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VIA HAND DELIVERY

Board of Supervisors
County of Ventura
Hall of Administration
800 S. Victoria Ave.
Ventura, CA 93009

Re: Proposed Wildlife Movement Ordinance Amending Article 18 of the Ventura County Non-Coastal Zoning Ordinance, PL 16-0127

Dear Honorable Supervisors:

We write on behalf of The Newhall Land and Farming Company (Newhall), a subsidiary of Five Point Holdings, LLC, regarding the Board of Supervisors' (Board) proposed consideration of an amendment to Article 18 of the County of Ventura's (County) Non-Coastal Zoning Ordinance to establish the Habitat Connectivity and Wildlife Corridors (HCWC) overlay zone map. Adoption of the HCWC overlay map represents the final step in adopting a new wildlife movement ordinance (the Ordinance, PL 16-0127). At its hearing on March 12, 2019, the Board adopted other components of the Ordinance and directed staff to revise the proposed HCWC overlay zone map to remove all property located within the Los Padres National Forest. The Board continued its consideration of the proposed amendment to Article 18 of the Zoning Ordinance until March 19, 2019 at 9:30 a.m., to allow staff sufficient time to make the significant changes to the overlay map requested by the Board.

The Board may not lawfully adopt the revised HCWC overlay zone map on March 19, because it has not complied with State law requiring review of the proposed modifications to the Ordinance by the County's Planning Commission. Government Code section 65857 states that the Board "may approve, modify or disapprove the recommendation of the planning commission; provided that any modification of the proposed ordinance or amendment by the legislative body not previously considered by the planning commission during its hearing, shall first be referred to the planning commission for report and recommendation" The revision of the HCWC overlay zone map to remove all property located within the Los Padres National Forest represents a significant modification to the Ordinance as recommended by the Planning Commission, which was not considered by the Planning Commission during its hearing on the

Ordinance on January 31, 2019, and must be referred to the Planning Commission for report and recommendation.¹

The Planning Commission Did Not Consider Removing the Los Padres National Forest from the HCWC Overlay Zone.

The draft Ordinance considered by the Planning Commission at its January 31 hearing included within the HCWC overlay zone hundreds of thousands of acres located within the Los Padres National Forest, comprising most of the Sierra Madre – Castaic regional wildlife corridor mapped in the Missing Linkages study on which the Ordinance is based. (See Exhibit 3 to January 31, 2019 Planning Commission Staff Report). During the hearing, the Commission considered requests by residents of Lockwood Valley to remove their property from the HCWC overlay zone. The Commission ultimately recommended that the Board adopt the Ordinance with a revised map of the HCWC overlay zone that removes private property in the Lockwood Valley neighborhood, and directed Planning staff to make those revisions to the map. (See Letter from Planning Division Director K. Prillhart to Ventura County Board of Supervisors, March 12, 2019, pp. 11-12). The Planning Commission did not consider, much less recommend, the far more drastic step of removing the entire National Forest from the application of the Ordinance.

The revised map prepared by Planning staff removed only a small portion of the Sierra Madre – Castaic corridor in the vicinity of Lockwood Valley, leaving the great majority of the HCWC overlay zone within the Los Padres National Forest intact. (See Board of Supervisors Agenda, March 12, 2019, Item 31, Exhibits 17, 20.) In revising the HCWC map, Planning staff specifically sought to retain as much of the National Forest as possible, outside of the private landholdings in Lockwood Valley, because these areas are “considered as important components of the regional wildlife linkages and thus should be retained” (Letter from Planning Division Director K. Prillhart to Ventura County Board of Supervisors, March 12, 2019, p. 12).

The Board’s Removal of the Los Padres National Forest from the HCWC Overlay Zone Requires Further Study by the Planning Commission.

At its March 12, 2019 hearing, the Board directed staff to prepare a revised HCWC overlay map excluding not just property within the Lockwood Valley neighborhood, but *all* property within the Los Padres National Forest (including private inholdings). The current overlay zone map, as revised in response to the Board’s direction, represents a massive modification to the Ordinance as recommended by the Planning Commission.² It removes, for the first time, hundreds of thousands of acres within the Los Padres National Forest, including

¹ Newhall does not waive any other legal claim or challenge to the County’s adoption of any part of the Ordinance, including the argument that portions of the Ordinance adopted on March 12, 2019 should have been first referred to the Planning Commission for report and recommendation pursuant to Gov. Code section 65857.

² See

<http://rma.maps.arcgis.com/apps/webappviewer/index.html?id=92c5352af22a44a3a99dd41aa1b8d567> (accessed March 18, 2019).

nearly all of the Sierra Madre – Castaic regional wildlife corridor (see Exhibit 2 to January 31, 2019 Planning Commission Staff Report). This modification clearly was not considered by the Planning Commission and must be referred to the Commission for report and recommendation pursuant to Government Code section 65857.

Chairman Bennet's explanation of the modification highlights the reasons why further input from the Planning Commission is needed. Chairman Bennett stated during the March 12 hearing that removing all areas within the Los Padres National Forest from the HCWC overlay zone is appropriate because these areas constitute habitat for wildlife but do not constitute part of a *corridor* through which wildlife moves to reach other habitat, and thus it is not necessary for the Ordinance to protect them. This statement is mistaken in two important respects. First, wildlife *does* move through the Sierra Madre – Castaic regional wildlife corridor within the Los Padres National Forest; that is precisely the reason the area was mapped as a regional wildlife corridor in the 2001 Missing Linkages study and the 2008 South Coast Missing Linkages study that the Ordinance and HCWC boundaries are explicitly based upon. (See January 31, 2019 Staff Report, pp. 4-5.) Second, the goals of the Ordinance include protecting wildlife habitat used by wildlife, not just preserving opportunities for movement between areas of such habitat. (*Id.*, p. 3.)

For both these reasons, removing the Los Padres National Forest from the HCWC overlay zone represents a major departure from the approach taken in developing the Ordinance, and one that requires further study by the Planning Commission. To the extent the Planning Commission or Board of Supervisors recommends removing Los Padres National Forest lands from the HCWC overlay, it should also evaluate whether other lands should be removed for similar reasons, including property owned by Newhall. Failure to follow the process required by law will undermine the goals of the Ordinance and render the County's actions subject to legal challenge.

Please contact me if you have any questions regarding this letter.

Sincerely,



James F. Rusk
for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SMRH:489792553.1

Cc (via email): Jeff Barnes, Esq., Office of County Counsel
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