Iris Chi
Department of Regional Planning
County of Los Angeles
320 W. Temple Street
Los Angeles, CA 90012.

Subject: Supplemental Comments Solicited by the Department of Regional Planning from the Acton Town Council on the Draft SEA Ordinance.

Reference: Meeting between the Department of Regional Planning and the Acton Town Council October 29, 2018.

Dear Ms. Chi;

The Acton Town Council ("ATC") greatly appreciates the efforts that you, Ms. Hikichi, and Ms. Mongolo have put forth to address concerns raised by Acton residents regarding the draft Significant Ecological Area ("SEA") Ordinance. We also appreciate the meeting on October 29 that you put together between the Department of Regional Planning ("DRP") and Acton residents. Several important issues were addressed at the meeting; some matters were resolved and others resulted in the ATC's commitment to complete a "homework" assignment pertaining to "set aside" ratios and other key elements of the Draft Ordinance. The purpose of this letter is to set forth our understanding of the issues that have been resolved, and to report to you the results of our completed "homework". We have also included a section addressing concerns and clarification requests that the ATC has received from residents attending recent community meetings (the latest being the meeting convened December 17, 2018).

The ATC recently learned that DRP staff intend to make a presentation regarding the Draft SEA Ordinance at the January meeting of the Association of Rural Town Councils, and we recognize that, during this scheduled presentation, some or all of the outstanding issues set forth below may be addressed. If this happy coincidence occurs, then the ATC will submit a revised comment letter which removes the issues and concerns addressed by the staff presentation.

**Matters Resolved:**
The ATC understands that the following will be reflected into the next draft of the SEA Ordinance:

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1. Facilities located within an SEA that have an existing CUP will not be subject to SEA CUP requirements when they renew their CUP; rather, they will be subject to a ministerial process involving a site plan and biological survey. The Draft SEA Ordinance will be revised to reflect this.

2. Any land that is "set aside" for preservation purposes pursuant to the SEA Ordinance will not be restricted in any way which precludes access or egress by vehicles or emergency response equipment during any emergency event that threatens life or property. This term will apply to all lands, including those granted to a government entity, land conservation organization, mitigation bank, or land bank, and those preserved by any other means including, but not limited to, a conservation easement, deed restriction, or covenant.

**ATC "Homework" Completed:**
The following recommendations and supplemental information have been compiled over the last ten weeks from public comments that the ATC has received and research that the ATC has conducted:

1. The alternate version of the Draft SEA Ordinance specifies that the exemption for single family residential/accessory use development in the Antelope Valley Plan Area applies only to those properties "Within the Antelope Valley Area Plan portion of eastern Santa Clara River SEA, and outside of the National Forest". At the October 29 meeting, the ATC explained that this alternative is somewhat problematic because it would omit more than 60 Acton parcels from the single-family residential exemption in a manner that is not consistent with the 2015 Board motion that adopted the Antelope Valley Area Plan and its attendant SEA Boundary exemption. The ATC suggested that this problem can be eliminated by recognizing the bright-line distinction between the San Gabriel Mountains National Monument (which encompasses all of the 60+ Acton Parcels of concern) and the Angeles National Forest (which does not encompass any Acton parcels). The ATC committed to providing DRP with a USDA Forest Service map showing this distinction; the map is provided in the attached Figure 1. The ATC requests that you consider this map and amend the proposed alternative SEA Ordinance to recognize the distinct difference between the Angeles National Forest and the San Gabriel Mountains National Monument in a manner which ensures that no Acton parcels are omitted from the single family/accessory use exemption. For instance, the language of the alternative could be revised to apply the exemption only to properties "Within the Antelope Valley Area Plan portion of eastern Santa Clara River SEA, omitting therefrom all such areas inside the National Forest, but including therein all such areas inside the San Gabriel Mountains National Monument".
2. The ATC has solicited extensive public comment regarding the "set aside" ratios established in Table 5 of the SEA Guidelines, and convened public discussions regarding the Draft SEA Ordinance in general and these "set aside" ratios in particular on December 3 and December 17, 2018. The following is a synopsis of what was gathered:

- Category 4 lands represent natural communities that commonly occur within the county and encompass "apparently secure" habitat, thus Category 4 lands are not "biologically sensitive" (as that term is used in the adopted Antelope Valley Area Plan). Yet, the SEA Guidelines establish a 2:1 "set aside" ratio to mitigate disturbances to Category 4 resources (see Table 5) and thus require property owners to give the equivalent 67% of such disturbed lands to a land conservancy or otherwise dedicate it as "open space". Given that Category 4 lands themselves are not "biologically sensitive", it is not clear how taking 67% of such lands from property owners will further any of the biological resource protection goals or policies set forth in adopted planning documents. It is also not clear why any taking is even warranted, given that the land is not "biologically sensitive", thus disturbing it results in no real or substantive biological resource impacts. Moreover, nearly all the lands within the Acton SEA are (and will continue to be) large lots that, for the most part, are dedicated to residential purposes, thus they are limited to a total impervious surface area of 10% [County Code Section 22.44.126(C)(4)(a)]. These parcels are also restricted to a 10% vegetation removal limit [County Code Section 22.44.126(C)(2)]. Thus, 90% of nearly all the private property in the Acton SEA is already protected from "covering" development and vegetation removal anyway. Given this, the ATC contends that Category 4 lands within the Acton SEA should not be subject to any "set aside" requirements.

- From the description provided in the SEA Guidelines, it appears that Category 5 lands are not biologically sensitive, support no distinct natural community, have non-native species, and/or are already "cleared". Nonetheless, the SEA Guidelines mandate a 1:1 (or 50%) "set aside" ratio to mitigate disturbances to Category 5 resources (see Table 5). Given that Category 5 lands themselves have no identifiable biological resource value, it is not clear how "taking" 50% of such lands from property owners will further any of the biological resource protection goals or policies set forth in adopted planning documents. In fact, it is not clear why any "taking" of Category 5 resources is warranted at all, given that 1) disturbing it results in no real or substantive biological resource impacts; and 2) nearly all of the private property within the Acton SEA is used for residential and accessory purposes and thus already protected from "covering" development and vegetation removal (as discussed above). Therefore, the ATC contends that private property designated as "Category 5" lands within the Acton SEA should not be subject to any "set aside" requirements.
Category 3 lands include those lands that are currently secure but may become vulnerable in future. Nonetheless, the SEA Guidelines mandate a 3:1 "set aside" ratio to mitigate disturbances to Category 3 resources (see Table 5) and thus compel property owners to give 75% of such lands to a land conservancy or otherwise dedicate it as "open space". There has been extensive debate in Acton regarding the appropriateness of a 3:1 mitigation ratio for the currently secure biological resources supported by Category 3 lands, particularly in light of the substantial native vegetation protection provisions and impervious surface restrictions already imposed on nearly all the lands within the Acton SEA. Acton residents are concerned by the lack of quantitative evidence demonstrating any need to take 75% of a property to protect already "secure" biological resources. Therefore, the ATC respectfully requests that the DRP provide compelling and quantitative evidence demonstrating that the biological resource protection provisions, policies and goals established by adopted planning documents will not be met unless 75% of biologically "secure" Category 3 lands are taken from the property owner and "set aside" for preservation; if no such evidence can be provided, then there should be no "set aside" ratio for Category 3 lands.

Category 2 lands comprise two types: 1) "Juniper Woodland" and "Sensitive Native Resources"; and 2) "Imperiled Natural Communities". The Draft SEA Ordinance identifies a 4:1 (or 80%) "set aside" ratio for Category 2 resources, however the Guidelines provide no details regarding why or how "Juniper Woodland" resources merit a Category 2 designation or warrant an 80% "set aside". The ATC notes that virtually all juniper resources located in Los Angeles County occur within the transverse ranges (including the Verdugo Mountains, the San Gabriel Mountains, the Sierra Pelona, the Simi Hills, and even the Santa Susana and Santa Monica Mountains) and that most of these areas are already protected from disturbance because they are held within existing Land Conservancies, National Recreation Areas, National Monuments, National Forests, and BLM Lands. As discussed in detail below, the private property within the SEA in Acton is surrounded by thousands of acres of biologically similar (and already protected) woodland resources, thus, it does not seem necessary to "take" an additional 80% of private property in Acton to preserve biological resources that are already locally abundantly and protected in adjacent (and already dedicated) "open space". Therefore, the ATC respectfully requests that DRP provide compelling and quantitative evidence demonstrating that the biological resource protection provisions, policies and goals established by adopted planning documents will not be met unless 80% of local woodland occurring on private lands within the SEA in Acton lands are taken from the property owner and "set aside" for preservation purposes.
Remaining Issues of Concern:
The following concerns raised by Acton residents remain outstanding and the ATC respectfully requests that they be addressed in future revisions to the Draft SEA Ordinance and SEA Guidelines:

1. Residents have expressed concerns regarding the designation of "Juniper Woodland" as a Category 2 resource; this confers upon "Juniper Woodland" resources a higher protection status than "Oak Woodland" resources (notably, the SEA Guidelines designate "Oak Woodland" as a mere Category 3 resource). This is remarkable given that DRP has historically accorded "Oak Trees" the highest possible protection status. Nonetheless, the SEA Guidelines relegate "Oak Woodland" resources to Category 3, and catapult "juniper Woodland" resources to Category 2. The Guidelines provide no explanation for this, and they do not clarify why or how "Juniper Woodlands" warrant an 80% "set aside" ratio and a Category 2 protection designation that is generally reserved for G2/S2 resources. This is particularly mystifying given that the California Native Plant Society ("CNPS") designates the California Juniper as an S4/G4 species. The only relevant statement provided by the SEA Guidelines is that "Juniper Woodlands" are "much rarer or more significant on a local scale than they are on a global, state, or even regional scale" [see page 29]. However, the SEA guidelines provide no supporting information to substantiate this declaratory claim that juniper woodland is "rare" on a "local level". Worse yet, the guidelines fail to provide appropriate thresholds for the determination of whether "local" stands of Juniper Woodland are indeed "rare" and therefore warrant a 4:1 "set aside" ratio. And, contrary to what the SEA Guidelines state, published data conclusively reveal that "Juniper Woodland" resources in Southern California are neither "rare" nor "significant" on any scale ("local" or otherwise) within the transverse ranges where they typically occur. In fact, in the "local" areas along the north slopes of the San Gabriel Mountains (where Acton lies), there are extensive "juniper woodland" resources, and most of them are already preserved and protected. For instance, the U.S. Forest Service estimates that the combined area of juniper and pinyon woodlands found within the "Desert Montane" of Southern California is approximately 350,000 acres [see page 21 of the U.S. Forest Service’s "Southern California Mountains and Foothills Assessment" report found at https://www.fs.fed.us/psw/publications/documents/psw_gtr172/psw_gtr172.pdf]. This report also indicates that, on the "desert side" of the San Gabriel Mountains (where Acton is located), there are 26,000+ acres of such woodlands [Page 33 and Table 2.13 of the USFS assessment cited above] and that 79% of these "local" woodland resources occur on public lands and are therefore already protected [Table 2.13 of the USFS assessment cited above]. Furthermore, the existing protections already accorded these "local" woodland resources in Acton were recently increased and rendered permanent by President Obama’s 2014 proclamation that created the San Gabriel Mountains National Monument. Additional analysis via the County’s GIS system further
demonstrates that most of what could be deemed "local" juniper woodland and other resources in and around Acton's SEA are already preserved and therefore do not warrant a Category 2 designation (nor do they warrant a Category 3 designation). Specifically, and according to the County's GIS System, the SEA in Acton occupies approximately 17,000 acres, and, as the DRP is aware, much of it supports Junipers (though many junipers have been eliminated by numerous area fires that have occurred since 2004). The GIS system also reveals that 8,750 acres of this SEA area are already preserved as designated "Open Space" lands, and that an additional 1,300 acres of preserved Open Space land also lie near, but outside, both the SEA and the National Monument boundaries. The GIS system also reveals that there is an additional 4,500+ acres of designated "Open Space" woodland immediately adjacent to the SEA boundary in Acton which is already fully protected because it lies within the National Monument. As indicated in Figures 2 - 4, these 4,500+ acres have "woodland" and other resources similar to those lying within the SEA in Acton because they surround, and lie immediately adjacent to, the SEA in Acton. Taken together, these facts demonstrate that there is already more than 14,500 acres of preserved, "Open Space" occurring within and adjacent to the SEA in Acton; this is more than 85% of the total 17,000 acres captured by the entire SEA in Acton. In other words, the existing, "local", "open space" area within and surrounding the SEA in Acton already exceeds 85% of total SEA area in Acton; these lands will remain permanently preserved and fully intact even if all of the privately held non-open space lands within the Acton SEA were entirely stripped of all vegetation. So, there is no need to "take" any private lands within Acton to achieve the 80% "open space" preservation goal set for Category 2 resources. Nor is there any similar need to "take" private lands to achieve the 75%, 66%, or 50% preservation goals established for Category 3, 4, and 5 lands, respectively because the existing preserved area within and adjacent to the SEA in Acton already exceeds 80%. The ATC does not perceive any reason to "take" up to 80% of private lands within the SEA in Acton to achieve "open space" goals that have already been met via existing woodland and other resources that are fully protected in perpetuity.

2. At the ATC meeting on May 7, 2018, residents were assured that any Biological Constrains Analysis ("BCA") conducted pursuant to the SEA Ordinance would report only those species that are actually observed during the survey because the draft SEA Ordinance directs the biologist to assess "the biological resources on a project site and in the surrounding area" [see section 22.102.020(A)]. At the ATC meeting, it was conveyed that this restrictive language does not permit the biologist to report that a species is present or could be present based on the type of habitat that the property supports could support, and that the BCA will identify only those plants and animals that are actually noted during the survey. However, this interpretation of the plain language of the Draft SEA Ordinance is not supported by the SEA Guidelines. In fact, the SEA Guidelines state that the biologist will consider a species to be present "even if the
animal itself has not been directly observed on the project site" based on "special habitat features". This statement is of substantial concern, particularly since the entire SEA within Acton could be deemed to have "special habitat features" that are capable of supporting any number of "Category 2" resources (such as the San Diego Coast Horned lizard or "juniper woodland") or even Category 1 species regardless of whether such species are actually present. As written, the SEA Guidelines appear to authorize a biologist to designate an entire parcel as a "Category 2" resource that is subject to an 80% "set aside" requirement by merely stating that "special habitat features" on the property indicate a possibility for Juniper Woodland or other Category 2 species. Thus, the SEA Guidelines must be revised to state clearly that any BCA developed pursuant to the SEA Ordinance will only report the presence of species that are actually observed.

3. As indicated previously, there is substantial concern regarding the significant "set-aside" ratios for Category 5, 4, 3, and 2 lands that are established by Table 5 of the SEA Guidelines. The ATC is particularly concerned that these "set-aside" ratios conflict with a substantial body of caselaw (beginning with Dolan v. City of Tigard, 512 U.S. 374 [1994]) which require that the nature and extent of exactions involving the dedication of private property be "roughly proportional" to the impact created by a proposed development. For instance, consider the 50% "set-aside" ratio that is established for Category 5 resources (which are not biologically sensitive and are described as supporting no "distinct natural community") and the 66% "set-aside" ratio for Category 4 resources (described as "common" and "secure"). It is clear from these descriptions that development of Category 4 or Category 5 land will result in negligible biological resource impacts because lands that are in these categories have no significant biological "value". Under such circumstances, no "exactions" are warranted because biological resource impacts are negligible. Nonetheless, the SEA Guidelines mandate a 50% taking for Category 5 lands and a 66% taking for Category 4 lands in a manner that is utterly contrary to the Court's holding in Dolan. The ATC contends that, if a development project does not impact any significant biological resources, then there is nothing "proportional" about taking 50% or 66% of these private lands to "mitigate" such non-existent biological resource impacts. Therefore, the proposed "set aside" ratios in the Draft SEA and SEA Guidelines do not comply with the proportionality mandate established by the Dolan Court.

4. Large stands of junipers in Acton have been destroyed by fires over the last 15 years (such as the Crown Fire in 2004, the Station Fire in 2009, the Sand Fire in 2016, etc.), and juniper regrowth has not occurred in these areas to any great extent. The ATC seeks to understand whether these areas will be deemed "Juniper Woodland" under the Draft SEA Ordinance even though the junipers themselves are burned and dead and the little regrowth that has occurred does not meet the 5% coverage threshold set by the SEA Guidelines' definition of "woodland".
Page 77 of the SEA Guidelines state that "Developments that do not have suitable habitat available for natural open space preservation on-site will be required to provide an equivalent amount of natural open space preservation off-site". The ATC observes that, by definition, the County's "open space" interests are neither served nor advanced by the "taking" of land which has no "suitable habitat" for "open space" preservation. Correspondingly, the development of such lands cannot be deemed to create any "open space" impacts, thus there is no legal nexus for the County to impose any "open space" mitigation requirements on the development of such land in the form of "in lieu fees", "off-site mitigation", or any other "taking" mechanism. In other words, the County's "Open Space" preservation interests are not thwarted or impeded in any way by the development of lands that are not suitable for "open space" preservation, therefore the County cannot impose "open space" mitigation requirements as a condition of developing such lands. Time and again, state and federal courts have ruled that government agencies must conclusively prove that there is a substantial nexus between the impacts that are created by a project and the mitigation measures that are imposed to reduce such impacts. The foundational decision on this issue [Nollan v. California Coastal Commission, 483 U.S. 825 (1987)] held that a government could require an exactment without paying compensation as a condition for granting a development permit provided that the exactation would substantially advance the same government interest that would furnish a valid ground for denial of the permit. The restrictions set forth in the Nollan decision and expanded in subsequent case law are not met under the circumstances described on page 77 of the SEA Guidelines that address property with no "suitable habitat" for "open space" preservation. This is because Nollan prevents the County from citing "Open Space" preservation interests as the basis for denying a permit to develop land that has no intrinsic "Open Space" value. The bottom line is that Nollan prevents the County from imposing "open space" exactions (either on-site or off-site) on land that is not suitable for "open space" preservation.

The ATC seeks clarification regarding the status of the "SEA Guidelines" document, and whether it is considered part of the SEA Ordinance and thus subject to public review and approval by the Board of Supervisors. The matter is of considerable importance, because the Draft SEA Guidelines "interpret" the Draft SEA Ordinance and provide specific directions to both applicants and staff regarding how the Ordinance will be implemented and the manner in which violations will be addressed. As such, the ATC considers the document to be "part and parcel" an essential element of the Draft SEA Ordinance and must therefore be adopted by the Board of Supervisors as part of the SEA Ordinance and cannot be amended thereafter without public hearings and specific Board action.
7. The ATC is concerned by provisions set forth in the SEA Guidelines pertaining to the removal of dead or fallen trees and that such activity may, in and of itself, require an SEA Permit [see page 23]. Dead trees constitute a very real and very pressing fire safety concern, and the ATC opposes any ordinance or guideline that hinders the prompt removal of a dead tree which poses a potential life/safety threat. The ATC is also concerned that DRP may apply the dead tree removal restrictions set forth in the SEA guidelines to the removal of dead branches and "limb up" activities advocated by the Fire Department; if so, then the ATC opposes such restrictions as well.

8. The ATC is concerned that the draft SEA Ordinance does not clearly articulate the use restrictions that will be placed on the private lands that are "taken" via exactions for "open space" purposes. It is not clear whether hiking or other non-development uses will be permitted in the "open space" areas that are "taken", or whether the property owners from whom the lands are "taken" will have any access to them once they are "taken". The SEA Guidelines indicate that some uses of the lands will be permitted after they are "taken" (for example, page 79 describes a Conservation Easement as limiting uses of the property "that would compromise the conservation values of the property, while allowing the landowner to retain certain reserved rights"). However, neither the Draft SEA Ordinance nor the SEA Guidelines provide any indication of what these permitted uses will be or how they are determined. Therefore, the ATC respectfully requests that the Draft SEA Ordinance be amended to reflect the extent to which lands exacted through operation of the SEA Ordinance may be used after they are "taken" and also enumerate the purposes to which such lands may be put.

9. Residents have expressed concern that they will be required to pay property taxes in perpetuity on all the private lands that will be "taken" pursuant to the SEA Ordinance. Therefore, the ATC respectfully requests that the Draft SEA Ordinance be amended to include a provision that decrements the assessed "land value" portion of the property by an amount that is equal to the total percent of the land that is "taken" for "open space" purposes.

10. The ATC objects to the "ranking" of open space preservation "mechanisms" set forth in the Draft SEA Ordinance and particularly objects to the mandate imposed by the SEA Guidelines that the applicant "demonstrate that higher ranked mechanisms are infeasible or of less benefit in order to use an option lower down on the list" [see page 78]. These provisions preferentially compel property owners to "give away" sizeable portions of land to "conservancy" organizations and "government entities" rather than execute covenants or deed restrictions that preserve private control and jurisdiction. The ATC has the following concerns with this mandate:
The SEA Guidelines do not show that it is necessary to transfer land to a "conservancy" or "government entity" to ensure it is permanently preserved, nor do the Guidelines demonstrate that "Open Space" land is less protected if it is secured solely via recorded "deed restriction" or "covenant" and not transferred to a "conservancy" or "government entity". In fact, the SEA Guidelines identify the recordation of "open space" restrictions as being the actual mechanism which properly "ensures the preservation of natural open space in perpetuity", and it further mandated that such recordation occur before the land is transferred to a "conservancy" or "government entity" (see page 78). In other words, and according to the SEA Guidelines, it is not the transfer of land to a "conservancy" or "government entity" which preserves the land as open space in perpetuity, rather it is the recordation of open space restrictions on the land which achieves this purpose. Therefore, the County has no cause to compel property owners to give their land away to a "conservancy" or "government entity" in order to preserve it as open space. If a property owner wishes to transfer "open space" lands to a "conservancy" or "government entity" after recording an open space restriction, that option can be set forth in the SEA Ordinance. However, the County has no basis for requiring a property owner to give land to a "Conservancy" or "Government Entity". Thus, the compulsory hierarchy of open space preservation "mechanisms" set forth in the SEA Guidelines is insupportable and must be revised.

California Civil Code 815.3 contains the statement "No local governmental entity may condition the issuance of an entitlement for use on the applicant’s granting of a conservation easement pursuant to this chapter". It is not clear how the compulsory hierarchy of "open space" preservation "mechanisms" set forth in the SEA Guidelines comply with this regulatory provision, and we respectfully request that some explanation regarding this be provided in the SEA Guidelines.

Many "conservancies" and "government entities" derive significant financial benefit from properties that they control as "Open Space". For example, the Mountains Recreation and Conservation Authority earns substantial amounts from filming and other commercial activities that take place on their "preserved" lands in the Santa Monica Mountains and elsewhere [see https://mrca.ca.gov/film-photography/]. The ATC fully expects that lands in Acton which are "given" to "conservancies" or "government entities" through compulsory operation of the SEA Ordinance will be used for filming or other commercial purposes because the County issues multiple permits for "location" filming activities in Acton every week. The ATC is firmly set against any scheme that allows a "conservancy" or "government entity" to benefit financially from land that it is "given" via compulsory "transfer" from a private landowner. Therefore, the ATC vehemently objects to the hierarchy of compulsory open space preservation "mechanisms" that are established by the SEA Guidelines.
• The ATC notes that, in the recently approved Centennial Project (Specific Plan No. 02-232), the County permitted the applicant to retain control over the "Open Space" lands that were created and preserved by the project, and that at least half the "open space" land is preserved via "deed restrictions". The County did not require the property owner to transfer the "open space" lands out of their control. It is the ATC's understanding that the "open space" lands of the Centennial Project remain entirely private and completely off limits to all but the property owners and their invited guests, and that the property owner is even permitted to use the land for hunting and other purposes. The ATC anticipates that the County will accord Acton property owners the same rights that were granted to the Centennial Project landowners, and eliminate the compulsory hierarchy of open space preservation "mechanisms" set forth in the SEA Guidelines.

11. The ATC respectfully requests confirmation that the exemptions identified in Section 22.104.040 of the Draft SEA Ordinance apply to the tree trimming and removal provisions of the proposed Chapter 22.102.

12. According to the SEA Guidelines, the Draft SEA Ordinance "relies largely on existing standards, requirements, and thresholds already in use by state, federal, and county resource agencies and authorities" (see page 27). However, none of these "existing standards, requirements, and thresholds" are identified in either the Guidelines or the Draft SEA Ordinance, thus it is impossible to ascertain the extent to which the Draft SEA Ordinance is consistent with such existing standards, requirements, or thresholds. The ATC is particularly concerned with the "existing standards, requirements, and thresholds" that were used to establish the "set-aside" ratios set forth in Table 5 of the SEA Guidelines. The ATC is not aware of any federal, state, or local standards which impose a 2:1 "set aside" ratio (and thus a 66% "taking" of private property) to preserve "common" biological resources that are not significant (such as those found on Category 4 lands). In fact, it appears that federal agencies impose less restrictive "set aside" ratios than what is set forth in Table 5 of the SEA Guidelines. For instance, the Bureau of Land Management ("BLM") applies a 2:1 "set aside" ratio to biological resources that are demonstrably critical (such as wetlands and "key population centers" for the protected Mohave Ground Squirrel) if they lie within "Areas of Critical Environmental Concern" [see Table 18 of the "Desert Renewable Energy Conservation Plan" found here: https://www.drecp.org/finaldrecp/lupa/DRECP_BLM_LUPA.pdf]. The ATC is also not aware of any existing standards which impose a 1:1 "set aside" ratio for lands that have no identifiable biological resource value (such as those found on Category 5 lands). The ATC considers it imperative that the SEA Guidelines be revised to identify and discuss the existing standards, requirements, and thresholds that were used to establish the Table 5 "set aside" ratios, particularly in regards to Category 5, 4, and 3 lands.
13. The ATC respectfully requests that the Antelope Valley Area Plan exemptions established by the Draft SEA Ordinance be revised to include minor land divisions. This will not result in extensive property development because of the "large lot" land use restrictions imposed on Acton lands by the AV Plan Land Use element. This request stems directly from the motion that was made by Supervisor Antonovich when the AV Area Plan was adopted and which established the SEA Ordinance exemption mechanism.

The ATC stands ready to discuss these issues and concerns with County staff, therefore please do not hesitate to contact the Acton Town Council at atc@actontowncouncil.org if you wish to pursue such an option.

Sincerely,

/s/ Jeremiah Owen

Jeremiah Owen, President
The Acton Town Council

cc: Kathryn Barger –Los Angeles County 5th District Supervisor [kathryn@bos.lacounty.gov]
    Donna Termeer – Field Deputy to Supervisor Barger [DTermeer@bos.lacounty.gov]
Figure 1. USDA Forest Service Map of the San Gabriel Mountains National Monument.
Figure 2. Photograph of Land Area Along SEA Boundary in Acton.
Figure 3. Photograph of Land Area Along SEA Boundary in Acton.
Figure 4. Photograph of Land Area Along SEA Boundary in Acton.
February 26, 2019

The Regional Planning Commission  
320 W Temple Street  
Los Angeles, CA 90012  
Electronic Transmission of 6 page to rruiz@planning.lacounty.gov

PLEASE CONFIRM RECEIPT

Subject: Significant Ecological Area Ordinance  
Reference: Planning Commission Agenda Item 7

Honorable Commissioners:

A few months ago, the County Counsel's Office told a Superior Court Judge that several letters which the Acton Town Council ("ATC") had submitted to the County regarding a discretionary project should not be included in the record of the proceeding before the Court because the County Counsel's Office said that the letters were never actually received by the County. There was evidence that the letters had been sent by the Acton Town Council to County staff, but based on the County's unsubstantiable claim that the letters were not actually received by those recipients, the letters were omitted from the record. You can imagine, therefore, how stunned the ATC was to see that a letter we sent more than 6 weeks ago and on which we collectively spent hundreds of hours on via meetings, research, writing and extensive public outreach has also been omitted from the record. Indeed, as of today (the day before the SEA Ordinance hearing), it is still not shown as a timely submitted public comment (see screen shot in Figure 1). As if to corroborate this omission, we note that none of the issues raised therein are reflected or even mentioned in any staff reports or memorandum. So as far as the Acton Town Council is concerned, there are still very important issues that remain outstanding that the Planning Commission should care about and seek resolution on before taking action on this ordinance.
For instance, facilities applying for a renewal of an existing CUP are exempt from the SEA Ordinance only if their prior CUP included a biological resource review. If the property owner cannot provide definitive proof that the property has already undergone biological review, then they are subject to the SEA Ordinance. According to 22.102.060, if their parcel has a building site that exceeds 20,000 square feet or if it has more than 500 square feet of development in an area that is deemed juniper woodland - Category 2, then they will be forced to undergo the full SEA CUP process because they are not eligible for a ministerial review given that they do not meet the development standards of 11.102.090. We have been told over and over that this is not true and that our concerns are unfounded and that only a ministerial review will be required because the County simply wants to map the resources on such properties. However, when you actually step through the various layers of the proposed SEA Ordinance process, you see that the ministerial review option does not apply in many circumstances, and it will affect many. The SEA in Acton is now enormous and it covers nearly 30 square miles. We have more non-residential uses in our SEA than probably anywhere else in the County. We have campgrounds. We have sports fields. We have animal rescues and exotic animal preserves like Shambala. We have water haulers. We have movie ranches. We have 500 kV transmission lines and substations. We have County rehabilitation facilities. We have County Waterworks District facilities. We have farms. We even have a sulky race track. This issue is of substantial concern to our community and we cannot just not let it go.

We have other unanswered concerns as well, including:

1. We have asked that the SEA Ordinance prohibit land conservancies and other entities which receive SEA "set aside" lands from restricting motorized vehicles on or over the land for life-safety purposes. This issue is of paramount importance to the Community of Acton because we have been informed by the County Fire Department that they have been refused entry into conservation lands for fire-fighting purposes merely because the conservancy recorded a motorized vehicle restriction on the land. We were told in October that the Draft SEA Ordinance would be revised to incorporate this prohibition, but we see no evidence of this.

2. We have asked why Juniper Woodland is given a higher Category 2 protection status than Oak woodland (which is only Category 3) when junipers do not have a special status like oaks, and they are neither rare nor threatened nor insecure. We have never received an answer.
3. Regarding the areas of the Acton SEA where there are no living junipers but plenty of dead ones as a result of the Crown fire, Station fire, and Sand fire; we have asked repeatedly if these lands still be considered "juniper woodland" subject to a Category 2 80% taking under the SEA Ordinance. We have never received an answer.

4. We have asked whether a biologist can conclude a species is present without actually observing it. In a community meeting last Spring, we were told no, that the biologist must lay eyes on the species in order to map it. However, the proposed SEA Guidelines says just the opposite because it permits the County Biologist to infer the presence of a species based solely on habitat features. It is our understanding that this will allow the County Biologist to designate an entire parcel as Category 2 and subject to an 80% taking simply because it is covered in non-sensitive chaparral or loose sandy scrub and therefore could sustain a coast horned lizard even though no coast horned lizards or ant nests (their primary food source) are even found. We have asked repeatedly for this inconsistency to be specifically addressed, because it permits the County to conclude that virtually all of Acton falls into Category 2 merely because a horned lizard or a juniper "could" be present irrespective of whether it actually is present.

5. We have also asked about home-based occupations that do not occupy the home such as a resident that gives riding lessons to community members or has chickens and sells the eggs or operates a small kennel or dog rescue. We know that, at any time, the County could decide that these activities are "businesses" and therefore do not comply with section 22.20.020 of the code because they do not occur entirely within a dwelling, thus resulting in enforcement action under the SEA Ordinance. This was brought up at our meeting with County Staff in October, and we understood that a clarification on this issue would be forthcoming, but we have not yet received it.

6. We have asked why the SEA Development Standards set forth in Section 22.102.090 call for a 50% taking for Category 4 resources that by definition have no biological resource value at all. We have also asked why the SEA Guidelines call for a 66% taking of Category 4 lands and a 50% taking of Category 5 resources that are even less valuable than Category 4 resources. We have asked why the guidelines call for a 75% taking of Category 3 resources that, by definition, are entirely secure and neither sensitive nor threatened. We have also asked why the guidelines call for an 80% taking of Juniper woodland resources of which we have conclusively shown that 80% is already secure in
existing land preserves such as the San Gabriel Mountains National Monument. We have asked these questions over and over and over, yet we have never received an answer. Instead, we were directed to make recommendations on what we considered appropriate set asides ratios to be. We made such recommendations in the letter sent 6 weeks ago which now stands completely omitted from the record.

7. We have asked where the set aside ratios written into the Draft SEA Ordinance and the SEA Guidelines come from and we have shown that they are not consistent with federal or state set aside ratios at all, such as those used in the Mojave Desert Resource Conservation Plan that this Regional Planning Department worked on in concert with state and federal agencies. We have never received an answer.

8. We have asked where the studies are that show it is essential to take 75% of a subdivider's land under 22.102.090 and then on top of it take an additional 50% or more of each parcel when it is developed pursuant to this same provision and which results in an overall taking of nearly 90%. We have also asked time and again why it is essential that 66% of Category 3 land (which is biologically secure and neither rare, threatened or even listed) be taken pursuant to 22.102.090. There is not a shred of evidence anywhere in the record showing that the massive takings that will result from this ordinance are even necessary to achieve any General Plan goals and policies. These studies have not been done. There is no evidence that the substantial restrictions and set aside ratios mandated in the Ordinance and the guidelines are essential to achieving General Plan goals or policies. There isn't even any evidence showing that General Plan policies will me met by these substantial restrictions and set aside ratios. The staff reports and memorandum fail to do the one thing that is required by state law, which is show an essential and proportional nexus between the substantial takings that will result from this draft ordinance and the preservation goals and policies that are set forth in the General Plan.

9. We have asked how this ordinance complies with the motion adopted with the Antelope Valley Plan that exempts minor land divisions from SEA compliance requirements. We have never received an answer.

This list is not exhaustive and includes only some of the questions that remain outstanding. We also note that the revised definition of "SEA" in the draft Ordinance now captures lands if they are deemed to hold resources representing the County's
biodiversity according to criteria set forth in the General Plan. With this definition, all lands in unincorporated areas that are deemed to have biodiverse resources which meet the General Plan criteria will be captured by the SEA Ordinance regardless of whether they are located within a mapped SEA. In other words, with this definition, enforcement of the SEA ordinance will occur anywhere and everywhere that the County Biologist deems these resources to exist. If this seems improbable or unlikely, then we suggest that you consult with other agencies such as the South Coast Air Quality Management District and ask what happens when a regulatory term is defined so broadly that it captures things that were never contemplated in the beginning.

The SEA Ordinance will not directly affect most of the people present in the hearing room tomorrow. But we in Acton will have to live with the SEA Ordinance forever, so we consider it essential that you as decision makers have complete answers to all of the questions and concerns and deficiencies that the Acton Town Council has raised before taking any action on the Draft SEA ordinance.

Respectfully submitted;

Jeremiah Owen, President
The Acton Town Council
Figure 1. Screen Shot Showing that the January 15, 2019 ATC Letter has not Been Added to the Record Since the County was Notified of its Omission on February 23, 2019
Honorable Commissioners;

On behalf of the Acton Town Council and the residents of Acton, I am respectfully requesting the removal of the SEA Ordinance from the upcoming planning agenda meeting on February 27, 2019. The Acton Town Council has held numerous publicized meetings in which we gathered feedback from the community in regard to the proposed SEA ordinance. At the explicit direction of the SEA planners we gathered input and feedback on numerous aspects of the proposed SEA ordinance and the planners assured the community that their feedback was to be considered and integrated into the ordinance draft.

After the collection of the feedback, we submitted our letter detailing our communities concerns on January 15, 2019 and received notification it was received by Ms. Chi on January 16, 2019. As of February 23, 2019, I have yet to ascertain where our public comments have been posted, or where the concerns we have raised are being addressed. This is especially worrisome as the Acton Town Council highlighted several issues unique to Acton, including concerns about exemptions for our water haulers. We are also awaiting feedback regarding the status of home based businesses, both of which are crucial to the vitality of our community. I believe you will agree that the stakeholders in our community should have their concerns recognized and addressed, especially in regards to how they will be affected with such a sweeping expansion of the SEA, one that will change the nature of property ownership in a significant portion of Acton.

I implore you the Commissioners as well as the Board of Supervisors to please consider the input from the people who live in Acton, people that have proven to be good stewards of the land in what I consider to be a crown jewel of Los Angeles County.

Jeremiah Owen
President
The Acton Town Council
February 25, 2019

Chairman Elvin W. Moon
Regional Planning Commission
LA County Department of Regional Planning 320 W. Temple St., Room 1354
Los Angeles, CA 90012

RE: Comments Related to the Significant Ecological Ordinance (SEA) Update; public hearing draft released 2/14/2019.

Dear Chairman Moon and Commissioners,

The Greater Antelope Valley Association of REALTORS® represents more than 1,700 members and affiliates. On behalf of our membership, we are submitting comments regarding the current public review draft of the Significant Ecological Area (SEA) Ordinance released in on February 14, 2019.

As contributors to the efforts of the Blue Ribbon Committee in the adoption of the Antelope Valley Area Plan (AVAP), we are very familiar with the plan and the additional restrictions placed on development of land in the Antelope Valley through the SEAs. For this reason, we are very pleased to see the exemptions within the boundaries of the Antelope Valley Area Plan as previously approved by the County Board of Supervisors have been maintained.

As the current draft is simultaneously being proposed with changes to the implementation guidelines within the SEA’s, we ask that you include in the SEA exemptions the assurance that facilities located within a SEA that have an existing CUP will not be subject to SEA CUP requirements when they renew their CUP, but will rather be limited to a ministerial process involving a site plan and biological survey. We further request an additional exemption which would include minor land divisions. These minor land divisions will not result in extensive property development because of the large lot sizes imposed on lands in the Antelope Valley Area Plan.

Based on descriptions provided in the SEA Implementation Guidelines, Category 5 lands are not deemed to be biologically sensitive; they do not support distinct natural communities and have non-native species or may already be cleared, yet the SEA Implementation Guidelines require a 50% set aside to mitigate disturbances to Category 5 land. We do not believe the Category 5 lands should be subject to the proposed set-aside requirements. We strongly oppose any set-aside for lands in this category. This taking will not advance the biological resource or protection goals set forth in previously adopted planning documents.

We further believe that Category 4 lands which represent natural communities which commonly occur within the county, and are not considered biologically sensitive, should not be included in the SEA “set-aside.” Given that Category 4 lands are not biologically sensitive, we do not believe it is appropriate for the county to take 67% of such lands from property owners. This taking will not advance the biological resource or protection goals set forth in previously adopted planning documents but will negatively impact property owners.

We also have concerns regarding designations of Juniper Woodlands in the SEAs located within the Antelope Valley as Category 2. As Juniper Woodlands have not previously been deemed either “rare” or “significant on any scale, local or otherwise, where they typically occur, we do not believe the Category 2 designation is warranted, nor is the 80% set-aside required by this designation.
Additionally, we have a serious concern with the SEA Implementing Guidelines which provide authorization to the county biologist to consider a species to be present “even if the animal itself has not been directly observed on the project site” based on “special habitat features.” Many land areas in the Antelope Valley could be deemed capable of supporting various resources which could make the property subject to up to an 80% set-aside simply because they have the potential to support a habitat at some point in the future, not because they are actually supporting any vital resource. We strongly urge the Guidelines be revised to state any biological report will be based only on plant or animal species actually observed.

Additionally, we strongly encourage you to take under serious consideration the specific issues raised by the Acton Town Council in their comprehensive response to the SEA Update and Implementing Guidelines. The discussion of the hierarchy of open space set-aside mechanisms in the SEA Guidelines is comprehensive, and we strongly support their request to eliminate the compulsory open space preservation “mechanisms” and hierarchy that are established in the SEA Guideline, in their letter to Regional Planner Iris Chi on January 15, 2019.

We respectfully urge you to consider our comments and create an ordinance that balances the need for environmental safeguards while still protecting the private property rights of all property owners in the Antelope Valley. We strongly encourage the Regional Planning Commission to consider our requests for modifications to the proposed SEA update as discussed above.

Respectfully,

Yvonne Hayes, President
Greater Antelope Valley Association of REALTORS®
February 23. 2019

County of Los Angeles Department of Regional Planning
Environmental Planning and Sustainability
Attn: Iris Chi, AICP Planner
320 W. Temple Street, 13th Floor
Los Angeles, CA 90012

Sent via email

Re: Antelope Valley Significant Ecological Area (SEA) Ordinance

Dear Ms. Chi,

The Lakes Town Council (LTC) is grateful for the opportunity to comment on the SEA Ordinance. The LTC will incorporate certain aspects of the original SEA in our revised CSD's.

We remain opposed to the exemption of the Antelope Valley from the SEA Ordinance regarding Single Family Residential (SFR) development and agricultural use. In addition, we strongly disagree with the exemption of minor subdivisions within the boundaries of the Antelope Valley Areawide Plan and dropping the review process every two years.

Respectfully,

Teri Gordon
President

Teri Gordon
President

Lakes Town Council
PO Box 784
Lake Hughes, CA 93532

“Where Nature Is Your Neighbor”

Council Members:
Teri Gordon  
President
Robin Kennard  
Vice President
Louisa Stephen  
Secretary
Treasurer
Member
Contact  
(661) 262-3130
info.LakesTownCouncil@gmail.com
February 26, 2019

Los Angeles County Regional Planning Commission
c/o Los Angeles County Department of Regional Planning
320 W. Temple St.
Los Angeles, CA 90012

Re: SEA Ordinance

Dear Members of the Regional Planning Commission:

The Leona Valley Town Council appreciates the opportunity to comment on the proposed SEA Ordinance.

Regional Planning staff attended the Associated Rural Town Council meeting in January to answer questions about the Antelope Valley exemption for single family residences and previously disturbed farmland. They told us that communities in the Antelope Valley that do not want the exemption can add language to their Community Standards Districts to prohibit such exemptions. However, in their current report, released February 14, 2019, they state that they “will work ... to ensure consistency with the SEA Ordinance.” How can CSDs incorporate language prohibiting the exemptions and still be “consistent” with an SEA Ordinance that requires the exemptions? The Regional Planning personnel who attended the ARTC meeting on January 30, 2019, were unable to answer this question, further confusing those in attendance.

We wish to request more pressure and education be placed on your local building departments to comply with the approved 2015 Antelope Valley Area Plan. The vast majority of Antelope Valley residents treasure minimal invasiveness to the land, their views, dark skies, Joshua trees, and way of life, and depend on you and your departments to know what is allowed or restricted within your existing Plans and Ordinances. It is pointless to add more layers when your staff struggles to understand and comply with what has already been approved.

Finally, while reviewing the SEA map we discovered that a potion of the southern boundary line of the SEA bifurcates our community by following Leona Avenue. The excluded south portion of Leona Valley contains as much (if not more) natural area as the north portion does. The south portion also abuts the Angeles National Forest, so it is a transitional area for a lot of our wildlife. We would like to make the suggestion that the SEA line be moved to follow the forest boundary line so as to be more consistent with what is being proposed and restored to the original map that we agreed to. See our suggestion in pink in the diagram below.
Thank you for your consideration,

Peggy Fuller,
Land Use Chair, LVTC

Cc: Kathryn Barger
26 February 2019

Iris Chi, AICP
Regional Planner
Environmental Planning and Sustainability Section
County of Los Angeles
Department of Regional Planning
320 W. Temple St, 13th, Fl
Los Angeles, CA 90012

Via Email to sea@planning.lacounty.gov

RE: Significant Ecological Areas (SEA) Program Update

Dear Iris Chi:

The Resource Conservation District of the Santa Monica Mountains (RCDSMM) appreciates the opportunity to provide input related to the Significant Ecological Areas (SEA) Program Update. As a non-regulatory reviewing and natural resource agency in the Santa Monica Mountains (SMM), the RCDSMM is actively involved in monitoring resources and local restoration efforts in the area. We also have extensive experience with the SMM Local Coastal Program and North Area permitting process. We would like to provide the following comments and considerations relative to the SEA Update:

Firstly, the RCDSMM appreciates the extensive work the Planning Department has put into developing a practical document for planning in the County’s most ecologically sensitive areas. The RCDSMM supports the adoption of this Ordinance, which for the most part strikes a good balance between protecting significant areas of biodiversity and maintaining property rights. In particular, the adoption of a ministerial review for projects meeting SEA development standards should help streamline the permitting process and serve as a positive incentive for applicants. The RCDSMM also appreciates the inclusion of the Santa Monica Mountains as a SEA. We have a few suggestions, based on our experience in the SMM:

- Please study the benefits of programs that incentivize redevelopment, upgrading existing properties, and using existing footprints so that existing property upgrades are effectively encouraged through regulatory review. Such programs incentivize development of currently impacted land and relieve pressure on undeveloped areas.

- In the Coastal Zone, the recent interpretation of mitigation of native trees to allow for preserving sub-legal size trees should be beneficial, as it will allow for different tree age classes in the SMM to develop over time, and de-incentivize the cutting of these
trees before they reach legal age. The SEA should consider this and other incentives for landowners to harbor and restore trees and other sensitive species and habitats within private property.

Thank you for the opportunity to submit our comments at this stage of the SEA Update process. We look forward to participating as the work progresses. If you have any questions or would like to more directly engage the RCDSMM in additional study efforts, please feel free to contact our Senior Conservation Biologist, Rosi Dagit, or our Environmental Services Coordinator, Tanessa Hartwig, using the contact information provided on this letter.

Respectfully submitted,

Clark Stevens, Architect
Executive Officer
February 25, 2019

To: Los Angeles County Regional Planning Commission

Re: Draft Resolution Regional Planning Commission adoption of amendments to the General Plan on Significant Ecological Areas

To Whom It May Concern:

The following comments are submitted by the San Gabriel Valley Task Force of the Angeles Chapter of Sierra Club relative to the amendments on Significant Ecological Areas to be discussed at the Planning Commission Meeting on Feb. 27, 2019. The San Gabriel Valley Task Force of the Angeles Chapter of Sierra Club thanks you and your agency for the opportunity to comment on the comprehensive update of the Significant Ecological Area (SEA) Ordinance.

The San Gabriel Valley Task Force was organized by the Angeles Chapter of the Sierra Club in 1999 to work with San Gabriel Valley cities, Los Angeles County and political leaders to seek ways to create a more livable environment for residents in the San Gabriel Valley proper, the hills within the Valley, and the foothills of the San Gabriel Mountains and to protect the diversity of habitats within the region for the benefit of wildlife, plant communities, and recreational opportunities for local residents. We are particularly interested in the protection and development of wildlife corridors, the preservation of biodiversity of both plant communities and wildlife within our region—both of which have been sorely impacted by urban development.

We have reviewed the DRAFT RESOLUTION REGIONAL PLANNING COMMISSION COUNTY OF LOS ANGELES PROJECT NO. 2017-003725-(1-5) ADVANCE PLANNING NO. RPPL2017006228 GENERAL PLAN AMENDMENT NO. RPPL2018003985 ENVIRONMENTAL ASSESSMENT NO. RPPL2018004477 and offer the following comments:

- We strongly support the making of the existing Conceptual SEAs into full SEAs as in the Puente Chino Hills and the foothills of the San Gabriel Mountains thus providing those areas with the full protection of the new SEA Ordinance. In the Puente Hills region several Conceptual SEAs border the open space of the Puente Hills Native Habitat Authority. We support these actions to create a wildlife corridor that would extend from the Whittier Narrows to Chino Hills State Park and believe these areas are extremely important in linking areas already protected. We also strongly support the creation of the Altadena Foothills and Arroyos SEA. The protection of the foothills in this area forms an important buffer between the protected areas of the San Gabriel Mountains and the highly urbanized regions of the San Gabriel Valley.

- We agree with the new proposed SEA Ordinance in which prospective applicants are required to identify SEA resources and create a Biological Constraints Map of their proposal area at the beginning
of the design phase and be counseled by staff on how to minimize or avoid impacts to the SEA resources. This will streamline the permitting process while leading to better design of new projects in these sensitive areas.

Thank you again for this opportunity to take part in this important decision.

Respectfully submitted,

Joan Licari, D.Env.
Chair, San Gabriel Valley Task Force
Angeles Chapter of Sierra Club
Contact:
626-330-4229
jlicari2013@gmail.com
16017 Villa Flores
Hacienda Heights CA 91745
The Three Points-Liebre Mountain Town Council
P.O. Box 76
Lake Hughes, CA 93532
3pointsliebremountain@gmail.com
661.724.2043

SENT VIA EMAIL

25 February 2019

Los County Department of Regional Planning
Significant Ecological Areas Program
Ms. Pat Hachiya, Supervising Regional Planner
Ms. Iris Chi, Regional Planner
320 West Temple Street,
Los Angeles, CA 90012
ichi@planning.lacounty.gov
sea@planning.lacounty.gov
phachiya@planning.lacounty.gov

Dear Ms. Hachiya and Ms. Chi,

Subject: Significant Ecological Areas Ordinance, Project No. 2017-003725-(1-5); Advance Planning No. RPPL2017006228; General Plan Amendment No. RPPL2018003985; Environmental Assessment No. RPPL2018004477

The Three Points-Liebre Mountain Town Council appreciates the opportunity to comment on the final disposition of the Significant Ecological Areas (SEAs) Ordinance. Our council area is virtually complete in its inclusion in the San Andreas SEA 17, and welcomed the expansion of this SEA to enjoin the Angeles National Forest south of our community, while also concurrently lamenting the continued exemption of Single Family Residential (SFR), and agricultural (Ag) development from Antelope Valley (AV) SEAs, as well as other exemption stipulations. We anticipated the completion of the SEA Ordinance because we viewed it as a potential avenue of protection with regard to inappropriate development in our exceptionally biologically rich area, identified as a known important wildlife linkage. All our work aimed at specific projects and Regional Planning's guiding documents has been to preserve the special qualities and natural/biological resources of our community. In addition, we supported our unincorporated sister communities' conversion of Conceptual SEAs to full inclusion in the County's SEA map; they are guided by the General Plan (GP) that will fully implement the ordinance's guidance. We are thankful that our town council, as well as other councils, will be able to provide guidance to development in our council areas by implementing the SEA Ordinances through Community Standards District documents, currently underway with Regional Planning.

The SEA 17 possesses an incredible array of habitats, biological resources, and biodiversity “Hot Spots,” found nowhere else in the County, at the convergence of the Tehachapi, Transverse, and San Gabriel mountain ranges that is now threatened by the Centennial Project, Gorman Post Ranch Project, and the expansion of the Northwest Highway 138. We in no way discount the value of other Antelope Valley SEAs—Numbered 3, 10, and 20—containing other very diverse biological resources. In fact, we argue for the protection of all SEAs in the County, and desire to see them fall under the aegis of the ordinance without the mentioned exclusions. We are very disappointed the Alternative Option Ordinance was dropped from consideration, since we supported reversal of the exemption for SFRs and Ag developments applied to the Antelope Valley SEAs.
SEAs, Wildlife Movement and Connectivity, SFRs and Agricultural Development

One hundred ninety thousand acres of AV land experienced zone change to A-2, Heavy Agriculture, with the approval of the Antelope Valley Area Plan, including lands in AV SEAs. There are a variety of intensive uses allowed on agriculturally zoned land, and even Open Space, and the piecemeal effect of SFR and Ag development yields great and serious potential for dramatic loss of habitats, sensitive species, connectivity, and wildlife movement corridor viability that this ordinance, Implementation Guide, AVAP, and the General Plan (Policy C/NR 3.9) looks to alleviate to the greatest extent feasible. In fact, California Department of Fish and Wildlife (CDFW), writes in the GP 2035 Final EIR “Los Angeles County supports seven regional wildlife linkages: San Gabriel-Castaic Connection, San Gabriel-San Bernardino Connection, Santa Monica-Sierra Madre Connection, Sierra Madre-Castaic Connection, Tehachapi Connection, Antelope Valley Connection, and the Puente Hills-Chino Hills connection. There are 11 linkages along principle watercourses, 9 linkages along ranges of mountains and hills, and one known important linkage along the San Andreas Fault.” (Los Angeles County General Plan Update Final EIR, 2. Response to Comments, Pg. 2-112).

Moreover, the CDFW comments that “mitigation measures and the update to the SEA Ordinance may provide some protection measures to avoid or minimize impacts to wildlife corridors and nursery sites, however for those Projects where avoidance or minimization of impacts is infeasible [or not required per the exemption], the policies proposed in the Proposed Project [GP] do not provide for mitigation for loss of wildlife movement opportunities or nursery sites. If development impacts regional wildlife linkages and impedes wildlife movement, connectivity will be lost on a regional scale in these vital landscape corridors and linkages” (2-112). We point out the final GP 2035 Conservation and Natural Resources, Chapter 9 neither mentions the AVAP or the SEA exemptions, nor is it identified in the GP Final Environmental Review Appendix H when it was completed and approved after the AVAP and the BOS motion's changes and exemptions (AVAP FEIR, October 2014; GP FEIR, March 2015).

The SEA Ordinance will be applied unevenly across the County, as you know, by SEA Program Specific Changes (AVAP)--the restrictions placed by Board of Supervisors Motion (November 12, 2015) without adequate opportunity for public or agency comment, proven consistency with the General Plan, or adequate environmental impact evaluation. Those most threatening to sustainability sought by the AVAP and General Plans, and the SEA Ordinance are listed below:

**SEA Program Specific Changes:**

1. Add a provision that ensures that if a conflict exists between the Antelope Valley Area Plan (AVAP) and any new or existing Significant Ecological Area (SEA) ordinance, the provisions in the AVAP shall control.
2. Exempt from the SEA Ordinance single family residences and their accessory structures and animal keeping areas and facilities located within the boundaries of the AVAP.
3. Exempt from the SEA Ordinance all previously disturbed farmland located within the boundaries of the AVAP.
4. Exempt from the SEA Ordinance minor subdivisions located within the boundaries of the AVAP;
5. Delete the policy and process outlined in Chapter 8 (AVAP), Implementation, calling for a review of the SEA in the Antelope Valley every two years.
6. Adjust the Significant Ecological Area (SEA) designation within the East and Central Economic Opportunity Areas (EOA) to the boundaries which generally align with the existing adopted SEAs and do not include any additional SEA expansion in the EOAs. Also remove the SEA designation from the RL-1, CR and IL in the West EOA.
These changes added by the motion prevent the opening statements of the ordinance from applying requirements in the AV, that “will help insure the long-term survival of the SEAs and their connectivity to regional natural resources” (Significant Ecological Areas Ordinance Update, Public Hearing Draft, January 28, 2019, pg. 3). We believe the SEA Program states an effort that considers regional connectivity, but is hindered by exemptions that allow unfettered agricultural use (A-2 Heavy Ag), minor subdivisions, SFR development, wildlife impermeable fencing, fragmentation of habitat and corridors, requires no restoration, no mitigation—for replacement of SEA Protected Trees, or sensitive habitat supporting threatened or endangered species, unless a project requires a Conditional Use Permit. Contributing further to these egregious program changes is the deletion of the AVAP Implementation policy and process that eliminates the review of SEAs every two years. The intent to protect as much as possible the health and sustainability of the AV SEAs, is prohibited, and cannot be determined as development occurs over time! Conversely, AVAP Implementation Policy, Chapter 8, Section II, A. Significant Ecological Areas states “The Significant Ecological Areas (SEAs) in this Area Plan are based on conservation biology principles that seek to conserve habitats of unique and threatened species, and retain linkages and wildlife movement across important ecological areas,” and “[i]n order to ensure the Antelope Valley SEA Program continues to remain relevant and appropriately located, the County will review the performance of the SEA Program periodically.” Additionally, “[t]he SEA Program within this Area Plan is intended to complement and where appropriate, further refine aspects of the General Plan SEA Program, and will be consistent with it” (IMP-2). The implementation of SEA Program Specific Changes reveal inconsistency with the GP, and conflict with stated policies discussed above.

Furthermore, in their SEA response letter dated November 24, 2014, the California Department of Fish and Wildlife recommended “the County avoid exempting from CEQA as a ministerial action (CEQA guideline 15268); single family homes, agriculture use, and other non-emergency activities within the SEA until it is determined the activities would not have a significant impact on biological resources or potentially result in impacts to waters of the state. Single family homes, for example, can be exempt from CEQA using a Class 3 Exemption (CEQA Guidelines § 150303) unless significant impacts may occur (CEQA Guidelines § 15300.1). Permitting the above activities as Ministerial within the Ordinance would result in the activities being Statutorily Exempt under CEQA for the County; however, in situations where the project would impact CESA-listed species or impact waters of the state subject to a Lake or Streambed Alteration Agreement (LSAA), the Department, as the Responsible Agency issuing a Discretionary permit (CEQA Guidelines § 15268(d), must assume CEQA Lead Agency authority for the project and issue a separate CEQA document” (2). CDFW has repeatedly questioned the exemption of agricultural clearing, especially in SEAs supporting special status species: “Agricultural clearing may not be exempt from state and/or federal incidental take authorization under CESA and FESA, from Section 1600 et seq. of the California Fish and Game Code relating to the alteration of Department jurisdictional drainages or lakes, nor from state and federal laws protecting native birds species. Unlike activities that are subject to CEQA, County-exempted agricultural clearing activities are not brought to the attention of natural resources agencies or the public because there are no requirements that these entities be publicly noticed of such activity. The lack of CEQA oversight at the County level for agricultural clearing also frequently results in no biological assessment being required to determine impacts to special status species and jurisdictional waters of the state in order to plan for mitigation measures and regulatory compliance. This blanket exemption of oversight makes it very difficult for the Department to protect public trust resources, contributes to violations of law, and furthers unmitigated loss of biological diversity” (CDFW Letter, September 20, 2011, AVAP NOP, DPEIR).

The Draft Resolution, Item 7, states, “The SEA Ordinance Update component of the project qualifies for a Categorical Exemption (Class 8 Exemption, Actions by Regulatory Agencies for Protection of the Environment) under the California Environmental Quality Act (CEQA) and the County environmental guidelines. The SEA Ordinance Update will reduce the environmental impacts to SEAs through the streamlined review process and development standards by guiding ground and vegetation disturbance to avoid or minimize impacts to the SEAs. The use of the development standards limits the development footprint, maintains wildlife movement corridors,
and requires setbacks from SEA Resources. The requirement of natural open space preservation enables permanent protection of the SEAs.” Does this ordinance qualify for Class 8 exemption? The largest SEA areas in the county, within the AVAP, have “Specific Changes” imposed upon them showing inconsistency with the GP, and will not “enable permanent protection of the SEAs.” Neither the GP, nor its Final PEIR make specific mention of the AVAP and exemptions imposed that would conflict with its policy; and as indicated above, the AVAP claims consistency with the GP.

SEAs and CSDs

While we truly appreciate the opportunity to include the SEA Ordinance implementation in our town council area, we are cognizant that town council areas comprise a relatively small area within the AVAP boundaries and will provide little connectivity. Hence, we remain concerned regarding the overall effects of the SEA Program Specific Changes on local resources. In fact, the San Andreas SEA 17 spans at least two other council areas, and without agreement, continuity for these particular wildlife linkages and their movement capabilities are certain to become fragmented and lose “resiliency and long-term sustainability” and are wholly “dependent upon the careful land use decisions by the County to maintain core habitats and linkages” (GP Chapter 9, Conservation and Natural Resources Element 135).

San Andreas SEA, an “irreplaceable biological resource”:

The SEA includes several important linkages for wildlife movement. The foothills in the western-most part of the SEA are an important linkage between the San Gabriel Mountains, the Tehachapi Mountains, and the Coastal Ranges. The linkage to the Tehachapi Mountains is important because the Tehachapis connect to the southern-most extent of the Sierra Nevada Mountains. The Tehachapi Mountains represent the only mountain linkage from the Transverse Ranges and the Coast Ranges to the SierraNevada Range. This feature may be an important topographic reference for migrating birds, and provides high elevation foraging grounds along the migratory route. The several ranges that meet at the western end of the SEA provide a valuable link for gene flow between divergent subspecies, varieties, and populations of many species. The SEA includes numerous drainages that extend onto the Antelope Valley floor towards resources such as the Fairmont and Antelope buttes. These washes provide an important linkage for animals traveling between the Valley floor, the buttes and the western part of the San Gabriel Mountains. In addition, Anaverde Creek, Amargosa Creek, and Pine Canyon facilitate east-west wildlife movement through the mountains, Portal Ridge, and Ritter Ridge. Tributary drainages from the Santa Clara River, such as Elizabeth Lake Canyon and San Francisquito Canyon, connect coastal drainages and the coastal ecoregion to the San Andreas Fault and interior watersheds. The frequency of valuable riparian communities along this travel route, which is located within an otherwise arid climate, further contributes to the SEA’s importance for wildlife and habitat linkages in the region. (Appendix A: Conservation and Open Space Element Resources Antelope Valley Area Plan APP-A-3 June 2015)

What is apparent and necessary is adherence, across the board, to the GP's Policy C/NR 3.9: Consider the following in the design of a project that is located within an SEA, to the greatest extent feasible—Preservation of biologically valuable habitats, species, wildlife corridors and linkages (138); and also the AVAP's Conservation/Open Space Policy (2015), Chapter 4.4:

Require new development in Significant Ecological Areas, to consider the following in design of the project, to the greatest extent feasible:
- Preservation of biologically valuable habitats, species, wildlife corridors and linkages;
- Protection of sensitive resources on the site within open space;
- Protection of water sources from hydromodification in order to maintain the ecological function of riparian habitats.
This adherence is made “feasible” by the existence of the SEA Ordinance and its requirements, mitigations, monitoring, and enforcement, but does not fully apply to the Antelope Valley SEAs.

SEA Ordinance/Implementation Guide

As you have ascertained, our displeasure arises from the exemptions to certain development within the confines of the Antelope Valley Area Plan. With that said, we complement Regional Planning staff on their development of the ordinance and the implementation guide we consider to be outstanding. Our council looks forward to the support it will provide to our CSD. We understand our community’s presence within the San Andreas SEA 17 imposes a footprint; but our work as a town council, as with the SEA Ordinance, seeks to preserve and maintain the truly exceptional natural qualities that define the San Andreas SEA 17.

Finally, we reiterate our agreement with the SEA Implementation Guide as it identifies “Guiding Principles” that recognize importance of biodiversity—that it is passed on to future generations; provides for reduction of fragmentation, maximizes preservation, and preserves connectivity and functionality; and also seeks to “Ensure the continuation of natural ecosystem services that improves quality of life for all who live in Los Angeles County.” The exemption of Single Family Residences (SFRs), Economic Opportunity Areas (EOAs), and “disturbed” agricultural lands in the Antelope Valley from SEA review; failure of SEA biannual review, runs counter to this principle. Statements in the Implementation Guide regarding the natural qualities that make SEAs worthy of protections are also those that provide previously mentioned “ecosystem services,” like the benefits of “clean air, clean water, fertile soils . . . and protection from natural disasters like floods and droughts, and regulation of temperatures.” We believe Antelope Valley residents are worthy of those benefits, as are our counterparts in other parts of the county. Are our SEAs less valuable than those of the rest of the County? The Implementation Guide further recognizes “cultural services” provided by “healthy, functioning ecosystems, such as scenic views, opportunities for recreation, tourism, culture, art, and design.” If SFRs, EOAs, and agricultural lands in the AV are exempt from the SEA Ordinance requirements, residents here will be unfairly exempt from the “cultural services” provided by SEA resources enjoyed by all other County residents.

Sincerely,

President
February 26, 2019

Doug Smith, Commissioner, Supervisorial District 1
David W. Louie, Supervisorial District 2
Laura Shell, Commissioner, Supervisorial District 3
Elvin W. Moon, Chair, Supervisorial District 4
Pat Modugno, Vice Chair, Supervisorial District 5
Department of Regional Planning
320 West Temple Street
Los Angeles, CA 90012

Re: Los Angeles County Significant Ecological Areas Ordinance

Dear Chair Moon,

The Los Angeles/Ventura Chapter of the Building Industry Association of Southern California, Inc. (BIA), is a non-profit trade association of nearly 1,200 companies employing over 100,000 people all affiliated with building and development. On behalf of our membership, we would like to submit an updated comment and opposition letter based on the most recent draft of the County’s Significant Ecological Areas (SEA) Ordinance. Unfortunately, the latest draft still falls short in addressing BIA’s previously expressed concerns. We hope that our former and current comments are evaluated and considered for implementation.

Over the last several years, BIA-LAV has worked with the County and submitted various comment letters to help produce drafts 7, 8, 9 of the SEA ordinances. Draft 10 and 11 of the SEA documents was reviewed by our membership, and in the past, we had the opportunity to meet with County staff to communicate several technical changes. We had hoped to see most of the additions adopted in the new, January 2019 draft, but very few of the changes were implemented. Particularly, two previously expressed comments still remain at the forefront of our concerns; Native Tree Permits, and Enforcement Mechanisms. These concerns are described below, and the rest of our remaining concerns are attached in a separate document;
1. Concern - Native Trees Permits: Native trees will be further assessed for negative impacts, through the SEA Protected Trees development standard and Protected Tree Permit. The Protected Tree Permit is a new permit option, processed as a Minor CUP, to allow for development that can meet all development standards except for the SEA Protected Trees development standard.

Recommendation - BIA previously requested that SEA Draft 10, Section 22.102.050, be removed from additional permitted uses and asked that they only be subject to ministerial review. This included but was not limited to native and non-native vegetation removal, crops, native habitat restoration, etc. The new Protected Tree Permit is in direct conflict with this request and duplicates compliance conditions, as such mitigation efforts are already fulfilled through current permit processes and under the SEA Development Standards.

2. Concern – Enforcement Mechanisms: Notice of SEA violations and violation enforcements were created to regulate unpermitted removal or disturbance of SEA Resources. Any activity defined as development in the SEAs prior to an approved permit is prohibited. A Ministerial SEA Review or SEA CUP will need to be obtained to assess the impacts of the unpermitted development and require the necessary mitigations.

Recommendation - As previously conveyed in our past letter, development permitted prior to the expansion of an SEA mapped area would not have been previously reviewed for impacts to SEA resources. BIA recommends the language that was adopted by former versions of the ordinance be considered in lieu of the above suggested review and permit process: “Any development authorized by a valid land use approval, or permit authorized by this Title 22, that was not subject to Section 22.56.215 as it existed prior to the effective date of the ordinance establishing the former section. In such cases, the development shall be governed by the land use approval or permit during the life of that grant.” This language would be more appropriate when referring to a legally established development.

In summary, BIA believes that these considerations will strengthen the SEA ordinance by providing balance between past drafts and previous industry suggestions. Builders need clarity and certainty when new regulations are updated or introduced, especially when existing investments and current projects are impacted. These small changes will provide BIA members and housing producers that certainty and allow fair housing production to battle the housing crisis that has afflicted the region. We ask that the Final Significant Ecological Areas ordinance be written with our requested adjustments, so we can reasonably achieve the County’s goal of ecosystem conservation. We look forward to continuing to work with the County as this draft ordinance is finalized.
Thank you for your consideration of these suggestions and comments. Should you have any questions please contact, BIA-LAV Director of Government Affairs, Diana Coronado, at (213) 797-5965 or at dcoronado@bialav.org.

Sincerely,

Tim Piasky
Chief Executive Officer
BIA-Los Angeles/Ventura

Sent via e-mail
In 2018, our members submitted several technical changes and additions to the SEA Ordinance, detailed below. The highlighted key explains what recommendations the County did or did not adopt:

**Yellow** = Recommendation Not Adopted  
**Green** = Recommendation Adopted

### A. Requested changes from September 2018 Letter

**1. Definition of “Biological Constraints Analysis” (Page 3 – §22.102.20 (A)):**
The County has provided that, a “Biological Constraints Analysis (BCA)” means a report, prepared by a qualified biologist as listed in the SEATAC Certified Biologist List maintained by the Department…” This draft definition requires that developments in an SEA area would have to work with a biologist on the SEATAC Certified Biologist List. Applicants should not be limited to the SEATAC list. Many of the biologists our members work with are well qualified and are familiar with the specific development that, often times, they have been working on over several years. If this suggestion were to be adopted we would request that references to the “SEATAC Certified Biologist List” be taken out from the entirety of the ordinance.

**2. Definition of “Development” (Page 5 & 33 – §22.102.20 (J) & (J)7.):**
(J). Currently, the definition of development is stated as, “Development” means any of the following activities within an SEA:” For clarity, we would like the inclusion of language that points out that the “following activities” under the SEA “Development” definition excludes exempted developments under Section 22.102.040 of the ordinance. This would eliminate any confusion related to what is exempted and not subject to this section or definition. Accordingly, BIA requests that §22.102.20 (J) be revised to read (requested change underlined):

J. “Development” means any of the following activities within an SEA, **unless otherwise exempt under Section 22.102.040**

(J)7. Also, in this provision, the County describes “Land Divisions” as a development activity. Our membership has requested that this be excluded from the definition of development.

**3. Exemptions (Page 11 – Section §22.102.040):**
In this section the ordinance states that, “The following developments are exempt from the regulations of this Chapter.” Here, BIA suggests adding language that reinforces the fact that an SEA permit is not required for the listed exemptions. BIA requests that §22.102.040 be revised to read (requested change underlined):
“The following developments are exempt from the regulations of this Chapter, and shall not require an SEA permit. Development that does not qualify for any of the exemptions listed below is subject to the regulations of this Chapter.”

4. Exemptions (Page 12 & 13 – §22.102.040 (B)1., (D), (H)) And the addition of §22.102.040 (P) and (Q)(1. - 8.):

(B)1. Under the ordinance Section 22.102.040 (B)1., the specific total building site and areas that would be exempted for additions and modifications are listed as not increasing “20,000 square feet, or encroach into more than 10% dripline for up to four SEA Native Trees.” Our membership feels that this type of specificity may not be appropriate in all cases and is too prescriptive. That should be noted throughout the ordinance, including; SEA Development Standards §22.102.080 (A) 2. (a.), 5., (B), (C) 6. & (D) 3., and Open Spaces §22.102.90 (A) 3.

(D) & (E). Currently, the ordinance exempts, “Maintenance, minor additions, or changes to existing legally established development previously reviewed for impacts to SEA Resources…” and “Development requiring renewal of previously approved use permits…” However, development permitted prior to the expansion of an SEA mapped area would not have been previously review for impacts to SEA resources. Instead, former versions of the ordinance stated that, “Any development authorized by a valid land use approval, or permit authorized by this Title 22, that was not subject to Section 22.56.215 as it existed prior to the effective date of the ordinance establishing the former section. In such cases, the development shall be governed by the land use approval or permit during the life of that grant.” This language would be more appropriate in defining an exemption for a previously existing, legally established development.

(H). This portion of the exemptions refers to the, “rebuilding and replacement of legally built structures which have been damaged or partially destroyed and will not increase the previously existing development footprint.” BIA suggests that County staff should currently have the ability to approve these types of changes to a structure if regulations requiring replacement require it or if it can be demonstrated that it wouldn’t affect sensitive vegetation.

(P). BIA suggests adding (P) to Section 22.102.040 to exempt “Lot line adjustments.”

(Q). BIA suggests adding (Q) to Section 22.102.040 to exempt “Ground Disturbance Activities” and the following activities as exemptions:

1. Implementation of mitigation (installation, maintenance, and monitoring), including habitat restoration, expansion, enhancement, and removal of non-native or invasive species;
2. Testing and survey activities conducted pursuant to environmental analysis prepared pursuant to the California Environmental Quality Act;
3. Activities on lands within the historic limits of existing agricultural operations and production, including lands that are fallow as part of long-term crop management. Agricultural operations may include, but are not limited to,
irrigated and non-irrigated farmland, nurseries, fruit stands, and composting facilities. Agricultural operations and production include access to, installation, repair, and maintenance of agricultural related infrastructure;

4. Activities associated with existing managed grazing lands for traditional livestock (including resource management) and the construction and maintenance of corrals, barns, sheds, fencing, water systems, and access roads as an accessory use, as allowed by this Title 22 and other applicable County regulations, including, but not limited to, regulations related to time of year, County wildlife preserves, and hazardous dust conditions;

5. Activities associated with existing oil and gas operations, including maintenance of wells, pipelines, tanks, fencing, sheds, access roads, and equipment and material storage;

6. Activities associated with required alterations in previously developed areas within a SEA (e.g., upsizing an existing utility);

7. Maintenance of existing facilities located within a SEA (e.g., grading and vegetation removal necessary to provide continued access); and

8. Construction of County master planned highways and master planned trails.

5. SEA Counseling (Page 17 & 14 – §22.102.050(B), And the addition of Section 22.102.050 (C)):

(B). As written, the ordinance requires that during the SEA Stop process that the Regional Planning Director recommend “two subsections…” appearing to mean that the two recommendations listed under a. and b. have to both be adopted. However, a. and b. appear to be written as adopting one or another – not necessitating both for a ministerial review, and an SEA Conditional Use Permit. To provide clarity and eliminate confusion, we recommend that the §22.102.050(B) be revised to read (requested change underlined):

"Recommendation. The Director shall recommend at the SEA Stop one of the following two subsections:"

(C). BIA also requests that Section 22.102.050 (C) be added to the ordinance to expand applicability requirements, including additional permitted uses subject only to ministerial review. We recommend the following:

“C. Ministerial SEA Review. The following activities shall be presumed to comply with Section 22.102.080 (SEA Development Standards) and only a ministerial SEA review pursuant to Section 22.102.060 shall be required:

1. Activities to improve the quality of biological or water resources in an SEA, such as, but not limited to:
   a. Non-native vegetation removal programs;
   b. Native Habitat restoration programs; and
   c. Construction of wildlife crossing structures

2. New crops as follows:
   a. Personal crops that exceed one acre in size; and,
   b. Commercial crops of any size.
3. Vegetation removal as follows:
   a. Vegetation removal in excess of what is required for the placement of permitted structures, accessory structures, access, fuel modification areas, and paths; and
   b. Vegetation removal not associated with the development of an approved permit.

6. SEA Review (Page 18 – §22.102.060 Title, And (A)):
Title: BIA requests clarification under the SEA Review title, providing the word “Ministerial,” makes it clear that this is meant to be a description of the ministerial process. We recommend that the title read, “SEA Review (Ministerial).”

(A). We recommend that under §22.102.060 (A) there should be clarifying language, that refers back to the eligibility of projects to undergo a ministerial review based on the Director’s recommendation. BIA requests that §22.102.060 be revised to read (requested change underlined):

   “A ministerial SEA Review pursuant to this section shall be required for any development recommended by the Director pursuant to section 22.102.50, subpart B, and any development included in section 22.102.50, subpart C, to determine compliance with the following:”

7. SEA Conditional Use Permit (Page 24 – §22.102.080 Title):
Title: BIA requests clarification under the SEA Conditional Use Permit title, providing the word “Discretionary,” makes it clear that this is meant to be a description of the discretionary review process. We recommend that the title read, “SEA Conditional Use Permit (Discretionary).”

8. SEA Development Standards (Page 29 - 33 – §22.102.090 (2)a., (C), (D)1., And (D)2.(c)):
(2) a. BIA requests that the use of “minimum” results in great uncertainty to builders and developers and should be more specific. That should be noted throughout the ordinance, including; §22.102.080, (3) b.

(C). BIA suggests removing the fencing standards, under “Area-wide Development Standards,” based on the broad nature of the resources within the County SEAs, a one size standard does not fit all. For this reason, the fencing should be looked at on a case-by-case basis.

(D) 1. We are concerned that the section describing permissible crops is too limited to non-invasive species, most crops are invasive when water is available.

(D) 2. (c). This section and the three points under the subsection does not appear to be necessary, because of the language above this section under (D) 2. (b), requiring exploratory testing stabilization.
9. Open Spaces (Page 34 – §22.102.100 (A) 4.):
BIA suggests that this provision is removed because Opens Space could be set aside in the Final Map process.

10. Open Space Use (Page 35 & 24 – §22.102.90 (C), Add 7., And (D) 1. & (D)2.(d)):
Add (C) 7. We would like to add point 7. under exemptions to Open Space Use in subsection (C), to read:

“7. Trails and/or other recreational amenities”

(D) 1. & (D) 2. (d). BIA requests clarifications to expand the term “property owner” to include a “Property Owners Association.”

11. Findings (Page 37 – §22.102.110 (A), (B) & (F)):
(A). BIA believes that the language under subsection A. be amended to eliminate any potential misinterpretations under current language. We recommend the section to be revised to read:

“A. To the extent feasible, the proposed development minimizes potential impacts to identified biological resources present on the portions of the proposed development site that are located within the SEA from incompatible development through the application of environmentally sensitive site design practices and development standards.”

(B). Also, to eliminate any misinterpretations, and conflicting exemptions, BIA suggests the language under subsection B. be replaced with the following:

“B. Potential conflicts between conservation of the resources in SEAs (as identified in the County’s General Plan) and the proposed development have been equitably resolved.”

(F) To create consistency across this “Findings” section, based on the earlier replacement language suggested above, (F) should be amended to read:

“F. The proposed development does not have the potential to result in the loss of resiliency of the SEA, to the extent feasible.”

Especially of concern, under subsection (F) is point 4.: “Other factors as identified by SEATAC.” This language is incredibly broad, and could pose unforeseen restrictions and challenges on builders and developers.

11. Fees (Page 42 – §22.102.110 (A)5.(b)):
Under current language, the SEATAC review fee only covers up to three SEATAC meetings, and would require new fee for additional meetings. BIA believes that this language should be amended to read:
“b. The SEATAC Review Fee shall cover all SEATAC meetings.”

B. Requested changes from November 2018 Letter

1. **Concern – Native Trees Permits (Page 19 – 22.102.070 Protected Tree Permit):**
   Native trees will be further assessed for negative impacts, through the SEA Protected Trees development standard and Protected Tree Permit. The Protected Tree Permit is a new permit option, processed as a Minor CUP, to allow for development that can meet all development standards except for the SEA Protected Trees development standard.

   Recommendation - BIA previously requested that SEA Draft 10, Section 22.102.050, remove additional permitted uses and asked that they only be subject to ministerial review. This included but was not limited to native and non-native vegetation removal, crops, native habitat restoration, etc. The new Protected Tree Permit is in direct conflict with this request and duplicates compliance conditions, as such mitigation efforts are already fulfilled through current permit processes and under the SEA Development Standards.

2. **Concern – Enforcement Mechanisms (Page 36 – 22.102.110 Enforcement):**
   Notice of SEA violations and violation enforcements were created to regulate unpermitted removal or disturbance of SEA Resources. Any activity defined as development in the SEAs prior to an approved permit is prohibited. A Ministerial SEA Review or SEA CUP will need to be obtained to assess the impacts of the unpermitted development and require the necessary mitigations.

   Recommendation - As previously conveyed in our past letter, development permitted prior to the expansion of an SEA mapped area would not have been previously reviewed for impacts to SEA resources. BIA recommends the language that was adopted by former versions of the ordinance be considered in lieu of the above suggested review and permit process: “Any development authorized by a valid land use approval, or permit authorized by this Title 22, that was not subject to Section 22.56.215 as it existed prior to the effective date of the ordinance establishing the former section. In such cases, the development shall be governed by the land use approval or permit during the life of that grant.” This language would be more appropriate when referring to a legally established development.

3. **Concern – Antelope Valley Exemption (Page 14 – 22.102.040 Exemptions):**
   All Antelope Valley (AV) areas (except for the Eastern portion) had always been exempted in previous SEA ordinance drafts. The latest ordinance mandates that the AV areas will also be included as part of the county-wide SEA regulations for single-family residences and agricultural uses. This is meant to protect wildlife corridors and fragment natural communities that provide habitat for protected species and species.

   Recommendation - In 2014, the Board of Supervisors passed a resolution to exempt the Antelope Valley Area Plan from encroachment of the SEA ordinance.
This motion ensured that the provisions in the Antelope Valley Area Plan supersede any new or existing SEA ordinance. This exemption was reached through the input of Town Councils, Antelope Valley Area Plan Blue Ribbon Committee, and the Department of Regional Planning to achieve an appropriate balance between economic growth and development, the preservation of important environmental resources, and the protection of the unique rural character of the Antelope Valley. The resolution was promulgated by the 200,000-acre expansion of the SEA in 2014. The recommendation to overturn a previous Board resolution is troublesome and changes the trajectory of developments that were created and dependent on this exemption.