

### I-340 Stefanie Schubert

Comment Letter I-340

---

**Subject:** FW: Newland Sierra DEIR Comment HVZC  
**Attachments:** Comment DEIR Newland Sierra August 14th 2017.rtf

**From:** Stefanie Schubert [<mailto:sozu13@gmail.com>]  
**Sent:** Monday, August 14, 2017 3:51 PM  
**To:** Cox, Greg; Gaspar, Kristin; Roberts, Ron; Horn, Bill; Wilson, Adam; Avina, Victor; Paguio, Jason; Granda, Adrian; [melanie.wilson@sdcounty.ca.gov](mailto:melanie.wilson@sdcounty.ca.gov); Gretler, Darren M; [jdesmond@san-marcos.net](mailto:jdesmond@san-marcos.net); [esanchez@ci.oceanside.ca.us](mailto:esanchez@ci.oceanside.ca.us); Gioia, Stephanie; Wardlaw, Mark; Elchar, Peter; Neufeld, Darin; Benham, Crystal; Smith, Ashley  
**Subject:** Newland Sierra DEIR Comment HVZC

**Dear Ms. Ashley Smith,**

Thank you for the opportunity to respond to the Draft Environmental Impact Report for the Newland Sierra Development.

I am an Architect and Ass. Spiritual Director of the Hidden Valley Zen Center, located at 2626 Sarver Lane and 2600 Sarver Lane.  
After reviewing the document, I have a list of questions and concerns.

Please see my comments, questions and documenting pictures attached below. (pictures may have to be mailed separately)

Sincerely,  
Stefanie Schubert

HVZC.org  
Facebook: Hidden Valley Zen Center

I-340-1

## Comment Letters

---

August 13, 2017

Ashley Smith, San Diego County,  
5510 Overland Ave,  
Suite 310 San Diego, CA 92123

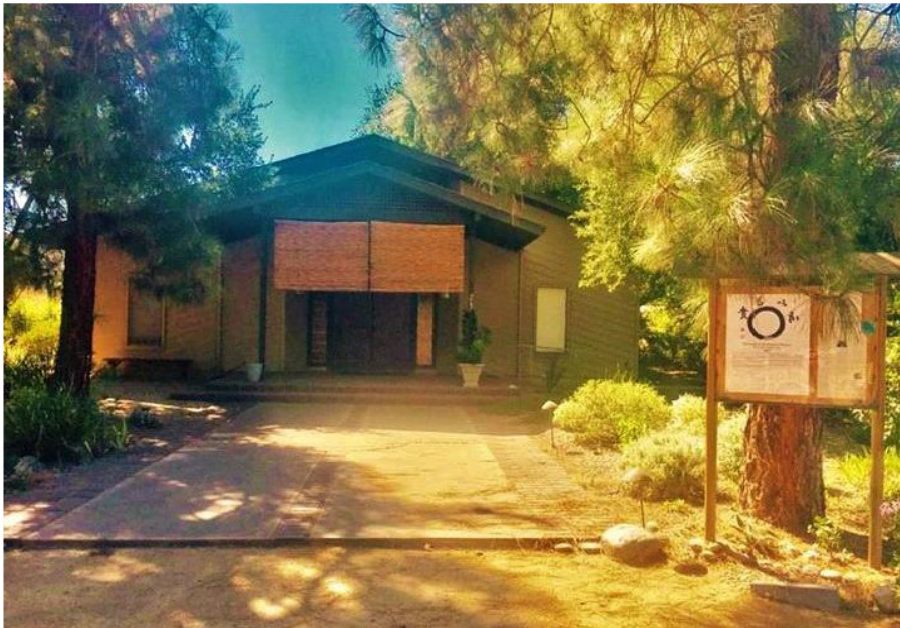
### **REFERENCE: Comments to the Newland Sierra Project CEQA EIR**

Dear Ms. Smith:

Outlined below please find comments to the Newland Sierra Project CEQA EIR. I am an Architect and Ass. Spiritual Director for Hidden Valley Zen Center (501c3), located at 2626 and 2600 Sarver lane which will be directly impacted from the use of Sarver Lane as a main entry and exit to the proposed project.

I-340-2

### **1.The Hidden Valley Zen Center**



I-340-3

Hidden Valley Zen Center has a history of over 50 years, serving the community as a place for SILENT(!) retreats, SILENT(!) outdoor work-practice, exercise and

outdoor and indoor walking meditation as well as daily seated meditation. People come here particularly because of the rural, silent, natural environment. Mentioning again and again how wonderful peaceful, quiet and healing it is and what an asset to the community. Any development beyond the General Plan will destroy this environment (as well as our "businesss"). It is unthinkable that during construction the necessary blasting, rock crushing and traffic for the planned development will not by far exceed the allowances for noise for the over 10 years(!) of ground preparation and construction. The finished project would cause constant heavy traffic on Sarver Lane. At present there are 4-8 cars per hour passing by. During intervals between these few cars all one can hear is natural sounds, birds and the rustling of leaves. Our main facilities are as close as 85ft from present(!) Sarver Lane. We keep our windows open for ventilation. The DEIR simply labels all possible impacts 'insignificant' without providing analysis. No on site measurements have been taken.

There was a complete oversight by the DEIR consultant and developer to study the impacts on HVZC, Sarver Lane and the immediate community using Sarver Lane, which is a private road way north of the catholic church.

I-340-3  
Cont.

I-340-4

**HVZC is a Religious Organization.  
Religious Organizations and Religious exercises are protected by law**

The repeated proposal of non GP (General Plan) compliant land uses continue to cause a substantial burden, in-acceptable uncertainties, delays of improvements we wish to make and ongoing expenses over years and in fact decades(!) The proposed development would make the Zen Center's silent outdoor and indoor religious practices effectively impracticable.

People come to HVZC because of the rural silence and peaceful atmosphere, which are essential to their practices. The property is used for silent retreats, which include *outdoor and indoor silent practices*: indoor and outdoor seated meditation, indoor and outdoor walking meditation, outdoor work-practice. Outdoor exercise. The whole property is used for silent outdoor practices. We do outdoor silent meditation at night under the sky.

The assistant spiritual director is living on the property. Practitioners may live and sleep at the center. HVZC offers residential training. During week-long retreats retreatants stay on the property full time and may use the meditation hall for sleeping.

The proposed development and construction phase would cause unacceptable traffic, noise levels, vibration, light pollution, air pollution, visual impacts and destroy the natural flavor of the whole area, which our operation relies on.

Please consider that Religious Organizations and Religious "exercises" are protected by law: RELIGIOUS FREEDOM RESTORATION ACT AND RELIGIOUS LAND USE AND

I-340-5

I-340-6

I-340-7

I-340-8

INSTITUTIONALIZED PERSONS ACT. RFRA and RLUIPA prevent the government from acting in a manner that inhibits religious practice. See 42 U.S.C. § 2000bb-1. RFRA applies to actions by the federal government, whereas RLUIPA applies to land use regulations by local government, including zoning. See *id.*; 42 U.S.C. § 20000cc; *City of Boerne v. Flores*, 521 U.S. 507, 536 (1997).

The court may not question the validity of a religious belief. *United States v. Seeger*, 380 U.S. 163, 184 (1965).

Courts have stated that a substantial burden exists when a zoning regulation leaves a religious organization with limited alternatives that require the organization to incur "substantial delay, uncertainty, and expense." *International Church of the Foursquare Gospel v. City of San Leandro*, 634 F.3d 1037, 1046 (9th Cir. 2011); see *Guru Nanak Sikh Soc. of Yuba City v. County of Sutter*, 456 F.3d 978, 989 (9th Cir. 2006).

An Oklahoma court found that a planned military installation was a substantial burden on a Native American tribe's traditional religious practices. *Comanche Nation v. United States*, 2008 WL 4426621, \*17 (W.D. Okla. 2008). The federal government planned to build the military installation adjacent to a historic area where the tribe gathered to conduct religious ceremonies. *Id.* at \*3. The installation was a substantial burden because it would block the tribe's view of landscape, which was required for the tribe's ceremonies. *Id.* at \*17. Additionally, the installation would increase disruptive traffic in the area. *Id.* Accordingly, the court granted a preliminary injunction halting construction of the military installation on the grounds that the installation would substantially burden the tribe's exercise of their religious practices.

Under the Religious Freedom Restoration Act and Religious Land Use and Institutionalized Person Act Hidden Valley Zen Center will be impacted beyond repair and the impacts will likely not be able to be mitigated. Newland's proposed development will likely be nothing short of a land taking of Hidden Valley Zen Center through all of the unmitigatable impacts.

There was a complete oversight by the DEIR consultant and developer to study the impacts on HVZC, Sarver Lane and the immediate community using Sarver Lane, which is a private road way north of the catholic church.

**Required action:**

-- HVZC is extremely noise, smell and light and air pollution sensitive. Please provide a detailed study specific to all impacts on HVZC located at 2626 Sarver Lane and 2600 Sarver Lane, its property, indoor and outdoor operations during construction as well as the finished project and on Sarver Lane in general.

**Required action:**

-- Provide the precise Sarver Lane alignment, as proposed, in the DEIR. Measuring from the grading plan it looks like Sarver Lane will come 50 ft into HVZC property. There are no easements supporting this. Measuring from the edge of the proposed

I-340-8  
Cont.

I-340-9

I-340-10

I-340-11

road the *planned* road will be 85ft away from our Meditation Hall, which is used for silent meditation and sleeping during retreats. But our Meditation Hall is 85ft away from the *present* road. Please clarify where exactly Sarver Lane will be in relation to our buildings. Please clarify the right-of-way. Are you planning to take land from HVZC?

I-340-11  
Cont.

We contest the use of a private road for incoming development. The developer should use their own land for access. It has always been the intention of the previous owners Mrs. Sarver and Lola Lee to protect the local environment, the oaks on the property and our Meditation Center and our traditional practices.

I-340-12

**Required action:**

-- Discuss access options other than taking land, screening and parking from an extremely noise, light pollution, air pollution sensitive Meditation and Retreat Center. Please clarify how the necessary land for the Sarver Lane access will be acquired. Please clarify where the new driveway for HVZC will be, what our parking lot would look like, where lost parking space will be provided, how many native oaks you are planning to destroy.

I-340-13

**Required action:**

--Please clarify what kind of sound proving, greenery, visual screening and other mitigation will be provided. We do not see any mitigation efforts whatsoever in the DEIR. HVZC will likely need freeway size soundwalls and visual screening along Sarver Lane as well as alongside our northern and southern boundaries to try to mitigate increasing noise from Deer Springs, Sarver Lane and from the development north of us, and on our western boundary to counteract reflected noise from the mountains. All roads, including Deer Springs, will need sound minimizing pavement. All of our existing (and future) buildings, including AC will have to be sound proved. Soundbarriers protecting our outdoor religious practices on the whole property will have to be provided. Visual screening will have to be provided.

I-340-14

**P14 near HVZC and Sarver Lane**

The so-called Park near our property has storm water basins that are likely to be unsightly, expose us to smell and will be a breeding place for mosquitoes, potentially carrying disease. We wish to protect our congregation from this. Please consider our outdoor religious practices! This kind of infrastructure as well as composting, community gardens and clubhouse should be located inside the development and not be outsourced into the existing neighborhood. Or: Impose and reinforce(!) restrictions on use like opening and closing hours, no smoke, no

I-340-15

## Comment Letters

---

barbecues, no music, parties or other activities that could affect the existing neighborhood. Provide watch and security from inside the developnet/home owners association etc.

↑ I-340-15  
Cont.

**Required action:**

-- Please provide a detailed study of the impacts of all uses at all times of the day and night (!) of the planned park P14 on the Hidden Valley Zen Center and Sarver Lane. Please study the impact of 1.stormwater basins: Visual, smell mosquito born diseases, noise from equipment and maschienery, traffic. 2.Composting: Visual, noise from equipment and maschienery, traffic, SMELL(!) 3. Clubhouse and community gardens: smell, noise, music, traffic, effects from people under alcohol, loitering, parties etc. Suggested solution: Put P14 and all its usues into the planned community. Do not export these activities into the existing community. P14 at the presently planned location should be a simple green space that does not impact the existing community.

I-340-16

**Required action:**

--Please provide/study alternative options within the proposed development. Please provide other options, uses and locations for P14.

I-340-17

### County Sheriff

Problems resulting from puting a clubhouse into existing neighborhood instead of inside the development should not be outsourced to the sheriff.

**Required action:**

-- The DEIR puts the one single county sheriff depute in charge of the whole development including disturbances from the parks. At present it takes on average 45min. for the sheriff to arrive. Please provide detailed information on how the one single county sheriff depute could possibly monitor the noise and other emissions from Parks, particularly Park 14. Where will the funding for a new station, officers, equipment come from? Where will a new station be located?

I-340-18

### Noise, light, air pollution:

**Required action:**

-- Please provide a detailed, on side study as well as model of how the sound will be reflected back and forth along the valley during rock crushing, blasting, other building activities and traffic. Please study the actual and expected cummulative effects.

I-340-19

- now,

↓ I-340-20

## Comment Letters

---

- during the different topographical stages during the 10a of building
- for the finished project.

↑ I-340-20  
Cont.

How much noise from I-15 will the valley be exposed to after the mountain top is blasted away?

I-340-21

### **Required action:**

--Given the megaphone shape of the valley and regular occurrence of inversion layers(see pictures), reflecting light and sound and trapping air pollution, we expect unpredictable impacts in unexpected areas. Please provide a detailed study of those impacts in general as well as on HVZC specifically.

I-340-22

In my personal experience one shot fired in the Mirriam Mountains resounds for several seconds. One truck driving up the hill near us appears to be driving by as close as 30ft from us.

I-340-23

In my personal experience the noise from Deer Springs is significantly louder depending on air pressure, wind direction and the occurrence of an inversion layer.

It is my personal experience that the smell from our neighbors woodstove settles down in the valley and effects us all night and into the late morning making it difficult to breath, depending on weather conditions.

I-340-24

### **Required action:**

--Please provide a detailed study of the settling down of the cumulative emissions and noise (traffic, construction equipment, septic ventilation, airconditioning, generators, lawnmowers, blowers etc... ) during construction as well as the finished proposed development considering topography.

I-340-25

### **Required action:**

--Please study the effects of the regularly occurring inversion layer and wind direction on noise, air quality, light pollution, now, during construction and after completion.

I-340-26

Several of our members have asthma or strong allergies and are very sensitive to air particle exposure. They should be able to continue with their traditional religious practices at the same location without having to resort to the use of expensive epi-pens or hospitalization to counteract in their case potentially life-threatening exposure to e.g. silicate dust and other emissions, during and after construction.

I-340-27

## **2. General**

**Aesthetics :** the natural beauty of the area would irreversably be destroyed. Do we really want DS and North county to become as ugly as LA? If not we have to STOP

I-340-28  
↓

proposals like that. We do NOT need more developments like San Elijo Hills, urban sprawl away from existing high density areas that cause more and more open space to be sealed with concrete and asphalt (buildings, roads, parking...), and create unstoppable **domino effects** around the area. We need to stop this NOW right at the onset! Instead we need high density affordable housing near public transportation in town.

I-340-28  
Cont.

**Agriculture and Forestry Resources** :This development will lead to loss of the more and more rarified agricultural areas, which are essential to our landscape. It will also lead to loss of native oak forests, shrub oak habitats and a habitat of arm thick Manzanitas. The Mirriam Mountain area is a very diverse area with pockets of very specific microclimates that allows for a unique mix of plants and animals, as it has not burned for about 100 years.

I-340-29

**Air Quality and Greenhouse Gas Emissions** : I am particularly concerned about air quality and emissions. Practically speaking: If a neighbor right now fires up their wood stove, the smell settles in the valley and does not move till mid morning. In the evening cool air drifts down from the north mountains and settles at the bottom of the valley. There is practically NO VENTILATION in the whole proposed area, particularly in the northern part. We are dealing with a deep U-shaped valley! If further up north development (e.g. like Newland Sierra) is allowed, the situation could easily get out of hand. Heating/cooling, wood burning and vehicle emissions will doubtlessly lead to very high levels of pollution in the Gist road, Sarver lane, Deer Springs and Twin Oaks Valley Road areas. Inversion layers are occurring on a regular basis.

I-340-30

**Biological Resources:** upgraded zoning invites a domino effect and the destruction of much more precious habitat then in the study area alone. We have seen netcatchers in the valley on the propose Newland Sierra Development site, not only in the north eastern section. Mirriam and ajunct mountains are wildlife corridors. There are many species requiring large open spaces. Bobcats, vultures, various rare owls and lizards and many others have been seen. It is important to keep this area as the last big open space in one piece and not start cutting into it from all sides.

I-340-31

We have found the rare and protected Summer Holly on the northern and western proposed development area.(see pictures)

**Cultural and Paleontological Resources** : There are ancient indian sites and less than 100a old graves in the area. Unfortunately during the last year or so, some indian grinding holes/stones seem to have been illigally removed. Please contact the Larsen family on Sarver Lane about this. They know the area and have found this to be true.

I-340-32

**Geology and Soils** : The Mirriam Mountains are sold granit and decomposing granit. Any building activity will necessarily require blasting and grinding to a degree that will affect wildlife irreversibly. Do we expect e.g. the netcatchers to stay here during years of blasting and grinding?

I-340-33

**Global Climate Change:** inviting traffic away from existing development will

I-340-34



increase air pollution UNNECESSARILY. It is possible to provide MORE housing, causing LESS pollution by clustering affordable housing near existing high density development and infrastructure.

↑ I-340-34  
Cont.

**Hazards and Hazardous Materials :** Extreme firehazard with no exits in deep U-shaped valley surrounded by mountains. This is unmittigable. All planned exits lead in the same direction: South! On may afternoons local winds come from the south. Exit roads will be blocket in panic and excape on foot over the northern mountains is not possible for many. Imagine pregnant women with children trying to secape on foot. I-15 as well as I-78 are failing. Danger of land slides during and long AFTER blasting. Loosening of rocks, water entrance and eruption under frost etc.

I-340-35

**Hydrology and Water Quality:** Existing sensitive habitiats will be destroyed due to changes in water and ground water levels during and after construction. We are very concerned about the dry stream on our property and our many old native oaks.

I-340-36

**Planning Land Use :** Hidden Valley Zen Center has a history of over 50 years, serving the community as a place for SILENT(!) retreats and daily meditation. People come here particularly because of the rural, silent environment. Mentioning again and again how wonderful peaceful, quiet and healing it is and what an asset to the community. Any further development will destroy this. As religious organization we are protected by law as are our traditional practices of silent meditation, work-practice and other outdoor practices.

I-340-37

From the planning perspective I find it extremely short sighted to begin to break up this last large untouched area between San Marcos and Bonsall. The resulting domino effect will be impossible to restrain. Do we want to look like LA? San Elijo Hills is another bad exaple of short sighted development, creating enormous traffic...

I-340-38

Where I am from develoment in areas like this is simply not allowed. Only farmers may get permits to upgrade their farm. The result is an unfragmented landscape (e.g. in Bavaria near Munich and the Alps) which visiting Americans love (!) and a continuously growing city with excellent public transportation. Being an Architect myself I am definitely not against smart development. Please study cities that do not limit future development by using up space in an unwise manner and do implement wise long term strategies.

I-340-39

**Population and Housing :** SD County needs more affordable high density housing near existing or new public transportation and exiting high density areas. NOT more un-affordable homes far away from all resources.

I-340-40

**Public Services :** Any public services necessary for a developement like this, will increase traffic far beyond the development itself and is not sustainable via existing infrastructure. Funding is not provided by any public agency, as these rely on the General Plan. Who will fund new schools, police stations, officers...?

I-340-41

**Recreation :** Please do not destroy one of the last resorts for recreation in nature.

↓ I-340-42

## Comment Letters

---

Lets preserve this beautiful spot for future generations! This should be of greatest interest to the city of San Marcos which is suffering from very poor air quality...

↑ I-340-42  
Cont.

**Transportation and Traffic :** This development is not sustainable via existing infrastructure. Expanding local infratructure is not a solution!!! Even the I-15 is already jammed. We need less, not more traffic. We need affordable housing near public transportation.

I-340-43

### **Please provide:**

--Study of habitat of rare and protected Summer Holly. We have found the rare and protected Summer Holly on the northern and western proposed development area.(see pictures)

I-340-44

--Study of habitat of the rare and protected Copper Butterfly. We have found the indicator plant Redberry in various locations on the northern and western proposed development areas.(see pictures)

I-340-45

- Provide a reference or study of greenhouse gas emissions and particle emissions during and after construction and how they will have a direct bearing on the outdoor and indoor religious practices of the members of Hidden Valley Zen Center, including when inversion layer is present.

I-340-46

- Please provide a study of the light polution the new development and traffic would create, with and without inversion layer.

I-340-47

- Study the growth inducement this project will create within the immediate community it will have direct bearing on. If this property were to be approved the Zen Center, 23 acres, the Golden Door Spa and the various other large agriculturally used parcels will all come into play for future urban development and this was not studied or modeled, nor panned for in the General Plan.

I-340-48

- Study or model the impacts on how taking a whole section of county, which has been set aside in the General Plan to be rural, will have on going and long-lasting effects on north county from all impact disciplines.

I-340-49

- Study the cost impacts to the county tax payers and the residual cost effects if the General Plan is modified to accommodate this use. How much will each of us have to pay for this developer to make a huge profit?

I-340-50

- The draft EIR ignores the Project's fundamental conflicts with the County's General Plan by wrongly dismissing all planning and land use issues "not a significant impact". This needs to be addressed.

I-340-51

- Study the fact that Caltrans does not have money for freeway (I-15)improvements necessary to accommodate this proposed development and that there is no money allocated for improvements. Caltrans is working off the current General Plan and modifying the current general plan will not create the additional dollars necessary to improve I-15 which is now operating at F.

I-340-52

## Comment Letters

---

--Study the impacts on the actual use which will take place on Sarver Lane. There was a complete oversight by the EIR consultant and developer to study the impacts on Sarver Lane and the immediate community using Sarver Lane which is a private road way north of the catholic church.	I-340-53
- The DEIR TDM measures are urban measure and not applicable. There are more trips than they are forecasting and this needs to be properly modeled.	I-340-54
- Newland will cause I-15 to be gridlocked – at failing level of Service “F” – from Escondido to the Riverside County line – yet, Newland won’t contribute any money to mitigate impacts to the mainline freeway. These impacts and costs need to be studied and addressed through monetary mitigation and modeled in the County Fiscal impact.	I-340-55
-- Study the traffic, noise, air quality/air pollution and cumulative impacts on Hidden Valley Zen Center during and after construction. The topography of the valley, echoing etc. needs to be studied and the cumulative outcome disclosed. (One shot fired in the valley resounds for several seconds. One truck going up the hill across from HVZC sounds like driving in our parking lot. Sound travels in unexpected ways and there has to be an on site study as well as a sound model. Cumulative impacts need to be studied. It is NOT proper to simply label all impacts 'insignificant' without proper measurements and study.	I-340-56
-- It appears Newland Sierra is contemplating modification of the flood plain on land owned by Hidden Valley Zen Center. Newland Sierra needs to study their best alternate because Hidden Valley Zen Center will not allow Newland Sierra to modify any land owned by Hidden Valley Zen Center.	I-340-57
-- Sarver Lane was never analyzed, they the EIR didn’t show the street alignment and the noise impacts along Sarver Lane wasn’t studied. 6000 trips not studied or modeled will have significant impacts.	I-340-58
<b>Conclusion:</b>	
Under the Religious Freedom Restoration Act and Religious Land Use and Institutionalized Person Act Hidden Valley Zen Center will be impacted beyond repair and the impacts will likely not be able to be mitigated. Newland’s proposed development will likely be nothing short of a land taking of Hidden Valley Zen Center.	I-340-59
The DEIR presented, though many pages long, does not adequately study and disclose many major important impacts. One of the main excess roads, Sarver Lane and impacts on adjacent properties and uses has not been studied at all.	I-340-60
This DEIR does NOT properly inform the public or decision makers. It should NOT be used by decision makers as a base for decision making. We suggest an overhaul of the whole EIR by a different, independent consultant.	I-340-61
As an Architect I am naturally pro-development. Given the innumerable issues with	↓I-340-62

## Comment Letters

---

this project I strongly advise against it. I would not wish to live in any section of the proposed development myself and would advise anyone against settling there.

Please see pictures attached:

*Thank you for assisting the community with assessment of proper DEIR study.*

*Sincerely,*

Stefanie Schubert

Architect

Ass. Spiritual Director

Hidden Valley Zen Center

.....

Pictures attached:

Inversion layer. Picture taken July 2017 from a hill near Twin Oaks Valley Road towards the proposed development site.

Inversion layer exiting the valley am July 2017, taken from HVVZC property facing southwest.

7am slowly lifting fog over Newland property and Sarver Lane. August 10th 2017. Taken from Sarver Lane facing north.

7am slowly lifting fog over Newland property and Sarver Lane, HVZC parking lot, August 10th 2017. Taken from Sarver Lane facing north.

same day standing 7:20 am traffic on I-15 south, fog.

Summer Holly on proposed site.

Redberry on proposed site.

I-340-62  
Cont.

I-340-63



I-340-63  
Cont.

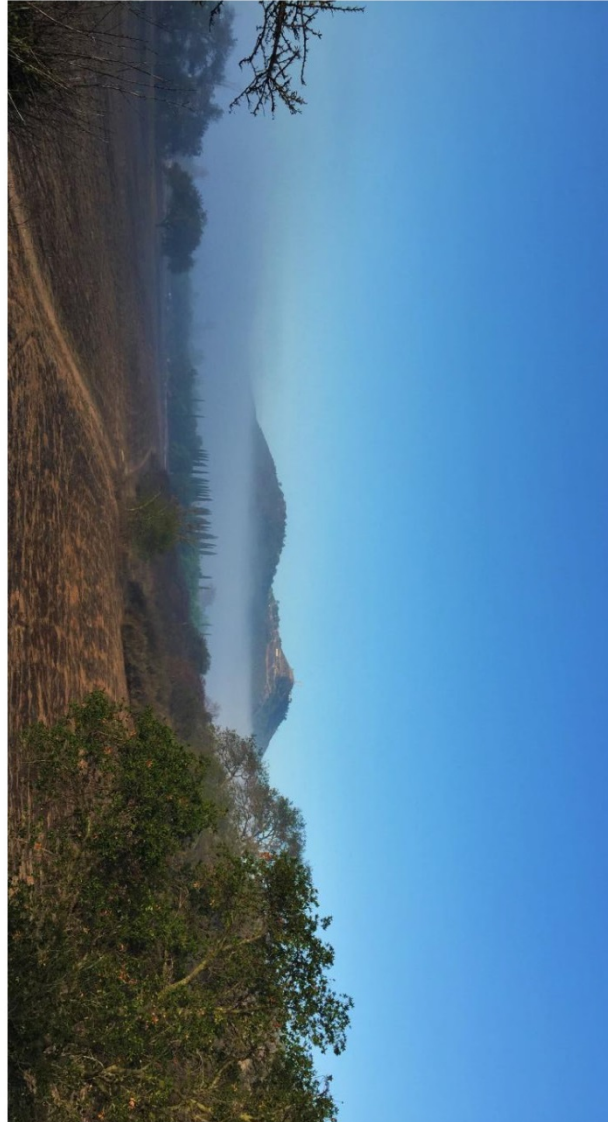


I-340-63  
Cont.





I-340-63  
Cont.



I-340-63  
Cont.





I-340-63  
Cont.



I-340-63  
Cont.



I-340-63  
Cont.

INTENTIONALLY LEFT BLANK