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VIA EMAIL

31 July 2012

Ms. Emma Howard
Los Angeles County Regional Planning
Room 1354
320 W. Temple Street
Los Angeles, CA 90012

Dear Ms. Howard,

I am writing, on behalf of Friends of Antelope Valley Open Space and Concerned Citizens of the Western Antelope Valley, in response to the proposed changes to the Significant Ecological Area Draft Ordinance changes dated June 2012. Protection and enhancement of biological resources within SEAs should be the direct focus of any ordinances that regulate land use, zoning, and development in these areas. Our two groups are especially appreciative of the expansion of SEAs, notably, that of Portal Ridge-Liebre Mountain SEA #58 and its inclusion in the proposed San Andreas SEA #21. This would extend additional protection to hugely valuable and diverse habitats, including areas adjacent to the protected Angeles National Forest, State of California Poppy Reserve and Ripley Desert Woodland, the County's Desert Pines Sanctuary, numerous private conservation lands, and other scenic and highly biotic resources. However, we still have reservations regarding several aspects of changes to SEA Ordinances that seek to facilitate and possibly incentivize development in these areas.

We have compiled a list of questions and concerns gathered from the Summary Draft documents and the Ordinance Change Map; first, copied material; then, in italics, our comments.

Comments, Significant Ecological Areas Ordinance Summary Draft June 2012

Section A. Purpose.

“The purpose is not to preclude development activities within these areas but to ensure, to the extent possible, that such development activities maintain, and when possible, enhance biotic resources in the SEAs.” (page 3/11)

Our understanding is that new procedures seek to expedite the development process, exempt single family residences and agricultural operations, and prioritize development areas that conflict with the maintenance and enhancement of biotic resources.

Section B. Definitions.

“4. Ground Disturbance/ Development Activity (Definition forthcoming. This definition will substitute for both the vegetation clearance and development activity definitions in the November 2011 preliminary draft).” (page 3/11)

(Section B. Definitions cont.) The need for what constitutes ground disturbance is very important, since the justification for “disturbed” agricultural land as suitable for industrial-scale renewable energy is popular with advocates and project proponents in spite of the environmentally destructive nature of such development. Also, if “disturbed” land within an SEA, capable of recovery if left undisturbed, is considered exempt from CUP and biological review, would seem to be a guarantee for development. We are reminded of the Joshua Tree Woodland that was cleared without permit in the Antelope Valley near 210th St. West. Would that be considered “disturbed” and exempt from review?

“5. Minor Modifications--Definition forthcoming. This definition is intended to apply to uses or activities on existing developed parcels which will not impact adjacent undisturbed SEA areas.”
(page 4/11)

Potential uses for minor modifications definition should include the encouragement of restoration and enhancement of habitat, and the “already disturbed” should not be used as justification for approval of minor modifications.

“6. Established Agricultural Uses (Definition forthcoming. This definition is intended to apply to ongoing legally permitted farming uses in the SEAs, and to distinguish such activity from new farming uses.)” (page 5/11)

It has come to our attention that many of the agricultural uses described in Title 22, Planning and Zoning, Chapter 22.24, that enumerate permitted uses may be in conflict with preservation of Significant Ecological Areas. We would like to see Agricultural Ordinances specific to SEAs, that would not further endanger the preservation of natural environments therein. Currently proposed changes by the Zoning Department that would convert all A-1 Light Agricultural zoned property to A-2 Heavy Agricultural zoned property in the Antelope Valley is counterintuitive, counterproductive, and incompatible with the purpose of SEAs.

C. Applicability.

“1. Any ground disturbance/ development activity where the entire footprint of the ground disturbance/ development activity, including associated infrastructure, grading and fuel modification areas, is located outside of the Significant Ecological Area or Ecological Transition Area.” (page 5/11)

We contest this exemption from SEA Conditional Use Permit requirements, in that considerable effects may be inflicted upon SEAs from activities allowed on adjacent land, and may be of particular concern when the property within the SEA is a park, sanctuary, conservation land, or otherwise preserved area. What if the nature of the development or ground disturbance is of a nature serious enough to cause injury or fragmentation changes to the adjacent SEA? Some sort of review should be required for projects sharing property lines with SEAs.

“5. Applications for a use requiring any form of conditional use permit on a parcel or parcels of land where a previously approved conditional use permit has expired, subject to the development standards set forth in subsection D.” (page 6/11)

Conditional use permits that have expired should be reviewed for compatibility with SEA purpose. Changes to allowed or prohibited uses need to be considered. Automatic exemption to expired CUPs should not occur.

“6. Established agricultural uses as defined in this section, subject to the development standards set forth in subsection D.” (page 6/11)

(C. Applicability cont.) We look forward to seeing definitions regarding “established agricultural uses” and also question how established uses on those particular properties would be documented if “new” agricultural uses are given different consideration. How would this be monitored?

“7. Mining projects and reclamation plans that require a Surface Mining Permit, as provided in Part 9 of Chapter 22.56.”

How can mining projects be exempt when one considers the impacts to the environment?

D. Development Standards For Permit Exempt Uses in SEAs.

“Uses exempted from the SEA CUP must meet the following development standards:

1. Single-family residences, accessory structures, and additions to individual single-family residences and accessory structures constructed within SEAs shall be subject to the following development standards”: (pages 6,7, 8 /11)

- Landscaping (example: using native species),--*Only species native to the area meant to be planted. For example: Poppy seeds produced in other states are not the same species as those in Southern California, and may crossbreed with native species, making them “nonnative.”*
- Fencing (for wildlife movement on natural portions of the parcel)--*perhaps only fencing necessary containment of pets, no perimeter fencing. If one considers a buildout of parcels in SEAs, perimeter fencing for SFRs could spell loss of SEAs—“death by a thousand cuts.”*
- Lighting (directed away from natural areas)--*consider imposing lighting ordinances such as that for areas that surround observatories in order to preserve darkness crucial to the health of wild habitats and night skies.*
- Removal of vegetation (no tree removal or minimal tree removal)--*No tree removal, limited removal of native vegetation.*
- Fuel Modification (avoid impacting undisturbed, and valuable habitat areas with fuel modifications)
- Drainage (standards forthcoming)--*Certainly a concern in areas of SEAs that are zoned agricultural and allow SFRs. Runoff from cleared lands cause loss of topsoil, erosion, flooding to neighboring properties. How will use of fertilizers and pesticides affect surface water quality? What is the best distance for development from natural riparian areas that can guarantee water quality.? Surface waters in populated areas are found to contain pharmaceuticals, including hormones that pose disruption of normal growth and reproduction of aquatic species. Will this affect SEAs?*
- Streambeds, ponds, vernal pools (avoid development that impacts water resources)--*Prohibit development that impacts water resources. These need absolute protection.*
- Identified sensitive resources- mapped by LA County (standards forthcoming, may include identified core habitat or habitat linkage areas)--*In viewing the GP 2035 Draft Wildlife Linkages Map, Figure 6.3, on what studies were the regional movement arrows based? Has the County studied these and local movement corridors, and how will this apply to development in general,*

(Identified sensitive resources cont.)SFRs, and agricultural activities? If a priority map is created, how will that affect property values or effects on surrounding SEAS for those areas considered more buildable because of “less sensitive” resources, but adjacent to more sensitive areas? Does this play into the consideration of “transfer of development rights” and how is this different than mitigation in the form of land purchase? How would these areas be assessed? If there is County consideration of TDRs, this must be a public part of the SEA ordinance discussion. Also, it is my understanding that studies pertaining to corridors and linkages are not complete; how would this project be completed?

- *Inspection of property by staff biologist for sensitive resources. What kind of authority will the staff biologist have if the inspected property cannot be developed without impacting surrounding sensitive habitat, water courses, riparian habitat, etc.? How can impacts be determined without biological review? How would reviewing agencies, i.e., USFWS, CDFG, BLM, State Parks, be involved? What recourse would the interested public have if there is no public review of SFRs?*

“4. Established agricultural uses. (Standards forthcoming. Standards will share some similarity with single-family residences, with a focus on environmental impacts to water sources and wildlife movement).”

It is my considered opinion that heavy agricultural uses are incompatible with conservation and preservation of lands in SEAs. There are also many light agricultural uses incompatible with the purpose and definition of SEAs. Consider creating a Title 22 chapter for SEAs and agriculture that would address incompatibilities and limit uses. How would “established” agricultural use be determined? How would use be monitored to assure compliance?

E. SEA Conditional Use Permit.

“This process will include two types of SEA CUPs, using a checklist approach. Type One SEA CUPs will go to public hearing before a Hearing Officer and will not be reviewed by SEATAC. Generally speaking, Type One SEA CUPs will be required for low intensity, low complexity uses which are determined (through the burden of proof) to not impact resources within the SEAs which are irreplaceable, and therefore will not require the contextual analysis of SEATAC in order to be properly analyzed. Type Two SEA CUPs will go to public hearing before the Regional Planning Commission and have will be reviewed by SEATAC. Both types of SEA CUPs will still be expected to prepare environmental analysis of site impacts under CEQA. The checklist of potential impacts to consider in determining a project’s classification as Type One or Type Two will be forthcoming in the next draft of this ordinance.” (pages 8, 9/11)

It would be helpful for all biological analyses to be reviewed by SEATAC at least once, and they would determine if additional review is necessary. Who would evaluate the integrity of the surveys? The Hearing Officer? Also, “low complexity uses which are determined (through the burden of proof) to not impact resources within the SEAs which are irreplaceable, and therefore will not require the contextual analysis of SEATAC in order to be properly analyzed.” What is irreplaceable? Many habitats in SEAs are common enough, but their existence in large, undisturbed tracts is becoming more rare in Los Angeles County. “Irreplaceable,” diverse, sensitive habitats cannot exist in good health as islands; nearby, less sensitive areas deemed suitable for “low-intensity” use and development with a Type One SEA CUP by Regional Planning may be crucial to function of the adjacent more sensitive Type Two area.

“1. Initial Project Appraisal. If a development activity requires a SEA conditional use permit the applicant shall complete an initial project appraisal before a complete SEA conditional use permit application may be submitted to the Department of Regional Planning.” (pages 8, 9/11)
Initial project appraisal with SEATAC should occur for all development plans, including SFRs, to determine Type One or Type Two CUPs, and/or the appropriateness of any development.

Comments, Change Map, June 2012 Draft Significant Ecological Area Ordinance

B. 4. Development activities changed to “ground disturbance”--*It is desired that the definition will be as inclusive as the November 2011 Draft-- “Development activities within a Significant Ecological Area or Ecological Transition Area are defined as any new development, infrastructure or activities, including maintenance, that would impact the biological resources or ecological systems in the Significant Ecological Area, specifically those development activities that require 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.”*

D. Conditional Use Permit, 1. c., --Changed to exempt--Grading of more than 5,000 cubic yards of earthwork is proposed in connection with the development of the single-family residence or the addition to the single-family residence; or **d.**--The cumulative floor area of the single-family residence and all accessory structures exceeds 4,000 square feet.-- *There should be a CUP trigger and biological review for size and extent of grading and accessory structures as they relate to “ground disturbance” of parcels within SEAs, effects to hillsides, water courses, ridgeline protection, scenic viewshed, effects of roads, driveways, etc. **This amount of earth moving is equal to one thousand 5 yard dumptruck loads!** This should not be deleted or exempt.*

D. CUP 2. d. 5.--Deleted: vegetation clearance of less than 2.5 acres—*how would this comport with preservation of remaining areas of SFR parcel development that is supposed to preserve the integrity of the surrounding SEA?*

F. Initial Appraisal, Section 1 b. (a. through i.)--Deleted: *What is the reasoning for deleting listing of sensitive vegetation, woodland types, forbs, sensitive species, etc. Is this information that is necessary to evaluate the type of CUP in the tiered system proposed by Regional Planning? Will the project site be evaluated by County Biologists to determine its biological value? Will an Initial Study Checklist be provided to those seeking a CUP and will SEATAC review the Initial Study or subsequent development plans?*

G. Conditional Use Permit Application. Section 2, 4, and 5, -- Deleted: “A complete record of recommendations made by the Significant Ecological Areas Technical Advisory Committee during its review of the Initial Project Appraisal,” and “A biological constraints analysis prepared in accordance with the Department of Regional Planning Biological Constraints Analysis Report Guidelines,” “A biota report, including, but not limited to biological surveys, project details, an impact analysis, and mitigation measures, in accordance with the Department of Regional Planning Biota Report Guidelines.”

(G. Conditional Use Permit Application. Section 2, 4, and 5, cont.) *If these sections are deleted, what kind of review will be required, and how will the interested members of the public know what recommendations and comments are made regarding proposed projects, and if the review is truly adequate?*

H. Development Standards and Guidelines, through J. Findings-- *Deletions and replacement with “(forthcoming)” development standards for exempt uses and an anticipated design manual for SEA CUPs are too numerous to continue to address individually. Obviously, we cannot comment on information not provided. In order of appearance of a few important excisions, we question the deletion of preservation instruments, and ask what will assure enforcement of preservation of parcel areas that are to remain untouched. Will County biologists monitor SFR properties as well as both tiers of CUP properties? Also, will deleted provisions for Site Design, Preserved habitat, High Fire Danger Areas, Wildlife Movement, Landscaping, Buffer Areas, Vegetation Clearance, Water Flow, Noise, Lighting, Roadways, Safe Passage, Proposed Open Space, Riparian Habitats, and Modifications be addressed with at least the same level of detail as written in the November 2011 Draft? Findings, J. 1.-- deleted, will the proposed development activity be consistent with the General Plan, the AV Areawide Plan, and any other plans like Community Standards Districts? We request that no change be made to J. Findings, 1,2,3,4,5,and 6; unless these will be included and expanded in a new findings section.*

In conclusion, we request that changes to SEA ordinances consist of improving oversight, improving quality and enhancement of these biologically important areas, and improving the review process, while at the same time, maintaining the strength and integrity of ordinances needed to preserve Los Angeles County's natural treasures. It is not difficult to allow development, but it is difficult, it seems, to protect our sensitive natural areas; hence, we have need for the SEA Program, itself. Please, remember the reasons for creation of SEAs as stated from the SEA Program website—preservation of biological diversity:

The preservation of biological diversity today, is even more important than it was when SEAs were first established; as is the need to preserve the function of whole ecosystems, evident in the conservation planning efforts underway around the world. Large natural open space areas can conserve entire habitats and ecosystems preserving species diversity and insuring that native species do not become extinct or endangered. Open space or rural areas, with low density development, must be of sufficient size to retain all the essential “pieces” of the system to function biologically over time. While absolute size parameters are not known for many systems, as a general rule, larger is better. These areas must be designed to sustain themselves into the future, genetically and physically. Therefore, the proposed SEA designation focuses on maintaining biodiversity in the long-term by creating boundaries which follow natural biological parameters, embrace habitats, linkages and corridors, and are of sufficient size to support sustainable populations of their component species.

Will the exemption of SFRs, agricultural operations, grading or “ground disturbance/development activity” preserve biodiversity in SEAs? As mentioned previously, development of SFRs without strengthened review by SEATAC, will likely spell change in the form of “death by a thousand cuts.” The function of SEATAC in reviewing *all* development intended in and near SEAs will ensure protection of our natural areas. Providing transparency by which all SEATAC comments and recommendations are made available to the public is necessary to the health and functioning of the planning process and protection of biodiversity. We appreciate the opportunity to be a part of this process, and look forward to continued participation.

Sincerely,

Susan Zahnter
Member, Friends of Antelope Valley Open Space
Member, Concerned Citizens of the Western Antelope Valley

