



MINUTES

Ad Hoc Subcommittee on Proposed Wildlife District

Thursday, May 26, 2022 5:30 pm – 6:30 pm

<https://us02web.zoom.us/j/87428093682>

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1. Chair Evans called the meeting to order at 5:32 pm and called the roll with 6 present: Ellen Evans, Chair; Jamie Hall, Don Loze, Nickie Miner, Wendy Morris, Robert Schlesinger, and moments later, Shawn Bayliss, for a total of **7 present**.
2. Motion to approve the May 26, 2022 Agenda passed.
3. Motion to approve May 19, 2022 Minutes passed unanimously, as moved by Miner.
4. There was no public comment on non-agendized items within the committee's jurisdiction.
5. **Chair Report** Chair Evans welcomed everyone and began by reviewing the intent for the meeting, noting that she hopes that you know that when you give your comments, they will be heard. You can always communicate with us by emailing wildlife@babnc.org. She discussed the rules of engagement when discussing the ordinance. Public comment will have three minutes, following which we will deliberate on that, take a position or recognize need for clarification. When we have need for clarifications we will try to get answers to our questions between meetings. There was no public comment on this.
6. **Discussion and possible motion:** Review feedback forms for content and efficacy.
Public Comment:
Patricia Templeton thanked her for the change she made and asked for a further change regarding fencing, which change Chair Evans will make.
Chair Evans noted that some of forms were filled out close to the time of the meeting and didn't know if the committee had time to see them; she recommended that we have at least a 24-hour deadline to give the committee time to read them.
7. **Discussion and possible motion: Choose sample lots for applications. (attachment A)**
Chair Evans shared her screen to show sample lots, explained why they were chosen and welcomed comment on that.

The 1st sample lot had to do with front yard setbacks...; one major change would be if the depth of the lot is less than 50 feet. She noted that it is entirely covered by a water resource buffer, worth discussing.

The 2nd lot is on a substandard hillside street, where the front yard setback would not be required to be 5 feet and where there is a steep hill in the back.

Lot #3 was much larger lot on a substandard street.

Lot #4 on Linda Flora has interesting features with a tiny bit of ridgeline on the front and a tiny bit of water resource on the back.

Morris asked about the buffer... if 50 feet from the edge of the colored portion. Evans believes this is it but would write as something to clarify. She think the colors represent the buffer itself as that is how it is labeled. She noted that this amount of water resource would definitely cause this lot to have water resource restrictions.

Lot #5 she chose because it is big and would be less affected by restrictions than others.

Lot #6 is strongly on the ridgeline.

Public Comment on Sample Lots:

Pat & Jay: Pat have volunteered their house/lot at 1541 Bel Air Road as an RFA example; as she noted on the form a few minutes before this meeting that she would want to have something with greater than 60 degree slopes included in these lots. She explained per a surveyor, part of her lot is greater than 60-degree slope. She believes that she would have a postage-stamp-sized house after this ordinance if a wildfire burned the house down.

Chair Evans clarified that after a disaster, you rebuild; you don't rebuild under the current Code; it is not specifically in the Wildlife Ordinance but in the Municipal Code.

Motion: There was no objection by the committee to include Pat & Jay's lot to look at how the ordinance affects building on different lots. Evans was asked and noted that we could also decide on using other lots which would be a great example.

Member Morris asked about rebuilding after a disaster; (thought if you couldn't rebuild according to the current rules, you'd have to apply for a variance.) Evans noted that it is not on the agenda to discuss at this meeting and she will agendize this question for the next meeting.

Bill expressed feeling that every element of this is designed to be obtuse; he doesn't understand what we are looking at in the sample lots... that you have to be an expert to understand the repercussions, and that it is designed to confuse.

Patricia suggested that there are a couple streets on Benedict Canyon, e.g., Yoakum and Easton, she believes the south side of Easton is highly affected with wildlife buffers while the north side isn't and believes Yoakum is the opposite. She noted that there are a lot of smaller older homes, which she thinks is a good illustration of the randomness of what will happen with these ordinances.

Michael commented as to rebuilding with the old code, when these buildings are rebuilt, they have to be rebuilt to the same size maybe just a little more; not larger. Evans reiterated that we will talk about rebuilding at the next meeting.

Andrew asked as to GIS layers for ridgeline buffers and water resources. Evans noted that

we will have a specific meeting where mapping is agendized and will try to get clarification before that.

Evans will bring back sample lots for next time.

8. **Discussion and possible motion:** Presentation and discussion on Sections 1-5 of the draft ordinance. Committee will adopt a position and/or identify further information or stakeholder feedback necessary to adopt a position on these sections.

Chair Evans provided a Power Point presentation on Sections 1-5, including but not limited to definitions of the name of the ordinance. She explained that Sections 2, 3 and 5 were boilerplate and read aloud from Section 4. At that point she had requests for clarification or questions prior to moving on to public comment and deliberation.

Member Hall had questions beginning in Section 1, what is the meaning of “unmapped resource” and of “shall be identified,” what “identified” means and for what purpose.

Bill commented that it goes to the language involving the intent of the ordinance including public health... He related that when speaking to the watch commander of the LAPD didn't know about this ordinance and said he was justified in his concern that part of the wildlife ordinance would affect public health. He asked how does this help public health?

Patricia commented that the definition of “wildlife resource” is so open that almost anything can be a wildlife resource. She would like to know the standards for the project reviewer to identify things that fit into that definition that aren't mapped and what if you disagree on whether or not this it is a resource.

Patricia also asked would it be possible for someone to spell out what all of these things are: “Administrative Clearance,” and other things, and asked if we could see the form that has to be filled out. She noted that people have no idea if they have to get surveys even for small things; it is vague at this point and hard to know how big a burden it will be.

Member Hall explained that an “Administrative Clearance” is relatively new at the City, basically it is a staff-level review of an application to determine compliance; no public hearing and not appealable; the lowest level kind of review, but there is a definition in the Code and that Connie Pallini Tipton, Senior City Planner, could give a better explanation.

Hall had the same question noting that on Section 4, 4.b., talks about that form that has to be provided and the instructions; noting that the devil is often in the details. He'd love to see that form and, as an environmentalist, would like to make sure it is adequate; he would like to see what is required, e.g., hope that a biological report would be a requirement.

Hall's other question related to Administrative Clearance is when there is a project that needs a ZA, maybe because maybe it is a substandard road or all the different reasons, exceeding by right grading quantity allowed in the BHO, does the ZA have to review the Administrative Clearance with regard to the regulations in the Wildlife Ordinance or is it a separate thing?

Public Comment on Section 1-5 that we discussed:

Bill is begging people to write this in plain English, because ... we don't know what the maps or the verbiage means, and there is no way to intelligently opine and understand the implications of what is an existential threat to his family, his retirement and financial wellbeing. Have them put the intent in plain English; say that this intent rules and if any of these things go against the intent, it is the intent that carries the day.

Patricia: With respect to making a Supplemental Use District (SUD), what are other consequences of that and, assuming the SUD is created, and a wildlife ordinance is passed, how easy or difficult will it be to go in and change various regulations? What would be the process for doing that, and what are the other consequences of having a SUD?

Patricia reiterated that the definition of "wildlife resource" is so broad... almost anything could be deemed to be a wildlife resource with massive consequences for homeowners.

Member Hall responded that they are legislative in nature, a zoning change; so only the City Council, the City of LA, has the authority to add or eliminate or modify an SUD; only the City Council has the authority to change the law.

Paul noted that someone commented that at the end of the day that it is based on what the intent is. He thinks everybody needs to be careful with that when these things get passed because "the intent" and "the law" are very different as to how the Planning Department interprets it. (He gave an example of a 12-foot wall height before and after the ordinance.) He noted that if you think the intent is written right that's fine but for the final ordinance they read everything black and white. He has had nothing but bad luck with what the intent may be in many different issues. So, if you think the intent is good, you have to be sure it is written black and white for what it is because the Planning Department is not using any logical discretion as he has seen.

Michael asked if we knew a CD5 candidate's position is on the Wildlife Ordinance, to which Chair Evans noted we cannot discuss candidates.

[6:09 PM]: Evans closed public comment on sections 1-5.

Member Morris recommended coming up with a list of things that seem unclear.

Hall noted, Under Section 1, as to the definition of "wildlife resource," his major problem is that he cares deeply about native woodlands and they have excluded that as a wildlife resource. That's one thing we should ask to be included. That are mapped by the National Park Service in their 2006 Survey.

Hall gave some background noting in 2006, National Park Service mapped the Eastern SM Mountains and mapped native woodlands. SMMC has a map, and he can share a link. He noted that the native woodlands are not encompassed in the wildlife resource, but may be the most important wildlife resource. He noted that we have the definition and asked, when is it triggered? He noted that we have to go to page 20 to understand when the definition of "wildlife resource" is triggered because you are encroaching into a wildlife

resource, that's when site plan review is required. Evans asked, and Hall confirmed that the buffer requirements do not currently apply to woodlands, which he feels is a mistake.

Morris asked if the average homeowner would be aware that their property is in an area that was previously mapped as in an area in the woodlands, to which Hall noted that they would not unless they are reading certain articles. However, if they have oak or walnut trees, he could bet that it is a woodland. He noted that the National Park Service only included woodlands that were a minimum of 10,000 square feet. He will share the map.

Hall noted that in the SMMC letter, the thing they wanted the most was to have the native woodlands that have been mapped be designated as a wildlife resource; he supports that. Hall wants to add "native woodlands" by the National Park Service of 2006 as a wildlife resource.

Evans noted that she hears lots of questions on Section 4, and need to get answers before we say anything on Section 4.

Hall suggested the City do an FAQ on exactly what an "Administrative Clearance" is, and that it should come from the City and not from us. We should say that in our letter.

Evans would say that there is an option to say clarification is necessary before the ordinance is put into effect, and between meetings, go to Planning, ask for clarification bring the clarification back and then take a position on that section.

Hall doesn't want to delay our work because this is going to the Planning Commission very soon; whatever we do needs to be something that can be put into a letter to the City in the next couple of weeks. Evans noted that we will be doing this for about a month. He reiterated that the public needs to better understand the Administrative Clearance process.

Member Morris asked when we will hear from the experts..., Evans noted that they have declined to appear... She has been corresponding with some scientists and Travis volunteered to provide some clarifications on some of the *efficacy* questions we might have. Hall reiterated that we would put into the letter that the public needs to understand the Administrative Clearance process and what that entails. Longcore was present to take specific questions.

Hall further would ask the City what "unmapped resources" are intended to include: What are unmapped resources and what is a purpose is of identifying them?

Hall thinks he understands the intent is on that, that's sort of an acknowledgement on their part, that there are other important resource considerations but they chose to not to identify them all, and even that's true, what is the point of identifying them if the staff doesn't have the authority to force an applicant not to encroach upon or disturb that resource?

Hall reiterated the importance of the intersection between projects that require ZA approval and the wildlife ordinance. The way he reads is, you can get our Administrative Clearance separate from whatever you are doing at the ZA... He noted that all of the

hundreds cases we have reviewed at PLUM where we've offered our opinion..., got the applicant to make changes to the project... he is not sure the ZA will do what they did any more, they may say that is a separate process; once you take care of this issue or that, you will go get your administrative clearance from staff. He doesn't like this at all. He thinks you get a better work product with a public process and transparency.

Hall would suggest that our position should be that when there is a discretionary permit required for the project, the decision maker for that discretionary permit is the individual responsible for ascertaining compliance with the ordinance.

What that would mean is - say someone came and were getting a ZAD for substandard road, e.g., to ZA Jack Chang, he would, in the course of doing public hearings would also look at the project to see if it met all these criteria. Jamie noted that we don't want to be looking at these things through separate lenses because they are intimately related, especially when you are dealing with size or height of structure, or deviations into the setbacks... they are intimately related. He strongly recommends that if there is an additional discretionary issued, that decision maker is responsible for ascertaining of compliance with the Wildlife Ordinance.

Morris feels that puts a lot on the opinion of one person. Hall noted that it will be one person anyway. That administrative clearance will be a nameless/faceless person behind the counter... he thinks that compliance with the ordinance should rest with the decision maker if on the discretionary permit if there is one. Some of these projects may be by right projects that don't require a ZAD, and if so, that faceless nameless person behind the counter will issue an administrative clearance.

Member Loze asked what procedure Hall would suggest on appeal and review of the administrative decision, to which Hall noted that there is no procedure to appeal administrative clearance. Loze asked if we may suggest one here. Evans thinks it is worthwhile to ask what the intent is for an appeal process. Hall thinks there should be an appeal procedure and hears that is what Don is saying, that he supports an appeals process on administrative clearances. Evans noted that we have a responsibility to get some answers to the questions about the administrative clearance before taking a position.

Hall reiterated his issue about the fact that if there is a discretionary permit, that the compliance with the wildlife ordinance should be something that that decision maker looks at in the course of the discretionary process.

Miner commented regarding discretion by one person, perhaps there should be a wildlife commission before further building is constructed from scratch in the hillsides. She noted that 60-70 years ago, houses were built nestled in the hillside, that didn't obscure wildlife, and has gotten bigger and bigger to where there are hotel sized not nestled... and the hills have been decimated to accommodate this kind of construction. She noted that maybe it has come to a point for all of us, not just in the hillsides, in the flats and everywhere else in Los Angeles, who are conscious of climate change and ecology, if we do away with wildlife and construct cement and pretend that hillside lots are lots in the flats, but they are not, we are in great danger;... like we are worried about fossil fuel and everything else, we need to worry about the wildlife that are part of our ecological makeup; ... possibly have a wildlife commission to go over every single plan headed to the hillsides.

Hall responded to Miner's comments, ... he doesn't think it is realistic from a political standpoint now; rather maybe require that the NC review administrative clearances like we do other land use projects; maybe that would be a happy medium; to just add a little sunlight and transparency into the process. He would recommend that applications for administrative clearance under the Wildlife Ordinance be reviewed by the NC's PLUC. He doesn't know if it will be manageable as to volume.

He acknowledged Miner's idea... but thinks that having a commission would not be likely in the political environment now, and maybe have the NC play a role. *It may not be feasible based on the volume as none of us know what the volume of administrative clearances will be.

Morris thinks estimates are that over 50% of our properties will be impacted by one or more of the (*inaudible*). Evans noted that everything is impacted by the districtwide regulations but in terms of specific resources, she thinks it is less than half. Hall noted it is not in 1-5 but it is in section 6: Applicability, is the most important thing.

Evans hears what we are forgetting to say is that overall we seem to support the intent of the ordinance to preserve wildlife. Morris is not sure that intent and what is being suggested to make that happen are well aligned. ... Hall noted that it is not just about wildlife and he supports the intent.

Initial Motion: We support the intent, the NC reviewing Administrative Clearances, getting clarifications and answers to questions about resources and the appeals process, what the administrative clearance process looks like, what would happen if there was a ZA, if the ZA decides everything, what is the intent of the appeals process, what does the form look like? Find out the answers before forming an official opinion **moved** by Evans; **seconded** by Schlesinger.

Bayliss asked if Hall confirmed that we will create a list to reach out and present to the City for them to get back to us with clarifications. Morris foresees problems with taking this on at the PLUC.

Loze gave some historical perspective, that some time ago, the head of Planning was looking forward and found that the staff was thin enough so they could not get to these things and her approach was to set a mandate for a place for the NC, which was just coming into being, and the NCs were to advise the councilpersons of their insight on discretionary matters that were not deemed by right under the code. Now there is a discrepancy about what's by right and what's discretionary, but the idea was that the people with issues would have the opportunity to review a discretionary matter. There was an assumption with that, that there was a building code by which there would be a standard to determine what was discretionary and what was by right... There is a process accepted by the Planning Department and subsequently accepted by Council which is that the NCs can have an opportunity for discretionary review. What we are talking about now... is when it would be appropriate to do that, to make sure that the process that we are trying to divine here... is appropriately reflected on. He is reviewing for himself how we are in the position to do it and if it is appropriate for us to do it.

Rephrased Motion: To support the intent of the ordinance, to support neighborhood councils reviewing Administrative Clearances, and to seek further information about the rest of the questions we have compiled during this conversation **moved** by Evans; **seconded** by Schlesinger. Discussion was held. Bayliss noted that there will be quite a lot of those Administrative Clearances.

Hall noted that one of the things that concerns him is that now protected tree removals are discretionary. Tree removal permits are discretionary permits that trigger CEQA and go to Board of Public Works. This ordinance would potentially allow them with administrative clearances. A key feature of the Protected Tree Ordinance is that a finding of necessity is required to allow for the removal. You have to prove that it is necessary to remove that protected tree to allow for reasonable development. He is concerned that this ordinance will relax the standards and make it easier to remove protected trees because it will convert that into an AC process. That is one of the reasons why he is concerned about this AC procedure not having any transparency.

Loze asked if there may be a question of what would trigger a review, like an appeal process from the administrative review, not necessarily a review automatically of each administrative process.

Chair Evans noted that what Hall said makes sense, like how we get tree removals; so, at least have the piece of paper cross the NC desks in a timely fashion, if there was an interest in weighing in and making a comment letter, that that should be available.

Hall agreed with Bayliss, that the volume may not being manageable, even if the City agreed to this, and that we would only review a select number of those that we thought are important, like with tree removal permits, we only opine on the ones that are worthy of our input. Evans noted that like anything, if there was more than each individual person could review simultaneously there would be a way of dividing them up and go through them and flag what was warranted for the review.

Bayliss gave an example, when working for the Council District office, receiving a great many notices that a home would be demolished... if the idea was that the ordinance says that a copy of the application or request for just administrative approval is sent to the NC, it is just a form requirement. You already have to do that if you are submitting an application for a ZA action, you have to turn in a copy to the NC which the city sends to us. If the idea was to make sure we get a copy of the request, we should say that in the ordinance – a copy of the administrative approval request is sent to the NC. Then it would be up to the NC if they want to take an interest in it, but currently there is no appeals process, and we also want an appeal process for the administrative review.

Chair Evans noted that this is only supporting the intent and supporting neighborhood councils having the ability to review administrative clearances in a timely fashion. Evans called the question, and called for a vote: **4 yes:** Loze, Schlesinger, Hall and Miner; **2 no:** Bayliss and Morris; **1 abstention:** Evans; **motion passed.**

Morris thinks this establishes an additional burden to the homeowners. They would have to

come to the NC; a tremendous number of homes, we will be overwhelmed and it adds another layer for people who just want to do something normal for their house. Evans noted that this is for the ability to have it cross our desks before a decision is reached. Hall noted that if there is no process, mistakes will happen and no one will know.

Evans noted that for Section 6, A-E, she will make a new feedback form, produce an agenda, hopefully everyone will look at the feedback form; she will submit some questions tomorrow, and maybe we will have a little head start before the next meeting. The sooner members of the public and committee get questions in, the sooner we can get answers. She will close the feedback period 24 hours before the meeting. The new feedback form will be on the agenda, which she will make soon, which will be on our committee page at the babnc.org website.

Patricia asked that the Chair ask that the Planning Department provide figures of the total number of homes or lots in the Wildlife District and the number of homes or lots with a resource buffer or ridgeline buffer. Pat & Jay asked that Evans send in her email the National Park Service Native Woodlands links.

Items #9 through 13 were deferred due to time constraints:

9. **Discussion and possible motion:** Presentation and discussion on Section 6, A-E of the draft ordinance. Committee will adopt a position and/or identify further information or stakeholder feedback necessary to adopt a position on these sections.
10. **Discussion and possible motion:** Presentation and discussion on Section 6, F, 1, a-b of the draft ordinance. Committee will adopt a position and/or identify further information or stakeholder feedback necessary to adopt a position on these sections.
11. **Discussion and possible motion:** Presentation and discussion on Section 6, F, 1, c of the draft ordinance. Committee will adopt a position and/or identify further information or stakeholder feedback necessary to adopt a position on these sections
12. **Discussion:** Planning for presentations at the next meeting.
13. **Good of the Order**
14. **Adjournment:** Chair Evans adjourned the meeting at 6:58 pm, to return June 2, 5:30 pm.