

I-91 Tom Curriden

Comment Letter I-91

Newland Sierra Project DEIR Comments

Tom Curriden – Starview Dr., Vista

DEIR Section 2.13 - Transportation and Traffic

Comment #/EIR Transportation and Traffic Section citation	Comments
Sections 2.13.12 and 2.13.12.1 – Impacts and Mitigation Measures for Direct Impacts	
1. Impacts TR-1-A and TR-1B – Deer Springs Road interchange with I-15 NB and SB ramps; Mitigation Measure	<p>CEQA Sect. 21081.6 (b) requires that “A public agency [here the County] shall provide that measures to mitigate or avoid significant effects on the environment are fully enforceable through permit conditions, or other measures.”</p> <p>The County’s adopted “Guidelines for Determining Significance” (‘GDS’ hereafter, Sect. 5.0 p.26) state “If a proposed project’s traffic results in a significant impact [which is confirmed in the traffic study], mitigation for the traffic impact must be proposed.”</p> <p>The County’s adopted “Report Format and Content Requirements – Transportation and Traffic” (RFCR hereafter, Section 5.0 p. 16) state: “The TIS [Traffic Impact Study] must include detailed descriptions of improvements proposed to mitigate for identified impacts.”, and “if a project proposed to construct in phases (stages)..., then the traffic study shall detail the project’s traffic impacts and needed mitigation for each phase...and provide appropriate mitigation at each stage.”</p> <p>Instead, the applicant’s consultant proposed Mitigation Measure M-TR-1, which states that the applicant need only “coordinate with Caltrans” to improve the interchange, but provides no details or enforceable commitment to perform any improvements.</p> <p>In failing to require the applicant to design and implement the interchange improvements through project conditions, agreements, or other enforceable legal instrument, either as a single project or phased in a manner tied to specified project implementation benchmarks, the proposed mitigation fails to meet its obligation under both CEQA and the County implementing policies to be both require detailed and enforceable mitigation, and this impact has thus been unacceptably left unmitigated.</p>
2. Impact TR-6; Mitigation Measure MTR-6 – Buena Creek Rd/Monte Vista Intersection	<p>This project alone would add 2,390 ADT to this intersection and would lower the LOS from D to E, which is defined as a significant impact requiring mitigation pursuant to GDS Section 4.1, p.13. The TIS identifies 2 alternative mitigations: (1) A traffic signal with an additional EB left pocket (note: the WB RT lane was installed by the recent Quintessa project and the SB condition on Monte Vista is the single SB shared LT/RT lane that currently exists, and it is not clear what additional improvements, if any, this project would make); or (2) a roundabout.</p>

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	<p>The County's Planning group for the area, the Twin Oaks Valley Sponsor Group, voted to designate a roundabout at this intersections as the top improvement priority. The goal was to improve the safety and function of Buena Creek Road by using traffic-calming measures such as roundabouts to keep traffic moving at lower speeds through the area and thus address current problems of speeding, accident rates and stacking issues along Buena Creek. A traffic light was seen as an inferior solution in not addressing stacking issues with am WB and pm EB traffic causing delays and hampering access from nearby side streets. The roundabout should be identified as the superior (or only) mitigation.</p> <p>The safety and function may be further addressed by additional traffic-calming measures/roundabouts at intersections, primarily east of Monte Vista, to not only improve function and safety but allow entry onto Buena Creek from side streets – already an issue but one that will get significantly worse given the 38% increase in traffic on Buena Creek from Twin Oaks to Monte Vista from this project alone [Table 2.13-17] and the 68% increase from project + cumulative [Table 2.13-17 +Table 2.13-27. See related comment #7.</p> <p>(TYPO NOTE: The second road segment under Buena Creek in Table 2.13-27 should be Monte Vista to Twin Oaks Valley, not Monte Vista to Deer Springs.)</p>	I-91-2 Cont.
3. Intersection of Monte Vista and Foothill	<p>RFCR Section 3.1 (p.11, second bullet) states that "The scope of the assessment of direct impacts should include the assessment of transportation facilities that would receive 25 or more peak hour trips from the proposed project. The 25 peak hour trip threshold should be based on the combined 2-way....traffic volume of the roadway segment for either the AM or PM peak period." The third bullet immediately following requires the assessment of cumulative impacts to be based on the same study area.</p> <p>Figure 8.8 of the project TIS (technical appendix) indicates that the project would add 71 combined am peak hour trips and 89 combined PM peak hour trips to Monte Vista. Monte Vista intersects with Foothill Dr. approx. ½ mi. form its intersection with Buena Creek, a segment that experiences significant stacking during peak hours. Clearly, the project's peak hour contribution to the Monte Vista/Foothill intersection should have been included in the study, with consideration given to mitigation working in tandem with improvements to the Monte Vista/Buena Creek intersection discussed under comment #2.</p>	I-91-3 I-91-4
4. Impact TR-7: Buena Creek Rd/S.Santa Fe intersection; Mitigation Measure M-TR-7	<p>The Buena Creek/S. Santa Fe intersection is well beyond the point of failure, requiring multiple light cycles for SB traffic on BCR to get through in both the am and pm peak hours, and long pm delays for traffic backed up on S. Santa Fe and Robellini</p>	I-91-5

	<p>seeking to turn left onto NB BCR. This project alone will add 109 am peak hour trips on SB BCR to the intersection and 130 pm peak hour trips NB traffic tuning onto BCR from S. Santa Fe (Figure 8.8). That project-generated traffic represents a minimum 18.2 and 22.7 times the Counties adopted threshold of significance of more adding more than 5 peak hour trips or adding more than a 1 second delay to a failing intersection (GDS Table 2, p.15). I say minimum because it is an "or" condition and the delays associated would likely far exceed 18 or 22 seconds. Table 2.13-16 (Item #25) simply notes that the Existing + Project delay will be > 100 seconds and that the added delay from the project alone will be > 10 seconds (both am and pm peak hour). Why does the TIS stop quantifying the delay once it exceeds those figures? The traffic distribution numbers are known and the delays can be calculated and should be. The same comment is made regarding Intersections 5, 7, 8, 11 and 26.</p> <p>The proposed Mitigation Measure M-TR-7 states that by 273 dwelling units the project will "...improve the Buena Creek Road/S. Santa Fe intersection to provide dedicated right and left turn lanes on southbound Buena Creek Road" with an associated adjustment to signal timing and equipment. The County's RFCR (Section 5.0, p.16) require that the TIS "Include detailed descriptions of improvements proposed to mitigate for identified impacts". The proposed mitigation measure is not detailed and does not address the feasibility of adding these lanes given that the intersection abuts the Sprinter station to the east and is constrained to the west by private property, and that a "Rail Trail" is currently being implemented by the County which must traverse BCR near this intersection.</p> <p>The TIS also fails to address the efficacy of this mitigation given the presence and operation of the Sprinter light rail station and tracks at the location, the fact that NCTD plans to double train frequency within the next 10 years, the lack of pedestrian and disabled access to the Sprinter Station, the traffic-related effect of the "Rail Trail" at this location and any other factors which bear on the adequacy/feasibility of this mitigation measure.</p>	I-91-6
		I-91-7
		I-91-8
5. Impact TR-8: Robellini/S. Santa Fe intersection	<p>This intersection is heavily impacted, and the 108 pm peak hour ADT from this project alone move it unacceptably from LOS E to F and requires mitigation under both CEQA and the County's implementing policies.</p> <p>The applicant's consultant notes that impact to the intersection "would be mitigated by adding receiving lanes of each side of S. Santa Fe", however, the applicant's consultant excuses the applicant from mitigating (by adding those receiving lanes), saying that the such an improvement would not be "proportional" given its 8% increase to volume and the 5 mile</p>	I-91-9

	<p>distance from the project site to this intersection. The consultant concludes that the intersection improvements "are not considered feasible".</p> <p>That is simply not the case. The 108 trips referenced above represent and impact 18 times the significance threshold identified in Table 2. It is not the project's distance from the intersection but rather its impact to it that is relevant. Also, as is noted in several locations in both the GDS and RFCR that relatively minor traffic additions to LOS E or LOS intersections are highly magnified in terms of impact, which is why the thresholds of significance are so low. The 8% increase and 5 mile distance arguments lack relevance and should be removed. The impacts are real, (very) significant, and can and should be mitigated by the developer.</p> <p>GDS Section 5.0 p.26 states "If a proposed project's traffic results in a significant traffic impact [per Table 2] mitigation for the traffic impact must be proposed. If mitigation is infeasible or impractical, the technical, economic and physical reasons for the infeasibility must be detailed to support a statement of overriding considerations under CEQA."</p> <p>Intersection improvements are technically and physically feasible, and are economically feasible (given the scale of this project).</p> <p>If the developer's consultant wishes to continue to assert that these improvements "are not considered feasible", the County should require at a minimum a legal nexus analysis which would set forth in detail specific reasons pursuant to GDS 5.0, which would then need to be approved by the Board of Supervisors in the form of a Statement of Overriding Considerations pursuant to CEQA Sect. 21081(a).</p> <p>I am confident that the legal nexus study would indicate that the developer can and should mitigate for this impact.</p>	<p>I-91-9 Cont.</p> <p>I-91-10</p> <p>I-91-11</p>
6. Roadway Segments - General	<p>Unlike intersections, the TIS does not evaluate am and pm peak hour operations/levels of service for roadway segments, giving only an overall LOS based on a 24-hour count of total ADT.</p> <p>The report fails to recognize that a significant portion of the surrounding roadway network (including, but not limited to, Deer Springs, sections of Twin Oaks Valley Rd., Buena Creek Rd., Robellini and Sycamore) are atypically impacted by cut-through traffic in the peak commuting hours. Due to the already poor and deteriorating conditions on I-15 and SR78, motorists choose to use those roadways to avoid the failing condition and significant delays associated with the I-15/SR78 interchange, creating extensive stacking, unusually long delays, difficulty in access from side streets and other operational constraints that should have been evaluated and addressed in the TIS. County Traffic Engineering staff have indicated that they estimate approx. 90% of the commute hour trips on those</p>	<p>I-91-12</p> <p>I-91-13</p>

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<p>7. Impact TR-15; segment of Buena Creek between Monte Vista and Twin Oaks Valley; Also, the description of Buena Creek Road as a 4.1B Major Road in the Horizon Year (Cumulative) Analysis, Sect. 2.13.9.4.4, pg. 2.13-74</p>	<p>roads is this cut-through traffic. The TIS analysis should be expanded to address this existing condition.</p> <p>As noted under Comment #2, this project contributes hugely to the already high traffic levels on this approx. 2.5 mile stretch of roadway, alone causing a 38% increase in traffic volume and degrading it from LOS D to LOS E. Yet the only mitigation proposed is improvements to the Monte Vista Buena Creek intersection (M-TR-6). Project plus cumulative traffic bring the roadway to failure, LOS F [Tables 2.13-17 + 2.13-27].</p> <p>The scale of this project (approx. 6,000 new residents, roughly the size of the City of Del Mar) and the enormity of its impact warrant far more than improvements to one 2-lane road intersection on a roadway absorbing this much of the project-generated traffic. Barring substantial improvements to the roadway for its entire length (including the segment from Monte Vista west to Santa Fe), access to BCR from side streets will become problematic as best, delays will become extreme, already-present hazards to pedestrians/bicyclists, given the complete lack of facilities for them discussed under comment #11 below, will be greatly exacerbated, noise impacts will be substantial, and other factors combining for a will result.</p> <p>It is important to note that back in the 1970's the County simply designated BCR and a 4-lane major without any feasibility analysis or rationale (on the record, anyway). However, the roadway cannot be and will never be improved to a 4-lane major, as is widely acknowledged by County staff. Taking the segment west/south of Monte Vista for example, widening BCR to 4 lanes would require relocation and channelization of Buena Creek itself (which the Army Corps of Engineers cannot and would not allow), enormous retaining structures given the steeply sloping topography on both sides, numerous takings of private property (including houses), and relocation/substantial reduction to Sprinter Station and the BCR/S. Santa Fe intersection and other factors combine to make it simply infeasible.</p> <p>The Twin Oaks Valley Sponsor Group voted to request reclassification of BCR back to the 2-lane local collector that it is and will continue to be, with pedestrian and bicycle amenities, which is being processed by the County as part of the Community Plan Update for the area. No evaluation of long-term (cumulative) traffic impacts should be performed based on BCR ever being improved to a 4-lane Major.</p> <p>This project can and should be required to look at this roadway holistically, evaluating additional roundabouts and other measures to manage traffic to keep it moving steadily and safely through the area and providing for safe pedestrian and bicycle travel. In the alternative, no GPA allowing for a project</p>
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10./Robellini Dr. segment from Sycamore to S. Santa Fe	<p>Though the widening of Robellini would greatly improve circulation in the area in conjunction the mitigation measures discussed above, sufficient detail is provided to support that it would be a disproportionate requirement on this project. However, the TIS also notes that the County has [an approved but currently unfunded] CIP project involving the realignment of Sycamore to directly connect to Buena Creek, eliminating the current 'dogleg' on S. Santa Fe (in which Robellini would become a cul de sac). As an approved CIP, that project would be eligible for fair-share contributions as mitigation for long-term (cumulative) impacts, which this project and others with significant cumulative impacts should be contributing to.</p>	I-91-22
11. Assessment of hazards to pedestrians and bicyclists	<p>Section 3.10 of the Report Format and Content Requirements requires the TIS to identify all the pedestrian and bicycle facilities in the study area. Section 4.7 of the GDS notes that substandard roads/intersections built prior to current standards "...may have conditions that may pose an increased risk if traffic volumes, pedestrian volumes or bicycle volumes substantially increases along the road segment or at the intersection, as a result of the proposed project." That language is followed by 7 bullet-point factors to consider. I cite the last four below, along with facts to consider:</p> <p>(1) "The percentage or magnitude of increased traffic on the road due to the proposed project that may adversely affect pedestrian and bicycle safety.</p> <p>Facts: This project significantly impacts roadways within the study area, as evidenced in the TIS. Using probably the best example of Buena Creek Rd., a roadway that has no pedestrian or bicycle amenities and often requires ped/bicycle travel within the travel lane itself, this project alone would increase traffic by 38% for the segment between Twin Oaks and Monte Vista and 26% for the segment between Monte Vista and S. Santa Fe, degrading both segments from LOS D to LOS E. This magnitude of traffic increase would clearly have an adverse effect on a roadway lacking any facilities such as this, and should have been assessed.</p> <p>(2) "The physical conditions of the project site and surrounding area such as curves, slopes, walls, landscaping or other barriers that may result in vehicle/pedestrian, vehicle/bicycle conflicts."</p> <p>Facts: As note under Comment #8 above, the section of BCR south/west of Monte Vista is limited to two travel lanes only, with steeply sloping topography on both sides leaving little or no room for pedestrians/bicyclists outside the travel lane, exacerbated by substandard turning radii, thick vegetation, walls and lack of adequate sight distance at several locations. This is especially critical given that provides access to and abuts the Buena Creek Sprinter Station at its south terminus. The</p>	<p>I-91-23</p> <p>I-91-24</p>

	<p>segment east of Monte Vista also has stretches where topography and other barriers do not allow pedestrian or bicycle outside the travel lane and inadequate sight distance exists at several locations.</p> <p>(3) "Conformance of existing and proposed roads to the requirements of the private or public road standards, as applicable."</p> <p>Facts: Buena Creek, and some of the other road segments in the study area, was constructed well before the County's public road standards were in place. Though it is designated as a 4-lane Major (which is infeasible per the discussion under Comment #_ above) it has historically been a 2-lane residential or local collector, and the Twin Oaks Valley Sponsor Group has formally requested that it be reclassified in the Mobility Element as a 2-lane collector with pedestrian/bicycle facilities. Even as a 2-lane collector It is substandard in many respects, including substandard and/or uneven turning radii at some locations, lack of any pedestrian/bicycle accommodations, lack of proper drainage, lack of adequate sight distance and other factors that adversely affect pedestrian/bicycle safety.</p> <p>(4) "The potential for a substantial increase in pedestrian or bicycle activity without the presence of adequate facilities."</p> <p>Facts: It is reasonable to expect that the project would result in an increase in at least bicycle traffic on Buena Creek (again lacking adequate facilities) given that it is with 5 miles of the Sprinter station and that the other roadways between the project and Buena Creek (Deer Springs, Twin Oaks Valley) would be improved in conjunction with the project.</p> <p>Though the above criteria in Section 4.7 are cited on p. 2.13-81 of the TIS, the "Analysis" section that follows only contains generic declaratory statements that all roadway improvements are required to be constructed in accordance with County of San Diego and City of San Marcos standards. There is no substantive analysis of hazards to pedestrians or bicyclists, any assessment of increased hazards given project traffic distribution or any discussion of potential mitigation relative thereto.</p>	<p>↑ I-91-24 Cont.</p> <p>I-91-25</p> <p>I-91-26</p> <p>I-91-27</p>
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Newland Sierra Project DEIR Comments

Tom Curriden – Starview Dr., Vista

DEIR Section 4 – Project Alternatives – Existing General Plan Alternative

The Existing General Plan Alternative (Section 4.5) fails to take into account significant development constraints of this site which would be applied by the County in conjunction with any development proposal(s). This results in incorrect and misleading impact calculations relating to development under the current General Plan in at least 2 key areas – traffic generation and biological impacts.

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1. **Traffic** – The traffic generation standards used in the DEIR (SANDAG's 2002 'Brief Guide to Traffic Generation Rates for the San Diego Region') are based on usable site areas. As noted in the letter from the Delane Engineering firm dated August 4 (attached), the commercially-zoned sites are subject to substantial topographical constraints that would significantly lessen the development potential of those sites under the County's Resource Protection Ordinance (RPO), as well as other development constraints that would further limit the developable area (e.g. internal access roads, stormwater treatment facilities, etc.). These constraints would be applied to any development of the site and need to be factored in to any realistic assessment of the development potential of these sites. These factors **significantly reduce the traffic generation figures for development under the current General Plan below those cited in the DEIR** (Tables I–A and I-B of Appendix II).

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The Delane letter notes 25.9 acres of the 53.64 acres in the Office Professional C-30 zone would be deducted for steep slopes to be preserved and required setbacks from them, and that an additional approximately 20.4 acres would be devoted to the other constraints (I say approximately because Delane presents estimates based on typical areas access roads, stormwater treatment, etc.), leaving only 7.4 acres for actual development. Thus, applying the SANDAG standard of 300 ADT per acre used in the DEIR, instead of the 16,092 ADT attributed to the C-30 zoned property cited in the DEIR (53.64 x 300) future development of the property would actually only generate 8,322 trips (27.74 acres x 300) when adjusted for steep slopes and approx. 2,202 trips (7.34 acres x 300) when all constraints are factored in.

I-91-30

With regard to the 4.64 acres in the General Commercial C-36 zone, Delane letter notes that a relatively smaller .11 acres would be deducted for steep slopes, but that 3.31 acres would be dedicated to the other constraints. Thus, using the 1,200 ADT per acre traffic generation level for 'Neighborhood Commercial' used in the DEIR traffic analysis, instead of the 5,568 ADT attributed to the C-36 zoned property cited in the DEIR traffic analysis (4.64 x 1200), development of the C-36 zoned property would instead generate 5,436 ADT when adjusted for steep slopes (4.53 x 1,200) and approx. 1,416 ADT with all constraints factored in.

I-91-31

Therefore, in combination, the commercially zoned components of this project would generate a combined 13,758 ADT with the required preservation of steep slopes and approx. 3,618 ADT with all constraints factored in, or 14,668/4,528 ADT with the added 910 net ADT from the 99 home

I-91-32

residential component, significantly less than the 20,059 ADT reflected in the DEIR, and comparing much more favorably to the 22,209 ADT generated by the project.

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Cont.

2. Biological Resources

Lot clustering with reduced lot sizes would be required on a project site of this size and with these resources in order to limit impact to those resources, likely in the form of a Conservation Subdivision Plan (CSP). As also noted in comments submitted by the Twin Oaks Valley Sponsor Group (Comment #19 - incorporated by reference herein), given the 80% minimum resource avoidance required in the RL-20 and the 75% minimum in the SR-10, and the respective acreages of those zones on site, **the maximum amount of disturbance that would be allowed would be 386.3 acres – half the 777 acres that would be disturbed by the proposed project or other alternatives evaluated in the DEIR.**

I-91-33

Instead, the Existing General Plan Alternative presented in the DEIR (Chapter 4.5, Figure 4.2), for purposes of comparison to the proposed project and alternatives, shows a sprawling design of larger lot single-family homesites extending from Deer Springs northward almost the entire length of the site, requiring extensive fuel modification zone areas and disturbing 1,262 acres (1,049 acres 'disturbed' and 213 acres 'graded'). Based upon that design, the DEIR concludes that the Existing General Plan Alternative is inferior to the proposed project in terms of biological resource protection (Sect. 4.5, p. 4-18, Table 4-1).

Conclusion

In at least the 2 key areas of traffic impacts and biological resources, **the impacts of the Existing General Plan Alternative are grossly overstated**, which, in the case biological resources, results in a false conclusion that the proposed project is environmentally superior.

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With respect to traffic, the overstatement of impact results from applying general traffic generation standards intended to be used in conjunction with typically level, unconstrained properties (and they predate current stormwater requirements, for example) and applying them to a highly constrained site of with steep slopes and other significant constraints, where the developable area is significantly less than typical. In doing so, the DEIR concludes that the project generates only 6% more traffic than development under the existing General Plan, when **in reality the project would generate more than 51% less traffic** (51% from steep slope protection alone – and substantially even less traffic than that with adjustment for constraints such as stormwater requirements and access roads, etc. as per above).

I-91-35

As regards biological resources, the overstatement of impact results from presenting an untenable 'Existing General Plan Alternative' design that could not and would not be processed by the County as presented. Processed appropriately as a Conservation Subdivision Plan and adhering to the 80%/75% preservation minimums of the R-20 and SR-10 zones described above, **a realistic CSP project processed under the existing County General Plan the project would impact/disturb no more than 386.3 acres, 50% of the 777 acres proposed by the project and 30% of the impact of the design presented in the DEIR as the 'Existing General Plan Alternative'.**

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Accordingly, the DEIR Existing General Plan Alternative (Section 4.5) should be revised to reflect and evaluate a design eligible for, and compliant with, the CSP program requirements it would be processed under, and (2) revise traffic generation figures to be based upon a realistic appraisal of the development potential of the site under the current protections of the General Plan, adjusting for steep slopes, stormwater treatment facilities, roadways, and other requirements of project design.

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TECHNICAL MEMORANDUM

DATE	August 4, 2017
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. 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 317,500 SF for C30 Office Professional and 51,500 SF for C36 General Commercial for a total of 369,000 SF. At 2 story height restriction, the total building square footage feasible is 635,000 SF for C30 Office Professional and

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103,000 SF of C36 General Commercial, for a total building square footage of 738,000 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 100,000 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 more 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.

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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>



DELANE
ENGINEERING

www.DelaneEngineering.com | Info@DelaneGroup.com

2812 Santa Monica Blvd, Ste. 206, Santa Monica, CA 90404. | P. 310.546.5711 | F. 866.579.6415

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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

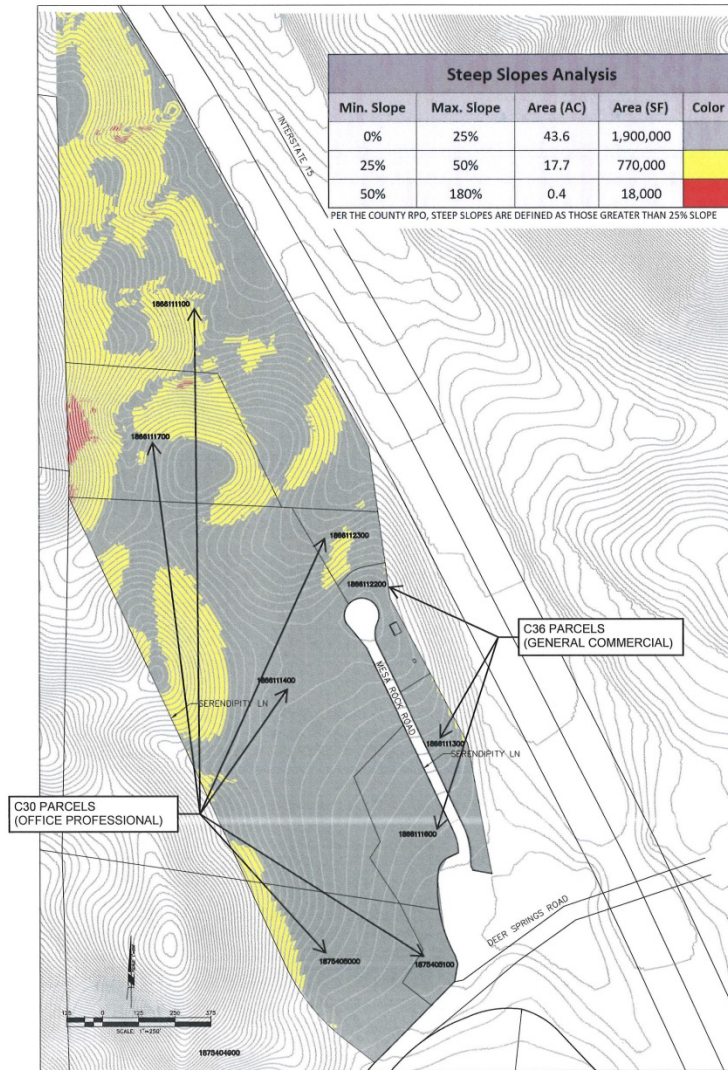
SR-10 = Semi-Rural 10; RL-20 = Rural Land; C-1 = General Commercial; C-2 = Office Professional

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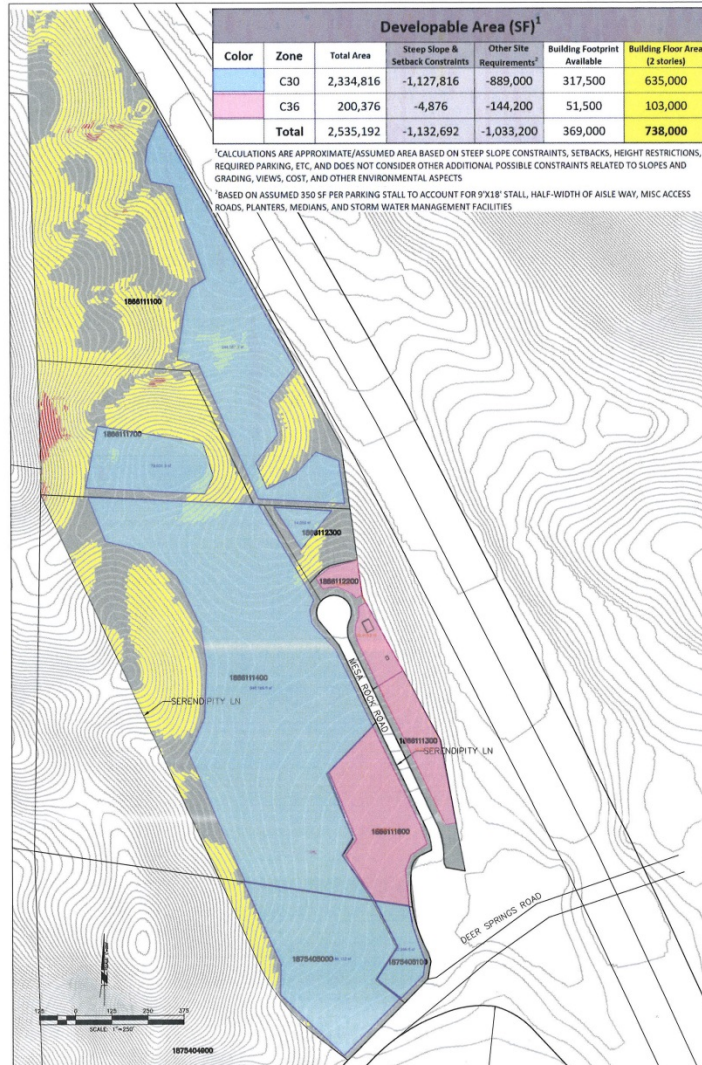
www.DelaneEngineering.com | Info@DelaneGroup.com
2812 Santa Monica Blvd, Ste. 206, Santa Monica, CA 90404. | P. 310.546.5711. | F. 866.579.6415

FIGURE 2 - STEEP SLOPES



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FIGURE 3 - DEVELOPABLE AREA



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Tom Curriden – Starview Dr., Vista

Comments re: DEIR Appendix DD (General Plan Consistency Analysis)

General Plan Land Use Element Guiding Principle 1.2 (Leapfrog development) (p.DD-69)

Policy LU-1.2 states “Prohibit leapfrog development which is inconsistent with the Community Development Model” and defines leapfrog development as “...Village densities located away from established Villages”.

This project is clearly a Village as defined in the Community Development Model of the Land Use Element of the General Plan (Pages 3-7 and 3-8), and is frequently referred to as a village throughout the project application materials and DEIR. Specifically, it would qualify as a “Town Center”-anchored village pursuant to the Community Development Model, containing all the elements typically associated with one listed on p. 3-8 (i.e. having a mix of residential, retail, and office/professional uses, having a higher-density residential component, and having community private or public facilities). And, clearly, it is not located near any other village as defined in the Community Development Model.

Therefore, this project would appear to clearly be the leapfrog development this policy is intended to prohibit.

Yet, DEIR concludes that this Policy is “Not applicable” based on a stated rationale that “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.”

That explanation is at best unclear and frankly seems nonsensical. None of the project site currently carries any of the land use designations of the Village Regional Category (reference North County Metro land Use Map, Figure LU-A-12, and Land Use Element Table LU-1). All of the project site is designated in the other Regional Categories – i.e. Semi-Rural 10 (SR-10), Rural Lands 20 (RL-20) and Commercial (Office Professional and General Commercial). The project proposes, through the General Plan Amendment and Specific Plan processes, to create the Village. There is currently no Village Regional Category designation on the site as claimed in the DEIR, and the project does propose to create a new Village, both in terms of the relevant land use documents/maps and in reality, contrary to the quote from the DEIR above.

Please explain. This could appear to be a brushing aside or side-stepping of a critical Land Use Policy that seems intended to apply to precisely this kind of project.

Land Use Guiding Policy 1.4 (Appendix DD, page DD-70)

Guiding Principle 1.4 states “Permit new Village Regional Category designate land uses only where contiguous with an existing or planned Village and {lists 4 bullet points I won’t recite since this is an “and” condition and they are not relevant}”.

Here again, the DEIR’s Conformance Conclusion is “Not Applicable” with the same justification cited as quoted above for Guiding Principle 1.2.

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This project is clearly not located contiguous to any existing or planned Village, so this Guiding Principle would appear to be both applicable and not met by this project.
Please explain/identify the Village this project is contiguous with.

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Cont.

Newland Sierra Project DEIR Comments

Tom Curriden – Starview Dr., Vista

DEIR Section 2.7 – Greenhouse Gas Emissions

On April 28, 2017, the Superior Court of California issued a ruling in the case of Sierra Club vs. County of San Diego and Golden Door Properties LLC that the threshold for evaluating GHG emissions being used by the County (a 2016 'Guidance Document') was invalid as legally inadequate under CEQA for GHG analysis, in that it (1) had not been adopted through a public process as required by CEQA, and (2) that it was not "based on substantial evidence" as required by CEQA as a significance threshold. The ruling meant that the County needed to complete and approve the Climate Action Plan (CAP) it has been developing and was nearing a point of release for public review, and that said CAP must be used as the basis for GHG evaluation in the DEIR.

Yet, rather than allow for completion of the review and adoption of the CAP being processed by the County and using that CAP as the proper metric for evaluating project in the DEIR, the applicant elected to press ahead with the previous/inadequate GHG analysis under CEQA, risking what would appear to be a "slam-dunk" lawsuit should an EIR be certified with that analysis.

On August 10, 2017, four days prior to the deadline for review and comment on the project DEIR, the County announced release of the Draft Climate Action Plan and supporting EIR document (a ponderous amount of materials), effectively precluding any opportunity for public review and comment on the Newland Sierra project relative to the draft CAP.

I have chosen not to comment in detail on the discussion in the DEIR, apart from reiterating the Superior Court's ruling that it is based on thresholds not properly developed and reviewed under CEQA as part of an approved CAP, because to do so would be in my estimation a pointless exercise. As found by the court, the GHG analysis is inadequate and not in compliance with CEQA or the County's implementing regulations. Due to this inadequacy, as well as other substantial changes that will need to be made to the DEIR and/or the project itself pursuant to comments made relative to the DEIR this and other sections of it, a subsequent EIR will need to be prepared which must include a complete and proper analysis of the project relative to the CAP.

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Newland Sierra Project DEIR Comments

Tom Curriden – Starview Dr., Vista

DEIR Section 2.12 – Population and Housing

Comment # / Applicable DEIR citation	Comment
1./County General Plan policies H-1, H-1.1, H-1.9, H-3, H-3.4	As noted on p.2.12-6, State Law requires SANDAG to prepare a Regional Housing Needs Assessment (RHNA), establishing the fair share of affordable housing for the County and each of the cities within it in the categories of very low, low, and moderate income levels. Commonly referred to as "inclusionary housing", jurisdictions require housing in the above affordability categories based on their proportionate "Fair Share" under RHNA, typically provided within larger projects or provided through an "in-lieu fee" for smaller projects. This project fails to implement General Plan policies relating to housing affordability, as further detailed below. No housing has been set aside for very low, low or moderate households in this project - all of the housing units in the project are market rate.
2./General Plan Policy 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."	This project includes a General Plan amendment for a large-scale residential project yet includes no component of affordable housing – in clear violation of both the letter and intent of this policy. Throughout the EIR the project is referred to as a residential village containing a range of housing types (e.g. attached/detached, small lot/large lot) – but again all are market rate. To qualify to count toward a jurisdiction's fair-share RHNA numbers in the above affordability categories, the units must be secured at affordable rent/price levels through deed restriction, covenant or other suitable legal instrument – which is certainly "legally permissible" and is being done by jurisdictions throughout the county.
3./Policy H-3 – "Housing Affordability for All Economic Segments - [Provide] affordable and suitable housing for all economic segments, with emphasis on the housing needs of lower income households and households with special needs."	In clear violation of this policy as well, this project includes no housing for very low, low or moderate income households or those with special needs.
4./ Policy H-1 – "Housing Development and Variety - [Provide] a housing stock comprising a variety of housing types at a range of prices, which meets the varied needs of existing and future County residents, who represent a full spectrum of	Again, in not producing or setting aside housing for very low, low or moderate income households, this project fails to implement this policy.

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age, income, and other demographic characteristics."	
5./Policy H-1.1 – Sites Inventory for Regional Housing Needs Assessment (RHNA). Maintain an inventory of residential sites that can accommodate the RHNA."	As noted under Comment 2, units not secured as affordable by deed restriction, covenant or other suitable legal instrument cannot be counted toward the RHNA. This project provides no such units.
6./Policy H-2 – "Neighborhoods That Respect Local Character – [Provide] well-designed residential neighborhood that respect unique local and the natural environment while expanding opportunities for affordable housing."	The character of the surrounding area is primarily semi-rural (1 unit per 10 acres) rural lands 1 unit per ≥ 20 ac.), including very large-lot residential, and agricultural land uses, as is reflected in the North County Metro Land Use Policy Map of the General Plan. This project is a "village" that is suburban in character, containing much higher densities and introducing a multifamily component to this rural area, along with a commercial "Town Center" component, and thus is not respectful of that existing local character. And, again, there's no affordable housing component.
7./Policy 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 subject site is not proximate to public transportation (it is not served by NCTD BREEZE or FLEX bus service and is > 5 mi from a Sprinter station) and is not near any job centers, thus requiring (often long) commute by private auto, contrary to General Plan Policy.
8./Section 2.12.3.3 (1 st two sentences): "The proposed project would be consistent with County Policies H-1, H-1.1 through H-1.3, H-1.6 through H-1.9, H-3 and H-3.4. The proposed project would include a mix of housing types with a range of higher-density housing located within the village designation."	As shown above, the project is not consistent with Policies H-1, H-1.1, H-1.3, H-1.9 and H-3. The applicant's consultant appears to be suggesting that providing a range of housing densities and types equates to providing affordable housing. Again, it does not unless secured as such be legal instrument, which is not done for any units by this project.
9./Section 2.12.3.3 (Bottom para, 1 st sentence) – "the project would be consistent with Policies H-2, H-2.1 and H-2.2, which encourage development to respect community character and provide open space"	As noted above, the character of the surrounding community is rural/semi-rural and agricultural. This project is suburban with "Town Center" commercial component, not consistent with the existing community. It is commonplace for substantial areas of open space to be preserved in suburban developments (e.g. San Elijo Hills, portions of Scripps Ranch, Tierrasanta, etc.) – that does make them not suburban villages or create a character in keeping with the predominant rural/semi-rural and agricultural character of the area around the subject property.

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<p>10./ Section 2.12.3.1 regarding County threshold of significance for growth-inducing impacts, which reads : “[does it] Induce substantial population growth in an area, either directly (for example, by proposing new homes and business) or indirectly (for example, through extension of roads or other infrastructure.”; and Impact PH-1 – “The proposed project would induce substantial population growth because it would exceed planned residential and population growth in the area, <i>result in land uses that could provide economic stimulus, and expand roadways that accommodate higher capacities and improve accessibility, consistent with the County general Plan Mobility Element.</i>” [emph. Added]</p>	<p>This project quite clearly results in significant direct and indirect growth-inducing impacts per this threshold.</p> <p>Direct impacts would obviously include the introduction of 2,135 new dwelling units and approx.. 5,782 new residents into this rural area, far exceeding (over 21 times) the planned population growth under the General Plan for this rural area. This population growth has the secondary effect of spurring demand for commercial services in the vicinity and public infrastructure/services.</p> <p>Indirect growth inducing effects would include the proposed capacity expansion of the I-15/Deer Springs interchange and ramps, improvements to Deer Springs and other roadways within the affected study area which the consultant notes “...would potentially result in other planned and unplanned growth in the area due to an increase in roadway capacity beyond what is required for the project.”</p> <p>Though the consultant acknowledges these clearly growth-inducing impacts, they conclude the section by stating that the project “has the <i>potential</i> for growth-inducing effects <i>may</i> result in subsequent adverse environmental effects as a result of such growth”- clearly those effects <i>will</i> result.</p> <p>With regard to the italicized second part, a non-sequitor not relating to the subject or first part of the sentence, economic stimulus is speculative and, although the project would improve traffic capacity at certain locations, it also degrades service to many roadway segments and intersections of the affected roadway network (see Traffic comments).</p>	I-91-51
<p>11./ Section 2.12.4.1 – “Inducing Substantial Population Growth”; Impact PH-2 – “The proposed project, in combination with the cumulative projects, would result in substantial population growth.”</p>	<p>While it is true that the combined impacts of all cumulative projects would be significant and unavoidable (even without this project), that should not be interpreted as justifying or lessening the importance this project’s substantial contribution to those impacts of 1,936 additional homes above that planned for this site via a General Plan amendment. Again, the population growth-inducing effects would be reduced to below significance by developing at the planned-for density in the General Plan.</p>	I-91-52
<p>2.12. 6 ‘Mitigation Measures’ – that “there are no feasible mitigation measures for Impacts PH-1 and PH-2”; and 2.12.7 Conclusion” – that Impacts PH-1 and PH-2 “...would remain significant and unavoidable”</p>	<p>Again, in summary, Impact PH-1 could be reduced to a level of significance by developing the project with a residential component in keeping with the allowed density of the County’s adopted General Plan, which would also substantially reduce Impact PH-2, although clearly that cumulative impact would</p>	I-91-53

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Conclusion: This project is substantially inconsistent with the Housing Policies of the County General Plan by (1) failing to provide housing for all economic segments including very low, low and moderate income households as required under General Plan Policies, (2) for producing unmitigated population growth-inducing effects by far exceeding planned residential growth anticipated in the General Plan (more than 21 times the planned density) and not providing proper, enforceable mitigation under CEQA and County implementing policies, and (3) contributing significantly to cumulative, unmitigated impacts, again by far exceeding the residential densities planned for in the General Plan and its EIR.

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