



From: jeffrey kaplan jeffreykaplan@msn.com  
Subject: I OPPOSE Wildlife Ordinance, #CPC-2022-3413-CA, CPC-2022-3712-ZC
Date: July 18, 2022 at 10:31 PM
To: Paul.Koretz@LAcity.org
Cc: info@babenc.org, Alison MacCracken alison@maccracken.com, controller.galperin@lacity.org, Shawn Bayliss shawn@belairassociation.org

JK

On my own behalf, and for the benefit of all ridge property owners, including my properties in Bel Air including the home at 1461 Bel Air Road, I am strongly opposed to the proposed "Wildlife" Ordinance, as written, for the reasons outlined in the attached document, including my personal comments in bold at the end of the document as follows:

While I reserve the right to add to, or amend, this objection at a later date, I also have the following personal objections and concerns:

- 1. The proposed Ordinance should not have any blanket restrictions, but each property should be considered on its own merit since no two properties have the same elements.**
- 2. Properties with contiguous neighbors should not be treated any differently than the contiguous neighbors. For example, I have a 2,000-sf home that is on a ridge and between 2 neighbors with 2 recently constructed 10,000-sf homes on comparable lots. What sense does it make to restrict the development of my property when there will be ZERO impact to wildlife/aesthetics, etc. whether I build a 10,000-sf house or not.**
- 3. The proposed Ordinance fails to recognize that wildlife/aesthetic matters are the burden of all of society not just the unlucky owners of ridge properties. If society wants to place unique burdens on ridge/hillside owners, then society, not unlucky homeowners should bear the burden of such restrictions by payment of condemnation proceeds, etc.**
- 4. I fail to understand why the City or any reasonable person would prefer development restrictions on ridge or hillside properties that would encourage natural weeds/scrubs and other fire inducing and non-aesthetic hillsides over developed/manicured houses/landscaping that are far more fire resistant. I mean, while I agree protection of wildlife is noble, it is far less noble than protecting the community from fires, which is the greatest threat to our hillside homes.**

For the welfare of the community and fairness to owners of properties within the Wildlife jurisdiction, I urge a NO vote on the Ordinance, as written.

Very Truly Yours,

Jeffrey A. Kaplan

Attorney at Law (inactive)

10877 Wilshire Blvd., Suite 1520

Los Angeles, CA 90024-4341

Tel. (310) 208-0075 x 109

Fax (310) 208-0571

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Wildlife Final-
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To whom it may concern

I am strongly opposed to the proposed “Wildlife” Ordinance, as written, for the reasons stated below. I also object to: 1) the fact that this ordinance, by the Planning Department’s own admission, was developed with significant outreach to, and input from, certain special interest groups while largely excluding affected homeowners who were not affiliated with those groups; 2) the deceptive hearing notice mailed to homeowners, and the insufficient time it allowed homeowners to understand a complicated ordinance prior to the Hearing; and 3) the lack of transparency, failure to respond to questions, and deceptive tactics on the part of the City of Los Angeles’ Planning Department in presenting the Wildlife Ordinance to the public, and to affected homeowners and residents. I reserve the right to further detail those, and other, objections in a future communication.

In 2014 Councilmember Paul Koretz introduced a motion directing the Planning Department to develop an ordinance that would preserve and protect existing wildlife corridors and remaining open space wildlife habitats, which were in the process of being mapped by the Santa Monica Mountains Conservancy. In 2021, and again in 2022, the Planning Department released a proposed “Wildlife” Ordinance that inexplicably ignores that mandate, and the SMMC maps, and instead targets homeowners in already developed areas with oppressive regulations that will have minimal impact (and in many cases no impact) on the preservation of wildlife corridors and remaining open space habitat. The harm the proposed “Wildlife” Ordinance would cause to homeowners drastically outweighs the minimal benefits to wildlife, and as such the ordinance is, quite simply, a bad law. The Planning Department needs to go back to the drawing board and develop an ordinance based on strong science, the actual needs of wildlife in this area, and due consideration for the people who would be affected.

I. Many of the provisions of the Wildlife Ordinance are of little or no benefit to wildlife but have a significant negative impact on homeowners and residents, including:

Fencing & Hedges

The “Wildlife” Ordinance’s open fencing/hedges scheme requires fences or walls to be 50% open/void space, and have a minimum of 6 inches of open space between any solid elements of the fence. This poorly conceived scheme would, among other things,

- 1) result in fencing that can easily be climbed by criminals, thereby making properties and homeowners more vulnerable to crime;
- 2) provide easier access to undeveloped land behind homes for trespassers, thereby creating an increased danger of trespassing, illegal camping and cooking fires, and resulting wildfires;
- 3) result in fencing that is more easily climbed by coyotes, thereby presenting an increased risk to the safety of children and pets in homeowners’ yards.

- 4) present a danger of entrapment and/or escape for children and pets (how long before we hear of child who climbed an open fence and drowned in a neighbor's pool?);
- 5) promote fencing configurations that are a risk of entrapment to wildlife (e.g. deer getting caught in widely spaced iron fencing); and
- 6) destroy residents' privacy in their own homes and yards.

Additionally, these dangers exist regardless of whether the open fencing is on the homeowner's property or on a neighboring property.

The Planning Department has admitted that it failed to consult with LAPD and LAFD on the dangers of this open fencing scheme. That is simply irresponsible.

The Planning Department has failed to produce any scientific evidence that the Wildlife Ordinance's open fencing scheme would have a significant benefit to wildlife, and has been unable to identify any animal that could get through a 6"x6" opening that cannot already get over or under the typical perimeter privacy fence. Even if such an animal existed, it would not require an entire fence 50% full of 6"x6" openings. Rather, openings spaced at intervals along the bottom of the fence would serve the same purpose without the dangers described above.

The Wildlife Ordinance's option of allowing the usual privacy fencing outside the setback area is untenable as well. Setbacks comprise a considerable percentage of a property, and homes are usually built to the setback line. Homeowners who "chose" this option in order to preserve their privacy and safety would be forced to effectively forfeit the use of a large part of their property.

The Wildlife Ordinance's prohibition against chain link fencing prohibits the most common form of fencing used to protect active construction sites and fails to provide a reasonable alternative. Unprotected construction sites would be a magnet for criminals and curious children and would present a considerable danger to the latter.

The Santa Monica Mountains Conservancy has done considerable work on mapping undeveloped habitat blocks and the existing corridors that wildlife actually uses to move between these habitats. The science is clear that these true wildlife corridors are very different from the yards of the typical home in the Wildlife District. The Wildlife Ordinance's ill-considered fencing regulations cannot magically turn a typical yard into an actual wildlife corridor, and no amount of spin will change this. Rather than find a way to protect the true wildlife corridors that animals actually use, the Planning Department instead entirely ignores the SMMC's work and accepted science, and for inexplicable reasons attempts to create small counterfeit corridors throughout the Wildlife District that will have little or no benefit to wildlife, to the detriment of residents and wildlife alike.

Residential Floor Area

Under the current zoning code, the size of the home one is allowed to build, or expand to, is a function of the size of the property and the steepness of the slopes, with flatter land counting more than steeper land. The Wildlife Ordinance would exclude slopes that are greater than 31 degrees from that calculus, thereby reducing the area of a lot that counts towards a home's allowed square footage

As an example, under the Wildlife Ordinance, a 10,000 square foot property which has 4,000sf of flat land and 6,000sf of 35-degree slope will be treated as if the whole property were only 4000sf – because the other 6,000sf simply would not count. In this example, for a property zoned RE15 or RE40 (like the vast majority of the proposed Wildlife District), the current code would allow a maximum size home of 2500sf including the garage. The Wildlife Ordinance would reduce this to 1400sf including the garage - a drastic 44% reduction. Similar reductions would occur for properties zoned R1 through RE9. Homes that had previously been within the allowed size but that the Wildlife Ordinance would make too large would be allowed to remain but would be considered “legally non-conforming”.

Many, if not most, homes in the proposed Wildlife District have slopes greater than 31 degrees and would have their allowed home size reduced by the “Wildlife” Ordinance. Despite numerous requests, the Planning Department has been unwilling to disclose the number of homes or properties that would be affected. Either they didn't bother to find this out before proposing the regulation, or they don't want the public to know - either one is unconscionable.

The City has failed to produce any scientific evidence of a wildlife-related nexus to support a reduction of home square footage based on lot steepness, especially for already developed properties.

Arguments that homes on steep slopes require more grading than those on gentler slopes make no sense for already developed properties with existing homes and building pads that will not require grading. If the concern is that grading on steeper slopes damages habitat, then the logical solution is to better regulate grading, and enforce existing grading restrictions, not to randomly decrease allowed home size on properties with slopes over 31 degrees.

Arguments (but no evidence) that any reduction in home size benefits wildlife are misplaced. *IF* this were true, it would apply to all homes - not just those on properties with steeper slopes. As such this argument fails to address why this regulation is targeted at homes on properties with steeper slopes. Without a rational basis for this regulation, Planning cannot justify the burden on homeowners.

Because of these reductions in allowed home size, homeowners would be unable to expand their homes to accommodate their need for additional space for aging parents,

caregivers, the birth of a child, home offices, etc. This will result in homeowners being forced to sell their homes and buy a different one in order to have a home that meets their needs. Homeowners with smaller existing homes will be disproportionately affected. Neighborhoods will suffer from higher turnover, and consequent decreased community involvement and cohesion.

Many homes would be rendered legally non-conforming, resulting in significant financial and practical consequences for the homeowner (see e.g. 12.23.A(1)(c)) and potential difficulties in refinancing, etc.).

The removal of the 200sf garage exemption appears designed to intentionally plunge homeowners of recently build homes into non-conforming status.

Affected homeowners would have the value of their single biggest asset reduced. This would particularly affect those relying on the value of their homes to help fund their retirement or their children's education, and those who purchased their homes more recently could find themselves underwater on their mortgages.

Trash Enclosures

The Wildlife Ordinance requires trash receptacles to be stored inside a building or specially built trash structure.

LADWP trash cans are already resistant to the types of wildlife found in the proposed Wildlife District. This regulation appears to be designed to deter bears from accessing trash cans. There are no bears in the proposed Wildlife District. This regulation therefore forces homeowners to incur the expense of building a "trash can house" for no purpose.

The trash can house required by the Wildlife Ordinance appears to fit the LAMC definition of a "Building" and would therefore not be allowed in the side yard of most homes. As a result, homeowners would be forced to place this trash can house in their rear yards, or to keep their trash cans in their garages or homes. This is patently unreasonable.

Ridgeline Regulations

For all homes with a Ridgeline Buffer *anywhere on the property*, the Wildlife Ordinance reduces the allowed height of homes to 25 feet (measured from the top of the roof to the ground below) and requires a 50% increased side yard setback. Per the Planning Department, nearly 6,000 privately-owned properties would be affected.

Planning has failed to produce any scientific evidence that, for already developed ridgeline neighborhoods, the Wildlife Ordinance's 25ft height restrictions would have *any* wildlife benefit.

In fact, Planning admits that the Wildlife Ordinance's 25-foot limit would not have any wildlife benefit when, in its public presentations, it uses "Hillside Aesthetics" and the "visual impact" of ridgeline homes to justify the 25-foot height limit. What do "Hillside Aesthetics" and "visual impact" have to do with wildlife?

This 25-foot height limit is unreasonable. It requires homeowners who want two story homes to have either lower than the modern standard ceiling height of 9ft, or to have flat or low-pitched roofs. The City of LA has no business dictating the architectural style of ridgeline homes – it is an outrageous overreach for the City to impose its judgment of what is aesthetically pleasing on the ridgeline homeowner.

The 25-foot height limit would encourage people to build cascading "wedding cake" type homes down the canyon. One cannot have tall ceilings in a two story home within a 25 foot height limit, even a flat-roofed one, (due to necessary building structure above floors), but one can have them as a series of single stories cascading down the hill - which the Wildlife Ordinance allows.

Numerous existing two story homes are taller than 25 feet and these homes would be rendered non-conforming by the Wildlife Ordinance. If these homes were destroyed in a disaster, homeowners would not be able to rebuild their homes as they were, but instead would have to conform to the new 25-foot height limit.

The 25-foot height limit would render numerous ridgeline homes non-conforming, resulting in significant financial and practical consequences for homeowners (e.g. see LAMC Section 12.23.A.2 which limits even first floor additions for homes non-conforming as to height).

Given that Planning has failed to produce any scientific evidence of a distinct wildlife benefit related to developed ridgelines which is not also true of other hillside topography such as canyon bottoms, there is no rational reason to single out nearly 3,000 ridgeline properties with an increased side setback.

II. In some of the above cases, and in those below, the regulations might even harm both wildlife/habitat and homeowners.

Setbacks

The "Wildlife" Ordinance's increased front setback requirement for some properties may also serve to push home development or additions farther back into the hillside. Given that a hillside is generally a more sensitive wildlife and habitat location than the street or front yard, this regulation may increase damage to habitat.

Trees

The Wildlife Ordinance requires that any Significant tree (one with a trunk that has a trunk that is 12" or more in diameter and/or taller than 35 feet) that is removed or dies

be replaced with two new trees, that a native tree be added for each 1000sf of added building, prohibits earth work and construction within the dripline of a large tree, etc , and requires the homeowner to apply to the Planning Department for an Administrative Clearance to do any of these things. I am concerned that the Planning Department has not considered the unintended consequences of the blanket tree regulations in the Wildlife Ordinance.

“Significant” trees are not native to many areas in the proposed Wildlife District – rather these areas are native brush with larger trees only in some riparian areas. I question the benefit of requiring an increase in the number of human-planted trees to these areas, where they cannot survive without additional water which is an ever-decreasing resource. This is yet another example of the failure of the Wildlife Ordinance’s “one size fits all” approach.

This regulation increases the cost and complexity of removing flammable trees, such as pine and eucalyptus, which discourages homeowners from removing these trees.

This regulation fails to consider fire safety best practices in universally requiring that two new trees be planted for every significant tree removed. Some lots will not have enough room to leave adequate space between trees as recommended by fire safety experts.

In these situations, if there is a fire, the Wildlife Ordinance will have contributed to Wildlife and habitat loss due to the increased fire intensity and spread caused by these trees.

Many homes have trees whose canopies extend over the home - this regulation would prohibit homeowners from doing construction on their homes where the tree’s canopy extends over the home. This is unreasonable.

This regulation may also discourage people from planting trees that would grow to be Significant trees, thus having a chilling effect on the number of Significant trees in appropriate locations and number.

As noted above, some properties have plenty of trees and don’t need more – the Wildlife Ordinance should provide an option for homeowners to fund a tree in a neighborhood that doesn’t have enough trees.

Site Plan Review, Variances, and Other Review Procedures

The Wildlife Ordinance will force homeowners who have a “Resource Buffer” anywhere on their lot to undergo a Site Plan Review to get a permit to do any earth moving (e.g., for a pool), or to do any construction other than interior remodeling or work that doesn’t change a building’s footprint. *A Site Plan Review is the same extensive*

bureaucratic process that is required to build an apartment building over 50 units, or 50,000 square feet of retail or industrial space, and is complicated, expensive and extremely time consuming.

It has been estimated that it would take tens of thousands of dollars (in Planning Department fees and payments to necessary professionals such as architects and consultants) and approximately a year to go through the Site Plan Review process for even a simple project that would be fully compliant with the regulations and not require any variances or special accommodations.

The Planning Department does not have the staff to process Site Plan Reviews in a timely manner now - the vast number of properties that will be plunged into this Site Plan Review bureaucratic nightmare will only lead to even greater delays and expense for homeowners.

The introduction of Wildlife Buffers and the attendant Site Plan Review, coupled with the fact that the Wildlife Ordinance will plunge many homes into non-conforming status, means that homeowners would be faced with a complicated, protracted, and expensive process to expand or rebuild their homes. Many homeowners simply will not have the stomach, or finances, for this and will sell to those that do – developers building for resale (“spec builders”). These developers often build the largest home they can in order to recoup their expenses. It may be that the Wildlife Ordinance’s biggest accomplishment will be full employment for the Planning Department and spec builders.

- III. Even where a regulation has a scientifically supported potential wildlife, habitat, or climate resilience benefit, many of the regulations are unreasonably burdensome on homeowners. The Wildlife Ordinance’s failure to consider the burden on homeowners is unconscionable.**

Lot Coverage

The Wildlife Ordinance expands the definition of what counts as lot coverage. Currently, only buildings count towards Lot Coverage. However, under the Wildlife Ordinance, Lot Coverage would also include any pavement, patios, planters, pools, and tennis courts; and these, together with buildings, would not be permitted to cover more than 50% of the total lot.

The “Wildlife” Ordinance’s expanded definition of Lot Coverage, coupled with the 50% limit, is unreasonable for many homeowners with smaller lots.

Many existing homes on smaller lots will be rendered non-conforming, with significant financial and practical consequences for those homeowners (See e.g. see LAMC Section 12.23.A.3)

This will significantly affect the value of these homes, and the stability of neighborhoods as homeowners are forced to sell their homes when they cannot be altered to suit their needs.

The Wildlife Ordinance caps lot coverage at 100,000 square feet (this would apply to properties over 4.6 acres). 100,000sf of lot coverage is excessive regardless of the size of the lot. For the Wildlife Ordinance to allow 100,000sf of lot coverage for large properties while placing an unreasonable restriction on ordinary homeowners with small lots is offensive.

Windows

The Wildlife Ordinance requires that window panes greater than 24sf have coverings or treatments to reduce the number of birds that crash into windows.

Despite repeated requests from members of the public, the City has failed to produce any scientific evidence that bird/window collisions are a significant problem *in the proposed Wildlife District*, let alone on every property in the proposed Wildlife District. In fact, many homeowners report that bird strikes are extremely rare on their properties.

Currently, there are no coverings or treatments to reduce bird strikes that are unnoticeable to the human eye.

Because the rate of bird strikes is highly variable for different properties in the proposed Wildlife District, it is not reasonable to require visually distracting “bird-safe” window treatments for all properties. A better and more reasonable approach is to provide education on bird-strike mitigation strategies for those homeowners actually experiencing bird strikes.

Grading

Hidden in the Grading Section is a prohibition against any structures on slopes greater than 45 degrees. Because “structure” is defined elsewhere in the code as “anything constructed or erected which is supported directly or indirectly on the earth”, the regulation would even prohibit exterior stairs on these slopes, depriving homeowners of the use their property reached by those stairs.

Wildlife Resources and Wildlife Buffers

The Wildlife Ordinance creates 1) 50-foot buffers around parcels that are zoned or designated Open Space, undeveloped land owned by the City, and conservation easements; and 2) 50-foot buffers around “water” features and riparian areas; and 3) 15-foot buffers around open channels and public easements. The Wildlife Ordinance prohibits “all construction and grading activity” within a Resource Buffer (with an exception that interior construction and construction that does not change an existing building’s footprint are allowed). Thus, even a fence would be prohibited in a Resource Buffer.

Additionally, the Wildlife Ordinance subjects homeowners who have a Resource Buffer anywhere on the property, and whose construction is nowhere near the Resource Buffer, to undergo a Site Plan Review (the massive bureaucratic nightmare discussed above) for any non-exempt construction that requires a permit.

The Planning Department places this extraordinary burden on homeowners without bothering to determine if the “Resource” has any ecological value that might justify this burden. For example, just because land is zoned Open Space does not mean that it has significant ecological value that makes it worthy of effectively placing conservation easements on all the adjoining properties, yet this is exactly what the Wildlife Ordinance does.

According to the Planning Department, the Wildlife Ordinance would create Resource Buffers on approximately 5,600 privately-owned properties in the proposed Wildlife District. Moreover, due to the extremely open definitions in the Wildlife Ordinance for “Wildlife Resource” and “Open Space”, the Planning Department and even individual employees have the ability to “find” a “Resource” and place Buffers on many more properties.

Where the Wildlife Ordinance creates a Resource Buffer over an existing home, the regulations could be devastating for the homeowner, especially for those with smaller or older homes.

Even for those homeowners who have a single square foot of Resource Buffer at the very edge of their property, the consequences are significant. For any construction or any grading that doesn’t fall within the very limited exceptions, the Wildlife Ordinance will force homeowners to submit to a Site Plan Review - the same extensive bureaucratic process as is required to build an apartment building over 50 units, or 50,000 square feet of retail or industrial space. This is an unreasonable burden to place on a homeowner, especially when the construction doesn’t even touch the Resource Buffer.

Rather than enduring this expensive and protracted process, homeowners whose homes do not meet their needs will sell their homes to spec builders who have the time, money, intestinal fortitude, (and connections?) for this kind of thing, and those developers will build the biggest home they can. And, once again, neighborhoods will suffer from higher turnover, and consequent decreased community involvement and cohesion.

The negative effects for homeowners of having adjacent undeveloped land become an “Open Space” Resource will have a chilling effect on land conservation and donation. Homeowners will band together to purchase undeveloped land to keep it out of the

hands of conservation groups, and they will not donate land they otherwise would have because of the effect on their neighbors.

Although the Planning Department has currently only identified Open Space and Water-related Wildlife Resources on its maps, the ordinance is written so that other “Wildlife Resources” could be added in the future without any public input or opportunity to object.

The Wildlife Ordinance expressly states that Wildlife Resources can include those that are not on the Planning Department’s map. The Wildlife Ordinance’s definition of a “Wildlife Resource” as any “*feature*” that provides “wildlife benefits, ecosystem services and contributes to the overall quality of the natural and built environment” is so vague and open-ended that nearly anything could be deemed to be a “Wildlife Resource”. As a result, homeowners who thought they were unaffected by the Wildlife Ordinance’s Resource Buffers could suddenly find themselves with a new “Resource” Buffer on their property, or even covering their homes, with the attendant severe consequences. Home buyers would have no way of knowing whether the home they were purchasing had a hidden or future “Resource Buffer” on the property, or even on the home itself. These uncertainties would have a chilling effect on home values, and homeowners’ financial security.

IV. General Objections

The “Wildlife” Ordinance fails to provide meaningful protections for wildlife, in part because of the Planning Department’s inexplicable unwillingness to have different regulations for land that is pristine/undeveloped and that which has already been developed.

Regulations that are onerous and unreasonable for developed properties may be reasonable for undeveloped or multi-acre properties. The unwillingness of the Planning Department to distinguish between these types of properties is a missed opportunity. A bifurcated approach would have allowed for regulations that would have meaningfully benefited wildlife without harming existing homeowners. Instead, the Planning Department’s insistence on a one-size fits all approach places unreasonable and unnecessary burdens on existing homes in long established neighborhoods, with little or no wildlife benefit.

The Wildlife Ordinance’s applicability scheme is a failure as well. The Wildlife Ordinance misses the opportunity to have reasonable beneficial regulations (e.g. lighting regulations, prohibited fencing materials, and others not included in the Wildlife Ordinance) applied more widely by failing to make those regulations applicable to a wider range of properties in the Wildlife District.

In fact, the Planning Department has attempted to use the Wildlife Ordinance’s “limited” applicability as a shield against criticism that the ordinance overreaches. This is no defense

– that a bad law would not entrap every homeowner immediately is no justification for enacting a bad law.

Despite repeated requests by the public, and at least one Neighborhood Council, for scientific research that would support the Wildlife Ordinance's regulations, the Planning Department has released only a single "report" which was commissioned, and paid for, by the Planning Department (the "Protected Areas for Wildlife and Wildlife Movement Pathways Report" conveniently named the "PAWS" report for short), and so cannot be considered an independent work. However, it would appear that the Planning Department may not have read its own "PAWS" report, as very few of the regulations in the Wildlife Ordinance can be found in that report's recommendations, and most of the report's recommendations are nowhere to be found in the Wildlife Ordinance.

Additionally, the majority of the studies cited by the PAWS report do not consider the developed areas of proposed Wildlife District to be important wildlife habitat. As an example, the National Parks Service excluded most of the proposed Wildlife District in its "Rim of the Valley Corridor Special Resource Study and Environmental Assessment"; the "California Essential Habitat Connectivity Project" which was prepared for Caltrans and the CA Dept of Fish and Game, excludes the entire proposed Wildlife District (giving a habitat score of zero to those areas with more than one house per 5 acres, for example); the Santa Monica Mountains Conservancy excluded the developed portions of the proposed Wildlife District from its wildlife habitat maps; and the South Coast Missing Linkages study, which lists almost twenty collaborating agencies, entirely excluded the proposed Wildlife District as well. This is not to say that the proposed Wildlife District deserves no wildlife or other ecological protection, but to enact regulations for this urban area that are far more restrictive than those recommended and/or enacted for areas of high ecological value is simply radical and unreasonable.

While I reserve the right to add to, or amend, this objection at a later date, I also have the following personal objections and concerns:

- 1) The proposed Ordinance should not have any blanket restrictions but each property should be considered on its own merit since no two properties have the same elements.**
- 2) Properties with contiguous neighbors should not be treated any differently than the contiguous neighbors. For example, I have a 2,000 sf home that is on a ridge and between 2 neighbors with 2 recently constructed 10,000 sf homes on comparable lots. What sense does it make to restrict the development of my property when there will be ZERO impact to wildlife/aesthetics, etc. whether I build a 10,000 sf house or not.**
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