

Attachment A

Wildlife District Ordinance
Draft Comment Letter
July 8, 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 in 15 meetings devoted to the ordinance and hearing many hours of public comments. Further, many previous meetings were held by committees on the previous draft of the wildlife ordinance as well as on the previous draft of the ridgeline ordinance.

We know that our neighborhood presents a unique ecological resource. While we are a residential neighborhood, we also have within the neighborhood a National Park (Franklin Canyon). Our area is entirely within the Santa Monica Mountains, contains many of the Santa Monica Mountains mapped habitat blocks, and is also in the Rim of the Valley study area. Indeed, the Santa Monica Mountains Conservancy Act, adopted in 1979, states as follows:

The Legislature hereby finds and declares that the Santa Monica Mountains Zone, as defined in Section 33105, is a unique and valuable economic, environmental, agricultural, scientific, educational, and recreational resource that should be held in trust for present and future generations; that, as the last large undeveloped area contiguous to the shoreline within the greater Los Angeles metropolitan region, comprised of Los Angeles and Ventura Counties, it provides *essential relief from the urban environment*; that it exists as a *single ecosystem* in which changes that affect one part may also affect all other parts; and that the *preservation and protection of this resource is in the public interest*.

Pub. Res. Code Section 33001 (emphasis added). We therefore recognize the importance of fostering biodiversity, preserving open space and critical habitat, ensuring connectivity for wildlife, and attending to watershed health, wildfire safety and climate resilience, and therefore support the intent and purpose of the ordinance.

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.

Comments below capture our best efforts to reconcile the goals of the ordinance with the needs of residents.

Overall

Our aim in reviewing the ordinance has been to ensure that the focus of the ordinance is on protecting the most valuable resources, and on balancing that protection with legitimate desires to safeguard property interests. Our review finds that there is sometimes a mismatch between the value of a resource that may be present on a property and the attention given to it in the ordinance.

This may be solved by choosing a biologically-based approach rather than a resource-driven land-use-based approach. This is the approach that has been undertaken by the County of Los Angeles. Using such an approach, the Santa Monica Mountains Conservancy's habitat and wildlife connectivity maps could be used as the starting point for land-use conversations with property owners and developers. If habitat is not identified as being present on the lot, site plan review would be unnecessary and a project could proceed through the administrative clearance process. However, if a project fell within a SMMC designated habitat block or other mapped habitat, then the developer would be required to undertake a more granular mapping of the area prepared by a qualified environmental professional to determine if valuable habitat existed on the site. If a parcel was determined to have high habitat value, then site plan review would be required. This approach would ensure that focused analysis and site plan review is conducted only for projects with superior habitat value as determined by a qualified professional and confirmed by City Staff. We find that there is greater community support for this approach.

In this draft of the ordinance, what types of projects will trigger different district-wide regulations is not clear. The Neighborhood Council initially thought that compliance with all district-wide regulations was required if any "project" existed. We were subsequently told that was not the case. 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 orally at staff presentations 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 also unclear when

trash enclosure requirements would be triggered. Clarity on these points would resolve concerns about mis-interpretation. In sum, this section of the Ordinance should be rewritten to clearly state what aspects of the district-wide regulations are triggered and when.

The Neighborhood Council recognizes that the ordinance is strongly supported by many residents and environmental organizations. Indeed, the ordinance has its roots in our neighborhood council - as it was proposed by constituents of the Bel Air-Beverly Crest Neighborhood Council who were concerned about inadequate environmental protection and habitat loss resulting from development activities, particularly projects that involve large high-end luxury residences. These concerns have been exacerbated by the fact that the City of Los Angeles exempts the overwhelming majority of development projects from environmental review under the California Environmental Quality Act. Many years later, the ordinance is now taking shape and coming to fruition.

That being said, the Neighborhood Council also acknowledges that 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. For many residents, their home is their most valuable asset. Sensitivity towards devaluation of this asset should be expected, and the City must minimize the potential for significant devaluation when revising the ordinance. Comments received are attached to this letter and concerns should be addressed by staff.

Need for Further Information And Additional Staff Hearing

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. While staff indicated that they had conducted interviews with experts and undertaken literature review over the many years this ordinance has been in the works, 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. The Neighborhood Council believes that staff would prepare a fairly detailed report to be presented to the City Planning Commission and the public that outlines the process that has been undertaken and the scientific bases that underpins the proposed regulations.

The Neighborhood Council appreciates that the City has released the draft Ordinance far in advance of the public hearing and has solicited comments. Naturally, many questions have been raised about the ordinance. Unfortunately, we and the public have not received answers to many of our questions and have been required to comment without having answers on the vast majority of our questions and therefore without having a full understanding of the ordinance. Bel Air-Beverly Crest Neighborhood Council therefore requests a document be prepared with the answers to all applicable questions that have been raised since this draft was released in April, and for there to be a 30-day comment period following the release of this document with another staff hearing to be held at the end of this period. This ordinance should not have a CPC hearing until comment is possible on a complete understanding of the application of and the basis for the ordinance.

Questions this committee has compiled but which remain unanswered are attached to the end of this letter.

Wildlife Resources

As noted above, the Neighborhood Council prefers an approach that relies on habitat mapping at the lot level rather than resource mapping which has been incomplete. Changing this would solve many problems noted below.

“Wildlife resource” is broadly-defined in Section 1 of the ordinance but only limited types of Wildlife Resources are mapped. For example, native woodlands, such as oak and walnut woodlands, which have tremendous environmental value for wildlife, are not on the City’s Draft Map even though they were officially mapped by the National Park Service in 2006. These native woodlands often occur on large, privately-held, vacant land, and yet they are not mapped and have been missed as a resource though they present what is arguably the most valuable resource in our area.

Not mapping all resources 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 in which identification of resources may be untimely and identification of insignificant unmapped resources may make completion of any project expensive and lengthy or, in the worst cases, impossible.

Moreover, there is no statement in the ordinance about what will result when an unmapped resource on a property is identified. If this approach is to remain part of the ordinance, this must be clarified.

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, BABNC suggests that there be a *de minimus* review process available for the City to assess whether the specific project warrants site plan review as well as whether the resource is, in actuality, significant.

Following are specific comments on elements of the ordinance.

Administrative Review

BABNC 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. Tree Removal Permits for removal of protected trees should still be required with public hearings before the Board of Public Works when three or more protected trees are proposed to be removed.

District Identification

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

Definitions

BABNC 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. Further, removal of a significant tree on the “prohibited plants” list should require replacement at the rate of two to one with a tree from the preferred list without an administrative review process.

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.

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. This needs to include a simple way to challenge whether the mapped resource is habitat, consistent with the intent of the ordinance, with the burden on the City to prove that it is

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?