

**Attachment B**

Wildlife District Ordinance  
Draft Comment Letter  
July 7, 2022

The Bel Air-Beverly Crest Neighborhood Council has undergone a painstaking and thorough process of reviewing the proposed Wildlife District ordinance, meeting on the topic for well over twenty hours and hearing many hours of public comments. Since the Bel Air-Beverly Crest Neighborhood Council area comprises a quite substantial portion of the area to be covered by the proposed Wildlife District, we initiated the process with the expectation that we would have the ability to engage in dialogue with the Planning Department regarding the meaning, application and scientific bases of the proposed ordinance but that has largely not been the case. Again, given the significance of BABCNC territory within the proposed WLD district, we hope that our feedback is received and weighted appropriately.

The Neighborhood Council recognizes the importance of fostering biodiversity, ensuring connectivity for wildlife, and attending to watershed health, wildfire safety and climate resilience, and therefore supports the intent and purpose of the ordinance.

We have the following comments on the current draft of the ordinance.

**Overall**

In this draft of the ordinance, what types of projects will trigger different district-wide regulations is not clear. While we have been told that a regulation is only triggered for the individual project, this is not clear in the written ordinance. Drafting of the ordinance must be clearer to avoid potentially unintended interpretations. Further, even the explanation received regarding triggering is not clear enough. For example, in the information session held on June 28, Planning staff stated that a fencing project would require compliance with fencing requirements but it doesn't appear that fencing would constitute a project at all. It's unclear when trash enclosures requirements would be triggered. Clarity on these points would resolve concerns about mis-interpretation.

A cohort of residents in our area is opposed to the ordinance. Common refrains in comments we have heard include concern about rebuilding after a disaster, concern about restrictions having a substantial negative effect on property values, concern about public safety effects and a substantial skepticism about the efficacy of the regulations, especially when coupled with the perceived burden. These comments are attached to this letter and concerns should be addressed by staff.

Numerous questions have been posed about the scientific underpinnings of the ordinance restrictions. There is no doubt that the ordinance would restrict development in the WLD district. That's its very purpose. Because of this, the community is owed a degree of certainty that there will be some significant benefit accrued. Requests for detailed explanations about benefits of specific regulations have not been met with adequate answers, and this has hampered community acceptance of this ordinance.

These questions, and others which have been posed but remain unanswered are attached to the end of this letter.

### **Wildlife Resources**

“Wildlife resource” is broadly-defined in Section 1 of the ordinance but only limited types of Wildlife Resources are mapped. This means that woodlands, many of which occur on large, privately-held, vacant land, are not mapped and may be missed as a resource. This has the further effect of injecting uncertainty into all land-use decisions made in the proposed WLD since resources may be identified in review processes which have not previously been mapped. While this flexibility allows for preservation of unmapped resources, there is public concern that this will result in an unreliable process that may cause insignificant resources to make any completion of any project expensive and lengthy.

Questions came up about the significance of some mapped resources. Because the existence of a mapped resource automatically triggers site plan review, and because some development won't affect the resource buffer area, BABCNC suggests that there be a de minimus review process available for applicants to assess whether the specific project warrants site plan review as well as whether the resource is, in actuality, significant.

### **Administrative Review**

BABCNC recommends that projects in the WLD district needing administrative review be subject to Neighborhood Council review as well.

## **13.21 “WLD” WILDLIFE DISTRICT**

### **Purpose**

As stated above, the Bel Air-Beverly Crest Neighborhood Council supports the purpose and intent of the ordinance.

### **Relationship to Other Zoning Regulations**

This WLD Ordinance should not preempt or override Protected Tree Ordinance permit requirements.

### **District Identification**

City-initiated development should not be exempted from WLD regulations.

### **Definitions**

BABCNC recommends the following modifications to definitions:

Native Plant: Mitigation trees should not be excluded from the definition.

Open Space: Should include “open space” held by non-profit organizations that has not yet been rezoned.

Wildlife Lot Coverage: Replace the word “grade” with “natural ground.”

### **Applicability**

As stated above, the applicability section should make clearer what portions of the ordinance are to be applied.

Tree removal should only be a “project” when there is a removal of a protected tree or significant tree that is not dead or diseased, as determined by a certified tree expert, and pest expert, or that compromises the structure of a building.

BABCNC acknowledges what we believe is the purpose of considering any construction or grading activity on a lot with a Resource Buffer a “project” for the purpose of the ordinance however we have reservations of the broadness of this application relative to the potential impacts.

### **District-Wide Regulations**

**Setbacks:** BABCNC recommends removal of the Minimum Front Yard Setback. This may have the effect of reducing more valuable land behind the project and/or of increasing grading when a project on an upslope lot is pushed further into the hillside.

**Wildlife Fences, Walls, Hedges:** Only new construction, major remodels and additions exceeding 500 square feet should trigger these regulations, and the City should ensure that the ordinance balances the movement of animals with the safety of residents.

**Grading:** The committee recognizes the important role of grading limitations in furthering the purpose of the ordinance and therefore supports the intent and the application so long as the prohibition on grading on slopes of 100% or greater does not apply to grading that is necessary to allow for guaranteed minimum RFA to be utilized.

BABCNC recommends the addition of two provisions in the grading sections:

- Grading permits shall *not* be issued prior to building permit issuance for a structure, and
- Proposed structures must be sited on the lot such that grading is minimized.

### **Residential Floor Area**

BABCNC supports the intent of this section (RFA) of the ordinance and the regulations identified at 2.i.

We recommend the following modifications for regulations identified at 2.ii:

- Explicitly state that applicants shall be entitled to the Guaranteed Minimum Residential Floor Area per Table 12.21 C.10-3 of the Baseline Hillside Ordinance
- 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.

### **Wildlife Lot Coverage**

BABCNC recommends that lot coverage percent be pegged to lot size. Fifty percent may be too much to allow large lots and too little to allow small lots. The City should be mindful that some regulations seem punitive when it comes to smaller lots, and owners of small lots should not be excessively burdened compared to owners of larger lots.

100,000 square feet is too much to allow for residential use, so a different, smaller limit should be developed.

### **Vegetation and Landscaping**

BABCNC supports the intent of the landscaping regulations in the ordinance. Given the current operations in the City departments, we have concerns about implementation and want to make sure appropriate funds are available for personnel to handle all parts of this section, including UFD for tree removal.

UFD should be the department that assesses trees for removal. BABCNC also recommends the following related to tree removal:

- Modify to allow the preservation of onsite Native trees to be used to satisfy this requirement if determined that there is no additional space on the parcel to accommodate the new native trees.
- Penalties for unpermitted tree removals should be included in this ordinance.
- The City should assess whether applicants should be required to show that removal of the significant tree is necessary.
- Staff should have discretion to waive the tree requirement if a fire hazard will be created.
- An expedited tree removal process for removal required by the owner's insurance company should be included in the ordinance.
- The size of the required tree to be replanted should be looked at to make sure certain trees are not being excluded from use. To be specific, there is a concern that 15-gallon walnuts may not reach 7 feet in height.
- A fund should be established so that owners of small lots that do not have enough space to handle the required number of trees can pay fees to allow planting of required trees elsewhere.

BABCNC also recommends adding a saving clause to this provision to allow the lists of preferred and protected species to be amended.

## **Lighting**

BABCNC recommends that the maximum restrictions on brightness should be based on total area/size of the lot and not based on brightness per fixture and that the following be included in the regulations:

- That all lights be fully shielded to eliminate upward emissions.
- That security lighting be motion activated and not be constantly illuminated.
- That a curfew be set for both recreational and landscape lighting
- That the definition for "recreational lighting" be provided in the definition section.

## **Windows**

BABCNC recommends the following regarding windows and glazing:

- No individual glazing pane should exceed 24 square feet.
- Windows shall conform to the standards set forth in Title 24.
- Eliminate list of window/glazing treatments and instead specify that treatments should not have a threat factor exceeding 30 in the American Bird Conservancy database.

### **Site Plan Review**

BABCNC recommends the following revisions to requirements for Site Plan Review.

- That tree removal permit be added to the list to permits that shall not be issued prior to site plan review for projects that require such review.
- That the word “additional” be stricken from item 2 so that any project resulting in 7500 square feet in total be required to obtain site plan approval.
- That a *de minimis* waiver process be established for projects to avoid site plan review when staff concludes that there is clear convincing evidence that a project will not have a negative impact on a wildlife resource buffer.
- That projects proposed on undeveloped land that is contiguous to lands that cumulatively are greater than half an acre of undeveloped land require site plan review.

### **Wildlife Resource Regulations**

BABCNC supports the intent of the Wildlife Resource regulations as stated.

We seek clarification of the value of mapped resources and the positive impact the buffers would have.

Please see above for request for procedure for *de minimus* review in order to allow for determinations that either a resource is effectively insignificant or that the project will not affect the buffer area.

### **Ridgeline Regulations**

BABCNC requests more information about what the height restrictions are meant to achieve and notes that the limits are too low.

A 45-foot overall height limit should be applied to all hillside properties whether near a ridgeline or not.

BABCNC would like further clarification on the ridgeline setback requirement, particularly answers to the following questions:

- Can non-wildlife-friendly fencing be used to fence the additional setback? If so, what is the benefit of this provision to wildlife?
- Why was this approach taken rather than the approach of mapping actual used corridors? Is there any benefit to having multiple corridors? If so, what is that?