

**SANTA MONICA MOUNTAINS CONSERVANCY**

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April 10, 2013

Emma Howard  
Los Angeles County Department of Regional Planning  
320 West Temple Street, Room 1354  
Los Angeles, California 90012

**Draft Significant Ecological Area Ordinance  
December 20, 2012 Version**

Dear Ms. Howard:

The Santa Monica Mountains Conservancy (Conservancy) has been following closely the changes to the proposed General Plan, Significant Ecological Area (SEA) boundaries, SEA regulations, and Hillside Management Area Ordinance. The Conservancy provided several comment letters on these topics, including a June 25, 2012 letter on the June 2012 draft of the SEA Ordinance. Conservancy staff provides the following comments on the Draft Significant Ecological Area Ordinance (dated December 20, 2012).

**Purpose and Definitions**

Conservancy staff concurs with some of the purposes described in the SEA Ordinance, including assessing and disclosing biological resources, applying sensitive design practices, and maintaining and potentially enhancing biotic resources within SEAs (Section 22.52.2600). However, it appears the purpose is too narrowly focused and too dire. It focuses just on protecting species, rather than taking a more holistic approach to protect the ecosystem, including the water resources, habitats, plant communities, native species, etc. of the SEA. As we stated in our previous letter (June 25, 2012), the objective of the program should be to preserve ecosystem health, not just avert fatal impacts. This means that projects should consider impacts on all biological resources before they are degraded to the point to rarity or unsustainability. We recommend the following changes to the purpose (Section 22.52.2600.c.):

Prevent impacts to biological resources and other ecological resources which would compromise the conservation of the County's biological diversity by

affecting either the size, quality, or the connectivity of an SEA ~~such that species populations of significance, as described within that SEA's Description within the General Plan, become unsustainable.~~

Similarly, the definition of SEA is focused too narrowly on rare, threatened, or endangered species, whereas those are just one component of the ecosystem. We recommend the following change to the definition of SEA (in Section 22.08.190):

“Significant Ecological Area” means any portion of a lot or parcel of land containing an ecologically important land or water system that supports valuable habitat for plants and animals integral to the preservation of rare, threatened or endangered species ~~and~~ or to the conservation of biological diversity in the County....

SEA Habitat Linkages and Wildlife Corridors: We recommend that the following text be added to Definitions. J. “SEA Habitat Linkages and Wildlife Corridors Map”: “New research and new information may show additional habitat linkages and wildlife corridors in existence that are not currently depicted on the map.” There is a wealth of knowledge and resources currently to prepare a map that will be a useful resource. However, it is impossible to portend whether there may be future new information about specific properties (e.g., through onsite site visits by biologists) or new research and knowledge regarding wildlife movement that may justify new or previously overlooked locations of habitat linkages and wildlife corridors not shown on this map.

### **Open Space Park Uses**

As we stated in our June 25, 2012 letter on the Draft SEA Ordinance (June 2012 version), the Conservancy seeks an exception for standard open space management and recreation uses. Open space park agencies primarily target their land acquisitions within open space areas precisely because those areas support sensitive plant communities and other sensitive environmental resources. Based on these shared preservation objectives, park agency lands often have uses and facilities within SEAs, and it is critical that the proposed ordinance does not unduly burden open space park agencies in achieving their missions of protecting open space and providing interpretation and access for the public. Most importantly, the following uses should be added to the ordinance as an exception or exemption to allow for open space park facilities and activities: trail construction, public campsites, public restrooms, and public parking.

At the very least, if exemptions are no longer included in the SEA Ordinance, then we recommend that those open space management and recreation uses be included in Section 22.52.2650 Permitted Uses. These anticipated park uses would in most cases have much fewer and less intense impacts to SEAs than a single-family home (which is considered a Permitted Use in the current SEA Ordinance). (For example, a single-family home can result in almost three acres of fuel modification.) In addition, these park uses would be implemented for public benefit (e.g., manage open space areas, increase public access to open space, etc.). For these reasons, it is critical that open space park uses are adequately addressed in the SEA Ordinance.

### **Provisions for Permanent Protection of Dedicated Open Space**

Conservancy staff concurs that there should be a provision, including in the conditions of approval, for permanent protection of SEAs in the open space for SEA Conditional Use Permits (CUPs). We offer the following specific comments to strengthen and clarify this section.

Conservancy staff supports the use of easements and/or fee title dedications to appropriate public entities for protection in perpetuity of the open space. We recommend that the language be clarified however.

For subdivisions, it is important to not just rely on recording the open space area on a map, but to also fortify the permanent protection of the open space through recordation of an easement. We have seen a case where open space was identified on the map, but many years later, under different leadership, there were efforts to remove, or reinterpret, that so-called protection. The acceptance of an easement by an outside entity (that has as one of its goals to protect open space) provides an extra level of protection via an extra set of eyes and the ability to enforce violations. We recommend the following change to Section 22.52.2670.E.5.b. (p. 23):

Subdivisions. If required open space will be provided on the same lot or parcel of land as the project..., such open space shall be shown on the tentative map and the final, shall be subsequently recorded on the final map and/or as an easement, and shall be labeled as Open Space – Restricted Use Area in the preservation instrument and on all maps.

It is also warranted to specify the timing of the recordation of any easement. This will provide a clear process for applicants, keep this important step from falling through the cracks, and will help ensure the actual permanent protection of the open space. We recommend that the following text be added to Section 22.52.2670.E.5.

c. An easement shall be recorded, or open space land dedicated in fee title, to an appropriate entity (per Section 22.52.2670.E.6.) at the time of final map recordation, or prior to the effective date of the SEA CUP.

To make sure the open space is appropriately managed if a non-profit organization accepts the dedication, we recommend the following underlined text be added to Section 22.52.2670.E.6.a. (p. 24), which specifies dedication to one of the following entities:

...(2) A non-profit land conservation organization that meets the Statement of Qualifications of Non-Profits Requesting to Hold Mitigation Land according to Government Code Section 65965, and which has the proven capabilities and relevant experience to manage the land and will protect the natural resources in perpetuity; or...

More specifically, a homeowners' association (HOA) should not be listed as an entity that could own and manage the open space (p. 24). Often HOAs have goals and propose uses that conflict with the permanent protection of the significant biological resources within open space. We have seen examples of this. The following text should be deleted: 22.52.2670.E.6.a.(3) ~~Dedication to a Home Owners' Association.~~

Conservancy staff suggests that there be additional flexibility to prioritize preserving an important habitat linkage or wildlife corridor, even if it is off the project site. In the currently proposed SEA Ordinance, the protection of a habitat linkage or wildlife corridor is fourth priority. The following changes should be made (p. 21):

22.52.2670.E.2.d. Areas on any lot or parcel of land within the same SEA that will preserve the narrowest point, or other key location, of any habitat linkage or wildlife corridor on the SEA Habitat Linkages and Wildlife Corridors Map, or otherwise scientifically justified to be a habitat linkage or wildlife corridor (if not shown on the current map). (The County may prioritize this area over a., b., or c., if it finds it will provide greater biological protection and value than a., b., or c.); and...

### **Need for Funding for Open Space Monitoring**

As stated in a previous letter (dated June 25, 2012), the Conservancy recommends that the SEA Ordinance include a provision for funding for monitoring, and in some cases maintenance and/or management of the open space. It does not make sense for a public agency or non-profit entity to take on that expense, in essence subsidizing the development.

A funding mechanism should be provided for management of dedications (including for easements) over a certain size, for example 20 acres, subject to waiver by the Director of the Department of Regional Planning for special circumstances. Depending on the specific resources in the open space to be protected, the funding could be minimal, for example, to fund periodic biologist or ranger site visits, or more involved, such as plant and wildlife annual monitoring and management. The SEA Ordinance should identify the specific, pre-permit issuance timing of the establishment of the open space funding (e.g., by placing the funding in an escrow account) – such as – prior to the issuance of a SEA CUP or final map recordation (if applicable).

### **Development Standards**

**Fuel Modification Zones:** Conservancy staff agrees with the provisions for fuel modification, including sharing zones with those already created and not locating fuel modification zones in dedicated open space areas (22.52.2640.E.). We also recommend the following text be added to encourage locating new development, such that new fuel modification zones overlap: “Cluster new development such that proposed fuel modification zones overlap to the maximum extent feasible.”

**Lighting:** The Outdoor Lighting section (22.52.2640.B., p. 8) refers to Part 9 of Chapter 22.44, which is the Rural Outdoor Lighting District. The district includes valuable provisions such as:

- Purpose...D. Minimizing adverse offsite impacts of outdoor lighting, such as light trespass.
- Outdoor lighting shall cause no unacceptable light trespass.
- Outdoor lighting shall be fully shielded.

Additional specificity in this section would be useful to protect the unique resources within the SEAs by ensuring that ambient light is prevented from illuminating natural areas. Wildlife (e.g., mammals, amphibians, invertebrates, etc.) have been shown to be adversely

affected by night lighting.<sup>1</sup> For example, a standard in lumens could be set at 200 feet from the perimeter of the developed area. At the very least, we recommend adding the following text to protect the SEA resources:

**22.52.2640.B. Outdoor Lighting.** Outdoor lighting within an SEA is only permitted in areas approved for development or ground disturbance. All outdoor lighting shall comply with the standards established in Part 9 of Chapter 22.44. Lighting shall be minimized (e.g., number of lights, intensity of lights, etc.) and directed away from SEAs, both onsite and offsite.

**Habitat Linkages and Wildlife Corridors:** We appreciate the intent of the text regarding habitat linkages and wildlife corridors which states that new ground disturbances may not encroach upon a habitat linkage or wildlife corridor (22.52.2640.H. and I.). We appreciate that the County suggests a clear standard (maintain a width of 1,000 feet for habitat linkage and 200 feet for a wildlife corridor). However, in practice, we anticipate that there will be many circumstances that can complicate efforts to meaningfully protect a habitat linkage or wildlife corridor (e.g., the degree of existing habitat disturbance, the configuration/locations of the habitats, the amount of urbanization/development adjacent to a wildlife corridor, the specific wildlife species that the County intends to protect, etc.). The following text should be added to 22.52.2640. Development Standards. H. Habitat Linkages and I. Wildlife Corridors (p. 10):

The applicant must demonstrate that the portion of the wildlife corridor and/or habitat linkage provided onsite, and remaining offsite wildlife corridor and/or habitat linkage, will function in a comparable manner (i.e., not significantly diminished in function) pre- and post- project construction and implementation.

**Streets and Highways:** Conservancy staff agrees with the inclusion of development standards for streets and highways in terms of their impacts on habitat linkages and wildlife corridors (22.52.2640.F., p. 9). However, additional specificity is warranted to promote avoidance of impacts, to clarify the locations of habitat linkages and wildlife corridors, to

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<sup>1</sup>For example, there was a conference entitled Ecological Consequences of Artificial Night Lighting, February 23-24, 2002, at Los Angeles, California hosted by The Urban Wildlands Group and University of California, Los Angeles Institute of the Environment. Other references available upon request.

ensure effective implementation, and to otherwise clarify the intent. The following changes should be made:

Applicants shall demonstrate that alternatives have been thoroughly analyzed to avoid bisecting habitat linkages or wildlife corridors. New streets or highways which bisect habitat linkages and/or wildlife corridors on the SEA Habitat Linkages and Wildlife Corridors Map (or otherwise scientifically justified to be a habitat linkage or wildlife corridor, if not shown on the current map) shall include construction of ~~wilderness crossing points for the safe passage wildlife crossing structures to facilitate the movement of species.~~ Where improvements are made to a street or highway which bisects a previously existing habitat linkage or wildlife corridor, such improvements shall include features to restore the previously existing habitat linkage or wildlife corridor through the construction of ~~wilderness crossing points for the safe passage wildlife crossing structures to facilitate the movement of species.~~ The applicant shall provide specific design standards on plans (e.g., existing and proposed locations of lighting and fencing, extent of native revegetation proposed, dimensions of crossings, slope of ground, etc.) to ensure that the wildlife crossing will effectively function for those species it is intended to serve.

#### **SEA Conditional Use Permit Review**

The SEA Ordinance proposes to include two tiers of SEA CUP review. Section 22.52.2670.C.1.e. (p. 18) includes criteria whereby a Type B SEA CUP and a higher level of review would be required, i.e., review by the Significant Ecological Area Technical Advisory Committee (SEATAC) (22.52.2670.D.). This includes encroaching upon a habitat linkage...where the width of the habitat linkage would be made narrow to fewer than 1,000 feet. We recommend the following text be added to 22.52.2670.C.1.e. (so in this case a Type B SEA CUP and SEATAC review would be required):

Alternately, or in addition, the applicant cannot demonstrate, at the concurrence of the County biologist, that the portion of the wildlife corridor and/or habitat linkage provided onsite, and remaining offsite wildlife corridor and/or habitat linkage, will function in a comparable manner (i.e., not significantly diminished in function) pre- and post- project construction and implementation.

A similar provision should be added for wildlife corridors that mirrors this modified language in 22.52.2670.C.1.e. , except that it would specify that encroachment is defined to occur when the wildlife corridor was made more narrow to fewer than 200 feet at any point along the wildlife corridor. This criterion could be labeled f., and f. renamed to g.

The criteria for a Type B SEA CUP, and thus for SEATAC review, are not comprehensive enough. (SEATAC review is important for projects that could adversely affect SEAs because SEATAC may make recommendations for site design modifications or additional mitigation measures, and shall provide a final determination of the project's compatibility with the SEA [per Section 22.52.2670.D.]). For example, there may a proposed development that would result in significant adverse effects to a rare plant community (in contrast to a rare plant or wildlife species) by direct construction and inadequate buffers. Although the criteria for Type B SEA CUPS in the proposed SEA Ordinance do address impacts to SEA connectivity, special status species, habitat linkages, and water sources, they do not include a criterion for SEATAC review for significant adverse impacts to valuable plant communities. The criteria analysis used in the 2000 SEA reports to designate SEAs (e.g., PCR Project Team, 2000<sup>2</sup>) give examples of possible scenarios whereby it would be worth it to designate as a SEA, and thus protect, a vegetative community.<sup>3</sup> We recommend that another criterion be added that, if met for a project, would require such project applicant to apply for a Type B SEA CUP, and seek SEATAC review.

22.52.2670.C.1.h. The project may result in a substantial adverse impact to a sensitive or rare plant community (including but not limited to vegetative associations that are unique or restricted in distribution; vegetative resources that are either an extreme in physical or geographical limitations, or represent unusual variation in a plant population or community; or areas that provide for the preservation of relatively undisturbed examples of the original natural vegetative communities in Los Angeles County).

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<sup>2</sup>2000. PCR Services Corporation, Frank Havore & Associates, and FORMA Systems. (PCR Project Team). Biological Resources Assessment of the Proposed Santa Susana Mountains/Simi Hills Significant Ecological Area. Prepared for: Los Angeles County Department of Regional Planning. November.

<sup>3</sup>The 2000 report for Santa Susana Mountains/Simi Hills SEA includes in the criteria analysis: vegetative associations that are unique or restricted in distribution; biotic resources that are either an extreme in physical or geographical limitations, or represent unusual variation in a population or community; or areas that provide for the preservation of relatively undisturbed examples of the original natural biotic communities in Los Angeles County.

As the SEA Ordinance is proposed, a single-family home in a SEA is a Permitted Use, not requiring a SEA CUP (22.52.2650.A.1.; pp. 12-14). Conservancy staff believes in some cases, a proposed single-family home may warrant greater scrutiny due to its location, anticipated level of impacts, etc. For example, locating a single-family home in the middle of a wildlife corridor chokepoint could have disastrous consequences. Rather than a blanket provision allowing all single-family homes as a Permitted Use without a SEA CUP, there should be a provision in the SEA Ordinance to require a SEA CUP in certain cases. The following underlined text should be added to Section 22.52.2650. Permitted Uses (p. 12):

22.52.2650.A. The following uses are permitted, provided that a Site Plan Review application is approved pursuant to subsection B below: 1. Individual single-family residences, accessory structures, and additions to individual single-family residences and accessory structures, including all related ground disturbance, on one lot or parcel of land and subject to all applicable development standards of Section 22.52.2640, provided that the single-family home meets all of the following criteria:

- a. is not located in a critical location of the SEA, including a wildlife movement chokepoint;
- b. results in less than 1,000 cubic yards of grading and less than 5,000 square feet of surface area grading; and
- c. the cumulative floor area of the single-family home and all accessory structures does not exceed 4,000 square feet;...

## **Findings**

Similar to our comments on the Purpose, above, it appears that most of the findings related to “loss of viability in an SEA” seem unnecessarily dire (22.52.2670.H.3., p. 27). (Finding 22.52.2670.H.3.c. is appropriate and should be retained.) Some of these, such as closing of a habitat linkage, seem like the minimum standard that should be met. We recommend that the findings be expanded to include: “4. The project has been designed to avoid and minimize, to the maximum extent possible, adverse impacts to the SEA.”

It appears that the more strongly worded findings in the November 10, 2011 version of the Preliminary Draft Significant Ecological Area and Hillside Management Area Ordinance (22.56.215.J.; see Attachment 1) have been diluted. Similarly, the facts that need to be substantiated in the existing Hillside Management and Significant Ecological Areas

Emma Howard, Los Angeles County  
Draft Significant Ecological Area Ordinance  
April 10, 2013

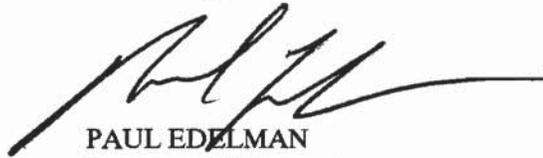
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Ordinance (Existing 22.56.215.F. 2. a. through f.; See Attachment 2) are also stronger than the current findings in the proposed SEA Ordinance. We recommend the County add the findings from the November 10, 2011 version, or at least add the facts that need to be substantiated from the current ordinance. Notably, the following finding from the November 10, 2011 version of the Preliminary Draft Significant Ecological Area and Hillside Management Area Ordinance should be added:

Where a conflict exists between a provision in this Section and such other ordinance, statute, regulation, or requirement, the provision that would be most protective of biological diversity applies to the extent permitted by law.

Thank you for your continued efforts to draft a strong, consensus-based SEA Ordinance. With the incorporation of these comments and other comments from relevant agencies/entities (e.g., from California Department of Fish and Wildlife, Puente Hills Habitat Preservation Authority), the County is in the position to finalize a useful SEA Ordinance that will ensure that appropriate open space and park uses can continue within the County, and that development maintains and potentially enhances biotic resources within SEAs. We look forward to future collaboration and reviewing the next iteration of the Ordinance. Should you have any questions or need any clarifications, please contact me by phone at (310) 589-3200, ext. 128.

Sincerely,

A handwritten signature in black ink, appearing to read 'Paul Edelman', with a long horizontal flourish extending to the right.

PAUL EDELMAN  
Deputy Director for  
Natural Resources and Planning

*Preliminary Draft Significant Ecological Area and Hillside Management Area Ordinance*

J. Findings. The reviewing authority (Director, Hearing Officer, or Regional Planning Commission) shall not approve a complete Conditional Use Permit application unless the reviewing authority finds that the application substantiates all of the following findings, in addition to those required by Section 22.56.090:

1. The proposed development activity is consistent with the County General Plan, any applicable local plans, and the purpose of this Section; and

2. The proposed development activity does not compromise the integrity of the natural ecological functions of the Significant Ecological Area; and

3. The proposed development activity is designed to preserve biologically valuable vegetation, species, corridors, and linkages. Preservation of biologically valuable vegetation, species, corridors, and linkages was considered as the highest priority in the design of the proposed development activity; and

4. The proposed development activity is designed to protect against impacts to waterbodies, watercourses, wetlands, and the riparian habitats they support. Maintenance of the natural water levels, and surface or subsurface flow which supports riparian habitats and wildlife, were considered as a priority in the design and implementation of the proposed development activity; and

5. Roadways or access corridors within the proposed development activity, including fire roads, are designed to avoid bisecting sensitive vegetation, habitats, riparian areas, dedicated open space, and movement corridors; and

6. Where a conflict exists between a provision in this Section and such other ordinance, statute, regulation, or requirement, the provision that would be most protective of biological diversity applies to the extent permitted by law.

## Attachment 2

Excerpt from existing Los Angeles County Code Section 22.56.215 Hillside management and significant ecological areas—Additional regulations.

### F. Burden of Proof.

#### 2. Significant Ecological Areas.

- a. That the requested development is designed to be highly compatible with the biotic resources present, including the setting aside of appropriate and sufficient undisturbed areas, and
- b. That the requested development is designed to maintain water bodies, watercourses, and their tributaries in a natural state, and
- c. That the requested development is designed so that wildlife movement corridors (migratory paths) are left in an undisturbed and natural state, and
- d. That the requested development retains sufficient natural vegetative cover and/or open spaces to buffer critical resource areas from said requested development, and
- e. That where necessary, fences or walls are provided to buffer important habitat areas from development, and
- f. That roads and utilities serving the proposed development are located and designed so as not to conflict with critical resources, habitat areas or migratory paths.