



August 14, 2017

Ms. Ashley Smith
5510 Overland Ave, Suite 310
San Diego, CA 92123
Via Email Ashley.Smith2@sdcounty.ca.gov

Dear Ms. Smith:

The Environmental Center of San Diego (ECO SD) would like to offer the following comments on the Draft Environmental Impact Report (DEIR) for the Newland Sierra development project in North County.

We support the submittals by the Endangered Habitats League, Sierra Club, California Native Plant Society, San Diego Chapter, and the Golden Door and incorporate their comments by reference.

ECO SD will focus our comments on several fundamental fatal flaws in the analysis. These foundational mistakes cause the subsequent analysis to be flawed having been based on incorrect assumptions and facts. **This DEIR analysis should be withdrawn, significantly revised to correct the fatal flaws, and re-circulated prior to any certification.**

In general, ECO SD finds the following fundamental flaws which undermine the entire DEIR and mitigation plan:

- A. DEIR analysis grossly misrepresents the content and impacts of the Existing General Plan alternative.
- B. The DEIR does not recommend the most environmentally appropriate alternative and it should.
- C. DEIR fails to include all 'reasonably foreseeable' projects in the cumulative impacts analysis.
- D. DEIR and project consideration is premature and violates the conditions required under the Planning Agreement with the natural resources agencies, and is not consistent with the draft NCMSCP.
- E. There are several impacts to wildlife that are not acknowledged or mitigated such as connectivity and significant edge effects.
- F. Reliance on a gnatcatcher habitat mitigation site location over 20 miles away that has no gnatcatchers is unacceptable and inappropriate as mitigation for these habitat losses.
- G. DEIR attempts to 'piecemeal' the analysis by failing to include the interchange and roadway improvements in this analysis.
- H. Proposed project puts multi-family homes and a school in a known unhealthful location near a freeway putting peoples' health at risk. This is bad planning **and** immoral.
- I. DEIR fails to include required blasting plan.
- J. Project is premature coming as it does before the County's Climate Action Plan.
- K. Requisite findings for a Habitat Loss Permit cannot be made. The project should be re-designed so that the necessary findings can be made if a Habitat Loss permit is to be issued.

DISCUSSION

The environmental analysis is fatally flawed in the following ways. As a result, the DEIR must be redone, flaws corrected, and re-circulated for public review.

A. DEIR analysis grossly misrepresents the content and impacts of the Existing General Plan alternative.

The description of the General Plan Alternative fails to reflect the reality of the Conservation Subdivision Ordinance or a project that would comply with its conditions. This ordinance, which reads in part, *...Resources shall be avoided and placed in open space pursuant to the percentage indicated in Table 81.401.1.*¹

Table 81.401.1

Designation	Minimum Percent Avoided Resources
SR-10	75
RL-20	80
RL-40	85
RL-80	90

Under these rules, a project built under the current General Plan would be required to **preserve 1,557.8 on-site acres**. However, the DEIR appears to states that only the General Plan alternative would only preserve 936 acres (1209ac –273ac) (DEIR at 4.5.1, p. 4-16) or, best case, 1148 acres (1421-273 ac) if the off-site mitigation is counted, which it shouldn't be. In either case, the DEIR is off by hundreds of acres.

This is in contrast to the Proposed Project which would conserve only 1,209 acres on-site. Even if allowable, the proposed mitigation acreage should not be used in this equation as it is located over 20 miles away making it a biologically irrelevant comparison. In all, **the proposed project has 348 less acres of on-site preservation than the Existing General Plan Alternative** for the site. Further, the configuration of the proposed project makes impacts to biological values even worse by isolating sections of habitat with development.

The conclusion that the General Plan alternative destroys **more** habitat than the proposed alternative is patently false. A General Plan Alternative should comply with the General Plan. This is a serious flaw and requires re-analysis and re-circulation of the DEIR.

Also, the claim that the General Plan currently allows 2 million square feet of big box retail asserted in the DEIR and in advertisements in the local Escondido Magazine, is completely erroneous. Any project proposed under the current General Plan would have to reflect the building heights, loss of

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<http://www.sandiegocounty.gov/content/dam/sdc/pds/ProjectPlanning/docs/SubdivisionOrdinance.pdf>

area to steep slopes, set-backs, parking restrictions, and the business type requirements. It should be noted that business professional is quite different use than big box retail. Again, the topography of the site must be considered in the determination of any project that could be proposed under the current General Plan. The range of commercial development is 635,000 square feet-738,000 square feet could be developed on the property under the current General Plan. **The DEIR is wrong by over 1.26 million square feet of development.**

Again, the conclusion that the General Plan alternative would allow over 2 million s.f. of development is patently false and required re-analysis and recirculation of the DEIR.

Only a project actually consistent with the General Plan should be used as the Existing General Plan Alternative.

Last, Figure 4-2 is designed to maximally impact habitat and the conclusion that a General Plan alternative would have more impacts is unfounded. Putting 765 acres in FMZs and 71 acres in a 'special' management area are unnecessary and would not be permitted. It would be easy to design a project with 99 homes and the correct amount of commercial that would protect the amount of habitat required in the CSO. The developers should try a little harder to meet the intent of CEQA. This alternative needs to be improved in the EIR.

B. The DEIR does not recommend the most environmentally appropriate alternative and it should.

Several alternatives (4.9, 4.10, 4.11) are clearly feasible, significantly reduce the impacts from development, allow a more reasonable project to move forward, and were inappropriately rejected by the DEIR. These alternatives meet the objectives where the proposed project does not.

The first objective outlined in the alternatives section is to

Preserve substantial open space and thereby enhance habitat conservation and natural community conservation planning in north San Diego County (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. (emphasis added, DEIR 4.2.1 (1.))

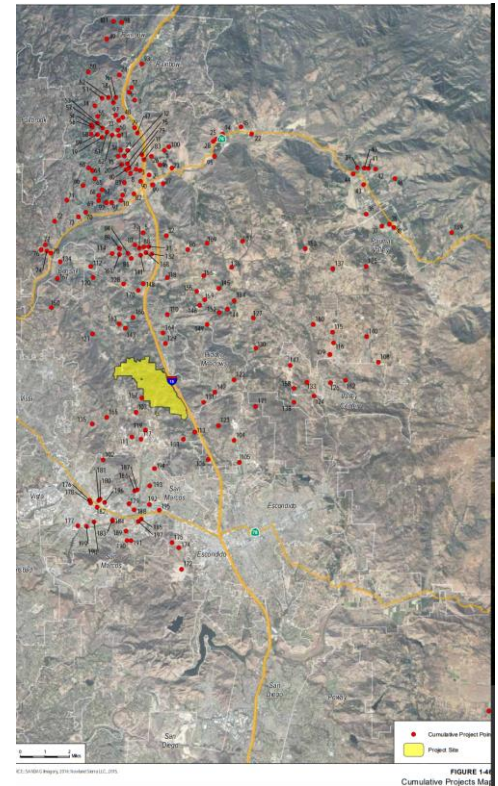
However, the proposed project destroys the opportunity to have a coherent, core-habitat based comprehensive plan by locating development in the middle of the core areas and destroying the rest with significant edge effects. The loss of over 300 acres of required preserved habitat from the current General Plan zoning further undermines any future habitat plans.

With minimal effort (and some good faith) any of these alternatives could be made to work but, due to the larger improvement to wildlife corridors, only CDFW Alternative B (EIR Alternative 8, Figure 4-11) is the least ecologically damaging of the alternative as long as any school site and homes were moved beyond 1,000 feet from the freeway. However, the most ecologically preferred and feasible alternative would be a properly designed and described General Plan Alternative.

C. DEIR fails to include all ‘reasonably foreseeable’ projects in the cumulative impacts analysis.

It is puzzling that we could not find any projects from Escondido or Vista on the Cumulative Project Table 1-10. Escondido alone is attempting to build excessive amounts of new sprawl, non-transit oriented development and has proposed or completed several annexations that worsen traffic. Escondido is, essentially, adjacent to this site and all projects in Escondido (or being pursued as annexations) that will feed traffic onto I-15, degrade air quality, raise climate changing gases etc...must be included in this list. Safari Highlands Ranch, Oak Creek, New Urban West/Country Club, and the commercial development at the I-15/Citracado interchange must be added just to name a few. These projects must all be added to the cumulative impacts analysis, analyzed, and included in a recirculated DEIR

Figure 1-46 shows the incompleteness of this issue well. It shows an abundance of cumulative points north of 76 but none in Escondido or Vista—two cities that are proposing significant new projects and loading onto local freeways. This cumulative projects analysis is grossly deficient and must be expanded and redone to be credible.



D. DEIR and project consideration is premature and violates the conditions required under the Planning Agreement with the natural resources agencies, and is not consistent with the NC MSCP.

Project is in no way consistent with the NCMSCP and, in fact, decimates the much-needed and long-awaited North County MSCP. The DEIR appears to conclude consistency with the NCMSCP due to a hard-line put in at the last minute at developer's request **and agreed to by no one**—especially the resource agencies. The NCMSCP has not been approved, **the hardline has not been approved**, therefore, the DEIR cannot feign consistency with it. This land is high quality habitat for many species, critical for connectivity for them, and is currently designated as Pre-Approved Mitigation Area (PAMA). This project does not comply with the NCMSCP nor does it comply with the Planning Agreement. ECO SD endorses the letters submitted by Endangered Habitats League and Sierra Club and incorporate them here by reference.

Further, the location of trails and significant human activities throughout the preserve undermines the ability of the conservation areas to meet biological objectives needed in violation of the NCMSCP. This is especially egregious in Block 1 of the preserve. This area is especially sensitive as it is critical as it links PAMA lands to the west and north. Trails should be sited outside the Preserve areas, to avoid disturbance of wildlife activities and damage to habitat.

There are a growing number of situations where trails and public uses have seriously compromised the ecological values of land set aside for habitat recovery. We must not create any more of these conflicted areas. The design of this trails system will do just that. The DEIR fails to analyze the impacts of these activities and the loss of biological function as a result of the trails in the preserve.

This is also relevant to and a reason that requisite findings cannot be made for the Habitat Loss permit. ECO SD strongly urges the planners to identify and site adequate trails and equestrian activities that will be in demand by the residents in appropriate areas—not in the preserve.

Last, the project design effectively surrounds a significant ‘block’ of habitat with development pressure and edge effects. This will not serve conservation well, or at all.

E. There are several impacts to wildlife that are not acknowledged or mitigated such as connectivity and significant edge effects.

The use of crossing under the freeway by wildlife was not analyzed or losses mitigated. The culverts that connect one side of I-15 to the other must be protected and wide corridors avoided so that animals can pass through and travel around the area. There are several instances where these corridors are blocked with development thus undermining the ability of a regional conservation plan to be effective. Feasible mitigations to increase and/or improve culvert under crossings are not included in the EIR and should be. In general, the site-design does not implement the science on connectivity for wildlife and under-represents impacts of edge effects. Wildlife has been relegated to mid-slope travel—which they don’t do.

Another under-analyzed edge effect issue is the one of residents’ behavior toward habitat areas and open space in the name of ‘fire management’. In the photo example below from Bernardo Mountain² can be seen evidence of how some landowners deal with the fire risk to their homes when located in open space areas. This denuded area alternately fills with weeds, increasing fire hazards or is scraped of all vegetation, exacerbating erosion and destroying any habitat value. Unfortunately, this the over-reaction of creating ‘defensible’ space must be assumed. Also, why is the plan to include 250 feet of FMZ instead of the usual 100 feet?



² Taken August 7, 2017

While the DEIR states that, *Although FMZs would not be counted as mitigation or open space, they do contribute to wildlife movement and live-in habitat for many species, particularly when the surrounding habitat is very dense and when the areas are thinned 50 percent or less* (emphasis added, DEIR at 2.4-3), this is wishful thinking. The DEIR must assume total loss of habitat areas directly adjacent to residences and fire management zones and mitigate those losses.

F. Reliance on a habitat mitigation site location of over 20 miles away is unacceptable and inappropriate as mitigation for these habitat losses.

This ‘mitigation’ site is completely inappropriate and does nothing to mitigate the loss of occupied gnatcatcher habitat on site. First, there are no known gnatcatchers on the mitigation site and it is unlikely there will ever be gnatcatchers there as it is outside the area where the species has been found.³ The loss of occupied coastal sage in the I-15 corridor must be mitigated with occupied habitat in the same area. This site, over 20 miles east, is completely useless for mitigating this loss. This is a significant and un-mitigated impact.

G. DEIR attempts to ‘piecemeal’ the analysis by failing to include the interchange and roadway improvements in this analysis.

Since the developers propose to locate, essentially, a new city in the currently rural area and on a highway already extremely clogged during rush hour, it is obvious that significant road improvements will be made. The lack of any analysis for turning Sarver road (currently a small country lane) into a 4-lane road **must be analyzed in this EIR**. In addition, since improvements to the interchange are a required mitigation measure, the design, location and analysis of impacts from the construction etc... but be disclosed and **analyzed in this EIR**. None of it is.

In addition, it appears there is internal inconsistency regarding traffic analysis. The traffic analysis was done assuming Deer Springs Road was a 6-lane road but the environmental impacts (grading etc...) was done assuming only a 4-lane expansion. The developers need to pick one and to honestly analyze the impacts. This must be corrected as, in either case, additional as-yet-unanalyzed impacts are not included in the DEIR. These are significant unanalyzed and unmitigated impacts.

These are significant failings of the DEIR and require additional analysis and a re-circulated DEIR.

H. Proposed project puts multi-family homes and a school in a known unhealthful location near a freeway putting peoples’ health at risk. This is bad planning and immoral.

The location of the elementary school site and multi-family housing units close to, not only the freeway but the busy interchange, truck stop, and gas station as well, is unconscionable and immoral. The location at the interchange will also result in significant pollution from idling trucks and cars waiting to get on and off the freeway. It is also near a gas station serving diesel trucks which has health concerns of its own.

Children are the most ‘sensitive’ of the sensitive receptors. It is unthinkable that the County would allow a school to be located in a **known** unhealthful location like this one. It is now well-known

³ Pg 430 of the *San Diego County Bird Atlas*, <http://www.sdnhm.org/science/birds-and-mammals/projects/san-diego-county-bird-atlas/bird-atlas-google-earth-presentation/>

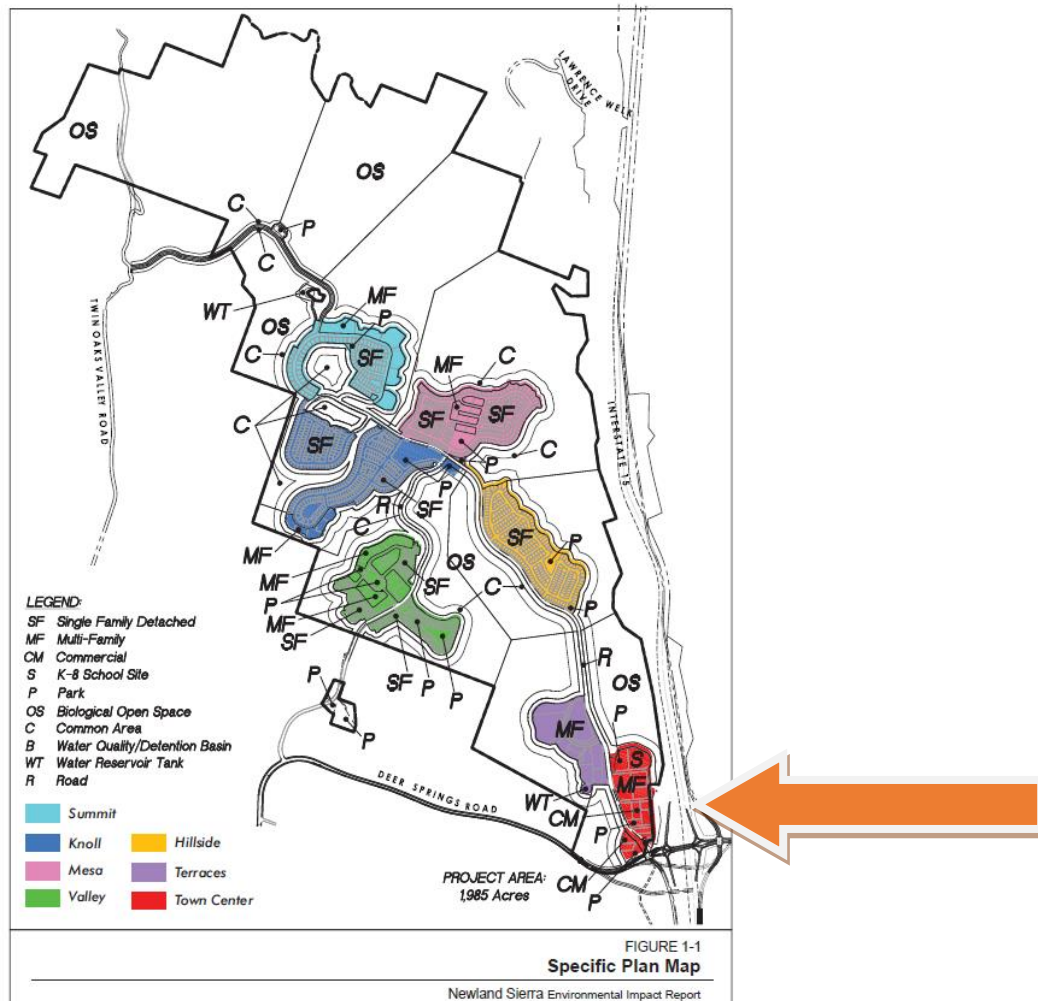
and a matter of public record backed by strong science that locating ‘sensitive receptors’ such as homes, children, schools, senior living centers etc...within 1,000 feet of a freeway will impact the health negatively of the people living in those areas. The scientific studies upon which the Air Resource Board Land Use Guidance is based clearly demonstrates that any home or schools within 1,000 feet of a freeway is unhealthful and shouldn’t be done.

The ARB recommendation, as an **absolute minimum**, is to avoid siting new sensitive land uses within 500 feet of a freeway. However, the guidance goes on to note that distance is only part of the consideration,

“In the traffic-related studies the additional health risk attributable to the proximity effect was strongest within 1,000 feet....”

*“The **combination** of the children’s health studies and the distance related findings suggests that it is important to avoid exposing children to elevated air pollution levels immediately downwind of freeways and high traffic roadways.” (emphasis added, ARB Land Use Guidance at 10)*

Using the more protective buffer, it appears that school site and homes in the town center must be deleted from the project or moved at least 1,000 feet from the freeway.



To have the best chance of protecting the health of future residents in the project, the project needs to be re-designed to remove all housing from, at least, 1,000 feet from the freeway. While we understand that the ARB document is guidance and not regulation, it is such a significant issue that it would be immoral of the County to approve willingly and knowingly housing and school in this danger zone. This is a significant area of public controversy as well.⁴

In addition, the site design does not comply with the General Plan Policy COS-14.8 which requires projects to *Minimize land use conflicts that expose people to significant amounts of air pollutants*. ECO SD recommends a re-design of the site to removal/relocation of neighborhoods outside of at least 1,000 foot boundary from I-15 in order to meet this policy standard.

The map below shows the area of impact from the freeway with the 500 and 1,000 foot buffers.⁵

How close to the freeway are you



DEIR, Page 2-27 reads, *Although the residences located within the Town Center are located slightly more than 500 feet from I-15, impacts to these residences were analyzed (see Appendix), but there is no Appendix letter.* The recirculated DEIR needs to include the appendix and the reference.

I. DEIR fails to include required blasting plan.

This project proposes significant blasting but fails to include a detailed (or any for that matter) blasting plan. This, in spite of the fact that significant blasting is expected to take place over a

⁴<http://escondidoneighborsunited.blogspot.com/search?q=air>

⁵<http://www.latimes.com/projects/la-me-freeway-pollution/>

period of years and will have significant impacts on wildlife, human health, and the economy of the region, is completely out of compliance with CEQA. A noise report is not the same thing as a blasting plan. The blasting timing, frequency, force, and duration must also be analyzed for its impact on wildlife species and was not. These impacts will be significant on people and wildlife and are not disclosed, analyzed, or mitigation in the DEIR. A blasting plan must be proposed, impacts analyzed, and the DEIR recirculated.

J. Project is premature coming as it does before the County's Climate Action Plan.

ECO SD supports and endorses Sierra Club's position related to General Plan Amendments and the County's failed Climate Action Plan.

In a letter dated July 26, 2016, from Sierra Club's attorney Jan Chatten-Brown to the County, it states, in conclusion,

"The Sierra Club respectfully requests the County postpone further County staff decisions employing GHG thresholds of significance prior to the approval of the Thresholds as specified in the adopted General Plan, including release of Draft EIRs by the county using unapproved thresholds, or County approvals of lands that are currently greenfields and that would require an amendment to the General Plan until legally adequate CAP and Thresholds are approved....." (p.5)

We agree. This project is premature and must wait until after the County succeeds in adopting a climate plan and the limits and actions it requires are known. The County should not proceed with any approvals of the Newland Sierra project until there is a legally adequate and defensible CAP with appropriate Thresholds of Significance. However, if the project is changed so that it does not require a General Plan Amendment and a General Plan compliant project is proposed it would be acceptable to proceed through the process.

K. Requisite findings for a Habitat Loss Permit cannot be made. The project should be re-designed so that the necessary findings can be made if a Habitat Loss permit is to be issued.

Because of the poor site design (one maximizing sprawl, edge effects, and fire risks) and faulty basis of analysis, several findings required for the Habitat Loss Permit are unsubstantiated and cannot be made using information in the DEIR. These include Findings:

- 1) **1.b-** Habitat losses in the project will absolutely preclude connectivity of habitats. In fact, it is one of the most egregious effects of developing this project. The site-design proposed cannot meet the required findings of this permit.
- 2) **1.c-** This site design is fully inconsistent with the conservation planning objectives in the NCMSCP. As stated above, it does not implement the science on connectivity for wildlife and under-represents impacts of edge effects. The loss of wildlife crossings was not evaluated or mitigated. Wildlife has been relegated to mid-slope travel—which they don't use. Project may preclude the subregional conservation plans. Since this project all but wipes out a key core areas of habitat that was designated PAMA in the draft NCMSCP for years, assembling a reserve for an effective habitat plan may become impossible. The project design significantly violates many of the reserve design and conservation objectives.

The project does not comply just because the developers trumped up a ‘private hardline’ for an unapproved project. This project (and its hardline) has not been approved by the Board of Supervisors, does not comply with the General Plan, and has not been agreed to by the resource agencies. In fact, it has been objected to by them.

Further, the location of trails and significant human activities throughout the preserve undermines the ability of the conservation areas to meet biological objectives needed—especially in Block 1 of the preserve. This area is especially sensitive as it is critical as it links PAMA lands to the west and north. Trails should be sited outside the Preserve areas, to avoid disturbance of wildlife activities and damage to habitat.

- 3) **1.d-** Project does not minimize habitat loss to the MEP. This project does not select the least environmentally damaging alternatives, four of which are feasible (General Plan Alt, CDFW A,B,C) and one of which is preferable (a compliant General Plan Alternative).
- 4) **Finding 2-** Project will absolutely impact recovery of species and may drive additional species onto the endangered species list.

Thank you for the opportunity to comment on this very critical issue for our region.

Respectfully,



Pamela Heatherington
Board Member
Environmental Center of San Diego