

Attachment A

Bel Air-Beverly Crest Neighborhood Council
Wildlife District Ordinance - October 2022 Draft
Draft Comment Letter
November 7, 2022

With the release of this new draft, the Bel Air-Beverly Crest Neighborhood Council (“Council”) continued our thorough process of reviewing the proposed Wildlife District Ordinance (“Ordinance”), meeting on the new draft for x hours over five meetings, on the previous draft for well over twenty hours in 15 meetings 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. The Council continued to receive both comments in support of and opposition to the Ordinance after its revision. Minutes of meetings attached to this letter contain all comments.

Our aim in reviewing the ordinance has once again 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. The current draft greatly reduces disparities present in the previous draft. The Council appreciates planning staff’s responsiveness to the comments of the community, and the Council applauds many of the changes in the ordinance - the application of site plan review to projects resulting in 7500 square feet of residential floor area, the addition of “overall height” for the entire district and the reduction in number of small projects subject to site plan review. The Council also appreciates the clarifications regarding which district-wide regulations are triggered and when, and the ability to rebuild after a disaster.

Addition of “Habitat Triggers” for Site Plan Review

Changes in the new draft have succeeded in lessening the potential burden on owners of smaller lots. What the new draft has not successfully achieved is ensuring that the development projects that are most likely to result in substantial loss to wildlife habitat are subjected to Site Plan Review - where a more focused, site specific analysis can be undertaken to ensure that landform alteration is minimized, impacts to biotic resources reduced and project modifications considered.¹ The Council is therefore requesting the addition of “habitat triggers” for Site Plan Review.²

¹ See Site Plan Review Wildlife Findings at page 26 of Ordinance.

² The Council previously suggested that the framework for the ordinance be changed to a biologically-based one, however that was not taken up by staff. In order to achieve a similar result, BABCNC now requests that a “habitat trigger” be added for site plan review.

Currently, there are only three triggers for Site Plan Review in the Ordinance, which include the following: (1) 1,000 cubic yards or more of remedial grading, (2) homes of 7500 square feet or larger and (3) building within a Wildlife Resource or buffer. Unfortunately, Site Plan Review will not be triggered for most development projects that result in habitat loss. This is because the City has too narrowly defined “Wildlife Resource” to include only zoned or protected open space and water resources. See Table 7.2. Development can occur via this Ordinance that will result in significant habitat loss to protected species and native woodlands without ever triggering Site Plan Review. This is a problem. Substantial swaths of high-value habitat exists on large, undeveloped lots in the Pilot Study Area and the Council strongly contends that the development of these lots should be subject to Site Plan Review. Preventing habitat loss is a critical function of any wildlife ordinance and inclusion of a habitat trigger for Site Plan Review makes perfect sense.

The Council suggests four potential “habitat triggers” (which would only apply to *undeveloped* lots). They could include the following:

- Placement of lot in a Santa Monica Mountains Conservancy³ (“SMMC”) mapped “habitat block”
- Presence of National Park Service (NPS⁴) mapped native woodlands⁴
- Presence of “habitat for protected species” per Govt Code. Section 65913.4(a)(6)(J)⁵

³ The SMMC’s Eastern Santa Monica Mountains Habitat Linkage Planning Map (“Habitat Map”) is available at <https://smmc.ca.gov/wp-content/uploads/2021/12/Eastern-Santa-Monica-Mountains-Habitat-Linkage-Planning-Map-Copy.pdf>. Habitat blocks are mapped down to the parcel level.

⁴ The NPS mapping of native woodlands took place in 2006. The data from the mapping is publicly available and can be accessed at <https://gisucla.maps.arcgis.com/apps/instant/basic/index.html?appid=868b0af352f5426c8ecef8d31e0796f9>. The mapping is down to the parcel level. The full NPS report can be accessed at <https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=18243>.

⁵ This section of the Government Code provides for special protection for lots that provide

“Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).”

The City has already undertaken mapping of these resources in ZIMAS via the SB35 and SB9 “eligibility” tool. The Department of City Planning has published a rubric for determining habitat value (entitled

- Proposed removal of 3 or more protected or significant trees

The necessary mapping that would allow the application of these rules are already available and adding these triggers would ensure that the development on lots with high value habitat value be done with sensitivity towards the preservation of that habitat. Site Plan Review captured by this habitat trigger will be targeted to those types of development projects that truly warrant the site specific analysis warranted by Site Plan Review. Again, the Council suggests that this be limited to undeveloped lots based on the comments received from the public.

De Minimus Review Process for Site Plan Review

While the removal of site plan review for all lots with biological resources or resource buffers on the lot has lessened the possibility that a homeowner will be required to undergo site plan review when resources are not going to be affected, there are still lots where a resources may be mapped but may not really exist as well as instances where a resource takes up the majority of a very small lot that has already been developed. Small lots on Beverly Glen, where there is a mapped but theoretical stream running along the street, come to mind, as well as lots where a water resource is mapped as running through an existing building.

Because currently-available mapping is fallible, it is critical that a *de minimus* review process be made available, particularly for lots where the cost and burden of undergoing site plan review is substantial compared to the value of the structure being proposed.

Definitions

The previous definition of open space should be restored. Staff has removed a key sentence in the definition of Open Space, which stated as follows: “*Open Space shall also include City owned vacant land that, while not zoned as Open Space, meets the criteria above.*” See page 7. The City owns remnant vacant parcels in the Pilot Study Area that are not being used and currently exist as open space and contain important habitat for wildlife. There is no legitimate reason for City-owned land that meets the criteria for being considered open space from being exempted from the definition of “open space.” and therefore exempted from Site Plan Review.

Fencing

Biologist’s Statement of Habitat) which can be found at <https://planning.lacity.org/odocument/f4ab32dc-5ed2-42a4-b4ee-2bd8442140db/Biologist's%20Statement%20of%20Habitat.pdf>.

While the Council appreciates that the community had a number of concerns about the Wildlife-Friendly Fencing standards in the previous draft of the ordinance, removal seems to significantly lessen the potential impact of the ordinance on wildlife movement and connectivity. BABCNC would like to see the following added to the ordinance:

- For new single family dwellings proposed for lots greater than ½ an acre, perimeter fencing must be appropriately set back and permeable to allow wildlife to pass through. Interior fencing may be impermeable.

Height

Again, the Council appreciates the application of an overall height standard district-wide. The Council notes that 45 feet is extremely generous, therefore all roof structures should be included in this measurement.

Residential Floor Area

This rule should apply to Additions as well. Covered parking over the required amount should not be exempt from this calculation.

Lot Coverage

Changes in lot coverage requirements show a much-appreciated sensitivity to burdens for owners of smaller lots. The Council continues to recommend that lot coverage percent be adjusted according to lot size.

The maximum lot coverage amount should be 25,000 square feet, not 100,000 which far exceeds what might be necessary for residential purposes.

Trees

These regulations should apply to all project types. Staff should be able to exempt projects from this regulation should there not be room to plant required additional trees on the lot.

Lighting

Multi-colored LED lights illuminating structures should not be permitted.

Further, it is critical that the limits on lighting be per unit of area not per fixture. Light effects are cumulative and a lumen limit per fixture would potentially just result in a greater number of fixtures to achieve a lighting level that continues to be harmful for wildlife.

The following previous recommendations should be looked at for inclusion in any subsequent draft of the ordinance:

- 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.

Trash Enclosures

BABCNC would like clarification on the definition of “enclosure.” Further the enclosure should be allowed to encroach on the front or side yard setback to the extent that it does not interfere with access necessary for firefighting. Trash enclosures should be constructed of any non-flammable material.

Site Plan Review

Projects requesting 500 cubic yards or more of remedial grading should be subject to site plan review.

The following comments from our previous letter should be closely considered for any further revisions in the draft ordinance:

Grading

- 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.

Windows

Strike the current standards and use the following instead:

- Windows shall conform to the standards set forth in California Code of Regulations, Title 24.
- Treatments should not have a threat factor exceeding 30 in the American Bird Conservancy Products and Solutions database for Glass Collisions.

Conclusion

While the new draft of the Wildlife Ordinance greatly reduces undesirable consequences resulting from the ordinance, critical measures still need to be taken to ensure habitat protection. We urge the Planning Department, the City Planning Commission and our elected decision makers to carefully consider our recommendations. We look forward to working with you as this legislative process continues.