



**DRAFT MINUTES**

**Ad Hoc Subcommittee on Proposed Wildlife District**

**Wednesday, June 29, 2022 5:30 pm – 7:30 pm**

1. Chair Evans called the meeting to order at 5:31 pm. Roll was called with 4 present initially; Hall arrived minutes later for a total of **5 present**: Ellen Evans, Chair; Shawn Bayliss, Jamie Hall, Don Loze, Robert Schlesinger, and **1 absent**: Nickie Miner. (*Wendy Morris is no longer on the committee.*)
- ~~2. Motion: Approve June 30, 2022 Agenda~~
- ~~3. Motion: Approve June 29, 2022 Minutes (if available)~~
- ~~4. Public Comments on non-agendized items within the jurisdiction of this committee.~~
- ~~5. Chair Report~~
6. The June 29, 2022 Agenda was approved, as moved by Member Loze.
7. The June 23, 2022 minutes were approved, as moved by Member Loze, who would add some clarifications relative to his comments on grading provisions.
8. The June 20, 2022 Minutes were approved, as moved by Member Schlesinger.
9. **Public Comments** on non-agendized items within the jurisdiction of this committee.

**Pat & Jay:** Pat related that she listened to the City's informational meeting last night, and at the very end, a male (city) employee around 6:45 said that the Wildlife takes precedence over the BHO. She hopes that we would put a recommendation in our letter that the minimum guaranteed square footage would still apply, so we could still get our 18% because it was unclear. She heard back and forth that it counted and at other times that it didn't. Then some city employee or city attorney might have interpreted it to mean that the guaranteed minimum is gone for residential square footage.

**Patricia** related that she heard some things at the meeting; at one point they said if you redo your fence, the fence will have to conform to the regulations. She expressed that the a fence project should not trigger the ordinance in itself. Also, when someone asked if they consulted LAFD & LAPD, they said they consulted them regarding implementing the ordinance; different from consulting for drafting of the ordinance. Implementing is basically enforcing. Patricia would like to include clarification for the minutes: There was something in the minutes that she said that one of the statements conflicted with the PAW's study, and she wanted to clarify that it was the statement that animals are not harmed by freer access to the streets.

*[Chair Evans responded that she had flagged the comment on fencing as well.]*

**Chuck Maginnis** thanked everyone for putting this on and noted that he listened to Planning's informational meeting last night. He noted that their first video was very pro-wildlife as our slideshow is on the BABCNC website, where we have many pictures of animals in the area. He guessed that having listened to the informational meeting last night, the vast majority of the people didn't understand what was presented, including himself. He believes that unless you are an architect or builder you probably don't understand it.

10. **Chair Report:** Chair Evans noted we have meetings next week on the 5<sup>th</sup>, the 7<sup>th</sup> and 8<sup>th</sup>. She will be drafting a letter and hopes we can cancel some of those meetings. She has to make agendas for those dates. Member Hall won't be able to attend on the 5<sup>th</sup>. She noted that if members of the committee or the public can't attend, and if there is something you want to be sure that we don't miss, if we don't get to it this week, please let her know, e.g., to make sure you are heard on ridgeline restrictions or other things, please email her.
11. **Discussion and possible motions:** Review new ordinance information discussed at the June 28 Planning Department information session.

Chair Evans noted that last evening's Planning presentation did clarify a number of things, e.g., we finally have the answer that if you have a project that is a tree removal, the ordinance is only triggered as to the tree. The committee may wish to comment on the drafting, which did not make this clear. She also wanted to flag the remark made about fencing, noting that she sent a number of questions, as she thinks that was completely wrong. She hopes that the Planning session was helpful.

**Public Comment:**

**Alison** noted that outreach efforts are inadequate and that community members did not find out about the ordinance early enough in the process.

**Patricia** added to Alison's comments that she had spoken to numerous people who said they asked questions but none of their questions were asked; it was all softball questions. She heard numerous misleading statements at the workshop and wished they'd be honest.

**Mindy Rothstein Mann** related that she was part of webinars, the two or three meetings they had, and that BCA had it in their newsletters as did other associations. She doesn't think Planning was intentionally deceptive, but that people can do better at communicating.

**Chuck Maginnis** agrees that it did not receive proper attention whatsoever.

**Committee Comments on the Session:**

Member Hall expressed frustration that much time was spent deliberating triggers because the ordinance does not read as Planning apparently intended and Planning did not clarify.

Member Bayliss noted that he felt the presentation was lackluster, and it would have been

extremely helpful having the Planning Department there to hear our thoughts as well as those of the neighbor's and communities. He asked about reconsideration for next meeting.

Evans related that she sent a message to say that they need a bibliography to see what science they are working from.

Hall concurred with Bayliss and noted that he wanted a discussion that was detail oriented and would like to know when we get to have that discussion with the Planning Department. We haven't had that opportunity, yet we are supposed to have this role in the City family system. Chair Evans noted that there is a form and to email questions and requests for clarification.

### **Further Public Comments:**

**Pat & Jay:** Pat would like to make sure that some of Member Hall's comments will be included, regardless of other interpretations heard, as this is a legal document.

**Mindy** felt equally disappointed that Kat refused to come and meet and never responded to her. She heard the comment that they were meeting with HOAs and wondered if we ever asked them to meet with us. Evans responded that they would give the same presentation. Member Bayliss noted that BAA had a webinar two weeks ago with Hall and a civil engineer. Planning was invited to join that presentation, to be involved, and they passed.

**Alison** echoed Evans as to requesting a list of who they reached out to and what they talked about, felt there were many misleading statements yesterday, and would love clarification.

**Patricia** noted that she warned us about applicability. She doesn't think there are actual standard rules, e.g., if you do a major remodel and then change the fence, is that part of the initial project? She thinks it is up to B&S. Under Site Plan Review (SPR), they talk about substantial conformance and it's not clear for site plan if you have to bring it all up to code.

**Shirin Javid** didn't find anything informative, and her question was not answered as to maximum height from street level. She didn't learn much from that meeting. Chair Evans noted that the way we will process the new information as we go through the ordinance will be to revisit the parts where we ask for clarification, and parts we might change based on clarification we didn't get.

12. **[5:58 PM] Discussion and possible motion:** Discussion on Section 6, F, 1, e (Wildlife Lot Coverage) 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 introduced the section on Wildlife Lot Coverage, including Intent and Regulations: *(1) Intent. To minimize the alteration of existing landforms and vegetation; improve storm water management and watershed health; limit soil erosion and slope instability, and maintain hillside ecosystems by limiting the amount of impermeable surfaces in the Wildlife District. (2) Regulations. (i) Wildlife Lot Coverage shall not exceed 50% of the total area of the Lot and shall not exceed 100,000 square feet, whichever is less.*

*Evans noted that current lot is 40 or 45%.*

**Public Comment on Lot Coverage:**

**Patricia** noted that we need to put the definition of lot coverage in any discussion on lot coverage, and, 2) in her opinion this is punitive to smaller lots, and a gift to developers.

**Alison** noted, as to recurrent lot coverage requirements... that this ordinance now includes in-ground pools, may not disturb the slope and so many other things... that can be daunting for some of us with smaller lots.

**Chuck** noted that he doesn't understand this, thinks it would be great to have cliff notes to explain what exactly lot coverage is, and all the rest.

Chair Evans noted that all definitions are at the beginning of the ordinance.

Chair Evans noted that she heard the statement that this is a punitive amount for a small lot. Member Hall noted that it has to start with an understanding of the current law and asked what the BHO currently allows? Evans noted that it allows 40% unless a substandard lot, then 45% and that current code is buildings and structures extending more than 6' above natural ground shall cover no more than 40% of the area of the lot. Then, for a substandard lot, as to width less than 50', and as to area, buildings and structures shall cover no more than 45% of the lot. She noted that looking at maps, you can see that there are some houses that don't conform to this. Hall noted that there are different rules: 40% for standard and 45% for substandard and what they include is different. He noted that this ordinance has a broader definition: it gives you more, 50%, but it includes more stuff. He doesn't know objectively... he doesn't have a pool or much hardscape in his back yard but doesn't know what other people have. Evans noted that it is easy if you have a steep slope on a large percentage of your lot.

Looking at sample lots, Evans discussed a very small lot on Beverly Glen, with more than 40% lot coverage, noting if they were to be torn down and rebuilt, even absent the Wildlife Ordinance, they'd have a different situation or need some sort of discretionary permit. Longcore noted especially if you now are considering this driveway in the lot coverage. Evans noted that if you add the driveway, the garage, and a patio, this is a very small lot, which seems to her to be an issue. Hall noted that the carrying capacity of a small lot is restricted. Schlesinger noted that the area was built before all else around it. Evans asked how much benefit wildlife is getting by adding the extra 10% and having it include more stuff, to which Hall noted that it is impossible to answer that question.

**Stephanie Savage** noted that when first reading this ordinance, the slope band did not make sense with regards to wildlife; however lot coverage limits make sense. Depending on lot size and configuration, a smaller lot coverage could help wildlife passage, considering no fences. She never understood the restrictions to the RFA in the slope band from 60% to 99% and how it relates to wildlife.

Stephanie noted there are variables for R1 or RE lots, and there are reductions for the larger lot. It seems that if lot coverage is the same for all lots, then you could have a 100,000

square foot lot, and get 50,000 square foot of lot coverage. Savage thinks that ratcheting percentage on lot coverage for RE lots needs to be considered, like many templates within Planning Code that ratchet down from larger lots, and doesn't think it should be 50% lot coverage for every lot.

Hall noted that they attempted to answer that last night in response to the question of why is there a restriction on grading on the steeper areas of the lot, and the person who answered that said (*in summary*) that it is because it is inherently more destructive and it would remove more habitat.

Bayliss noted that it comes down to if you have a small lot with significant slopes to it, or maybe not all that significant, and you want to build a pool or a tennis court or something like that, right now, it is likely going to be 6' above slope, which counts against your lot coverage; so having it come up to 50% is a benefit to you but if you have a smaller lot that is flatter, and you intend to put in a pool or tennis court, that will be sitting on the ground, that additional 10% would likely not make up for that flatwork, which currently would not count against you, counting against you.

Bayliss thinks it depends on when it comes to smaller lots, the slope and building a pool now kind of gets you, in the wildlife anyway, but you get an extra 10% to play with versus if you have a flatter lot and you intend to put in a pool or tennis court and it is flat, and you can actually get it in the ground, then it is punitive.

Member Loze noted that he suggested at an earlier time that there is a factor that is not articulated, and he is not sure how to add it, but he thinks a standardizing factor is whether what is put into the lot size is permeable or nonpermeable. It seems to him nonpermeable is more destructive to the environmental then permeable, and there does not seem to be any mention of that in what we are talking about.

Evans thinks it may be better to say this in the affirmative, have an amount that must be permeable, a percentage outside the house that must be permeable and another percentage that should not be hardscaped at all; those percentages are open to question but at least you have an option to put in permeable pavers for the driveway and have it not **counted**. Member Loze suggested that someone may include this in the motion that we would like to put forth in regard to lot coverage.

Bayliss asked what Evans meant by permeable, wildlife permeable or from a water standpoint, to which Evans responded, from a water standpoint.

Hall wanted to acknowledge that he doesn't like the 100,000 square feet in the regulations. Evans and Bayliss think it is for institutional uses. Hall would like it to say that, noting that our job is to find loopholes. He thinks there is a need for a strong revision to ratchet down the maximum lot coverage for individuals and clarify that 100,000 is for institutional.

Evans is hearing that the elements of this motion might be: 1) analyze the impact on small lots, and make sure it is not punitive, 2) have a maximum lot coverage for residential use because 100,000 seems like it related to institutional use, 3) express this not in lot coverage but in an amount that must be unpaved and permeable: say this amount should be

permeable and of that, this amount has to be unpaved (*and gave a hypothetical*). Hall noted that this does not require that the 50% be permeable, and asked if she was saying that of that 50%, a portion of it should be permeable.

Evans clarified, that they should express this not in terms of lot coverage but the percent of the lot that must be unpaved and the percent that must be permeable. Hall wanted to know what portion should be left in its natural condition, to which Evans noted that would be up to Planning. Hall noted that this is not about groundwater, but the more important thing is about leaving a portion of the lot undeveloped; undisturbed, undeveloped and native.

**Stephanie Savage** noted that in a lot of these codes, there are variables for R1 or RE lots, and there is always a reduction for the larger lot. She feels that there should be a chart to ratchet down for those larger lots, to make it proportional in a way, because what we are seeing is not the egregious house with a pool on the low lots, they are generally on larger lots, and that's where the problems are in general. Savage thinks that needs to be considered, like many templates in Planning Code that ratchet down from these larger lots, and doesn't think it should be 50% lot coverage for everyone.

Evans noted that the elements might be:

- 1) that lot coverage percent should be pegged to lot size, and
- 2) be mindful of not being punitive to smaller lots, and
- 3) to have a maximum for residential lot coverage, asking if that should be per zoning type, to which Bayliss responded, he thinks per lot size.

Evans noted that she thinks what she is hearing is that if somebody has a massive lot, they shouldn't be entitled to half that massive amount in lot coverage.

Bayliss noted that he is thinking in reverse, that because most of the hills were zoned R1 and then the zones changed, and there are a lot of nonconforming RE lots, so you have smaller residential state-zoned parcels that traditionally – with the lower end of the percentages – the bill must fairly represent the lower end of the lot size.

Bayliss related that he thinks anything we do or the City does has to be relatively straight forward. His concern about lot coverage and types of plants, etc., is that we can create more and more different categories of different things, and if there is a requirement that 10% of the lot has this type of permeability versus that type, then you would have to have a list of the items that are acceptable for permeable; he took this provision from a wildlife standpoint, meaning the idea was to not have as much development on the lot – not from the water standpoint.

Stephanie Savage noted that in 2017, when the BHO went around, there was an option for R1 Zone Variation. There were four types, one was for the hillside based on lot size, and it had a column for lot coverage, so when you went to smaller lots it said 50% of lot coverage and anything over 10,000 feet went to 40%. She noted that Planning does these little charts that are helpful, tailored to these different conditions.

**Motion** that our comment letter says that lot coverage percent should be pegged to lot size, because 50% may be too little lot coverage for a small lot and too much for a big lot, that Planning should especially be mindful to not be punitive when it comes to the smaller lots, and that there should be a total max that specifically applies to residential lot coverage moved by Evans.

**Motion restated** that our comment letter says that lot coverage percent should be pegged to lot size, because 50% may be too much for large lots and too little for small lots, and specifically, Planning should be mindful to not be punitive when it comes to the smaller lots. They should also have a total max for residential lot coverage moved by Evans; seconded by Hall.

**Public Comment:**

**Pat & Jay:** Pat related that she would like the City to show us examples, and her fear about the proposal Evans is giving now is that she can see them coming back and clipping everybody. She noted that that distresses her, leaving it open ended without a specific recommendation from us scares her... because they'll do the percentage so low for her.

**Patricia** noted that this is an outgrowth from the former wildlife ordinance, the 2021 one, they had the permeable/impermeable designation and had a graduated scale based on square footage. Patricia noted that square footage is much more accurate than just zoning, and she recommends going back to the scale by lot size. She doesn't think it should be less than 50% except for large properties. She noted that in our motion we don't have anything about the 100,000 square feet being too much for residential. Patricia would recommend looking at Google maps in satellite view, where you can see in smaller lots there is room for a house and a patio and they are already up to 50%...noting it is very easy to get to 50%. Evans noted that she heard two comments:

- 1) that we should provide numbers in our comment about what lot coverage should be, and
- 2) we should make a comment that 100,000 is too large.

Hall thinks we should definitely revise the motion to say 100,000 square feet for residential is way too excessive. He doesn't know what the number should be but agrees it is far too excessive. He doesn't know what all the lot coverage should be for the different zones.

**Amendment** that 100,000 square feet for wildlife lot coverage is too much for residential use moved by Hall; seconded.

**Public Comment on the Amendment:**

**Patricia** asked if it should be graduated based on lot size, to which Evans agreed that is in the original motion. Patricia asked that it not be lowered until you are getting to an acre.

**Mindy Mann** noted that she came to the same conclusion at her committee about the 100,000 square feet.

Member Loze asked if we are eliminating the distinction between residential and institutional, to which Evans noted that we are not mentioning the word "institutional" but

are saying that 100,000 square feet is too much for residential lot coverage and that they should make a new max for residential lot coverage. Member Schlesinger noted that Berggruen and the resort in BC in residential neighborhoods both need the square feet. Member Loze feels that maintaining the adjective “residential” is significant, to which Evans noted that we are going to say 100,000 square feet is too much for residential use.

**The amendment passed** by 4 yeases by Bayliss, Hall, Loze & Schlesinger and 1 abstention by Evans.

Member Loze asked for clarification as to intent, noted that where it says limit soil erosion seems to be okay, but he feels uncomfortable as to their saying limit slope instability, as he isn't sure how it relates to a prohibition or minimization of remedial grading. Hall noted that if you are digging into your hillside in order to build elaborate staircases and build hardscape, etc., you are inherently destabilizing the slope. **Evans will email and ask.**

**Rewording of the Underlying Motion** that our comment letter says that lot coverage percent should be pegged to lot size, because 50% may be too much for large lots and too little for a small lots, and that Planning needs to be mindful to not be punitive to the smaller lots, and that there should be a max lot coverage for residential use.

**The underlying motion passed as amended** by 4 yeases from Bayliss, Hall, Loze & Schlesinger; and 1 abstention from Evans.

13. **Discussion and possible motion:** Presentation & discussion on Section 6, F, 1, f (Vegetation and Landscaping) 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 read from the section (pages 14, 15 & 16) and commented that under Planting Zones, Planting Zone A is where 50% of preferred plants are closer to the house, and Planting Zone B is where 75% are farther away. She noted that there are lists as to what plants are preferred and what are prohibited.

**Public Requests for Clarification:**

**Patricia** would like them to clarify in the preferred plant list why they are preferred? Fire resistant, noninvasive, or food for wildlife. She noted that it is important.

**Public Comment on this Section:**

**Alison** asked about significant tree replacement, noting that it is required to replace with two new trees, and asked why not one to one, and if two, why isn't there a program to donate a tree to District 9, where there are no trees? Also, she has a real issue with the image that they use to show Zone A & Zone B, because the majority of parcels affected by this in the hills do not have the 30 feet from the side of the structure to Zone B, unless they

are going down the hill that it is so misleading, consistent throughout the ordinance, which is very frustrating.

**Patricia** noted that she loves trees but expressed concern about trees and fire safety, that bigger trees are not native to the Wildlife District, and that for fire safety, they shouldn't be too close. She is concerned about planting more trees on a small lot which could represent a fire danger; same with the native plants, which should be fire safe next to their homes. She agrees with all of Alison's comments.

Chair Evans showed the slide and noted that what Alison is saying is you are likely going to be mostly in Zone A, and not so much Zone B, but wanted to point out that Zone A is less restrictive than Zone B, from the standpoint of not wanting more restrictions...She thinks it is not so egregious.

Hall asked why the native tree has to be the replacement tree on (f)(2)(i)a., where it says... the size of each replacement tree shall be a 15-gallon or larger specimen, measuring one inch or more in diameter at a point one foot above the base, and not less than 7 feet in height, measured from the base." He noted that a 15-gallon walnut tree is *unlikely* to be 7' high, and walnut trees are one of the most important native trees for wildlife. He doesn't know if they have done their research on that, and wondered if you were to go to the Theodore Payne Foundation, and ask how tall a 15-gallon walnut tree would be... noting that it is better to plant smaller trees than bigger trees as the mortality rate for bigger trees is high, and that the 7' in height requirement needs to be reconsidered.

He doesn't like (f)(2)(i)a.1., "The preservation of onsite Native Tree(s) may be used to satisfy this requirement" and asked how you are adding to ecological health and wellbeing and improving the situation by just counting trees that are already on the property. He doesn't understand the exception; thinks it makes no sense and swallows up the rule.

However, he noted that (f)(2)(i)b, as to Significant Tree Removal Replacement, is a good provision that he is definitely in support of.

He is happy to see (f)(2)(i)b.1. Protective Tree or Shrub relocation or removal must follow the procedures established in Section 46.02 of this Code, relating that he has made known his concern that the Protective Tree Ordinance would be preempted by this and is happy to see that he has been wrong, as it is very clearly stated, and he thinks that's what Staff said yesterday as well.

Regarding (f)(2)(i)d.i. Treatment of Dead or Fallen Trees, he doesn't like the emergency removal. "An exemption for emergency removal may be obtained if a visual inspection by the Fire Department determines removal is necessary due to a hazardous or dangerous condition...", asking if we are going to allow one person who may have zero experience in understanding... based on one visual inspection to say that a tree can be removed, and noted that LAFD people are not trained and do not have the qualifications.

Evans gave an example in her experience that the only way to have it taken care of was to have the FD come; the inspector came and declared it needed to be removed.

Hall noted that because walnuts are deciduous, they have been declared to be dead. His point is there needs to be more than a visual inspection by the FD. We have this problem where people have small lots and don't have enough room to plant trees; he noted that this is a legitimate issue and what we should have is what more forward-thinking cities have is when you encounter that situation, some sort of land banking. He noted that the problem with Alison's proposal is when you donate – the City used to accept donations of trees – and Griffith Park had a tree graveyard where they didn't plant the (*donated*) trees, but the trees started growing in the ground, and they had to throw them in the trash. What they should have is ... if you can prove that you don't have enough room to plant that number of trees required by (f)(2)(i)a.i., then you should have to pay a fee to the City because the City is not going to plant those trees, and that fee to the City should be used for ecologic or restoration services, or the like. He would much rather have the City put the money into a special account than get a donation and dispose of that donation.

Member Bayliss noted that we are talking about the zoning code, and the people looking at this are LADBS Plan Checkers and Inspectors. He doesn't see any LADBS inspectors being able to deal with enforcing rules presented in this item.

Member Loze would like to ensure that we have a “saving clause” for protective trees, as subsequently amended, because it is a very short list now compared to other cities, and it may be expanded. 2) He thinks that there is a Horticulture Bureau in the City and maybe our suggestion is that determination for removals be made in conjunction with experts in that department. He noted that it is possible that either of the lists be expanded, the natural list or either list might be expanded, as they may be amended.

Evans noted that she is hearing what Loze said, and that people are concerned about the removal provision, that there should be someone from the Horticulture Bureau involved in determining whether a tree needs removal. She also heard Hall say that existing trees shouldn't count.

Bayliss continued that there seems like a lot of subjectiveness to this, and we are dealing with B&S permits and Plan Checkers, so his big question is: 1) Who enforces these things, and 2) is there a way to simplify this? 50% and 75% within certain footage of your house, and having lists of natural trees and natural brush. He noted that we deal with LAFD with brush clearance and Urban Forestry for other issues, and he cannot get Urban Forestry to inspect or enforce anything.

Loze responded that maybe it is time for Planning to distinguish flats from the hills and create budget and personnel to deal with the specific issue that relate to the hills that are not the same that relate to the flats. If we don't start incorporating those in the kind of things we are dealing with here, we won't get them. If we don't start ensuring that we get protection, we won't get that protection or have someone at City Council make that distinction. The distinctions need to be drawn more clearly.

Hall noted that this is a pilot study area, and asked us to imagine how many significant trees are removed on a daily basis, for whatever reason... noting that UFD is not known for its enforcement prowess. He thinks it needs to be in the letter, he doesn't think we should

weaken the ordinance but that we need to highlight the issue and encourage the City to enhance their enforcement capabilities. He acknowledged that it is a legitimate issue but doesn't think weakening the ordinance is the answer.

Evans noted elements to put in the letter, given the current operations of the City departments, we have serious questions about implementation.

Loze would propose some enforcement provisions, noting that there are people cutting down trees all the time and there is nothing that says what happens when you are doing what you are not supposed to do. He feels that we should insist on significant penalties to inhibit bad actions. Evans noted that we don't see how the inspectors are going to go through the plant list... we have significant concerns about implementing the whole landscape plan.

Loze asked Hall what is the nexus between the tree removal permit department and these provisions, and should there be one, to which Hall noted that calling out questions about implementation is important but we should also specifically request that the appropriate funds for enforcement be provided to the UFD. He is thinking more about trees than making people plant what was on their list. He hears more all the time about people cutting down their trees and thinks we should say that the City should allocate funds specifically for enforcement by UFD because there is a specific provision that you shouldn't cut down this tree because of the ordinance, and then what if they do cut down the tree because of the ordinance? If you do that, you are subject to a special proceeding in Sec. 46.02 of the Municipal Code and if you meet certain criteria, the City can withhold issuance of building permits for up to 10 years, a rarely enforced provision of the code; most of the time you just get fined and have to put in replacement trees. The difference between the Protective Tree Ordinance – he doesn't think withholding the building permits for 10 years should be the penalty because this is a by right process – as long as we replace it, you get to cut down your significant tree. He thinks there should be some findings, noting that under the Protective Tree Ordinance you need to show that removal is necessary in order to allow for reasonable development. Under this ordinance, you get to cut down the significant tree and you don't have to show any necessity. Hall does not like this.

Hall noted that we stumbled upon something, which is should there be some kind of finding of necessity required to remove a significant tree or should you do it because you want to?

Member Loze noted that there is a gap between a significant tree and a protected tree. Hall noted that they resolved that by saying that everything in the Protective Tree Ordinance still stands: the finding of necessity, public hearings, replacement, enforcement capabilities, are all still in effect. All that this ordinance does is say that if you remove a significant tree, you have to replace it with two other trees on the preferred plant list.

**Possible Motion** *(not in perfect narrative order):*

- We support the intent of this part of the ordinance.
- Given the current operations in the City departments, we have serious questions about implementation.
- There needs to be a way to make sure appropriate funds are available for personnel to

handle all parts of the ordinance including UFD as it relates to tree removals.

- There needs to be penalties in the ordinance for violations relating to unpermitted tree removal.
- Small lots, if they can't fit the number of trees that are required, should be able to pay into an ecological fund that the City collects for ecological purposes.
- UFD needs to be the one to look at trees for emergency removal.
- It should be assessed whether it should be required that applicants show the removal of the significant tree is necessary.
- The size of the required tree need to be looked at to make sure that the ordinance is not excluding certain trees from being used as replacements, specifically, walnuts.
- Have a saving clause to allow these lists to be changed.

Moved by Hall, seconded by Schlesinger.

### **Public Comment:**

**Mindy Mann** related that the main thing is, what happens if someone has to prove the reason... noting that we need to save our trees and do it now.

**Patricia** noted that the part about fire got left out; within 30 feet needs to be fire resistant. She objects to prohibiting people from cutting down significant trees. She asked, do you need to go through a process to get permission to cut down trees, e.g., pine trees? She mentioned her experience with pine trees in the public right of way, which took four years to get the City to do something about. The homeowner would have to replace the trees and add to the home, when they weren't even trees planted by them in the first place.

**Alison** echoed Patricia about the fire issue, adding that people will not be able to get their fire insurance renewed in companies in part if they have trees too close to property so they are requiring them to cut down a tree within 10 feet of the property. She noted that the fire insurance companies are not deciding whether they are protected or significant, but thinks the fire insurance component needs to be considered in these tree proposals.

Member Hall acknowledged that this is an issue (and related his own experience of having to do all sorts of things for insurance) and asked, if someone is forced into the situation of a requirement to show necessity of removal of a significant tree, what kind of burden would that place on them? He needs to think about how to make the exception.

He would be happy to craft an amendment, similar to the Emergency Removal in (f)(2)(i)**d.i.**, to include potentially for (f)(2)(i)**b**, so that there was an opportunity to get some sort of expedited approval so long as it was validated by LAFD and UFD, and was legitimate.

Evans asked, if you were required to put x number of trees in your lot but you could not do so and maintain your insurance? Evans would like an amendment to make sure they are consulting the insurance commissioner to make sure that they don't require anything... that will make people not get insurance.

Hall would add something similar to the emergency removal in b., and then maybe add a

sentence that says give some discretion to Staff to waive the tree replacement requirement, if a fire hazard would be created. Hall worries about giant loopholes... and noted that everything needs to be substantiated.

**Possible amendment:** Discretion to Staff to waive the tree requirement if a fire hazard will be created and to have an expedited tree removal process *for trees needing to be removed* if insurance companies require such, moved by Evans.

Bayliss noted that he continues to be concerned about the subjective nature of a lot of this.

Evans re-read the underlying motion:

**Re-Reading of the Underlying Motion** [slightly wording changed] (*not in perfect order*):

- We support the intent of this part of the ordinance.
- Given the current operations in the City departments, we have concerns about implementation.
- We want to make sure appropriate funds are available for personnel to handle all parts of this section, including UFD for tree removal, because we believe that they need to be the ones to look at trees for removal.
- There needs to be penalties for violations for unpermitted tree removals.
- If small lots don't have enough space to handle the trees, the owners should be able to pay into an ecological fund that the City is collecting.
- Planning should assess whether it should be required that the applicant show that removal of the significant tree is necessary.
- The size of the required tree to be replanted should to be looked at to make sure that we are not excluding certain trees from being used specifically, walnut.
- That there is a saving clause to allow the lists to be changed.

*[Evans related to Member Bayliss that we are not talking about amendments related to fire hazards and insurance coverage.]*

Bayliss noted that he continue to be concerned about the speculative nature, noting if the department has to make a determination, there has to be clear findings, thresholds, justifications, e.g., subsection C, significant trees, protected trees, shrubs, drip line, where no development grading can occur within that drip line, and asked if that is a hard line? Is there no exception to that unless the tree is dying or dead or a fire hazard? He noted that LADBS is the only City department that 100% of its budget stems from permit fees. So you are holding up building permits for potential single family homes, which enjoy certain rights beyond commercial projects; projects being held up because of a tree, in theory. However, if there is a justification for a tree to be removed, who reviews that justification and what are those justifications? He thinks that additional funding and specialized staff will be needed to enforce this stuff. He assumes that the specialized staff will never happen and the funding won't have, so he thinks it leaves an awful lot open to speculation by both aggrieved neighbors and department personnel, and adds more layers on top of single family homes that are very expensive to build. He noted that he may not be a big tree guy but this section has thrown him for a loop because is supposed to be relatively straight forward... but some provisions are not necessarily definable. He doesn't know how plan checkers and B&S people will make those calls.

Brief discussion on this ensued between Bayliss and Hall, and Chair Evans pointed out that this is a soft part of the motion: assess whether it should be required that applicants show that the removal of the significant tree is necessary and clarified that she believes that if they think it is not possible to do it expeditiously, she doesn't think they'll put it in. Evans noted that we are supposed to be talking about amendments based on public comment.

**Reiteration of the Amendment:** For discretion to the Planning Staff to waive the tree requirement if a fire hazard will be created and to have an expedited tree removal process for trees needing to be removed if required by the insurance company.

Hall wanted to include something not included in the underlying motion, noting that if you just happened to have other native trees on your lot, that shouldn't count towards satisfying the requirement in (f)(2)(i) a.i.1., (*which states "the preservation of onsite Native Tree(s) may be used to satisfy this requirement"*) He noted that didn't make its way into the underlying motion and he proposed that that be added to this amendment.

Hall wants the language in (f)(2)(i) a.i.1. stricken as he doesn't think that any of the existing onsite native trees satisfy the requirement to adding any tree. He will move this after the current amendment is addressed. Brief discussion was held on this, and Hall would do this as a separate amendment.

**Restating the Amendment:** to add to give discretion to the Planning Staff to waive the tree requirement if a fire hazard will be created and to have an expedited tree removal process for trees needing to be removed if required by the owner's insurance company moved by Evans; following brief questions and answers, the amendment was seconded by Hall.

**Public Comment on the Amendment:**

**Pat & Jay:** Pat doesn't get the administrative process and if she has an issue she wants it done in a decent amount of time... sees this as being an administrative nightmare and very costly. She doesn't have any significant or protected trees but thinking the City will make it less of a nightmare she doesn't see that happening despite recommendation for funding.

**Mindy** noted that she has a problem leaving it up to insurance agents to determine need for tree removal. She would rather that the tree is deemed by an arborist, not by an insurance agent. 2) She said a long time ago that we need to find an individual and the funding to find an individual, e.g., a biologist, or someone who understands trees, to take care of them.

**Patricia** agrees with Bayliss that this will be unworkable. It should be if a fire hazard "exists," *not just* if a fire hazard is "created."

**Committee Comment on the Amendment:**

Bayliss noted that the amendment is good as to the proposed language. 2) With regard to insurance, people losing fire insurance in Bel Air is an epidemic. That is a real issue, where the insurance company will say do his or don't do that, or don't get insurance, if you

don't do what the insurance company wants and you lose your insurance. In Bel Air, there's a big chance that's the only insurance that is going to cover you. Evans spoke on her experience with getting insurance.

Hall acknowledged Mindy's comment that this opens up a giant loophole, that insurance people don't care, they are not thinking about ecology, balance; they are thinking of minimization or elimination of risk but noted that he is trying to listen to the community throughout this process and craft compromises.

**The amendment passed** to give discretion to the Planning Staff to waive the tree requirement if a fire hazard will be created and to create an expedited tree removal process for trees removals that are required by insurance by 3 yeses from Bayliss, Hall & Schlesinger, 1 no by Loze, and 1 abstention by Evans.

**2<sup>nd</sup> Amendment:** That we amend the motion to strike the sentence found at (f)(2)(i)a.i.1, which states: "The preservation of onsite Native Tree(s) may be used to satisfy this requirement." Moved by Hall, who noted that a lot of the undeveloped lots, proposed to be developed at BABCNC's PLU Committee have native trees on them. Hall opined that if you were able to count the trees that were on your lot, maintained toward this requirement, you could potentially eliminate this whole provision, because if you were building a 5,000 square foot house, you would have to add five native trees, but if there were already five native trees on your lot, you would have to do nothing. Yet there could still be ample space on your lot to add those additional five trees or more. He feels that this is not just about protecting the environment but enhancing it and restoring it when possible.

On further look, Hall noted that it says "*may be used to satisfy this requirement*" and thinks we should give some guidance to staff to determine when they can use that requirement... He no longer wants that sentence stricken but wants the sentence changed to say the preservation of onsite Native trees may be used to satisfy this requirement if determined that there is no additional space on the parcel to accommodate the new native trees moved by Hall; seconded by Evans

**Public Comment on this 2<sup>nd</sup> Amendment:**

**Patricia** related that she opposes micromanaging what people can have. She noted that what Hall is saying is another reason why this ordinance needs to distinguish between undeveloped land and developed land or previously developed land. She noted that you may not need additional native trees, that this preserves the trees that are already there which she thinks is good enough.

**The amendment passed** with 3 yeses by Hall, Schlesinger & Loze, 1 no by Bayliss, and 1 abstention by Evans.

**The underlying motion passed as amended** with 3 yeses by Hall, Schlesinger & Loze, 1 no by Bayliss & 1 abstention by Evans.

**The following agenda items were deferred to the next meeting due to time constraints:**

**Discussion and possible motion:** Presentation and discussion on Section 6, F, 1, g-i (Lighting, Windows, Trash Enclosures) 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.

**Discussion and possible motion:** Presentation and discussion on Section 6, F, 1, j (Site Plan Review) 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.

**Discussion and possible motion:** Presentation and discussion on Section 6, F, 2, a (Intent of Resource and Ridgeline Regulations) 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.

**Discussion and possible motion:** Presentation and discussion on Section 6, F, 2, b, i (Wildlife Resource Buffers) 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.

**Discussion and possible motion:** Presentation and discussion on Section 6, F, 2, b, ii (Site Plan Review) 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.

**Good of the Order.**

The meeting adjourned at 7:46 PM. Next Meeting Dates: June 30<sup>th</sup> & July 1<sup>st</sup> @ 5:30 pm.