



MINUTES

Ad Hoc Subcommittee on Proposed Wildlife District

Friday, July 8, 2022 4:00 pm – 6:00 pm

1. Chair Evans called the 11th meeting of this subcommittee to order at 4:08 pm, and called the roll with three present: Ellen Evans, Chair, Robert Schlesinger & Donald Loze and quorum met. Jamie Hall arrived at 4:12 pm and Shawn Bayliss at 4:25 pm with **5 present & 1 absent**: Nickie Miner. Travis Longcore, Ex Officio member was also present.

2. The July 8, 2022 Agenda was approved, as moved by Schlesinger.
3. The July 1, 2022 & July 7, 2022 minutes were **approved** as moved by Schlesinger.
4. There were no public comments on non-agendized items.
5. Chair Report: None.

6. **Discussion and possible motion:** Nature and scope of committee work following submission of draft letter to BABCNC Planning and Land Use Committee.

Chair Evans noted that this committee might not be finished today, and might have to reconvene following any revision, and wanted to hear from others on this. There was no public or committee comment on how to proceed following the end of the comment period of this draft after July 22nd at this time. *[Member Hall arrived at 4:12pm.]* Following brief discussion, Chair Evans noted that we are reserving the right to schedule further meetings after July 22nd.

7. **Discussion and possible motion:** Review, update and finalize draft comment letter (**Attachment A**).

Chair Evans noted that she had circulated a new draft today that she and Member Hall worked on, and would begin the meeting by going through the whole portion that we went through yesterday in one block and then on to the part we didn't get to yesterday.

Chair Evans read the first 4-1/3 pages of the updated letter (which letter is also on the website under Supporting Documents for this meeting), the result of what happened in committee yesterday, and opened the floor to **public comment** on that portion of the letter.

Mindy noted her appreciation to Evans and Hall for getting this draft done so quickly, and noted there are a few little grammatical things that she'd like to look at; otherwise, had no comment. Chair Evans noted this is still going to our PLUC and the Board before going out.

Evans continued to read over the letter from sections on Administrative Review through Site Plan Review and opened the floor for public comment and committee discussion.
[Member Bayliss arrived at 4:25 pm.]

Public Comment on this Section of the Comment Letter:

Bill noted as to wildlife fences, walls & hedges, he would request that the letter direct Planning to consult with the LAFD and LAPD about public safety impacts of the ordinance.

Committee Discussion:

Member Hall noted that he feels proud to see all our work put together in a single document; a lot of work was put into it, took a lot of public comment from people, and he has no suggested revisions.

Mindy asked something Jamie was very specific about at her meeting, as to wildlife lot coverage, asking if she wanted to include something regarding provision for the placement of proposed projects on the least environmentally sensitive portion of the lot. Hall recalled having that conversation and forgot about some of these things.

Evans noted that we have here that the proposed structures must be sited on the lot so that grading is minimized. Hall noted it is not just that grading should be minimized but that we also want to ensure that the grading occurs on the area of the lot that has the least environmental value. Mindy related that her notes show provision for the placement of proposed projects on the least environmentally sensitive portion of the lot.

Motion: The ordinance should discourage placement of structures on the environmentally sensitive parts of the lot, moved by Evans, seconded by Hall.

There was no public comment or committee discussion on this motion, which **passed** by 4 yeases from Schlesinger, Loze, Hall, Bayliss, & 1 abstention from Evans.

Discussion was next held on Member Loze's desire to ensure that grading is only done for building. He asked the committee to reconsider adding requirement for a schedule of performance and bonding for grading. Discussion was held on this, including note by Hall that he would be happy for a completion bond if it means restoration of the space, not a Hadid mansion.

Hall asked whether you really want that structure built. Loze noted if we approve the structure and it has gone through the process, this is to ensure that it gets completed to which Hall noted that he would not support that at all. Bayliss asked if the completion bond is about grading activities or the entire project, to which Schlesinger noted we are talking just about grading activity. Hall was not sure he wanted that either.

Member Bayliss noted that you don't want a hazard left behind...; they have had discussions with B&S for years about completion bonds, which is a nonstarter for them. He asked, who decides who is going to finish it and noted that if it hadn't been for neighbors spending 9 million dollars and seven years of their life... Evans opined that the operations of the City would make this a disaster. Schlesinger noted that the reason for a completion bond is to stabilize the hill, when you take out 6000 CY you need to figure out if the hill needs stabilization, it stabilizes the hill...Hall felt that we shouldn't call it a completion bond, but a bond to ensure that the hill is stabilized and restored to the maximum...

Don noted that the issue is, do we want the camel to get his nose under the tent or do we want the whole camel? He mentioned he looks up at the Hughes property where you see an entire hill

has been lopped off 25 year ago; it has been standing there and nothing ever happened.

Loze noted that he will argue against proposal at the moment for purpose of discussion that all we are doing is creating dirt for trading. It seemed to him that you need somebody to go through the entire process, get building permits and the like, to protect the environment, then it has to be a pretty good project or we shouldn't approve it. Hall disagreed, asking how many projects get green-lighted... Loze noted if we need consensus he would accept Hall's amendment.

Schlesinger added comments as to the Hughes property... Hall noted that they finished the grading portion but never had the building permits, and Don's first amendment would address that, but this is separate reason. Someone starts to grade, loses their money, changes their mind or whatever, abandons the project, so this doesn't fit that scenario. Hall noted that his response is that Don's first amendment already addresses the situation for the Hughes property.

Amendment that BABCNC recommend that the City require a bond to ensure that an abandoned project can have the site stabilized and restored to the maximum feasible was moved by Hall.

Loze asked what the terms of the bonds required for grading are at the moment. Bayliss recalled that grading bonds, you have to get a grading bond to get your grading permits and don't get your bond money back until he believes you get the Certificate of Occupancy for the project; in theory the City takes the money and corrects the issue. If there is a safety issue, the City already has the authority... and can deal with nuisances and hazards. So, he thinks we maybe doubling up on what maybe doable or effective in the City. Schlesinger noted that his point is that the city could be the one that does it.

Loze seconded Hall's amendment. Evans pointed out that what the City doesn't do is the restoration part.

Friendly amendment that it is restored and replanted. Hall accepted the amendment. There was no public comment and no further deliberation.

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

Evans next brought up the question brought up by Bill, asking for review by Police and Fire. She noted that the main reason to add this to the fencing section is that it may help with some of that and it certainly is a problem if LAPD AND LAFD are saying that this is detrimental. Evans wonders if we want to have stronger language in the fencing section or leave it as it is, because it implicitly capture that also where we say public safety should be balanced. Evans further noted that, walking in Beverly Hills, lots of the front fences would not comply with this ordinance.

Motion to add that the Planning should consult with LAFD and LAPD on fencing requirements was moved by Evans and seconded by Loze.

Public Comment:

Dr. Longcore noted that one of the things he noted reading through the list of preferred plant species that have essentially become requirements within the fuel modification zones, is the presence of a number of species that are discouraged by the Fire Department (FD) because of their high content of oils and flammability; it's not that they can't exist but they are not

encouraged within fuel modification zones. He would suggest that this consultation involve FD review of the preferred plants species list. He noted that California Sage Brush... and Laurel Sumac are there, which he noted have to be minimized near structures. He suggested that this not limit it to access issues but the consultation include the plant lists.

Mindy noted that she is not opposed to asking them... but did they really consult biologists, could say have more biologists in terms of the whole process; it opens a whole can of wax on this whole process.

Amendment Motion to amend this, to extend this, in line with Travis's comment, to say fencing, the preferred plant list and any other applicable parts of the ordinance moved by Evans and seconded by Bayliss. Evans clarified that the amendment is to extend this to include other parts of the ordinance including calling out specifically the preferred plant list. There was no discussion on this.

The amendment passed by 4 yeses from Schlesinger, Loze, Hall and Bayliss and 1 abstention from Chair Evans.

The motion as amended passed by 4 yeses from Robert, Don, Jamie, Shawn and 1 abstention from Chair Evans.

Wildlife Resource Regulations:

Chair Evans continued to read the letter as to Wildlife Resource Regulations.

Bobby Kwan had a question as to his 45' height, three stories, over 50' tall, and if he was in a major fire and have to rebuild his house, he is not sure how the 75% value is calculated. Evans noted that you would have to rebuild according to the height requirements of whatever is in effect now, and if this would be put into effect, you would be limited in height.

Pat Zingheim noted that she is still really concerned about the 25' envelope height and with steep slopes you'll never be able to rebuild 2-story house, and requested the current height for the envelope height...

Member Hall noted that we have received this comment over and over and over. He noted that this scenario is highly unlikely; less than 1% that your house is going to completely burn down, that you'll be located on a ridgeline and not able to rebuild your house, subject to the 25' height limit. He considers this improbable, though possible and would be willing to create an exception to the rule that says that the height restriction in the ridgeline provision of this ordinance would *not* apply in the event of a cataclysmic loss of a home, because it is highly unlikely. He wanted to resolve all of the concerns of the people who brought this to our attention, noting that you would be able to rebuild to whatever height is allowed by the amended BHO adopted in April 2017, which is the status quo. That status quo may mean that you would not be able build and there would be height limits... the law now. So what he does not think they want is an additional layer, which are these height restrictions; he would be fine with that because he knows that it is highly unlikely but is willing to create a carve-out.

Evans noted that she has heard the concern about building after a fire, but there is also a concern about rebuilding a lot and 25' being too small. We need to know what they are trying to get at, then we can assess.

Evans clarified, say you want to tear down your house and build a new house. That's what Pat is talking about. Jamie is talking about what Bobby is talking about, which comment he has heard repeatedly.

The comment on the envelope height will come when we understand what is being achieved, because 25' is small but we want to know what they are thinking.

Hall noted to be super clear that he would propose that the overall 25' height limit embodied in this ordinance and height limit for ridgelines would not be applicable in situations where there is a cataclysmic loss of a home due to earthquake, fire or other natural disasters. It is a tiny carve out to allow to rebuild to what the law allows under amended BHO adopted in April 2017

Evans believes that this is an effective way to address this particular concern.

Loze noted the complication that there was an attempt in the BHO to limit height by putting it together with the size and when they did that it opened the door for the slope banding, and there was never a cap on the slope banding based on the FAR. So, what that issue is right now that you are suggesting doesn't take into consideration what he thinks we have always wanted to do, to put a cap on the slope banding.

Hall noted this is a tiny tiny little carve out, only for a situation with a complete loss. He noted if you look back over the decades, at the total number of houses that totally burned down in the NC area versus the houses that exist and have been constructed, the data doesn't lie, and it is a very very rare situation and he is willing to allow people to rebuild whatever the law allows under the 2017 BHO though it doesn't have a height requirement because they want to preserve their legal nonconforming rights... because he knows it is a very likely situation.

Evans noted you don't want to incentivize burning down their house to build a much larger house. Hall thinks that is a highly improbable situation.

Loze asked if that carve out is without discussion of height limit now. Hall noted that our support of that doesn't change the fact that there will be an overall height limit in the ordinance.

Loze thinks in order to get support for that, you'd need to understand that the naked provision of 45' overall is inconsistent with the code and inconsistent with the intent of the BMO when it was passed. Hall noted that he fully understands that. Loze continued that, therefore, if you are asking for that carve out we can deal with the carve-out but thinks we need to talk about the naked 45'. Evans noted that we already deliberated on the naked 45' feet.

Loze would offer a motion for reconsideration. Evans said that in the letter we say 45' height limit in the hills. Hall asked if we support it to which Evans noted that she would support it if you specify wildfire, earthquakes, or natural disaster; not the electrical system and suddenly you are allowed to build an office tower.

Motion that we support a limited carve-out that allows people to rebuild their home to the maximum allowed under the amended BHO adopted in April 2017 in circumstances of total loss due to natural disasters **moved** by Hall, **seconded** by Evans.

Public Comment on the natural disaster amendment:

Pat Zingheim appreciates Jamie for doing this, and asked what is a "total loss," if the insurance

company says 95% loss, is she back to her one-story house and how it is determined.

Bobby appreciates Jamie's suggestion, and acknowledges it is highly unlikely, but that this carve out would help him sleep better at night.

Dr. Longcore related that there may be a way to tie this motion to the 75% value, that was the trigger in the code that everybody are worried about; so instead of referring to total loss, it would be anything greater than the 75% loss by value as applied in the particular code section that would invoke compliance with the current height and setback limits that would be a suggestion to operationalize that.

Amendment to tie it not to total loss but to the 75% cost was moved by Evans and seconded by Hall. There was no public comment on the change or committee deliberation, and the amendment **passed** with 3 yeses from Hall, Loze & Evans and 1 no from Schlesinger.

The motion as amended passed by 3 yeses from Hall, Loze & Evans and 1 no from Schlesinger.

Next, Member Loze provided a legislative history of this area that the Hillside Ordinance and BMO went through enormous review and public hearings in order to downsize the building in the hills as distinguished from the building in the flats, and there was an inadvertent error acknowledged by the editor, the creator of the slope banding, that has resulted in unintended consequences that need to be fixed.

Loze noted that he believed that the provision that the Planning Department has offered for overall height is an attempt to put a cap on the slope banding. He continued that we were going to ask them about this belief, but he believes it is clear it is what they are attempting to do and therefore he believes the provisions in the code about the height in the hills prior to the inadvertent mistake should be included, and he thinks it ties together with something else, that this draft ignores a great deal of effort that went into describing the contemplation of a ridgeline that was consistent with ridgeline ordinances elsewhere in the City, County and Coastal Commission. He noted that this ordinance does not provide for anything that relates to limiting hilltops construction because it says you can put it anywhere you want. Therefore he has sent us what he believes are appropriate provisions to modify the discussion in the letter that is a blanket overall 45' naked theme.

Loze noted that essentially it says: 1) that it depends on the slope, so the steeper the house the higher the house can go to 45 feet, but slopes that are less than 66%, we put 35' or 36' which is currently what the code is, which is why the example that has been presented to us is there.

2) Loze believes the original proposal by the Planning Department that construction on the ridgelines should not exceed 18 feet on top of the ridgeline, and he thinks this is something we should have in connection with new development and he has provided new language to that extent and offers the language, as a motion.

While Loze was attempting to send Chair Evans his language, Loze noted that there is a code provision that says 66% it goes to 45' below that is 36' he believes. He noted that the history of this goes back to the Planning Commission asked the Planning Department to do work to create a ridgeline ordinance and the ridgeline proposal that was then asked provided for certain limits as guidelines and the guideline was that you shouldn't have something exceeding the top of the ridge by more than 18'.

Chair Evans noted that the trouble she has with that is that the motion for the ridgeline ordinance

referred specifically to undeveloped ridgelines, and then the City did not distinguish in any way between developed ridgelines and undeveloped ridgelines; ridgelines where there is a literal street running on the top of the ridge line or significant ridge line. So there is no distinction; and there are so many ridgelines and she is not personally comfortable with making big restrictions on ridgelines that have ...

Loze proposed that this limitation be on undeveloped ridgelines at the moment.

Amendment to add to our comment letter that structures cannot exceed 18' above the top of an undeveloped ridge line was moved by Evans and seconded by Hall.

There was no public comment or further deliberation on the amendment which **passed** by 3 yeses from Schlesinger Loze & Hall, and 1 abstention from Chair Evans.

Next, Chair Evans read from Loze's emailed comments on overall height from old Code:

“Overall Height. On any lot where the slope of the lot measured from the lowest point of elevation of the lot to the highest point is 66 percent or less, the overall height limit of 36 feet shall be established for all buildings and structures. And on any lot which has a slope of greater than 66 percent as measured from the lowest point of elevation of the lot to the highest point, the overall height limit of 45 feet shall be established for all buildings and structures. The overall height shall be measured from the lowest elevation point within 5 horizontal feet of the exterior walls of a building or structure to the highest elevation point of the roof Structure or parapet wall.”

Loze noted that this still may be in the code, but this was addressed as height not as overall height and he is suggesting that we use this as the basis for overall height as a district wide regulation and not resource driven regulation. Hall noted that this ensures you don't only get 45' where it is not truly warranted; that you only get it in circumstances that are warranted.

Evans noted that she is flagging that we are not addressing envelope height until getting answers from Planning on why they wanted that reduced.

Evans reviewed the presentation to compare envelope height and overall height.

Hall noted that Evans has confirmed that we have not taken a position on this due to lack of clarity and it was discussed to include this point in the letter.

Member Loze noted that the overall height is the issue that is there to deal with the slope banding.

Motion to recommend that the code paragraph that we just read out is suggested as an overall height limit in our letter for all structures in the area moved by Evans, seconded by Schlesinger.

Public Comment:

Pat asked if there isn't a better way to deal with this, like saying no building on a ridge line or no building on no house can be over three stories, something simple in that terminology, and she hopes we address Don's concern about envelope height because she thinks we could make a recommendation.

There was no further committee discussion and the motion **passed** with 3 yeses from Hall, Loze & Schlesinger, and 1 abstention from Chair Evans.

Evans reviewed the letter where we address envelope height, noting that the letter says the BABCNC requests more information about what the height restrictions are meant to achieve and that the limits are too low and asked if we should we change it to the “envelope height limit appears too low.”

Don read the language with respect to the structure, which stated: “No structure shall be constructed so that the highest point of the roof structure or parapet wall will protrude more than 18 feet above the highest point of the segment of the designated ridgeline on the subject property.” He noted that both of these are with regard to undeveloped properties.

Motion to explicitly call out the envelope height as appearing to be too restrictive **moved** by Evans and **seconded** by Schlesinger.

Public Comment:

Pat noted that she agreed for steep slopes.

Member Hall wants to understand why we think the envelope height that is proposed is too restricted and he wasn’t present at the subcommittee meeting where this was discussed and apologized.

Evans clarified that they are changing the envelope height with respect to ridgelines. Currently it is 33 or 36’, depending on your zoning but they want to change the envelope height to 25’ which is really one story. So Evans noted that she doesn’t understand and thinks the committee didn’t understand what benefit that has for the ridgeline.

Evans related that it seems there is very little nexus between what the reduction of envelope height and what the ordinance is trying to achieve. That is why we asked the question of what is this for, and we already said that the height limits are too low because we don’t understand what they were meant to achieve and this motion is explicitly calling out envelope height as appearing to be too restrictive.

Schlesinger noted that 25’ is an envelope, another 25’ is another envelope, etc., the problem is there was never a cap on the envelope height, and ergo we have 1551 Summit Ridge 90 feet down Summit Ridge overlooking Beverly Drive; only one example.

Member Hall noted that the idea we might accept a taller envelope height so long as there was an overall height of 45’ and a requirement that the structure not exceed 18’ over the ridgeline.

Evans noted that she didn’t think we can accept envelope height of 25’ because it is really essentially one story.

Member Loze noted that the idea of the envelope height is really a view site (sic) [scape] – “view scape” which relates to ultimately how much space is being used to inhibit the animals, and it is an attempt to keep a consistency with the slope of the hill to begin with; then the maximum height is to say that you can’t keep building 25’ or 35’ in ad seriatim because there has never been a cap on it, so the overall height puts a cap on the slope bands.

Hall asked for clarification that Loze believes that the envelope is too restrictive and are okay with potentially increasing what is proposed so long as there is an overall height limit and that a

structure not exceed 18' over an undeveloped ridgeline, and that those provide adequate safeguards and that the envelope height can be increased, which Loze agreed to.

Member Schlesinger provided comments that you can increase the envelope height or just say it is the envelope plus 9' the problem is based on the envelope, 25' or 36' we're not going to reestablished the envelope because that was done some time ago... Hall supported the motion.

The motion **passed** by 3 yeases from Hall, Loze and Schlesinger, and 1 abstention from Evans.

Loze noted that we have covered this well, consistent with the minutes.

Hall noted that we have some additional motions and would like the authority for himself and Evans to finalize the letter, without having committee approval.

Motion to approve the letter as amended by the motions today, and to have a good concluding paragraph that highlights all the work we have done, and that he and Ellen have the authority to finish the letter and submit it to the PLU Committee **moved** by Hall, **seconded** by Schlesinger.

Public Comment:

Pat related that she thinks we did incredible work and that the write up was incredible. She appreciates the write up that Ellen and Jamie did because it was very clear.

Leslie also congratulated Evans and Jamie on their work on this and for representing us so well.

The motion **passed** by 3 yeases from Schlesinger, Loze and Hall, and 1 abstention from Evans.

8. Schlesinger and Hall expressed their great appreciation and gratitude for Evans for her leadership. Hall noted that we have done a really good job trying to reach compromise and he is happy to send this on.

9. Adjournment Next Meeting Date: TBD