SANTA MONICA MOUNTAINS CONSERVANCY
RAMIREZ CANYON PARK
5750 RAMIREZ CANYON ROAD
MALIBU, CALIFORNIA 90265
PHONE (310) 589-3200
FAX (310) 589-3207
WWW.SMMC.CA.GOV

December 21, 2011

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

Preliminary Draft Significant Ecological Area and Hillside Management Ordinance

Dear Ms. Howard:

In the interest of providing you with comments as early as possible, the Santa Monica Mountains Conservancy (Conservancy) has reviewed the Preliminary Draft Significant Ecological Area and Hillside Management Area Ordinance and prepared the following response. These comments are independent of the Conservancy's continuing request for specific expansions of the proposed Significant Ecological Area (SEA) designations. The Conservancy greatly appreciates your efforts and finds that the proposed Ordinance is generally well-drafted and should improve protections for the County's biological resources. The specific comments and suggestions that follow reinforce the County and Conservancy's shared aims. Page numbers refer to the preliminary draft ordinance published on November 10, 2011.

First, the purpose of the SEA program as written is "to ensure that development activities in these areas do not unduly compromise the underlying ecological systems of the County in such a manner that would *threaten the future existence* of these systems" (page 1, emphasis added). The Conservancy believes that this is an unnecessarily dire program objective that does not reflect the high quality of the ordinance that follows. The objective of the program should be to preserve ecosystem health, not just avert fatal impacts. The Conservancy recommends the following revision as a statement of overarching program goals: "to ensure that development activities in these areas respect their ecological context and do not unduly compromise the health and vitality of the County's diverse ecosystems."

The Conservancy appreciates that fuel modification is properly considered part of the development disturbance envelope for SEA purposes. Too often habitat impacts due to brush clearance is seen as unavoidable instead of factored into building site locations. The proposed ordinance will effectively consider a development's impacts in totality and recommend modification or mitigation as appropriate.

The Conservancy seeks clarification as to why grading projects of more than 5,000 cubic yards are excepted from the ordinance (page 5). If it is because there is a separate process that takes effect at that threshold, then the ordinance should explicitly state that the SEA standards, guidelines, and mandatory findings still apply for discretionary actions taken under a different ordinance. Alternatively, these projects should also have to apply for a SEA CUP. If the 5,000-cubic yard threshold was intended to be an upper limit, then it is much too high. This comment also applies to the proposed Hillside Management Area (HMA) provisions (page 20).

The 2.5-acre threshold for vegetation clearance is too high as a general rule. By definition, vegetation within a SEA is critical to continued ecological function. The amount of habitat that can be cleared without a significant impact is context-sensitive, depending on both the vegetation type to be cleared and the surrounding land cover. In some locations, the loss of 2.5 acres of vegetation may be below a level of significance. However, in sensitive areas, even the loss of a critical 0.5 acre could significantly impact the surrounding SEA function. Such a threshold should be set in the context of a location-specific biological study, rather than a general Countywide rule. In any case, 2.5 acres is much too high of an allowance without specificity to sensitive habitat types.

The surface mining exception causes similar concerns to those raised above regarding the grading exemption. Any large-scale earth movement within a SEA will inherently disturb biological resources. If mining projects are to be regulated under a different ordinance, then the SEA standards, guidelines, and mandatory findings must still apply to all discretionary actions for these projects within a SEA, including Surface Mining Permits. Alternatively, an additional SEA CUP could be required to specifically protect biological resources.

The list of governmental activities to be excepted from the SEA ordinance (page 6) should be revised to delete "for fire prevention" in item 9.c. All native habitat restoration programs should be excepted, not just those intended to reduce fire risk. Restoration projects are governed by a number of appropriate regulatory agencies; adding a County CUP would be redundant and unnecessary for activities that improve ecological function.

The Conservancy seeks to understand the process for a Minor CUP outlined on page 6. How is the process different than a regular CUP? Which standards will be relaxed through this alternative process?

The site design guidelines for vegetation clearance (page 11) exposes the flaw in the 2.5-acre threshold discussed above. Woodlands and riparian resources are appropriately called out for protection from clearance, but this only applies to clearance greater than 2.5 acres. Both of these ecosystem classes are sensitive to smaller disturbances. Even a fraction of an acre that interrupts the continuity of a riparian corridor would significantly harm resources. To address this issue in a comprehensive way, the Conservancy recommends that clearance of native vegetation occur only after an initial project appraisal that identifies sensitive vegetation, as required by F.1.iii. (page 7). Only once sensitive vegetation, including woodlands and riparian resources, is identified can clearance be designed to prevent, avoid, minimize, or mitigate impacts as intended by the ordinance. It is unworkable to allow a substantial amount of clearance without first knowing what resources will be lost.

The lighting guidelines should include a firm standard like the noise guidelines. In addition to requiring that lighting be directed and shielded, projects should be held to preventing ambient light from illuminating natural areas. For example, a standard in lumens could be set at 200 feet from the perimeter of developed areas.

The draft ordinance's treatment of roadways through SEAs is comprehensive. Will these standards apply to County road projects as well? The Conservancy also notes that while wildlife passages are more effective when free from human activity, shared hiking-wildlife crossings have been successful in some locations.

The legal protections proposed for open space areas are appropriate. However, as a preservation instrument, conservation easements are a preferred mechanism over deed restrictions, in the Conservancy's experience. Conservation easements are enforced by a third party, which improves accountability for compliance with open space restrictions. The Conservancy requests that conservation easements be listed before deed restrictions on page 13 to denote this preference.

While the draft ordinance does provide dedication of open space to a land management entity, it does not provide the funding necessary for an agency to take on additional management burdens. A funding mechanism should be provided for management of dedications over a certain size, for example 40 acres, subject to waiver by the Director for special circumstances.

The guidelines for riparian resource protection are thorough and detailed. The Conservancy commends the County for exceptional work.

The Conservancy concurs with the proposed required findings for project approval.

The Open Space Design and Use Requirements under the HMA guidelines are too inclusive of inappropriate uses. Parks, playgrounds, and other recreational facilities are built environments in nature, unlike passive recreation facilities like trails, and should count as part of the development area, not open space. Native plants, trails, and hill stabilization infrastructure are the only appropriate uses of open space dedications. The Conservancy recommends deleting item F.1.c.ii.(a) accordingly (page 24).

Consistent with previous comments, conservation easements are the preferred preservation instrument for open space areas. Recordation of a conservation easement should be included in the list of acceptable instruments on page 25. Recordation on a final map should be changed to recordation of a deed restriction to maintain consistency with the SEA section.

Thank you for your consideration of these comments. If you have any questions, I can be reached at (310) 589-3200, ext. 128.

Sincerely,

PAUL EDELMAN
Deputy Director
Natural Resources and Planning