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County of Los Angeles
Regional Planning Commission
320 West Temple Street
Los Angeles, California 90012

Significant Ecological Areas Ordinance Draft 8

Dear Chairperson Doug Smith and Commissioners:

The Santa Monica Mountains Conservancy (Conservancy) has followed the development of the Significant Ecological Areas (SEA) Ordinance for many years. The Conservancy has provided numerous comment letters on the SEA Ordinance, SEA boundaries, and General Plan. It is our understanding that the SEA Ordinance, once adopted, will not apply to the Santa Monica Mountains Coastal Zone.¹ We offer the following comments on the SEA Ordinance Draft 8.

- (1) **Need for exemption for habitat restoration and enhancement on park and open space lands.** We strongly recommend that the following underlined text be added to the Exemptions (Section 22.52.2920 Applicability. E. Exemptions):

Habitat restoration and enhancement on land owned and/or managed by a public park or conservation agency, where the goal is intended to protect and/or improve the habitat values, and where activities are in compliance with other laws and regulations (e.g., Migratory Bird Treaty Act).

Volunteer habitat restoration and enhancement days hosted by, or occurring on land owned or managed by, a public park or conservation agency.

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

¹Figure 9.3 of the Los Angeles County General Plan, "Significant Ecological Areas and Coastal Resource Areas Policy Map," includes the following note (in part): "...The management and review of biological resources in the Coastal Zones differs from the countywide Significant Ecological Area regulatory program...Biological resource management in the Santa Monica Mountains Coastal Zone is currently implemented through the Santa Monica Mountains Local Coastal Program."

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. The habitat restoration and enhancement conducted by the open space park agencies is conducted to improve the habitat. It is completely unnecessary for a park agency conducting habitat restoration to be subject to additional County-imposed requirements. For example, one park and open space agency, Puente Hills Habitat Preservation Authority conducts ongoing restoration according to an existing Resource Management Plan. Based on agency-approved mitigation plans and years of required monitoring, park agency habitat restoration conducted in drainage courses is regulated by California Department of Fish and Wildlife, United States Army Corps of Engineers, and Regional Water Quality Control Board.

- (2) **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 (see Comment #1, above). 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.
- (3) **Need to include standard open space management and recreation uses in exemptions** (Section 22.52.2920 Applicability). As previously stated, 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 adding other exemptions for passive recreational and open space park uses including, but not limited to, construction or demolition of trails. The Conservancy concurs with previous comments made by Puente Hills Habitat Preservation Authority on this topic--for example, see May 4, 2017 letter on Draft SEA Ordinance Draft 7. 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 Ministerial Site Plan Review or Conditional Use Permit 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 actions on properties enjoyed on a daily basis by the public.

- (4) **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.
- (5) **Need for confirmation that brush clearance and fuel modification on park and open space lands are exempt.** Based on communications with County staff, it appears that brush clearance and fuel modification on park and open space lands, owned by park and open space management agencies, are exempt. Park and open space agencies regularly discourage development that would result in brush clearance or fuel modification on existing or proposed open space, as this typically conflicts with the goal of protecting the natural resources on the park and open space lands. However, many existing parks and open space lands overlap with brush clearance required by fire agencies for development (e.g., residential). This can occur when open space land is acquired and protected adjacent to existing development. Park agencies regularly conduct, or give permission to conduct, brush clearance and fuel modification on park and open space lands for public safety.

We request confirmation that brush clearance and fuel modification would continue to be allowed on park and open space lands without any additional County review or permits. Section 22.52.2920 Applicability. E. Exemptions.4, states that “Any development authorized by a valid land use approval, or permit authorized by this Title 22...” is exempt. Therefore, it appears that any brush clearance or fuel modification occurring on park and open space lands is exempt, if already required and permitted, e.g., for a residential development. However, there are some sections in the draft SEA Ordinance that suggest that brush clearance or fuel modification on park and open space lands *would* require additional review under the SEA Ordinance. We request confirmation on this point.

- (6) **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 a 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 ensure 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.

- (7) **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.
- (8) **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.
- (9) **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.

We emphasize again that certain standard park and open space management and recreation uses on publicly-owned and/or managed land should be exempt from the SEA Ordinance. This is to ensure the continued efforts to implement the critical missions of park and open space agencies are not hobbled so that the agencies can continue protecting and enhancing open space, ensuring public safety, and providing public education and interpretation. We will provide additional specifics regarding what additional uses should be exempt.

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If you have any questions, Judi Tamasi can be reached by phone at (310) 589-3200, x121, or by email at judi.tamasi@mrca.ca.gov. Thank you for your consideration.

Sincerely,

IRMA MUÑOZ
Chairperson