

WILDLIFE CORRIDOR CONSERVATION AUTHORITY

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REVISED MEMORANDUM

Date: May 8, 2017

To: The Governing Board Members



From: Joseph T. Edmiston, FAICP, Hon. ASLA, Executive Officer

Subject: **Agenda Item VIII: Consideration of resolution authorizing a comment letter to Los Angeles County on Draft Significant Ecological Areas Ordinance.**

Staff Recommendation: That the Governing Board authorize the Chairperson to send a comment letter to Los Angeles County on Draft Significant Ecological Areas Ordinance.

Background: When the original staff report was prepared, Draft No. 7 of the Significant Ecological Areas Ordinance (SEA Ordinance) was available online for review and comment. According to the County's informational sheet, "Understanding Draft 7," the deadline for Draft 7 comments was May 3. Hearing documents and Draft 8 were scheduled to be available May 4. They were posted online at the end of the day May 4.

Draft 8 and the County staff report can be found online at:
<http://planning.lacounty.gov/sea/meetings>

The Regional Planning Commission public hearing was scheduled for May 17. Wildlife Corridor Conservation Authority (WCCA) staff wrote a letter requesting that the public hearing be continued. County staff is asking the Regional Planning Commission for a continuance to July 12 to allow for consideration and discussion of comments received on Draft 7 and which may be received for Draft 8. County staff indicated that they hope Draft 8 addresses most concerns received.

Below are some comments that WCCA staff identified in Draft 8. This is not a complete analysis. If the WCCA Board adopts the attached resolution, then WCCA staff will prepare a comment letter for the Chairperson's signature to send to the County. WCCA has submitted many comment letters over the years on the SEA Ordinance, SEA boundaries, and General Plan. The staff letter would track many of those previous comments and would include the following comments.

- (1) **Clarify whether the Aera project will be subject to the new SEA Ordinance.** Part of the Aera project site is located within the Rowland

Heights Community General Plan and part is not. This project site is critical to the ecological sustainability of the Puente-Chino Hills Wildlife Corridor. The project, given its large scope (based on past proposals) and key location, has the potential for severe adverse impacts to the wildlife corridor. If the project is considered “grandfathered” and is not subject to the new SEA Ordinance, this would be a complete disservice to the general public and an affront to basic scientific principles. Clear text must be included in the SEA Ordinance to ensure that the Aera project is subject to the new SEA Ordinance.

- (2) **Need to include standard open space management and recreation uses in exemptions** (Section 22.52.2920 Applicability). It appears that if a park agency desires to conduct habitat restoration in an SEA, a minor conditional use permit would be required (Section 22.52.2940 When SEA Review is Required, B. 3). Open space park agencies primarily target their land acquisitions within open space areas precisely because those areas support sensitive plant communities and other sensitive environmental resources. We request that the County consider exemptions for passive recreational and open space park uses including, but not limited to, native habitat restoration, construction or demolition of trails, overnight camping, and other temporary park events hosted by park agencies. WCCA concurs with previous comments made by Puente Hills Habitat Preservation Authority (Habitat Authority) on this topic--for example, see April 14, 2014 letter on Draft SEA Ordinance dated March 25, 2014. As stated in that letter, the requirement for open space management activities (such as non-native vegetation removal or demolition of trails) to undergo a Site Review or CUP process would needlessly cost the County and land management agencies additional unanticipated funds which could be used for actual improvement of biological resources and would unnecessarily delay safety, maintenance, and educational management on properties enjoyed on a daily basis by the public.
- (3) **Need for clarification of Development Standards for habitat restoration conducted by park and open space management agencies.** The Development Standards for Habitat Restoration (Section 22.52.2930.E.) must be clarified to specify that these development standards relate to mitigation required by the County, and not to habitat restoration activities implemented by park agencies on public parkland or protected open space. This section requires that a restoration or enhancement plan with specific parameters be submitted to the County and that the restoration is monitored for no less than five years. It is completely unnecessary for a park agency conducting habitat restoration to be subject to additional County-imposed requirements. For example, Habitat Authority conducts ongoing restoration according to an existing Resource Management Plan. Park agencies regularly conduct habitat restoration on public parkland pursuant to grants or other permits from other agencies, which have their own requirements.

- (4) **Need to solidify mechanisms for permanent open space protection.** We appreciate the County's proposal in the SEA Ordinance to permanently protect open space set aside as mitigation for impacts to SEAs. The SEA Ordinance proposes different mitigation ratios (acres protected to acres impacted) based on the habitat value to be impacted (high, medium, low). It appears there would be a two step process for open space protection (Section 22.52.2970.C). One step is an open space recordation on tentative (or other) map, or recordation of permanent deed restriction or conservation easement. Another step is dedication to government entity; dedication to a non-profit land conservation organization; or covenant and agreement, by the property owner and/or a non-profit organization, agreeing to hold and manage the required open space under a mandate to protect it in perpetuity.

This approach has some weaknesses however. For example, the actual prohibited uses within the open space to be protected in perpetuity have not been defined, leaving the door open for interpretation of allowed uses. Also, our staff is aware of cases where open space has been transferred to a city, but the land in fact was not protected. We are also concerned that identifying a lot on a final or other parcel map as open space, and dedicating it to a city or county may not provide enough assurances for permanent protection. Furthermore, the last option of a covenant and agreement by the property owner does not provide enough of an enforcement mechanism, e.g., from an outside agency. We suggest some edits to help assure the open space is protected in perpetuity (strikeout means delete, underline means add):

Section 22.52.2970...C. 4.Open Space Ownership and Management.
Required open space areas shall be managed through one of the following:

- a. Through the dedication of the open space area to a government entity, such as county, city, state, federal, or joint powers authority (for this option, a permanent deed restriction or conservation easement must also be recorded);
- b. Through the dedication to a non-profit land conservation organization...
- c. Through a covenant and agreement, by the property owner ~~and/or~~ and a non-profit organization or government entity, agreeing to hold and manage the required open space under a mandate to protect it in perpetuity. Such covenant and agreement shall be recorded in the office of the County Registrar-Recorder/county Clerk to the satisfaction of the Director. The applicant shall provide an engineer-stamped metes and bounds legal description and plot map of the Natural Open Space, which shall be recorded with the covenant and agreement. The covenant and agreement language must explicitly prohibit any fencing that impedes wildlife movement, lighting,

animal keeping, storage of materials, structures, grading, solar panels, planting of non-native vegetation, and granting of easements to adjoining properties.

- (5) **Need to specify timing for open space protection.** The SEA Ordinance should identify the specific, pre-permit issuance timing of the open space dedication or recordation of covenant and agreement, such as prior to the issuance of a grading or other permit, map recordation, vegetation removal, or issuance of a certificate occupancy.
- (6) **Need for funding for certain open space dedications.** The SEA Ordinance does not provide the funding necessary for an agency to take on additional management burdens. A funding mechanism should be required for management of dedications (including conservation easements) over a certain size, for example 40 acres, subject to waiver by the Director for special circumstances. Depending on the specific resources in the open space to be protected, the funding could be minimal, for example to fund periodic biologist or ranger site visits, or be more involved, such as for plant and wildlife annual monitoring and management.
- (7) **Need to expedite development of East San Gabriel Valley Area Plan.** According to communications between County and WCCA staffs, the County's expected schedule is to have the final recommendations on the conceptual SEAs towards the end of the plan preparation process in 2019. The public has waited, and our agency has commented on the proposed SEAs, for over 15 years. WCCA urges the County to expedite the development and finalization of the East San Gabriel Area Plan, including the SEA boundaries. Please maintain our agency on the contact list for that process.
- (8) **Need to monitor cumulative impacts to SEAs and open space protections.** The SEA Ordinance should include a mechanism to monitor the cumulative impacts to SEAs on an ongoing basis as projects are approved. This is important for County planners and biologists to be able to track impacts to sensitive plant communities and habitats, in order to be able to fully assess the significance of impacts of future projects. This can be a simple Excel spreadsheet with basic project information such as permit number, project address, brief description of project, acres of plant communities to be impacted (separated by plant community type), rare wildlife and plant species impacted, acres and location of mitigation, method of mitigation, etc. This should be accompanied by a simple Geographic Information Systems (GIS) layer showing locations of open space mitigation lands. This GIS layer would provide an easily accessible tool for the County to identify any alleged violations on open space mitigation lands. It will also help County planners and biologists help

identify the optimal locations to protect open space lands in the future, e.g., by protecting new open space adjacent to existing protected open space.

- (9) **Need to avoid fuel modification on protected open space lands.** The SEA Ordinance should include the following text in the Development Standards (Section 22.52.2930): Habitable structures should be set back at least 200 feet from dedicated natural open space (existing or proposed) within the site or on adjacent parcels, wherever possible.
- (10) **Support for Puente Hills Habitat Preservation Authority comments on Draft 7.** WCCA supports the comments of the Habitat Authority (May 4, 2017 letter) on Draft 7 of the SEA Ordinance.