



DRAFT MINUTES

Ad Hoc Subcommittee on Proposed Wildlife District

Monday, June 20, 2022 5:30 pm – 7:30 pm

For this committee written comment is invited through both feedback forms and correspondence to the committee. Open forms and their responses can be found on our committee page at <https://www.babcnc.org/proposed-wildlife-district.php>.

Feedback forms will not accept responses for 24 hours prior to any meeting in order to give committee members time to review responses.

1. Chair Evans called the meeting to order at 5:30 PM and called the roll.
There were 6 members present: Ellen Evans, Chair; Shawn Bayliss, Jamie Hall, Nickie Miner, Robert Schlesinger; quorum was met, and Don Loze arrived shortly thereafter. *Ex Officio* Member Travis Longcore was also present. (*Wendy Morris is no longer on the committee.*)
2. The June 20, 2022 Agenda was approved as moved by Miner.
3. The June 2, 2022 Minutes were unanimously approved as written, as moved by Miner.
4. **Public Comments** on non-agendized items within the jurisdiction of this committee.

Alison recommends that the NC send a letter to City Planning requesting an extension given the short notice, acknowledging that this is not enough time to prepare before the public hearing, and it is summertime, people are on vacation, etc.

Bill Grundfest noted that he agrees with Alison's comment, and repeated his opposition to this, that troubled by this committee, and feels no one has been speaking on behalf of the homeowners here. He opined that this ordinance is not fact based; LAPD and LAFD have not been consulted, and cited public safety risks.

Steve Borden agreed with Alison's comment, and noted that it is imperative for the NC as well as the members of the community represented within the 27,000 members, to fully understand in detail the specifics of this ordinance, which are complex, as demonstrated at the Environmental Ad Hoc Committee meeting the other day. He applauded the work that the committee was starting to do and the contributions that Patricia made, having spent hundreds of hours analyzing what is there. He feels it is an unfair request that the citizens will know it well enough in the next few weeks and strongly recommends a

communication that asks for multiple information sessions and two hours will be not enough time. He thinks we need two, three or four meetings and feels similarly to Bill Grundfest, some aspects of the ordinance will diminish the value of his property.

Pat and Jay: Pat agreed with Alison, and would like us to ask the City to present the environmental science behind it and that we get our committees' questions answered. She'd like Longcore to talk about the environmental science behind it and find out when we will address the sample houses, with regard to RFA and height changes, and would like to know, if you change one thing in the ordinance are you changing everything? She thinks it has to be looked at as a whole and noted that that her ability to rebuild her small 4500 square foot house in a fire is negligible.

Patricia Templeton agreed about the short time frame; doesn't feel we have enough time to get it done and is concerned about the timeframe to the hearing: There's not enough time for them to answer those questions, digest that and what the ordinance means, to effectively communicate it.

Sharon agreed with Alison with regard to shortness of time to understand the whole ordinance and believes this ordinance will drastically impact her and people like her.

Chuck noted that he gave his comments last time and complimented the people working on this. He fears that the property values could drop dramatically if the ordinance passed; and would probably negate any hopes for retirement that he and his wife could ever have. He asked about the height limitation issue, and why the name of the ridgeline ordinance was changed to wildlife ordinance. He wonders how and why animals have replaced the importance of human beings living in this area and that you consider how it is affecting each of you on the committee in terms of your investment.

[Public Comment concluded.]

- 5. Chair Report:** Chair Evans noted that we have a meeting with Planning this week and she will report back at Thursday's meeting. She has notified everyone about the Planning Department's informational session and public hearing happening on Tuesday 06-28. It was sent to every property owner in the district. She reminded everyone that even after the Planning Department hearing, there will be a City Council Planning and Land Use meeting, where you can give feedback.

Evans noted that our Tuesday 28th meeting is cancelled in light of the informational session, on the 28th and next week's meetings will be on the 29th, 30th and the 1st.

Evans reviewed the procedures for the meeting.

All comments are heard and considered whether incorporated into the comment letter or not.

- 6. Discussion and possible motion:**

Take position on Section 6, E,1,f of the draft ordinance. Committee will adopt a position and/or identify further information or stakeholder feedback necessary to adopt a position

on this section. [Chair Evans noted that she re-agendized Section 6, E,1,f, part of Applicability section of the ordinance.

Evans noted that f notes that any construction or grading activity requiring a permit on a lot where wildlife resource buffer triggers the ordinance. She wanted to make sure that we adequately consider this given that a lot may have a small resource buffer running through the edge of a property.

Public Comment and Clarifications Requested on this Section:

Alison noted that with f, it contradicts the last paragraph in Section E in the definition of Applicability, which says “Interior remodeling and construction activity that does not alter or expand a building or structure’s footprint shall not count as a Project. However, in subsection f, it says if you are in a wildlife resource buffer any construction or grading activity requiring a permit, does count as a project (even if it is within your existing – interior remodel or construction activity – that doesn’t alter it – is going to trigger this situation.) She thinks we need clarification on that piece, because it contradicts what is stated above.

Evans believes that interior remodeling doesn’t trigger the ordinance and agreed that further clarification is necessary.

Bill Grundfest asked for the definition of wildlife resource, which Evans provided.

Patricia wants you to understand that it will trigger a site plan review if you do any exterior construction with a wildlife resource present. She is concerned about the burden on homeowners in terms of time and expense, including the burden on those who might have a tiny bit of resource buffer far away from where they are doing construction. She also notes that site plan reviews requires substantial conformance with all the regulations in this Wildlife Ordinance.

Steve Borden noted that the way this reads, no one who owns a home within this pilot area, Sunset to Ventura, the 405 to the 101, would be able to add more than 500 square feet to their home. Evans replied that would not be the case. She noted that the ordinance is triggered if you add more than 500 square feet but doesn’t mean you can’t add more than 500 square feet.

Pat & Jay: Pat would like to know more about what will trigger, to which Evans responded that when the ordinance is triggered, the ordinance is triggered, and in answer to further questions about this, Chair Evans noted that there will be relief from regulations and answers to specific questions will depend. Pat noted that she will have to spend so much money and that it will cause so much stress for people.

Committee Member Discussion of this Portion:

Ex Officio Member Longcore acknowledged that it poses a significant difficulty to have an

intersection of a buffer that isn't particularly well defined at this point, that might hit the corner of the lot, and that will trigger a site plan review and substantial compliance with all parts of the ordinance. He thinks that's a problem, and thinks that the footprint of development will hit that buffer... There are properties large and small that seem disproportionate to trigger the ordinance for a site plan review when the project isn't even going to touch the buffers... and that this is worth commenting on because it does cause disproportionate challenges.

Hall doesn't disagree that it might not be fair to trigger a site-plan review, e.g., if there was a 10-acre parcel and on the other side open space, and if the project wasn't touching or encroaching on the open space, it doesn't warrant site plan review, but we need to think about brush clearance – a permanent obligation on the adjacent property owner to brush clear their property and noted his openness but that we need to consider what is good for humans isn't always good for animals.

Evans thinks if it is something running through a small corner of a lot, most of the time it is the water resources... there is a proposal by Longcore that the trigger be if the proposed construction goes into the buffer, and Hall has a different idea.

Bayliss noted 1) one of the earlier comments brought up on the need for potentially more workshops with the Planning department, and we've been going through this and thinks it would be a good idea to reach out to Planning and say it would be a good idea to have multiple workshops... and that we currently have a growing list of questions ourselves.

2) Bayliss doesn't think we should downplay the cost, time or money when it comes to requiring a site plan review of entitlement applications with the city; they take 8-14 months, and could be quite expensive... Overall, a relatively low threshold for something deemed as a project will cause a lot of complications to the City. Going back to the resource buffer. He also expressed concerns about how the process of inclusion of unmapped resources might work.

Evans noted that maybe we want to say it is an "over-application" that will make the ordinance apply to projects where it shouldn't be applied. Hall asked what that means, to which Bayliss noted that when site plan review is triggered, a person seeking a permit will be stuck for 8-14 months.

Hall points out that the City doesn't have the resources to create a granular approach, and that there will be byproducts of the "one-size fits all" approach. Hall speculated on how the City might operate with respect to site plan review for these projects, possibly identifying those that warrant specific analysis.

Don Loze noted that he is puzzled by the purpose of what they are trying to solve, and it seems to him that the purpose is to avoid interference with the resource system. If the addition doesn't interfere with it, then it shouldn't be an issue. If it does, it should be judged, and he thinks that becomes a case by case analysis.

Hall noted that if you can find the findings for a site plan review on Pages 21 and 22, which will tell you exactly what the purpose of this is, and it allows the city to customize conditions of approval. Loze agreed that the application of that is where the issue comes about as to who gets swept up in the process.

Hall feels we need to acknowledge that there are certain parcels that require individualized site plan analysis and that there are concerns that the approach to identifying those... He agreed with Evans it may be somewhat overbroad and there may be a more perfect way; that it is an imperfect approach. Evans would like it to be more narrowly defined.

Hall believes that the motion should express support for the purpose of the application.

Motion: In the comment letter we will acknowledge the purpose of this application but express reservations about the broadness of application relative to the impacts moved by Evans and seconded.

Public Comment:

Andrew Paden noted that when the resource buffers combine different resources, that's where the problem also originates; so if a part of the parcel touches a small the resource buffer you don't know what is triggering the site specific review. Is it a drainage or riparian area or cover for nesting birds? If so that's a flaw. He asked, what is triggering the site plan review, and noted that in his world, if a project has a footprint that touches a wetland, you get someone to do a JD, you start thinking about mitigating... you don't comingle these resources layers. He sees that as problematic.

Patricia noted many parcels that have resource buffers at the edge of their property; not just outliers. She noted that this may create opposition to identification and/or procurement of new open space. She would suggest considering how many feet away from the construction.

Steve expressed is concern about the committee building a series of arguments upon an unknown foundation that is shaky, pointing to the methodology of the analysis.

Alison thinks it is important to note that such homes like in the MDRB become depressed because of the time and process – so adding site review plan (SR Plan) for a large number of homes, will be an area that some people will avoid, and it will affect values.

Bill brought up reservations regarding impact on homeowners.

Miner noted that the hills have always been a choice place to live, and we need to do something to preserve the diminishing amount and range of wildlife in the hills.

Jamie expressed a desire to amend based on comment.

Amendment: “We acknowledge what we believe is the purpose” moved by Hall, seconded. Loze noted that we can get clarification as a result of this amendment.

Public Comment on the Amendment: None.

Committee Discussion: Miner thinks that the amendment serves a good purpose but there is no timeframe; leaving it open ended is a worry. Hall noted that we are trying to craft a letter to the City prior to the July 13th hearing and can do a further letter after that to the CPC. We believe that the site plan review maybe over inclusive. He is respectful of the comments we received from the community.

The amendment passed with 5 yeses from Bayliss, Hall, Loze, Miner, and Schlesinger. **The underlying motion as amended passed** with 5 yeses from Bayliss, Hall, Loze, Miner and Schlesinger.

- 7. 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. Evans reviewed the ordinance's section regarding the intent of setbacks (including table) and fences on screen.

Questions from the Public on this Section

Bill asked why LAPD & LAFD were not consulted to include public safety dangers of this.

Steven asked if the committee explored animals are specifically meant to benefit from this part of the ordinance. **Patricia** asked what animal is there that that can get through 6" x 6" openings that can't already get over or under the fence? Chair Evans noted that this has been added to the list of questions for Planning.

Alison asked if studies have been done on deer or animals who may become harmed by having access to our streets in the neighborhood.

Andrew asked for visual representation, noting the Wildlife Ordinance talks about measurements and is it a 6" space in a vertical direction or 6" x 6" poles? Evans would try to bring it up.

Steven asked if we can find out from City Planning what specific science and studies these proposals are founded upon as well as which animals it is design to facilitate passage.

Committee Members' Needs for Clarification or Questions as to the intent or application of the ordinance:

Miner noted the dwindling animal population and her desire to protect what's left.

Comments on fences and setbacks

Sharon is concerned about fencing and pets, and how we protect our pets in these circumstances.

Bill noted public safety dangers caused by this portion of the ordinance.

Patricia stated that there is no benefit to this portion to the ordinance but there are public safety dangers as well as privacy problems. She noted that the City paid for a PAWS study that Koretz requested that set this thing off, has nothing on fencing in it.

Alison believes that the imagery provided in the ordinance is deceiving and feels it is a great concern for those with children and pets who just want safety and privacy.

Andrew noted he doesn't think many people believe these sized holes in a residential fence contributes that much to wildlife movement. He sees small species but not deer, coyotes, mountain lions, bobcats benefiting from this.

Steven challenged the fairness of the process.

Discussion on Setbacks:

Chair Evans temporarily lost connection during which time Board President Longcore noted that the Board meeting this Wednesday includes annual committee assignments, so inasmuch as there are vacancies or people want to make changes that happens at the meeting Wednesday. He noted that committee is a subcommittee of the PLU Committee. The composition of all committees will be established next Wednesday.

Chair Evans returned online, noting that there is a motion from the Ad Hoc Environmental Committee to suggest maintaining and letting the 5' front yard setback stand. Evans opined that making a 10-foot minimum would push the development and require more grading and agreed to affirm that committee's position. Member Hall noted that the environmental committee front yard setback might be a bad thing. Evans noted that the currently-required setback on a substandard hillside street is 5' and this ordinance would make it 10' otherwise the setback requirement has literally no impact. It is only on substandard hillside streets.

Bayliss noted that it is prevailing setback and if prevailing setback could not be established it is an automatic 5' minimum. Hall noted that the objective of the ordinance is to preserve natural resources and that forcing people to encroach into the undeveloped portion of the lot is a byproduct of an increased front yard setback.

Further discussion was held on this, including in the context of substandard street. Evans noted that the requirement for most development would be at least 10 feet but only on substandard hillside streets. .

Bayliss provided insight on this issue, noting that it is not the "less-than-20' wide street" that we often associate with substandard streets, (it is in the majority of the hillsides) a substandard hillside street in the context of having to have 46' right of way and a 28' improved street. If it doesn't meet both of those qualifications, it is considered substandard for the purposes of this code section; then you then have to do prevailing or an automatic

5' minimum setback if prevailing can't be established. Bayliss elaborated on this.

Hall would accept the recommendation and suggested F1 minimum front yard be eliminated.

Motion to recommend this committee remove the F1.a setbacks was moved by Hall and seconded. There was no public comment or further discussion on eliminating F1.a. **The motion passed** by 4 yeases, 0 noes, and 1 abstention by Miner.

Fences:

Committee discussion was held, with Hall noting that that fencing is not the most important part of the ordinance, and it could be very burdensome to comply.

He believes the trigger for this section should be limited to major remodels and development of raw land. He thinks there should be an express prohibition for the fencing of undeveloped lots as that serves no purpose and has created havoc in certain situations when people do it.

Evans would like Blue Heights to fence that lot, which Hall noted is an example where you are trying to eliminate nuisance and yet animals are using it. He has video proof of herds of deer using that site. He doesn't have a solution.

Evans is interested in finding out the answers to the question of the intent of the fencing, what animals it is trying to facilitate the movement of, clearly not deer or mountain lions.

Bayliss noted as to fences, in theory, as long as he doesn't build in his setback, he can build his fence or structure by today's code, but if he builds within his structure, he has to follow Option 1, wildlife friendly standards, and the open area portion – and hedges – back to open area. Bayliss wonders why the City is pursuing a high level of detail in this section, essentially micro-managing design choices.

For Option 2, the same thing, follow same standards, and asked how does it work with regard to pool fencing? If you have a pool, you have to have fencing for a pool, pointing out that the people in Cassiano, Moraga, Linda Flora, Samira have more traditional lots that happen to be in the hills, so, it's going to be difficult for a lot of folks with more normal- sized homes to not be in their setbacks. He thinks those areas will be hit, will have to comply with this. He wonders about the pool fencing.

Longcore noted that the way he reads this, you can comply with the ordinance by not having an impermeable fence in the front yard or back yard setback. If you do that you can fence lot line to lot line, which covers all of these scenarios.

Bayliss noted if you are above 3-1/2 feet in your front yard setback, you already have to ask for a variance. The front yard is less of an issue.

Longcore noted that in most instances, keeping permeability in the back yard is where

you'll get the most benefit. Bayliss noted regarding wildlife permeable fencing, he'd recommend not micromanaging the 6" slat portion, being concerned about dictating peoples' design and therefore drawing questions of safety and security accessibility of wildlife predators, etc.

Evans noted that if we make a motion we can still revise the motion after getting clarification from planning. She thinks that it should have a different trigger was compelling. Hall reiterated major remodel or new build.

Loze related that he understands that, but asked what happens if someone sells the house, the property is bought solely for the purpose of having some dirt, and there is no major remodel or improvement and you're down to raw land. The project requires the analysis if it qualifies by code. He is asking, are we addressing the whole or half of it now? So if your project under Hall's motion is a major remodel triggers but if it is a major remodel that doesn't use any of the open space that was there before, should it trigger?

Hall noted that he could be convinced that a major remodel should *not* be triggered. That's the trigger in the BHO. He noted that the laws have changed over time, but if you have decided to make an investment triggered by the BHO, changing a fence is a minor issue at that point. Loze, noted that all of those things come into play if you just buy the dirt.

Evans noted that demolition doesn't trigger and Hall noted that construction does trigger and that looking at it further. Hall clarified that it triggers if you exceed 500 square feet. Hall suggested construction, additions exceeding 500 square feet or a major remodel be triggers. That would exclude tree removal, grading, exclude also construction activity where a wildlife resource buffer is present. It is a fair trade off we are trying to make as we do not want to put an undue burden on people.

Evans wanted clarification to the question about the specific species that Planning wants facilitate the movement of and any science backing up that wildlife friendly fences do that. Evans noted that we can make a motion and wanted the committee to understand that we will revisit after getting the answer.

Motion: That the committee recommend that the requirements for the wildlife fences, hedges and walls only be triggered when there is new construction, an addition exceeding 500 square feet or a major remodel in the hillsides, moved by Hall; seconded.

Public Comment on the Motion:

Patricia: Patricia reiterated her opposition to the fencing requirements based on public safety and privacy concerns.

Bill Grundfest reiterated his opposition to the fencing requirements based on public safety concerns.

Alison noted, as to setbacks to front and back and being able to put fencing along sides, it would not apply to people on the ridgelines. She echoed Patricia and Bill, need to focus on

the issues. She appreciates the issue of what triggers a fence but that is not the issue.

Steven Borden proposed as part of discovery process getting guidance on what science this is based on, and specific animals, and that we concurrently ask the LAPD and LAFD what their position on this to inform the subcommittee's thinking.

[Public comment closed on this section.]

Committee Discussion:

Miner thinks there must be a way for the City to keep us safe while protecting movement of wildlife.

Evans noted that a more protective wall could be built as long as it was not in the setback.

Hall thinks animals have to have space for habitat but he respects the public safety concerns.

One way to do it; it doesn't tell the city how to do it but acknowledges the concerns and invites the City to pursue an alternative way to achieve this. Schlesinger thinks they won't be able to answer. Hall noted that we need to acknowledge what people are saying.

Loze noted if we are trying to balance safety and animal movement, therefore we will request the Planning department to make a proposal which balances those two things in a way that gives us some security. He thinks his motion would supersede the motion that is there now. Hall did not think we should abandon his motion, but they could be together.

Amendment: Loze moved to use Hall's proposal, subject to receiving from the Planning department new material which balances the movement of animals with the safety of residents and therefore move away from this. Seconded.

Public Comment on the amendment:

Patricia noted regarding the motion, if you could include privacy in there, that is a big consideration, and, as a point of information, noted that the graphics in the Wildlife Ordinance are inaccurate and highly deceptive. They use 5% setbacks instead of 10%. When you are looking at that to see what the impact would be, their images are not accurate.

Alison has an issue with the triggering in this motion, and doesn't think additions over 500 square feet should be in there.

Bill asked that the amendment request not just "safety" but specify, campfires, home evasions and predations on pets, and that LAPD and LAFD be consulted on this issue. [Public comment closed on this.]

Amendment passed by 5 yeses from Bayliss, Hall, Loze, Miner, and Schlesinger.

Evans noted that if we want to do anything further we can agendize it for another meeting.

Motion as amended carried by 3 yeses from Schlesinger, Loze, Miner, (*Evans was frozen*)

out and Bayliss just left).

Agenda Items 8 through 14 were deferred due to time constraints:

8. **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 this section.
9. **Discussion and possible motion:** Presentation and discussion on Section 6, F, 1, **d-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, **f** of the draft ordinance. Committee will adopt a position and/or identify further information or stakeholder feedback necessary to adopt a position on this section.
11. **Discussion and possible motion:** Presentation and discussion on Section 6, F, 1, **g-i** 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 and possible motion:** Presentation and discussion on Section 6, F, 1, **j** of the draft ordinance. Committee will adopt a position and/or identify further information or stakeholder feedback necessary to adopt a position on this section.
13. **Discussion:** Planning for presentations at the next meeting.
14. Good of the Order: None.
15. The meeting adjourned at 8:18 PM as moved by Schlesinger.

Next Meeting Date: June 23, 5:30 pm

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