Plan:** The Newland Sierra Specific Plan outlines the land uses, circulation, energy, water, and transportation strategies; the open space and conservation strategy; the

CEQA Findings and Statement of Overriding Considerations

infrastructure and public facilities strategy; the development standards and design guidelines; and the implementation program necessary to achieve the orderly development and long-term habitat conservation associated with the proposed project.

- **Rezone:** The project proposes revisions to the base zoning to implement the land uses identified in the Newland Sierra Specific Plan. The zoning would be changed to General Commercial/Residential (C34), Single Family Residential (RS), and Open Space (S80). The portion of the project Site immediately adjacent to Sarver Lane would retain the Limited Agriculture (A70) zoning.
- **Tentative Map:** The proposed Tentative Map lays out lot and easement configurations, grading, drainage facilities, utilities, and the road system for the entire project, serving as the blueprint for the creation of 1,296 parcels within the 1,985-acre project Site. The Tentative Map includes a Preliminary Grading Plan that identifies grading quantities and drainage facilities that will serve the project.
- **RPO Amendment:** the project includes a proposed amendment to the RPO that would exempt the project from the requirements of the RPO with implementation of equivalent regional resource protection. The Resource Protection Plan (see Appendix H) would serve as the functional equivalent of the County's RPO for the proposed project.

Additional detail concerning development approvals required to implement the project are identified in Section 1.6.2, Development Approvals Required, of the Final EIR's Project Description (Section 1).

c. Other Permits and Approvals

Other permits and approvals, which are known to be needed, or may be needed, in order to implement various Project components in the future, are identified in Table 1-9, Matrix of Anticipated Approvals/Permits of the Final EIR's Project Description (Section 1). Among the other permits and approvals required, the project will require a Draft Habitat Loss Permit issued pursuant to Special 4(d) Rule under the Federal Endangered Species Act. Under Special 4(d) Rule, the County is authorized to issue "take permits" for the California gnatcatcher (in the form of Habitat Loss Permits) in lieu of Section 7 or 10(a) Permits typically required from the USFWS. Although issued by the County, the wildlife agencies must concur with the issuance of a HLP for it to become valid as take authorization under the FESA. The project proposes a draft Habitat Loss Permit, including 4(d) findings, to address loss of coastal sage scrub and associated incidental take of California gnatcatcher onsite.

B. Project Objectives

The underlying purpose of the proposed project is to implement a new mixed-use community near existing and planned infrastructure, services, and jobs within the North County Interstate (I) 15 corridor, guided by the following project objectives:

CEQA Findings and Statement of Overriding Considerations

1. Preserve substantial open space and thereby enhance native habitat conservation and natural community conservation planning in north San Diego County through the permanent dedication and management of open space to protect multiple special-status species and their habitats and provide connectivity to existing designated open space and preserve areas in areas surrounding the project.
2. Create compact, sustainable interrelated neighborhoods, consistent with the County’s Community Development Model and “Village” designation in the General Plan, and facilitate a multi-modal transportation network linked to regional transportation mobility options.
3. Construct public facilities phased concurrent with demand and support public services within existing service areas without burden or cost to existing residents, visitors, or North County unincorporated communities.
4. Provide a range of recreational amenities and facilities that are accessible to residents of both the Community and the surrounding area.
5. Integrate, maintain, and preserve unique landscape features and distinct landforms along the I-15 corridor.
6. Accommodate existing, planned, and future growth in north San Diego County by providing a diverse range of housing opportunities in conjunction with a Town Center that supports a mix of uses for the benefit of the new Community and surrounding areas.

C. Initial Study and Notice of Preparation

Preliminary environmental review of the Newland Sierra project was conducted by the County’s Department of Planning & Development Services. In the Initial Study/Notice of Preparation (“IS/NOP”), the County listed the following subject areas to be analyzed in the EIR and as particular issues of concern:

- | | |
|---|---|
| <ol style="list-style-type: none"> 1. Aesthetics 2. Agriculture and Forest Resources 3. Air Quality 4. Biological Resources 5. Cultural Resources 6. Geology & Soils 7. Greenhouse Gas Emissions 8. Hazards and Hazardous Materials 9. Hydrology & Water Quality | <ol style="list-style-type: none"> 10. Land Use & Planning 11. Mineral Resources 12. Noise 13. Population & Housing 14. Public Services 15. Recreation 16. Transportation & Traffic 17. Utilities & Service Systems 18. Mandatory Findings of Significance |
|---|---|

On February 12, 2015, the County circulated the IS/NOP to responsible agencies, trustee agencies, regional agencies, County reviewing agencies, and other agencies, organizations, and

CEQA Findings and Statement of Overriding Considerations

interested persons for the 30-day review period required under CEQA. The IS/NOP requested that the agencies, organizations, and others provide the County with specific details about the scope and content of the environmental information to be contained in this Draft EIR, as it related to each entity's area of statutory responsibility. In addition, to facilitate local participation, the County held a scoping meeting on March 4, 2015 at the San Marcos Community Services Department in San Marcos, California, to present the project and to solicit suggestions from the public and other agencies on the scope and content of the Draft EIR.

Comments received during the scoping process identified the following areas of concern: aesthetics and community character, air quality, biological resources, cultural resources, land use and growth, traffic and circulation, utilities (including water supply), wildfire management, and mitigation and alternatives.

D. Environmental Impact Report

Under CEQA Guidelines Section 15105, the County was required to provide a 45-day public review period on the Draft EIR. The Newland Sierra Draft EIR (June 2017) was made available for public comment for a 60-day period. The comment period began on June 15, 2017 and ended on August 14, 2017.

Copies of the Draft EIR were available for public review at the following locations: (i) Planning & Development Services, Project Processing Counter, 5510 Overland Avenue, Suite 110, San Diego, California 92123; (ii) San Marcos County Library, 2 Civic Center Drive, San Marcos, CA 92069; and (iii) Vista County Library, 700 Eucalyptus Avenue, Vista, CA 92084. In addition to the public comment period identified in the paragraph above, a public meeting on the project and Draft EIR was held on July 18, 2017 at the San Marcos Community Services Department, Community Hall.

In June 2018, the Newland Sierra Final EIR (June 2018) was completed. The Final EIR includes all comments and responses to comments received on the Draft EIR, an additional technical appendix, and other information and clarifications. On June 18, 2018, County staff made the Final EIR available for public review by posting it on the County's Planning website.

Following release of the Final EIR, on June 28, 2018, the Planning Commission held a public hearing on the project, associated entitlements, and the Final EIR.

II. ENVIRONMENTAL IMPACTS FOUND TO BE NOT SIGNIFICANT OR LESS THAN SIGNIFICANT

The County finds that, based upon substantial evidence in the record, the following impacts associated with the Newland Sierra Project, and other effects identified as less than significant in the Final EIR, are less than significant and no mitigation is required pursuant to Public Resources Code Section 21081(a) and CEQA Guidelines Section 15091(a).

CEQA Findings and Statement of Overriding Considerations

<i>Environmental Resource Category</i>	<i>Not Significant or Less than Significant Environmental Impact</i>
<p><i>Aesthetics</i> (EIR Section 2.1)</p>	<ul style="list-style-type: none"> • Less than significant effect on a scenic vista. • No significant creation of a new source of substantial light or glare, which would adversely affect day or nighttime views in the area. • No significant impact from installation of outdoor light fixtures that do not conform to the lamp type and shielding requirements described in Section 59.105 (Requirements for Lamp Source and Shielding) and are not otherwise exempted pursuant Section 59.108 or Section 59.109 of the San Diego County Light Pollution Code. • No significant impact from operation of Class I or Class III outdoor lighting between 11:00 p.m. and sunrise that is not otherwise exempted pursuant Section 59.108 or Section 59.109 of the San Diego County Light Pollution Code. • No significant impact from generation of light trespass that exceeds 0.2 foot- candles measured five feet onto the adjacent property. • No significant impact from installation of highly reflective building materials that will create daytime glare and be visible from roadways, pedestrian walkways or areas frequently used for outdoor activities on adjacent properties. • No significant impact from resulting from non-conformance to applicable Federal, State or local statute or regulation related to dark skies or glare, including the San Diego County Light Pollution Code. • No significant impact from conflict or inconsistency with applicable goals, policies, or requirements of an applicable County Community Plan, Subregional Plan, or Historic District's Zoning.
<p><i>Agricultural and Forest Resources</i> (EIR Section 2.2 and Technical Appendix B)</p>	<ul style="list-style-type: none"> • Less than significant impact to important onsite agricultural resources which could result if the site would have important agricultural resources has defined by the LARA Model; the project would result in the conversion of agricultural resources that meet the soil quality criteria for Prime Farmland or Farmland of Statewide Importance, as defined by the FMMP; and where the project would substantially impair the ongoing viability of the Site for agricultural use. • No conflict with land under a Williamson Act contract or the provision of the California Land Conservation Act of 1965. • Less than significant impact due to land use conflicts between the agricultural operation or contract land and the proposed project that could result in conversion of agricultural resources to a non-agricultural use. • Less than significant impact from other changes to the existing environment, which due to their location or nature, could result in the conversion of off-site agricultural resources to a non-agricultural use or could adversely impact the viability of agriculture on land under a Williamson Act contract. • No conflict with existing zoning for forest land, timberland, or

CEQA Findings and Statement of Overriding Considerations

<i>Environmental Resource Category</i>	<i>Not Significant or Less than Significant Environmental Impact</i>
	<p>timberland zoned Timberland Production.</p> <ul style="list-style-type: none"> • No loss of forest land, conversion of forest land to non-forest use, or other changes in the existing environment which, due to their location and nature, could result in conversion of forest land to non-forest use. • No conflict or inconsistency with applicable plans, policies, and ordinances. • No cumulatively considerable impact on agricultural resources.
<p><i>Air Quality</i> (EIR Section 2.3)</p>	<ul style="list-style-type: none"> • No individual or cumulative exceedance of CO CAAQS hotspot thresholds during construction and operation. • No exposure toxic air contaminants (“TACs”) that: individually or cumulatively exceed the maximum individual cancer risk of ten in one million during construction; exceed the chronic hazard indices during construction and operation; exceed the cancer burden threshold during operation; or would result in a significant health risk from exposure to crystalline silica during construction. • No creation of objectionable odors affecting a substantial number of people during construction and operation.
<p><i>Energy</i> (EIR Section 3.1)</p>	<ul style="list-style-type: none"> • Less than significant impact related to wasteful, inefficient, or unnecessary use of nonrenewable resources during project construction or long-term operation. • Less than significant impact related to inconsistency with adopted plans and policies. • The project would not place a significant demand on local and regional energy supplies, or require a substantial amount of additional capacity. • No cumulatively considerable impact on energy.
<p><i>Geology and Soils</i> (EIR Section 2.6)</p>	<ul style="list-style-type: none"> • No proposal to place any building or structure to be used for human occupancy over or within 50 feet of the trace of an Alquist-Priolo fault or County Special Study Zone fault. • No proposal for any use within an Alquist-Priolo Zone. • Less than significant impact from ground shaking. • Less than significant impact related to substantial erosion or the loss of topsoil resulting from the Project. • No impact from having soils incapable of adequately supporting the use of on-site wastewater treatment systems where sewers are not available for the disposal of wastewater. • No cumulatively considerable impact to geology, soils, or seismicity. • No conflict with applicable plans, policies and ordinances related to geology and soils.

CEQA Findings and Statement of Overriding Considerations

<i>Environmental Resource Category</i>	<i>Not Significant or Less than Significant Environmental Impact</i>
<i>Hazards and Hazardous Materials</i> (EIR Section 2.8)	<ul style="list-style-type: none"> • Less than significant impact related to meeting fire emergency response time objective identified in the Public Facilities Element of the County General Plan. • Less than significant impact related to hazardous materials handling and not proposal to handle regulated substances that could adversely affect childrens health due to the presence of a school or day care within one-quarter mile. • No proposed structures for human occupancy and/or significant linear excavation within 1,000 feet of an open, abandoned, or closed landfill. • No development on or within 250 feet of the boundary of a parcel identified as containing burn ash (from the historic burning of trash). • No development on or within 1,000 feet of a FUDS [Formerly Used Defense Site]. • No development within a dam inundation zone. • Less than significant impacts resulting from vectors or pests associated with implementation of the project. • No conflict with applicable plans, policies and ordinances related to hazards and hazardous materials.
<i>Hydrology and Water Quality – Hydrology</i> (EIR Section 3.2)	<ul style="list-style-type: none"> • No significant impact from substantial alteration of the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site. • No significant impact from increase in water surface elevations in a watercourse within a watershed equal to or greater than one square mile, by one foot or more in height and in the case of the San Luis Rey River, San Dieguito River, San Diego River, Sweetwater River, and Otay River, two-tenths of a foot or more in height. • No significant impact from increase in velocities and peak flow rates exiting the project site that would cause flooding downstream or exceed the stormwater drainage capacity serving the site. • No significant impact from placing housing, habitable structures, or unanchored impediments to flow in a 100-year floodplain area or other special flood hazard area, as shown on a FIRM, a County Flood Plain Map, or County Alluvial Fan Map, which would subsequently endanger health, safety, and property due to flooding. • No significant impact from placing structures within a 100-year flood hazard or alteration of the floodway in a manner that would redirect or impede flow resulting in any of the following: <ul style="list-style-type: none"> ○ Alter the Lines of Inundation resulting in the placement of other housing in a 100-year flood hazard; or ○ Increase water surface elevation in a watercourse with a watershed equal to or greater than one square mile

CEQA Findings and Statement of Overriding Considerations

<i>Environmental Resource Category</i>	<i>Not Significant or Less than Significant Environmental Impact</i>
	<p style="text-align: center;">by one foot or more in height and in the case of the San Luis Rey River, San Dieguito River, San Diego River, Sweetwater River, and Otay River, two-tenths of a foot or more in height.</p> <ul style="list-style-type: none"> • No significant impact from the development of a project listed in County of San Diego, Code of Regulatory Ordinances (Regulatory Ordinances), Section 67.804(g), as amended and that does not comply with the standards set forth in the County Stormwater Standards manual, Regulatory Ordinances Sect 67.813, as amended, or the Additional Requirements for Land Disturbance Activities, as set forth in Regulatory Ordinances, Section 67. • No significant impact from drainage to a tributary of an impaired water body listed on the Clean Water Act Section 303(d) list, and will contribute substantial additional pollutant(s) for which the receiving water body is already impaired. • No significant impact from drainage to a tributary of a drinking water reservoir and substantial contribution of more pollutant(s) than would normally run off from the project site under natural conditions. • No significant impact from contribution of pollution in excess of that allowed by applicable State or local water quality objectives or will cause or contribute to the degradation of beneficial uses. • No significant impact from the failure to conform to applicable Federal, State or local “Clean Water” statutes or regulations including but not limited to the Federal Water Pollution Control Act, California Porter-Cologne Water Quality Control Act, and the County of San Diego Watershed Protection, Stormwater Management, and Discharge Control Ordinance. • No significant impact from substantial depletion of groundwater supplies or substantial interference with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level. • No significant impact to groundwater resources resulting from a soil moisture balance, or equivalent analysis, conducted using a minimum of 30 years of precipitation data, including drought periods, concludes that at any time groundwater in storage would be reduced to 50 percent or less as a result of groundwater extraction. • No cumulatively considerable impact to hydrology and water quality, including hydrology, erosion, flooding, water quality, or groundwater resources. • No conflict with applicable plans, policies and ordinances related to hydrology and water quality.
<p><i>Land Use and Planning</i> <i>(EIR Section 3.3)</i></p>	<ul style="list-style-type: none"> • No physical division of an established community. • No significant impact from inconsistency with any applicable land use plans, policies, or regulations of an agency with jurisdiction

CEQA Findings and Statement of Overriding Considerations

<i>Environmental Resource Category</i>	<i>Not Significant or Less than Significant Environmental Impact</i>
	<p>over the project (including, but not limited to, the County's General Plan, the North County Metropolitan Subregional Plan, the Bonsall Community Plan, County Zoning Ordinance, I-15 Corridor Subregional Plan, City of Escondido Quality of Life Standards, City of San Marcos Guiding Themes, the County's Resource Protection Ordinance, County Trails Program, Board of Supervisor's Policies, Natural Community Conservation Plan/San Diego Multiple Species Conservation Program (NCCP/MSCP) and draft North County MSCP Subarea Plan, Regional Comprehensive Plan, and SANDAG Regional Transportation Plan/ Sustainable Communities Strategy (RTP/SCS)) adopted for the purpose of avoiding or mitigating an environmental effect.</p> <ul style="list-style-type: none"> • No conflict with any applicable habitat conservation plan or natural community conservation plan. • No cumulatively considerable impact related to land use and planning. • No cumulatively considerable impact concerning conflicts with applicable plans, policies, and regulations.
<i>Noise</i> (EIR Section 2.10)	<ul style="list-style-type: none"> • Less than significant operational impacts to groundborne noise or vibration.
<i>Paleontological Resources</i> (EIR Section 2.11)	<ul style="list-style-type: none"> • No cumulatively considerable impact related to paleontological resources. • No conflict with applicable plans, policies and ordinances related to paleontological resources.
<i>Population and Housing (EIR Section 2.12)</i>	<ul style="list-style-type: none"> • No displacement of substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere. • No displacement of substantial numbers of people, necessitating the construction of replacement housing elsewhere. • No conflict with applicable plans, policies and ordinances related to population and housing. • No cumulatively considerable impact related to displacement of substantial numbers of existing housing or people.
<i>Parks and Recreation</i> (EIR Section 3.4)	<ul style="list-style-type: none"> • No significant impact from increase in use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated. • No significant impact from inclusion of recreational facilities or requirement of the construction or expansion of such facilities which might have an adverse physical effect on the environment. • No conflict with applicable plans, policies and ordinances related to parks and recreational facilities. • No cumulatively considerable impact related to parks and recreational facilities.

CEQA Findings and Statement of Overriding Considerations

<i>Environmental Resource Category</i>	<i>Not Significant or Less than Significant Environmental Impact</i>
<p><i>Public Services</i> (EIR Section 3.5)</p>	<ul style="list-style-type: none"> • Less than significant impacts from creation of adverse physical impacts associated with the provision of, or need for, new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for any of the public services: <ul style="list-style-type: none"> ○ Fire Protection ○ Law Enforcement ○ Schools ○ Public Library Services • No conflict with applicable plans, policies and ordinances related to public services • No cumulatively considerable impact related to public services.
<p><i>Transportation/Traffic</i> (EIR Section 2.13)</p>	<ul style="list-style-type: none"> • No significant individual or cumulative construction-related or internal roadway traffic or circulation impacts. • No significant impact to freeway ramp meters. • No resulting change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks. • No substantial individual or cumulative increase in traffic hazards related to transportation design features or significant hazards to pedestrians or bicyclists. • No conflict with the County’s alternative transportation policies contained in the General Plan.
<p><i>Utilities and Service Systems— Water Supply</i> (EIR Section 2.14)</p>	<ul style="list-style-type: none"> • No significant impact from creation of water system capacity problems or resulting in the construction of new water facilities or the expansion of existing facilities, the construction of which would cause significant environmental effects. • No significant impacts related to the insufficiency of reliable water supplies available to serve the Project demands from existing entitlements and resources, or need for new or expanded entitlements. • No conflict with applicable plans, policies and ordinances related to water service and supply. • No cumulatively considerable impact related to water service and supply.
<p><i>Utilities and Service Systems – Wastewater</i> (EIR Section 2.14)</p>	<ul style="list-style-type: none"> • Less than significant impact related to exceeding wastewater treatment requirements of the applicable Regional Water Quality Control Board. • No requiring or resulting in the construction of new wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects.

CEQA Findings and Statement of Overriding Considerations

<i>Environmental Resource Category</i>	<i>Not Significant or Less than Significant Environmental Impact</i>
	<ul style="list-style-type: none"> • No determination by the wastewater treatment provider which serves or may serve the project that it has inadequate capacity to serve the project’s projected demand in addition to the provider’s existing commitments. • No conflict with applicable plans, policies and ordinances related to wastewater service. • No cumulatively considerable impact related to wastewater service and treatment.
<i>Utilities and Service Systems – Solid Waste</i> <i>(EIR Section 2.14)</i>	<ul style="list-style-type: none"> • No insufficient landfill capacity to accommodate the project’s solid waste disposal needs. • No noncompliance with federal, state, and local statutes and regulations related to solid waste. • No conflict with applicable plans, policies and ordinances related to solid waste service. • No cumulatively considerable impact related to solid waste.

Accordingly, changes or alterations are not required for these less than significant impacts pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1). While not required by CEQA, additional discussion is provided below to address discrete aspects of the Project’s less-than-significant impacts related to I-15 interchange improvements and related to air quality, noise, transportation and traffic, and utilities and service systems as mitigation has been incorporated to mitigate, avoid, and/or further reduce these less-than-significant impacts.

A. Air Quality

1) Mitigation for Less than Significant Fugitive Dust and Crystalline Silica Impacts

Description of Less than Significant Effect: Based on the analysis presented in Section 2.3 of the EIR, Project-related impacts to deposited crystalline silica are not considered to be a source of significant health risk, and impacts would be less than significant. Although impacts would be less than significant, mitigation measures M-AQ-11 and M-AQ-12 would be implemented to control fugitive dust emissions generated during blasting activities.

Finding: The County finds changes or alterations are not required for these less-than-significant impacts to air quality pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1). Nevertheless, changes or alterations have been required in, or incorporated into, the Project, which will further reduce the Project’s less-than-significant impacts related to crystalline silica.

CEQA Findings and Statement of Overriding Considerations

Mitigation Measures:

M-AQ-11 Construction activities that would occur within 100 feet of an on-site or off-site residence shall be limited to 10 acres of disturbance per day.

M-AQ-12 During blasting activities, the construction contractor(s) shall implement all feasible engineering controls to control fugitive dust, including exhaust ventilation, blasting cabinets and enclosures, vacuum blasters, drapes, water curtains or wet blasting. Watering methods, such as water sprays and water applications shall be implemented during blasting, rock crushing, cutting, chipping, sawing, or any activity that would release dust particles to reduce fugitive dust emissions. Respirators and other personal protective equipment approved for protection against silica shall be issued to construction workers during blasting and rock crushing operations.

Rationale: Implementation of mitigation measures M-AQ-11 and M-AQ-12 would control fugitive dust emissions generated during blasting activities.

B. Noise**1) Mitigation for Less than Significant Construction Noise Effects**

Description of Less than Significant Effect: Construction could occur within approximately 50 feet of on-site NSLUs, generating average noise levels of up to 89 dBA. This assumes a direct line of sight from the receiver to the construction area. Because construction work is cyclical, the 8-hour average noise level would be lower. Nonetheless, the County's noise limit of 75 dBA (8-hour average) may still be exceeded at future on-site residences and at the residences south of Town Center when work takes place near existing residence. With implementation of project design features 33 through 38, construction noise impacts would be less than significant.

Finding: The County finds changes or alterations are not required for these less-than-significant impacts to construction noise pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1). Nevertheless, changes or alterations have been required in, or incorporated into, the Project, which will mitigate, avoid, and/or further reduce the Project's less-than-significant impacts related to construction noise.

Mitigation Measures:

M-N-6 To reduce temporary construction noise, the project applicant shall implement project design features 33 through 38.

Rationale: Implementation of M-N-8 would reduce temporary construction noise impacts to on-site NSLUs because it would require the project applicant to implement project design features that would reduce noise at these NSLUs.

CEQA Findings and Statement of Overriding Considerations

C. Transportation and Traffic**1) Mitigation for Less than Significant Construction Traffic Impacts**

Description of Less than Significant Effect: While impacts related to construction traffic would remain less than significant, the project would be required to prepare Construction Traffic Control Plans (TCPs) to manage construction-related traffic.

Finding: The County finds changes or alterations are not required for these less-than-significant impacts to construction traffic pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1). Nevertheless, changes or alterations have been required in, or incorporated into, the Project, which will mitigate, avoid, and/or further reduce the Project's less-than-significant impacts related to construction traffic.

Mitigation Measures:

M-TR-18 The project applicant, or its designee, shall implement PDF-39 prior to issuance of the first grading permit and as required for individual grading and construction permits associated with off-site improvements.

Rationale: Mitigation measure M-TR-18 would ensure that Construction Traffic Control Plans are prepared to manage project construction-related traffic by requiring the project applicant, or its designee, to implement PDF-39 prior to issuance of the first grading permit and as required for individual grading and construction permits associated with off-site improvements.

D. Utilities and Service Systems**1) Mitigation for Less than Significant Water Supply Impacts**

Description of Less than Significant Effect: Project and cumulative water service and supply impacts would be less than significant; and, thus, no mitigation measures are required. However, to ensure water supply impacts remain less than significant, this Draft EIR recommends the following measures:

Finding: The County finds changes or alterations are not required for these less-than-significant impacts to water supply pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1). Nevertheless, changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the less-than-significant effects on the environment.

Mitigation Measures:

M-UT-1 Prior to the issuance of building permits that allow construction, the project applicant of any subdivision map, or its designee, shall fund, or pay fair-share fees toward, all new or expanded water facilities and infrastructure shown in the project's Master Plan of Water (January 30, 2017).

CEQA Findings and Statement of Overriding Considerations

- M-UT-2** The project applicant or its designee shall be prohibited from installing irrigation in any of the project’s dedicated open space (approximately 1,209 acres) and non-irrigated fuel modification zones (approximately 272.2 acres) within the project.
- M-UT-3** Pursuant to CEQA Guidelines Section 15091(a)(2), the Vallecitos Water District’s 2014 water demand factors are within the responsibility and jurisdiction of the District, and those water demand factors can and should be revised to remove the allocation of any water usage assigned to dedicated open space and non-irrigated fuel modification zones within its service area unless it is shown to be needed for health or safety concerns, which is not the case for the Newland Sierra Specific Plan project that is the subject of this EIR.
- M-UT-4** Prior to recordation of a final map, a “written verification” and supporting documents from the water supplier indicating the availability of a “sufficient water supply” as required by Section 66473.7 of the Subdivision Map Act (Senate Bill 221) shall be provided to the satisfaction of County departments.

Rationale: Mitigation measures M-UT-1 through M-UT-4 would ensure that project water supply impacts remain less than significant because they would ensure: (1) that the project applicant or its designee fund or pay fair-share fees toward all new or expanded water facilities and infrastructure shown in the project’s Master Plan of Water; (2) that the project applicant or its designee shall be prohibited from installing irrigation in any of the project’s dedicated open space (approximately 1,209 acres) and non-irrigated fuel modification zones (approximately 272.2 acres) within the project; (3) that the Vallecitos Water District’s water demand factors can and should be revised to remove the allocation of any water usage assigned to dedicated open space and non-irrigated fuel modification zones within its service area, and (4) that a “written verification” and supporting documents from the water supplier indicating the availability of a “sufficient water supply” as required by Section 66473.7 of the Subdivision Map Act (Senate Bill 221) is provided to the satisfaction of County departments.

III. POTENTIALLY SIGNIFICANT IMPACTS THAT CAN BE MITIGATED BELOW A LEVEL OF SIGNIFICANCE (CEQA GUIDELINES § 15091(A)(1))

Pursuant to Section 21081(a) of the Public Resources Code and Section 15091(a)(1) of the State CEQA Guidelines, the County of San Diego Board of Supervisors finds that, for each of the following significant effects identified in the Final EIR, changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the identified significant effects on the environment to less than significant levels. The significant effects and mitigation measures are stated fully in the Final EIR. These findings are explained below and are supported by substantial evidence in the record of proceedings.

CEQA Findings and Statement of Overriding Considerations

A. Agricultural Resources**1) Impact AGR-1**

Description of Significant Effect: The proposed project's off-site improvements along Deer Springs Road have the potential to directly impact approximately 5.82 acres (total parcel size of parcels with Prime Farmland or Farmland of Statewide Importance) of off-site important agricultural resources.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-AGR-1 The applicant shall purchase mitigation credits through the County of San Diego's (County) Purchase of Agricultural Easements (PACE) program. The County's PACE program is an approved mitigation banking method, which uses in-lieu fees to purchase PACE credits to offset agricultural impacts. Each acre of land permanently protected with an agricultural conservation easement under the PACE program would equate to one mitigation credit. Therefore, prior to issuance of a grading permit, the applicant shall mitigate for the 5.82 acres of assumed impacts at a 1:1 ratio by the purchase of 5.82 mitigation credits through the County's PACE program.

Rationale: Implementation of M-AGR-1 would reduce impacts to off-site important agricultural resources resulting from the proposed project's off-site improvements along Deer Springs Road by requiring the applicant to purchase 5.82 mitigation credits through the County's PACE program that would offset agricultural impacts. By mitigating for any potentially significant impacts in the manner prescribed, impacts to agricultural resources would be less than significant.

B. Air Quality**1) Impact AQ-6**

Description of Significant Effect: The cancer risk at the proposed project's school would not exceed the SDAPCD threshold of 10 in 1 million; however, the cancer risk in the northeast corner of the proposed project's Town Center residential area would exceed the SDAPCD significance thresholds and impacts would be potentially significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

CEQA Findings and Statement of Overriding Considerations

Mitigation Measures:

- M-AQ-13** The applicant or its designee shall install high-efficiency return air filters on all heating, ventilation, and air conditioning (HVAC) system serving any residential unit located in the northeastern and southeastern portions of the Town Center that is identified as having a risk factor of 10 in 1 million or higher, as illustrated in Figure 2.3-1, Cancer Risk: 30-Year Exposure on Residential Receptor Locations. The air filtration system shall reduce at least 95 percent of particulate matter emissions, which can be achieved with a Minimum Efficiency Reporting Value 16 (MERV 16) air filtration system installed on return vents in residential units. The property management company for the homeowner's association (HOA) shall maintain the air filtration system on any HVAC system installed for the specified residential units in accordance with the manufacturer's recommendations for the life of the project.
- M-AQ-14** The applicant or its designee shall locate air intake vents on the residential buildings having a risk factor of 10 in 1 million or higher, as illustrated in Figure 2.3-1, Cancer Risk: 30-Year Exposure on Residential Receptor Locations, such that they do not face Interstate 15 (I-15) and are as far from I-15 as practicable.
- M-AQ-15** A County of San Diego–approved, ASHRAE-certified specialist shall verify the implementation of the installation of high-efficiency air filtration systems on return vents to reduce ambient particulate matter concentrations prior to occupancy of residential units having a risk factor of 10 in 1 million or higher, as illustrated in Figure 2.3-1, Cancer Risk: 30-Year Exposure on Residential Receptor Locations.
- M-AQ-16** The applicant or its designee shall require the following measures be implemented into the final design of the residential units located in the northeastern and southeastern portions of the multi-family residential development area in the Town Center that is identified as having a risk factor of 10 in 1 million or higher, as illustrated in Figure 2.3-1, Cancer Risk: 30-Year Exposure on Residential Receptor Locations:
- Openable doors and windows shall be located on building faces that do not face Interstate 15. All windows facing Interstate 15 shall be fixed in place and not openable.
 - No playgrounds, benches, or other passive or active activity areas shall be located in the risk-impacted northeastern and southeastern corners of the Town Center, in order to limit outdoor activities and exposure.
- M-AQ-17** As part of landscape design and vegetation palette for the project, installation of tiered vegetative landscaping is encouraged, including the installation of evergreen trees between Interstate 15 and the Town Center residential units

CEQA Findings and Statement of Overriding Considerations

identified as having a risk factor of 10 in 1 million or higher, as illustrated in Figure 2.3-1, Cancer Risk: 30-Year Exposure on Residential Receptor Locations. Any vegetation selected shall be compatible with the project's Fire Protection Plan. The tiered vegetation shall be maintained by the property management company for the homeowner's association (HOA) as part of the residential Community landscaping areas where feasible.

Rationale: Implementation of M-AQ-13 through M-AQ-17 would reduce cancer risk impacts in the northeast corner of the proposed project's Town Center residential area to less than significant because these mitigation measures would require installation of high-efficiency return air filtration systems that would reduce at least 95 percent of particulate matter emissions, locate air intake vents and openable doors and windows on residential buildings, and passive or active activity areas away from I-15, and encourage installation of tiered vegetative landscaping. Implementing M-AQ-12 through M-AQ-16 would reduce the maximum cancer risks at the residential point of maximum impact to 9.1 in 1 million, which is below the threshold of significance. (Beneficial reductions in health risk impacts from the installation of tiered vegetative landscaping, as described in M-AQ-17, were not quantified because implementation of M-AQ-13 through M-AQ-16 mitigates health risk impacts to a level that is less than significant.)

C. Biological Resources

1) Impact SP-1

Description of Significant Effect: Short-term Direct Impact: Two County List A plant species would be directly impacted by the proposed project—summer holly and Ramona horkelia.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-BIO-1 CONSTRUCTION MONITORING: To prevent inadvertent disturbance to areas outside the limits of grading, all grading shall be monitored by a biologist. A "Project Biologist" approved by the County of San Diego (County) shall be contracted to perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities.

The following shall be completed:

1. The Project Biologist shall perform the monitoring duties before, during, and after construction pursuant to the most current version of the *County of San Diego Report Format and Content Requirements, Biological Resources*. The contract provided to the County shall include an agreement that this will be completed, and a Memorandum of Understanding (MOU) between the biological consulting company and the County shall be executed. The contract

CEQA Findings and Statement of Overriding Considerations

shall include a cost estimate for the monitoring work and reporting. In addition to performing monitoring duties pursuant to the most current version of the *County of San Diego Report Format and Content Requirements, Biological Resources*, the Project Biologist shall perform the following duties:

- a. Attend the preconstruction meeting with the contractor and other key construction personnel prior to clearing, grubbing, or grading to reduce conflict between the timing and location of construction activities with other mitigation requirements (e.g., seasonal surveys for nesting birds).
- b. Conduct meetings with the contractor and other key construction personnel describing the importance of restricting work to designated areas prior to clearing, grubbing, or grading. Perform weekly inspection of fencing and erosion control measures (daily during rain events) near proposed preservation areas and report deficiencies immediately to the Department of Public Works (DPW) Construction Inspector.
- c. Discuss procedures/training for minimizing harm to or harassment of wildlife encountered during construction with the contractor and other key construction personnel prior to clearing, grubbing, or grading.
- d. Review and/or designate the construction area in the field with the contractor in accordance with the final grading plan prior to clearing, grubbing, or grading.
- e. Conduct a field review of the staking to be set by the surveyor, designating the limits of all construction activity prior to clearing, grubbing, or grading.
- f. Supervise and monitor vegetation clearing, grubbing, and grading to ensure against direct and indirect impacts to biological resources that are intended to be protected and preserved.
- g. Flush special-status and other species (i.e., avian and other mobile species) from occupied habitat areas immediately prior to brush-clearing and earth-moving activities.
- h. Verify that the construction site is implementing the following storm water pollution prevention plan best management practices: dust-control fencing, removal of construction debris and a clean work area, covered trash receptacles that are animal-proof and weather-proof, prohibition of pets on the construction site, and a speed limit of 15 miles per hour during the daylight and 10 miles per hour during dark hours.

CEQA Findings and Statement of Overriding Considerations

- i. Periodically monitor incoming landscape products for compliance with the prohibition on non-native invasive species and the requirement for landscaping composed of native species that do not require high irrigation rates.
- j. Periodically monitor the construction site in accordance with the project's fugitive dust control plan in compliance with San Diego County Air Pollution Control District's regulations to reduce particulate matter less than 10 microns in diameter (PM₁₀) and fine particulate matter less than 2.5 microns in diameter (PM_{2.5}) emissions during construction (refer to the Air Quality Technical Report). Periodically monitor the construction site to see that dust is minimized according to the fugitive dust control plan and that manufactured slopes are revegetated as soon as possible.
- k. Periodically monitor the construction site to see that artificial security light fixtures are directed away from open space and are shielded.
- l. Oversee the construction site so that cover and/or escape routes for wildlife from excavated areas are provided on a daily basis. All steep trenches, holes, and excavations during construction shall be covered at night with backfill, plywood, metal plates, or other means, and the edges covered with soils and plastic sheeting such that small wildlife cannot access them. Soil piles shall be covered at night to prevent wildlife from burrowing in. The edges of the sheeting shall be weighed down by sandbags. These areas may also be fenced to prevent wildlife from gaining access. Exposed trenches, holes, and excavations shall be inspected twice daily (i.e., each morning and prior to sealing the exposed area) by a qualified biologist to monitor for wildlife entrapment. Excavations shall provide an earthen ramp to allow for a wildlife escape route.
- m. Stop or divert all work when deficiencies require mediation and notify DPW Construction Inspector and the County Construction Inspector within 24 hours; produce periodic (monthly during grading) and final reports and submit to the Wildlife Agencies and the PDS (final report will release bond);
- n. Confer with the Wildlife Agencies and the County Construction Inspector within 24 hours any time protected habitat or gnatcatchers or other special-status species are being affected by construction.
- o. Keep daily monitoring notes for the duration of grading for submittal in a final report to substantiate the biological supervision of the grading activities and the protection of the biological resources.

CEQA Findings and Statement of Overriding Considerations

- p. Make monthly updates available to the Wildlife Agencies and County based on the daily monitoring notes described above, until such time as the North County MSCP Plan is adopted, after which the MSCP plan provisions will replace this measure.

The cost estimate of the monitoring (provided in the contract) shall be added to the grading bonds that will be posted with the DPW, or bond separately with the PDS. The bond for monitoring shall be released upon the acceptance of the monitoring report for each Final Map.

Documentation: The applicant shall submit the monitoring contract, cost estimate, and MOU to the PDS for review and approval. The applicant shall provide verification that the cost of the monitoring has been added to the grading bond.

Timing: Monitoring shall be performed throughout the duration of grading; if this project includes more than one Final Map, each shall have separate monitoring contracts and documentation.

Monitoring: The PDS shall review the contract, MOU, and cost estimate or separate bonds for compliance with this condition. The cost estimate shall be forwarded to the project manager for inclusion in the grading bond cost estimate and grading bonds. The DPW shall add the cost of the monitoring to the grading bond costs.

M-BIO-2 CONSTRUCTION FENCING: To prevent inadvertent disturbance to sensitive vegetation and species, temporary construction fencing shall be installed. The temporary fencing shall be placed to confine project activities to the areas approved for construction activities and to protect from inadvertent disturbance all open space easements and preserve areas that do not allow grading, brushing, or clearing. Temporary fencing shall also be required in all locations of the project where proposed grading or clearing is within 100 feet of open space or preserve boundaries. The placement of such fencing shall be approved by the Department of Planning & Development Services (PDS), Permit Compliance Section. Upon approval, the fencing shall remain in place until the conclusion of grading activities, after which the fencing shall be removed.

Documentation: The applicant shall provide evidence that the fencing has been installed and have a California licensed surveyor certify that the fencing is located on the boundary of the open space easement(s). The applicant shall submit the certification letter to PDS for approval.

CEQA Findings and Statement of Overriding Considerations

Timing: Prior to the preconstruction conference for each Final Map area, and prior to any clearing, grubbing, trenching, grading, or land disturbances, the fencing shall be installed, and shall remain for the duration of grading and clearing. This may be done in association with grading and improvement plans for each Final Map.

Monitoring: The County of San Diego Construction Inspector shall attend either the preconstruction conference and approve the installation of the temporary fencing, or review the certification and pictures provided by the applicant.

M-BIO-3 MONITORING REPORT: To ensure that the biological monitoring occurred during the grading phase of the project, a final biological monitoring report shall be prepared. The report shall substantiate the supervision of the grading activities and state that grading and construction activities did not impact any additional areas or any other sensitive biological resources. The report shall conform to the County of San Diego *Report Format and Content Requirements, Biological Resources*, and include the following items:

1. Photos of the temporary fencing that was installed during the trenching, grading, and clearing activities.
2. Monitoring logs showing the date and time that the monitor was on site.
3. Photos of the site after the grading and clearing activities.
4. Lists of species observed with special-status species mapped.

Documentation: The Project Biologist shall prepare the final report and submit it to the Department of Planning & Development Services (PDS) for review and approval.

Timing: Upon approval of each Final Map, and prior to approval of the associated grading and improvement plans, the monitoring contract and bonding shall be submitted and complete. Upon completion of grading activities for each Final Map, and prior to rough grading final inspection (Grading Ordinance Section 87.421.a.2), the final report shall be completed and accepted by the PDS.

Monitoring: The PDS shall review the final report for compliance with this condition and the report format guidelines. Upon approval of the report, the PDS shall inform the Department of Public Works (DPW) that the requirement is complete and the bond amount can be relinquished. If the monitoring was bonded separately, then PDS shall inform DPW to release the bond back to the applicant.

CEQA Findings and Statement of Overriding Considerations

M-BIO-9 HORKELIA RELOCATION PLAN: For any direct loss of Ramona horkelia (*Horkelia truncata*), the applicant shall prepare and implement a relocation plan prior to the issuance of grading permits. The relocation plan shall provide for replacement of individual plants to be removed at a minimum 1:1 ratio within suitable receptor sites(s) where no future construction-related disturbance will occur. The relocation plan shall specify, at minimum, the following: (1) the location of the receptors site(s) in protected open space areas within the project Site; (2) appropriate methods for replacement (e.g., harvesting seeds, salvaging and transplantation of impacted plants, and/or nursery propagation); (3) receptor site preparation methods; (4) schedule and action plan for maintaining and monitoring the receptor site(s); (5) list of performance criteria and standards for successful mitigation; (6) measures to protect the receptor site(s) (e.g., trespass and erosion control, weeding); and (7) cost of implementing the relocation plan.

Documentation: The applicant shall prepare a final Horkelia Mitigation Plan that complies with the Conceptual Restoration Plan and submit it for review with the applicable review fees and deposits (this is considered a revegetation plan submittal).

Timing: Prior to the approval of the first associated map and prior to the approval of the first associated plan or issuance of the first associated permit, the Horkelia Mitigation Plan shall be approved.

Monitoring: The Department of Planning & Development Services shall review the Horkelia Mitigation Plan for conformance with this condition and the applicable elements of the most current version of the County of San Diego *Report Format and Content Requirements for Revegetation Plans*. Upon approval of the Horkelia Mitigation Plan, security for success of the Horkelia Mitigation Plan shall be collected and the applicant shall provide a confirmation letter acknowledging acceptance of securities.

Rationale: Implementation of M-BIO-1, M-BIO-2, M-BIO-3, and M-BIO-9 would reduce short-term direct impacts to summer holly and Ramona horkelia to less than significant because they would require construction monitoring to prevent disturbance to these species outside the limits of grading, fence off areas outside the area of construction, produce a report that substantiates that grading and construction activities did not impact any additional areas or any other sensitive biological resources, and relocate Ramona horkelia individuals that could be impacted by the project to an area that will not be disturbed by construction.

2) Impact SP-2

CEQA Findings and Statement of Overriding Considerations

Description of Significant Effect: Long-term Direct Impact: Two County List A plant species would be directly impacted by the proposed project—summer holly and Ramona horkelia.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-1, M-BIO-8A, and M-BIO-9 are adopted to mitigate the significance of Impact SP-2. See discussion of Impact SP- 1 above, for text of M-BIO-1 and M-BIO-9.

M-BIO-8A PRESERVE: The applicant shall preserve in permanent open space approximately 1,420.9 acres of native habitats, generally consistent with the assemblage of vegetation communities impacted by the project in a proposed on-site and off-site open space preserve area (see Table 2.4-27) (see Appendix K to the BTR for the off-site mitigation site description). This shall include preservation of 1,420.9 acres of native habitats to mitigate for project impacts to 760.6 acres of special-status vegetation communities (both upland and riparian), thereby preserving compensatory habitat that provides equal or greater benefits to plant and wildlife species. Proposed on-site open space preserve has already been evaluated and may be used to satisfy this requirement through M-BIO-8B through M-BIO-8E.

Documentation: An RMP shall be prepared per M-BIO-8D and an application for the RMP shall be submitted to the PDS.

Timing: Prior to issuance of a grading permit, the mitigation shall occur.

Monitoring: The PDS shall accept an application for an RMP, and PDS and DPR shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

Rationale: Implementation of M-BIO-1, M-BIO-8A, and M-BIO-9 would reduce long-term direct impacts to summer holly and Ramona horkelia to less than significant because they would require construction monitoring to prevent disturbance to these species outside the limits of grading, preserve in permanent open space approximately 1,420.9 acres of native habitats that support these species, and relocate Ramona horkelia individuals that could be impacted by the project to an area that will not be disturbed by construction.

CEQA Findings and Statement of Overriding Considerations

3) Impact SP-3

Description of Significant Effect: Two County List A plant species would be indirectly impacted by the proposed project—summer holly and Ramona horkelia.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-1, M-BIO-2, and M-BIO-3 are adopted to mitigate the significance of Impact SP-3. See discussion of Impact SP- 1 above, for text of M-BIO-1, M-BIO-2, and M-BIO-3.

Rationale: Implementation of M-BIO-1, M-BIO-2, and M-BIO-3 would reduce short-term indirect impacts to summer holly and Ramona horkelia to less than significant because they would require construction monitoring to prevent disturbance to these species outside the limits of grading, fence off areas outside the area of construction, and produce a report that substantiates that grading and construction activities did not impact any additional areas or any other sensitive biological resources.

4) Impact SP-4

Description of Significant Effect: Long-term Indirect Impact: Three County List A plant species would be indirectly impacted by the proposed project—summer holly, Ramona horkelia, and rainbow manzanita.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-4, M-BIO-8A, M-BIO-8B, M-BIO-8C, M-BIO-8D, M-BIO-8E, M-BIO-10, and M-BIO-11 are adopted to mitigate the significance of Impact SP-4. See discussion of Impact SP- 2 above, for text of M-BIO-18A.

M-BIO-4 INVASIVE SPECIES PROHIBITION: The Department of Planning & Development Services (PDS) Landscape Architect shall require that all final landscape plans comply with the following: (1) no invasive plant species as included on the most recent version of the California Invasive Plant Council’s California Invasive Plant Inventory for the project region shall be included, and (2) the plant palette shall be composed of native species that do not require high irrigation rates. The Project Biologist shall periodically check landscape products for compliance with this requirement.

Monitoring: The PDS shall approve the final landscape plans; M-BIO-1 includes periodic monitoring of landscaping products brought to the project Site.

M-BIO-8B BIOLOGICAL OPEN SPACE EASEMENT. The County of San Diego (County) shall be granted a biological open space easement, as shown on the

CEQA Findings and Statement of Overriding Considerations

approved Tentative Map for the on-site open space and a separate open space easement exhibit for the off-site biological open space. These easements shall be for the protection of biological resources and all of the following shall be prohibited on any portion of the land subject to said easement: grading; excavating; placing soil, sand, rock, gravel, or other material; clearing vegetation; constructing, erecting, or placing any building or structure; vehicular activities; dumping trash; or using for any purpose other than as open space. Granting this open space shall authorize the County and its agents to periodically access the land to perform management and monitoring activities for species and habitat conservation. The only exception(s) to this prohibition are the following:

1. Activities conducted pursuant to a revegetation or habitat management plan approved by the Director of the Department of Planning & Development Services, Department of Parks and Recreation, and Department of Public Works.
2. Vegetation removal or application of chemicals for vector-control purposes where expressly required by written order of the County of San Diego Department of Environmental Health.
3. Uses, activities, and placement of structures expressly permitted and shown on the plot plan.
4. Construction, use, and maintenance of multi-use, non-motorized trails per the specific plan (Figure 1-3, Parks and Trails Plan).

Documentation: The applicant shall show the on-site open space easement on the Final Map and open space easement exhibit with the appropriate granting language on the title sheet concurrent with Final Map review, then submit them for preparation and recordation with the [DGS, RP] and pay all applicable fees associated with preparation of the documents. For the off-site open space an easement will be dedicated to the County through a separate document.

Timing: Prior to the approval of each Final Map, and on the associated map and prior to the approval of any associated plan and issuance of any associated permit, the on-site and off-site biological open space easements shall be recorded.

Monitoring: For recordation on the map, the [PDS, LDR] shall route the Final Map to [PDS, PCC] for approval prior to map recordation. The [PDS, PCC] shall preapprove the language and estimated location of the easements prior to recordation. The [PDS LDR] shall satisfy the condition after map recordation.

CEQA Findings and Statement of Overriding Considerations

M-BIO-8C LIMITED BUILDING ZONE EASEMENT: A Limited Building Zone Easement shall be granted to prohibit the building of structures that would require vegetation clearing within the protected biological open space for fuel management purposes. The easement must extend at least 100 feet from the Biological Open Space boundary.

DESCRIPTION OF REQUIREMENT: Grant to the County of San Diego a LBZ Easement as shown on the Tentative Map. The purpose of this easement is to limit the need to clear or modify vegetation for fire protection purposes within the adjacent biological open space easement and prohibit the construction or placement of any structure that would require vegetation clearing within the protected biological open space for fuel management purposes. The only exceptions to this prohibition are Structures that do not require fuel modification/vegetation management.

Documentation: The applicant shall show the easement on the Final Map with the appropriate granting language on the title sheet concurrent with Final Map review, then submit them for preparation and recordation with the *[DGS, RP]* and pay all applicable fees associated with preparation of the documents.

Timing: Prior to the approval of each Final Map, and on the associated map and prior to the approval of any associated plan and issuance of any associated permit, the Limited Building Zone easements shall be recorded.

Monitoring: For recordation on the map, the *[PDS, LDR]* shall route the Final Map to *[PDS, PCC]* for approval prior to map recordation. The *[PDS, PCC]* shall preapprove the language and estimated location of the easements prior to recordation. The *[PDS LDR]* shall satisfy the condition after map recordation.

M-BIO-8D RESOURCE MANAGEMENT PLAN: To provide for the long-term management of the proposed biological open space preserve, a Resource Management Plan (RMP) shall be prepared and implemented. Conceptual RMPs are provided as Appendix L (on-site open space) and Appendix M (off-site open space) to the Biological Resources Technical Report.

DESCRIPTION OF REQUIREMENT: Submit to and receive approval from the Director of the Department of Planning & Development Services (PDS), an RMP consistent with the project's RPP, on file as Environmental Review Number PDS2014-MPA-14-018. The final RMP cannot be approved until the following has been completed to the satisfaction of the Director of PDS, and, in cases where the Department of Parks and Recreation has agreed to be the

CEQA Findings and Statement of Overriding Considerations

owner/manager, to the satisfaction of the Director of the Department of Parks and Recreation:

1. The RMP shall be prepared and approved pursuant to the most current version of the County of San Diego (County) Biological Report Format and Content Requirements.
2. The habitat land to be managed shall be completely purchased.
3. The biological open space easements shall be dedicated to ensure that the land is protected in perpetuity.
4. A resource manager shall be selected, and evidence provided by the applicant as to the acceptance of this responsibility by the proposed resource manager.
5. The RMP funding costs, including a Property Assessment Record or other equally adequate forecast. The funding mechanism (endowment or other equally adequate mechanism) to fund annual costs for the RMP and the holder of the security shall be identified and approved by the County.
6. A contract between the applicant and County shall be executed for implementation of the RMP.
7. Annual reports shall include an accounting of all required tasks and details of tasks addressed during the reporting period, and an accounting of all expenditures and demonstration that the funding source remains adequate.

Documentation: The applicant shall prepare the RMP and submit it to the PDS and pay all applicable review fees.

Timing: Prior to approval of the first Final Map, submit the RMP for review and approval.

Monitoring: The PDS shall review the RMP for compliance with the content guidelines, the conceptual RMP, and this condition.

M-BIO-8E BIOLOGICAL OPEN SPACE FENCING AND SIGNAGE: To protect the proposed open space easement from unauthorized entry or disturbance, permanent post and rail fencing, or similar permeable fence, shall be installed along the boundaries of the biological open space. Open space signage shall be placed approximately every 200 feet along the fencing (see Figure 2.4-11, Proposed Biological Open Space/Conceptual Signage and Fencing).

DESCRIPTION OF REQUIREMENT: Open space fencing or walls shall be placed adjacent to residential uses and roads as shown on figure 2.4-11. Open

CEQA Findings and Statement of Overriding Considerations

space signage shall be installed as shown on Figure 2.4-11, Proposed Biological Open Space/Conceptual Signage and Fencing, and shall be corrosion resistant, a minimum of 6 inches by 9 inches, on posts not less than 3 feet in height from the ground surface, and must state the following:

**Sensitive Environmental Resources
Area Restricted by Easement**

Entry without express written permission from the County of San Diego is prohibited. To report a violation or for more information about easement restrictions and exceptions, contact the County of San Diego, Planning & Development Services (Reference: PDS2015-ER-15-08-001)

Documentation: The applicant shall install the fencing or walls as indicated on Figure 2.4-11, Proposed Biological Open Space/Conceptual Signage and Fencing Plan, and include them on the building plans. The applicant shall install the signage as indicated on the Proposed Biological Open Space/Conceptual Signage and Fencing Plan, and have them photographed and verified by a California Registered Engineer or licensed surveyor.

Timing: Prior to occupancy, the fencing or walls and signs shall be in place.

Monitoring: The Department of Planning & Development Services shall verify compliance of the fencing or walls through review of the building permits and this condition. Evidence of the signage shall be photos and a statement from a California Registered Engineer or licensed surveyor that the biological open space signs have been installed in accordance with the Open Space Fencing and Signage Plan.

M-BIO-10 CONTROL OF INVASIVE SPECIES: The Resource Manager will map occurrences of perennial, non-native species that have a rating of moderate or high by the California Invasive Plant Council. If found, weed control treatments shall include all legally permitted chemical, manual, and mechanical methods applied with the authorization of the County of San Diego agriculture commissioner. The application of herbicides shall be in compliance with all state and federal laws and regulations under the prescription of a pest control advisor and implemented by a licensed applicator. Where manual and/or mechanical methods are used, disposal of the plant debris shall follow the regulations set by the County of San Diego agriculture commissioner.

Timing: The timing of the weed control treatment shall be on an as-needed basis determined for each plant species in consultation with the pest control advisor,

CEQA Findings and Statement of Overriding Considerations

County of San Diego agriculture commissioner, and California Invasive Plant Council with the goal of controlling populations before they start producing seeds.

Monitoring: The County requires monthly monitoring of the open space. The Resource Manager shall visit the open space each month in order to monitor the overall conditions of the open space and determine if any management tasks are required. The Resource Manager shall monitor the treated areas until the invasive species are determined to be eradicated.

Documentation: An annual monitoring letter report will be submitted to the County at the end of January, which summarizes the overall condition of vegetation communities and sensitive species in the Open Space Preserve, outlines proposed management tasks for the following year, and provides results of management activities proposed in the previous report.

M-BIO-11 FIRE PROTECTION PLAN: To minimize the potential exposure of the project Site to fire hazards, all features of the Fire Protection Plan for the Newland Sierra Project shall be implemented in conjunction with development of the project.

Rationale: Implementation of M-BIO-4, M-BIO-8A, M-BIO-8B, M-BIO-8C, M-BIO-8D, M-BIO-8E, M-BIO-10, and M-BIO-11 would reduce long-term indirect impacts to summer holly, Ramona horkelia, and rainbow manzanita to less than significant by reducing planting and spread of invasive plant species that compete with sensitive species, preserving open space that supports these species where no building is allowed that requires vegetation clearing, implementing a RMP to provide for long-term management of the proposed biological open space preserve, constructing a fence that protects the proposed open space easement from unauthorized entry or disturbance, mapping occurrences of perennial, non-native species that have a rating of moderate or high by the California Invasive Plant Council that could be a threat to sensitive species, and implementing a Fire Protection Plan to minimize potential exposure of the project site to fire hazards.

5) Impact W-1

Description of Significant Effect: Short-term Direct Impact: Special-Status Wildlife, Listed Species. Loss of coastal California gnatcatcher from construction-related activities, including unintentional habitat loss, soil loss, water quality impacts, introduction of invasive species, and/or disruption of wildlife activities by construction activities adjacent to remaining suitable habitat would be considered significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

CEQA Findings and Statement of Overriding Considerations

Mitigation Measures: M-BIO-1, M-BIO-2, M-BIO-3, M-BIO-4, M-BIO-5, M-BIO-6, and M-BIO-7 are adopted mitigate the significance of Impact W-1. See discussion of Impact SP- 1 and SP-4 above, for text of M-BIO-1 through M-BIO-4.

M-BIO-5 NESTING BIRD MANAGEMENT, MONITORING, AND REPORTING PLAN: To avoid impacts to nesting migratory birds and raptors and other nesting birds, which are a sensitive biological resource pursuant to CEQA, the MBTA and Fish and Game Code, breeding season avoidance shall be implemented on all plans.

DESCRIPTION OF REQUIREMENT: There shall be no brushing, clearing, blasting and/or grading allowed during the breeding season of migratory birds or raptors (between January 15 and August 31) or coastal California gnatcatcher (between February 15–August 15). The Director of PDS [PDS, PCC] may waive this condition, through written concurrence from the USFWS and the CDFW (i.e., Wildlife Agencies), provided that no nesting or breeding birds are present within 300 feet of the brushing, clearing or grading (500 feet for raptors) based on a pre-construction survey conducted by a County-approved biological consultant within seven days prior to the proposed start of clearing/grading. Prior to preconstruction conference and prior to any clearing, grubbing, trenching, grading, or any land disturbances and throughout the duration of the grading and construction, compliance with this condition is mandatory unless the requirement is waived by the County upon receipt of concurrence from the Wildlife Agencies. If construction work must occur during the avian breeding season (February 1 through August 31, and as early as January 1 for some raptors), the applicant shall prepare a Nesting Bird Management, Monitoring, and Reporting Plan (NBMMRP) to address avoidance of impacts to nesting birds. This plan shall be designed in coordination with the Wildlife Agencies. To avoid impacts to nesting birds the applicant shall:

1. Prepare an NBMMRP that shall include the following: nest survey protocols describing the nest survey methodologies; a management plan describing the methods to be used to avoid nesting birds and their nests, eggs, and chicks; a monitoring and reporting plan detailing the information to be collected for incorporation into a regular Nest Monitoring Log with sufficient details to monitor the applicant's compliance with California Fish and Game Code Sections 3503, 3503.5, 3511, and 3513; guidance for the monitoring biologists on reducing stress and harm to the nesting birds as a result of monitoring activities, including instructions on frequency of monitoring visits and distance to keep from the nest; the schedule for the submittal (usually weekly) of the Nest Monitoring Log; standard buffer widths deemed adequate to avoid or minimize significant project-related edge effects (disturbance) on nesting birds and their nests, eggs, and chicks; a detailed explanation of how the

CEQA Findings and Statement of Overriding Considerations

buffer widths were determined; and measures the applicant will implement to preclude birds from using project-related structures (e.g., construction equipment, facilities, or materials) for nesting.

2. Conduct preconstruction nesting bird surveys within 72 hours prior to construction-related activities and implement appropriate avoidance measures for identified nesting birds.
3. If feasible, conduct surveys beyond the project Site to determine presence of nesting birds that the project activities may affect—300 feet for passerine birds and 500 feet for raptors and coastal California gnatcatchers. The survey protocols shall include a detailed description of methodologies used by CDFW-approved avian biologists to search for nests and describe avian behaviors that indicate active nests. The protocols shall include the size of the site being surveyed, method of search, and behavior that indicates active nests.
4. Include each nest identified on the project Site in the Nest Monitoring Logs. The Nest Monitoring Logs shall be updated daily and submitted to CDFW weekly. Since the purpose of the Nest Monitoring Logs is to allow CDFW to track compliance, the logs shall include information necessary to allow comparison between nests protected by standard buffer widths recommended for the project (300 or 500 feet) and nests with buffer widths that were reduced by encroachment of project-related activities. The Nest Monitoring Logs shall provide a summary of each nest identified, including the species, status of the nest, buffer information, and fledge or failure data. The Nest Monitoring Logs shall allow for tracking the success and failure of the buffers, and shall provide data on the adequacy of the buffers for certain species.
5. Rely on its avian biologists to coordinate with CDFW and USFWS to determine the appropriate standard buffer widths for nests within the project corridor/footprint to employ based on the sensitivity levels of specific species or guilds of avian species. The determination of the standard buffer widths shall be Site- and species-/guild-specific and data-driven, and not based on generalized assumptions regarding all nesting birds. Determination of the buffer widths shall consider the following factors:
 - a. Nesting chronologies
 - b. Geographic location
 - c. Existing ambient conditions (human activity within line of sight—cars, bikes, pedestrians, dogs, noise)
 - d. Type and extent of disturbance (e.g., noise levels and quality—punctuated, continual, ground vibrations; blasting-related vibrations)

CEQA Findings and Statement of Overriding Considerations

proximate to tern colonies are known to make the ground-nesting birds flush the nests)

- e. Visibility of disturbance
 - f. Duration and timing of disturbance
 - g. Influence of other environmental factors
 - h. Species' site-specific level of habituation to the disturbance
 - i. Construction-related noise levels in coastal California gnatcatcher occupied habitat within 500 feet of construction activity would not exceed 60 dBA Leq or pre-construction ambient noise levels, whichever is greater. Project construction within 500 feet of occupied habitat would occur outside of the breeding season if possible. If necessary, construction activities during the breeding season would be managed to limit noise levels in occupied habitat within 500 feet of the project or noise attenuation measures, such as temporary sound walls, would be implemented to reduce noise levels below 60 dBA Leq or below existing ambient noise levels, whichever is greater.
6. Apply the standard buffer widths to avoid the potential for project-related nest abandonment and failure of fledging, and minimize any disturbance to nesting behavior. If project activities cause or contribute to a bird being flushed from a nest, the buffer must be widened.
7. Avoidance and buffering of nests in the process of being built on construction equipment or developed structures shall not be necessary. Additionally, although direct impacts to nests with eggs or chicks shall not be allowed, no buffer requirements shall apply.

Documentation: The applicant shall submit the NBMMRP for review and approval by the County of San Diego (County) and the Wildlife Agencies.

Timing: The NBMMRP shall be submitted and approved prior to approval of the first Final Map. No grading shall occur until concurrence is received from the County and the Wildlife Agencies. The Nest Monitoring Logs shall be submitted to the County and the Wildlife Agencies prior to the preconstruction conference and prior to any clearing, grubbing, trenching, grading, or any land disturbances, and throughout the duration of the grading and construction. Compliance with this condition is mandatory unless the requirement is waived by the County upon receipt of concurrence from the Wildlife Agencies.

CEQA Findings and Statement of Overriding Considerations

Monitoring: The County Construction Inspector shall not allow any grading during the specified dates, unless a concurrence from the Wildlife Agencies is received and reviewed by the Department of Planning & Development Services.

M-BIO-6 REVEGETATION PLAN: To compensate for temporary impacts to special-status vegetation and wildlife habitat impacts, a final Revegetation Plan shall be submitted and approved for temporary impacts from grading to areas within the preserve and outside of the LBZ easement and FMZ. The revegetation plan shall be in compliance with the conceptual restoration plan (Appendix J of the Biological Resources Technical Report (Appendix H)), and provide replacement of comparable native vegetation. The final revegetation plan shall include, at a minimum, the implementation strategy; appropriate seed/source materials (including seed sourced from the existing on-site native plants, to the extent feasible); appropriate planting method; an irrigation plan; quantitative and qualitative success criteria; a maintenance, monitoring, and reporting program; estimated completion time; and contingency measures. The revegetation plan shall conform to the most current version of the County of San Diego (County) *Report Format and Content Requirements for Revegetation Plans*. To ensure project completion and success of the revegetation plan, a surety shall be provided and an agreement shall be executed with the County and consist of a letter of credit, bond, or cash for 100 percent of the estimated costs associated with implementation of the revegetation plan and a 10 percent cash deposit of the cost of all improvements (no less than \$3,000; no more than \$30,000). The surety shall be released upon completion of the revegetation plan, provided the installed vegetation is in a healthy condition and meets the plan's success criteria.

Documentation: The applicant shall prepare the revegetation plan and submit it for review with the applicable review fees and deposits.

Timing: Prior to the approval of the first associated map and prior to the approval of the first associated plan or issuance of the first associated permit, the revegetation plan shall be approved by the Department of Planning & Development Services (PDS).

Monitoring: The PDS Landscape Architect shall review the revegetation plan for conformance with this condition and the County's *Report Format and Content Requirements for Revegetation Plans*. Upon approval of the revegetation plan, a Director's Decision of approval shall be issued to the applicant, with the request for compliance with a Secured Agreement for implementation of the revegetation plan. Upon receipt of the compliance letter, the PDS Landscape Architect shall sign the Agreement for the Director of PDS and ensure that the cash deposit is

CEQA Findings and Statement of Overriding Considerations

collected. Upon acceptance of the Agreement, securities, and cash deposit, the PDS Landscape Architect shall provide a confirmation letter acknowledging acceptance of the securities.

M-BIO-7 LIGHTING PLAN: All artificial outdoor light fixtures shall be installed so they are directed away from open space and are shielded in accordance with the project's lighting plan standards as outlined in the Specific Plan for the project. Light fixtures shall be installed in conformance with the County of San Diego's (County) Light Pollution Code, Building Code, Electrical Code, and lighting requirements specified in Section 6324 (Lighting Permitted in Required Yards) and Section 6326 (Lighting Not in Required Yards) of the Zoning Ordinance, along with any other related state and federal regulations such as California Title 24.

Documentation: The applicant shall submit building plans to the County for review in compliance of the above regulations.

Timing: Prior to the approval of all building permits.

Monitoring: The County building inspector shall review structures for compliance with this condition. During construction, the Project Biologist shall review lighting for compliance with this measure as part of the construction monitoring requirement.

Rationale: Implementation of M-BIO-1, M-BIO-2, M-BIO-3, M-BIO-4, M-BIO-5, M-BIO-6, and M-BIO-7 would reduce short-term direct impacts to coastal California gnatcatcher from construction-related activities to less than significant because they would require construction monitoring to prevent disturbance to these species outside the limits of grading; fence off areas outside the area of construction; produce a report that substantiates that grading and construction activities did not impact any additional areas or any other sensitive biological resources; ensure that invasive plant species that could disrupt existing habitat are not included in landscaping plans; require plans to implement breeding season avoidance; require implementation of a final Revegetation Plan; and reduce lighting impacts from artificial outdoor light fixtures on open space areas.

6) Impact W-2

Description of Significant Effect: Long-term Direct Impacts - Potential permanent direct impacts to coastal California gnatcatcher would include the loss of suitable nesting and foraging habitat.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

CEQA Findings and Statement of Overriding Considerations

Mitigation Measures: M-BIO-8A, M-BIO-8B, M-BIO-8C, M-BIO-8D, and M-BIO-8E are adopted to mitigate the significance of Impact W-2. See discussion of Impact SP- 2 and SP-4 above, for text of M-BIO-8A through M-BIO-8E.

Rationale: Implementation of M-BIO-8A, M-BIO-8B, M-BIO-8C, M-BIO-8D, and M-BIO-8E would reduce short-term direct impacts to special-status wildlife species, including individual amphibians, reptiles, and small mammals from construction-related activities, to less than significant by: preserving open space that supports these species where no building is allowed that requires vegetation clearing; implementing a RMP to provide for long-term management of the proposed biological open space preserve; and constructing a fence that protects the proposed open space easement from unauthorized entry or disturbance.

7) Impact W-3

Description of Significant Effect: Short-term Direct Impacts: Loss of special-status wildlife species (County Group 1 or state SSC animals) including individual amphibians, reptiles, and small mammals from construction-related activities would result in short-term direct impacts that would be significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-1 through M-BIO-7 are adopted to mitigate the significance of Impact W-3. See discussion of Impact SP- 1, SP-4, and W-1 above, for text of M-BIO-1 through M-BIO-7

Rationale: Implementation of M-BIO-1 through M-BIO-7 would reduce short-term direct impacts to special-status wildlife species to less than significant because they would require construction monitoring to prevent disturbance to these species outside the limits of grading; fence off areas outside the area of construction; produce a report that substantiates that grading and construction activities did not impact any additional areas or any other sensitive biological resources; ensure that invasive plant species that could disrupt existing habitat are not included in landscaping plans; require plans to implement breeding season avoidance; require implementation of a final Revegetation Plan; and reduce lighting impacts from artificial outdoor light fixtures on open space areas.

8) Impact W-4

Description of Significant Effect: Long-term Direct Impact: Potential permanent direct impacts to the wildlife species include removal of suitable nesting and/or foraging habitat.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

CEQA Findings and Statement of Overriding Considerations

Mitigation Measures: M-BIO-8A through M-BIO-8E are adopted to mitigate the significance of Impact W-4. See discussion of Impact SP- 2 and SP-4 above, for text of M-BIO-8A through M-BIO-8E.

Rationale: Implementation of M-BIO-8A through M-BIO-8E would reduce long-term direct impacts to wildlife species due to removal of suitable nesting and/or foraging habitat to less than significant by: preserving open space that supports these species, where no building is allowed that requires vegetation clearing; implementing a RMP to provide for long-term management of the proposed biological open space preserve; and constructing a fence that protects the proposed open space easement from unauthorized entry or disturbance.

9) Impact W-5

Description of Significant Effect: Short-term Direct Impact - if any active nests or young of nesting special-status bird species (County Group 2) are impacted through direct grading, these impacts would be significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-5 is adopted to mitigate the significance of Impact W-5. See discussion of Impact W-1, above, for text of M-BIO-5.

Rationale: Implementation of M-BIO-5 would reduce short-term direct impacts to active nests or young of nesting special-status bird species due to direct grading to less than significance by requiring plans that will be used during the nesting bird breeding season to avoid impacts to nesting migratory birds and raptors and other nesting birds.

10) Impact W-6

Description of Significant Effect: Long-term Direct Impact: impacts to suitable habitat for raptors would be significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-8A through M-BIO-8E are adopted to mitigate the significance of Impact W-6. See discussion of Impact SP- 2 and SP-4, above, for text of M-BIO-8A through M-BIO-8E.

Rationale: Implementation of M-BIO-8A through M-BIO-8E would reduce long-term direct impacts to suitable habitat for raptors to less than significant by: preserving open space that supports these species where no building is allowed that requires vegetation clearing; implementing a RMP to provide for long-term management of the proposed biological open space preserve; and constructing a fence that protects the proposed open space easement from unauthorized entry or disturbance.

CEQA Findings and Statement of Overriding Considerations

11) Impact W-7

Description of Significant Effect: The proposed project could result in potential indirect impacts to special-status wildlife species on a short-term basis due to construction activity.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-1 through M-BIO-7 are adopted to mitigate the significance of Impact W-7. See discussion of Impact SP- 1, SP-4, and W-1, above, for text of M-BIO-1 through M-BIO-7.

Rationale: Implementation of M-BIO-1 through M-BIO-7 would reduce short-term direct impacts to special-status wildlife species due to construction activity to less than significant because they would require construction monitoring to prevent disturbance to these species outside the limits of grading; fence off areas outside the area of construction; produce a report that substantiates that grading and construction activities did not impact any additional areas or any other sensitive biological resources; ensure that invasive plant species that could disrupt existing habitat are not included in landscaping plans; require plans to implement breeding season avoidance; require implementation of a final Revegetation Plan; and reduce lighting impacts from artificial outdoor light fixtures on open space areas.

12) Impact W-8

Description of Significant Effect: Long-term Indirect Impact: Potential long-term or permanent indirect impacts to special-status wildlife species would include generation of fugitive dust; off-road-vehicle use, introduction of non-native, invasive plant and animal species; habitat fragmentation; alteration of the natural fire regime; and altered hydrology.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-4, M-BIO-6, M-BIO-8A, M-BIO-8B, M-BIO-8C, M-BIO-8D, M-BIO-8E, and M-BIO-11 are adopted to mitigate the significance of Impact W-8. See discussion of Impact SP-4 and W-1, above, for text of M-BIO-4, M-BIO-6, M-BIO-8A, M-BIO-8B, M-BIO-8C, M-BIO-8D, M-BIO-8E, and M-BIO-11.

Rationale: Implementation of M-BIO-4, M-BIO-6, M-BIO-8A, M-BIO-8B, M-BIO-8C, M-BIO-8D, M-BIO-8E, and M-BIO-11 would reduce potential long-term or permanent indirect impacts to special-status wildlife species, including from generation of fugitive dust, off-road-vehicle use, introduction of non-native, invasive plant and animal species, habitat fragmentation, alteration of the natural fire regime, and altered hydrology; to less than significant by not including invasive plant species that could threaten habitat in landscape plans, implementing a Revegetation Plan, preserving open space that includes native habitats for sensitive species, prohibiting species-disturbing uses within the open space easement,

CEQA Findings and Statement of Overriding Considerations

prohibiting building of structures that would require vegetation clearing within the protected biological open space for fuel management purposes, preparing and implementing a RMP, installing fencing along the boundaries of the biological open space to protect the proposed open space easement from unauthorized entry or disturbance, and implementing all features of the Fire Protection Plan for the Newland Sierra Project.

13) Impact W-9

Description of Significant Effect: Short-term Indirect Impact: Indirect impacts associated with construction, such as noise, could affect the nesting success of tree-nesting raptors. Construction-related impacts to the nesting success of tree-nesting raptors would be a significant impact

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-5 is adopted to mitigate the significance of Impact W-9. See discussion of Impact W-1, above, for text of M-BIO-5.

Rationale: Implementation of M-BIO-5 would reduce potential short-term indirect impacts associated with construction, such as noise, that could affect the nesting success of tree-nesting raptors to less than significant by requiring breeding season avoidance measures to avoid impacts to nesting raptors during project construction.

14) Impact W-10

Description of Significant Effect: Long-term Direct Impact - Potential long-term direct impacts to foraging habitat for raptors would be a significant impact.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-8A through M-BIO-8E are adopted to mitigate the significance of Impact W-10. See discussion of Impact SP-2 and SP-4, above, for text of M-BIO-8A through M-BIO-8E.

Rationale: Implementation of M-BIO-8A through M-BIO-8E would reduce potential long-term direct impacts to foraging habitat for raptors to less than significant by: preserving open space that supports these species where no building is allowed that requires vegetation clearing; implementing a RMP to provide for long-term management of the proposed biological open space preserve; and constructing a fence that protects the proposed open space easement from unauthorized entry or disturbance.

15) Impact CWA-1

Description of Significant Effect: Short-term Direct Impact: Clearing, trampling, or grading of vegetation outside designated construction zones could occur in the absence of avoidance and mitigation measures. Impacts would potentially be significant.

CEQA Findings and Statement of Overriding Considerations

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-1, M-BIO-2, M-BIO-3, M-BIO-6, and M-BIO-7 are adopted to mitigate the significance of Impact CWA-1. See discussion of Impact SP-1 and W-1, above, for text of these mitigation measures.

Rationale: Implementation of M-BIO-1, M-BIO-2, M-BIO-3, M-BIO-6, and M-BIO-7 would reduce short-term direct impacts resulting from clearing, trampling, or grading of vegetation outside of designated construction zones to less than significant because they would require construction monitoring to prevent disturbance to vegetation outside the limits of grading; fence off areas outside the area of construction; produce a report that substantiates that grading and construction activities did not impact any additional areas or any other sensitive biological resources; ensure that invasive plant species that could disrupt existing habitat are not included in landscaping plans; require plans to implement breeding season avoidance; require implementation of a final Revegetation Plan; and reduce lighting impacts from artificial outdoor light fixtures on open space areas.

16) Impact CWA-2

Description of Significant Effect: Long-term Direct Impact - The project would result in on-site impacts to 776.6 acres of the core wildlife area, and this would be a significant impact to viable populations of multiple wildlife species.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-8A through M-BIO-8E are adopted to mitigate the significance of Impact CWA-2. See discussion of Impact SP-2 and SP-4, above, for text of M-BIO-8A through M-BIO-8E.

Rationale: Implementation of M-BIO-8A through M-BIO-8E would reduce long-term direct impacts to viable populations of multiple wildlife species to less than significant by: preserving open space that supports these species where no building is allowed that requires vegetation clearing; implementing a RMP to provide for long-term management of the proposed biological open space preserve; and constructing a fence that protects the proposed open space easement from unauthorized entry or disturbance.

17) Impact CWA-3

Description of Significant Effect: Short-term Indirect Impact - Short-term indirect impacts to the core wildlife area as a result of the proposed project would include short-term, construction-related, or temporary indirect impacts resulting in increased human activity during construction, lighting, and noise.

CEQA Findings and Statement of Overriding Considerations

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-1, M-BIO-2, M-BIO-3, M-BIO-6, and M-BIO-7 are adopted to mitigate the significance of Impact CWA-3. See discussion of Impact SP-1 and W-1, above, for text of these mitigation measures.

Rationale: Implementation of M-BIO-1, M-BIO-2, M-BIO-3, M-BIO-6, and M-BIO-7 would reduce short-term indirect impacts to the core wildlife area due to short-term, construction-related, or temporary indirect impacts resulting in increased human activity during construction, lighting, and noise to less than significant because they would require construction monitoring to prevent disturbance to vegetation outside the limits of grading; fence off areas outside the area of construction; produce a report that substantiates that grading and construction activities did not impact any additional areas or any other sensitive biological resources; ensure that invasive plant species that could disrupt existing habitat are not included in landscaping plans; require plans to implement breeding season avoidance; require implementation of a final Revegetation Plan; and reduce lighting impacts from artificial outdoor light fixtures on open space areas.

18) Impact CWA-4

Description of Significant Effect: Long-term Indirect Impact: Long-term indirect impacts to habitat connectivity and wildlife corridors include habitat fragmentation, lighting, and noise from the proposed urban development and recreational facilities.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-8A through M-BIO-8E are adopted to mitigate the significance of Impact CWA-2. See discussion of Impact SP-2 and SP-4, above, for text of M-BIO-8A through M-BIO-8E.

Rationale: Implementation of M-BIO-8A, M-BIO-8B, M-BIO-8C, M-BIO-8D, and M-BIO-8E would reduce long-term direct impacts habitat connectivity and wildlife corridors to less than significant by: preserving open space that supports these species where no building is allowed that requires vegetation clearing; implementing a RMP to provide for long-term management of the proposed biological open space preserve; and constructing a fence that protects the proposed open space easement from unauthorized entry or disturbance.

19) Impact V-1

Description of Significant Effect: Short-term Direct Impact - Potential temporary direct impacts to special-status vegetation communities on-site would be significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

CEQA Findings and Statement of Overriding Considerations

Mitigation Measures: M-BIO-1, M-BIO-2, M-BIO-3, M-BIO-6, and M-BIO-7 are adopted to mitigate the significance of Impact V-1. See discussion of Impact SP-1 and W-1, above, for text of these mitigation measures.

Rationale: Implementation of M-BIO-1, M-BIO-2, M-BIO-3, M-BIO-6, and M-BIO-7 would reduce short-term direct impacts to special-status vegetation communities on-site to less than significant because they would require construction monitoring to prevent disturbance to vegetation outside the limits of grading; fence off areas outside the area of construction; produce a report that substantiates that grading and construction activities did not impact any additional areas or any other sensitive biological resources; ensure that invasive plant species that could disrupt existing habitat are not included in landscaping plans; require plans to implement breeding season avoidance; require implementation of a final Revegetation Plan; and reduce lighting impacts from artificial outdoor light fixtures on open space areas.

20) Impact V-2

Description of Significant Effect: Long-term Direct Impact: Permanent direct impacts to special-status upland vegetation communities would be significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-8A through M-BIO-8E are adopted to mitigate the significance of Impact CWA-2. See discussion of Impact SP-2 and SP-4, above, for text of M-BIO-8A through M-BIO-8E.

Rationale: Implementation of M-BIO-8A through M-BIO-8E would reduce long-term direct impacts to special-status upland vegetation communities to less than significant by: preserving open space that supports these species where no building is allowed that requires vegetation clearing; implementing a RMP to provide for long-term management of the proposed biological open space preserve; and constructing a fence that protects the proposed open space easement from unauthorized entry or disturbance.

21) Impact V-3

Description of Significant Effect: Short-term Direct Impact: There would be 0.06 acre of impacts to ACOE/RWQCB/CDFW non-wetland waters associated with temporary grading, which would be significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-6 and M-BIO-12 are adopted to mitigate the significance of Impact V-3. See discussion of Impact W-1, above, for text of M-BIO-6.

M-BIO-12 FEDERAL AND STATE AGENCY PERMITS: To comply with the state and federal regulations for impacts to U.S. Army Corps of Engineers (ACOE),

CEQA Findings and Statement of Overriding Considerations

Regional Water Quality Control Board (RWQCB), and California Department of Fish and Wildlife (CDFW) jurisdictional resources, the following agency permits are required, or verification that they are not required shall be obtained.

The following permit and agreement shall be obtained, or evidence from the respective resource agency, satisfactory to the director of the Department of Planning & Development Services (PDS) that such an agreement or permit is not required, shall be provided:

- a. A Clean Water Act, Section 401/404 permit issued by the California RWQCB and ACOE for all project-related disturbances of waters of the United States and/or associated wetlands.
- b. A Section 1602 Streambed Alteration Agreement issued by CDFW for all project-related disturbances of any streambed and/or associated riparian habitat.

Documentation: The applicant shall consult each agency to determine if a permit or agreement is required. Upon completion of the agency review of this project, the applicant shall provide a copy of the permit(s)/requirement(s)/agreement(s).

Timing: Prior to approval of any grading and or improvement plans and issuance of any grading or construction permits.

Monitoring: PDS shall review the permits/agreements for compliance with this condition. Copies of these permits shall be included on the grading plans.

Rationale: Implementation of M-BIO-6 and M-BIO-12 would reduce short-term direct impacts to ACOE/RWQCB/CDFW non-wetland waters associated with temporary grading to less than significant by requiring implementation of a revegetation plan and the appropriate Federal and State Agency permits.

22) Impact V-4

Description of Significant Effect: Long-term Direct Impact: Permanent impacts to County RPO wetlands, CDFW riparian habitat, and non-wetland waters of the United States/state would be significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-8A through M-BIO-8E are adopted to mitigate the significance of Impact CWA-2. See discussion of Impact SP-2 and SP-4, above, for text of M-BIO-8A through M-BIO-8E.

CEQA Findings and Statement of Overriding Considerations

Rationale: Implementation of M-BIO-8A through M-BIO-8E would reduce long-term direct impacts to County RPO wetlands, CDFW riparian habitat, and non-wetland waters of the United States/state to less than significant by: preserving open space that supports wetlands where no building is allowed that requires vegetation clearing; implementing a RMP to provide for long-term management of the proposed biological open space preserve; and constructing a fence that protects the proposed open space easement from unauthorized entry or disturbance.

23) Impact V-5

Description of Significant Effect: Short-term Indirect Impact - Due to the large scale of the project, short-term construction-related indirect impacts, such as generation of fugitive dust, changes in hydrology resulting from construction, and the introduction of chemical pollutants (including herbicides), to special-status vegetation communities and jurisdictional resources would be a potentially significant impact.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-1, M-BIO-2, M-BIO-3, and M-BIO-12 are adopted to mitigate the significance of Impact V-5. See discussion of Impact SP-1 and V-3, above, for text of M-BIO-1, M-BIO-2, M-BIO-3, and M-BIO-12.

Rationale: Implementation of M-BIO-1, M-BIO-2, and M-BIO-12 would reduce short-term indirect impacts to special-status vegetation communities and jurisdictional resources to less than significant because these measures would require biological monitoring during project construction activities to avoid disturbance to areas outside the limits of grading; would protect sensitive vegetation communities and jurisdictional resources from construction impacts through installation of fencing; and would require State and Federal Agency permits for disturbances of wetlands, streambeds and/or associated riparian habitat.

24) Impact V-6

Description of Significant Effect: Long-term Indirect Impact - Potential long-term, indirect impacts to special-status vegetation communities and jurisdictional resources would be a significant impact.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-1, M-BIO-4, M-BIO-8A, M-BIO-8B, M-BIO-8C, M-BIO-8D, M-BIO-8E, M-BIO-10, M-BIO-11, and M-BIO-12 are adopted to mitigate the significance of Impact V-6. See discussion of Impact SP-1, SP-2, SP-4, and V-3 for text of these measures.

Rationale: Implementation of M-BIO-1, M-BIO-4, M-BIO-8A, M-BIO-8B, M-BIO-8C, M-BIO-8D, M-BIO-8E, M-BIO-10, M-BIO-11, and M-BIO-12 would reduce potential long-term, indirect impacts to special status vegetation communities and jurisdictional resources to less than

CEQA Findings and Statement of Overriding Considerations

significant because it would require biological monitoring during project construction activities to prevent disturbance to areas outside the limits of grading; prohibit the introduction of invasive species through landscape plans that could disturb vegetation communities; preserve open space that contains and protects special status vegetation communities and jurisdictional resources and prohibits building of structures that would require vegetation clearing; require preparation and implementation of a RMP that provides for the long-term management of the proposed biological open space preserve; install fencing to protect open space; require mapping of occurrences of perennial, non-native species that have a rating of moderate or high by the California Invasive Plant Council; require implementation of the Fire Protection Plan for the Newland Sierra Project; and require necessary State and Federal Agency permits for disturbances of waters, streambeds, and/or associated riparian habitat.

25) Impact V-7

Description of Significant Effect: Long-term Direct Impact - The off-site improvement areas would impact 0.83 or 1.04 acres of RPO wetlands, and either 2.6 or 1.2 acres of wetland buffer. These off-site impacts would be significant per County significance criteria 4.2(e).

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-8A, M-BIO-8B, M-BIO-8C, M-BIO-8D, M-BIO-8E, and M-BIO-12 are adopted to mitigate the significance of Impact V-7. See discussion of Impact SP-2, SP-4, and V-3, above, for text of these measures.

Rationale: Implementation of M-BIO-8A, M-BIO-8B, M-BIO-8C, M-BIO-8D, M-BIO-8E, and M-BIO-12 would reduce indirect long-term direct impacts to RPO wetlands and wetland buffer to less than significant because they would preserve open space that contains and protects special status vegetation communities and jurisdictional resources; prohibit building of structures that would require vegetation clearing; require preparation and implementation of a RMP that provides for the long-term management of the proposed biological open space preserve; install fencing to protect open space; and require necessary State and Federal Agency permits for disturbances of waters, streambeds, and/or associated riparian habitat.

26) Impact WM-1

Description of Significant Effect: Short-term Direct Impact: Clearing, trampling, or grading of foraging and breeding habitat outside designated construction zones could occur in the absence of avoidance measures, and potential temporary direct impacts to avian foraging and nesting habitat and to wildlife, especially to wildlife that move slowly or are fossorial, would be significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

CEQA Findings and Statement of Overriding Considerations

Mitigation Measures: M-BIO-1, M-BIO-2, M-BIO-3, and M-BIO-6 are adopted to mitigate the significance of Impact WM-1. See discussion of Impact SP-1 and W-1, above, for text of these measures.

Rationale: Implementation of M-BIO-1, M-BIO-2, M-BIO-3, and M-BIO-6 would reduce short-term indirect impacts to avian foraging and nesting habitat and to wildlife to less than significant because they would require construction monitoring to prevent disturbance to vegetation outside the limits of grading; fence off areas outside the area of construction; produce a report that substantiates that grading and construction activities did not impact any additional areas or any other sensitive biological resources; and require implementation of a final Revegetation Plan.

27) Impact WM-2

Description of Significant Effect: Long-term Direct Impact: Avian foraging, roosting, and nesting and dispersal habitat for the native species that were previously using the habitats of the development area would be eliminated from those areas. Permanent direct impacts to foraging and breeding habitat would be a significant impact.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-8A, M-BIO-8B, M-BIO-8C, M-BIO-8D, M-BIO-8E, and M-BIO-12 are adopted to mitigate the significance of Impact WM-2. See discussion of Impact SP-2, SP-4, and V-3, above, for text of these measures.

Rationale: Implementation of M-BIO-8A, M-BIO-8B, M-BIO-8C, M-BIO-8D, M-BIO-8E, and M-BIO-12 would reduce long-term direct impacts to avian foraging and breeding habitat to less than significant because they would preserve open space that contains and protects special status species and jurisdictional resources; prohibit building of structures that would require vegetation clearing; require preparation and implementation of a RMP that provides for the long-term management of the proposed biological open space preserve; install fencing to protect open space; and require necessary State and Federal Agency permits for disturbances of waters, streambeds, and/or associated riparian habitat that supports these species.

28) Impact WM-3

Description of Significant Effect: Short-term and Long-term Indirect Impacts: Short-term and long-term indirect impacts to avian foraging and wildlife access to foraging, roosting, nesting, or water resources would include generation of fugitive dust, noise from construction activities, chemical pollutants, increased human activity during construction, invasive predators and non-native animal and plant species, lighting, habitat fragmentation, and the proposed urban development and recreational facilities.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

CEQA Findings and Statement of Overriding Considerations

Mitigation Measures: M-BIO-8A, M-BIO-8B, M-BIO-8C, M-BIO-8D, M-BIO-8E, and M-BIO-12 are adopted to mitigate the significance of Impact WM-3. See discussion of Impact SP-2, SP-4, and V-3, above, for text of these measures.

Rationale: Implementation of M-BIO-8A, M-BIO-8B, M-BIO-8C, M-BIO-8D, M-BIO-8E, and M-BIO-12 would reduce short-term and long-term indirect impacts to avian foraging and wildlife access to foraging, roosting, nesting, or water resources to less than significant because they would preserve open space that contains and protects special status species and jurisdictional resources; prohibit building of structures that would require vegetation clearing; require preparation and implementation of a RMP that provides for the long-term management of the proposed biological open space preserve; install fencing to protect open space; and require necessary State and Federal Agency permits for disturbances of waters, streambeds, and/or associated riparian habitat that supports these species.

29) Impact WM-4

Description of Significant Effect: Impacts to connectivity between blocks of habitat would be potentially significant for larger wildlife species.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-8A, M-BIO-8B, M-BIO-8C, M-BIO-8D, M-BIO-8E, and M-BIO-12 are adopted to mitigate the significance of Impact WM-3. See discussion of Impact SP-2, SP-4, and V-3, above, for text of these measures.

Rationale: Implementation of M-BIO-8A, M-BIO-8B, M-BIO-8C, M-BIO-8D, M-BIO-8E, and M-BIO-12 would reduce impacts to connectivity between blocks of wildlife habitat to less than significant because they would preserve open space that contains and protects special status species and jurisdictional resources; and prohibit building of structures that would require vegetation clearing; require preparation and implementation of a RMP that provides for the long-term management of the proposed biological open space preserve; install fencing to protect open space; and require necessary State and Federal Agency permits for disturbances of waters, streambeds, and/or associated riparian habitat that supports these species. This would ensure that connectivity between habitats is maintained.

30) Impact WM-5

Description of Significant Effect: Short-term and Long-term Indirect Impact - Impacts to wildlife behavior due to an increase in noise and nighttime lighting in a wildlife corridor would be potentially significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

CEQA Findings and Statement of Overriding Considerations

Mitigation Measures: M-BIO-7 and M-BIO-8A are adopted to mitigate the significance of Impact WM-5. See discussion of Impact SP-2 and W-1 for text of these measures.

Rationale: Implementation of M-BIO-7 and M-BIO-8A would reduce impacts to wildlife behavior due to an increase in noise and nighttime lighting in a wildlife corridor to less than significant because they would ensure that proposed lighting is directed away from open space and shielded according to local standards, policies and regulations so that wildlife corridors will receive less lighting; and would preserve permanent open space away from construction impacts.

31) Impact P-1

Description of Significant Effect: Long-term Direct Impact: there would be permanent direct impacts to approximately 2.13 acres of County RPO wetlands, which would be a significant impact.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-8A and M-BIO-12 are adopted to mitigate the significance of Impact P-1. See discussion of Impact SP-2 and V-3, above, for text of these measures.

Rationale: Implementation of M-BIO-8A and M-BIO-12 would reduce long-term direct impacts to approximately 2.13 acres of County RPO wetlands to less than significant because they would preserve permanent open space away from construction impacts and require appropriate permits issued by the California RWQCB, ACOE, and CDFW to be obtained for all project-related disturbances of wetlands.

32) Impact P-2

Description of Significant Effect: Short-term Direct Impact: Short-term, construction-related impacts to migratory birds and active migratory bird nests and/or eggs protected under the MBTA would be a significant impact.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-5 is adopted to mitigate the significance of Impact P-2. See discussion of Impact W-1, above, for text of M-BIO-5.

Rationale: Implementation of M-BIO-5 would reduce potential short-term, construction-related impacts to migratory birds and active migratory bird nests and/or eggs protected under the MBTA to less than significant by requiring breeding season avoidance measures to avoid impacts to nesting birds during project construction.

D. Cultural Resources

1) Impact CR-1

CEQA Findings and Statement of Overriding Considerations

Description of Significant Effect: Project-related construction activities may encounter the 1901 historic structure/location, and development of the proposed project may result in potentially significant impacts to a historic resource.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-CR-1 and M-CR-10 are adopted to mitigate the significance of Impact CR-1.

M-CR-1 Pre-Grade and Data Recovery for Historic 1901 Structure Location Features (Impact CR-1). In order to mitigate for potential impacts to the 1901 Historic Structured/ Location that is a significant cultural resources pursuant to Section 15064.5 of the California Environmental Quality Act (CEQA) but is not determined to be significant pursuant to Section 86.602.o of the Resource Protection Ordinance (RPO), a pre-grade data recovery program shall be implemented. The Pre-Grade and Data Recovery Program shall include pre-grade excavations to locate possible buried features and analyze features and materials recovered; a report of any findings shall be prepared. This plan shall also include a ground-penetrating radar survey and controlled backhoe excavation to assess the area for ground anomalies and subjectively explore other areas to determine the presence and/or absence of buried historic resources. If subsurface features and artifacts are identified, a data recovery program shall be conducted, to include excavation of 1- by 1-meter units, block excavations, feature excavations, and analysis of artifacts. Special studies may include glass, ceramic, metal, and faunal analyses.

M-CR-10 Preservation and Maintenance Plan. Prior to the issuance of grading permits, the Project Applicant and the San Luis Rey and Pechanga Tribes shall prepare a Preservation and Maintenance Plan for the long-term care and maintenance of CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822, and their associated cultural resources and features. The Plan shall indicate, at a minimum, the specific areas to be included in and excluded from long-term maintenance; prohibited activities; methods of preservation to be employed (fencing, vegetative deterrence, etc.); the entity or entities responsible for the long-term maintenance; maintenance scheduling and notification; appropriate avoidance protocols; monitoring by the Tribes and compensation for services; and necessary emergency protocols. The Project Applicant shall submit a fully executed copy of the Preservation and Maintenance Plan to the County to ensure compliance with this mitigation measure.

Rationale: Implementation of M-CR-1 and M-CR-10 will reduce potential impacts to historic resources within the 1901 historic structure/location to less than significant because pre-grade

CEQA Findings and Statement of Overriding Considerations

excavations would analyze features and materials at the site and if subsurface features and artifacts are identified, data recovery would be conducted to record and understand the significance of discovered historic resources. Furthermore, a long-term Preservation and Maintenance Plan would be implemented for known cultural resources sites and associated cultural resources and features prior to the issuance of grading permits so that these resources will be preserved and not disturbed during project construction.

2) **Impact CR-2**

Description of Significant Effect: Improvements to Deer Springs Road may result in direct impacts to unanticipated significant archaeological deposits from CA-SDI-4558 located beneath the surface along the current road shoulders.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-CR-3, M-CR-4, M-CR-5, M-CR-9, M-CR-10, and M-CR-11 are adopted to mitigate the significance of Impact CR-2. See discussion of Impact CR-1, above, for text of M-CR-10.

M-CR-3 Temporary Fencing. In order to mitigate for potential impacts to sites CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822 during construction, a temporary fencing plan shall be implemented pursuant to the County of San Diego Guidelines for Determining Significance for Cultural Resources and CEQA Section 15064.5. The temporary fencing shall include the following requirement:

- a. Provide evidence to the Director of Planning & Development Services that the following notes have been placed on the Grading and/or Improvement Plan:
 - (1) In the event that construction activities are to take place within 100 feet of archaeological site(s) CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822, the temporary fencing plan shall be implemented under the supervision of a County approved archaeologist that consists of the following:
 - a. The project archaeologist shall identify the site boundaries in consultation with the San Luis Rey Band and Pechanga Band.
 - b. The project archaeologist shall determine an adequate buffer for the protection of the site(s) in consultation with the County archaeologist, the San Luis Rey Band and the Pechanga Band. Upon approval of buffers, install fencing under the supervision of the project archaeologist and San Luis Rey and Pechanga Native American monitor.
 - c. Submit to the Planning & Development Services for approval, a signed and stamped statement from a California Registered Engineer, or licensed surveyor that temporary fences have been installed in all locations of the

CEQA Findings and Statement of Overriding Considerations

project where proposed grading or clearing is within 100 feet of the archaeological site(s), CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822.

- d. Fencing may be removed after the conclusion of construction activities.

M-CR-4 Permanent Fencing. In order to mitigate for the potential long-term, indirect impacts to sites CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822, permanent fencing shall be implemented pursuant to the County of San Diego Guidelines for Determining Significance for Cultural Resources and CEQA Section 15064.5. The permanent fencing type shall be determined during the development of the Treatment Plan Agreement and Preservation Plan, and in consultation with the San Luis Rey Band and Pechanga Band. The fence, if deemed appropriate by the County, the San Luis Rey Band and Pechanga Band shall be installed under the supervision of the County approved archaeologist and the San Luis Rey and Pechanga Native American Monitors prior to any occupancy or final grading release. Fencing may include a vegetation barrier.

M-CR-5 Data Recovery Program. In order to mitigate for potential impacts to significant cultural resources that are (i) not subject to Section 86.602.o of the Resource Protection Ordinance (RPO) and (ii) cannot be feasibly avoided or preserved in place, pursuant to Section 15126.4(b)(3) of the CEQA Guidelines, a data recovery and index sampling plan shall be implemented. (CEQA Guidelines, § 15126.4(b)(3)(C).) The Data Recovery and Index Sampling Plan shall comply with research design and performance standards provided in Appendix D of the cultural study, shall be agreed to by the San Luis Rey and Pechanga Tribes and shall include the following requirement:

- a. Phase I and Phase II data recovery including artifact analysis, column samples, soil samples, floatation, and analysis of features.
- b. Specialized studies may include pollen and phytolith analysis, lithic, groundstone, ceramic, shell, obsidian hydration and sourcing, groundstone use wear and residue, and radiocarbon dating.
- c. Re-analysis of the Palomar College collection.
- d. High-resolution, 3-dimensional scanning of a sample of artifacts.
- e. Reinterment of Native American cultural materials.
- f. Curation of historic materials (Non-Native American).
- g. Preparation of a final report.

The Data Recovery and Index Sampling Plan will be a part of the Treatment Plan Agreement and Preservation Plan developed in consultation with the San Luis Rey Band and Pechanga Band. Data recovery, sampling index and archaeological testing

CEQA Findings and Statement of Overriding Considerations

will not apply to TCP resources, tribal cultural resources and Native American human remains and burial goods.

M-CR-9 Cultural Resources Treatment Agreement and Preservation Plan (“Tribal Treatment Plan”). In order to mitigate for impacts to Traditional Cultural Properties (TCPs) and impacts to tribal cultural resources, the applicant shall develop in consultation with the San Luis Rey Band of Mission Indians and the Pechanga Band of Luiseño Indians a Cultural Resources Treatment Agreement and Preservation Plan (“Tribal Treatment Plan”). The Tribal Treatment Plan shall include but is not limited to the following:

- a. Parties entering into the agreement and contact information.
- b. Responsibilities of the Property Owner or their representative, Principal Investigator, archaeological monitors, the Luiseño Native American monitors, County, and the San Luis Rey Band and Pechanga Band.
- c. Project grading and development scheduling, and terms of compensation for the monitors, including overtime and weekend rates, in addition to mileage reimbursement.
- d. Authority of the Native American Monitors to stop and redirect grading in the immediate area of a find in order to evaluate the find and determine the appropriate next steps, in consultation with the Project archaeologist. Such evaluation shall include culturally appropriate temporary and permanent treatment pursuant to the Tribal Treatment Plan.
- e. Requirements of the Archaeological Monitoring Program, which shall be incorporated into the Treatment Plan, shall include unanticipated discoveries. The requirements shall address grading and grubbing requirements including controlled grading and controlled vegetation removal in areas of cultural sensitivity, analysis of identified cultural materials, and on-site storage of cultural materials.
- f. Treatment of identified Native American cultural materials.
- g. Treatment of Native American human remains and associated grave goods.
- h. Incorporation portions of CA-SDI-4558 (i.e., those areas located outside the Deer Springs Road right-of-way) into a natural park, as described above in Mitigation Measure M-CR-2a, including the method of vegetation removal (e.g. tree removal). The landscape design shall be developed in consultation with the San Luis Rey Band and Pechanga Band.
- i. Requirements for the Dust Control Plan (CA-SDI-9822), Temporary Fencing (CA-SDI-4558, CA-SDI-5951, and CA-SDI-9811), Permanent Fencing (CA-SDI-5951 and CA-SDI-9822), Data Recovery Plan (portions of CA-SDI-4558,

CEQA Findings and Statement of Overriding Considerations

CA-SDI-5951, and CA-SDI-9822), Bedrock Milling Relocation, and Trail System Design for Oak Park.

- j. Interim treatment of cultural soils and resources prior to final onsite internment, including appropriate onsite storage and security for such resources. Final internment of Native American cultural soils and materials.
- k. Confidentiality of cultural information including location and data.
- l. Negotiation of disagreements should they arise during the implementation of the Agreement and Preservation Plan.
- m. Regulations that apply to cultural resources that have been identified or may be identified during project construction.

M-CR-11 Fair Share Contribution Towards Regional Ethno-historic Study. In order to mitigate for impacts to Traditional Cultural Properties, the applicant shall make a fair share contribution towards a regional ethno-historic study, which study shall be prepared in consultation with the San Luis Rey and Pechanga Tribes. The applicant shall make a fair share contribution in the amount of \$50,000 to an account held in trust by a third party manager. The fund shall include the following:

- a. An agreement for the preparation of a regional study for the Deer Springs area when funding is 100 percent available. The agreement must identify the entity responsible for the management of the fund, rate of return, and annual management fees. The agreement must be reviewed and approved by the County of San Diego prior to implementation.
- b. Annual reporting to the County of San Diego on the status of the fund is required. The annual report shall include the balance of the fund and an accounting of projects that have contributed to the fund. Project information shall include the project name, project number, condition number and when fair share contributions were made.
- c. The County shall retain under contract a qualified ethnographer or anthropologist to complete a Luiseño ethnographic study of the Project area and the associated vicinity as it relates to Luiseño knowledge, history, and culture. The selection of the consultant retained to conduct the ethnography shall consider qualifications, ability to work collaboratively with the Pechanga and San Luis Rey Tribes, cost, and shall be by mutual agreement of the Tribes and the County. Consultant selection shall be approved by the County and Tribes; however, approval of the consultant by Tribes shall not be unreasonably withheld.

CEQA Findings and Statement of Overriding Considerations

- d. The study shall be completed within 1 year of the execution of the consultant's contract. The Tribes agree to work in good faith with the ethnographer to meet this deadline and the goals of this study.

Rationale: Implementation of M-CR-3, M-CR-4, M-CR-5, M-CR-9, M-CR-10, and M-CR-11 would reduce impacts to unanticipated significant archaeological deposits from CA-SDI-4558 located beneath the surface along the current road shoulders to less than significant by implementing a temporary fencing plan to reduce construction impacts to sites CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822, implementing permanent fencing to protect cultural resources, implementing a data recovery and index sampling plan for potential impacts to significant cultural resources that cannot be feasibly avoided or preserved in place, developing a Tribal Treatment Plan to reduce impacts to TCPs and tribal cultural resources, preparing a Preservation and Maintenance Plan for the long-term care and maintenance of CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822, and their associated cultural resources and features, and making a fair share contribution towards a regional ethno-historic study.

3) Impact CR-3

Description of Significant Effect: Improvements to Deer Springs Road would result in direct impacts to those portions of site CA-SDI-5951 within and north of Deer Springs Road.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-CR-2, M-CR-2a, M-CR-3, M-CR-4, M-CR-5, M-CR-9, M-CR-10, and M-CR-11 are adopted to mitigate the significance of Impact CR-3. See discussion of Impact CR-1 and CR-2 above, for text of M-CR-3, M-CR-4, M-CR-5, M-CR-9, M-CR-10 and M-CR-11.

M-CR-2 Open Space Easement for Sites CA-SDI-5951 and CA-SDI-9822 (Impacts CR-3 and CR-4). In order to protect sensitive Cultural Resources at CA-SDI-5951 and CA-SDI-9822, a Cultural Resource Open Space Easement shall be granted over the portions of these sites that are outside of the Deer Springs Road right-of-way. The open space easement prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; installation of wet or dry infrastructure, including irrigation systems; or use for any purpose other than as open space. The sole exceptions to this prohibition are:

- a. Placement and burial of the cultural site resources and soils that are excavated as part of the development per specifications that are executed in agreement with the Pechanga and San Luis Rey Tribes.

CEQA Findings and Statement of Overriding Considerations

- b. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard.
- c. Vegetation removal or application of chemicals for vector control purposes where expressly required by written order of the Department of Environmental Health, in a location and manner approved in writing by the Director of PDS.
- d. Access shall be provided for Luiseño tribes.

M-CR-2a Natural Park Preserve-in-Place for Site CA-SDI-4558 (Impacts CR-2, and CR-9). In order to protect sensitive Cultural Resources at CA-SDI-4558, those portions of the site outside the Deer Springs Road right-of-way shall be preserved in place within a natural park pursuant to CEQA Guidelines section 15126.4(b)(3)(B), option 2. No development or ground disturbance will be permitted within those portions of the park that are located within site 4558, and all park trails shall be located outside the delineated boundary of site 4558. Once the park is established, it will be conveyed and dedicated to the County as a public park, at which point the County will take responsibility for maintaining the park and protecting the resources within it.

Rationale: Implementation of M-CR-2, M-CR-2a, M-CR-3, M-CR-4, M-CR-5, M-CR-9, M-CR-10, and M-CR-11 would reduce impacts to portions of site CA-SDI-5951 within and north of Deer Springs Road to less than significant by protecting sensitive cultural resources with a Cultural Resource Open Space Easement, preserving sensitive Cultural Resources at CA-SDI-4558 in place, implementing a temporary fencing plan to reduce construction impacts to sites CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822, implementing permanent fencing to protect cultural resources, implementing a data recovery and index sampling plan for potential impacts to significant cultural resources that cannot be feasibly avoided or preserved in place, developing a Tribal Treatment Plan to reduce impacts to TCPs and tribal cultural resources, preparing a Preservation and Maintenance Plan for the long-term care and maintenance of CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822, and their associated cultural resources and features, and making a fair share contribution towards a regional ethno-historic study.

4) Impact CR-4

Description of Significant Effect: Improvements to Deer Springs Road would result in direct impacts to those portions of site CA-SDI-9822 south of, within, and north of Deer Springs Road.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-CR-2, M-CR-3, M-CR-4, M-CR-5, M-CR-9, M-CR-10, and M-CR-11 are adopted to mitigate the significance of Impact CR-4. See discussion of Impact CR-1, Impact

CEQA Findings and Statement of Overriding Considerations

CR-2 and Impact CR-3 above, for text of M-CR-2, M-CR-3, M-CR-4, M-CR-5, M-CR-9, M-CR-10 and M-CR-11.

Rationale: Implementation of M-CR-2, M-CR-3, M-CR-4, M-CR-5, M-CR-9, M-CR-10, and M-CR-11 would reduce impacts to portions of site CA-SDI-9822 south of, within, and north of Deer Springs Road to less than significant by protecting sensitive cultural resources with a Cultural Resource Open Space Easement, implementing a temporary fencing plan to reduce construction impacts to sites CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822, implementing permanent fencing to protect cultural resources, implementing a data recovery and index sampling plan for potential impacts to significant cultural resources that cannot be feasibly avoided or preserved in place, developing a Tribal Treatment Plan to reduce impacts to TCPs and tribal cultural resources, preparing a Preservation and Maintenance Plan for the long-term care and maintenance of CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822, and their associated cultural resources and features, and making a fair share contribution towards a regional ethno-historic study.

5) Impact CR-5

Description of Significant Effect: Construction-related dust may temporarily affect the pictograph at site CA-SDI-9822.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-CR-6 and M-CR-10 are adopted to mitigate the significance of Impact CR-5. See discussion of Impact CR-1, above, for text of M-CR-10.

M-CR-6 Dust Control Plan. In order to mitigate for potential impacts to the pictograph at site CA-SDI-9822, during any grading or ground-disturbing activities, dust control measures shall be implemented pursuant to the County of San Diego Guidelines for Determining Significance for Cultural Resources and CEQA Section 15064.5. The Dust Control Plan shall be prepared and implemented by the contractor in consultation with the project archaeologist and the San Luis Rey Band and Pechanga Band of Luiseño Indians. The Dust Control Plan shall include the following requirements:

- a. Prior to placing protective material to shield the pictograph, photo-document the condition of the existing pictograph.
- b. Place appropriate cloth or material to shield the pictograph and mitigate impacts from dust. The covering must be of a material that will not cause damage to the pictograph.
- c. Periodic inspections of the pictograph shall be conducted to evaluate the status of the protective covering and to determine whether maintenance of the covering or replacement is necessary.

CEQA Findings and Statement of Overriding Considerations

- d. Upon conclusion of construction, the protective cover may be removed and the pictograph shall be photo-documented to determine the status of the resource.
- e. After construction has concluded, the Project Archaeologist shall prepare a final letter report that details how the dust control plan was implemented and the condition of the pictograph at the beginning and end phases of construction.

The Data Recovery and Index Sampling Plan will be a part of the Treatment Plan Agreement and Preservation Plan developed in consultation with the San Luis Rey Band and Pechanga Band.

Rationale: Implementation of the identified mitigation measures M-CR-6 and M-CR-10 would reduce construction-related dust impacts to the pictograph at site CA-SDI-9822 to less than significant by implementing a Dust Control Plan that sets forth dust control measures to be used during project grading and ground-disturbing activities and a Preservation and Maintenance Plan for the long-term care and maintenance of CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822, and their associated cultural resources and features, which would protect these resources from construction impacts.

6) Impact CR-6

Description of Significant Effect: Archaeological materials were collected during the Palomar College excavations during the 1980s from the area of CA-SDI-9822 that would be largely avoided for the proposed project through the use of a retaining wall. These archaeological materials have not been properly cataloged or analyzed, causing a significant impact to the scientific value of the site.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-CR-5 and M-CR-10 are adopted to mitigate the significance of Impact CR-6. See discussion of Impact CR-1 and Impact CR-2, above, for text of M-CR-5 and M-CR-10.

Rationale: Implementation of the identified mitigation measures M-CR-5 and M-CR-10 would reduce impacts to archeological materials collected during the Palomar College excavations during the 1980s from the area of CA-SDI-9822 to less than significant by implementing a data recovery and index sampling program that would properly catalogue and analyze archaeological materials collected during the 1980s Palomar College excavations and implementing a Preservation and Maintenance Plan for the long-term care and maintenance of CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822, and their associated cultural resources and features.

7) Impact CR-7

CEQA Findings and Statement of Overriding Considerations

Description of Significant Effect: Improvements to Deer Springs Road would result in direct impacts to roadbed soils that connect sites CA-SDI-4558, -5951, and -9822 in an integrated traditional cultural property (TCP).

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-CR-7, M-CR-8, M-CR-9, M-CR-10, and M-CR-11 are adopted to mitigate the significance of Impact CR-7. See discussion of Impact CR-1 and Impact CR-2, above, for text of M-CR-9, M-CR-10, and M-CR-11.

M-CR-7 Archaeological Monitoring Program/Treatment of Human Remains. In order to mitigate for potential impacts to undiscovered archaeological resources and human remains, including those that may be encountered in the TCP, an Archaeological Monitoring Program and potential Data Recovery Program shall be implemented pursuant to the County of San Diego Guidelines for Determining Significance for Cultural Resources and the California Environmental Quality Act (CEQA). The Archaeological Monitoring Program shall be developed in consultation with the San Luis Rey Band and Pechanga Band and shall include the following requirements:

a. Pre-Construction

The Project Applicant shall contract with a County approved archaeologist to perform Archaeological Monitoring and a contract with a Luiseño Native American monitor to conduct Native American monitoring for the project.

The pre-construction meeting shall be attended by the Project Archaeologist, the Luiseño Native American monitor, and a representative from the San Luis Rey and Pechanga Bands.

b. Construction

1. Monitoring. Both the Project Archaeologist and Luiseño Native American monitor are to be on site during all earth disturbing activities. The frequency and location of monitoring of native soils will be determined by the Project Archaeologist and the Luiseño Native American monitor. The Project Archaeologist and the Luiseño Native American monitor shall evaluate fill soils, whether imported, exported or from an on-site borrow location, to ensure that they are negative for cultural resources.

2. Controlled Grading and Grubbing. All grubbing shall be controlled in areas of concern as determined by the Project Archaeologist and the Luiseño Native American monitor, and as reflected in the Treatment Agreement and Preservation Plan developed in consultation with the San

CEQA Findings and Statement of Overriding Considerations

Luis Rey Band and Pechanga Band, and shall be inspected by the Project Archaeologist and Luiseño Native American monitor prior to initiating grading for those areas. Grading shall be controlled within the area of CA-SDI-4558, CA-SDI-5951, and CA-SDI-9882 using a slope board or similar equipment to allow soil to be removed in increments of only a few inches at a time. Other areas which may require controlled grading shall be determined by the Project Archaeologist and the Luiseño Native American monitor, as reflected in the Treatment Agreement and Preservation Plan developed in consultation with the San Luis Rey Band and Pechanga Band.

3. Milling Features. Milling features shall be relocated to on-site open space or landscaped areas prior to disturbance, if feasible, and as reflected in the Treatment Agreement and Preservation Plan developed in consultation with the San Luis Rey Band and Pechanga Band.
4. Deer Springs Road Right-of-Way. Soils from Deer Springs Road right-of-way, as indicated on the Deer Springs Road Right-of-Way exhibit located in the confidential appendix of the cultural study, shall be reinterred on site in the designated location that was approved by the County of San Diego, the applicant, the San Luis Rey Band of Mission Indians, and the Pechanga Band of Luiseño Indians (the “reinterment area”). Prior to final reinterment, the soils shall be treated in accordance to the terms reflected in the Treatment Agreement and Preservation Plan developed in consultation with the San Luis Rey Band and Pechanga Band. Once the cultural materials are placed in the reinterment area, a cap shall be placed over the resources and hydroseeded with a native plant mix, developed in consultation with the San Luis Rey Band and Pechanga Band, to prevent erosion. Note that no subsurface ground disturbance activities or subsurface facilities will be permitted within the reinterment area, including utility trenches and irrigation systems (except for surface drip systems.)
5. Inadvertent Discoveries:
 - Both the Project Archaeologist and the Luiseño Native American monitor have the authority to divert or temporarily halt ground disturbance operations in the area of the discovery.
 - The Project Archaeologist shall contact the County Archaeologist.
 - The Project Archaeologist in consultation with the County Archaeologist and the Luiseño Native American shall determine the significance of discovered resources.

CEQA Findings and Statement of Overriding Considerations

- If appropriate, construction activities will be allowed to resume after the County Archaeologist has concurred with the significance evaluation.
 - Isolates and non-significant deposits shall be minimally documented in the field and collected by the Project Archaeologist. Native American isolates shall be reinterred on site and historic (Non-Native American) isolates shall be curated or culled.
 - If cultural resources are determined to be significant by the Tribes, the County Archaeologist and/or the Project Archaeologist, a Research Design and Data Recovery Program shall be prepared by the Project Archaeologist in consultation with the San Luis Rey and Pechanga Tribes, and approved by the County Archaeologist. The preferred option is preservation (avoidance).
6. Human Remains Discovered Outside the Recorded Sites and the Deer Springs Road Right-of-Way.
- The Property Owner or their representative shall contact the County Coroner and the PDS Staff Archaeologist.
 - If the human remains are reasonably believed to be Native American, then the human remains are to remain in situ (“in place”), or in a secure location in close proximity to where they were found, and shall be examined in the field, in the presence of a Luiseño Native American monitor, by a forensic anthropologist or osteologist. Any transportation of the remains shall be done in the presence of a Luiseño Native American monitor. Upon identification of human remains, no further disturbance shall occur in the area of the find until the County Coroner has made the necessary findings as to origin.
 - If the remains are determined to be of Native American origin, the Most Likely Descendant (MLD), as identified by the Native American Heritage Commission (NAHC), shall be contacted by the Property Owner or their representative in order to determine proper treatment and disposition of the remains.
 - The immediate vicinity where the Native American human remains are located is not to be damaged or disturbed by further development activity until consultation with the MLD regarding their recommendations as required by Public Resources Code Section 5097.98 has been conducted.

CEQA Findings and Statement of Overriding Considerations

- Public Resources Code §5097.98, CEQA §15064.5 and Health & Safety Code §7050.5 shall be followed in the event that human remains are discovered.
7. Fill Soils. The Project Archaeologist and Luiseño Native American monitor shall evaluate fill soils (including, but not limited to, exported, imported and borrow-site soils) to determine that they are clean of cultural resources.
 8. Reporting. The Project Archaeologist shall submit monthly status reports to the Director of Planning and Development Services starting from the date of the Notice to Proceed to the termination of implementation of the archaeological monitoring program. The report shall briefly summarize all activities during the period and the status of progress on overall plan implementation. Upon completion of the implementation phase, a final report shall be submitted describing the plan compliance procedures and site conditions before and after construction. Rough Grading. A copy of the monitoring report shall be provided to the South Coastal Information Center, the San Luis Rey Band of Mission Indians, the Pechanga Band of Luiseño Indians, and any culturally-affiliated tribe who requests a copy.
 9. The County Archaeologist shall make a determination for any disagreements between the Project Archaeologist, Luiseño Native American monitor, the San Luis Rey Band and Pechanga Band related to archaeological monitoring.
- c. Final Grading
 1. A final report shall be prepared substantiating that earth-disturbing activities are completed and whether cultural resources were encountered. A copy of the final report shall be submitted to the South Coastal Information Center, the San Luis Rey Band of Mission Indians, the Pechanga Band of Luiseño Indians and any culturally-affiliated tribe who requests a copy.
 - d. Disposition of Cultural Material.

The final report shall include:

 1. Evidence that all Native American cultural materials have been repatriated to the San Luis Rey Band and Pechanga Band, or the MLD, if applicable, and reinterred on site as reflected in the Preservation Plan developed in consultation with the San Luis Rey Band and Pechanga Band.

CEQA Findings and Statement of Overriding Considerations

2. The final report shall include evidence that all historic materials have been curated at a San Diego curation facility that meets federal standards per 36 CFR Part 79.

The Archaeological Monitoring Program/Treatment of Human Remains will be a part of the Tribal Treatment Plan (See M-CR-10, below) that shall be developed in consultation with the San Luis Rey Band and Pechanga Band.

M-CR-8

Environmentally Sensitive Area - Cultural Open Space. In order to provide an onsite location for the reinterment of cultural materials including cultural soils removed from the TCP, an Environmentally Sensitive Area (ESA) Open Space Easement shall be developed in consultation with the San Luis Rey Band and Pechanga Band, and granted to the County by the applicant. The open space easement prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. No subsurface ground disturbance activities or subsurface facilities will be permitted within the Open Space Easement, including utility trenches and irrigation systems (except for surface drip systems and the preparation of the reinterment area.) The sole exceptions to this prohibition are:

- a. Preparation of the reinterment area that may require earth-disturbing activities such as grading; excavation; placement of soil, sand, rock, gravel, or other material; and clearing of vegetation.
- b. Reinterment of cultural materials and cultural soils which may require earth-disturbing activities such as grading; excavation; placement of soil, sand, rock, gravel, or other material; and clearing of vegetation.
- c. Capping and hydroseeding the reinterment area for the purposes of erosion control.
- d. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard.
- e. Vegetation removal or application of chemicals for vector control purposes where expressly required by written order of the Department of Environmental Health, in a location and manner approved in writing by the Director of PDS.
- f. Access shall be provided for Luiseno tribes.

CEQA Findings and Statement of Overriding Considerations

Rationale: Implementation of the identified mitigation measures M-CR-7, M-CR-8, M-CR-9, M-CR-10, and M-CR-11 would reduce impacts to roadbed soils that connect sites CA-SDI-4558, -5951, and -9822 to less than significant by implementing an Archeological Monitoring Program and potential Data Recovery Program that would mitigate for potential impacts to undiscovered archeological resources and human remains, implementing a Tribal Treatment Plan to mitigate for impacts to TCPs, preparing a Preservation and Maintenance Plan for the long-term care and maintenance of CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822, and their associated cultural resources and features, and making a fair share contribution towards a regional ethno-historic study.

8) Impact CR-8

Description of Significant Effect: Improvements to Deer Springs Road would result in direct impacts to roadbed soils that connect sites CA-SDI-4558, -5951, and -9822 in an integrated traditional cultural property (TCP).

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-CR-7, M-CR-9, M-CR-10, and M-CR-11 are adopted to mitigate the significance of Impact CR-8. . See discussion of Impact CR-1, Impact CR-2, and Impact CR-7 above, for text of M-CR-7, M-CR-9, M-CR-10 and M-CR-11.

Rationale: Implementation of the identified mitigation measures M-CR-7, M-CR-9, M-CR-10, and M-CR-11 would reduce construction-related impacts to unanticipated discoveries of archeological deposits to less than significant by implementing an Archeological Monitoring Program and potential Data Recovery Program that would mitigate for potential impacts to undiscovered archeological resources and human remains, implementing a Tribal Treatment Plan to mitigate for impacts to TCPs, preparing a Preservation and Maintenance Plan for the long-term care and maintenance of CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822, and their associated cultural resources and features, and making a fair share contribution towards a regional ethno-historic study.

9) Impact CR-9

Description of Significant Effect: The portions of sites CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822 that would be avoided may result in increased accessibility, possibly resulting in impacts from pot-hunters and looters.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-CR-3, M-CR-4, M-CR-9, M-CR-10, and M-CR-11 are adopted to mitigate the significance of Impact CR-9. See discussion of Impact CR-1 and Impact CR-2, above, for text of M-CR-3, M-CR-4, M-CR-9, M-CR-10, and M-CR-11.

Rationale: Implementation of the identified mitigation measures M-CR-3, M-CR-4, M-CR-9, M-CR-10, and M-CR-11 would reduce impacts to portions of sites CA-SDI-4558, CA-SDI-5951

CEQA Findings and Statement of Overriding Considerations

and CA-SDI-9822 that would be avoided to less than significant by requiring temporary fencing to be implemented surrounding sites CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822 during construction, requiring permanent fencing surrounding sensitive cultural resources, implementing a Tribal Treatment Plan to mitigate for impacts to TCPs and impacts to tribal cultural resources, preparing a Preservation and Maintenance Plan for the long-term care and maintenance of CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822, and their associated cultural resources and features, and making a fair share contribution towards a regional ethno-historic study.

10) Impact CR-10

Description of Significant Effect: During excavation, there is potential to discover human remains.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-CR-3, M-CR-4, M-CR-5, M-CR-7 and M-CR-9 were proposed to mitigate the significance of Impact CR-10. See discussion of Impact CR-2 and Impact CR-7, above, for text of M-CR-3, M-CR-4, M-CR-5, M-CR-7 and M-CR-9.

Rationale: Implementation of the identified mitigation measures M-CR-3, M-CR-4, M-CR-5, M-CR-7, and M-CR-9 would reduce potential impacts to human remains to less than significant by requiring temporary fencing to be implemented surrounding sites CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822 during construction, requiring permanent fencing surrounding sensitive cultural resources, implementing a data recovery and index sampling plan for potential impacts to significant cultural resources that cannot be feasibly avoided or preserved in place, implementing an Archeological Monitoring Program and potential Data Recovery Program to mitigate for potential impacts to undiscovered archaeological resources and human remains, and developing a Tribal Treatment Plan to mitigate for impacts to TCPs and tribal cultural resources.

E. Geology and Soils

1) Impact GE-1

Description of Significant Effect: The potential for liquefaction in alluvial areas is considered low; however, saturated alluvial soils may have a potential for liquefaction.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-GE-1 A geotechnical consultant in the field shall perform geotechnical observation and/or laboratory testing during grading to identify areas of potential liquefaction and develop conclusions and recommendations. All alluvial soils in areas of proposed development or future fill shall be removed and recompacted during

CEQA Findings and Statement of Overriding Considerations

grading. Prior to approval of final inspection of site grading for each phase of the affected areas of the proposed project, the removal and recompaction measures shall be reviewed and approved by the Director of the County Department of Planning & Development Services or its designee.

Rationale: Implementation of the identified mitigation measure M-GE-1 would reduce Impact GE-1 to less than significant because the required geotechnical observation and/or laboratory testing would identify areas of potential liquefaction to develop site-specific conclusions and recommendations and all alluvial soils in areas of proposed development or future fill would be removed and recompacted to avoid soil liquefaction in alluvial areas.

2) Impact GE-2

Description of Significant Effect: Natural slopes at the site contain local areas of potential surficial instability, as indicated by the presence of slopewash deposits, source area scars, and perched granitic boulder outcrops. Such areas are of particular significance when located above and immediately adjacent to proposed development.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-GE-2 A California Certified Engineering Geologist shall complete a final soils report specific to the preliminary design of the proposed development. The final soils report shall include, but not be limited to, a surficial stability analysis. The report shall include conclusions and design recommendations including, but not limited to, buffering areas without structural development, construction of debris walls, catchment basins, or slope buttressing. The final soils report and final grading plans shall be submitted to, and approved by, the County Department of Planning & Development Services or its designee prior to the issuance of grading or construction permits for any phase of the project. The final soils report and final grading plans shall conform to all applicable laws, regulations, and requirements. All geotechnical recommendations provided in the final soils report and final grading plans shall be followed during grading and construction at the project site.

Rationale: Implementation of the identified mitigation measure M-GE-2 would reduce Impact GE-2 to less than significant because it would require a final soils report specific to the preliminary design of the proposed development to be completed. This soils report would include design recommendations that would reduce hazards associated with potential surficial instability and that would be adhered to during grading and construction at the project site.

3) Impact GE-3

CEQA Findings and Statement of Overriding Considerations

Description of Significant Effect: If areas of adverse conditions are identified during geotechnical observation and/or laboratory testing during grading, cut slopes may be subjected to surficial instability.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-GE-3 A geotechnical consultant in the field shall perform mapping of all cut slopes during grading. If adverse geologic conditions (e.g., highly fractured and jointed rock, clay-lined fractures, seepage zones) are encountered during installation of cut slopes, stabilization measures shall be required and implemented during grading. Specific stabilization measures shall include, but not be limited to, removal of loose boulders or displaced rocks, stability fill, buttresses, rock-bolting, and/or catchment netting. Prior to approval of final inspection of site grading for each phase of the affected areas of the proposed project, the stabilization measures shall be reviewed and approved by the County Department of Planning & Development Services or its designee.

Rationale: Implementation of the identified mitigation measure M-GE-3 would reduce the impact to less than significant because it ensures that stabilization measures would be implemented during grading if adverse geologic conditions occur.

4) Impact GE-4

Description of Significant Effect: Approximately 14 localized areas that will not be graded and are located above proposed building pads where rocks appear to have a potential to become dislodged.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-GE-4 All boulders located within the proposed development footprint shall be removed during grading. Boulders affecting the 14 locations identified in Table 2.6-2, below, as potentially hazardous zones shall either be removed, broken in place, or mitigated with catchments, as set forth in Table 2.6-2. The removal or breaking of the boulders, as well as the catchment construction, shall be completed prior to approval of final inspection of site grading for each phase of the affected areas of the proposed project. Prior to such approval of final inspection of site grading, evidence shall be provided to the satisfaction of the County Department of Planning & Development Services or its designee, demonstrating that hazardous boulders have been removed, broken in place, or mitigated with catchments, as required.

CEQA Findings and Statement of Overriding Considerations

In addition, prior to approval of final inspection of site grading for each phase of the affected areas of the proposed project, a written professional opinion from a California Certified Engineering Geologist shall be provided that indicates that the potential risk for rock fall hazards to impact the proposed development has been mitigated to a less than significant level. The written opinion shall also indicate that, with mitigation measures incorporated, the proposed development shall be safe for human occupancy.

Rationale: Implementation of the identified mitigation measure M-GE-4 would reduce the impact to less than significant because it removes boulders that have a potential to become dislodged and present a hazard.

5) **Impact GE-5**

Description of Significant Effect: Undocumented fill, topsoil/colluvium, alluvium, and Quaternary slopewash are porous and/or potentially compressible in their present state.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-GE-5 A geotechnical consultant in the field shall perform geotechnical observation and/or laboratory testing during grading to identify areas of highly expansive soils and determine the actual expansion/compaction potential of finish-grade soils. All compressible soils in areas of proposed development or future fill shall be removed and recompacted during grading. Prior to approval of final inspection of site grading for each phase of the affected areas of the proposed project, the removal and recompaction measures shall be reviewed and approved by the Director of the County Department of Planning & Development Services or its designee.

Rationale: Implementation of the identified mitigation measure M-GE-5 would reduce the impact to less than significant because it requires a geotechnical consultant to identify areas of highly expansive soils and recompaction of compressible soils in areas of proposed development or future fill to ensure that impacts from porous and/or potentially compressible soils are minimized.

F. **Greenhouse Gas Emissions**

1) **Impact GHG-1**

Description of Significant Effect: The proposed project's estimated construction and vegetation clearing GHG emissions would be 93,323 MT CO₂E. Therefore, the project would generate greenhouse gas emissions that may have a significant impact on the environment, and impacts related to GHG emissions would therefore be potentially significant.

CEQA Findings and Statement of Overriding Considerations

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-GHG-1 The project applicant shall purchase and retire carbon offsets in a quantity sufficient to offset 100 percent of the project's construction emissions (including sequestration loss from vegetation removal) consistent with the performance standards and requirements set forth below.

First, "carbon offset" shall mean an instrument issued by any of the following: (i) the Climate Action Reserve, the American Carbon Registry, and Verra (previously, Verified Carbon Standard), (ii) any registry approved by CARB to act as a registry under the State's cap-and-trade program, or (iii) if no registry is in existence as identified in options (i) and (ii), above, then any other reputable registry or entity that issues carbon offsets that is acceptable to the Director of the Planning & Development Services Department. Prior to use of option (iii), it shall be demonstrated that the other reputable registry or entity follows accounting, quantification and monitoring protocols, as well as eligibility and procedural performance standards, that are comparable to those used by the registries identified in option (i).

Second, any carbon offset utilized to reduce the project's GHG emissions shall be a carbon offset that represents the past reduction or sequestration of one metric tonne of carbon dioxide equivalent that is "not otherwise required" (CEQA Guidelines section 15126.4(c)(3)).

Third, "project applicant" shall mean Newland Sierra LLC or its designee.

Fourth, as to construction and vegetation removal GHG emissions, prior to the County's issuance of the project's first grading permit, the project applicant shall provide evidence to the satisfaction of the Director of the Planning & Development Services Department (PDS) that the project applicant has purchased and retired carbon offsets in a quantity sufficient to offset 100 percent of the construction and vegetation removal GHG emissions generated by the project, which total 93,323 MT CO₂E.

Fifth, the purchased carbon offsets used to reduce construction and vegetation removal GHG emissions shall achieve real, permanent, quantifiable, verifiable, and enforceable reductions (Cal. Health & Saf. Code section 38562(d)(1)).

Sixth, the project applicant or its designee shall demonstrate, to the satisfaction of the Development Services Director, that the following

CEQA Findings and Statement of Overriding Considerations

geographic priorities for carbon offsets have been met: 1) off-site within the unincorporated areas of the County of San Diego; 2) off-site within the County of San Diego; 3) off-site within the State of California; 4) off-site within the United States; and 5) off-site internationally. As listed, geographic priorities would focus first on local reduction features (including projects and programs that would reduce GHG emissions) to ensure that reduction efforts achieved locally would provide cross-over benefits related to air quality criteria pollutant reductions within the San Diego Air Basin, and to aid in San Diego County jurisdictions' efforts to meet their GHG reduction goals. The project applicant or its designee shall first pursue offset projects and programs locally within unincorporated areas of the County of San Diego to the extent such offset projects and programs are financially competitive in the global offset market. The project applicant or its designee shall submit proof to the County that offsets are unavailable in a higher priority category before seeking offsets from the next lower priority category.

Rationale: Implementation of the identified mitigation measure M-GHG-1 would reduce the impact to less than significant because required purchase and retirement of carbon offsets would equal 100 percent of the project's construction emissions.

Prior to circulation of the Project's Draft EIR, the County received comments recommending that the Project be conditioned to achieve net zero GHG emissions in a fashion similar to that used by the Newhall Ranch Project. In response to those comments, and with the support and commitment of the applicant, the Draft EIR utilized an analytical framework that requires the Project to achieve net zero GHG emissions through a combination of project design features (PDFs) and mitigation measures. Recognizing that it is not feasible to reduce all Project emissions through on-site measures, the mitigation measures allow the Project to utilize off-site carbon offsets in a fashion that is analogous to the Newhall Ranch approach. It relatedly is recognized that the scale of the Project is quite different from that of the Newhall Ranch Project, which is for the development of more than 21,000 residential units and more than 9 million square feet of non-residential uses. The variation in scale affects the ability of various reduction strategies to be effective and to be economically feasible.

Mitigation Measure M-GHG-1 requires the project applicant to purchase and retire carbon offsets in a quantity that is sufficient to reduce the project's construction GHG emissions to net zero. Based on the analysis presented in the Final EIR and record, mitigation measure M-GHG-1 meets the requirements of CEQA for mitigating GHG emissions, including CEQA Guidelines Section 15126.4(c)(3) and (c)(4) (allowing GHG mitigation by "[o]ff-site measures, including offsets that are not otherwise required" and "[m]easures that sequester greenhouse gases"). The County notes that CEQA Guidelines Section 15126.4(c) does not establish a hierarchy of allowable mitigation options – there are no limits imposed on the geographic or locational attributes of the mitigation options, and there is no imperative to secure additional on-site

CEQA Findings and Statement of Overriding Considerations

reductions before utilizing carbon offsets. This is because GHGs emissions are global and cumulative in nature, not local, regional, or even national. Nonetheless, the M-GHG-1 is subject to a geographic priority system that prioritizes emissions reductions in San Diego County.

Purchasing and retiring carbon credits is recognized by the California Air Resources Board as appropriate and feasible mitigation for GHG emissions. Its *California's 2017 Climate Change Scoping Plan* recognizes that net zero is an appropriate objective for new development. It also states it also may be appropriate and feasible to mitigate project emissions through purchasing and retiring carbon credits.

In sum, implementation of the identified mitigation measure M-GHG-1 would reduce the identified impact to less than significant because required purchase and retirement of carbon offsets would equal 100 percent of the project's construction emissions.

2) Impact GHG-2

Description of Significant Effect: The proposed project's estimated operational GHG emissions prior to implementation of project-specific GHG reduction features in the buildout year would be 52,986 MT CO₂E per year. Following implementation of the project-specific GHG reduction features, the proposed project's estimated operational GHG emissions in the buildout year would be 43,498 MT CO₂E per year. Therefore, the project would generate greenhouse gas emissions that may have a significant impact on the environment, and impacts related to GHG emissions would therefore be potentially significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-GHG-2 As to operational GHG emissions, to effectuate a total offset of 1,304,940 MT CO₂E over the 30-year life of the project consistent with this measure, prior to the County's issuance of building permits for each implementing Site Plan ("D" Designator), the project applicant shall purchase and retire carbon offsets for the incremental portion of the project within the Site Plan in a quantity sufficient to offset, for a 30-year period, the operational GHG emissions from that incremental amount of development to net zero, consistent with the performance standards and requirements set forth below.

First, "carbon offset" shall have the same meaning as set forth in M-GHG-1.

Second, any carbon offset utilized to reduce the project's GHG emissions shall be a carbon offset that represents the past reduction or sequestration of

CEQA Findings and Statement of Overriding Considerations

one metric tonne of carbon dioxide equivalent that is “not otherwise required” (CEQA Guidelines section 15126.4(c)(3)).

Third, “project applicant” shall have the same meaning as set forth in M-GHG-1.

Fourth, as to operational emissions, prior to the County’s issuance of building permits for each implementing Site Plan (“D” Designator), the project applicant shall provide evidence to the satisfaction of the Director of PDS that it has purchased and retired carbon offsets for the incremental portion of the project within the Site Plan in a quantity sufficient to offset, for a 30-year period, the operational GHG emissions from the incremental amount of development to net zero. The “project life” is 30 years. This methodology is consistent with the 30-year project life time frame used by the South Coast Air Quality Management District’s GHG guidance (SCAQMD 2008).

Fifth, the purchased carbon offsets used to reduce operational GHG emissions shall achieve real, permanent, quantifiable, verifiable, and enforceable reductions (Cal. Health & Saf. Code section 38562(d)(1)).

Sixth, the amount of carbon offsets required for each implementing Site Plan shall be based on the GHG emissions with the implementing Site Plan, and shall include operational GHG emissions as identified in the approved Greenhouse Gas Emissions Report (EIR Appendix K)).

Seventh, each implementing Site Plan shall include a tabulation that identifies the overall carbon offsets required to mitigate the entire project’s GHG emissions, and shall identify the amount of carbon offsets purchased to date as well as the remaining carbon offsets required to reduce the project’s emissions to net zero. Such tabulation and tracking shall be to the satisfaction of the Director of PDS.

For clarity, the following example is provided as to the project’s operational GHG emissions purchase and retirement strategy. If 100 single-family residential units and one park are developed and become operational in the year 2023, GHG emissions for those land uses would be calculated and carbon offsets for those emissions would be secured for a 30-year period; however, to be conservative, an operational year of 2021 has been applied to all land uses. Thus, the 100 single family-residential units would be multiplied by the MT CO₂E/dwelling unit provided in EIR Table 2.7-9 (single-family residential), and the park would be multiplied by the MT CO₂E/acre provided in EIR Table 2.7-14 (parks). These values would then be multiplied by 30, to calculate the

CEQA Findings and Statement of Overriding Considerations

total carbon offsets required for that phase of development (e.g., 100 single-family residential units × 16 MT CO₂E/du × 30).

Eighth, this EIR acknowledges that the project’s GHG emissions estimates are conservative because the project’s GHG emissions are expected to decrease beyond the estimates presented in the EIR’s analysis, in part, due to reasonably foreseeable improvements in fuel efficiency, vehicle fleet turnover, technological improvements related to transportation and energy, and updates to emissions models and methodologies. Thus, subject to County oversight, and the processes described below, the operational emission estimates that govern implementation of this project are subject to a “true up” at the election of the project applicant (as defined above) and subject to the approval of the County’s Board of Supervisors, as considered pursuant to a noticed public hearing process that accords with applicable legal requirements, including those set forth in CEQA for the post-approval modification of mitigation implementation parameters.

Specifically, if the project applicant elects to process a “true-up” exercise subsequent to the County’s certification of the Final EIR and approval of the project, the project applicant shall provide an updated operational GHG emissions inventory for the project, including emissions from mobile sources, energy, area sources, water consumption, and solid waste. Subject to the satisfaction of the County’s Board of Supervisors, these calculations shall be conducted using a County-approved model and/or methodology and must validate the continuing adequacy of modeling inputs used in the EIR that are not proposed to be altered as part of the “true-up” exercise. The inclusion of the validation requirement ensures that any updated operational GHG emissions inventories for the project fully account for then-existing information that is relevant to the emissions modeling. Alternatively, the project applicant may purchase all carbon offset credits to reduce operational GHG emissions at issuance of the first building permit.

The “true up” operational GHG emissions inventory, if conducted, will be provided in the form of a project-specific Updated Emissions Inventory and Offset Report to the County’s Board of Supervisors prior to the issuance of building permits for the next buildout phase. The subject technical documentation shall be prepared by a County-approved, qualified air quality and greenhouse gas technical specialist.

In all instances, substantial evidence must confirm that any reduction to the total carbon offsets value as identified in the certified Final EIR for the project is

CEQA Findings and Statement of Overriding Considerations

consistent with the project commitment to achieve and maintain carbon neutrality (i.e., net zero emissions) for the 30-year life of the project.

Ninth, the project applicant or its designee shall demonstrate, to the satisfaction of the Development Services Director, that the following geographic priorities for carbon offsets have been met: 1) off-site within the unincorporated areas of the County of San Diego; 2) off-site within the County of San Diego; 3) off-site within the State of California; 4) off-site within the United States; and 5) off-site internationally. As listed, geographic priorities would focus first on local reduction features (including projects and programs that would reduce GHG emissions) to ensure that reduction efforts achieved locally would provide cross-over benefits related to air quality criteria pollutant reductions within the San Diego Air Basin, and to aid in San Diego County jurisdictions' efforts to meet their GHG reduction goals. The project applicant or its designee shall first pursue offset projects and programs locally within unincorporated areas of the County of San Diego to the extent such offset projects and programs are financially competitive in the global offset market. The project applicant or its designee shall submit proof to the County that offsets are unavailable in a higher priority category before seeking offsets from the next lower priority category.

Rationale: Implementation of the identified mitigation measure M-GHG-2 would reduce the impact to less than significant because required purchase and retirement of carbon offsets would offset the project operational GHG emissions to net zero.

As discussed above, the project as mitigated would achieve net zero GHG emissions through a combination of project design features (PDFs) and mitigation measures. Mitigation Measure M-GHG-2 requires the project applicant to purchase and retire carbon offsets in a quantity that is sufficient to reduce the project's operational GHG emissions to net zero for a 30-year period. The County, as the lead agency, has determined that a 30-year project life is appropriate and presents the reasonable limits of scientific and evidentiary data for the project, given current modeling tools, the changing regulatory structure, the level of unknowns beyond 2050 with respect to regulatory programs mandating further reductions in GHG emissions, and other available information. (See Final EIR.)

Further, based on the analysis presented in the Final EIR and record, mitigation measure M-GHG-2 meets the requirements of CEQA for mitigating GHG emissions, including CEQA Guidelines Section 15126.4(c)(3) and (c)(4) (allowing GHG mitigation by “[o]ff-site measures, including offsets that are not otherwise required” and “[m]easures that sequester greenhouse gases”). The County notes that CEQA Guidelines Section 15126.4(c) does not establish a hierarchy of allowable mitigation options – there are no limits imposed on the geographic or locational attributes of the mitigation options, and there is no imperative to secure additional on-

CEQA Findings and Statement of Overriding Considerations

site reductions before utilizing carbon offsets. This is because GHGs emissions are global and cumulative in nature, not local, regional, or even national. Nonetheless, the M-GHG-2 is subject to a geographic priority system that prioritizes emissions reductions in San Diego County.

Purchasing and retiring carbon credits is recognized by the California Air Resources Board as appropriate and feasible mitigation for GHG emissions. Its *California's 2017 Climate Change Scoping Plan* recognizes that net zero is an appropriate objective for new development. It also states it also may be appropriate and feasible to mitigate project emissions through purchasing and retiring carbon credits. Implementation of M-GHG-1 and M-GHG-2 in conjunction with the 32 on-site PDFs required by M-GHG-3, combine on- and off-site reduction strategies is consistent with the discretion accorded the County by CEQA to mitigate GHG emissions.

In sum, implementation of the identified mitigation measure M-GHG-2 would reduce Impact GHG-2 to less than significant because required purchase and retirement of carbon offsets would offset the project operational GHG emissions to net zero.

3) Impact GHG-3

Description of Significant Effect: The project's estimated GHG emissions prior to implementation of project-specific GHG reduction features in the buildout year would be 52,986 MT CO₂E per year. Following implementation of the project-specific GHG reduction features, the project's estimated GHG emissions in the buildout year would be 43,498 MT CO₂E per year. Therefore, the project (without mitigation) would generate GHG emissions which may interfere with the implementation of GHG reduction goals for 2030 or 2050 and, therefore, would potentially conflict with plans, policies, or regulations adopted for the purpose of reducing GHG emissions.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-GHG-1, M-GHG-2, and M-GHG-3 are adopted to mitigate the significance of Impact GHG-3. See discussion of Impact GHG-1 and GHG-2 above, for text of mitigation measures M-GHG-1 and M-GHG-2.

M-GHG-3 To reduce GHG emissions, the project applicant (as defined above) shall implement the project design features listed in EIR Table 2.7-7.

Rationale: M-GHG-1 requires the project applicant to purchase and retire carbon offsets in a quantity sufficient to offset 100 percent of the project's construction emissions (including sequestration loss from vegetation removal). M-GHG-2 requires the project applicant to purchase and retire carbon offsets for the incremental portion of the project within the Site Plan in a quantity sufficient to offset, for a 30-year period, the operational GHG emissions from that incremental amount of development to net zero. M-GHG-3 requires the project applicant to implement the project design features listed in EIR Table 2.7-7.

CEQA Findings and Statement of Overriding Considerations

Implementation of the identified mitigation measures M-GHG-1, M-GHG-2 and M-GHG-3 would reduce the impact to less than significant because required purchase and retirement of carbon offsets would offset the project construction and operational GHG emissions to net zero, and project design features listed in EIR Table 2.7-7 would further reduce project GHG emissions. Further, based on the analysis presented in the Final EIR and record, mitigation measure M-GHG-1 meets the requirements of CEQA for contributing to the Project's mitigation of GHG emissions, including CEQA Guidelines Section 15126.4(c)(3) and (c)(4) (allowing GHG mitigation by "[o]ff-site measures, including offsets that are not otherwise required" and "[m]easures that sequester greenhouse gases"). With implementation of these measures achieving net zero emissions, potentially significant impacts to achievement of statewide reduction goals would be reduced to less than significant.

The project would be consistent with the County of San Diego General Plan such that impacts would be less than significant without the need for mitigation measures. Table 2.7-17 of the Final EIR outlines the proposed project's consistency with applicable policies. In addition, the County Board of Supervisors adopted the County's Climate Action Plan ("CAP") on February 14, 2018, and litigation has been filed concerning the CAP. The County notes that neither the County's approval of the CAP nor pending litigation preclude consideration of this project. The CEQA analysis prepared for the Newland Sierra project was not linked to the County's separate CAP development process. This is because the draft version of the CAP was not published until after release of the Newland Sierra project's Draft EIR. The Draft EIR thus uses thresholds from Appendix G of the CEQA Guidelines, rather than those contained in the 2018 CAP's implementing documents. The project is not tiering from the CAP or otherwise reliant on that document, but instead has been processed separate from the County's CAP.

Now that the CAP has been adopted, the project would be consistent with the CAP. As discussed in the Newland Sierra Final EIR, Topical Response GHG-3, and specifically therein at Table 1, Climate Action Plan Consistency Checklist, the project would comply with relevant measures in the CAP Checklist. In addition, because the project achieves carbon neutrality (i.e., a net zero emissions level) thereby resulting in no net increase in GHG emissions relative to existing environmental conditions, the project would not conflict with the CAP or its associated General Plan amendments. The project's commitment to the achievement of carbon neutrality is consistent with Option 2 (Net Zero) of CAP Mitigation Measure M-GHG-1. Further, Appendix DD, Land Use Consistency Analysis, Table DD-1 has been revised in the Final EIR to include the General Plan amendments adopted as part of the CAP. As shown therein, the project would be consistent with these amendments to the General Plan.

In addition, the project as mitigated would reduce emissions to net zero levels; conversely, a General Plan-consistent alternative would not be required to reduce its emissions to net zero. Therefore, the project would actually result in a decrease in GHG emissions compared to

CEQA Findings and Statement of Overriding Considerations

development currently allowed under the General Plan, and as considered in the CAP and based on the Site's land use designations. The Newland Sierra project is also included in the cumulative analysis of the CAP's Supplemental EIR. In sum, the project's mitigation measures reducing emissions to net zero levels would not only ensure the project would comply with the CAP and not interfere its projections or implementation, but would actually achieve further reductions below CAP projections.

The CAP also does not preclude General Plan amendments. Indeed, the *Guidelines for Determining Significance: Climate Change and Climate Action Plan Consistency Review Checklist* developed by the County in conjunction with the 2018 CAP are designed to ensure that individual development projects proposed for approval after the CAP's adoption do not obstruct attainment of the CAP's reduction targets. Like the "net zero" approach proposed for the Newland Sierra project, in order to support a determination of less-than-significant impacts attributable to GHG emissions, the County's documentation requires General Plan amendment projects achieve "no net increase in GHG emissions from additional density above the 2011 GPU" or "no net increase over baseline conditions (carbon neutrality)." The same rationale applies here; specifically, because the Newland Sierra project proposes to reduce its GHG emissions to net zero, the project would not impair the CAP's ability to achieve the contemplated emission reductions.

The project would also be consistent with the RTP/SCS, such that impact would be less than significant and no mitigation required. Refer to EIR Section 2.7.3.2 and Table 2.7-15 for evaluation of the project's consistency with SANDAG's RTP/SCS. Further, the required purchase and retirement of carbon offsets with M-GHG-1 and M-GHG-2 would offset the project construction and operational GHG emissions to net zero, and project design features listed in EIR Table 2.7-7 would further reduce project GHG emissions and ensure there is no impact concerning SB 375 reduction targets and consistency with the RTP/SCS.

G. Hazards and Hazardous Materials

1) Impact HZ-1

Description of Significant Effect: Impacts related to wildfire hazards would be potentially significant for three lots on the western portion of the project Site, as shown in the EIR at Figure 2.8-1.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-HZ-1 Prior to approval of the Landscape Plan and Final Map, the project applicant shall show that the entire area from the structures to the property boundary is mapped as Zone 1 irrigated on project plans. A heat deflecting wall shall be placed at the top of the slope. Should an off-site fuel modification easement to extend a

CEQA Findings and Statement of Overriding Considerations

minimum of 36 feet (to provide 100 feet of FMZ) be agreed to, then that option would be implemented in lieu of the heat deflecting wall.

Heat deflecting walls shall comply with Chapter 7A of the California Building Code and meet the approval of the Deer Springs Fire Protection District.

Rationale: Implementation of the identified mitigation measure M-HZ-1 would reduce the impact to less than significant because it would ensure that the entire area from the structures to the property boundary is mapped as Zone 1 irrigated, would require a heat deflecting wall, and would potentially require an off-site fuel modification easement that would reduce wildfire hazards for three lots on the western portion of the Project Site.

2) Impact HZ-2

Description of Significant Effect: Up to 170 lots cannot provide a full 30 feet of setback from top of slope for two-story homes, as shown in the EIR at Figure 2.8-1. Therefore, for these specific lots, impacts related to wildfire hazards would be potentially significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-HZ-2 Prior to the approval of the Landscape Plan and Final Map, the project applicant shall show that the following fire measures have been incorporated into the Sierra Farms portion of the proposed project: Prior to approval of the Landscape Plan and Final Map, the project applicant shall show that all lots that cannot provide a full 30 feet of setback from the top of slope for two-story homes have the following on the project plans:

- An extended fuel modification zone (2.5 times the required 100 feet); and
- Heat deflecting walls in compliance with Chapter 7A of the California Building Code and that meet the approval of the Deer Springs Fire Protection District.

Rationale: Implementation of M-HZ-2 would reduce to less than significant the impacts for the up to 170 lots that cannot provide a full 30 feet of setback from top of slope for two-story homes because it would require the project applicant to show that these lots have an extended fuel modification zone and heat deflecting walls that would minimize wildfire hazards.

3) Impact HZ-3

Description of Significant Effect: Sierra Farms would meet or exceed applicable code requirements, except for FMZs around Community building and maintenance shed that do not achieve standard 150-foot FMZ widths. Therefore, for these specific buildings, impacts related to wildfire hazards would be potentially significant.

CEQA Findings and Statement of Overriding Considerations

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-HZ-3 Prior to the approval of the Landscape Plan and Final Map, the project applicant shall show that the following fire measures have been incorporated into the Sierra Farms portion of the proposed project:

- Constructing 2 hour rated exterior walls per 2013 California Building Code and 2013 California Fire Code standards. The storage shed shall be required to have all four sides of the structure built to the 2 hour rated exterior wall standards. All doors for the shed would be non-combustible or be a fire rated door approved by the City of San Marcos Fire Department's Fire Marshal.
- The Community building shall have the north side wall built to the 2 hour rated exterior wall standards with the fire rate wall wrapping around 5 feet on either side of the building.
- Windows on all sides of the storage shed and the north side of the Community building shall be dual pane, both panes tempered.

Rationale: Implementation of M-HZ-3 would reduce wildfire hazard impacts around the Community building and maintenance shed within Sierra Farms to less than significant because it would require constructing 2 hour rated exterior wall and dual pane windows that would minimize wildfire impacts.

4) Impact HZ-4

Description of Significant Effect: Depending upon final grading and construction plans, the extent of the lead contamination from the illegal use of the project Site for weapons firing may result in adverse effects. Therefore, impacts would be potentially significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-HZ-4 Upon completion of grading plans and prior to the start of any construction or earth moving activities, the project applicant or its designee shall segregate and evaluate soils in the general vicinity of the lead contaminated soils as identified in the Focused Soil and Soil Vapor Screening Survey prepared by Leighton and Associates, Inc. in July 2015, and subject to approval by the County of San Diego Department of Environmental Health. Soils shall be evaluated and, if necessary, remediated according to all applicable federal, state, and local regulations, including County of San Diego Department of Environmental Health and U.S. Environmental Protection Agency Region 9 standards.

CEQA Findings and Statement of Overriding Considerations

Rationale: Implementation of M-HZ-4 would reduce impacts due to lead contamination to less than significant because it would require evaluation of soils and remediation, if necessary, to ensure that lead contaminants are removed.

5) Impact HZ-5

Description of Significant Effect: Due to the age of the on-site structures at 2733 Sarver Lane, asbestos containing materials and lead-based paint are likely to exist within the buildings. Therefore, impacts would be potentially significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-HZ-5 Prior to demolition of the existing structures at 2733 Sarver Lane, the project applicant or its designee shall complete a hazardous building material survey to determine the presence, if any, of lead-based paint or asbestos-containing materials. The project applicant or its designee shall retain a certified lead and asbestos abatement contractor to prepare a comprehensive lead paint and asbestos containing material survey for all areas to be demolished. The survey shall be submitted for review and approval to the County of San Diego Department of Environmental Health. Based on the survey, the certified lead and asbestos contractor shall prepare an abatement work plan in compliance with local, state, and federal regulations for any necessary removal and disposal of such materials. The work plan shall include a monitoring plan to be conducted by a qualified consultant during abatement activities to ensure compliance with the work plan requirements and abatement contractor specifications. Demolition plans and contract specifications shall incorporate any necessary abatement measures for the removal of materials containing lead-based paint and asbestos. The measures shall be consistent with the abatement work plan prepared for the project and conducted by a certified lead and asbestos abatement contractor. Following removal, lead paint and asbestos containing materials shall be disposed of properly in accordance with all federal, state, and local regulations.

Rationale: M-HZ-5 would reduce impacts related to asbestos containing materials and lead-based paint to less than significant because it would require a hazardous building material survey to be completed that would determine the presence of lead-based paint or asbestos containing materials and require an abatement work plan for any necessary removal and disposal of these materials to reduce hazards associated with these materials.

H. Noise

1) Impact N-1

CEQA Findings and Statement of Overriding Considerations

Description of Significant Effect: Based on the noise modeling, ground-floor on-site noise levels would exceed the County's standards at 23 of the modeled single-family receivers, two of the modeled multi-family receivers, and two parks (see Table 2.10-8). These homes and other land uses are estimated to have rear-yard noise exposures ranging from 61 to 69 dBA CNEL in the future with implementation of the project. Therefore, these on-site receivers exceeding the County's land use noise standards would result in impacts that are potentially significant from noise on the ground floor at these receivers.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-N-1 Prior to the issuance of grading permits for construction at the modeled receiver locations listed in Tables 9 and 10 of the Noise Technical Report for the Newland Sierra Project, the project applicant or its designee shall prepare an acoustical study based on the final map design, and shall implement any and all measures recommended as a result of the study, which shall be approved by the County of San Diego Planning & Development Services department (or its designee). The acoustical study shall include the following:

1. The location, height, and building material of any noise barriers to be constructed. The noise barriers shall be a minimum of 6 feet in height, have a surface density of at least 4 pounds per square foot, and be free of openings and cracks. The barriers may be constructed of acrylic glass, masonry material, earthen berm, or a combination of these materials. Noise barrier heights shall be relative to final pad elevation.
2. A detailed analysis that demonstrates that noise barriers and/or setbacks have been incorporated into the project design, such that noise level exposure to residential receivers in all useable outdoor areas, including multi-family residential patios and balconies, is at or below the applicable noise standard (i.e., 60 dBA Community Noise Equivalent Level (CNEL) at single-family residences, and 65 dBA CNEL at multi-family residences).
3. In the event that pad grade elevations, lot configuration/site design, and/or traffic assumptions change during the processing of any final maps, the noise barrier shall be revised to reflect those modifications.
4. Permanent noise barriers shall be installed as part of the landscape plan.

Rationale: Implementation of M-N-1 would reduce ground floor on-site noise level impacts to less than significant by requiring an acoustical study based on the final map design to be prepared and any recommendations proposed by the study to reduce noise to be implemented.

CEQA Findings and Statement of Overriding Considerations

2) Impact N-2

Description of Significant Effect: As shown in Table 2.10-9, several noise receiver locations were preliminarily found to exceed the County's exterior noise standard on the second floor; therefore, at these locations, impacts would be potentially significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-N-1 is adopted to mitigate the significance of Impact N-2. See discussion of Impact N-1 above, for text of M-N-1.

Rationale: Implementation of M-N-1 would reduce second-floor noise impacts to less than significant because it would require an acoustical study based on the final map design to be prepared and any recommendations proposed by the study to reduce noise to be implemented.

3) Impact N-3

Description of Significant Effect: The single-family and multi-family residences exposed to exterior noise levels exceeding 60 dBA CNEL (either at ground level or at upper levels) could have interior noise levels greater than 45 dBA CNEL. The lots identified in Table 2.10-10 would result in impacts that are potentially significant from an exceedance of the County's interior noise standard.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-N-2 Prior to issuance of building permits for the property lot numbers listed in Table 11 of the Noise Technical Report for the Newland Sierra Project, the applicant or its designee shall demonstrate that interior noise levels due to exterior noise sources at these locations will not exceed the applicable County of San Diego noise ordinance standard for the subject land use. It is anticipated that the typical method of compliance would be to provide noise barriers where appropriate; structure setbacks; acoustically rated windows and doors; or air conditioning or equivalent forced air circulation to allow occupancy with closed windows, which, for most construction, would provide sufficient exterior-to-interior noise reduction. An acoustical study shall be prepared to demonstrate and verify that interior noise levels at all lots listed in Table 11 of the Noise Technical Report for the Newland Sierra Project are below 45 dBA Community Noise Equivalent Level (CNEL) within all habitable residential rooms.

Rationale: Implementation of M-N-2 will reduce impacts to single-family and multi-family residences exposed to exterior noise levels exceeding 60 dBA CNEL to less than significant because it would require the applicant or its designee to implement measures to reduce interior

CEQA Findings and Statement of Overriding Considerations

noise levels at these residences to meet the applicable County of San Diego noise ordinance standard and perform an acoustical study to demonstrate and verify that interior noise levels at all lots listed in Table 11 of the of the Noise Technical Report for the Newland Sierra Project are below 45 dBA Community Noise Equivalent Level (CNEL) within all habitable residential rooms.

4) Impact N-4

Description of Significant Effect: Noise levels attributed to unshielded HVAC mechanical systems could exceed the County's daytime property line noise limit for residential land uses (50 dBA L_{eq}) within 250 feet of the source. In addition, sources within 450 feet of an NSLU property line could exceed the County's nighttime noise limit (i.e., 45 dBA L_{eq}) for stationary-source noise. As a result, the impact of noise from HVAC equipment under the proposed project would be potentially significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-N-3 Prior to the issuance of any building permit for stationary noise-generating equipment such as heating, ventilating, air conditioning (HVAC) systems or standby generators, the applicant or its designee shall prepare an acoustical study of the proposed stationary noise sources associated with HVAC systems and standby generators for submittal to the County of San Diego (County) for review and approval. The acoustical study shall identify all noise-generating equipment and predict noise levels from all identified equipment at the applicable property lines. Where predicted noise levels would exceed those levels established by the County's Noise Ordinance, Section 36.404, the acoustical study shall identify mitigation measures shown to effectively reduce noise levels (e.g., enclosures, barriers, site orientation) to be implemented, as necessary, to demonstrate compliance with the County's Noise Ordinance, Section 36.404. Mitigation measures also may include implementing best engineering practices, changing the placement of noise-generating equipment, and implementing shielding for stationary noise sources associated with HVAC systems and standby generators. All mitigation measures identified in the acoustical study shall be implemented by the applicant or its designee prior to issuance of any building permit.

Rationale: Implementation of M-N-3 would reduce impacts related to noise levels from unshielded HVAC mechanical systems to less than significant because it requires an acoustical study of the proposed stationary noise sources associated with HVAC systems to be prepared and mitigation measures to be implemented to reduce noise levels where predicted noise levels would exceed those levels established by the City's Noise Ordinance, Section 36.404.

CEQA Findings and Statement of Overriding Considerations

5) Impact N-5

Description of Significant Effect: Emergency electrical generators located within 3,500 feet of project property lines could exceed the County's noise limit for daytime stationary source noise. In addition, generators located within 6,000 feet of project property line could exceed the County's property line noise limit for nighttime stationary source noise. As it is not yet known if any emergency generators would be used by planned on-site land uses, and specific locations for any generators have not been developed, this impact would be potentially significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-N-3 is adopted to mitigate the significance of Impact N-5. See discussion of Impact N-4 above, for text M-N-3.

Rationale: Implementation of M-N-3 would reduce impacts related to noise levels from emergency electrical generators located within 3,500 feet and 6,000 feet of project property lines to less than significant because it requires an acoustical study of the proposed stationary noise sources associated with standby generators to be prepared and mitigation measures to be implemented to reduce noise levels where predicted noise levels would exceed those levels established by the City's Noise Ordinance, Section 36.404.

6) Impact N-6

Description of Significant Effect: The County's daytime stationary noise criterion would be exceeded at up to approximately 125 feet from the acoustic center of potential loading docks for on-site commercial land uses, and the nighttime stationary noise criterion would be exceeded at up to approximately 250 feet from the acoustic center of potential loading docks. It is possible that the distance between loading docks and residential land uses could be less than 200 feet. Therefore, noise generated from loading docks and delivery activities would result in impacts that are potentially significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-N-4 Prior to the issuance of any building permit for commercial land uses containing loading docks and delivery areas, the applicant or its designee shall prepare an acoustical study of the proposed commercial land use site plans for submittal to the County of San Diego (County) for review and approval. The acoustical study shall identify all noise-generating areas and associated equipment, and shall calculate predicted noise levels at the applicable property lines from all identified sources. Where predicted noise levels would exceed those established by the County's Noise Ordinance, Section 36.404, the acoustical study shall identify

CEQA Findings and Statement of Overriding Considerations

mitigation measures to be implemented (e.g., enclosures, barriers, site orientation, reduction of parking stalls), as necessary, to demonstrate compliance with the property line noise level limits established by the County's Noise Ordinance, Section 36.404. Mitigation measures may include requiring that best engineering practices be used in the placement and shielding of noise-generating equipment and when developing site plans for commercial land uses containing loading docks and delivery areas. This shall ensure that noise levels at the property line comply with the County's noise standards. All mitigation measures identified in the acoustical study shall be implemented by the applicant or its designee prior to the issuance of a building permit.

Rationale: Implementation of M-N-4 would reduce noise impacts from potential loading docks to less than significant because it requires that an acoustical study of the proposed commercial land use site plans is prepared and noise mitigation measures be implemented where predicted noise levels would exceed those established by the County's Noise Ordinance, Section 36.404

7) Impact N-7

Description of Significant Effect: The locations where blasting may be necessary is not known at this time. Also, other details such as blast-charge weights are not known at this time; thus, air-blast overpressures cannot be predicted. Since it is feasible that some damage to nearby structures may occur, impacts associated with blasting would be potentially significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-N-5 Prior to approval of the grading permit for any portion of the proposed project, the project applicant or the designated contractor shall prepare, or cause to be prepared, a blast drilling and monitoring plan. The plan shall include estimates of the drill noise levels, maximum noise levels (L_{max}), air-blast overpressure levels, and groundborne vibration levels at each residential property line within 1,000 feet of the blasting location, and shall be submitted to the County of San Diego (County) for review prior to the first blast. Blasting shall not commence until the County has approved the blast plan. Where potential exceedances of the County's Noise Ordinance are identified, the blast drilling and monitoring plan shall identify mitigation measures shown to effectively reduce noise and vibration levels (e.g., altering orientation of blast progression, increased delay between charge detonations, presplitting) to be implemented to comply with the noise level limits of the County's Noise Ordinance, Sections 36.409 and 36.410, and the vibration-level limits of 1 inch per second peak particle velocity. The identified mitigation measures shall be implemented by the applicant or its designee prior to

CEQA Findings and Statement of Overriding Considerations

the issuance of the grading permit. Additionally, all project phases involving blasting shall conform to the following requirements:

- All blasting shall be performed by a blast contractor and blasting personnel licensed to operate in the County.
- Each blast shall be monitored and recorded with an air-blast overpressure monitor and groundborne vibration accelerometer that is located outside the closest residence to the blast and is approved by the County.
- Blasting shall not exceed 1 inch per second peak particle velocity at the nearest occupied residence, in accordance with County of San Diego's Noise Guidelines, Section 4.3 (County of San Diego 2009a).

Rationale: Implementation of M-N-5 would reduce impacts from blasting to less than significant because it requires preparation of a blast drilling and monitoring plan that would include mitigation measures shown to effectively reduce noise and vibration levels where potential exceedances of the County's Noise Ordinance are identified.

8) Impact N-8

Description of Significant Effect: Vibration levels may exceed 0.004 inch per second RMS or 0.1 inch per second PPV from general grading and pile-driving construction activities on Site and off Site at the nearest residence (the mobile home park south of Deer Springs Road, which is located approximately 150 feet from the nearest construction area). This impact would be potentially significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-N-8 Prior to beginning construction of any project component within 200 feet of an existing or future occupied residence, the project applicant or its designee shall require preparation of a vibration monitoring plan for submittal to the County of San Diego (County) noise control officer for review and approval. At a minimum, the vibration monitoring plan shall require data be sent to the County noise control officer or designee on a weekly basis or more frequently as determined by the noise control officer. The data shall include vibration level measurements taken during the previous work period. In the event that the County noise control officer determines there is reasonable probability that future measured vibration levels would exceed allowable limits, the County noise control officer or designee shall take the steps necessary to ensure that future vibration levels do not exceed such limits, including suspending further construction activities that would result in excessive vibration levels until either alternative equipment or alternative

CEQA Findings and Statement of Overriding Considerations

construction procedures can be used that generate vibration levels that do not exceed 0.004 inch per second root mean square (RMS) or 0.1 inch per second peak particle velocity (PPV) at the nearest residential structure. Construction activities not associated with vibration generation could continue.

The vibration monitoring plan shall be prepared and administered by a County-approved noise consultant. In addition to the data described previously, the vibration monitoring plan shall include the location of vibration monitors, the vibration instrumentation used, a data acquisition and retention plan, and exceedance notification and reporting procedures. A description of these plan components is provided in the following text.

Location of Vibration Monitors: The vibration monitoring plan shall include a scaled plan indicating monitoring locations, including the location of measurements to be taken at construction site property lines and at nearby residential properties.

Vibration Instrumentation: Vibration monitors shall be capable of measuring maximum unweighted RMS and PPV levels triaxially (in three directions) over a frequency range of 1 to 100 Hertz. The vibration monitor shall be set to automatically record daily events during working hours and to record peak triaxial PPV values in 5-minute interval histogram plots. The method of coupling the geophones to the ground shall be described and included in the report. The vibration monitors shall be calibrated within 1 year of the measurement, and a certified laboratory conformance report shall be included in the report.

Data Acquisition: The information to be provided in the data reports shall include, at a minimum, daily histogram plots of PPV versus time of day for three triaxial directions, and maximum peak vector sum PPV and maximum frequency for each direction. The reports shall also identify the construction equipment operation during the monitoring period and their locations and distances to all vibration measurement locations.

Exceedance Notification and Reporting Procedures: A description of the notification of exceedance and reporting procedures shall be included, and follow-up procedures taken to reduce vibration levels to below the allowable limits.

Rationale: Implementation of M-N-8 would reduce impacts from blasting to less than significant because it requires preparation of a vibration monitoring plan and implementation of steps to ensure future noise levels do not exceed allowable vibration limits.

9) Impact N-9

CEQA Findings and Statement of Overriding Considerations

Description of Significant Effect: Because the blasting locations, necessary geotechnical data, and blasting and materials handling plans are not known at this time, it is not possible to conduct a noise analysis assessing the proposed blasting and materials handling associated with the proposed project. Therefore, for purposes of this analysis, impacts would be potentially significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-N-5 and M-N-8 are adopted to mitigate the significance of Impact N-9. See discussion of Impact N-7 and Impact N-8 above, for text M-N-5 and M-N-8.

Rationale: Implementation of M-N-5 and M-N-8 would reduce impacts from blasting to less than significant because they require preparation of a blast drilling and monitoring plan that would include mitigation measures shown to effectively reduce noise and vibration levels where potential exceedances of the County's Noise Ordinance are identified and preparation of a vibration monitoring plan and implementation of steps to ensure future noise levels do not exceed allowable vibration limits.

I. Paleontological Resources

1) Impact PR-1

Description of Significant Effect: Excavation in areas underlain by Quaternary older alluvium and younger alluvial deposits (Town Center, the Valley, Sierra Farms Park, and Sarver Lane) would result in potentially significant impacts to paleontological resources.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-PR-1 Paleontological Resources Monitoring. For excavation into geologic units of high or moderate paleontological potential (i.e., Town Center, the Valley, Sierra Farms park, and Sarver Lane), a Project Paleontologist or Paleontological Resources Monitor (under the supervision of the Project Paleontologist) shall be on-site during initial cutting, grading, or excavation into the substratum. The Project Paleontologist is a person with a PhD or master's degree in paleontology or a related field, and who has knowledge of San Diego County paleontology and documented experience in professional paleontological procedures and techniques. A Paleontological Resources Monitor is defined as an individual with at least 1 year of experience in field identification and collection of fossil materials under the supervision of a Project Paleontologist. The Paleontological Resources Monitor shall work under the direct supervision of the Project Paleontologist. The applicant shall authorize the Project Paleontologist and/or

CEQA Findings and Statement of Overriding Considerations

Paleontological Resources Monitor to direct, divert, or halt any grading activity, and to perform all other tasks required by the provisions listed below.

1. Monitor initial cutting, grading or excavation into the substratum;
2. If paleontological resources are unearthed the Project Paleontologist or Paleontological Resources Monitor, under supervision by the Project Paleontologist, shall:
 - a. Direct, divert, or halt any grading or excavation activity until such time that the sensitivity of the resource can be determined and the appropriate recovery implemented;
 - b. Salvage unearthed fossil remains, including simple excavation of exposed specimens or, if necessary, plaster-jacketing of large and/or fragile specimens or more elaborate quarry excavations of richly fossiliferous deposits;
 - c. Record stratigraphic and geologic data to provide a context for the recovered fossil remains, typically including a detailed description of all paleontological localities within the stratigraphic section, if feasible, and photographic documentation of the geologic setting;
 - d. Prepare collected fossil remains for curation, to include cleaning the fossils by removing the enclosing rock material, stabilizing fragile specimens using glues and other hardeners, if necessary, and repairing broken specimens;
 - e. Curate, catalog and identify all fossil remains to the lowest taxon possible, inventory specimens, assign catalog numbers, and enter the appropriate specimen and locality data into a collection database; and
 - f. Transfer the cataloged fossil remains to an accredited institution (museum or university) in California that maintains paleontological collections for archival storage and/or display. The transfer shall include copies of relevant field notes, maps, stratigraphic sections, and photographs.
3. The Project Paleontologist shall prepare a final Paleontological Resources Mitigation Report summarizing the field and laboratory methods used, the stratigraphic units inspected, the types of fossils recovered (if applicable), and the significance of the curated collection (if applicable).
4. Submit two hard copies of the final Paleontological Resources Mitigation Report to the Director of Planning & Development Services for final approval of the mitigation, and submit an electronic copy of the report according to the

CEQA Findings and Statement of Overriding Considerations

County Planning & Development Services' Electronic Submittal Format Guidelines.

5. If no paleontological resources are unearthed the Project Paleontologist or Paleontological Resources Monitor, under supervision by the Project Paleontologist, shall prepare and submit a signed letter, stating that monitoring was conducted and no fossils were encountered during grading and excavation to Planning & Development Services.

Mitigation will be deemed complete when the County receives and approves the final report.

If no fossils of greater than 12 inches in any dimension are found during grading and excavation, the project applicant or designee shall submit a letter to the County Department of Planning & Development Services identifying who conducted the monitoring, stating that no fossils were found, and signed by the Project Paleontologist or Paleontological Resources Monitor. The letter shall be submitted to the County within 90 days following cessation of grading and excavation. Mitigation will be deemed complete when the letter report from the Project Paleontologist or Paleontological Resources Monitor stating that monitoring was conducted and no fossils were encountered during grading and excavation is submitted to and approved by Planning & Development Services.

Rationale: Mitigation measure M-PR-1 would reduce impacts to paleontological resources in areas underlain by Quaternary older alluvium and younger alluvial deposits (Town Center, the Valley, Sierra Farms Park, and Sarver Lane) to less than significant because it would require a Project Paleontologist or Paleontological Resources Monitor (under the supervision of the Project Paleontologist) to be on-site during initial cutting, grading, or excavation into the substratum and to take appropriate measures if paleontological resources are unearthed.

J. Transportation and Traffic

1) Impact TR-2

Description of Significant Effect: The project would have a significant direct impact on the Deer Springs Road/Mesa Rock Road intersection.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-TR-2 Prior to the issuance of the certificate of occupancy for the 900th equivalent dwelling unit, the project applicant, or its designee, shall reconstruct the Deer Springs Road/Mesa Rock Road intersection to provide the following intersection configuration.

CEQA Findings and Statement of Overriding Considerations

- Southbound – Two left-turn lanes, one shared through/right lane
- Westbound – One right-turn lane, one shared through/right lane, one through lane, and one left-turn lane
- Northbound – One through lane, one right lane and one left-turn lane
- Eastbound – Two left-turn lanes, one through lane, and one through/right lane

Rationale: Mitigation measure M-TR-2 would reduce impacts to the Deer Springs Road/Mesa Rock Road intersection to less than significant because it would provide an intersection configuration that would improve the safety and circulation of the intersection.

2) Impact TR-3

Description of Significant Effect: The project would have a significant direct impact on the Deer Springs Road/Sarver Lane intersection.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-TR-3 Prior to the issuance of the certificate of occupancy for the 350th equivalent dwelling unit, the project applicant, or its designee, shall reconstruct the Deer Springs Road/Sarver Lane intersection to provide the following intersection configuration:

- Southbound – One left-turn lane and one right-turn lane
- Westbound – One shared through/right lane and one through lane
- Eastbound – Two through lanes and one left-turn lane

Rationale: Mitigation measure M-TR-3 would reduce impacts to the Deer Springs Road/Sarver Lane intersection to less than significant because it would provide an intersection configuration that would improve the safety and circulation of the intersection.

3) Impact TR-6

Description of Significant Effect: The project would have a significant direct impact on the Buena Creek Road/Monte Vista Drive intersection.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-TR-6 Prior to the issuance of the certificate of occupancy for the 165th equivalent dwelling unit, the project applicant, or its designee, shall implement one of the following mitigation options:

CEQA Findings and Statement of Overriding Considerations

1. Provide a traffic signal and the following lane configuration improvements at the intersection of Buena Creek Road/Monte Vista Drive:
 - Southbound – One shared left/right turn lane
 - Westbound – One through lane, and one right-turn lane with right-turn-overlap
 - Eastbound – One left-turn lane, and one through lane
2. Build a roundabout at this intersection.

Rationale: Mitigation measure M-TR-6 would reduce impacts to the Buena Creek Road/Monte Vista Drive intersection to less than significant because it would provide a traffic signal and intersection configuration or a roundabout that would improve the safety and circulation of the intersection.

4) Impact TR-7

Description of Significant Effect: The project would have a significant direct impact on the Buena Creek Road/South Santa Fe Avenue intersection.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-TR-7 Prior to the issuance of the certificate of occupancy for the 273th equivalent dwelling unit, the project applicant, or its designee, shall improve the Buena Creek Road/ S. Santa Fe Avenue intersection to provide dedicated right and left turn lanes on southbound Buena Creek Road. As the S. Santa Fe Avenue intersections with Buena Creek Road and Robelini Drive operate under a single traffic controller, as additional mitigation, the signal timing plan would be modified and the intersection signal equipment would be upgraded.

Rationale: Mitigation measure M-TR-7 would reduce impacts to the Buena Creek Road/South Santa Fe Avenue intersection to less than significant because it would provide dedicated right and left turn lanes on southbound Buena Creek Road, modify the signal timing plan, and upgrade the intersection signal equipment, which would improve the safety and circulation of the intersection.

5) Impact TR-10

Description of Significant Effect: The project would have a significant direct impact on Deer Springs Road from Sarver Lane to Mesa Rock Road.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

CEQA Findings and Statement of Overriding Considerations

M-TR-9 If Option A is approved, prior to the issuance of the certificate of occupancy for the 58th equivalent dwelling unit, the project applicant, or its designee, shall widen the segment of Deer Springs Road between Sarver Lane and Mesa Rock Road to a 2.1B Community Collector with a two-way center turn lane.

Or,

If Option B is approved, prior to the issuance of the certificate of occupancy for the 58th equivalent dwelling unit, the project applicant, or its designee, shall widen the segment of Deer Springs Road between Sarver Lane and Mesa Rock Road to San Diego County 4.1A Major Road standards.

Rationale: Mitigation measure M-TR-9 would reduce impacts to the segment of Deer Springs Road from Sarver Lane to Mesa Rock Road to less than significant by widening the segment of Deer Springs Road between Sarver Lane and Mesa Rock Road to a 2.1B Community Collector with a two-way center turn lane if Option A is approved, or widening the segment of Deer Springs Road between Sarver Lane and Mesa Rock Road to San Diego County 4.1A Major Road standards if Option B.

6) Impact TR-15

Description of Significant Effect: The project would have a significant direct impact on Buena Creek Road from S. Santa Fe Avenue to Monte Vista Drive.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-TR-6 and M-TR-7 are adopted to mitigate the significance of Impact TR-15. See discussion of Impact TR-6 and Impact TR-7 above, for text of M-TR-6 and M-TR-7.

Rationale: Mitigation measure M-TR-6 and M-TR-7 would reduce impacts to the segment of Buena Creek Road from S. Santa Fe Avenue to Monte Vista Drive to less than significant because it would either provide a traffic signal and lane configuration improvements or a roundabout at the intersection of Buena Creek Road/Monte Vista Drive and would provide dedicated right and left turn lanes on southbound Buena Creek Road, modify the signal timing plan, and upgrade the intersection signal equipment, which would improve the safety and circulation of the intersection.

IV. POTENTIALLY SIGNIFICANT IMPACTS THAT CANNOT BE MITIGATED BELOW A LEVEL OF SIGNIFICANCE (CEQA GUIDELINES § 15091(A)(3))

This section identifies the significant unavoidable impacts that require a Statement of Overriding Considerations to be issued by the County upon approval of the Newland Sierra Project. Based on the analysis contained in the Final EIR, the following impacts to aesthetics, air quality, mineral resources, noise, population and housing, and transportation and traffic have been determined to fall within this “significant unavoidable impact” category. These unavoidable

CEQA Findings and Statement of Overriding Considerations

impacts are overridden by project benefits as set forth in the statement of overriding considerations in Section XIII, below.

Pursuant to Section 21081(a) of the Public Resources Code and Section 15091(a)(3) of the State CEQA Guidelines, the County of San Diego Board of Supervisors finds that, for each of the following significant effects, specific economic, legal, social, technological, or other considerations, including provisions of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the Final EIR. These findings are explained below and are supported by substantial evidence in the record of proceedings.

A. Aesthetics

1) Impact AES-1:

Description of Significant Effect: Based on the analysis presented in Section 2.1 of the EIR, implementation of the project will result in significant and unavoidable construction and operational impacts to visual character and quality. The visual change associated with removal of existing vegetation and alteration of existing terrain to accommodate proposed residential, commercial, and educational land uses and associated infrastructure would be most evident as viewed from locations in the viewshed located east of project such as Key Views 1, 2, and 3. As viewed from these locations, the introduction of project elements would result in an adverse change to the primarily undisturbed chaparral-covered hill and valley terrain visual character of the Site. Level of contrast associated with development of the proposed project, and implementation of roadway improvements along the identified segment of Deer Springs Road, would significantly alter the current visual character of the Site.

Finding: Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or the project alternatives identified in the Final EIR. Therefore, this impact is considered significant and unavoidable. This unavoidable impact is overridden by project benefits as set forth in the statement of overriding considerations in Section XIII, below.

Mitigation Measures: Specific economic, legal, social, technological, or other considerations make the mitigation measures identified in the Final EIR infeasible. No feasible mitigation measures exist to avoid or reduce the identified significant aesthetic impact.

Rationale: Several project features including balanced grading, focusing project development to lower elevation valley areas on the project site, conservation of open space, landscaping, and grade-adaptive architecture would help to reduce the visual impacts created by the proposed project by minimizing grading (to the extent feasible), avoiding particularly prominent development locations, retaining the natural characteristics of portions of the Site, partially screening structures, and incorporating natural terrain in project design. These features would not, however, mask or otherwise obscure the physical changes to the existing visual environment

CEQA Findings and Statement of Overriding Considerations

of the proposed project Site as viewed from certain public roadways in the area including I-15, Deer Springs Road at I-15, North Centre City Parkway and Mountain Meadow Road.

Mitigation measures that would further reduce the anticipated visual contrast associated with implementation of the proposed project were considered but determined to be infeasible. For example, temporary screening of construction sites and storage areas with opaque fencing would largely be ineffective due to the viewing angle to the proposed project Site afforded to viewers on I-15 and North Centre City Road. Also, a denser distribution of landscape trees and shrubs would increase visual contrast (and decrease intactness) between proposed landscaped areas on the Site and native vegetation that would be maintained as biological open space. Additional landscaping in planning areas and along roadways to further screen proposed development from view at off-site locations may also conflict with applicable fire requirements and the establishment and maintenance of horizontal and vertical clearances and defensible space.

Incorporation of grading, open space, landscaping, and architectural design features described above would not mask or substantially reduce the anticipated physical changes to the existing visual character of the proposed project Site as viewed from public roadways in the area including I-15, Deer Springs Road, North Centre City Parkway, and Mountain Meadow Road. Because there are no mitigation measures available that would further reduce the anticipated level of contrast associated with development of the proposed project and implementation of roadway improvements along the identified segment of Deer Springs Road, impacts would be significant and unavoidable.

B. Air Quality**1) Impact AQ-1:**

Description of Significant Effect: Although the project would include sustainability features to reduce single-passenger vehicular trips and VMT, including features and measures described previously, the project would result in a more intense land use (the existing General Plan land use designations would allow for approximately 99 dwelling units and 2,008,116 square feet of commercial space) and would generate greater operational trips than those land uses currently allowed under the existing General Plan. As the proposed project would contribute to local population and employment growth and associated VMT that is not anticipated for the project Site in the existing General Plan, the proposed project is not accounted for in the SIP and RAQS, and the proposed project potentially would not be consistent with local air quality plans. The impact would be eliminated once the SDAPCD completes a future update to the RAQS, which would be based on updated SANDAG population and growth projections for the region. Mitigation measure M-AQ-1 is provided to ensure population growth and vehicle trips generated from the proposed project are provided to SANDAG for incorporation into the future RAQS update. This update will likely occur following project approval; therefore, at this time the impact is considered potentially significant.

CEQA Findings and Statement of Overriding Considerations

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the air quality impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant air quality impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact AQ-1 would remain significant and unavoidable. However, pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: While there are no feasible mitigation measures available to avoid or mitigate the identified Air Quality Impact AQ-1 to a less than significant level, the following feasible mitigation measures will substantially lessen the identified air quality impact:

M-AQ-1 Prior to SANDAG's next update to the Regional Housing Needs Assessment, the County of San Diego shall prepare a revised population, employment and housing forecast for SANDAG that reflects anticipated growth generated from the proposed project. The updated forecast provided to SANDAG shall be used to inform the SDAPCD update to the Regional Air Quality Strategy (RAQS) and State Implementation Plan (SIP). The County of San Diego also shall prepare and submit a letter notifying the SDAPCD of this revised forecast for use in the future update to the RAQS and SIP as required.

Rationale: Although coordination with SANDAG and the SDAPCD would be initiated, the proposed project would not be in conformance with the RAQS and SIP until population growth and associated trip generation is incorporated into the next update to the RAQS. It is unknown at this time when this update would occur, as the update is not within the control of the County of San Diego or the project applicant; therefore, impacts would remain significant and unavoidable following implementation of M-AQ-1.

2) Impact AQ-2:

Description of Significant Effect: Daily construction emissions would exceed the thresholds for VOC, NO_x, CO, PM₁₀ and PM_{2.5}. Impacts for these pollutants would be potentially significant.

Finding: The below mitigation measures are feasible, are adopted, and will substantially lessen the air quality impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant air quality impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact AQ-2 would remain significant and unavoidable. However, pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of

CEQA Findings and Statement of Overriding Considerations

Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: While there are no feasible mitigation measures available to avoid or mitigate the identified Air Quality Impact AQ-2 to a less than significant level, the following feasible mitigation measures will substantially lessen the identified air quality impact:

- M-AQ-2** Prior to the County of San Diego's approval of any construction-related permits, the project applicant or its designee shall place the following requirements on all plans, which shall be implemented during each construction phase to minimize VOC, CO and NOx emissions:
- a. All diesel-powered construction equipment shall be equipped with Tier 4 Final or better diesel engines, except where Tier 4 Final or better engines are not available for specific construction equipment. The County shall verify and approve all pieces within the construction fleet that would not meet Tier 4 Final standards. Before an exemption may be considered by the County, the applicant shall be required to demonstrate that three construction fleet owners/operators in the San Diego region were contacted and that Tier 4 equipment could not be located within the region;
 - b. Minimize simultaneous operation of multiple construction equipment units. During construction, vehicles in loading and unloading queues shall not idle for more than 5 minutes and shall turn their engines off when not in use to reduce vehicle emissions;
 - c. All construction equipment shall be properly tuned and maintained in accordance with manufacturer's specifications;
 - d. The use of electrical or natural gas-powered construction equipment shall be employed where feasible, including forklifts and other comparable equipment types;
 - e. The use of catalytic reduction for gasoline-powered equipment shall be employed where feasible;
 - f. Electrical hookups shall be provided on-site for the use of hand tools such as saws, drills, and compressors used for building construction to reduce the need for electric generators and other fuel-powered equipment;
 - g. A Construction Traffic Control Plan shall be developed to ensure construction traffic and equipment use is minimized to the extent practicable. The Construction Traffic Control Plan shall include measures to reduce the amount of large pieces of equipment operating simultaneously during peak construction periods, scheduling of vendor and haul truck trips to occur during non-peak

CEQA Findings and Statement of Overriding Considerations

hours, establish dedicated construction parking areas to encourage carpooling and efficiently accommodate construction vehicles, identify alternative routes to reduce traffic congestion during peak activities and increase construction employee carpooling.

A conceptual construction traffic control has been provided in Section 16 of the Traffic Impact Analysis (Appendix R), which includes specific construction traffic control measures. In addition to measures outlined in the Traffic Impact Analysis, the following measure shall be implemented to encourage employee carpooling:

The construction contractor shall implement a construction worker ridership program to encourage workers to carpool to and from the construction site to reduce single-occupancy vehicle trips. The construction manager will log all daily construction worker trips using the San Diego iCommute program (SANDAG 2015) (<http://www.icommute.com/>) or a comparable tracking method. The construction contractor shall notify all construction personnel of the program prior to the start of construction activities and shall notify construction personnel of the iCommute program RideMatcher feature, or similar communication method, to ensure personnel can identify available carpooling program participants. Trip data will be made readily available to County inspectors at the construction trailer on-site throughout the construction period.

- h. Signs shall be posted in designated queuing areas and job sites to remind drivers and operators of the idling limit.

M-AQ-3

Prior to the County of San Diego's approval of any grading permits and during project construction, a Fugitive Dust Plan shall be prepared demonstrating compliance with SDAPCD Rule 55 and County Code Section 87.428 (Grading Ordinance), to the satisfaction of the County. The project applicant or its designee shall require implementation of the following fugitive dust measures to minimize PM₁₀ emissions as part of the Fugitive Dust Plan. All measures shall be designated on grading and improvement plans. Measure shall include but are not limited to:

- a. Prior to construction activities, the project applicant shall employ a construction relations officer who will address Community concerns regarding on-site construction activity. The applicant shall provide public notification in the form of a visible sign containing the contact information of the construction relations officer who will document complaints and concerns regarding on-site construction activity. The sign shall be placed in easily-accessible locations along Deer Springs Road and noted on grading and improvement plans;

CEQA Findings and Statement of Overriding Considerations

- b. Water, or use another SDAPCD-approved dust control non-toxic agent, on the grading areas at least four times daily to minimize fugitive dust;
- c. All permanent roads and roadway improvements shall be constructed and paved as early as possible in the construction process to reduce construction vehicle travel on unpaved roads. Building pads shall be finalized as soon as possible following Site preparation and grading activities to reduce fugitive dust from earth moving operations;
- d. Stabilize grading areas as quickly as possible to minimize fugitive dust;
- e. Apply chemical stabilizer, install a gravel pad, or pave the last 100 feet of internal travel path within the construction site prior to public road entry;
- f. Wheel washers shall be installed adjacent to the apron indicated in (c) for tire inspection and washing prior to vehicle entry on public roads;
- g. Remove any visible track-out into traveled public streets with the use of sweepers, water trucks or similar method within 30 minutes of occurrence;
- h. Provide sufficient perimeter erosion control to prevent washout of silty material onto public roads. Unpaved construction site egress points shall be graveled to prevent track-out;
- i. Wet wash the construction access point at the end of the workday if any vehicle travel on unpaved surfaces has occurred;
- j. Cover haul trucks or maintain at least 2 feet of freeboard to reduce blow-off during hauling;
- k. Suspend all soil disturbance and travel on unpaved surfaces if winds exceed 25 miles per hour;
- l. Cover on-site stockpiles of excavated material;
- m. Enforce a 15 mile per hour speed limit on unpaved surfaces;
- n. Pave permanent roads as quickly as possible to minimize dust;
- o. Haul truck staging areas shall be provided for loading and unloading of soil and materials and shall be located away from sensitive receptors at the furthest feasible distance;
- p. Construction Traffic Control Plans shall route delivery and haul trucks required during construction away from sensitive receptor locations and congested intersections to the extent feasible. Construction Traffic Control plans shall be finalized and approved prior to issuance of grading permits.

CEQA Findings and Statement of Overriding Considerations

M-AQ-4 The following measure shall be included as part of the proposed project's Fugitive Dust Plan to reduce emissions associated with blasting and rock crushing activities:

- a. During blasting activities, the construction contractor shall implement all feasible engineering controls to control fugitive dust including exhaust ventilation, blasting cabinets and enclosures, vacuum blasters, drapes, water curtains or wet blasting. Watering methods, such as water sprays and water applications shall be implemented during blasting, rock crushing, cutting, chipping, sawing, or any activity that would release dust particles to reduce fugitive dust emissions.
- b. During rock crushing transfer and conveyance activities, material shall be watered prior to entering the crusher. Crushing activities shall not exceed an opacity limit of 20 percent (or Number 1 on the Ringelmann Chart) as averaged over a 3 minute period in any period of 60 consecutive minutes, in accordance with SDAPCD Rule 50, Visible Emissions. A qualified opacity observer shall monitor opacity from crushing activities once every 30 days while crushers are employed on-site to ensure compliance with SDAPCD Rule 50. Water sprayers, conveyor belt enclosures or other mechanisms shall be employed to reduce fugitive dust generated during transfer and conveyance of crush material.

M-AQ-5 Pursuant to California Public Resources Code Section 21081(a)(2), in coordination with the I-15 interchange improvement project, which is to be fully funded and constructed by the project applicant, though is within the jurisdiction of Caltrans to approve, Caltrans can and should require that project-appropriate measures for the proposed interchange project are implemented to avoid or minimize temporary construction-related impacts to air quality, such as compliance with Caltrans Standard Specifications 10-Dust Control and 18-Dust Palliative.

Rationale: Daily construction emissions after implementation of M-AQ-2 through M-AQ-4 would still exceed the thresholds for VOC, NO_x, CO, PM₁₀, and PM_{2.5}. Based on the emissions total parameters illustrated in Table 2.3-12, impacts would remain significant and unavoidable, because no additional feasible mitigation measures can be implemented to reduce NO_x, CO, PM₁₀, and PM_{2.5} impacts.

2) Impact AQ-3

Description of Significant Effect: Daily operational emissions would exceed the thresholds for VOCs, CO, PM₁₀ and PM_{2.5}.

Finding: The below mitigation measures are feasible, are adopted, and will substantially lessen the air quality impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations

CEQA Findings and Statement of Overriding Considerations

have been required in, or incorporated into, the Project which will mitigate, in part, this significant air quality impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact AQ-3 would remain significant and unavoidable. However, pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: While there are no feasible mitigation measures available to avoid or mitigate the identified Air Quality Impact AQ-3 to a less than significant level, the following feasible mitigation measures will substantially lessen the identified air quality impact:

- M-AQ-6** Educational material shall be provided to all residents, commercial tenants, and school employees regarding alternative modes of transportation internal and external to the site, including information on the project-provided electric bike share program, shuttle services, bus routes, and other forms of alternative transportation. This information shall be made available in easily accessible areas in all commercial business spaces, school administrative offices, and residential lease offices on-site. This shall include the distribution of a “new resident” information packet addressing alternative modes of transportation.
- M-AQ-7** Preferential parking shall be provided for electric-powered vehicles, compressed natural gas vehicles and carpool/vanpool rideshare programs.
- M-AQ-8** The project applicant/phase developer shall develop a Green Cleaning Product education program to be made available at rental offices, leasing spaces, and/or on websites. The education program is intended for households and institutional consumers and consists of (1) provision of educational materials on low ROG/VOC consumer products; (2) educational materials addressing the use of detergents, cleaning compounds, polishes, floor finishes, cosmetics, personal care products, home, lawn and garden products, disinfectants, sanitizers, aerosol paints, automotive specialty products, low ROG/VOC paints and architectural coatings, and low-emissions landscape equipment; (3) educational materials on the importance of recycling and purchasing recycled material.
- M-AQ-9** To minimize idling time and combustion of vehicle fuels, the project applicant or its designee shall ensure that any nonresidential building that uses large-scale refrigerated storage (e.g., restaurant, grocery store) equips each loading dock with an electrical hook-up to power refrigerated trucks.
- M-AQ-10** To reduce air quality emissions, the project applicant (as defined above) shall implement the project design features listed above.

CEQA Findings and Statement of Overriding Considerations

In addition, as part of the project's Transportation Demand Management (TDM) Program, the project would employ project design features (PDFs) PDF-1 through PDF-20 to reduce the number of vehicle trips generated by the proposed project including alternative modes of transportation. In addition to the TDM Program outlined above, PDF-21 through PDF-32 incorporate sustainability features that would be implemented to reduce GHG emissions and improve energy and water conservation. These strategies have been incorporated into the project as PDFs and would reduce project operational air quality emissions.

Rationale: Daily construction emissions after implementation of PDFs and M-AQ-6 through M-AQ-10 would still exceed the thresholds for NO_x, CO, PM₁₀, and PM_{2.5}. Impacts would therefore remain significant and unavoidable because no additional feasible mitigation measures can be implemented to reduce NO_x, CO, PM₁₀, and PM_{2.5} impacts.

C. Mineral Resources**1) Impact MR-1**

Description of Significant Effect: The proposed project would result in the loss of availability of approximately 156.8 acres of MRZ-2 designated land, and impacts would be significant.

Finding: There are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact MR-1 would remain significant and unavoidable. However, pursuant to Public Resources Code Section 21081(b), specific overriding economic, legal, social, technological, and other benefits of the Project outweigh the significant and unavoidable impacts as set forth in the Statement of Overriding Considerations in Section XIII below.

Mitigation Measures: Specific economic, legal, social, technological, or other considerations make the mitigation measures identified in the Final EIR infeasible. No feasible mitigation measures exist to avoid or reduce the identified significant impact to mineral resources.

Rationale: Approximately 650 acres of the project Site is designated as MRZ-2. The MRZ-2 quality materials are a potentially significant resource that currently could be recovered if the County were to issue a permit for extraction. 156.8 acres of the total MRZ-2 land at the Sycamore Ridge parcel would be effectively lost once development is complete, and these resources have been determined to be minable, processable, and marketable under technologic and economic conditions. Development of the proposed project would thus affect future extraction of the mineral resources in and around this area.

The EIR considered potential mitigation for impacts to mineral resources, but the County finds that no measures are feasible that would mitigate impacts to mineral resources. Potential partial mitigation for this resource would be to extract some of it prior to or in conjunction with Site construction. The County finds this measure infeasible as it would increase environmental impacts related to project construction, including impacts to air quality, GHGs, noise, traffic, etc.

CEQA Findings and Statement of Overriding Considerations

In addition, as an alternative partial mitigation, a portion of the material could be processed and used on-site as part of the construction process, thereby eliminating the need to import material from alternate sources. Rock excavations on-site could be used for slab underlayment, backfill of utility trenches, road base, or aggregate, thus eliminating the need for importing of these materials. Rock excavations used on the Site for construction materials would be part of the maximum cubic yards of cut and would not come from old mining areas or other areas outside the development footprint. However, the project does not propose mining operations for construction materials, and as currently proposed project grading would be balanced onsite. To the extent such alternative partial mitigation exceeds project construction plans, the County finds these measures infeasible for increasing construction impacts related to additional extraction, rock crushing, and other activities onsite; including impacts to air quality, GHGs, noise, and to other resources (e.g., cultural and paleontological resources).

Other potential measures identified in the EIR relate to policy decisions not under the control of the project applicant. The most effective mitigation would be for the County to identify feasible mineral resource extraction areas and to implement policies that would avoid resource sterilization (encroachment by development). However, there is evidence of resource sterilization having already occurred at the project Site, as provided by records related to previous efforts to permit mining. Therefore, such mitigation is infeasible as it would not mitigate impacts to mineral resources at the project site. Since no feasible mitigation exists to reduce impacts to below a level of significance, impacts would remain significant and unavoidable.

D. Population and Housing**1) Impact PH-1**

Description of Significant Effect: The proposed project would induce substantial population growth because it would exceed planned residential and population growth in the area, result in land uses that could provide economic stimulus, and expand roadways that would accommodate higher capacities and improve accessibility, consistent with the County General Plan Mobility Element.

Finding: There are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact PH-1 would remain significant and unavoidable. However, pursuant to Public Resources Code Section 21081(b), specific overriding economic, legal, social, technological, and other benefits of the Project outweigh the significant and unavoidable impacts as set forth in the Statement of Overriding Considerations in Section XIII below.

Mitigation Measures: Specific economic, legal, social, technological, or other considerations make the mitigation measures identified in the Final EIR infeasible. No feasible mitigation measures exist to reduce or avoid the identified impacts.

CEQA Findings and Statement of Overriding Considerations

Rationale: The project has the potential for growth-inducing effects, because it would exceed planned residential and population growth in the area, result in land uses that could provide economic stimulus, and expand roadways that would accommodate higher capacities and improve accessibility consistent with the County General Plan Mobility Element. Subsequent adverse environmental effects may result from such growth. At the same time, CEQA cautions against assuming that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment. Nonetheless, on balance, the proposed project would induce substantial population growth because it would exceed planned residential and population growth in the area, and there are no feasible mitigation measures for this impact. Such impacts cannot be feasibly mitigated, absent a feasible alternative to the project or the County's adoption of the applicant's requested General Plan Amendment. Impacts would be significant and unavoidable.

E. Transportation and Traffic

1) Impact TR-1A

Description of Significant Effect: The project would have a significant impact on the Deer Springs Road/I-15 NB Ramps intersection.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-1A would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures:

M-TR-1 Prior to the issuance of the certificate of occupancy for the 370th EDU, the project applicant, or its designee, shall coordinate with the California Department of Transportation (Caltrans) to implement the Interstate 15/Deer Springs Road Interchange improvements ultimately selected by Caltrans as part of the Caltrans PID, PA&ED, and PS&E processes required for the planning, environmental review, design, and construction of the updated or improved interchange.

Subject to Caltrans concurrence, the Interchange improvements would include ramp meters, acceleration/deceleration lanes, and improvements to the existing park-and-ride facility. Newland Sierra shall provide full funding for the construction of all Interchange improvements, including costs incurred by

CEQA Findings and Statement of Overriding Considerations

Caltrans with regard to the associated planning, environmental review, and design of such improvements, with Caltrans serving as the lead agency for the joint environmental documents required under CEQA and NEPA.

Rationale: The project applicant has initiated, and is fully funding, the three-phase PID, PA&ED, and PS&E process with Caltrans. At the conclusion of this process, the project applicant will provide full funding to build the necessary Interchange improvements. Thus, the Interchange improvements would be a privately-funded project with Caltrans serving as the lead agency with regard to preparation of the joint environmental document under CEQA and NEPA. However, because implementation of the improvements is not within the County of San Diego's jurisdiction and control, the impacts are considered significant and unavoidable.

2) Impact TR-1B

Description of Significant Effect: The project would have a significant impact on the Deer Springs Road/I-15 SB Ramps intersection.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-1B would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: M-TR-1 is adopted to reduce impacts related to TR-1B. See discussion of Impact TR-1A, above, for text of M-TR-1.

Rationale: The project applicant has initiated, and is fully funding, the three-phase PID, PA&ED, and PS&E process with Caltrans. At the conclusion of this process, the project applicant will provide full funding to build the necessary Interchange improvements. Thus, the Interchange improvements would be a privately-funded project with Caltrans serving as the lead agency with regard to preparation of the joint environmental document under CEQA and NEPA. However, because implementation of the improvements is not within the County of San Diego's jurisdiction and control, for purposes of this EIR, the impacts are considered significant and unavoidable.

3) Impact TR-4

Description of Significant Effect: The project would have a significant impact on the Twin Oaks Valley Road/Deer Springs Road intersection.

CEQA Findings and Statement of Overriding Considerations

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-4 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures:

M-TR-4 Prior to the issuance of the certificate of occupancy for the 280th equivalent dwelling unit, the project applicant, or its designee, shall reconstruct the Twin Oaks Valley Road/Deer Springs Road intersection to provide the following intersection configuration:

- Southbound – Two through lanes and one right-turn lane
- Northbound – One left-turn lane and two through lanes
- Eastbound – One left-turn lane and one right-turn lane

Rationale: Mitigation Measure M-TR-4 would mitigate the project's impact to the intersection of Twin Oaks Valley Road/Deer Springs Road to less than significant. However, because the improvements are under the jurisdiction and control of the City of San Marcos and, thereby, subject to their concurrence and approval, Impact TR-4 is considered significant and unavoidable.

4) Impact TR-5

Description of Significant Effect: The project would have a significant impact on the Twin Oaks Valley Road/Buena Creek Road intersection.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-5 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

CEQA Findings and Statement of Overriding Considerations

Mitigation Measures:

- M-TR-5 Prior to the issuance of the certificate of occupancy for the 80th equivalent dwelling unit, the project applicant, or its designee, shall reconstruct the Twin Oaks Valley Road/Buena Creek Road intersection to provide the following intersection configuration:
- Southbound – One left-turn lane, two through lanes, and one right-turn lane
 - Westbound – One shared left/through/right lane
 - Northbound – One left-turn lane, one through lane, and one shared through/right lane
 - Eastbound – Two left-turn lanes and one shared through/right lane

Rationale: Mitigation Measure M-TR-5 would mitigate the project's impact to the intersection of Twin Oaks Valley Road/Buena Creek Road to less than significant. However, because the improvements are under the jurisdiction and control of the City of San Marcos and, thereby, subject to their concurrence and approval Impact TR-5 is considered significant and unavoidable.

5) Impact TR-8

Description of Significant Effect: The project would have a significant impact on the Robelini Drive/South Santa Fe Avenue intersection.

Finding: The below mitigation measures is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-8 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures:

- M-TR-7 Prior to the issuance of the certificate of occupancy for the 273th equivalent dwelling unit, the project applicant, or its designee, shall improve the Buena Creek Road/ S. Santa Fe Avenue intersection to provide dedicated right and left turn lanes on southbound Buena Creek Road. As the S. Santa Fe Avenue intersections with Buena Creek Road and Robelini Drive operate under a single traffic controller, as additional mitigation, the signal timing plan would be modified and the intersection signal equipment would be upgraded.

CEQA Findings and Statement of Overriding Considerations

Rationale: Although Mitigation Measure M-TR-7 would constitute partial mitigation, no feasible mitigation exists to fully mitigate the project's impact to the Robelini Drive/S. Santa Fe Avenue intersection. Therefore, Impact TR-8 is considered significant and unavoidable.

6) Impact TR-9

Description of Significant Effect: The project would have a significant impact on the segment of Deer Springs Road from Mesa Rock Road to I-15.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-9 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures:

M-TR-8 Prior to the issuance of the certificate of occupancy for the 24th equivalent dwelling unit, the project applicant, or its designee, shall widen the segment of Deer Springs Road between Mesa Rock Road and I-15 to San Diego County 4.1A Major Road standards, and to be consistent with the requirements set forth in the Caltrans Project Study Report prepared for the Deer Springs Road I-15 interchange improvements.

Rationale: Mitigation Measure M-TR-8 would mitigate the project's impact to the segment of Deer Springs Road from Mesa Rock Road to the I-15 SB Ramps to less than significant. However, because a portion of the Newland Sierra project improvements are under the jurisdiction and control of Caltrans and, thereby, subject to their concurrence and approval, Impact TR-9 is considered significant and unavoidable.

7) Impact TR-10

Description of Significant Effect: The project would have a significant impact on the segment of Deer Springs Road from Sarver Lane to Mesa Rock Road under the Existing + Project scenario.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant

CEQA Findings and Statement of Overriding Considerations

traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-10 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures:

M-TR-9 If Option A is approved, prior to the issuance of the certificate of occupancy for the 58th equivalent dwelling unit, the project applicant, or its designee, shall widen the segment of Deer Springs Road between Sarver Lane and Mesa Rock Road to a 2.1B Community Collector with a two-way center turn lane.

Or,

If Option B is approved, prior to the issuance of the certificate of occupancy for the 58th equivalent dwelling unit, the project applicant, or its designee, shall widen the segment of Deer Springs Road between Sarver Lane and Mesa Rock Road to San Diego County 4.1A Major Road standards.

Rationale: Mitigation Measure M-TR-9 would mitigate the project's impact to the segment of Deer Springs Road from Sarver Lane to Mesa Rock Road. Under Deer Springs Road Option A, Mitigation Measure M-TR-9 would reduce Impact TR-10 but not to less than significant, and therefore, impacts would remain significant and unavoidable. Under Deer Springs Road Option B, mitigation measure M-TR-9 would reduce Impact TR-10 to less than significant.

8) Impact TR-11

Description of Significant Effect: The project would have a significant impact on the segment of Deer Springs Road from Twin Oaks Valley Road to Sarver Lane.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-11 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures:

CEQA Findings and Statement of Overriding Considerations

M-TR-10 Prior to the issuance of the certificate of occupancy for the 40th equivalent dwelling unit, the project applicant, or its designee, shall widen the segment of Deer Springs Road between Twin Oaks Valley Road and the City of San Marcos (City) limits to City four-lane major arterial standards, and shall widen the segment between the San Marcos City Limits to Sarver Lane to the County's 4.1A Major Road standards.

Rationale: Mitigation Measure M-TR-10 would mitigate the project's impact to the segment of Deer Springs Road from Twin Oaks Valley Road to Sarver Lane. However, because a portion of the improvements are under the jurisdiction and control of the City of San Marcos and, thereby, subject to their concurrence and approval, Impact TR-11 is considered significant and unavoidable.

9) Impact TR-12

Description of Significant Effect: The project would have a significant impact on the segment of Twin Oaks Valley Road from Deer Springs Road to Buena Creek Road.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-12 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures:

M-TR-11 Prior to the issuance of the certificate of occupancy for the 41st EDU, the project applicant, or its designee, shall widen Twin Oaks Valley Road to City of San Marcos 4-Lane Major Arterial standards between Deer Springs Road and Buena Creek Road.

Rationale: Mitigation Measure M-TR-11 would mitigate the project's impact to the segment of Twin Oaks Valley Road from Deer Springs Road to Buena Creek Road to less than significant. However, because the improvements are under the jurisdiction and control of the City of San Marcos and, thereby, subject to their concurrence and approval, Impact TR-12 is considered significant and unavoidable.

10) Impact TR-13

Description of Significant Effect: The project would have a significant impact on the segment of Twin Oaks Valley Road from Buena Creek Road to Cassou Road.

CEQA Findings and Statement of Overriding Considerations

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-13 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: M-TR-5 is adopted to mitigate the significance of Impact TR-13. See discussion of Impact TR-5, above, for text of M-TR-5.

Rationale: Mitigation Measure M-TR-5 would mitigate the project's impact to the segment of Twin Oaks Valley Road from Buena Creek Road to Cassou Road to less than significant. However, because the improvements are under the jurisdiction and control of the City of San Marcos and, thereby, subject to their concurrence and approval, Impact TR-13 is considered significant and unavoidable.

11) Impact TR-14

Description of Significant Effect: The project would have a significant impact on the segment of Buena Creek Road from Monte Vista Drive to Twin Oaks Valley Road.

Finding: The below mitigation measures are feasible, are adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-14 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: M-TR-5 and M-TR-6 are adopted to mitigate the significance of Impact TR-14. See discussion of Impact TR-5 and Impact TR-6 above, for text of M-TR-5 and M-TR-6.

Rationale: Mitigation Measures M-TR-5 and M-TR-6 would mitigate the project's impact to the segment of Buena Creek Road from Monte Vista Drive to Twin Oaks Valley Road to less than significant. However, because the improvements identified in M-TR-5 are under the jurisdiction and control of San Marcos and, thereby, subject to their concurrence and approval, Impact TR-14 is considered significant and unavoidable.

CEQA Findings and Statement of Overriding Considerations

12) Impact TR-16

Description of Significant Effect: The project would have a significant impact on the segment of South Santa Fe Avenue from Robelini Drive to Buena Creek Road.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-16 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: M-TR-7 is adopted to mitigate the significance of Impact TR-16. See discussion of Impact TR-8, above, for text of M-TR-7.

Rationale: Although Mitigation Measure M-TR-7 would constitute partial mitigation, no feasible mitigation exists to fully mitigate the project's impact to the segment of S. Santa Fe Avenue from Robelini Drive to Buena Creek Road. Therefore, Impact TR-16 is considered significant and unavoidable.

13) Impact TR-17

Description of Significant Effect: The project would have a significant impact on the segment of Robelini Drive from Sycamore Avenue to South Santa Fe Avenue.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-17 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: M-TR-7 is adopted to mitigate the significance of Impact TR-17. See discussion of Impact TR-8, above, for text of M-TR-7.

Rationale: Although Mitigation Measure M-TR-7 would constitute partial mitigation, no feasible mitigation exists to fully mitigate the project's impact to the segment of Robelini Drive

CEQA Findings and Statement of Overriding Considerations

from Sycamore Avenue to S. Santa Fe Avenue. Therefore, Impact TR-17 is considered significant and unavoidable.

14) Impact TR-18

Description of Significant Effect: The project would have a significant impact on the segment of I-15 from Deer Springs Road to Pomerado Road.

Finding: There are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-18 would remain significant and unavoidable. However, pursuant to Public Resources Code Section 21081(b), specific overriding economic, legal, social, technological, and other benefits of the Project outweigh the significant and unavoidable impacts as set forth in the Statement of Overriding Considerations in Section XIII below.

Mitigation Measures: Specific economic, legal, social, technological, or other considerations make the mitigation measures identified in the Final EIR infeasible. No feasible mitigation measures exist to reduce impact TR-18.

Rationale: The improvements necessary to mitigate the identified impacts are to provide additional mainline capacity along this stretch of I-15. However, there is no Caltrans program in place to provide funding and implement the necessary improvements into which the Project could contribute a fair share, and, thus, there is no feasible mitigation that would reduce the identified impacts to less than significant. Therefore, the impacts are considered significant and unavoidable. Notwithstanding, the I-15/Deer Springs Road Interchange improvements (Interchange improvements), including the incorporation of ramp meters, the extension of acceleration/deceleration lanes, and improvements to the park-and-ride facility, all of which will be funded by the project applicant, are effective traffic management strategies that would assist in maintaining an efficient freeway system. Additionally, the project's Transportation Demand Management (TDM) Program, which also must be funded by the project applicant, includes community sponsored shuttle services and other measures designed to reduce single occupancy vehicle trips that would assist in reducing the project's impacts to the mainline. Collectively, these measures are responsive to mainline impacts, although they would not fully mitigate the project's significant impacts to the mainline; and, therefore, these impacts are considered significant and unavoidable.

V. CUMULATIVE ENVIRONMENTAL IMPACTS FOUND TO BE NOT SIGNIFICANT OR LESS THAN SIGNIFICANT AFTER MITIGATION

Pursuant to Section 21081(a) of the Public Resources Code and Section 15091(a)(1) of the State CEQA Guidelines, the County of San Diego Board of Supervisors finds that, for each of the following significant cumulative effects identified in the Final EIR, changes or alterations have been required in, or incorporated into, the Project which mitigate or avoid the identified significant effects on the environment to less than significant levels. The significant effects and mitigation measures are stated fully in the Final EIR. These findings are explained below and are supported by substantial evidence in the record of proceedings.

CEQA Findings and Statement of Overriding Considerations

A. Biological Resources**1) Impact BI-C-1**

Description of Significant Effect: Cumulative indirect project impacts would be significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-8A, M-BIO-8B, M-BIO-8C, M-BIO-8D, M-BIO-8E, M-BIO-10, M-BIO-11, and M-BIO-12 are adopted to mitigate the significance of Impact B-C-1. See discussion of Impact SP-2, SP-4, and V-3, above, for text of these measures.

Rationale: Implementation of M-BIO-8A, M-BIO-8B, M-BIO-8C, M-BIO-8D, M-BIO-8E, M-BIO-10, M-BIO-11, and M-BIO-12 would reduce cumulative indirect project impacts to less than significant by reducing planting and spread of invasive plant species that compete with sensitive species; preserving open space that supports these species where no building is allowed that requires vegetation clearing; implementing a RMP to provide for long-term management of the proposed biological open space preserve; constructing a fence that protects the proposed open space easement from unauthorized entry or disturbance; mapping occurrences of perennial, non-native species that have a rating of moderate or high by the California Invasive Plant Council that could be a threat to sensitive species; implementing a Fire Protection Plan to minimize potential exposure of the project site to fire hazards; and requiring necessary State and Federal Agency permits for disturbances of waters, streambeds, and/or associated riparian habitat.

2) Impact BI-C-2

Description of Significant Effect: Cumulative direct impacts to California gnatcatcher movement within the region would be significant

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-8A through M-BIO-8E are adopted to mitigate the significance of Impact BI-C-2. See discussion of Impact SP-2 and SP-4, above, for text of these measures.

Rationale: Implementation of M-BIO-8A through M-BIO-8E would reduce cumulative direct impacts to California gnatcatcher movement within the region to less than significant by: preserving open space that supports this species where no building is allowed that requires vegetation clearing; implementing a RMP to provide for long-term management of the proposed biological open space preserve; and constructing a fence that protects the proposed open space easement from unauthorized entry or disturbance.

3) Impact BI-C-3

CEQA Findings and Statement of Overriding Considerations

Description of Significant Effect: Cumulative impacts to wildlife movement corridors would be significant.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-BIO-8A through M-BIO-8E are adopted to mitigate the significance of Impact BI-C-3. See discussion of Impact SP-2 and SP-4, above, for text of these measures.

Rationale: Implementation of M-BIO-8A through M-BIO-8E would reduce cumulative impacts to wildlife movement corridors to less than significant by preserving open space that supports wildlife corridors where no building is allowed that requires vegetation clearing; implementing a RMP to provide for long-term management of the proposed biological open space preserve; and constructing a fence that protects the proposed open space easement from unauthorized entry or disturbance.

B. Transportation and Traffic

1) Impact TR-20

Description of Significant Effect: The project would have a significant impact on Deer Springs Road/Mesa Rock Road under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-TR-2 is adopted to mitigate the significance of Impact TR-20. See discussion of Impact TR-2 above, for text of M-TR-2

Rationale: Mitigation measure M-TR-2 would reduce impacts to the Deer Springs Road/Mesa Rock Road intersection to less than significant because it would provide an intersection configuration that would improve the safety and circulation of the intersection.

2) Impact TR-21

Description of Significant Effect: The project would have a significant impact on Deer Springs Road/Sarver Lane under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-TR-3 is adopted to mitigate the significance of Impact TR-21. See discussion of Impact TR-3, above, for text of M-TR-3.

CEQA Findings and Statement of Overriding Considerations

Rationale: Mitigation measure M-TR-3 would reduce impacts to the Deer Springs Road/Sarver Lane intersection to less than significant because it would provide an intersection configuration that would improve the safety and circulation of the intersection.

3) Impact TR-22

Description of Significant Effect: The project would have a significant impact on Deer Springs Road/Sycamore Road under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-TR-12 The project applicant, or its designee, shall signalize this intersection if the intersection is not yet signalized by issuance of the certificate of occupancy for the 40th EDU.

Rationale: Mitigation measure M-TR-12 would reduce impacts to the Deer Springs Road/Sycamore Road intersection under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios to less than significant because it would signalize the intersection if the intersection is not yet signalized by issuance of the certificate of occupancy for the 40th EDU, which would ensure safe traffic conditions.

4) Impact TR-26

Description of Significant Effect: The project would have a significant impact on the Buena Creek Road/Monte Vista Road intersection under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-TR-6 is adopted to mitigate the significance of Impact TR-26. See discussion of Impact TR-6 above, for text of M-TR-6.

Rationale: Mitigation measure M-TR-6 would reduce impacts to the Buena Creek Road/Monte Vista Road intersection under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios to less than significant because it would either provide a traffic signal and lane configuration improvements at the intersection or build a roundabout at this intersection, which would ensure safe traffic conditions.

5) Impact TR-27

Description of Significant Effect: The project would have a significant impact on the Buena Creek Road/South Santa Fe Avenue intersection under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

CEQA Findings and Statement of Overriding Considerations

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-TR-7 is adopted to mitigate the significance of Impact TR-27. See discussion of Impact TR-7 above, for text of M-TR-7.

Rationale: Mitigation measure M-TR-7 would reduce impacts to the Buena Creek Road/South Santa Fe Avenue intersection under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios to less than significant because it would provide dedicated right and left turn lanes on southbound Buena Creek Road, a modified signal timing plan, and upgraded intersection signal equipment that would ensure safe traffic conditions.

6) Impact TR-28

Description of Significant Effect: The project would have a significant impact on the Robelini Drive/S. Santa Fe Avenue intersection under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures:

M-TR-14 The Project applicant, or its designee, shall participate in the County TIF Program.

Rationale: Mitigation measure M-TR-14 would reduce impacts to the Robelini Drive/S. Santa Fe Avenue intersection under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios to less than significant because it would require the Project applicant, or its designee, to participate in the County TIF Program, which would ensure that traffic impacts are reduced.

7) Impact TR-30

Description of Significant Effect: The project would have a significant impact on the segment of Deer Springs Road from Sarver Lane to Mesa Rock Road under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-TR-9 is adopted to mitigate the significance of Impact TR-30. See discussion of Impact TR-10 above, for text of M-TR-9.

Rationale: Mitigation measure M-TR-9 would reduce impacts to the segment of Deer Springs Road from Sarver Lane to Mesa Rock Road under both Existing + Project + Cumulative Projects

CEQA Findings and Statement of Overriding Considerations

With and Without the Mountain Meadow Road Connection scenarios under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios to less than significant under Option B because it would widen the segment of Deer Springs Road between Sarver Lane and Mesa Rock Road to San Diego County 4.1A Major Road standards if Option B is approved, which would improve traffic conditions.

8) Impact TR-36

Description of Significant Effect: The project would have a significant impact on the segment of Buena Creek Road from S. Santa Fe Avenue to Monte Vista Drive under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-TR-6 and M-TR-7 are adopted to mitigate the significance of Impact TR-36. See discussion of Impact TR-6 and Impact TR-7 above, for text of M-TR-6 and M-Tr-7.

Rationale: Mitigation measure M-TR-6 and M-TR-7 would reduce impacts to the segment of Buena Creek Road from S. Santa Fe Avenue to Monte Vista Drive under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios to less than significant because they would provide a traffic signal and intersection configuration or a roundabout that would improve the safety and circulation of the Buena Creek Road/Monte Vista Drive intersection and would provide dedicated right and left turn lanes on southbound Buena Creek Road, modify the signal timing plan, and upgrade the intersection signal equipment at the Buena Creek Road/South Santa Fe Avenue intersection.

9) Impact TR-37

Description of Significant Effect: The project would have a significant impact on the segment of Monte Vista Drive from Foothills Drive to Buena Creek Road under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-TR-6 would mitigate the significance of Impact TR-37. See discussion of Impact TR-6 above, for text of M-TR-6.

Rationale: Mitigation measure M-TR-6 would reduce impacts to the segment of Monte Vista Drive from Foothills Drive to Buena Creek Road under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios to less than significant because they would provide a traffic signal and intersection configuration or a roundabout that would improve the safety and circulation of the Buena Creek Road/Monte Vista Drive intersection.

CEQA Findings and Statement of Overriding Considerations

10) Impact TR-38

The project would have a significant impact on the segment of South Santa Fe Avenue from Robelini Drive to Buena Creek Road under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-TR-14 is adopted to mitigate the significance of Impact TR-38. See discussion of Impact TR-28 above, for text of M-TR-14.

Rationale: Mitigation measure M-TR-14 would reduce impacts to the segment of South Santa Fe Avenue from Robelini Drive to Buena Creek Road under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios to less than significant because it would require the Project applicant, or its designee, to participate in the County TIF Program, which would ensure that traffic impacts are reduced.

11) Impact TR-39

Description of Significant Effect: The project would have a significant impact on the segment of Robelini Drive from Sycamore Avenue to S. Santa Fe Avenue under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-TR-14 is adopted to mitigate the significance of Impact TR-38. See discussion of Impact TR-28 above, for text of M-TR-14.

Rationale: Mitigation measure M-TR-14 would reduce impacts to the segment of Robelini Drive from Sycamore Avenue to S. Santa Fe Avenue under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios to less than significant because it would require the Project applicant, or its designee, to participate in the County TIF Program, which would ensure that traffic impacts are reduced.

12) Impact TR-40

Description of Significant Effect: The project would have a significant impact on the segment of Gopher Canyon Road from Little Gopher Canyon Road to I-15 Ramps under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.

Mitigation Measures: M-TR-14 is adopted to mitigate the significance of Impact TR-38. See discussion of Impact TR-28 above, for text of M-TR-14.

CEQA Findings and Statement of Overriding Considerations

Rationale: Mitigation measure M-TR-14 would reduce impacts to the segment of segment of Gopher Canyon Road from Little Gopher Canyon Road to I-15 Ramps under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios to less than significant because it would require the Project applicant, or its designee, to participate in the County TIF Program, which would ensure that traffic impacts are reduced.

VI. CUMULATIVE IMPACTS FOUND TO BE SIGNIFICANT AND UNAVOIDABLE AFTER MITIGATION

This section identifies the significant and unavoidable cumulative impacts that require a Statement of Overriding Considerations to be issued by the County upon approval of the Newland Sierra Project. Based on the analysis contained in the Final EIR, the following cumulative impacts to aesthetics, air quality, noise, population and housing, and transportation and traffic have been determined to fall within this “significant unavoidable impact” category. These unavoidable impacts are overridden by project benefits as set forth in the statement of overriding considerations in Section XIII, below.

Pursuant to Section 21081(a) of the Public Resources Code and Section 15091(a)(3) of the State CEQA Guidelines, the County of San Diego Board of Supervisors finds that, for each of the following significant cumulative effects, specific economic, legal, social, technological, or other considerations, including provisions of employment opportunities for highly trained workers, make infeasible the mitigation measures or alternatives identified in the Final EIR. These findings are explained below and are supported by substantial evidence in the record of proceedings.

A. Aesthetics

1) Impact AES-CUM-1:

Description of Significant Effect: Cumulative projects within the project viewshed identified in Table 1-10 of the Final EIR would combine with the proposed project to change the existing composition of the visual environment. With implementation of the identified projects and the proposed project, the area would transition from primarily agriculture and rural residential land use development pattern to a more urban pattern of development. Physical changes associated with vegetation removal, grading, and the addition of residential development would adversely affect the viewshed.

Finding: There are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact AES-CUM-1 would remain significant and unavoidable. However, pursuant to Public Resources Code Section 21081(b), specific overriding economic, legal, social, technological, and other benefits of the Project outweigh the significant and unavoidable impacts as set forth in the Statement of Overriding Considerations in Section XIII below.

CEQA Findings and Statement of Overriding Considerations

Mitigation Measures: Specific economic, legal, social, technological, or other considerations make the mitigation measures identified in the Final EIR infeasible. No feasible mitigation measures exist to reduce the identified cumulative aesthetic impact.

Rationale: Based on the analysis presented in Section 2.1 of the EIR, development of the Project and related projects is expected to contribute to visual changes within the area by transitioning from primarily agriculture and a rural residential land use development pattern to a more urban pattern of development. Physical changes associated with vegetation removal, grading, and the addition of residential development would adversely affect the viewshed. Accordingly, the cumulative impact of the Project together with related projects on aesthetics/visual quality are considered significant and unavoidable.

B. Air Quality

1) Impact AQ-4

Description of Significant Effect: The proposed project's temporary cumulative construction effects relative to NO_x, CO, PM₁₀ and PM_{2.5} emissions would be significant and unavoidable following project-specific mitigation when considered in combination with reasonably foreseeable future projects under the cumulative scenario.

Finding: The below mitigation measures are feasible, are adopted, and will substantially lessen the air quality impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant air quality impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact AQ-4 would remain significant and unavoidable. However, pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: M-AQ-2 through M-AQ-4 are provided to reduce construction-related impacts to criteria pollutant emissions. See discussion at Impact AQ-2 above for text of M-AQ-2 through M-AQ-4.

Rationale: Daily construction emissions after implementation of M-AQ-2 through M-AQ-4 would still exceed the thresholds for NO_x, CO, PM₁₀, and PM_{2.5}. Therefore impacts would remain significant and unavoidable because no additional feasible mitigation measures can be implemented to reduce NO_x, CO, PM₁₀, and PM_{2.5} impacts.

2) Impact AQ-5

Description of Significant Effect: The proposed project would exceed operational criteria pollutant emission thresholds, thereby resulting in direct impacts to VOCs, CO, and PM₁₀ and

CEQA Findings and Statement of Overriding Considerations

PM_{2.5}. Therefore, when combined with potential future projects, operational cumulative emissions would be considered potentially significant.

Finding: The below mitigation measures are feasible, are adopted, and will substantially lessen the air quality impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant air quality impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact AQ-5 would remain significant and unavoidable. However, pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: M-AQ-6 through M-AQ-9 are provided to reduce impacts related to cumulative operational criteria pollutant emissions. See discussion at Impact AQ-3 above for text of M-AQ-6 through M-AQ-9.

In addition, PDF-1 through PDF-32 have been incorporated into the project as PDFs and would reduce the projects cumulative operational air quality emissions.

Rationale: Daily operational emissions after implementation of M-AQ-6 through M-AQ-9 would still exceed the thresholds for NO_x, CO, PM₁₀, and PM_{2.5} following implementation of M-AQ-6 through M-AQ-9. Based on the emissions total parameters illustrated in Table 2.3-12, impacts would remain significant and unavoidable, because no additional feasible mitigation measures can be implemented to reduce NO_x, CO, PM₁₀, and PM_{2.5} impacts.

C. Noise

1) **Impact CUM-N-1**

Description of Significant Effect: Noise level increases attributable to the proposed project along Deer Springs Road at Receiver O5, O11 and O12 would be 3 to 4 dBA CNEL under Deer Springs Road Option B where existing or future noise levels equal or exceed the applicable standards.

Finding: There are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact CUM-N-1 would remain significant and unavoidable. However, pursuant to Public Resources Code Section 21081(b), specific overriding economic, legal, social, technological, and other benefits of the Project outweigh the significant and unavoidable impacts as set forth in the Statement of Overriding Considerations in Section XIII below.

Mitigation Measures: No feasible mitigation measures exist to reduce or avoid the identified impact to noise.

CEQA Findings and Statement of Overriding Considerations

Rationale: Noise level increases attributable to the proposed project along Deer Springs Road at Receivers O5, O11 and O12 would be 3 to 4 dBA CNEL with the Deer Springs Road Option B configuration and would exceed the applicable noise standards. Several methods and measures are available to reduce traffic noise, such as noise barriers, road surface improvements, regulatory measures (such as lower speed limits), and traffic-calming devices (such as speed bumps). However, none of these measures are considered feasible. For example, assuming noise barriers could be constructed entirely within the County's right-of-way, such barriers may not be effective due to the need to provide driveways and other access points, which would limit the continuity, and effectiveness, of the barrier. Additionally, constructing noise barriers on private property would be effective, although residents may not approve of such for various reasons; however, there are both liability and long-term maintenance concerns that would need to be addressed. For these reasons, noise barriers are considered infeasible.

The remaining potential mitigation methods (road surface improvements, regulatory measures, traffic calming devices, etc.) likely would not substantially reduce or avoid impacts. In addition, some measures may not be desired by the local residents and may increase visual or traffic impacts. Additionally, the project would be responsible only for its fair-share of the costs of necessary improvements, and there is no funding plan or program in place to construct the improvements (i.e., there is no noise impact fee program in place). Finally, measures such as reduced speed limits or traffic-calming devices require legal or government enforcement and may cause other undesirable or unacceptable impacts, such as speed bumps lengthening emergency response calls.

For these reasons, specific economic, legal, social, technological, or other considerations make the mitigation measures identified in the Final EIR infeasible to mitigate the significant cumulative off-site impacts from project-related traffic noise level increases along Deer Springs Road. Cumulative impacts would be significant and unavoidable.

D. Population and Housing

1) Impact CUM-PH-2

Description of Significant Effect: The proposed project, in combination with the cumulative projects, would result in substantial population growth.

Finding: There are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact PH-1 would remain significant and unavoidable. However, pursuant to Public Resources Code Section 21081(b), specific overriding economic, legal, social, technological, and other benefits of the Project outweigh the significant and unavoidable impacts as set forth in the Statement of Overriding Considerations in Section XIII below.

CEQA Findings and Statement of Overriding Considerations

Mitigation Measures: Specific economic, legal, social, technological, or other considerations make the mitigation measures identified in the Final EIR infeasible. No feasible mitigation measures exist to reduce or avoid the identified impacts.

Rationale: The proposed project, in combination with the cumulative projects, would result in substantial population growth. For those same reasons discussed relative to Impact PH-1 above, such impacts cannot be feasibly mitigated. Impacts would remain significant and unavoidable.

E. Transportation and Traffic

1) Impact TR-19A

Description of Significant Effect: The project would have a significant impact on the Deer Springs Road/I-15 NB Ramps intersection under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-19A would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: M-TR-1 is adopted to mitigate the significance of Impact TR-19A. See discussion of Impact TR-1A, above, for text of M-TR-1.

Rationale: Mitigation Measure M-TR-1 would mitigate the project's cumulative impacts to Deer Springs Road/I-15 NB Ramps and Deer Springs Road/I-15 SB Ramps. If the I-15/Deer Springs Road interchange improvements are implemented, these improvements would mitigate the corresponding cumulative impact to less than significant. However, because the Newland Sierra project improvements are under the jurisdiction and control of Caltrans and, thereby, subject to their concurrence and approval, Impacts TR-19A is considered significant and unavoidable.

2) Impact TR-19B

Description of Significant Effect: The project would have a significant impact on the Deer Springs Road/I-15 SB Ramps intersection under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have

CEQA Findings and Statement of Overriding Considerations

been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-19B would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: M-TR-1 is adopted to mitigate the significance of Impact TR-19B. See discussion of Impact TR-1A, above, for text of M-TR-1.

Rationale: Mitigation Measure M-TR-1 would mitigate the project's cumulative impacts to Deer Springs Road/I-15 NB Ramps and Deer Springs Road/I-15 SB Ramps. If the I-15/Deer Springs Road interchange improvements are implemented, these improvements would mitigate the corresponding cumulative impact to less than significant. However, because the Newland Sierra project improvements are under the jurisdiction and control of Caltrans and, thereby, subject to their concurrence and approval, Impacts TR-19B is considered significant and unavoidable.

3) Impact TR-23

Description of Significant Effect: The project would have a significant impact on the Twin Oaks Valley Road/Deer Springs Road intersection under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-23 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: M-TR-4 is adopted to mitigate the significance of Impact TR-23. See discussion of Impact TR-4, above, for text of M-TR-1.

Rationale: Mitigation Measure M-TR-4 would mitigate the project's cumulative impact to the intersection of Twin Oaks Valley Road/Deer Springs Road (Impact TR-23) to less than significant. However, because the improvements are under the jurisdiction and control of the City of San Marcos and, thereby, subject to their concurrence and approval, Impact TR-23 is considered significant and unavoidable.

4) Impact TR-24

CEQA Findings and Statement of Overriding Considerations

Description of Significant Effect: The project would have a significant impact on the Twin Oaks Valley Road/Buena Creek Road intersection under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-24 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: M-TR-5 is adopted to mitigate the significance of Impact TR-24. See discussion of Impact TR-5, above, for text of M-TR-5.

Rationale: Mitigation Measure M-TR-5 would mitigate the project's cumulative impact to the intersection of Twin Oaks Valley Road/Buena Creek Road to less than significant. However, because the improvements are under the jurisdiction and control of the City of San Marcos and, thereby, subject to their concurrence and approval, Impact TR-24 is considered significant and unavoidable.

5) **Impact TR-25**

Description of Significant Effect: The project would have a significant impact on the Twin Oaks Valley Road/San Marcos Boulevard under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-25 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures:

M-TR-13 The project applicant, or its designee, shall contribute the project's fair share toward implementing a dedicated southbound right-turn lane and a third

CEQA Findings and Statement of Overriding Considerations

westbound left-turn lane at this intersection with appropriate signal modifications prior to the issuance of the first certificate of occupancy in the project.

Rationale: Mitigation Measure M-TR-13 would mitigate the project's cumulative impact to the intersection of Twin Oaks Valley Road/San Marcos Boulevard to less than significant. However, because the improvements are under the jurisdiction and control of the City of San Marcos and, thereby, subject to their concurrence and approval, Impact TR-25 is considered significant and unavoidable.

6) **Impact TR-29**

Description of Significant Effect: The project would have a significant impact on the Deer Springs Road from Mesa Rock Road to I-15 under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-29 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: M-TR-8 is adopted to mitigate the significance of Impact TR-29. See discussion of Impact TR-9, above, for text of M-TR-8.

Rationale: Mitigation Measure M-TR-8 would mitigate the project's cumulative impact to the segment of Deer Springs Road from Mesa Rock Road to the I-15 SB Ramps to less than significant. However, because a portion of the Newland Sierra project improvements are under the jurisdiction and control of Caltrans and, thereby, subject to their concurrence and approval, Impact TR-29 is considered significant and unavoidable.

7) **Impact TR-30**

Description of Significant Effect: The project would have a significant impact on Deer Springs Road from Sarver Lane to Mesa Rock Road under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant

CEQA Findings and Statement of Overriding Considerations

traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-30 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: M-TR-9 is adopted to mitigate the significance of Impact TR-30. See discussion of Impact TR-10, above, for text of M-TR-9.

Rationale: Mitigation Measure M-TR-9 would mitigate the project's cumulative impact to the segment of Deer Springs Road from Sarver Lane to Mesa Rock Road. Under Deer Springs Road Option A, Mitigation Measure M-TR-9 would reduce Impact TR-30 but not to less than significant, and therefore, impacts would remain significant and unavoidable. Under Deer Springs Road Option B, mitigation measure M-TR-9 would reduce Impact TR-30 to less than significant.

8) Impact TR-31

Description of Significant Effect: The project would have a significant impact on the segment of Deer Springs Road from Twin Oaks Valley Road to Sarver Lane under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-31 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: M-TR-10 is adopted to mitigate the significance of Impact TR-31. See discussion of Impact TR-11, above, for text of M-TR-10.

Rationale: Mitigation Measure M-TR-10 would mitigate the project's cumulative impact to the segment of Deer Springs Road from Twin Oaks Valley Road to Sarver Lane. However, because a portion of the improvements are under the jurisdiction and control of the City of San Marcos and, thereby, subject to their concurrence and approval, Impact TR-31 is considered significant and unavoidable.

9) Impact TR-32

CEQA Findings and Statement of Overriding Considerations

Description of Significant Effect: The project would have a significant impact on the segment of Twin Oaks Valley Road from Deer Springs Road to Buena Creek Road under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-32 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: M-TR-11 is adopted to mitigate the significance of Impact TR-32. See discussion of Impact TR-12, above, for text of M-TR-11.

M-TR-11 - M-TR-11 - Prior to the issuance of the certificate of occupancy for the 41st EDU, the project applicant, or its designee, shall widen Twin Oaks Valley Road to City of San Marcos 4-Lane Major Arterial standards between Deer Springs Road and Buena Creek Road.

Rationale: Mitigation Measure M-TR-11 would mitigate the project's cumulative impact to the segment of Twin Oaks Valley Road from Deer Springs Road to Buena Creek Road to less than significant. However, because the improvements are under the jurisdiction and control of the City of San Marcos and, thereby, subject to their concurrence and approval, Impact TR-32 is considered significant and unavoidable.

10) Impact TR-33

Description of Significant Effect: The project would have a significant impact on the segment of Twin Oaks Valley Road from Buena Creek Road to Cassou Road under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-33 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding

CEQA Findings and Statement of Overriding Considerations

Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: M-TR-5 is adopted to mitigate the significance of Impact TR-33. See discussion of Impact TR-5, above, for text of M-TR-5.

Rationale: Mitigation Measure M-TR-5 would mitigate the project's cumulative impact to the segment of Twin Oaks Valley Road from Buena Creek Road to Cassou Road to less than significant. However, because the improvements are under the jurisdiction and control of the City of San Marcos and, thereby, subject to their concurrence and approval, Impact TR-33 is considered significant and unavoidable.

11) Impact TR-34

Description of Significant Effect: The project would have a significant impact on the segment of Twin Oaks Valley Road: Richmar Road to San Marcos Boulevard under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-34 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: M-TR-13 is adopted to mitigate the significance of Impact TR-34. See discussion of Impact TR-25, above, for text of M-TR-13.

Rationale: Mitigation Measure M-TR-13 would mitigate the project's cumulative impact to the segment of Twin Oaks Valley Road from Richmar Avenue to San Marcos Boulevard to less than significant. However, because the improvements are under the jurisdiction and control of the City of San Marcos and, thereby, subject to their concurrence and approval, Impact TR-34 is considered significant and unavoidable.

12) Impact TR-35

Description of Significant Effect: The project would have a significant impact on the segment of Buena Creek Road from Monte Vista Drive to Twin Oaks Valley Road under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

CEQA Findings and Statement of Overriding Considerations

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-35 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: M-TR-5 and M-TR-6 are adopted to mitigate the significance of Impact TR-35. See discussion of Impact TR-5 and Impact TR-6, above, for text of M-TR-5 and M-TR-6.

Rationale: Mitigation Measures M-TR-5 and M-TR-6 would mitigate the project's cumulative impact to the segment of Buena Creek Road from Monte Vista Drive to Twin Oaks Valley Road to less than significant. However, because a portion of the improvements are under the jurisdiction and control of the City of San Marcos and, thereby, subject to their concurrence and approval, Impact TR-35 is considered significant and unavoidable.

13) Impact TR-41

Description of Significant Effect: The project would have a significant impact on the segment of I-15 from Old Highway 395 to Pomerado Road under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: There are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-41 would remain significant and unavoidable. However, pursuant to Public Resources Code Section 21081(b), specific overriding economic, legal, social, technological, and other benefits of the Project outweigh the significant and unavoidable impacts as set forth in the Statement of Overriding Considerations in Section XIII below.

Mitigation Measures: Specific economic, legal, social, technological, or other considerations make the mitigation measures identified in the Final EIR infeasible. No feasible mitigation measures exist to reduce impact TR-41.

Rationale: The improvements necessary to mitigate the identified impacts are to provide additional mainline capacity along this stretch of I-15. However, there is no Caltrans program in place to provide funding and implement the necessary improvements into which the Project could contribute a fair share, and, thus, there is no feasible mitigation that would reduce the identified impacts to less than significant. Therefore, the impacts are considered significant and unavoidable. Notwithstanding, the I-15/Deer Springs Road Interchange improvements (Interchange improvements), including the incorporation of ramp meters, the extension of

CEQA Findings and Statement of Overriding Considerations

acceleration/deceleration lanes, and improvements to the park-and-ride facility, all of which will be funded by the project applicant, are effective traffic management strategies that would assist in maintaining an efficient freeway system. Additionally, the project's Transportation Demand Management (TDM) Program, which also must be funded by the project applicant, includes community sponsored shuttle services and other measures designed to reduce single occupancy vehicle trips that would assist in reducing the project's impacts to the mainline. Collectively, these measures are responsive to mainline impacts, although they would not fully mitigate the project's significant impacts to the mainline; and, therefore, these impacts are considered significant and unavoidable.

14) Impact TR-42

Description of Significant Effect: The project would have a significant impact on the segment of SR 78 from Mar Vista Road to Sycamore Avenue under both Existing + Project + Cumulative Projects With and Without the Mountain Meadow Road Connection scenarios.

Finding: There are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-42 would remain significant and unavoidable. However, pursuant to Public Resources Code Section 21081(b), specific overriding economic, legal, social, technological, and other benefits of the Project outweigh the significant and unavoidable impacts as set forth in the Statement of Overriding Considerations in Section XIII below.

Mitigation Measures: Specific economic, legal, social, technological, or other considerations make the mitigation measures identified in the Final EIR infeasible. No feasible mitigation measures exist to reduce impact TR-42.

Rationale: As it relates to the project's cumulative impact to the segment of SR 78 between Mar Vista Road and Sycamore Avenue, potentially feasible mitigation exists in the form of a fair share contribution to Caltrans for the planned improvement to add high-occupancy-vehicle (HOV) lanes in both directions on State Route 78. However, as the timing and implementation of these improvements are under the jurisdiction and control of Caltrans and, thereby, subject to their concurrence and approval, Impact TR-42 is considered significant and unavoidable.

15) Impact TR-43

Description of Significant Effect: The project would have a significant impact on the segment of Twin Oaks Valley Road from Deer Springs Road to Buena Creek Road under the City of San Marcos Horizon Year 2035, Full Road Network Buildout.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no

CEQA Findings and Statement of Overriding Considerations

feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-43 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures:

M-TR-15 Prior to the issuance of the first certificate of occupancy, the project applicant, or its designee, shall pay a fair share towards providing a third southbound lane on Twin Oaks Valley Road between Deer Springs Road and Buena Creek Road.

Rationale: Mitigation Measure M-TR-15 would mitigate the project's San Marcos Horizon Year Full Road Network Buildout cumulative impact to the segment of Twin Oaks Valley Road from Deer Springs Road to Buena Creek Road. However, because the improvements are under the jurisdiction and control of the City of San Marcos and, thereby, subject to their concurrence and approval, Impact TR-43 is considered significant and unavoidable.

16) Impact TR-44

Description of Significant Effect: The project would have a significant impact on the segment of Twin Oaks Valley Road/Richmar Avenue under the City of San Marcos Horizon Year 2035, Modified Road Network Buildout.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-44 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures:

M-TR-16 Prior to the issuance of the first certificate of occupancy, the project applicant, or its designee, shall pay a fair share towards providing a dedicated southbound right-turn lane on Twin Oaks Valley Road at Richmar Avenue.

Rationale: Mitigation Measure M-TR-16 would mitigate the project's San Marcos Horizon Year Modified Road Network cumulative impact to the intersection of Twin Oaks Valley Road/Richmar Avenue. However, because the improvements are under the jurisdiction and

CEQA Findings and Statement of Overriding Considerations

control of the City of San Marcos and, thereby, subject to their concurrence and approval, Impact TR-44 is considered significant and unavoidable.

17) Impact TR-45

Description of Significant Effect: The project would have a significant impact on the segment of Twin Oaks Valley Road from Deer Springs Road to Buena Creek Road under the City of San Marcos Horizon Year 2035, Modified Road Network Buildout.

Finding: The below mitigation measure is feasible, is adopted, and will substantially lessen the traffic impacts attributable to the Newland Sierra Project. Pursuant to Public Resources Code Section 21081(a)(1) and CEQA Guidelines Section 15091(a)(1), changes or alterations have been required in, or incorporated into, the Project which will mitigate, in part, this significant traffic impact attributable to the Project, as identified in the Final EIR. However, there are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-45 would remain significant and unavoidable. Pursuant to Public Resources Code Section 21081(b), see Section XIII, Statement of Overriding Considerations, for the specific overriding economic, legal, social, technological, and other benefits of the Project that outweigh the significant and unavoidable impacts.

Mitigation Measures: M-TR-15 is adopted to mitigate the significance of Impact TR-45. See discussion of Impact TR-43, above, for text of M-TR-15.

Rationale: Mitigation Measure M-TR-15 would mitigate the project's San Marcos Horizon Year Modified Road Network cumulative impact to the segment of Twin Oaks Valley Road from Deer Springs Road to Buena Creek Road. However, because the improvements are under the jurisdiction and control of the City of San Marcos and, thereby, subject to their concurrence and approval, Impact TR-45 is considered significant and unavoidable.

18) Impact TR-46

Description of Significant Effect: Implementation of the TDM Program would result in a 6.1 percent reduction in project VMT attributable to residential land uses; however, under Scenario 1, project home-based automobile VMT would exceed the region-wide thresholds by approximately 5 percent for single-family and approximately 16 percent for multi-family and age-qualified residences.

Finding: There are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-46 would remain significant and unavoidable. However, pursuant to Public Resources Code Section 21081(b), specific overriding economic, legal, social, technological, and other benefits of the Project outweigh the significant and unavoidable impacts as set forth in the Statement of Overriding Considerations in Section XIII below.

Mitigation Measures: No feasible mitigation measures exist to reduce Impact TR-46.

CEQA Findings and Statement of Overriding Considerations

Rationale: With application of a region-wide threshold (Scenario 1), the project would result in a significant and unavoidable impact (Impact TR-46). With application of a subregional threshold (Scenario 2), the project would result in a less than significant impact. No feasible mitigation measures exist to mitigate this impact.

19) Impact TR-47

Description of Significant Effect: With implementation of a TDM Program would reduce the residential component of the project's VMT by 6.1 percent, to a range of approximately 1,546,763 (1,647,763 less 6.1 percent) to 9,280,578 (9,883,470 less 6.1 percent) under the Near Term scenario which would exceed the threshold (2,075,200).

Finding: There are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-47 would remain significant and unavoidable. However, pursuant to Public Resources Code Section 21081(b), specific overriding economic, legal, social, technological, and other benefits of the Project outweigh the significant and unavoidable impacts as set forth in the Statement of Overriding Considerations in Section XIII below.

Mitigation Measures: No feasible mitigation measures exist to reduce Impact TR-47.

Rationale: The induced VMT as a result of the project's proposed off-site road improvements would exceed the draft OPR-recommended threshold in the near-term scenario and no feasible mitigation exists to mitigate the project's impact to travel-induced VMT; therefore, Impact TR-47 is considered significant and unavoidable.

20) Impact TR-48

Description of Significant Effect: With TDM measures, VMT would be reduced by 6.1 percent to 15,931,694. Therefore, under this method the long-term estimate would exceed the threshold (2,075,220).

Finding: There are no feasible mitigation measures that will reduce the identified significant impact to a level below significant. Therefore, Impact TR-48 would remain significant and unavoidable. However, pursuant to Public Resources Code Section 21081(b), specific overriding economic, legal, social, technological, and other benefits of the Project outweigh the significant and unavoidable impacts as set forth in the Statement of Overriding Considerations in Section XIII below.

Mitigation Measures: No feasible mitigation measures exist to reduce Impact TR-48.

Rationale: The induced VMT as a result of the project's proposed off-site road improvements would exceed the draft OPR-recommended threshold in the long-term scenario and no feasible mitigation exists to mitigate the project's impact to travel-induced VMT; therefore, Impact TR-48 is considered significant and unavoidable. However, under the second method, the project's proposed road improvements are consistent with the County's General Plan Mobility Element,

CEQA Findings and Statement of Overriding Considerations

which is consistent with SANDAG's "San Diego Forward: The Regional Plan," a Regional Transportation Plan/Sustainable Communities Strategy (RTP/SCS) for the San Diego Region. Therefore, in this regard, impacts would be considered less than significant.

VII. FINDINGS REGARDING POTENTIAL ENVIRONMENTAL EFFECTS WITHIN THE RESPONSIBILITY AND JURISDICTION OF ANOTHER PUBLIC AGENCY

Pursuant to Section 21081(a)(2) of the Public Resources Code and Section 15091(a)(2) of the State CEQA Guidelines, the County of San Diego Board of Supervisors finds that, for each of the following potential effects identified in the Final EIR, that the environmental impacts described below are within the responsibility and jurisdiction of Caltrans, and not the County of San Diego. The County finds that changes or alterations necessary to address the significant impacts can and should be adopted by Caltrans or another agency. The Findings below are made pursuant to CEQA Guidelines Section 15091(a)(2).

A. Agricultural Resources

1) Mitigation related to I-15 Interchange Improvements

Description: While the final configuration and design of the Caltrans interchange improvements are not known at this time, such improvements are not expected to affect significant agricultural resources because these improvements would be implemented within the already disturbed I-15 corridor, and not within or adjacent to any existing, significant agricultural, farmland, timberland, or forest resources. However, to ensure potential impacts to agricultural resources remain less than significant, the County adopts mitigation measure M-AGR-2.

Finding: The County finds that, pursuant to Public Resources Code Section 21081(a)(2) and CEQA Guidelines Section 15091(a)(2), I-15 interchange improvements are within the responsibility and jurisdiction of another public agency, and such changes can and should be adopted by such other agency.

Mitigation Measures:

M-AGR-2 Pursuant to California Public Resources Code Section 21081(a)(2), in coordination with the I-15 interchange improvement project, which is to be fully funded and constructed by the project applicant, though is within the jurisdiction of Caltrans to approve, Caltrans can and should assess, or cause to be assessed, whether the improvements would have a potentially significant impact on any agricultural, farmland, timberland, or forest resources as part of the NEPA/CEQA process. Where such impacts are unavoidable, Caltrans can and should require such impacts are mitigated in the manner prescribed by the environmental review document.

CEQA Findings and Statement of Overriding Considerations

Rationale: Implementation of M-AGR-2 would ensure potential impacts from Caltrans I-15 interchange improvements to agricultural resources remain less than significant by requiring Caltrans to assess or cause to be assessed whether improvements would have a potentially significant impact on agricultural, farmland, timberland, or forest resources, and to mitigate for any potential significant impacts.

B. Air Quality

1) Mitigation related to I-15 Interchange Improvements

Description: While the final configuration and design of the Caltrans interchange improvements are not known at this time, the County adopts M-AQ-5 to ensure potential impacts to air quality remain less than significant.

Finding: The County finds that, pursuant to Public Resources Code Section 21081(a)(2) and CEQA Guidelines Section 15091(a)(2), I-15 interchange improvements are within the responsibility and jurisdiction of another public agency, and such changes can and should be adopted by such other agency.

Mitigation Measure:

M-AQ-5 Pursuant to California Public Resources Code Section 21081(a)(2), in coordination with the I-15 interchange improvement project, which is to be fully funded and constructed by the project applicant, though is within the responsibility and jurisdiction of Caltrans to approve, Caltrans can and should require that project-appropriate measures for the proposed interchange project are implemented to avoid or minimize temporary construction-related impacts to air quality, such as compliance with Caltrans Standard Specifications 10-Dust Control and 18-Dust Palliative.

Rationale: Implementation of M-AQ-5 would mitigate air quality impacts resulting from the final configuration and design of the Caltrans interchange improvements because it would require that project-appropriate measures for the proposed interchange project are implemented to avoid or minimize temporary construction-related impacts to air quality

C. Biological Resources

1) Mitigation for I-15 Interchange Improvements

Description: While the final configuration and design of the Caltrans interchange improvements are not known at this time, Caltrans' selection of the final "build" project or alternative may have the potential to impact or remove biological resources, including RPO wetlands. To ensure potential impacts to biological resources remain less than significant, this EIR recommends the following measure:

Finding: The County finds that, pursuant to Public Resources Code Section 21081(a)(2) and CEQA Guidelines Section 15091(a)(2), I-15 interchange improvements are within the

CEQA Findings and Statement of Overriding Considerations

responsibility and jurisdiction of another public agency, and such changes can and should be adopted by such other agency.

Mitigation Measures:

M-BIO-13 I-15 INTERCHANGE IMPROVEMENTS: Caltrans can and should prepare, or cause to be prepared, a biological resources study to evaluate these potential impacts. Remaining potentially significant biological impacts of the interchange improvements require further detail as to the Caltrans-selected “build” project or alternative, along with its size, configuration, and disturbance zones.

Rationale: Implementation of M-BIO-13 would ensure potential impacts from Caltrans I-15 interchange improvements to biological resources remain less than significant by requiring Caltrans to assess or cause to be assessed whether improvements would have a potentially significant impact on biological resources. By mitigating for any potentially significant impacts in the manner prescribed by the environmental review document, impacts to biological resources would be less than significant.

D. Cultural Resources

1) Mitigation related to I-15 Interchange Improvements

Description: While the final configuration and design of the Caltrans interchange improvements are not known at this time, to ensure potential impacts to cultural resources remain less than significant, the County adopts Mitigation Measure M-CR-12.

Finding: The County finds that, pursuant to Public Resources Code Section 21081(a)(2) and CEQA Guidelines Section 15091(a)(2), I-15 interchange improvements are within the responsibility and jurisdiction of another public agency, and such changes can and should be adopted by such other agency..

Mitigation Measures:

M-CR-12 Pursuant to California Public Resources Code Section 21081(a)(2), in coordination with the I-15 interchange improvement project, which is to be fully funded and constructed by the project applicant, though is within the jurisdiction of Caltrans to approve, Caltrans can and should prepare, or cause to be prepared, a review of literature and historic maps and a records search to determine whether the project area has been previously surveyed and whether cultural resources were identified. If the project area has not been previously surveyed, Caltrans can and should conduct, or cause to be conducted, a survey of the project area as part of the NEPA/CEQA process, and avoid impacts to known significant cultural resources, to the extent feasible. Because of the potential to unearth previously unidentified resources during construction, Caltrans can and should ensure that earth-moving activity within and around any immediate discovery area is diverted

CEQA Findings and Statement of Overriding Considerations

until a qualified archeologist, retained by Caltrans, assesses the nature and significance of any such discovery in cooperation with other stakeholders (as needed). In addition, Caltrans can and should ensure the procedures described in state law if human remains are discovered are followed and implemented.

Rationale: Implementation of the identified mitigation M-CR-12 would ensure potential impacts on cultural resources resulting from Caltrans interchange improvements remain less than significant because it would require Caltrans to prepare, or cause to be prepared, a review of literature and historic maps and a records search or to determine whether the project area has been previously surveyed and whether cultural resources were identified or a survey of the project area as part of the NEPA/CEQA process, and avoid impacts to known significant cultural resources, to the extent feasible. Because of the potential to unearth previously unidentified resources during construction, Caltrans can and should ensure that earth-moving activity within and around any immediate discovery area is diverted until a qualified archeologist, retained by Caltrans, assesses the nature and significance of any such discovery in cooperation with other stakeholders (as needed). In addition, Caltrans can and should ensure the procedures described in state law if human remains are discovered are followed and implemented.

E. Geology/Soils

1) Mitigation related to I-15 Interchange Improvements

Description: Impacts to geology, soils and seismicity from the I-15/Deer Springs Road interchange improvement are expected to be less than significant; however, because the final design has not been determined, to ensure impacts remain less than significant, the County adopts Mitigation Measure M-GEO-6.

Finding: The County finds that, pursuant to Public Resources Code Section 21081(a)(2) and CEQA Guidelines Section 15091(a)(2), I-15 interchange improvements are within the responsibility and jurisdiction of another public agency, and such changes can and should be adopted by such other agency.

Mitigation Measures:

M-GE-6 Pursuant to California Public Resources Code Section 21081(a)(2), in coordination with the I-15 interchange improvement project, which is to be fully funded and constructed by the project applicant, though is within the responsibility and jurisdiction of Caltrans to approve, Caltrans can and should prepare, or cause to be prepared, a project geotechnical investigation report describing the geologic conditions present and making recommendations for how to address these conditions during construction of the interchange improvements as part of the NEPA/CEQA process. Caltrans can and should ensure the design and construction of the interchange improvements meet any and all design recommendations to address potential geologic and soils-related considerations

CEQA Findings and Statement of Overriding Considerations

including, but not limited to, seismic ground shaking, liquefaction, landslides, rockfall hazards, expansive soils, and soil erosion. Further, Caltrans can and should ensure a field investigation and construction monitoring program is implemented.

Rationale: Implementation of the identified mitigation measure M-GE-6 would ensure impacts to geology, soils, and seismicity from the I-15/Deer Springs Road interchange improvement remain less than significant because it requires Caltrans to prepare, or cause to be prepared, a project geotechnical investigation report describing the geologic conditions present and making recommendations for how to address these conditions during construction of the interchange improvements as part of the NEPA/CEQA process. Caltrans can and should ensure the design and construction of the interchange improvements meet any and all design recommendations to address potential geologic and soils-related considerations including, but not limited to, seismic ground shaking, liquefaction, landslides, rockfall hazards, expansive soils, and soil erosion. Further, Caltrans can and should ensure a field investigation and construction monitoring program is implemented.

F. Hazards/Hazardous Materials

1) Mitigation related to I-15 Interchange Improvements

Description: While the final configuration and design of the Caltrans interchange improvements are not known at this time, to ensure potential impacts to hazards and hazardous materials resources remain less than significant, the County adopts Mitigation Measure M-HAZ-6.

Finding: The County finds that, pursuant to Public Resources Code Section 21081(a)(2) and CEQA Guidelines Section 15091(a)(2), I-15 interchange improvements are within the responsibility and jurisdiction of another public agency, and such changes can and should be adopted by such other agency.

Mitigation Measures:

M-HZ-6 Pursuant to California Public Resources Code Section 21081(a)(2), in coordination with the I-15 interchange improvement project, which is to be fully funded and constructed by the project applicant, though is within the responsibility and jurisdiction of Caltrans to approve, Caltrans can and should require demolition materials be disposed of, or reused, after an investigation as appropriate for hazardous materials or contamination issues. Caltrans can and should prepare, or cause to be prepared, such investigation by or through a qualified and licensed inspector either prior to removal of the material, and/or when materials are removed from the site for disposal or reuse.

Rationale: M-HZ-6 would ensure potential impacts to hazards and hazardous materials resources remain less than significant because it would ensure that Caltrans requires demolition

CEQA Findings and Statement of Overriding Considerations

materials be disposed of, or reused, after an investigation as appropriate for hazardous materials or contamination issues.

G. Noise

1) Mitigation related to I-15 Interchange Improvements

Description: While the final configuration and design of the Caltrans interchange improvements are not known at this time, to ensure potential temporary construction impacts caused by airborne noise remain less than significant, this EIR recommends the following measure:

Finding: The County finds that, pursuant to Public Resources Code Section 21081(a)(2) and CEQA Guidelines Section 15091(a)(2), I-15 interchange improvements are within the responsibility and jurisdiction of another public agency, and such changes can and should be adopted by such other agency.

Mitigation Measures:

M-N-7 Pursuant to California Public Resources Code Section 21081(a)(2), in coordination with the I-15 interchange improvement project, which is to be fully funded and constructed by the project applicant, though is within the jurisdiction of Caltrans to approve, Caltrans can and should prepare, or cause to be prepared, a noise impact study to analyze the potential for construction-related noise impacts as part of the CEQA/NEPA process. Caltrans can and should ensure standard measures to minimize or reduce the potential for significant noise impacts due to project construction are implemented. In addition, Caltrans can and should ensure additional options to minimize construction noise during the design phase, such as pre-drilling foundation pile holes where soil conditions allow, or using noise control blankets to shroud any pile driving hammer are implemented in the event of any such construction occurring proximate to noise-sensitive areas (if any).

Rationale: Implementation of M-N-7 would ensure that potential temporary construction impacts caused by airborne noise remain less than significant because it would require Caltrans to prepare, or cause to be prepared, a noise impact study to analyze the potential for construction-related noise impacts as part of the CEQA/NEPA process. Caltrans can and should ensure standard measures to minimize or reduce the potential for significant noise impacts due to project construction are implemented. In addition, Caltrans can and should ensure additional options to minimize construction noise during the design phase, such as pre-drilling foundation pile holes where soil conditions allow, or using noise control blankets to shroud any pile driving hammer are implemented in the event of any such construction occurring proximate to noise-sensitive areas (if any).

H. Paleontological Resources

1) Mitigation related to I-15 Interchange Improvements

CEQA Findings and Statement of Overriding Considerations

Description: While the final configuration and design of the Caltrans interchange improvements are not known at this time, to ensure potential impacts to paleontological resources remain less than significant, the County adopts Mitigation Measure N-PR-2.

Finding: The County finds that, pursuant to Public Resources Code Section 21081(a)(2) and CEQA Guidelines Section 15091(a)(2), I-15 interchange improvements are within the responsibility and jurisdiction of another public agency, and such changes can and should be adopted by such other agency.

Mitigation Measures:

M-PR-2 Pursuant to California Public Resources Code Section 21081(a)(2), in coordination with the I-15 interchange improvement project, which is to be fully funded and constructed by the project applicant, though is within the responsibility and jurisdiction of Caltrans to approve, Caltrans can and should require paleontological monitors to be present during grading activities to monitor the improvements and confirm no significant resources are encountered. The monitor should provide preconstruction coordination with contractors, oversee original cutting in previously undisturbed areas, halt or redirect construction activities as appropriate to allow recovery of newly discovered fossil remain, and oversee fossil salvage operations and reporting.

Rationale: Mitigation measure M-PR-2 would ensure potential impacts to paleontological resources remain less than significant because it would ensure that Caltrans requires paleontological monitors to be present during grading activities to monitor the improvements and confirm no significant resources are encountered. The monitor should provide preconstruction coordination with contractors, oversee original cutting in previously undisturbed areas, halt or redirect construction activities as appropriate to allow recovery of newly discovered fossil remain, and oversee fossil salvage operations and reporting.

I. Transportation and Traffic

1) Mitigation related to I-15 Interchange Improvements

Description: While the final configuration and design of the Caltrans interchange improvements are not known at this time, to ensure potential impacts to transportation and traffic remain less than significant, the County adopts Mitigation Measure M-TR-17 for such improvements.

Finding: The County finds that, pursuant to Public Resources Code Section 21081(a)(2) and CEQA Guidelines Section 15091(a)(2), I-15 interchange improvements are within the responsibility and jurisdiction of another public agency, and such changes can and should be adopted by such other agency.

Mitigation Measures:

CEQA Findings and Statement of Overriding Considerations

M-TR-17 Pursuant to California Public Resources Code Section 21081(a)(2), in coordination with the I-15 interchange improvement project, which is to be fully funded and constructed by the project applicant, though is within the responsibility and jurisdiction of Caltrans to approve, Caltrans can and should prepare, or cause to be prepared, a traffic and transportation assessment as part of the CEQA/NEPA process. In addition, Caltrans can and should require temporary traffic control to minimize such temporary effects as a result of the interchange improvements.

Rationale: Mitigation measure M-TR-17 would ensure that potential impacts to transportation and traffic remain less than significant because it would require Caltrans to prepare, or cause to be prepared, a traffic and transportation assessment as part of the CEQA/NEPA process. In addition, Caltrans can and should require temporary traffic control to minimize such temporary effects as a result of the interchange improvements.

J. Utilities and Service Systems

1) Mitigation related to I-15 Interchange Improvements

While the final configuration and design of the Caltrans interchange improvements are not known at this time, such improvements are not expected to affect utilities and service systems. However, to ensure potential impacts remain less than significant, the County adopts mitigation measure M-UT-5.

Finding: The County finds that, pursuant to Public Resources Code Section 21081(a)(2) and CEQA Guidelines Section 15091(a)(2), I-15 interchange improvements are within the responsibility and jurisdiction of another public agency, and such changes can and should be adopted by such other agency.

Mitigation Measures:

M-UT-5 Pursuant to California Public Resources Code Section 21081(a)(2), in coordination with the I-15 interchange improvement project, which is to be fully funded and constructed by the project applicant, though is within the responsibility and jurisdiction of Caltrans to approve, Caltrans can and should ensure any required utilities relocation(s) are coordinated with the appropriate utility provider, including any design considerations. In addition, Caltrans can and should require standard transportation management techniques to minimize construction-related delays and inconvenience to the traveling public due to the I-15 interchange improvements.

Rationale: Mitigation measure M-UT-5 would ensure that potential impacts to utilities and service systems remain less than significant because it would require Caltrans to should ensure any required utilities relocation(s) are coordinated with the appropriate utility provider, including any design considerations. In addition, Caltrans can and should require standard transportation

CEQA Findings and Statement of Overriding Considerations

management techniques to minimize construction-related delays and inconvenience to the traveling public due to the I-15 interchange improvements.

VIII. FINDINGS REGARDING SPECIFIC MITIGATION MEASURES

With the exception of those mitigation measures set forth in the adopted Mitigation Monitoring and Reporting Plan, the County of San Diego finds that there are no feasible mitigation measures that would substantially lessen or avoid any significant effect that the project would have on the environment.

IX. FINDINGS REGARDING ALTERNATIVES

Section 15126.6(a) of the CEQA Guidelines requires the discussion of “a reasonable range of alternatives to a project, or the location of a project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.”

Nine alternatives, including the No Project (No Build) Alternative, were analyzed in detail in the Final EIR, Section 4, Project Alternatives:

- Alternative 1:** No Project (No Build) Alternative
- Alternative 2:** Existing General Plan Alternative
- Alternative 3:** Newland Sierra Parkway Alternative A
- Alternative 4:** Newland Sierra Parkway Alternative B
- Alternative 5:** Newland Sierra Parkway Alternative C
- Alternative 6:** Multi-Family Town Center Alternative
- Alternative 7:** CDFW/USFWS Land Planning Alternative A
- Alternative 8:** CDFW Land Planning Alternative B
- Alternative 9:** CDFW Land Planning Alternative C

These alternatives are evaluated for their ability to avoid or substantially lessen the impacts of the Project identified in the Final EIR, as well as consideration of their ability to meet the basic objectives of the Project as described in the Final EIR Section 1.1, Project Objectives, and above in Section I.B.

For the reasons set forth below, and in light of the analysis presented in the EIR at Section 4, Project Alternatives, the environmentally superior alternative is Alternative 1, No Project (No Build) Alternative. However, this alternative fails to meet the Project’s underlying purpose and fails to meet all but one of the basic Project objectives. CEQA also requires that, if the No Project Alternative is the environmentally superior alternative, another environmentally superior alternative must be identified, which, here, would be Alternative 7, CDFW/USFWS Land

CEQA Findings and Statement of Overriding Considerations

Planning Alternative A. Alternative 7 would reduce many of the Project's environmental impacts, but would not attain the project's underlying purpose to implement a new, mixed-use, interrelated planned community; and would not meet objectives 2 and 6.

Alternative 2 would reduce some environmental impacts but would increase others compared to the project, and would not meet the underlying Project purpose or meet Project objectives 2, 4, 5, or 6 to the same degree as the Project. Alternatives 3, 4 and 5 would not reduce any environmental impacts compared to the Project. Alternatives 6, 8, and 9 would reduce some environmental impacts while increasing others, and would attain some Project objectives but would not attain objectives 2 or 6. Alternatives 8 and 9 would also not attain the project's underlying purpose to implement a new, mixed-use, interrelated planned community. Therefore, while each alternative has benefits, none of the alternatives is superior to the Project when balancing the avoidance of environmental impacts, the Project benefits, and policy considerations.

A. Alternatives Considered but not Evaluated

The EIR considered two alternatives that were rejected as infeasible and, therefore, not analyzed in detail. The alternatives considered but not evaluated included: (i) Alternative Site Location Alternatives; and (ii) the Agricultural Alternative. As detailed in the Final EIR, each of these alternatives was rejected as infeasible and rejected from further analysis for a variety of reasons.

In addition, a number of alternatives were recommended in comments to the Draft EIR including, but not limited to, the following alternatives that were suggested in Comment Letter O-1:

- A. Existing General Plan Residential Only Alternative: An alternative that constructs only 99 homes on the Project Site.
- B. Existing General Plan Residential with Limited Commercial Alternative: An alternative that constructs only 99 homes and 81,000 square feet of commercial on the Project Site.
- C. Smart Planning Bifurcation Alternative: An alternative that is consistent with the density of the proposed Project but that delays certain land use approvals.
- D. Smart Planning Contingency Alternative: An alternative that is consistent with the density of the proposed Project but that delays certain land use approvals.
- E. Increased Housing Alternative: an alternative that is consistent with the density of the proposed Project but that includes a General Plan Amendment to the Housing Element that adds 2,036 housing units to the County's inventory.
- F. Reallocated/Balanced Housing Alternative: an alternative that is consistent with the density of the proposed Project but that includes a General Plan Amendment to the Housing Element that adds 2,036 housing units to the North County Metro housing

CEQA Findings and Statement of Overriding Considerations

inventory while subtracting a total of 2,036 housing units from other subregional planning areas' housing inventories.

The County has considered these alternatives and rejects each as infeasible and unnecessary to informed decision-making and public consideration where the EIR discusses a reasonable range of alternatives.

CEQA Guidelines Section 15126.6(a) only requires that an EIR “describe a range of reasonable alternatives to the proposed project, or to the location of the project, that would feasibly attain most of the basic objectives but would avoid or substantially lessen any of the significant environmental effects of the project, and evaluate the comparative merits of the alternatives.” Section 15126.6(a) also provides that an EIR need not consider every conceivable alternative to a project; rather, an EIR must consider a reasonable range of potentially feasible alternatives that will foster informed decision-making and public participation. Accordingly, the Draft EIR presented the nine alternatives listed above. The Draft EIR also considered and rejected an Alternate Site Location Alternative and an Agricultural Alternative. Thus, the Draft EIR considered a total of 11 alternatives; and County staff determined that those alternatives represented a reasonable range of Alternatives to the proposed project.

In addition, CEQA Guidelines Section 15082(b)(1)(A) states that each responsible or trustee agency should provide a response to the EIR Notice of Preparation (NOP) that, at a minimum, identifies significant environmental issues and reasonable alternatives. The County has included the CDFW and USFWS alternatives as requested by those agencies. Accordingly, the County finds the EIR already describes and analyzes a reasonable range of alternatives in accordance with CEQA.

Further, each of these alternatives is rejected from further analysis for a variety of reasons, as detailed in the record and summarized as follows:

1) “Existing General Plan Residential Only Alternative”

This suggested alternative would only address that portion of the project site that is General Plan-designated for residential development; it would not include that portion of the site that is designated for office and commercial use in the General Plan. This alternative is thus not feasible or desirable as it would break-up or piecemeal the project site and the associated permitting.

Further, the suggested alternative would eliminate the General Plan office and commercial land use designations, which include a Village designation; and eliminate the Town Center land uses from those General Plan-designated land uses. Such elimination or removal is not feasible or desirable from an economic or planning standpoint, or from a community benefits perspective.

The suggested alternative is also rejected from consideration because it fails to meet most of the basic project objectives. The alternative would impair project objective 2, by not creating compact, sustainable interrelated neighborhoods and a Town Center/Village use consistent with the General Plan land use designations. The alternative would frustrate project objective 4, by

CEQA Findings and Statement of Overriding Considerations

not providing a range of recreational amenities and facilities that are accessible to residents of both the project's community and the surrounding area. The alternative would eliminate the Town Center/Village uses that are intended to provide the balance of the community with recreational amenities and facilities making it a sustained community. The suggested alternative would not meet project objective 5, because it would not integrate, maintain, and preserve unique landscape features and distinct landforms along the I-15 corridor due to the 99-large lot configuration, as shown on Draft EIR Figure 4-2. Additionally, the suggested alternative would not meet project objective 6, because it would not accommodate existing, planned, and future growth in north San Diego County by providing a diverse range of housing opportunities in conjunction with a Town Center that supports a mix of uses for the benefit of the project's community and the surrounding areas. The County therefore rejects the suggested alternative as both undesirable and infeasible.

2) "Existing General Plan Residential with Limited Commercial Alternative"

The Draft EIR already studied a reduced density alternative with the same square footage of commercial as requested in this proposed alternative – notably, CDFW Land Planning Alternative B, which would reduce impacts to air quality and biological resources as noted in the comment. However, this alternative, as with the suggested "Existing General Plan Residential with Limited Commercial Alternative," would result in a direct impact to Deer Springs Road due to existing deficiencies on Deer Springs Road, which is currently operating at a failing level of service per the County's traffic guidelines. Thus, the suggested "Existing General Plan Residential with Limited Commercial Alternative" would require widening of Deer Springs Road, resulting in the same or similar grading, air quality, cultural, and other impacts in that key location as the proposed project.

Additionally, the suggested alternative would not meet project objectives 2 and 6 (see Section 4.2.1, Project Purpose and Objectives). The alternative would eliminate the project's residential planning areas, which are interrelated with other neighborhoods; and, thus, the alternative would not meet Objectives 2 and 6. In addition, under this alternative, eliminating the project's residential planning areas would frustrate the objective of creating interrelated neighborhoods, which is considered desirable from an overall land planning standpoint. On balance, the alternative would not attain the project's underlying purpose to implement a new, mixed-use, interrelated planned community that would assist the County in meeting its housing needs, including a range of housing opportunities. Lastly, the suggested alternative would still require a General Plan Amendment with regard to the alternative's office and commercial land uses. The County therefore rejects the suggested alternative as both undesirable and infeasible.

3) "Smart Planning Bifurcation Alternative"

The suggested "Smart Planning Bifurcation Alternative" would not enable the project to be built in any near term scenario. Rather, consideration of land use approvals by the County that would enable project development (subject to issuance of ministerial grading and building permits)

CEQA Findings and Statement of Overriding Considerations

would be delayed for an indefinite period until after other agencies, outside the County's jurisdiction, decide to approve or update future plans and/or programs. This alternative is thus effectively the No Project Alternative, which has been studied in the Draft EIR.

Additionally, the suggested alternative is not consistent with the County's practices and procedures. The County does not generally "approve" only portions of a proposed project, contingent upon other future approvals from other agencies. Instead, the County, as the lead agency, acts on the applicant's requested project approvals by either approving them subject to CEQA compliance, or denying the requested project approvals.

The alternative was proposed suggesting that the County should postpone acting on certain of the project approvals pending the County's approval of its Climate Action Plan. For the record, the County already took final action on its Climate Action Plan as of February 14, 2018. The approved Climate Action Plan is now the subject of litigation. Relatedly, while the North County MSCP remains a draft plan, other MSCPs in San Diego County went through their own separate processes over the past several years, and the County did not await approval of such plans before taking land use action. The County elected, instead, to take action within its purview, while other concurrent planning takes place through other agencies at different times under separate considerations. The County is also under no legal obligation to await approval of the North County MSCP before proceeding with the local land use decision of whether to deny or approve the proposed project. These reasons support why the County finds it both undesirable and infeasible to approve portions of a privately-initiated project while other agencies take future action.

Further, the suggested alternative, after the possible later approvals by other agencies of some updated plans, would not change the project or the potential impacts as a result of the project, and; thus, would not comply with CEQA requirements for alternatives. There would be no assurance that any plan or program would be updated, revised, or amended. Subsequent environmental analysis, much like the Draft EIR, would not be able to rely on these unfunded, unapproved plans and programs and thus, impacts would remain the same unless and until such programs, plans or updates were approved.

The alternative was suggested under the premise a "pause" is needed to allow other agencies to address "new infrastructure needs." The County does not concur. Interstate 15 and Deer Springs Road are already operating at deficient levels of service. The proposed project would widen Deer Springs Road to an acceptable level of service within the County's jurisdiction, and with the approval of Caltrans and the City of San Marcos, additional roadway and intersection capacity measures could be implemented to improve existing traffic deficiencies. Further, water, sewer, and electrical infrastructure already exists in the area and the proposed project would extend existing infrastructure to the project to meet the project's capacity needs – and all at the project applicant's costs.

CEQA Findings and Statement of Overriding Considerations

The County also does not concur that “bifurcation” of the project approvals is needed to “allow for regional planning agencies to take into account” what the comment calls a “drastic density increase.” As shown, the proposed project increases density, but the County does not consider it a “drastic density increase” because: (a) it has been in the planning stages for some time now, (b) it is part of an open and public planning and environmental review process, (c) general plan amendments that increase density are allowable requests if supported by the record, and (d) other regional agencies routinely plan their own processes, while local agencies make their land use decisions. For all the above reasons, the County finds it both undesirable and infeasible to approve portions of a privately-initiated project while awaiting future action by other agencies.

4) “Smart Planning Contingency Alternative”

The County finds the suggested “Smart Planning Contingency Alternative” both undesirable and infeasible. The suggested alternative would not enable the project to be built in any near term scenario. Rather, issuance of ministerial grading and building permits by the County would be delayed for an indefinite period until after other agencies, outside the County’s jurisdiction, may approve unidentified, updated plans. This alternative is thus effectively the No Project Alternative, which has been studied in the Draft EIR.

Similar to the Smart Planning Bifurcation Alternative, there is no assurance that if the alternative were implemented, it would result in avoiding or substantially lessening the project’s significant impacts identified in the Draft EIR, which is a fundamental purpose of any alternatives analysis. Accordingly, the County finds that this alternative does not satisfy the purpose of an alternatives analysis under CEQA.

Further, this alternative would act as a de facto moratorium on the project, and the County does not find any reason for implementing such a moratorium on a project-by-project basis.

Additionally, this alternative is similar to the “Smart Planning Bifurcation Alternative,” above. Thus, the County adopts the same or similar reasons for rejecting this alternative as were provided in rejecting the “Smart Planning Bifurcation Alternative,” above.

5) “Increased Housing Alternative”

There is no assurance that if the “Increased Housing Alternative” were implemented, it would result in avoiding or substantially lessening the project’s significant impacts identified in the Draft EIR, which is a fundamental purpose of any alternatives analysis. Accordingly, the County finds that this alternative does not satisfy the purpose of an alternatives analysis under CEQA.

In addition, local and regional planning often does not occur concurrently or in parallel with one another; and there is no legal requirement that there be a concurrent or parallel process. The County retains its discretion to update its Housing Element as required and in compliance with applicable state law; and not as part of every privately-initiated project that comes forward. The County rejects the suggested alternative as both undesirable and infeasible.

CEQA Findings and Statement of Overriding Considerations

6) “Reallocated/Balanced Housing Alternative”

The suggested “Reallocated/Balanced Housing Alternative” is rejected as both undesirable and infeasible. First, the alternative would not avoid or substantially lessen an impact as required by CEQA for an alternative.

Second, since adoption of the General Plan, the County has approved projects that are below the total number of housing units permitted by the General Plan. Thus, the increase in residential units proposed by the project would not result in more units being constructed than anticipated under the General Plan.

Relatedly, there is no requirement to balance the total planned housing supply in the County as part of a privately-initiated project. Indeed, in March 2017, the County Board of Supervisors adopted the 2017 Housing Element Update (Fifth Revision) in compliance with state law. There is no legal requirement to amend the Housing Element each time a privately-initiated General Plan Amendment is processed.

For all the above reasons, the County rejects the suggested alternative as both undesirable and infeasible.

B. EIR Alternative 1: No Project (No Build)**1) Description**

Under the No Project (No Build) Alternative, the project Site would remain in its existing condition and not involve construction of a new mixed-use community near existing and planned infrastructure, services, and jobs proximate to the North County I-15 corridor. No residential, commercial, park, or school land uses would be developed on-site. Improvements to Camino Mayor, Sarver Lane, and Deer Springs Road would not occur. None of the approximately 1,209 acres, or about 61 percent of the project’s total acreage, would be permanently preserved as open space, nor would there be any management of biota resources to maintain and enhance habitat functions and values. Additionally, the project’s 212-acre off-site permanent preserve area would not be conserved.

2) Finding

The County rejects Alternative 1, the No Project (No Build) Alternative, as undesirable and infeasible as it fails to satisfy the Project’s underlying purpose and fails to meet most Project objectives. Therefore, the No Project (No Build) Alternative is rejected because specific economic, legal, social, technological or other considerations make the alternative infeasible.

3) Facts in Support of Finding

In relation to the Project, the No Project (No Build) Alternative would reduce or avoid all significant impacts related to construction and use of the project Site as a new mixed-use community, with the exception of Land Use and Planning impacts. (See Final EIR, Section 4,

CEQA Findings and Statement of Overriding Considerations

Project Alternatives.) While the Final EIR found that the No Project (No Build) Alternative is the environmentally superior alternative, this Alternative would not achieve all but one of the Project objectives. This Alternative would only meet Objective 5 by maintaining unique landscape features and distinct landforms along the I-15 corridor for the time being; it would not meet any of the other project's objectives.

Because no development would be constructed under Alternative 1, this Alternative would not meet the Project's underlying purpose to implement a new mixed-use Community near existing and planned infrastructure, services, and jobs within the north San Diego County I-15 corridor. The No Project (No Build) alternative would not meet Objective 1 to preserve substantial open space or enhance habitat conservation and natural community conservation planning in north San Diego County through the permanent dedication and management of open space to protect multiple special-status species and their habitats and provide connectivity to existing designated open space and preserve areas surrounding the project Site.

This alternative would not meet Objective 2 to create compact, sustainable, interrelated neighborhoods and a Village core, nor meet Objective 3 to construct public facilities phased concurrent with demand within existing areas without burden or cost to existing residents, or meet Objective 4 to provide recreational opportunities or public services accessible to project residents and surrounding areas. Further, the alternative would not meet Objective 6 to accommodate existing, planned, and future growth in north San Diego County by providing a diverse range of housing opportunities with a mixed-use Town Center for the benefit of the new residents and surrounding areas.

In addition, no construction or development would occur under this alternative leaving the land in its current state. This alternative would thus not accommodate any of the planned growth expected to occur in the North San Diego County area, or contribute to the County achieving its General Plan Housing Element (i.e., Regional Housing Needs Assessment) goals. This alternative would not aid in implementing the County's General Plan (including policies of the Housing Element to provide a wide range of housing types such as Goal H-1, Policies H-1.7 and H-1.8); nor generate funding for existing and planned infrastructure and services through payment of development impact fees. Leaving the project site and other sites in the County planned for development in an undeveloped state could have the cumulative effect of forcing development into neighboring counties, such as Riverside, resulting in worsening traffic impacts, conflicts with state planning directives (e.g., SB 743) and regional planning efforts relying in part on new development to fund the regional arterial system, and other negative environmental effects associated with a growing jobs/housing imbalance.

Additionally, this alternative would not widen or improve off-site roads identified in the County's Mobility Element, or extend or expand existing planned infrastructure. Because this alternative would not provide any improvements to the access points to the project Site or any off-site roadways or intersections, the segments of Deer Springs Road from the I-15 Southbound

CEQA Findings and Statement of Overriding Considerations

Ramps to Twin Oaks Valley Road, and Twin Oaks Valley Road from Deer Springs Road to Cassou Road, would continue to operate at LOS E or worse. Also, the segment of Buena Creek Road from Twin Oaks Valley Road to S. Santa Fe Avenue, which is forecast to operate at LOS F with the addition of cumulative traffic, and certain associated intersections, would remain unimproved and forecast to operate at a deficient Level of Service (LOS).

For these reasons and others detailed in the record before the County, the County rejects the No Project (No Build) Alternative as both undesirable and infeasible.

C. EIR Alternative 2: Existing General Plan Alternative

1) Description of Alternative

Under this alternative, the project Site would be developed under existing General Plan land use designations. Based on the acreages and the existing General Plan Land Use Element land use designations, the project Site would allow approximately 99 single-family residential dwelling units and 2,008,116 square feet of commercial and office professional space with associated roadways and fuel modification zones. The distribution of the 99 single-family residential dwelling units was informed by compliance with the County's Conservation Subdivision Ordinance.

Compared to the proposed project, only 2.4 acres of private parks would be provided; open space would decrease by approximately 273 acres; the disturbed area would increase by approximately 273 acres; and grading would decrease by approximately 9,723,000 cubic yards of cut and would be balanced on-site. Sarver Lane would be required to be improved to the County's Rural Residential Road Standard with a 48-foot-wide right-of-way, and Deer Springs Road would be required to be improved as proposed under the project.

2) Finding

The County rejects Alternative 2, the Existing General Plan Alternative, as undesirable and infeasible as it fails to satisfy the Project's underlying purpose and fails to meet most Project objectives. While the Existing General Plan Alternative would reduce some environmental impacts, it would increase others compared to the project (including those related to aesthetics, biological resources, cultural resources, mineral resources, and transportation and traffic), and would not meet the underlying Project purpose or meet Project objectives 2, 4, 5, or 6 to the same degree as the Project. Therefore, the Existing General Plan Alternative is rejected because specific economic, legal, social, technological or other considerations make the alternative infeasible.

3) Facts in Support of Finding

As discussed in Section 4 of the Final EIR, in the event Alternative 2, Existing General Plan Alternative, is developed, significant impacts related to air quality, GHGs, hydrology and water quality population and housing, energy, and noise would be reduced. On the other hand,

CEQA Findings and Statement of Overriding Considerations

environmental impacts related to aesthetics, biological resources, cultural resources, mineral resources, and transportation and traffic would be increased with development of Alternative 2. Impacts to agricultural resources, geology and soils, hazards and hazardous materials, land use and planning, paleontological resources, parks and recreation, public services, and utilities and services systems would be similar compared to the Project. Accordingly, while the Existing General Plan Alternative would reduce some environmental impacts, it would increase others compared to the project.

The Existing General Plan Alternative would meet some of the project objectives, but would not meet the underlying Project purpose or meet Project objectives 2, 4, 5, or 6 to the same degree as the Project. The alternative would meet Objective 1 as it relates to preserving large blocks of open space (see Section 4.2.1, Project Purpose and Objectives), although not to the same degree as the proposed project. The alternative would provide substantial commercial uses, consistent with the Village designation of the proposed project (Objective 2); however, it would not have commensurate residential neighborhoods to fully implement the County's Community Development Model. As a result, this alternative would not meet the project's underlying purpose to implement a new mixed-use Community near existing and planned infrastructure, services, and jobs within the north San Diego County I-15 corridor.

The Existing General Plan Alternative would also not create compact, sustainable, interrelated neighborhoods (Objective 2) or provide recreational opportunities and public services accessible to Community residents and surrounding areas to the same degree as the proposed project (Objective 4). This alternative would not meet Objective 3, to construct public facilities phased concurrent with demand, to the same degree as the proposed project. Further, this alternative would not integrate, maintain, or preserve unique landscape features or distinct landforms along the I-15 corridor (Objective 5), or accommodate existing or future growth in north San Diego County by providing a diverse range of housing opportunities for the benefit of the new residents and surrounding areas to the same degree as the proposed project (Objective 6) because it would only provide 99 units. The inclusion of commercial uses would be only partially consistent with the Town Center component of the proposed project. Because the Existing General Plan Alternative would not meet the majority of project objectives, it has been rejected.

D. EIR Alternative 3: Newland Sierra Parkway Alternative A

1) Description of Alternative

In this alternative, a four-lane Major Road (referred to as Newland Sierra Parkway, designed as a 4.1A Major Road with Raised Median requiring a maximum right-of-way of 100 feet and maximum curb-to-curb width of 78 feet) would be constructed generally along the southern edge of the project Site, north of and parallel to the existing Deer Springs Road. Newland Sierra Parkway would connect Sarver Lane to the project entrance at Mesa Rock Road in the Town Center planning area and be sized and designed to accommodate the existing traffic along Deer Springs Road, project traffic, and future cumulative traffic that would otherwise use Deer

CEQA Findings and Statement of Overriding Considerations

Springs Road. Other road improvements would include an improved intersection at the Sarver Lane/Deer Springs Road intersection. Alternative A would be approximately 9,800 feet in length, compared to the approximate 7,700 foot length of Deer Springs Road under the proposed project.

Under this alternative, Deer Springs Road would be required to be widened between Sarver Lane and Mesa Rock Road as proposed under the project. Deer Springs Road would remain a public road open to local and regional pass-through traffic; however, Newland Sierra Parkway would replace Deer Springs Road as County Route S12 and be added to the County's Mobility Element, which would require a County General Plan Amendment. This alternative also would require the acquisition of additional properties along the depicted alignment to accommodate the required road grading, as shown in Figure 4-4 in Chapter 4 of this EIR.

When compared to the proposed project, open space would decrease by approximately 20 acres; disturbed area would increase by approximately 38 acres; and grading would result in approximately 3,883,000 cubic yards of export that would be required to be hauled from the project Site. Newland Sierra Parkway Alternative A would otherwise have the same land uses and planning areas as the proposed project.

2) Finding

The County rejects Alternative 3, the Newland Sierra Parkway Alternative A, as undesirable and infeasible as it would not meet all of the project's proposed objectives, and would not reduce any environmental impacts compared to the project. The County further rejects this alternative for increasing the significance of many environmental impacts compared to the Project, including those related to aesthetics, agricultural resources, air quality, biological resources, geology and soils, GHGs, hydrology and water quality, noise, population and housing, transportation and traffic, and energy. Therefore, the Newland Sierra Parkway Alternative A is rejected because specific economic, legal, social, technological or other considerations make the alternative infeasible.

3) Facts in Support of Finding

Newland Sierra Parkway Alternative A would not meet all of the proposed project's objectives (see Section 4.2.1, Project Purpose and Objectives). By retaining the majority of the project's design, unit count and land uses, it would be generally consistent with Objectives 2, 3, 4, and 6, however, it would reduce attainment of Objectives 1 and 5. Related to Objective 1, due to the decrease in open space of approximately 20 acres and increase in disturbed area by approximately 38 acres, this alternative would reduce the attainment of preserving substantial open space in a permanent, managed preserve. Additionally, this alternative would bifurcate the southern block of preserve area resulting in a reduction in preserve connectivity due to the addition of a second, four lane major road. Due to the nature of the landform alteration required to implement this alternative, this alternative would also reduce attainment of integrating,

CEQA Findings and Statement of Overriding Considerations

maintaining, and preserving unique landscape features and distinct landforms along the I-15 corridor. It would therefore not meet Objective 5.

Further, under Newland Sierra Parkway Alternative A, the project would result in greater impacts to aesthetics, agricultural resources, air quality, biological resources, geology and soils, GHGs, hydrology and water quality, noise, population and housing, transportation and traffic, and energy. (EIR Section 4.0, Project Alternatives.) Notable amongst those detailed in the EIR at Section 4, Project Alternatives, under the Newland Sierra Parkway Alternative A, grading would not be balanced, and approximately 3,883,000 cubic yards would be exported. Exported material would be hauled off site, resulting in approximately 242,700 haul trips (assuming the CalEEMod default 16-cubic-yard hauling capacity), or 485,400 one-way haul trips, during the construction phase that would not occur under the proposed project. Construction impacts of this alternative would accordingly be greater relative to aesthetics, air quality, GHGs, noise, traffic, and energy impacts.

Other impacts (e.g. biological resources, hydrology and water quality, agricultural resources, etc.) would increase under this alternative due to the increase in disturbed area by approximately 38 acres as a result of constructing Newland Sierra Parkway and decrease in open space by approximately 20 acres. Development of Newland Sierra Parkway would substantially increase impacts to sensitive vegetation communities both on site and off site (including southern mixed chaparral), and impede north/south wildlife movement across the project Site would be impeded by two roadways instead of just Deer Springs Road. Newland Sierra Parkway would also reduce the acreage, contiguous design, and connectivity of the central block of open space to the Pre-Approved Mitigation Area to the south. Newland Sierra Parkway Alternative A would result in greater impacts to biological resources than the proposed project. The construction and alignment of Newland Sierra Parkway may also result in new areas of potential rock fall hazard where existing boulders are located above the finished roadway.

The EIR included a detailed feasibility study assessing the preliminary grading, engineering, and long-term traffic impacts of the Newland Sierra Parkway Alternatives (see Appendix HH, Newland Sierra Parkway Feasibility Study, February 2017). SANDAG modeling undertaken in the EIR showed that adding Newland Sierra Parkway to the County's road network would result in a significant amount of induced background traffic that would use the combination of two roads (Newland Sierra Parkway and Deer Springs Road). This alternative would result in greater traffic impacts to the I-15/Deer Springs Road interchange, reduced impacts to Deer Springs Road between Mesa Rock Road and Sarver Lane, greater impacts to Deer Springs Road between Sarver Lane/Newland Sierra Parkway and Twin Oaks Valley Road, greater impacts to Twin Oaks Valley Road between Deer Springs Road and Buena Creek Road (within the City of San Marcos), and greater impacts to Buena Creek Road and its intersections with Twin Oaks Valley Road, Monte Vista Drive, and S. Santa Fe Ave. Related impacts, such as traffic noise, would also be greater.

CEQA Findings and Statement of Overriding Considerations

In addition, despite the same land uses being proposed under this alternative when compared to the proposed project, this alternative would have greater growth inducing features with the expansion of off-site roadways to accommodate the higher traffic volumes induced by this alternative (specifically the widening of portions of Deer Springs Road and Twin Oaks Valley Road to six lanes south of the project, and the creation of two, four lane roads through the project area.)

Additionally, this alternative would conflict with San Diego County General Plan Mobility Element Goal M-9 because it would build a new, four lane Major Road without maximizing the effective use of the existing transportation network. In sum, the Newland Sierra Parkway Alternative A would result in greater traffic impacts than the proposed project due to additional segment and intersection impacts and inconsistencies with the Mobility Element. Like the proposed Project, impacts to Caltrans and San Marcos facilities (the I-15 interchange, freeway mainlines, and Twin Oaks Valley Road), impacts to the intersection of Robelini Dr./S. Santa Fe Ave, and impacts to the segment of S. Santa Fe Ave. between Robelini Dr. and Buena Creek Rd. would remain significant and unavoidable. A detailed discussion of the traffic modeling performed for the Newland Sierra Parkway Alternatives and the analysis of those modeling results, is included at EIR Appendix HH, Newland Sierra Parkway Feasibility Study, February 2017; and the Transportation and Traffic section under Section 4.6.2 above; and a comparison of the Newland Sierra Parkway Alternatives to the proposed project under the Existing Plus Project Plus Cumulative Project scenario, is included at Appendix II, Newland Sierra Project Alternatives Traffic Analysis, May 2017.

Refer to the analysis presented in the EIR at Section 4, Project Alternatives, for a detailed discussion of the environmental impacts anticipated with this alternative and comparison to the project. Thus, as the Newland Sierra Parkway Alternative A would not meet all of the project's proposed objectives and would not reduce any environmental impacts compared to the project, the County rejects Newland Sierra Parkway Alternative A as both undesirable and infeasible.

E. EIR Alternative 4: Newland Sierra Parkway Alternative B

1) Description of Alternative

Approximately one year after the NOP comment period closed, on April 8, 2016, Golden Door Properties, LLC submitted a letter requesting another version of the Newland Sierra Parkway Alternative (referred to as Newland Sierra Parkway Alternative B), accompanied by engineering information from Delane Engineering. Alternative B, depicted in Figure 4-5 in Chapter 4 of this EIR, is similar to the Newland Sierra Parkway Alternative A, but with a different alignment.

This alternative is similar to Newland Sierra Parkway Alternative A in most respects. However, on the easterly half, the 4-lane road would be aligned to bisect the project's proposed Terraces neighborhood, requiring a redesign of this area of the project Site. The road profile cuts down through the Terraces neighborhood, requiring the grade of the road to reach 9 percent. The eastern leg of this Alternative would require a 350-foot-tall cut slope along the east-facing slopes

CEQA Findings and Statement of Overriding Considerations

of the project Site that would be visible from traffic along I-15 and at the I-15/Deer Springs Road Interchange. Alternative B would be approximately 10,500 feet in length, compared to the approximate 7,700 foot length of Deer Springs Road under the proposed project.

When compared to the proposed project, open space would decrease by approximately 7.5 acres, the disturbed area would increase by approximately 17 acres, and grading would increase by approximately 404,700 cubic yards of export that would be required to be hauled from the project Site due to the construction of Newland Sierra Parkway.

2) Finding

The County rejects Alternative 4, the Newland Sierra Parkway Alternative B, as undesirable and infeasible as it would not meet all of the project's proposed objectives, and would not reduce any environmental impacts compared to the project. The County further rejects this alternative for increasing the significance of many environmental impacts compared to the Project, including those related to aesthetics, agricultural resources, air quality, biological resources, geology and soils, GHGs, hydrology and water quality, noise, population and housing, transportation and traffic, and energy. Therefore, the Newland Sierra Parkway Alternative B is rejected because specific economic, legal, social, technological or other considerations make the alternative infeasible.

3) Facts in Support of Finding

The Newland Sierra Parkway Alternative B would not meet all of the proposed project's objectives. By retaining the majority of the project's design, unit count and land uses, it would be generally consistent with Objectives 2, 3, 4, and 6, however, it would reduce attainment of Objectives 1 and 5. Related to Objective 1, due to the decrease in open space of approximately 7.5 acres and increase in disturbed area by approximately 17 acres, this alternative would reduce the attainment of preserving substantial open space in a permanent, managed preserve. Additionally, this alternative would bifurcate the southern block of preserve area resulting in a reduction in preserve connectivity due to the addition of a second, four lane road. Due to the nature of the landform alteration required to implement this alternative, this alternative would also reduce attainment of integrating, maintaining, and preserving unique landscape features and distinct landforms along the I-15 corridor. It would therefore also not meet Objective 5.

For similar reasons as those discussed for the Newland Sierra Parkway Alternative A, this alternative would increase the significance of many environmental impacts compared to the Project, including those related to aesthetics, agricultural resources, air quality, biological resources, geology and soils, GHGs, hydrology and water quality, noise, population and housing, transportation and traffic, and energy. (EIR Section 4.0, Project Alternatives.) Notable amongst those detailed in the EIR at Section 4, Project Alternatives, grading and construction related impacts would substantially increase under this alternative when compared to the proposed project. As shown in Figures 4-5 and 4-6 of the EIR, grading required for construction of

CEQA Findings and Statement of Overriding Considerations

Newland Sierra Parkway would cut into the slopes on the southern portion of the project Site and into large portions just south of the project, affecting existing landforms and boulders. Newland Sierra Parkway likely would be visible from public roadways and other vantage points to the southeast of the project due to the steep grade of the roadway. The eastern leg of Newland Sierra Parkway under this alternative would require a 350-foot-tall cut slope along the east facing slopes of the project site that would be visible from traffic along I-15 and at the I-15/Deer Springs Road interchange.

Under Newland Sierra Parkway Alternative B, grading would not be balanced, and approximately 404,700 cubic yards would be exported. Exported material would be hauled off site, resulting in approximately 25,300 haul trips (assuming the CalEEMod model default 16-cubic-yard hauling capacity), or 50,600 one-way haul trips, during the construction phase that would not occur under the proposed project. For each of these reasons, construction impacts under this alternative would increase relative to aesthetics, air quality, GHGs, noise, traffic, energy, and other related impacts.

Impacts to biological resources would also be greater under this alternative due to the decrease in approximately 7.5 acres of open space and increase in approximately 17 acres of disturbed area as a result of the addition of Newland Sierra Parkway. North/south wildlife movement across the project Site would be impeded by two roadways under this alternative, instead of just Deer Springs Road as planned under the proposed project. Newland Sierra Parkway would reduce the acreage, contiguous design, and connectivity of the central block of open space to the Pre-Approved Mitigation Area to the south.

Newland Sierra Parkway would be located in proximity to proposed noise-sensitive land uses, resulting in new operational noise impacts at these noise-sensitive land uses, likely requiring additional noise-attenuating features.

Although this alternative would result in a different alignment of Newland Sierra Parkway from Newland Sierra Parkway Alternative A, traffic impacts, growth inducement, and impacts from higher traffic volumes would be the same/ similar to those described under Newland Sierra Parkway Alternative A, above.

Refer to the analysis presented in the EIR at Section 4, Project Alternatives, for a detailed discussion of environmental impacts anticipated with this alternative and comparison to the project. Thus, as the Newland Sierra Parkway Alternative B would not meet all of the project's proposed objectives and would not reduce any environmental impacts compared to the project, the County rejects Newland Sierra Parkway Alternative B as both undesirable and infeasible.

F. EIR Alternative 5: Newland Sierra Parkway Alternative C

1) Description of Alternative

On April 8, 2016, Golden Door Properties, LLC submitted a letter addressing another version of the Newland Sierra Parkway Alternative (referred to as Newland Sierra Parkway Alternative C),

CEQA Findings and Statement of Overriding Considerations

accompanied by engineering information from Delane Engineering. This alternative, depicted in Figure 4-7 in Chapter 4 of this EIR, is similar to Newland Sierra Parkway Alternatives A and B, but with a different alignment.

In this alternative, a four-lane Major Road (referred to as Newland Sierra Parkway classified as a 4.1A Major Road with Raised Median requiring a maximum right-of-way of 100 feet and maximum curb-to-curb width of 78 feet) would begin with a 25-degree skewed intersection with the existing Deer Springs Road at the Mesa Rock Road intersection. It would then traverse the southern edge of the project Site north of Deer Springs Road, similar to Newland Sierra Parkway Alternative A, except, rather than ramping down to the Valley neighborhood to join Sarver Lane, this Alternative stays at a higher elevation and then turns to the south to cut through the saddle between two peaks on off-site property, which is not owned or controlled by the project applicant. In so doing, the grade of the road reaches 9 percent in steepness. Under this alternative, Newland Sierra Parkway would be sized and designed to accommodate existing traffic along Deer Springs Road, project buildout traffic, and future cumulative traffic that could otherwise use Deer Springs Road. This alternative would be approximately 9,400 feet in length, compared to the approximate 7,700 foot length of Deer Springs Road under the proposed project.

Unlike Newland Sierra Parkway Alternatives A and B, this alternative would cross over the San Diego County Water Authority's 66-inch-diameter aqueduct, a regional water supply transmission facility, requiring the placement of 100 to 125 feet of fill placed over an approximately 600-foot-long stretch of the aqueduct southwest of the project Site. This amount of fill placed over the aqueduct would require a partial removal and reconstruction of the aqueduct with a reinforced design in the area subject to the additional fill. The San Diego County Water Authority would be required to approve the placement of fill over this water transmission facility and the rebuilding of the aqueduct.

Also, this alternative would require construction of a new intersection with Deer Springs Road/Newland Sierra Parkway. As part of the construction, approximately 1,200 feet of Deer Springs Road would need to be raised to the southwest of the project Site so that it could merge with Newland Sierra Parkway, and approximately 1,000 feet of Deer Springs Road would need to be raised along the north side of the Golden Door Properties, LLC property to form a new intersection with Newland Sierra Parkway.

When compared to the proposed project, open space would decrease by approximately 11 acres, the disturbed area would increase by approximately 33.5 acres, and grading would increase by approximately 4,298,900 cubic yards of import that would be required to be hauled to the project Site due to the proposed alignment of Newland Sierra Parkway.

2) Finding

The County rejects Alternative 5, the Newland Sierra Parkway Alternative C, as undesirable and infeasible as it would not meet all of the project's proposed objectives, and would not reduce any

CEQA Findings and Statement of Overriding Considerations

environmental impacts compared the project. The County further rejects this alternative for increasing the significance of many environmental impacts compared to the Project, including those related to aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology and soils, GHGs, hydrology and water quality, noise, population and housing, transportation and traffic, utilities and service systems, and energy. Therefore, the Newland Sierra Parkway Alternative C is rejected because specific economic, legal, social, technological or other considerations make the alternative infeasible.

3) Facts in Support of Finding

Newland Sierra Parkway Alternative C would not meet all of the proposed project's objectives. By retaining the majority of the project's design, unit count and land uses, it would be generally consistent with Objectives 2, 3, 4, and 6, however, it would reduce attainment of Objectives 1 and 5. Related to Objective 1, due to the decrease in open space of approximately 11 acres and increase in disturbed area by approximately 33.5 acres, this alternative would reduce the attainment of preserving substantial open space in a permanent, managed preserve. Additionally, this alternative would bifurcate the southern block of preserve area resulting in a reduction in preserve connectivity due to the addition of a second, four lane major road. Due to the nature of the landform alteration required to implement this alternative, this alternative would also reduce attainment of integrating, maintaining, and preserving unique landscape features and distinct landforms along the I-15 corridor. It would therefore also not meet Objective 5 as well as the project.

For similar reasons as those discussed for the Newland Sierra Parkway Alternative A and B, this alternative would increase the significance of many environmental impacts compared to the Project, including those related to aesthetics, agricultural resources, air quality, biological resources, cultural resources, geology and soils, GHGs, hydrology and water quality, noise, population and housing, transportation and traffic, and energy. (EIR Section 4.0, Project Alternatives.) Notably, under Newland Sierra Parkway Alternative C, grading would substantially increase since construction of Newland Sierra Parkway would require approximately 4,298,900 cubic yards of import when compared to the proposed project. As shown in Figures 4-7 and 4-8 of the EIR, grading required for construction of Newland Sierra Parkway would cut into the slopes on the southern portion of the project Site and into large portions of land just south of the project Site, affecting existing landforms and boulders in a manner such that the road would be highly visible from Deer Springs Road and Twin Oaks Valley Road. Imported material would be hauled on site by approximately 286,700 haul trips (assuming the CalEEMod default 16-cubic-yard hauling capacity), or 537,400 one-way haul trips, during the construction phase that would not occur under the proposed project resulting in significantly greater impacts during construction relative to air quality, GHGs, noise, traffic, energy, etc.

CEQA Findings and Statement of Overriding Considerations

Similar to Newland Sierra Parkway Alternatives A and B, impacts to biological resources would be greater under this alternative due to the decrease in open space by approximately 11 acres, increase in disturbed area by approximately 33.5 acres as a result of the addition of Newland Sierra Parkway, and impediment to wildlife movement by two roadways. Newland Sierra Parkway would reduce the acreage, contiguous design, and connectivity of the central block of open space to the Pre-Approved Mitigation Area to the south. Refer to the analysis presented in the EIR at Section 4, Project Alternatives, for a detailed discussion of environmental impacts anticipated with this alternative and comparison to the project. Thus, as the Newland Sierra Parkway Alternative C would not meet all of the project's proposed objectives and would not reduce any environmental impacts compared to the project, the County rejects Newland Sierra Parkway Alternative C as both undesirable and infeasible.

G. EIR Alternative 6: Multi-Family Town Center Alternative**1) Description of Alternative**

During the public scoping process, Golden Door Properties, LLC asked that the EIR address a Multi-Family Town Center Alternative to the proposed project. (Figure 4-9 of the EIR.) The Multi-Family Town Center Alternative would move all residential units to the southeastern corner of the project Site, clustered around the proposed commercial area (near the area currently designated as Village in the County's General Plan) to promote walkability. This alternative would be accessed by a single ingress/egress point near the Deer Springs Road/Mesa Rock Road intersection. A secondary access, which would generally follow the alignment of the proposed project's internal roadway to Sarver Lane, would serve as emergency access only. The comment letter requested that this alternative also provide a shuttle to Escondido Transit Center, which is already included in the proposed project and would be included under this alternative.

When compared to the proposed project, open space would increase by approximately 342 acres; disturbed area would decrease by approximately 342 acres; and grading would increase by approximately 16,931,000 cubic yards of cut and decrease by approximately 355,000 cubic yards of fill, resulting in approximately 17,266,000 cubic yards of exported material under this alternative. The residential unit count and commercial square footage would remain the same as the proposed project. However, all 2,135 units would be multi-family units, with no single-family units provided. Sarver Lane would not be improved as planned under the proposed project. Deer Springs Road, however, would be improved as proposed under the project (under either Option A or Option B), due to traffic generated by this alternative.

2) Finding

The County rejects Alternative 6, the Multi-Family Town Center Alternative, as undesirable and infeasible as it would not meet all of the project's proposed objectives or meet objectives to the same degree as would be achieved under the project. Alternative 6 would reduce some environmental impacts while increasing others, and would attain some Project objectives but

CEQA Findings and Statement of Overriding Considerations

would not attain objectives 2 or 6. Therefore, the Multi-Family Town Center Alternative is rejected because specific economic, legal, social, technological or other considerations make the alternative infeasible.

3) Facts in Support of Finding

The Multi-Family Town Center Alternative would meet project Objectives 1, 3, and 4 (see Section 4.2.1, Project Purpose and Objectives) by preserving substantial open space areas, constructing facilities concurrent with demand within existing service areas, and providing a diverse range of recreational opportunities. Although a larger open space area would be preserved, substantial landform alterations would be required for this alternative; therefore, it would meet project Objective 5 to “[i]ntegrate, maintain, and preserve unique landscape features and distinct landforms along the I-15 corridor,” but to a lesser degree than the proposed project.

This alternative would not satisfy Objective 2, which is to “Create compact, sustainable interrelated neighborhoods, consistent with the County’s Community Development Model and ‘Village’ designation in the General Plan, and facilitate a multi-modal transportation network linked to regional transportation mobility options.” With this alternative, all of the residential, interrelated neighborhoods would be removed, thereby eliminating all single-family and age-qualified residences. The “Village” designation in the General Plan for this project Site, however, would be satisfied with regard to a multi-family Town Center.

In addition, this alternative would not satisfy Objective 6, which calls for the provision of a diverse range of housing opportunities. The alternative would not provide for the construction of any single-family or age-qualified residential units. The project’s objective of providing for a diverse range of housing opportunities is supported by a consumer survey of buyer preferences and demand over a consumer life stage (John Burns Real Estate Consulting 2016). The survey was used to inform the applicant of the variety of residential products to be proposed for each neighborhood. Of the consumers surveyed, an average of 80 percent indicated a preference for a traditional detached single-family home.

Golden Door Properties, LLC suggested this alternative during the public scoping process as a possible “Transit-Oriented Development” scenario. The land use plan described under this alternative (shown in Figure 4-9) follows typical patterns found in existing transit-oriented developments, but would be more densely clustered and located closer to commercial uses and parks with the intention of promoting walkability and reducing single-occupancy-vehicle trips. However, the key feature of transit-oriented development is the placement of residential and commercial uses in proximity to transit options such as a high-frequency bus line, trolley, or train. Although this alternative would provide a shuttle to the Escondido Transit Center (as would the proposed project), no transit options are available within walking distance of the project and the provision of transit would be within the authority of North County Transit

CEQA Findings and Statement of Overriding Considerations

District. Therefore, this alternative is not a transit-oriented development due to the absence of available transit options.

Under this alternative, 342 acres would no longer be developed and would remain as open space. Impacts to hydrology and water quality, mineral resources, and paleontological resources would decrease. However, more intense land uses would occur under this alternative in the southeastern part of the site. Impacts to aesthetics, agricultural resources, GHGs, hazards and hazardous materials, and land use and planning would increase. With all development placed in the southeastern corner of the project Site, impacts to Key Views 1, 2, and 3 would be greater. The southeastern portion of the project Site is also the most visible portion from the I-15 corridor ("B" Design Review Area). This alternative would require structures of greater bulk, scale, form, and height when compared to the proposed project to accommodate all land uses in a smaller area, resulting in an inconsistency with the I-15 Corridor Scenic Preservation Guidelines (Site Design, Site Planning Standards, Policy 1).

Development of this alternative would require substantially more grading (additional 16,931,000 cubic yards of cut, 158 percent more than the proposed project), which would cut into existing slopes and landforms and require that approximately 17,266,000 cubic yards would be exported by approximately 1,079,125 haul trucks (assuming the CalEEMod default 16-cubic-yard hauling capacity) (2,158,250 one-way haul trips). Construction-related impacts would thus be increased compared to the project.

Biological impacts would be similar to the proposed project. While open space would increase by 342 acres under this alternative, the intensity and consolidation of development in the southeastern portion of the project would impact all habitat for coastal California gnatcatcher in this area of the Site, and would impact the coastal California gnatcatcher biological ladder along the I-15 corridor. Hence, although a larger preserve would be achieved, avoiding potential biological impacts elsewhere within the project Site, this alternative would have greater impacts to coastal California gnatcatcher.

As reviewed by County Fire, this alternative proposes long looped roadways within many of the development areas, and proposes an alternative access road that traverses a great length through native vegetation that would be used for emergency access only. As such, this project would not be in compliance with CCFC Sections 503.1.2 and 503.1.3 and General Plan Policies M-3.3 and S-3.5.

This alternative would only provide multi-family units, and as such, conflicts with General Plan Guiding Principles and Housing Element policies, including policies H-1.7 and H-1.8, that encourage the provision of a range of housing types to accommodate various needs of the population. Despite the preservation of a larger area of open space, this alternative would result in greater impacts to coastal California gnatcatcher and its habitat, a resource under the County RPO. Additionally, this alternative would result in greater visual impacts along I-15, resulting in

CEQA Findings and Statement of Overriding Considerations

potential inconsistency with the I-15 Corridor Scenic Preservation Guidelines (Site Design, Site Planning Standards, Policy 1). Overall, impacts to land use under this alternative would result in greater impacts when compared to the proposed project.

Compared to the proposed project, this alternative would result in greater impacts to Deer Springs Road between Mesa Rock Road and Sarver Lane, reduced impacts to Deer Springs Road between Sarver Lane and Twin Oaks Valley Road, reduced impacts to Twin Oaks Valley Road between Deer Springs Road and Buena Creek Road (within the City of San Marcos), and reduced impacts to Buena Creek Road and its intersections with Twin Oaks Valley Road, Monte Vista Drive, and S. Santa Fe Avenue. This alternative would also not have any impacts to N. Twin Oaks Valley Road or generate any traffic on Sarver Lane as both the Sarver Lane and Camino Mayor project access points would be eliminated by this alternative. However, because Sarver Lane would serve as an emergency access for this alternative, Sarver Lane would need to be improved to the County's Rural Residential Road standard. Like the proposed project, this alternative would require a new interchange at Deer Springs Road and I-15, and impacts to Caltrans and San Marcos facilities (the I-15 interchange, freeway mainlines, and Twin Oaks Valley Road), impacts to the intersection of Robelini Dr./S. Santa Fe Avenue and impacts to the segment of S. Santa Fe Avenue between Robelini Drive and Buena Creek Road would remain significant and unavoidable.

Refer to the analysis presented in the EIR at Section 4, Project Alternatives, for a detailed discussion of environmental impacts anticipated with this alternative and comparison to the project. For each of these reasons, the County rejects the Multi-Family Town Center Alternative as both undesirable and infeasible.

H. EIR Alternative 7: CDFW/USFWS Land Planning Alternative A

1) Description of Alternative

The California Department of Fish and Wildlife (CDFW) submitted a letter in response to the EIR NOP requesting that the EIR evaluate and compare a Land Planning Alternative A to the proposed project. The U.S. Fish and Wildlife Service (USFWS) also requested the same type of alternative. This alternative is depicted in Figure 4-10 in Chapter 4 of this EIR.

Under this alternative, the Town Center, Terraces, and Hillside planning areas, along with associated access roadways, parks, and other improvements, would be removed and replaced with open space. The remainder of the planning areas (Valley, Mesa, Knoll, and Summit) would remain as proposed under the project. Both CDFW and USFWS suggest that this scaled-back alternative would minimize project impacts to the draft Pre-Approved Mitigation Area in the draft North County Multi-Species Conservation Plan; provide for a large, continuous block of open space in the eastern and northern portion of the Site; and maintain connectivity between on-

CEQA Findings and Statement of Overriding Considerations

and off-site areas designated as a draft Pre-Approved Mitigation Area and other conservation efforts outside the draft North County Multi-Species Conservation Plan planning area.

When compared to the proposed project, the CDFW/USFWS Land Planning Alternative A would eliminate the Town Center and remove all commercial land uses. Residential units would be reduced from 2,135 to 1,353 residential units (896 single-family and 457 multi-family units), and open space would increase by approximately 237 acres. Deer Springs Road would be required to be improved as proposed under the project.

2) Finding

The County rejects Alternative 7, CDFW/USFWS Land Planning Alternative A, as undesirable and infeasible as it would not meet all of the project's proposed objectives or meet objectives to the same degree as would be achieved under the project. Further, this alternative would not attain the project's underlying purpose to implement a new mixed-use community near existing and planned infrastructure, services, and jobs within the North County I-15 corridor. Therefore, the CDFW/USFWS Land Planning Alternative A is rejected because specific economic, legal, social, technological or other considerations make the alternative infeasible.

3) Facts in Support of Finding

The CDFW/USFWS Land Planning Alternative A would reduce environmental impacts compared to the project (refer to EIR Section 4, Project Alternatives), and meet project Objectives 1, 3, 4, and 5 (see Section 4.2.1, Project Purpose and Objectives) by preserving substantial open space areas, constructing facilities concurrent with demand within existing service areas, providing diverse recreational opportunities, and preserving unique landscape features and distinct landforms along I-15. However, due to the removal of the Town Center and the elimination of three planning areas, which are interrelated with other neighborhoods, this alternative would not meet Objective 2, to “[c]reate compact, sustainable interrelated neighborhoods, consistent with the County’s Community Development Model and ‘Village’ designation in the General Plan, and facilitate a multi-modal transportation network linked to regional transportation mobility options”; or Objective 6, to “[a]ccommodate existing, planned, and future growth in north San Diego County by providing a diverse range of housing opportunities in conjunction with a Town Center that supports a mix of uses for the benefit of the new Community and surrounding areas.”

Further, the project Site contains a Village designation, and elimination of the Town Center from the project under this alternative would not be desirable from a General Plan or community benefits standpoint. In addition, eliminating the three planning areas from the project, as proposed under this alternative, would frustrate the objective of creating a community through development of interrelated neighborhoods, which is considered desirable from an overall land planning standpoint. Moreover, this alternative would reduce the use of the electric bike-share program, bike lanes, and pedestrian features due to the change in internal circulation. Pass-by

CEQA Findings and Statement of Overriding Considerations

trips and other trip-reduction benefits also would be altered due to such changes in circulation. On balance, the alternative would not attain the project's underlying purpose to implement a new mixed-use community near existing and planned infrastructure, services, and jobs within the North County I-15 corridor because commercial uses associated with the Town Center would not be available for project residents and residents of the surrounding area, and interrelated neighborhoods would not be created.

Further, under CEQA (Public Resources Code, § 21159.26), reductions in housing units as mitigation is discouraged. A public agency may not reduce the proposed number of housing units as a mitigation measure or project alternative for a particular significant effect on the environment if it determines there is another feasible mitigation measure or project alternative that would provide a comparable level of mitigation. Mitigation measures proposed and adopted for the project would reduce the impacts to biological resources targeted by this alternative to less than significant without reducing the number of housing units. The County considers this factor in determining to reject this project alternative.

Accordingly, while overall the CDFW/USFWS Land Planning Alternative A would result in reduced impacts compared to the proposed project, it would not attain the project's underlying purpose to implement a new, mixed-use, interrelated planned community; and would not meet objectives 2 and 6. For each of these reasons and others detailed in the record before the County, the County rejects the CDFW/USFWS Land Planning Alternative A as both undesirable and infeasible.

I. EIR Alternative 8: CDFW Land Planning Alternative B**1) Description of Alternative**

During the public scoping process, CDFW requested that the EIR evaluate and compare a CDFW Land Planning Alternative B to the proposed project. The alternative is depicted in Figure 4-11 in Chapter 4 of the EIR.

Under this alternative, the Terraces, Hillside, and the eastern portion of the Mesa planning areas, along with associated access roadways, parks, and other improvements, would instead be open space. The remainder of the planning areas (Town Center, Valley, Knoll, and Summit) would remain as proposed under the project. The Town Center planning area would not have direct access to the other planning areas. CDFW suggested this alternative to provide for a larger, contiguous block of open space in the eastern and northern portions of the property, to minimize edge effects to on-site biological open space areas, and to maintain connectivity between on- and off-site areas designated for conservation.

Compared to the proposed project, CDFW Land Planning Alternative B would have the same commercial square footage and educational uses, but would reduce the number of residential units from 2,135 residential units under the proposed project to 1,333 residential units (781

CEQA Findings and Statement of Overriding Considerations

single-family and 552 multi-family units). Open space would increase by approximately 214 acres. Sarver Lane would be improved to a 2.1B Community Collector with a Continuous Turn Lane, which is larger than the proposed project's Modified 2.2E Light Collector. Deer Springs Road would be required to be improved as proposed under the project.

2) Finding

The County rejects Alternative 8, CDFW/USFWS Land Planning Alternative B, as undesirable and infeasible as it would not meet all of the project's proposed objectives or meet objectives to the same degree as would be achieved under the project. Alternative 8 would reduce some environmental impacts while increasing others, and would attain some Project objectives but would not attain objectives 2 or 6. Further, this alternative would not attain the project's underlying purpose to implement a new mixed-use community near existing and planned infrastructure, services, and jobs within the North County I-15 corridor. Therefore, the CDFW/USFWS Land Planning Alternative B is rejected because specific economic, legal, social, technological or other considerations make the alternative infeasible.

3) Facts in Support of Finding

While this alternative would reduce certain environmental impacts, it would increase impacts in other categories (refer to EIR Section 4, Project Alternatives). CDFW/USFWS Land Planning Alternative B would meet project Objectives 1, 3, 4, 5 and 6 (see Section 4.2.1, Project Purpose and Objectives) by preserving substantial open space areas, maintaining the Town Center, constructing facilities concurrent with demand within existing service areas, providing diverse recreational opportunities and preserving unique landscape features and distinct landforms along I-15. However, this alternative would eliminate three planning areas, which are interrelated with other neighborhoods; and, thus, the alternative would not meet Objective 2, to “[c]reate compact, sustainable interrelated neighborhoods, consistent with the County’s Community Development Model and ‘Village’ designation in the General Plan, and facilitate a multi-modal transportation network linked to regional transportation mobility options”; or Objective 6, to “[a]ccommodate existing, planned, and future growth in north San Diego County by providing a diverse range of housing opportunities in conjunction with a Town Center that supports a mix of uses for the benefit of the new Community and surrounding areas.”

In addition, eliminating the three planning areas from the project, as proposed under this alternative, would frustrate the objective of creating a community through development of interrelated neighborhoods, which is considered desirable from an overall land planning standpoint. Moreover, this alternative would reduce the use of the electric bike-share program, bike lanes, and pedestrian features due to the separation of the Town Center and the change in internal circulation. Pass-by trips and other trip-reduction benefits also would be altered due to changes in internal circulation. On balance, the alternative would not attain the project's underlying purpose to implement a new mixed-use community near existing and planned

CEQA Findings and Statement of Overriding Considerations

infrastructure, services, and jobs within the North County I-15 corridor because the community would be frustrated land planning standpoint through development of isolated neighborhoods which are further isolated and disconnected from the Town Center.

Further, under CEQA (Public Resources Code, § 21159.26), reductions in housing units as mitigation is discouraged. A public agency may not reduce the proposed number of housing units as a mitigation measure or project alternative for a particular significant effect on the environment if it determines there is another feasible mitigation measure or project alternative that would provide a comparable level of mitigation. The County considers this factor in determining to reject this project alternative. Mitigation measure proposed and adopted for the project would reduce the impacts to biological resources targeted by this alternative to less than significant without reducing the number of housing units.

Alternative 8 would reduce some environmental impacts but would increase others. Accordingly, while overall the CDFW/USFWS Land Planning Alternative B would result in some reduced impacts compared to the proposed project, it would not attain the project's underlying purpose to implement a new, mixed-use, interrelated planned community; and would not meet objectives 2 and 6. For these reasons and others detailed in the record before the County, the County rejects the CDFW/USFWS Land Planning Alternative B as both undesirable and infeasible.

J. Alternative 9: CDFW Land Planning Alternative C

1) Description of Alternative

During the public scoping process, CDFW requested that the EIR evaluate and compare a CDFW Land Planning Alternative C to the proposed project. The alternative is depicted in Figure 4-12 in Chapter 4 of the EIR.

Under this alternative, the Town Center, Terraces, and Hillside planning areas, along with associated access roadways, parks, and other improvements, would be removed and replaced with open space, similar to that of CDFW Land Planning Alternative A. The eastern portion of the Valley planning area would be removed and replaced with open space. Multi-family units would be located in the northwestern portion of the project along Twin Oaks Valley Road, at the location of the old quarry. The remainder of the planning areas (Valley, Mesa, Knoll, and Summit) would remain as proposed under the project. CDFW suggested this alternative to provide for a larger, contiguous block of open space in the eastern and northern portion of the Site, to minimize edge effects to on-site biological open space areas, and to maintain connectivity between on- and off-site areas designated for conservation.

Compared to the proposed project, CDFW Land Planning Alternative C would eliminate the Town Center from the proposed project, and thereby remove all commercial and educational land uses to serve the Community and surrounding areas. In addition, the alternative would reduce residential

CEQA Findings and Statement of Overriding Considerations

units from 2,135 to 1,549 total residential units (787 single-family and 762 multi-family units) and open space would increase by approximately 223 acres. Sarver Lane would be improved to a 4.2B Boulevard with Intermittent turn lanes and Deer Springs Road would be required to be improved as proposed under the project.

2) Finding

The County rejects Alternative 9, CDFW/USFWS Land Planning Alternative C, as undesirable and infeasible as it would not meet all of the project's proposed objectives or meet objectives to the same degree as would be achieved under the project. Alternative 9 would reduce some environmental impacts while increasing others, and would attain some Project objectives but would not attain objectives 2 or 6. Further, this alternative would not attain the project's underlying purpose to implement a new mixed-use community near existing and planned infrastructure, services, and jobs within the North County I-15 corridor. Therefore, the CDFW/USFWS Land Planning Alternative C is rejected because specific economic, legal, social, technological or other considerations make the alternative infeasible.

3) Facts in Support of Finding

CDFW/USFWS Land Planning Alternative C would reduce some environmental impacts but would increase others (refer to EIR Section 4, Project Alternatives). This alternative would meet project Objectives 1, 3, 4, and 5 (see Section 4.2.1, Project Purpose and Objectives) by preserving substantial open space areas, constructing facilities concurrent with demand within existing service areas, providing diverse recreational opportunities and preserving unique landscape features and distinct landforms along I-15. However, due to the removal of the Town Center and the elimination of three planning areas, which are interrelated with other neighborhoods, this alternative would not meet Objective 2, to “[c]reate compact, sustainable interrelated neighborhoods, consistent with the County’s Community Development Model and ‘Village’ designation in the General Plan, and facilitate a multi-modal transportation network linked to regional transportation mobility options”; or Objective 6, to “[a]ccommodate existing, planned, and future growth in north San Diego County by providing a diverse range of housing opportunities in conjunction with a Town Center that supports a mix of uses for the benefit of the new Community and surrounding areas.”

Further, the project contains a Village designation, and under this alternative, elimination of the Town Center from the project would not be desirable from a General Plan or community benefits standpoint. In addition, eliminating the three planning areas from the project, as proposed under this alternative, would frustrate the objective of creating a community through development of interrelated neighborhoods, which is considered desirable from an overall land planning standpoint. Moreover, this alternative would reduce the use of the electric bike-share program, bike lanes, and pedestrian features due to the change in internal circulation. Pass-by trips and other trip-reduction benefits also would be altered due to such changes in circulation. On

CEQA Findings and Statement of Overriding Considerations

balance, the alternative would not attain the project's underlying purpose to implement a new mixed-use community near existing and planned infrastructure, services, and jobs within the North County I-15 corridor because commercial uses associated with the Town Center would not be available for project residents and residents of the surrounding area, and interrelated neighborhoods would not be created.

Further, under CEQA (Public Resources Code, § 21159.26), reductions in housing units as mitigation is discouraged. A public agency may not reduce the proposed number of housing units as a mitigation measure or project alternative for a particular significant effect on the environment if it determines there is another feasible mitigation measure or project alternative that would provide a comparable level of mitigation. Mitigation measures proposed and adopted for the project would reduce the impacts to biological resources targeted by this alternative to less than significant without reducing the number of housing units. The County considers this factor in determining to reject this project alternative.

While overall the CDFW/USFWS Land Planning Alternative C would result in some reduced impacts compared to the proposed project, it would not attain the project's underlying purpose to implement a new, mixed-use, interrelated planned community; and would not meet objectives 2 and 6. For these reasons and others detailed in the record before the County, the County rejects the CDFW/USFWS Land Planning Alternative C as both undesirable and infeasible.

X. OTHER CEQA CONSIDERATIONS

A. Reasons Why the Project is Being Proposed, Notwithstanding Significant Unavoidable Impacts

Pursuant to CEQA Guidelines Section 15126.2(b), the EIR explains why the Project is being proposed notwithstanding its significant unavoidable impacts. While a lead agency must contemplate the implications of adverse environmental impacts, the fundamental purpose of land use planning and development is to supply an array of land uses while considering environmental and economic realities. Here, the benefits of the Project will outweigh the significant and unavoidable environmental impacts remaining after implementation of numerous PDFs and mitigation measures.

B. Growth-Inducing Impacts

Pursuant to CEQA Guidelines Sections 15126(d) and 15126.2(d), the EIR examined ways in which the Project could foster economic or population growth, or the construction of additional development, either directly or indirectly, in the surrounding environment. As discussed in the EIR, the project would be considered growth inducing. The proposed project would have growth-inducing potential because planned residential growth would increase by 2,036 units, and population growth would increase by 5,782 people as compared to the General Plan. Construction of the proposed project also would generate an economic stimulus from the use of

CEQA Findings and Statement of Overriding Considerations

building materials, the sales of residential units, the operation of the project's commercial facilities, and the introduction of new consumer demand in the area. In addition, expansion of off-site roadways would accommodate higher capacities and improve accessibility; such improvements would be consistent with the existing General Plan's Mobility Element. The increase in water and sewer infrastructure would not remove barriers to growth because such infrastructure is sized to serve the project Site.

Therefore, the project has potential for growth inducement, which may result in subsequent adverse environmental effects as a result of such growth. Such adverse environmental effects could include impacts to visual resources, air quality, biological resources, transportation and traffic, noise, and cultural resources. There are no known intensity-increasing development applications pending at the County in the immediate project vicinity at this time.

C. Significant Irreversible Environmental Changes

Pursuant to CEQA Guidelines Sections 15126.2(c) and 15127, the Final EIR Section 2.15 evaluated significant irreversible environmental changes that will be caused by implementation of the Project. The Project will require a commitment of nonrenewable and renewable resources that will include: (1) changes to topography and biology; (2) building materials; (3) water; and (4) energy resources.

Specifically, the project will alter approximately 776 acres of the 1,985-acre site by grading and development of the project Site (including fuel modification zones), resulting in the permanent removal of on-site habitat as detailed in the Final EIR at Section 2.4, Biological Resources. In addition, construction of the project will require the consumption of resources that are not renewable or that may renew so slowly as to be considered non-renewable. These resources would include the following construction supplies: certain types of lumber and other forest products; aggregate materials used in concrete and asphalt such as sand, gravel, and stone; metals such as steel, copper, and lead; petrochemical construction materials such as plastics; water; and fossil fuels such as gasoline and oil. Fuels will be used by construction equipment, vehicle trips during construction, and in the harvesting, mining, and/or manufacturing of construction materials, although some construction materials would be generated from the project Site source. These construction materials and fuels would likely be committed to other similar projects in the region if not used for this project. Resources used for the project would be typical of similar residential projects in the region.

During operation, the project will consume water for drinking and bathing, and fossil fuels for electricity, natural gas, and transportation. Fossil fuels would represent the primary non-renewable energy source associated with construction and ongoing operation of the project, and the existing, finite supplies of these natural resources would be incrementally reduced. Energy use would be a long-term commitment, and the use of energy would be irretrievable, although any energy-saving features of the project would reduce this commitment. Further, the project

CEQA Findings and Statement of Overriding Considerations

will improve the jobs/housing balance by providing housing for the workforce in the surrounding job centers, resulting in fewer miles commuted, and thereby less gasoline and diesel consumed.

In sum, construction and operation of the project will result in the irretrievable commitment of resources, which will limit the availability of these particular resources for future generations or for other uses during the life of the project. However, the loss of such resources will not be highly accelerated when compared to existing conditions and growth projections for the County of San Diego. Therefore, although irretrievable commitment of resources will result from the project, such changes would be considered less than significant.

D. Potential Secondary Effects

Pursuant to CEQA Guidelines Section 15126.4(a)(1)(D), the Final EIR evaluated the potential for adverse secondary impacts that could result from implementation the Project and proposed mitigation measures. Potential secondary effects are addressed within the appropriate section of the EIR and at Section II through VII, above. Except for those potential secondary impacts specifically noted (see, in particular, Section VII above), the County finds no adverse secondary impacts will occur as a result of implementation of Project mitigation measures.

E. Effects Found not to be Significant

CEQA Guidelines Section 15128 requires an EIR to contain a brief statement indicating reasons that various possible significant effects of a project were determined not to be significant and therefore are not discussed in detail in the EIR. Through the Initial Study, the County did not identify any subject areas where impacts will clearly be less than significant. Therefore, all issue areas were discussed in detail in the EIR.

XI. GENERAL CEQA FINDINGS

A. Mitigation Monitoring and Reporting Program

1) General Finding

Pursuant to Section 21081.6 of the Public Resources Code, the County, in adopting these Findings, also adopts the MMRP for the Newland Sierra Project. The MMRP is designed to ensure that, during project implementation, the County and other responsible parties will comply with the mitigation measures adopted in these Findings. The County hereby binds itself to cause the various feasible mitigation measures to be implemented in accordance with the Final EIR and MMRP. The mitigation measures constitute a binding set of obligations upon the County's certification and approvals identified herein.

The County hereby finds that the MMRP, which is incorporated into the project conditions of approval, meets the requirements of Public Resources Code Section 21081.6 by providing for the implementation and monitoring of project conditions intended to mitigate potential environmental effects of the project.

CEQA Findings and Statement of Overriding Considerations

2) Project Design Features

Note that the project's MMRP includes not only those mitigation measures required by CEQA to be made enforceable via its adoption, but also those enumerated PDFs identified in the Final EIR and factored into the project's impact analyses. Inclusion of those PDFs in the MMRP provides the County with the necessary mechanisms to oversee the implementation and enforcement of the PDFs in a manner akin to that used for the mitigation measures.

3) Regulatory Compliance

Federal, state, regional, and local laws contain certain regulatory compliance measures that must be adhered to in implementing the Project. The Final EIR describes the regulatory setting within each chapter, which includes the details of regulatory compliance measures. Where regulatory compliance measures are required by law, the County has not separately proposed or adopted mitigation requiring regulatory compliance. The County hereby finds that the Project will comply with all applicable regulatory compliance measures.

B. CEQA Guidelines Sections 15091 And 15092 Findings

Based on the foregoing findings and the information contained in the administrative record, the County has made one or more of the following findings with respect to each of the significant effects of the project:

1. Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant effects on the environment.
2. Those changes or alterations are within the responsibility and jurisdiction of another public agency and such changes have been adopted by such other agency, or can and should be adopted by such other agency.
3. Specific economic, legal, social, technological, or other considerations, including considerations for the provision of employment opportunities for highly-trained workers, make infeasible the mitigation measures or alternatives identified in the Final EIR.

Based on the foregoing findings and the information contained in the administrative record, and as conditioned by the foregoing:

1. All significant effects on the environment due to the project have been eliminated or substantially lessened where feasible.
2. Any remaining significant effects that have been found to be unavoidable are acceptable due to the overriding considerations set forth in Section XIII of this document.

CEQA Findings and Statement of Overriding Considerations

C. County's Preparation of the EIR Pursuant to CEQA Guidelines Section 15084(d)

CEQA Guidelines § 15084 (d) provides a Lead Agency may choose one of the following arrangements or a combination of them for preparing a draft EIR:

- (1) Preparing the draft EIR directly with its own staff.
- (2) Contracting with another entity, public or private, to prepare the draft EIR.
- (3) Accepting a draft prepared by the Applicant, a consultant retained by the Applicant, or any other person.
- (4) Executing a third party contract or memorandum of understanding with the Applicant to govern the preparation of a draft EIR by an independent contractor.
- (5) Using a previously prepared EIR.

The County has relied on Section 15084(d)(4) of the CEQA Guidelines, which allows executing a third party contract or memorandum of understanding with the applicant to govern the preparation of a EIR by an independent contractor. Subject to specific responsibilities imposed on the Project Applicant and EIR consultant, the County's sole right and discretion to determine the adequacy of performance of the EIR consultant, and the County's responsibility to independently review and analyze all documentation for the project, the County allowed the Project Applicant to select and retain an EIR consultant to prepare the EIR submitted to the County for independent review. The County has reviewed and edited, as necessary, the submitted working drafts to reflect the County's own independent judgment, including reliance on County technical personnel from various County departments.

D. County's Independent Judgment

Pursuant to Public Resources Code Section 21082.1(c), the County hereby finds it has independently reviewed and analyzed the Final EIR, and that the Final EIR reflects the independent judgment of the County as the Lead Agency for the Project.

E. Nature of Findings

Any finding made by the County shall be deemed made, regardless of where it appears in this document. All of the language included in this document constitutes findings by the County, whether or not any particular sentence or clause includes a statement to that effect. The County intends that these findings be considered as an integrated whole and, whether or not any part of these findings fail to cross reference or incorporate by reference any other part of these findings, that any finding required or committed to be made by the County with respect to any particular subject matter of the Final EIR, shall be deemed to be made if it appears in any portion of these findings.

CEQA Findings and Statement of Overriding Considerations

F. Reliance on Record

Each and all of the findings and determinations contained herein are based on the competent and substantial evidence, both oral and written, contained in the entire administrative record relating to the Newland Sierra Project. The Newland Sierra Project's record includes, but is not limited to:

- The Final EIR for the project;
- All reports, project application materials, memoranda, maps, letters, and other planning documents, including attachments, related documents, and all documents cited, incorporated by reference or relied on in those materials, prepared by the EIR consultant, the Project applicant, the County, and Commission staff relating to the EIRs;
- Any minutes and transcripts of all public meetings and public hearings relating to the Project;
- All notices issued by the County to comply with CEQA, the CEQA Guidelines, or any other law governing the processing and approval of the project;
- Matters of common knowledge to the County, which include, but are not limited to the San Diego County General Plan; and
- Any other written materials relevant to the County's compliance with CEQA, and its decision on the merits of the project, including documents that have been released for public review, and copies of reports, studies or other documents relied on in any environmental documentation for the project and either made available to the public during the public comment period or included in the County's files.

The findings and determinations constitute the independent findings and determinations of the County in all respects and are fully and completely supported by substantial evidence in the record as a whole.

G. Custodian of Records

The custodian of the documents or other material which constitute the record of proceedings upon which the County's decision is based is identified as follows:

County of San Diego, Planning & Development Services
Project Processing Center
5510 Overland Avenue, Suite 110
San Diego, California 92123

County of San Diego, Clerk of the Board of Supervisors
1600 Pacific Highway, Room 402
San Diego, California 92101

CEQA Findings and Statement of Overriding Considerations

H. Relationship of Findings to EIR

These findings are based on the most current information available. Accordingly, to the extent there are any apparent conflicts or inconsistencies between the Final EIR and these Findings, these Findings shall control, and the Final EIR is hereby amended as set forth in these findings.

I. Responses to Late Comments Not Required

CEQA Guidelines Section 15105 requires that the County provide a 45-day public review and comment period on the Draft EIR. In order to provide additional time, the County instead afforded 60 days for public review and comment. The public comment period for the Draft EIR began on June 15, 2017 and ended on August 14, 2017.

The County received a number of comment letters commenting and re-commenting on the Draft EIR well after the close of the public review period, which did not address new environmental documentation or significant new information. The County is not required to provide a written response to late letters. (Pub. Resources Code, § 21091(d); CEQA Guidelines, § 15088.) The County further finds that comments on the Draft EIR that could have been offered during the 60-day public review and comment period should have been made at that time. Nonetheless, the County fully considered these comments and finds that the late comments do not negate the adequacy of the environmental analysis prepared for the Newland Sierra project, as presented in the project's Final EIR.

J. Recirculation Not Required

CEQA Guidelines Section 15088.5 provides the criteria that a lead agency is to consider when deciding whether it is required to recirculate an EIR. Recirculation is required when “significant new information” is added to the EIR after public notice of the availability of the Draft EIR is given, but before certification. (CEQA Guidelines, §15088.5(a).) “Significant new information,” as defined in CEQA Guidelines Section 15088.5(a), means information added to an EIR that changes the EIR so as to deprive the public of a meaningful opportunity to comment on a “substantial adverse environmental effect” or a “feasible way to mitigate or avoid such an effect (including a feasible Project alternative) that the Project’s proponents have declined to implement.”

An example of significant new information provided by the CEQA Guidelines is a disclosure showing that a “new significant environmental impact would result from the project or from a new mitigation measure proposed to be implemented;” that a “substantial increase in the severity of an environmental impact would result unless mitigation measures are adopted to reduce the impact to a level of insignificance;” or that a “feasible project alternative or mitigation measure considerably different from others previously analyzed would clearly lessen the significant environmental impacts of the project, but the project’s proponents decline to adopt it.” (CEQA Guidelines, §15088.5(a)(1)-(3).)

CEQA Findings and Statement of Overriding Considerations

Recirculation is not required where “the new information added to the EIR merely clarifies or amplifies or makes insignificant modifications in an adequate EIR.” (CEQA Guidelines, §15088.5(b).) Recirculation also is not required simply because new information is added to the EIR - indeed, new information is oftentimes added given CEQA’s public/agency comment and response process and CEQA’s post-Draft EIR circulation requirement of proposed responses to comments submitted by public agencies. Instead, recirculation is “intended to be an exception rather than the general rule.” (*Laurel Heights Improvement Assn. v. Regents of University of California* (1993) 6 Cal.4th 1112, 1132.)

In this legal context, the County finds that recirculation of the Draft EIR prior to certification is not required. In addition to providing responses to comments, the Final EIR includes revisions to expand upon information presented in the Draft EIR; explain or enhance the evidentiary basis for the Draft EIR’s findings; update information; and make clerical revisions to the Draft EIR. The Final EIR’s revisions, clarifications and/or updates do not result in any new significant impacts or increase the severity of a previously identified significant impact.

In sum, the Final EIR demonstrates that the Project will not result in any new significant impacts or increase the severity of a significant impact, as compared to the analysis presented in the Draft EIR. The changes reflected in the Final EIR also do not indicate that the meaningful public review of the Draft EIR was precluded in the first instance. Accordingly, recirculation of the EIR is not required as revisions to the EIR are not significant as defined in Section 15088.5 of the CEQA Guidelines.

CEQA Findings and Statement of Overriding Considerations

XII. CERTIFICATION OF THE FINAL ENVIRONMENTAL IMPACT REPORT, CEQA GUIDELINES § 15090

The Board of Supervisors certifies that the Final EIR, dated June 2018, on file with the Department of Planning & Development Services, as Environmental Review No. PDS2015-ER-15-08-001, has been completed in compliance with CEQA and the State CEQA Guidelines, that the EIR was presented to the Board of Supervisors, and that the Board of Supervisors reviewed and considered the information contained therein before approving the Project, and that the EIR reflects the independent judgment and analysis of the Board of Supervisors. (State CEQA Guidelines § 15090.)

XIII. STATEMENT OF OVERRIDING CONSIDERATIONS

Pursuant to Public Resources Code Section 21081(b) and State CEQA Guidelines section 15093(a) and (b), the County is required to balance, as applicable, the economic, legal, social, technological, or other benefits, including region-wide or statewide environmental benefits, of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological or other benefits of the project, including region-wide or statewide environmental benefits, outweigh the unavoidable adverse environmental effects, those effects may be considered “acceptable.” (CEQA Guidelines, §15093 (a).) CEQA requires the agency to support, in writing, the specific reasons for considering a project acceptable when significant impacts are not avoided or substantially lessened. Those reasons must be based on substantial evidence in the Final EIR or elsewhere in the administrative record. (CEQA Guidelines, §15093(b).)

Courts have upheld overriding considerations that were based on a variety of policy considerations including, but not limited to, new jobs, stronger tax base, and implementation of an agency’s economic development goals, growth management policies, redevelopment plans, the need for housing and employment, conformity to community plan, and provision of construction jobs, See *Towards Responsibility in Planning v. City Council* (1988) 200 Cal App. 3d 671; *Dusek v. Redevelopment Agency* (1985) 173 Cal App. 3d 1029; *City of Poway v City of San Diego* (1984) 155 Cal App. 3d 1037; *Markley v. City Council* (1982) 131 Cal App.3d 656.

As explained above, several significant impacts remain significant and unavoidable for the project despite the proposed mitigation measures. These significant unavoidable impacts are related to aesthetics, air quality, mineral resources, noise, population and housing, and transportation and traffic. (See Sections IV and VI, above, and MMRP.)

The County finds that all feasible mitigation measures identified in the Final EIR that are within the purview of the County will be implemented with the project, and that the remaining significant unavoidable effects are outweighed and are found to be acceptable due to the following specific overriding economic, legal, social, technological, or other benefits, based upon the facts set forth in these Findings, the Final EIR, and the record.

CEQA Findings and Statement of Overriding Considerations

A. Overriding Benefits Resulting from the Project

The County finds that the project would have the following economic, legal, social, technological, or other overriding benefits, including region-wide or statewide environmental benefits. Each of the benefits cited below constitutes a separate and independent basis that justifies approval of the project and outweighs the unavoidable adverse environmental effects of approving the project and thus make the adverse environmental effects acceptable. Thus, even in the absence of one or more of the reasons set forth below, the County has determined that each remaining reason, or any combinations of reasons, is a sufficient basis for approving the project, notwithstanding any significant and unavoidable impacts that may occur.

- 1) **Balanced Land Use Benefits:** The project has been designed to accommodate existing, planned, and future growth in north San Diego County by providing a diverse range of housing opportunities in conjunction with a Town Center, which supports a mix of uses for the benefit of the new community and surrounding areas. The project will provide a comprehensive array of land uses for a balanced community of homes, employment, shopping, commercial services, education and recreation. The project also includes open space, parks, scenic overlooks, bike lanes, community gardens and vineyards, and walkable trails and pathways, which act as a connective thread throughout the community. The project will strike a balance between housing, conservation of on-site sensitive natural resources, land use, and transportation considerations.

- 2) **Benefits of Sustainable Design:** The project would maintain an environmentally sustainable Community and reduce greenhouse gas (GHG) emissions that contribute to climate change through a variety of project planning and design features and mitigation measures. The project has committed to offset all of its greenhouse gas emissions to achieve and maintain carbon neutrality (i.e., net zero emissions) for the life of the project. This initiative would make the project the first large-scale planned community in San Diego County to achieve a 100 percent reduction in the project's construction and operational GHG emissions through the life of the project, and one of the first master-planned communities in the United States to commit to carbon neutrality. In terms of planning and design, the project would feature walkable and bicycle-friendly neighborhoods and streets; a balance of housing types and other land uses including a school, commercial/retail uses; well-integrated pocket, neighborhood, and community parks, and a network of trails and pedestrian pathways that would interconnect the project's various neighborhoods; a community-sponsored electric bike-share program; shuttle services to transit centers in neighboring cities, a car-share program, a ride-share program, and transit fare passes for residents; water efficient landscapes and buildings throughout the project along with a commitment to pre-plumb single-family homes in the project for greywater systems; prohibition of turf grass in residential front yards and within street rights-of-way; installation of electric vehicle charging stations in all single-family homes and at 3% of the Town Center's commercial core parking spaces; compliance with California Title 24 building

CEQA Findings and Statement of Overriding Considerations

and energy efficiency standards (e.g., the CalGreen Building Code and the California Energy Code); solar on all residential uses; solar-powered street lights, and other project design features which reduce GHG emissions. The project has thus incorporated extensive sustainability features onsite, and has further committed to offset all greenhouse gas emissions to achieve carbon neutrality.

- 3) **Interrelated Neighborhoods and Community Development Benefits:** The size of the project site provides the opportunity to develop a comprehensively planned community in which land uses are properly sited, and infrastructure and public services are planned in advance and coordinated with regional infrastructure and public services. The project would create compact, sustainable interrelated neighborhoods designed to create community and a sense of place among residents. The Town Center is designed to provide shopping for convenience goods and personal services for day-to-day needs for use by project residents and the surrounding community. The project also incorporates a multimodal transportation network supporting pedestrian, equestrian, bicycle, shuttle service, and vehicular use throughout the project community, with connections to off-site roads supporting the same. Development of the proposed compact, sustainable interrelated neighborhoods, is consistent with the County's Community Development Model and "Village" designation in the General Plan.
- 4) **Benefits from Range of Housing Options:** The project would develop a mix of housing types and choices accommodating a range of consumer life stages and income levels. The project's residential component includes 2,135 total homes, including 1,140 single-family homes on varying lot sizes and 995 multi-family homes. Of the 2,135 total homes, 325 would be age-qualified senior homes. Further, the Specific Plan contemplates several product types in the C34 and RS zones, including alley-loaded homes, row and grade-separated townhomes, clustered single-family homes and traditional single-family detached homes. In so doing, the project would provide a range of housing opportunities for existing and future residents of the County. The project's mix of housing types and choices would also support a reasonable share of San Diego County's projected regional population growth to help the County meet its required regional housing needs, as detailed in the County's General Plan Housing Element and SANDAG's Regional Housing Needs Assessment.
- 5) **Biological Preserve and Open Space Benefits:** The project would preserve substantial open space and thereby enhance native habitat conservation and natural community conservation planning in north San Diego County through the permanent dedication and management of open space to protect multiple special-status species and their habitats and provide connectivity to existing designated open space and preserve areas in areas surrounding the project. The project would establish large contiguous blocks of on-site native habitat preservation and Community open space by creating a 1,209-acre habitat preserve onsite and a 212-acre habitat

CEQA Findings and Statement of Overriding Considerations

preserve offsite, by retaining an additional 235 acres of native habitat in Fuel Modification Zone (FMZ) 2 and Special Management Areas (SMAs), and by concentrating the project's grading footprint into approximately 27% of the total Site. The project's on-site and off-site preserve areas would be subject to Resource Management Plans and managed in perpetuity by a preserve manager. The project's FMZ 2 areas and SMAs would be subject to periodic fuel thinning and weed and trash removal for fire protection purposes; however, the native habitat structure of these areas would be retained. In total, the project would provide protection for 1,657 acres of native habitat.

In support of the goal to have a regionally-managed, inter-connected preserve system that embodies the regional biological diversity of San Diego County, the project's proposed 1,209 acres of preserve areas would also be contiguous with large off-site open space areas located to the north, south, and west of the project Site containing high-quality native habitat, including chaparral, woodlands, riparian areas, wetlands, and grasslands. Many of these areas are designated as "Pre-Approved Mitigation Areas" (PAMAs) in the County's Draft North County Multiple Species Conservation Program (MSCP) Plan or, in some cases, already in permanent preservation. Preserving the northwestern, northern and eastern areas of the project Site would provide a contiguous block of habitat connected to mostly undeveloped lands and lands designated as PAMA, including the San Marcos Mountains, and lands already in preservation. The project's proposed preserve areas in the southern portion of the project Site would also connect to off-site areas designated as PAMA, including the high-quality wetland and riparian habitat immediately south of Deer Springs Road, an important drainage area for native flora and fauna. While a regional preserve system has not yet been adopted in the unincorporated areas of North San Diego County, the primary goal of the Draft North County MSCP Plan is to create this regional preserve. The project's preserve areas would be an important and significant contribution of preserve land to the North County MSCP preserve.

- 6) **Multi-Modal Transportation Benefits:** The project would create compact, sustainable interrelated neighborhoods, consistent with the County's Community Development Model and "Village" designation in the General Plan, and facilitate a multi-modal transportation network linked to regional transportation mobility options. The project would include a Transportation Demand Management (TDM) Program of mobility alternatives to private vehicle trips (e.g., single occupancy trips) including an electric bike-share program with kiosks throughout the project, support for car-share and ride-share programs within its Town Center, subsidized transit passes for the project's residents, shuttle services connecting the project's residential neighborhoods to its Town Center neighborhood and to the Escondido Transit Center which serves as a hub for public rail, bus, and shuttle services throughout the North County area, and marketing and educational services to residents and employees of the project's various mobility alternatives . The project's TDM Program would result in a significant reduction in both

CEQA Findings and Statement of Overriding Considerations

internal vehicle trips (trips that stay within the project Site) and external vehicle trips (trips that leave and return to the project Site).

- 7) **Public Service Benefits:** The project would construct public facilities phased concurrent with demand and support public services within existing service areas without burden or cost to existing residents, visitors, or North County unincorporated communities. The project would be conditioned to work with the County and public agencies to provide new and expanded infrastructure, facilities, and public services to and within the vicinity of the project Site. These new infrastructure, facilities, and services would be sized to serve the project and/or address existing impacted facilities such as roads and would be in areas already planned for new and/or expanded infrastructure and facilities. The project's proposed improvements would include improvements to road capacity, sewer and water infrastructure, public parks, fire service, undergrounding of utilities in on- and off-site areas, and a school site. The project would be conditioned to require delivery, construction and/or funding of these improvements commensurate with the various phases of project development.
- 8) **Recreational Benefits:** The project would provide a range of recreational amenities and facilities that are accessible to residents of both the Community and the surrounding area. The project would include park and recreational facilities that enhance the quality of life and meet the diverse active and passive recreational needs of the project's County residents and visitors. The project's 35.9 acres of parkland, 1,209-acre habitat preserve, and a project-wide network of pedestrian pathways and trails would weave through the project's various neighborhoods and to the surrounding Community of Twin Oaks, linking to open space trails, neighborhood trails and parks, and pedestrian pathways throughout the project. The project's 35.9 acres of pocket, neighborhood, and community parks have been sized, designed, and designated as a combination of public and private parks in compliance with the County's Parkland Dedication Ordinance (PLDO), which serves as the County's implementation ordinance to comply with the Quimby Act and to provide parks for its residents. The project's parks and recreational facilities would provide a wide range of recreational opportunities and uses, including active ballfields, passive use areas, swimming facilities, children's play equipment, and a dog park. The project's Saddleback Park would serve as a staging area for equestrian enthusiasts to horseback ride through the project and along the project's multi-use trails. The project's proposed active and passive parks and its system of trails and pedestrian pathways would address an established public need for recreation, and would provide quality-of-life enhancing benefits associated with hiking, biking, and horseback riding to both its future residents and visitors, and existing and future residents of the surrounding communities, such as Twin Oaks.
- 9) **Benefits from Development of Housing in Proximity to Jobs and Services:** The project site is well-situated to place a range of housing opportunities close to existing regional employment centers. The project is located at the Deer Springs Road interchange with direct access to I-15, providing regional access to existing job centers in San Marcos, Vista, Rancho Bernardo,

CEQA Findings and Statement of Overriding Considerations

Escondido, and Poway. A jobs/housing market analysis prepared for the project by MarketPointe Realty Advisors shows that 124,251 jobs exist within the State Route (SR) 78 Corridor Submarket, encompassing the cities of Escondido, San Marcos, and Vista, and certain portions of the unincorporated County, and that the majority of workers for these jobs are commuting from other parts of the County or from neighboring counties. The project would provide an opportunity for workers to reside within in the County in closer proximity to these job centers. The Site is also located near Cal State San Marcos and Palomar College, and three Sprinter stations are within 6 miles of the project Site: the San Marcos Civic Center Sprinter Station, the Buena Creek Station, and the Palomar College Station, as shown in Figure 1-34, Proximity to Major Employment Centers.

- 10) Fiscal Benefits:** Based on the June 9, 2018 memorandum prepared by Fuscoe Engineering, the project will expend approximately \$176.5 to \$178.7 million on public improvements, services, and benefits, in providing offsite road and intersection improvements; paying fees related to the provision of public services; and providing open space dedications on- and off-site, improvements to the I-15 interchange and bridge, an additional fire service benefit payment, public parks, and public trails.
- a. In dedicating 1,209 acres of permanent biological open space, fully funding the preparation and approvals of studies, reports and management plans, and depositing an endowment sufficient to provide funds to manage the preserve in perpetuity, the project will provide an approximately \$25 million public fiscal benefit. In addition, the project will dedicate an additional 212 acres of off-site permanent biological open space to be endowed and managed in perpetuity in the same manner, expending another \$2.5 million in the public benefit.
 - b. The project will expend \$25.4 to \$26.7 million to improve Deer Springs Road, Twin Oaks Valley Road and other offsite public roadways. As County Mobility Element Roadways, improvements to Deer Springs Road and a portion of Twin Oaks Valley Road would otherwise be funded by the County and its taxpayers.
 - c. The project would pay transportation impacts fees of approximately \$11 million to help fund regional transportation improvements.
 - d. School fees in the amount of approximately \$19 million would be paid to San Marcos Unified School District, Escondido Union School District, and Escondido Union High School District to fund school facility improvements.
 - e. The project would pay approximately \$2.5 million to the Deer Springs Fire Protection District as fire mitigation fees. In addition, the applicant has voluntarily entered into a fire mitigation agreement with the Deer Springs Fire Protection District which calls for payment of a lump sum of \$2,010,000 for improvements to the existing station and addition of trucks and equipment as the District sees fit.

CEQA Findings and Statement of Overriding Considerations

- f. The project will pay fees to the Vallecitos Water District (“VWD”) and the San Diego County Water Authority (“SDCWA”) for improvements to their regional water systems in the amount of approximately \$25.4 million.
 - g. The project will pay capital facility fees to VWD for improvements to their regional sewer and reclaimed water systems of approximately \$19.7 million. In addition, the project will pay approximately \$3.4 million in fees to VWD in sewer annexation fees.
 - h. The project will expend approximately \$22 million funding all Caltrans- required studies, plans, approvals and subsequent construction of required improvements to the existing I-15 interchange, including improvements to the overpass, ramps and signals. While required mitigation, these improvements would be planned, constructed and funded by the project, which will represent only a small portion of total users of this interchange.
 - i. Fifteen (15) parks would be developed as part of the project, including twelve (12) public parks. The development of these twelve parks represents a public fiscal benefit of approximately \$16.6 million, which would be expended by the project.
 - j. In addition to public parks, the project would develop public trails at a cost of approximately \$2.9 million.
- 11) Economic Benefits:** The project encourages economic growth and diversity within the County of San Diego. Increasing the number of dwelling units on the project site increases tax revenues from residential and commercial uses, supports employment of construction workers, and reduces per capita costs for provision of public services. Additionally, permanent jobs would be created by the build-out of the commercial component of the proposed project.

B. Conclusion

In light of the foregoing, and the information contained within the Final EIR and other portions of the project record, the County concludes that implementation of the Newland Sierra Project will result in the development of a beneficial project as outlined above. The County also finds that the benefits identified above outweigh and make acceptable the significant, unavoidable environmental impacts associated with the Newland Sierra Project and, accordingly, adopts this Statement of Overriding Considerations.



County of San Diego

MARK WARDLAW
DIRECTOR

PLANNING & DEVELOPMENT SERVICES
5510 OVERLAND AVENUE, SUITE 310, SAN DIEGO, CA 92123
www.sdcounty.ca.gov/pds

PLEASE NOTE THAT A FORMAL APPLICATION FOR A HABITAT LOSS PERMIT HAS NOT BEEN FILED AT THIS TIME. THE FOLLOWING IS A DRAFT FORM OF DECISION FOR A HABITAT LOSS PERMIT SHOWING THE FORMAT AND POSSIBLE CONDITIONS FOR A FUTURE HABITAT LOSS PERMIT. BECAUSE A FORMAL APPLICATION HAS NOT BEEN FILED, CERTAIN DATES, FINDINGS AND OTHER INFORMATION IS ABSENT FROM THE DRAFT FORM OF DECISION, THIS INFORMATION WILL BE INCLUDED IN THE FINAL FORM OF DECISION.

DATE (To Be Determined)

Newland Sierra LLC
Contact: Rita Brandin
9820 Towne Centre Drive, Suite 100
San Diego, California 92121

DRAFT Habitat Loss Permit

APPLICATION NUMBER: HLP XX-XXX

ASSOCIATED PERMIT(S): PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ15-001, PDS2015-TM-5597, PDS2015-ER-15-08-001

NAME OF APPLICANT: Newland Sierra LLC

DESCRIPTION/LOCATION OF LOSS:

This document presents findings required for the issuance of a Habitat Loss Permit under the Endangered Species Act Section 4(d) rule for the California gnatcatcher (*Poliioptila californica*). The action being addressed within these findings is the removal of coastal sage scrub associated with the Newland Sierra project within the County of San Diego. The project will result in the permanent direct impact to 54.5 acres of coastal sage scrub (CSS; all subtypes) onsite and one location of California gnatcatcher onsite. An additional 2.2 acres of CSS will be permanently impacted as a result of offsite improvements, for a total of 56.7 acres of CSS direct permanent impact.

The project is located on 1,985 acres north of the City of Escondido in the unincorporated area of San Diego County. It is in the North County Metropolitan Subarea, generally bound on the east by I-15, on the south by Deer Springs Road, on the west by Twin Oaks Valley Road, and by agriculture and estate development to the north. Thomas Brothers Coordinates: Page1088, Grid J/3.

Of the 1,985.6-acre Newland Sierra project site, the proposed project includes 1,209.1 acres of on-site open space and 776.5 acres of development and fuel management zones. The proposed project also includes off-site improvements and preservation of a 212-acre offsite mitigation parcel. The proposed development would include 7 neighborhoods with a total of 2,135 residential units. A community-wide linear park and trail network is proposed to connect the neighborhood parks and both community and open space trails. This network includes approximately 17 total linear miles of trails. The linear greenbelts may contain drainage conveyance creeks or swales to provide water quality treatment. Park amenities, open space for active recreation, neighborhood-scale parks and pocket parks, are proposed. Development of the seven planning areas would avoid the most sensitive biological, cultural, and topographical resources.

The proposed biological open space for the proposed project includes three large, interconnected, biological open space blocks within the project Site as well as a large off-site biological open space parcel. The proposed on-site open space design consists of two large continuous blocks of key biological resources situated within the northern half and along the eastern boundary of the project Site, and a large third block of open space in the center of the proposed development that would connect the abovementioned blocks of open space to open space located east and south of the project Site. These connected blocks of habitat create an on-site preserve of approximately 1,209.1 acres, which has been designated as a proposed hardline area in the draft North County Plan of the County of San Diego Multiple Species Conservation Program. Additionally, the project would preserve and manage a 212-acre off-site mitigation parcel, which has been identified as a conservation priority and is designated as a pre-approved mitigation area (PAMA) in the draft North County Plan.

Approximately 24% of the on-site biological open space is classified as Very High or High habitat value as indicated by the draft North County Plan Habitat Evaluation Map (2008), and another 63% of the on-site biological open space is classified as Moderate habitat value. The remainder of the on-site biological open space is classified as Low habitat value or developed land. Nearly the entire off-site mitigation parcel is classified as Very High habitat value by the draft North County Plan Habitat Evaluation Map.

The majority of the proposed open space design would be located within the northern half of the project site. The northern half of the site has the greatest potential to support wildlife due to the east-west connection with the San Marcos Mountains. In addition, the northern half of the project site is positioned to take maximum advantage of interconnected blocks of habitat. The northern portion of the proposed open space design provides a diverse representation of the natural and environmental conditions that occur within the larger project area. Open space would also be designated along the eastern boundary of the project site adjacent to I-15, which serves as important habitat for California gnatcatcher and many other wildlife species, as well as internal to the project site, which would enhance connectivity to the south. Draft North County Plan PAMA-designated lands are located to the west and north of the proposed on-site biological open space, which signifies that the lands adjacent to the proposed biological open space also support biological conservation value.

The proposed open space design includes a diverse array of environmental features including ridgetops, hill tops, and rocky outcrops. Although the majority of this area consists of dense chaparral, this area also incorporates a diverse representation of the vegetation communities that occur on site and in the vicinity including, riparian forest and scrub, coastal sage scrub, non-native grassland, and oak woodland. The two largest riparian areas located within the project Site would be included in the open space: the South Fork of Gopher Canyon and the South Fork of Moosa Canyon. The South Fork of Gopher Canyon, which is located along Twin Oaks Valley Road, holds water part of the year. The topography in this area of the open space is highly diverse and includes elevations from approximately 700 feet AMSL to 1,750 feet AMSL.

Overall, the entire open space area contains a diversity of environmental characteristics including representative populations of special-status plant and animal species observed on site; existing dirt trails and canyon bottoms currently used by wildlife for movement across the site; and the north-south-trending tributary to Gopher Canyon along Twin Oaks Valley Road, which provides linkage opportunities to the San Marcos Mountains.

The proposed project will result in both temporary and permanent impacts to coastal sage scrub. On-site impacts include 2.7 acres of temporary impacts and 54.5 acres of permanent impacts. Off-site impacts total 1.6 acre of temporary impacts and 2.2 acre permanent impacts. Coastal scrub impacts total 4.3 acres of temporary impacts and 56.7 acres of permanent impacts. Part of the northern portion of the project site is within federally designated critical habitat for the California gnatcatcher (2000); however, none of the CSS that would be impacted by the proposed project is within designated critical habitat.

Focused surveys for California gnatcatcher on the project site have resulted in the detection of two individuals.

Biological resources on the project site were evaluated in a Biological Resources Technical Report prepared by Dudek (2017). Native vegetation communities within the project site include coast live oak woodland, Diegan coastal sage scrub (including disturbed), coastal sage scrub *Baccharis* dominated (including disturbed), coastal sage scrub-chaparral transition, flat-topped buckwheat scrub (disturbed), granitic southern mixed chaparral (including disturbed), mafic southern mixed chaparral, scrub oak chaparral, freshwater marsh, mulefat scrub, southern coast live oak riparian forest, southern willow scrub, and southern willow scrub/tamarisk scrub. Three non-native vegetation communities, eucalyptus woodland, non-native woodland and non-native grassland, occurs within the project area. Four other land cover types occur within the project area: intensive agriculture, orchards and vineyards, urban/developed, and disturbed habitat.

Ten wildlife species and four plant species on the draft North County Plan Covered Species list occur or have a likelihood of using the project site, including western spadefoot (*Spea hammondi*), Belding's orange-throated whiptail (*Aspidoscelis hyperythra beldingi*), red-diamondback rattlesnake (*Crotalus ruber*), Blainville's horned lizard (*Phrynosoma blainvillei*), southern California rufous-crowned sparrow (*Aimophila ruficeps canescens*) Bell's sage sparrow (*Artemisospiza [Amphisipiza] belli belli*), northern harrier (*Circus cyaneus hudsonius*), California gnatcatcher, pallid bat (*Antrozous pallidus*), and mountain lion (*Felis concolor*), summer holly (*Comarostaphylis diversifolia* ssp. *diversifolia*), sticky dudleya (*Dudleya viscida*), felt-leaved monardella (*Monardella hypoleuca* ssp. *lanata*) and Engelmann oak (*Quercus engelmannii*).

The relevant proposed mitigation measures for biological resources are provided below under Conditions of Approval.

The NCCP Flowchart indicates the CSS habitat is “Intermediate Value for Long-Term Conservation” (see NCCP Flowchart section below for additional information). Mitigation ratios are listed in Table 1. With the above-mentioned mitigation, all impacts associated with the development would be mitigated to a level below significance. The proposed project is in conformance with all standards and guidelines outlined in the NCCP Process Guidelines.

Table 4-1
Summary of Impacts, Mitigation, and Open Space for
Vegetation Communities and Jurisdictional Areas (Acres)

Habitat Types/Vegetation Communities	On-Site Existing Acreage	Total On-Site Impacts ¹	Total Off-Site Impacts ²	Mitigation Ratio	Mitigation Required	On-Site Open Space ³	Off-Site Mitigation Area	Mitigation Excess/ (Deficit)
<i>Coastal Scrub</i>								
Diegan coastal sage scrub (including disturbed)*	68.2	45.6	0.5	2:1	92.2	22.6	106.4	36.8
Coastal sage scrub – Baccharis dominated (including disturbed)	2.0	1.5	—	2:1	3.0	0.5	—	(2.5)
Flat-topped buckwheat – disturbed*	1.7	0	—	2:1	0	1.7	—	1.7
Coastal sage – chaparral transition*	7.8	7.4	1.7	2:1	18.2	0.4	—	(17.8)
<i>Subtotal</i>	<i>79.7</i>	<i>54.5</i>	<i>2.2</i>	<i>N/A</i>	<i>113</i>	<i>25.2</i>	<i>106.4</i>	<i>18.2</i>
<i>Chaparral</i>								
Chamise chaparral ^{4*}	—	—	—	—	—	—	19.7	19.7
Granitic southern mixed chaparral (including disturbed)*	1,700.7	626.9	6.3	0.5:1	316.6	1,073.8	—	757.2
Mafic southern mixed chaparral*	58.8	0.8	—	3:1	2.4	58.0	—	55.6
Scrub oak chaparral*	44.3	39.2	—	0.5:1	19.6	5.1	—	(14.5)
<i>Subtotal</i>	<i>1,803.8</i>	<i>666.9</i>	<i>6.3</i>	<i>N/A</i>	<i>338.3</i>	<i>1,136.9</i>	<i>19.7</i>	<i>818.0</i>
<i>Woodland</i>								
Coast live oak woodland*	9.1	6.5	2.8	3:1	27.9	2.6	—	(25.3)
Engelmann Oak Woodland - Open ^{4*}	—	—	—	N/A	—	—	29.0	29.0
<i>Subtotal</i>	<i>9.1</i>	<i>6.5</i>	<i>2.8</i>	<i>N/A</i>	<i>26.1</i>	<i>2.6</i>	<i>29.0</i>	<i>3.7</i>
<i>Riparian</i>								
Freshwater marsh*	0.1	—	—	3:1	—	0.1	—	0.1
Southern coast live oak riparian forest*	5.2	1.9	0.8	3:1	8.1	3.3	—	(4.8)
Mulefat scrub*	0.2	0.1	0.03	3:1	0.4	0.1	—	(0.3)
Southern sycamore-alder riparian woodland ^{4*}	—	—	—	—	—	—	7.9	7.9
Southern willow scrub*	2.5	0.1	0.5	3:1	1.8	2.4	—	0.6
Southern willow scrub/tamarisk scrub*	0.3	—	—	3:1	—	0.3	—	0.3
Arundo-dominated riparian	—	—	0.1	3:1	0.3	—	—	(0.3)

Table 4-1
Summary of Impacts, Mitigation, and Open Space for
Vegetation Communities and Jurisdictional Areas (Acres)

Habitat Types/Vegetation Communities	On-Site Existing Acreage	Total On-Site Impacts ¹	Total Off-Site Impacts ²	Mitigation Ratio	Mitigation Required	On-Site Open Space ³	Off-Site Mitigation Area	Mitigation Excess/ (Deficit)
<i>Subtotal</i>	8.3	2.1	1.4	N/A	10.3	6.2	7.9	3.5
<i>Grassland</i>								
Valley needlegrass grassland ^{4*}	—	—	—	—	—	—	8.5	8.5
Non-native grassland*	16.1	15.3	2.6	0.5:1	9.0	0.8	33.8	25.7
<i>Subtotal</i>	16.1	15.3	2.6	N/A	9.0	0.8	42.3	34.2
<i>Non-native Communities and Land Covers</i>								
Agriculture	—	—	2.0	None	—	—	—	(2.0)
Eucalyptus woodland	0.5	—	2.0	None	—	0.5	3.2	1.7
Intensive agriculture	<0.0	<0.0	1.4	None	—	—	—	(1.4)
Extensive agriculture	—	—	4.5	None	—	—	—	(4.5)
Orchard and vineyards	2.0	1.0	1.9	None	—	1.0	—	(1.9)
Urban/developed	9.2	9.2	40.8	None	—	—	0.1	(49.9)
Disturbed habitat	57.0	21.0	5.1	None	—	36.0	3.3	13.2
Non-native woodland	—	—	0.2	None	—	—	—	(0.2)
<i>Subtotal</i>	68.7	31.2	57.9	—	0	37.5	6.6	(35.5)
Total¹	1,985.6	776.6	71.7	N/A	497.3	1,209.1	211.8	923.6
<i>Other</i>								
RPO wetland buffer ⁵	30.2	8.7	3.9	N/A	N/A	N/A	—	N/A
Oak Root Zone ⁵	32.9	11.2	8.4	3:1	58.8	21.7	—	-18.9
Non-wetland waters (ephemeral and intermittent) ⁵	5.33	1.41	0.16	1:1	1.59	3.92	—	N/A

¹ Totals may not add due to rounding.

² This includes impacts for Deer Springs Road Option B and all other off-site impacts.

³ The open space acreage includes the on-site temporary impacts since they will be restored and conserved in permanent open space.

⁴ These communities occur in the off-site Ramona mitigation site and are described in Appendix J.

⁵ These features are overlays to the vegetation community layer and are not counted toward the total existing acreage.

* Considered special-status by the County (2010b).

3:1 for riparian areas includes a 1:1 creation and 2:1 enhancement requirement.

DECISION:

The Director of Planning & Development Services has approved your application for a HABITAT LOSS PERMIT. This Habitat Loss Permit approval does not become final until both the United States Fish and Wildlife Service (USFWS) and the California Department of Fish and Wildlife (CDFW) concur with the Director's approval, by the either of the following:

1. Concurrence implied by allowing a 30-day period, initiated by their receipt of this decision, to lapse without presenting written notification to the County that the decision is inconsistent with the Southern California Coastal Sage Scrub (CSS) Natural Community Conservation Planning (NCCP) Process Guidelines (CDFW, November 1993) or any approved subregional mitigation guidelines; or
2. Granting concurrence through written notification to the County prior to the conclusion of the 30-day period, initiated by their receipt of this decision, that the project is consistent

with the Southern California CSS NCCP Process Guidelines or any approved subregional mitigation guidelines.

Pending the issuance of an associated Grading Permit, Clearing Permit or Improvement Plan from the County of San Diego, this Habitat Loss Permit allows for the loss of the above-described coastal sage scrub habitat (see attached Habitat Loss Exhibit) and incidental take of the California gnatcatcher for a period of one calendar year commencing the day concurrence is given by both the USFWS and CDFW. If the loss of habitat, as authorized by this Habitat Loss Permit, has not occurred within this one-year period, this Habitat Loss Permit and the authorization for the loss of coastal sage scrub habitat expires.

This Habitat Loss Permit cannot be relied upon for the clearing, grading or removal of any vegetation until a valid Grading Permit, Clearing Permit or Improvement Plan has been issued from the County of San Diego authorizing such vegetation removal. Furthermore, use and reliance upon this Habitat Loss Permit cannot occur until all of the requirements as specified within the “Conditions of Approval” section of this permit have been satisfied.

CONDITIONS OF APPROVAL:

The following conditions are being placed on the Implementing Tentative Map (PDS2015-TM-5597). Future discretionary permits will be required for the proposed project. The conditions applicable to those actions are outlined in the MMRP found in the Environmental Impact Report (EIR) and referenced in the Specific Plan. For the final Habitat Loss Permit, the list of conditions will be modified to require satisfaction of all conditions prior to use and reliance on the HLP.

APPROVAL OF MAP: The conditions shall be complied with before a Final Map is approved by the Board of Supervisors and filed with the County Recorder of San Diego County (and, where specifically, indicated, shall also be complied with prior to approval of any plans, and issuance of any grading or other permits as specified):

Prior to approval of grading permits or improvement plans for applicable units or phases, and prior to approval of the Final Map for applicable units or phases of grading, the applicant shall incorporate the following mitigation measures as described in the Biological Resources Report for the Newland Sierra Project (Dudek 2017):

M-BIO-1 CONSTRUCTION MONITORING: To prevent inadvertent disturbance to areas outside the limits of grading, all grading shall be monitored by a biologist. A “Project Biologist” approved by the County of San Diego (County) shall be contracted to perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities.

The following shall be completed:

1. The Project Biologist shall perform the monitoring duties before, during, and after construction pursuant to the most current version of the *County of San Diego Report Format and Content Requirements, Biological Resources*. The contract provided to the County shall include an agreement that this will be completed, and a Memorandum of Understanding (MOU) between the

biological consulting company and the County shall be executed. The contract shall include a cost estimate for the monitoring work and reporting. In addition to performing monitoring duties pursuant to the most current version of the *County of San Diego Report Format and Content Requirements, Biological Resources*, the Project Biologist shall perform the following duties:

- a. Attend the preconstruction meeting with the contractor and other key construction personnel prior to clearing, grubbing, or grading to reduce conflict between the timing and location of construction activities with other mitigation requirements (e.g., seasonal surveys for nesting birds).
- b. Conduct meetings with the contractor and other key construction personnel describing the importance of restricting work to designated areas prior to clearing, grubbing, or grading. Perform weekly inspection of fencing and erosion control measures (daily during rain events) near proposed preservation areas and report deficiencies immediately to the Department of Public Works (DPW) Construction Inspector.
- c. Discuss procedures/training for minimizing harm to or harassment of wildlife encountered during construction with the contractor and other key construction personnel prior to clearing, grubbing, or grading.
- d. Review and/or designate the construction area in the field with the contractor in accordance with the final grading plan prior to clearing, grubbing, or grading.
- e. Conduct a field review of the staking to be set by the surveyor, designating the limits of all construction activity prior to clearing, grubbing, or grading.
- f. Supervise and monitor vegetation clearing, grubbing, and grading to ensure against direct and indirect impacts to biological resources that are intended to be protected and preserved.
- g. Flush special-status and other species (i.e., avian and other mobile species) from occupied habitat areas immediately prior to brush-clearing and earth-moving activities.
- h. Verify that the construction site is implementing the following storm water pollution prevention plan best management practices: dust-control fencing, removal of construction debris and a clean work area, covered trash receptacles that are animal-proof and weather-proof, prohibition of pets on the construction site, and a speed limit of 15 miles per hour during the daylight and 10 miles per hour during dark hours.
- i. Periodically monitor incoming landscape products for compliance with the prohibition on non-native invasive species and the requirement for landscaping composed of native species that do not require high irrigation rates.

- j. Periodically monitor the construction site in accordance with the project's fugitive dust control plan in compliance with San Diego County Air Pollution Control District's regulations to reduce particulate matter less than 10 microns in diameter (PM₁₀) and fine particulate matter less than 2.5 microns in diameter (PM_{2.5}) emissions during construction (refer to the Air Quality Technical Report). Periodically monitor the construction site to see that dust is minimized according to the fugitive dust control plan and that manufactured slopes are revegetated as soon as possible.
- k. Periodically monitor the construction site to see that artificial security light fixtures are directed away from open space and are shielded.
- l. Oversee the construction site so that cover and/or escape routes for wildlife from excavated areas are provided on a daily basis. All steep trenches, holes, and excavations during construction shall be covered at night with backfill, plywood, metal plates, or other means, and the edges covered with soils and plastic sheeting such that small wildlife cannot access them. Soil piles shall be covered at night to prevent wildlife from burrowing in. The edges of the sheeting shall be weighed down by sandbags. These areas may also be fenced to prevent wildlife from gaining access. Exposed trenches, holes, and excavations shall be inspected twice daily (i.e., each morning and prior to sealing the exposed area) by a qualified biologist to monitor for wildlife entrapment. Excavations shall provide an earthen ramp to allow for a wildlife escape route.
- m. Stop or divert all work when deficiencies require mediation and notify DPW Construction Inspector and the County Construction Inspector within 24 hours; produce periodic (monthly during grading) and final reports and submit to the Wildlife Agencies and the PDS (final report will release bond);
- n. Confer with the Wildlife Agencies and the County Construction Inspector within 24 hours any time protected habitat or gnatcatchers or other special-status species are being affected by construction.
- o. Keep daily monitoring notes for the duration of grading for submittal in a final report to substantiate the biological supervision of the grading activities and the protection of the biological resources.

The cost estimate of the monitoring (provided in the contract) shall be added to the grading bonds that will be posted with the DPW, or bond separately with the PDS. The bond for monitoring shall be released upon the acceptance of the monitoring report for each Final Map.

Documentation: The applicant shall submit the monitoring contract, cost estimate, and MOU to the PDS for review and approval. The applicant shall provide verification that the cost of the monitoring has been added to the grading bond.

Timing: Monitoring shall be performed throughout the duration of grading; if this project includes more than one Final Map, each shall have separate monitoring contracts and documentation.

Monitoring: The PDS shall review the contract, MOU, and cost estimate or separate bonds for compliance with this condition. The cost estimate shall be forwarded to the project manager for inclusion in the grading bond cost estimate and grading bonds. The DPW shall add the cost of the monitoring to the grading bond costs.

M-BIO-2 CONSTRUCTION FENCING: To prevent inadvertent disturbance to sensitive vegetation and species, temporary construction fencing shall be installed. The temporary fencing shall be placed to confine project activities to the areas approved for construction activities and to protect from inadvertent disturbance all open space easements and preserve areas that do not allow grading, brushing, or clearing. Temporary fencing shall also be required in all locations of the project where proposed grading or clearing is within 100 feet of open space or preserve boundaries. The placement of such fencing shall be approved by the Department of Planning & Development Services (PDS), Permit Compliance Section. Upon approval, the fencing shall remain in place until the conclusion of grading activities, after which the fencing shall be removed.

Documentation: The applicant shall provide evidence that the fencing has been installed and have a California licensed surveyor certify that the fencing is located on the boundary of the open space easement(s). The applicant shall submit the certification letter to PDS for approval.

Timing: Prior to the preconstruction conference for each Final Map area, and prior to any clearing, grubbing, trenching, grading, or land disturbances, the fencing shall be installed, and shall remain for the duration of grading and clearing. This may be done in association with grading and improvement plans for each Final Map.

Monitoring: The County of San Diego Construction Inspector shall attend either the preconstruction conference and approve the installation of the temporary fencing, or review the certification and pictures provided by the applicant.

M-BIO-3 MONITORING REPORT: To ensure that the biological monitoring occurred during the grading phase of the project, a final biological monitoring report shall be prepared. The report shall substantiate the supervision of the grading activities and state that grading and construction activities did not impact any additional areas or any other sensitive biological resources. The report shall conform to the County of San Diego *Report Format and Content Requirements, Biological Resources*, and include the following items:

1. Photos of the temporary fencing that was installed during the trenching, grading, and clearing activities.
2. Monitoring logs showing the date and time that the monitor was on site.

3. Photos of the site after the grading and clearing activities.
4. Lists of species observed with special-status species mapped.

Documentation: The Project Biologist shall prepare the final report and submit it to the Department of Planning & Development Services (PDS) for review and approval.

Timing: Upon approval of each Final Map, and prior to approval of the associated grading and improvement plans, the monitoring contract and bonding shall be submitted and complete. Upon completion of grading activities for each Final Map, and prior to rough grading final inspection (Grading Ordinance Section 87.421.a.2), the final report shall be completed and accepted by the PDS.

Monitoring: The PDS shall review the final report for compliance with this condition and the report format guidelines. Upon approval of the report, the PDS shall inform the Department of Public Works (DPW) that the requirement is complete and the bond amount can be relinquished. If the monitoring was bonded separately, then PDS shall inform DPW to release the bond back to the applicant.

M-BIO-4 INVASIVE SPECIES PROHIBITION: The Department of Planning & Development Services (PDS) Landscape Architect shall require that all final landscape plans comply with the following: (1) no invasive plant species as included on the most recent version of the California Invasive Plant Council's California Invasive Plant Inventory for the project region shall be included, and (2) the plant palette shall be composed of native species that do not require high irrigation rates. The Project Biologist shall periodically check landscape products for compliance with this requirement.

Monitoring: The PDS shall approve the final landscape plans; M-BIO-1 includes periodic monitoring of landscaping products brought to the project Site.

M-BIO-5 NESTING BIRD MANAGEMENT, MONITORING, AND REPORTING PLAN: To avoid impacts to nesting migratory birds and raptors and other nesting birds, which are a sensitive biological resource pursuant to CEQA, the MBTA and Fish and Game Code, breeding season avoidance shall be implemented on all plans.

DESCRIPTION OF REQUIREMENT: There shall be no brushing, clearing and/or grading allowed during the breeding season of migratory birds or raptors (between January 15 and August 31) or coastal California gnatcatcher (between February 15–August 15). The Director of PDS [PDS, PCC] may waive this condition, through written concurrence from the USFWS and the CDFW (i.e., Wildlife Agencies), provided that no nesting or breeding birds are present within 300 feet of the brushing, clearing or grading (500 feet for raptors) based on a pre-construction survey conducted by a County-approved biological consultant within seven days prior to the proposed start of clearing/grading. Prior to preconstruction conference and prior to any clearing, grubbing, trenching, grading, or any land disturbances and throughout the duration of the grading and construction, compliance with this condition is mandatory unless the requirement is waived by the County upon receipt of concurrence from the Wildlife Agencies. If construction work must occur during the avian breeding season (February 1 through August 31, and as early as January 1 for some raptors), the applicant shall prepare a Nesting Bird Management, Monitoring, and Reporting Plan (NBMMRP) to address avoidance of impacts to nesting birds. This plan shall be designed in coordination with the Wildlife Agencies. To avoid impacts to nesting birds the applicant shall:

1. Prepare an NBMMRP that shall include the following: nest survey protocols describing the nest survey methodologies; a management plan describing the methods to be used to avoid nesting birds and their nests, eggs, and chicks; a monitoring and reporting plan detailing the information to be collected for incorporation into a regular Nest Monitoring Log with sufficient details to monitor the applicant's compliance with California Fish and Game Code Sections 3503, 3503.5, 3511, and 3513; guidance for the monitoring biologists on reducing stress and harm to the nesting birds as a result of monitoring activities, including instructions on frequency of monitoring visits and distance to keep from the nest; the schedule for the submittal (usually weekly) of the Nest Monitoring Log; standard buffer widths deemed adequate to avoid or minimize significant project-related edge effects (disturbance) on nesting birds and their nests, eggs, and chicks; a detailed explanation of how the buffer widths were determined; and measures the applicant will implement to preclude birds from using project-related structures (e.g., construction equipment, facilities, or materials) for nesting.
2. Conduct preconstruction nesting bird surveys within 72 hours of construction-related activities and implement appropriate avoidance measures for identified nesting birds.
3. If feasible, conduct surveys beyond the project Site to determine presence of nesting birds that the project activities may affect—300 feet for passerine birds and 500 feet for raptors and coastal California gnatcatchers. The survey protocols shall include a detailed description of methodologies used by CDFW-approved avian biologists to search for nests and describe avian behaviors that indicate active nests. The protocols shall include the size of the site being surveyed, method of search, and behavior that indicates active nests.

4. Include each nest identified on the project Site in the Nest Monitoring Logs. The Nest Monitoring Logs shall be updated daily and submitted to CDFW weekly. Since the purpose of the Nest Monitoring Logs is to allow CDFW to track compliance, the logs shall include information necessary to allow comparison between nests protected by standard buffer widths recommended for the project (300 or 500 feet) and nests with buffer widths that were reduced by encroachment of project-related activities. The Nest Monitoring Logs shall provide a summary of each nest identified, including the species, status of the nest, buffer information, and fledge or failure data. The Nest Monitoring Logs shall allow for tracking the success and failure of the buffers, and shall provide data on the adequacy of the buffers for certain species.
5. Rely on its avian biologists to coordinate with CDFW and USFWS to determine the appropriate standard buffer widths for nests within the project corridor/footprint to employ based on the sensitivity levels of specific species or guilds of avian species. The determination of the standard buffer widths shall be Site- and species-/guild-specific and data-driven, and not based on generalized assumptions regarding all nesting birds. Determination of the buffer widths shall consider the following factors:
 - a. Nesting chronologies
 - b. Geographic location
 - c. Existing ambient conditions (human activity within line of sight—cars, bikes, pedestrians, dogs, noise)
 - d. Type and extent of disturbance (e.g., noise levels and quality—punctuated, continual, ground vibrations; blasting-related vibrations proximate to tern colonies are known to make the ground-nesting birds flush the nests)
 - e. Visibility of disturbance
 - f. Duration and timing of disturbance
 - g. Influence of other environmental factors
 - h. Species' site-specific level of habituation to the disturbance
 - i. Construction-related noise levels in coastal California gnatcatcher occupied habitat within 500 feet of construction activity would not exceed 60 dBA Leq or pre-construction ambient noise levels, whichever is greater. Project construction within 500 feet of occupied habitat would occur outside of the breeding season if possible. If necessary, construction activities during the breeding season would be managed to limit noise levels in occupied habitat within 500 feet of the project or noise attenuation measures, such as temporary sound walls, would be implemented to reduce noise levels below 60 dBA Leq or below existing ambient noise levels, whichever is greater.

6. Apply the standard buffer widths to avoid the potential for project-related nest abandonment and failure of fledging, and minimize any disturbance to nesting behavior. If project activities cause or contribute to a bird being flushed from a nest, the buffer must be widened.
7. Avoidance and buffering of nests in the process of being built on construction equipment or developed structures shall not be necessary. Additionally, although direct impacts to nests with eggs or chicks shall not be allowed, no buffer requirements shall apply.

Documentation: The applicant shall submit the NBMMRP for review and approval by the County of San Diego (County) and the Wildlife Agencies.

Timing: The NBMMRP shall be submitted and approved prior to approval of the first Final Map. No grading shall occur until concurrence is received from the County and the Wildlife Agencies. The Nest Monitoring Logs shall be submitted to the County and the Wildlife Agencies prior to the preconstruction conference and prior to any clearing, grubbing, trenching, grading, or any land disturbances, and throughout the duration of the grading and construction. Compliance with this condition is mandatory unless the requirement is waived by the County upon receipt of concurrence from the Wildlife Agencies.

Monitoring: The County Construction Inspector shall not allow any grading during the specified dates, unless a concurrence from the Wildlife Agencies is received and reviewed by the Department of Planning & Development Services.

M-BIO-6

REVEGETATION PLAN: To compensate for temporary impacts to special-status vegetation and wildlife habitat impacts, a final Revegetation Plan shall be submitted and approved for temporary impacts from grading to areas within the preserve and outside of the LBZ easement and FMZ. The revegetation plan shall be in compliance with the conceptual restoration plan (Appendix I of the Biological Resources Technical Report (Appendix H)), and provide replacement of comparable native vegetation. The final revegetation plan shall include, at a minimum, the implementation strategy; appropriate seed/source materials; appropriate planting method; an irrigation plan; quantitative and qualitative success criteria; a maintenance, monitoring, and reporting program; estimated completion time; and contingency measures. The revegetation plan shall conform to the most current version of the County of San Diego (County) *Report Format and Content Requirements for Revegetation Plans*. To ensure project completion and success of the revegetation plan, a surety shall be provided and an agreement shall be executed with the County and consist of a letter of credit, bond, or cash for 100 percent of the estimated costs associated with implementation of the revegetation plan and a 10 percent cash deposit of the cost of all improvements (no less than \$3,000; no more than \$30,000). The surety shall be released upon completion of the revegetation plan, provided the installed vegetation is in a healthy condition and meets the plan's success criteria.

Documentation: The applicant shall prepare the revegetation plan and submit it for review with the applicable review fees and deposits.

Timing: Prior to the approval of the first associated map and prior to the approval of the first associated plan or issuance of the first associated permit, the revegetation plan shall be approved by the Department of Planning & Development Services (PDS).

Monitoring: The PDS Landscape Architect shall review the revegetation plan for conformance with this condition and the County's *Report Format and Content Requirements for Revegetation Plans*. Upon approval of the revegetation plan, a Director's Decision of approval shall be issued to the applicant, with the request for compliance with a Secured Agreement for implementation of the revegetation plan. Upon receipt of the compliance letter, the PDS Landscape Architect shall sign the Agreement for the Director of PDS and ensure that the cash deposit is collected. Upon acceptance of the Agreement, securities, and cash deposit, the PDS Landscape Architect shall provide a confirmation letter acknowledging acceptance of the securities.

M-BIO-7 LIGHTING PLAN: All artificial outdoor light fixtures shall be installed so they are directed away from open space and are shielded in accordance with the project's lighting plan standards as outlined in the Specific Plan for the project. Light fixtures shall be installed in conformance with the County of San Diego's (County) Light Pollution Code, Building Code, Electrical Code, and lighting requirements specified in Section 6324 (Lighting Permitted in Required Yards) and Section 6326 (Lighting Not in Required Yards) of the Zoning Ordinance, along with any other related state and federal regulations such as California Title 24.

Documentation: The applicant shall submit building plans to the County for review in compliance of the above regulations.

Timing: Prior to the approval of all building permits.

Monitoring: The County building inspector shall review structures for compliance with this condition. During construction, the Project Biologist shall review lighting for compliance with this measure as part of the construction monitoring requirement.

M-BIO-8A PRESERVE: The applicant shall preserve in permanent open space approximately 1,420.9 acres of native habitats, generally consistent with the assemblage of vegetation communities impacted by the project in a proposed on-site and off-site open space preserve area (see Table 2.4-27) (see Appendix K to the BTR for the off-site mitigation site description). This shall include preservation of 1,420.9 acres of native habitats to mitigate for project impacts to 760.6 acres of special-status vegetation communities (both upland and riparian), thereby preserving compensatory habitat that provides equal or greater benefits to plant and wildlife species. Proposed on-site open space preserve has already been evaluated and may be used to satisfy this requirement through M-BIO-8B through M-BIO-8E.

Documentation: An RMP shall be prepared per M-BIO-8D and an application for the RMP shall be submitted to the PDS.

Timing: Prior to issuance of a grading permit, the mitigation shall occur.

Monitoring: The PDS shall accept an application for an RMP, and PDS and DPR shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

M-BIO-8B BIOLOGICAL OPEN SPACE EASEMENT. The County of San Diego (County) shall be granted a biological open space easement, as shown on the approved Tentative Map for the on-site open space and a separate open space easement exhibit for the off-site biological open space. These easements shall be for the protection of biological resources and all of the following shall be prohibited on any portion of the land subject to said easement: grading; excavating; placing soil, sand, rock, gravel, or other material; clearing vegetation; constructing, erecting, or placing any building or structure; vehicular activities; dumping trash; or using for any purpose other than as open space. Granting this open space shall authorize the County and its agents to periodically access the land to perform management and monitoring activities for species and habitat conservation. The only exception(s) to this prohibition are the following:

1. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard. Although clearing for fire management is not anticipated with the creation of this easement, such clearing may be deemed necessary in the future for the safety of lives and property. All fire clearing shall be pursuant to the applicable fire code of the fire authority having jurisdiction and the Memorandum of Understanding dated February 26, 1997, between the Wildlife Agencies and the fire districts and any subsequent amendments thereto.
2. Activities conducted pursuant to a revegetation or habitat management plan approved by the Director of the Department of Planning & Development Services, Department of Parks and Recreation, and Department of Public Works
3. Vegetation removal or application of chemicals for vector-control purposes where expressly required by written order of the County of San Diego Department of Environmental Health.
4. Uses, activities, and placement of structures expressly permitted and shown on the plot plan.
5. Construction, use, and maintenance of multi-use, non-motorized trails per the specific plan (Figure 1-3, Parks and Trails Plan).

Documentation: The applicant shall show the on-site open space easement on the Final Map and open space easement exhibit with the appropriate granting language on the title sheet concurrent with Final Map review, then submit them for preparation and recordation with the [DGS, RP] and pay all applicable fees associated with preparation of the documents. For the off-site open space an easement will be dedicated to the County through a separate document.

Timing: Prior to the approval of each Final Map, and on the associated map and prior to the approval of any associated plan and issuance of any associated permit, the on-site and off-site biological open space easements shall be recorded.

Monitoring: For recordation on the map, the [PDS, LDR] shall route the Final Map to [PDS, PCC] for approval prior to map recordation. The [PDS, PCC] shall preapprove the language and estimated location of the easements prior to recordation. The [PDS LDR] shall satisfy the condition after map recordation.

M-BIO-8C LIMITED BUILDING ZONE EASEMENT: A Limited Building Zone Easement shall be granted to prohibit the building of structures that would require vegetation clearing within the protected biological open space for fuel management purposes. The easement must extend at least 100 feet from the Biological Open Space boundary.

DESCRIPTION OF REQUIREMENT: Grant to the County of San Diego a LBZ Easement as shown on the Tentative Map. The purpose of this easement is to limit the need to clear or modify vegetation for fire protection purposes within the adjacent biological open space easement and prohibit the construction or placement of any structure that would require vegetation clearing within the protected biological open space for fuel management purposes. The only exceptions to this prohibition are Structures that do not require fuel modification/vegetation management.

Documentation: The applicant shall show the easement on the Final Map with the appropriate granting language on the title sheet concurrent with Final Map review, then submit them for preparation and recordation with the [DGS, RP] and pay all applicable fees associated with preparation of the documents.

Timing: Prior to the approval of each Final Map, and on the associated map and prior to the approval of any associated plan and issuance of any associated permit, the Limited Building Zone easements shall be recorded.

Monitoring: For recordation on the map, the [PDS, LDR] shall route the Final Map to [PDS, PCC] for approval prior to map recordation. The [PDS, PCC] shall preapprove the language and estimated location of the easements prior to recordation. The [PDS LDR] shall satisfy the condition after map recordation.

M-BIO-8D RESOURCE MANAGEMENT PLAN: To provide for the long-term management of the proposed biological open space preserve, a Resource Management Plan (RMP) shall be prepared and implemented. Conceptual RMPs are provided as Appendix L (on-site open space) and Appendix M (off-site open space) to the Biological Resources Technical Report.

DESCRIPTION OF REQUIREMENT: Submit to and receive approval from the Director of the Department of Planning & Development Services (PDS), an RMP consistent with the project's RPP (August 2016), on file as Environmental Review Number PDS2015-ER-15-08-001. The final RMP cannot be approved until the following has been completed to the satisfaction of the Director of PDS,

and, in cases where the Department of Parks and Recreation has agreed to be the owner/manager, to the satisfaction of the Director of the Department of Parks and Recreation:

1. The RMP shall be prepared and approved pursuant to the most current version of the County of San Diego (County) Biological Report Format and Content Requirements.
2. The habitat land to be managed shall be completely purchased.
3. The biological open space easements shall be dedicated to ensure that the land is protected in perpetuity.
4. A resource manager shall be selected, and evidence provided by the applicant as to the acceptance of this responsibility by the proposed resource manager.
5. The RMP funding costs, including a Property Assessment Record or other equally adequate forecast. The funding mechanism (endowment or other equally adequate mechanism) to fund annual costs for the RMP and the holder of the security shall be identified and approved by the County.
6. A contract between the applicant and County shall be executed for implementation of the RMP.
7. Annual reports shall include an accounting of all required tasks and details of tasks addressed during the reporting period, and an accounting of all expenditures and demonstration that the funding source remains adequate.

Documentation: The applicant shall prepare the RMP and submit it to the PDS and pay all applicable review fees.

Timing: Prior to approval of the first Final Map, submit the RMP for review and approval.

Monitoring: The PDS shall review the RMP for compliance with the content guidelines, the conceptual RMP, and this condition.

M-BIO-8E BIOLOGICAL OPEN SPACE FENCING AND SIGNAGE: To protect the proposed open space easement from unauthorized entry or disturbance, permanent post and rail fencing, or similar permeable fence, shall be installed along the boundaries of the biological open space. Open space signage shall be placed approximately every 200 feet along the fencing (see Figure 2.4-11, Proposed Biological Open Space/Conceptual Signage and Fencing).

DESCRIPTION OF REQUIREMENT: Open space fencing or walls shall be placed adjacent to residential uses and roads as shown on figure 2.4-11. Open space signage shall be installed as shown on Figure 2.4-11, Proposed Biological Open Space/Conceptual Signage and Fencing, and shall be corrosion resistant,

a minimum of 6 inches by 9 inches, on posts not less than 3 feet in height from the ground surface, and must state the following:

**Sensitive Environmental Resources
Area Restricted by Easement**

Entry without express written permission from the County of San Diego is prohibited. To report a violation or for more information about easement restrictions and exceptions, contact the County of San Diego, Planning & Development Services (Reference: PDS2015-ER-15-08-001)

Documentation: The applicant shall install the fencing or walls as indicated on Figure 2.4-11, Proposed Biological Open Space/Conceptual Signage and Fencing Plan, and include them on the building plans. The applicant shall install the signage as indicated on the Proposed Biological Open Space/Conceptual Signage and Fencing Plan, and have them photographed and verified by a California Registered Engineer or licensed surveyor.

Timing: Prior to occupancy, the fencing or walls and signs shall be in place.

Monitoring: The Department of Planning & Development Services shall verify compliance of the fencing or walls through review of the building permits and this condition. Evidence of the signage shall be photos and a statement from a California Registered Engineer or licensed surveyor that the biological open space signs have been installed in accordance with the Open Space Fencing and Signage Plan.

M-BIO-9

HORKELIA RELOCATION PLAN: For any direct loss of Ramona horkelia (*Horkelia truncata*), the applicant shall prepare and implement a relocation plan prior to the issuance of grading permits. The relocation plan shall provide for replacement of individual plants to be removed at a minimum 1:1 ratio within suitable receptor sites(s) where no future construction-related disturbance will occur. The relocation plan shall specify, at minimum, the following: (1) the location of the receptors site(s) in protected open space areas within the project Site; (2) appropriate methods for replacement (e.g., harvesting seeds, salvaging and transplantation of impacted plants, and/or nursery propagation); (3) receptor site preparation methods; (4) schedule and action plan for maintaining and monitoring the receptor site(s); (5) list of performance criteria and standards for successful mitigation; (6) measures to protect the receptor site(s) (e.g., trespass and erosion control, weeding); and (7) cost of implementing the relocation plan.

Documentation: The applicant shall prepare a final Horkelia Mitigation Plan that complies with the Conceptual Restoration Plan and submit it for review with the applicable review fees and deposits (this is considered a revegetation plan submittal).

Timing: Prior to the approval of the first associated map and prior to the approval of the first associated plan or issuance of the first associated permit, the Horkelia Mitigation Plan shall be approved.

Monitoring: The Department of Planning & Development Services shall review the Horkelia Mitigation Plan for conformance with this condition and the

applicable elements of the most current version of the County of San Diego *Report Format and Content Requirements for Revegetation Plans*. Upon approval of the Horkelia Mitigation Plan, security for success of the Horkelia Mitigation Plan shall be collected and the applicant shall provide a confirmation letter acknowledging acceptance of securities.

M-BIO-10 CONTROL OF INVASIVE SPECIES: Weed control treatments shall include all legally permitted chemical, manual, and mechanical methods applied with the authorization of the County of San Diego agriculture commissioner. The application of herbicides shall be in compliance with all state and federal laws and regulations under the prescription of a pest control advisor and implemented by a licensed applicator. Where manual and/or mechanical methods are used, disposal of the plant debris shall follow the regulations set by the County of San Diego agriculture commissioner. The timing of the weed control treatment shall be determined for each plant species in consultation with the pest control advisor, County of San Diego agriculture commissioner, and California Invasive Plant Council with the goal of controlling populations before they start producing seeds.

M-BIO-11 FIRE PROTECTION PLAN: To minimize the potential exposure of the project Site to fire hazards, all features of the Fire Protection Plan for the Newland Sierra Project shall be implemented in conjunction with development of the project.

M-BIO-12 FEDERAL AND STATE AGENCY PERMITS: To comply with the state and federal regulations for impacts to U.S. Army Corps of Engineers (ACOE), Regional Water Quality Control Board (RWQCB), and California Department of Fish and Wildlife (CDFW) jurisdictional resources, the following agency permits are required, or verification that they are not required shall be obtained. The following permit and agreement shall be obtained, or evidence from the respective resource agency, satisfactory to the director of the Department of Planning & Development Services (PDS) that such an agreement or permit is not required, shall be provided:

- a. A Clean Water Act, Section 401/404 permit issued by the California RWQCB and ACOE for all project-related disturbances of waters of the United States and/or associated wetlands.
- b. A Section 1602 Streambed Alteration Agreement issued by CDFW for all project-related disturbances of any streambed and/or associated riparian habitat.

Documentation: The applicant shall consult each agency to determine if a permit or agreement is required. Upon completion of the agency review of this project, the applicant shall provide a copy of the permit(s)/requirement(s)/agreement(s).

Timing: Prior to approval of any grading and or improvement plans and issuance of any grading or construction permits.

Monitoring: PDS shall review the permits/agreements for compliance with this condition. Copies of these permits shall be included on the grading plans.

ENVIRONMENTAL FINDINGS:

A. CEQA Findings

TO BE PROVIDED

B. FINDINGS MADE IN SUPPORT OF THE ISSUANCE OF THE HABITAT LOSS PERMIT:

The following findings are made based upon all of the documents contained in the record for this project, and pursuant to Section 86.104 of County of San Diego Ordinance No. 8365 (N.S.) and Section 4.2.g of the CSS NCCP Process Guidelines (CDFW, November 1993):

Finding 1.a: The habitat loss does not exceed the five percent guideline.

The Newland Sierra project will permanently impact 56.7 acres of CSS. Approved CSS losses, as of the date of June 8, 2017 including this approval for the entire unincorporated County outside the MSCP, are presented in the following table:

Unincorporated Area Coastal Sage Scrub Cumulative Losses

Total loss allowed under five percent guideline:	2953.30 acres
Cumulative loss of Coastal sage scrub to date:	1293.45 acres
Net loss due to this project:	56.70 acres
Total cumulative loss:	1350.15 acres
Remaining loss under five percent guideline:	1603.15 acres

The loss of CSS resulting from the Newland Sierra project would not result in the County exceeding the five percent guideline.

Finding 1.b: The habitat loss will not preclude connectivity between areas of high habitat values.

Based on the 2017 Biological Technical Report, the Newland Sierra project site is characterized by approximately 95% native vegetation and 5% non-native communities and other land cover. A majority of the site (nearly 91%; 1,803.8 acres) is characterized by chaparral communities. Approximately 4% (79.7 acres) of the site is characterized by coastal scrub communities. The remainder of the site supports oak woodland (0.5%; 9.1 acres) and riparian communities (0.4%; 8.3 acres).

The 79.7 acres of coastal scrub communities on the site are comprised of the following types: 68.2 acres of Diegan coastal sage scrub, 2 acres of coastal sage scrub – Baccharis dominated, 1.7 acres of flat-topped buckwheat, and 7.8 acres of coastal sage – chaparral transition. Based on the 2009 draft North County Plan, there is approximately 29,888 acres of coastal sage scrub in the draft North County Plan Area, including 23,463 acres of coastal sage scrub in the PAMA. Therefore, the Newland Sierra project site contains 0.27% of the total CSS in the Plan Area and 0.34% of the total CSS in the PAMA.

The 79.7 acres of CSS on the project site occurs in five general patch locations: three patch locations in the northern portion of the site, one in the central portion of the site, and one patch location in the southeastern portion of the site. The CSS patches in the northern portion of the site are small, comprising 7.18 acres, 4.76 acres, and 2.90 acres. The central CSS patch is the largest, with a combined acreage of all CSS types of 48.73 acres. The southeastern CSS patch totals 16.13 acres.

The draft North County Plan California Gnatcatcher Habitat Evaluation Model shows a majority of the Sierra Newland project site as “None” with several small patches of “Low” value for California gnatcatcher. In terms of the draft North County Plan composite Habitat Evaluation Model, the majority of the project site (58%) is considered moderate value. The remainder of the site is classified as High or Very High (31%) or Low, Agricultural, or Developed (11%). The High and Very High values from the draft North County Plan composite Habitat Evaluation Model on the project site are not a result of habitat value for California gnatcatcher and do not correspond to the areas of mapped CSS on the site.

The conservation strategy for the draft North County Plan is based on a reserve design that includes existing preserves, PAMAs, and biological open space within proposed hardline areas.. The project Site is designated as a proposed hardline area within the approximately 7,640-acre San Marcos–Merriam Mountains Core Area of the North County Plan PAMA. This Core Area comprises approximately 5 percent of the overall North County Plan PAMA.

In the reserve design of the draft North County Plan, the San Marcos–Merriam Mountains Core Area is connected to other portions of the reserve design through the adjacent Escondido-Temecula Linkage located along the I-15 both north and south of the site, and through the Moosa Canyon Linkage and Lower San Luis Rey River Linkage that are both located north of the project Site. In the vicinity of the Newland Sierra project site, the largest and highest proportion of Very High and High habitat value areas occurs in the western portion of the San Marcos – Merriam Mountains Core Area, in the predominantly open space areas west of Twin Oaks Valley Road and west of the Vista Valley Country Club south and north of Gopher Canyon Road. Farther to the north, Very High and High habitat value areas are concentrated along Moosa Canyon (along Camino del Rey) and the Lower San Luis Rey River (along SR-76). Offsite along the I-15 corridor, smaller scattered areas of Very High and High habitat value occur that is often referred to as the CSS “ladder” or “stepping stone” corridor. East of the I-15 corridor, patches of Very High and High habitat value occur on the open space slope east of Lawrence Welk Resort Village.

The loss of 56.7 acres of coastal sage scrub resulting from the proposed Newland Sierra project will not preclude connectivity between areas of high habitat values for the following reasons:

- The proposed biological open space maintains connectivity to the adjacent San Marcos – Merriam Mountains Core Area and adjacent PAMA linkages. The proposed Newland Sierra development area and associated roadways and fuel modification zones have been strategically designed to maintain connectivity to the adjacent PAMA and retain the functionality of the reserve design for the draft North

County Plan. By situating a majority of the development area in the southwestern corner of the project site, the proposed biological open space is connected to the draft North County Plan PAMA in three key locations:

- North – Establishing a large, contiguous biological open space (approximately 870.2 acres) in the northern portion of the site (referred to as Block 1) retains the connectivity to the adjacent PAMA Core Area. This portion of the project site is located in the most interior part of the Core Area and conserving it would retain the integrity of the draft North County Plan reserve design. The proposed Block 1 biological open space also builds off of and buffers existing protected lands north of the project site. Additionally, the Block 1 open space area conserves key biological resources including a section of Gopher Canyon Creek and associated riparian resources, patches of coastal sage scrub, Mafic southern mixed chaparral, and draft North County Plan Covered Plant Species (i.e., summer holly and Engelmann oak).
- East – Establishing a north-south biological open space area along nearly the entire eastern portion of the project site (referred to as Block 2; approximately 153.9 acres) would maintain the landscape connectivity by establishing dedicated conserved lands within the north-south CSS “stepping stone” corridor for identified as important for California gnatcatcher regional movement. Additionally, the Block 2 biological open space would establish permanently protected habitat for approximately 1.5 miles along the western side of I-15 valley, which establishes good sight lines for moving and dispersing avian species.
- South – Establishing open space along the southern portion of the property (referred to as Block 3; approximately 185.0 acres) maintains the integrity of the draft North County Plan reserve design by dedicating open space adjacent to and connected with the Escondido-Temecula Linkage area located south of the project site.
- The areas of Very High and High habitat value on the project site that would be impacted by the proposed project are isolated from other areas of contiguous Very High or High value habitat areas by existing land uses (e.g., existing development areas and the I-15 corridor). Therefore, the proposed Newland Sierra project would not increase or contribute to the isolation of high value areas.
- Approximately 47% (291 acres) of the Very High and High habitat value areas on the project site would be conserved in proposed biological open space. Therefore, the proposed project would retain areas of high habitat value within an interconnected biological open space system developed consistent with the reserve design objectives of the draft North County Plan.
- The Newland Sierra project also proposes to conserve additional CSS offsite within the draft North County Plan PAMA Core Area on an off-site mitigation parcel in Ramona. Nearly the entire off-site mitigation parcel is classified as Very High habitat value by the NCMSCP Habitat Evaluation Map. Contribution of offsite CSS mitigation (106.4 acres) in addition to the onsite biological open space would further offset the effects of the loss of CSS from the proposed project.

Therefore, the permanent loss of 56.7 acres of CSS would not preclude connectivity between areas of high habitat value.

Finding 1.c: The habitat loss will not preclude or prevent the preparation of the subregional NCCP.

The proposed project has been incorporated into the overall conservation strategy of the County's draft North County Plan, and the development areas and biological open space areas of the proposed project are identified as proposed hardline areas in the draft North County Plan. The Newland Sierra Project would not preclude or prevent the preparation of the subregional NCCP because the project has been planned in accordance with the planning principles of the draft North County Plan as expressed by the Preliminary Conservation Objectives outlined in the Planning Agreement for North County Plan (County of San Diego 2008 and 2014). Additionally, the Planning Agreement identifies preserve design principles in the process for evaluating "Interim Projects" and the Newland Sierra project has also been developed to be consistent with these principles. Finally, the draft North County Plan identifies conservation goals for the adjacent PAMA planning units, and the Newland Sierra project has been designed to be consistent with these goals.

NCMSCP Preliminary Conservation Objectives

As described below, the habitat loss from the Newland Sierra Project would not preclude or prevent the draft North County Plan from achieving the preliminary conservation objectives from the 2008 and 2014 draft North County Plan Planning Agreement.

- *Objective: Provide for the protection of species, natural communities, and ecosystems on a landscape level.*
 - The Newland Sierra Project, with mitigation, would provide for protection and conservation of special-status species and natural communities consistent with the conservation strategy of the draft North County Plan. Through the preservation and long-term management of 1,209.1 acres of on-site biological open space within a proposed hardline area of the draft North County Plan and the preservation and long-term management of 211.8 acres of off-site biological open space within the draft North County Plan PAMA Core Area, multiple Covered Species and natural communities would be protected in an interconnected system of biological open space with connections to off-site PAMA areas, which would allow for protection of species, natural communities, and ecosystems at a landscape level.
- *Objective: Preserve the diversity of plant and animal communities throughout the Planning Area.*
 - The Newland Sierra project would conserve and provide long-term habitat management for 1,422.0 acres of on- and off-site biological open space designed to capture the range of plant and animal diversity, which would contribute to the preserved biodiversity in the draft North County Plan. All of the native vegetation communities and habitat types that occur on the project site are represented within the proposed on- and off-site biological open space. In addition to the

California gnatcatcher movement corridors and coastal sage scrub conserved by the project, the biological open space would preserve unique communities like Mafic southern mixed chaparral and diverse riparian communities along a segment of Gopher Canyon Creek, which would contribute to the diversity of plant and animal communities preserved in the draft North County Plan. The proposed biological open space also captures an array of landscape features and microhabitats, like rock outcrops and varying landforms (ridgelines, valleys, and slopes), across a range of topographic gradients and differing aspects, which would contribute to the plant and animal communities preserved in the draft North County Plan Planning Area.

- *Objective: Protect threatened, endangered, or other special status plant and animal species, and minimize and mitigate the take or loss of proposed Covered Species.*
 - The Newland Sierra project, with mitigation, would provide for protection and conservation of special-status plant and animal species, thereby contributing to the conservation of the planned draft North County Plan consistent with the draft North County Plan conservation strategy. Specifically, the proposed project provides conservation of populations and/or suitable habitat, and provides additional mitigation as necessary for the following draft North County Plan Covered Species: summer holly, sticky dudleya, felt-leaved monardella, Engelmann oak, western spadefoot, orange-throated whiptail, Blainville's horned lizard, red-diamond rattlesnake, northern harrier, California gnatcatcher, southern California rufous-crowned sparrow, Bell's sage sparrow, pallid bat, and mountain lion.
- *Objective: Identify and designate biologically sensitive habitat areas.*
 - Consistent with federal, state, and County standards, biological studies have been conducted on the Newland Sierra project site between 2000 and 2017, which contributes to the biological database and knowledge for nearly 2,000 acres in the draft North County Plan Planning Area. Field surveys, mapping, and documentation has been conducted for vegetation communities, rare plants, jurisdictional waters and wetlands, nesting raptors, reptiles, wildlife crossing and culverts, and focused surveys for burrowing owl (*Athene cunicularia*), least Bell's vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii extimus*), coastal California gnatcatcher (*Polioptila californica californica*), and Harbison's dun skipper (*Euphyes vestris harbisoni*).
- *Objective: Preserve habitat and contribute to the recovery of Covered Species.*
 - The Newland Sierra project, with mitigation, would provide for protection and conservation of special-status plant and animal species, thereby contributing to the recovery of the draft North County Plan Covered Species consistent with the draft North County Plan conservation strategy. Specifically, the proposed project provides conservation of populations and/or suitable habitat for the following draft North County Plan Covered Species: summer holly, sticky dudleya, felt-leaved monardella, Engelmann oak, orange-throated whiptail, western spadefoot, Blainville's horned lizard, red-diamond rattlesnake, northern harrier, California

gnatcatcher, southern California rufous-crowned sparrow, Bell's sage sparrow, pallid bat, and mountain lion.

- *Objective: Reduce the need to list additional species.*
 - The long-term conservation of large areas of open space resulting from the proposed Newland Sierra project would contribute to building the draft North County Plan reserve system and build upon and buffer existing adjacent preserve areas within the adjacent PAMA. By implementing the proposed project consistent with the draft North County Plan conservation strategy, the Newland Sierra project would contribute to reducing the need to list draft North County Plan Covered Species that are currently not listed.
- *Objective: Set forth species-specific goals and objectives.*
 - For the Covered Species, the draft draft North County Plan describes the general species goals as: Conserve the ecosystem functions and values, appropriate natural communities, and opportunities for genetic exchange needed for the Covered Species to persist in the Plan Area. As described above under separate objectives, the proposed project provides conservation of populations and/or suitable habitat, and provides additional mitigation as necessary for the Covered Species to contribute towards meeting the species-specific goals of the draft North County Plan.
- *Objective: Set forth specific habitat-based goals and objectives expressed in terms of amount, quality, and connectivity of habitat.*
 - The Newland Sierra Project, with mitigation, would provide for protection and conservation of Covered Species Habitat and natural communities consistent with the conservation strategy of the draft North County Plan, thereby contributing to and not precluding the ability of the County to meet the goals and objectives of the draft North County Plan. Through the preservation and long-term management of 1,422.0 acres of on-and off-site biological open space within the draft North County Plan reserve design, multiple Covered Species and natural communities would be protected in an interconnected system of biological open space consistent with the goals and objectives of the draft North County Plan.

Interim Project Preserve Design Principles

In addition to the preliminary conservation objectives, the Planning Agreement identifies an interim project review process, including a set of preserve design principles that interim projects would be evaluated against during the period when the draft North County Plan is in preparation. As described below, the habitat loss resulting from the Newland Sierra Project would not preclude or prevent the County from preparing the draft North County Plan because the proposed project has been incorporated as a proposed hardline area and it has been developed consistent with the interim project preserve design guidelines.

- *Principle: On-site open space should provide a long-term biological benefit.*

- The biological open space proposed for protection on the Site is located within a proposed hardline area of the draft North County Plan, which means that the proposed project's development areas and biological open space areas have been predetermined and hardlined for the purposes of preparing draft North County Plan. By identifying the proposed on-site biological open space as a proposed hardline area, the County of San Diego has determined that the proposed biological open space would provide long-term biological benefit consistent with the draft North County Plan. The proposed 1,209.1 acres of on-site biological open space occur in an interconnected system of 3 blocks, consisting of a 870.2-acre northern block, a 153.9-acre eastern block, and a 185-acre southern block. Each of these blocks is connected to adjacent draft North County Plan PAMA Core Areas and linkages. Therefore, the proposed large, interconnected on-site biological open space would provide long-term biological benefit.
- *Principle: On-site open space must protect habitat of equal or greater value as that being impacted. No isolated pockets of open space should be used for mitigation credit.*
 - As described for the principle above, the biological open space proposed for protection on the Site is located within a proposed hardline area of the draft North County Plan, indicating that it has long-term biological value and benefit in terms of reserve design for the draft North County Plan. The proposed Newland Sierra development area and associated roadways and fuel modification zones have been strategically designed to maintain connectivity of the adjacent PAMA and retain the functionality of the reserve design for the draft North County Plan. By situating a majority of the development area in the southwestern corner of the project site, the proposed biological open space is connected to the adjacent PAMA in three key locations:
 - North – Establishing a large, contiguous biological open space (approximately 870.2 acres) in the northern portion of the site (referred to as Block 1) retains the connectivity to the remainder of the draft North County Plan Core Area. This portion of the project site is located in the most interior part of the Core Area and conserving it would retain the integrity of the draft North County Plan reserve design. The proposed Block 1 biological open space also builds off of and buffers existing protected lands north of the project site. Additionally, the Block 1 open space area conserves key biological resources including a section of Gopher Canyon Creek and associated riparian resources, patches of coastal sage scrub, Mafic southern mixed chaparral, and NCMSCP Covered Plant Species (i.e., summer holly and Engelmann oak).
 - East – Establishing a north-south biological open space area along nearly the entire eastern portion of the project site (referred to as Block 2; approximately 153.9 acres) would maintain the landscape connectivity by establishing dedicated conserved lands within the north-south CSS “stepping stone” corridor for identified as important for California gnatcatcher regional movement. Additionally, the Block 2 biological open space would establish

permanently protected habitat for approximately 1.5 miles along the western side of I-15 valley, which establishes good sight lines for moving and dispersing avian species.

- South – Establishing open space along the southern portion of the property (referred to as Block 3; approximately 185.06 acres) maintains the integrity of the draft North County Plan reserve design by dedicating open space adjacent to and connected with the Escondido-Temecula Linkage area located south of the project site.

Therefore, the proposed on-site biological open space would protect habitat of equal or greater value as that being impacted and no isolated pockets of open space are proposed by the project.

- *Principle: Separate lots should be used whenever possible for on-site open space to help protect the biological value of the preserved areas.*
 - The proposed Newland Sierra on-site biological open space would be protected within individual lots, and this biological open space would be managed for its biological value for the long-term.
- *Principle: On-site open space shall contribute to regional conservation efforts.*
 - As described in previous principles, the proposed on-site and off-site biological open space would establish long-term protection for 1,420.9 acres of habitat for Covered Species and natural communities within the draft North County Plan proposed hardline area and offsite PAMA area, consistent with the conservation strategy for the draft North County Plan. Therefore, the proposed project would contribute to the regional conservation efforts on the County and the Wildlife Agencies under the MSCP draft North County Plan.
- *Principle: Open space design, to the extent known, should not reduce the biological diversity found on the site.*
 - The proposed Newland Sierra biological open space was designed to capture the range of plant and animal diversity found on site in a system of interconnected open space blocks. All of the native vegetation communities and habitat types that occur on the project site are represented within the proposed on-site biological open space. In addition to the California gnatcatcher movement corridors and coastal sage scrub that would be conserved by the project, the on-site biological open space would preserve unique communities like Mafic southern mixed chaparral and diverse riparian communities along a segment of Gopher Canyon Creek, which would contribute to the diversity of plant and animal communities preserved in the draft North County Plan. The proposed on-site biological open space also captures an array of landscape features and microhabitats, like rock outcrops and varying landforms (ridgelines, valleys, and slopes), across a range of topographic gradients and differing aspects, which would contribute to the diversity of plant and animal communities preserved onsite. Therefore, the design of the proposed Newland Sierra biological open

space, to the extent known using the best available information, would not reduce the biological diversity found on the site.

- *Principle: Open space design shall maintain habitat connectivity between areas of high quality habitat.*
 - As described in detail above under Finding 1.b, the proposed on-site biological open space is interconnected within the project site and also maintains connectivity to the remainder of the San Marcos – Merriam Mountains Core Area and adjacent PAMA linkages. The proposed Newland Sierra development area and associated roadways and fuel modification zones have been strategically designed to maintain connectivity of the PAMA and retain the functionality of the reserve design of the draft North County Plan, as reflected by the designation of a proposed hardline area for the Site. By situating a majority of the development area in the southwestern corner of the project site, the proposed biological open space is connected to the areas of high quality habitat offsite within the draft North County Plan PAMA in three key locations: North, East, and South. The northern connection is provided by the 870.2-acre Block 1 open space area, which connects to adjacent PAMA Core Area and existing reserves to the north and west of the project site. The eastern connection is provided by the 153.9-acre Block 2 open space area, which maintains the connection to the Escondido-Temecula Linkage PAMA and facilitates California gnatcatcher and other avian movement both north-south along the I-15 stepping stone corridor and east-west across the I-15 valley.
- *Principle: The most sensitive resources shall be protected to maximize long-term viability.*
 - The Newland Sierra site is a large property characterized by predominantly (95%) native vegetation communities that support important biological resources, some of which are considered sensitive. A majority of the site (91%), however, is characterized by chaparral communities that are fairly common in the region. Of the chaparral communities, southern mixed chaparral on mafic soils is considered more rare/sensitive, and the proposed project would include nearly all (99%) of this vegetation type in on-site biological open space. All of the other vegetation groups found on the site are also represented in the biological open space, including coastal scrub, oak woodlands, and riparian.

With respect to plant species considered sensitive, biological surveys of the project site identified 6 special-status species, two of which are draft North County Plan Covered Species (summer holly and Engelmann oak). Additionally, the site is considered to have the potential to support 2 other draft North County Plan Covered Species (sticky dudleya and felt-leaved monardella) but these species were not detected on the site. The site supports a relatively large population of summer holly (1,356 individuals), of which the Newland Sierra project would protect 86% (1,160 individuals). The site supports a relatively small population of Engelmann oaks, and the Newland Sierra project would protect 36% (10 individuals).

With respect to wildlife species considered sensitive, the Newland Sierra site supports or has the potential to support 16 special-status wildlife species (California species of special concern/County Group 1 species). The site

supports or has the potential to support 10 draft North County Plan Covered Species: western spadefoot orange-throated whiptail, Blainville's horned lizard, red-diamond rattlesnake, northern harrier, California gnatcatcher, southern California rufous-crowned sparrow, Bell's sage sparrow, pallid bat, and mountain lion; however, the site is not considered to support major or critical populations of these species. Habitat for all of these wildlife species would be protected within the proposed on- and off-site biological open space.

From a landscape perspective, the most important function of the proposed on-site biological open space would be to protect open space in this key geographic location in the region in order to maintain the connectivity of the regional draft North County Plan reserve design and to facilitate the continued movement of California gnatcatcher and other avian species. As described above for other principles, the on-site biological open space system blocks have been designed to protect these landscape functions for long-term viability.

- *Principle: Edge effects and habitat fragmentation shall be minimized by maximizing the surface area to perimeter ratio, preserving large blocks of contiguous open space. Edge effects shall be further minimized by establishing buffers, providing fencing and/or permanent signs, and limiting trails and/or lighting.*
 - The proposed Newland Sierra on-site biological open space is a large, interconnected system comprised of 3 open space blocks. These 3 on-site open space blocks are connected internally within the site and externally to offsite PAMA and offsite existing reserves. Both the size and configuration of the proposed on-site biological open space minimize edge effects and habitat fragmentation. In terms of open space patch size, the proposed Newland Sierra on-site biological open space system includes Block 1 (870.2 acres), Block 2 (153.9 acres), and Block 3 (185.0 acres). In addition, the offsite mitigation parcel is approximately 213 acres. These are considered large open space patches when compared to existing reserves in the San Marcos – Merriam Mountains Core Area of the draft North County Plan PAMA. Based on a review of the Conserved Lands dataset maintained by SANDAG (2015), there are approximately 532 acres total of existing reserve within this Core Area in approximately 23 discrete open space patches. The largest existing reserve patch in this Core Area is currently 148 acres and the average open space size across these 23 patches is 24 acres. The three proposed on-site biological open space blocks also have very high Area-to-Perimeter ratios (expressed in units of square feet-to-feet): Block 1 (886), Block 2 (386), and (384). By way of comparison, only one of the existing open space patches in the San Marcos – Merriam Mountains Core Area has a comparable Area-to-Perimeter ratio (an 89-acre square patch with a ratio of 413). The average Area-to-Perimeter ratio of the existing open space patches in the Core Area is 132. By designing the on- and off-site biological open space in large blocks with high Area-to-Perimeter ratios, the Newland Sierra project minimizes edge effects and habitat fragmentation. Additionally, the design features and mitigation measures of the Newland Sierra project include limited building zones that buffer the on-site biological open space from adjacent development, directional lighting and other lighting specifications, and open space fencing and signage, all of which would minimize edge effects and habitat fragmentation.

San Marcos – Merriam Mountain Core Area Conservation Goals

The County is in the process of developing the draft North County Plan. The draft North County Plan includes conservation goals for each PAMA planning unit. The following describes the consistency of the proposed project with the draft conservation goals for the San Marcos–Merriam Mountains Core Area, which is the PAMA designated by the draft North County Plan adjacent to the Site (County of San Diego 2014).

- *To the maximum extent practicable, conserve oak woodlands, coastal sage scrub (particularly in Twin Oaks) to maintain populations and connectivity of coastal California gnatcatcher and other coastal sage scrub-dependent species, and chaparral on mafic or gabbro soils that support sensitive plant species, such as chaparral beargrass and Parry’s tetraococcus, San Diego thornmint (particularly in San Marcos Mountains), or California adolphia. Refer to natural community and species goals and objectives in the Conservation Analysis (Volume II).*
 - To the maximum extent practicable and in consideration of all the competing goals and principles that relate to this project site, the proposed on-site biological open space of the proposed hardline area for the Site has been developed consistent within this conservation goal. Considering that this site is predominantly characterized by chaparral habitats, chaparral communities and plant and animal species are the primary species supported by the site. Mafic chaparral communities are 99% conserved in the on-site biological open space. The chaparral related plant species listed in this draft goal (i.e., chaparral beargrass, Parry’s tetraococcus, San Diego thornmint, and California adolphia) do not occur on the site. At the regional scale, the importance of the site is in its location and geographic position relative to the draft North County Plan PAMA. By designing the site with 3 on-site interconnected biological open space block covering over 1,209 acres, the proposed project would maintain populations and connectivity of California gnatcatcher and other avian species, particularly by maintaining the north-south I-15 “stepping-stone” corridor and the east-west movement corridor across the I-15 valley. Biological open space Block 2 will conserve coastal sage scrub found to be occupied by California gnatcatcher. Oak woodlands with buffers would also be conserved within the large interconnected open space system. Volume II of the draft North County Plan has not been made available; therefore, an evaluation of consistency with the natural community and species goals and objectives from the draft North County Plan Conservation Analysis was not possible.
- *Ensure that a core community of coastal California gnatcatcher and other coastal sage scrub-dependent species remains in the coastal sage scrub block in Twin Oaks. Refer to species goals and objectives in the Conservation Analysis (Volume II).*
 - The proposed project is not located in the Twin Oaks area of the San Marcos – Merriam Mountains Core Area; therefore, this draft conservation goal is not applicable. The proposed project would conserve California gnatcatcher habitat onsite and maintain generational movement of California gnatcatcher north and south, and east and west, across the site.

- *Conserve the north–south connectivity of coastal California gnatcatcher habitat along Interstate 15 between the Riverside County line and the City of Escondido. Maintain the east-west connectivity of natural habitats on either side of I-15 for dispersal of coastal sage scrub community birds.*
 - As above for previous draft conservation goals and in the principles above, the proposed on-site biological open space design would conserve the north–south connectivity of coastal California gnatcatcher habitat along I-15. In addition, a potential east–west connection in the northwestern portion of the open space will be conserved over the long-term in the proposed biological open space.
- *Promote conservation of riparian and upland habitats of Gopher Canyon Creek for water quality and sensitive species, such as southwestern pond turtle and least Bell’s vireo.*
 - The proposed on-site biological open space design includes the preservation of a portion of the South Fork of Gopher Canyon which is a tributary to Gopher Canyon Creek and the San Luis Rey River. Inclusion of the headwaters to Gopher Canyon Creek into the proposed on-site biological open space design will assist in the maintenance of water quality and the conservation of riparian habitat. In addition, upland habitat surrounding this tributary will be included in the open space design. The proposed project site was not found to support southwestern pond turtle or least Bell’s vireo, but the proposed project would protect upstream reaches of Gopher Canyon Creek that supports riparian habitat and resources.
- *Ensure the San Diego thornmint population in the Palisades open space preserve is maintained and enhanced, if practicable. Refer to species goals and objectives in the Conservation Analysis (Volume II).*
 - This draft conservation goal is not applicable to the Newland Sierra project site and this species does not occur on the site.

Overall, the proposed on-site biological open space design will be consistent with applicable planning guidelines for the San Marcos Hills – Merriam Mountains Core Area.

For the above reasons, the finding that the habitat loss will not preclude or prevent the preparation of the subregional NCCP can be made for the project.

Finding 1.d: The habitat loss has been minimized and mitigated to the maximum extent practicable in accordance with Section 4.3 of the NCCP Process Guidelines.

According to Section 4.3 of the NCCP Process Guidelines,

“Any impacts to the coastal sage scrub habitat and the target species must be mitigated to insignificant levels as required by the California Environmental Quality Act (CEQA) by using one or more of the following options:

- Acquisition of habitat
- Dedication of land
- Management agreements
- Restoration
- Payment of fees
- Transfer of development rights
- Other mitigation measures approved in writing by CDFG and USFWS.”

The proposed project has minimized the effects on coastal sage scrub and California gnatcatcher by designing a 1,209-acre on-site biological open space system comprised of 3 large, interconnected open space blocks that minimize edge effects and habitat fragmentation through very high Area-to-Perimeter ratios (see discussion above under Finding 1.c). Furthermore, the habitat loss impact would be mitigated to the maximum extent practicable through the on-site dedication of 1,209.1 acres of biological open space (including 25.2 acres of coastal sage scrub types) and through the offsite dedication of a 211.8-acre mitigation parcel containing 106.4 acres of coastal sage scrub. These actions, in addition to the proposed project design features, avoidance measures, and long-term resource management plan, would avoid, minimize, and mitigate the effects of the habitat loss to below a level of significance under CEQA, as described in the 2017 Newland Sierra Biological Technical Report

For the above reasons, the finding that the habitat loss has been minimized and mitigated to the maximum extent practicable can be made for the project.

Finding 2 The habitat loss will not appreciably reduce the likelihood of survival and recovery of listed species in the wild.

Protocol surveys for the California gnatcatcher were performed in 2013 which concluded there are two individual California gnatcatcher residents on site. To mitigate for the loss of coastal sage scrub habitat due to the project, the proposed project will preserve 25.2 acres of CSS in on-site biological open space and will preserve 106.4 acres of CSS in off-site biological open space. The project would also be required to provide on-site and off-site mitigation for all other habitat impacts in accordance with the mitigation ratios set forth in the County Guidelines for Determining Significance for Biological Resources. The on-site and off-site biological open space preserves are located in draft North County Plan a proposed hardline area and a PAMA Core Area and will provide for long-term viability of CSS that connects to high value districts and potential to support listed species. Other areas adjacent to the project site, within the I-15 right of way and historically occupied by California gnatcatchers, would be buffered from any project effects and would continue to support the species. Additionally, as a precaution, no clearing or grading of scrub habitats will be permitted during the breeding/nesting season of the California gnatcatcher, unless pre-construction breeding surveys are done that show gnatcatchers would not be directly or indirectly affected.

Based on the 2009 draft North County Plan, there is approximately 29,888 acres of coastal sage scrub in the draft North County Plan Area and another 5,179 acres of coastal sage scrub/chaparral. The loss of 56.7 of coastal sage scrub resulting from the proposed project represents a very small proportion (0.16%) of the California

gnatcatcher habitat in the draft North County Plan. Therefore, the proposed project with mitigation would not be considered to appreciably reduce the likelihood of the survival and recovery of listed species.

Finding 3: The habitat loss is incidental to otherwise lawful activities.

The project will require grading and improvement plans for preparation of the site for development. The issuance of a Habitat Loss Permit by the County of San Diego with the concurrence of the CDFW and USFWS, and approval of a Grading Permit, Clearing Permit, or Improvement Plan by the County of San Diego is required prior to the clearing of any CSS on the project site. Construction and/or land use modification will not commence until all appropriate permits have been issued. The project has been found to be in conformance with Section 86.104, Procedures and Standards of the San Diego County Code. As such, the anticipated loss will be incidental to “otherwise lawful activities”.

NCCP FLOWCHART

The following NCCP flowchart is used in the evaluation process to determine the potential habitat value for interim protection of onsite coastal sage scrub, based on the Southern California Coastal Sage Scrub NCCP Conservation Guidelines (CDFG 1993).

1. Natural land: Is natural vegetation present? **Yes.**

Rationale: As defined by CDFG 1993, “Natural land is land with a significant cover of natural vegetation. Natural vegetation in this context includes all native California natural communities and includes forestlands, shrublands, native and non-native grasslands, non-irrigated land, grazed land, and vacant or disturbed natural land. Natural land excludes lands subject to intensive agriculture and urban uses. Disturbed land or land recently cleared may still be restorable and should be included in the evaluation.” According to this definition, natural vegetation is present on the Newland Sierra project site.

2. CSS: Is CSS present? **Yes.**

Rationale: As defined by CDFG 1993, “CSS includes landscape areas supporting primary or secondary cover of characteristic CSS plant species dominants as defined by the Scientific Review Panel”. According to this definition, CSS is present on the Newland Sierra project site.

3. Large size: Is the CSS the most dense CSS in the subregion? **No.**

Rationale: As described by CDFG 1993, “the largest CSS patches in the subregion should be considered possible core areas for future reserves”. The larger patches of CSS are those that, “when the entire subregion is evaluated, those patches of CSS habitat with the highest percent CSS cover in the neighborhood, cumulatively representing 50% or more of all CSS within a subregion...Neighborhoods should have a radius of ½ to 1 mile.” When evaluating the vegetation cover within 1 mile of the CSS patches proposed to be impacted by the Newland Sierra project, very little of the surrounding neighborhood is comprised of CSS (a majority of the surrounding areas are

chaparral vegetation or other types). Therefore, the CSS on the Newland Sierra site is not the most dense in the subregion.

4. Proximity: Is the land close to High Value District? **No.**

Rationale: According to CDFG 1993, “CSS patches close to a core can be identified by measuring direct, straightline distance.” Close proximity “should be on the order of one-quarter to one-half mile.” There are no dense patches of CSS considered High Value Districts within ¼ to ½ mile of the CSS patches proposed to be impacted by the Newland Sierra project site.

5. Landscape linkages: Is the land located in a corridor between Higher Value Habitats? **Yes.**

Rationale: The Newland Sierra project site is a proposed hardline area of the draft North County Plan and is located adjacent to the San Marcos - Merriam Mountains Core Area of the draft North County Plan PAMA. The portion of the property located along Interstate-15 is also situated adjacent to Escondido – Temecula linkage, which is considered to be an important movement corridor for avian species including California gnatcatcher. Therefore, the Newland Sierra project site is considered to be located in a landscape linkage area.

6. Species presence: Does the land support high density of target species? **No.**

Rationale: As described by CDFG 1993, “the SRP considers habitat that supports a portion of a local population with five or more pairs of gnatcatchers or cactus wrens to be significant. For other species of plants or animals...the SRP considers habitat that supports a portion of a local population representing more than 20% of the known population of the subregion to be significant”. As demonstrated below, the Newland Sierra project would not impact lands with high density of target species (referred to as Covered Species in the draft North County Plan) when considering the local population in the draft North County Plan subregion (based on County habitat models¹).

- Summer-holly
 - Modeled habitat in draft North County Plan PAMA: 4,181 acres
 - Status onsite: Estimate 1,356 individuals onsite; 196 individuals proposed to be impacted by the project, remainder would be in on-site biological open space.
- Sticky dudleya
 - Modeled habitat in draft North County Plan PAMA: 1,938 acres
 - Status onsite: Moderate potential to occur but not observed. Suitable habitat to be included in the on-site biological open space.
- Felt-leaved monardella
 - Modeled habitat in draft North County Plan PAMA: 20,349 acres

¹ Status is the NCMSCP based on GIS analysis of species distribution models for the Covered Species within the NCMSCP PAMA, using data provided to Dudek by the County in 2015.

- Status onsite: Moderate potential to occur but not observed. Suitable habitat to be included in the on-site biological open space.
- Engelmann oak
 - Modeled habitat in in draft North County Plan PAMA: 9,347 acres
 - Status onsite: Estimate 28 individuals onsite; 18 individuals proposed to be impacted by the project; remainder would be in on-site biological open space.
- Western spadefoot
 - Modeled habitat in in draft North County Plan PAMA: 72,390 acres
 - Status onsite: Breeding habitat within vegetation communities would be in on-site biological open space.
- Belding's orange-throated whiptail
 - Modeled habitat in in draft North County Plan PAMA: 56,409 acres
 - Status onsite: Occurs; 1,965.7 acres of suitable habitat onsite; 764.2 acres proposed to be impacted by the project; remainder would be in on-site biological open space.
- Blainville's horned lizard,
 - Modeled habitat in in draft North County Plan PAMA: 92,499 acres
 - Status onsite: Occurs; 1,965.7 acres of suitable habitat onsite; 764.2 acres proposed to be impacted by the project; remainder would be in on-site biological open space.
- Red-diamond rattlesnake
 - Modeled habitat in in draft North County Plan PAMA: 90,802 acres
 - Status onsite: Occurs; 1,965.7 acres of suitable habitat onsite; 764.2 acres proposed to be impacted by the project; remainder would be in on-site biological open space.
- Northern harrier
 - Modeled habitat in in draft North County Plan PAMA: 31,329 acres
 - Status onsite: Status onsite: Potential to occur; 76.1 acres of suitable foraging habitat occurs on site; 36.5 acres proposed to be impacted by the project; remainder would be in on-site biological open space.
- California gnatcatcher
 - Modeled habitat in in draft North County Plan PAMA: 11,724 acres
 - Status onsite: Occurs; 79.7 acres of suitable habitat onsite; 56.7 acres proposed to be impacted by the project on-site and off-site; remainder would be in on-site biological open space. The project would impact no more than 1 pair of California gnatcatcher; however, the pair is expected to remain onsite following project implementation.
- Southern California rufous-crowned sparrow
 - Modeled habitat in in draft North County Plan PAMA: 26,516 acres

- Status onsite: Moderate potential to occur but not observed. Suitable habitat to be included in on-site biological open space.
- Bell's sage sparrow
 - Modeled habitat in in draft North County Plan PAMA: 39,883 acres
 - Status onsite: Occurs; 1,965.7 acres of suitable habitat onsite; 764.2 acres proposed to be impacted by the project; remainder would be in on-site biological open space.
- Pallid bat
 - Modeled habitat in in draft North County Plan PAMA: 70,563 acres
 - Status onsite: May occur; 1,965.7 acres of suitable habitat onsite; 764.2 acres proposed to be impacted by the project; remainder would be in on-site biological open space.
- Mountain lion
 - Modeled habitat in in draft North County Plan PAMA: 118,276 acres
 - Status onsite: May occur; 1,965.7 acres of suitable habitat onsite; 764.2 acres proposed to be impacted by the project; remainder would be in on-site biological open space.

7. Does the land support significant populations of highly endemic species or rare subhabitat types? **No.**

Rationale: None of the in draft North County Plan proposed Covered Species that occur on the Newland Sierra project site are identified as Narrow Endemics by the in draft North County Plan. No rare subhabitat types occur on the Newland Sierra project site.

According to the NCCP flowchart for evaluating potential habitat value for ranking lands for interim protection (CDFG 1993), the CSS habitat proposed to be impacted on the Newland Sierra project site is of Intermediate Potential Value for long-term conservation, due to "Yes" determination for Flowchart question #5.

MITIGATION MONITORING AND REPORTING PROGRAM:

The following shall be the Mitigation Monitoring or Reporting Program for this Habitat Loss Permit:

Public Resources Code Section 21081.6 requires the County to adopt a mitigation reporting or monitoring program for any project that is approved on the basis of a mitigated Negative Declaration or an Environmental Impact Report for which findings are required under Section 21081(a)(1). The program must be adopted for the changes to a project which the County has adopted, or made a condition of project approval, in order to mitigate or avoid significant effects on the environment. The program must be designed to ensure compliance during project implementation.

The mitigation monitoring program is comprised of all the environmental mitigation measures adopted for the project. The full requirements of the program (such as what is being monitored, method and frequency, who is responsible, and required time frames) are found

within the individual project conditions. These conditions are referenced below by category under the mechanism which will be used to ensure compliance during project implementation.

- Subsequent Project Permits

Compliance with the following conditions is assured because specified subsequent permits or approvals required for this project will not be approved until the conditions have been satisfied: **MM-BIO-1, MM-BIO-5, MM-BIO-6, MM-BIO-7, MM-BIO-8A, MM-BIO-8B, MM-BIO-8C, MM-BIO-8D, and MM-BIO-12**

- Ongoing Mitigation

Compliance with the following conditions is assured because County staff will monitor the on-going requirements and, if necessary, pursue the remedies specified in the project permit, the security agreement, or the mitigation monitoring agreement: **MM-BIO-2 and MM-BIO-8E**

NOTICE: The issuance of this permit by the County of San Diego does not authorize the applicant for said permit to violate any federal, state, or county laws, ordinances, regulations, or policies, including but not limited to, the federal Endangered Species Act and any amendments thereto.

NOTIFICATION TO APPLICANT: The County of San Diego hereby notifies the applicant that State law (A.B. 3158) effective January 1, 1991, requires certain projects to pay fees for purposes of funding the California Department of Fish and Wildlife. Because your project has an effect on native biological resources, State law requires the payment of a \$3,070.00 fee to the California Department of Fish and Wildlife for their review of the Environmental Impact Report (Fish and Wildlife Code §711.4) and a \$50 administrative fee to the County (\$3,120.00 total). If you made this payment at the time of public review of the environmental document pursuant to Administrative Code Section 362, Article XX, effective August 27, 1992, you have met this obligation. If the fee has not been paid, to comply with State law, the applicant should remit to the County Department of Planning and Land Use, within two (2) working days of the effective date of this approval (the "effective date" being the end of the appeal period, if applicable). **The payment must be by certified check or cashier's check payable to the "County of San Diego" and can be submitted to the cashier at the PDS office or directly to the County Clerk.** The fees (excluding the administrative fee) may be waived for projects that are found by the Department of Planning and Land Use and the California Department of Fish and Wildlife to have no effect on fish and wildlife resources. Failure to remit the required fee in full within the time specified above will result in County notification to the State that a fee was required but not paid, and could result in State imposed penalties and recovery under the provisions of the Revenue and Taxation Code. In addition, Section 21089(b) of the Public Resources Code, and Section 711.4(c) of the Fish and Game Code, provided that no project shall be operative, vested, or final until the required filing fee is paid.

LIGHTING ORDINANCE COMPLIANCE: To comply with the County Lighting Ordinance 59.101 et seq. and Zoning Ordinance Sections 6322, 6324, and 6326, the onsite lighting shall comply with the approved plot plan(s), specific permit conditions and approved building plans associated with this permit. Light fixtures shall be installed in conformance with the County Light Pollution Code, the Building Code, the Electrical Code, and lighting requirements specified in Section 6324 (Lighting Permitted in Required Yards) and Section 6326 (Lighting

not in Required Yards) of the Zoning Ordinance of the County of San Diego, along with any other related state and federal regulations such as California Title 24. The property owner and permittee shall conform to the approved plot plan(s), specific permit conditions, and approved building plans associated with this permit as they pertain to lighting. No additional lighting is permitted. If the permittee or property owner chooses to change the site design in any way, they must obtain approval from the County for a Minor Deviation or a Modification pursuant to the County of San Diego Zoning Ordinance.

NOISE ORDINANCE COMPLIANCE: To comply with the County Noise Ordinance 36.401 et seq. and the Noise Standards pursuant to the General Plan Noise Element (Table N-1 & N-2), the property and all of its uses shall comply with the approved plot plan(s), specific permit conditions and approved building plans associated with this permit. No loudspeakers, sound amplification systems, and project related noise sources shall produce noise levels in violation of the County Noise Ordinance. The property owner and permittee shall conform to the approved plot plan(s), specific permit conditions, and approved building plans associated with this permit as they pertain to noise generating devices or activities. If the permittee or property owner chooses to change the site design in any way, they must obtain approval from the County for a Minor Deviation or a Modification pursuant to the County of San Diego Zoning Ordinance.

STORMWATER ORDINANCE COMPLIANCE: To Comply with all applicable stormwater regulations the activities proposed under this application are subject to enforcement under permits from the San Diego Regional Water Quality Control Board (RWQCB) and the County of San Diego Watershed Protection, Stormwater Management, and Discharge Control Ordinance No. 10096 and all other applicable ordinances and standards for the life of this permit. The project site shall be in compliance with all applicable stormwater regulations referenced above and all other applicable ordinances and standards. This includes compliance with the approved Stormwater Management Plan, stormwater pollution prevention plan, all requirements for Low Impact Development (LID), hydromodification, materials and wastes control, erosion control, and sediment control on the project site. Projects that involve areas 1 acre or greater require that the property owner keep additional and updated information onsite concerning stormwater runoff. The property owner and permittee shall comply with the requirements of the stormwater regulations referenced above.

LOW IMPACT DEVELOPMENT NOTICE: On May 8, 2013, the San Diego Regional Water Quality Control Board (SDRWQCB) issued a new Municipal Stormwater Permit under the National Pollutant Discharge Elimination System (NPDES) (R9-2013-0001). The permit was amended on February 15, 2015 (R9-2015-0001) and November 18, 2015 (R9-2015-0100). *Project design shall be in compliance with the new Municipal Permit regulations.*

The County has provided a LID Handbook as a source for LID information and is to be utilized by County staff and outside consultants for implementing LID in our region. The Low Impact Development (LID) Best Management Practices (BMP) Requirements of the Municipal Permit can be found at the following:

http://www.waterboards.ca.gov/rwqcb9/water_issues/programs/stormwater/docs/2015-1118_AmendedOrder_R9-2013-0001_COMPLETE.pdf

<http://www.sandiegocounty.gov/dplu/docs/LID-Handbook.pdf>

NOTICE: This subject property is known to contain CSS vegetation communities. Such vegetation communities are habitat for the coastal California gnatcatcher. The Federal government listed the gnatcatcher as a threatened species under the Federal Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.). THE LISTING MAY RESULT IN AN APPLICANT'S INABILITY TO PROCEED WITH HIS/HER PROJECT WITHOUT A PERMIT FROM THE FEDERAL GOVERNMENT IF THE SPECIES OR ITS HABITAT ARE PRESENT ON THE PROJECT SITE. It is advisable to contact the USFWS to determine the applicability of the prohibitions under the Act to each applicant's property.

NOTICE: The subject property contains wetlands, a lake, a stream, and/or waters of the U.S. which may be subject to regulation by State and/or federal agencies, including, but not limited to, the Regional Water Quality Control Board, U.S. Army Corps of Engineers and the CDFW. It is the applicant's responsibility to consult with each agency to determine if a permit, agreement or other approval is required and to obtain all necessary permits, agreements or approvals before commencing any activity which could impact the wetlands, lake, stream, and/or waters of the U.S. on the subject property. The agency contact information is provided below.

U.S. Army Corps of Engineers: 6010 Hidden Valley Rd, Suite 105, Carlsbad, CA 92011-4219; (858) 674-5386; <http://www.usace.army.mil/>

Regional Water Quality Control Board: 2375 Northside Drive, Suite 100, San Diego, CA 92108-2700; (619) 516-1990; <http://www.waterboards.ca.gov/sandiego/>

California Department of Fish and Wildlife: 3883 Ruffin Rd., San Diego, CA 92123; (858) 467-4201; <http://www.dfg.ca.gov/>

NOTICE: The subject property contains habitat which may be used for nesting by migratory birds. Any grading, brush removal or clearing conducted during the migratory bird breeding season, February 1 – August 31, and as early as January 1 for some raptors, has a potential to impact nesting or breeding birds in violation of the Migratory Bird Treaty Act. The applicant may submit evidence that nesting or breeding migratory birds will not be affected by the grading, brush removal or clearing to these agencies: CDFW, 3883 Ruffin Rd., San Diego, CA 92123, (858) 467-4201, <http://www.dfg.ca.gov/>; and USFWS, 2177 Salk Ave., Suite 250, Carlsbad, CA, (760) 431-9440, <http://www.fws.gov/>.

NOTICE: THE ISSUANCE OF THIS PERMIT BY THE COUNTY OF SAN DIEGO DOES NOT AUTHORIZE THE APPLICANT FOR SAID PERMIT TO VIOLATE ANY FEDERAL, STATE, OR COUNTY LAWS, ORDINANCES, REGULATIONS, OR POLICIES INCLUDING, BUT NOT LIMITED TO, THE FEDERAL ENDANGERED SPECIES ACT AND ANY AMENDMENTS THERETO.

DEFENSE OF LAWSUITS AND INDEMNITY: The applicant shall: (1) defend, indemnify and hold harmless the County, its agents, officers and employees from any claim, action or proceeding against the County, its agents, officers and employees to attack, set aside, void or annul this approval or any of the proceedings, acts or determinations taken, done or made prior to this approval; and (2) reimburse the County, its agents, officers or employees for any court costs and attorney's fees which the County, its agents, officers or employees may be required by a court to pay as a result of such approval. At its sole discretion, the County may participate at its own expense in the defense of any such action, but such participation shall

not relieve the applicant of any obligation imposed by this condition. The County shall notify the applicant promptly of any claim or action and cooperate fully in the defense.

JUDICIAL REVIEW TIME LIMITATIONS: The time within which judicial review of this decision must be sought is governed by Code of Civil Procedure Section 1094.6, which has been made applicable in the County of San Diego by San Diego County Code Section 11.120. Any petition or other paper seeking judicial review must be filed in the appropriate court not later than the 90th day following the date on which this decision becomes final; however, if within 10 days after the decision becomes final a request for the record of the proceedings is filed and the required deposit in an amount sufficient to cover the estimated cost of preparation of such record is timely deposited, the time within which such petition may be filed in court is extended to not later than the 30th day following the date on which the record is either personally delivered or mailed to the party, or the party’s attorney of record. A written request for the preparation of the record of the proceedings shall be filed with the Director, Planning & Development Services, 5510 Overland Avenue, Suite 110, San Diego, California 92123.

The foregoing decision was approved by the Director of Planning & Development Services on TO BE DETERMINED. A copy of this decision, and the documentation supporting the decision, is on file in the Planning & Development Services office at 5510 Overland Avenue, Suite 110, San Diego, California.

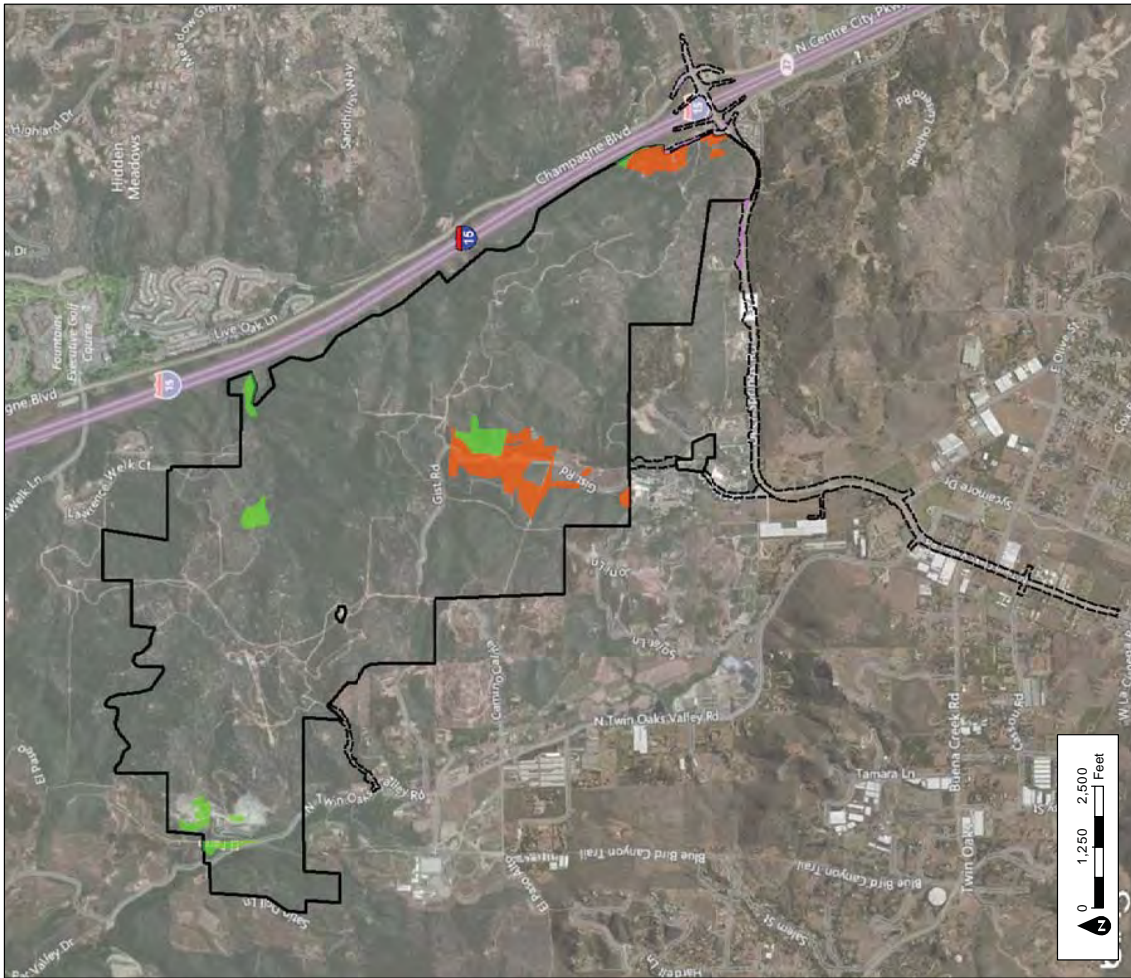
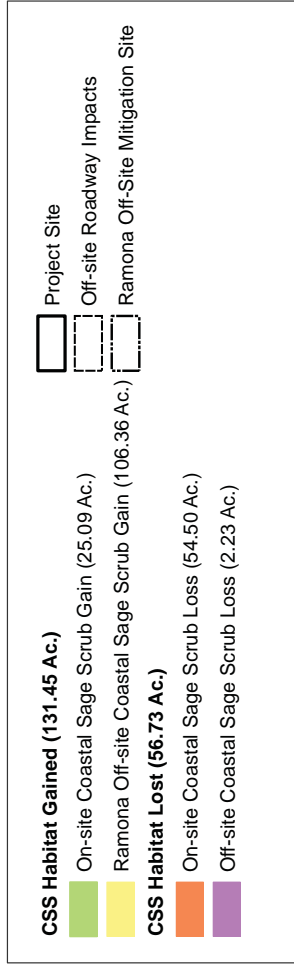
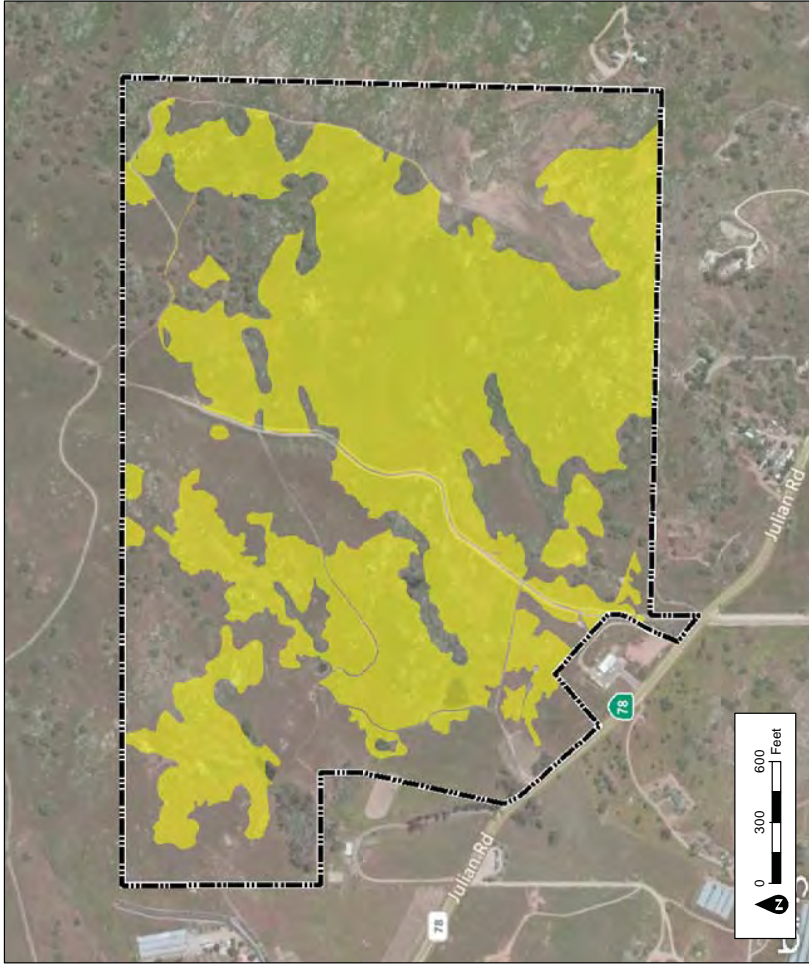
PLANNING & DEVELOPMENT SERVICES
MARK WARDLAW, DIRECTOR

BY:
LISA GORDON, DEPUTY DIRECTOR
Project Planning Division

Attachments
Exhibit Entitled “Sage Scrub Habitat Lost and Gained from the Newland Sierra Project”

cc: To be provided at issuance of Habitat Loss Permit

email cc:
Ashley Smith, Project Manager, Project Planning, Planning & Development Services
Mark Slovick, Planning Manager, Project Planning, Planning & Development Services



SOURCE: BING MAPS/AERIAL

Draft Habitat Loss Permit for the Newland Sierra Project

Coastal Sage Scrub Habitat Lost and Gained from the Newland Sierra Project



**Attachment H –
RESOLUTION APPROVING GENERAL PLAN
AMENDMENT PDS2015-GPA-15-001**

A RESOLUTION OF THE SAN DIEGO COUNTY)
BOARD OF SUPERVISORS ADOPTING)
GENERAL PLAN AMENDMENT (GPA) PDS2015-GPA-15-001)

WHEREAS, pursuant to Government Code Sections 65350 et seq, GPA PDS2015-GPA-15-001 has been prepared, being the third amendment to the Land Use Element Map, first amendment to the Mobility Element, North County Metropolitan Subregional Plan, Bonsall Community Plan, and the I-15 Corridor Subregional Plan in the Calendar Year 2018; and

WHEREAS, GPA PDS2015-GPA-15-001 has been filed by Newland Sierra, LLC, consisting of an amendment to the Land Use Element, Mobility Element, North County Metropolitan Subregional Plan, Bonsall Community Plan, and I-15 Corridor Subregional Plan; and

WHEREAS, associated zoning reclassifications (PDS2015-REZ-15-001), a Specific Plan (PDS2015-SP-15-001), and Tentative Map (PDS2015-TM-5597), have also been prepared; and

WHEREAS, on _____, the Planning Commission, pursuant to Government Code Sections 65351 and 65353 held duly advertised public hearings on GPA PDS2015-GPA-15-001; and

WHEREAS, the Planning Commission made its detailed written recommendation on the General Plan Amendment; and

WHEREAS, the Planning Commission reviewed and consider the information contained in the Environmental Impact Report dated June 2018, on file with Planning & Development Services as Environmental Review Number (ER) PDS2015-ER-15-08-001 prior to making its recommendation on the project; and

WHEREAS, the Planning Commission identified that the proposed project, GPA PDS2015-GPA-15-001, will have significant unmitigated impacts on the environment, but that there are specific economic, legal, social, technological or other benefits which will result from approval and implementation of the project; and

WHEREAS, on _____, the Board of Supervisors, pursuant to Government Code Section 65355 held a duly advertised public hearing on GPA PDS2015-GPA-15-001; and

On _____, the Board of Supervisors made findings pursuant to Attachment ___, Environmental Findings, of the Board of Supervisors Planning Report for the project.

1 - 1501

NOW THEREFORE BE IT RESOLVED that the Board of Supervisors takes the following actions:

1. Certify that the Environmental Impact Report (EIR) dated June 2018, on file with Planning & Development Services as Environmental Review Number (ER) PDS2015-ER-15-08-001 has been completed in compliance with the California Environmental Quality Act and the State CEQA Guidelines, that the EIR was presented to the Board of Supervisors and the Board of Supervisors reviewed and considered the information contained therein before approving the project, and that the EIR reflects the independent judgement and analysis of the Board of Supervisors.
2. Adopt the findings concerning mitigation of significant environmental effects pursuant to CEQA guidelines section 15091(a). (Attachment __)
3. Adopt the Mitigation and Monitoring Program as incorporated into the project conditions of approval pursuant to CEQA Guidelines section 15091(d). (Attachment __ and __)
4. Adopt the Statement of Overriding Considerations pursuant to CEQA Guidelines section 15093. (Attachment __)
5. Adopt the Decision and Explanation Regarding Recirculation of the Draft Environmental Impact Report pursuant to CEQA Guidelines Section 15088.5(e). (Attachment __)
6. Find that the proposed project is exempt from the Resource Protection Ordinance (County Code, section 86.601 et seq.) because it has been designed in accordance with a comprehensive Resource Protection Plan (RPP), which is functional equivalent of the Resource Protection Ordinance.
7. Find that the infrastructure and public facilities proposed are adequate to meet the demands of the project.
8. Find that plans and documentation have been prepared for the proposed project that demonstrate that the project complies with the Watershed Protection, Stormwater Management, and Discharge Control Ordinance (County Code, section 67.801 et seq.).
9. Approve GPA PDS2015-GPA-15-001, which consists of amendments to the Land Use Element Map, Mobility Element, North County Metropolitan Subregional Plan, Bonsall Community Plan, and the I-15 Corridor Subregional Plan as identified in the exhibits below:

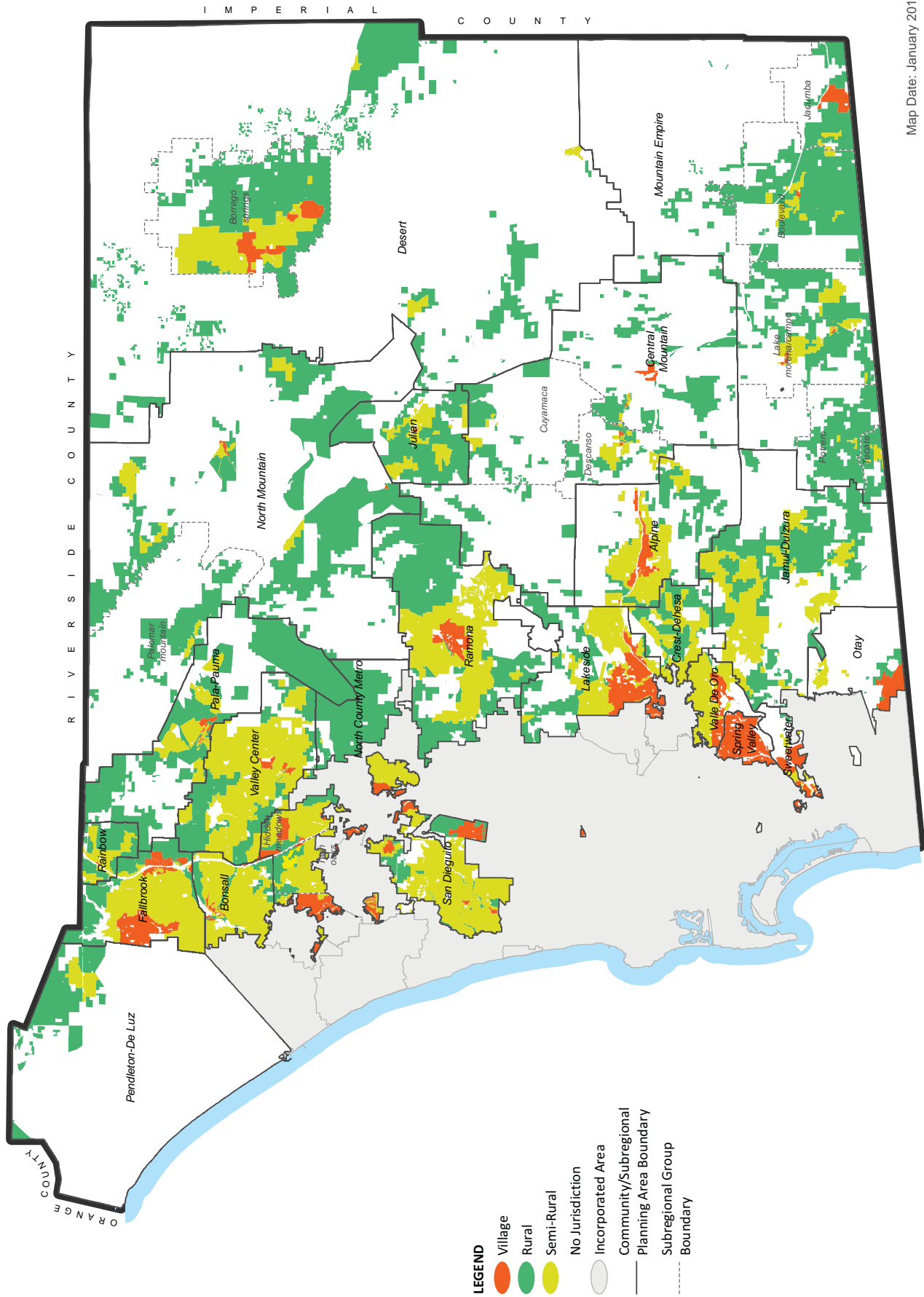
1 - 1502

- Exhibit A: Land Use Element – Regional Category Map
- Exhibit B: Land Use Element – Land Use Designations Map
- Exhibit C: Mobility Element – North County Metropolitan Mobility Element Network Figure M-A-12
- Exhibit D: North County Metropolitan Community Plan
- Exhibit E: I-15 Corridor Subregional Plan

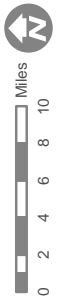
BE IT FURTHER RESOLVED that the amended documents shall be endorsed in the manner provided by the Board of Supervisors.

BE IT FURTHER RESOLVED that the Board of Supervisors finds that the GPA PDS2015-GPA-15-001 is consistent with the San Diego County General Plan, the I-15 Corridor Subregional Plan, the North County Metropolitan Subregional Plan and the Bonsall Community Plan.

BE IT FURTHER RESOLVED that the adoption of this resolution shall become effective 30 days after the adoption of this resolution, provided that on that effective date, Specific Plan Amendment PDS2015-SP-15-001, Rezone PDS2015-REZ-15-001, and Tentative Map PDS2015-TM-5597 also become effective.



Map Date: January 2017



REGIONAL CATEGORIES MAP

San Diego County General Plan

PROPOSED

Figure LU-1

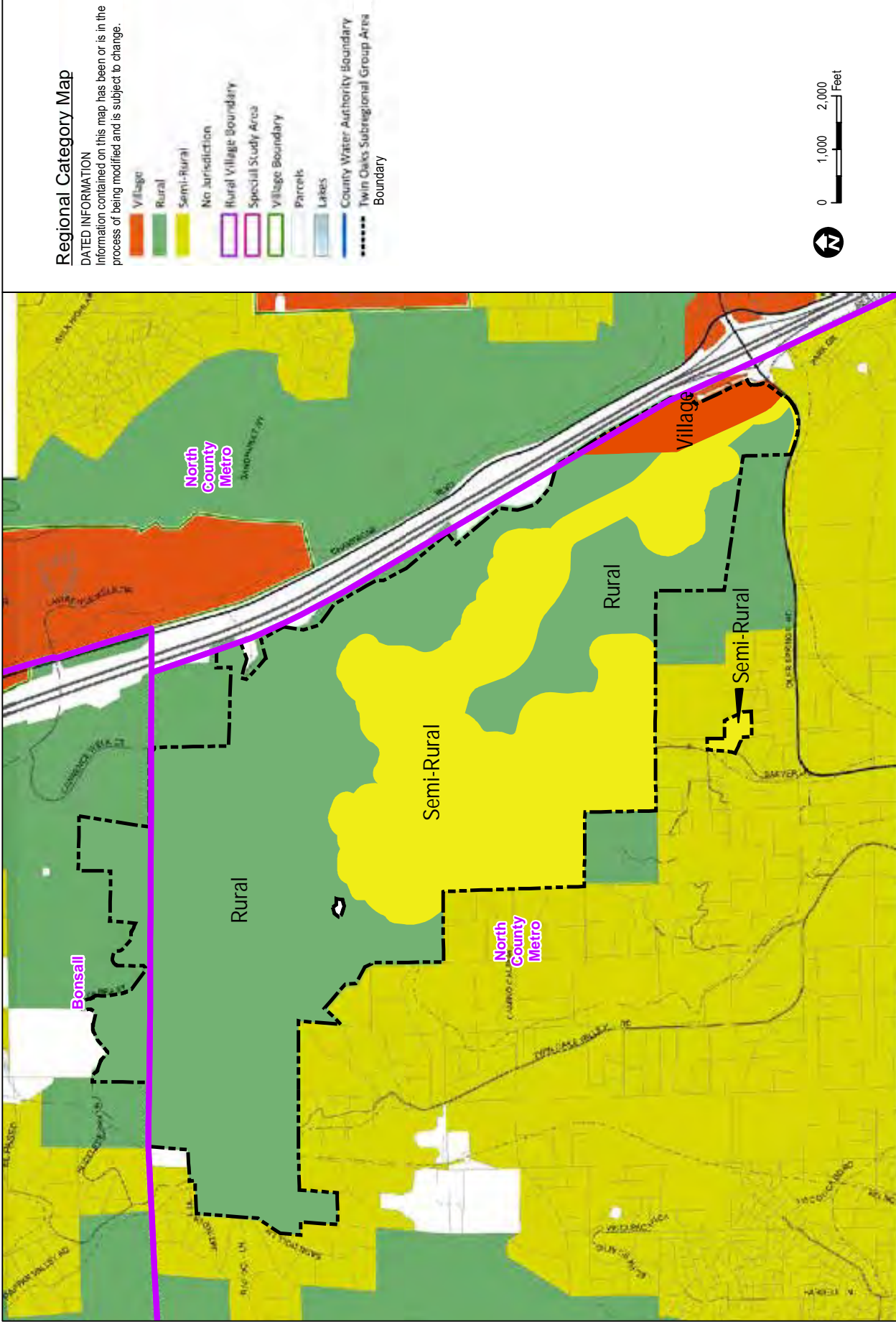


FIGURE 5
Proposed Regional Land Use Categories
 Newland Sierra Specific Plan

SOURCE: COUNTY OF SAN DIEGO

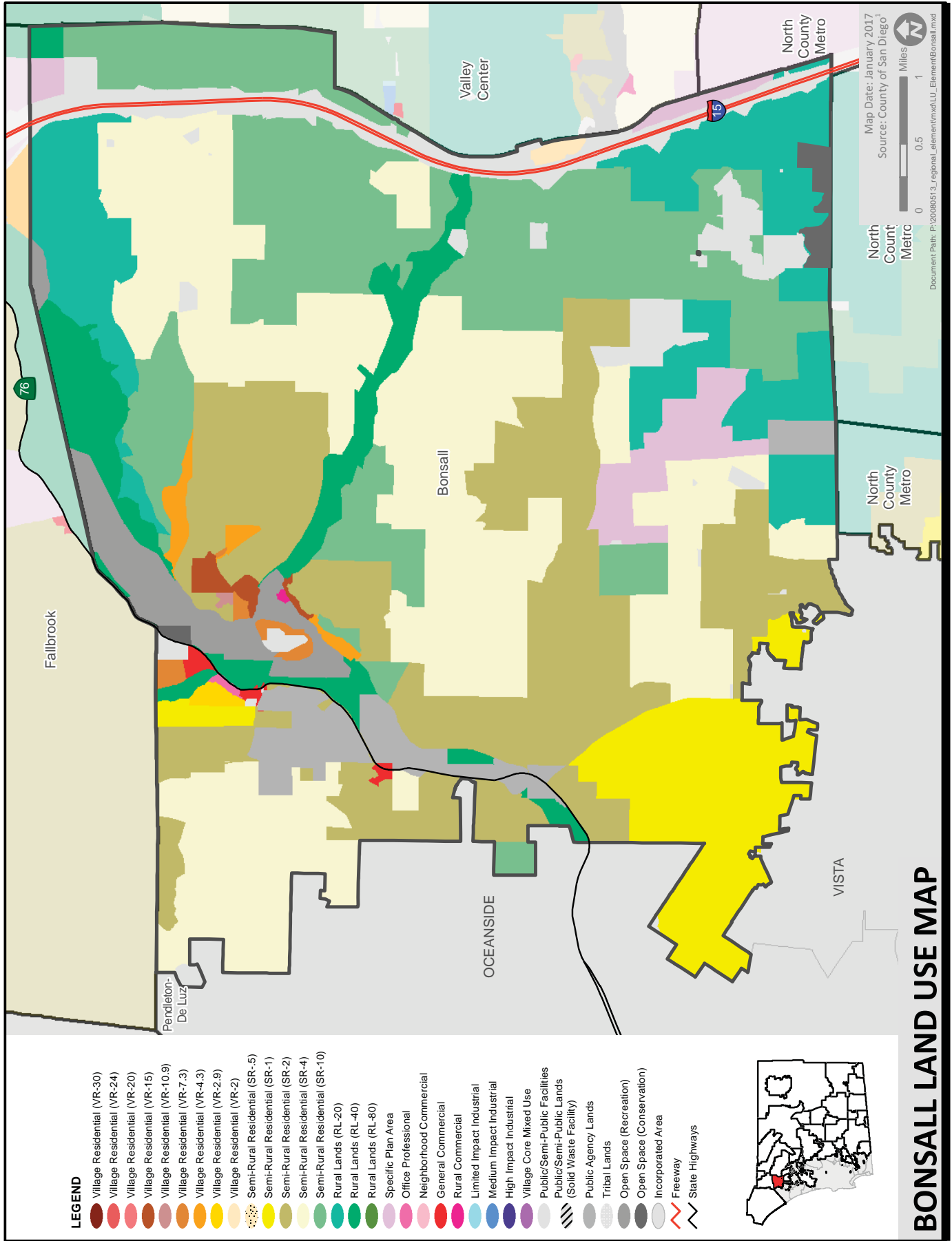
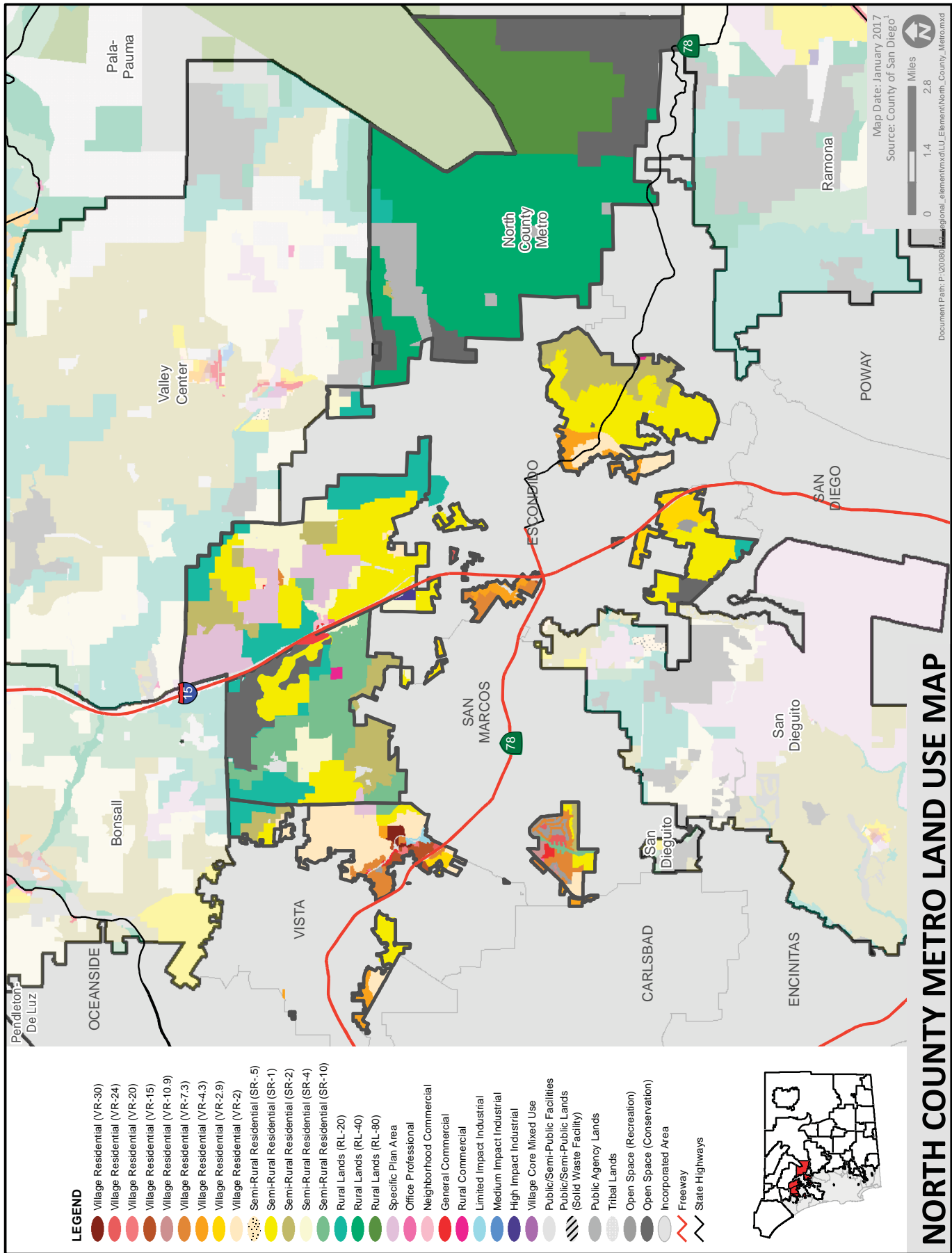


Figure LU-A-2

PROPOSED

BONSALL LAND USE MAP

San Diego County General Plan



NORTH COUNTY METRO LAND USE MAP

San Diego County General Plan

PROPOSED

Figure LU-A-12

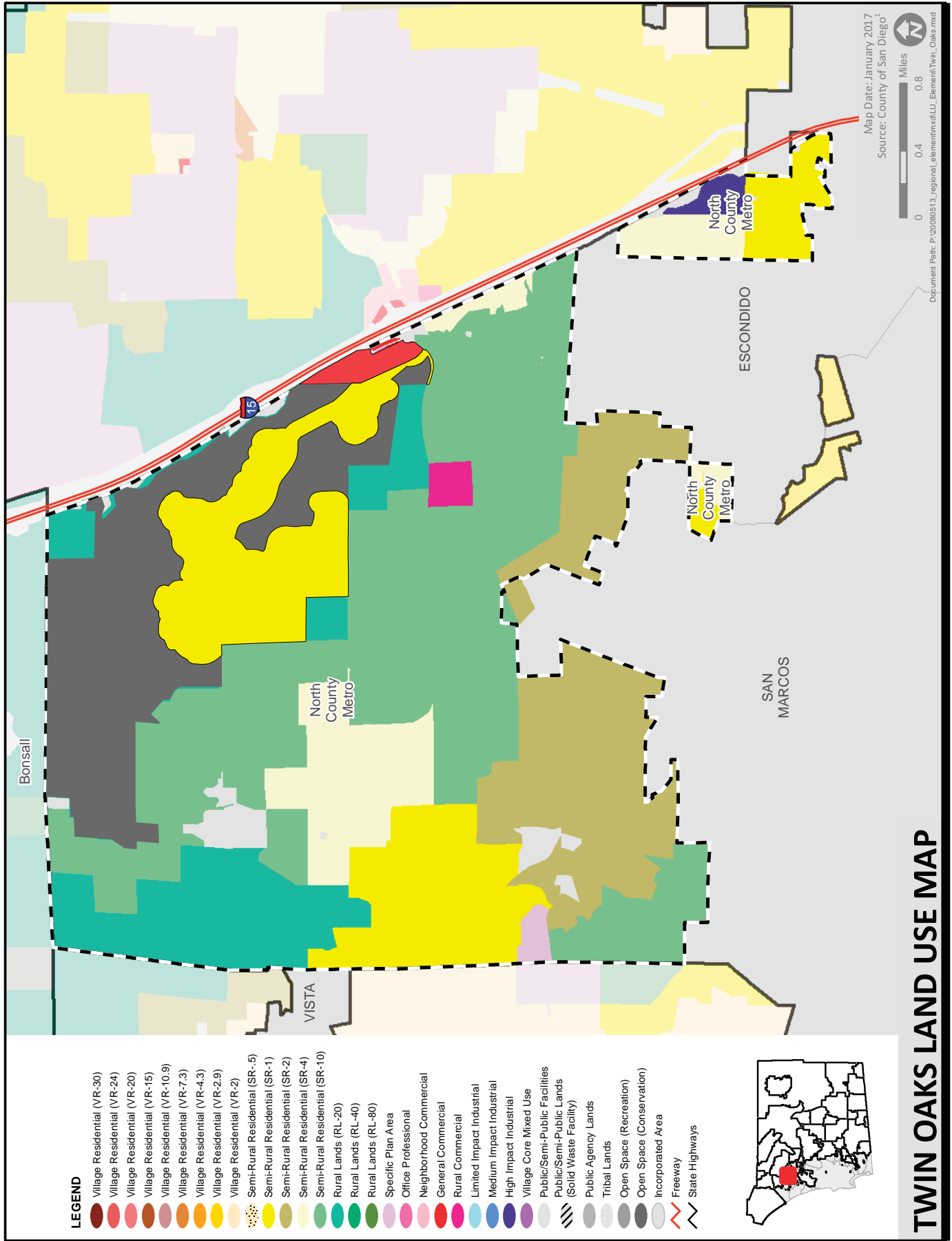
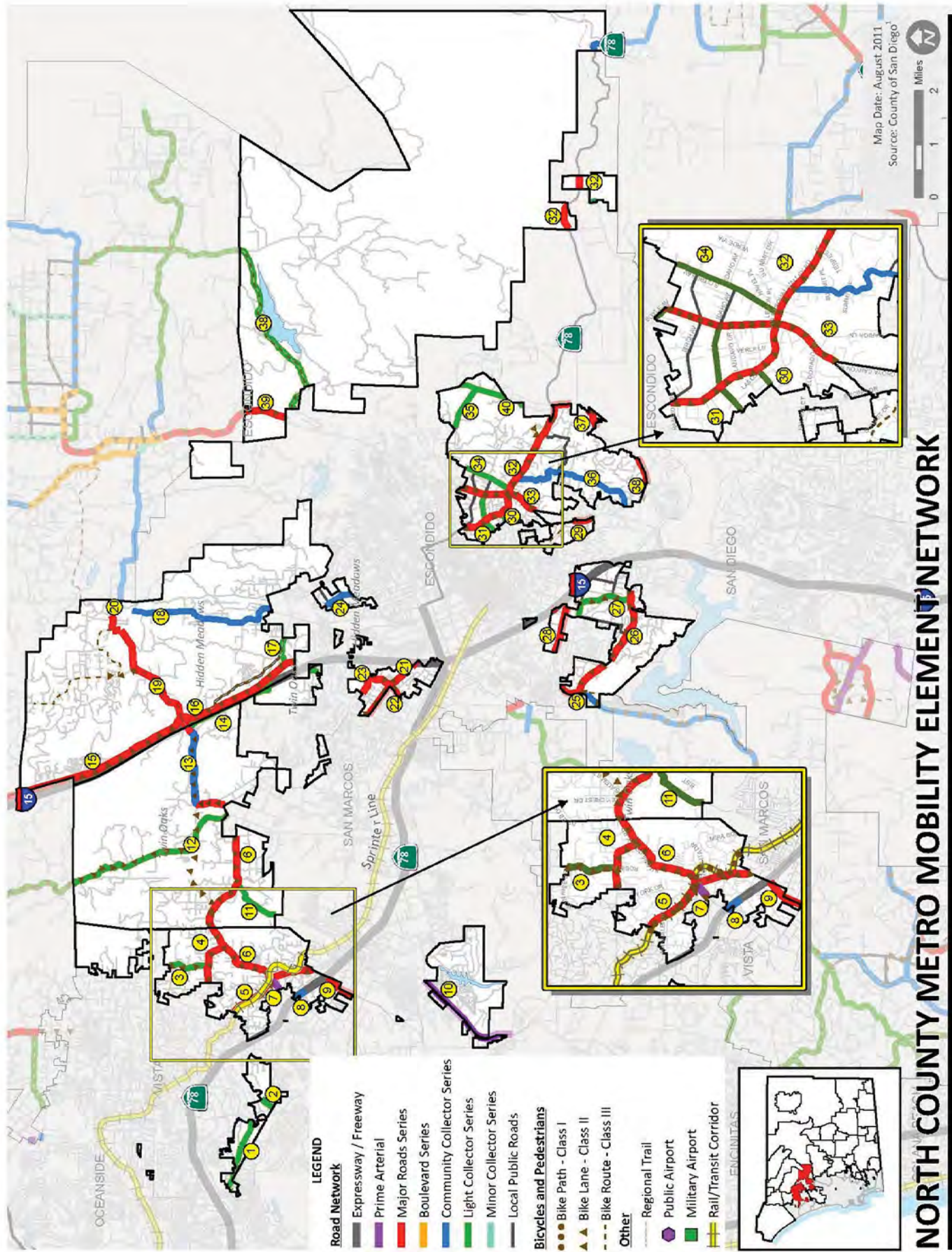


Figure LU-A-12.1

PROPOSED

TWIN OAKS LAND USE MAP

San Diego County General Plan



NORTH COUNTY METRO MOBILITY ELEMENT NETWORK

PROPOSED

Figure M-A-12

North County Metropolitan Subregional Plan

San Diego County General Plan

Adopted
January 3, 1979
GPA 78-03
Amended
December 19, 1990
GPA 01-01

Adopted
August 3, 2011

Amended
Month, Day, 201X

CERTIFICATE OF ADOPTION

I hereby certify that this Plan, consisting of text and exhibits, is the North County Metropolitan Subregional Plan and is a part of the San Diego County General Plan, and that it was considered by the San Diego County Planning Commission during nine hearings that occurred from November 6, 2009 through the 20th day of August 2010, and adopted by the San Diego County Board of Supervisors on the 3rd day of August 2011.

Attest: _____
ERIC GIBSON, Director
Department of Planning and Land Use

NORTH COUNTY METROPOLITAN PLAN
TABLE OF CONTENTS

	<u>PAGE</u>
CHAPTER 1. INTRODUCTION.....	1
CHAPTER 2. GOALS.....	2
1. Accommodate Urban Development in Appropriate Areas	2
2. Encourage Logical City Annexations.....	2
3. Promote Agriculture in Non-Urban areas.....	2
4. Protect Environmental Resources.....	2
CHAPTER 3. POLICIES.....	3
LAND USE	3
GOVERNMENT STRUCTURES	3
2. Support City Annexation Incentive Program.....	3
3 Identify Potential Commercial Locations.....	3
4. Study Amendment of County Road and Sign Standards.....	4
5. Support Sewer Service Extension - Martyn Creek	4
6. Merge Buena Sanitation District	4
7. Limit New Subdivisions Exceeding One Du/Acre - Escondido	5
AGRICULTURE.....	5
8. Promote Agriculture - Outside City Spheres.....	5
9. Recognize Avocational Agriculture	6
10. Assist Cities in Preparing Agricultural Plans.....	6
MOBILEHOMES.....	6
11. Encourage Mobilehome Park Development	6
12. Identify Prospective Mobilehome Park Areas	7
SEWER SERVICE	7
13. Improve Sewer Service Within the Urban Area	7
CONSERVATION.....	8
14. Designate Resource Conservation Areas.....	8
RECREATION.....	8
15. Direct County Resources Toward Parkland Acquisition and Development	8
16. Pursue Joint Funding Sources for Regional Park Development	8
17. Prioritize Local Parks.....	9

NORTH COUNTY METROPOLITAN PLAN TABLE OF CONTENTS

IMPLEMENTATION	9
18. Adopt General Plan Categories.....	9
CHAPTER 4. RUBEL SPECIFIC PLANNING AREA.....	10
CHAPTER 5. CHAMPAGNE BOULEVARD SPECIFIC PLAN AREA	11
CHAPTER 6. HIDDEN MEADOWS VILLAGE.....	13
<u>CHAPTER 7. NEWLAND SIERRA SPECIFIC PLAN</u>	<u>14</u>
APPENDICES	
Appendix A – Maps	A-1
Appendix B - Resource Conservation Areas (RCAs) for North County Metro.....	B-1
Appendix C - I-15 Corridor Subregional Plan	C-1

POLICY CODE EXPLANATION

The responsibility for carrying out the policies of this community/subregional plan does not lie solely with the Department of Planning and Land Use (DPLU). The cooperation of private property owners, developers, decision-makers and numerous other entities, both public and private, is necessary to make these policies successful.

A code within brackets [] has been placed at the end of each policy within the Plan Text to identify which county department or sub-departmental section of the Department of Planning and Land Use is responsible for taking the lead in carrying out the policy. In addition, there is a code identified as "GEN", which indicates those policies that are of a general concern to all persons or groups that might be involved in development or plan implementation.

This approach will assist in providing detailed information regarding policies easier to locate, and aid staff in overseeing the progress of the plan.

CODE

GEN	POLICY OF GENERAL APPLICATION
DPW	DEPARTMENT OF PUBLIC WORKS
DPR	DEPARTMENT OF PARKS AND RECREATION
DHS	DEPARTMENT OF HEALTH AND HUMAN SERVICES
DA	DEPARTMENT OF AGRICULTURE
HCD	DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DPLU	DEPARTMENT OF PLANNING AND LAND USE
C	- Code Enforcement
PP	- Project Planning
AP	- Advanced Planning
B	- Building Division

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CHAPTER 1 INTRODUCTION

The North County Metropolitan Plan consists of this text and the Land Use Plan Map. The Plan is intended to promote orderly development, protect environmental and man-made resources, and implement the County's objectives for growth management and the structure of government for the Subregion.

The Land Use Plan Map provides a basis for the specific zoning regulation of unincorporated land within the Subregion. The text provides planning goals and related policies for implementing the Plan through a variety of specific governmental action programs.

This Subregional Plan supplements all existing Elements of the San Diego County General Plan with specific emphasis on the planning needs of the North County Metropolitan Subregion shown on Figure 1 below.

This Plan was prepared by County staff in cooperation with numerous involved citizens, citizen groups, businesses and governmental agencies. In particular this Plan reflects--to the maximum possible extent--consistency with General Plans of each of the six incorporated cities of the Subregion.

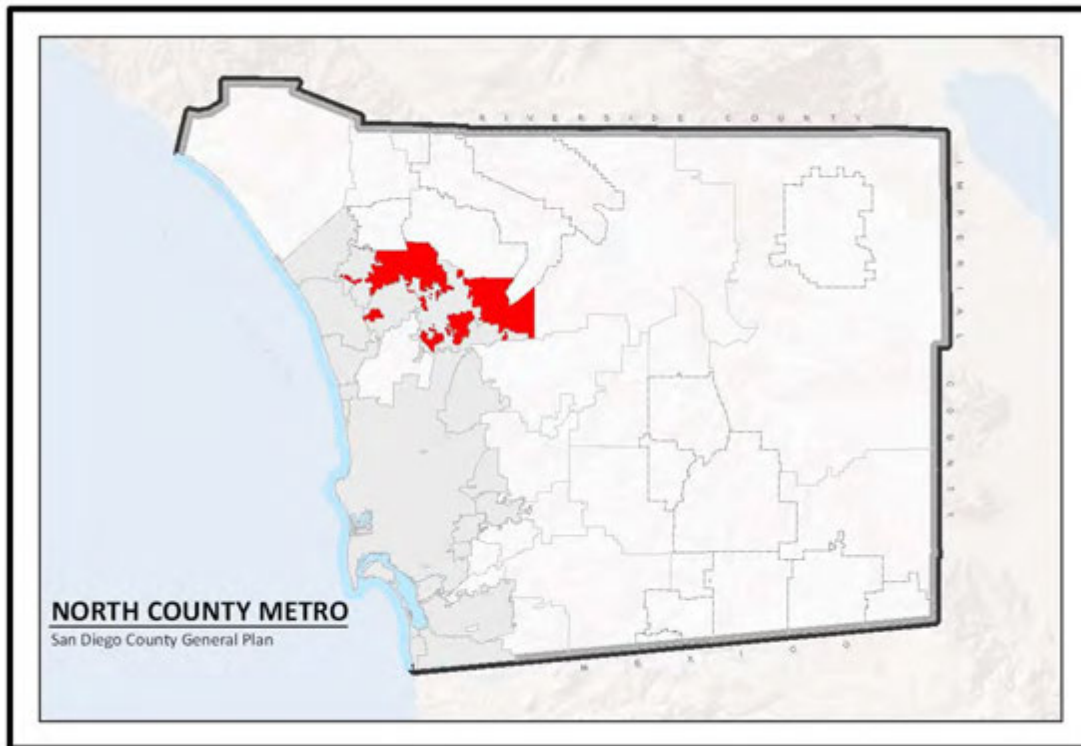


Figure 1: North County Metropolitan Subregion

CHAPTER 2

GOALS

1. ACCOMMODATE URBAN DEVELOPMENT IN APPROPRIATE AREAS

Because the North County Metropolitan Subregion

- A. is developing rapidly; and
- B. contains large areas of developable land with many basic urban services available or located nearby.

2. ENCOURAGE LOGICAL CITY ANNEXATIONS

Because

- A. "spheres of influence" boundaries for all five cities have been adopted to facilitate rational city annexations in the future.

ENCOURAGE THE ANNEXATION OF UNINCORPORATED LAND WITHIN EACH CITY'S ADOPTED SPHERE OF INFLUENCE.

3. PROMOTE AGRICULTURE IN NON-URBAN AREAS

Because

- A. a large portion of the unincorporated territory of the Subregion is in some form of valuable agricultural production; and
- B. agriculture provides economic benefits to County residents.

PROMOTE AGRICULTURE BY PROTECTING SEMI-RURAL AND RURAL AREAS FROM URBANIZATION AND INCOMPATIBLE DEVELOPMENT.

4. PROTECT ENVIRONMENTAL RESOURCES

Because

- A. the Subregion includes scenic rugged terrain, which is not suitable for urbanization; and
- B. Resource Conservation Areas have been identified to help protect valuable resources throughout the Subregion.

PROTECT NATURAL AND ECONOMIC RESOURCES BY DESIGNATING APPROPRIATE LANDS AS RURAL, SEMI-RURAL, AND ENVIRONMENTALLY CONSTRAINED AREAS.

CHAPTER 3 POLICIES

LAND USE

1. INCREASE CITY-COUNTY PLANNING COOPERATION

Because

- A. cities of the Subregion are closely related to the surrounding area in terms of public services, travel patterns, and community identity; and
- B. the cities and County are generally agreed on the spheres of influence boundaries, which were adopted by the Local Agency Formation Commission (LAFCO).

THE COUNTY WILL COOPERATE IN THE PLANNING AND REGULATING OF GROWTH IN THE UNINCORPORATED TERRITORY WITHIN EACH CITY'S SPHERE OF INFLUENCE. FUTURE COUNTY DECISIONS ON PROPOSED PROJECTS IN THE SPHERE AREAS WILL TAKE EACH CITY'S PLANNING OBJECTIVES INTO CONSIDERATION.

GOVERNMENT STRUCTURES

2. SUPPORT CITY ANNEXATION INCENTIVE PROGRAMS

Because

- A. the cities and County are generally agreed that territory within the city spheres of influence should eventually be annexed; and
- B. pre-annexation improvement plans, which identify city services available to neighborhoods upon annexation, will encourage public support for annexation.

SUPPORT CITY ANNEXATION INCENTIVE PROGRAMS FOR EACH CITY WITHIN THE SUBREGION. ASSIST THE CITIES IN PREPARING PRE-ANNEXATION IMPROVEMENT PLANS TO IDENTIFY CITY SERVICES AND FACILITIES THAT WOULD BE INCENTIVES TO PUBLIC SUPPORT FOR ANNEXATION.

3. IDENTIFY POTENTIAL COMMERCIAL LOCATIONS

Because

- A. identification of the potential commercial use of these sites, if annexed to a city, will serve as an incentive for the property owner to seek annexation in order to realize a more intense use of the property;
- B. these sites should only be developed when sewer service is made available; and

- C. the relevant city generally concurs that these locations are potentially as described below.

THE FOLLOWING ARE IDENTIFIED AS POTENTIAL LOCATIONS FOR COMMERCIAL USES IF ANNEXED TO THE CITY:

- A. SAN PASQUAL VALLEY ROAD AT BEAR VALLEY PARKWAY - NEIGHBORHOOD SERVING COMMERCIAL USES.
- B. GAMBLE LAND (CITRICADO PARKWAY) AT FELICITA ROAD - NEIGHBORHOOD SERVING COMMERCIAL USES.

PENDING ANNEXATION, THE COUNTY WILL PERMIT REASONABLE RESIDENTIAL USE OF THESE POTENTIAL COMMERCIAL SITES.

4. STUDY AMENDMENT OF COUNTY ROAD AND SIGN STANDARDS

Because each city is more likely to annex territory within its sphere if roads and signage are developed consistent with the city's own standards.

5. SUPPORT SEWER SERVICE EXTENSION - MARTYN CREEK

Because

- A. the southeastern area within the Escondido sphere of influence is experiencing septic tank failures; and
- B. the prospect of sewer service will create an incentive to annex.

ENCOURAGE AND SUPPORT THE CITY OF ESCONDIDO IN CONDUCTING A FEASIBILITY STUDY FOR THE EXTENSION OF SEWER SERVICE DOWN MARTYN CREEK.

6. MERGE BUENA SANITATION DISTRICT

Because

- A. the Buena Sanitation District service area is within the sphere of influence of the City of Vista and the City of San Marcos;
- B. merging the Buena Sanitation District into the Vista Sanitation District and/or San Marcos County Water District will improve operating efficiencies;
- C. such merging would benefit the City of Vista within their sphere of influence by improving local control over sewer service; and
- D. any merger would be subject to agreement by all affected parties and subject to applicable reorganization requirements.

THE COUNTY WILL WORK WITH THE RESIDENTS OF THE BUENA SANITATION DISTRICT AND WILL SUPPORT THE CITY OF VISTA AND THE SAN MARCOS COUNTY WATER DISTRICT IN DETERMINING THE

FEASIBILITY OF MERGING THE BUENA SANITATION DISTRICT INTO THE VISTA SANITATION DISTRICT AND/OR THE SAN MARCOS COUNTY WATER DISTRICT.

7. LIMIT NEW SUBDIVISIONS EXCEEDING ONE DU/ACRE, OTHER THAN WHERE THE LAND USE MAP SHOWS A HIGHER DENSITY - ESCONDIDO

Because

- A. there is a great amount of unincorporated land within the adopted city sphere of influence that is appropriate for urbanization if annexed to the city;
- B. a one acre minimum lot size requirement would create an incentive for landowners to annex to the city in order to realize higher densities;
- C. a one acre minimum policy will minimize the creation of new public service demands; and
- D. exceptions to a one acre requirement can be considered on a case-by-case basis, if sewer service is available or if the vicinity of a proposed project is already fully subdivided or developed.

PROHIBIT NEW MAJOR AND MINOR SUBDIVISIONS WITHIN THE ADOPTED ESCONDIDO CITY SPHERES OF INFLUENCE IF THE DENSITY SHOWN ON THE FINAL SUBDIVISION OR PARCEL MAP IS GREATER THAN ONE DWELLING UNIT PER GROSS ACRE, UNLESS: (1) CONSISTENT WITH THE GENERAL PLAN LAND USE MAP; OR (2) THE PROPOSED PROJECT HAS SEWERS AVAILABLE AND CAN OBTAIN SEWER LATERAL CONNECTIONS TO AN EXISTING SEWER MAIN, IN WHICH CASE THIS POLICY SHALL NOT APPLY TO THE PROPERTY.

AGRICULTURE

8. PROMOTE AGRICULTURE - OUTSIDE CITY SPHERES

Because

- A. agriculture is an important commercial activity in the North County Metropolitan Subregion and valuable commercial crops are being raised;
- B. row crops and nursery production are common to the maritime area climate, while orchards are scattered throughout the eastern portion of the Subregion.
- C. certain areas have viable commercial agriculture and soil; climate and other conditions are favorable for continuing success; and
- D. low density Land Use General Plan Designations can be applied to protect agriculture in these outlying and undeveloped locations.

DESIGNATE THE TWIN OAKS VALLEY (PORTION OUTSIDE SAN MARCOS SPHERE) AS SEMI-RURAL AND RURAL LANDS REGIONAL CATEGORIES. THESE DESIGNATIONS WILL LIMIT THE INTRUSION OF INCOMPATIBLE LAND USES FROM EXISTING AGRICULTURAL LANDS.

9. RECOGNIZE AVOCATIONAL AGRICULTURE

Because

- A. avocational agriculture, primarily orchard crops on small parcels, is found throughout the Subregion and is especially common at the urban fringe around the cities of Escondido, San Marcos, and Vista; and
- B. while the use of such land is primarily residential, avocational agriculture is recognized to be of benefit to both the economy and the environment.

RECOGNIZE THAT AVOCATIONAL AGRICULTURE IS A COMPATIBLE SECONDARY USE OF LAND THROUGHOUT THE SUBREGION.

10. ASSIST CITIES IN PREPARING AGRICULTURAL PLANS

Because

- A. the Knox-Nisbet Act (Government Code Sections 54774 and 54796) requires Local Agency Formation Commissions (LAFCO) to determine whether agricultural preserves or prime agricultural land would be adversely affected if a proposed annexation were approved; and
- B. the County has completed extensive work to inventory and analyze agricultural resources in the Subregion and this information can be made available to cities of the Subregion.

ASSIST CITIES OF THE SUBREGION IN PREPARING AGRICULTURAL PLANS FOR THE UNINCORPORATED AREAS WITHIN THEIR SPHERE OF INFLUENCE.

MOBILEHOMES

11. ENCOURAGE MOBILEHOME PARK DEVELOPMENT

Because

- A. County government recognizes the growing importance of mobilehomes as the means of providing affordable housing to a larger segment of the public; and
- B. the amount of land which is both appropriate and available in the Subregion for mobilehome development has been decreasing steadily due to competition from larger-lot, more expensive residential development.

ENCOURAGE MOBILEHOME PARK DEVELOPMENT AS A MEANS TO PROMOTE ALTERNATIVE TYPES OF HOUSING AS WELL AS TO EXPAND HOUSING OPPORTUNITIES FOR LOW AND MODERATE INCOME HOUSEHOLDS.

12. IDENTIFY PROSPECTIVE MOBILEHOME PARK AREAS

Because there are many possible locations throughout the Subregion where mobilehome parks would be appropriate, and where public services would be available.

ACCOMMODATE MOBILEHOMES AT APPROPRIATE LOCATIONS WITHIN THE SUBREGION WHERE PUBLIC SERVICES ARE NOW AVAILABLE OR CAN BE MADE AVAILABLE CONCURRENT WITH EACH DEVELOPMENT PROJECT. POSSIBLE LOCATIONS INCLUDE (BUT ARE NOT LIMITED TO):

- A. NORTHEAST ESCONDIDO, ALONG VALLEY PARKWAY (ANNEXATION REQUIRED FOR SEWER CONNECTION);
- B. BUENA AND WEST SAN MARCOS AREA;
- C. UNINCORPORATED ISLANDS, SOUTH OF VISTA AND WITHIN ITS SPHERE OF INFLUENCE (ASSUMES ANNEXATION);
- D. VISTA/SAN MARCOS WINDOW AREA; AND
- E. SOUTH CARLSBAD ISLANDS (ASSUMES ANNEXATION).

SEWER SERVICE

13. IMPROVE SEWER SERVICE WITHIN THE URBAN AREA

Because

- A. many areas throughout the Subregion have experienced septic tank failures and the problem is especially critical in the fringe areas around Escondido and Vista, where the cumulative impact of residential development is causing this problem to worsen over time; and
- B. need for sewer service will expand greatly as growth continues, particularly within the County Water Authority (CWA) boundary.

WHEREVER FEASIBLE, PROVIDE SEWER SERVICE INSIDE THE CWA BOUNDARY AND TO EXISTING DEVELOPED AREAS OUTSIDE THE CWA BOUNDARY, WHERE HIGH RATES OF SEPTIC TANK FAILURES HAVE BEEN EXPERIENCED.

CONSERVATION

14. DESIGNATE RESOURCE CONSERVATION AREAS

Because

- A. it is County policy to protect and manage environmental resources in order to maintain them for future needs; and
- B. an initial inventory of valuable resources has been completed (refer to Appendix).

THE RESOURCE CONSERVATION AREA (RCA) DESIGNATION IS APPLIED TO PROTECT SENSITIVE BIOLOGICAL, ARCHAEOLOGICAL, AESTHETIC, MINERAL, AND WATER RESOURCES. PROJECTS REQUIRING ENVIRONMENTAL ANALYSIS UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) THAT OCCUR WITHIN RESOURCE CONSERVATION AREAS SHOULD BE CAREFULLY ANALYZED TO ASSESS THEIR IMPACT ON THE RESOURCE CONSERVATION AREA.

RECREATION

15. DIRECT COUNTY RESOURCES TOWARD PARKLAND ACQUISITION AND DEVELOPMENT

Because

- A. priority to acquisition and development protects good park locations from alternative development; and
- B. acquisition and development by the County facilitates annexation of the park by the city, which is the appropriate entity to manage a recreation program for that locality.

DIRECT COUNTY RESOURCES TOWARD PARK LAND ACQUISITION AND DEVELOPMENT; PARK SITES WITHIN AN ADOPTED CITY SPHERE OF INFLUENCE SHOULD BE ANNEXED AND SUBSEQUENTLY OPERATED AND MAINTAINED BY THE CITY. WHEN FEASIBLE, CITY ANNEXATION, OPERATION, AND MAINTENANCE SHOULD BE A REQUIREMENT OF CITY-COUNTY JOINT POWERS PARK AGREEMENTS.

16. PURSUE JOINT FUNDING SOURCES FOR REGIONAL PARK DEVELOPMENT

Because

- A. the main problem with the regional park program has been the lack of funds available for acquisition and construction; and

- B. it is most important that the County continue cooperating with cities of the Subregion, as well as with other agencies, to seek region-wide funding sources for implementing the regional parks program.

THE COUNTY SHALL PARTICIPATE WITH THE CITIES OF THE SUBREGION IN PLANNING AND SEEKING FUNDS FOR THE ACQUISITION AND DEVELOPMENT OF GUAJOME, HEDIONDA, AND BUENA VISTA REGIONAL PARKS.

17. PRIORITIZE LOCAL PARKS

Because

- A. there is a critical need for acquisition and development of local parks

THE FOLLOWING ARE HIGH PRIORITY LOCAL PARK SITES TO BE DEVELOPED BY JOINT POWERS AGREEMENT WITH THE APPROPRIATE CITY: SAN MARCOS PARK; IRIS STREET/EL NORTE (ESCONDIDO); MONTE VISTA SITE (SAN MARCOS); JESMOND DENE COMMUNITY PARK (NORTH ESCONDIDO); AND FELICITA PARK (ESCONDIDO).

IMPLEMENTATION

18. ADOPT GENERAL PLAN CATEGORIES

Because

- A. the North County Metropolitan Subregional Plan, as part of the County General Plan, must conform to the County General Plan; and
- B. the Land Use Element contains a full description of the Land Use Designations that will be used to implement each of the County's Community and Subregional plans.

THE LAND USE DESIGNATIONS CONTAINED IN THE LAND USE ELEMENT ARE HEREBY ADOPTED BY REFERENCE AND WILL BE USED TO IMPLEMENT THIS SUBREGIONAL PLAN.

CHAPTER 4

RUBEL SPECIFIC PLANNING AREA (SPA 0.23)

The Rubel Specific Plan Area (SPA) consists of approximately 655 acres located east of I-15 and south of Mountain Meadow Road. The site is entirely contained within County Agricultural Preserve #12. The project shall be developed according to the following criteria:

1. Overall density shall not exceed 0.23 dwelling units per acre.
2. Lots are to be a minimum of one acre in size.
3. Large portions of the site, which are generally in excess of 25 percent slope, particularly the southeastern portion of the site, shall be preserved in permanent open space and/or agriculture.
4. Concurrent with submitting any draft Specific Plan for this property, the owner shall apply to the County to remove the property from Agricultural Preserve #12 and apply to cancel any existing land conservation contract as it applies to the property.

CHAPTER 5 CHAMPAGNE BOULEVARD SPECIFIC PLAN AREA (0.0 DWELLING UNITS PER ACRE)

DESCRIPTION

The Champagne Boulevard Specific Plan Area contains approximately 140 acres of mostly undeveloped land, located on both sides of Champagne Boulevard, between Lawrence Welk Country Club Village and the Circle R Resort (Subareas 200, 201, 202, 203, 206C, General Plan Amendment 88-01, Item 5).

OBJECTIVES

The objective of this SPA is to accommodate visitor-serving commercial uses that are similar in nature and complimentary to those found in the Lawrence Welk Country Club Village and the Circle R Resort development. It is specifically intended that no residences be allowed, other than those already existing; that slopes in excess of 25 percent be left in their natural state; that all development be phased with the availability of adequate public services and facilities; and that sensitive environmental resources, including American Indian sites, be preserved.

IMPLEMENTATION

Development shall be in accordance with all County goals, objectives, and policies, including the County General Plan.

The following steps will be required, as a minimum, to implement this SPA:

1. A Work Program for the required Specific Plan describing the tasks to be performed, by whom, by when, and at what cost, shall be prepared by the affected property owners, Planning Groups, and the County of San Diego.
2. A Work Program shall include, but not be limited to, the following items:
 - a. Slope analysis to identify terrain in excess of 25 percent and plans for preserving such areas in their natural state;
 - b. Environmental Impact Report to identify, where necessary, sensitive environmental resources, archaeological and historical sites, high groundwater areas, and appropriate mitigating measures;
 - c. Infrastructure analysis to determine available and needed public services and facilities;
 - d. A feasibility study to determine the cost of establishing and operating a sanitation district to provide sewer service within and adjacent to this Specific Plan Area shall be conducted. This feasibility study shall include preliminary engineering analysis of the costs of establishing and operating such a district;

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- e. Phasing plan, to determine timing of development, ensuring that it not precede adequate infrastructure support;
 - f. Landscape plan, to be coordinated with the Scenic Preservation Guidelines adopted for the I-15 Corridor, through the I-15 Corridor Design Review Board; and
 - g. Financing plan describing how all infrastructure provisions, as well as environmental mitigation and open space acquisitions/preservations, are to be financed.
3. The cost of preparing the required Specific Plan and its studies shall be borne by the affected property owners. One method for meeting this cost would be through the establishment of a County Service Area (CSA), although other methods may also be acceptable.

CHAPTER 6 HIDDEN MEADOWS VILLAGE

The intention of the Hidden Meadows Village Boundary shown in Appendix A is to permit continued development of the community at the densities designated by the Land Use Element. It is specifically intended that the Village Boundary not be used as a rationale for amending the Land Use Element to accommodate higher densities or major changes in land use type that would lead to development in excess of 1,600 units in the project area. Residential, and Neighborhood or Office Commercial Land Use Designations will be the only land use designations considered in this Village.

CHAPTER 7

NEWLAND SIERRA SPECIFIC PLAN

(1.08 DWELLING UNITS PER ACRE)

PROJECT DESCRIPTION

The Newland Sierra Specific Plan Area contains approximately 1,985 acres of mostly undeveloped land north of Deer Springs Road, west of Interstate 15, and east of North Twin Oaks Valley Road. The Newland Sierra Project consists of a mix of residential and commercial uses, a school site, parks, and open space.

PROJECT OBJECTIVES

The purpose of the Newland Sierra Specific Plan is to implement a new mixed-use community near existing and planned infrastructure, services, and jobs within the North County Interstate (I) 15 corridor, guided by the following project objectives:

1. Preserve substantial open space and thereby enhance native habitat conservation and natural community conservation planning in north San Diego County through the permanent dedication and management of open space to protect multiple special-status species and their habitats and provide connectivity to existing designated open space and preserve areas in areas surrounding the project.
2. Create compact, sustainable interrelated neighborhoods, consistent with the County's Community Development Model and "Village" designation in the General Plan, and facilitate a multi-modal transportation network linked to regional transportation mobility options.
3. Construct public facilities phased concurrent with demand and support public services within existing service areas without burden or cost to existing residents, visitors, or North County unincorporated communities.
4. Provide a range of recreational amenities and facilities that are accessible to residents of both the Community and the surrounding area.
5. Integrate, maintain, and preserve unique landscape features and distinct landforms along the I-15 corridor.
6. Accommodate existing, planned, and future growth in north San Diego County by providing a diverse range of housing opportunities in conjunction with a Town Center that supports a mix of uses for the benefit of the new Community and surrounding areas.

IMPLEMENTATION

Development within the Newland Sierra Specific Plan Area shall be in accordance with the County's General Plan Guiding Principles and Goals and Policies and applicable County, state, and federal regulatory requirements. Accordingly, the implementation of the Newland Sierra Specific Plan shall rely on and be consistent with the following approvals:

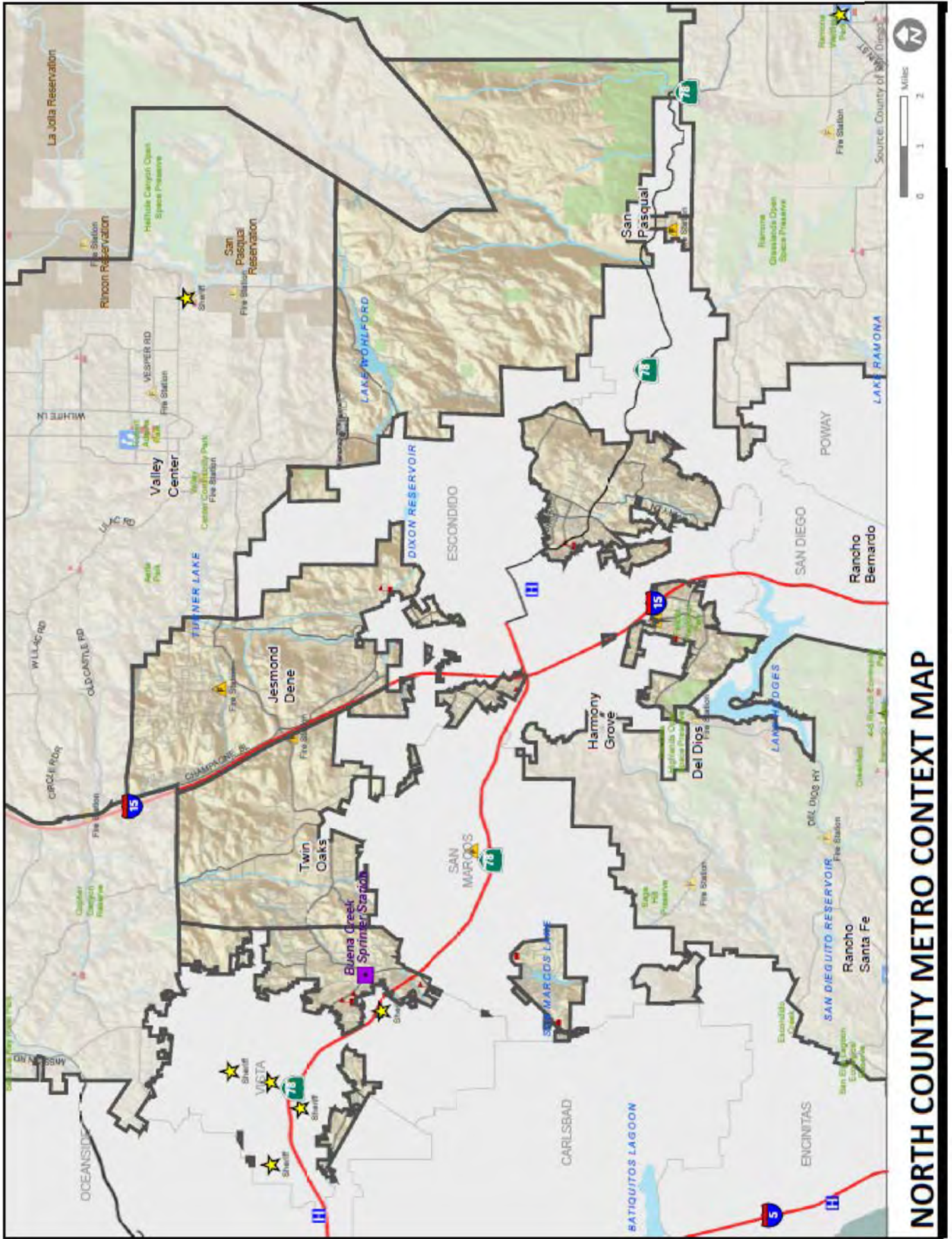
1. Newland Sierra Specific Plan Goals and Policies, Development Standards and Design Guidelines, and Implementation requirements
2. Newland Sierra Project Conditions of Approval
3. Newland Sierra Tentative Map/Preliminary Grading Plan
4. Newland Sierra Certified Environmental Impact Report
5. Newland Sierra Mitigation Monitoring and Reporting Program

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APPENDIX A: MAPS
TABLE OF CONTENTS

	<u>PAGE</u>
Figure 2: North Country Metro Context Map	A-1
Figure 3: North Country Metro Village Boundaries	A-2

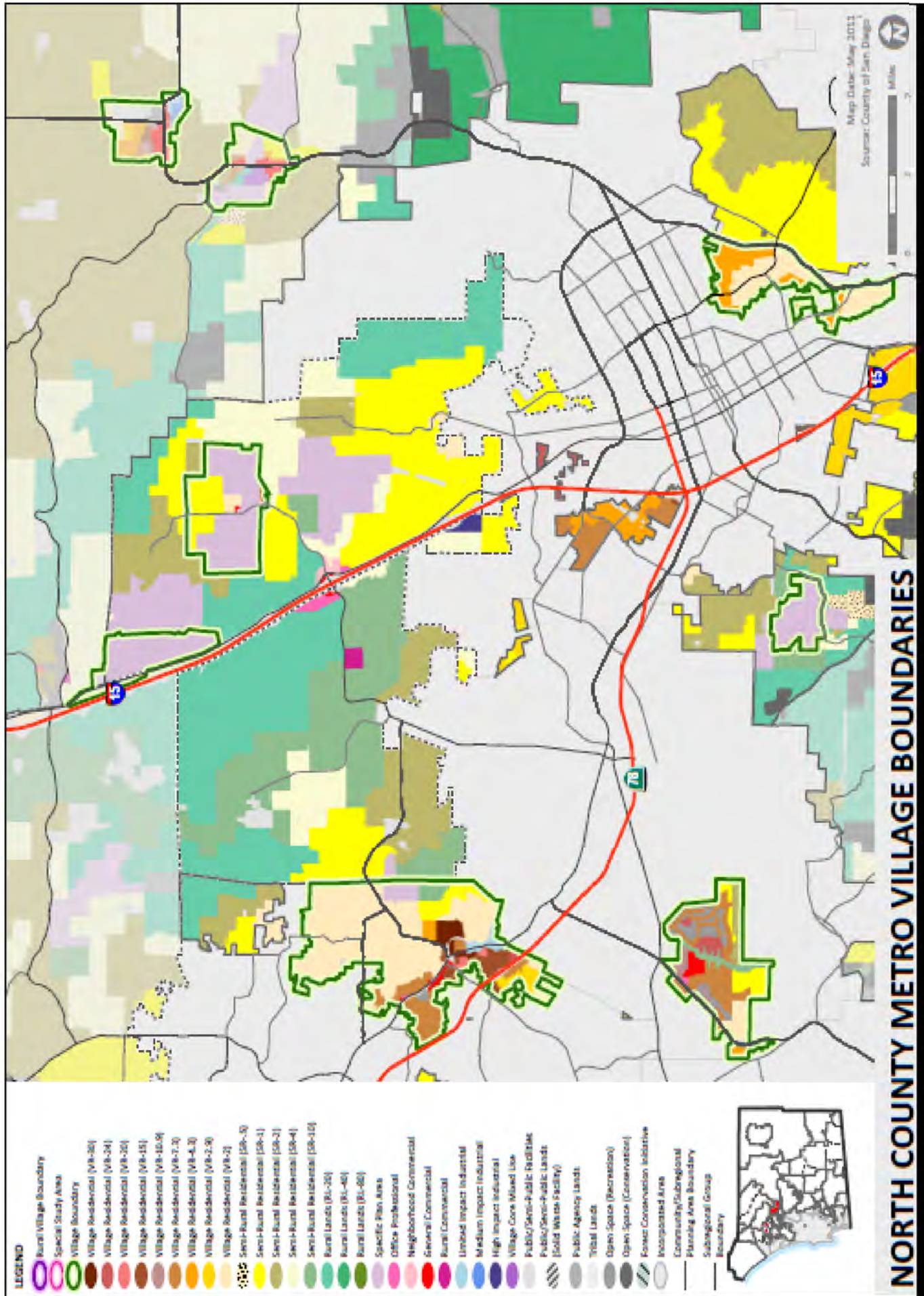
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NORTH COUNTY METRO CONTEXT MAP

A-1

Figure 2



NORTH COUNTY METRO VILLAGE BOUNDARIES

San Diego County General Plan

Figure 3

APPENDIX B: RESOURCE CONSERVATION AREAS

Figure 4 identifies lands requiring special attention in order to conserve resources in a manner best satisfying public and private objectives. The appropriate implementation actions will vary depending upon the conservation objectives of each resource but may include: public acquisition, establishment of open space easements, application of special land use controls, such as cluster zoning, large lot zoning, scenic or natural resource preservation overlay zones, or by incorporating special design considerations into subdivision maps or special use permits. Resource Conservation Areas shall include but are not limited to groundwater problem areas, coastal wetlands, native wildlife habitats, construction quality sand areas, littoral sand areas, astronomical dark sky areas, unique geological formations, and significant archaeological and historical sites.

Within Resource Conservation Areas, County departments and other public agencies shall give careful consideration and special environmental analysis to all projects that they intend to carry out, propose, or approve; and shall select those conservation actions most appropriate to the project and consistent with the intent of this overlay designation.

The Conservation and Open Space Section (3) of the Community Plan includes a Resource Conservation Element Area Map and reference to Resource Conservation Areas (RCAs) by number. This appendix identifies those areas, and provides discussion of those resources to be conserved in each of the numbered areas.

CRITERIA

The following criteria were used in selecting resources worthy of conservation:

- Areas necessary for the protection of wildlife and representative strands of native vegetation.
- Areas containing rare and/or endangered plants.
- Wildlife habitats which are:
 - a. in large blocks, if possible;
 - b. wide, rather than long and narrow, to minimize adverse effects along their margins; and
 - c. in contact with other wild areas and floodplains to provide migration corridors.
- Areas containing mineral resources. Conservation measures should ensure future availability.
- Areas that provide the scenic mountainous backdrop to development within the community.

19. Rancho Guejito

This is the most important resource area in the planning area and extends outside of the plan boundaries. Resources in this area include extensive riparian woodland in the San Luis Rey River Valley, large growth mixed chaparral and oak woodlands on north facing slopes, and a small area of coniferous trees in the eastern portion. The southernmost population of the Pacific Madrone tree grows on Rodriquez Mountain. This tree is normally associated with northern California.

20. Gopher Canyon

This area was delineated to include the scenic Oak woodlands along Gopher Canyon.

22. San Marcos Mountains

The north end of this area extends into Bonsall. These mountains are especially significant because they have rare and endangered plant species, such as Cleveland sage (*Salvia clevelandii*), tetracoccus dioicus, and southern mountain misery (*Chamaebatia australis*). These mountains are also valuable as visual landmarks of great scenic beauty.

23. Merriam Mountains

Resources in this area are similar to the San Marcos Mountains, including the same species of rare plants plus comarostaphylos diversifolia.

25. Moosa Canyon

This area contains a large canyon with oak and riparian woodlands. A small waterfall is present in a portion of the canyon. The area is an important wildlife habitat because of the continuous nature of the woodlands, and includes some chaparral covered slopes on the canyon sides for wildlife habitat.

27. Valley Center Ridge

This scenic, steep, high ridge also contains a diversity of oak woodlands and large growth chaparral.

28. Jesmond Dene Oaks

This area is specifically included because of the scenic value of the oaks and contribution to the character of the Jesmond Dene area.

29. Mount Whitney Double Peak

This major geographic feature contains rare and endangered plants, including the Wart stem ceanothus (*Ceanothus verrucosus*) and *Monardella hypoleuca*.

30. Bottle Peak/Lake Wohlford

This geographic feature harbors the California Huckelberry (*Vaccinium ovatum*), a remnant of the Pleistocene vegetation. The north slopes of the mountain are covered with large, old growth Mixed chaparral and Oak woodlands. Lake Wohlford contains aquatic habitats and the upstream areas support Riparian vegetation.

31. Escondido Oaks

32. Orosco Ridge/Clevenger Canyon

Clevenger Canyon is regionally significant for the Riparian woodland along Highway 78 and that extends east in Santa Ysabel Creek. Orosco Ridge is an unspoiled area with extensive Oak woodland along Boden Canyon.

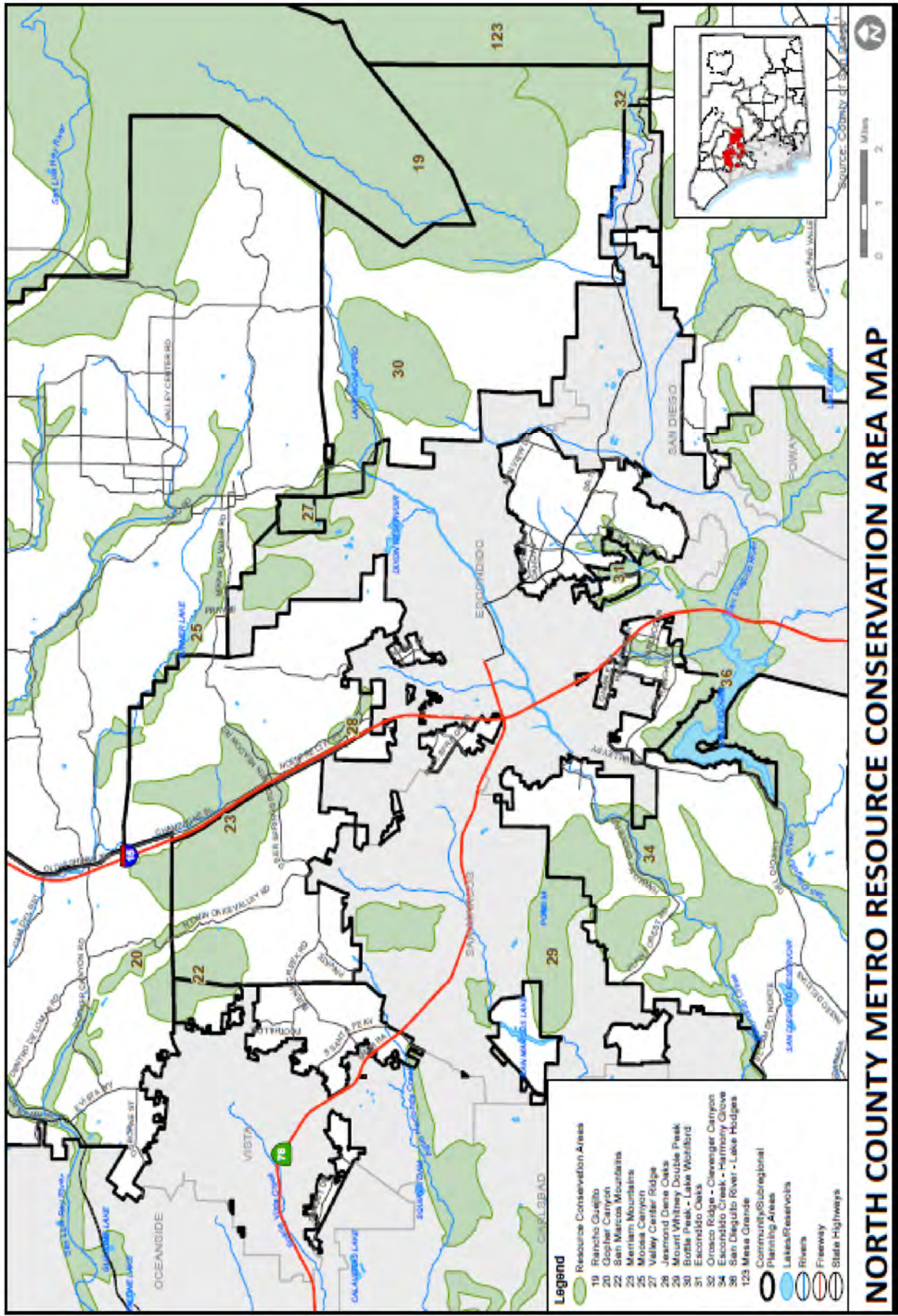
33. Escondido Creek- Harmony Grove

36. San Dieguito River/Lake Hodges

The portion of this RCA in the North County Metropolitan Subregion encloses Lake Hodges. It consists of the natural areas that remain around Lake Hodges and its aquatic and semi-aquatic habitats. This RCA extends down into the San Dieguito River gorge.

123. Mesa Grande

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NORTH COUNTY METRO RESOURCE CONSERVATION AREA MAP

San Diego County General Plan

Figure 4: Resource Conservation Areas

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APPENDIX C
I-15 CORRIDOR SUBREGIONAL PLAN

TABLE OF CONTENTS

	<u>PAGE</u>
INTRODUCTION.....	C-1
GOALS AND POLICIES.....	C-2
A. Scenic Preservation	C-2
B. Land Use	C-2
C. Public Services and Facilities	C-3
D. Circulation	C-3
E. Conservation	C-4
F. Coordination	C-4
G. Implementation.....	C-5
 ATTACHMENTS	
1. SCENIC PRESERVATION GUIDELINES	C-7
2. INTERSTATE 15/HIGHWAY 76/INTERCHANGE MASTER SPECIFIC PLAN	C-17

INTRODUCTION

The I-15 Corridor Plan consists of this text and the Land Use Plan Map. The Plan is intended to promote orderly development, protect environmental and man-made resources and implement the County's objectives for growth management and the structure of government for the Subregion.

The I-15 Corridor extends approximately 20 miles from the Escondido city limits to the Riverside County line. It contains the ½ acre to 2 mile "viewshed" area on either side of the freeway, which is what generally can be seen while driving along the Corridor. It encompasses some 12,600 acres and passes through five different plan areas: North County Metropolitan, Bonsall, Valley Center, Fallbrook, and Rainbow. This I-15 Corridor Plan does not replace the aforementioned plans for areas located within the Corridor, but is instead implemented through amendments to these area plans, as appropriate.

The Land Use Plan Map provides a basis for the specific zoning regulations of unincorporated land within the Subregion. The text provides planning goals and related policies for implementing the Plan through a variety of regulatory measures.

The Vicinity Map on the following page shows the general area of the I-15 Corridor.

GOALS AND POLICIES

A. SCENIC PRESERVATION

GOAL: PRESERVE, TO THE EXTENT POSSIBLE, THE SCENIC ATTRIBUTES OF THE I-15 CORRIDOR.

POLICIES:

1. Establish Scenic Preservation Guidelines for all development activity within the I-15 Corridor (Staff, Board of Supervisors - Attachment 1).
2. Apply a "B" Special Area Designator to the zones of all properties within the Corridor, which will require the preparation of a Site Plan for any development permit, in accordance with the Scenic Preservation Guidelines (Board of Supervisors).
3. Establish a Design Review Board with representatives from the affected communities and with appropriate professional expertise, to review all required Site Plans in accordance with the Scenic Preservation Guidelines, to coordinate with the respective community planning groups, and to advise County staff (Planning Group, Board of Supervisors).
4. Prepare more detailed design guidelines for Specific Plan Areas and other areas warranting such treatment along the I-15 Corridor (Design Review Board).
5. Review periodically the Scenic Preservation Guidelines and the organization and function of the Design Review Board and modify as needed (Design Review Board, Planning Group, Staff, Board of Supervisors).

B. LAND USE

GOAL: PROVIDE A LAND USE PATTERN SENSITIVE TO THE OPPORTUNITIES AND CONSTRAINTS OF THE I-15 CORRIDOR.

POLICIES:

1. Adopt the regional categories and land use designations contained in the County General Plan to implement this Corridor Plan (Board of Supervisors).
2. Plan the Corridor from a regional perspective, but concurrently solicit and incorporate, to the extent possible, recommendations from the affected Planning and Subregional Groups (Staff, Planning Groups, Board of Supervisors).
3. Concentrate development where it can be best accommodated, e.g., the more level portions of the plan area, thereby diffusing development pressures from the majority of the Corridor (Staff, Planning Group, Board of Supervisors).
4. Phase development according to available public services and facilities (Staff, Board of Supervisors).

5. Prepare an overall Master Specific Plan for the Highway 76/I-15 interchange area in accordance with the conditions contained in Attachment 2 (Property Owners).

C. PUBLIC SERVICES AND FACILITIES

GOAL: PROVIDE ADEQUATE AND EQUITABLY FINANCED PUBLIC SERVICES AND FACILITIES.

POLICIES:

1. Coordinate development proposals with agencies responsible for providing public services and facilities (Property Owners, Staff).
2. Require annexations and construction of facilities as stipulated by the provider agencies prior to any development (Staff, Board of Supervisors).
3. Phase and size public services and facilities in a manner conducive to the restrictive land use pattern recommended in this Plan, e.g., adequate to serve the areas designated for more intensive development, but limited so as not to encourage or support development where it is not intended (Provider Agencies).
4. Prepare a public facilities plan for the Highway 76/I-15 interchange Specific Plan Area, prior to any development in that area, to include needed services and facilities, provider agencies, current and proposed capacities, required annexations, and financing methods (Property Owners).

D. CIRCULATION

GOAL: PROVIDE A CIRCULATION NETWORK CAPABLE OF HANDLING CORRIDOR AND SUBREGIONAL TRAFFIC, INCLUDING PUBLIC AND NON-MOTORIZED MODES OF TRAVEL.

POLICIES:

1. Participate in location and financing studies leading to the construction of State Route 76 as a freeway (Property Owners, Staff).
2. Conduct additional traffic analysis before any development within the Highway 76/I-15 interchange Specific Plan Area (Property Owners).
3. Amend the Circulation Element and condition development applications, as appropriate, following required traffic studies (Staff, Board of Supervisors).
4. Provide a bicycle and pedestrian network (Property Owners, Planning Groups, Staff, Board of Supervisors).
5. Promote expansion of mass transit system (Staff, Board of Supervisors).

6. Develop an incentive program for the use of carpools and a mass transit system, especially to employment centers, such as proposed as the Highway 76/I-15 interchange area (Developers, Staff).
7. Design local roads with emphasis on scenic beauty by following natural contours and avoiding inappropriate grading to the extent possible (Developers, Staff).

E. CONSERVATION

GOAL: PROTECT THE ENVIRONMENTAL RESOURCES ALONG THE I-15 CORRIDOR INCLUDING, BUT NOT LIMITED TO THOSE CONTAINED WITHIN "RESOURCE CONSERVATION AREAS".

POLICIES:

1. Keep the watercourse of the San Luis Rey River natural and place as much as possible of the floodplain in open space easements (Developers, Staff, Board of Supervisors).
2. Require a river plan of all development proposals within or adjacent to the San Luis Rey River floodplain, addressing the preservation of natural resources, and measures to protect against potential hazards (Staff, Board of Supervisors).
3. Identify all environmental resources threatened by development and prepare measures to mitigate or alternatives to avoid such adverse impacts (Developers, Planning Groups, Staff).

F. COORDINATION

GOAL: COORDINATE PLANNING AND DEVELOPMENT PROPOSALS WITH ADJACENT JURISDICTIONS, PLANNING GROUPS, AND PRIVATE INTERESTS.

POLICIES:

1. Consult with the appropriate Planning or Sponsor Group before submitting any development proposals (Developers).
2. Request recommendations from any affected Planning or Sponsor Groups before finalizing recommendations on any development proposal (Staff).
3. Request comments on development proposals from other affected Planning or Sponsor Groups along the I-15 Corridor (Developers, Staff).
4. Coordinate all planning and development proposals with CalTrans, adjacent cities, and appropriate private interests, such as adjacent property owners (Developers, Staff, Board of Supervisors).

G. IMPLEMENTATION

GOAL: IMPLEMENT THE DEVELOPMENT AND CONSERVATION CONCEPTS CONTAINED IN THE I-15 CORRIDOR PLAN AS APPROPRIATE.

POLICIES:

1. Amend the maps and text of the North County Metropolitan Subregional Plan, and the Bonsall, Valley Center, Fallbrook, and Rainbow Community Plans to incorporate the plan concepts contained in the I-15 Corridor Plan, and any subsequent changes that may occur (Staff, Board of Supervisors).
2. Adopt the Scenic Preservation Guidelines (Attachment 1) and add them as an amendment to the texts of the aforementioned Subregional and Community Plans.

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ATTACHMENT 1

SCENIC PRESERVATION GUIDELINES

I-15 CORRIDOR STUDY AREA
CITIZEN'S COMMITTEE

I-15 CORRIDOR SCENIC PRESERVATION GUIDELINES

TABLE OF CONTENTS

	<u>PAGE</u>
APPLICATION	C-8
EXEMPTION	C-8
MAP	C-9
OBJECTIVE	C-11
STANDARDS	C-11
I. Site Design	C-11
A. Site Planning Standards	C-11
B. Parking and Circulation Design Standards	C-12
C. Site Lighting Standards	C-12
D. Landscape Design Standards	C-13
E. Public Utilities and Safety Standards.....	C-14
F. Development Standards for Steep Topography and Natural Features	C-14
II. Architectural Design	C-15
IMPLEMENTATION	C-16
PERIODIC REVIEW	C-16

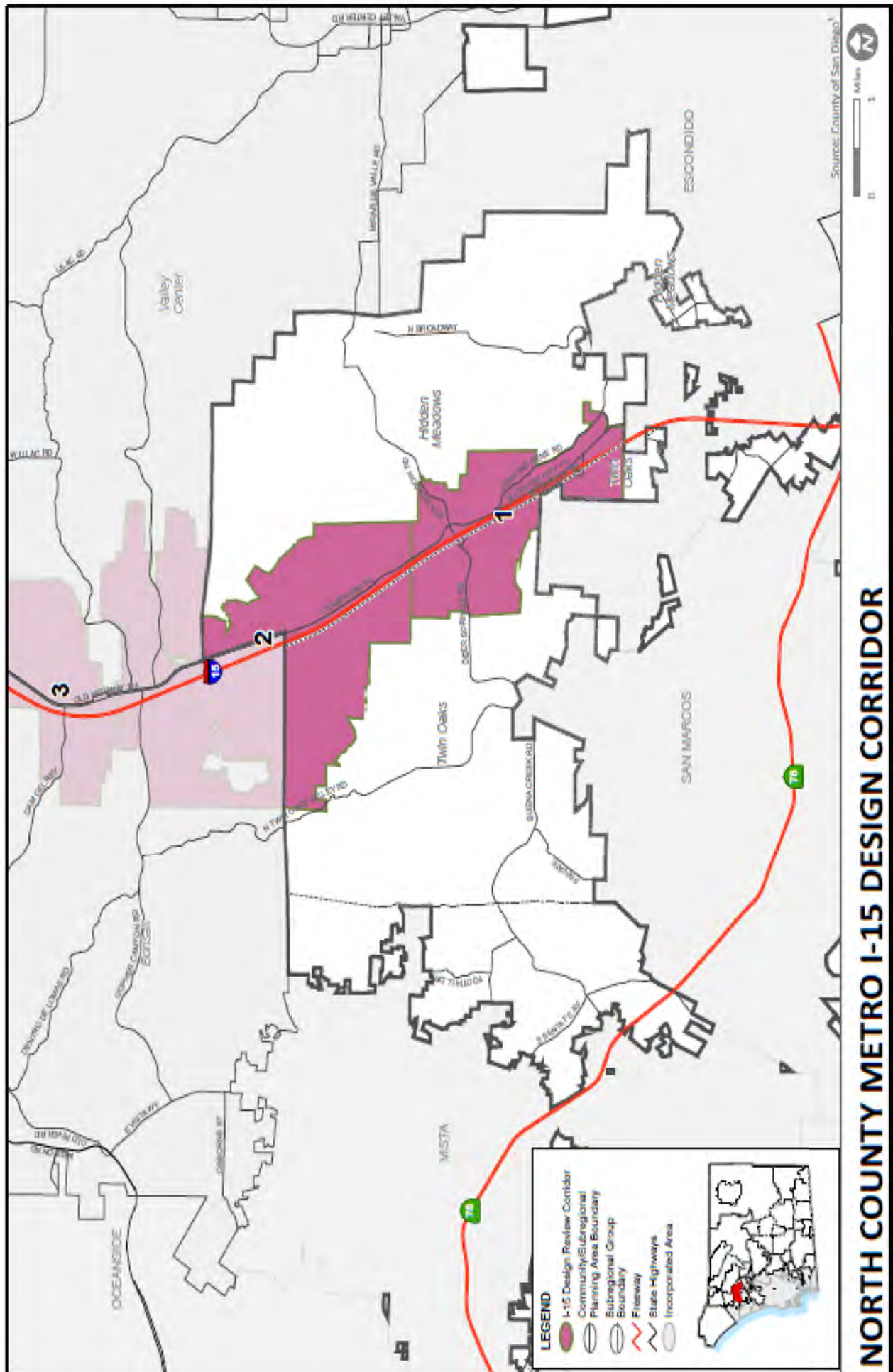
APPLICATION

The Scenic Preservation Guidelines contained in this manual apply to the unincorporated portion of the I-15 Corridor extending from the northern Escondido city limits to the Riverside County line (see Vicinity Map next page). Properties affected are more specifically identified by a "B" Design Review Area Special Designator applied to their zones. The "B" Designator requires the preparation of a Site Plan for any type of development permit, including building permits for single-family dwellings, in accordance with these Guidelines and as further described in Section 5750 through 5799 of the County Zoning Ordinance. Such Site Plans are to be reviewed in part by a Design Review Board established especially for this purpose.

More detailed design criteria shall be developed for Specific Plan Areas and other areas along the I-15 Corridor, where it is deemed appropriate. Such additional criteria are to be prepared by the Design Review Board, the affected Planning or Sponsor Groups, and Department of Planning and Land Use staff jointly.

EXEMPTIONS

These Guidelines do not apply to alterations to the interior of structures that are not visible from the outside (Section 5756 of the County Zoning Ordinance) nor to minor exterior alterations, reconstruction for the purpose of maintenance, and construction or expansion of accessory structures (Section 5757).



NORTH COUNTY METRO I-15 DESIGN CORRIDOR

San Diego County General Plan

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OBJECTIVE

The purpose of the following scenic and planning quality guidelines is to: 1) protect and enhance scenic resources within the I-15 Corridor planning area, while accommodating coordinated planned development which harmonizes with the natural environment; 2) establish standards to regulate the visual quality and the environmental integrity of the entire Corridor; and 3) encourage scenic preservation and development practices compatible with the goals and policies of the five Community and Subregional Planning Areas encompassed by the I-15 Corridor area, when appropriate.

STANDARDS

These standards address man-made and natural features that affect the scenic quality of the I-15 Corridor area.

I. SITE DESIGN

A. Site Planning Standards

1. Individual projects shall reinforce the character of the sites, the attributes of adjacent projects, and preserve viewsheds, natural topographic features, and natural watercourses.
2. Individual projects shall relate on-site open space and pedestrian areas with those of other projects, both visually and in terms of providing for continuous paths of travel.
3. Building setbacks shall be coordinated between adjacent lots so as to capitalize on usable site area between buildings.
4. Building orientation shall take maximum advantage of existing views and create view corridors.
5. Ridgeline projects can be highly sensitive and are generally discouraged.
 - a. Ridgeline projects shall maintain a low profile appearance and the natural physical character of the ridgeline shall be substantially maintained.
 - b. Ridgeline projects shall be limited to one story.
 - c. Ridgelines that have been graded or disturbed shall be supplemented with a sufficient amount of trees, shrubs, and ground cover to minimize visual impacts resulting from such disturbances.
6. A combination of earth berm and/or wall techniques shall be provided to buffer noise.

B. Parking and Circulation Design Standards

1. Use of public right-of-way for service loading/unloading shall be avoided. Adequate on-site service and delivery areas, including provisions for circulation, shall be provided. Service areas shall be separated from building entrances and public access areas, when possible. Storage and loading areas shall not be located in the front yard.
2. Project entries shall provide for safe and efficient circulation.
 - a. Project entries and the transition from major circulation routes into the project interior shall be accomplished through the use of landforms, open space, landscape plantings, and architectural elements (i.e., wall, signs).
 - b. The number of driveway entrances into parking areas from public streets shall be minimized. Use of common easements for parking and circulation systems integrated between properties shall be encouraged.
 - c. Safety lighting shall be provided at all street intersections and on project drives, entries, walkways, and parking areas.
3. Parking areas or structures shall be designed as integral components of the overall design of specific projects. Parking areas shall be bermed or screened from street views, where possible.
4. Development of bikeways shall be encouraged.
5. Separation of pedestrian and bikeway/automobile traffic throughout the project shall be provided, where feasible.
6. Definition of pedestrian paths and crossings shall be developed through the use of differing paving material or painting/coloring techniques.
7. Complete access for emergency (police, fire, and ambulance) services to structures shall be provided as required.

C. Site Lighting Standards

1. Site lighting shall minimize emission of light rays into both the night sky and neighborhood properties, especially as it pertains to the Mt. Palomar Observatory.
 - a. Site lighting shall be limited to that necessary for security, safety, and identification, and shall be integrated with project landscape design.
 - b. Excessive building or site lighting for decorative purposes shall be discouraged.
2. Site lighting plans that conflict with the character of the community shall be discouraged.

D. Landscape Design Standards

1. Visual screening for portions of development projects shall be provided to include satellite dishes, parking, and service areas located in viewshed areas.
2. Project boundary landscaping shall complement adjacent landforms and plant materials.
3. Landscape plans shall utilize native and drought tolerant plants, where possible, per the plant list provided by County staff.
4. Trees and plantings adjacent to pedestrian paths and within parking areas shall be selected to enhance the human scale.
 - a. Tree canopies shall be encouraged to soften the visual impact of vehicular circulation and parking areas, and relieve them from heat build-up. Trees shall be placed away from entrances to buildings, parking lots, and street intersections for visibility and safety, where possible.
 - b. Low-scale plantings shall be located adjacent to driveway entrances and street corners, where possible, and shall not obscure drive visibility.
 - c. Parking areas shall be visually screened with peripheral landscaping, wherever feasible. Exposed vehicular use areas shall include a minimum of ten percent of the paved areas in landscaping dispersed throughout the parking area.
5. Common open spaces and recreational areas shall be linked by pedestrian pathways to individual lots.
6. A "greenbelt" shall be provided in viewshed areas for accommodation of bikeways and/or footpaths.
7. Landscape materials that aid in preventing the rapid spread of brush fires shall be provided.
8. Earth berms shall be rounded and natural in character, and, where possible, designed to obscure undesirable views.
9. Major strands of native trees shall be preserved.

E. Public Utilities and Safety Standards

1. New development projects shall be phased with the provision of adequate fire protection services.
2. Fire prevention and suppression in the design of all new projects shall be encouraged.
3. Utilities shall be placed underground (electrical, telephone, cable, etc.), where practical.
4. The alignment of utility infrastructure shall be correlated with the topography to minimize disruption of natural features within the viewshed areas.
5. Transformers and related utility components shall be placed in vaults or be screened with retaining walls and/or plantings, and located to avoid conflict with pedestrian paths.

F. Development Standards for Steep Topography and Natural Features

1. Extensive grading of slope areas within viewsheds will be minimized.
 - a. Revegetation and erosion control shall be provided in all newly graded areas.
 - b. Grading during the wet seasons (November to March) shall be discouraged.
2. Hillside development shall be integrated with existing topography and landforms. Areas of steep topography, tree stands, hillside agricultural activity, and rock outcroppings shall be respected and preserved.
3. Variety in the development of hillsides shall be encouraged through the use of appropriate site preparation techniques, grading techniques, and in the configuration, size, and placement of lots.
4. The arrangement of building sites to optimize and retain significant viewsheds shall be encouraged.
5. The protection and preservation of the public use of on-site vista points shall be encouraged.
6. The visual quality shall be maximized and the erosion potential shall be minimized by planting native and naturalized plants, especially in disturbed areas adjacent to upgraded hillsides and watercourses.
7. Natural watercourses shall be protected; and existing watershed and groundwater resources shall be conserved.
8. Any grading above 25 percent slope will blend with the surrounding area, and be landscaped appropriately to look natural.

II. ARCHITECTURAL DESIGN

- A. Building forms, materials, and colors shall complement adjacent topography, landscape, and buildings in the area.
 - 1. Architectural harmony with the surrounding community shall be achieved through the use of natural appearing materials and complementary styles.
 - 2. Colors for primary building forms shall be coordinated with landscaping materials. Earthtones and muted pastels are preferred for large areas, with primary colors limited to accent points and trim.
 - 3. Building materials used shall convey a sense of permanence and quality.
 - 4. Where a site is visible from higher elevations, roof forms shall be considered integral design elements with consideration given to colors and pattern of roofing materials.
 - 5. The use of mirrored glass, which can cause the sun to glare into drivers' eyes and, is therefore, a potential safety hazard, shall be prohibited on buildings visible from I-15.

- B. Building forms shall be of appropriate scale, provide visual interest, avoid block-like configurations, and, where feasible, be integrated into the existing topography.
 - 1. The use of special detail treatments in roof forms, windows, and entries shall be encouraged.
 - 2. Roof-mounted satellite dishes, solar systems, ventilation ducts, and other mechanical equipment shall be integrated into the architectural design, and be screened, where visible from adjacent properties or high elevations.
 - 3. Building forms shall be scaled to step up and away from primary circulation routes and from each other; parallel and continuous building facades and paved surfaces shall be avoided, where possible.

- C. Signage shall not adversely impact the environmental and visual quality of the area.
 - 1. All signs shall be limited to the minimum size and height necessary to adequately identify a business location.
 - 2. All signs shall be kept as low to the ground as possible.
 - 3. Signs shall be used for identification, not advertisement.

4. Signage design shall be carefully integrated with the site and building design concepts to create a unified appearance for the total development.
 - a. Signs shall be part of a comprehensive graphic program for each project.
5. Signs shall be predominately constructed of natural materials, non-moving, and externally illuminated.
6. Off-premise signs shall be prohibited, except for temporary real estate directional, community identification, and directional signs, as specified in Section 6207 of the County Zoning Ordinance.

IMPLEMENTATION

A Design Review Board shall be established by the Board of Supervisors, pursuant to Ordinance 396.10 (New Series) of the County Administrative Code, to review required Site Plans for conformance to these Scenic Preservation Guidelines, and to advise County staff accordingly. This Board shall have representation for each of the affected plan areas, preferably with expertise in design, architecture, landscape architecture, and land use planning. Each Design Review Board member shall report to the respective Planning or Sponsor Group any Site Plans deemed of sufficient interest or importance to warrant Planning or Sponsor Group consideration. The Design Review Board members shall report to the respective Planning or Sponsor Group any Site Plans other than single-family dwellings.

PERIODIC REVIEW

These Scenic Preservation Guidelines and review procedures shall be subject to periodic evaluations. Any proposed changes shall be reviewed by the Design Review Board, the affected Planning or Sponsor Groups, and County staff before being presented to the Planning Commission and the Board of Supervisors.

INTERSTATE 15/HIGHWAY 76/INTERCHANGE MASTER SPECIFIC PLAN

GENERAL DESCRIPTION

The Interstate 15/Highway 76 Master Specific Plan Area (MSPA) contains approximately 1,178 acres of land located within the four quadrants of the I-15/SR 76 interchange area. Because of its location at the intersection of an interstate highway and a major state highway, it is anticipated that this area will become a logical node of future development. The principal land use components of the proposed plan include the adopted Campus Park/Hewlett-Packard Industrial/Research Park Specific Plan, a possible modification of the "Pappas" ownership in that Specific Plan to convert approximately 100 acres of mobilehome park to an industrial/research park use (with a similar type of development as proposed on the Hewlett-Packard Park ownership) or to retain it for residential uses. Also proposed are residential areas to meet some of the anticipated housing needs of the community and the industrial park, supporting neighborhood commercial areas, parks, trails, and open space. The overall residential density of the proposed plan would be 0.81 dwelling unit per acre, based on the total acreage within the Master Specific Plan Area, with a maximum of 956 dwelling units. Considering only the areas designated for residential uses (and deleting the 270 lots on 98 acres from Tentative Map 4249-1; see below), the resulting density would be 1.73 dwelling units per acre. No "clustering" of residential uses would be allowed beyond that already authorized in approved maps, permits, or Specific Plans. Additional housing to support anticipated industrial and commercial employment needs would come from the surrounding Fallbrook community and Rancho California to the north in Riverside County. A minimum parcel size of 15,000 square feet would only be permitted on land with less than 15 percent slope.

Preliminary analysis of the MSPA indicates that the areas do not presently have the necessary service, utility, and road infrastructure to support the entire proposed plan; therefore, a final land use plan should not be adopted until further studies are carried out to identify the detailed needs of the plan area and the appropriate methods to support those needs. These studies should consider the local, as well as regional consequences of the proposed uses. The studies may indicate a need to modify the target land uses. These studies will be carried out by County staff and/or consultants, but funded by the land owners within the Master Specific Plan Area. Provisional zoning with a 20 acre minimum lot size will be applied as a holding zone until final zoning and the Master Specific Plan (with component Specific Plans) are adopted by the Board of Supervisors.

The Master Specific Plan process is suggested because: 1) it appears to be a logical vehicle for an integrated planning approach where all the necessary facilities and services are not currently available; and 2) the Specific Plan process is defined in state law and is often used for planning of large blocks of land where control beyond the General Plan level is appropriate.

IMPLEMENTATION

Additional studies need to be conducted for the properties within the Master Specific Plan Area before the recommended land use designations are finalized by the Board of Supervisors. These studies include the following (detailed further on pages C3-C5): 1) traffic analysis; 2) facilities financing plan; 3) market analysis; 4) San Luis Rey River Plan; 5) detailed dark sky policy implementation procedures; 6) more detailed design guidelines developed in conformance with the I-15 Corridor Scenic Preservation Guidelines; and 7) a park and open space/trails plan. These studies will analyze the proposed plan and determine the necessary infrastructure to support the suggested planned development. In addition, the studies will determine how and when the needed services, utilities, and roads can be built, and establish a financing and phasing plan to construct these improvements as needed. The studies may indicate that some of the land uses suggested here have unacceptable impacts on the infrastructure and environment and may recommend that this proposed plan be modified. These modifications would be considered by the Planning Commission and Board of Supervisors in adopting the final Master Specific Plan and its component Specific Plans.

INTERIM ZONING

The Master Specific Plan Area is recommended to be zoned as a Holding Area Use Regulation (S90) until the necessary supporting technical studies are carried out and the Master Specific Plan Area and its implementing zones are adopted by the Board of Supervisors after later public hearings. The County Zoning Ordinance, Section 2900, states that "...this zone [S90] is intended to prevent isolated or premature land uses from occurring on lands for which adequate public services and utilities are unavailable or for which the determination of the appropriate zoning regulations is precluded by contemplated or adopted planning proposals or by a lack of economic, demographic, geographic, or other date. It is intended that the Holding Area Use Regulations will be replaced by other use regulations when the aforementioned conditions no longer exist. The uses permitted are those which are community services, interim uses, or uses which, with appropriate development designators, will not prematurely commit the land to a particular use or intensity of development."

Until the Master Specific Plan is adopted by the Board of Supervisors, and the land contained therein appropriately zoned to implement the Master Specific Plan land uses, only the land uses allowed in the S90 Use Regulation, as defined by Sections 2900-2908 in the Zoning Ordinance shall be allowed, with a minimum lot size of 20 acres.

The entire Master Specific Plan Area shall have a Special Study Area Regional Category.

Development shall also be in accordance with all County goals, objectives and policies, including the County General Plan and Board of Supervisors Policy I-59 (Large Scale Project Review). Except for the pipeline provisions contained in the County General Plan, County Zoning Ordinance (Section 1019), and the Subdivision Ordinance (Section 81.102.13.1), all properties within the proposed Master Specific Plan Area must comply with the conditions contained herein, unless those uses or rights are already vested.

It is anticipated that the detailed studies required to produce the Master Specific Plan will further define the appropriate land uses within the project area, describe and schedule the infrastructure elements, and specify the detailed measures needed to support and/or mitigate the potential adverse effects of these uses. Any further implementation beyond the S90 Holding zone towards the target land uses and suggested residential densities will depend on the completion of the Master Specific Plan. Until its adoption and subsequent rezoning by the Board of Supervisors, no change in land use beyond the 20 acre minimum lot size will be allowed.

NECESSARY SUPPORTING STUDIES

A. River Plan

The Master Specific Plan Area is bisected by the San Luis Rey River which contains valuable riparian vegetation and sand resources, but also poses potential flood threats to man-made improvements within the river. A comprehensive river plan shall be prepared that defines the boundaries of the river and the floodplain. It shall address the preservation of natural resources and identify measures to protect the River's resources and existing or needed improvements against potential hazards. This planning study shall be integrated to the fullest extent feasible with the Least Bell's Vireo Comprehensive Species Management Plan and Habitat Conservation Plan for the San Luis Rey River, currently being developed by the San Diego Association of Governments (SANDAG). To the extent possible, the floodplain shall be preserved as permanent open space and the watercourse shall be kept natural, except for on-going legally permitted uses. No alteration to the floodway or floodplain should be allowed if it is found to have adverse downstream impacts.

B. Traffic Study

A model-based detailed subarea traffic analysis must be completed and approved for the entire Master Specific Plan Area, concentrating on the type and timing for improvements in the State Route 76 and the Interstate 15 interchange area. This study shall determine the ultimate traffic impact on the affected road network and the needed amendments to the Circulation Element. Such amendments shall be completed and development plans conditioned accordingly as part of the Master Specific Plan implementation.

C. Facilities Financing Plan

A facilities financing plan acceptable to the Department of Planning and Land Use shall be required as part of the preparation of the Master Specific Plan. The plan shall investigate the needed public services and facilities, current and proposed capacities, required annexations, financing methods proposed, and appropriate phasing of these improvements. Development agreements, if necessary or appropriate, shall be an integral part of this facilities plan.

D. Phasing Plan

A phasing plan shall be prepared, timing all proposed developments to the stipulations of the facilities financing plan.

E. Market Analysis

As part of the Master Specific Plan, a market analysis shall be required for each of the development plans, showing the type, size, period, and rate of development that can be expected to occur as justification for each project. This analysis shall evaluate the fiscal impact of each proposed project and the combined Master Specific Plan on the County government and the service agencies.

F. Dark Sky Policy

Due to this area's proximity to the Palomar Observatory, the proposed Master Specific Plan shall develop implementation guidelines in conformance with the Astronomical Dark Sky Policy as contained in the Conservation Element of the County General Plan. Implementation of Specific Plans shall be conditioned to require restrictions on lighting design and placement, operating hours for exterior lights, mitigation through landscaping, and other measures deemed appropriate at the time the Specific Plans are reviewed.

G. Design Guidelines

All development proposals within the Master Specific Plan Area shall conform to the I-15 Corridor Scenic Preservation Guidelines. In addition, more detailed design guidelines shall be prepared for this Master Specific Plan Area by the Design Review Board established for the I-15 Corridor Area. This design study should specifically address the appropriate lot sizes, design standards, and potential mitigation measures to areas within the Master Specific Plan Area.

H. Park/Open Space

A park/open space and trails study will be requested in conjunction with the other required studies to establish an integrated park, open space, and trails plan for the Master Specific Plan Area. The San Luis Rey River should serve as a primary focus for this plan.

PROPOSED LAND USES

Recommended County General Plan Regional Category

Special Study Area (SSA): This category is being applied on an interim basis, because development should be restricted pending completion of the detailed studies being required for the Master Specific Plan Area.

Recommended Master Specific Plan Land Uses (Permitted only after necessary studies, environmental review, and confirmation by adoption of a Master Specific Plan by the Board of Supervisors. It is anticipated that each ownership would be implemented by individual Specific Plans):

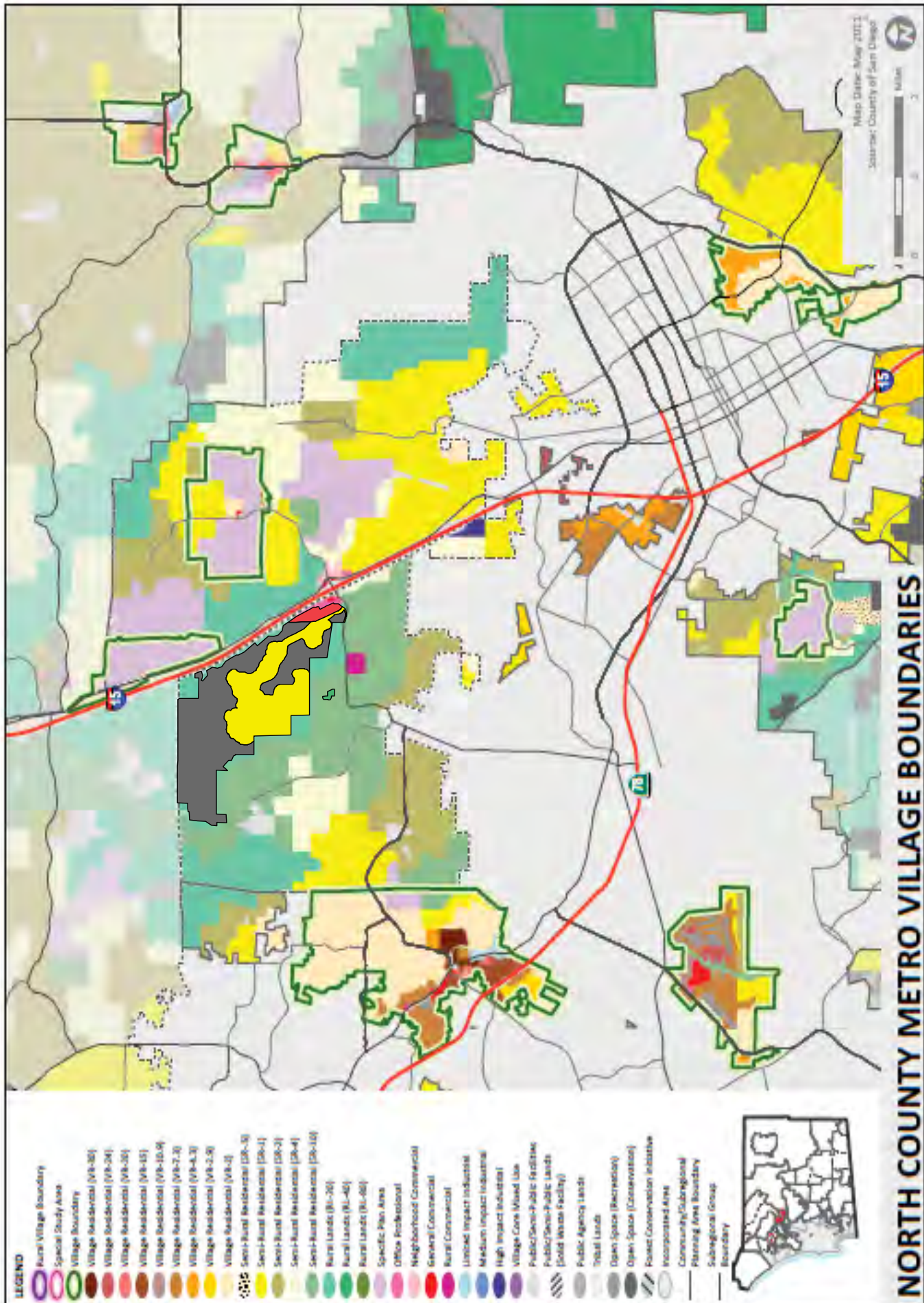
1. Hewlett-Packard "Campus Park": (Areas B and C of Specific Plan 83-01) consists of 327 acres, of which 83 acres are designated industrial research park and associated parking and 10.5 acres for neighborhood commercial. Areas B and C of this adopted Specific Plan are not proposed for any change, except that the plan should only be implemented after the required future studies are carried out.
2. Pappas/Campus Park: 100 acres (Areas A and D of Specific Plan 83-01) is recommended to be studied for two separate uses, including the present mobilehome park and variable residential use designations on the approved Specific Plan and industrial, with specific uses and intensity to be determined through the Master Specific Plan. This location currently has a high ambient noise level, which is expected to increase with increased traffic and development of the Hewlett-Packard site, and other areas along the I-15 Corridor.
3. Robert Pankey Property: 92 acres, designated (21) Specific Plan Area (2.75), potentially allowing as many as 253 dwelling units pending review under the required studies.
4. Edgar Pankey Property: 90 acres designated (21) Specific Plan Area (2.75), potentially allowing as many as 157 dwelling units (assuming approximately 33 acres are in the floodplain and will not be developed).
5. Lake Rancho Viejo: (Specific Plan 81-02), 469 acres currently designated for 816 mobilehome/manufactured units, open space, and agriculture. Within Lake Rancho Viejo, Phase I of Tentative Map 4249 (P81-023) has been approved as a Final Map for 270 dwelling units on 98.8 acres, and is considered vested. The Master Specific Plan should consider no change in the total number of dwelling units for the remainder of Lake Rancho Viejo (370 acres). In addition, in order to conserve the valuable riparian associated resources west of Interstate 15 on the Lake Rancho Viejo property; it is recommended that the floodplain and immediate uplands be reserved as permanent open space. The resultant project, excluding the 98.8 acre vested Phase I of Tentative Map 4249 for 270 dwelling units, would allow 546 dwelling units on the remaining 370 acres, with a gross residential density of 1.48 dwelling units per acre. For this ownership, a provisional zone is being applied that would allow the approved map to guide the development. If any substantial changes are proposed, or changes that require a new map or permits,

the Master Specific Plan controls will apply. If this occurs, traffic and other impacts of a project that may be proposed within an amendment to the Specific Plan or a Rezone should be examined in the facilities study and any necessary future California Environmental Quality Act (CEQA) review.

- . Jenkins Property: 57 acres is proposed for (21) Specific Plan Area (RV), with the ultimate land use proposed as a recreational vehicle (RV) park. The Master Specific Plan shall particularly address the potential realignment of SR 76. The proposed RV park, if permitted, shall be located completely outside the unaltered floodway. In addition, any development of this property shall be contingent upon adequate mitigation of any hazard associated with the San Diego Aqueduct blow-off valve located on-site, as well as conform to the proposed river plan and other studies required as part of the Master Specific Plan.
- 7. North American Resorts Property: 37 acres, proposed as (24) Impact Sensitive (allowing 1 dwelling unit for 4, 8 and 20 acres). No density assumption has been made because this property is located entirely within the floodplain. The development of this property is dependent on the River Plan Element of the proposed Master Specific Plan.
- 8. Jones Property: 34 acres, proposed as (21) Specific Plan Area (0). Pending the completion of the Master Specific Plan, it is recommended that this property be developed as follows:

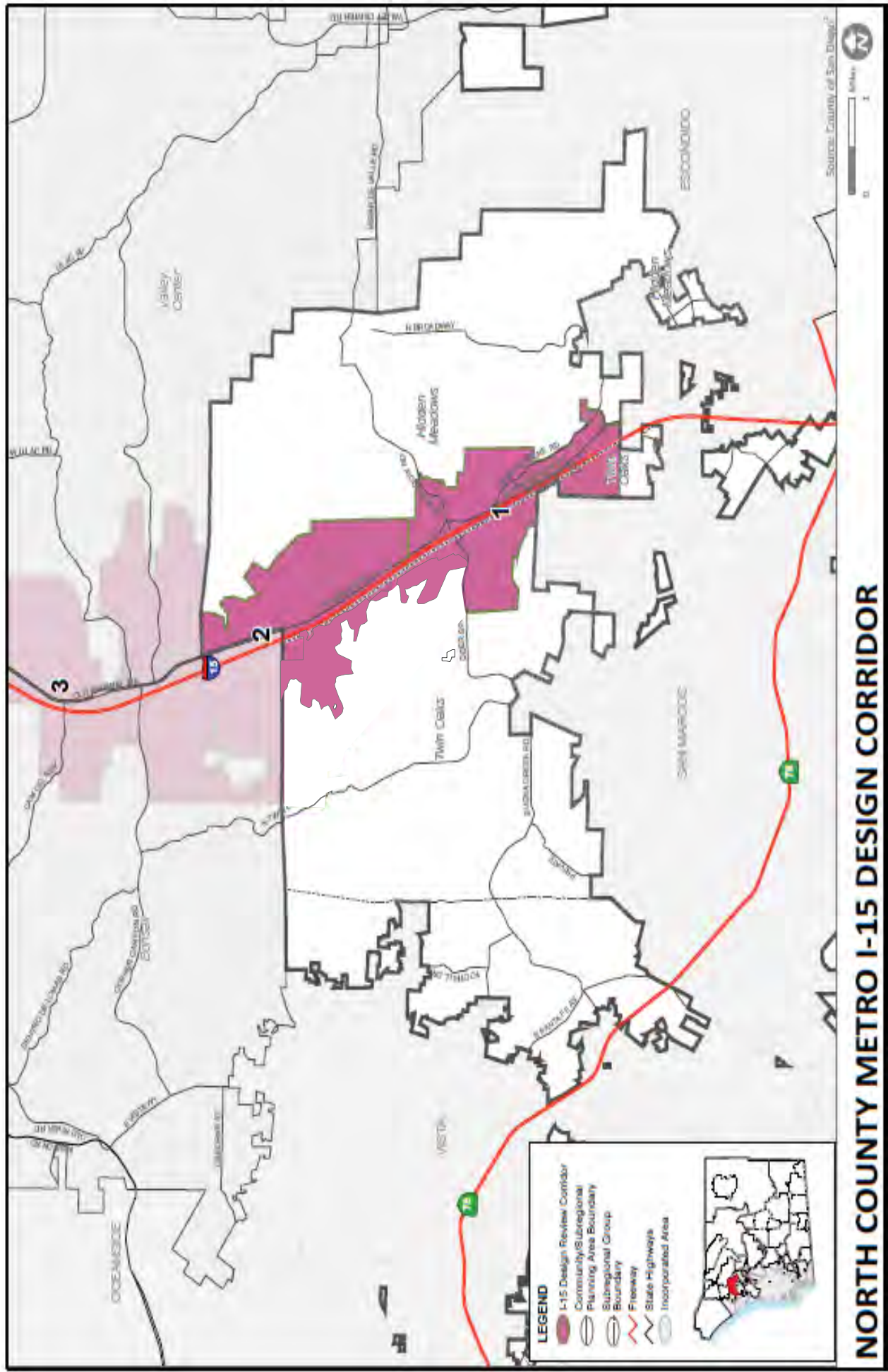
Approximately three to four acres of the most level area (portion of Parcels 1 and 2) would be developed as General Commercial (freeway-oriented).

The balance of the property (Parcels 3 and 4, portion of Parcels 1 and 2) would be designated Open Space in order to provide permanent buffers to surrounding existing uses.



PROPOSED

Figure 3



NORTH COUNTY METRO I-15 DESIGN CORRIDOR

San Diego County General Plan

PROPOSED

**Attachment I –
RESOLUTION APPROVING SPECIFIC PLAN
PDS2015-SP-15-001**

Hearing Date:

RESOLUTION OF THE SAN DIEGO COUNTY)
BOARD OF SUPERVISORS APPROVING ()
SPECIFIC PLAN SP 15-001)
(Newland Sierra)

ON MOTION of Supervisor _____, seconded by Supervisor _____, the following Resolution is adopted:

WHEREAS, Newland Sierra, LLC (hereinafter referred to as “applicant”), submitted a Specific Plan on January 20, 2015, pursuant to Section 65450 et seq. of the Government Code, for an area comprising a total of 1,985 acres located directly west of I-15, north of State Route (SR) 78, and south of SR-76; and

WHEREAS, the Specific Plan is based on an amendment to the General Plan for the 1,985 acre site changing portions of the site to the Semi-Rural Regional Category and Semi-Rural 1 (SR-1), Village Core Mixed Use (C-5), and Open Space-Conservation (OS-C) Land Use Designations (PDS2015-GPA-15-001); and

WHEREAS, the General Plan has also been amended to add another Semi-Rural area to the North County Metro Subregional Plan and to amend the North County Metro Mobility Element Network Figure M-A-12 to change the bike lane from a Class III to a Class II; and

WHEREAS, said Specific Plan provides guidelines for developing the project site consistent with the Specific Plan text included in the Community Plans; and

WHEREAS, the applicant has stated the intent to:

1. Rezone the 1,985 acres of land to provide for the development of commercial, civic, residential, and open space land uses in accordance with the Specific Plan.
2. Request approval of Tentative Map 5597 (PDS2015-TM-5597).
3. Prepare approximately 329 acres of land for 81,000 square feet of neighborhood serving commercial, and 2,135 dwelling units, including 325 of the project’s homes that are age-qualified (senior citizen).
4. Prepare approximately 58.3 acres of land for 81,000 square feet of neighborhood-serving commercial uses, 95 multifamily housing units, a 6-acre school site, and park uses.
5. Preserve approximately 1,209 acres of land in permanent biological open space.
6. Prepare 36 acres of land for community, neighborhood, and pocket parks linked by trails, pathways, and a network of bicycle-friendly streets, and community gardens and vineyards for residents and surrounding communities to enjoy.

7. Utilize 235 acres of land as common area open space and manufactured slopes.
8. Provide a trail system measuring 19.2 miles.
9. Provide all normal and necessary public services and facilities in such a manner that will not create a financial obligation on the County or other public agency.
10. Obtain land or easements necessary to complete the roadway and sight distance improvements outside the boundaries of the project site.
11. Make physical improvements to land outside the jurisdiction of the County of San Diego (under CALTRANS' jurisdiction).
12. Achieve carbon-neutrality through project design features and mitigation measures that reduce the projects greenhouse gas emissions to zero.

WHEREAS, implementation of said Specific Plan is subject to concurrent applications for General Plan Amendment (PDS2015-GPA-15-001), Rezone (PDS2015-REZ-15-001), and Tentative Map (PDS2015-TM-5597); and

WHEREAS, pursuant to Sections 65453, 65353, 65090 et seq. of the Government Code, the Planning Commission on _____ conducted a duly advertised hearing on said Specific Plan and by a vote of ____ to ____ recommended that the Board of Supervisors approve the Newland Sierra Specific Plan with certain additional conditions because the project is consistent with the General Plan and the Bonsall Community Plan and North County Metro Subregional Plan; and

WHEREAS, pursuant to Sections 65453, 65355 and 65090 of the Government Code, the Board of Supervisors on _____, conducted a duly advertised public hearing on said Specific Plan, considered the recommendations of the Planning Commission with respect thereto, and determined that the requirements hereinafter enumerated are necessary to ensure that said Specific Plan, and the implementation thereof, will conform to all ordinances, policies, rules, standards and improvement and design requirements of the County of San Diego or are desirable for implementation of the General Plan; and

WHEREAS, on _____, the Board of Supervisors made the findings in Attachment ___, Environmental Findings, of the Board of Supervisors Planning Report for the project.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors finds that the Newland Sierra Specific Plan (PDS2015-SP-15-001) is consistent with the San Diego County General Plan and the Bonsall Community Plan and North County Metro Subregional Plan in that, considering all aspects of the General Plan and Community Plans, the Specific Plan will further the goals, objectives, and policies of all the elements of the plans and not obstruct their attainment.

BE IT FURTHER RESOLVED that the Board of Supervisors hereby adopts the Newland Sierra Specific Plan as PDS2015-SP-15-001, consisting of the text and map entitled Newland Sierra Specific Plan and this Resolution.

BE IT FURTHER RESOLVED that the following conditions and requirements are imposed upon said Specific Plan (PDS2015-SP-15-001) and all development applications filed to implement said Specific Plan:

1. Unless specifically waived, the requirements of the San Diego County Subdivision Ordinance, the Zoning Ordinance, and the San Diego County Road Standards shall apply irrespective of what is stated in the Specific Plan text, and none of the requirements included within this Resolution shall be deemed as exempting any permit application filed pursuant to this Specific Plan from the review process and those conditions and requirements normally applied to such permit applications.
2. The applicant shall submit to Planning & Development Services within 30 days of the adoption of this Resolution revised copies of the Specific Plan text and map that include any additions, deletions, or modifications approved by this Resolution or Board of Supervisors unless an extension is approved by the Director of PDS.
3. The mitigation measures contained in the CEQA Guidelines section 15091 findings for the Newland Sierra project and the project design considerations described in the Newland Sierra Environmental Impact Report (EIR) dated June 2018 are hereby made requirements for the Newland Sierra Specific Plan (PDS2015-SP-15-001) and shall be made conditions of subsequent development permits and approvals where applicable.
4. All permits (e.g. Tentative Maps and Site Plans) requested within the Newland Sierra Specific Plan shall be consistent with the conceptual figures, plans, design guidelines, and standards identified in the Specific Plan except for Tentative Maps, Site Plans and Major Use Permits related to the Town Center, which may be modified as long as the intent and design are consistent with the goals and design objectives of the Specific Plan. Any deviation from the figures, plans, design guidelines, or standards, including those for the Town Center, shall require prior written approval from Planning & Development Services or the applicable decision making authority.
5. Implement a Transportation Demand Management (TDM) program that includes, but is not limited to, a shuttle service that connects the project's residential neighborhoods to the Town Center and to the Escondido Transit Center, a community-sponsored electric bike share program with bicycle stations throughout the community. The TDM program shall be implemented in phases as development of each Site Plan occurs.
6. Implement all energy and water conservation measures identified in the Specific Plan and EIR.

7. Pursuant to the Park Lands Dedication Ordinance (PLDO), Newland Sierra shall provide land for private and public parks to serve future residents of the development. Based on the proposed parks program set forth in Table 11 of the Specific Plan, the project will provide 18.5 acres of parkland dedication onsite (4.49 acres of private and 14.01 public), exceeding the PLDO requirement of 18.41 acres.
8. The wastewater (sewer) improvements shall require annexation into a Sewer Improvement District. The precise alignment and sizing of the project's wastewater facilities will be determined by the Vallecitos Water District during final design.
9. The applicant shall complete proposed improvements to Deer Springs Road, Twin Oaks Valley Road, intersections along Buena Creek Road, and the Interstate (I) 15/Deer Springs Road interchange.
10. The project shall achieve carbon-neutrality through the implementation of project design features and mitigation measures that reduce the projects greenhouse gas emissions to zero. The project design features and mitigation measures are identified in the EIR.

BE IT FURTHER RESOLVED that all references within this Resolution to "applicant", "developer", or "subdivider" shall be equally applicable to the current property owner and to any successors-in-interest or assigns, whether such successors or assigns own, control, or otherwise have development authority for all, a portion, or portions of that property included within the Specific Plan.

BE IT FURTHER RESOLVED that the following evidence is incorporated herein by this reference and serves as further evidence to support the findings, requirements, and conclusions included herein: The maps, exhibits, written documents and materials contained in the files for the Newland Sierra project at the County of San Diego, the written documents referred to therein, and the oral presentations made at the public hearings.

BE IT FURTHER RESOLVED that this resolution shall become effective 30 days after its adoption, provided that on that date, General Plan Amendment PDS2015-GPA-15-001, Rezone PDS2015-REZ-15-001, and Tentative Map PDS2015-TM-5597.

MITIGATION MONITORING OR REPORTING PROGRAM (MMRP): Public Resources Code Section 21081.6 requires the County to adopt a Mitigation Monitoring or Reporting Program for any project approved with the certification of an Environmental Impact Report, for which changes in the project are required in order to avoid significant impacts.

Section 21081.6(a)(1) states, in part:

The public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate

or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation.

Section 21081.6(b) further states:

A public agency shall provide that the measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures.

As indicated above, a Mitigation Monitoring or Reporting Program is required to assure that a project is implemented in compliance with all required mitigation measures. The Mitigation Monitoring or Reporting Program (MMRP) for this project is incorporated into the mitigation measures adopted as project conditions of approval. Each mitigation measure adopted as a condition of approval (COA) includes the following five components.

Intent: An explanation of why the mitigation measure (MM) was imposed on the project.

Description: A detailed description of the specific action(s) that must be taken to mitigate or avoid impacts.

Documentation: A description of the informational items that must be submitted by the applicant to the Lead Agency to demonstrate compliance with the COA.

Timing: The specific project milestone (point in progress) when the specific required actions are required to implemented.

Monitoring: The actions to be taken by the lead agency to assure implementation of the mitigation measure.

Condition 3 stated above is required to mitigate or avoid significant impacts on the environment and constitutes the MMRP for this project.

ORDINANCE COMPLIANCE AND NOTICES: The project is subject to, but not limited to the following County of San Diego, State of California, and US Federal Government, Ordinances, Permits, and Requirements:

NOTICE: This subject property is known to contain Coastal sage scrub plant community. Such plant community is habitat for the coastal California gnatcatcher. The Federal government listed the gnatcatcher as a threatened species under the Federal Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.). THE LISTING MAY RESULT IN AN APPLICANT'S INABILITY TO PROCEED WITH HIS/HER PROJECT WITHOUT A PERMIT FROM THE FEDERAL GOVERNMENT IF THE SPECIES OR ITS HABITAT ARE PRESENT ON THE PROJECT SITE. It is advisable to contact the United States Fish and Wildlife Service to determine the applicability of the prohibitions under the Act to each applicant's property.

NOTICE: THE ISSUANCE OF THIS PERMIT BY THE COUNTY OF SAN DIEGO DOES NOT AUTHORIZE THE APPLICANT FOR SAID PERMIT TO VIOLATE ANY FEDERAL, STATE, OR COUNTY LAWS, ORDINANCES, REGULATIONS, OR POLICIES

PDS2015-SP-15-001 (SP)

- 6 -

INCLUDING, BUT NOT LIMITED TO, THE FEDERAL ENDANGERED SPECIES ACT AND ANY AMENDMENTS THERETO.

NOTICE: Fish and Wildlife Fees have been paid in the amount of \$_____ for the review of the EIR, Receipt numbers _____, dated _____.

**Attachment J –
ORDINANCE APPROVING PDS2015-REZ-15-001**

ORDINANCE NO. _____(NEW SERIES)

AN ORDINANCE CHANGING THE ZONING CLASSIFICATION
OF CERTAIN PROPERTY WITHIN THE NORTH COUNTY METRO SUBREGIONAL
PLAN AND THE BONSALL COMMUNITY PLAN AREA
REF: PDS2015-REZ-15-001

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The zoning classification of certain real property is hereby changed as set forth herein, and more precisely delineated on the Rezone plat, as illustrated in Exhibit “A” of this ordinance and described in Exhibit A. All documents are on file with the Clerk of the Board of Supervisors of the County of San Diego.

Section 2. The zoning classification of the real property described below is hereby changed as follows:

The existing zoning classifications are as follows:

OLD ZONE:

Development Regulations	Zoning Box 1	Zoning Box 2	Zoning Box 3	Zoning Box 4	Zoning Box 5	Zoning Box 6
Use Regulations	RR	S82	S92	A70	C30	C36
Animal Regulations	L	L, M	M	L	S	Q
Density	0.25, 0.5	0.05, -	0.25	0.25, 0.5	-	30
Lot Size	4 Ac, 2 Ac	20 Ac	4 Ac	4 Ac, 2 Ac	6,000	-
Building Type	C	A, W	C	C	W	T
Max Floor Area	-	-	-	-	-	-
Floor Area Ratio	-	-	-	-	-	-
Height	G	G	G	G	G	G
Lot Coverage	-	-	-	-	-	-
Setback	W, C	C, E	C	C	E	O
Open Space	-	-	-	-	-	-
Special Area Regs.	B	B, -	B, -	-, B	B, D	B, D

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The zoning classifications are changed to read as follows:

NEW ZONE:

Development Regulations	General Commercial/ Residential	Single Family Residential	Limited Agriculture	Open Space
Use Regulations	C34	RS	A70	S80
Animal Regulations	S	S	A	A
Density	-	-	-	-
Lot Size	-	-	-	-
Building Type	P	K	W	-
Max Floor Area	-	-	-	-
Floor Area Ratio	-	-	-	-
Height	H	H	G	-
Lot Coverage	-	-	-	-
Setback	V	V	V	-
Open Space	B*	B*		-
Special Area Regs.	B, D	B**,D	D	-

* Applies to multi-family only (three or more dwelling units per lot)

** Only applies to Terraces neighborhood and portions of Mesa neighborhood (See Figure 11 of Specific Plan)

Section 3. The following “D” Designator requirements are hereby adopted.

Objectives:

To ensure that all future projects comply with the Newland Sierra Specific Plan and to ensure that all mitigation measures within the project EIR are implemented.

Standards:

In addition to those standards and criteria specified in Sections 5906 and 5910 of the Zoning Ordinance, the following specific criteria shall also be applied to the Site Plan review and evaluation to achieve the above objective:

1. Each Site Plan shall incorporate all applicable mitigation measures and project design features through conditions on the Site Plan as set forth in the Newland Sierra

Environmental Impact Report (EIR) dated June 2018. The conditions of the Site Plan approval shall be complied with as specified in the permit.

2. All landscaping, lighting, signage and private parks shall be compatible with the Newland Sierra Specific Plan.
3. The architecture of the Summit, Knoll, Mesa, Valley, Hillside, Terraces, and the Town Center subareas shall be compatible with the Newland Sierra Specific Plan.
4. All grading shall be compatible with the grading guidelines and development standards set forth in the Newland Sierra Specific Plan.
5. To reduce GHG emissions, require as a condition of each implementing Site Plan, that all project design features be incorporated into the Building Permits, including, but not limited to electric vehicle (EV) charging stations and solar photovoltaic on residential structures.
6. In order to ensure operations-related GHG emissions are offset to zero, the project applicant shall purchase and retire carbon offsets, for a 30-year period, consistent with the performance standards and requirements set forth in Mitigation Measure M-GHG-2 of the EIR dated June 2018 and described below.

Each implementing Site Plan shall include a condition that Prior to Issuance of Building Permits, the project applicant or designee shall provide PDS (consisting of documentation from the issuing registry or a County-approved third party verifier) that the Project applicant or designee has purchased and retired carbon offsets for the incremental portion of the project within the Site Plan in a quantity sufficient to offset, for a 30-year period, the operational GHG emissions from that incremental amount of development to net zero, consistent with the performance standards and requirements set forth below.

The amount of carbon offsets required for each implementing Site Plan shall be based on the GHG emissions for each land use within the implementing Site Plan and shall include operational GHG emissions as identified in the approved GHG Emissions Report (EIR Appendix K and e.g., Tables 2.7-9 through 2.7-14 of the EIR dated June 2018). The total project operational emissions with GHG Reduction Features incorporated (Table 2.7-8 of the EIR dated June 2018) would be 43,498MT CO₂e annually at the time of full buildout. Therefore, the project shall be required to reduce the annual missions by 43,498 MT CO₂e per year for a 30-year period (project life) or a total of 1,304,940 MT CO₂e. The “project life” is 30 years, which is consistent with the methodology by the SCAQMD’s 2008 GHG Guidance.

Each implementing Site Plan shall include a tabulation that identifies the overall carbon offsets required to mitigate the entire project’s GHG emissions, the amount of carbon offsets purchased to date, and the remaining carbon offsets required to reduce

the project's emissions to net zero. Any carbon offset utilized to reduce the project's GHG emissions shall be a carbon offset that represents the past reduction or sequestration of one metric tonne of carbon dioxide equivalent that is "not otherwise required" (CEQA Guidelines section 15126.4(c)(3)). The carbon offsets that are purchased to reduce GHG emissions as described in the measure shall achieve real, permanent, quantifiable, verifiable, and enforceable reductions as set forth in Cal. Health. & Saf. Code Section 38562(d)(1).

Carbon offsets shall be issued by any of the following: (i) the Climate Action Reserve, the American Carbon Registry, and the Verra, (ii) any registry approved by CARB to act as a registry under the State's cap-and-trade program, or (iii) if no registry is in existence as identified in options (i) and (ii), above, then any other reputable registry or entity that issues carbon offsets that is acceptable to the Director of the Planning & Development Services Department. Prior to use of option (iii), it shall be demonstrated that the other reputable registry or entity follows accounting, quantification and monitoring protocols, as well as eligibility and procedural performance standards, that are comparable to those used by the registries identified in option (i).

The project applicant or its designee shall demonstrate, to the satisfaction of the Development Services Director, that the following geographic priorities for carbon offsets have been met: 1) off-site within the unincorporated areas of the County of San Diego; 2) off-site within the County of San Diego; 3) off-site within the State of California, 4) off-site within the United States; and 5) off-site internationally. As listed, geographic priorities would focus first on local reduction features (including projects and programs that would reduce GHG emissions) to ensure that reduction efforts achieved locally would provide cross-over benefits related to air quality criteria pollutant reductions within the San Diego Air Basin, and to aid in San Diego County jurisdictions' efforts to meet their GHG reduction goals. The project applicant or its designee shall first pursue offset projects and programs locally within unincorporated areas of the County of San Diego to the extent such offset projects and programs are financially competitive in the global offset market. The project applicant or its designee shall submit proof to the County that offsets are unavailable in a higher priority category before seeking offsets from the next lower priority category.

For clarity, the following example is provided as to the project's operational GHG emissions purchase and retirement strategy. If 100 single-family residential units and one park are developed and become operational in the year 2023, GHG emissions for those land uses would be calculated and carbon offsets for those emissions would be secured for a 30-year period; however, to be conservative, an operational year of 2021 has been applied to all land uses. Thus, the 100-single family-residential units would be multiplied by the MT CO₂E/dwelling unit provided in EIR Table 2.7-9 (single-family residential), and the park would be multiplied by the MT CO₂E/acre provided in EIR Table 2.7-14 (parks). These values would then be multiplied by 30, to calculate the

total carbon offsets required for that phase of development (e.g., 100 single-family residential units × 16 MT CO₂E/du × 30).

The EIR dated June 2018 acknowledges that the project's GHG emissions estimates are conservative because the project's GHG emissions are expected to decrease beyond the estimates presented in the EIR's analysis, in part, due to reasonably foreseeable improvements in fuel efficiency, vehicle fleet turnover, technological improvements related to transportation and energy, and updates to emissions models and methodologies. Thus, subject to County oversight and the process described below, the operational emission estimates that govern implementation of this project are subject to a "true up" at the election of the project applicant and subject to the approval of the County's Board of Supervisors, as considered pursuant to a noticed public hearing process that accords with applicable legal requirements, including those set forth in CEQA for the post-approval modification of mitigation implementation parameters.

Specifically, if the project applicant elects to process a "true-up" exercise subsequent to the County's certification of the Final EIR and approval of the project, the project applicant shall provide an updated operational GHG emissions inventory for the project, including emissions from mobile sources, energy, area sources, water consumption, and solid waste. Subject to the satisfaction of the County's Board of Supervisors, these calculations shall be conducted using a County-approved model and/or methodology and must validate the continuing adequacy of modeling inputs used in the EIR that are not proposed to be altered as part of the "true-up" exercise. The inclusion of the validation requirement ensures that any updated operational GHG emissions inventories for the project fully account for then-existing information that is relevant to the emissions modeling. Alternatively, the project applicant may purchase all carbon offset credits to reduce operational GHG emissions at issuance of the first building permit.

The "true up" operational GHG emissions inventory, if conducted, will be provided in the form of a project-specific Updated Emissions Inventory and Offset Report to the County's Board of Supervisors prior to the issuance of building permits for the next buildout phase. The subject technical documentation shall be prepared by a County-approved, qualified air quality and greenhouse gas technical specialist.

In all instances, substantial evidence must confirm that any reduction to the total carbon offsets value as identified in the certified Final EIR for the project is consistent with the project commitment to achieve and maintain carbon neutrality (i.e., net zero emissions) for the 30-year life of the project.

7. To reduce vehicle trips and vehicle miles traveled, the project shall implement the Transportation Demand Management (TDM) program. Each implementing Site Plan shall include conditions of approval that require the implementation and on-going management of the TDM program and measures, including, but not limited to, an

electric bike share program, a car-share program, a ride share or shuttle system that connects the various neighborhoods to the Town Center, subsidized transit passes, establish a transportation coordinator, and TDM marketing for employees and residents. Project Design Features as listed in Table 2.7-7 of the EIR dated June 2018 shall be implemented.

8. To ensure that all road improvements required by TM-5597 are completed prior to issuance of a building permit a Site Plan shall be approved that contains a condition that requires that the following improvements required by be completed based on the Equivalent Dwelling Unit (EDU) thresholds identified below. Each Site Plan shall include a table that identifies the EDU's approved to date as well as the EDU resulting from the proposed Site Plan approval. If the total EDU exceeds any of the thresholds below, it shall have a condition that the applicable improvement required by TM 5597 be completed prior to issuance of a building permit(s) that exceeds the applicable threshold. The following are the EDU thresholds:

Intersections

Deer Springs Road/I-15 Northbound Ramps – 640 EDU
Deer Springs Road/I-15 Southbound Ramps – 370 EDU
Deer Springs Road/Mesa Rock Road – 900 EDU
Deer Springs Road/Sarver Lane – 350 EDU
Deer Springs Road/Twin Oaks Valley Road – 280 EDU
Twin Oaks Valley Road/Buena Creek Road – 80 EDU
Buena Creek Road/South Santa Fe Avenue – 273 EDU
Buena Creek Road/Monte Vista Drive – 165 EDU

Road Segments

Deer Springs Road
Twin Oaks Valley Road to Sarver Lane – 40 EDU
Sarver Lane to Mesa Rock Road – 58 EDU
Mesa Rock Road to I-15 – 24 EDU

Twin Oaks Valley Road
Deer Springs Road to Buena Creek Road – 41 EDU
Buena Creek Road to Cassou Road – 80 EDU

Waiver: The Site Plan requirement cannot be waived. However, grading permits may be issued prior to approval of any Site Plans.

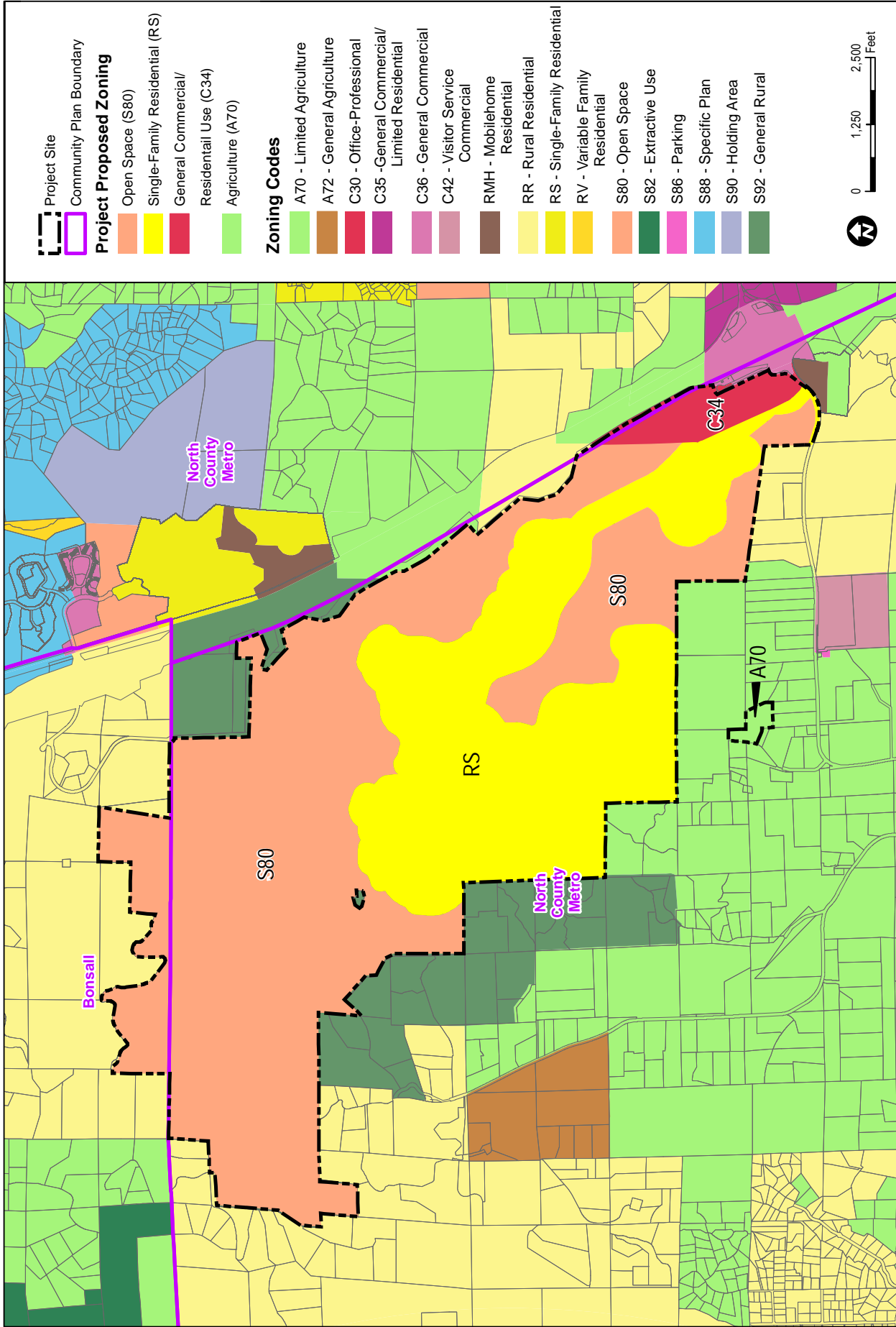
9. The fair share contribution of \$200,000 (\$50,000 upon issuance of first grading permit; \$150,000 upon issuance of the first building permit) shall be deposited into a Trust Account. As a condition of the first Site Plan, \$150,000 shall be deposited into a Trust Account as approved by the Director of PDS prior to approval of any building permits.

10. Each implementing Site Plan shall include all applicable project features identified in the Specific Plan as conditions of approval, including but limited to, prohibiting turf grass in residential front yards, low-water use landscaping, plumbing for greywater systems, and incorporating vineyards into the landscape.

Waivers:

This site plan requirement may be waived by the Director of Planning and Development Services for this issuance of a grading permit.

Section 3. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after the date of its passage, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and against the same in the San Diego Daily Transcript, a newspaper of general circulation published in the County of San Diego.



ZONING SOURCE: SANGIS

FIGURE 9

Proposed Zoning

Newland Sierra Specific Plan

**Attachment K –
RESOLUTION APPROVING PDS2015-TM-5579**

RESOLUTION OF SAN DIEGO COUNTY)
BOARD OF SUPERVISORS
CONDITIONALLY APPROVING)
TENTATIVE MAP NO. PDS2015-TM-5597)

ON MOTION of Supervisor , seconded by Supervisor , the following Resolution is adopted:

WHEREAS, Tentative Map No. PDS2015-TM-5597 (Tentative Map) proposing the division of property located directly west of I-15, north of State Route (SR) 78, and south of SR-76; and generally described as:

PORTIONS OF SECTIONS 11, 12, 13, 14, 24, AND 25, TOWNSHIP ELEVEN SOUTH, RANGE 3 WEST, SBM TOGETHER WITH PORTIONS OF SECTIONS 18, 19, AND 30, TOWNSHIP ELEVEN SOUTH, RANGE 2 WEST, SBM IN THE COUNTY OF SAN DIEGO, STATE OF CALIFORNIA.

was filed with the County of San Diego pursuant to the Subdivision Map Act and San Diego County Subdivision Ordinance on January 20, 2015; and

WHEREAS, on _____, the Board of Supervisors of the County of San Diego pursuant to [Section 81.306 of the San Diego County Subdivision Ordinance](#) held a duly advertised public hearing on said Tentative Map and received for its consideration, documentation, written and oral testimony, recommendations from all affected public agencies, and heard from all interested parties present at said hearing; and

WHEREAS, the Board of Supervisors of the County of San Diego has determined that the conditions hereinafter enumerated are necessary to ensure that the subdivision and the improvement thereof will comply with the Subdivision Map Act and conform to all ordinances, plans, rules, standards, and improvement and design requirements of San Diego County.

IT IS RESOLVED, DETERMINED, AND ORDERED, that based on the findings, said Tentative Map is hereby approved subject to the following conditions:

MAP APPROVAL AND EXPIRATION:

The approval of this Tentative Map shall become effective 30 days after the adoption of this Resolution, provided that on that effective date, General Plan Amendment PDS2015-GPA-15-001, Specific Plan PDS2015-SP-15-001, and Rezone PDS20015-REZ-15-001 also become effective. This approval expires thirty-six (36) months after said effective date at 4:00 P.M. unless, prior to that date, an application for a Time Extension has been filed as provided by [Section 81.313 of the County Subdivision Ordinance](#).

WAIVER(S) AND EXCEPTION(S): This subdivision is hereby approved pursuant to the provisions of the State Subdivision Map Act, the County Subdivision Ordinance, the County Public and Private Road Standards, and all other required ordinances of the County San Diego. The sole exceptions to the aforementioned are:

Refer to the Newland Sierra - Design Exception Requests letter dated June 14, 2018 and the Newland Sierra – Request for a Modification to Private Road Standards letter dated June 14, 2018, for a list of approved project exceptions.

STANDARD CONDITIONS: The “[Standard Conditions \(1-29\) for Tentative Subdivision Maps](#)” approved by the Board of Supervisors on June 16, 2000, and filed with the Clerk, as Resolution No. 00-199, shall be made conditions of this Tentative Map approval. Only the following exceptions to the Standard Conditions set forth in this Resolution or shown on the Tentative Map will be authorized. **The following Standard Subdivision Conditions are here by waived:**

1. Standard Condition 22: Said condition pertains to the use of subsurface sewage disposal systems. This subdivision will be served by a public sewer system.
2. Standard Condition 27: Said condition states that the Final Map shall include the entire area as shown on the Tentative Map. The Final Map may be filed as units or groups of units.

PRELIMINARY GRADING PLAN: The approval of this Tentative Map also includes the approval of the Preliminary Grading and Improvement Plan dated June 7, 2018 consisting of seventeen sheets pursuant to [Section 81.305 of the County Subdivision Ordinance](#). In accordance with the [Section 87.207 of the County Grading Ordinance](#), Environmental Mitigation Measures or other conditions of approval required and identified on this plan, shall be completed or implemented on the final engineering plan before any improvement or grading plan can be approved and any permit issued in reliance of the approved plan. Any substantial deviation therefrom the Preliminary Grading and Improvement Plan may cause the need for further environmental review. Additionally, approval of the preliminary plan does not constitute approval of a final engineering plan. A final engineering plan shall be submitted for approval pursuant to [County of San Diego Grading Ordinance \(Sec 87.701 et. al.\)](#)

APPROVAL OF MAP: THE FOLLOWING SPECIFIC CONDITIONS SHALL BE COMPLIED WITH BEFORE A MAP IS APPROVED BY THE DEPARTMENT OF PUBLIC WORKS AND FILED WITH THE COUNTY OF SAN DIEGO RECORDER: (and where specifically indicated, conditions shall also be complied with prior to the approval and issuance of grading or other permits as specified):

- 1-29.** The “Standard Conditions (1-29) for Tentative Subdivision Maps” approved by the Board of Supervisors on June 16, 2000, with the exception of those “Standard Conditions” waived above.

ANY PERMIT: (Prior to approval of grading permits or improvement plans for applicable units or phases, and prior to approval of the Final Map for applicable units or phases of grading, the applicant shall incorporate the following mitigation measures).

30. GEN#1 - COST RECOVERY

INTENT: In order to comply with [Section 362 of Article XX of the San Diego County Administrative Code](#), Schedule B.5, existing deficit accounts associated with processing this map shall be paid. **DESCRIPTION OF REQUIREMENT:** The applicant shall pay off all existing deficit accounts associated with processing this map. **DOCUMENTATION:** The applicant shall provide evidence to [PDS, Zoning Counter], which shows that all fees and trust account deficits have been paid. No map can be issued if there are deficit accounts. **TIMING:** Prior to the approval of any map and prior to the approval of any plan and issuance of any permit, all fees and trust account deficits shall be paid. **MONITORING:** The PDS Zoning Counter shall review the evidence to verify compliance with this condition.

31. GEN#2 - GRADING PLAN CONFORMANCE

INTENT: In order to implement the required mitigation measures for the project, the required grading plan and improvement plans shall conform to the approved Conceptual Grading and Development Plan. **DESCRIPTION OF REQUIREMENT:** The grading and/or improvement plans shall conform to the approved Conceptual Grading Plan, which includes mitigation measures for all of the following impact categories: biological, cultural, agricultural, air quality and noise. **DOCUMENTATION:** The applicant shall submit the grading plans and improvement plans which conform to the conceptual development plan for the project. **TIMING:** Prior to the approval of the map and prior to the approval of any plan and issuance of any permit, the notes and items shall be placed on the plans as required. **MONITORING:** The [DPW, ESU, or PDS, BD for PDS Minor Grading, DPR, TC for trails and PP for park improvements] shall verify that the grading and/or improvement plan requirements have been implemented on the final grading and/or improvement plans as applicable. The environmental mitigation notes shall be made conditions of the issuance of said grading or construction permit.

32. AGR#1–AGRICULTURAL PRESERVATION – PACE MITIGATION

INTENT: To preserve agricultural resources, as defined by the [Agricultural Resources Guidelines for Determining Significance](#).

DESCRIPTION OF REQUIREMENT: The applicant shall acquire 5.82 acres of mitigation credits from the County of San Diego Purchase of Agricultural Conservation Easement (PACE) mitigation bank:

- a. When purchasing PACE mitigation credits from the County of San Diego, through the payment of in lieu fees to the PACE Program mitigation bank, evidence of the purchase shall include the following information:
 1. A cashier's receipt of the in lieu fee payment, referencing the project name and numbers, total fee payment amount and the represented amount of acreage mitigated for by the payment. One mitigation

credit from the PACE Program would equate to one acre of land permanently protected with an agricultural conservation easement within the PACE Program mitigation bank.

2. An accounting of the status of the County of San Diego PACE Program mitigation bank, which can be obtained from the PACE Program Manager. This shall include the total amount of credits available at the bank, the amount required by this project, and the amount remaining after utilization by this project (at time of in lieu fee payment).

DOCUMENTATION: The applicant shall provide a cashier's receipt of the in lieu fee payment to the [PDS, PCC] and an accounting of the status of the County of San Diego PACE Program mitigation bank.

TIMING: Prior to approval of any plan or issuance of any permit, and prior to use of the premises in reliance of this permit.

MONITORING: The [PDS, PCC] shall review the documents provided for the satisfaction of this condition.

33. **BIO#1–BIOLOGICAL EASEMENT**

[Mitigation Measures M-BIO-8A and M-BIO-8B]

INTENT: In order to protect sensitive biological resources, pursuant to Resource Protection Ordinance (RPO) and California Environmental Quality Act (CEQA) and to mitigate significant impacts to sensitive vegetation communities (upland and riparian) and habitat for sensitive species, a biological open space easement shall be granted. **DESCRIPTION OF REQUIREMENT:** Grant to the County of San Diego an onsite open space easement of approximately 1,209 acres as shown on the approved Tentative Map. This easement is for the protection of biological resources and prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. Granting of this open space authorizes the County and its agents to periodically access the land to perform management and monitoring activities for the purposes of species and habitat conservation. The only exception(s) to this prohibition are:

1. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard. While clearing for fire management is not anticipated with the creation of this easement, such clearing may be deemed necessary in the future for the safety of lives and property. All fire clearing shall be pursuant to the applicable fire code of the Fire Authority Having Jurisdiction and the Memorandum of Understanding dated February 26, 1997, between the wildlife agencies and the fire districts and any subsequent amendments thereto. Activities conducted pursuant to a revegetation or habitat management plan approved by the Director of PDS.

3. Vegetation removal or application of chemicals for vector control purposes where expressly required by written order of the County of San Diego DEH.
4. Uses, activities, and placement of structures expressly permitted and shown on the plot plan.
5. Construction, use and maintenance of multi-use, non-motorized trails per the Specific Plan (Figure 1-3, Parks and Trails Plan) and approved Tentative Map.

DOCUMENTATION: The applicant shall prepare the draft plats and legal descriptions of the easements, then submit them for preparation and recordation with the *[DGS, RP]*, and pay all applicable fees associated with preparation of the documents. **TIMING:** Prior to the approval of the first Final Map and prior to the approval of any plan and issuance of any permit, the easements shall be executed and recorded. **MONITORING:** For recordation on the map, *[PDS, LDR]* shall route the first Final Map to *[PDS, PCC]* for approval prior to map recordation. The *[PDS, PCC]* shall preapprove the language and estimated location of the easements prior to recordation. Upon Recordation of the easements *[DGS, RP]* shall forward a copy of the recorded documents to *[PDS, PCC]* for satisfaction of the condition.

34. **BIO#2–LBZ EASEMENT #1**

[Mitigation Measure M-BIO-8C]

INTENT: In order to protect sensitive biological resources in the biological open space easement, pursuant to RPO and CEQA, a Limited Building Zone (LBZ) Easement shall be granted to limit the need to clear or modify vegetation for fire protection purposes within an adjacent biological resource area and avoid other direct and indirect impacts. **DESCRIPTION OF REQUIREMENT:** Grant to the County of San Diego a LBZ Easement that extends at least 100 feet from the limits of the project development boundary as shown on the approved Tentative Map. The purpose of this easement is to limit the need to clear or modify vegetation for fire protection purposes within the adjacent biological open space easement and prohibit the construction or placement of any structure designed or intended for occupancy by humans or animals. The only exceptions to this prohibition are:

1. Decking, fences, and similar facilities.
2. Sheds, gazebos, and detached garages, less than 250 square feet in total floor area, that are designed, constructed and placed so that they do not require clearing or fuel modification within the biological open space easement, beyond the clearing/fuel modification required for the primary structures on the property.

DOCUMENTATION: The applicant shall show the easement on the first Final map with the appropriate granting language on the title sheet concurrent with first Final Map Review, then submit them for preparation and recordation with the *[DGS, RP]*, and pay all applicable fees associated with preparation of the documents. **TIMING:** Prior to the approval of the first Final Map and prior to the approval of any plan and issuance of any permit, the easements shall be recorded. **MONITORING:** For recordation on the map, the *[PDS, LDR]* shall route the first Final Map to *[PDS, PCC]* for approval prior to map recordation. The *[PDS, PCC]* shall preapprove the language and estimated location of the easements prior to

recordation. Upon Recordation of the easements [DGS, RP] shall forward a copy of the recorded documents to [PDS, PCC] for satisfaction of the condition.

**35. BIO#3–OFFSITE MITIGATION
[Mitigation Measure M-BIO-8A]**

INTENT: In order to mitigate for the impacts to sensitive biological resources, which is a sensitive biological resource pursuant to RPO and CEQA, offsite mitigation shall be acquired. **DESCRIPTION OF REQUIREMENT:** The applicant shall purchase habitat credit, or provide for the conservation of habitat of approximately 212 acres (see Appendix K of the approved Biological Resources Report for the offsite mitigation site description) as approved by the County and Wildlife Agencies. The offsite mitigation shall be located within the draft North Multiple Species Conservation Program (MSCP) as indicated below.

- a. **Option 1:** If purchasing Mitigation Credit the mitigation bank shall be approved by the California Department of Fish and Wildlife. The following evidence of purchase shall include the following information to be provided by the mitigation bank:
 - a. A copy of the purchase contract referencing the project name and numbers for which the habitat credits were purchased.
 - b. If not stated explicitly in the purchase contract, a separate letter must be provided identifying the entity responsible for the long-term management and monitoring of the preserved land.
 - c. To ensure the land will be protected in perpetuity, evidence must be provided that a dedicated conservation easement or similar land constraint has been placed over the mitigation land.
 - d. An accounting of the status of the mitigation bank. This shall include the total amount of credits available at the bank, the amount required by this project and the amount remaining after utilization by this project.
- b. **Option 2:** If habitat credit cannot be purchased in a mitigation bank, then the applicant shall provide for the conservation of habitat of the same amount and type of land located in San Diego County as indicated below:
 - a. The type of habitat and the location of the proposed mitigation, should be pre-approved by [PDS, PCC] before purchase or entering into any agreement for purchase.
 - b. A Resource Management Plan (RMP) shall be prepared and approved pursuant to the County of San Diego Biological Report Format and Content Requirements to the satisfaction of the Director of PDS. If the offsite mitigation is proposed to be owned and/or managed by DPR, the RMP shall also be approved by the Director of DPR.
 - c. An open space easement over the land shall be dedicated to the County of San Diego or like agency to the satisfaction of the Director of PDS. The land shall be protected in perpetuity.
 - d. The final RMP cannot be approved until the following has been completed to the satisfaction of the Director of PDS: The land shall

be purchased, the easements shall be dedicated, a Resource Manager shall be selected, and the RMP funding mechanism shall be in place.

- e. In lieu of providing a private habitat manager, the applicant may contract with a federal, state or local government agency with the primary mission of resource management to take fee title and manage the mitigation land. Evidence of satisfaction must include a copy of the contract with the agency, and a written statement from the agency that (1) the land contains the specified acreage and the specified habitat, or like functioning habitat, and (2) the land will be managed by the agency for conservation of natural resources in perpetuity.

DOCUMENTATION: The applicant shall purchase the offsite mitigation credits and provide the evidence to the [PDS, PCC] for review and approval. If the offsite mitigation is proposed to be owned or managed by DPR, the applicant must provide evidence to the [PDS, PCC] that [DPR, GPM] agrees to this proposal. It is recommended that the applicant submit the mitigation proposal to the [PDS, PCC], for a pre-approval. If an RMP is submitted in-lieu of purchasing credits (option 1), then the RMP shall be prepared and an application for the RMP shall be submitted to the [PDS, ZONING]. **TIMING:** Prior to the approval of the first Final Map and prior to the approval of any plan and issuance of any permit, the mitigation shall be completed. **MONITORING:** The [PDS, PCC] shall review the mitigation purchase for compliance with this condition. Upon request from the applicant [PDS, PCC] can preapprove the location and type of mitigation only. The credits shall be purchased before the requirement can be completed. If the applicant chooses option #2, then the [PDS, ZONING] shall accept an application for an RMP, and [PDS, PPD] shall review the RMP submittal for compliance with this condition and the RMP Guidelines.

**36. BIO#4–OPEN SPACE SIGNAGE
[Mitigation Measure M-BIO-8E]**

INTENT: In order to protect the proposed open space easement from entry, informational signs shall be installed. **DESCRIPTION OF REQUIREMENT:** Open space signs shall be placed approximately every 200 feet along the fencing of the biological open space boundary as indicated in Figure 2.4-11, Proposed Biological Open Space/Conceptual Signage and Fencing, of the Final EIR. The signs must be corrosion resistant, a minimum of 6" x 9" in size, on posts not less than three (3) feet in height from the ground surface, and must state the following:

**Sensitive Environmental Resources
Area Restricted by Easement**

Entry without express written permission from the County of San Diego is prohibited. To report a violation or for more information about easement restrictions and exceptions contact the County of San Diego,

Planning & Development Services
Reference: (PDS2015-ER-15-08-001)

DOCUMENTATION: The applicant shall install the signs along the fence as indicated above and provide site photos and a statement from a California Registered Engineer, or licensed surveyor that the open space signs have been installed at the boundary of the open space easement(s). **TIMING:** Prior to the approval of the first Final Map and prior to the approval of any plan and issuance of any permit, the open space signs shall be installed. **MONITORING:** The [PDS, PCC] shall review the photos and statement for compliance with this condition in compliance with Figure 2.4-11, Proposed Biological Open Space/Conceptual Signage and Fencing.

37. BIO#5–OPEN SPACE FENCING

[Mitigation Measure M-BIO-8E]

INTENT: In order to protect the proposed open space easement from entry, and disturbance, permanent fencing shall be installed. **DESCRIPTION OF REQUIREMENT:** Open space fencing shall be placed adjacent to residential uses and roads to protect the biological open space as indicated in Figure 2.4-11, Proposed Biological Open Space/Conceptual Signage and Fencing, of the Final EIR. The fencing/walls design shall consist of post and rail fencing or similar permeable fence at least 4 feet in height. **DOCUMENTATION:** The applicant shall install the fencing as indicated above and provide site photos and a statement from a California Registered Engineer, or licensed surveyor that the open space fencing has been installed. **TIMING:** Prior to the approval of the first Final Map and prior to the approval of any plan and issuance of any permit, the fencing shall be placed. **MONITORING:** The [PDS, PCC] shall review the photos and statement for compliance with this condition in compliance with Figure 2.4-11, Proposed Biological Open Space/Conceptual Signage and Fencing.

38. BIO#6–REVEGETATION PLAN

[Mitigation Measure M-BIO-6]

INTENT: In order to mitigate for temporary impacts to special status vegetation and wildlife habitat impacts, which are sensitive biological resources pursuant to RPO and CEQA, revegetation shall occur. **DESCRIPTION OF REQUIREMENT:** A Revegetation Plan, shall be prepared and approved, which mitigates impacts to sensitive vegetation and wildlife habitat. The revegetation shall occur within the preserve and outside of the limited building zone (LBZ) and fuels modification zone (FMZ). The revegetation plan provide replacement of comparable native vegetation and shall conform to the Conceptual Restoration Plan (Appendix I of the approved Biological Resources Technical Report (Appendix H)), and the most current version of the [County of San Diego Report Format and Content Requirement Guidelines: Biological Resources for Revegetation Plans](#). The Revegetation Plan shall include the following:

- a. The monitoring plan shall be for a length of 5 years and have an 80 percent success criterion.
- b. A preservation plan over the land to be revegetated shall be included in the Revegetation Plan. The preservation plan shall include evidence of dedication of an open space easement to the County of San Diego or

- evidence of protection in perpetuity by some other means to the satisfaction of the Director of PDS.
- c. The report shall be prepared by a County approved biologist and the construction plans shall be prepared by a State of California Licensed Landscape Architect.
 - d. Revegetation objectives, revegetation site biological resource map, 24"x 36" landscape plan, map showing revegetation areas according to mitigation type and amount, site preparation information, type of planting materials (e.g. species ratios, source, size material, etc.), planting program, 80 percent success criteria, and a detailed cost estimate.
 - e. A cost estimate based on a 3% annual inflation rate shall be submitted and approved, which includes the cost of the plant stock and its installation, irrigation system and installation, cost of monitoring and maintenance of the revegetation area for the required monitoring period, and report preparation and staff time to review.
 - f. An implementation strategy; appropriate seed/source materials; appropriate planting method; an irrigation plan; quantitative and qualitative success criteria; a maintenance, monitoring, and reporting program; estimated completion time; and contingency measures.

DOCUMENTATION: The applicant shall prepare the Revegetation Plan, submit it to the *[PDS, ZONING]* and pay all the applicable review fees and deposits.

TIMING: Prior to the approval of the first Final Map and prior to the approval of any plan and issuance of any permit, the Revegetation Plan shall be approved.

MONITORING: The *[PDS, LA]* shall review the Revegetation Plan for conformance with this condition and the Report Format and Content Requirements for Revegetation Plans. Upon approval of the Plan, a Director's Decision of approval shall be issued to the applicant, and a request for compliance with condition **BIO#7-SECURED AGREEMENT** shall be made to enter into a Secured Agreement for the implementation of the Plan.

39. **BIO#7-SECURED AGREEMENT** **[Mitigation Measure M-BIO-6]**

INTENT: In order to assure project completion and success of the Revegetation Plan in condition **BIO#6-REVEGETATION PLAN**, a surety shall be provided and an agreement shall be executed. **DESCRIPTION OF REQUIREMENT:** The applicant shall enter into a Secured Agreement with the County of San Diego as follows:

- a. The security shall consist of a letter of credit, bond, or cash for 100 percent of the estimated costs associated with the implementation of the Revegetation Plan and,
- b. Provide a 10 percent cash deposit of the cost of all improvements, but no less than \$3,000 and no more than \$30,000.
- c. The monitoring time and the length of time the Secured Agreement and cash deposit will be in effect starts at the time the installation is accepted by a County staff representative. The Secured Agreement and cash deposit shall be released upon completion of the Revegetation Plan implementation

provided the installed vegetation is in a healthy condition and meets the 80 percent success criteria. Eighty- percent success rate and one hundred percent vegetative cover, excluding herbaceous species, shall be considered satisfactory completion of the Revegetation Plan.

DOCUMENTATION: The applicant shall execute a Secured Agreement provided with the Revegetation Plan Final Decision, and provide the approved securities and the cash deposit for County monitoring time. The executed Agreement, cash deposit, and the securities shall be submitted to the [PDS, LA] for final review and approval. **TIMING:** Prior to the approval of the first Final Map and prior to the approval of any plan and issuance of any permit, and after the approval of the Revegetation Plan, the agreement shall be executed and the securities provided for the revegetation plan implementation. **MONITORING:** The [PDS, LA] shall review the Agreement cash deposit and securities provided are in compliance with this condition, and the Revegetation Plan Final Decision. The [PDS, LA] shall sign the Agreement for the Director of PDS and ensure the cash deposit is collected. Upon acceptance of the Agreement, securities and cash deposit, the [PDS, LA], shall provide a confirmation letter-acknowledging acceptance of securities.

40. **BIO#8–HORKELIA MITIGATION PLAN**

[Mitigation Measure M-BIO-9]

INTENT: In order to mitigate for the direct loss of Ramona horkelia, which is a sensitive biological resource pursuant to CEQA, and to protect sensitive species, revegetation shall occur. **DESCRIPTION OF REQUIREMENT:** A Horkelia Mitigation Plan shall be prepared and implemented, which mitigates impacts to the loss of Ramona horkelia (*Horkelia truncata*) by replacement of individual plants to be removed at a minimum of 1:1 ratio within suitable receptor site(s) where no future construction-related disturbance will occur. The mitigation plan shall specify, at minimum, the following: (1) the location of the receptors site(s) in protected open space areas within the project site; (2) appropriate methods for replacement (e.g., harvesting seeds, salvaging and transplantation of impacted plants, and/or nursery propagation); (3) receptor site preparation methods; (4) schedule an action plan for maintaining and monitoring the receptor site(s); (5) list of performance criteria and standards for successful mitigation; (6) measures to protect the receptor site(s) (e.g., trespass and erosion control, weeding); and (7) cost of implementing the relocation plan. The Revegetation Plan shall conform to the Conceptual Restoration Plan (Appendix J of the approved Biological Resources Technical Report) and the most current version of the [County of San Diego Report Format and Content Requirements for Revegetation Plans](#). The Horkelia Mitigation Plan shall include the following:

- a. The monitoring plan shall be for a length of 5 years and have an 80 percent success criterion.
- b. A preservation plan over the land to be revegetated shall be included in the Revegetation Plan. The preservation plan shall include evidence of dedication of an open space easement to the County of San Diego or evidence of protection in perpetuity by some other means to the satisfaction of the Director of PDS.

- c. The report shall be prepared by a County approved biologist and the construction plans shall be prepared by a State of California Licensed Landscape Architect.
- d. Revegetation objectives, revegetation site biological resource map, 24"x 36" landscape plan, map showing revegetation areas according to mitigation type and amount, site preparation information, type of planting materials (e.g. species ratios, source, size material, etc.), planting program, 80 percent success criteria, and a detailed cost estimate.
- e. A cost estimate based on a 3% annual inflation rate shall be submitted and approved, which includes the cost of the plant stock and its installation, irrigation system and installation, cost of monitoring and maintenance of the revegetation area for the required monitoring period, and report preparation and staff time to review.

DOCUMENTATION: The applicant shall prepare the final Horkelia Mitigation Plan, submit it to the [PDS, ZONING] and pay all the applicable review fees and deposits.

TIMING: Prior to the approval of the first Final Map and prior to the approval of any plan and issuance of any permit, the Horkelia Mitigation Plan shall be approved.

MONITORING: The [PDS, LA] shall review the Horkelia Mitigation Plan for conformance with this condition and the Report Format and Content Requirements for Revegetation Plans. Upon approval of the Plan, a Director's Decision of approval shall be issued to the applicant, and a request for compliance with condition BIO#9–SECURED AGREEMENT shall be made to enter into a Secured Agreement for the implementation of the Plan.

41. **BIO#9–SECURED AGREEMENT** **[Mitigation Measure M-BIO-9]**

INTENT: In order to assure project completion and success of the Revegetation Plan in condition **BIO#8–HORKELIA MITIGATION PLAN**, a surety shall be provided and an agreement shall be executed.

DESCRIPTION OF REQUIREMENT: The applicant shall enter into a Secured Agreement with the County of San Diego as follows:

- a. The security shall consist of a letter of credit, bond, or cash for 100 percent of the estimated costs associated with the implementation of the Revegetation Plan and,
- b. Provide a 10 percent cash deposit of the cost of all improvements, but no less than \$3,000 and no more than \$30,000.
- c. The monitoring time and the length of time the Secured Agreement and cash deposit will be in effect starts at the time the installation is accepted by a County staff representative. The Secured Agreement and cash deposit shall be released upon completion of the Revegetation Plan implementation provided the installed vegetation is in a healthy condition and meets the 80 percent success criteria. Eighty-percent success rate and one hundred percent vegetative cover, excluding herbaceous species, shall be considered satisfactory completion of the Revegetation Plan.

DOCUMENTATION: The applicant shall execute a Secured Agreement provided with the Revegetation Plan Final Decision, and provide the approved securities

and the cash deposit for County monitoring time. The executed Agreement, cash deposit, and the securities shall be submitted to the [PDS, LA] for final review and approval. **TIMING:** Prior to the approval of the first Final Map and prior to the approval of any plan and issuance of any permit, and after the approval of the Horkelia Mitigation Plan, the agreement shall be executed and the securities provided for the revegetation plan implementation. **MONITORING:** The [PDS, LA] shall review the Agreement cash deposit and securities provided are in compliance with this condition, and the Horkelia Mitigation Plan Final Decision. The [PDS, LA] shall sign the Agreement for the Director of PDS and ensure the cash deposit is collected. Upon acceptance of the Agreement, securities and cash deposit, the [PDS, LA], shall provide a confirmation letter-acknowledging acceptance of securities.

42. **BIO#10–RESOURCE MANAGEMENT PLAN**

[Mitigation Measure M-BIO-8D]

INTENT: In order to provide for the long-term management of the onsite and offsite proposed open space preserve, a Resource Management Plan (RMP) shall be prepared and implemented. **DESCRIPTION OF REQUIREMENT:** Submit to and receive approval from the Director of PDS, a RMP. The RMP shall be for the perpetual management of the proposed biological open space. The RMP shall be consistent with the Conceptual RMP provided as Appendix L (on-site open space) and Appendix M (off-site open space) to the approved Biological Resources Technical Report on file with PDS as Environmental Review Number PDS2015-ER-15-08-001. The plan shall be prepared and approved pursuant to the most current version of the [County of San Diego Report Format and Content Requirement Guidelines: Biological Resources](#). The final RMP cannot be approved until the following has been completed to the satisfaction of the Director of PDS and in cases where DPR has agreed to be the owner and/or manager, to the satisfaction of the Director of DPR.

- a. The plan shall be prepared and approved pursuant to the most current version of the [County of San Diego Report Format and Content Requirement Guidelines: Biological Resources](#)
- b. The habitat land to be managed shall be completely purchased.
- c. The easements shall be dedicated to ensure that the land is protected in perpetuity.
- d. A Resource Manager shall be selected and evidence provided by applicant as to the acceptance of this responsibility by the proposed Resource Manager
- e. The RMP funding mechanism shall be identified and approved by the County to fund annual costs for basic stewardship.
- f. A contract between applicant and County shall be executed for the implementation of the RMP.
- g. Annual reports shall include an accounting of all required tasks and details of tasks addressed during the reporting period, and an accounting of all expenditures and demonstration that the funding source remains adequate.

DOCUMENTATION: The applicant shall prepare the RMP consistent with the Conceptual RMP provided as Appendix L (on-site open space) and Appendix M (off-site open space) to the approved Biological Resources Technical Report on file as Environmental Review Number PDS2015-ER-08-001 and submit it to the *[PDS, ZONING]* and pay all applicable review fees. **TIMING:** Prior to the approval of the first Final Map and prior to the approval of any plan and issuance of any permit, the RMP shall be approved. **MONITORING:** The *[PDS, PPD]* shall review the RMP for compliance with the content guidelines, the conceptual RMP, and this condition.

43. BIO#11–LANDSCAPE PLAN (INVASIVE SPECIES)

[Mitigation Measure M-BIO-4]

INTENT: In order to minimize the spread and associated impacts of invasive species, all final Landscape Plans shall exclude invasive species. **DESCRIPTION OF REQUIREMENT:** The PDS Landscape Architect shall require that all final landscape plans comply with the following:

- a. No invasive plant species as included on the most recent version of the California Invasive Plant Council's California Invasive Plant Inventory for the project region shall be included, and
- b. The plant palette shall be composed of native species that do not require high irrigation rates. The Project Biologist shall periodically check landscape products for compliance with this requirement.

DOCUMENTATION: The applicant shall prepare the Landscape Plan and submit it to the *[PDS, ZONING]* and pay all applicable review fees. **TIMING:** Prior to the approval of the first Final Map and prior to the approval of any plan and issuance of any permit, the Landscape Plan shall be approved. **MONITORING:** The *[PDS, PPD]* shall review the final landscape plans for compliance with the most recent version of the California Invasive Plant Council's California Invasive Plant Inventory and this condition.

44. BIO#12–LBZ EASEMENT#2

[Mitigation Measure M-BIO-8C]

INTENT: In order to protect sensitive biological resources in the adjacent biological open space easement, pursuant to RPO and CEQA, a Limited Building Zone (LBZ) Easement shall be granted to limit the need to clear or modify vegetation for fire protection purposes within an adjacent biological resource area and avoid other direct and indirect impacts. A thinning zone reduces the fuel load of a wildland area adjacent to Zone 1, and thereby, reduces heat and ember production from wildland fires, slows fire spread, and reduces fire intensity. **DESCRIPTION OF REQUIREMENT:** Grant to the County of San Diego a LBZ Easement that extends from LBZ Easement #1 (Condition: BIO#2 (M-BIO-8C)) at least 150 feet. The purpose of this easement is to limit the need to clear or modify vegetation for fire protection purposes within the easement. **DOCUMENTATION:** The applicant shall show the easement on the first Final map with the appropriate granting language on the title sheet concurrent with first Final Map Review, then submit them for preparation and recordation with the *[DGS, RP]*, and pay all applicable fees

associated with preparation of the documents. **TIMING:** Prior to the approval of the first Final Map and prior to the approval of any plan and issuance of any permit, the easements shall be recorded. **MONITORING:** For recordation on the map, the [PDS, LDR] shall route the first Final Map to [PDS, PCC] for approval prior to map recordation. The [PDS, PCC] shall preapprove the language and estimated location of the easements prior to recordation. Upon Recordation of the easements [DGS, RP] shall forward a copy of the recorded documents to [PDS, PCC] for satisfaction of the condition.

45. BIO#13–FIRE PROTECTION PLAN

[Mitigation Measure M-BIO-11]

INTENT: In order to minimize the potential exposure of the project site to fire hazards for the protection of sensitive biological resources pursuant to RPO and CEQA, all features of the Fire Protection Plan for the project will be implemented.

DESCRIPTION OF REQUIREMENT: To minimize the potential exposure of the project site to fire hazards, all features of the Fire Protection Plan for the Newland Sierra Project shall be implemented in conjunction with development of the project.

DOCUMENTATION: The applicant shall provide evidence to the satisfaction of PDS that demonstrates that all applicable measures have been implemented.

TIMING: Prior to the issuance of any permit, the Fire Protection Plan shall be implemented. **MONITORING:** The [PDS, PPD] shall review the Fire Protection Plan for compliance with this condition. During construction, the Project Biologist shall review fire protection measures for compliance with this measure as part of the construction monitoring requirement.

46. BIO#14–WETLAND PERMITS: [PDS, FEE X2]

[Mitigation Measure M-BIO-12]

INTENT: In order to comply with the State and Federal Regulations for impacts to U.S. Army Corps of Engineers (USACE), Regional Water Control Board (RWQCB), California Department of Fish and Wildlife (CDFW) jurisdictional water resources, the following agency permits, or verification that they are not required shall be obtained. **DESCRIPTION OF REQUIREMENT:** The following permit and agreement shall be obtained, or provide evidence from the respective resource agency satisfactory to the Director of PDS that such an agreement or permit is not required:

- a. A Clean Water Act, Section 401/404 permit issued by the California Regional Water Quality Control Board and the U.S. Army Corps of Engineers for all project related disturbances of waters of the U.S. and/or associated wetlands.
- b. A Section 1602 Streambed Alteration Agreement issued by the California Department of Fish and Wildlife for all project related disturbances of any streambed.

DOCUMENTATION: The applicant shall consult each agency to determine if a permit or agreement is required. Upon completion of the agency review of this project, the applicant shall provide a copy of the permit(s)/agreement(s), or evidence from each agency that such an agreement or permit is not required to

the [PDS, PCC] for compliance. **TIMING:** Prior to the approval of the first Final Map and prior to the approval of any plan and issuance of any permit, the permits shall be obtained. **MONITORING:** The [PDS, PCC] shall review the permits/agreement for compliance with this condition. Copies of these permits should be transmitted to the [DPW, ESU], for implementation on the grading plans.

47. **BIO#15—INVASIVE SPECIES MANAGEMENT PLAN**

[Mitigation Measure M-BIO-10]

INTENT: In order to provide for the long-term management of invasive species, an Invasive Species Management Plan shall be prepared and implemented.

DESCRIPTION OF REQUIREMENT: Invasive species control treatments shall include all legally permitted chemical, manual, and mechanical methods applied with the authorization of the County of San Diego agriculture commissioner. The application of herbicides shall be in compliance with all state and federal laws and regulations under the prescription of a pest control advisor and implemented by a licensed applicator. Where manual and/or mechanical methods are used, disposal of the plant debris shall follow the regulations set by the County of San Diego agriculture commissioner. The timing of the weed control treatment shall be determined for each plant species in consultation with the pest control advisor, County of San Diego agriculture commissioner, and California Invasive Plant Council with the goal of controlling populations before they start producing seeds. The Invasive Species Management Plan shall be prepared and approved pursuant to the most current version of the [County of San Diego Report Format and Content Requirement Guidelines: Biological Resources](#). The Invasive Species Management Plan cannot be approved until the following has been completed to the satisfaction of the County of San Diego agricultural commissioner.

- a. The plan shall be prepared and approved pursuant to the most current version of the [County of San Diego Report Format and Content Requirement Guidelines: Biological Resources](#).
- b. A licensed applicator shall be selected and evidence provided by applicant as to the acceptance of this responsibility by the proposed licensed applicator.
- c. The weed control funding mechanism shall be identified and approved by the County to fund costs for basic stewardship.
- d. A contract between applicant and County shall be executed for the implementation of Invasive Species Management Plan.

DOCUMENTATION: The applicant shall prepare the Invasive Species Management Plan with the authorization of the County of San Diego agriculture commissioner and pay all applicable review fees. **TIMING:** Prior to the approval of the first Final Map and prior to the approval of any plan and issuance of any permit, the Invasive Species Management Plan shall be approved. The timing of the invasive species control treatment shall be determined for each plant species in consultation with the pest control advisor, County of San Diego agriculture commissioner, and California Invasive Plant Council with the goal of controlling populations before they start producing seeds. **MONITORING:** The County of San Diego agriculture commissioner shall review the invasive species management for

compliance with California Invasive Plant Council, all state and federal laws and regulations under the prescription of a pest control advisor, and this condition.

48. **BIO#16–BIOLOGICAL MONITORING**

[Mitigation Measure M-BIO-1]

INTENT: In order to prevent inadvertent disturbance to sensitive habitats, jurisdictional waters, and special status plants and wildlife, all grading located adjacent to biological open space or sensitive habitats shall be monitored by a biologist. **DESCRIPTION OF REQUIREMENT:** A County approved biologist shall be contracted to perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities that are adjacent to any biological open space areas or sensitive habitats for special-status species (eg. coastal California gnatcatcher, Ramona horkelia, and raptors). The following shall be completed:

- a. The Biologist shall perform the monitoring duties before, during and after construction pursuant to the most current version of [County of San Diego Report Format and Content Requirement Guidelines: Biological Resources](#) and this permit. The contract provided to the county shall include an agreement that this will be completed, and a [Memorandum of Understanding \(MOU\)](#) between the biological consulting company and the County of San Diego shall be executed. The contract shall include a cost estimate for the monitoring work and reporting.
- b. The cost of the monitoring shall be added to the grading bonds or bond separately.

DOCUMENTATION: The applicant shall provide a copy of the biological monitoring contract, cost estimate, and MOU to the *[PDS, PCC]*. Additionally, the cost amount of the monitoring work shall be added to the grading bond cost estimate. **TIMING:** Prior to the approval of any plan, issuance of any permit, and prior to approval of the map, the requirement shall be completed. **MONITORING:** The *[PDS, PCC]* shall review the contract, MOU and cost estimate or separate bonds for compliance with this condition. The cost estimate should be forwarded to *[PDS, LDR]*, for inclusion in the grading bond cost estimate, and grading bonds.

49. **CULT#1 (M-CR-1) – PRE-GRADE AND DATA RECOVERY – 1901 HISTORIC STRUCTURE LOCATION**

INTENT: In order to mitigate for potential impacts to the 1901 Historic Structured/ Location that is a significant cultural resources pursuant to Section 15064.5 of the California Environmental Quality Act (CEQA) but is not determined to be significant pursuant to Section 86.602.o of the Resource Protection Ordinance (RPO), a pre-grade data recovery program shall be implemented. **DESCRIPTION OF REQUIREMENT:** Implement the research design detailed in the archaeological extended study (Management Recommendation and Data Recovery Work Plan – Appendix D) prepared by Gallegos & Associates and Dudek. The implementation of the research design constitutes mitigation for the proposed destruction of the 1901 Structure Location. The pre-grade and data recovery program shall include the following:

- a. Pre-Grade. Implement both light to moderate scraping and controlled excavation using backhoe trenches in east-west or north-south oriented alignments dependent upon landform. Controlled backhoe excavation shall be conducted using an 18-inch non-bladed bucket. In addition, conduct a ground-penetrating survey to assess the area for ground anomalies and to determine the absence and/or presence of buried historic resources.
- b. Data Recovery. If subsurface features or artifacts are exposed, manual excavation using 1x1 meter data recovery units shall be employed followed by block excavation, if necessary. The 1x1 meter units shall be excavated in areas estimated to contain the richest remaining deposit as determined during the pre-grade phase work. The units shall be excavated in 10-cm, with all soil placed in 5-gallon buckets for transfer to the screening area where the soil will be screened through ¼ inch mesh. Artifacts identified during the pre-grade and data recovery program will be grouped according to their general location, numbered, mapped, collected, labeled and bagged, and moved to the laboratory for analysis and interim curation.
- c. Laboratory Analysis. All cultural materials shall be cleaned, weighed and identified to the extent possible. Artifact and ecofact information shall be entered into an electronic database, along with provenience, material class, functional category, and documentation of makers' marks and other diagnostic characteristics. Upon completion of cataloguing, the items shall be separated as to material type to facilitate potential reconstruction and to provide for a minimum count of items such as bottles, jars, dishes, nails and ammunition. Non-diagnostic fragments such as unidentifiable metal, wood, ceramic and glass fragments shall be recorded by provenience and weight, and set aside for discard (culling) following completion of artifact analysis. Specialized studies such as glass bottle, ceramic and faunal analyses shall be conducted after the initial sorting and cataloguing.

The analysis of features and recovered artifacts shall be conducted within the parameters of the research design. The analysis of artifacts shall be based primarily on functional artifact classifications to provide a meaningful comparison of data to deposits of a similar time frame. Artifact identification shall be conducted for the purpose of developing functional artifact patterns or profiles. To determine the types of activities represented, artifacts shall be divided into functional categories or groups, and efforts shall be expended to date objects as closely as possible. Data analysis shall consist of comparing artifact profiles, consumption patterns and price indices from the 1901 historic structure/location to other historic archaeological deposits that represent similar occupation dates.

- d. Artifact Conveyance. Diagnostic historic archaeological materials (except non-diagnostic culled materials) recovered during pre-grade and data

recovery phase shall be curated at a San Diego facility that meets federal standards per 36 CFR Part 79. The collections and associated records shall be transferred, including title, to an appropriate curation facility within San Diego County, to be accompanied by payment of the fees necessary for permanent curation.

DOCUMENTATION: Upon completion of the pre-grade and data recovery phase referenced above, the applicant shall submit a final report to [PDS, PPD]. The final report shall include a letter from the curation facility identifying that archaeological materials have been received and that all fees have been paid. **TIMING:** Prior to the approval of any plan, issuance of any permit and prior to approval of the final map, the pre-grade and data recovery program shall be completed. **MONITORING:** The [PDS, PPD] shall review the final pre-grade and data recovery program report for compliance with this condition.

50. CULT#2 (M-CR-2) - CULTURAL OPEN SPACE EASEMENT – CA-SDI-5951, CA-SDI-9822

INTENT: In order to protect sensitive Cultural Resources, CA-SDI-5951 and CA-SDI-9822, a Cultural Resource Open Space Easement shall be granted over the portion of these sites that are outside the Deer Springs Road right-of-way.

DESCRIPTION OF REQUIREMENT: Grant to the County of San Diego an ESA Open Space Easement by separate document. This easement is for the protection of portions of CA-SDI-5951 and CA-SDI-9822 as shown on the Open Space Exhibit provided in the Confidential Appendix of the cultural study. This easement prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. The sole exceptions to this prohibition are:

- a. Placement and burial of the cultural site resources and soils that are excavated as part of the development per specification that are executed in agreement with the Pechanga and San Luis Rey Tribes.
- b. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard.
- c. Vegetation removal or application of chemicals for vector control purposes where expressly required by written order of the Department of Environmental Health, in a location and manner approved in writing by the Director of PDS.
- d. Access shall be provided for Luiseno tribes.

DOCUMENTATION: The applicant shall prepare the legal descriptions of the easement, then submit it for preparation and recordation with the [DGS, RP], and pay all applicable fees associated with preparation of the documents. **TIMING:** Prior to the approval of the first Final Map and prior to the approval of any plan and issuance of any permit. **MONITORING:** The [DGS, RP] shall prepare and approve the easement documents and send them to [PDS, PPD] for preapproval. The [PDS, PPD] shall preapprove the language and estimated location of the easement prior to recordation. Upon recordation of the easement [DGS, RP] shall forward a copy of the recorded documents to [PDS, PPD] for satisfaction of the condition.

51. CULT#3 (M-CR-5) – DATA RECOVERY AND INDEX SAMPLING PLAN – CA-SDI-4558, CA-SDI-5951 AND CA-SDI-9822

INTENT: In order to mitigate for potential impacts to significant cultural resources that cannot be feasibly avoided or preserved in place, pursuant to Section 15126.4(b) of the California Environmental Quality Act (CEQA), which are not subject to Section 86.602.o of the Resource Protection Ordinance (RPO), a data recovery and index sampling plan shall be implemented. **DESCRIPTION OF REQUIREMENT:** Implement the research design detailed in the archaeological extended study (Management Recommendation and Data Recovery Work Plan – Appendix D) prepared by Gallegos & Associates and Dudek. The implementation of the research design constitutes mitigation for the proposed destruction of portions of CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822. The data recovery program shall include the following:

- a. Phase I and Phase II. The Data Recovery and Index Sampling Plan shall comply with research design and performance standards that are in Appendix D (Management Recommendations and Data Recovery Work Plan) of the cultural study.
- b. Phase I & Phase II. For artifacts found during the Phase I and Phase II data recovery, conduct an artifact analysis, which includes the following: lithics, ceramics, faunal, floral, and assemblage analysis as referenced in the Management Recommendations and Data Recovery Work Plan. In addition, the collection from Palomar College shall be re-analyzed except for human remains and associated grave goods. All identified features shall be 100 percent exposed and analyzed. Column samples shall be excavated for the collection of soil samples for pollen and phytolith analysis and flotation shall be conducted for the collection of plant seeds. Specialized studies shall be conducted after the initial sorting and cataloguing of cultural materials and may include lithic, groundstone, ceramic, shell obsidian hydration and sourcing, and radiocarbon dating. In addition, a sample of artifacts that may be repatriated (excluding human remains) may be scanned with a high-resolution, 3-dimensional laser scanner.

Historical artifacts shall be identified and analyzed using historical archaeological analytical techniques such as artifact function patterning,

bottled products pattern analysis and ceramic economic indexing. Additional historic research shall be conducted as necessary to aid in analyzing and explaining the significance of patterns.

- c. Palomar Collection. Re-analysis of the Palomar College collection.
- d. Artifact Scanning. High-resolution, 3-dimensional scanning of a sample of artifacts.
- e. Artifact Conveyance. All prehistoric archaeological materials recovered during the survey, significance testing, and data recovery phases, shall be reinterred onsite.

All historic archaeological materials recovered during the survey, significance testing, and data recovery phases, shall be curated at a San Diego facility that meets federal standards per 36 CFR Part 79. The collections and associated records shall be transferred, including title, to an appropriate curation facility within San Diego County, to be accompanied by payment of the fees necessary for permanent curation.

- f. Final Report. Preparation of a final report.

DOCUMENTATION: Upon completion of the Phase I and Phase II data recovery referenced above, the applicant shall submit the final report to the [PDS, PPD] for review and approval. The final report shall include a letter from the curation facility identifying that historic archaeological materials have been received and that all fees have been paid. A copy of the report shall be provided to the San Luis Rey Band and the Pechanga Band. **TIMING:** Prior to the approval of any plan, issuance of any permit and prior to approval of any map, the data recovery program shall be completed. **MONITORING:** The [PDS, PPD] shall review the final data recovery program report for compliance with this condition.

52. **CULT#4 (M-CR-7) - ARCHAEOLOGICAL MONITORING**

INTENT: In order to mitigate for potential impacts to undiscovered buried archaeological resources and human remains, including those that may be encountered in the Traditional Cultural Property (TCP), an Archaeological Monitoring Program and potential Data Recovery Program shall be implemented pursuant to the County of San Diego Guidelines for Determining Significance for Cultural Resources and the California Environmental Quality Act (CEQA).

DESCRIPTION OF REQUIREMENT: A County Approved Principal Investigator (PI) known as the "Project Archaeologist," shall be contracted to perform archaeological monitoring and a potential data recovery program during all grading, clearing, grubbing, trenching, and construction activities. The Archaeological Monitoring Program shall be developed in consultation with the San Luis Rey Band and the Pechanga Band. The Archaeological Monitoring Program shall include the following:

- a. The Project Archaeologist shall perform the monitoring duties before, during and after construction pursuant to the most current version of the County of San Diego Guidelines for Determining Significance and Report Format and Requirements for Cultural Resources. The Project Archaeologist and San Luis Rey and Pechanga Native American monitor(s) shall also evaluate fill soils to determine that they are clean of cultural resources. The contract or letter of acceptance provided to the County shall include an agreement that the archaeological monitoring will be completed, and a Memorandum of Understanding (MOU) between the Project Archaeologist and the County of San Diego shall be executed. The contract or letter of acceptance shall include a cost estimate for the monitoring work and reporting.
- b. The Project Archeologist shall provide evidence that a Luiseno Native American monitor has been contracted to perform Native American Monitoring for the project.
- c. The cost of the monitoring shall be added to the grading bonds or bonded separately.

DOCUMENTATION: The applicant shall provide a copy of the Archaeological Monitoring Contract or letter of acceptance, cost estimate, and MOU to [PDS, PPD]. Additionally, the cost amount of the monitoring work shall be added to the grading bond cost estimate. **TIMING:** Prior to approval of any grading and or improvement plans and issuance of any Grading or Construction Permits. **MONITORING:** [PDS, PPD] shall review the contract or letter of acceptance, MOU and cost estimate or separate bonds for compliance with this condition. The cost estimate should be forwarded to [PDS, PPD] for inclusion in the grading bond cost estimate, and grading bonds and the grading monitoring requirement shall be made a condition of the issuance of the grading or construction permit.

53. CULT#5 (M-CR-8) - CULTURAL OPEN SPACE EASEMENT – ENVIRONMENTALLY SENSITIVE AREA

INTENT: In order to provide an onsite location for the reinternment of cultural materials including cultural soils removed from the Traditional Cultural Property, an Environmentally Sensitive Area (ESA) Open Space Easement shall be granted.

DESCRIPTION OF REQUIREMENT: An ESA Open Space Easement shall be developed in consultation with the San Luis Rey Band and Pechanga Band, and granted to the County by separate document. This easement is for the protection of cultural materials and cultural soils that may be reinterred onsite and prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. The sole exceptions to this prohibition are:

- a. Preparation of the interment area that may require earth-disturbing activities such as grading; excavation; placement of soil, sand, rock, gravel, or other material; and clearing of vegetation.
- b. Reinternment of cultural materials and cultural soils which may require earth-disturbing activities such as grading; excavation; placement of soil, sand, rock, gravel, or other material; and clearing of vegetation.
- c. Capping and hydroseeding the reinternment area for the purposes of erosion control.
- d. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard.
- e. Vegetation removal or application of chemicals for vector control purposes where expressly required by written order of the Department of Environmental Health, in a location and manner approved in writing by the Director of PDS.
- f. Access shall be provided for Luiseno tribes.

DOCUMENTATION: The applicant shall prepare the legal descriptions of the easement, then submit it for preparation and recordation with the *[DGS, RP]*, and pay all applicable fees associated with preparation of the documents. **TIMING:** Prior to the approval of the first Final Map and prior to the approval of any plan and issuance of any permit. **MONITORING:** The *[DGS, RP]* shall prepare and approve the easement documents and send them to *[PDS, PPD]* for preapproval. The *[PDS, PPD]* shall preapprove the language and estimated location of the easement prior to recordation. Upon recordation of the easement *[DGS, RP]* shall forward a copy of the recorded documents to *[PDS, PPD]* for satisfaction of the condition.

54. CULT#6 (M-CR-2a, M-CR-4, M-CR-5, M-CR-6, M-CR-7, M-CR-8, M-CR-9) - CULTURAL RESOURCES TREATMENT AGREEMENT AND PRESERVATION PLAN

INTENT: In order to mitigate for impacts to the Traditional Cultural Properties (TCPs) and impacts to tribal cultural resources, the applicant shall develop in consultation with the San Luis Rey Band and Pechanga Band, a Cultural Resources Treatment Agreement and Preservation Plan (Tribal Treatment Plan).

DESCRIPTION OF REQUIREMENT: A single Cultural Resources Treatment Agreement and Preservation Plan shall be prepared between the applicant, the San Luis Rey Band and the Pechanga Band. The Tribal Treatment Plan shall be reviewed and agreed to by the County prior to implementation. The Tribal Treatment Plan shall include the following:

- a. Parties entering into the agreement and contact information.

- b. Responsibilities of the Property Owner or their representative, Principal Investigator, archaeological monitors, San Luis Rey or Pechanga Native American monitors, County, and the San Luis Rey Band and Pechanga Band.
- c. Project grading and development scheduling, and terms of compensation for the monitors, including overtime and weekend rates, in addition to mileage reimbursement.
- d. Authority of the Native American Monitors to stop and redirect grading in the immediate area of a find in order to evaluate the find and determine the appropriate next steps, in consultation with the Project archaeologist. Such evaluation shall include culturally appropriate temporary and permanent treatment pursuant to the Tribal Treatment Plan.
- e. Requirements of the Archaeological Monitoring Program including unanticipated discoveries. The requirements shall address grading and grubbing requirements including controlled grading and controlled vegetation removal in areas of cultural sensitivity, analysis of identified cultural materials, and onsite storage of cultural materials.
- f. Treatment of identified Native American cultural materials.
- g. Treatment of Native American human remains and associated grave goods.
- h. Incorporation of portions of CA-SDI-4558 (i.e., those areas located outside the Deer Springs Road right-of-way) into a natural/passive park, as described above in Mitigation Measure M-CR-2a, including the method of vegetation removal (e.g. tree removal). The landscape design shall be developed in consultation with the San Luis Rey Band and Pechanga Band.
- i. Requirements for the Capping Plan (CA-SDI-4558), Dust Control Plan (CA-SDI-9822), Temporary Fencing (CA-SDI-4558, CA-SDI-5951, and CA-SDI-9811), Permanent Fencing (CA-SDI-4558, CA-SDI-5951, CA-SDI-9822), Data Recovery Plan (portions of CA-SDI-4558, CA-SDI-5951, and CA-SDI-9822), Bedrock Milling Relocation, Trail System Design for Oak Park, and Tree Removal at Oak Park.
- j. Interim treatment of cultural soils and resources prior to final onsite reinternment, including appropriate onsite storage and security for such resources. Final reinternment of Native American cultural soils and materials.
- k. Confidentiality of cultural information including location and data.

- I. Negotiation of disagreements should they arise during the implementation of the Tribal Treatment Plan.
- m. Regulations that apply to cultural resources that have been identified or may be identified during project construction.

DOCUMENTATION: A copy of the implemented agreement shall be submitted to the [PDS, PPD] for approval. **TIMING:** Prior to the approval of the first Final Map and prior to the approval of any plan and issuance of any permit. **MONITORING:** The [PDS, PPD] shall review the implemented agreement for compliance this condition.

55. **LNDSCP#1–LANDSCAPE DOCUMENTATION PACKAGE**

INTENT: In order to provide adequate Landscaping that complies with the Newland Sierra Specific Plan, the Fire Protection Plan for Newland Sierra, the Visual Resources Technical Report for Newland Sierra, the Newland Sierra Draft EIR, the County of San Diego's Water Efficient Landscape Design Manual and the County's Water Conservation in Landscaping Ordinance a Landscape Plan shall be prepared. **DESCRIPTION OF REQUIREMENT:** The Landscape Documentation Package shall be prepared by a California licensed Landscape Architect, Architect, or Civil Engineer and include the following information:

- a. Indication of the proposed width of any adjacent public right-of-way, and the locations of any required improvements and any proposed plant materials to be installed or planted therein. The applicant shall obtain an Encroachment Maintenance and Removal Agreement permit from DPW approving the variety, location, and spacing of all trees proposed to be planted within said right(s)-of-way. Trees rated as Potential High Root Damage shall not be placed within the County right-of-way. A copy of this permit and a letter stating that all landscaping within the said right(s)-of-way shall be maintained by the landowner(s) shall be submitted to PDS.
- b. A complete planting plan including the names, sizes, and locations of all plant materials, including trees, shrubs, and groundcover. Wherever appropriate, native or naturalizing plant materials shall be used, which can thrive on natural moisture. These plants shall be irrigated only to establish the plantings.
- c. A complete watering system including the location, size, and type of all backflow prevention devices, pressure, and non-pressure water lines, valves, and sprinkler heads in those areas requiring a permanent, and/or temporary irrigation system.
- d. The watering system configuration shall indicate how water flow, including irrigation runoff, low head drainage, overspray or other similar conditions will not impact adjacent property, non-irrigated areas, structures, walkways,

roadways or other paved areas, including trails and pathways by causing water to flow across, or onto these areas.

- e. Spot elevations of the hardscape, building and proposed fine grading of the installed landscape.
- f. The location and detail of all walls, fences, and walkways shall be shown on the plans, including height from grade and type of material. All permanent noise barriers shall be shown on the landscape plans. Minimum height is 6'. Construction details shall be provided for all fencing and walls, including heat reflecting walls and post and rail fencing. A minimum of 5' deep vegetated screening shall be provided along the street facing side of all walls and fences, as per Section 3.4.8 of the approved Specific Plan. Coordinate with Mitigation Measures M-HZ-1, 2, and 3, and M-N-1. A lighting plan and light standard details shall be included in the plans for all decorative landscape lighting (if applicable) and shall be in compliance with the County's Light Pollution Code.
- g. No landscaping material or irrigation or other infrastructure shall be located within a proposed trail easement or designated pathway.
- h. Additionally, the following items shall be addressed as part of the Landscape Plan: compliance with Section's 3.4.3 (Sustainable Design), 3.4.6 (Grading and Drainage), 3.6.8 (Garages), 3.4.8 (Community Walls and Fences), 3.5.2 (Parking), 3.5.5 (Service, Utilities, Trash, and Storage), 3.5.7 (Plaza Areas and Open Space), 3.6.3 (Service and Utility Areas, 3.6.12 (Community Facilities), and all of Section 3.7 (Landscape Standards and Design Guidelines) within the approved Newland Sierra Specific Plan.
- i. Landscape plans shall be in compliance with Section's 4.6 (Defensible Space/Fuel Modification Zones), 6.0 (Mitigation Measures and Design Considerations for Non-Conforming Fuel Modification), and 6.1 (Heat Deflecting Walls) of the approved Fire Protection Plan for Newland Sierra.
- j. Graphically show the locations and provide written dimensions of all fuel modification zones.
- k. Landscape plans shall be in compliance with Mitigation Measures M-AQ-17 (Air Quality), PDF-2, PDF-24, 25, and 28 through PDF-30 (Project Design Features), M-BIO-4, and M-BIO-11 (Biological Resources), M-CR-9 (Cultural Resources), M-HZ-1, 2, and 3 (Hazards and Hazardous Materials), M-N-1 (Noise), and M-UT-2 (Utilities and Service Systems) of Chapter 7 of the approved Newland Sierra FEIR.
- l. The preservation and re-use of natural Site boulders shall be incorporated throughout the overall landscape theme of the Project, coupled with the use

of oak trees and native/low-water use plants to establish effective screening of structures, area roadways, bare soils, and other visual impacts identified in the approved Visual Resources Technical Report for Newland Sierra. Planting shall be consistent with the Projects' approved Fire Protection Plan. Single boulders and groupings of boulders shall be shown on the landscape plans along with dimensions, details, and specifications of techniques used for placement and minimization of scratching.

- m. Streetscape landscaping shall be compliant with Section 3.2.2 (On-Site Circulation Plan) of the approved Newland Sierra Specific Plan. A 1.5' wide maintenance walkway shall be installed adjacent to the curbs within parkway medians. Upon submittal of landscape plans including streetscape planting and irrigation within the public right-of-ways to be maintained by the County, a third set of plans shall be submitted and routed to the County's DPW Field Operations Road maintenance staff for review and comment prior to final approval by Planning & Development Services.
- n. Landscape plans shall be provided for Grading Permits, identified in Section 4.1.2.1 of the approved Newland Sierra Specific Plan, and to be compliant with Section 86.703 (a) (5) of the County's Water Conservation in Landscaping Ordinance.
- o. Landscape plans shall be provided for all subsequent Site Plans, as identified in Section 4.1.2.1 of the approved Newland Sierra Specific Plan.
- p. Provide a Landscape Maintenance Exhibit on the title sheets of each separate landscape plan submittal that addresses Section 4.4.1 (Required Facilities and Maintenance) of the approved Newland Sierra Specific Plan and provide appropriate notes for on-going maintenance requirements.

DOCUMENTATION: The applicant shall prepare the Landscape Plans using the Landscape Documentation Package Checklist (PDS Form #404), submit them to the [PDS, PCC], and pay all applicable review fees. **TIMING:** Prior to the approval of the first Final Map and prior to the approval of any plan and issuance of any permit, the Landscape Plans shall be prepared and approved. **MONITORING:** The [PDS, LA] and [DPR, TC, PP] shall review the Landscape Plans for compliance with this condition.

56. **NOISE#1–NOISE RESTRICTION EASEMENT**

INTENT: In order to reduce the exposure to noise levels in excess of standards established by the [County of San Diego General Plan Noise Element](#), and the [County of San Diego CEQA Noise Guidelines for Determining Significance](#), a noise restriction easement shall be placed on the parcel to reduce the noise exposure of land uses for sensitive receptors below levels of significance. **DESCRIPTION OF REQUIREMENT:** A Noise Restriction Easement as indicated

on the approved Tentative Map shall be granted on the map. The said easement shall include the entire property and shall comply with the following:

- a. Prior to the approval of any Building Plan and issuance of any Building Permit, a County Approved Acoustical Consultant, shall perform an acoustical analysis, which demonstrates that the proposed **residential dwelling** unit(s) will not be exposed to present and anticipated future noise levels exceeding the allowable sound level limit of the General Plan community noise equivalent levels (CNEL) of 45 dBA for interior noise and a (CNEL) of 60 dBA for single-family residences and 65 dBA for multi-family residences for exterior noise levels. The applicable residences for the interior analysis, as shown in Table 2.10-9 of the EIR dated June 2017 and/or Table 11 of the Noise Technical Report and/or Figure 5 of the Noise Technical Report. The applicable residences for the exterior analysis, as shown in Table 2.10-20 and/or Figures 2.10-10a through 2.10-10h of the EIR dated June 2017. Exterior noise sensitive land uses include all Group or Private Usable Open Space as defined by [the General Plan Noise Element](#).

Future traffic noise level estimates must utilize a Level of Service "C" traffic flow for the respective County roadway classifications for Interstate 15, Mesa Rock Road, and Sarver Lane.

- b. The acoustical analysis shall make recommendations that shall be implemented in the project design and building plans, so the proposed structures and project site can comply with the noise standards referenced above.
- c. The unauthorized removal of documented noise control measures at a future date after the initial condition is satisfied shall make the affected noise sensitive land use still subject to this building restriction for protection of these uses before any future building permits can be approved and issued.
- d. Prior to the approval of any Building Plan and issuance of any Building Permit, the applicant shall prepare the acoustic analysis and incorporate the proposed project design recommendations and mitigation measures, into the Building Plans. The applicant shall submit the acoustical analysis along with the building plans to the [PDS, BD] for review and approval before the building permits can be issued. To the satisfaction of the [PDS, PCC], the applicant shall revise the building plans or site design to incorporate any additional proposed mitigation measures.
- e. If new information is provided to prove and certify that the sound wall mitigation used is different than what was proposed in the noise report, then a new Noise Element noise analysis may be reviewed to the satisfaction of the [PDS, PCC]. The supplemental noise analysis shall be prepared by a

County Approved Noise Consultant and the report shall comply with the Noise Report Format and Content Requirements. Any proposed alternative methods, or the reduction and/or addition of the noise barrier(s) may be approved if Noise Element conformance can be demonstrated while no new impacts are a result of the updated noise barrier design.

DOCUMENTATION: The applicant shall show the easement on the Final map with the appropriate granting language on the title sheet concurrent with Final Map Review. **TIMING:** Prior to the approval of the first Final Map, the requirements of this condition shall be completed. **MONITORING:** The [DPW, LDR] shall verify that the easement is indicated on the map, and that the map details the language above.

57. PARKS#1- PARK LAND DEDICATION (PLDO) PUBLIC PARK LAND DEDICATION: [PDS, PPC] [DPR, PP] [DGS, RP] [PDS, FEE] [DPR, FEE].

INTENT: In accordance with Title 8, Division 10 of the Code of Regulatory Ordinances and in order to comply with the Park Lands Dedication Ordinance (PLDO) Section 810.105 and in order to receive PLDO credit, the public parks (Parks P1, P2, P3, P4, P5, P6, P8, P9, P10, P11a, P11c, P13a, P15a through P15e) on Tentative Map PDS2015-TM-5597 shall be fully developed in accordance with PLDO criteria and an approved Final Park Site Plan. **DESCRIPTION OF REQUIREMENT:** Any and all parklands receiving PLDO credit shall comply with the following requirements:

- a. Final Park Site Plans (that includes grading, irrigation, landscaping, and improvement plans and construction documents) that conform to the park concept plans for the Newland Sierra Specific Plan (PDS2015-SP-15-001), and the park design and construction standards specified by DPR shall be approved by the Director of Park and Recreation.
- b. The public parks (Parks P1, P2, P3, P4, P5, P6, P8, P9, P10, P11a, P11c, P13a, and P15a through P15e) on Tentative Map (PDS2015-TM-5597) shall consist of active recreational uses as defined in the PLDO and approved by the Director of Parks and Recreation, include facilities and amenities similar to those identified on the approved park concept plan for the Newland Sierra Specific Plan (PDS2015-SP-15-001), and conform to the PLDO.
- c. Park site improvements identified in the approved Final Park Site Plan shall be constructed, and fee title to the public parks (Parks P1, P2, P3, P4, P5, P6, P8, P9, P10, P11a, P11c, P13a, and P15a through P15e) on Tentative Map (PDS2015-TM-5597) conveyed to the County by grant deed free of encumbrances, as evidenced by an Environmental Site Assessment conducted after park construction and a California Land Title Association Policy provided by the applicant and approved by the Director of DPR.

OR

The applicant may satisfy the preceding requirement by entering into a secured agreement with the County, prior to recordation of the first Final Map. The secured agreement shall require construction of the public parks (Parks P1, P2, P3, P4, P5, P6, P8, P9, P10, P11a, P11c, P13a, and P15a through P15e) on Tentative Map (PDS2015-TM-5597) pursuant to Park Phasing Plan for Newland Sierra Specific Plan (PDS2015-SP-15-001) that is approved by the Director of Parks and Recreation. The secured agreement shall comply with the requirements for improvement security as specified in the Subdivision Map Act at Government Code section 66499 et seq. and the County Subdivision Ordinance at County Code section 81.407 et seq. The agreement shall specify that the construction timeline for each of the public parks (Parks P1, P2, P3, P4, P5, P6, P8, P9, P10, P11a, P11c, P13a, and P15a through P15e) on Tentative Map (PDS2015-TM-5597) shall not exceed one and a half years. The secured agreement shall require the applicant to convey fee title to the public parks (Parks P1, P2, P3, P4, P5, P6, P8, P9, P10, P11a, P11c, P13a, and P15a through P15e) on Tentative Map (PDS2015-TM-5597) in the manner specified above. This agreement shall be accompanied by security sufficient to cover the cost of all improvements per the approved Final Park Site Plan and in the form and amount specified by the DPR Director to ensure the applicant's performance of the terms of the agreement.

- d. If the public parks (Parks P1, P2, P3, P4, P5, P6, P8, P9, P10, P11a, P11c, P13a, and P15a through P15e) have less net acres of active recreational uses (as defined by the PLDO) in the approved Final Park Site Plans than the net acreage shown in Table 12 of the Newland Sierra Specific Plan (PDS2015-SP-15-001), then a combination of public and private parkland shall be dedicated or fees in-lieu of park land dedication shall be required pursuant to Section 810.107(c) of the PLDO as approved by the Director of Parks and Recreation.

DOCUMENTATION: The applicant shall complete and provide the following:

- f. Process and obtain approval from the Director of DPR for a Final Park Site Plan.
- g. Process and obtain approval from the Director of DPR for the grading, irrigation, landscaping, and improvement plans and construction documents in compliance with the PLDO and the requirements mentioned above.
- h. Construct park improvements identified in the Final Park Site Plan and the grading, irrigation, landscaping, and improvement plans and construction documents.

- i. Submit Environmental Site Assessment and California Land Title Association Policy for approval by Director of DPR prior to conveyance of public park fee title.
- j. Convey fee title by Grant Deed of public park site that has been constructed in accordance with the Final Park Site Plan and is free of encumbrances.

OR

- k. Enter into a Secured Agreement with the County that ensures construction of park site, conveyance of public park fee title, and payment of in-lieu fees, as applicable, in the manner specified above.
- l. Pay in-lieu park fees, as applicable.

TIMING: Prior to the recordation of the first Final Map. **MONITORING:** The [DPR, PP] and [PDS, PCC, Landscape Architect] shall review the Park Site Plan, grading, irrigation, landscaping, and improvement plans, and construction documents. [DPR, PP] shall review the Secured Agreement. [DGS, RP] and [DPR, PP] shall review the Environmental Site Assessment and California Land Title Association Policy. The [DPR, PP] shall determine if dedication of additional parkland or payment of in-lieu park fees is required. The [PDS, BD] shall monitor building permit issuance and, if required, collect in-lieu park fees.

- 58. PARKS#2 – PARK LAND DEDICATION (PLDO) ESTABLISHMENT OF FUNDING MECHANISM FOR PUBLIC PARKS AND TRAILS: [PDS, PPC] [DPR, PP]. INTENT:** A funding mechanism shall be established to the satisfaction of the DPR in order to fully fund the operation and maintenance of the public park. **DESCRIPTION OF REQUIREMENT:** Establish a Community Facilities District (CFD) or other funding mechanism approved by the DPR to fully fund the operation and maintenance of the public park and trails. The CFD or other funding mechanism shall have the capacity to generate enough revenue to fund the annual operation and maintenance of the public park and trails as determined by the DPR. In addition to the tax on developed parcels, this CFD or other funding mechanism shall include an “undeveloped land tax” which will allow revenue to be generated on all undeveloped parcels/lots within the CFD or other funding mechanism. **DOCUMENTATION:** The applicant shall create and fund formation of the CFD or other funding mechanism to the satisfaction of DPR. **TIMING:** Prior to recordation of the first Final Map. **MONITORING:** The [DPR, PP] and [PDS, PCC] shall review the formation documentation and funding of the CFD or other funding mechanism.
- 59. PARKS#3 – PARK LAND DEDICATION (PLDO) PRIVATE PARK LAND DEDICATION: [PDS, PPC] [DPR, PP] [DGS, RP] [PDS, FEE] [DPR, FEE]. INTENT:** In accordance with Title 8, Division 10 of the Code of Regulatory Ordinances and in order to comply with the Park Lands Dedication Ordinance (PLDO) Sections 810.105 and 810.108 and in order to receive PLDO credit, private

parcs (Parks: P7, P11b, P12, P13b, and P14) on Tentative Map (PDS2015-TM-5597) shall be restricted to park and recreational purposes only with an easement or other mechanism approved by the DPR. **DESCRIPTION OF REQUIREMENT:** The applicant shall dedicate an open space easement or other instrument approved by DPR, DGS and County Counsel on Tentative Map (PDS2015-TM-5597) on lots with parks: P7, P11b, P12, P13b, and P14 that a) restricts the use of the lots to park and recreational purposes only, b) specifies that the private ownership and maintenance of the private parks private parks (Parks: P7, P11b, P12, P13b, and P14) on Tentative Map (PDS2015-TM-5597) will be adequately provided for by recorded written agreement, covenants, or restrictions, and c) Includes a defense and indemnity provision in favor of the County of San Diego. **DOCUMENTATION:** The easement may be recorded by separate document or on the Final Map for the unit in which the private parks are located. The easement shall be submitted to the DPR and DGS for review and approval. **TIMING:** Prior to recordation of the first Final Map. **MONITORING:** The [PDS, PPC][DGS, RP] and [DPR, PP] shall review the documentation for conformance with this condition.

60. **PARKS#4 – PARK LAND DEDICATION (PLDO) ESTABLISHMENT OF FUNDING MECHANISM FOR PRIVATE PARKS AND TRAILS: [PDS, PPC] [DPR, PP]. INTENT:** A funding mechanism shall be established to fully fund the operation and maintenance of all private parks, trails, and the private recreation facility to the satisfaction of the DPR to ensure ongoing compliance with the County of San Diego PLDO. **DESCRIPTION OF REQUIREMENT:** Establish a funding mechanism for the operation and maintenance of all private parks, trails, and the private recreation facility to the satisfaction of the DPR. **DOCUMENTATION:** The applicant shall provide written evidence to the satisfaction of the DPR that adequate operation and maintenance of all private parks, trails, and the private recreation facility, will be provided by a funding mechanism, such as a Homeowners Association. An example of satisfactory written evidence is documentation of the formation of a Home Owners' Association that has adequate authority, obligations and funding to ensure operation and maintenance of all private parks, trails, and the private recreation facility. **TIMING:** Prior to recordation of the first Final Map. **MONITORING:** The [DPR, PP] and [PDS, PCC] shall review the formation documentation for a Homeowners Association or other funding mechanism.
61. **PARKS #5 – PARK LAND DEDICATION (PLDO) PARK PHASING PLAN: [PDS, PPC] [DPR, PP]. INTENT:** A Park Phasing Plan shall be submitted for review and approval to ensure that the public and private parks are constructed and operating to ensure compliance with Park Lands Dedication Ordinance (PLDO) Section 810.105 and the Newland Sierra Specific Plan (PDS2015-SP15-001). **DESCRIPTION OF REQUIREMENT:** A Park Phasing Plan shall be submitted to the County Departments of Parks and Recreation and Planning and Development Services for review and approval. The Phasing Plan shall include milestones for commencing public and private park improvements, and public parkland

dedication, and payment of fees, if applicable. **DOCUMENTATION:** The applicant shall provide a Park Phasing Plan. **TIMING:** Prior to recordation of the first Final Map. **MONITORING:** The [DPR, PP], [PDS, PCC] shall review the Park Phasing Plan to verify compliance with this condition.

PHASE 1:

62. TIF#1 – TIF PROGRAM:

INTENT: In order to promote orderly development and comply with the County's TIF Program, the TIF Program shall be updated to include potential changes to the Land Use Element and Mobility Element. **DESCRIPTION OF REQUIREMENT:** Provide a fair share contribution towards the cost of updating the County's TIF program. The amount of the fair share contribution will be determined at the time the County begins the effort to update the TIF program. The cost of the TIF update will be shared by all of the approved GPAs that are being incorporated into the TIF Program to the satisfaction of the Director of PDS. **TIMING:** Prior to the recordation of the First Final Map for any unit, provide a fair share contribution towards the cost of updating the County's TIF program. **MONITORING:** The [PDS, LDR] shall review the County's TIF Program and update it to allow the use of a TIF payment to mitigate cumulative traffic impacts. The County's TIF Program update shall be approved by the Board of Supervisors.

63. ROADS#1 - PUBLIC ROAD IMPROVEMENTS:

INTENT: In order to promote orderly development and to comply with the [Subdivision Ordinance Sec. 81.404](#) and the Community Trails Master Plan, the below listed roads shall be improved. **DESCRIPTION OF REQUIREMENT:**

- a. By the 58th EDU of any phase, improve or agree to improve and provide security for **Deer Springs Road**, from Mesa Rock Road to Sarver Lane, to a modified Public Mobility Element Major Road with Intermittent Turn Lanes (4.1A) Standard, to a graded width between eighty-eight feet (88') and one hundred feet (100') and an improved width between sixty-four feet (64') and seventy-six feet (76') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street, with raised median with a width of two feet (2') to fourteen feet (14'), and with face of median one foot (1') to seven feet (7') and face of curb between thirty-two feet (32') to thirty-eight feet (38') from centerline on both sides of the street. Within the fourteen foot (14') wide parkway, provide a ten foot (10') wide stabilized DG pathway. With approval by the Board of Supervisors, the raised median can be modified to a painted median. Retaining walls, if required for the construction of the road, shall be constructed outside the public right of way and be privately maintained by the Homeowners Association or other approved mechanism. Retaining walls, if required for the construction of the road offsite, shall be constructed in the public right of way and be maintained through the formation of a Community Facility District or other approved mechanism that will include

obtaining appropriate right of entry and easements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **H3-16 With Median**

OR

If the Exception Request is granted by the Board of Supervisors, the following conditions shall apply:

By the 58th EDU of any phase, improve or agree to improve and provide security for **Deer Springs Road**, from Mesa Rock Road to Sarver Lane, to Public Mobility Element Community Collector with Continuous Left Turn Lane (2.1B) Standard, to a graded width of seventy-four feet (74') and an improved width of fifty feet (50') with asphalt concrete pavement over approved base, including a twelve foot (12') wide painted median, with Portland cement concrete curb, gutter and sidewalk on both sides of the street, and with face of curb at twenty-five feet (25') from centerline on both sides of the street. Within the fourteen foot (14') wide parkway, provide a ten foot (10') wide stabilized DG pathway. Retaining walls, if required for the construction of the road offsite, shall be constructed in the public right of way and be maintained through the formation of a Community Facility District or other approved mechanism that will include obtaining appropriate right of entry and easements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **H1-2 Option A**

AND

By the 58th EDU of any phase, improve or agree to improve and provide security for **Deer Springs Road**, from end of taper to Mesa Rock Road and from end of taper to Sarver Lane, to Public Mobility Element Major Road with Raised Median (4.1A) Standard, to a graded width of one hundred feet (100') and an improved width of seventy-six feet (76') with asphalt concrete pavement over approved base, including a fourteen foot (14') wide raised median, with Portland cement concrete curb and gutter on both sides of the street, and with face of median seven feet (7') and face of curb at thirty-eight feet (38') from centerline on both sides of the street. Within the fourteen foot (14') wide parkway, provide a ten foot (10') wide stabilized DG pathway. Retaining walls, if required for the construction of the road offsite, shall be constructed in the public right of way and be maintained through the formation of a Community Facility District or other approved mechanism that will include obtaining appropriate right of entry and easements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **H2-2 Option A**

- b. By the 24th EDU of any phase, improve or agree to improve and provide security for **Deer Springs Road**, from Mesa Rock Road to Interstate 15 (I-

15), to Public Mobility Element Major Road with Auxiliary Lanes (4.1A) Standard per the Project Study Report – Project Development Support (PSR-PDS) accepted by Caltrans. All of the above shall be to the satisfaction of Caltrans, the Director of PDS and the Director of Public Works.

- c. By the 40th EDU of any phase, improve or agree to improve and provide security for **Deer Springs Road**, from Sarver Lane to Mulberry Drive, to Public Mobility Element Major Road with Raised Median (4.1A) Standard, to a graded width of one hundred feet (100') and an improved width of seventy-six feet (76') with asphalt concrete pavement over approved base, including a fourteen foot (14') wide raised median, with Portland cement concrete curb and gutter on both sides of the street, and with face of median seven feet (7') and face of curb at thirty-eight feet (38') from centerline on both sides of the street. Within the fourteen foot (14') wide parkway, provide a ten foot (10') wide stabilized DG pathway. Retaining walls, if required for the construction of the road offsite, shall be constructed in the public right of way and be maintained through the formation of a Community Facility District or other approved mechanism that will include obtaining appropriate right of entry and easements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **H2-2**
- d. By the 40th EDU of any phase, improve or agree to improve and provide security for **Deer Springs Road**, from Mulberry Drive to Twin Oaks Valley Road, to a City of San Marcos Public Road Standard, to a graded width of one hundred fourteen feet (114') and an improved width of eighty-four feet (84') with asphalt concrete pavement over approved base, including a twenty foot (20') wide raised median, with Portland cement concrete curb and gutter on both sides of the street, and with face of median ten feet (10') and face of curb at forty-two feet (42') from centerline on both sides of the street. Retaining walls, if required for the construction of the road offsite, shall be constructed in the public right of way and be maintained through the formation of a Community Facility District or other approved mechanism that will include obtaining appropriate right of entry and easements. All of the above shall be to the satisfaction of the City of San Marcos. **SM-2**
- e. By the 41st EDU of any phase, improve or agree to improve and provide security for **Twin Oaks Valley Road**, from Deer Spring Road to Buena Creek Road, to a City of San Marcos 4-Lane Arterial Road Standard. The improvement shall be to the satisfaction of the City of San Marcos and the Director of PDS.
- f. By the 80th EDU of any phase, provide a fair share payment equivalent to 7.43% of the cost of the design and improvements necessary to widen the segment of **Twin Oaks Valley Road**, from Buena Creek Road to Cassou Road, to a City of San Marcos Four-Lane Arterial Road Standard. The fair

share amount shall be to the satisfaction of the City of San Marcos and the Director of PDS.

- g. By the 132nd EDU of any phase, provide a fair share payment equivalent to 3.75% of the cost of the design and improvements necessary to provide a third southbound lane on **Twin Oaks Valley Road**, from Deer Spring Road and Buena Creek Road. The fair share amount shall be to the satisfaction of the City of San Marcos and the Director of PDS.
- h. By the 640th EDU of any phase, improve or agree to improve and provide security for the intersection of **Deer Springs Road and Interstate 15 (I-15) Northbound Ramps** per the Project Study Report – Project Development Support (PSR-PDS) accepted by Caltrans. All of the above shall be to the satisfaction of the Caltrans, Director of PDS and the Director of Public Works.
- i. By the 370th EDU of any phase, improve or agree to improve and provide security for the intersection of **Deer Springs Road and Interstate 15 (I-15) Southbound Ramps** per the Project Study Report – Project Development Support (PSR-PDS) accepted by Caltrans. All of the above shall be to the satisfaction of the Caltrans, Director of PDS and the Director of Public Works.
- j. By the 40th EDU of any phase, improve or agree to improve and provide security for the intersection of **Deer Springs Road and Sycamore Road** to construct a traffic signal. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works.
- k. By the 165th EDU of any phase, improve or agree to improve and provide security for the intersection of **Buena Creek Road and Monte Vista Drive** to construct a traffic signal and widen intersection to accommodate the following configuration:
 - a. **SB**: One shared left/right lane
 - b. **WB**: One through lane: One right-turn lane with right-turn-overlap phasing
 - c. **EB**: One left-turn lane; One through lane

OR

- d. Construct a roundabout at the intersection.

Include tapers and transitions as necessary. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works.

- I. By the 273th EDU of any phase, improve or agree to improve and provide security for the intersection of **Buena Creek Road and South Santa Fe Avenue** to widen intersection to accommodate the following configuration:
- a. **SB Buena Creek Road:** One left-turn lane; One right-turn lane
- Include tapers and transitions as necessary. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works.
- m. By the 350th EDU of any phase, improve or agree to improve and provide security for the intersection of **Deer Springs Road and Sarver Lane** to construct a traffic signal and widen intersection to accommodate the following configuration:
- a. **SB:** One left-turn lane; One right-turn lane
- b. **WB:** One shared through/right lane; One through lane
- c. **EB:** Two through lanes; One left-turn lane
- Include tapers and transitions as necessary. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works.
- n. By the 900th EDU of any phase, improve or agree to improve and provide security for the intersection of **Deer Springs Road and Mesa Rock Road** to widen intersection to accommodate the following configuration:
- a. **SB:** Two left-turn lanes; One shared through/right lane
- b. **WB:** One right-turn lane; One shared through/right lane; One through lane; One left-turn lane
- c. **NB:** One through lane; One right-turn lane; One left-turn lane
- d. **EB:** Two left-turn lanes; One through lane; One through/right lane
- Include tapers and transitions as necessary. All of the above shall be to the satisfaction of the Caltrans, Director of PDS and the Director of Public Works.
- o. By the 80th EDU of any phase, improve the intersection of **Twin Oaks Valley Road and Buena Creek Road** to accommodate the following intersection configuration:
- a. **SB:** One left-turn lane; Two through lanes; One right-turn lane
- b. **WB:** One shared left/through/right lane
- c. **NB:** One left-turn lane; One through lane; One shared through/right lane

- d. **EB:** Two left-turn lanes; One shared through/right lane

Include tapers and transitions as necessary. All of the above shall be to the satisfaction of the City of San Marcos and the Director of PDS.

- p. By the 280th EDU of any phase, improve the intersection of **Twin Oaks Valley Road and Deer Springs Road** to accommodate the following intersection configuration:

- a. **SB:** Two through lanes; One right-turn lane
b. **NB:** One left-turn lane; Two through lanes
c. **EB:** One left-turn lane; One right-turn lane

Include tapers and transitions as necessary. All of the above shall be to the satisfaction of the City of San Marcos and the Director of PDS.

- q. By the 910th EDU of any phase, provide a fair share payment to the satisfaction of the City of San Marcos for the cost of the design and improvements necessary to improve the intersection of **Twin Oaks Valley Road and San Marcos Boulevard** to accommodate the following configuration:

- a. **SB:** One right-turn lane
b. **WB:** Additional left-turn lane
c. Appropriate signal modifications

Include tapers and transitions as necessary. All of the above shall be to the satisfaction of the City of San Marcos and the Director of PDS.

- r. Prior to the 1st Certificate of Occupancy for any phase, provide a fair share payment to the satisfaction of the City of San Marcos for the cost of the design and improvements necessary to improve the intersection of **Twin Oaks Valley Road and Richmar Avenue** to accommodate the following configuration:

- a. **SB:** One right-turn lane on Twin Oaks Valley Road

Include tapers and transitions as necessary. All of the above shall be to the satisfaction of the City of San Marcos and the Director of PDS.

WITH THE FIRST UNIT OF PHASE 1:

- s. Improve or agree to improve and provide security for **Mesa Rock Road**, from Deer Springs Road to Mesa Rock Way, to a Modified Boulevard with

Raised Median (4.2A) Standard, to a graded width of one hundred and two feet (102') and an improved width of eighty-three feet (83') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street, sidewalk on one side of the street, raised median, and with face of curb at forty-one and one-half feet (41.5') from centerline of improved width. Within the fourteen foot (14') wide parkway, provide a ten foot (10') wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works.

- t. Improve or agree to improve and provide security for **Mesa Rock Road**, from Mesa Rock Way to Street "TC-2", to a Modified Boulevard with Raised Median (4.2A) Standard, to a transitional graded width of one hundred and two feet (102') to eighty-nine feet (89') and an improved width of sixty-six feet (66') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street, raised median, and with face of curb at thirty-three feet (33') from centerline of improved width. Within the transitional parkway, provide a ten foot (10') wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works.
- u. Improve or agree to improve and provide security for **Mesa Rock Road**, from the Street "TC-2" to the northern intersection with Street "T-1", to a Modified Boulevard with Intermittent Turn Lane (4.2B) Standard, to a graded width of eighty-nine feet (89') and an improved width of fifty-eight feet (58') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street, six foot (6') wide raised median, with face of curb at twenty-nine feet (29') from centerline of improved width. Within the twenty-seven foot (27') wide parkway, provide a ten foot (10') wide stabilized DG pathway and a bioswale for water quality requirements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works.
- v. **Where turn lanes are required**, improve or agree to improve and provide security for **Mesa Rock Road**, from the Street "TC-2" to the northern intersection with Street "T-1", to a Modified Boulevard with Intermittent Turn Lane (4.2B) Standard, to a graded width of eighty-nine feet (89') and an improved width of sixty-six feet (66') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street, raised median, with face of curb at thirty-three feet (33') from centerline of improved width. Within the nineteen foot (19') wide parkway, provide a ten foot (10') wide stabilized DG pathway and a bioswale for water quality requirements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works.

- w. Improve or agree to improve and provide security for **Mesa Rock Road**, from the northern intersection with Street “T-1” to trailhead located approximately 400’ easterly of Street “H-2”, to a Modified Light Collector with Reduced Shoulder (2.2F) Standard, to a graded width of sixty-six feet (66’) and an improved width of thirty-two feet (32’) with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on one side of the street with face of curb at sixteen feet (16’) from centerline of improved width. Within the twenty-nine foot (29’) wide parkway, provide a ten foot (10’) wide stabilized DG pathway. Transition to Street “T-1” intersection to a graded width of eighty feet (80’) and the necessary improved width to accommodate the transition from three lanes to two lanes with transitional raised median. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works.
- x. Improve or agree to improve and provide security for **Mesa Rock Road**, from trailhead located approximately 400’ easterly of Street “H-2” to Street “H-2”, to a Modified Light Collector with Reduced Shoulder (2.2F) Standard, to a graded width of seventy-one feet (71’) and an improved width of thirty-two feet (32’) with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter and a ten foot (10’) wide stabilized DG pathway on one side of the street with face of curb at sixteen feet (16’) from centerline of improved width. Within the twenty-nine foot (29’) wide parkway, provide a ten foot (10’) wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works.
- y. Improve or agree to improve and provide security for **Mesa Rock Road**, from Street “H-2” to Sarver Lane, to a Modified Light Collector with Reduced Shoulder (2.2F) Standard, to a graded width of sixty-six feet (66’) and an improved width of thirty-two feet (32’) with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on one side of the street with face of curb at sixteen feet (16’) from centerline of improved width. Within the twenty-nine foot (29’) wide parkway, provide a ten foot (10’) wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works.
- z. Improve or agree to improve and provide security for **on-site** section of **Sarver Lane**, from Mesa Rock Road to twenty-five feet (25’) south of northwestern corner of Lot 1100, to a Modified Light Collector with Reduced Shoulder (2.2F) Standard, to a graded width of sixty-six feet (66’) and an improved width of thirty-two feet (32’) with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on one side of the street with face of curb at sixteen feet (16’) from centerline of improved width. Within the twenty-nine foot (29’) wide parkway, provide a ten foot (10’) wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works.

- aa. Improve or agree to improve and provide security for **on-site** section of **Sarver Lane**, from twenty-five feet (25') south of northwestern corner of Lot 1100 to Street "V-1", to a Modified Light Collector with Reduced Shoulder (2.2F) Standard, to a graded width of seventy-six feet (76') and an improved width of thirty-two feet (32') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on one side of the street with face of curb at sixteen feet (16') from centerline of improved width. Within the thirty-nine foot (39') wide parkway, provide a ten foot (10') wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works.
- bb. Improve or agree to improve and provide security for **on-site** section of **Sarver Lane**, from Street "V-1" to southern project boundary, to a Modified Light Collector with Reduced Shoulder (2.2F) Standard, to a graded width of sixty-six feet (66') and an improved width of thirty-two feet (32') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on one side of the street with face of curb at sixteen feet (16') from centerline of improved width. Within the twenty-nine foot (29') wide parkway, provide a ten foot (10') wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works.
- cc. Improve or agree to improve and provide security for **off-site** section of **Sarver Lane**, from southern project boundary to proposed private access easement to APN 182-020-36-00, to a Modified Light Collector with Reduced Shoulder (2.2F) Standard, to a graded width of sixty-six feet (66') and an improved width of thirty-two feet (32') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on one side of the street with face of curb at sixteen feet (16') from centerline of improved width. Within the twenty-nine foot (29') wide parkway, provide a ten foot (10') wide stabilized DG pathway. The parkway width may be decreased as necessary to accommodate a northbound left-turn lane to APN 178-222-14. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works.
- dd. Improve or agree to improve and provide security for **off-site** section of **Sarver Lane**, from proposed private access easement to APN 182-020-36-00 to Deer Springs Road, to a Modified Light Collector with No Median (2.2E) Standard, to a graded width of sixty feet (60') and an improved width of thirty-eight feet (38') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street with face of curb at nineteen feet (19') from centerline of improved width. Within the seventeen foot (17') wide parkway, provide a ten foot (10') wide stabilized DG pathway. Transition to Deer Springs Road intersection to a graded width of seventy-two feet (72') and the necessary improved

width to accommodate a right turn lane. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works.

UNIT 1:

- ee. Improve or agree to improve and provide security for **Mesa Rock Way**, from Mesa Rock Road to the southeasterly corner of Lot 3, to a modified Residential Collector Standard, to a graded width of fifty-two feet (52') and an improved width of thirty-two feet (32') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and non-contiguous sidewalk on both sides of the street with face of curb at sixteen feet (16') from centerline of improved width. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **C3-2**
- ff. Improve or agree to improve and provide security for **Mesa Rock Way**, from southeasterly corner of Lot 3 to Street "TC-2", to a Residential Collector Standard, to a graded width of sixty feet (60') and an improved width of forty feet (40') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and non-contiguous sidewalk on both sides of the street with face of curb at twenty feet (20') from centerline. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **C1-2**
- gg. With Phase 1, improve or agree to improve and provide security for **Street "TC-1"**, to a Residential Collector Standard, to a graded width of sixty feet (60') and an improved width of forty feet (40') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and non-contiguous sidewalk on both sides of the street with face of curb at twenty feet (20') from centerline. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **C1-2**
- hh. With Phase 1, improve or agree to improve and provide security for **Street "TC-2"**, to a Residential Road Standard, to a graded width of fifty-six feet (56') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and non-contiguous sidewalk on both sides of the street with face of curb at eighteen feet (18') from centerline. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **D1-2**
- ii. Improve or agree to improve and provide security for the intersection of **Mesa Rock Road and Mesa Rock Way** to the satisfaction of the Director of PDS and the Director of Public Works.
- jj. Improve or agree to improve and provide security for the intersection of **Mesa Rock Road and Street "TC-1"** to the satisfaction of the Director of PDS and the Director of Public Works.

- kk. Improve or agree to improve and provide security for the intersection of **Mesa Rock Road and Street "TC-2"** to the satisfaction of the Director of PDS and the Director of Public Works.

UNIT 2:

- ll. Improve or agree to improve and provide security for **Street "H-2" and Street "H-13"**, to a Modified Residential Collector Standard, to a graded width of sixty-nine feet (69') and an improved width of forty feet (40') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and non-contiguous sidewalk on one side of the street, with face of curb at twenty feet (20') from centerline of improved width. Within the nineteen foot (19') wide parkway, provide a six foot (6') wide stabilized DG pathway and a wide bioswale for water quality requirements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **C2-2**
- mm. Improve or agree to improve and provide security for the intersection of **Mesa Rock Road and Street "H-13"** to the satisfaction of the Director of PDS and the Director of Public Works.
- nn. Improve or agree to improve and provide security for the intersection of **Mesa Rock Road and Street "H-2"** to the satisfaction of the Director of PDS and the Director of Public Works.
- oo. Improve or agree to improve and provide security for **Street "H-3"**, from Street "H-1" westerly to Street "H-10", to a Modified Residential Road Standard, to a graded width of sixty-five feet (65') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and non-contiguous sidewalk on one side of the street, with face of curb at eighteen feet (18') from centerline of improved width. Within the nineteen foot (19') wide parkway, provide a six foot (6') wide stabilized DG pathway and a bioswale for water quality requirements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **D2-2**

UNIT 3:

- pp. Improve or agree to improve and provide security for **Street "H-2" and Street "H-13"**, to a Modified Residential Collector Standard, to a graded width of sixty-nine feet (69') and an improved width of forty feet (40') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and non-contiguous

sidewalk on one side of the street, with face of curb at twenty feet (20') from centerline of improved width. Within the nineteen foot (19') wide parkway, provide a six foot (6') wide stabilized DG pathway and a wide bioswale for water quality requirements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **C2-2**

- qq. Improve or agree to improve and provide security for the intersection of **Mesa Rock Road and Street "H-13"** to the satisfaction of the Director of PDS and the Director of Public Works.
- rr. Improve or agree to improve and provide security for the intersection of **Mesa Rock Road and Street "H-2"** to the satisfaction of the Director of PDS and the Director of Public Works.
- ss. Improve or agree to improve and provide security for **Street "H-3"**, from Street "H-13" easterly to knuckle, northerly to knuckle and westerly to knuckle connection to Street "H-1" and from Street "H-13" westerly to Street "H-5", to a Modified Residential Road Standard, to a graded width of sixty-five feet (65') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and non-contiguous sidewalk on one side of the street, with face of curb at eighteen feet (18') from centerline of improved width. Within the nineteen foot (19') wide parkway, provide a six foot (6') wide stabilized DG pathway and a bioswale for water quality requirements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **D2-2**
- tt. Improve or agree to improve and provide security for **Street "H-3"**, from Street "H-10" westerly to knuckle and easterly to knuckle connection to Street "H-5", to a Modified Residential Road Standard, to a graded width of sixty-five feet (65') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and non-contiguous sidewalk on one side of the street, with face of curb at eighteen feet (18') from centerline of improved width. Within the nineteen foot (19') wide parkway, provide a six foot (6') wide stabilized DG pathway and a bioswale for water quality requirements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **D2-2**
- uu. Improve or agree to improve and provide security for **Street "H-1", Street "H-4", Street "H-5", Street "H-6", Street "H-7", Street "H-8", Street "H-9", Street "H-10", Street "H-11", and Street "H-12"**, to a Residential Road Standard, to a graded width of fifty-six feet (56') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and non-contiguous sidewalk on both sides of the street with face of curb at eighteen feet (18') from

centerline. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **D1-2**

UNIT 4:

- vv. Improve or agree to improve and provide security for **Mesa Rock Road**, from Sarver Lane to Street "M-2", to a Modified Light Collector with Reduced Shoulder (2.2F) Standard, to a graded width of sixty-six feet (66') and an improved width of thirty-two feet (32') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on one side of the street with face of curb at sixteen feet (16') from centerline of improved width. Within the twenty-nine foot (29') wide parkway, provide a ten foot (10') wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works.
- ww. Improve or agree to improve and provide security for the intersection of **Mesa Rock Road and Street "M-1"** to the satisfaction of the Director of PDS and the Director of Public Works.
- xx. Improve or agree to improve and provide security for the intersection of **Mesa Rock Road and Street "M-2"** to the satisfaction of the Director of PDS and the Director of Public Works.
- yy. Improve or agree to improve and provide security for **Street "M-1"**, to a Modified Residential Road Standard, to a graded width of sixty-five feet (65') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and non-contiguous sidewalk on one side of the street, with face of curb at eighteen feet (18') from centerline of improved width. Within the nineteen foot (19') wide parkway, provide a six foot (6') wide stabilized DG pathway and a bioswale for water quality requirements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **D2-2**
- zz. Improve or agree to improve and provide security for **Street "M-2"**, from Mesa Rock Road to Street "M-2" knuckle, to a Modified Residential Road Standard, to a graded width of sixty-five feet (65') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and non-contiguous sidewalk on one side of the street, with face of curb at eighteen feet (18') from centerline of improved width. Within the nineteen foot (19') wide parkway, provide a six foot (6') wide stabilized DG pathway and a bioswale for water quality requirements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **D2-2**

- aaa. Improve or agree to improve and provide security for **Street "M-3"**, from Street "M-2" knuckle easterly to knuckle then southerly to connection to Street "M-12" and from Street "M-1" westerly to Street "M-2", to a Modified Residential Road Standard, to a graded width of sixty-five feet (65') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and non-contiguous sidewalk on one side of the street, with face of curb at eighteen feet (18') from centerline of improved width. Within the nineteen foot (19') wide parkway, provide a six foot (6') wide stabilized DG pathway and a bioswale for water quality requirements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **D2-2**
- bbb. Improve or agree to improve and provide security for **Street "M-3"**, to a Modified Residential Collector Standard, from Street "M-1" to Street "M-12", to a graded width of sixty-nine feet (69') and an improved width of forty feet (40') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and non-contiguous sidewalk on one side of the street, with face of curb at twenty feet (20') from centerline of improved width. Within the nineteen foot (19') wide parkway, provide a six foot (6') wide stabilized DG pathway and a bioswale for water quality requirements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **C2-2**
- ccc. Improve or agree to improve and provide security for **Street "M-4", Street "M-7", Street "M-8", Street "M-10", Street "M-11", and Street "M-12"**, to a Residential Road Standard, to a graded width of fifty-six feet (56') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and non-contiguous sidewalk on both sides of the street with face of curb at eighteen feet (18') from centerline. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **D1-2**
- ddd. With Phase 1, improve or agree to improve and provide security for **Street "M-5", Street "M-6", and Street "M-9"**, to a Residential Loop Standard, to a graded width of fifty-two feet (52') and an improved width of thirty-two feet (32') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and non-contiguous sidewalk on both sides of the street with face of curb at sixteen feet (16') from centerline. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **D4-2**
- eee. **Street "M-10" and Street "M-11"** shall terminate with a cul-de-sac graded to a radius of forty-eight feet (48') and surfaced to a radius of thirty-eight feet (38') with asphalt concrete pavement over approved base with Portland

cement concrete, six inch (6") curb, gutter and sidewalk and with face of curb at thirty-eight feet (38') from the radius point and shall be to the satisfaction of the Director of PDS and the Director of Public Works.

UNIT 5:

- fff. Improve or agree to improve and provide security for **Mesa Rock Road**, from Sarver Lane to Street "K-1" (West), to a Modified Light Collector with Reduced Shoulder (2.2F) Standard, to a graded width of sixty-six feet (66') and an improved width of thirty-two feet (32') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on one side of the street with face of curb at sixteen feet (16') from centerline of improved width. Within the twenty-nine foot (29') wide parkway, provide a ten foot (10') wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works.
- ggg. Improve or agree to improve and provide security for the intersection of **Mesa Rock Road and Street "K-1" (East)** to the satisfaction of the Director of PDS and the Director of Public Works.
- hhh. Improve or agree to improve and provide security for the intersection of **Mesa Rock Road and Street "K-1" (West)** to the satisfaction of the Director of PDS and the Director of Public Works.
- iii. Improve or agree to improve and provide security for the intersection of **Sarver Lane and Street "K-5"** to the satisfaction of the Director of PDS and the Director of Public Works.
- jjj. Improve or agree to improve and provide security for **Street "K-1"**, to a Modified Residential Collector Standard, to a graded width of seventy-three feet (73') and an improved width of forty feet (40') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and non-contiguous sidewalk on one side of the street, with face of curb at twenty feet (20') from centerline of improved width. Within the twenty-three foot (23') wide parkway, provide an **eight foot (8')** wide stabilized DG pathway and a **twelve foot (12')** wide bioswale for water quality requirements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **C2-2**
- kkk. Improve or agree to improve and provide security for **Street "K-2", Street "K-4", Street "K-5"**, to a Residential Road Standard, to a graded width of fifty-six feet (56') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and non-contiguous sidewalk on both sides of the street with face of curb at eighteen feet (18') from centerline. All of the above shall be

to the satisfaction of the Director of PDS and the Director of Public Works.

D1-2

- III. Improve or agree to improve and provide security for **Street "K-3"**, to a Modified Residential Road Standard, to a graded width of sixty-one feet (61') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and non-contiguous sidewalk on one side of the street, with face of curb at eighteen feet (18') from centerline of improved width. Within the fifteen foot (15') wide parkway, provide a six foot (6') wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **D3-2**
- mmm. Improve or agree to improve and provide security for **Street "K-11"**, to a Modified Residential Road Standard, to a graded width of sixty-five feet (65') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and non-contiguous sidewalk on one side of the street, with face of curb at eighteen feet (18') from centerline of improved width. Within the nineteen foot (19') wide parkway, provide a six foot (6') wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **D2-2**
- nnn. **Street "K-2"**, shall terminate with a cul-de-sac graded to a radius of forty-eight feet (48') and surfaced to a radius of thirty-eight feet (38') with asphalt concrete pavement over approved base with Portland cement concrete, six inch (6") curb, gutter and sidewalk and with face of curb at thirty-eight feet (38') from the radius point and shall be to the satisfaction of the Director of PDS and the Director of Public Works.

UNIT 6:

- ooo. Improve or agree to improve and provide security for **Mesa Rock Road**, from Sarver Lane to Street "K-1" (West), to a Modified Light Collector with Reduced Shoulder (2.2F) Standard, to a graded width of sixty-six feet (66') and an improved width of thirty-two feet (32') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on one side of the street with face of curb at sixteen feet (16') from centerline of improved width. Within the twenty-nine foot (29') wide parkway, provide a ten foot (10') wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works.
- ppp. Improve or agree to improve and provide security for the intersection of **Mesa Rock Road and Street "K-1" (West)** to the satisfaction of the Director of PDS and the Director of Public Works.

- qqq. Improve or agree to improve and provide security for the intersection of **Sarver Lane and Street "K-5"** to the satisfaction of the Director of PDS and the Director of Public Works.
- rrr. Improve or agree to improve and provide security for **Street "K-1"**, from Street "K-1" (West) to Street K-5 (Lot 995), to a Modified Residential Collector Standard, to a graded width of seventy-three feet (73') and an improved width of forty feet (40') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and non-contiguous sidewalk on one side of the street, with face of curb at twenty feet (20') from centerline of improved width. Within the twenty-three foot (23') wide parkway, provide an **eight foot (8')** wide stabilized DG pathway and a **twelve foot (12')** wide bioswale for water quality requirements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **C2-2**
- sss. Improve or agree to improve and provide security for **Street "K-5"**, from Street K-1 (Lot 995) to Sarver Lane, to a Residential Road Standard, to a graded width of fifty-six feet (56') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and non-contiguous sidewalk on both sides of the street with face of curb at eighteen feet (18') from centerline. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **D1-2**

UNIT 7:

- ttt. Improve or agree to improve and provide security for **Street "V-3"**, to a Residential Collector Standard, to a graded width of sixty feet (60') and an improved width of forty feet (40') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and non-contiguous sidewalk on both sides of the street with face of curb at twenty feet (20') from centerline. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **C1-2**
- uuu. Improve or agree to improve and provide security for the intersection of **Sarver Lane and Street "V-3"** to the satisfaction of the Director of PDS and the Director of Public Works.
- vvv. Improve or agree to improve and provide security for **Street "V-4"**, from Street "V-3" to Street "V-5", to a Modified Residential Road Standard, to a graded width of fifty-six feet (56') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and contiguous sidewalk on one side of the street, with face of curb at eighteen feet (18')

from centerline of improved width. Within the fifteen foot (15') wide parkway, provide a six foot (6') wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **E2-2**

- www. Improve or agree to improve and provide security for **Street "V-5"**, from Street "V-1" to Street "V-4", to a Modified Residential Road Standard, to a graded width of forty-six feet (46') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and contiguous sidewalk on both sides of the street, with face of curb at eighteen feet (18') from centerline of improved width. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **E1-2**
- xxx. Improve or agree to improve and provide security for **Street "V-1"**, from Street "V-4" to Street "V-5", to a Modified Residential Road Standard, to a graded width of sixty-one feet (61') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and non-contiguous sidewalk on one side of the street, with face of curb at eighteen feet (18') from centerline of improved width. Within the fifteen foot (15') wide parkway, provide a six foot (6') wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **D3-2**
- yyy. Improve or agree to improve and provide security for **Street "V-1"**, from Street "V-4" to the northeast corner of Lot 1007, to a Modified Residential Road Standard, to a graded width of forty-six feet (46') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and contiguous sidewalk on both sides of the street, with face of curb at eighteen feet (18') from centerline of improved width. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **E1-2**
- zzz. Improve or agree to improve and provide security for **Street "V-4"**, from Street "V-1" to Street "V-3", to a Modified Residential Road Standard, to a graded width of sixty-one feet (61') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and non-contiguous sidewalk on one side of the street, with face of curb at eighteen feet (18') from centerline of improved width. Within the fifteen foot (15') wide parkway, provide a six foot (6') wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **D3-2**

aaaa. Improve or agree to improve and provide security for **Street "V-2"**, to a Modified Residential Road Standard, to a graded width of forty-six feet (46') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and contiguous sidewalk on both sides of the street, with face of curb at eighteen feet (18') from centerline of improved width. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **E1-2**

UNIT 8:

bbbb. Improve or agree to improve and provide security for **Street "V1"**, from Sarver Lane to Street "V-9", to a Residential Collector Standard, to a graded width of sixty feet (60') and an improved width of forty feet (40') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and non-contiguous sidewalk on both sides of the street with face of curb at twenty feet (20') from centerline. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **C1-2**

cccc. Improve or agree to improve and provide security for the intersection of **Sarver Lane and Street "V-1"** to the satisfaction of the Director of PDS and the Director of Public Works.

dddd. Improve or agree to improve and provide security for the intersection of **Sarver Lane and Street "V-6"** to the satisfaction of the Director of PDS and the Director of Public Works.

eeee. Improve or agree to improve and provide security for **Street "V-1"**, from Street "V-9" to Street "V-5", to a Modified Residential Road Standard, to a graded width of sixty-one feet (61') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and non-contiguous sidewalk on one side of the street, with face of curb at eighteen feet (18') from centerline of improved width. Within the fifteen foot (15') wide parkway, provide a six foot (6') wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **D3-2**

ffff. Improve or agree to improve and provide security for **Street "V-5"**, from Street "V-1" to Street "V-4", to a Modified Residential Road Standard, to a graded width of forty-six feet (46') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and contiguous sidewalk on both sides of the street, with face of curb at eighteen feet (18') from centerline of improved width. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **E1-2**

- gggg. Improve or agree to improve and provide security for **Street “V-5”**, from Street “V-4” to Street “V-6”, to a Modified Residential Road Standard, to a graded width of fifty-six feet (56') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and contiguous sidewalk on one side of the street, with face of curb at eighteen feet (18') from centerline of improved width. Within the fifteen foot (15') wide parkway, provide a six foot (6') wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **E2-2**
- hhhh. Improve or agree to improve and provide security for **Street “V-6”**, to a Modified Residential Road Standard, to a graded width of fifty-six feet (56') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and contiguous sidewalk on one side of the street, with face of curb at eighteen feet (18') from centerline of improved width. Within the fifteen foot (15') wide parkway, provide a six foot (6') wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **E2-2**
- iiii. Improve or agree to improve and provide security for **Street “V-9”**, from Street “V-1” to the southwest corner of Lot 1079, to a Modified Residential Road Standard, to a graded width of fifty-six feet (56') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and contiguous sidewalk on one side of the street, with face of curb at eighteen feet (18') from centerline of improved width. Within the fifteen foot (15') wide parkway, provide a six foot (6') wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **E2-2**
- jjjj. Improve or agree to improve and provide security for **Street “V-9”**, from the southwest corner of Lot 1079 to the southeast corner of Lot 1079, to a Modified Residential Road Standard, to a graded width of forty-six feet (46') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and contiguous sidewalk on both sides of the street, with face of curb at eighteen feet (18') from centerline of improved width. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **E1-2**
- kkkk. Improve or agree to improve and provide security for **Street “V-7”**, **Street “V-10”**, **Street “V-11”**, **Street “V-12”**, **Street “V-13 and Street “V-14”**, to a Modified Residential Road Standard, to a graded width of forty-six feet (46') and an improved width of thirty-six feet (36') with asphalt

concrete pavement over approved base, with Portland cement concrete curb, gutter and contiguous sidewalk on both sides of the street, with face of curb at eighteen feet (18') from centerline of improved width. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **E1-2**

- llll. **Street "V-11", Street "V-12", Street "V-13", and Street "V-14"**, shall terminate with a cul-de-sac graded to a radius of forty-eight feet (48') and surfaced to a radius of thirty-eight feet (38') with asphalt concrete pavement over approved base with Portland cement concrete, six inch (6") curb, gutter and sidewalk and with face of curb at thirty-eight feet (38') from the radius point and shall be to the satisfaction of the Director of PDS and the Director of Public Works.

UNIT 9:

- mmmm. Improve or agree to improve and provide security for **Street "V-8"**, from Sarver Lane to Street "V-17", to a Modified Residential Road Standard, to a graded width of forty-six feet (46') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and contiguous sidewalk on both sides of the street, with face of curb at eighteen feet (18') from centerline of improved width. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **E1-2**
- nnnn. Improve or agree to improve and provide security for **Street "V-17"**, to a Modified Residential Road Standard, to a graded width of fifty-six feet (56') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and contiguous sidewalk on one side of the street, with face of curb at eighteen feet (18') from centerline of improved width. Within the fifteen foot (15') wide parkway, provide a six foot (6') wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **E2-2**
- oooo. Improve or agree to improve and provide security for the intersection of **Sarver Lane and Street "V-8"** to the satisfaction of the Director of PDS and the Director of Public Works.
- pppp. Improve or agree to improve and provide security for the intersection of **Sarver Lane and Street "V-17"** to the satisfaction of the Director of PDS and the Director of Public Works.

UNIT 10:

- qqqq. Improve or agree to improve and provide security for **Street "V-17"**, to a Modified Residential Road Standard, to a graded width of fifty-six feet (56') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and contiguous sidewalk on one side of the street, with face of curb at eighteen feet (18') from centerline of improved width. Within the fifteen foot (15') wide parkway, provide a six foot (6') wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **E2-2**
- rrrr. Improve or agree to improve and provide security for **Street "V-8"**, from Street "V-15" (West) to Street "V-15" (Knuckle), to a Modified Residential Road Standard, to a graded width of forty-six feet (46') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and contiguous sidewalk on both sides of the street, with face of curb at eighteen feet (18') from centerline of improved width. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **E1-2**
- ssss. Improve or agree to improve and provide security for **Street "V-15" and Street "V-16"**, to a Modified Residential Road Standard, to a graded width of forty-six feet (46') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and contiguous sidewalk on both sides of the street, with face of curb at eighteen feet (18') from centerline of improved width. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **E1-2**

UNIT 11:

- tttt. Improve or agree to improve and provide security for **Street "T-1"**, to a Residential Road Standard, to a graded width of fifty-six feet (56') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and non-contiguous sidewalk on both sides of the street with face of curb at eighteen feet (18') from centerline. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **D1-2**
- uuuu. Improve or agree to improve and provide security for the intersections of **Mesa Rock Road and Street "T-1" (both North and South)** to the satisfaction of the Director of PDS and the Director of Public Works.

UNIT 12:

- vvvv. Improve or agree to improve and provide security for **Street "T-1"**, to a Residential Road Standard, to a graded width of fifty-six feet (56') and an

improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and non-contiguous sidewalk on both sides of the street with face of curb at eighteen feet (18') from centerline. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **D1-2**

- www. Improve or agree to improve and provide security for the intersections of **Mesa Rock Road and Street "T-1" (both North and South)** to the satisfaction of the Director of PDS and the Director of Public Works.

PHASE 2:

PRIOR TO UNITS 2, 3, 4, 5 OR 6 OF PHASE 2:

- xxxx. Improve or agree to improve and provide security for **Mesa Rock Road**, from Street "K-1" (West) to Street "S-1" (West), to a Modified Light Collector with Reduced Shoulder (2.2F) Standard, to a graded width of sixty-six feet (66') and an improved width of thirty-two feet (32') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on one side of the street with face of curb at sixteen feet (16') from centerline of improved width. Within the twenty-nine foot (29') wide parkway, provide a ten foot (10') wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **B2-2**
- yyyy. Improve or agree to improve and provide security for **Street "S-1"**, from Mesa Rock Road to Camino Mayor, to a Modified Residential Collector Standard, to a graded width of seventy-three feet (73') and an improved width of forty feet (40') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and non-contiguous sidewalk on one side of the street, with face of curb at twenty feet (20') from centerline of improved width. Within the twenty-three foot (23') wide parkway, provide an **eight foot (8')** wide stabilized DG pathway and a bioswale for water quality requirements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **C2-2**
- zzzz. Improve or agree to improve and provide security for **Camino Mayor**, from Street "S-1" to equestrian staging area access road, to a graded width of forty-four feet (44') and an improved width of twenty-eight feet (28') with asphalt concrete pavement over approved base with Portland cement with curb and gutter at fourteen feet (14') from crown centerline. The road section shall include four foot (4') wide planted shoulder on both sides of the road with an eight foot (8') wide stabilized DG pathway on one side of

the road. All of the above shall be to the satisfaction of the Director of PDS.

UNIT 1:

- aaaaa. Improve or agree to improve and provide security for **Mesa Rock Way**, from Street "TC-2" to Street "TC-3", to a Residential Collector Standard, to a graded width of sixty feet (60') and an improved width of forty feet (40') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and non-contiguous sidewalk on both sides of the street with face of curb at twenty feet (20') from centerline. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **C1-2**
- bbbbb. Improve or agree to improve and provide security for **Street "TC-3"**, to a Residential Collector Standard, to a graded width of sixty feet (60') and an improved width of forty feet (40') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and non-contiguous sidewalk on both sides of the street with face of curb at twenty feet (20') from centerline. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **C1-2**
- cccc. Improve or agree to improve and provide security for the intersection of **Mesa Rock Road and Street "TC-3"** to the satisfaction of the Director of PDS and the Director of Public Works.

UNIT 2:

- dddd. Improve or agree to improve and provide security for **Street "S-1"**, from the easterly connection to Mesa Rock Road northerly then westerly to Camino Mayor, to a Modified Residential Collector Standard, to a graded width of seventy-three feet (73') and an improved width of forty feet (40') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and non-contiguous sidewalk on one side of the street, with face of curb at twenty feet (20') from centerline of improved width. Within the twenty-three foot (23') wide parkway, provide an **eight foot (8')** wide stabilized DG pathway and a bioswale for water quality requirements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **C2-2**
- eeee. Improve or agree to improve and provide security for **Street "S-2" and Street "S-3"**, to a Residential Road Standard, to a graded width of fifty-six feet (56') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and non-contiguous sidewalk on both sides of the street with face of curb at eighteen feet (18') from centerline. All of the above shall

be to the satisfaction of the Director of PDS and the Director of Public Works. **D1-2**

- ffff. **Street "S-2"**, shall terminate with a cul-de-sac graded to a radius of forty-eight feet (48') and surfaced to a radius of thirty-eight feet (38') with asphalt concrete pavement over approved base with Portland cement concrete, six inch (6") curb, gutter and sidewalk and with face of curb at thirty-eight feet (38') from the radius point and shall be to the satisfaction of the Director of PDS and the Director of Public Works.

UNIT 4:

- ggggg. Improve or agree to improve and provide security for **Street "S-1"**, from the easterly connection to Mesa Rock Road northerly then westerly to Camino Mayor, to a Modified Residential Collector Standard, to a graded width of seventy-three feet (73') and an improved width of forty feet (40') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and non-contiguous sidewalk on one side of the street, with face of curb at twenty feet (20') from centerline of improved width. Within the twenty-three foot (23') wide parkway, provide an **eight foot (8')** wide stabilized DG pathway and a bioswale for water quality requirements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **C2-2**

UNIT 5:

- hhhhh. Improve or agree to improve and provide security for **Mesa Rock Road**, from Street "K-1" (West) to Street "S-1" (West), to a Modified Light Collector with Reduced Shoulder (2.2F) Standard, to a graded width of sixty-six feet (66') and an improved width of thirty-two feet (32') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on one side of the street with face of curb at sixteen feet (16') from centerline of improved width. Within the twenty-nine foot (29') wide parkway, provide a ten foot (10') wide stabilized DG pathway. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works.
- iiii. Improve or agree to improve and provide security for **Street "K-10"**, to a Modified Residential Collector Standard, to a graded width of seventy-three feet (73') and an improved width of forty feet (40') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street and non-contiguous sidewalk on one side of the street, with face of curb at twenty feet (20') from centerline of improved width. Within the twenty-three foot (23') wide parkway, provide an **eight foot (8')** wide stabilized DG pathway and a

twelve foot (12') wide bioswale for water quality requirements. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **C2-2**

- jjjjj. Improve or agree to improve and provide security for **Street “K-6”, Street “K-7”, Street “K-8”, and Street “K-9”**, to a Residential Road Standard, to a graded width of fifty-six feet (56') and an improved width of thirty-six feet (36') with asphalt concrete pavement over approved base, with Portland cement concrete curb, gutter and non-contiguous sidewalk on both sides of the street with face of curb at eighteen feet (18') from centerline. All of the above shall be to the satisfaction of the Director of PDS and the Director of Public Works. **D1-2**
- kkkkk. **Street “K-6”**, shall terminate with a cul-de-sac graded to a radius of forty-eight feet (48') and surfaced to a radius of thirty-eight feet (38') with asphalt concrete pavement over approved base with Portland cement concrete, six inch (6") curb, gutter and sidewalk and with face of curb at thirty-eight feet (38') from the radius point and shall be to the satisfaction of the Director of PDS and the Director of Public Works.

UNIT 6:

- lllll. Improve or agree to improve and provide security for the access improvements to **Lot 1 and Lot 2**, from Mesa Rock Road, to the satisfaction of the Director of PDS and the Director of Public Works.

BOTH PHASE 1 AND PHASE 2:

- mmmmm. Street knuckles must be designed in accordance with County of San Diego Public Road Standards and the San Diego County Design Standard Number DS-15.
- nnnnn. Install street name signs in accordance with San Diego County Design Standard Number DS-13.
- ooooo. Asphalt concrete surfacing material shall be hand-raked and compacted to form smooth tapered connections along all edges including those edges adjacent to soil. The edges of asphalt concrete shall be hand-raked at 45 degrees or flatter, so as to provide a smooth transition next to existing soil, including those areas scheduled for shoulder backing.
- ppppp. If warranted by guardrail study, where height of downsloping bank for a 2:1 slope is greater than twelve feet (12') or where height of downsloping bank for a 1.5:1 slope is greater than ten feet (10'), guardrail shall be installed, as deemed necessary by the County Engineer, per Caltrans Standards to the satisfaction of the Director of PDS.

All plans and improvements shall be completed pursuant to the [County of San Diego Public Road Standards](#), the [Land Development Improvement Plan Checking Manual](#) and the Community Trails Master Plan. The improvements shall be completed within 24 months from the approval of the improvement plans, execution of the agreements, and acceptance of the securities. **DOCUMENTATION:** The applicant shall complete the following:

- a. Process and obtain approval of Improvement Plans to improve all public roads and intersections.
- b. Provide Secured Agreement and post security in accordance with [Subdivision Ordinance Sec. 81.408](#)
- c. Upon approval of the plans, pay all applicable inspection fees/deposits with [DPW, PDC].
- d. If the applicant is a representative, then one of the following is required: a corporate certificate indicating those corporation officers authorized to sign for the corporation, or a partnership agreement recorded in this County indicating who is authorized to sign for the partnership.
- e. Obtain approval for the design and construction of all driveways, turnarounds, and private easement road improvements to the satisfaction of the Deer Springs Fire Protection District and the [PDS, LDR].

TIMING: Prior to the recordation of the Final Map for any phase, the plans, agreements, and securities shall be approved. **MONITORING:** The [PDS, LDR] shall review the plans for consistency with the condition and County Standards. Upon approval of the plans [PDS, LDR] shall request the required securities and improvement agreements. The securities and improvement agreements shall be approved by the Director of PDS.

64. **ROADS#2 – ON-SITE AND OFF-SITE PRIVATE ROAD IMPROVEMENTS**

INTENT: In order to promote orderly development and to comply with the [Subdivision Ordinance Sec. 81.404](#), private roads shall be improved.

DESCRIPTION OF REQUIREMENT: Improve or agree to improve and provide security for the following private roads to:

- a. **WITH THE OFF-SITE IMPROVEMENT OF SARVER LANE:** Street “P-1”, to a graded width of forty feet (40') and an improved width of twenty-eight feet (28') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street with face of curb at fourteen feet (14') from centerline. All of the above shall be to the satisfaction of the Director of PDS. **A-13**

- b. **WITH UNIT 4 OF PHASE 1: Street "K"**, to a graded width of thirty-two feet (32') and an improved width of twenty-four feet (24') with asphalt concrete pavement over approved base, with Portland cement concrete curb and gutter on both sides of the street with face of curb at twelve feet (12') from centerline. All of the above shall be to the satisfaction of the Director of PDS. **G-2**
- c. **WITH PHASE 1: Sewer Access Roads**, from Mesa Rock Road to Street "V-15" (Knuckle), to a graded width of twenty feet (20') and an improved width of sixteen feet (16') with asphalt concrete pavement over approved base, with AC berm on both sides of the street with face of berm at eight feet (8') from centerline. All of the above shall be to the satisfaction of the Director of PDS.
- d. **WITH UNIT 11 OF PHASE 1: Utility Access Road for U-1**, to a graded width of twenty feet (20') and an improved width of sixteen feet (16') with asphalt concrete pavement over approved base, with AC berm on both sides of the street with face of berm at eight feet (8') from centerline. All of the above shall be to the satisfaction of the Director of PDS.
- e. **PRIOR TO UNITS 2, 3, 4 OR 5 OF PHASE 2: Utility Access Road for U-2**, to a graded width of twenty feet (20') and an improved width of sixteen feet (16') with asphalt concrete pavement over approved base, with AC berm on both sides of the street with face of berm at eight feet (8') from centerline. All of the above shall be to the satisfaction of the Director of PDS.
- f. **PRIOR TO UNITS 2, 3, 4 OR 5 OF PHASE 2: Camino Mayor**, from equestrian staging area access road to Twin Oaks Valley Road, to a graded to width of thirty-six feet (36') and an improved width of twenty-eight feet (28') with asphalt concrete pavement over approved base with Portland cement curb and gutter at fourteen feet (14') from centerline. The road section shall include four foot (4') wide planted shoulder shall be provided on both sides of the road. All of the above shall be to the satisfaction of the Director of PDS.
- g. Asphalt concrete surfacing material shall be hand-raked and compacted to form smooth tapered connections along all edges including those edges adjacent to soil. The edges of asphalt concrete shall be hand-raked at 45 degrees or flatter, so as to provide a smooth transition next to existing soil, including those areas scheduled for shoulder backing.
- h. If warranted by guardrail study, where height of downsloping bank for a 2:1 slope is greater than twelve feet (12') or where height of downsloping bank for a 1.5:1 slope is greater than ten feet (10'), guardrail shall be installed, as

deemed necessary by the County Engineer, per Caltrans Standards to the satisfaction of the Director of Planning & Development Services.

All plans and improvements shall be completed pursuant to the San Diego County Standards for Private Roads and the [Land Development Improvement Plan Checking Manual](#). The improvements shall be completed within 24 months from the approval of the improvement plans, execution of the agreements, and acceptance of the securities. **DOCUMENTATION:** The applicant shall complete the following:

- a. Process and obtain approval of Improvement Plans to construct the private improvements.
- b. Provide Secured Agreement and post security in accordance with [Subdivision Ordinance Sec. 81.408](#).
- c. Upon approval of the plans, pay all applicable inspection deposits/fees with [DPW, PDC].
- d. If the applicant is a representative, then one of the following is required: a corporate certificate indicating those corporation officers authorized to sign for the corporation, or a partnership agreement recorded in this County indicating who is authorized to sign for the partnership.

TIMING: Prior to the recordation of the Final Map, the required improvement plans, agreements, and securities shall be approved. **MONITORING:** The [PDS, LDR] shall review the plans for consistency with the resolution conditions and County Standards. Upon approval of the plans [PDS, LDR] shall request the required securities and improvement agreements. The securities and improvement agreements shall be approved by the Director of PDS.

65. **ROADS#3 – ROAD DEDICATION (ON-SITE AND OFF-SITE)**

INTENT: In order to promote orderly development and to comply with the [Subdivision Ordinance Sec. 81.402](#), road right of way shall be dedicated to the County. **DESCRIPTION OF REQUIREMENT:** Dedicate on the Final Map to the County of San Diego an easement for road purposes that provides right-of-way in accordance with [County of San Diego Public Road Standards](#) and Community Trails Master Plan, to the satisfaction of the Director of PDS and the Director of Public Works, as indicated below:

PHASE 1 DEDICATIONS:

OFF-SITE DEDICATIONS:

- a. Dedicate on the Final Map on-site and off-site right-of-way for **Deer Springs Road** in accordance with Public Road Standards for a **modified Public**

Mobility Element Major Road with Intermittent Turn Lanes (4.1B), to a width between eighty-eight feet (88') and one hundred feet (100') plus additional right-of-way as required to accommodate intersection configuration as shown on the Tentative Map exhibit, from Mesa Rock Road to Sarver Lane, together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works. **Option B**

OR

If the Exception Request is granted by the Board of Supervisors, the following conditions shall apply:

Dedicate on the Final Map on-site and off-site right-of-way for **Deer Springs Road** in accordance with Public Road Standards for a **Community Collector with Continuous Left Turn Lane (2.1B)**, to a width of seventy-four feet (74') as shown on the Tentative Map exhibit from Mesa Rock Road to Sarver Lane, together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.

AND

Dedicate on the Final Map on-site and off-site right-of-way for **Deer Springs Road** in accordance with Public Road Standards for a Major Road with Raised Median (4.1A), to a width of one hundred feet (100') plus additional right-of-way as required to accommodate intersection configuration as shown on the Tentative Map exhibit from the end of taper to Mesa Rock Road and from end of taper to Sarver Lane, together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works. **Option A**

- b. Dedicate per separate document off-site right-of-way for **Deer Springs Road** in accordance with Public Road Standards for a **Major Road with Auxiliary Lanes (4.1A)**, to a width as determined per the Project Study Report – Project Development Support (PSR-PDS), from Mesa Rock Road to Interstate 15 (I-15), to the satisfaction of Caltrans and the Director of PDS and the Director of Public Works.
- c. Dedicate per separate document off-site right-of-way for **Deer Springs Road** in accordance with Public Road Standards for a **Public Mobility Element Major Road with Raised Median (4.1A)**, to a width of one hundred feet (100') as shown on the Tentative Map exhibit from Sarver Lane to Mulberry Drive, together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.

- d. Dedicate per separate document off-site right-of-way for **Deer Springs Road** in accordance with Public Road Standards to a width of one fourteen hundred feet (114') as shown on the Tentative Map exhibit from Mulberry Drive to Twin Oaks Valley Road, together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the **City of San Marcos** and the Director of PDS.
- e. Dedicate per separate document off-site right-of-way for **Twin Oaks Valley Road** in accordance with Public Road Standards for a Four-Lane Arterial Road to a width as shown on Sheet 17 of the Tentative Map Preliminary Grading Plan from Buena Creek Road to Cassou Road, together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the **City of San Marcos** and the Director of PDS.
- f. Dedicate on the Final Map off-site right-of-way for **Sarver Lane** in accordance with Public Road Standards for a **Modified Light Collector**, from proposed private access easement to APN 182-020-36-00 to Deer Springs Road, to a width of sixty feet (60'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- g. Dedicate on the Final Map off-site right-of-way for **Sarver Lane** in accordance with Public Road Standards for a **Modified Light Collector**, from southern project boundary to proposed private access easement to APN 182-020-36-00, to a width of sixty-six feet (66'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.

ON-SITE DEDICATIONS:

- h. All on-site public road dedications shall be shown on the final map as separate letter lots to the satisfaction of the Director of PDS and the Director of Public Works.
- i. All on-site public road slope and drainage facility areas created due to the construction of the public roads shall be shown on the final map as separate letter lots to be maintained by the Homeowners Association or by the County of San Diego through the formation of the Community Facilities District or other approved mechanism, to the satisfaction of the Director of PDS and the Director or Public Works.
- j. Dedicate on the Final Map on-site right-of-way for **Mesa Rock Road** in accordance with Public Road Standards for a **Modified Boulevard (4.2A)**, to a width of one hundred and two feet (102), from Deer Springs Road to Mesa Rock Way, together with the right to construct and maintain slopes

and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.

- k. Dedicate on the Final Map on-site right-of-way for **Mesa Rock Road** in accordance with Public Road Standards for a **Modified Boulevard (4.2A)**, from Mesa Rock Way to Street "TC-2", to a transitional width of one hundred and two feet (102') to eighty-nine feet (89'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- l. Dedicate on the Final Map on-site right-of-way for **Mesa Rock Road** in accordance with Public Road Standards for a **Modified Boulevard (4.2B)**, from Street "TC-2" to the northern intersection with Street "T-1", to a width of eighty-nine feet (89'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- m. Dedicate on the Final Map on-site right-of-way for **Mesa Rock Road** in accordance with Public Road Standards for a **Modified Light Collector (2.2F)**, from the northern intersection of Street "T-1" to Street "S-1", to a width of sixty-six feet (66'), except from trailhead located approximately 400' easterly of Street "H-2" to Street "H-2" which shall have a dedicate right-of-way of seventy-one feet (71'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- n. Dedicate on the Final Map on-site right-of-way for **Sarver Lane** in accordance with Public Road Standards for a **Modified Light Collector**, to a width of sixty-six feet (66'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- o. Dedicate on the Final Map on-site right-of-way for **Sarver Lane** in accordance with Public Road Standards for a **Modified Light Collector**, from twenty-five feet (25') south of northwest corner of Lot 1100 to Street "V-1", to a width of seventy-six feet (76'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- p. Dedicate on the Final Map on-site right-of-way for **Mesa Rock Way** in accordance with Public Road Standards for a **Modified Residential Collector**, from Mesa Rock Road to southeasterly corner of Lot 3, to a width of fifty-two feet (52'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.

- q. Dedicate on the Final Map on-site right-of-way for **Mesa Rock Way** in accordance with Public Road Standards for a **Residential Collector**, from southeasterly corner of Lot 3 to Street "TC-2", to a width of sixty feet (60'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- r. Dedicate on the Final Map on-site right-of-way for **Street "H-2"** in accordance with Public Road Standards for a **Modified Residential Collector**, to a width of sixty-nine feet (69'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- s. Dedicate on the Final Map on-site right-of-way for **Street "H-3"** in accordance with Public Road Standards for a **Modified Residential Collector**, from Street "H-13" easterly to knuckle connection to Street "H-1" and from Street "H-10" westerly to knuckle and then easterly to knuckle connection to Street "H-5", to a width of sixty-five feet (65'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- t. Dedicate on the Final Map on-site right-of-way for **Street "M-1"** in accordance with Public Road Standards for a **Modified Residential Road**, to a width of sixty-five feet (65'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- u. Dedicate on the Final Map on-site right-of-way for **Street "M-2"** in accordance with Public Road Standards for a **Modified Residential Road**, to a width of sixty-five feet (65'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- v. Dedicate on the Final Map on-site right-of-way for **Street "M-3"** in accordance with Public Road Standards for a **Modified Residential Road**, from Street "M-2" to southerly connection to Street "M-12" and from Street "M-1" to Street "M-2", to a width of sixty-five feet (65'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- w. Dedicate on the Final Map on-site right-of-way for **Street "M-3"** in accordance with Public Road Standards for a **Modified Residential Collector**, from Street "M-1" to Street "M-12", to a width of sixty-nine feet (69'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.

- x. Dedicate on the Final Map on-site right-of-way for **Street “K-1”** in accordance with Public Road Standards for a **Modified Residential Collector**, to a width of seventy-three feet (73’), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- y. Dedicate on the Final Map on-site right-of-way for **Street “S-1”** in accordance with Public Road Standards for a **Modified Residential Collector**, from Camino Mayor to the intersection of Mesa Rock Road and Street “K-10”, to a width of seventy-three feet (73’), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- z. Dedicate on the Final Map on-site right-of-way for **Street “K-3”** in accordance with Public Road Standards for a **Modified Residential Road**, to a width of sixty-one feet (61’), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- aa. Dedicate on the Final Map on-site right-of-way for **Street “V-4”** in accordance with Public Road Standards for a **Modified Residential Road**, from Street “V-3” to Street “V-5”, to a width of fifty-six feet (56’), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- bb. Dedicate on the Final Map on-site right-of-way for **Street “V-3”** in accordance with Public Road Standards for a **Residential Road**, to a width of sixty feet (60’), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- cc. Dedicate on the Final Map on-site right-of-way for **Street “V-6” and Street “V-17”** in accordance with Public Road Standards for a **Modified Residential Road**, to a width of fifty-six feet (56’), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- dd. Dedicate on the Final Map on-site right-of-way for **Street “V-5”** in accordance with Public Road Standards for a **Modified Residential Road**, from Street “V-4” to Street “V-6”, to a width of fifty-six feet (56’), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- ee. Dedicate on the Final Map on-site right-of-way for **Street “V-9”** in accordance with Public Road Standards for a **Modified Residential Road**, from Street “V-1” to the southwest corner of Lot 1079, to a width of fifty-six

feet (56'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.

- ff. Dedicate on the Final Map on-site right-of-way for **Street "V-2", Street "V-7", Street "V-8", Street "V-10", Street "V-11", Street "V-12", Street "V-13, Street "V-14", Street "V-15", and Street "V-16"**, in accordance with Public Road Standards for a **Modified Residential Collector**, to a width of forty-six feet (46'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- gg. Dedicate on the Final Map on-site right-of-way for **Street "V-1"** in accordance with Public Road Standards for a **Modified Residential Road**, from Street "V-4" to the northeast corner of Lot 1007", to a width of forty-six feet (46'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- hh. Dedicate on the Final Map on-site right-of-way for **Street "V-5"** in accordance with Public Road Standards for a **Modified Residential Road**, from Street "V-1" to Street "V-4", to a width of forty-six feet (46'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- ii. Dedicate on the Final Map on-site right-of-way for **Street "V-9"** in accordance with Public Road Standards for a **Modified Residential Road**, from the southwest corner of Lot 1079 to the southeast corner of Lot 1079, to a width of forty-six feet (46'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- jj. Dedicate on the Final Map on-site right-of-way for **Street "V-1"** in accordance with Public Road Standards for a **Modified Residential Road**, from Street "V-4" to Street "V-9", to a width of sixty-five feet (65'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- kk. Dedicate on the Final Map on-site right-of-way for **Street "V-4"** in accordance with Public Road Standards for a **Modified Residential Road**, from Street "V-1" to Street "V-3", to a width of sixty-one feet (61'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- ll. Dedicate on the Final Map on-site right-of-way for **Street "V-1"** in accordance with Public Road Standards for a **Residential Collector**, from

Sarver Lane to Street "V-9", to a width of sixty feet (60'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.

- mm. Dedicate on the Final Map on-site right-of-way for **Street "TC-1" and Street "V-3"** in accordance with Public Road Standards for a **Residential Collector**, to a width of sixty feet (60'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- nn. Dedicate on the Final Map on-site right-of-way for **Street "TC-2", Street "T-1", Street "H-1", Street "H-4", Street "H-5", Street "H-6", Street "H-7", Street "H-8", Street "H-9", Street "H-10", Street "H-11", Street "H-12", Street "M-4", Street "M-7", Street "M-8", Street "M-10", Street "M-11", Street "M-12", Street "K-2", Street "K-4", and Street "K-5"** in accordance with Public Road Standards for a **Residential Road**, to a width of fifty-six feet (56'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- oo. Dedicate on the Final Map on-site right-of-way for **Street "M-5", Street "M-6", and Street "M-9"** in accordance with Public Road Standards for a **Residential Loop**, to a width of fifty-two feet (52'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- pp. Dedicate on the Final Map on-site right-of-way for the cul-de-sacs at the terminus of **Street "M-10", Street "M-11", Street Z, Street "K-2", Street "V-11", Street "V-12", Street "V-13", and Street "V-14"**, to a radius width of forty-eight feet (48'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- qq. Dedicate on the Final Map on-site right-of-way for **Camino Mayor** in accordance with Public Road Standards for a **Modified Hillside Residential Street**, from Street "S-1" to equestrian staging area road, to a width of sixty feet (44'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.

PHASE 2 DEDICATIONS:

- rr. All on-site public road dedications shall be shown on the final map as separate letter lots to the satisfaction of the Director of PDS and the Director of Public Works.

- ss. All on-site public road slope and drainage facility areas created due to the construction of the public roads shall be shown on the final map as separate letter lots to be maintained by the Homeowners Association or by the County of San Diego through the formation of the Community Facilities District or other approved mechanism, to the satisfaction of the Director of PDS and the Director of Public Works.
- tt. Dedicate on the Final Map on-site right-of-way for **Mesa Rock Way** in accordance with Public Road Standards for a **Residential Collector**, from Street "TC-2" to Street "TC-3", to a width of sixty feet (60'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- uu. Dedicate on the Final Map on-site right-of-way for **Street "TC-3"** in accordance with Public Road Standards for a **Residential Collector**, to a width of sixty feet (60'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- vv. Dedicate on the Final Map on-site right-of-way for **Street "K-10"** in accordance with Public Road Standards for a **Modified Residential Collector**, to a width of seventy-three feet (73'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- ww. Dedicate on the Final Map on-site right-of-way for **Street "S-1"** in accordance with Public Road Standards for a **Modified Residential Collector**, from Camino Mayor easterly to Mesa Rock Road, to a width of seventy-three feet (73'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- xx. Dedicate on the Final Map on-site right-of-way for **Street "S-2", Street "S-3", Street "K-6", Street "K-7", Street "K-8", and Street "K-9"** in accordance with Public Road Standards for a **Residential Road**, to a width of fifty-six feet (56'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.
- yy. Dedicate on the Final Map on-site right-of-way for the cul-de-sacs at the terminus of **Street "S-2" and Street "K-6"**, to a radius width of forty-eight feet (48'), together with the right to construct and maintain slopes and drainage facility, to the satisfaction of the Director of PDS and the Director of Public Works.

The dedication shall be free of any burdens or encumbrances, which would interfere with the purpose for which it is required, and shall be accepted for public use. **DOCUMENTATION:** The applicant shall dedicate the easement on the map and show it as Accepted. **TIMING:** Prior to the recordation of the Final Map for any phase, the onsite dedication shall be provided for roads with the recordation of the unit the road is within, abuts or provides access to. **MONITORING:** The [PDS, LDR] shall verify that the dedication is indicated on the map and Accepted by the County.

66. ROADS#4—ONSITE IRREVOCABLE OFFER OF DEDICATION

INTENT: In order to promote orderly development and to comply with the [Subdivision Ordinance Sec. 81.703](#), an irrevocable offer of dedication (IOD) shall be granted by separate document prior to map recordation. **DESCRIPTION OF REQUIREMENT:** Grant an IOD for real property for public highway as indicated below:

- a. Grant the onsite right-of-way of Twin Oaks Valley Road to the County of San Diego for road purposes that provides a sixty-four foot (64') wide, one-half right-of-way width on each side of the ultimate centerline, plus the right to construct and maintain slopes and drainage improvements as required beyond the sixty-four foot (64') limit for that portion within the land division, including a twenty-foot (20') radius property line corner rounding at the street intersection.
- b. Any dedication, offer of dedication, or grant of right-of-way shall be free of any burdens or encumbrances which would interfere with the purposes for which the granting, dedication or offer of dedication is required, per [Subdivision Ordinance Sec. 81.704.a](#), at the time of recordation of the Final Map. All easements of any type must be plotted on the Final Map. Or, the affected utility company/district shall enter into a joint use agreement with the County of San Diego to the satisfaction of the Director of PDS.

DOCUMENTATION: The applicant shall prepare a separate documents for the IOD as indicated above and submit to the [DGS, RP] for review and preparation. The applicant shall pay all applicable fees associated with review and preparation of the documents. **TIMING:** Prior to the recordation of the Final Map for Unit 1 the IOD shall be granted. **MONITORING:** The [DGS, RP] shall prepare, approve the easement documents for recordation, and forward the recorded copies to [PDS, LDR] for review and approval. The [PDS, LDR] shall review the onsite granting for compliance with this condition.

67. ROADS#5 – PRIVATE ROAD EASEMENT

INTENT: In order to promote orderly development and to comply with the [County Subdivision Ordinance Section 81.402](#) the easement shall be provided. **DESCRIPTION OF REQUIREMENT:**

- a. The Final Map shall show a minimum forty foot (40') wide private road easement, **Camino Mayor**, from the equestrian staging area access road to the westerly project boundary.
- b. The Final Map shall show a minimum forty foot (40') wide private road easement for **Street "P-1"**.
- c. The Final Map shall show a minimum thirty-two foot (32') wide private road easement for **Street "K"**.
- d. The Final Map shall show a minimum twenty foot (20') wide private road easement for **Utility Access Roads for U-1 and U-2**.

DOCUMENTATION: The applicant shall show the easement on the Final Map.
TIMING: Prior to approval of the Final Map, the easements shall be shown.
MONITORING: The [PDS, LDR] shall review the Final Map to ensure that the easement is indicated pursuant to this condition.

68. **ROADS#6 – PRIVATE ROAD MAINTENANCE AGREEMENT**

INTENT: In order to ensure that the private roads approved with this subdivision are maintained, in accordance with [Subdivision Ordinance Section 81.402\(c\)](#), the applicant shall assume responsibility of the private roads. **DESCRIPTION OF REQUIREMENT:** A maintenance agreement shall be executed that indicates the following:

- a. Maintenance shall be provided through a private road maintenance agreement satisfactory to the Director of PDS.
- b. The Director of PDS shall be notified as to the final disposition of title (ownership) to **Camino Mayor, Street K, Street P-1, and the Utility Access Roads for U-1 and U-2**, and place a note on the Final Map as to the final title status of said roads.

DOCUMENTATION: The applicant shall execute the private road maintenance agreement, to the satisfaction of the Director of PDS, and indicate the ownership on the map as indicated above. **TIMING:** Prior to the recordation of the Final Map for ~~Choose an item~~, the agreement shall be executed and the ownership shall be indicated on the map. **MONITORING:** The [PDS, LDR] shall review the executed agreement and the map for compliance with this condition.

69. **ROADS#7–IMPROVEMENT CERTIFICATION**

INTENT: In order to ensure that the proposed work on the private road stays within the private road easement, and to comply with [Private Road Standards](#) and [Subdivision Ordinance](#) a letter of certification shall be provided. **DESCRIPTION OF REQUIREMENT:**

- a. The proposed on-site and off-site private road, **Camino Mayor**, from Street S-1 to Twin Oaks Valley Road, including all slopes shall be constructed entirely within the easement, including drainage structures, for the benefit of the land division. The private road shall be improved to meet interim public road design standards.
- b. If the slopes for the improvement fall outside of the easement, mitigating structures shall be utilized so the improvement is within the easement or a letter of permission shall be obtained and an engineer or surveyor shall further certify that letter(s) of permission have been obtained for work outside of the easement limits.

DOCUMENTATION: The applicant shall have a Registered Civil Engineer provide a signed statement that the private easement road, meets the standards of this condition. The engineer shall further certify that the road meets all other Sections of the [San Diego County Standards for Private Roads \(approved March 2012\)](#).

TIMING: Prior to the recordation of the Final Map, the road shall be certified.

MONITORING: The [PDS, LDR] shall review the certification for consistency with the condition and County Standards.

70. ROADS#8 – SIGHT DISTANCE:

INTENT: In order to provide an unobstructed view for safety while exiting the property and accessing a public road from the site, and to comply with the Design Standards of Section 6.1.E of the County of San Diego Public Road Standards, an unobstructed sight distance shall be verified. **DESCRIPTION OF REQUIREMENT:**

- a. A registered civil engineer or a licensed land surveyor provides a certified signed statement that: “There is adequate unobstructed intersectional sight distance in both directions from proposed **Camino Mayor** in both directions along **Twin Oaks Valley Road** in accordance with the methodology described in Table 5 of the March 2012 County of San Diego Public Road Standards. The sight distance meets the required intersectional Sight Distance requirements as described in Table 5 based on the prevailing speed or the minimum design speed of the road classification. I have exercised responsible charge for the certification as defined in Section 6703 of the Professional Engineers Act of the California Business and Professions Code.”
- b. If the lines of sight fall within the existing public road right-of-way, the engineer or surveyor shall further certify that: “Said lines of sight fall within the existing right-of-way and a clear space easement is not required.”
- c. The engineer or surveyor shall further certify that: “The sight distance of adjacent driveways and street openings will not be adversely affected by this project.”

DOCUMENTATION: The applicant shall have a Registered Civil Engineer, or a Licensed Land Surveyor provide a signed statement that physically, there is minimum unobstructed sight distance as detailed above, and submit them to the [PDS, LDR] for review. **TIMING:** Prior to the approval of the Final Map, the sight distance shall be verified. **MONITORING:** The [PDS, LDR] shall verify the sight distance certifications.

71. **ROADS#9 - CENTERLINE LOCATION:**

INTENT: In order to promote orderly development and to comply with the [Subdivision Ordinance Sections 81.402 and 81.805](#), the centerline of **Deer Springs Road** shall be shown on the subdivision map. **DESCRIPTION OF REQUIREMENT:** The desired location of the centerline for **Deer Spring Road** shall be determined based on the Public Mobility Element Major Road with Intermittent Turn Lanes (4.1B) Standard. The following shall be shown on the Final Map:

- a. The centerline location as approved by the Director of PDS and the Director of the Department of Public Works.

DOCUMENTATION: The applicant shall indicate the centerline on the Final Map as indicated above. **TIMING:** Prior to the approval of the Final Map. **MONITORING:** The [PDS, LDR] shall verify that the centerline as indicated above is shown on the Final Map.

OR

If the Exception Request is granted by the Board of Supervisors, the following conditions shall apply:

INTENT: In order to promote orderly development and to comply with the [Subdivision Ordinance Sections 81.402 and 81.805](#), the centerline of **Deer Springs Road** shall be shown on the subdivision map. **DESCRIPTION OF REQUIREMENT:** The desired location of the centerline for **Deer Spring Road** shall be determined based on the Public Mobility Element Community Collector with Continuous Left Turn Lane (2.1B) and Public Mobility Element Major Road with Raised Median (4.1A) Standards. The following shall be shown on the Final Map:

- a. The centerline location as approved by the Director of PDS and the Director of the Department of Public Works.

DOCUMENTATION: The applicant shall indicate the centerline on the Final Map as indicated above. **TIMING:** Prior to the approval of the Final Map. **MONITORING:** The [PDS, LDR] shall verify that the centerline as indicated above is shown on the Final Map.

72. ROADS#10 - RELINQUISH ACCESS:

INTENT: In order to promote orderly development and to comply with the [Mobility Element of the General Plan](#), access shall be relinquished. **DESCRIPTION OF REQUIREMENT:** Relinquish access rights onto **Deer Springs Road**. The access relinquishment shall be free of any burdens or encumbrances, which would interfere with the purpose for which it is required. **DOCUMENTATION:** The applicant shall prepare the pages of the Final Map and present them for review to [PDS, LDR]. **TIMING:** Prior to the approval of the Final Map, the access shall be relinquished. **MONITORING:** The [PDS, LDR] shall prepare and process the relinquishment of access with the Final Map.

73. ROADS#11 – STREET NAME

INTENT: In order to provide a name for the public road easement, naming of the roads is necessary for the health and safety of present and future residents. **DESCRIPTION OF REQUIREMENT:** The public roads serving this project shall be named. **DOCUMENTATION:** The applicant shall contact the Street Address Section of PDS [(858) 694-3797] to discuss the road naming requirements for the development. The applicant shall pay all applicable processing fees for the naming of the street. **TIMING:** Prior to recordation and preparation of the Final Map, the street shall be named. **MONITORING:** The [PDS, BD] shall provide a name to the applicant. Upon issuance of the street name, the street section shall provide [PDS, LDR] the street name information. The [PDS, LDR] Map Processing, shall ensure that the appropriate street name has been added to the Final Map.

74. ROADS#12–INSTALL STREETLIGHTS

INTENT: In order to promote orderly development and to comply with the Street Lighting Requirements of the [County Subdivision Ordinance Sec. 81.707 and 81.708](#) the street lights shall be installed and energized. **DESCRIPTION OF REQUIREMENT:** Install or arrange to install streetlights to County standards and the satisfaction of the Director of DPW and/or PDS, and deposit with the County of San Diego a cash deposit sufficient to energize and operate the street lights until the property has been transferred into Zone A and the street light(s) has(have) been accepted by the County. **DOCUMENTATION:** The applicant shall pay the Zone A Lighting District Annexation Fee, and arrange for the installation and energizing of the streetlights. **TIMING:** Prior to recordation of the Final Map, the streetlights shall be installed and all fees paid. **MONITORING:** The [PDS, LDR] shall calculate the fee pursuant to this condition and provide a receipt of payment for the applicant. The [PDS, LDR] shall ensure that the streetlights have been installed and all fees have been paid.

75. ROADS#13 – TRAFFIC CONTROL PLAN:

INTENT: In order to mitigate below levels of significance for temporary traffic impacts, a Traffic Control Plan (TCP) shall be prepared and implemented. **DESCRIPTION OF REQUIREMENT:** Have a Registered Civil Engineer or licensed Traffic Control Contractor prepare a TCP to the satisfaction of Director of DPW. **DOCUMENTATION:** The applicant shall have the TCP

prepared by a Registered Civil Engineer or a licensed Traffic Control Contractor and submit it to [PDS, LDR] for review by [DPW, Traffic]. **TIMING:** Prior to approval of the Final Map for any phase, a TCP shall be prepared and approved. **MONITORING:** The [PDS, LDR] shall review the TCP for compliance with this condition.

76. ROADS#14–HAUL ROUTE PLAN

INTENT: In order to ensure the roads are not damaged by heavy loads that loaded trucks place on the construction route (or subsequent operations- use for applicable projects), a Haul Route Plan (HRP) shall be prepared and implemented. **DESCRIPTION OF REQUIREMENT:** A HRP shall be prepared that addresses the following, but is not limited to: haul routes, truck types and capacity, number of trips per day, estimated quantity of import & export, destination, duration of the haul, and hours of operation.

- a. The implementation of the HRP shall be a condition of any grading, construction, or excavation permit issued by the County. The applicant is responsible for the road maintenance (sweeping as necessary) and repair of any damage caused to the on-site and offsite County maintained roads that serve the property either during construction or subsequent operations.
- b. The applicant will repair those portions of the roads that are damaged by the heavy loaded trucks. An agreement shall be executed, to require (1) a cash deposit for emergency traffic safety repairs; (2) long-term security for road maintenance and repair of any damage caused by the project to the County maintained roads that serve the project during construction phase on the route identified; and (3) All the roads as identified on the haul route plan shall be returned to the existing condition or better.
- c. Prior to import/export, all affected property owners in the residential neighborhood shall be notified; no equipment or material storage on public roads will be allowed, and sweeping to be performed at the end of each week or more depending on the frequency of hauling.

DOCUMENTATION: The applicant shall have the HRP prepared by a Registered Civil Engineer or a licensed Traffic Control Contractor and submit it to [PDS, LDR] for review by [DPW, Road Maintenance]. The applicant shall also execute a secured agreement for any potential damages caused by heavy trucks on the construction route. The agreement and securities shall be approved to the satisfaction of the [DPW, Road Maintenance]. **TIMING:** Prior to recordation of the Final Map for any phase, a HRP shall be prepared and approved. **MONITORING:** The [PDS, LDR] shall review the HRP for compliance with this condition.

77. ROADS#15 - PAVEMENT CUT POLICY:

INTENT: In order to prohibit trench cuts for undergrounding of utilities in all new, reconstructed, or resurfaced paved County-maintained roads for a period of three years following project pavement treatment, and to comply with [County Policy RO-7](#), adjacent property owners shall be notified and solicited for their participation in the extension of utilities. **DESCRIPTION OF REQUIREMENT:** All adjacent property owners shall be notified who may be affected by this policy and are considering development of applicable properties, this includes requesting their participation in the extension of utilities to comply with this policy. No trench cuts for undergrounding of utilities in all new, reconstructed, or resurfaced paved County-maintained roads for a period of three years following project surface. **DOCUMENTATION:** The applicant shall sign a statement that they are aware of the County of San Diego Pavement Cut Policy and submit it to the [PDS, LDR] for review. **TIMING:** Prior to the approval of improvement plans or the recordation of the Final Map for any phase, whichever comes first, the Acknowledgement of Department of Public Works Pavement Cut Policy shall be submitted for approval. **MONITORING:** The [PDS, LDR] shall review the acknowledgement letter.

78. ROADS#16 - LANDSCAPE MAINTENANCE:

Intent: In order to ensure that landscape improvements are maintained, a Landscape Maintenance Agreement shall be executed. **DESCRIPTION OF REQUIREMENTS:** An Encroachment Maintenance and Removal Agreement for any and all proposed landscaping within the Public Road Right-of-Way shall be executed with the County of San Diego. A copy of the agreement shall be submitted to the [DPW, LDR], in addition to obtaining an Encroachment Permit, to the satisfaction of the Director of [DPW, LDR]. **DOCUMENTATION:** The applicant shall execute an Encroachment Maintenance and Removal Agreement in addition to an Encroachment Permit. **TIMING:** Prior to approval of the Final Map, execute the Encroachment Maintenance and Removal Agreement. **MONITORING:** The [DPW, LDR] shall review the Encroachment Maintenance and Removal Agreement.

79. ESMT#1 – EASEMENTS:

INTENT: In order to promote orderly development, existing easements affecting the proposed limits of development must be vacated, quitclaimed, extinguished or relocated. **DESCRIPTION OF REQUIREMENT:** Existing easements identified on the Tentative Map shall be vacated, quitclaimed, extinguished or relocated to the satisfaction of the Director of PDS. **TIMING:** Prior to or as part of the recordation of the Final Map, the easements must be vacated, quitclaimed, extinguished or relocated. **MONITORING:** The [PDS, LDR] shall review the documents associated with the vacations, quitclaims and extinguishments.

80. DRNG#1 - ONSITE AND OFFSITE DRAINAGE IMPROVEMENTS:

INTENT: In order to promote orderly development and to comply with the [Subdivision Ordinance Sec. 81.403](#) and to comply with the [County Flood Damage Prevention Ordinance No. 10091 \(Title 8, Division 11\)](#), [County Watershed](#)

[Protection Ordinance \(WPO\) No.10410](#), [County Code Section 67.801 et. seq.](#), and the [County Resource Protection Ordinance \(RPO\) No. 9842](#), drainage improvements shall be completed. **DESCRIPTION OF REQUIREMENT:** Improve or agree to improve and provide security:

- a. Storm Drain Systems (Private and Public)
- b. Biofiltration Basins
- c. Drainage Channels
- d. Culvert Crossings

All drainage plan improvements shall be prepared and completed pursuant to the following ordinances and current standards: [San Diego County Drainage Design Manual](#), [San Diego County Hydrology Manual](#), [County of San Diego Grading Ordinance](#), [Zoning Ordinance Sections 5300 through 5500](#), [County Resource Protection Ordinance \(RPO\) No. 9842](#), Community Trails Master Plan and Parkland Dedication Ordinance and [County Flood Damage Protection Ordinance No. 10091 \(Title 8, Division 11\)](#), Low Impact Development (LID) and Hydromodification requirements and the [Land Development Improvement Plan Checking Manual](#). **DOCUMENTATION:** The applicant shall complete the following:

The improvements shall be completed within 24 months from the recordation of Final Map pursuant to [Subdivision Ordinance Sec. 81.403](#). The execution of the agreements and acceptance of the securities shall be completed before the approval of any subdivision map. **DOCUMENTATION:** The applicant shall complete the following:

- a. Process and obtain approval of Improvement Plans to improve the drainage facilities.
- b. Provide Secured Agreements in accordance with [Subdivision Ordinance Sec. 81.404 \(a\)\(2\)](#).
- c. Pay all applicable inspection fees with [*DPW, PDCI*].
- d. If the applicant is a representative, then one of the following is required: a corporate certificate indicating those corporation officers authorized to sign for the corporation, or a partnership agreement recorded in this County indicating who is authorized to sign for the partnership.

TIMING: Prior to the recordation of the Final Map for each phase, the plans, agreements, and securities shall be approved. The improvements shall be completed within 24 months from the recordation of Final Map pursuant to [Subdivision Ordinance Sec. 81.403](#). The execution of the agreements and acceptance of the securities shall be completed before the approval of any

subdivision map. **MONITORING:** The [PDS, LDR], [DPR, TC] shall review the plans for consistency with the condition and County Standards. Upon approval of the plans [PDS, LDR] shall request the required securities and improvement agreements. The securities and improvement agreements shall be approved by the Director of PDS.

81. DRNG#2 - ONSITE DRAINAGE IMPROVEMENTS:

INTENT: In order to promote orderly development and to comply with the [Subdivision Ordinance Sec. 81.403](#) and to comply with the [County Flood Damage Prevention Ordinance No. 10091 \(Title 8, Division 11\)](#), [County Watershed Protection Ordinance \(WPO\) No.10410, County Code Section 67.801 et. seq.](#), and the [County Resource Protection Ordinance \(RPO\) No. 9842](#), drainage improvements shall be completed. **DESCRIPTION OF REQUIREMENT:** The spillway for BMP M1R1K1 must be design to not outfall onto the Sarver Lane right of way. The spillway shall be design to allow for overflows to enter directly into the public storm drain system within the public right of way. All of the above shall be to the Satisfaction of the Director of PDS and the Director of Public Works. **DOCUMENTATION:** Grading and Improvement plans for the improvement of BMP M1R1K1 shall show the spillway design as indicated above. **TIMING:** Prior to the approval of the Final Map of the Unit which builds BMP M1R1K1, the spillway design shall be designed and approved. **MONITORING:** The [PDS, LDR] shall review the grading and improvement plans for consistency with the condition and County Standards.

82. DRNG#3 - OFFSITE DRAINAGE IMPROVEMENTS:

INTENT: In order to promote orderly development and to comply with the [Subdivision Ordinance Sec. 81.403](#) and to comply with the [County Flood Damage Prevention Ordinance No. 10091 \(Title 8, Division 11\)](#), [County Watershed Protection Ordinance \(WPO\) No.10410, County Code Section 67.801 et. seq.](#), and the [County Resource Protection Ordinance \(RPO\) No. 9842](#), rights to construct private drainage improvements within a public right of way shall be obtained. **DESCRIPTION OF REQUIREMENT:** The proposed private storm drain system proposed within the Sarver Lane public right-of-way requires easement rights from the underlying property owners and the County of San Diego to the satisfaction of the Director of PDS and the Director of Public Works. **DOCUMENTATION:** Provide documentation from underlying property owners allowing the construction and maintenance of the private storm drain system within Sarver Lane. **TIMING:** Prior to the approval of the first Final Map, the documentation must be provided. **MONITORING:** The [PDS, LDR] shall review documentation to confirm rights to construction the private storm drain system have been obtained.

83. DRNG#4 - LINES OF INUNDATION:

INTENT: In order to comply with [Grading Ordinance No. 10179, Section 87.803 \(38\)](#) and prevent future development in flood-prone areas the Lines of Inundation shall be shown on the map. **DESCRIPTION OF REQUIREMENT:** Lines of inundation to the limits of the 100-year flood along the watercourse, which flows

through the property, shall be shown and labeled "Subject to Inundation By The 100-Year Flood" on the Final Map. Each parcel shall have a flood free building site to the satisfaction of the Director of PDS. If any of the parcels are found to be devoid of a buildable, flood free site for a residence or commercial use, the subdivider shall take appropriate action so that each parcel does have a buildable flood free site. This pertains to watersheds having area of one hundred (100) or more acres. **DOCUMENTATION:** The applicant shall indicate the lines of inundation on the non-title sheet of the Final Map as indicated above. **TIMING:** Prior to the approval of the Final Map, the inundation lines shall be indicated and labeled on the map. **MONITORING:** The [PDS, LDR] shall verify that the inundation lines have been indicated pursuant to this condition.

84. STRMWTR#1 – STORMWATER FACILITIES MAINTENANCE AGREEMENT

INTENT: In order to promote orderly development and to comply with the [County Flood Damage Prevention Ordinance No. 10091 \(Title 8, Division 11\)](#), and the [County Watershed Protection Ordinance \(WPO\) No.10410, County Code Section 67.801 et. seq.](#), the maintenance agreements shall be completed. **DESCRIPTION OF REQUIREMENT:** To the satisfaction of the Director of PDS, complete the following:

- a. Process a Stormwater Facilities Maintenance Agreement (SWMA) to assure maintenance of the Category 2 Structural BMPs and provide security to back up the maintenance pursuant to the County Maintenance Plan Guidelines to the satisfaction of the Director of DPW and/or PDS. The SWMA shall be signed and notarized by the applicant and recorded by the County.
- b. Complete the following for the Category 3 post-construction BMP's. (1) Submit a complete "Engineer's Report for BMP Maintenance." (2) Dedicate all treatment control BMP's to the County of San Diego in accordance with [County Watershed Protection Ordinance \(WPO\) No.10410, County Code Section 67.801 et. seq.](#) (3) Form a "Stormwater Maintenance Zone" under the County Flood Control District, including taking all actions and submitting all required forms. No portion of the facility can be overlaid with environmental mitigation requirements, nor can there be conflicting resource agency permits. (4) Deposit \$4,000, and pay all costs associated with reviewing the Engineer's Report and formation of the "Stormwater Maintenance Zone." (5) Pay an amount equal to 24 months of maintenance for the entire project as estimated in the approved Engineer's Report.
- c. The storm drain system, identified as the clean water system for natural and treated water only, shall be privately maintained by the Homeowners Association or other approved mechanism. The segments of the clean storm drain system proposed within the public right of way, will require an easement or other approved mechanism be obtained from the County for

maintenance purposes of the private system. All of the above shall be to the satisfaction of the Director of PDS and the Director or Public Works.

DOCUMENTATION: The applicant shall process the agreement forms with [*PDS, LDR*] and pay the deposit and applicable review fees. **TIMING:** Prior to the recordation of the Final Map , execution of the agreements and securities shall be completed. **MONITORING:** The [*PDS, LDR*] shall review the agreements/mechanisms for consistency with the condition and County Standards.

85. STRMWTR#2 – STORMWATER FACILITIES MAINTENANCE (PUBLIC)

INTENT: In order to promote orderly development and to comply with the [County Flood Damage Prevention Ordinance No. 10091 \(Title 8, Division 11\)](#), and the [County Watershed Protection Ordinance \(WPO\) No.10410, County Code Section 67.801 et. seq.](#), stormwater facilities (BMPs) must be provided and maintained.

DESCRIPTION OF REQUIREMENT: To the satisfaction of the Director of PDS and the Director of Public Works provide the following:

- a. Stormwater BMPs which are to be publicly maintained by the County shall be design in conformance with the BMP Design Manual or equivalent approved at time of construction.
- b. Adequate and legal access shall be provided to all County maintained BMPs.
- c. Establish a Community Facilities District for perpetual maintenance of all public facilities including stormwater facilities.

DOCUMENTATION: The applicant shall process the agreement forms with [*PDS, LDR*] and pay the deposit and applicable review fees. **TIMING:** Prior to the recordation of the Final Map , execution of the agreements and securities shall be completed. **MONITORING:** The [*PDS, LDR*] shall review the grading and improvement plans for consistency with the condition and County Standards.

86. STRMWTR#3 – APPLICANT PROPOSED MEASURES FOR CRITICAL COARSE SEDIMENT YIELD AREAS

INTENT: In order to promote orderly development and to comply with the [County Watershed Protection Ordinance \(WPO\) No.10410, County Code Section 67.801 et. seq.](#), [County Resource Protection Ordinance \(RPO\)](#) mitigation measures for Critical Coarse Sediment Yield Areas shall be provided. **DESCRIPTION OF**

REQUIREMENT: The applicant shall provide the following mitigation measures in the PDP SWQMP for review and approval by [*PDS, LDR*]:

- a. Additional Flow Control in addition to the Low Flow Threshold identified in the PDP SWQMP:

- 1) Encroaching into less than 5% of the Watershed Management Area Analysis (WMAA) Area Draining to nine Points of Compliance (POCs) and by-passing and protecting the remaining WMAA areas in those POCs.
- 2) Removing a Potential Critical Coarse Sediment Yield Area 25 times smaller than the De Minimis Area in POC-20.
- 3) Proving that the sediment would be discharging into Threshold Channels that do not need such sediment at three POCs.
- 4) Demonstrating No Net Impact via Continuous Simulation and Ep/Sp analysis in one POC.

DOCUMENTATION: The applicant shall include the mitigation measures in the PDP SWQMP and process with [*PDS, LDR*] and pay any deposit and applicable review fees. **TIMING:** Prior to approval of any grading or improvement plan or construction permit, and prior to recordation of the Final Map, the PDP SWQMP shall include the mitigation measures and shall be approved. **MONITORING:** The [*PDS, LDR*] shall review the PDP SWQMP for consistency with the condition and County Standards.

87. STRMWTR#4 – EROSION CONTROL

INTENT: In order to Comply with all applicable stormwater regulations the activities proposed under this application are subject to enforcement under permits from the [State Construction General Permit, Order No. 2009-00090-DWQ](#), or subsequent order and the [County Watershed Protection Ordinance \(WPO\) No.10410, County Code Section 67.801 et. seq.](#) and all other applicable ordinances and standards for this priority project. **DESCRIPTION OF REQUIREMENT:** The applicant shall maintain the appropriate on-site and offsite Best Management Practices pursuant to the approved Stormwater Quality Management Plan (SWQMP) and Erosion Control Plan including, but not limited to the erosion control measures, irrigation systems, slope protection, drainage systems, desilting basins, energy dissipaters, and silt control measure.

- a. An agreement and instrument of credit shall be provided pursuant to [Subdivision Ordinance 81.408](#), for an amount equal to the cost of this work as determined or approved by the [*PDS, LDR*], in accordance with the [County of San Diego Grading Ordinance Section 87.304](#). The cash deposit collected for grading, per the grading ordinance, will be used for emergency erosion measures. The developer shall submit a letter to [*PDS, LDR*] authorizing the use of this deposit for emergency measures.
- b. An agreement in a form satisfactory to County Counsel shall accompany the Instrument of Credit to authorize the County to unilaterally withdraw any part of or all the Instrument of Credit to accomplish any of the work agreed

to if it is not accomplished to the satisfaction of the County PDS and/or DPW by the date agreed.

DOCUMENTATION: The applicant shall provide the letter of agreement and any additional security and/or cash deposit to the [PDS, LDR]. **TIMING:** Prior to recordation of the Final Map for all phases, and the approval of any plan and the issuance of any permit, the agreement and securities shall be executed. **MONITORING:** The [PDS, LDR] shall ensure that the agreement and the securities provided adequately satisfy the requirements of the conditions to potentially perform the required erosion control and stormwater control measures proposed on all construction and grading plans. [DPW, PDCI] shall use the securities pursuant to the agreement to implement and enforce the required stormwater and erosion control measures pursuant to this condition during all construction phases as long as there are open and valid permits for the site.

88. DEH#1–WELL DESTRUCTION

INTENT: In order to ensure that the water well(s) located on the property are properly removed, and to comply with the [County Regulatory Code Section 67.431](#), the on-site well(s), not used for project related uses, shall be properly destroyed. **DESCRIPTION OF REQUIREMENT:** The water(s) shall be properly destroyed by a California C-57 licensed well driller. A Well Destruction Permit shall be obtained from the [DEH, LWQ] and all applicable inspection fees shall be paid. **DOCUMENTATION:** The applicant shall provide copies of the Well Destruction Logs to [DEH, LWQ] upon completion of the well destruction. **TIMING:** Prior to the approval of any plan, issuance of any permit (Excluding Well Destruction Permit), and prior to occupancy or use of the premises in reliance of this permit, the applicant shall destroy the on-site well(s) not identified as being used for project related uses. **MONITORING:** Upon submittal of the well destruction logs, [DEH, LWQ] shall perform a field inspection to verify that the well has been properly destroyed. The destruction logs shall be stamped and returned to the applicant.

89. HAZ#1–LEAD SURVEY

INTENT: In order to avoid hazards associated with lead based paint (LBP) and lead containing materials (LCM) to mitigate below levels of significance as established in the [County of San Diego Hazardous Materials and Existing Contamination Guidelines for Determining Significance](#), the structure(s) identified on the approved plan set for demolition or remodel shall be surveyed for the presence of LBP/LCM because the structures were built prior to 1980. **DESCRIPTION OF REQUIREMENT:** A facility survey shall be performed to determine the presence or absence of ACMs in the structure(s) identified for demolition or remodel on the approved plan set. The survey shall be completed by a California Department of Health Services (DHS) certified lead inspector/risk assessor to determine the presence or absence of LBP and LCM located in the structure. The following conditions only apply if LBP and LCM are present:

- a. All LBP and LCM shall be managed in accordance with applicable regulations including, at a minimum, the hazardous waste disposal requirements (Title 22 California Code of Regulations [CCR] Division 4.5), the worker health and safety requirements (Title 8 California Code of Regulations Section 1532.1), and the State Lead Accreditation, Certification, and Work Practice Requirements (Title 17 CCR Division 1, Chapter 8).
- b. All LBP and LCM scheduled for demolition or disturbed during remodeling must comply with applicable regulations for demolition methods and dust suppression.

DOCUMENTATION: The applicant shall submit a letter or report prepared by a California DHS certified lead inspector/risk assessor to the [DEH HAZ MAT, APCD], which certifies that there was no LBP/LCM present, or all lead containing materials have been remediated pursuant to applicable regulations. **TIMING:** Prior to the approval of any plan, issuance of any permit (excluding demolition permit), and prior to approval of the map the applicant shall comply with this condition. **MONITORING:** The [DEH HAZ MAT, APCD] shall review the report and any additional evidence for compliance with this condition. The [PDS, PCC] shall review the completed and stamped report and any additional evidence for compliance with this condition.

90. HAZ#2-ASBESTOS SURVEY

INTENT: In order to avoid hazards associated with Asbestos Containing Materials (ACMs) and to mitigate below levels of significance as established by the [County of San Diego Hazardous Materials and Existing Contamination Guidelines for Determining Significance](#), the structure(s) identified on the approved plan set for demolition or remodel shall be surveyed for the presence of ACMs because the structures were built prior to 1980. **DESCRIPTION OF REQUIREMENT:** A facility survey shall be performed to determine the presence or absence of ACMs in the structure(s) identified for demolition or remodel on the approved plan set. Suspect materials that will be disturbed by the demolition or renovation activities shall be sampled and analyzed for asbestos content, or assumed to be asbestos containing. The survey shall be conducted by a person certified by Cal/OSHA pursuant to regulations implementing subdivision (b) of Section 9021.5 of the Labor Code, and shall have taken and passed an EPA-approved Building Inspector Course. If ACMs are found present, they shall be handled and remediated in compliance with the San Diego County Air Pollution Control District Rule 361.145 – Standard for Demolition and Renovation.

DOCUMENTATION: The applicant shall submit to the [DEH HAZ MAT, APCD] a signed, stamped statement from the person certified to complete the facility survey indicating that the survey has been completed and that either regulated asbestos is present or absent. If regulated asbestos is present, the letter shall describe the procedures taken to remediate the hazard and certify that they have been remediated pursuant to code sections referenced above. **TIMING:** Prior to the approval of any plan, issuance of any permit (excluding demolition permit), and prior to approval of the map the applicant shall comply with this condition. **MONITORING:** The [DEH HAZ MAT, APCD] shall review the report and any

additional evidence for compliance with this condition. The [PDS, PCC] shall review the completed and stamped report and any additional evidence for compliance with this condition.

91. HAZ#3–STRUCTURE REMOVAL

INTENT: In order to comply with the proposed project design for PDS2015-SP-15-001 the structure(s) identified on the approved plan set that be removed or demolished. **DESCRIPTION OF REQUIREMENT:** The structure(s) as shown on the approved plan set shall be removed or demolished. A Demolition Permit shall be obtained from [PDS, BD]. Compliance with conditions HAZ #1 and HAZ #2 to determine the presence or absence of Lead Containing Materials and Asbestos Containing Materials shall be completed before the County can issue a Demolition Permit. **DOCUMENTATION:** The applicant shall submit to the [PDS, PCC] a signed stamped statement from a registered professional; Engineer, Surveyor, Contractor, which states, that the structures have been removed or demolished. The letter report shall also include before and after pictures of the area and structure. **TIMING:** Prior to the approval of any plan, issuance of any permit (excluding demolition permit), and prior to approval of the map the applicant shall comply with this condition. **MONITORING:** The [PDS, PCC] shall review the statement and, photos, and any additional evidence for compliance with this condition.

92. WATER#1–WATER SERVICES & AVAILABILITY

INTENT: In order to ensure that the proposed subdivision has the required water protection services, and to comply with [County Subdivision Ordinance Sections 81.706](#), service availability letter shall be provided and required improvements made. **DESCRIPTION OF REQUIREMENT:** Obtain a “written verification” and supporting documents from the water supplier indicating the availability of a “sufficient water supply” as required by Section 66473.7 of the Subdivision Map Act (Senate Bill 221) shall be provided to the satisfaction of County departments. **DOCUMENTATION:** The applicant shall obtain a “written verification” and supporting documents from the water supplier indicating the availability of a “sufficient water supply” as required by Section 66473.7 of the Subdivision Map Act (Senate Bill 221) shall be provided to the satisfaction of County departments. **TIMING:** Prior to the recordation of the Final Map, the applicant shall comply with this condition. **MONITORING:** The [PDS, LDR] shall review the commitment letter for compliance with this condition.

FINAL MAP AND LANDSCAPE PLAN: *(Prior to approval of the Landscape Plan and Final Map.)*

93. HAZ#4–FIRE PROTECTION (M-HZ-1, M-HZ-2, M-HZ-3, M-UT-1)

INTENT: In order to comply with the County of San Diego Hazardous Materials and Existing Contamination Guidelines for Determining Significance, mitigation measures must be provided. **DESCRIPTION OF REQUIREMENT:** The following shall be required to implement fire protection mitigation measures:

- a. Show that the entire area from the structures to the property boundary is mapped as Zone 1 irrigated on project plans.
 1. A heat deflecting wall shall be placed at the top of the slope. Should an off-site fuel modification easement to extend a minimum of 36 feet (to provide 100 feet of FMZ) be agreed to, then that option would be implemented in lieu of the heat deflecting wall.
 2. Heat deflecting walls shall comply with Chapter 7A of the California Building Code and meet the approval of the Deer Springs Fire Protection District.

- b. Show that all lots that cannot provide a full 30 feet of setback from the top of slope for two-story homes have the following on the project plans:
 1. An extended fuel modification zone (2.5 times the required 100 feet); and
 2. Heat deflecting walls in compliance with Chapter 7A of the California Building Code and that meet the approval of the Deer Springs Fire Protection District.

- c. Show that the following fire measures have been incorporated into the Sierra Farms portion of the proposed project:
 1. Constructing 2 hour rated exterior walls per latest California Building Code and California Fire Code standards. The storage shed shall be required to have all four sides of the structure built to the 2 hour rated exterior wall standards. All doors for the shed would be non-combustible or be a fire rated door approved by the City of San Marcos Fire Department's Fire Marshal.
 2. The Community building shall have the north side wall built to the 2 hours rate exterior wall standards with the fire rate wall wrapping around 5 feet on either side of the building.
 3. Windows on all sides of the storage shed and the north side of the Community building shall be dual pane, both panes tempered.

- d. The project applicant or its designee shall be prohibited from installing irrigation in any of the project's dedicated open space (approximately 1,209 acres) and non-irrigated fuel modification zones (approximately 272.2 acres) within the project.

DOCUMENTATION: The applicant shall demonstrate that this condition has been placed and implemented in the Landscape Plans. **TIMING:** Prior to approval of the Landscape Plan and Final Map, the applicant shall comply with this condition. **MONITORING:** The [PDS, PCC] shall review the report and any additional evidence for compliance with this condition.

THE FOLLOWING SHALL BE COMPLETED PRIOR TO APPROVAL OF ANY GRADING AND/OR IMPROVEMENT PLANS AND ISSUANCE OF ANY GRADING AND/OR IMPROVEMENT PLANS AND GRADING AND/OR IMPROVEMENT PLAN NOTES SHALL BE PLACED ON THE GRADING PLAN AND/OR IMPROVEMENT PLANS MADE CONDITIONS OF THE ISSUANCE OF SAID PERMITS.

Grading Permit: (Prior to approval of any grading and or improvement plans and issuance of any Grading or Construction Permits).

94. HAZ#5–DEBRIS REMOVAL

INTENT: In order to comply with the County of San Diego Hazardous Materials and Existing Contamination Guidelines for Determining Significance, and to follow the recommendations identified in the Phase I Environmental Site Assessment (ESA) for this project, all debris piles located on the 1,985 acre site must be removed. **DESCRIPTION OF REQUIREMENT:** A signed, stamped addendum to the Phase I ESA shall be prepared by a Registered Engineer or representatives of Leighton and Associates. The addendum shall include the following information or as modified by DEH:

- a. If contaminated soils are detected, provide a letter from DEH stating that a VAP work plan has been prepared and approved to remediate contaminated soils.
- b. If contaminated soils are detected, provide a copy of the contract and a signed sealed statement from the Registered Engineer or Professional Geologist, which states that they will implement the VAP work plan. Grading required to implement the site remediation activities is permitted.
- c. Provide evidence that all required work has been fully incorporated into the Grading Plans if required to obtain a grading permit pursuant to the County Grading Ordinance 87.101 et. al.

DOCUMENTATION: Upon completion of the debris removal the applicant shall submit copies of the assessment (and a work plan for soil remediation, if applicable) to the [PDS, PCC] for approval. **TIMING:** Prior to approval of any grading and/or improvement plans, issuance of any construction, building or any other permit, and prior to commencement of construction, or use of the property in reliance on this permit, the applicant shall comply with this condition. **MONITORING:** The [PDS, PCC] shall review the report and any additional evidence for compliance with this condition.

95. HAZ#6–SOIL REMEDIATION

INTENT: Should grading activities occur in the areas identified in the Limited Phase II Environmental Site Assessment (sites SA2-1 and SA4-1) prepared by Leighton and Associates, dated July 1, 2015, soil testing will be required. In order to remediate lead contaminated soils, if needed, caused from illegal shooting activities in the areas identified as sites SA2-1 and SA4-1, remediation under the supervision of the Department of Environmental Health (DEH), [Site Assessment and Mitigation Program \(SAM\)](#) is required. **DESCRIPTION OF REQUIREMENT:** A California Licensed Environmental Consultant company shall prepare a Soil Management Plan (SMP), for the remediation of hazardous materials as identified above. The plan shall be prepared and implemented pursuant to the [DEH SAM Manual](#) under direction from the DEH [SAM](#):

- a. Enrollment in the DEH, [Voluntary Assistance Program \(VAP\)](#) is required. If contamination is found to be from an underground storage tank (UST)

then enrollment in the DEH, [Local Oversight Program \(LOP\)](#) is required in lieu of enrollment in the VAP. All soil remediation shall be completed under supervision of the SAM/VAP or LOP as required.

- b. All required grading work shall comply with the [County of San Diego Grading Ordinance 87.101 et. al.](#) If a grading permit is required for the remediation work, it shall be issued for the remediation work only.
- c. If the Director of PDS determines the remediation work will take an enormous amount of time that would be detrimental to ultimate project implementation, approval of other engineering plans and/or issuance of other project permits may be permitted as long as there is no risk of effects to public health and safety. Concurrence from the [DEH, SAM] is required, and the applicant shall enter into a secured agreement for the completion of the remediation work.

DOCUMENTATION: The applicant shall contract with a California Licensed Environmental Consultant to prepare the SMP and implement any required work plan for soil remediation. The applicant shall also enroll in the VAP or LOP and pay all applicable fees for review and completion of this requirement. Upon completion of the VAP or LOP, a "Closure Letter" from [DEH, SAM] shall be submitted to the [PDS, PCC] for approval. **TIMING:** Prior to approval of any grading and/or improvement plans, issuance of any construction, building or any other permit (except for any grading plan or permit required for the remediation work), and prior to commencement of any construction, or use of the property in reliance on this permit the applicant shall comply with this condition. **MONITORING:** The [DEH, SAM] shall oversee the progress of the remediation project. Upon Completion of the remediation project the [DEH, SAM] shall issue a "Closure Letter" to the applicant The [PDS, PCC] shall review the closure letter for compliance with this condition.

96. HAZ#7–RIGHT OF ENTRY AGREEMENT

INTENT: In order to complete any proposed soil remediation on the 1,985 acre site and to comply with the Department of Environmental Health (DEH), [Site Assessment and Mitigation Program \(SAM\)](#) requirements access shall be granted to complete ongoing site cleanup. **DESCRIPTION OF REQUIREMENT:** Grant to the County of San Diego a Right of Entry (ROE) to allow ongoing access to the remediation for lead contaminated soils. Upon completion of remediation activities, the ROE Agreement will become null and void. **DOCUMENTATION:** The applicant shall prepare, and execute the ROE with the [DGS, RP], and pay all applicable fees associated with preparation of the documents. Upon Recordation of the ROE, the applicant shall provide copies of the executed documents to [PDS, PCC] for approval. **TIMING:** Prior to any occupancy, final grading release, or use of the premises in reliance of this permit, the agreement shall be executed. **MONITORING:** The [DGS, RP] shall prepare and approve the ROE Agreement and release them to the applicant for signature and subsequent recordation. Upon Recordation of the ROE [DGS, RP] shall forward a copy of the recorded documents to [DEH, LWQ] and [PDS, PCC] for satisfaction of the condition.

97. PALEO#1–PALEONTOLOGICAL MONITORING (M-PR-1)

INTENT: In order to mitigate for potential impacts to paleontological resources on the project site, a monitoring program during grading, trenching or other excavation into undisturbed rock layers beneath the soil horizons and a fossil recovery program, if significant paleontological resources are encountered, shall be implemented pursuant to the [County of San Diego Guidelines for Determining Significance for Paleontological Resources](#). **DESCRIPTION OF REQUIREMENT:**

A County approved Paleontologist shall be contracted to perform paleontological resource monitoring and a fossil recovery program if significant paleontological resources are encountered during all grading, trenching, or other excavation into undisturbed rock layers beneath the soil horizons. The following shall be completed:

- a. A County approved Paleontologist shall perform the monitoring duties pursuant to the most current version of the [County of San Diego Guidelines for Determining Significance for Paleontological Resources](#), and this permit. The contract provided to the county shall include an agreement that the grading/ trenching/excavation monitoring will be completed, and a [Memorandum of Understanding \(MOU\)](#) between the approved Paleontologist and the County of San Diego shall be executed. The contract shall include a cost estimate for the monitoring work and reporting.
- b. The cost of the monitoring shall be added to the grading bonds or bonded separately.
- c. Monitor initial cutting, grading or excavation into the substratum;
- d. If paleontological resources are unearthed the Project Paleontologist or Paleontological Resources Monitor, under supervision by the Project Paleontologist, shall:
 1. Direct, divert, or halt any grading or excavation activity until such time that the sensitivity of the resource can be determined and the appropriate recovery implemented;
 2. Salvage unearthed fossil remains, including simple excavation of exposed specimens or, if necessary, plaster-jacketing of large and/or fragile specimens or more elaborate quarry excavations of richly fossiliferous deposits;
 3. Record stratigraphic and geologic data to provide a context for the recovered fossil remains, typically including a detailed description of all paleontological localities within the stratigraphic section, if feasible, and photographic documentation of the geologic setting;
 4. Prepare collected fossil remains for curation, to include cleaning the fossils by removing the enclosing rock material, stabilizing fragile specimens using glues and other hardeners, if necessary, and repairing broken specimens;

5. Curate, catalog and identify all fossil remains to the lowest taxon possible, inventory specimens, assign catalog numbers, and enter the appropriate specimen and locality data into a collection database; and
 6. Transfer the cataloged fossil remains to an accredited institution (museum or university) in California that maintains paleontological collections for archival storage and/or display. The transfer shall include copies of relevant field notes, maps, stratigraphic sections, and photographs.
- e. The Project Paleontologist shall prepare a final Paleontological Resources Mitigation Report summarizing the field and laboratory methods used, the stratigraphic units inspected, the types of fossils recovered (if applicable), and the significance of the curated collection (if applicable).
 - f. Submit two hard copies of the final Paleontological Resources Mitigation Report to the Director of Planning & Development Services for final approval of the mitigation, and submit an electronic copy of the report according to the County Planning & Development Services' Electronic Submittal Format Guidelines.
 - g. If no paleontological resources are unearthed the Project Paleontologist or Paleontological Resources Monitor, under supervision by the Project Paleontologist, shall prepare and submit a signed letter, stating that monitoring was conducted and no fossils were encountered during grading and excavation to Planning & Development Services
 - h. If no fossils of greater than 12 inches in any dimension are found during grading and excavation, the project applicant or designee shall submit a letter to the County Department of Planning & Development Services identifying who conducted the monitoring, stating that no fossils were found, and signed by the Project Paleontologist or Paleontological Resources Monitor. The letter shall be submitted to the County within 90 days following cessation of grading and excavation. Mitigation will be deemed complete when the letter report from the Project Paleontologist or Paleontological Resources Monitor stating that monitoring was conducted and no fossils were encountered during grading and excavation is submitted to and approved by Planning & Development Services.

DOCUMENTATION: The applicant shall provide a copy of the Grading Monitoring Contract, cost estimate, and [MOU](#) to the [PDS, PCC]. Additionally, the cost amount of the monitoring work shall be added to the grading bond cost estimate. **TIMING:** Prior to approval of any grading and/or improvement plans and issuance of any Grading or Construction Permits. **MONITORING:** The [PDS, PCC] shall review the contract, [MOU](#) and cost estimate or separate bonds for compliance with this condition. The cost estimate should be forwarded to [PDS, LDR], for inclusion in the grading bond cost estimate and grading bonds and the grading monitoring requirement shall be made a condition of the issuance of the grading or construction permit.

98. CULT#7 (M-CR-11) – FAIR SHARE CONTRIBUTION TOWARDS REGIONAL ETHNOHISTORIC STUDY

INTENT: To mitigate impacts on cultural resources, the applicant shall make a fair share contribution towards a regional ethno-historic study. **DESCRIPTION OF REQUIREMENT:** A fair share contribution in the amount of \$50,000 shall be made into an account held in trust by a third party manager (the “Trust Fund”). This contribution shall be paid into the Trust Fund upon County issuance of the first grading permit.

In addition, based on an agreement reached during Native American consultation, the applicant has agreed to contribute an additional \$150,000 towards the preparation of the regional ethnographic study identified above. This contribution, while not a mitigation measure, is nevertheless a condition of approval. The applicant shall place the \$150,000 into the Trust Fund upon County issuance of the first building permit and is a requirement of the “D” Designator Implementing Site Plan. The Trust Fund shall include the following:

The fair share shall be based on the proportional acreage that the project will contribute to the regional study. The fund shall include the following:

- a. An agreement for the preparation of a regional study for the Deer Springs area when 100 percent of the funding (\$200,000) has been deposited into the Trust Fund. The agreement must identify the entity responsible for the management of the Trust Fund, rate of return, and annual management fees. The agreement must be reviewed and approved by the County of San Diego prior to implementation.
- b. Annual reporting to the County of San Diego on the status of the Trust Fund is required. The annual report shall include the balance of the Trust Fund.

DOCUMENTATION: A copy of the executed agreement shall be submitted to the [PDS, PPD] for approval. **TIMING:** The first \$50,000 shall be deposited into the Trust Fund upon issuance of the first grading permit, and the remaining \$150,000 shall be deposited into the Trust Fund and the agreement implemented/executed prior to or upon issuance of the first building permit. **MONITORING:** The [PDS, PPD] shall review the implemented agreement for compliance this condition.

99. CULT#8 (M-CR-10) - CULTURAL PRESERVATION AND MAINTENANCE PLAN

INTENT: In order to plan for the long-term care and maintenance of CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822, and their associated cultural resources and features, a Cultural Preservation and Maintenance Plan shall be prepared. **DESCRIPTION OF REQUIREMENT:** A single Cultural Preservation and Maintenance Plan (Preservation Plan) shall be prepared between the applicant, the San Luis Rey Band and the Pechanga Band. The Preservation Plan shall be reviewed and approved by the County. The Preservation Plan shall include the following:

- a. The specific areas to be included in and excluded from long-term maintenance.
- b. Prohibited activities.
- c. Methods of preservation to be employed (fencing, vegetative deterrence, etc.).
- d. The entity or entities responsible for the long-term maintenance.
- e. Maintenance scheduling and notification.
- f. Appropriate avoidance protocols.
- g. Monitoring by the Tribes and compensation for services.
- h. Necessary emergency protocols

DOCUMENTATION: A copy of the Preservation and Maintenance Plan shall be submitted to the [PDS, PPD] for approval. **TIMING:** Prior to approval of any grading and/or improvement plans and issuance of any Grading or Construction Permits. **MONITORING:** The [PDS, PPD] shall review the implemented agreement for compliance this condition.

PRE-CONSTRUCTION GRADING AND/OR IMPROVEMENTS: *(Prior to any clearing, grubbing, trenching, grading, or any land disturbances.)*

(CULTURAL RESOURCES)

100. CULT#GR-1 (M-CR-3) – TEMPORARY FENCING – CA-SDI-4558, CA-SDI-5951, AND CA-SDI-9822

INTENT: In order to mitigate for potential impacts to sites CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822 during construction, a temporary fencing plan shall be implemented pursuant to the [County of San Diego Guidelines for Determining Significance for Cultural Resources](#) and [CEQA Section 15064.5 an 15064.7.](#)

DESCRIPTION OF REQUIREMENT: Prepare and implement a temporary fencing plan for the protection of archaeological site(s) CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822 during any grading activities within one hundred feet (100') of these archaeological site(s), as shown on the temporary fencing exhibit provided in the confidential appendix of the cultural study. The temporary fencing plan shall be

prepared in consultation with a County approved archaeologist and a Native American monitor from the San Luis Rey Band of Mission Indians or the Pechanga Band of Temecula Luiseno Indians. The fenced area shall include a buffer sufficient to protect the archaeological site(s). The fence shall be installed under the supervision of the County approved archaeologist prior to commencement of grading or brushing and be removed only after grading operations have been completed. The temporary fencing plan shall include the following requirements:

- a. Provide evidence to the Director of Planning & Development Services that the following notes have been placed on the Grading and/or Improvement Plan:
 - (1) In the event that construction activities are to take place within 100 feet of archaeological site(s) CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822, the temporary fencing plan shall be implemented under the supervision of a County approved archaeologist that consists of the following:
 - The project archaeologist shall identify the site boundaries in consultation with the San Luis Rey Band and Pechanga Band.
 - The project archaeologist shall determine an adequate buffer for the protection of the site(s) in consultation with the County archaeologist and the San Luis Rey and Pechanga Band.
 - Upon approval of buffers, install fencing under the supervision of the project archaeologist and the San Luis Rey and Pechanga Native American monitor(s).
 - Submit to Planning & Development Services for approval, a signed and stamped statement from a California Registered Engineer, or licensed surveyor that temporary fences have been installed in all locations of the project where proposed grading or clearing is within 100 feet of the archaeological site(s), CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822.
 - Fencing may be removed after the conclusion of construction activities.

DOCUMENTATION: Submit to the Planning & Development Services for approval, a signed and stamped statement from a California Registered Engineer, or licensed surveyor that temporary fences have been installed in all locations of the project where proposed grading or clearing is within 100 feet of the archaeological site(s), CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822. **TIMING:** Prior to any clearing, grubbing, trenching, grading, or any land disturbances this condition shall be completed. **MONITORING:** The [PDS, PPD] shall review the signed and stamped statement for compliance this condition.

101. CULT#GR-2 (M-CR-6) - DUST CONTROL PLAN IMPLEMENTATION - CA-SDI-9822

INTENT: In order to mitigate for potential impacts to the pictograph at site CA-SDI-9822, dust control measures shall be implemented pursuant to the [County of San Diego Guidelines for Determining Significance for Cultural Resources](#) and [CEQA Section 15064.5 an 15064.7.](#) **DESCRIPTION OF REQUIREMENT:** Prepare and implement a dust control plan for the protection of the pictograph at site CA-SDI-9822 during project construction. The dust control plan shall be prepared and implemented by the contractor in consultation with the project archaeologist and consulting Native American organizations (San Luis Rey Band and Pechanga Band) and shall include the following requirements:

- a. Prior to placing protective material to shield the pictograph, photo-document the condition of the existing pictograph.
- b. Place appropriate cloth or material to shield the pictograph and mitigate impacts from dust. The covering must be of a material that will not cause damage to the pictograph.
- c. Periodic inspections of the pictograph shall be conducted to evaluate the status of the protective covering and to determine whether maintenance of the covering or replacement is necessary.
- d. Upon conclusion of construction, the protective cover may be removed and the pictograph shall be photo-documented to determine the status of the resource.
- e. After construction has concluded, the Project Archaeologist shall prepare a final letter report that details how the dust control plan was implemented and the condition of the pictograph at the beginning and end phases of construction.

DOCUMENTATION: The applicant shall provide a copy of the dust control plan to PDS, the South Coastal Information Center, the San Luis Rey Band, the Pechanga Band, and any culturally affiliated tribe who requests a copy. **TIMING:** Prior to any clearing, grubbing, trenching, grading, or any land disturbances this condition shall be completed. **MONITORING:** PDS shall review the dust control plan for compliance with this condition.

102. CULT#GR-3 (M-CR-7) - ARCHAEOLOGICAL MONITORING – PRECONSTRUCTION MEETING

INTENT: In order to comply with the County of San Diego Guidelines for Significance – Cultural Resources, an Archaeological Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The County approved Project Archaeologist and Luiseno Native American Monitor shall attend the pre-construction meeting with the contractors to explain and coordinate the requirements of the archaeological monitoring program. Representatives from the San Luis Rey Band and the Pechanga Band may attend the preconstruction

meeting. The Project Archaeologist and Luiseno Native American Monitor shall monitor the original cutting of previously undisturbed deposits in all areas identified for development including off-site improvements. The Project Archaeologist and Luiseno Native American monitor shall also evaluate fill soils, whether imported, exported, or from an onsite borrow location, to determine that they are clean of cultural resources. The archaeological monitoring program shall comply with the County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Cultural Resources. **DOCUMENTATION:** The applicant shall have the contracted Project Archeologist and Luiseno Native American attend the preconstruction meeting to explain the monitoring requirements. In addition, representatives from the San Luis Rey Band and Pechanga Band may attend the preconstruction meeting. **TIMING:** Prior to any clearing, grubbing, trenching, grading, or any land disturbances this condition shall be completed. **MONITORING:** The [DPW, PDCI] shall confirm the attendance of the approved Project Archaeologist.

(AIR QUALITY)

103. AQ#1 CONSTRUCTION EXHAUST EMISSIONS

INTENT: In order to mitigate for exhaust emissions. **DESCRIPTION OF REQUIREMENT:** The project shall comply with the following Air Quality measure:

- a. The project will request the construction contractor to provide a construction fleet that uses heavy-duty diesel-powered equipment equipped with Tier 4 Final or better diesel engines, except where Tier 4 Final or better engines are not available for specific construction equipment. The County shall verify and approve all pieces within the construction fleet that would not meet Tier 4 Final Standards;
- b. Minimize simultaneous operation of multiple construction equipment units. During construction, vehicles in loading and unloading queues will not idle for more than 5 minutes and will turn their engines off when not in use to reduce vehicle emissions.
- c. All construction equipment will be properly tuned and maintained in accordance with manufacturer's specifications.
- d. The use of electrical or natural gas-powered construction equipment will be employed where feasible, including forklifts and other comparable equipment types.
- e. Electrical hookups will be provided on site for the use of hand tools such as saws, drills, and compressors used for building construction to reduce the need for electric generators and other fuel-powered equipment.
- f. A Construction Traffic Control Plan will be developed to ensure construction traffic and equipment use is minimized to the extent practicable. The Construction Traffic Control Plan will include measures to reduce the amount of large pieces of equipment operating simultaneously during peak

construction periods, scheduling of vendor and haul truck trips to occur during non-peak hours, establish dedicated construction parking areas to encourage carpooling and efficiently accommodate construction vehicles, identify alternative routes to reduce traffic congestion during peak activities and increase construction employee carpooling.

The traffic control measures provided in Section 16 of the Traffic Impact Analysis (Appendix R), which includes specific construction traffic control measures.

The construction contractor shall implement a construction worker ridership program to encourage workers to carpool to and from the construction site to reduce single-occupancy vehicle trips. The construction manager will log all daily construction trips using the San Diego iCommute program (accessed at <http://www.icommute.com/>) or a comparable tracking method. The construction contractor will notify all construction personnel of the program prior to the start of the construction activities and will notify construction personnel of the iCommute program RideMatcher feature, or similar communication method, to ensure personnel can identify available carpooling program participants. Trip data will be made readily available to County inspectors at the construction trailer on site throughout the construction period.

DOCUMENTATION: The applicant shall comply with the Air Quality requirements of this condition. The applicant shall show compliance with this measure by providing the construction bid/estimate from the construction contractor that will be used. **TIMING:** Prior to approval of any grading and or improvement plans and issuance of any Grading or Construction Permits. **MONITORING:** The [DPW, PDCI] shall make sure that the construction contractor complies with the Air Quality requirement of this condition. The [DPW, PDCI] shall contact the [PDS, PCC] if the applicant fails to comply with this condition.

104. AQ#2 FUGITIVE DUST PLAN

INTENT: In order to mitigate for fugitive dust. **DESCRIPTION OF REQUIREMENT:** The project applicant or designee shall prepare and implement a Fugitive Dust Plan demonstrating compliance with San Diego Air Pollution Control District (SDAPCD) Rule 55 and County Code Section 87.428 (Grading Ordinance), to the satisfaction of the County. Measures shall include but not limited to:

- a. Prior to construction activities, the project applicant shall employ a construction relations officer who will address Community concerns regarding on-site construction activity. The applicant shall provide public notification in the form of a visible sign containing the contact information of the construction relations officer who will document complaints and concerns regarding on-site construction activity. The sign shall be placed in

easily accessible locations along Deer Springs Road and noted on grading and improvement plans.

- b. Water, or utilize another SDAPCD-approved dust control non-toxic agent on the grading areas at least four times daily to minimize fugitive dust.
- c. All permanent roads and roadway improvements shall be constructed and paved as early as possible in the construction process to reduce construction vehicle travel on unpaved roads. Building pads shall be finalized as soon as possible following Site preparation and grading activities to reduce fugitive dust from earth moving operations.
- d. Stabilize grading areas as quickly as possible to minimize fugitive dust.
- e. Apply chemical stabilizer, install a gravel pad, or pave the last 100 feet of internal travel path within the construction site prior to public road entry.
- f. Wheel washers shall be installed adjacent to the apron indicated in (c) for tire inspection and washing prior to vehicle entry on public roads.
- g. Remove any visible track-out into traveled public streets with the use of sweepers, water trucks or similar method within 30 minutes of occurrence.
- h. Provide sufficient perimeter erosion control to prevent washout of silty material onto public roads. Unpaved construction site egress points shall be graveled to prevent track-out.
- i. Wet wash the construction access point at the end of the workday if any vehicle travel on unpaved surfaces has occurred.
- j. Cover haul trucks or maintain at least two feet of freeboard to reduce blow-off during hauling.
- k. Suspend all soil disturbance and travel on unpaved surfaces if winds exceed 25 miles per hour (mph).
- l. Cover on-site stockpiles of excavated material.
- m. Enforce a 15-mph speed limit on unpaved surfaces.
- n. Pave permanent roads as quickly as possible to minimize dust.
- o. Haul truck staging areas shall be provided for loading and unloading of soil and materials and shall be located away from sensitive receptors at the furthest feasible distance.
- p. Construction Traffic Control Plans shall route delivery and haul trucks required during construction away from sensitive receptor locations and congested intersections to the extent feasible. Construction Traffic Control plans shall be finalized and approved prior to issuance of grading permits.

Documentation: The applicant or designee shall comply with the Air Quality requirements of this condition. **Timing:** The Fugitive Dust Plan shall be prepared prior to approval of any grading permits and the following actions shall occur throughout the duration of construction. **Monitoring:** The [DPW, PDCI] shall make sure that the grading contractor complies with the Air Quality requirements of this condition. The [DPW, PDCI] shall contact the [DPLU, PCC] if the applicant fails to comply with this condition.

105. AQ#3 CONSTRUCTION DUST

INTENT: In order to mitigate for fugitive dust. **DESCRIPTION OF REQUIREMENT:** The project shall comply with the following Air Quality measure:

- a. Construction activities that would occur within 100 feet of an on-site or off-site residence will be limited to 10 acres of disturbance per day.

DOCUMENTATION: The applicant shall comply with the Air Quality requirements of this condition. **TIMING:** The following actions shall occur throughout the duration of the grading construction. **MONITORING:** The [DPW, PDCI] shall make sure that the grading contractor complies with the Air Quality requirements of this condition. The [DPW, PDCI] shall contact the [Department of Planning and Land Use (DPLU), Permit Compliance Coordinator (PCC)] if the applicant fails to comply with this condition.

106. AQ#4 CONSTRUCTION AND SEQUESTRATION LOSS CARBON OFFSETS

INTENT: In order to offset 100% of the project's construction emissions (including sequestration loss from vegetation removal). **DESCRIPTION OF REQUIREMENT:** The project applicant shall purchase and retire carbon offsets in a quantity sufficient to offset 100% of the project's construction emissions (including sequestration loss from vegetation removal), consistent with the performance standards and requirements set forth below.

- a. **First**, "carbon offset" shall mean an instrument issued by any of the following: (i) the Climate Action Reserve, the American Carbon Registry, and the Verified Carbon Standard, (ii) any registry approved by the California Air Resources Board (CARB) to act as a registry under the State's cap-and-trade program, or (iii) if no registry is in existence as identified in options (i) and (ii), above, then any other reputable registry or entity that issues carbon offsets that is acceptable to the Director of the Planning & Development Services Department. Prior to use of option (iii), it shall be demonstrated that the other reputable registry or entity follows accounting, quantification and monitoring protocols, as well as eligibility and procedural performance standards, that are comparable to those used by the registries identified in option (i).
- b. **Second**, any carbon offset utilized to reduce the project's GHG emissions shall be a carbon offset that represents the past reduction or sequestration of one metric tonne of carbon dioxide equivalent that is "not otherwise required" (CEQA Guidelines section 15126.4(c)(3)).
- c. **Third**, "project applicant" shall mean Newland Sierra LLC or its designee.
- d. **Fourth**, as to construction and vegetation removal GHG emissions, prior to the County's issuance of the project's first grading permit, the project applicant shall provide evidence to the satisfaction of the Director of the PDS that the project applicant has purchased and retired carbon offsets in a quantity sufficient to offset 100% of the construction and vegetation removal GHG emissions generated by the project, which total 93,323 MT carbon dioxide-equivalent (CO₂E).
- e. **Fifth**, the purchased carbon offsets used to reduce construction and vegetation removal GHG emissions shall achieve real, permanent,

quantifiable, verifiable, and enforceable reductions (Cal. Health & Saf. Code section 38562(d)(1)).

- f. **Sixth**, the project applicant or its designee shall demonstrate, to the satisfaction of the Development Services Director, that the following geographic priorities for carbon offsets have been met: 1) off-site within the unincorporated areas of the County of San Diego; 2) off-site within the County of San Diego; 3) off-site within the State of California; 4) off-site within the United States; and 5) off-site internationally. As listed, geographic priorities would focus first on local reduction features (including projects and programs that would reduce GHG emissions) to ensure that reduction efforts achieved locally would provide cross-over benefits related to air quality criteria pollutant reductions within the San Diego Air Basin, and to aid in San Diego County jurisdictions' efforts to meet their GHG reduction goals. The project applicant or its designee shall first pursue offset projects and programs locally within unincorporated areas of the County of San Diego to the extent such offset projects and programs are financially competitive in the global offset market. The project applicant or its designee shall submit proof to the County that offsets are unavailable in a higher priority category before seeking offsets from the next lower priority category.

DOCUMENTATION: The project applicant shall comply with the GHG requirement of this condition. **TIMING:** Prior to issuance of the first Grading Permit. **MONITORING:** The [DPW, PDCI] shall make sure that the project applicant complies with the GHG requirements of this condition. The [DPW, PDCI] shall contact the [*Department of Planning and Land Use (DPLU), Permit Compliance Coordinator (PCC)*] if the project applicant fails to comply with this condition.

107. **GEO#1–SOILS REPORT (M-GE-2)**

INTENT: In order to ensure that the final soils report and final grading plans shall conform to all applicable laws, regulations, and requirements. **DESCRIPTION OF REQUIREMENT:** A California Certified Engineering Geologist shall complete a final soils report specific to the preliminary design of the proposed development. The final soils report shall include, but not be limited to, a surficial stability analysis. The report shall include conclusions and design recommendations including, but not limited to, buffering areas without structural development, construction of debris walls, catchment basins, or slope buttressing. All geotechnical recommendations provided in the final soils report and final grading plans shall be followed during grading and construction at the project site. **DOCUMENTATION:** A California Certified Engineering Geologist shall submit a complete final soils report. The findings shall be reviewed and approved by the Director of the County Department of Planning & Development Services or designee. **TIMING:** Prior to the issuance of grading or construction permits for any phase of the project, the final soils report and final grading plans shall conform to all applicable laws, regulations, and requirements. **MONITORING:** [PDS] shall review the geotechnical findings for compliance with this condition.

108. ROADS#16 – TRAFFIC CONTROL PLAN (M-TR-18):

INTENT: In order to mitigate below levels of significance for temporary traffic impacts, a Traffic Control Plan (TCP) shall be prepared and implemented. **DESCRIPTION OF REQUIREMENT:** Have a Registered Civil Engineer or licensed Traffic Control Contractor prepare a TCP to the satisfaction of Director of DPW. **DOCUMENTATION:** The applicant shall have the TCP prepared by a Registered Civil Engineer or a licensed Traffic Control Contractor and submit it to [PDS, LDR] for review by [DPW, Traffic]. **TIMING:** Prior to issuance of the first grading permit and as required for individual grading and construction permits associated with off-site improvements. **MONITORING:** The [PDS, LDR] shall review the TCP for compliance with this condition.

109. BIO#17–BIOLOGICAL MONITORING**[Mitigation Measure M-BIO-1]**

INTENT: In order to prevent inadvertent disturbance to sensitive habitats, special status plant and wildlife species, and jurisdictional waters, all grading located adjacent to biological open space areas, shall be monitored by a biological monitor. **DESCRIPTION OF REQUIREMENT:** A County approved biologist shall perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities located within or adjacent to biological open space areas, sensitive habitats, special status plants and wildlife (eg. California gnatcatcher and raptors), and jurisdictional waters. The Project Biologist shall also perform the following duties before construction to comply with the conditions of this Grading Plan and Tentative Map:

- a. Supervise and verify placement of temporary fencing of open space easements. The placement of such fencing shall be approved by the [PDS, PCC].
- b. The Biologist shall attend the preconstruction meetings and other meetings to discuss construction requirements. Such meeting shall include the [PDS, PCC].

DOCUMENTATION: The Biological Monitor shall prepare written documentation that certifies that the temporary fencing has been installed and that all construction staff has been trained on the site sensitive biological resources that are to be avoided. **TIMING:** Prior to Preconstruction Conference, and prior to any clearing, grubbing, trenching, grading, or any land disturbances this condition shall be completed. **MONITORING:** The [DPW, PDCI] shall invite the [PDS, PCC] to the preconstruction conference to coordinate the Biological Monitoring requirements of this condition. The [PDS, PCC] shall attend the preconstruction conference and verify the installation of the temporary fencing and approve the training documentation prepared by the biologist.

110. BIO#18–TEMPORARY FENCING**[Mitigation Measure M-BIO-2]**

INTENT: In order to prevent inadvertent disturbance to sensitive biological resources, temporary construction fencing shall be installed. **DESCRIPTION OF REQUIREMENT:** Prior to the commencement of any grading and/or clearing in association with this grading plan, temporary orange construction fencing shall be

placed to protect from inadvertent disturbance of all open space easements and sensitive habitats (eg. Resource Avoidance Areas) that do not allow grading, brushing or clearing. To the maximum extent possible, temporary fencing shall be placed at least 100 feet from the biological open space boundary. Temporary fencing is also required in all locations of the project where proposed grading or clearing is within 100 feet of an open space easement boundary. The placement of such fencing shall be approved by the PDS, Permit Compliance Section. Upon approval, the fencing shall remain in place until the conclusion of grading activities after which the fencing shall be removed. **DOCUMENTATION:** The applicant shall provide evidence that the fencing has been installed and have a California licensed surveyor certify that the fencing is located on the boundary of the open space easement(s). The applicant shall submit photos of the fencing along with the certification letter to the [PDS, PCC] for approval. **TIMING:** Prior to Preconstruction Conference, and prior to any clearing, grubbing, trenching, grading, or any land disturbances the fencing shall be installed, and shall remain for the duration of the grading and clearing. **MONITORING:** The [PDS, PCC] shall either attend the preconstruction conference and approve the installation of the temporary fencing, or review the certification and pictures provided by the applicant.

111. BIO#19–RESOURCE AVOIDANCE
[Mitigation Measure M-BIO-5]

INTENT: In order to avoid impacts to coastal California gnatcatchers, migratory birds, raptors, and other nesting birds, which are sensitive biological resources pursuant to RPO, CEQA, Migratory Bird Treaty Act, and California Fish and Game Code, a Resource Avoidance Area (RAA), shall be implemented on all plans. **DESCRIPTION OF REQUIREMENT:** There shall be no brushing, clearing and/or grading such that none will be allowed within 300 feet of coastal sage scrub habitat during the breeding season of the coastal California gnatcatcher (February 15-August 31), within 300 feet of nesting or breeding migratory and sensitive avian species during their breeding season (January 15 and August 15), or within 500 feet of raptor nesting and breeding habitat (January 15 and August 15) within RAA as indicated on these plans. All grading permits, improvement plans, and the final map shall state the same. The Director of PDS [PDS, PCC] may waive this condition, through written concurrence from the US Fish and Wildlife Service and the California Department of Fish and Wildlife, provided that no coastal California gnatcatchers, migratory birds, raptors, and other nesting birds are present in the vicinity of the brushing, clearing or grading based on a pre-construction survey conducted by a County-approved biological consultant within seven days prior to the proposed start of clearing/grading. If construction work must occur during the avian breeding season (February 1 through August 31, and as early as January 1 for some raptors), the applicant shall prepare a Nesting Bird Management, Monitoring, and Reporting Plan (NBMMRP) to address avoidance of impacts to nesting birds. This plan shall be designed in coordination with the Wildlife Agencies. To avoid impacts to nesting birds the applicant shall.

1. Prepare an NBMMRP that shall include the following: nest survey protocols describing the nest survey methodologies; a management plan describing the methods to be used to avoid nesting birds and their nests, eggs, and chicks; a monitoring and reporting plan detailing the information to be collected for incorporation into a regular Nest Monitoring Log with sufficient details to monitor the applicant's compliance with California Fish and Game Code Sections 3503, 3503.5, 3511, and 3513; guidance for the monitoring biologists on reducing stress and harm to the nesting birds as a result of monitoring activities, including instructions on frequency of monitoring visits and distance to keep from the nest; the schedule for the submittal (usually weekly) of the Nest Monitoring Log; standard buffer widths deemed adequate to avoid or minimize significant project-related edge effects (disturbance) on nesting birds and their nests, eggs, and chicks; a detailed explanation of how the buffer widths were determined; and measures the applicant will implement to preclude birds from using project-related structures (e.g., construction equipment, facilities, or materials) for nesting.
2. Conduct preconstruction nesting bird surveys within 72 hours of construction-related activities and implement appropriate avoidance measures for identified nesting birds.
3. If feasible, conduct surveys beyond the project Site to determine presence of nesting birds that the project activities may affect—300 feet for passerine birds and 500 feet for raptors and coastal California gnatcatchers. The survey protocols shall include a detailed description of methodologies used by CDFW-approved avian biologists to search for nests and describe avian behaviors that indicate active nests. The protocols shall include the size of the site being surveyed, method of search, and behavior that indicates active nests.
4. Include each nest identified on the project Site in the Nest Monitoring Logs. The Nest Monitoring Logs shall be updated daily and submitted to CDFW weekly. Since the purpose of the Nest Monitoring Logs is to allow CDFW to track compliance, the logs shall include information necessary to allow comparison between nests protected by standard buffer widths recommended for the project (300 or 500 feet) and nests with buffer widths that were reduced by encroachment of project-related activities. The Nest Monitoring Logs shall provide a summary of each nest identified, including the species, status of the nest, buffer information, and fledge or failure data. The Nest Monitoring Logs shall allow for tracking the success and failure of the buffers, and shall provide data on the adequacy of the buffers for certain species.
5. Rely on its avian biologists to coordinate with CDFW and USFWS to determine the appropriate standard buffer widths for nests within the project corridor/footprint to employ based on the sensitivity levels of specific species or guilds of avian species. The determination of the standard buffer widths shall be Site- and species-/guild-specific and data-driven, and not based on generalized assumptions regarding all nesting birds. Determination of the buffer widths shall consider the following factors:

- a. Nesting chronologies
 - b. Geographic location
 - c. Existing ambient conditions (human activity within line of sight—cars, bikes, pedestrians, dogs, noise)
 - d. Type and extent of disturbance (e.g., noise levels and quality—punctuated, continual, ground vibrations; blasting-related vibrations proximate to tern colonies are known to make the ground-nesting birds flush the nests)
 - e. Visibility of disturbance
 - f. Duration and timing of disturbance
 - g. Influence of other environmental factors
 - h. Species' site-specific level of habituation to the disturbance
 - i. Construction-related noise levels in coastal California gnatcatcher occupied habitat within 500 feet of construction activity would not exceed 60 dBA Leq or pre-construction ambient noise levels, whichever is greater. Project construction within 500 feet of occupied habitat would occur outside of the breeding season if possible. If necessary, construction activities during the breeding season would be managed to limit noise levels in occupied habitat within 500 feet of the project or noise attenuation measures, such as temporary sound walls, would be implemented to reduce noise levels below 60 dBA Leq or below existing ambient noise levels, whichever is greater.
6. Apply the standard buffer widths to avoid the potential for project-related nest abandonment and failure of fledging, and minimize any disturbance to nesting behavior. If project activities cause or contribute to a bird being flushed from a nest, the buffer must be widened.
 7. Avoidance and buffering of nests in the process of being built on construction equipment or developed structures shall not be necessary. Additionally, although direct impacts to nests with eggs or chicks shall not be allowed, no buffer requirements shall apply.

DOCUMENTATION: The applicant shall provide a letter of agreement with this condition and submit the NBMMRP for review and approval by PDS and the Wildlife Agencies; alternatively, the applicant may submit a written request for waiver of this condition. Although, No grading shall occur within the RAA until concurrence is received from the County and the Wildlife Agencies. **TIMING:** The Nest Monitoring Logs shall be submitted to the County and the Wildlife Agencies prior to the preconstruction conference and prior to any clearing, grubbing, trenching, grading, or any land disturbances, and throughout the duration of the grading and construction. Prior to approval of the first Final Map and preconstruction conference, and prior to any clearing, grubbing, trenching, grading, or any land disturbances and throughout the duration of the grading and construction, compliance with this condition is mandatory unless the requirement is waived by the County upon receipt of concurrence from the Wildlife Agencies. **MONITORING:** The [DPW, PDCI] shall not allow any grading in the RAA during the specified dates, unless a concurrence from the [PDS, PCC] is received. The [PDS, PCC] shall review the concurrence letter.”

DURING CONSTRUCTION: *(The following actions shall occur throughout the duration of the grading construction).*

(CULTURAL RESOURCES)

112. CULT#GR-4 (M-CR-7) - ARCHAEOLOGICAL MONITORING – DURING CONSTRUCTION

INTENT: In order to comply with the County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Cultural Resources, a Cultural Resource Grading Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The Project Archaeologist and Luiseno Native American Monitor shall monitor the original cutting of previously undisturbed deposits in all areas identified for development including off-site improvements. The archaeological monitoring program shall comply with the following requirements during earth-disturbing activities:

- a. Monitoring. During the original cutting of previously undisturbed deposits, the Project Archaeologist and Luiseno Native American Monitor shall be onsite as determined necessary by the Project Archaeologist in consultation with the Luiseno Native American monitor(s). Inspections will vary based on the rate of excavation, the materials excavated, and the presence and abundance of artifacts and features. The frequency and location of inspections will be determined by the Project Archaeologist in consultation with the Luiseno Native American Monitor. Monitoring of the cutting of previously disturbed deposits will be determined by the Project Archaeologist in consultation with the Luiseno Native American Monitor. All grubbing shall be controlled in areas of concern and the areas shall be inspected prior to grading. The Project Archaeologist and Luiseno Native American monitor shall also evaluate fill soils, whether imported, exported, or from an onsite borrow location, to determine that they are clean of cultural resources.
- b. Controlled Grading and Grubbing. All grubbing shall be controlled in areas of concern and shall be inspected prior to initiating grading for those areas. Grading shall be controlled within the area of CA-SDI-4558, CA-SDI-5951, and CA-SDI-9882 using a slope board or similar equipment to allow soil to be removed in increments of only a few inches at a time. Other areas which may require controlled grading shall be determined by the project archaeologist in consultation with the Luiseno Native American monitor as reflected in the Treatment Agreement and Preservation Plan developed in consultation with the San Luis Rey Band and Pechanga Band.
- c. Milling Features. Milling features shall be relocated to onsite open space or landscaped areas prior to disturbance, if feasible, and as reflected in the

Treatment Agreement and Preservation Plan developed in consultation with the San Luis Rey Band and Pechanga Band.

- d. Deer Springs Road Right-of-Way. Soils from segments A, B, C and D of Deer Springs Road right-of-way shall be reinterred onsite in the designated location that was approved by the County of San Diego, the applicant, the San Luis Rey Band of Mission Indians, and the Pechanga Band of Luiseno Indians. Prior to final reinterment, the soils shall be treated in accordance to the terms reflected in the Treatment Agreement and Preservation Plan developed in consultation with the San Luis Rey Band and Pechanga Band. Once the cultural materials are placed in the reinterment area, a cap shall be placed over the resources and hydroseeded with a native plant mix, developed in consultation with the San Luis Rey Band and Pechanga Band, to prevent erosion. No subsurface ground disturbance activities or subsurface facilities will be permitted within the interment area, including utility trenches and irrigation systems (except for surface drip systems.). Reinterment may take place in phases.
- e. Inadvertant Discoveries. In the event that previously unidentified potentially significant cultural resources are discovered:
- Both the Project Archaeologist and/or the Luiseno Native American monitor, shall have the authority to divert or temporarily halt ground disturbance operations in the area of discovery to allow evaluation of potentially significant cultural resources.
 - At the time of discovery, the Project Archaeologist shall contact the PDS Staff Archaeologist.
 - The Project Archaeologist, in consultation with the PDS Staff Archaeologist and the Luiseno Native American monitor, San Luis Rey Band and Pechanga Band, shall determine the significance of the discovered resources.
 - Construction activities will be allowed to resume in the affected area only after the PDS Staff Archaeologist has concurred with the evaluation.
 - Isolates and clearly non-significant deposits shall be minimally documented in the field and collected by the Project Archaeologist. All Native American isolates shall be reinterred onsite and historic (Non-Native American) isolates shall be curated or culled.
 - A Research Design and Data Recovery Program (Program) is required to mitigate impacts to identified significant cultural resources. The Research Design and Data Recovery Program shall be prepared by the Project Archaeologist in coordination with the San Luis Rey Band and Pechanga Band.
 - The County Archaeologist shall review and approve the Program, which shall be carried out using professional archaeological methods. The Program shall include (1) reasonable efforts to preserve (avoidance) “unique” cultural resources or Sacred Sites; (2) the capping of identified Sacred Sites or unique cultural resources and placement of

development over the cap, if avoidance is infeasible; and (3) data recovery for non-unique cultural resources. The preferred option is preservation (avoidance).

- f. Human Remains. If any human remains are discovered:
- The Property Owner or their representative shall contact the County Coroner and the PDS Staff Archaeologist.
 - If the human remains are reasonably believed to be Native American, then the human remains are to remain in situ (in place), or in a secure location in close proximity to where they were found, and shall be examined in the field, in the presence of a Luiseno Native American monitor, by a forensic anthropologist or osteologist. Any transportation of the remains shall be conducted with the presence of a Luiseno Native American monitor. Upon identification of human remains, no further disturbance shall occur in the area of the find until the County Coroner has made the necessary findings as to origin.
 - If the remains are determined to be of Native American origin, the Most Likely Descendant (MLD), as identified by the Native American Heritage Commission (NAHC), shall be contacted by the Property Owner or their representative in order to determine proper treatment and disposition of the remains.
 - The immediate vicinity where the Native American human remains are located is not to be damaged or disturbed by further development activity until consultation with the MLD regarding their recommendations as required by Public Resources Code Section 5097.98 has been conducted.
 - Public Resources Code §5097.98CEQA §15064.5, and Health & Safety Code §7050.5 shall be followed in the event that human remains are discovered.
- g. Fill Soils. The Project Archaeologist and Luiseño Native American monitor shall evaluate fill soils (including, but not limited to, exported, imported and borrow-site soils) to determine that they are clean of cultural resources.
- h. Reporting. The Project Archaeologist shall submit monthly status reports to the Director of Planning and Development Services starting from the date of the Notice to Proceed to termination of implementation of the archaeological monitoring program. The report shall briefly summarize all activities during the period and the status of progress on overall plan implementation. Upon completion of the implementation phase, a final report shall be submitted describing the plan compliance procedures and site conditions before and after construction.
- i. Disagreements. The County Archaeologist shall make a determination for any disagreements between the Project Archaeologist and Luiseno Native

American Monitor, the San Luis Rey Band, and Pechanga Band related to archaeological monitoring.

DOCUMENTATION: The applicant shall implement the Archaeological Monitoring Program pursuant to this condition. **TIMING:** The following actions shall occur throughout the duration of the earth disturbing activities. **MONITORING:** The [DPW, PDCI] shall make sure that the Project Archeologist is on-site performing the monitoring duties of this condition. The [DPW, PDCI] shall contact the [PPD] if the Project Archeologist or applicant fails to comply with this condition.

113. CULT#GR-5 (M-CR-9) - RELOCATION OF BEDROCK MILLING FEATURES

INTENT: In order to meet the intent of the County of San Diego Guidelines for Determining Significance for Cultural Resources and the California Environmental Quality Act (CEQA), bedrock milling that cannot be feasibly avoided or preserved in place shall be incorporated into the open space or landscape areas of the Newland Sierra project, if feasible. **DESCRIPTION OF REQUIREMENT:** The bedrock milling that cannot be feasibly avoided or preserved in place shall be relocated to the onsite open space or landscape areas of the Newland Sierra project, if feasible. The relocation area shall be determined by the Project Archeologist in consultation with the San Luis Rey or Pechanga Native American monitor. **DOCUMENTATION:** The applicant shall:

- a. Provide a letter from the Project Archeologist that the bedrock milling associated with the project cultural sites has been relocated. The letter shall identify where the bedrock milling was relocated onsite.
- b. The Project Archeologist shall prepare updated DPR site record forms identifying the original location and the new location of the bedrock milling. Evidence in the form of a letter from the South Coastal Information Center that the DPR forms have been submitted to the South Coastal Information Center shall be submitted to the [PDS, PPD].
- c. If it is determined that it is infeasible to relocate bedrock milling, a letter from the Project Archeologist must be submitted justifying the infeasibility of relocation. Concurrence from the County Archeologist is required prior to the demolition of the bedrock milling.

TIMING: Prior to any clearing, grubbing, trenching, grading, or any land disturbances in the areas in which bedrock milling is located, this condition shall be completed. **MONITORING:** The [PDS, PPD] shall review the letter from the Project Archeologist for compliance with this condition.

(BIOLOGICAL RESOURCES)

**114. BIO#20–BIOLOGICAL MONITORING
[Mitigation Measure M-BIO-1]**

INTENT: In order to prevent inadvertent disturbance to sensitive biological resources, all grading located within and adjacent to biological open space shall be monitored by a biological monitor. **DESCRIPTION OF REQUIREMENT:** A County approved biologist shall perform biological monitoring during all grading, clearing, grubbing, trenching, and construction activities within and adjacent to biological open space for the protection of sensitive habitats, special status plants and wildlife, and jurisdictional waters. The Project Biologist shall supervise and monitor grading activities to ensure against damage to biological resources that are intended to be protected and preserved. The monitor(s) shall be on site during all grading and clearing activities that are in or adjacent to any biological open space areas or sensitive habitats. The cost estimate of the monitoring (provided in the contract) shall be added to the grading bonds that will be posted with the DPW, or bond separately with the PDS. The bond for monitoring shall be released upon the acceptance of the monitoring report for each Final Map. If there are disturbances, the monitor must report them immediately to the [PDS PCC]. Additionally, the biologist shall perform the following duties:

1. Prepare a California gnatcatcher-monitoring program to the satisfaction of [PDS PCC] and the Wildlife Agencies;
2. Perform weekly inspection of fencing and erosion control measures (daily during rain events) near proposed preservation areas and report deficiencies immediately to the DPW Construction Inspector;
3. Periodically monitor the work area for excessive dust generation in compliance with the County grading ordinance and report deficiencies immediately to the DPW Construction Inspector;
4. Conduct training for contractors and construction personnel, including the purpose for resource protection, the importance of restricting work to designated areas, a description of the gnatcatcher and its habitat, and the conservation measures that should be implemented during project construction prior to clearing, grubbing, or grading;
5. Monitor construction lighting periodically to ensure lighting is the lowest illumination possible allowed for safety, selectively placed, shielded, and directed away from preserved habitat;
6. Monitor equipment maintenance, staging, and fuel dispensing areas to ensure there is no runoff to Waters of the US;
7. Attend the preconstruction meeting with the contractor and other key construction personnel prior to clearing, grubbing, or grading to reduce conflict between the timing and location of construction activities with other mitigation requirements (e.g., seasonal surveys for nesting birds);
8. Discuss procedures/training for minimizing harm to or harassment of wildlife encountered during construction with the contractor and other key construction personnel prior to clearing, grubbing, or grading;
9. Review and/or designate the construction area in the field with the contractor in accordance with the final grading plan prior to clearing, grubbing, or grading;
10. Conduct a field review of the staking to be set by the surveyor, designating the limits of all construction activity prior to clearing, grubbing, or grading;

11. Supervise and monitor vegetation clearing, grubbing, and grading to ensure against direct and indirect impacts to biological resources that are intended to be protected and preserved;
12. Flush special-status and other species (i.e., avian and other mobile species) from occupied habitat areas immediately prior to brush-clearing and earth-moving activities;
13. Verify that the construction site is implementing the following storm water pollution prevention plan best management practices: dust-control fencing, removal of construction debris and a clean work area, covered trash receptacles that are animal-proof and weather-proof, prohibition of pets on the construction site, and a speed limit of 15 miles per hour during the daylight and 10 miles per hour during dark hours;
14. Periodically monitor incoming landscape products for compliance with the prohibition on non-native invasive species and the requirement for landscaping composed of native species that do not require high irrigation rates.
15. Periodically monitor the construction site in accordance with the project's fugitive dust control plan in compliance with San Diego County Air Pollution Control District's regulations to reduce particulate matter less than 10 microns in diameter (PM10) and fine particulate matter less than 2.5 microns in diameter (PM2.5) emissions during construction (refer to the Air Quality Technical Report). Periodically monitor the construction site to see that dust is minimized according to the fugitive dust control plan and that manufactured slopes are revegetated as soon as possible;
16. Oversee the construction site so that cover and/or escape routes for wildlife from excavated areas are provided on a daily basis. All steep trenches, holes, and excavations during construction shall be covered at night with backfill, plywood, metal plates, or other means, and the edges covered with soils and plastic sheeting such that small wildlife cannot access them. Soil piles shall be covered at night to prevent wildlife from burrowing in. The edges of the sheeting shall be weighed down by sandbags. These areas may also be fenced to prevent wildlife from gaining access. Exposed trenches, holes, and excavations shall be inspected twice daily (i.e., each morning and prior to sealing the exposed area) by a qualified biologist to monitor for wildlife entrapment. Excavations shall provide an earthen ramp to allow for a wildlife escape route.
17. Stop or divert all work when deficiencies require mediation and notify DPW Construction Inspector and [PDS PCC] within 24 hours; (8) produce periodic (monthly during grading) and final reports and submit to the Wildlife Agencies and the PDS (final report will release bond);
18. Confer with the Wildlife Agencies and [PDS PCC] within 24 hours any time protected habitat or gnatcatchers are being affected by construction;
19. Attend construction meetings and other meetings as necessary.
20. Keep daily monitoring notes for the duration of grading for submittal in a final report to substantiate the biological supervision of the grading activities and the protection of the biological resources.

DOCUMENTATION: The Project Biologist shall prepare and submit to the satisfaction the [PDS, PCC] monitoring reports, cost estimate, and MOU which indicate that the monitoring has occurred as indicated above. The applicant shall provide verification that the cost of the monitoring has been added to the grading bond. **TIMING:** The following actions shall occur throughout the duration of the grading construction; if this project includes more than one Final Map, each shall have separate monitoring contracts and documentation. **MONITORING:** The PDS shall review the contract, MOU, and cost estimate or separate bonds for compliance with this condition. The cost estimate shall be forwarded to the project manager for inclusion in the grading bond cost estimate and grading bonds. The DPW shall add the cost of the monitoring to the grading bond costs. The [DPW, PDCI] shall assure that the Project Biologist is on-site performing the Monitoring duties of this condition during all applicable grading activities as determined by the Biologist. The [DPW, PDCI] shall contact the [PDS, PCC] if the Project Biologist or applicant fails to comply with this condition. The [PDS, PCC] shall review and approve the monitoring reports for compliance with this condition.

(NOISE)

115. NOISE#GR-1 - TEMPORARY CONSTRUCTION NOISE.

INTENT: In order to minimize temporary construction noise for grading operations associated with TM-5597 and to comply with County Noise Ordinance 36.409.

DESCRIPTION OF REQUIREMENT: The project shall comply with the following temporary construction noise control measures, as specified in PDFs 33 to 38 of the EIR, dated June 2017, and shall comply with the eight hour average sound level of 75 dBA pursuant to Noise Ordinance Section 36.408 & 36.409:

- a. The project applicant, or its designee, shall take those steps necessary to require that all construction equipment shall be properly maintained and equipped with noise-reduction intake, exhaust mufflers, and engine shrouds, in accordance with manufacturers' recommendations. Equipment engine shrouds shall be closed during equipment operation.
- b. The project applicant, or its designee, shall take those steps necessary to require that whenever feasible, electrical power shall be used to run air compressors and similar power tools.
- c. The project applicant, or its designee, shall take those steps necessary to require that equipment staging areas are located as far as feasible from occupied residences or schools.
- d. The project applicant, or its designee, shall take those steps necessary to require that for all construction activity (on-site and off-site improvement work), noise attenuation techniques shall be employed, as needed, to ensure that noise levels remain below 75 dBA L_{eq} at existing residences. Such techniques may include, but are not limited to, the use of sound

blankets on noise-generating equipment and the construction of temporary sound barriers adjacent to construction sites between affected uses.

- e. The project applicant, or its designee, shall take those steps necessary to ensure that on-site rock crusher facilities are located a minimum of 600 feet from the property line of existing residences and future on-site residences.
- f. Maximum noise levels resulting from pile driving operations shall be limited to 20 percent of every hour.
- g. Turn off equipment when not in use.
- h. Use equipment with effective mufflers
- i. Minimize the use of back up alarm.

DOCUMENTATION: The applicant shall comply with the temporary construction noise measures and the County Noise Ordinance as described within this condition. **TIMING:** The following actions shall occur throughout the duration of the grading construction and construction equipment operations. **MONITORING:** The [DPW, PDCI] shall make sure that the grading contractor complies with the construction noise control measures of this condition. The [DPW, PDCI] shall contact the [PDS, PCC] if the applicant fails to comply with this condition.

116. NOISE#GR-2 - VIBRATION IMPACTS MEASURES.

INTENT: In order to comply with the County of San Diego Noise Ordinance 36.409 & 36.410, the following vibration attenuation measures shall be implemented to reduce the vibration level generated from project construction equipment operations. **DESCRIPTION OF REQUIREMENT:**

- a. Prior to beginning construction of any project component within 200 feet of existing occupied residences, the project applicant or its designee shall require preparation of a vibration monitoring plan for submittal to the County noise control officer for review and approval. At a minimum, the vibration monitoring plan shall require data be sent to the County noise control officer or designee on a weekly basis as determined by the noise control officer. The data shall include vibration level measurements taken during the previous work period. In the event that the County noise control officer determines there is reasonable probability that future measured vibration levels would exceed allowable limits, the County noise control officer or designee shall take the steps necessary to ensure that future vibration levels do not exceed such limits, including suspending further construction activities that would result in excessive vibration levels until either alternative equipment or alternative construction procedures can be used that generate vibration levels that do not exceed 0.004 inch per second root mean square (RMS) or 0.1 inch per second peak particle velocity (PPV) at

the nearest residential structure. Construction activities not associated with vibration generation could continue.

- b. The vibration monitoring plan shall be prepared and administered by a County-approved noise consultant. In addition to the data described previously, the vibration monitoring plan shall include the location of vibration monitors, the vibration instrumentation used, a data acquisition and retention plan, and exceedance notification and reporting procedures. A description of these plan components is provided in the following text.
- i. **Location of Vibration Monitors:** The vibration monitoring plan shall include a scaled plan indicating monitoring locations, including the location of measurements to be taken at construction site property lines and at nearby residential properties.
 - ii. **Vibration Instrumentation:** Vibration monitors shall be capable of measuring maximum unweighted RMS and PPV levels triaxially (in three directions) over a frequency range of 1 to 100 Hertz. The vibration monitor shall be set to automatically record daily events during working hours and to record peak triaxial PPV values in 5-minute interval histogram plots. The method of coupling the geophones to the ground shall be described and included in the report. The vibration monitors shall be calibrated within 1 year of the measurement, and a certified laboratory conformance report shall be included in the report.
 - iii. **Data Acquisition:** The information to be provided in the data reports shall include, at a minimum, daily histogram plots of PPV versus time of day for three triaxial directions, and maximum peak vector sum PPV and maximum frequency for each direction. The reports shall also identify the construction equipment operation during the monitoring period and their locations and distances to all vibration measurement locations.
 - iv. **Exceedance Notification and Reporting Procedures:** A description of the notification of exceedance and reporting procedures shall be included, and follow-up procedures taken to reduce vibration levels to below the allowable limits.

DOCUMENTATION: The applicant shall maintain and incorporate the vibration noise measure as indicated above until construction activities within 200 feet of an existing occupied residence have been completed. The applicant is responsible for implementing any further vibration reducing measures to remain in compliance with this condition and comply with the requirements of the County Noise Ordinance, Section 36.409 & 36.410. **TIMING:** The condition shall occur prior to and/or throughout the duration of construction activities when within 200 feet of any occupied residence. **MONITORING:** The [PDS, CODES] is responsible for enforcement of this condition.

117. NOISE#GR-3 - BLASTING PLAN AND CONSTRUCTION NOISE ORDINANCE COMPLIANCE.

INTENT: In order to comply with the County of San Diego Noise Ordinance 36.409 & 36.410, the following noise attenuation measures shall be implemented to reduce the sound level generated from construction equipment operations associated with blasting. **DESCRIPTION OF REQUIREMENT:** The project applicant shall conform to the blast plan which would be comprised of the following (but not limited to):

- a. Prior to and during construction activities, the applicant shall be required to prepare and implement a blast plan to reduce impacts associated with air blast over-pressure generated by project-related construction activities and to incorporate any required noise reducing measures to comply with County Noise Ordinance regulations.
- b. No blasting shall occur at a distance of less than 600 feet from any off-site structure without specific analysis by the blasting contractor showing less than significant vibration impacts to the structure all pursuant to the County Fire Consolidation Code dated April 14, 2017.
- c. All blast planning shall be done by a San Diego County Sheriff approved blaster, with the appropriate San Diego County Sheriff blasting permits, and all other applicable local, state, and federal permits, licenses, and bonding. The blasting contractor or owner shall conduct all notifications, inspections, and monitoring, major or minor blasting requirements planning, with seismograph reports as necessary.
- d. Construction equipment associated with blasting (i.e. drilling, pre and post blasting work) shall comply with the County Noise Ordinance, Section 36.408, 36.409, and 36.410. The blast plan shall include any necessary noise measures such as (but not limited to) temporary noise barriers and blankets, increased setbacks, limiting construction equipment operations, and any other methods specified within the blasting plan must be implemented to comply with County Noise Ordinance requirements.
- e. If new information is provided to prove and certify that the operations associated with blasting being used is different prior to grading plan approval, then a new construction noise analysis may be reviewed to the satisfaction of the [PDS, PCC]. The supplemental noise analysis shall be prepared by a County Approved Noise Consultant and the report shall comply with the Noise Report Format and Content Requirements. Any proposed alternative methods, or the reduction or modification of measures may be approved if the blasting activities comply with County noise standards at any the occupied property line.

DOCUMENTATION: The applicant shall maintain and incorporate the construction noise measures as indicated above and within the plan until all blasting activities (including pre and post) have been completed. The applicant is responsible for implementing any further noise reducing measures to remain in compliance with this condition and comply with the requirements of the County Noise Ordinance, Section 36.409 & 36.410. **TIMING:** This condition shall occur prior to and/or throughout the duration of all associated blasting activities. **MONITORING:** The [PDS, CODES] is responsible for enforcement of this condition.

(AIR QUALITY)

118. AQ#5-BLASTING

INTENT: In order to mitigate for blasting emissions. **DESCRIPTION OF REQUIREMENT:** The construction contractor shall comply with the following Air Quality and Greenhouse Gas (GHG) measures:

- a. Use a maximum of 19 tons of ammonium nitrate-based blasting material per day for a maximum blasting area of 38,918 square feet per day during Phase 1 of construction.
- b. Use a maximum of 17.5 tons of ammonium nitrate-based blasting material per day for a maximum blasting area of 38,748 square feet per day during Phase 2 of construction.
- c. Included as part of the project's Fugitive Dust Plan, implement all feasible engineering controls to control fugitive dust including exhaust ventilation, blasting cabinets and enclosures, vacuum blasters, drapes, water curtains, or wet blasting. Watering methods, such as water sprays and water applications will be implemented during blasting, rock crushing, cutting, chipping, sawing, or any activity that would release dust particles to reduce fugitive dust emissions.

DOCUMENTATION: The applicant shall comply with the Air Quality and GHG requirements of this condition. **TIMING:** The following actions shall occur throughout the duration of construction. **MONITORING:** The [DPW, PDC] shall make sure that the grading contractor complies with the Air Quality and GHG requirements of this condition. The [DPW, PDC] shall contact the [DPLU, PCC] if the applicant fails to comply with this condition.

119. AQ#6-ROCK CRUSHING

INTENT: In order to mitigate for fugitive dust. **DESCRIPTION OF REQUIREMENT:** The project shall comply with the following Air Quality measure:

- a. Material will be watered prior to entering the crusher. Crushing activities will not exceed an opacity limit of 20% (or Number 1 on the Ringelmann Chart) as averaged over a 3-minute period in any period of 60 consecutive minutes, in accordance with SDAPCD Rule 50, Visible Emissions. A quantified opacity observer will monitor opacity from crushing activities once every 30 days while crushers are employed on site to ensure compliance

with SDAPCD Rule 50. Water sprayers, conveyor belt enclosures, or other mechanisms will be employed to reduce fugitive dust generated during transfer and conveyance of crush material.

DOCUMENTATION: The applicant shall comply with the Air Quality requirement of this condition. **TIMING:** The following actions shall occur throughout the duration of construction. **MONITORING:** The [DPW, PDCI] shall make sure that the grading contractor complies with the Air Quality requirement of this condition. The [DPW, PDCI] shall contact the [DPLU, PCC] if the applicant fails to comply with this condition.

120. AQ#7-CONSTRUCTION ARCHITECTURAL COATINGS

INTENT: In order to reduce emissions of volatile organic compounds (VOC).

DESCRIPTION OF REQUIREMENT: The project shall comply with the following Air Quality measure:

- a. Use architectural coatings with a VOC content of 100 grams per liter (g/l) or less for exterior coatings and 50 g/l or less for interior coatings.

DOCUMENTATION: The applicant shall comply with the Air Quality requirements of this condition. **TIMING:** The following action shall occur throughout the duration of the construction activities involving the application of architectural coatings.

MONITORING: The [DPW, PDCI] shall make sure that the construction contractor complies with the Air Quality requirement of this condition. The [DPW, PDCI] shall contact the [PDS, PCC] if the applicant fails to comply with this condition.

121. HAZ#4–FIRE PROTECTION (M-HZ-1, M-HZ-2, M-HZ-3, M-UT-1)

INTENT: In order to comply with the County of San Diego Fire Protection Plan, mitigation measures shall be implemented. **DESCRIPTION OF REQUIREMENT:** The following shall be required to implement fire protection mitigation measures:

- a. Vegetation management requirements shall be implemented at commencement and throughout the construction phase. Vegetation management shall be performed pursuant to the FAHJ on all building locations prior to the start of work and prior to any import of combustible construction materials. Adequate fuel breaks shall be created around all grading, site work, and other construction activities in areas where there is flammable vegetation.
- b. All new power lines shall be underground for fire safety during high wind conditions or during fires on a right-of-way that can expose aboveground power lines. Temporary construction power lines may be allowed in the areas that have been cleared of combustible vegetation.
- c. A construction fire prevention plan shall be prepared to minimize the likelihood of ignitions and pre-plan the site's fire prevention, protection and response plan.

- d. Caution must be used not to cause erosion or ground (including slope) instability or water runoff due to vegetation removal, vegetation management, maintenance, landscaping, or irrigation. No uprooting of treated plants is necessary.

DOCUMENTATION: The applicant shall demonstrate that this condition has been placed on the grading plans. **TIMING:** The following action shall occur throughout the duration of the construction activities involving the application of fire mitigation measures. **MONITORING:** The [PDS, County Fire] shall review the report and any additional evidence for compliance with this condition.

ROUGH GRADING: *(Prior to rough grading approval and issuance of any building permit).*

(CULTURAL RESOURCES)

122. CULT#GR-6 (M-CR-7) - ARCHAEOLOGICAL MONITORING – ROUGH GRADING

INTENT: In order to comply with the County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Cultural Resources, an Archaeological Monitoring Program shall be implemented.

DESCRIPTION OF REQUIREMENT: The Project Archaeologist shall prepare one of the following reports upon completion of the earth-disturbing activities that require monitoring:

- a. If no archaeological resources are encountered during earth-disturbing activities, then submit a final Negative Monitoring Report substantiating that earth-disturbing activities are completed and no cultural resources were encountered. Archaeological monitoring logs showing the date and time that the monitor was on site and any comments from the Luiseno Native American Monitor must be included in the Negative Monitoring Report.
- b. If archaeological resources were encountered during the earth disturbing activities, the Project Archaeologist shall provide an Archaeological Monitoring Report stating that the field monitoring activities have been completed, and that resources have been encountered. The report shall detail all cultural artifacts and deposits discovered during monitoring and the anticipated time schedule for completion of the curation and/or repatriation phase of the monitoring.

DOCUMENTATION: The applicant shall submit the Archaeological Monitoring Report to [PPD] for review and approval. Once approved, a final copy of the report shall be submitted to the South Coastal Information Center, the San Luis Rey Band of Mission Indians, the Pechanga Band of Luiseno Indians, and any culturally-affiliated Tribe who requests a copy. **TIMING:** Upon completion of all earth-disturbing activities, and prior to Rough Grading Final Inspection (Grading

Ordinance SEC 87.421.a.2), the report shall be completed. **MONITORING:** [PPD] shall review the report or field monitoring memo for compliance with the project MMRP, and inform [DPW, PDCI] that the requirement is completed.

123. **BIO#21–BIOLOGICAL MONITORING**

[Mitigation Measures M-BIO-1 and M-BIO-3]

INTENT: In order to comply with the adopted Mitigation Monitoring and Reporting Program (MMRP) pursuant to PDS2015-ER-15-08-001 and TM-5597, and the [County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Biological Resources](#), a Grading Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The Project Biologist shall prepare and submit a final letter report substantiating his/her supervision of the grading activities and substantiating that grading did not impact additional areas of biological open space or other sensitive biological resources. The report shall conform to the [County of San Diego Report Format and Content Requirement Guidelines: Biological Resources](#). It shall also include but not be limited to the following items:

- a. Photos of the temporary fencing that was installed during the trenching, grading, or clearing activities.
- b. Monitoring logs showing the date and time that the monitor was on site.
- c. Photos of the site after the grading and clearing activities.
- d. Lists of species observed with special-status species mapped.

DOCUMENTATION: The applicant shall submit the final biological monitoring report to the [PDS, PCC] for review and approval. **TIMING:** Upon completion of all grading activities, and prior to Rough Grading Final Inspection ([Grading Ordinance SEC 87.421.a.2](#)), the final report shall be completed. **MONITORING:** The [PDS, PCC] shall review the final report for compliance with the project MMRP, and inform [DPW, PDCI] that the requirement is completed and accepted by PDS. Upon approval of the report, the PDS shall inform the Department of Public Works (DPW) that the requirement is complete and the bond amount can be relinquished. If the monitoring was bonded separately, then PDS shall inform DPW to release the bond back to the applicant.

FINAL GRADING RELEASE: *(Prior to any occupancy, final grading release, or use of the premises in reliance of this permit).*

(CULTURAL RESOURCES)

124. **CULT#GR-7 (M-CR-7) - ARCHAEOLOGICAL MONITORING – FINAL GRADING**

INTENT: In order to comply with the County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements for Cultural Resources, an Archaeological Monitoring Program shall be implemented. **DESCRIPTION OF REQUIREMENT:** The Project Archaeologist shall prepare a final report that documents the results, analysis, and conclusions of all phases of the Archaeological Monitoring Program if cultural resources were encountered

during earth-disturbing activities. The report shall include the following, if applicable:

- a. Department of Parks and Recreation Primary and Archaeological Site forms.
- b. Daily Monitoring Logs
- c. Evidence that all cultural materials have been conveyed as follows:
 - (1) All prehistoric cultural materials under the ownership of the property owner shall be reinterred onsite as reflected in the Preservation Plan developed in consultation with the San Luis Rey Band and Pechanga Band. Evidence shall be in the form of a letter from the San Luis Rey Band or the Pechanga Band identifying that the cultural materials have been reinterred.
 - (2) Historic materials (Non-Native American) shall be curated at a San Diego curation facility that meets federal standards per 36 CFR Part 79. The collections and associated records, including title, shall be transferred to the San Diego curation facility and shall be accompanied by payment of the fees necessary for permanent curation. Evidence shall be in the form of a letter from the curation facility stating that the historic materials have been received and that all fees have been paid.
- d. If no cultural resources are discovered, a Negative Monitoring Report must be submitted stating that the archaeological monitoring activities have been completed. Grading Monitoring Logs must be submitted with the negative monitoring report.

DOCUMENTATION: The applicant's archaeologist shall prepare the final report and submit it to *[PPD]* for approval. Once approved, a final copy of the report shall be submitted to the South Coastal Information Center (SCIC), the San Luis Rey Band of Mission Indians, the Pechanga Band of Luiseno Indians, and any culturally-affiliated Tribe who requests a copy. **TIMING:** Prior to any occupancy, final grading release, or use of the premises in reliance of this permit, the final report shall be prepared. **MONITORING:** *[PDS, PPD]* shall review the final report for compliance with this condition and the report format guidelines. Upon acceptance of the report, *[PDS, PPD]* shall inform *[PDS, LDR]* and *[DPW, PDCI]*, that the requirement is complete and the bond amount can be relinquished. If the monitoring was bonded separately, then *[PDS, PPD]* shall inform *[PDS or DPW FISCAL]* to release the bond back to the applicant.

125. CULT#GR-8 (M-CR-6) - DUST CONTROL PLAN - CA-SDI-9822 – FINAL REPORT

INTENT: In order to mitigate for potential impacts to the pictograph at site CA-SDI-9822, dust control measures shall be implemented pursuant to the [County of San Diego Guidelines for Determining Significance for Cultural Resources](#) and [CEQA Section 15064.5 and 15064.7](#). **DESCRIPTION OF REQUIREMENT:** The Project Archaeologist shall prepare a final report that documents all activities associated with the dust control plan that was implemented for the protection of the pictograph at CA-SDI-9822. The report shall include the following, if applicable:

- a. Photo-documentation of the pictograph prior to and after the completion of construction.
- b. Type of materials used to protect the pictograph.
- c. Issues or impacts identified during the periodic inspections.
- d. Status of the pictograph prior to and upon conclusion of construction.

DOCUMENTATION: The applicant shall provide final letter report to *[PDS, PPD]*, the South Coastal Information Center, the San Luis Rey Band of Mission Indians, the Pechanga Band of Temecula Luiseno Indians, and any culturally-affiliated tribe who requests a copy. **TIMING:** Prior to any occupancy, final grading release, or use of the premises in reliance of this permit, the final report shall be prepared. **MONITORING:** *[PDS, PPD]* shall review the final letter report for compliance with this condition.

126. CULT#9 (M-CR-10) - CULTURAL PRESERVATION AND MAINTENANCE PLAN

INTENT: In order to plan for the long-term care and maintenance of CA-SDI-4558, CA-SDI-5951 and CA-SDI-9822, and their associated cultural resources and features, a Cultural Preservation and Maintenance Plan shall be prepared. **DESCRIPTION OF REQUIREMENT:** A single Cultural Preservation and Maintenance Plan (Preservation Plan) shall be prepared between the applicant, the San Luis Rey Band and the Pechanga Band. The Preservation Plan shall be reviewed and approved by the County. The Preservation Plan shall include the following:

- i. The specific areas to be included in and excluded from long-term maintenance.
- j. Prohibited activities.
- k. Methods of preservation to be employed (fencing, vegetative deterrence, etc.).
- l. The entity or entities responsible for the long-term maintenance.

- m. Maintenance scheduling and notification.
- n. Appropriate avoidance protocols.
- o. Monitoring by the Tribes and compensation for services.
- p. Necessary emergency protocols

DOCUMENTATION: A copy of the Preservation and Maintenance Plan shall be submitted to the [PDS, PPD] for approval. **TIMING:** Prior to any occupancy or final grading release, the Preservation Plan shall be prepared. **MONITORING:** The [PDS, PPD] shall review the implemented agreement for compliance this condition.

127. **BIO#22–OPEN SPACE SIGNAGE & FENCING**

[Mitigation Measure M-BIO-8E]

INTENT: In order to protect the open space easement dedicated under Condition BIO#1–BIOLOGICAL EASEMENT pursuant to the adopted Mitigation Monitoring and Reporting Program (MMRP) for PDS2015-ER-15-08-001 and TM-5597, the fencing and signage shall be installed. **DESCRIPTION OF REQUIREMENT:** The permanent fences, and open space signs shall be placed along the open space boundary as shown on these plans and the approved Conceptual Grading and Development Plan for PDS2015-ER-15-08-001.

- a. Evidence shall be site photos and a statement from a California Registered Engineer, or licensed surveyor that the permanent walls or fences, and open space signs have been installed.
- b. The signs must be corrosion resistant, placed approximately every 200 feet along the fencing, a minimum of 6” x 9” in size, on posts not less than three (3) feet in height from the ground surface, and must state the following:

**Sensitive Environmental Resources
Area Restricted by Easement**

Entry without express written permission from the County of San Diego is prohibited. To report a violation or for more information about easement restrictions and exceptions contact the County of San Diego,

Planning & Development Services

Reference: (PDS2015-ER-15-08-001)

DOCUMENTATION: The applicant shall install the fencing and signage and provide the documentation photos and certification statement to the [PDS, PCC]. **TIMING:** Prior to the occupancy of any structure or use of the premises in reliance of PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ15-001, PDS2015-TM-5597, PDS2015-ER-15-08-001, and prior to Final Grading Release ([Grading Ordinance Sec. 87.421.a.3](#)) the fencing and signage shall be installed. **MONITORING:** The [PDS, PCC] shall review the photos and statement for compliance with this condition.

128. **BIO#23–EASEMENT AVOIDANCE**

[Mitigation Measure M-BIO-8B]

INTENT: In order to protect sensitive resources, pursuant to [County Grading Ordinance Section 87.112](#) the open space easements shall be avoided.

DESCRIPTION OF REQUIREMENT: The easement indicated on this plan is for the protection of sensitive environmental resources (eg. Diegan coastal sage scrub and other sensitive habitats, special status plant and wildlife species, and jurisdictional waters) and prohibits all of the following on any portion of the land subject to said easement: grading; excavation; placement of soil, sand, rock, gravel, or other material; clearing of vegetation; construction, erection, or placement of any building or structure; vehicular activities; trash dumping; or use for any purpose other than as open space. It is unlawful to grade or clear within an open space easement, any disturbance shall constitute a violation of the [County Grading Ordinance Section 87.112](#) and will result in enforcement action and restoration. The only exception(s) to this prohibition is:

1. Selective clearing of vegetation by hand to the extent required by written order of the fire authorities for the express purpose of reducing an identified fire hazard. While clearing for fire management is not anticipated with the creation of this easement, such clearing may be deemed necessary in the future for the safety of lives and property. All fire clearing shall be pursuant to the applicable fire code of the Fire Authority Having Jurisdiction and the Memorandum of Understanding dated February 26, 1997, between the wildlife agencies and the fire districts and any subsequent amendments thereto. Activities conducted pursuant to a revegetation or habitat management plan approved by the Director of PDS.
 3. Vegetation removal or application of chemicals for vector control purposes where expressly required by written order of the County of San Diego DEH.
 4. Uses, activities, and placement of structures expressly permitted and shown on the plot plan.
 5. Construction, use and maintenance of multi-use, non-motorized trails per the specific plan (Figure 1-3, Parks and Trails Plan).
- DOCUMENTATION:** The applicant shall provide a letter statement to the [PDS, PCC] stating that all Sensitive Resource Easements were avoided during the grading construction, and that no impacts or encroachment into the open space occurred. **TIMING:** Prior to Final Grading Release the letter verifying the easements were not disturbed shall be submitted. **MONITORING:** The [DPW, PDC] shall not allow any grading, clearing or encroachment into the open space easement.”

129. GEO#2–GEOTECHNICAL MONITORING (M-GE-1)

INTENT: In order to identify areas of potential liquefaction and develop conclusions and recommendations, a geotechnical consultant is required during grading.

DESCRIPTION OF REQUIREMENT: A geotechnical consultant in the field shall perform geotechnical observation and/or laboratory testing during grading to identify areas of potential liquefaction and develop conclusions and recommendations. All alluvial soils in areas of proposed development or future fill shall be removed and recompacted during grading. **DOCUMENTATION:** The applicant shall prepare a certified summary of their findings on the removal and

recompaction measures. The findings shall be reviewed and approved by the Director of the County Department of Planning & Development Services or designee. **TIMING:** Prior to approval of final inspection of site grading for each phase of the affected areas of the proposed project. **MONITORING:** [PDS] shall review the geotechnical findings for compliance with this condition.

130. GEO#3—STABILIZATION MEASURES (M-GE-3)

INTENT: In order to ensure stabilization of cut slopes. **DESCRIPTION OF REQUIREMENT:** A geotechnical consultant in the field shall perform mapping of all cut slopes during grading. If adverse geologic conditions (e.g., highly fractured and jointed rock, clay-lined fractures, seepage zones) are encountered during installation of cut slopes, stabilization measures shall be required and implemented during grading. Specific stabilization measures shall include, but not be limited to, removal of loose boulders or displaced rocks, stability fill, buttresses, rock-bolting, and/or catchment netting. **DOCUMENTATION:** A geotechnical consultant shall prepare a certified report on stabilization measures. The findings shall be reviewed and approved by the Director of the County Department of Planning & Development Services or designee. **TIMING:** Prior to approval of final inspection of site grading for each phase of the affected areas of the proposed project. **MONITORING:** [PDS] shall review the geotechnical findings for compliance with this condition.

131. GEO#4—GEOLOGIC HAZARDS (M-GE-4)

INTENT: In order to avoid rockfall hazards that threaten the proposed building site, the boulders located in a hazardous position shall be removed. **DESCRIPTION OF REQUIREMENT:** All boulders located within the proposed development footprint shall be removed during grading. Boulders affecting the 14 locations identified in Table 2.6-2 (EIR) as potentially hazardous zones shall either be removed, broken in place, or mitigated with catchments as set forth in Table 2.6-2 (EIR). **DOCUMENTATION:** Evidence to the satisfaction of the County Department of Planning & Development Services shall be provided by a California Registered Professional Engineer or Certified Engineering Geologist, which demonstrates that hazardous boulders have been removed, broken in place, or mitigated with catchments, as required rock fall hazards. In addition, a written professional opinion from a California Certified Engineering Geologist shall be provided that indicates that the potential risk for rock fall hazards to impact the proposed development has been mitigated to a less than significant level. The written opinion shall also indicate that, with mitigation measures incorporated, the proposed development shall be safe for human occupancy. **TIMING:** Prior to approval of final inspection of site grading for each phase of the affected areas of the proposed project. **MONITORING:** [PDS] shall review the rock fall hazard certification report for compliance with this condition.

132. GEO#5—GEOTECHNICAL MONITORING (M-GE-5)

INTENT: In order to identify areas of highly expansive soils and determine the actual expansion/compression potential of finish-grade soils during grading.

DESCRIPTION OF REQUIREMENT: A geotechnical consultant in the field shall perform geotechnical observation and/or laboratory testing during grading to identify areas of highly expansive soils and determine the actual expansion/compression potential of finish-grade soils. All compressible soils in areas of proposed development or future fill shall be removed and soils shall be recompacted during grading. **DOCUMENTATION:** The applicant shall prepare a certified summary of their findings on the removal and recompaction measures. The findings shall be reviewed and approved by the Director of the County Department of Planning & Development Services or designee. **TIMING:** Prior to approval of final inspection of site grading for each phase of the affected areas of the proposed project. **MONITORING:** [PDS] shall review the geotechnical findings for compliance with this condition.

133. PALEO#2–PALEO RESOURCES REPORT

INTENT: In order to ensure that the Grading Monitoring occurred during the grading, trenching or other excavation phase of the project pursuant to condition PALEO#1 a final report shall be prepared. **DESCRIPTION OF REQUIREMENT:** A final Paleontological Resource Mitigation Report that documents the results, analysis, and conclusions of all phases of the Paleontological Monitoring Program shall be prepared. The report shall and include the following items:

- a. If **no** paleontological resources were discovered, submit a Negative letter report, which states that the monitoring has been completed and that no paleontological resources were discovered.
- b. If resources **were** discovered and recovered during grading, a detailed report shall be prepared by the Project Paleontologist. The report shall comply with the [County of San Diego's Guidelines for Determining Significance for Paleontological Resources](#). The report shall identify which accredited institution has agreed to accept the curated fossils and include proof of the Transfer of Paleontological Resources, in the form of a letter, from the director of the paleontology department of the accredited institution to the Director of PDS verifying that the curated fossils from the project site have been received by the institution."

DOCUMENTATION: The Project Paleontologist shall prepare the final report and submit it to the [PDS, PCC] for approval. If resources were discovered then the applicant shall complete the following:

- a. Transfer the cataloged fossil remains and copies of relevant field notes, maps, stratigraphic sections, and photographs to an accredited institution (museum or university) in California that maintains paleontological collections for archival storage and/or display, and
- b. The applicant shall Submit TWO hard copies of the final Paleontological Resources Mitigation Report to the [PDS, PCC] for final approval of the mitigation, and submit an electronic copy of the complete report in Microsoft Word on a CD. In addition, submit one copy of the report to the San Diego Natural History Museum and one copy to the institution that received the fossils.

TIMING: Prior to any occupancy, final grading release, or use of the premises in reliance of this permit, the final report shall be prepared. **MONITORING:** The

[PDS, PCC] shall review the final report for compliance this condition and the report format guidelines. Upon acceptance of the report, *[PDS, PCC]* shall inform *[PDS, LDR]* and *[DPW, PDCI]*, that the requirement is complete and the bond amount can be relinquished. If the monitoring was bonded separately, then *[PDS, PCC]* shall inform *[PDS, FISCAL]* to release the bond back to the applicant.

IT IS FURTHER RESOLVED, THEREFORE, that the Board of Supervisors of the County of San Diego hereby makes the following findings as supported by the minutes, maps, exhibits, and documentation of said Tentative Map all of which are herein incorporated by reference:

1. The Tentative Map is consistent with all elements of the San Diego County General Plan and with the Semi-Rural (SR-1) and Village Core (C-5) Land Use Designations of the North County Metro Subregional Plan and the Bonsall Community Plan because it proposes a residential use type at a density of 1.08 dwelling units per acre and complies with the provisions of the State Subdivision Map Act and the Subdivision Ordinance of the San Diego County Code;
2. The Tentative Map is consistent with The Zoning Ordinance because it proposes a mixed-use development, comprised of residential, commercial, and civic development, which is governed by the Newland Sierra Specific Plan that identifies appropriate lot area and design guidelines and is consistent with the provisions of the Residential (RS) Use Regulations and Neighborhood Commercial–Residential Use Regulations;
3. The design and improvements of the proposed subdivision are consistent with all elements of the San Diego County General Plan and with the North County Metro Subregional Plan and the Bonsall Community Plan, and comply with the provisions of the State Subdivision Act and the Subdivision Ordinance of the San Diego County Code;
4. The site is physically suitable for the mixed-use residential, commercial, and civic use type of development because the proposed development is outside the majority of the sensitive environmental areas on the property and impacts thereto are mitigated. Site grading will be balanced and minimized as appropriate.
5. The site is physically suitable for the proposed density of development because both imported water supply and sewer treatment and disposal will be serviced by the Vallecitos Municipal Water District;
6. The design of the subdivision and the type of improvements will not cause public health problems because adequate water supply and sewage disposal services have been found to be available or can be provided concurrent with need;
7. The design of the subdivision or the type of improvements do not conflict with easements, acquired by the public at large, for access through, or use of property

within the proposed subdivision, as defined under Section 66474 of the Government Code, State of California; and

The division and development of the property in the manner set forth on the approved Tentative Map will not unreasonably interfere with the free and complete exercise of the public entity or public utility right-of-way or easement;

8. The discharge of sewage waste from the subdivision into the Vallecitos Municipal Water District sewer system will not result in violation of existing requirements prescribed by the California Regional Water Quality Control Board pursuant to Division 7 (commencing with Section 13000) of the Water Code, as specified by Government Code Section 66474.6;
9. Because adequate facilities and services have been assured and adequate environmental review and documentation have been prepared, the regional housing opportunities afforded by the subdivision outweigh the impacts upon the public service needs of County residents and fiscal and environmental resources; and
10. Determinations and findings pursuant to the California Environmental Quality Act, the Resource Protection Ordinance, and the Watershed Protection, Stormwater Management, and Discharge Control Ordinance have been made by the Board of Supervisors.

WAIVER(S) AND EXCEPTION(S): This subdivision is hereby approved pursuant to the provisions of the State Subdivision Map Act, the County Subdivision Ordinance, the County Public and Private Road Standards, and all other required ordinances of San Diego County except for a waiver or modification of the following:

County Subdivision Ordinance Requirements:

Per Section 81.401(o) of the County Subdivision Ordinance, if the Board approves a specific plan or the Board or the Planning Commission approves a major use permit for a planned development pursuant to Zoning Ordinance sections 6600 et seq., that provides subdivision design requirements contrary to the requirements in subsections (b), (d), (e), (h) or (i) of section 81.401, the provisions of the approved specific plan or major use permit shall govern. The Newland Sierra project is governed by a Specific Plan dated June 2017; therefore, the requirements in the subsections listed above do not apply to this project.

County Public and Private Road Standards:

Per Section 81.402(d) of the County Subdivision Ordinance, where the property to be subdivided is located in an area subject to a major use permit or a specific plan, streets providing on-site and off-site access shall be designed to those standards necessary to implement the development density design and objectives of the applicable adopted

major use permit or specific plan. The Newland Sierra project is governed by a Specific Plan dated June 2017; therefore, the requirements in the Section 81.402(d) do not apply to this project.

MITIGATION MONITORING OR REPORTING PROGRAM (MMRP): Public Resources Code Section 21081.6 requires the County to adopt a Mitigation Monitoring or Reporting Program for any project approved with the adoption of a Mitigated Negative Declaration or with the certification of an Environmental Impact Report, for which changes in the project are required in order to avoid significant impacts.

Section 21081.6(a)(1) states, in part:

The public agency shall adopt a reporting or monitoring program for the changes made to the project or conditions of project approval, adopted in order to mitigate or avoid significant effects on the environment. The reporting or monitoring program shall be designed to ensure compliance during project implementation.

Section 21081.6(b) further states:

A public agency shall provide that the measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, agreements, or other measures.

As indicated above, a Mitigation Monitoring or Reporting Program is required to assure that a project is implemented in compliance with all required mitigation measures. The Mitigation Monitoring or Reporting Program (MMRP) for this project is incorporated into the mitigation measures adopted as project conditions of approval. Each mitigation measure adopted as a condition of approval (COA) includes the following five components.

Intent: An explanation of why the mitigation measure (MM) was imposed on the project.

Description: A detailed description of the specific action(s) that must be taken to mitigate or avoid impacts.

Documentation: A description of the informational items that must be submitted by the applicant to the Lead Agency to demonstrate compliance with the COA.

Timing: The specific project milestone (point in progress) when the specific required actions are required to implemented.

Monitoring: The actions to be taken by the lead agency to assure implementation of the mitigation measure.

MAP PROCESSING REQUIREMENTS: The Final map shall comply with the following processing requirements pursuant to the [Sections 81.801 through 81.814 of the Subdivision Ordinance](#) and the [Subdivision Final Map Processing Manual](#).

The Final map shall show an accurate and detailed vicinity map.

- The Basis of Bearings for the Final Map shall comply with [Section 81.507 of the Subdivision Ordinance](#).
- Prior to the approval of the Final Map by the Department of Public Works, the subdivider shall provide the Department of Public Works with a copy of the deed by which the subject property was acquired and a Final Map report from a qualified title insurance company.
- The following notes shall appear on the Final Map:
 - All parcels within this subdivision have a minimum of 100 square feet of solar access for each future dwelling unit allowed by this subdivision as required by [Section 81.401\(m\) of the Subdivision Ordinance](#).
 - At the time of recordation of the Final Map, the name of the person authorizing the map and whose name appears on the SURVEYOR'S CERTIFICATE as the person who requested the map, shall be the name of the owner of the subject property.
 - The public and private easement roads serving this project shall be named. The responsible party shall contact the Street Address Section of Planning & Development Services (858-694-3797) to discuss the road naming requirements for the development. Naming of the roads is necessary for the health and safety of present and future residents.

ORDINANCE COMPLIANCE NOTIFICATIONS: The project is subject to, but not limited to the following County of San Diego, State of California, and US Federal Government, Ordinances, Permits, and Requirements:

STORMWATER ORDINANCE COMPLIANCE: In order to Comply with all applicable stormwater regulations the activities proposed under this application are subject to enforcement under permits from the [San Diego Regional Water Quality Control Board \(RWQCB\)](#) and the County of San Diego Watershed Protection, Stormwater Management, and Discharge Control [Ordinance No. 10410](#) and all other applicable ordinances and standards for the life of this permit. The project site shall be in compliance with all applicable stormwater regulations referenced above and all other applicable ordinances and standards. This includes compliance with the approved Stormwater Management Plan, all requirements for Low Impact Development (LID), Hydromodification, materials and wastes control, erosion control, and sediment control on the project site. Projects that involve areas 1 acre or greater require that during construction the property owner keeps the Storm Water Pollution Prevention Plan (SWPPP) onsite and update it as needed. The property owner and permittee shall comply with the requirements of the stormwater regulations referenced above.

LOW IMPACT DEVELOPMENT NOTICE: The San Diego Regional Water Quality Control Board (SDRWQCB) issued a new Municipal Stormwater Permit under the National Pollutant Discharge Elimination System (NPDES). The requirements of the Municipal Permit were implemented beginning in May 2013. *Project design shall be in compliance with the new Municipal Permit regulations.* The Low Impact Development (LID) Best Management Practices (BMP) Requirements of the Municipal Permit can be found at the following link:

http://www.sandiegocounty.gov/content/dam/sdc/dpw/WATERSHED_PROTECTION_PROGRAM/susmppdf/lid_handbook_2014sm.pdf

The County has provided a LID Handbook as a source for LID information and is to be utilized by County staff and outside consultants for implementing LID in our region. See link below:

<http://www.sdcounty.ca.gov/dplu/docs/LID-Handbook.pdf>

STORMWATER COMPLIANCE NOTICE: Updated studies, including Hydro-modification Management Plans for Priority Development Projects, will be required prior to approval of grading and improvement plans for construction pursuant to [County of San Diego Watershed Protection, Stormwater Management and Discharge Control Ordinance No. 10410](#) (N.S.), dated February 26, 2016 and BMP Design Manual. These requirements are subject to the MS4 Permit issued by the Regional Water Quality Control Board, Order No. R9-2013-0001 and any subsequent order. Additional studies and other action may be needed to comply with future MS4 Permits.

DRAINAGE: The project shall be in compliance with the County of San Diego [Flood Damage Prevention Ordinance](#) No. 10091, adopted December 8, 2010.

GRADING PERMIT REQUIRED: A grading permit is required prior to commencement of grading when quantities of excavation or fill results in the movement of material exceeding 200 cubic yards or eight feet (8') in vertical height of cut/fill, pursuant to [Section 87.201 of Grading Ordinance](#).

CONSTRUCTION PERMIT REQUIRED: A Construction Permit and/or Encroachment Permit are required for any and all work within the County road right-of-way. Contact PDS Construction/Road right-of-way Permits Services Section, (858) 694-3275, to coordinate County requirements. In addition, before trimming, removing or planting trees or shrubs in the County Road right-of-way, the applicant must first obtain a permit to remove plant or trim shrubs or trees from the Permit Services Section.

ENCROACHMENT PERMIT REQUIRED: An Encroachment Permit is required for any and all proposed/existing facilities within the County right-of-way. **Deer Springs Road, Buena Creek Road South, Santa Fe Avenue, Twin Oaks Valley Road, Monte Vista Drive and Mountain Meadow Road** are shown as roads on the Mobility Element of the County General Plan. At the time of construction of future road improvements, the

proposed facilities shall be relocated at no cost to the County, to the satisfaction of the Director of Public Works.

EXCAVATION PERMIT REQUIRED: An excavation permit is required for undergrounding and/or relocation of utilities within the County right-of-way.

TRANSPORTATION IMPACT FEE: The project is subject to County of San Diego Transportation Impact Fee (TIF) pursuant to [County TIF Ordinance number 77.201 – 77.223](#). The Transportation Impact Fee (TIF) shall be paid. The fee is required for the entire project, or it can be paid at building permit issuance for each phase of the project. The fee is calculated pursuant to the ordinance at the time of building permit issuance. The applicant shall pay the TIF at the [PDS, LD Counter] and provide a copy of the receipt to the [PDS, BD] at time of permit issuance.

COMMITMENT FOR CAPACITY AND LIST OF FEES: A commitment for capacity to serve the proposed development and list of required fees (per County Ordinance Number 9146) will be provided by [SDCSD] at time of building permit issuance.

PAY DISTRICT FEES: The developer shall pay all [SDCSD] fees in effect at time of issuance of the Wastewater Discharge Permit.

PAY FAIR SHARE COSTS: Prior to issuance of the Wastewater Discharge Permit, the developer shall pay all fair share costs attributable to third party reimbursement agreement(s) associated with this project that may be in effect at time of permit issuance.

INDUSTRIAL WASTEWATER DISCHARGE PERMIT FROM CITY: If required, the developer shall obtain an Industrial Wastewater Discharge Permit from the City, as directed by [DPW WWM]. For information, contact Dan Gutierrez at (858) 654-4118.

NOTICE: The subject property is known to contain Coastal sage scrub plant community. Such plant community is habitat for the coastal California gnatcatcher. The Federal government has listed the gnatcatcher as a threatened species under the Federal Endangered Species Act of 1973 (16 U.S.C. Section 1531 et seq.). THE LISTING MAY RESULT IN AN APPLICANT'S INABILITY TO PROCEED WITH HIS/HER PROJECT WITHOUT A PERMIT FROM THE FEDERAL GOVERNMENT IF THE SPECIES OR ITS HABITAT ARE PRESENT ON THE PROJECT SITE. It is advisable to contact the United States Fish and Wildlife Service to determine the applicability of the prohibitions under the Act to each applicant's property.

NOTICE: The subject property contains wetlands, a lake, a stream, and/or waters of the U.S. which may be subject to regulation by State and/or federal agencies, including, but not limited to, the Regional Water Quality Control Board, U.S. Army Corps of Engineers and the California Department of Fish and Wildlife. It is the applicant's responsibility to consult with each agency to determine if a permit, agreement or other approval is required and to obtain all necessary permits, agreements or approvals before commencing any

activity which could impact the wetlands, lake, stream, and/or waters of the U.S. on the subject property. The agency contact information is provided below.

U.S. Army Corps of Engineers: 6010 Hidden Valley Rd, Suite 105, Carlsbad, CA 92011-4219; (858) 674-5386; <http://www.usace.army.mil/>

Regional Water Quality Control Board: 9174 Sky Park Court, Suite 100, San Diego, CA 92123-4340; (858) 467-2952; <http://www.waterboards.ca.gov/sandiego/>

California Department of Fish and Wildlife: 3883 Ruffin Rd., San Diego, CA 92123; (858) 467-4201; <http://www.dfg.ca.gov/>

NOTICE: THE ISSUANCE OF THIS PERMIT BY THE COUNTY OF SAN DIEGO DOES NOT AUTHORIZE THE APPLICANT FOR SAID PERMIT TO VIOLATE ANY FEDERAL, STATE, OR COUNTY LAWS, ORDINANCES, REGULATIONS, OR POLICIES INCLUDING, BUT NOT LIMITED TO, THE FEDERAL ENDANGERED SPECIES ACT AND ANY AMENDMENTS THERETO.

NOTICE: Fish and Wildlife Fees have been paid in the amount of \$_____ for the review of the EIR, Receipt numbers _____, dated _____.

NOTICE: The project will be required to pay Planning & Development Services Mitigation Monitoring and Condition Review Fee. The fee will be collected at the time of the first submittal for Condition Satisfaction to PDS, including Mitigation Monitoring requests. The amount of the fee will be determined by the Fee Ordinance in effect at the time of the first submittal and is based on the number of PDS conditions that need to be satisfied. The fee amount will only be paid one time for those conditions that are indicated with the **[PDS, FEE]** designator. The fee will not apply to subsequent project approvals that require a separate submittal fee, such as Revegetation and Landscape Plans, Resource (Habitat) Management Plans, Habitat Loss Permits, Administrative Permits, Site Plans, and any other discretionary permit applications.

NOTICE: Time Extension requests cannot be processed without updated project information including new Department of Environmental Health certification of septic systems. Since Department of Environmental Health review may take several months, applicants anticipating the need for Time Extensions for their projects are advised to submit applications for septic certification to the Department of Environmental Health several months prior to the expiration of their Tentative Maps.

EXPLANATION OF COUNTY DEPARTMENT AND DIVISION ACRONYMS			
Planning & Development Services	<u>PDS</u>	Department of Public Works	<u>DPW</u>
Project Planning Division	PPD	Land Development Project Review Teams	LDR
Permit Compliance Coordinator	PCC	Project Manager	PM
Building Plan Process Review	BPPR	Plan Checker	PC

Building Division	BD	Map Checker	MC
Building Inspector	BI	Private Development Construction Inspection	PDCI
Landscape Architect	LA	Environmental Services Unit Division	ESU
Zoning Counter	ZO		
Department of Environmental Health	<u>DEH</u>	Department of Parks and Recreation	<u>DPR</u>
Land and Water Quality Division	LWQ	Trails Coordinator Group Program Manager Parks Planner	TC GPM PP
Vector Control	VCT	Department of General Service	<u>DGS</u>
Local Enforcement Agency	LEA	Real Property Division	RP
Hazmat Division	HMD		

cc: Newland Sierra, LLC

email cc:

Ken Brazell, Planning & Development Services, Land Development
 Ashley Smith, Planning Manager, Planning & Development Services
 Mark Slovick, Group Program Manager, Planning & Development Services

**Attachment L –
STATEMENT OF REASONS**

STATEMENT OF REASONS TO PERMIT THE PROPOSED USE AND ELIMINATE ACCESS TO MINERAL RESOURCES OF REGIONAL SIGNIFICANCE (MRZ-2)

Project Name: Newland Sierra; PDS2015-GPA-15-001, PDS2015-SP-15-001, PDS2015-REZ-15-001, PDS2015-TM-5597; PDS2015-ER-15-08-001

Project Location: East of Interstate 15 (I-15) and north of Deer Springs Road in the North County Metro Subregional and Bonsall Community Plan areas, within unincorporated San Diego County

Date: June 15, 2017

Purpose of Notice

Section 2763 of the Public Resources Code requires the County as Lead Agency to prepare, in conjunction with the preparation of an Environmental Impact Report (EIR), and prior to approving a project, a statement specifying the County's reasons for permitting a proposed use in an area that contains mineral resource deposits of regional significance. The County of San Diego is considering the approval of the proposed Newland Sierra project, which would allow a planned community in a location that currently contains lands classified by the Mineral Resource Zone (MRZ) System. The County's statement is as follows:

BACKGROUND INFORMATION

Mineral Resource Zone

As mandated by the Surface Mining and Reclamation Act of 1975 (SMARA), the California State Geologist classifies California mineral resources with the MRZ system. The four MRZ zones are defined as follows:

- MRZ-1 – Areas where adequate information indicates that no significant mineral deposits are present or likely to be present.
- MRZ-2 – Areas where adequate information indicates that significant mineral deposits are present or where it is judged that there is a high likelihood for their presence.
- MRZ-3 – Areas containing mineral deposits, the significance of which cannot be evaluated from available data. In contrast to MRZ-2 areas where it has been judged that there is a high likelihood of minable, marketable mineral deposits (notably Portland cement and asphaltic concrete aggregate), MRZ-3 areas are areas where the data is not sufficient to evaluate the significance of any potential aggregate deposit.

- MRZ-4 - Areas where available information is inadequate for assignment to any other MRZ zone.

These zones have been established based on the presence or absence of significant sand and gravel deposits and crushed rock source area, e.g., mineral products used in the production of cement. The classification system emphasizes Portland Cement Concrete (PCC) aggregate, which is subject to a series of specifications to ensure the manufacture of strong durable concrete.

Project Description

The Newland Sierra project consists of 2,135 residential units (1,140 single-family and 995 multi-family), 81,000 square feet of commercial use, parks, multi-use trails, bike lanes, a 6-acre school site, and 1,209 acres of dedicated biological open space.

Potentially available mineral resources on MRZ-2 lands within the Project Site:

According to the *Mineral Resource Technical Report Newland Sierra Merriam Mountains Area San Diego County, California* dated June 30, 2015 completed by Leighton and Associates, Inc. for the County of San Diego, the amount of onsite land of MRZ-2 quality within the Newland Sierra project site is estimated at 650 acres.

Potential project impacts on the MRZ-2 Area (Project Site and Adjacent Lands):

The area proposed to be included in the development footprint would preclude future access to the underlying minerals. Thus, the project would effectively eliminate access for mineral extraction to approximately 37.8 acres of significant mineral resources (MRZ-2). This equates to an estimated 3,150,000 tons of MRZ-2 mineral resources with an estimated value of \$63,000,000.

It is additionally believed that once the Newland Sierra project is developed, it will effectively eliminate access for future mineral extraction on 119 acres of adjacent offsite land also of MRZ-2 quality due to that adjacent land being within a 1,300 foot buffer of the residences proposed by the project. This buffer would be utilized to achieve adequate separation of the proposed residences from the noise and dust of a hypothetical mining operation on the adjacent lands.

REASONS WHY COUNTY MAY PERMIT THE LOSS OF POTENTIAL MINERAL RESOURCES, BY IMPLEMENTATION OF THE PROPOSED PROJECT

The County of San Diego has the following reasons why it may permit the loss of potential mineral resources at the Newland Sierra project site:

Biological Open Space

The 1,209-acre area proposed for Biological Open Space in the northern portion of the site has been identified by the County as an important biological core area. This core area is under consideration for preservation in the Draft North County Multiple Species Conservation Program (MSCP). The function of the property as a biological core resource area cannot be duplicated or moved to another location. Mineral extraction would not be compatible with the protection of biological resources.

County-wide Use of Crushed Stone as an alternative to Alluvial Sand and Gravel

Map Sheet 52 Aggregate Sustainability in California provided by the California Geological Survey and updated in 2012 specifically states “Although more care is required in pouring and placing a wet mix containing crushed stone, PCC made with this aggregate is as satisfactory as that made with alluvial sand and gravel of comparable rock quality. Owing to environmental concerns and regulatory constraints in many areas of the state, it is likely that extraction of sand and gravel resources from instream and floodplain areas will become less common in the future. If this trend continues, crushed stone may become increasingly important to the California market.” The *County of San Diego Guidelines for Determining Significance and Report Format and Content Requirements Mineral Resources* state, “Within the County, crushed rock is the primary source of locally mined PCC aggregate.” These guidelines additionally state, “Within the unincorporated portion of the County, potential deposits for crushed rock are extensive (hundreds of square miles)... PCC made with crushed rock aggregate can generally be satisfactory and can supplement the local supply of alluvial sand and gravel.”

Crushed stone is already the predominate supply of aggregate in San Diego County, where there are extensive potential recoverable deposits. These deposits are currently utilized and can be utilized in the future to supply not only the unincorporated portion of San Diego County that the County has land use jurisdiction over, but can also be utilized by all of the incorporated communities that may not have alluvial or crushed stone deposits, or may be unwilling to permit the extraction of their deposits.

County of San Diego General Plan Housing Element

Although several Conservation and Open Space Policies have been referenced in this statement, the County must also consider its commitment to the General Plan Housing Element. As stated in the Policy Framework “the County is allocated a share of the region’s housing needs that is equivalent to 22,412 units. The County must, through appropriate zoning and development standards, accommodate these units through a variety of housing types and various income groups.” Just as the County is expected to consider the importance of the MRZ-2 minerals to their market region as a whole and not just on the unincorporated portion of San Diego County, the County must consider

its commitment to providing its regional fair share of housing opportunities for all San Diego County residents, and not just those that currently live in the unincorporated portions of San Diego County that the County has land use jurisdiction over. The Newland Sierra project would provide 2,135 residential units which would help the County achieve its share of the region's housing needs.

Road Improvements

The proposed project would contribute several million dollars toward public road improvements, including the improvement of Deer Springs Road.

Employment

The proposed project would provide interim employment opportunities during construction and permanent employment opportunities to support the commercial component of the project.

Fire Safety

The proposed project would improve fire safety on the subject property and in surrounding areas.

**Attachment M –
RESOURCE PROTECTION ORDINANCE
AMENDMENT FORM OF ORDINANCE**

ORDINANCE NO. _____(NEW SERIES)

AN ORDINANCE AMENDING THE RESOURCE PROTECTION ORDINANCE TO ADD AN EXEMPTION FOR THE NEWLAND SIERRA SPECIFIC PLAN

(REF: PDS2015-GPA-15-001 (GPA), PDS2015-SP-15-001 (SP), PDS2015-REZ-15-001 (REZ), PDS2015-TM-5597 (TM), PDS2015-ER-15-08-001 (ER))

The Board of Supervisors of the County of San Diego ordains as follows:

Section 1. The intent of this ordinance is to amend the Resource protection Ordinance to exempt projects located within the Newland Sierra Specific Plan.

Section 2. Section 86.605 of the San Diego County Code (a section of the Resource Protection Ordinance) is hereby amended to add subsection (m) to read as follows:

(m) "Any project located within the approximately 1,985 acre property known as the 'Newland Sierra Specific Plan', including associated offsite improvement projects, if the project is determined to be consistent with a comprehensive Resource Protection Plan which has been approved by the Board of Supervisors as the functional equivalent of this Chapter."

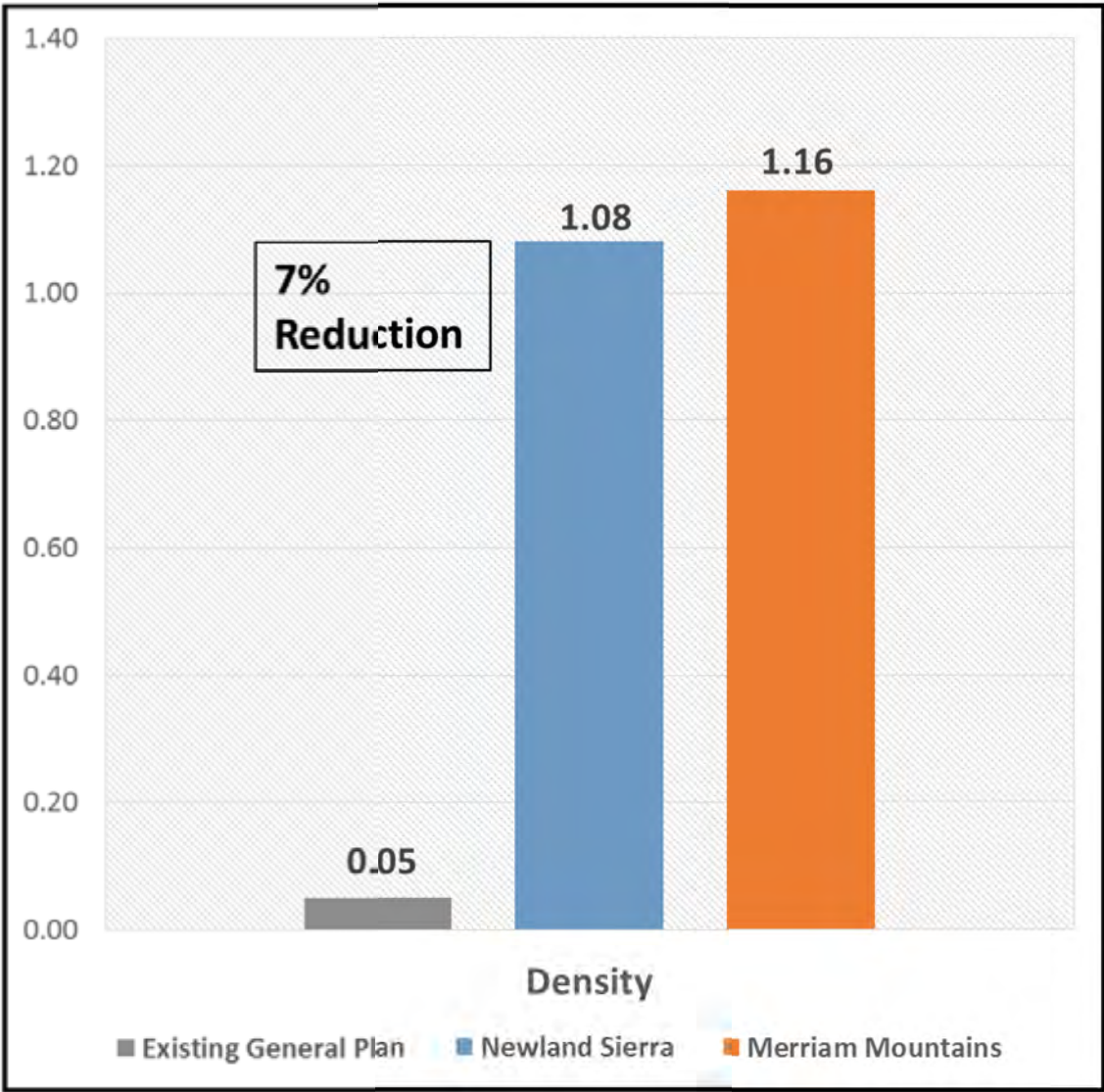
Section 3. Effective Date. This Ordinance shall take effect and be in force thirty (30) days after the date of its passage, and before the expiration of fifteen (15) days after its passage, a summary shall be published once with the names of the members voting for and against the same in the San Diego Daily Transcript, a newspaper of general circulation published in the County of San Diego.

**Attachment N –
MERRIAM MOUNTAIN PROJECT COMPARISON**

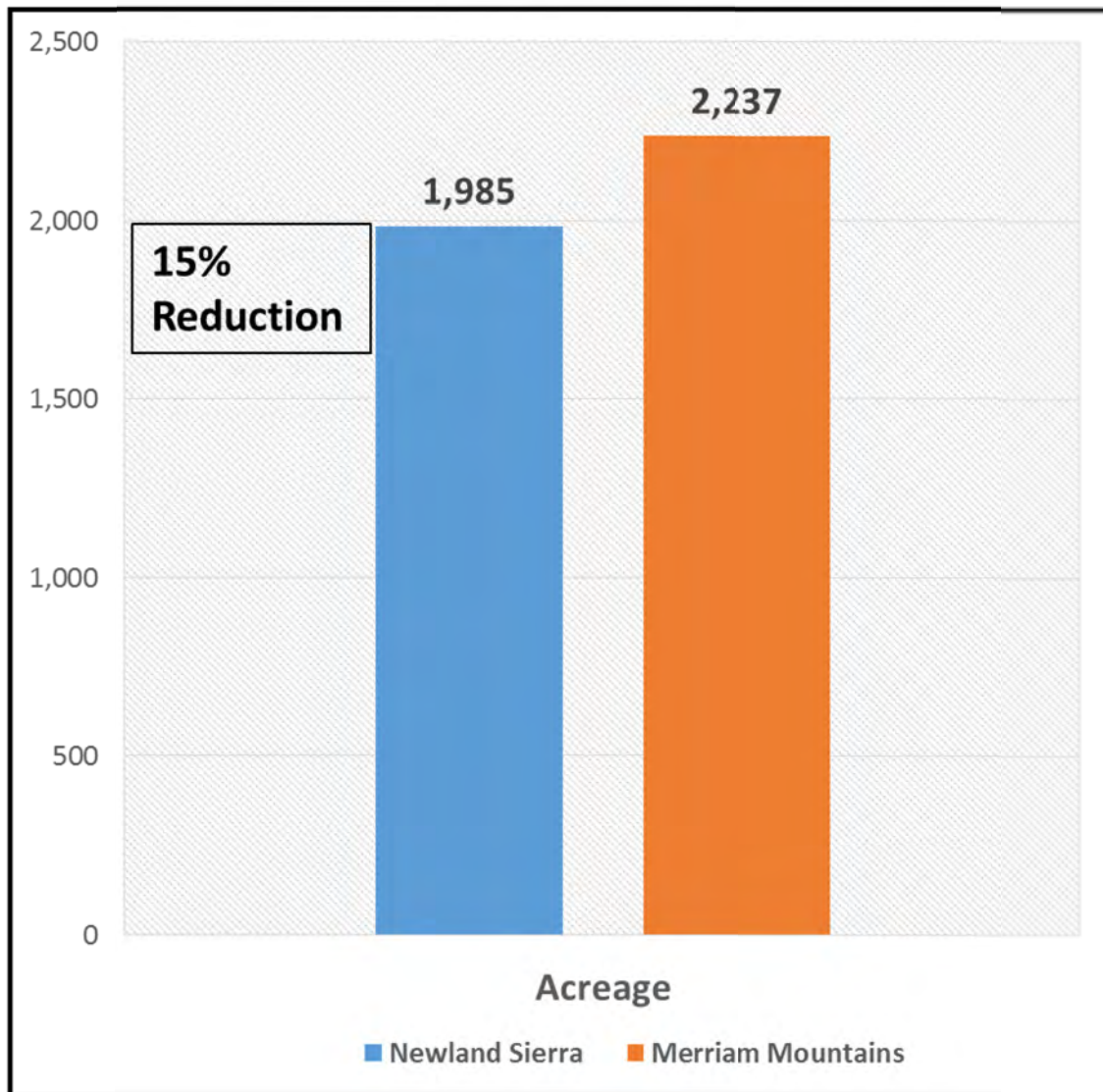
**NEWLAND SIERRA
&
MERRIAM MOUNTAINS
PROJECT COMPARISON**



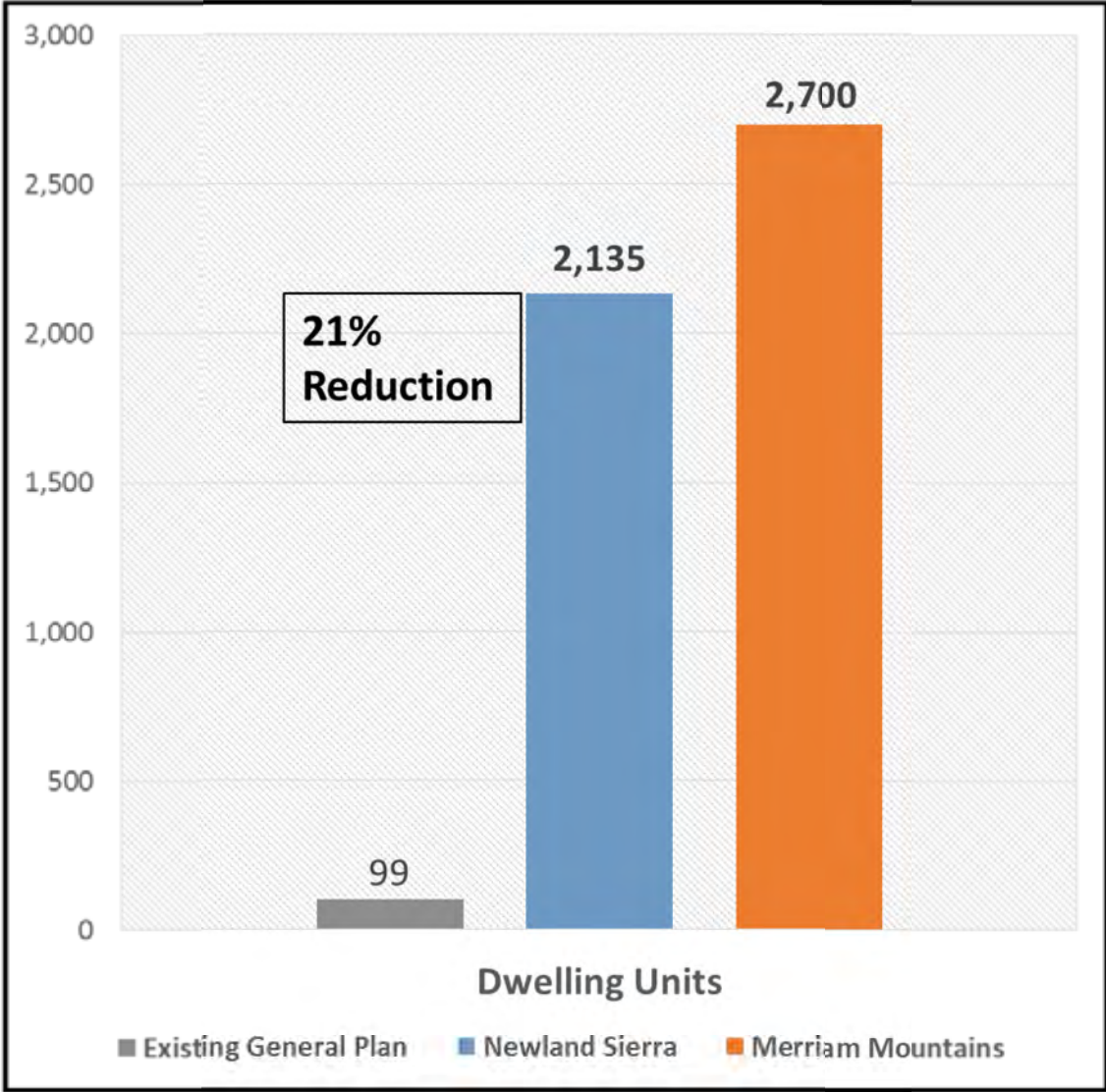
DENSITY



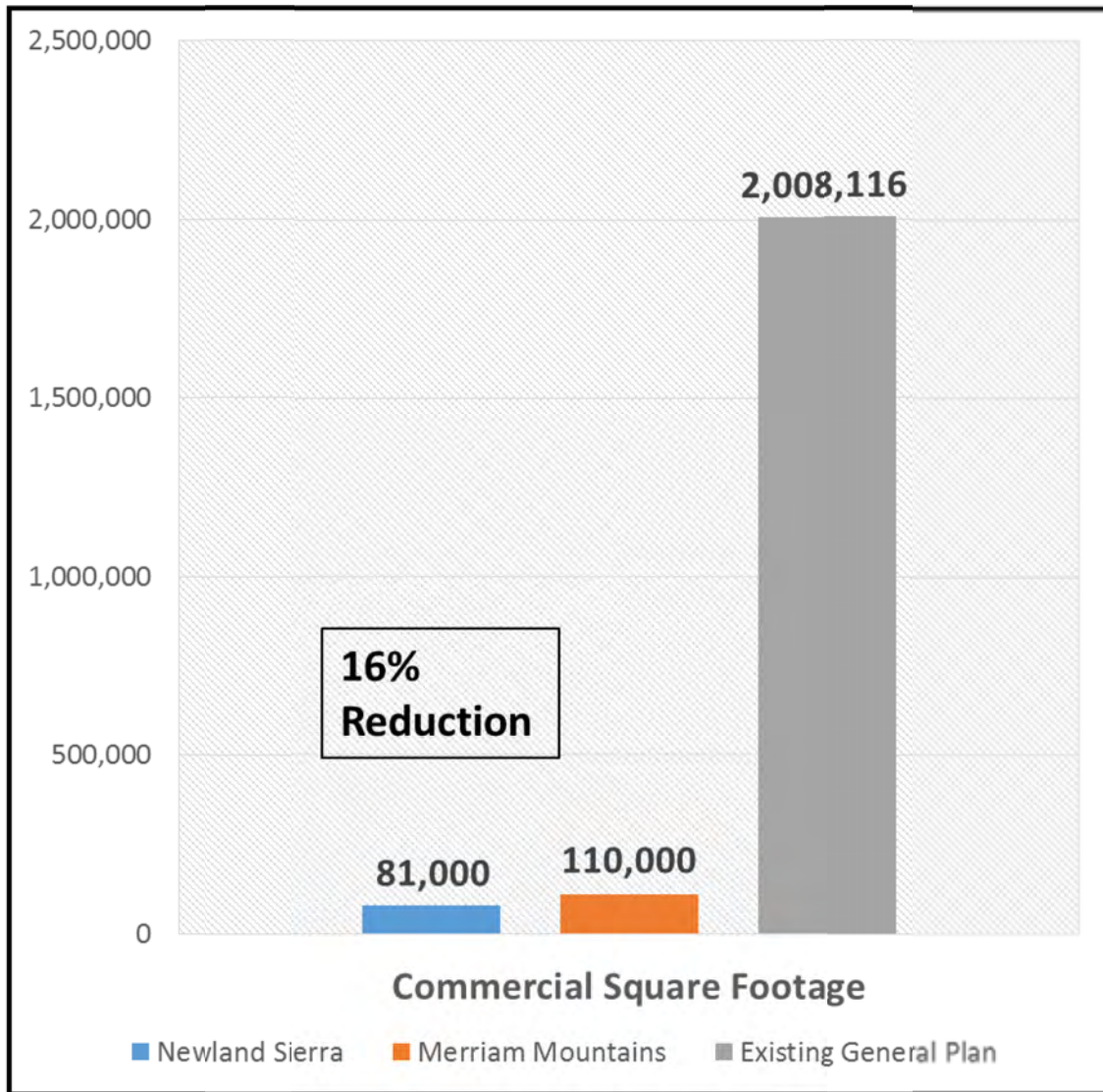
PROJECT ACREAGE



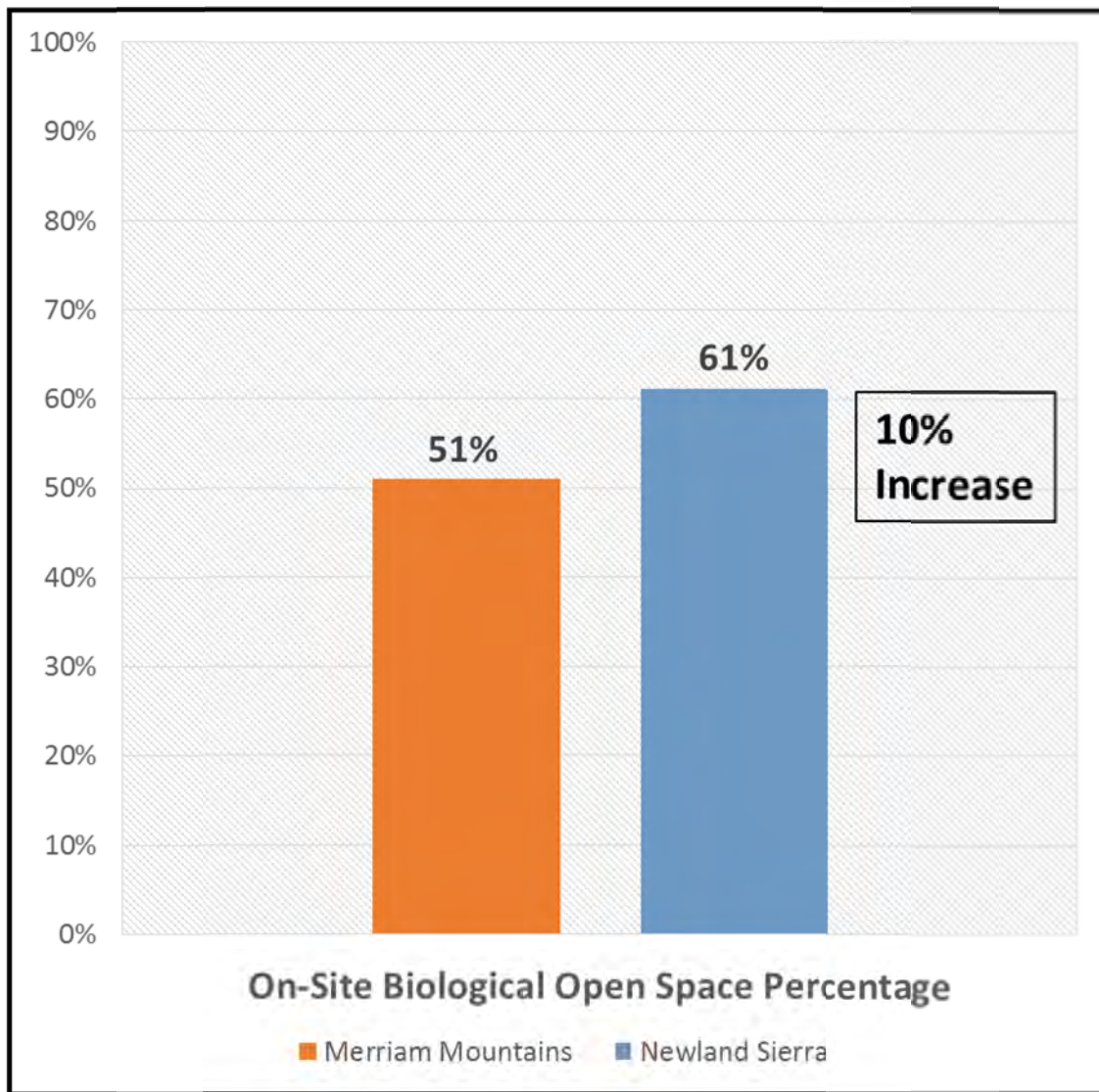
DWELLING UNITS



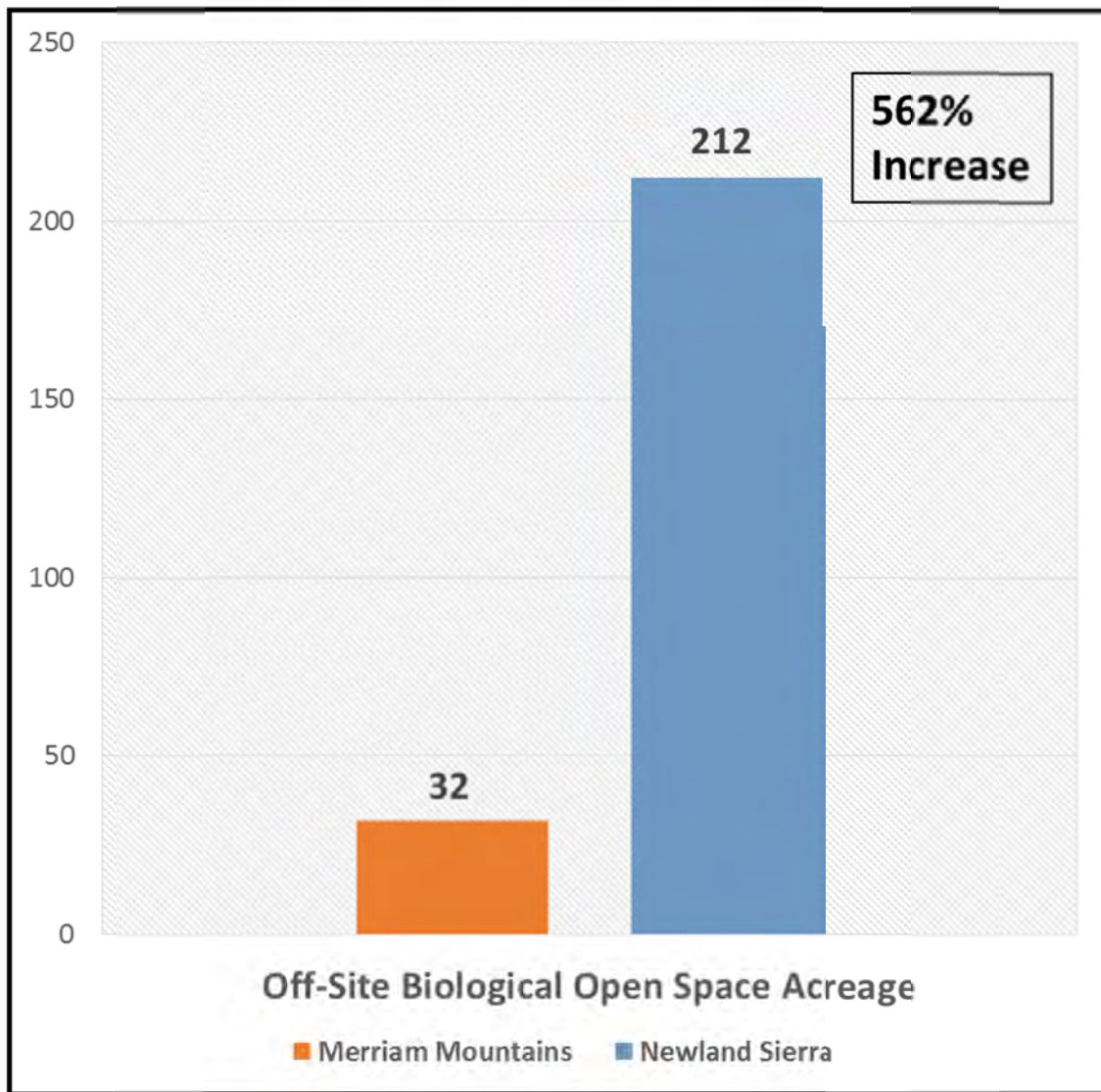
COMMERCIAL SQUARE FOOTAGE



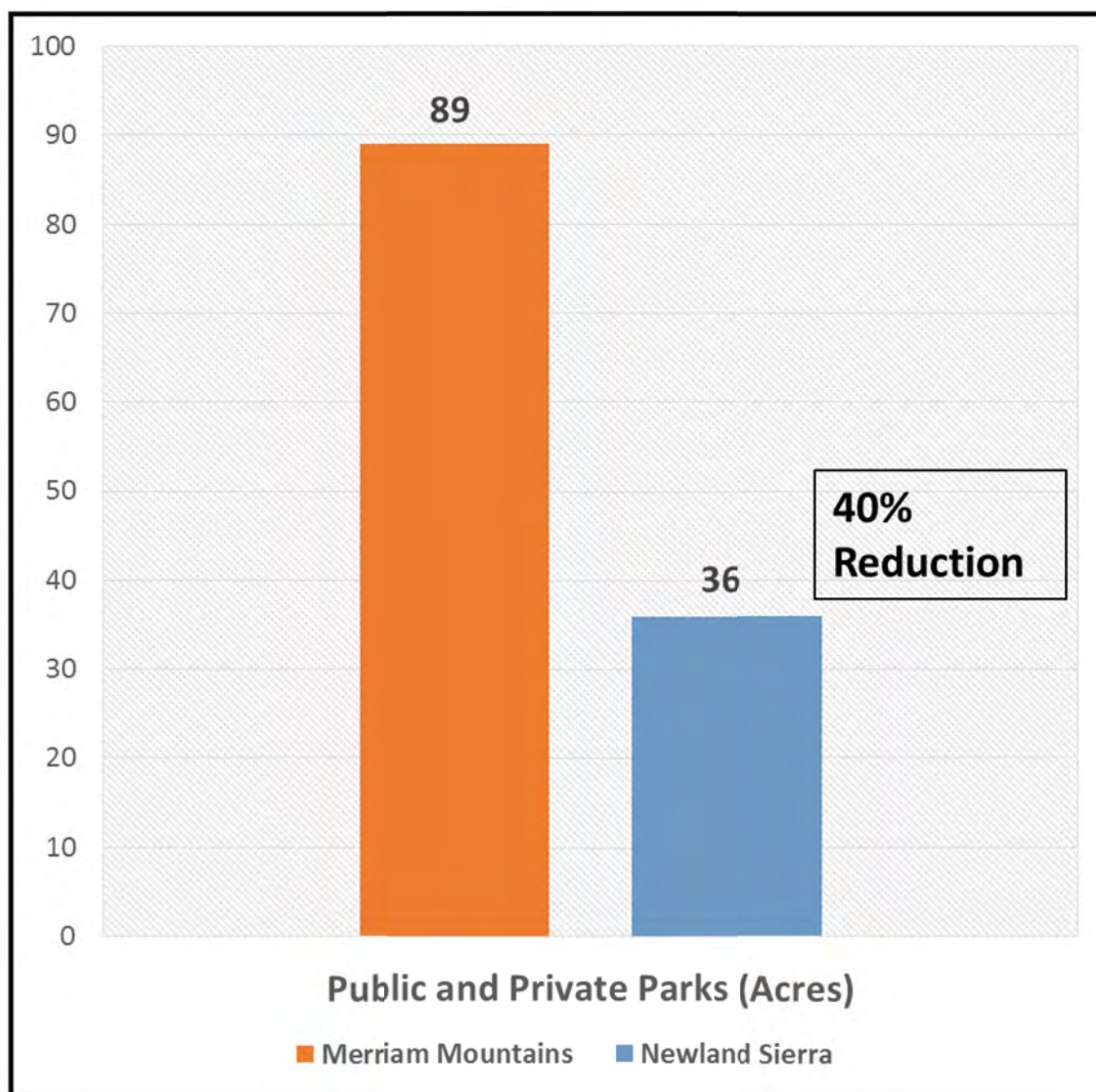
On-Site Biological Open Space Percentage



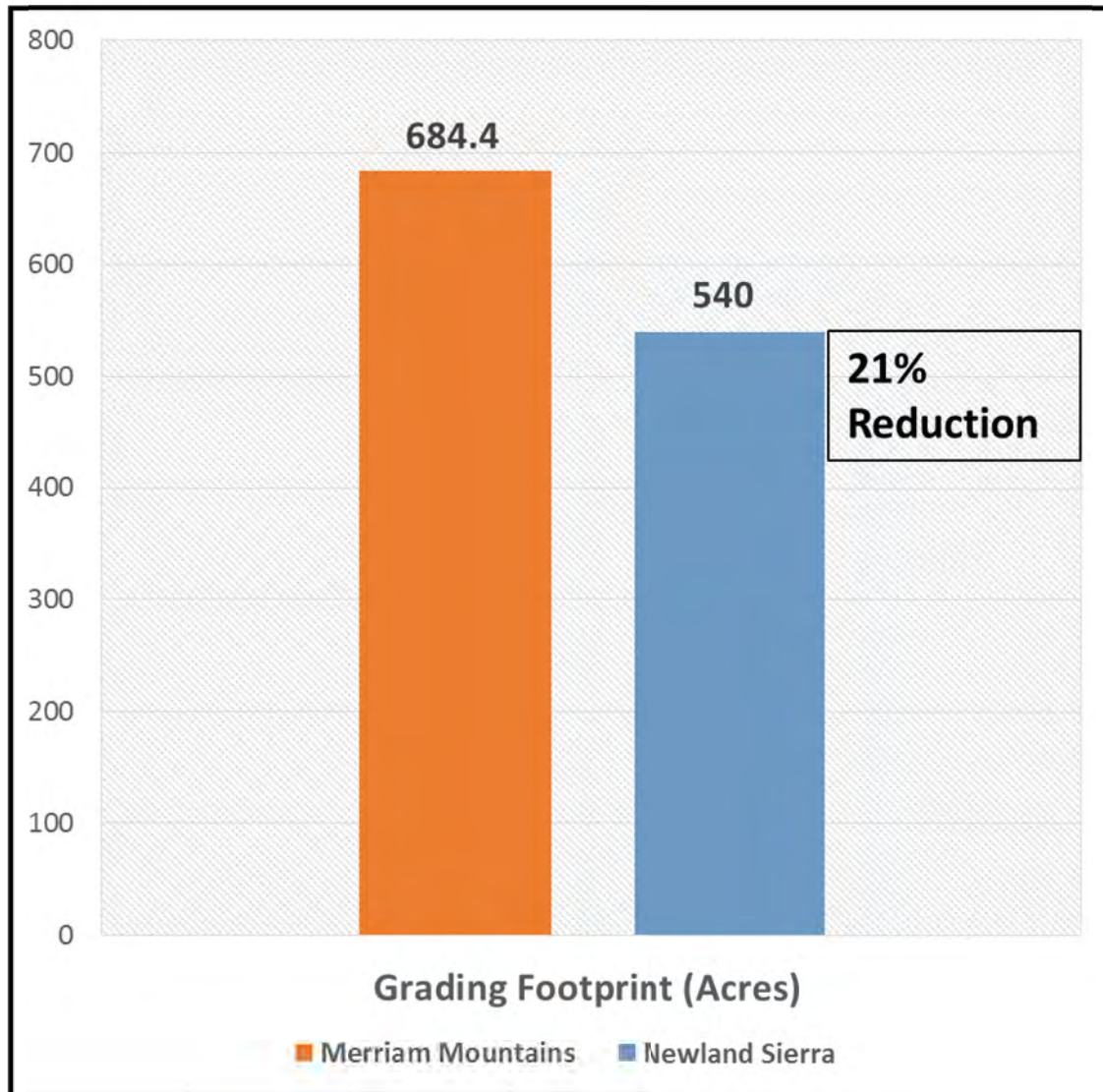
Off-Site Biological Open Space Acreage



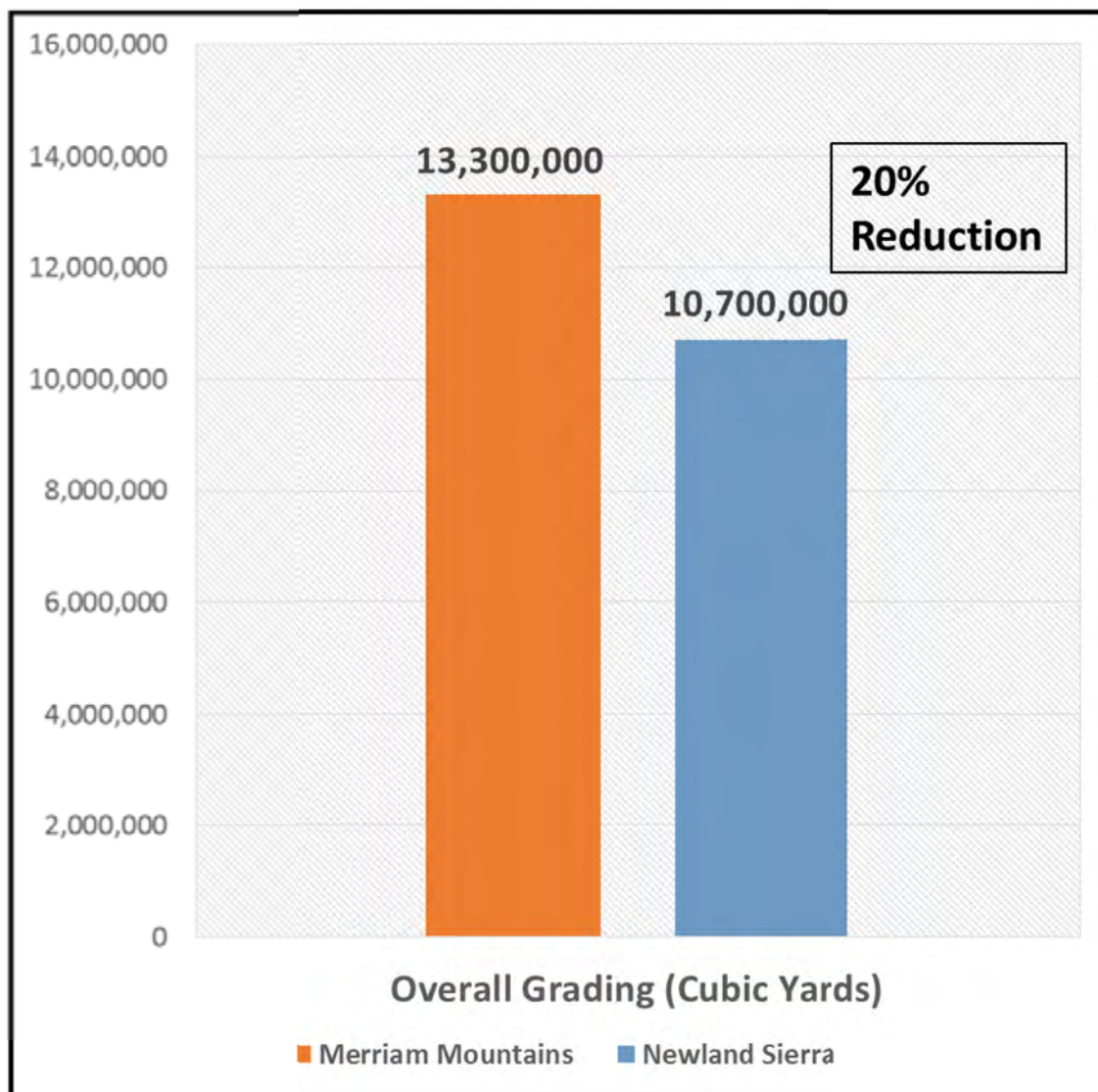
Public and Private Parks (Acres)



Grading Footprint (Acres)



Overall Grading (Cubic Yards)



**Attachment 0 –
OWNERSHIP DISCLOSURE**



County of San Diego, Planning & Development Services
APPLICANT'S DISCLOSURE OF OWNERSHIP INTERESTS ON APPLICATION FOR ZONING PERMITS/ APPROVALS
ZONING DIVISION

Record ID(s) PDS2015-SP-15-001

Assessor's Parcel Number(s) SEE ATTACHED LIST

Ordinance No. 4544 (N.S.) requires that the following information must be disclosed at the time of filing of this discretionary permit. The application shall be signed by all owners of the property subject to the application or the authorized agent(s) of the owner(s), pursuant to Section 7017 of the Zoning Ordinance. NOTE: Attach additional pages if necessary.

A. List the names of all persons having any ownership interest in the property involved.

NEWLAND SIERRA, LLC

B. If any person identified pursuant to (A) above is a corporation or partnership, list the names of all individuals owning more than 10% of the shares in the corporation or owning any partnership interest in the partnership.

NASH-Newland Segregated, LLC

C. If any person identified pursuant to (A) above is a non-profit organization or a trust, list the names of any persons serving as director of the non-profit organization or as trustee or beneficiary or trustor of the trust.

N/A

NOTE: Section 1127 of The Zoning Ordinance defines Person as: "Any individual, firm, copartnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, receiver syndicate, this and any other county, city and county, city, municipality, district or other political subdivision, or any other group or combination acting as a unit."

Handwritten signature of Rita G. Brandin
Signature of Applicant
Print Name
Date 1/20/15

--- OFFICIAL USE ONLY ---
SDC PDS RCVD 01-21-15
GPA15-001

Newland Sierra APNs

January 05, 2015

172-091-07
172-220-14, 16, and 18
174-190-12, 13, 20, 41, 43, and 44
174-210-01, 05, 07, 08, 17 and 18
174-211-04, 05, 06, and 07
174-280-11 and 14
174-290-02
178-100-05 and 26
178-101-01, 16, 17, 25 through 28
178-221-09
178-222-16
182-020-28, -29
182-040-36 and 69
186-250-13
186-611-01, 07 through 9, 11, 14 through 17, and 23
187-540-49 through 51

NEWLAND SIERRA, LLC
ACTION BY WRITTEN CONSENT
OF
THE MANAGER

The undersigned, constituting the Manager of NEWLAND SIERRA, LLC, a Delaware limited liability company, (the "Company"), in accordance with the provisions of the Delaware Limited Liability Company Act, Section 18-101, et seq., of Title 6, Chapter 18 of the Delaware Laws as amended from time to time, does hereby consent to the taking of the following actions and does hereby adopt the resolutions set forth below:

Election of Officers

RESOLVED, that the following named individuals are hereby elected to the office appearing next to their respective names effective as of March 5, 2014, to serve in such capacity until removal or replacement by the Manager or resignation:

Robert B. McLeod	President
Vicki R. Mullins	Executive Vice President and Chief Financial Officer
Douglas L. Hageman	Executive Vice President and General Counsel
Rita Brandin	Senior Vice President
Michael L. Rust	Senior Vice President
Danielle Bergener	Vice President
Noel C. Webb	Vice President
Dolores A. Valle	Corporate Secretary
Daryl-Lynn Burke	Treasurer
Nicole Pierce	Assistant Corporate Secretary

RESOLVED FURTHER, that, effective March 5, 2014, any officer of the Company is hereby authorized, directed and empowered to take, on behalf of the Company, in any of the Company's capacities, all actions that such officer deems necessary, advisable or appropriate in their sole and absolute discretion, including, without limitation, executing and delivering any and all instruments, agreements, certificates and other documents as such officer in his or her sole and absolute discretion deems necessary, advisable or appropriate which instruments, agreements, certificates and other documents shall be in such form as such officer shall approve in his or her sole and absolute discretion, the execution thereof by such officer being conclusive evidence of such approval.

RESOLVED FURTHER, that any actions heretofore or hereafter taken by the officers of the Company within the terms of these resolutions are hereby ratified, certified and adopted in all respects.

DATED as of March 5, 2014

MANAGER

NASH–Newland Segregated, LLC
a Delaware limited liability company

By:  _____
Nicole Pierce
Assistant Corporate Secretary