



## MINUTES

### Ad Hoc Subcommittee on Proposed Wildlife District

**Thursday, June 23, 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/committees/viewCommittee/ad-hoc-subcommittee-on-proposed-wildlife-district>. **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, Don Loze. *Ex Officio* Member Travis Longcore was also present.
2. The agenda was unanimously approved as moved by Member Bayliss and seconded, with Chair Evans noting that #6 has been completed, and therefore will be deleted.
3. A motion to postpone approval of the June 20, 2022 Minutes to the next meeting, was approved, as moved by Evans.
4. **Public Comments** on non-agendized items within the jurisdiction of this committee.  
**Patricia** commented that there are a lot of projects that the PLU Committee never sees, and those homeowners will be captured by this. She asks that we keep the “little people” with smaller homes in mind, who would be most affected by this.  
**Pat and Jay**: Pat asked when the committee will examine the sample lots. She believes she won’t be able to build, and wants that acknowledged. Evans acknowledged her request, and encouraged using public comment to say how it will affect her life on a lot and that we can pull it up and discuss that.
5. **Chair Report**: Chair Evans gave an oral report on meeting with Planning for clarification and answers to questions regarding the ordinance. She will provide a written report on this shortly.

Some of Chair Evans’ report included that the ordinance was not meant to apply to a residence in its entirety if triggered by an addition or a tree removal. The ordinance is only triggered as it affects the “project” as defined by the ordinance. You don’t have to change all our windows because you have a tree removal.

Other comments from Evans' report include:

Lines on ridgeline resource and wildlife resource maps provided by the city represent the buffers for the resources not just the resources.

Planning reported that there are 28,000 parcels in the WLD area, and they will provide numbers as to how many have resources buffers, ridgeline buffers or both. They will provide a sample administrative clearance forms.

Discussed that there is no appeal process and that it is the same process as for the building process. Hall but would like clarification on this...

Evans noted that there was question of whether a biological assessment or a tree report will be required for the administrative clearance. If compliant, no, but if you note a resource on your plan, it might be required; if there is a discretionary review, from this or another ordinance, or removal of trees, you might be required to do an assessment or tree report.

Longcore noted that if any of those five things happen, e.g., the new construction, over 500-square feet remodel, tree removal or wildlife resource buffer, then you would be required to produce the biological assessment or tree report. Ellen noted it also sounded like if there is a request for a discretionary permit, that might be required.

Hall noted if triggered, you are either required for administrative clearance or site plan review. The question is, are biological assessments and tree reports required for all types or certain types of administrative clearances?

Evans noted that we will have maps as an agenda item and we will build a list of questions.

Planning is going to look into the question related to requirements when exceeding the 75% cost threshold. Their FAQ asserts that the current setback rules need to be followed. Committee's reading says it doesn't.

They will check as to the question of lot coverage definition using "above grade" and whether it should really be "above ground."

Questions from the most recent meeting: Interior remodels, even if you have a wildlife resource buffer would *not* trigger site plan review.

They'll give us resources as to fencing, what species are fostered, and where that comes from. There is no research that shows animals are harmed by getting freer access to streets, and in terms of their conversation with LAPD and LAFD, they had a conversation about with LAFD as to vegetation as relates to wildlife.

### **Public Comment on the Report**

**Patricia** believes that a statement made contradicts PAWS report, and that unmapped resources will be added, noting that the definition is so broad. ... open space and water-related resources or other resources that they might add and map? She questioned the number 27,000 parcels in the

wildlife district and Schlesinger mentioned 27,000 people represented in the NC.

**Pat and Jay:** Pat asked us to document if we agree trigger only the part of the ordinance that applies to a specific thing; to say if we agree with that, and that you heard that the City said they intended to do that, but they need to include that specifically.

**Alison** asked Chair Evans if she could publish the responses to the questions, noting that the responses seemed to have holes in it. Evans will create a written document.

~~6. **Discussion and possible motion:** If not already completed, 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. (completed.)~~

7. **Discussion and possible motion:** If not already completed, 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.

Chair Evans presented the section of the ordinance as it related to grading and prompted a discussion of remedial grading.

**Stephanie Savage** noted the need for remedial grading is where there is an anomaly in the geology: If the area is determined to have poor geology needing to be remediated, trimmed or whatever, it has to be identified by a soils engineer. Remedial grading tends to be overused.

### **Questions & Comments on the meaning of this part of the ordinance**

**Pat & Jay:** Pat asked why it says “in excess of 100%” but ends up 41 degrees. If she is over 41 degrees, does that mean she can’t build at all? The question is whether someone will be precluded from building.

**Stephanie Savage** related for between 60% and 100% slope, do RFA is currently allowed. Anything beyond 100% or 45 degrees has always had no RFA allowed... Stephanie is more familiar with R1 lots than RE lots... there is so much variation on R1 lots it would be extremely punitive to eliminate all that RFA. Evans asked if the guaranteed minimums are allowed, to which Stephanie responded, right, but every site is really different and it is not easy to say it works for everything. If this were to go through, excluding the guaranteed minimums, you would be allowed less RFA if you followed what is written now than you would in your guaranteed minimum. You could go back to the guaranteed minimum. But this is pushing towards, what she sees as R1 lots, if viable you would have to have much larger lots to build a home of maybe even 2,000 square feet.

**Alison** asked regarding grading restrictions, slopes greater than 100%, where it says no grading or structure shall be developed on the natural slopes... asking what is meant by a structure?

**Patricia** offered a correction about remedial grading, noting that it is her understanding it is based on the steepness of a slope. It could happen that even building a small one, they want you

to do something to the slope to make it more stable.

Member Hall discussed remedial grading, noting that there is an informational bulletin from LADBS #P, from which he provided some information. See the following link for details:

[https://www.ladbs.org/docs/default-source/publications/information-bulletins/building-code/guidelines-for-determining-remedial-grading-exempted-from-the-baseline-hillside-ordinance.pdf?sfvrsn=949cff53\\_12](https://www.ladbs.org/docs/default-source/publications/information-bulletins/building-code/guidelines-for-determining-remedial-grading-exempted-from-the-baseline-hillside-ordinance.pdf?sfvrsn=949cff53_12)

He noted that the bulletin talks about examples, because of the lots that haven't been developed, a lot of them are problematic lots.

Chair Evans noted that Member Hall said the Environmental Committee had extensive discussion on grading, and she wanted to share the motion that they made regarding grading.

The following from notes on the Ad Hoc Committee on Environmental Issues were read to the committee:

*Jamie made a motion to recommend an exception to the RFA in Section D2i referring to the allocation for slopes in excess of 60%. This exception would allow the allocation to be included in the cumulative floor area as it is currently allowed under the BHO, but only if the RFA is located in the area of the lot that has been previously "disturbed" (this does not include an area that has been disturbed by brush clearance).*

*The committee also recommended that Planning take a closer look at how the following two provisions will work together as there seems to be some contradiction: No grading or structure shall be developed on natural slopes in excess of 100% and greater as identified on the Slope Analysis Map per 12.21.C.10(b)(1), except that a Project may utilize a Guaranteed Minimum per Table 12.21 C.10-3 of the Baseline Hillside Ordinance (BHO)." But then in discussing the allocation of RFA in slopes in excess of 60% it says "Notwithstanding Section 12.21.C.10(b) Table 12.21.C.10-2a, Residential Floor Area (RFA) contained in all Buildings and Accessory Buildings shall not be allocated for slope bands greater than 60%". (Jamie recommended giving Planning an example of an acre lot with slopes in excess of 60% and asking what the total RFA would be)*

Per Hall, this is applicable, as there is a provision in this section that says you can't count that portion – it is applicable and we talked a lot about this and Patricia shared her slope band analysis for her parcel.

### **Public Comment on the Grading Section:**

**Patricia** commented that she doesn't see a connection between the steepness of the slope and how much house you should have and feels that it is arguably backwards.

**Alison** noted that we already have multiple ordinances that dictate grading and there were additional modifications and amendments in 2017, and that further regulations with regard to grading seems overkill and extremely restrictive. She objects to any additional grading restrictions in the Wildlife Ordinance.

### **Committee Comments:**

Member Loze raised attention to other things for modification submitted to the current HCRs such as 1) the question of when you can grade, noting that this doesn't say when. He noted there should be a precondition that you cannot move a rock until you have a building permit and cannot have that permit until Plan Check and approval. Within Plan Check there are certain things that they ask to be required.

2) Mr. Loze noted that the issue of "remedial grading" has been abused; access to remedial grading is in the hands of people who are essentially the employees or responsive to the developer/applicant, and it may not be the same as the purpose of this ordinance or the Hillside Ordinance, which is not to disturb the hills. BABCNC has suggested that remedial grading not be allowed if elsewhere on the site there is a place or location for development that does not require remedial grading. The idea of remedial grading has been abused by people saying we have to dig this and the other until we get to a safety factor. Grading has never been meant to be a guarantee of the developer's investment in a piece of property. The owner should have known the risk when the property was acquired.

He continued that none of this applies until there is a trigger, which is the application, and the application becomes a review, and the review gives the applicant ability to make a determination if they want to proceed or not proceed to build. That's the process we need to understand before we can say you can't do things on these properties. The issues of steepness and slope and slope banding issues are absolutely involved, in every other aspect of the other ordinances... but it seems to him there are a lot of escape clauses which don't put clamps on it. This is not to take away the possibility of people who want to deal with their land, but question of how to analyze to do with the land. Those two major points are omitted from here: When can you begin grading? Not until Plan Check. If Plan Checks should be supported by a schedule of performance and bonding, so that we don't have huge projects that are never finished as such as we have in Benedict. The Enforcement of violating these things has to be addressed. All of this is in the approval hands of people who are answerable to the Director of Building and Safety and the Grading Department without any public oversight at all.

**Stephanie Savage** reiterated that it is very different for every site in the R1 zone. She gathers that this ordinance is after preventing large houses on large lots so there is more room for wildlife to pass through. She thinks it is punitive to eliminate that slope band to have no RFA. The City in the 2017 BHO had a provision where you could through Council action do an R1 Zone variation in the hillside areas, where they did reduction in certain reduction in slope band. She thinks that the format that needs to be in this ordinance, is the typical chart that they provide for slope bands and that it could be considered differently the R1 zone and larger zones.

Evans noted that we are talking about grading restrictions, no grading exemption for driveways and footprint and then all remedial grading is counted towards the maximum by right grading quantity. She asked if there is a problem with the grading restrictions.

Member Hall noted that he likes the further restriction – the removal of the driveway exemption, and the cut and fill underneath footprint exemption, explaining that one reason people will see that the export is X, and ask themselves how they comply with the BHO's by right grading exemption? He noted it is because of all the exceptions... also with remedial grading; however,

noted that unfortunately one can hire a licensed person who you can pay to say all sorts of things.

Hall noted that the Environmental Committee was confused about C2ia, because it says no grading or structure shall be developed on natural slopes in excess of 100% except... utilize that a project may utilize a guaranteed minimum. That's confusing.

Are you saying you can build in order to obtain your guaranteed minimal? He would move to ask the staff that question, noting it is very ambiguous. Evans agreed and thanked him for pointing that out. Evans reported having seen a lot of evidence of damage of excessive grading. She thinks it all should count.

Member Loze noted that the issue is how is the determination made and how does it fit in the appeal process of an application. The ability to question the determination of some subset of personnel in Planning and Safety which gets down to questioning the judgment of the Grading Department is something that has been uncovered, remained hidden forever. It seems to him that there has to be some way of digging into that process, and this is an opening to do it.

Loze noted that you have to have an appeal process for the review, for each step of the determination, to which Hall noted that we already adopted a motion that there has to be appeals processes...

Hall discussed the issue of whether we want remedial grading. All remedial grading counts. Loze questioned whether there should be remedial grading on the site where there is an opportunity to place the structure on a site where remedial grading is not necessary. Loze noted that there has to be analysis of the site.

Hall asked why someone would want a structure on a site that requires extensive remediation if they didn't have to? Loze noted that you can't guarantee destruction of the hills... on the basis of remedial grading. Hall noted so that that grading is conducted in the least impactful way. Evans noted that the structure is sited on a place that minimizes grading on the lot.

**Stephanie Savage** related that the City of Beverly Hills requires a third party to verify grading. She thinks that's a great idea. She noted that the program they have nowadays to design houses, you can get a spreadsheet from your program, and figure out what your foundation is. It is extremely accurate. She commented that as long as we pressure the City to make these requirements and prove such grading we won't get anywhere.

Member Miner noted how we spoke about changing rules and regulations on grading, noting that before grading is done it should be permitted by the applicant including the structure being put on the property. She feels that there is too much wily nilly random grading going on, and noted that that discussion came about because we wanted to reign in that kind of backwards grading; people grade and say oops and the piece of mountain is gone. Would this apply to new construction or rebuild? She doesn't want to lose sight that we wanted to incorporate grading permits with building permits.

Loze agreed, and thinks that we need to put here: that no grading can proceed until building permits are obtained. Hall noted that the last idea is good that grading permit shall not precede

issuance of building permits. The other thing we heard is that that we want a provision that said the proposed structure shall be sited on the project site on a way that minimizes grading.

Evans noted that we need to support the intent of C21a, which is what we were getting clarification on. Hall would request clarification on the meaning of c21 to the motion.

**Motion:** Recommend that the City includes two provisions to the grading section of the draft ordinance:

- 1) an express statement that grading permits shall *not* be issued prior to building permit issuance for a structure, and
- 2) have a requirement that proposed structures be sited on a lot such that grading is minimized, and
- 3) further that we seek clarification from the City with regard to C21a when it states a project may utilize a guaranteed minimum per 12.21 C.10-3 *of the Baseline Hillside Ordinance (BHO)*. The specific question to be asked is, does this mean that a structure or grading can occur on natural slopes in excess of 100% if it is necessary for a project to utilize the guaranteed minimum?
- 4) and we express support of the intent of the grading provision and
- 5) further amend it to say we support this section of the ordinance including the intent except for the section requiring clarification (6.F.1.c.2.i.a) moved by Hall; seconded by Evans.

**Public Comment on the Motion:**

**Alison** would that the NC note that this is their support not that of public.

**Pat and Jay:** Pat has concern including structure, asking can people rebuild with the same square footage, and thinks that this ignores the small people. She asked what percentage of houses including small houses can really rebuild with their own sized home, less than 5,000 square feet, with the ridgeline and everything else. She opined that without knowing that data you are kind of changing the character of the neighborhood, noting also that she is an environmentalist. She recommends allowing new construction that has the same square footage as the old.

**The motion passed** by 3 yeses from Hall, Schlesinger & Bayliss, 0 noes, and 2 abstentions from Loze & Evans. Loze reported his abstention was because we have not reached adequate limitation on remedial grading.

8. **Discussion and possible motion:** If not already completed, 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.

Chair Evans presented these sections of the ordinance.

**Public Requests for Clarification:**

**Pat & Jay:** Pat asked what she is guaranteed to do under this ordinance, providing some specifics and hypotheticals. Hall noted that she would need to know the slope band, referencing the City's calculation, and check Zimas.

There was an extensive discussion on the impact of this section of the ordinance on relates to Pat and Jay's lot – a lot with a small flat pad and a larger section with a steep upslope.

Whether guaranteed minimums would apply was not able to be determined.

Longcore would ask for this to be clarified.

Hall would recommend a sentence that under b2i add a sentence at the end that says an applicant shall be entitled to a Guaranteed Minimum per Table 12.21 C.10-3.

**Public Comment on the RFA section:**

**Stephanie Savage** pointed out that the BHO chart 2b is for the R1 zone variations needs clarification by Planning and that 2b has not been voted on in our NC area.

Member Loze noted that a concomitant aspect of this is the slope band provisions that have not yet been clarified as having a cap, and that we have seen examples of abuse of that.

**Pat and Jay:** Pat asked why we can't do some other type of restrictions instead of punishing the little person.

**Patricia** noted that there are huge number of lots and homeowners that will be affected by this; the 60% slopes are very common in the Wildlife District, and there is no nexus between the steepness of slopes and the size of the house if you are not building on that slope. She gave an example of her house... and stated that what size house she builds on the flat pad doesn't affect the wildlife.

Evans asked for a motion on floor area.

Hall noted that we should definitely request that confirming that the guaranteed minimum is still allowed, and also supports the motion of the Environmental Committee, reflect if she wanted to build the maximum RFA as BHO, and only intends to build on the lot, the portion of the lot that has been previously disturbed, he has no problem with that. There is nexus here; it is a habitat preservation. He noted that this is an imprecise tool to preserve habitat because the City doesn't want to do site review analysis.

Ellen knows there is a nexus here because she has seen what has happened with basements in her neighborhood, what's happened to wildlife when lots have been cleared, and also the extent of these projects that have huge basements that take 7-9 years to build is devastating to habitat. She would appreciate, in addition to those two clarification, that we support d.2.i to at least i.

Hall would love express support for the elimination of – or have basements count towards the RFA – and there is direct nexus. It is a root cause of unnecessary habitat destruction.

Bayliss noted that there is a big push by community folks on a host of revisions for the construction overlay; one of the things folks constantly bring out is the basement aspect.



**Motion** That we express support for the intent of this section of the ordinance and support the regulations identified at d2i, and that we request an additional sentence be added to d2i that states that applicants shall be entitled to the Guaranteed Minimum Residential Floor Area per Table 12.21 C.10-3 of the Baseline Hillside Ordinance, and further move that we request a carve out to the d2i that would allow a project owner to utilize the residential floor area attributed to slope bands greater than 60% so long as they are building on the area of a lot that was previously disturbed moved by Hall and seconded.

**Public Comment:**

**Pat & Jay:** Pat commented that we are giving her something but taking away something. She is worried about wildfire and getting approval for a rebuild of her same house. She is not sure the 75%... would help because of all the upgrades she would have to do.

**Patricia** related that she appreciates the “carve out” but still has concerns; 1) removal of covered parking... everybody gets 200 square feet less; and wonders the nexus. 2) Why 60% get RFA reduced? She thinks that there is no nexus between steeper slopes and lowered RFA versus flatter slopes having a lower RFA. 3) There are a lot of people whose retirement plans or their estate plans are based on the value of their home and this will reduce the value of a lot of people’s homes because a smaller home can be built on the property than what they currently have... especially on ridgelines or where there is a setback issue; and that could be financially ruinous. She concluded that there is no nexus and potentially a great deal of harm to people.

Shawn Bayliss noted that he has to leave and made a point that the theme showed up at the last ridgeline discussion, important we all understand it, and we may need clarification from the City on how this new ordinance translates into general provisions of – when your home is destroyed, what can you build back? If less than 75% however that translates in today’s terms... over the valuation of the home, what does that mean? If less than that, you get to build what you have currently. If it is over that, there is an exemption for single family and two-family structures.

He believes Code Section 12-23-A5 which he encourages you all to read, because if our home is 100% destroyed by earthquake, fire, flood, famine, God, whatever, you can build back what you want to build back except your side yard setbacks can’t be less than 50% of the currently required setbacks and your front and rear yard setbacks can’t be less than half of the existing required setbacks, your RFA and he everything else he believes can be the same, and since you can go half of the current regulations... chances are the current setbacks are 50% or more of what the required setbacks are or will likely be, the only thing that is going to stick you is the height... You will have to conform to the required height standard at the time that you want to rebuild. So if you are a single family home and 100% destroyed, you’re largely covered... other than the height limit. Bayliss thinks it is important that everyone read that, Code Section 12-23-A5. So if you are a single family home and largely destroyed... height limit is likely to be your biggest restriction.

Jamie has no amendments to the motion. Evans noted that there is a “carve out;” you are allowed to build on what has been previously disturbed and Pat noted that in complying with other part of the ordinance, she would have to disturb some of the previously undisturbed portion of her lot.

Hall noted that the reason we did this is because people kept telling us that they had no intent of encroaching on the wild land, the undeveloped portion of their lot, and that they wanted to build on their existing pad. Evans related that Pat said in order to comply, she would need to provide the side yard setbacks. Hall thinks this would be negligibly, or maybe.

Evans called the question on the motion.

**The motion passed** by 4 yeses from Hall, Schlesinger, Loze & Miner; 0 noes; and 1 abstention from Chair Evans. (Bayliss had left).

**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, 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.

**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.

**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.

**Discussion:** Planning for presentations at the next meeting.

**Good of the Order**

The meeting adjourned at 7:23 pm. **Next Meeting Dates: June 29th, 30th, 1<sup>st</sup> 5:30 pm**