



Southern California  
Los Angeles and Ventura  
Counties Chapter

August 1, 2012

Ms. Emma Howard  
Regional Planner, Community Studies North  
County of Los Angeles Department of Regional Planning  
320 W. Temple Street  
Los Angeles, CA 90012

Via Email: [ehoward@planning.lacounty.gov](mailto:ehoward@planning.lacounty.gov)

**Re: Comments to the June 2012 SEA Ordinance Summary Draft**

Dear Ms. Howard,

The Building Industry Association of Southern California, Inc., Los Angeles and Ventura Counties Chapter (BIA) is a regional trade association that represents approximately 1,000 member companies involved in building new homes in Southern California. On behalf of our membership, we are providing these comments on the June 2012 SEA Ordinance Summary Draft that was recently released as an update to the November 2011 Preliminary Draft Ordinance.

First, we want to again thank you, Mitch Glaser and rest of the County staff who presented the June release to our members. As has been expressed, it is our desire to work in collaboration with the County to create a high-quality and practicable Ordinance that protects important natural resources in the County.

The BIA submitted comments on the previous draft ordinance on January 31, 2012, April 16, 2012, and also provided redline comments on that draft on May 21, 2012. As you continue to work on the draft ordinance, we urge you to consider those comments. Given that this release was issued as a Summary Draft with much detail and specific language still to be written, it is somewhat difficult to provide detailed comments and we will look to the next draft to provide greater input and comment. We do offer these suggestions below and encourage the County to incorporate these recommendations.

- 1. We remain concerned about the significant expansion of the amount of land designated as SEA and the increase in the number of privately-owned parcels that will be subject to the SEA development review process.**

In our previous comments, we expressed our concern about the substantial expansion in the acreage designated as Significant Ecological Area. In fact, by our calculations, the proposed,

new SEA maps would add about 400,000 acres – or about 625 square miles – of additional land to the SEA designation. Rather than make such a gigantic leap, the SEA ordinance and proposed boundaries should be expanded only after 1) thoughtful analysis of all existing biological studies are considered, 2) a sufficient economic analysis is prepared to quantify the loss of tax revenue, job creation and other financial impacts, 3) direct communications with impacted landowners occurs, 4) establishment of criteria for the SEA expansion and 5) establishment of procedures to allow applicants to submit for re-evaluation of SEA designation. While we understand that the proposed expansion is based upon reports by the County biologist, we remain concerned that true, on-the-ground analysis and field verification have not been conducted over the entirety of the proposed expansion areas and many landowners will be unnecessarily required to participate in a SEA process. In addition, recent communications indicate that the additional areas proposed as SEAs were chosen using criteria other than biological resources (see June 21, 2012 letter to the BIA from R. Bruckner: “Many of the proposed expansion areas contain other constraints... and are therefore, ... not appropriate for intense development.”) Any SEA expansion should be based solely on the need to protect significant biological resources, given that there are other ordinances that regulate and mitigation strategies that exist and govern the other constraints cited.

We object to the County's drawing of SEA boundaries based upon physical characteristics. Staff has conveyed that much of the SEA areas are justified because of limited development potential due to physical characteristics such as slope density, geologic hazards, fire hazards, flood plains and the like. There are regulations, laws and practices that are in place to mitigate development in such areas. SEA boundaries should be drawn tightly and studied to purely address the biological and ecological resources the ordinance is meant to protect. The absence of the close study of such a vast SEA expansion area further supports our approach to readdress the SEA evaluation process to allow for tailored approaches to individual projects. The one-size-fits-all blanket approach as reflected in the current drafts is overly restrictive, non-verified by field analysis, and burdensome on all development, especially small to mid-size projects. Therefore, it is important for the County to establish procedures and a review process to allow affected landowners to submit biological studies and relative data that includes field inspections and photographs. Such an opportunity should be provided *before* the County settles on an expanded SEA map. Supplemental studies should also be considered; and objective criteria should be in place concerning their acceptability. After taking into account such studies, the expansion of the SEAs should only be done with a clear understanding of the criteria that has to be met to warrant the expansion. Expanding the SEAs to improve linkages, corridors and degraded areas should be completed only with the evaluation of new science, studies and data to support the expansion, coupled with physical field evidence to determine what conservation is necessary.

If a new SEA area is designated, then a process which allows landowners to submit studies that could justify removing an SEA designation (e.g., if appropriate science can be shown to invalidate an SEA designation) should also be established. Thus, a further process for re-evaluation which would include field verification by a County staff biologist would help make the vast SEA expansion much more palatable to all parties. In addition, a process should be established to review the accuracy and new evidence of environmental changes that occurs

naturally. Scientific studies, rather than large-scale general planning consideration, should take precedence and guide the modification of SEA boundaries.

**2. The draft ordinance must allow for development to occur and provide a pathway for mitigation of impacts in the SEA.**

In addition to an SEA-designation review process, the County should also establish a mitigation process whereby protection and conservation is strongly encouraged and rewarded through fast-tracking CEQA and entitlement processing coupled with mitigation procedures that allow for impacted areas to be mitigated with commensurate mitigation. Hundreds of acres of land are protected, dedicated for open space and conservation; yet few mitigation alternatives are offered and no credit or CEQA fast-tracking is provided for land that might be disturbed. Avoidance may well be the first likely step for landowners and developers, but avoidance should not be the only strategy available for development and conservation within our SEA.

The ordinance must also recognize the need for flexibility in order to consider the type of conservation needed and the nature of the development. Given the substantial proposed expansion of the SEA area, all situations cannot be anticipated. Given project design needs, it may be acceptable and possibly even desirable to build infrastructure such as flood control facilities, water quality protections, trails and utility services in buffer areas. Golf courses, parks, and trails can provide important linkages and might also serve as buffer areas in some cases. Under the draft proposals however, these types of uses would not be allowed in a SEA.

**3. The ordinance must establish criteria for grandfathering existing development applications.**

In the previous draft release and in discussions with County staff, we were able to confirm that applications that were deemed complete were exempt from the new ordinance. In this summary draft release, however, such “grandfathering” language has been removed (noted as Deleted for Redundancy in Comparison Chart). There currently is no reference to this exemption; and the exemption should be expressly restored in the next draft. Many development proposals are moving forward based on the existing policies and ordinances; and complete applications should not be subject to new SEA boundaries and designations (as it would hinder the development process that is already stifled by time in processing, not to mention the current economic climate).

**4. The new program structure needs clarity as to what standards different projects must meet.**

With respect to the new program structure, we respectfully request that more detail and information be provided on the Type 1 and Type 2 CUP, Minor Modifications, Exemptions and Checklists. The final ordinance needs to be clearer in defining activities which are fully exempt, subject to standards, or required to obtain permits. We will need to review this information as it

is provided by the County. Additionally, we ask that we work closely together to develop the Checklists that will be utilized.

**5. The ordinance continues to require an Initial Project Appraisal.**

In our previous correspondence, we requested that the Initial Project Appraisal (IPA) be an option rather than a mandate for the project applicant. It appears that, in this draft, the IPA is still the process the County intends to utilize and is also being integrated into other county procedures. We remain concerned with the use of an IPA but do appreciate that the amount of information required for the IPA has been evaluated and reduced, however, we still prefer the IPA be an optional tool for applicants. If it is the intent of the County to work with project applicants that may require this IPA assistance, we request that the County strongly consider keeping all IPA information confidential whenever a draft project EIR or application is to be released for public review. A project that is still being formulated and reviewed by County staff should not be subject to scrutiny by potential litigants unless appropriate confidentiality and conflict of interest protections are in place.

**6. The Summary Draft does not yet include key definitions.**

The current June Draft does not offer any definitions of key terms. For the next draft release, we recommend these suggested definitions:

Development Activities/Ground Disturbance.

Development activities within a Significant Ecological Area or Ecological Transition Area are defined as any new development, infrastructure or activities, that would impact the biological resources or ecological systems in the Significant Ecological Area, specifically those development activities that: require the issuance of a building permit or grading permit; the approval of a minor land division or subdivision; the relocation of property lines; and the removal of vegetation.

Vegetation Clearance.

Vegetation clearance on a lot or parcel of land located within or partially within a Significant Ecological Area or Ecological Transition Area is defined as the removal or killing of any onsite vegetation not maintained by persons for the purposes of landscaping or agriculture. This definition of vegetation clearance does not apply to the routine maintenance of vegetation which is not intended to cause vegetative death, such as trimming of grass and pruning of trees; removal of vegetation suffering from naturally occurring damage or disease; removal of vegetation which is interfering with any built structure or infrastructure; or removal of vegetation that is threatening the safety of persons.

These are preliminary suggestions and we look forward to adequately reviewing all proposed definitions in the next draft release.

**7. The SEA ordinance must be written to remove conflicts with requirements from other County Departments, including the Fire Department.**

Currently the County maintains policies and practices that conflict with one another. Fuel modification, removal of vegetation, and similar activities undertaken within a SEA boundary or in close proximity to a SEA often requires the discretionary satisfaction of the County Forester & Fire Marshal, as well as satisfaction of set County requirements. This update to the SEA Ordinance is a prime opportunity to correct conflicting procedures and create policies that will make things less confusing (weed abatement, maintenance, etc.) and time consuming for staff, Forestry, SEATAC, as well as applicants and landowners trying to comply with the respective policies and procedures.

**8. Streamlining Implementation of SEA Ordinance**

With the County's proposal to vastly expand SEA areas, we are concerned that the administrative burdens associated with implementing the SEA ordinance as it is currently administered will be unmanageable, that the SEATAC referral and review process will result in untenable delays.

We believe it could be beneficial to consider a structural modification of the SEA Ordinance to establish an alternative, streamlined compliance track for projects that meet qualifying criteria and can then bypass the SEATAC hearing process. This structure could be used to create affirmative incentives for projects seeking streamlining, while continuing to implement the existing SEATAC review process for other projects. We would like to explore this concept, and consider potential qualifying criteria for streamlining the SEA compliance process, as part of the next step in the Ordinance drafting process.

In lieu of submitting specific suggested language for the Ordinance at this time, we would propose a meeting to discuss the concepts addressed in this letter. We hope that you will review our comments and work with us to incorporate a well vetted process into the new Ordinance. We look forward to working closely with you to prepare for the next draft release and will comment more extensively on the more detailed document.

Sincerely,



Holly Schroeder  
Chief Executive Officer

cc: Richard Bruckner, Los Angeles County Director of Planning and Development