

Communication from Public

Name: John Henning

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Council File No: 14-0518

Comments for Public Posting: Please see attached letter from John Henning to Hydee Feldstein Soto regarding the draft Wildlife Ordinance (Council File 14-0518).

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November 10, 2023

VIA ELECTRONIC MAIL

Hydee Feldstein Soto
City Attorney
City of Los Angeles
200 N Main St. #800
Los Angeles, CA 90012

Re: Proposed Wildlife Ordinance (Council File 14-0518)

Dear Ms. Feldstein Soto:

At the request of the Planning and Land Use Management (PLUM) Committee on June 20, 2023, your office is preparing a final version of the proposed Wildlife Ordinance for consideration by the City Council. As you prepare the final ordinance, we wish to bring to your attention that the draft ordinance as most recently amended by the PLUM Committee contains two inconsistent provisions concerning maximum Residential Floor Area (RFA). In order to avoid future disputes over interpretation, these two provisions should be reconciled in the final ordinance.

The first provision is in subdivision (c) of the District-Wide Regulations, entitled "Grading". The provision prohibits development on natural slopes in excess of 100%. However, the provision further states that regardless of this prohibition, a Project may utilize the "Guaranteed Minimum Residential Floor Area" already prescribed under the Baseline Hillside Ordinance (BHO). The relevant language is set forth below.

SEC. 13.21. "WLD" WILDLIFE DISTRICT.

...

- F. Development Regulations.** All Projects within a Wildlife District (WLD) shall be subject to the following development regulations. A Project that has been granted vested rights under Section 12.26.A.3 of this Code prior to the effective date of this ordinance is exempt.

1. **District-Wide Regulations.** All Projects within the Wildlife SUD shall comply with the provisions of this Subdivision.

...

- (c) **Grading**

...

- (2) **Regulations.**

- (i) **Grading Restrictions**

- a. **Development on lots with slopes in excess of 100%.** No grading or structure shall be developed on natural slopes in excess of 100% and greater as identified on the Slope Analysis Map per 12.21.C.10(b)(1), except that a Project may utilize a Guaranteed Minimum per Table 12.21 C.10-3 of the Baseline Hillside Ordinance (BHO).

The above provision cites to Table 12.21. C.10-3 of the BHO. This table is entitled “Guaranteed Minimum Residential Floor Area.” It is part of subsection 12.21.C.10(b), which has the same title. This subsection and the table are designed to allow a minimum RFA for all lots (regardless of slope), based upon a specified percentage of lot size. This guaranteed minimum applies regardless of how maximum RFA is calculated in the preceding subsection of the BHO. For example, a lot in the RE11 zone is allowed a guaranteed minimum RFA of 20% of lot size, even if the other BHO calculation would result in a lower maximum RFA.

The combined effect of the present BHO and proposed subsection F.1.(c).(2).(i)., concerning Grading, is that steeply sloped lots would continue to qualify for the Guaranteed Minimum RFA established in the BHO. Preserving this Guaranteed Minimum RFA is clearly the intent of the drafters of the proposed ordinance, or else the carve-out would not have been included.

However, the next subsection F.1.(d) of the proposed Wildlife Ordinance appears to take away what has just been given by the preceding subsection. It provides, in relevant part:

- (d) **Residential Floor Area**

...

- (2) **Regulations.**

...

- (ii) **Allocation of RFA in Slopes in excess of 60%.**
Notwithstanding *Section 12.21.C.10(b) Table 12.21 C.10-2a*, Residential Floor Area (RFA) contained in all Buildings and Accessory Buildings shall not be allocated for slope bands greater than 60%.

The above-quoted subsection refers to Section 12.21.C.10(b) Table 12.21 C.10-2a of the BHO. This is the subsection under which maximum RFA is typically calculated for purposes of the BHO. The proposed provision of the Wildlife Ordinance states that despite any calculation of maximum RFA under Section 12.21.C.10(b) of the BHO, no RFA whatsoever shall be allocated for slope bands greater than 60%.

Unlike subdivision (c) concerning Grading, discussed above, subdivision (d) concerning Residential Floor Area contains no express carve-out that would allow the Guaranteed Minimum RFA per Table 12.21 C.10-3 of the BHO. It would therefore effectively eviscerate the guaranteed minimums granted by the BHO and by subdivision (c) of the very same ordinance. If this subdivision were strictly applied without regard to the conflicting language in subdivision (c), lots that consist mainly of steeply sloping property would have their development rights dramatically reduced. On lots that consist entirely of slopes in excess of 60%, development would be precluded entirely.

The lack of a carve out in subdivision (d) appears to be an inadvertent omission, and it should be corrected. The conflict between the subdivisions (c) and (d) can be resolved by simply including the same carve out in subdivision (d) as has already been included in subdivision (c). Specifically, the underlined language below could be added:

- (ii) **Allocation of RFA in Slopes in excess of 60%.**
Notwithstanding *Section 12.21.C.10(b) Table 12.21 C.10-2a*, Residential Floor Area (RFA) contained in all Buildings and Accessory Buildings shall not be allocated for slope bands greater than 60%, except that a Project may utilize a Guaranteed Minimum per Table 12.21 C.10-3 of the Baseline Hillside Ordinance (BHO).

Thank you for the opportunity to comment on this significant concern with the proposed Wildlife Ordinance. I would be pleased to discuss this matter if you wish.

Very truly yours,

A handwritten signature in blue ink, appearing to read "John A. Henning, Jr.", with a stylized, cursive script.

John A. Henning, Jr.

cc: Wildlife District Team