

Communication from Public

Name: Juliana Fong

Date Submitted: 11/08/2024 04:37 PM

Council File No: 14-0518

Comments for Public Posting: As a health legislative analyst majoring in urban studies, I'm speaking out to express my wholehearted support of the Wildlife Supplemental Use District Ordinance because it strikes the right balance between promoting wildlife connectivity, protecting delicate ecosystems, and respecting reasonable development rights of private property. Also, because Los Angeles is a global megacity situated next to wilderness, the Santa Monica Mountains, this district is a long-awaited vehicle for protecting the plants and animals that have lived here for thousands of years. In sum, I am strongly in favor of this ordinance and hope that it is followed by similar ordinances that protect other wilderness areas located in and near the City of Los Angeles. Thank you for your consideration.

Communication from Public

Name: Jack Rubens

Date Submitted: 11/08/2024 05:06 PM

Council File No: 14-0518

Comments for Public Posting: Please see the attached letter in opposition to the proposed wildlife district ordinance, as currently proposed.

November 8, 2024

Our File Number:

BY PUBLIC COMMENT PORTAL

Planning and Land Use Management Committee
Los Angeles City Council
City of Los Angeles
200 N. Spring Street, Room 340
Los Angeles, California 90012
Portal: www.LACouncilComment.com

Re: Requested **90-Day Continuance** re Revised Wildlife District Ordinance
(Council File No. 14-0518 and Case Nos. CPC-2022-3413-CA,
CPC-2022-3712-ZC and ENV-2022-3414-C)

Honorable Councilmembers:

This firm represents Fennel Field LLC, which owns real property within the substantial hillside area (the "Restriction Area") that would be subject to the Wildlife District Ordinance (the "Wildlife Ordinance") proposed by the City of Los Angeles (the "City"). The Wildlife Ordinance would establish a Wildlife Supplemental Use District (WLD) overlay zone for the entire Restriction Area and subject all residential parcels within the Restriction Area to a broad range of development restrictions in the Wildlife Ordinance.

The genesis of the Wildlife Ordinance was a Motion adopted by the City Council on April 23, 2014 to create a wildlife corridor in the eastern area of the Santa Monica Mountains. That Motion was affirmed by the City Council in April 2016. As the proposed ordinance percolated in the Department of City Planning over the next several years, it morphed into a mechanism to significantly restrict residential development in the Restriction Area. By 2023, the Wildlife Ordinance had little to do with protecting wildlife.

On June 20, 2023, the Planning and Land Use Management Committee (the "PLUM Committee") first considered the Wildlife Ordinance, as then proposed, and

recommended incorporating a number of amendments (the "Council Amendments") proposed by the two councilmembers in whose districts the Restriction Area that dramatically intensified its adverse impact on residential uses. The PLUM Committee referred the further amended ordinance to the City Attorney for form and legality review.

Following that PLUM hearing, it was announced that the City Council would consider adoption of the Wildlife Ordinance on Friday, June 30, but that did not occur. Instead, it appears that the proposed Wildlife Ordinance has been under review by the City Attorney for almost 18 months.

Then, this morning, with no prior notice, the City posted on the Council File Management System (1) a further revised draft of the proposed Wildlife Ordinance that considerably reworks the ordinance and now includes all of the Council Amendments and (2) a related three-page Report from the City Attorney to the City Council (the "City Attorney Report").

We understand that the revised Wildlife Ordinance is now scheduled, or will be scheduled, to come back to the PLUM Committee on November 19, just 11 days from now. This is a grossly insufficient amount of time to review and digest the revised ordinance and meaningfully engage with the City regarding its impacts and potential amendments that could ameliorate its significant negative impacts, while still achieving a real measure of wildlife protection. Moreover, as discussed below, the City now proposes for the first time to offset the ordinance's significant reduction in the intensity of residential land use by concurrently adopting implementing ordinances with respect to the already approved Downtown Community Plan. The community deserves a meaningful opportunity to review and consider the City's justification for, and analysis of, this offset, neither of which has yet been made publicly available.

Therefore, we respectfully request that, if already scheduled, **the PLUM Committee's consideration of the revised Wildlife Ordinance be continued for a period of at least 90 days to allow for a meaningful public process.** The ramifications of this ordinance are profound and the City should not be attempting to adopt it on an accelerated basis with the apparent intent to stifle meaningful public engagement. We understand that City officials have previously promised to have a meaningful and substantive public process, but that has not happened to date and that promise should now be honored.

Turning briefly to our client's legal concerns, over a year ago, we provided to the City a lengthy letter, dated October 23, 2023 (the "2023 Letter"), which demonstrated that the Wildlife Ordinance, as then proposed, violated at least two restrictions in

Section 66300 of the California Government Code¹, a provision in Senate Bill 330, the Housing Crisis Act of 2019. A copy of the 2023 Letter is attached hereto as **Exhibit 1**.

As relevant here, Section 66300(b)(1)(A) prohibits a local agency from enacting an ordinance that would reduce the "intensity of land use" for a zoning district where housing is an allowable use below what was allowed under zoning ordinances in effect on January 1, 2018. The City does not dispute that the proposed Wildlife Ordinance would significantly reduce the intensity of residential land use within the Restriction Area.

Recognizing this legal vulnerability, after 18 months of silence, the City Attorney Report includes the following brief statement:

If the City Council decides to approve this draft ordinance, it should be approved at the same Council meeting as the Downtown Community Plan Update ordinances and New Zoning Code (CF 22-0617) in order to satisfy the no net loss requirement set forth in Government Code Section 66300(h) (Housing Crisis Act of 2019).

While the City Attorney declined to elaborate, Section 66300(h) provides as follows:

(h) (1) This section [66300] does not prohibit an affected county or an affected city, including the local electorate acting through the initiative process, from changing a land use designation or zoning ordinance to a less intensive use, or reducing the intensity of land use, if the city or county **concurrently** changes the development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure that there is **no net loss in residential capacity**. (Emphasis added)

(2) (A) For purposes of this subdivision, "concurrently" means the action is approved at the same meeting of the legislative body.

We have not yet had any meaningful opportunity to consider the City's scheme to use the implementing zoning ordinances for the Downtown Community Plan (collectively, the "DTLA Ordinances") to offset the significant loss of residential capacity

¹ All subsequent statutory references are to the Government Code unless otherwise indicated.

associated with the proposed Wildlife Ordinance, but even at first glance we believe that it is unlawful for several reasons. First, consistent with the concern raised in our 2023 Letter, the City has cherry-picked a zoning action in one discrete portion of the City and apparently intends to arbitrarily schedule the City Council's concurrent approval of the Wildlife Ordinance and the DTLA Ordinances for the same meeting. This ignores all of the City's other pending plans and ordinances throughout the City, some of which will undoubtedly reduce residential zoning capacity. The City cannot myopically focus on one area of the City, but ignore all other land use and zoning actions pending elsewhere within its jurisdiction. This would violate both the letter and intent of Section 66300(h).

Second, the City has not disclosed any analysis that quantifies the loss of residential capacity associated with the Wildfire Ordinance or any analysis that quantifies the alleged increase in residential capacity associated with the DTLA Ordinances, or compared them in apples-to-apples fashion. In the absence of such quantified analysis and comparison, the City has no basis to claim that Section 66300(h) applies here.

Third, and in any event, the DTLA Ordinances merely implement, and are consistent with, the Downtown Community Plan that the City Council unanimously adopted on May 3, 2023, **more than 18 months ago**. Therefore, the City Council long ago adopted the "development standards, policies and conditions" in the Downtown Community Plan that allegedly increased residential capacity within the Downtown Community Plan area. As a result, the contemplated action by the City Council to adopt the DTLA Ordinances and the Wildlife Ordinance at the same meeting would not qualify as a "concurrent" action under Section 66300(h) because the DTLA Ordinances merely implement the previously approved Downtown Community Plan and could not even be considered or adopted by the City Council without such prior approval of the Downtown Community Plan.

We reserve the right to raise additional concerns regarding the City's contemplated scheme after we have had a chance to investigate this issue in greater depth.

Our 2023 Letter also demonstrated that the proposed Wildlife Ordinance violates the Housing Crisis Act for a second and distinct reason. Section 66300(b)(1)(C) prevents local agencies from "imposing or enforcing design standards established on or after January 1, 2020, that are not objective design standards." As discussed on pages 17-18 of our 2023 Letter, the Wildlife Ordinance violates this requirement in multiple ways, in particular because, pursuant to what is now Section 13.21.H.3(d) of the ordinance, the discretionary approval of Project Review for projects in the Restriction Area requires four **additional findings** to be made, all of which function as highly subjective design

standards and most of which are expressly characterized as design standards. These vague and overbroad requirements provide no meaningful guidance to an applicant. Rather, they confer almost unlimited discretion on the City to disapprove or significantly reduce the intensity of proposed hillside residences in the Restriction Area. Accordingly, they are wholly subjective design standards and flatly violate Section 66300(b)(1)(C).

The City Attorney Report does not address this issue and, to our knowledge, the City has never addressed it.

For all of these reasons, we again respectfully request that **the PLUM Committee's consideration of the revised Wildlife Ordinance be continued for at least 90 days** to allow the City and stakeholders a full opportunity to engage and discuss appropriate amendments to ensure a balanced document.

Very truly yours,



Jack H. Rubens

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SMRH:4870-5636-4279.2

cc: Hon. Councilmember Eunisses Hernandez
Hon. Councilmember Paul Krekorian
Hon. Councilmember Bob Blumenfield
Hon. Councilmember Nithya Raman
Hon. Councilmember Katy Yaroslavsky
Hon. Councilmember Imelda Padilla
Hon. Councilmember Monica Rodriguez
Hon. Councilmember Marqueece Harris-Dawson
Hon. Councilmember Curren D. Price, Jr.
Hon. Councilmember Heather Hutt
Hon. Councilmember Traci Park
Hon. Councilmember John Lee
Hon. Councilmember Hugo Soto-Martinez
Hon. Councilmember Kevin de Leon
Hon. Councilmember Tim McOsker

Mr. Vincent P. Bertoni, AICP,
Director of Planning (w/encls.) (BY EMAIL)

Mr. Patrick Whalen,
City Planner (w/encls.) (BY EMAIL)

Hydee Feldstein Soto, Esq.,
City Attorney (w/encls.) (BY EMAIL)

EXHIBIT 1

October 12, 2023

Our File Number: 91HJ-378088

BY EMAIL

Mr. Brian Heaton, AICP
Senior Housing Accountability Manager
Housing Accountability Unit
California Department of Housing
and Community Development
2020 W. El Camino Avenue, Suite 500
Sacramento, California 95833

Re: Violation of Housing Crisis Act of 2019 re Wildlife District Ordinance
Proposed by the City of Los Angeles (Your Case No. HAU22-153)

Dear Mr. Heaton:

This firm represents 50 BP Housing, LLC, Gilcrest, LLC and ZeroPoint, LLC, which own real property within the substantial hillside area (the "Restriction Area") that would be subject to the Wildlife District Ordinance (the "Wildlife Ordinance") proposed by the City of Los Angeles (the "City") and designated as Case Nos. CPC-2022-3413-CA, CPC-2022-3712-ZC and ENV-2022-3414-CE and Council File No. 14-0518. The Wildlife Ordinance would establish a Wildlife Supplemental Use District (WLD) overlay zone for the entire Restriction Area and subject all residential parcels within the Restriction Area to a broad range of restrictions in the Wildlife Ordinance.

We understand that you have received prior complaints regarding the proposed Wildlife Ordinance and have opened a case (HAU22-153) to monitor it.

For the reasons discussed in detail below, our clients believe that, in its current form, the Wildlife Ordinance violates Section 66300 of the California Government Code¹, which is a provision of Senate Bill 330, the Housing Crisis Act of 2019 ("SB 330"). The passage of SB 330 stemmed from the California Legislature's

¹ All subsequent statutory references are to the Government Code unless otherwise indicated.

determination that the California's housing shortage is "a crisis of historic proportions despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the approval, development, and affordability of housing" § 65589.5(a)(2)(J).

As relevant here, **Section 66300(b)(1)(A)** prohibits a local agency from enacting an ordinance that would reduce the "intensity of land use" for a zoning district where housing is an allowable use below what was allowed under zoning ordinances in effect on January 1, 2018. In addition, **Section 66300(b)(1)(C)** prevents local agencies from "imposing or enforcing design standards established on or after January 1, 2020, that are not objective design standards."

The proposed Wildlife Ordinance violates Section 66300 in two principal respects:

- It violates Section 66300(b)(1)(A) because it would reduce the intensity of residential land use for approximately 23,000 acres of hillside land with approximately 28,000 residential parcels. It would reduce the maximum overall height and maximum residential floor area of hillside residences, reduce maximum lot coverage and introduce new discretionary approval requirements for the development of many proposed residences.
- It violates Section 66300(b)(1)(C) because it imposes new, subjective design standards as part of the new discretionary approval processes in the ordinance.

We understand that your office first reached out to the City in late 2022 due to a concern that the proposed Wildlife Ordinance would result in a reduction in the intensity of residential land uses. In an email sent to the City at that time, an HCD official

"urge[d] the City to demonstrate that the practical effects of the new Ordinance will not result in a reduction in the intensity of residential uses, or if it does, that the City conducts a concurrent and compensatory action elsewhere to ensure that a reduction in residential density development capacity does not occur. Please be aware that reductions in residential floor areas can be considered to reduce the intensity of land use. . . . HCD is happy to assist moving forward to prevent conflict with state housing law."

The City responded by doubling down on its efforts to restrict residential development, recommending further and significant reductions in the intensity of residential uses in the Restriction Area. On June 20, 2023, the Planning and Land Use Management Committee (the "PLUM Committee") of the Los Angeles City Council (the "City Council") recommended that the Wildlife Ordinance be amended to (1) include all habitable basement space in the calculation of the Residential Floor Area ("RFA") for a home (such space is, for the most part, currently excluded from the calculation of RFA) and (2) exclude all "slope bands" exceeding a 60% grade from the calculation of the maximum RFA for a home, as set forth in the July 21, 2023 letter attached as **Exhibit 1** (Action Items 3.a and 3.b).

It appears that HCD learned of this development because, eight days later, a HCD official sent an email to Nicholas Maricich, a Principal City Planner in the Citywide Policy Division, which concluded as follows:

HCD understands that there have been changes to the draft ordinance including proposed height limits, maximum lot coverage limitations, changes to existing basement exemption, etc. Has the City prepared a map or other geographical analysis that quantifies the potential reduction in residential development capacity? . . . As stated previously, HCD is happy to discuss and provide technical assistance to prevent conflict with the Housing Crisis Act.

In a responsive email that same day, Mr. Macirich stated that planning staff

will be working with the City Attorney's Office over the coming months on the analysis necessary for compliance with the Housing Crisis Act, while the Ordinances is under form and legality review. I appreciate your offer to provide us with technical assistance, and we will definitely follow up with you if needed.

These emails reflect the Agency is giving the City every opportunity to modify the Wildlife Ordinance to eliminate the self-evident violations of the HCA, but that the City has not acknowledged those violations, explained how it intends to remedy them or otherwise substantively engaged with HCD.

As we understand it, when HCD receives a complaint that a proposed or adopted ordinance violates SB 330 and it concurs with that assessment, it sometimes sends a letter

of technical assistance to the offending public agency that documents the actual or potential violation(s) and requests that the public agency take corrective action.

We respectfully request that, based on the analysis in this letter and other correspondence you have received, HCD send a letter of technical assistance to the City that summarizes the multiple ways in which the proposed Wildlife Ordinance violates Section 66300.

We discuss these violations in more detail below, beginning with a summary of the factual and procedural background.

A. Background.

The genesis of the Wildlife Ordinance was a Motion adopted by the City Council on April 23, 2014 to create a wildlife corridor in the eastern area of the Santa Monica Mountains. This Motion was affirmed by the City Council in April 2016. As the proposed ordinance percolated in the Department of City Planning over the next several years, it morphed into a mechanism to significantly restrict residential development in the Restriction Area.

In April 2021, the City released an initial draft of the proposed Wildlife Ordinance. Based on public feedback, the City prepared a second draft of the ordinance, which was released in April 2022. In response to further public comment, the City prepared a third draft of the ordinance that the City Planning Commission (the "CPC") considered on December 8, 2022.

In connection with the CPC hearing, planning staff prepared a lengthy Recommendation Report for the CPC (the "CPC Recommendation Report"). Buried in that report, on page A-37 (see **Exhibit 2** attached hereto), is a brief discussion in which staff contended that the Wildlife Ordinance complies with SB 330 (*i.e.*, section 66300). First, with respect to the requirement in Section 66300(b)(1)(C) that the ordinance must include objective design standards, the CPC Recommendation Report states in part:

Per [SB 330], non-objective design review standards established after January 1, 2020, cannot be imposed or enforced. While a few commentators raised the question whether the proposed Ordinance would conflict with this new housing law, the Ordinance includes objective design standards and limitations aimed at minimizing hillside land disturbance . . . , retaining and preserving native habitat and

minimizing injury to wildlife to maintain wildlife connectivity; these regulations have been developed and revised to ensure that they contain objective standard to comply with SB 330 limitations.

As discussed below, however, the Wildlife Ordinance, as currently proposed, actually includes numerous and wholly subjective design standards with regard to the new discretionary approval process for larger homes in the Restriction Area.

Second, with regard to the requirement in Section 66300(b)(1)(A) that prohibits a reduction in the intensity of residential land use, the CPC Recommendation Report suggests (on page A-37) that the proposed Wildlife Ordinance complies with that section, but in fact concedes that it does not:

Plans that result in a net downzoning or otherwise reduce housing and population (except for specified reasons involving health and safety, affordable housing, and voter initiatives) are prohibited. This does not apply to zoning efforts that reduce intensity for certain parcels as long as density is increased on other parcels and therefore results in no net loss in zoned housing capacity or intensity. The proposed Ordinance has many objectives, which also include addressing safety of development in the hillsides with respect a wildfire, slope failure, and floods hazards. Furthermore, while the proposed Wildlife Ordinance does not include upzones to parcels elsewhere in the city, the City is in the process of increasing zoning allowances in various locations throughout the city, particularly in proximity to transit infrastructure, through its update to Community Plans, as well as the Regional Housing Needs Assessment/Housing Element implementation program, thereby assuring no net loss of zoned housing capacity or intensity across the city.

As discussed below, staff essentially acknowledges that the proposed ordinance would result in a reduction in the intensity of residential uses, but does not describe any "concurrent" upzoning to ensure that there is no net loss of residential capacity, as required by Section 66300(i)(1), and in fact does not even reference the central "concurrent" requirement in its one-paragraph discussion.

Following a public hearing on December 8, 2022, the CPC recommended that the City Council approve a further revised draft of the Wildlife Ordinance (attached hereto as **Exhibit 3**). That revised draft, along with the CPC's letter of determination, was transmitted to the City Council on January 18, 2023. No further action was taken on the proposed ordinance for many months while the City grappled with a number of issues, which presumably included how to comply with Section 66300.

Then, in June 2023, the PLUM Committee scheduled a hearing to consider the CPC's recommendation. Just days before the hearing, in a June 13 letter, the two councilmembers in whose districts the Restriction Area is located requested a number of amendments to the proposed Wildlife Ordinance that dramatically intensified its adverse impact on residential uses (see **Exhibit 4** attached hereto). First, they asked for the elimination of the current provision in Section 12.03 of the City's Zoning Ordinance (in the definition of "Residential Floor Area") which was established pursuant to the Baseline Hillside Ordinance adopted by the City Council in 2011 and amended in 2017) that exempts the floor area of habitable basements from the calculation of the residential floor area of a hillside residence. As discussed in more detail below, this alone would significantly reduce the residential floor area of hillside residences throughout the Restriction Area, and the City does not contest this.

Second, the two councilmembers requested that any portion of a lot that exceeds a 60% slope should be excluded from the "slope band" calculation that determines the maximum residential floor area for a proposed hillside residence. This would further and significantly reduce the intensity of residential use throughout the Restriction Area, as explained further below.

Three days later, on June 16, planning staff transmitted those and other proposed "optional modifications" (collectively, the "Council Modifications") to the PLUM Committee for its consideration (see **Exhibit 5** attached hereto). On June 20, the PLUM Committee requested that the City Attorney prepare a final Wildlife Ordinance that incorporated all of the Council Modifications, as subsequently set forth in the July 21, 2023 letter from the Clerk of the PLUM Committee to the Director of Planning and the City Attorney (see **Exhibit 1**).

Following the PLUM Committee hearing on June 20, it was announced that the City Council would consider adoption of the Wildlife Ordinance on Friday, June 30, a stunningly short period of time following the PLUM Committee's action, particularly given the broad scope of the ordinance and the immense controversy it has engendered. This curtailed legal review was unprecedented in our experience. Fortunately, the City

backed away from this accelerated schedule and the City Attorney continues to review the proposed ordinance as to "form and legality."

B. The Proposed Wildlife Ordinance Would Result in a Significant Reduction in the Intensity of Residential Use and Thereby Violates Section 66300(b)(1)(A).

As you know, Section 66300(b)(1)(A) provides as follows:

(b) (1) Notwithstanding any other law except as provided in subdivision (i), with respect to land where housing is an allowable use, an affected county or an affected city shall not enact a development policy, standard, or condition that would have any of the following effects:

(A) Changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use **or reducing the intensity of land use** within an existing general plan land use designation, specific plan land use designation, or zoning district in effect at the time of the proposed change, below what was allowed under the land use designation or zoning ordinances of the affected county or affected city, as applicable, as in effect on January 1, 2018, except as otherwise provided in clause (ii) of subparagraph (B) or subdivision (i). For purposes of this subparagraph, **"reducing the intensity of land use" includes, but is not limited to, reductions to height, density, or floor area ratio, new or increased open space or lot size requirements, new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or any other action that would individually or cumulatively reduce the site's residential development capacity.** (Emphasis added)

This provision (and most of the other provisions in Section 66300) "shall prevail over any conflicting provision of this title or other law regulating housing development in this state to the extent that this section more fully advances the intent . . . to maximize the development of housing within the State." §§ 66300(f)(1) and (2).

HCD has construed what "reducing the intensity of land use" means in several letters of technical assistance to other California cities. Of particular note, in an April 29,

2022 letter to Scott Reimers, the Community Development Director for the City of Temple City (the "Temple City Letter"), HCD explained that the prohibition in Section 66300(b)(1)(A) extends to the adoption of new development standards that reduce the permitted residential floor area, height and maximum lot coverage for single-family residences in an R-1 District. The letter states (at page 3) that these reductions would dramatically reduce the residential development capacity of a typical 7200-square-foot lot in the R-1 zone and "will prevent property owner from developing its lot to the extent permitted under the previously at existing development standards."

We are aware of only one court decision, a trial court decision in Los Angeles Superior Court, that has thus far construed Section 66300(b)(1)(A). In *Yard v. City of Culver City*, Case No. 20STCV43253 (May 26, 2022), a copy of which is attached hereto as **Exhibit 6**, the city approved a zoning ordinance that reduced the maximum floor area ratio ("FAR") in the R-1 zone (*i.e.*, single-family neighborhoods) from 0.60 to 0.45 and prohibited more than one kitchen per dwelling unit. (pp. 24-25, 37)

The court first held that Section 66300(b)(1)(A) prohibited the city from enacting a zoning ordinance that has the effect of reducing the intensity of land use in the R-1 zone to below what was allowed under the city's zoning ordinance in effect on January 1, 2018. (pp. 23-24) It noted that the Legislature intended "to [c]ast a wide net to prohibit any standard that would potentially lessen the intensity of housing." (p. 23) The court rejected the city's claim that the objective of Section 66300(b)(1)(A) was to increase the number of dwelling units, rather than increase the square footage per dwelling unit, noting that the Legislature broadly defined "less intensive use" to include "anything that would lessen the intensity of housing."² (p. 23) The court therefore interpreted "reducing the intensity of land use" to include a reduction in FAR for parcels within the applicable zone. (p. 24)

Applying that interpretation, the court centrally found that zoning ordinance violated Section 66300(b)(1)(A) because it reduced the maximum FAR for single-family residential parcels from 0.60 to 0.45, and thereby reduced the "intensity of land use." (pp. 24-26) It noted that it was "unnecessary for the court to quantify the reduction in the intensity of land use" (pp. 25-26) The court further determined that the prohibition on more than one kitchen in a dwelling unit was "an additional factor" showing that the

² Section 66300(b)(1)(A) expressly states that "reducing the intensity of land use" includes reductions in floor area ratio (as well as reductions in density and height).

zoning ordinance lessened the intensity of housing in violation of Section 66300(b)(1)(A).³ (p. 37)

As discussed below, the proposed Wildlife Ordinance includes provisions that would individually and collectively result in dramatic reductions in residential development capacity throughout the Restriction Area.⁴

1. The Elimination of the Basement Exemption From the Calculation of Residential Floor Area.

Pursuant to Section 12.21.C.10(b) of the LAMC, the maximum RFA for a hillside residence is calculated based on the steepness of the slope on the residential lot. The lot is divided into "slope bands" that represent the steepness of the slope on various portions of the lot.

However, the definition of RFA in Section 12.03 of the LAMC excludes floor area located in a basement of a proposed hillside residence (subject to satisfying specified elevation requirements for its placement). As a result of this exemption, which first became effective in 2011 with the adoption of the City's Baseline Hillside Ordinance (the "BHO"), the great majority of hillside residences approved and constructed in the Restriction Area over the past 12 years have included basements in order to substantially increase their floor area well beyond the RFA otherwise allowed in Section 12.21.C.10(b). We understand that, on average, the basements of new homes constructed in the Restriction Area since the adoption of the BHO account for approximately one-third of their floor area.

The PLUM Committee has recommended the elimination of the basement exemption (see **Exhibits 1, 4 and 5**), so that basements would be included in the calculation of RFA. As is self-evident, this zoning change alone would result in a significant reduction in the intensity of residential land use in the Restriction Area.

³ We understand that City officials have suggested that Section 66300 does not apply to reductions in the intensity of use in areas zoned for single-family residential use. If so, that is untrue. Section 66300 does not include any such limitation or exception. As reflected in the Temple City Letter and the *Yard* case, Section 66300 prohibits reductions in the intensity of housing in all residential areas, including single-family residential areas.

⁴ All of the existing zoning provisions in the LAMC discussed below have been in effect since January 1, 2018.

2. The Elimination of Residential Floor Area for Slope Bands With a Slope Greater than 60%.

As discussed in the preceding section, the calculation of the maximum RFA for a hillside residence is based on the steepness of the lot's slope, which is divided into slope bands with varying degrees of steepness. The maximum RFA is the sum of the RFAs for each of the slope bands. LAMC §12.21.C.10(b). As shown on Table 12.21.C.10-2a of the LAMC, all slope bands with slopes from 0-99.99% currently translate into RFA (slopes of 100% or greater do not generate RFA). Specifically, the RFA for a slope band with a slope between 60-99.99% is currently calculated by multiplying the square footage of the land within the slope band by a percentage that ranges from 0.30 to 0.05 depending on the residential zoning designation for the lot. For example, if a lot in the R1 zone includes a slope band with 3,000 square feet of land and a slope between 60-99.9%, the calculated RFA for that slope band would be $0.30 \times 3,000 = 900$ square feet.

The PLUM Committee has recommended the modification of Section 12.21.C.10(b) and Table 12.21.C.10-2a to eliminate RFA for slope bands greater than 60%. This change would substantially reduce the maximum RFA allowed for hillside residences in the Restriction Area, and therefore would result in a further reduction in the intensity of residential land use. Section 66300(b)(1)(A) expressly states that "reducing the intensity of land use" includes a reduction in floor area ratio.

3. The Reduction of Overall Building Height.

As set forth in Section 12.21.C.10(d) of the LAMC, the maximum height of hillside residences in residential zones is currently based on a vertical envelope height limit that is measured from grade to a projected plane at the roof or parapet level that is directly above and parallel to the grade. As shown on Table 12.21.C.10-4, the maximum envelope height limit ranges from 36 to 22 feet where the roof has a slope of 25% or greater and 30 to 18 feet where the roof has a slope of less than 25%. Within the Restriction Area, the maximum envelope height is often 30 feet.

However, the LAMC does not currently include an overall residential height limit. It is often the case that, because the hillside lots are sloped, the proposed hillside residence is located entirely within the applicable height envelope, but the overall height of the residence significantly exceeds 45 feet.

The Wildlife Ordinance, as currently proposed, would add a new Section 13.21.F.1(b)(2)(i) to the LAMC that would impose a new overall height limit of 45 feet

for all buildings and structures within the Restriction Area, with very limited exceptions. This change would further significantly reduce the allowable height (and therefore the maximum permissible RFA) for hillside residences, and therefore would reduce the intensity of residential land use in the Restriction Area. Section 66300(b)(1)(A) expressly states that "reducing the intensity of land use" includes a reduction in height.

4. The Effective Reduction of Maximum Lot Coverage.

Section 12.21.C.10(e) of the LAMC currently states that "Buildings" and "Structures" on a standard lot that extend more than six feet above natural ground level shall cover no more than 40% of the lot (that percentage is increased to 45% for substandard lots).

The new Section 13.21.F.1(e)(2) in the Wildlife Ordinance would modify Section 12.21.C.10(e) of the LAMC in two respects. First, like Section 12.21.C.10(e), it states that the calculation of lot coverage would include all structures that extend more than six feet above natural ground level, but then independently states that the calculation of lot coverage includes all pools, planters, sport courts, pavement, patios and decks, **regardless** of their elevation. Second, Section 13.21.F.1(e)(2) increases lot coverage to 50% and adds a cap of 100,000 square feet.

While Section 13.21.F.1(e)(2) modestly increases the maximum lot coverage percentage from 40-45% to 50%, its overall effect would be to significantly reduce the allowable lot coverage for hillside residences in the Restriction Area. That is because the calculation of lot coverage would now have to include all at-grade pools, planters, sport courts, pavement, patios and decks (again, at the moment, that calculation excludes all such structures less than six feet above natural ground level). These types of structures are normally located at grade or less than six feet above grade, so they are generally excluded from the calculation of lot coverage under current zoning regulations. If, however, all of those common residential improvements now had to be included in such calculation, the effective maximum lot coverage would be significantly lower than the current 40-45%. That in turn would effectively further reduce the RFA of hillside residences in the Restriction Area. In addition, note that a homebuilder could not compensate for the smaller footprint of a residence by increasing building height because the LAMC already includes substantial limitations on hillside residential building height and, as previously discussed, the Wildlife Ordinance would impose a new and significant restriction on overall height.

For these reasons, the proposed change to the calculation of lot coverage in the Wildlife Ordinance would further reduce the intensity of residential land use in the Restriction Area. Section 66300(b)(1)(A) expressly states that "reducing the intensity of land use" includes "maximum lot coverage limitations."

5. The New Discretionary Approval Required for Hillside Residences That Exceed 6,000 Square Feet in Size, Require 1,000 Cubic Yards or More of Remedial Grading or Located Within a Wildlife Resource.

A discretionary approval, or "entitlement," is normally not required for the construction of a hillside residence within the Restriction Area. Rather, an applicant normally requires only one or more ministerial building permits (which, in the City, cover demolition, foundation, shoring, grading and construction work).

As currently proposed, the Wildlife Ordinance would significantly change the current state of affairs. First, it adds a new Section 13.21.F.1(k)(2) to the LAMC that would require approval of site plan review (which is a discretionary approval described in Section 16.05 of the LAMC) for any project in the Restriction Area that includes 6,000 square feet or more of RFA. Currently, Section 16.05.C.a(f) only requires site plan review approval for hillside residences that exceed 17,500 square feet in RFA (and, as previously discussed, that 17,500-square-foot threshold currently does not include basements).

Section 13.21.F.1(k)(2) additionally requires approval of site plan review for any project in the Restriction Area that requires 1,000 cubic yards or more of "Remedial Grading."

The Wildlife Ordinance further adds a new Section 13.21.F.2(b)(3) to the LAMC that would also require approval of site plan review for any hillside residence in the Restriction Area that would be located within a "Wildlife Resource" or a 50-buffer from that resource. The Wildlife Ordinance broadly defines a "Wildlife Resource" (see Tables 4.1 and 7.2) as including water features (lakes, reservoirs, ponds, wetlands, rivers, streams, creeks and riparian habitat), open channels and open space (zoned open space, conservation easements, protected areas). The Wildlife Resources Map linked in Section 13.21.F.2(b)(1), and a copy of which is on the fourth-to-last page of **Exhibit 3**, shows the substantial water and open space areas throughout the Restriction Area. Planning staff advised at a public hearing for the proposed Wildlife Ordinance that approximately one-third of the residential parcels in the Restriction Area are located within a Wildlife Resource and/or the buffer area.

Section 16.05.F requires three findings for the approval of the site plan review, but Section 13.21.F.2(b)(3)(ii) in the Wildlife Ordinance adds four **additional** findings to approve site plan review for a hillside residence in the Restriction Area, as follows:

1. That the proposed Project, roads and utilities serving the proposed Project are located and designed to be highly compatible with and have minimal impact on any and all natural features and resources present, including landform, vegetation, and existing natural and altered watercourses.
2. That the Project is located to avoid substantial landform alteration, including by locating development away from steep slopes and/or that alternatives to substantial landform alteration including, but not limited to, deepen foundations, caissons and soldier piles have been utilized.
3. That the proposed Project is designed to be highly compatible with the biotic resources present, including setting aside of appropriate insufficient undisturbed areas [and] retaining native vegetation cover and/or open spaces to buffer critical resource areas from such Project.
4. That any existing Wildlife Resources and Resource Buffers been clearly identified on site plans and the Project designs, as well as all construction activities and staging, are specifically and explicitly adapted to the preservation or enhancement of identified resources in their existing location, and do not substantially impede wildlife access to the resource.

The LAMC currently allows the construction of hillside residences of 6,000 square feet or more on a significant number of lots in the Restriction Area, and it is apparent that many proposed residences in the future will include more than 6,000 square feet of RFA (including basements). In addition, the development of hillside residences in the Restriction Area often requires 1,000 cubic yards or more of Remedial Grading to address geotechnical conditions. Furthermore, as shown on the Wildlife Resources Map (see the fourth-to-last page of **Exhibit 3**), and as planning staff acknowledged, many residential lots in the Restriction Area include or border on Wildlife Resources that would trigger discretionary review.

Taken together, these new discretionary approval requirements would require the approval of site plan review for a significant percentage of proposed hillside residences in the Restriction Area.

The obvious purpose of the new site plan review requirement, as with any discretionary approval, is to provide the City with the discretion to disapprove proposed hillside residences or limit their size. As to the latter, the City could utilize this discretionary process to reduce RFA, lower building heights, reduce lot coverage, reduce grading, etc., to less than what the Wildlife Ordinance or the LAMC allows. These components of the Wildlife Ordinance would therefore further reduce the intensity of residential land use in the Restriction Area, with no limit on the extent of such reductions.

6. Case Studies.

A series of case studies for hillside properties in the Restriction Area (attached as **Exhibit 7**) has been prepared to demonstrate that the various development restrictions in the proposed Wildlife Ordinance would significantly reduce the intensity of land use in the Restriction Area.

The case studies are based on only two of the development restrictions in the Wildlife Ordinance – the elimination of (a) the basement exemption and (b) the slope bands on the properties with a slope greater than 60%. They do not factor in the new overall height limitation, the new restriction on lot coverage or the new discretionary approval requirement. The case studies are therefore conservative and understate the extent to which the Wildlife Ordinance would reduce the intensity of residential land use in the Restriction Area.

We briefly summarize three of the case studies to provide representative examples. Case Study 7 focuses on a residential property at 1550 Blue Jay Way with a lot size of 11,923 square feet. Currently, the maximum RFA for a residence on this lot is approximately 5,446 square feet, but the Wildlife Ordinance would reduce the maximum RFA to approximately 2,146 square feet, a reduction of approximately 61%. In fact, the size of the existing residence on the lot is 3,056 square feet, almost 50% larger than what the Wildlife Ordinance would permit.

As a second representative example, Case Study 12 relates to a residential property at 2014 Hercules Drive with a lot size of 16,041 square feet. The maximum RFA for a residence on this lot is currently 6,025 square feet. In comparison, the

Wildlife Ordinance would reduce the maximum RFA to approximately 2,806 square feet, a decrease of approximately 53%.

As a third representative example, Case Study 7 involves a residential property at 1760 Stone Canyon Road with a lot size of 14,475 square feet. The current maximum RFA is approximately 7,302 square feet. By contrast, the Wildlife Ordinance would reduce the maximum RFA to just 3,197 square feet, a decrease of approximately 56% and smaller than the size of the existing home, which is 3,819 square feet.

As shown in **Exhibit 7**, all of the case studies yield similar results and further demonstrate the dramatic reduction in the intensity of residential land use that would result from the adoption of the proposed Wildlife Ordinance.

7. The City's Inadequate Response.

As discussed in the introduction of this letter, the City has already conceded that the proposed Wildlife Ordinance would indeed reduce the intensity of land use in the Restriction Area. Page A-37 of the CPC Recommendation Report includes the following statement:

Plans that result in a net downzoning or otherwise reduce housing and population (except for specified reasons involving health and safety, affordable housing, and voter initiatives) are prohibited. This does not apply to zoning efforts that reduce intensity for certain parcels as long as density is increased on other parcels and therefore results in no net loss in zoned housing capacity or intensity. The proposed Ordinance has many objectives, which also include addressing safety of development in the hillsides with respect to a wildfire, slope failure, and floods hazards. Furthermore, while the proposed Wildlife Ordinance does not include upzones to parcels elsewhere in the city, the City is in the process of increasing zoning allowances in various locations throughout the city, particularly in proximity to transit infrastructure, through its update to Community Plans, as well as the Regional Housing Needs Assessment/Housing Element implementation program, thereby assuring no net loss of zoned housing capacity or intensity across the city.

In other words, the City acknowledges that, as proposed, the Wildlife Ordinance would reduce the intensity of land use throughout the Restriction Area. It further admits that the Wildlife Ordinance does not include the upzoning of any parcels in the Restriction Area or anywhere else in the City.

The City, however, attempts to salvage the Wildlife Ordinance by noting potential increases in "zoning allowances" in connection with contemplated updates to its Community Plans and its Regional Housing Needs Assessment/Housing Element implementation program, "thereby assuring no net loss of zoned housing capacity or intensity across the city." This presumably refers to Section 66300(i)(1), which provides as follows:

(i) (1) This section [66300] does not prohibit an affected county or an affected city, including the local electorate acting through the initiative process, from changing a land use designation or zoning ordinance to a less intensive use, or reducing the intensity of land use, if the city or county **concurrently** changes the development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure that there is **no net loss in residential capacity**. (Emphasis added)

"Concurrently" means the actions approved at the same meeting of the legislative body. § 66300(i)(2)(A).

The statement in the staff report ignores the "concurrent" requirement in Section 66300(i). In addition, the statement includes no specificity as to how it will measure the reduction in the intensity of residential land use associated with the Wildlife Ordinance, what other zoning actions would offset the Wildlife Ordinance reduction, or how any such offset would be measured. We also have grave concerns regarding any attempt by the City to "cherry pick" parcels that it seeks to upzone in some parts of the City, while ignoring downzoning that it may presently contemplate in other areas.

As previously discussed, you have, on multiple occasions, requested some of this information from the City, but it has thus far declined to respond. Our clients will continue to closely monitor this process.

C. The Proposed Ordinance Would Impose Design Standards That Are Not Objective Design Standards and Thereby Violate Section 66300(b)(1)(C).

Section 66300(b)(1)(C) provides as follows:

(b) (1) Notwithstanding any other law except as provided in subdivision (i), with respect to land where housing is an allowable use, an affected county or an affected city shall not enact a development policy, standard, or condition that would have any of the following effects:

(C) Imposing or enforcing design standards established on or after January 1, 2020, **that are not objective design standards.** (Emphasis added)

The proposed Wildlife Ordinance violates this requirement. As discussed in the Section B.5, above, the ordinance would require the discretionary approval of site plan review for any project in the Restriction Area that includes 6,000 square feet or more of RFA, requires 1,000 cubic yards or more of "Remedial Grading" or is located within a "Wildlife Resource" or a 50-foot buffer around it. As a result, many proposed homes in the Restriction Area would require this discretionary approval.

As also discussed in Section B.5, Section 13.21.F.2(b)(3)(ii) in the Wildlife Ordinance requires four **additional** findings to approve site plan review for a hillside residence in the Restriction Area, all of which function as highly subjective design standards and most of which are expressly characterized as design standards.

The first subjective design standard is that the residence must be "located and **designed** to be highly compatible with and have minimal impact on any and all natural features and resources present, including landform, vegetation, and existing natural and altered watercourses."

The second subjective design standard is that the project must "avoid substantial landform alteration, including by locating development away from steep slopes and/or that alternatives to substantial landform alteration including, but not limited to, deepen foundations, caissons and soldier piles have been utilized."

The third subjective design standard is that the proposed residence must be "**designed** to be highly compatible with the biotic resources present, including setting

aside of appropriate and sufficient undisturbed areas [and] retaining native vegetation cover and/or open spaces to buffer critical resource areas from such Project."

The fourth subjective design standard is that "any existing Wildlife Resources and Resource Buffers have been clearly identified on site plans and the Project **designs**, as well as all construction activities and staging, [and that they] are specifically and explicitly adapted to the preservation or enhancement of identified resources in their existing location, and do not substantially impede wildlife access to the resource."

The extreme subjectivity of these design standards is obvious. None of them are quantified in any way. How must a residence be designed to be "highly compatible with and have minimal impact on any and all natural features and resources?" How far does development have to be located from steep slopes and when and to what extent do deeper foundations, caissons and soldier piles need to be utilized? How shall a residence be designed to be "highly compatible with the biotic resources present?" What is an "appropriate and sufficient undisturbed area?" How much native vegetation cover and/or open space must be retained to buffer critical resource areas? How should resource buffers and construction and staging activities be "adapted to the preservation or enhancement of identified resources" and not "substantially impede wildlife access to the resource?"

These vague and overbroad requirements provide no meaningful guidance to an applicant. Rather, they confer almost unlimited discretion on the City to disapprove or significantly reduce the intensity of proposed hillside residences in the Restriction Area. Accordingly, they are wholly subjective design standards and flatly violate Section 66300(b)(1)(C).

We emphasize that **this violation is independent of, and in addition to**, the violation of Section 66300(b)(1)(C) discussed in the preceding sections. Therefore, a determination that the Wildlife Ordinance violates Section 66300(b)(1)(C) is not dependent on whatever information the City may provide regarding the ordinance's compliance with Section 66300(b)(1)(A) in response to HCD's requests.

Please let me know if you have any questions or require any additional information.

Very truly yours,



Jack H. Rubens

for SHEPPARD, MULLIN, RICHTER & HAMPTON LLP

SMRH:4883-8770-7261.5

cc: Hon. Councilmember Eunisses Hernandez
Hon. Councilmember Paul Krekorian
Hon. Councilmember Bob Blumenfield
Hon. Councilmember Nithya Raman
Hon. Councilmember Katy Yaroslavsky
Hon. Councilmember Imelda Padilla
Hon. Councilmember Monica Rodriguez
Hon. Councilmember Marqueece Harris-Dawson
Hon. Councilmember Curren D. Price, Jr.
Hon. Councilmember Heather Hutt
Hon. Councilmember Traci Park
Hon. Councilmember John Lee
Hon. Councilmember Hugo Soto-Martinez
Hon. Councilmember Kevin de Leon
Hon. Councilmember Tim McOsker
Mr. Vincent P. Berton, AICP,
Director of Planning (w/encls.) (BY EMAIL)
Mr. Patrick Whalen,
City Planner (w/encls.) (BY EMAIL)
Hydee Feldstein Soto, Esq.,
City Attorney (w/encls.) (BY EMAIL)

EXHIBIT 1

HOLLY L. WOLCOTT
CITY CLERK

PETTY F. SANTOS
EXECUTIVE OFFICER

City of Los Angeles

CALIFORNIA



KAREN BASS
MAYOR

OFFICE OF THE
CITY CLERK

Council and Public Services Division
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PATRICE Y. LATTIMORE
DIVISION MANAGER

clerk.lacity.org

July 21, 2023

Vince Bertoni
Director of Planning

Honorable Hydee Feldstein Soto

At its meeting held on June 20, 2023, the Planning and Land Use Management (PLUM) Committee considered a proposed Ordinance amending Sections 12.03, 12.04, 12.32, 13.21, 13.22, and 16.05 of the Los Angeles Municipal Code (LAMC) to establish a Wildlife Supplemental Use District Zone (Proposed Wildlife Ordinance), and a proposed Zone Change Ordinance applying the Wildlife Supplemental Use District (Proposed Zone Change Ordinance) to the zones of those parcels lying within the project boundaries identified in the Map CPC-2022-3712-ZC.

The Committee took the following actions:

1. Found, based on the whole of the administrative record, that the Project is exempt from CEQA pursuant to CEQA Guidelines Sections 15061(b)(3), 15307 (Class 7), 15308 (Class 8), and there is no substantial evidence demonstrating that an exception to a Categorical Exemption pursuant to CEQA Guidelines, Section 15300.2 applies.
2. Adopted the Findings of the Los Angeles City Planning Commission (LACPC) as the Findings of Council.
3. Requested the City Attorney to prepare and present a Wildlife Ordinance amending Sections 12.03, 12.04, 12.32, 13.21, 13.22, and 16.05 of the Los Angeles Municipal Code to establish a Wildlife Supplemental Use District Zone inclusive of all modifications recommended by the PLUM Committee and contained in the Communication from Council Districts 4 and 5, dated June 13, 2023, and as recommended by the Department of City Planning (DCP) in the report dated June 16, 2023 to:

- a. Revert to the previously recommended provision to count habitable basement space toward Residential Floor Area (RFA) calculations.
 - b. Revert to the previously recommended provision to not allocate RFA for slope bands exceeding 60% grade.
 - c. Amend the definition of Open Space to include City-owned property that is vacant as of the effective date of the ordinance.
 - d. Require Biological Assessments to be prepared by Qualified Biologists, in accordance with current DCP practices.
4. Instructed the DCP to prepare and present a Zone Change Ordinance, approved by the LACPC applying the Wildlife Supplemental Use District Zone to the zones of those parcels lying within the project boundaries identified in the proposed Ordinance Map.
 5. Instructed the DCP to proactively create a vetted list of registered Qualified Biologists that applicants may select from and that is maintained and updated by the department.
 6. Instructed the DCP, the Los Angeles Department of Building and Safety, the Bureau of Street Services, the Urban Forestry Division of the Public Works Department, and any other relevant departments and units, to report back on resources needed, including the creation of a Hillside Development Review Unit, to implement the Ordinances upon its completion following the form and legality process.

Please transmit the ordinances and reports requested by the PLUM Committee to the City Clerk's Office. In addition, please reference Council file No. 14-0518. If you have questions, feel free to contact me at (213) 978-1078.

Sincerely,

Candy Rosales, Committee Clerk
Planning and Land Use Management Committee
(213) 978-1078

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EXHIBIT 2



DEPARTMENT OF CITY PLANNING

RECOMMENDATION REPORT

City Planning Commission

Date: 12-08-22 Continued from 11-17-22
Time: After 8:30 a.m.*
Place: COVID-19 and continued concerns that meeting in person would present imminent risks to the health and safety of the attendees, the CPC meeting will be conducted entirely telephonically by Zoom [<https://zoom.us/>]. The meeting's telephone number and access code access number will be provided no later than 72 hours before the meeting on the meeting agenda published at <https://planning.lacity.org/about/commissionsboards-hearings> and/or by contacting cpc@lacity.org

Public Hearing: July 13, 2022
Appeal Status: N/A
Expiration Date: N/A

Case No.: CPC-2022-3413-CA,
CPC-2022-3712-ZC
CEQA No.: ENV-2022-3414-CE
Incidental Case: N/A
Related Cases: N/A
Council No.: Citywide (Code Amendment)
4 and 5 (Zone Change)
Plan Area: Citywide and Bel Air -
Beverly Crest, Hollywood,
Sherman Oaks - Studio City -
Toluca Lake - Cahuenga
Pass
Certified NC: Sherman Oaks, Studio City,
Hollywood Hills West,
Bel Air - Beverly Crest
GPLU: Primarily Single Family
Residential, Various
Zone: Various (see below)
Applicant: Department of City Planning

Zones:

[Q]RD6-1-H-HCR, [T][Q]RD3-1-H, [Q]OS-1XL-HCR, [Q]PF-1XL, [Q]PF-1XL-H, [Q]PF-1XL-HCR, [Q]R3-1VL-HCR, [Q]R3-1VL-HCR, [Q]R3-1XL, [Q]R3-1XL-HCR, [Q]R4-1-H-HCR, [Q]RD1.5-1, [Q]RD1.5-1VL, [Q]RD1.5-1VL-HCR, [Q]RD2-1VL-HCR, [T][Q]C1-1XL-HCR, [T][Q]R4-1-H-HCR, [T]RD2-1VL-H-HCR, A1-1-H, A1-1-H-HCR, A1-1-H-RPD-HCR, A1-1-HCR, A1-1XL-HCR, C1-1, C2-1-HCR, C2-1VL, C2-1VL-RIO, C4-1D-HCR, CR-1D-HCR, OS-1-H-HCR, OS-1XL, OS-1XL-H-HCR, OS-1XL-HCR, PB-1-HCR, PF-1XL, PF-1XL-HCR, R1-1, R1-1-HCR, R1-1-RIO, R2-1XL, R3-1, R4-1D-HCR, RA-1, RD1.5-1, RD1.5-1XL-HCR, RD2-1VL-HCR, RD6-1-HCR, RE11-1, RE11-1-HCR, RE15-1, RE15-1-H, RE15-1-H-HCR, RE15-1-H-RPD-HCR, RE15-1-H#, RE15-1-HCR, RE15-1VLD-RPD-HCR, RE20-1, RE20-1-H, RE20-1-H-HCR, RE20-1-HCR, RE40-1, RE40-1-H, RE40-1-H-HCR, RE40-1-H-RPD, RE40-1-H-RPD-HCR, RE40-1-HCR, RE9-1, RE9-1-H-RPD-HCR, RE9-1-HCR

PROJECT LOCATION: Santa Monica Mountains within Council Districts 4 and 5 (see Ordinance Map)

PROPOSED PROJECT:

A code amendment to Sections 12.03, 12.04, 12.32, 13.21, 13.22, and 16.05 of the Los Angeles Municipal Code (LAMC) to create a new "Wildlife District," or "WLD" Supplemental Use District and a zone change to apply the Wildlife District and its regulations to properties within the District. The proposed Wildlife District Ordinance (Ordinance) aims to reduce cumulative development impacts on plants, animals and natural resources while providing co-benefits related to climate resilience and public health. The Ordinance proposes development standards for lot coverage, floor area, grading and height limitations and as well as native landscaping/trees, fence, trash enclosure, window and lighting requirements. The Ordinance includes regulations that apply to private properties within the District, including additional discretionary review where lots contain/adjacent to natural resources, such as waterways and open space. The Ordinance details regulations and procedures for project review and includes a map identifying lots subject to natural resource provisions. A Zone Change Ordinance accompanies the Wildlife District Ordinance to establish the boundaries and identifies the corresponding properties subject to the Ordinance.

RECOMMENDED ACTIONS:

1. **Recommend** that the City Council determine, based on the whole of the administrative record, that the proposed Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15061(b)(3), 15307 (Class 7) and 15308 (Class 8), and no exception to a categorical exemption pursuant to CEQA Guidelines Section 15300.2 applies (Exhibit E).
2. **Approve and Recommend** that the City Council adopt the **Proposed Wildlife District Ordinance**, CPC-2022-3413-CA (Exhibit A) amending Sections 12.03, 12.04, 12.32, 13.21, 13.22, and 16.05 of the LAMC, to establish a Wildlife Supplemental Use District.
3. **Approve and Recommend** that the City Council adopt the Proposed **Zone Change** Ordinance, applying the Supplemental Use District Zone WLD to the zones of those parcels lying within the project boundaries identified in the proposed Ordinance Map CPC-2022-3712-ZC (Exhibit B).
4. **Adopt** the Staff Recommendation Report as the Commission Report on the subject; and
5. **Adopt** the Findings as recommended by Staff.

VINCENT P. BERTONI, AICP
Director of Planning



Nicholas P. Maricich, Principal City Planner



Conni Pallini-Tipton, AICP, Senior City Planner



Kat Superfisky, Urban Ecologist



Patrick Whalen, City Planner

ADVICE TO PUBLIC: *The exact time this report will be considered during the meeting is uncertain since there may be several other items on the agenda. Written communications may be mailed to the Commission Secretariat, Room 273, City Hall, 200 North Spring Street, Los Angeles, CA 90012. While all written communications are given to the Commission for consideration, the initial packets are sent to the week prior to the Commission's meeting date. If you challenge these agenda items in court, you may be limited to raising only those issues you or someone else raised at the public hearing agendaized herein, or in written correspondence on these matters delivered to this agency at or prior to the public hearing. As a covered entity under Title II of the Americans with Disabilities Act, the City of Los Angeles does not discriminate on the basis of disability, and upon request, will provide reasonable accommodation to ensure equal access to these programs, services and activities. Sign language interpreters, assistive listening devices, or other auxiliary aids and/or other services may be provided upon request. To ensure availability of services, please make your request not later than three working days (72 hours) prior to the meeting by calling the Commission Secretariat at (213) 978- 1300.

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Abbreviations Used in the Report

Mountains and to other surrounding hillsides and ecological sensitive areas as envisioned by regional connectivity proponents.

Hazard Areas

The District is located in an area that is prone to numerous hazards (see Exhibit F5 - Map of Hazard Areas). A significant number of parcels in the District (65%) are identified by the State as having the potential for earthquake-induced rock falls, slope failure, and debris flow. Additionally, portions of the District are within two flood zones: A and D, as identified by the Federal Emergency Management Agency (FEMA) and detailed in the [LA Floodplain Management Plan](#). “Zone A” represents a high-hazard area and “Zone D” represents a potentially moderate to high risk of flooding. The entire District is also located within the Wildland Urban Interface (WUI) and within a [Very High Fire Hazard Severity Zone \(VHFHSZ\)](#) as classified by the California Department of Forestry and Fire Protection (CalFire). The VHFHSZ is considered “any area within the city that poses a significant threat of fire from adjoining natural brush hillside areas and which is determined by the following factors: topography, infrastructure, fire protection, population density, types of construction, weather, existing fire codes and ordinances, and fire history.” The dominant plant community in the Santa Monica Mountains and District is chaparral, which is particularly susceptible to fire because of its thick growth and high concentration of volatile oils. Fire is a natural process within these local environments, and helps to maintain healthy ecosystems. However, when development occurs in these fire prone areas, it can create risk to human safety. State, County and municipalities (including the City) have developed brush management protocols for maintaining vegetation in ways that reduce the risk of fire. Not only does suppressing fire affect natural processes, but these management techniques also significantly alter vegetation, and therefore available wildlife habitat, for months out of the year in these ecologically important areas.

Lands susceptible to hazards are often identified and designated for open space and/or low density uses such as single family residential with the intent of minimizing exposure of dense populations to potential hazards. This is demonstrated by the zoning pattern in many jurisdictions, including within the city, that reveals larger lots in hillsides (prone to landslides and fires) zoned for less dense housing development as well as many locations along the Los Angeles River and waterways (prone to flooding) zoned for low density housing or sometimes industrial zones, where fewer residents would be subject to potential hazards. The zoning applicable to the proposed District is further described in the following section.

Zoning and Land Use Context

The District, which is approximately 23,000 acres in total, contains a mix of primarily low density residential lots with large undeveloped public open spaces. The area is primarily zoned for varying types of single family residential uses, ranging from smaller suburban residential lots to larger residential estates and rural agricultural lots. There are approximately 28,000 parcels zoned primarily for single family uses ranging from R1 lots typically 5,000 sq ft in size to RE40 lots of 40,000 sq ft and larger, as well as lots zoned for clustered residential development, commercial uses and public facilities (see Table 1 below). Most of the District is built out with

single family residential uses, interspersed with public open space and parks, a reservoir, and served by major roads along ridges and canyons. Approximately 98% of parcels in the District are zoned for low-density residential uses, comprising over 21,000 acres of residential land. See Exhibit F6 - Map of Zoning.

Table 1. Parcel Distribution by Zone.

Zone	Total	Vacant	Acres
R1	8,360	1,417	1,450
RE9	348	32	113
RE11	1,299	188	446
RE15	12,023	921	10,385
RE20	2,109	134	1,584
RE40	3,269	1,168	4,652
RA	17	0	10
A1	172	47	2,156
OS	233	42	1,811
PF	30	2	126
Other: RD2; RD6; PF; PB; C2, CR	269	5	315
Total	28,129	3,956	23,048

Vacant parcels make up approximately 14% of all parcels in the District, and of those vacant parcels 99% (3,907 parcels) are zoned for residential uses. R1, RE15 and RE40 are the most common zones for residential parcels. R1-zoned lots are found mostly in the eastern and northern part of the District. While large parcels, such as those in the RE40, A1 and OS zones, make up only 13% of parcels (3,674), they comprise 37% of the District land area, which is approximately 8,600 acres. These parcels offer the most obvious opportunities for habitat protection and connectivity intervention due to their large size and often undeveloped condition.

As described in Appendix 3, portions of the District are also subject to additional zoning regulations in the form of the HCR, BHO and the Mulholland Specific Plan regulations.

Ordinance Development Process, Partnerships and Collaboration

The regulations proposed in the Ordinance were developed from several years of research, review of best practices, consultations with environmental leaders and experts, academics as well as advocates. DCP contracted with a biological consultant to study and identify areas to apply wildlife protections and hired the City and department's first-ever Urban Ecologist in 2019 to assist in developing and vetting of the recommendations. The development of the recommendations also took into account feasibility to implement and enforce. Importantly, the development of the Ordinance was also shaped by the property owners in the hillsides, with

Tree removal as a Project will help ensure that more Protected Tree and Shrub removals are reviewed and/or avoided through the building permit and plan check process.

State Law Restrictions on Zoning Actions under Housing Crisis Act SB 330

On October 9, 2019, Governor Newsom signed into law SB 330, the Housing Crisis Act of 2019. The act amends existing state laws and creates new regulations around the production, preservation, and planning of housing. The bill has been in effect since January 1, 2020 and sunsets on January 1, 2030. The goal of SB 330 is to create certainty in the development of housing development projects, speeding up the review of these projects, as well as to prevent zoning actions that reduce housing unit capacity and intensity. Per the bill, non-objective design review standards established after January 1, 2020, cannot be imposed or enforced. While a few commenters raised the question whether the proposed Ordinance would conflict with this new housing law, the Ordinance includes objective design standards and limitations aimed at minimizing hillside land disturbance in landslide and Very High Fire Hazard Severity Zones, retaining and preserving native habitat and minimizing injury to wildlife to maintain wildlife connectivity; these regulations have been developed and revised to ensure that they contain objective standards that comply with SB 330 limitations.

Plans that result in a net downzoning or otherwise reduce housing and population (except for specified reasons involving health and safety, affordable housing, and voter initiatives) are prohibited. This does not apply to zoning efforts that reduce intensity for certain parcels as long as density is increased on other parcels and therefore results in no net loss in zoned housing capacity or intensity. The proposed Ordinance has many objectives, which also include addressing safety of development in the hillsides with respect to wildfire, slope failure, and flood hazards. Furthermore, while the proposed Wildlife Ordinance does not include upzones to parcels elsewhere in the city, the City is in the process of increasing zoning allowances in various locations throughout the city, particularly in proximity to transit infrastructure, through its update to Community Plans, as well as the Regional Housing Needs Assessment/Housing Element implementation program, thereby assuring no net loss of zoned housing capacity or intensity across the city.

Data Constraints

Data has informed the development of the Ordinance regulations, especially related to the identification of Resources. DCP staff and ESA consultants identified, analyzed, and utilized the best available publicly-accessible data sources from credible sources (for a complete list of data sources used in the Resource Map, please reference the Proposed Ordinance–Wildlife Resources Regulations section of this Staff Report). That stated, it is important to acknowledge that no dataset is comprehensive or perfect and that all come with imperfections and limitations, contributing to another key issue, data constraints.

Data is collected over various time frames, at different times of year and at various scales (regional vs parcel specific) is subject to varying collection practices resulting in datasets that may appear to have omissions. Some data sets may be updated on a regular basis while others are updated on different timelines based on the agency that manages the dataset. As such

EXHIBIT 3

EXHIBIT A:
Proposed Wildlife District Ordinance Components
As Approved by the City Planning Commission 12/08/22

CPC-2022-3413-CA, CPC-2022-3712-ZC, ENV-2022-3414-CE

- A1 – Proposed Wildlife District Ordinance
- A2 – Preferred and Prohibited Plant Lists
- A3 – Wildlife Resources Map
- A4 – Technical Modification Memo
- A5 – Online Interactive Wildlife Resource Buffer Map

ORDINANCE NO. _____

An ordinance amending Sections 12.03, 12.04, 12.32, 13.21, 13.22, and 16.05 of the Los Angeles Municipal Code (LAMC) in order to create a “WLD” Wildlife supplemental use district that establishes regulations that aim to maintain and protect existing wildlife, connectivity and ecosystems and to provide co-benefits including climate resilience, resource management, and public health.

WHEREAS, the City Council on April 22, 2016, adopted a motion instructing the Department of City Planning, in conjunction with the City Attorney and in consultation with natural resource agencies such as the Santa Monica Mountains Conservancy, to prepare an ordinance amending the Los Angeles Municipal Code (LAMC) to “create a Wildlife Corridor in the eastern area of the Santa Monica Mountains” with the goal of protecting wildlife and maintaining wildlife connectivity within the Santa Monica Mountains; and

WHEREAS, the Council motion instructed the Department prepare an ordinance to 1) ensure that hillside development accommodate wildlife habitat connectivity, 2) require that easements and deed restrictions be applied to achieve connectivity, 3) designate a zone in the LAMC for wildlife connectivity, and 4) require a biological constraints checklist for every project in the Wildlife Corridor zone and as such a code amendment ordinance and zone change ordinance, collectively referred to as the proposed Ordinance, has been prepared for presentation to City Council in response to the motion; and

WHEREAS, the Santa Monica Mountains Conservancy (SMMC) has studied wildlife habitat and corridors within its territories, with the goal of preventing further injuries and deaths to wildlife, and protecting the remaining open spaces and wildlife linkages that exist, and has prepared and adopted the Eastern Santa Monica Mountains Natural Resource Protection Plan on December 13, 2021 to that end; and

WHEREAS, California Government Code Sections 65302(g) requires cities to prepare a safety element, which establishes policies for the protection of the community from any unreasonable risks associated with the effects of seismically induced surface rupture, ground shaking, ground failure, tsunami, seiche, and dam failure; slope instability leading to mudslides and landslides; subsidence; liquefaction; and other seismic hazards and other geologic hazards, flooding; and wildland and urban fires, and to implement such policies through local ordinances and regulations, which the City has prepared such regulations in the proposed Ordinance that achieves the co-benefits of safety and natural resource protections; and

WHEREAS, there is a global climate crisis and municipalities are being called upon to develop strategies to combat climate change, build in resiliency and protect biodiversity as evidenced by several California legislative actions and initiatives, including but not limited to, SB1425, SB379 and Governor Newsom’s 30x30 initiative; and

WHEREAS, Los Angeles has a multitude of plans and initiatives that highlight the importance of addressing ecological health and resilience in the Los Angeles region, such as: LA's Green New Deal/Sustainability pLAn (pLAn); Resilient Los Angeles Plan (Resilient LA); Biodiversity and Healthy Soils initiatives; One Water LA 2040 Plan; Protected Tree Ordinance (PTO); and the First Step Towards an Urban Forest Management Plan; and

WHEREAS, the Baseline Hillside Ordinance (BHO), Hillside Construction Regulations (HCR), and Mulholland Scenic Parkway Specific Plan (Mulholland Specific Plan) created development standards to ensure that new development matches the scale and character of existing buildings in the hillsides, cumulative grading activities are minimized and the Scenic and natural resources in a portion of the Santa Monica Mountains are preserved, however those regulations do not address wildlife and connectivity explicitly; and

WHEREAS, this proposed Ordinance (Exhibit A) is consistent with the goals and objectives of the General Plan's Framework, Land Use, Conservation, Safety, and Housing elements to protect the city's natural resources and biodiversity and implements those policies by establishing new development standards, removes exemptions, and requires development to plan for wildlife connectivity; addresses lot coverage, floor area, grading and height and as well as native landscaping/trees, fence, trash enclosure, window and lighting requirements; includes regulations that apply to private properties, helping to reduce environmental impacts through standards that limit land and vegetation disturbance, limit impervious development, limit injury to wildlife and maintain wildlife movement corridors, and requiring discretionary review of projects in or proximate to wildlife resources; and

WHEREAS, an initial draft of the Ordinance was released for public review and comment in Spring 2021, and a revised draft was released in Spring 2022 and members of the public had between April 22, 2022 and August 22, 2022 to provide additional comments, and feedback was incorporated into the proposed ordinance for City Planning Commission consideration; and

WHEREAS, consultation with public agencies was conducted, the City received comments on the draft Wildlife Ordinance from SMMC and LA County Fire along with other City departments such as: the Bureau of Engineering (BOE), the Department of Building and Safety (DBS), the Department of Recreation and Parks (RAP), and Department of Water and Power (DWP), the LA Fire Department (LAFD), LA Police Department (LAPD), the Department of Animal Services, Los Angeles Sanitation and Environment (LASAN, including the Biodiversity Expert Council), and the Urban Forestry Division of the Public Works Department (UFD) and incorporated recommendations into the draft presented to the City Planning Commission; and

WHEREAS, beginning in 2018 public workshops, presentations, Informational Sessions, and a public hearing were held. Additionally a project website was developed to share information about the Ordinance, process and timeline. Regular electronic communications and Eblasts were sent throughout the Ordinance development process; and

WHEREAS, a notice of public hearing was published in the "Daily Journal" on June 30, 2022, in accordance with Section 12.32-C4 of the Los Angeles Municipal Code; and

WHEREAS, the Hearing Officer, as a representative of the City Planning Commission held a public hearing on the proposed Ordinance on July 13, 2022, and 62,500 hearing notices were mailed to owners and occupants of the proposed Wildlife District; and

WHEREAS, the City Planning Commission conducted a public hearing on November 17, 2022; and

WHEREAS, the proposed Ordinance is found to be exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Sections 15061(b)(3), 15307 (Class 7) and 15308 (Class 8), and no exception to a categorical exemption pursuant to CEQA Guidelines Section 15300.2 applies; and

WHEREAS, it is urgent to immediately prevent the further alteration or irreversible loss of wildlife habitat and to minimize future obstacles to wildlife connectivity in the Santa Monica Mountains of Los Angeles and delaying the implementation of this ordinance could result in the continuation of the trend toward development which is inconsistent with the objectives of the General Plan, incompatible with the existing neighborhoods, and irreversible and that will also result in further impacts to the quality of life in the communities within the City of Los Angeles, and this ordinance needs to take effect upon its publication.

**THE PEOPLE OF THE CITY OF LOS ANGELES
DO ORDAIN AS FOLLOWS:**

Sec. 1. Section 12.03 of the LAMC is amended to add the following definition in alphabetical order.

Native Plant. Any plant species listed on Calflora (or its successor standard reference as adopted by the Director) and identified as naturally-occurring and adapted to the environmental conditions of the Los Angeles region and whose presence is not due to human intervention (e.g., planned landscaping). This definition excludes invasive plants like dandelions and other weeds.

Native Tree. Any single trunk Native Plant, including those identified as Protected Trees, which measures four inches or more in diameter, 4 feet 6 inches above the ground level at the base of the plant; or any multiple trunk Native Plant that measures twelve inches or more in diameter immediately below the lowest branch; or any Native Plant planted pursuant to a permit to relocate or remove trees.

Stream. Any perennial or intermittent watercourse having a surface or subsurface flow that supports or has supported riparian vegetation.

Wetland. Any natural lake, intermittent lake, pond, intermittent pond, marsh, swamp, seep or spring.

Wildlife Resource. Features which provide wildlife benefits, ecosystem services, and contribute to the overall quality of the natural and built environment. Wildlife Resources are identified in ~~Map B: Draft Resource Areas~~ the Wildlife Resources Map, and include:

- water features, such as lakes, reservoirs, ponds, wetlands, rivers, streams, creeks, and riparian areas;
- open space, including zoned open space conservation easements, and protected areas;
- open channels;

Sec. 2. Subsection D of Section 12.04. of Article 2 or Chapter 1 of the LAMC is hereby amended to reads as follows:

D. Certain portions of the City are also designated as being in one or more of the following districts, by the provision of Article 3 of this chapter.

"O"	Oil Drilling District
"S"	Animal Slaughtering
"G"	Surface Mining District
"RPD"	Residential Planned Development District
"K"	Equinekeeping District
"CA"	Commercial and Artcraft District
"POD"	Pedestrian Oriented District
"CDO"	Community Design Overlay District
"MU"	Mixed Use District
"FH"	Fence Height District
"SN"	Sign District
"RFA"	Residential Floor Area District
"NSO"	Neighborhood Stabilization Overlay District
"CPIO"	Community Plan Implementation Overlay District
"HS"	Hillside Standards Overlay District
"MPR"	Modified Parking Requirement District
"RIO"	River Improvement Overlay District
"CUGU"	Clean Up Green Up Overlay District
"RG"	Rear Detached Garage District
"HCR"	Hillside Construction Regulation District

"WLD" Wildlife District

The "Zoning Map" is amended to indicate these districts and the boundaries of each district. Land classified in an "O" Oil Drilling District, "S" Animal Slaughtering District, "G" Surface Mining District, "RPD" Residential Planned Development District, "K" Equinekeeping District, "CA" Commercial and Artcraft District, "POD" Pedestrian Oriented District, "CDO" Community Design Overlay District, "MU" Mixed Use District, "FH" Fence Height District, "SN" Sign District, "RFA" Residential Floor Area District, "NSO" Neighborhood Stabilization Overlay District, "CPIO" Community Plan Implementation Overlay District, "RIO" River Improvement Overlay District, "CUGU" Clean Up Green Up Overlay District, "RG" Rear Detached Garage District, "HCR" Hillside Construction Regulation District, or "WLD" Wildlife District is also classified in one or more zones, and land classified in the "P" Automobile Parking Zone may also be classified in an "A" or "R" Zone.

Land classified in the "P" Automobile Parking Zone may also be classified in an "A" or "R" Zone.

These classifications are indicated on the "**Zoning Map**" with a combination of symbols, e.g., **R2-2-O**, **C2-4-S**, **M1-3-G**, **M1-1-P** and **R2-O**, **C2-G**, etc., where height districts have not been established.

Sec. 3. Subdivision 2 of Subsection S of Section 12.32 of the Los Angeles Municipal Code shall be amended to add a new "WLD" Wildlife Supplemental Use District.

2. Districts. In order to carry out the provisions of this article, the following districts are established:

"O"	Oil Drilling District
"S"	Animal Slaughtering District
"G"	Surface Mining District
"RPD"	Residential Planning Development District
"K"	Equinekeeping District
"CA"	Commercial and Artcraft District
"POD"	Pedestrian Oriented District
"CDO"	Community Design Overlay District
"MU"	Mixed Use District
"FH"	Fence Height District
"SN"	Sign District
"RFA"	Residential Floor Area District

"NSO"	Neighborhood Stabilization Overlay District
"CPIO"	Community Plan Implementation Overlay District
"HS"	Hillside Standards Overlay District
"MPR"	Modified Parking Requirement District
"RIO"	River Improvement Overlay District
"CUGU"	Clean Up Green Up Overlay District
"RG"	Rear Detached Garage District
"HCR"	Hillside Construction Regulation District
"WLD"	Wildlife District

These districts and their boundaries are shown on portions of the "Zoning Map" as provided for in Section 12.04 and made a part thereof by a combination of the zone and district symbols. This map and the notations, references and other information shown on it that pertain to the boundaries of these districts are made a part of this article as fully described here. Reference is hereby made to those maps, notations, references and other information for full particulars.

Sec. 4. Subdivision 4 of Subsection S of Section 12.32 of the Los Angeles Municipal Code shall be amended to read as follows:

4. Administrative Clearance - Director Authority for Sign Off.

(a) Administrative Clearance. An Administrative Clearance is defined as a ministerial approval for Projects that comply with all applicable Supplemental Use District regulations. The term "Project" shall be defined in any Supplemental Use District that seeks to invoke this Administrative Clearance procedure.

(b) Application, Form and Contents. To apply for an Administrative Clearance, an applicant shall file an application with the Department of City Planning, on a form provided by the Department, and include all information required by the instructions on the application and any additional submission requirements.

(c) Procedures. An applicant for a Project that complies with the provisions of an adopted Commercial and Aircraft District, Pedestrian Oriented District, Community Design Overlay District, Mixed Use District, Community Plan Implementation Overlay District, River Improvement Overlay District, Clean Up Green Up Overlay District, or Wildlife District shall submit plans to the Director for an Administrative Clearance. The

Director or his/her designee shall review the Project for compliance with the applicable Supplemental Use District development regulations. A Project that does not qualify for Administrative Clearance shall follow the procedures set forth in the applicable Supplemental Use District.

Sec. 5. The table of contents preceding Section 13.00 of the Los Angeles Municipal Code is amended to read as follows:

- [13.01](#) "O" Oil Drilling Districts.
- [13.02](#) "S" Animal Slaughtering Districts.
- [13.03](#) "G" Surface Mining Operations Districts.
- [13.04](#) "RPD" Residential Planned Development Districts.
- [13.05](#) "K" Equinekeeping Districts.
- [13.06](#) Commercial and Artcraft Districts.
- [13.07](#) Pedestrian Oriented District.
- [13.08](#) "CDO" Community Design Overlay District.
- [13.09](#) Mixed Use District.
- [13.10](#) Fence Heights District.
- [13.11](#) "SN" Sign District.
- [13.12](#) "NSO" Neighborhood Stabilization Overlay District.
- [13.13](#) "RFA" Residential Floor Area District.
- [13.14](#) "CPIO" Community Plan Implementation Overlay District.
- [13.15](#) "MPR" Modified Parking Requirement District.
- [13.16](#) "HS" Hillside Standards Overlay District.
- [13.17](#) "RIO" River Improvement Overlay District.
- [13.18](#) "CUGU" Clean Up Green Up District.
- [13.19](#) "RG" Rear Detached Garage District.
- [13.20](#) "HCR" Hillside Construction Regulation District.
- 13.21 "WLD" Wildlife District
- [13.22](#) Violation.

Sec. 6. Section 13.21 of the Los Angeles Municipal Code shall be renumbered as Section 13.22, and a new Section 13.21 shall be inserted to read as follows:

SEC. 13.21. "WLD" WILDLIFE DISTRICT.

A. Purpose. This section sets forth procedures and standards for the Wildlife Ordinance. The general purpose of the Wildlife Ordinance is to maintain and enhance wildlife habitat and connectivity by providing standards and regulations applicable to development in ecologically important areas. The overall intent of

the ordinance is to achieve protection of natural resources, plants, animals, and open space and thereby advance sustainability, wildlife connectivity, biodiversity, watershed health, wildfire safety, and climate resilience goals for the City.

B. Relationship to Other Zoning Regulations. Wherever the provisions of the Wildlife District conflict with any provisions of other Supplemental Use Districts, the underlying zone, or any other regulation, the more restrictive provision shall prevail.

C. District Identification. The provisions of this Section apply to any lot designated as WLD as a part of its zone designation. Development on properties within the Wildlife District are subject to the development regulations, as applicable, in Subsection F of this Section. ~~Development initiated by the City is exempt from all regulations contained in this Section.~~

D. Definitions. For the purposes of this section, the following words and phrases are defined as follows:

Channel, Open. A stream or river bed; generally refers to the physical form where water commonly flows.

Open Space. Any parcel or area of land or water that is zoned or designated for Open Space, essentially unimproved and devoted to an open-space use, including: (1) protected areas for preservation of natural resources, e.g., preservation of flora and fauna, animal habitats, bird flyways, ecologic and other scientific study areas, watershed; (2) managed production of resources, e.g., recharge of ground water basins or containing mineral deposits that are in short supply; (3) outdoor recreation, e.g., beaches, waterways, ~~utility easements~~, trails, scenic highway corridors; and/or (4) public health and safety, e.g., flood, seismic, geologic or fire hazard zones, air quality enhancement.

Planting Area. The area on a lot designated and designed for plants, including zones 1 and 2.

Project. Any of the Project Types listed in Section 13.21.E.1 of this Code shall be counted as a Project.

Preferred Plant. Any plant identified on the Preferred Plant List, as adopted and maintained by the Director of Planning.

Prohibited Plant. Any plant identified on the Prohibited Plant List, as adopted and maintained by the Director of Planning.

Protected Tree or Shrub. See definition in Section 46.01.

Riparian Area. Riparian areas are plant communities contiguous to and affected by surface and subsurface hydrologic features of perennial or intermittent lotic and lentic water bodies (rivers, streams, lakes, or drainage ways). Riparian areas are usually transitional between wetland and upland. Riparian areas have one or both of the following characteristics: distinctly different vegetative species than adjacent areas; species similar to adjacent areas, but exhibiting more vigorous or robust growth forms.

Riparian Vegetation. Plants contiguous to and affected by surface and subsurface hydrologic features of perennial or intermittent water bodies (rivers, streams, lakes, or drainage ways). Riparian Areas have one or both of the following characteristics: 1) distinctly different vegetative species than adjacent areas, and/or 2) species similar to adjacent areas, but exhibiting more vigorous or robust growth forms. Riparian Areas are usually transitional between wetland and upland.

Significant Tree. Any tree that measures 12 inches or more in diameter at four and one-half feet above the average natural grade at the base of the tree and/or is more than 35 feet in height.

Water Resources. Sources of permanent or intermittent surface water, including, but not limited to, lakes, reservoirs, ponds, rivers, streams, marshes, seeps springs, vernal pools, and playas.

Wildlife Resource. See Section 12.03.

Wildlife Resource Buffer. An area measuring up to 50 feet from an identified Wildlife Resource.

- E. Applicability.** A Project that satisfies at least one criterion under the “Project Type” list in Subdivision 1 below shall comply with the provisions contained in Subdivision 1 of Subsection F of this Section (13.21.F.1) except where noted in this Section.

Additionally, Projects proposed within identified Wildlife Resources or their buffers must also comply with the provisions established in Subdivision 2 of Subsection F of this Section (13.21.F.2).

In reviewing a Project for an Administrative Clearance, the Director shall only review the Project for compliance with those regulations that are applicable to the proposed scope of construction.

1. Project Type

(a) New Construction. The construction of a new, standalone building exceeding 500 square feet. Reconstruction of a building or structure damaged or destroyed in a natural disaster shall not be considered New Construction.

(b) Additions. Additions exceeding 500 square feet to any building or structure.

(c) Major Remodel- Hillside. Any remodeling of a main building on a lot in the Hillside Area whenever the aggregate value of all alterations within a one-year period exceeds 50 percent of the replacement cost of the main building. Reconstruction of a building or structure damaged or destroyed in a natural disaster shall not be considered Major Remodel-Hillside.

(d) Grading. Cumulative grading on a lot in excess of 500 cubic yards.

(e) Tree Removal. Removal of any Protected Tree, Significant Tree, or tree within the public right of way.

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 applicable provisions of this Subdivision.

(a) Fences and Walls (Applies to project types: New Construction, Major Remodel-Hillside)

(1) Intent. To minimize potential for wildlife injury and entrapment by prohibiting materials and design features that present threats to wildlife, and to facilitate wildlife connectivity.

(2) Regulations.

(i) Fence and Wall Standards. All fencing and walls shall comply with the following requirements:

a. Wall and Fence Design and Materials

- i. The following materials and design features are prohibited on any fencing:

1. Prohibited Materials:

- a. Barbed wire
- b. Plastic mesh
- ~~c. Woven wire~~
- d.c. Concertina wire
- e.d. Razor wire

2. Prohibited Design Features:

- a. Spikes
- b. Sharp Glass
- c. Uncapped hollow fence posts

(b) Height. (Applies to project types: New Construction, Major Remodels-Hillside, Additions)

(1) Intent. To minimize the alteration of existing landforms and vegetation; limit soil erosion and slope instability, and improve stormwater management and watershed health; maintain hillside ecosystems and reduce visual and physical impact by limiting the amount of landcover, landform, and soil disturbance associated with tall hillside development.

(2) Regulations.

(i) Overall Height.

An overall height limit of 45 feet shall be established for all buildings and structures. The overall height shall be measured from the adjacent 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.

- a. The overall height requirement shall not apply to the restoration or rebuilding of non-conforming buildings that are damaged or destroyed by natural disasters as outlined in Section 12.23.A.5 of the LAMC.
- b. Roof Structures as described in LAMC [Table 12.21 C.10-5](#), or similar Structures, may be erected above the Overall Height limit.

(c) Grading (Applies to project types: New Construction, Additions, Major Remodel- Hillside, Grading)

(1) Intent. To preserve natural landform, topography, and vegetation; retain watershed function; and reduce surface erosion, soil instability, landslides, and/or site disturbance by limiting grading on steep slopes.

(2) Regulations.

(i) Grading Restrictions

a. Development on lots with slopes in excess of 100%. No grading or structure shall be developed on the portion of lots with 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 Residential Floor Area per Table 12.21 C.10-3 of the Los Angeles Municipal Code.

b. Grading Exemptions - Do Not Apply. The following grading exemptions established in Sec. 12.21.C.10(f) of this Code do not apply to Projects in Wildlife Districts.

- i. Cut and/or Fill, up to 500 cubic yards, for driveways to the required parking or fire department turnaround closest to the accessible Street for which a Lot has ingress/egress rights.
- ii. Fill resulting from Cut underneath the footprint of the main Building, not to exceed 50 percent of said Cut.

(ii) Remedial Grading.

a. Notwithstanding 12.21.C.10(f), all remedial grading as defined in *LAMC Section 12.03*, on or of slopes greater than or equal to 60% shall be counted toward the Maximum By-Right Grading Quantity, except for the correction of hazardous soil and earth conditions, when notified by LADBS in accordance with LABC Section 7005.7

(d) Residential Floor Area (Applies to project types: New Construction, Major Remodels-Hillside)

(1) Intent. To minimize the disturbance to and alteration of Wildlife Resources, slopes, vegetation, and undeveloped

areas that provide wildlife habitat and connectivity by retaining existing vegetation and natural landforms in hillside areas.

(2) Regulations.

(i) Within Wildlife Districts, no more than 1,000 square feet of Basement area, where the height from the finished floor of the Basement to the finished ceiling of the Basement does not exceed ten (10) feet, may be exempted from Residential Floor Area calculations. Any portion of a Basement area which exceeds 1,000 square feet or ten feet (10) in height from the finished floor of the Basement to the finished ceiling of the Basement shall count toward maximum allowable floor area. ~~the Basement exemption contained within the Residential Floor Area definition in Section 12.03 shall not apply.~~

(e) Lot Coverage. (Applies to project types: New Construction, Major Remodels-Hillside, Additions)

(1) Intent. To minimize the alteration of existing landforms and vegetation; improve stormwater management and watershed health; limit soil erosion and slope instability, and maintain hillside ecosystems by limiting the amount of impermeable surfaces in the Wildlife District.

(2) Regulations.

(i) For all properties within a Wildlife District, except those zoned R1 and R2, calculation of lot coverage shall include: any structures extending more than six feet above natural ground level; pools; planters; sport courts; pavement, patios, and decks.

(ii) Lot coverage shall not exceed 50% of the total area of the lot, and in no case shall exceed 100,000 square feet.

(f) Trees. (Applies to project types: Tree Removal)

(1) Intent. To maintain habitat and biodiversity, manage stormwater and sequester carbon by retaining Native and Significant Trees, and by incorporating native vegetation that supports wildlife.

(2) Regulations.

(i) Native Tree Requirement

a. One tree must be planted on site for every 1,000 square feet of new floor area introduced to the lot, with a minimum of one (1) Native Tree required. The size of each replacement tree shall be a 15-gallon or larger specimen, measuring one inch or more in diameter at a point one foot above the base, and not less than 7 feet in height, measured from the base.

a. The preservation of onsite Native Tree(s) may be used to satisfy this requirement. All new tree plantings must be Preferred Plants.

(ii) Significant Tree Removal, Relocation, and Replacement. Any Significant Tree that is removed or relocated must be replaced by two new trees selected from the Preferred Plant List. Removal shall include any act that will cause a Significant Tree to die, including, but not limited to, acts that inflict damage upon the root system or other part of the tree by fire, application of toxic substances, operation of equipment or machinery, or by changing the natural grade of land by excavation or filling dripline area around the trunk, or by changing the local drainage pattern, either inside or outside the dripline, such that it significantly affects the amount of water that reaches the tree roots.

a. The size of each replacement tree shall be a 15-gallon or larger specimen, measuring one inch or more in diameter at a point one foot above the base, and not less than 7 feet in height, measured from the base. All tree plantings to satisfy this requirement must be Preferred Plants.

b. Protected Tree or Shrub relocation or removal must follow the procedures established in Section 46.02 of this Code.

(iii) Significant Tree and Protected Tree or Shrub Dripline. No grading or other construction activity shall occur within the Dripline of a Significant Tree or Protected Tree or Shrub. If digging of trenches within the dripline is absolutely necessary for the installation of utilities, hand tools or small hand held power equipment shall be used to avoid cutting roots.

(iv) Treatment of Dead or Fallen Trees. Any dead or fallen tree which is identified by a Tree Expert in a Tree Report of a Protected Tree or Shrub species (see Definitions section) shall be replaced per the Significant Tree replacement ratios. Dead or fallen tree material should be retained on site as mulch, compost, soil amendment or as otherwise recommended by a tree specialist. Dead or fallen trees should be left in place where they are outside the Los Angeles Fire Department brush clearance zone when possible. LAFD shall be consulted for emergency tree removal, and LAFD protocols shall take precedence.

a. Emergency Removal. An exemption for emergency removal may be obtained if a visual inspection by the Fire Department determines removal is necessary due to a hazardous or dangerous condition (e.g., disease, potential for spreading pest and pathogen infestation to other trees, blocking public roadways, etc.). Any emergency removal of infested, dead, or fallen trees which have been shown to have a disease or infestation should follow proper Best Management Practices for tree removal and disposal.

(g) Vegetation and Landscaping (Applies to project types: New Construction, Major Remodel-Hillside, Grading)

(1) Intent. To maintain habitat and biodiversity, manage stormwater and sequester carbon by retaining Native and Significant Trees, and by incorporating native vegetation that supports wildlife.

(2) Regulations.

(i) Wildlife Friendly Landscaping Requirements

a. Prohibited Plants. No Prohibited Plant shall be planted in a Wildlife District.

b. Planting Zones. Any newly planted or landscaped area shall comply with the following Planting Zones in order to increase habitat value and resist the spread of fire:

i. Planting Zone 1. A minimum of 50% of the total area of any new landscaping shall be planted

with native species chosen from among the species listed in the Preferred Plant List.

- ii. **Planting Zone 2.** A minimum of 75% of the total area of any new landscaping shall be planted with native species chosen from among the species listed in the Preferred Plant List.
- iii. **Preferred Plant List.** All plants required to meet the minimum plant coverage standard shall meet the applicable plant type planting specification standards per the Preferred Plant List.

(3) Rules of Measurement.

(i) Planting Zones are areas designated 1 and 2 and surround buildings and structures at their finished grade.

- a. Zone 1 extends thirty (30') feet in a straight horizontal perpendicular line from the edge of any structure larger than 200 square feet.
- b. Zone 2 extends from the edge of Zone A to the property line.

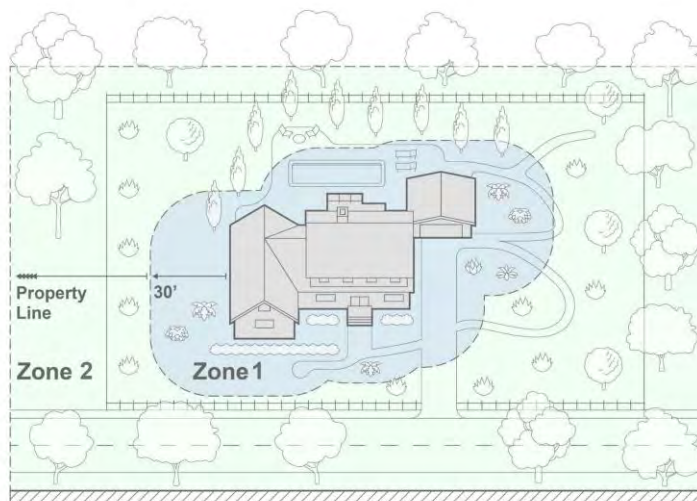


Image for illustrative purposes only.

(h) Lighting (Applies to project types: New Construction, Major Remodels - Hillside, Additions)

(1) Intent. To minimize the indirect impacts to wildlife created by outdoor lighting, such as disorientation of nocturnal species and

the disruption of mating, feeding, migrating, and the predator-prey balance.

(2) Regulations.

(i) Lighting Design Standards

- a. **Light Intrusion.** All lights used to illuminate outdoor areas including around or adjacent to swimming pools shall be designed, located and arranged or shielded so as to reflect the light away from any public right-of-way and from Wildlife Resources.
- b. **Height.** Luminaires affixed to a structure, including building fences, walls, or poles, for the purpose of providing outdoor lighting shall have a maximum height of 20 ft or no higher than height of the fence or structure. Freestanding light fixtures used to light walkways, driveways, and hardscapes shall not exceed 2 ft above ground level.

(ii) Lighting Maximums

- a. All outdoor lighting shall have a maximum output of 800 lumens per luminaire, except:
 - **Security Lighting:** 2600 lumens
 - **Outdoor Recreational Lighting:** 2600 lumens

(i) Windows (Applies to project types: New Construction, Major Remodels - Hillside, Additions)

- (1) **Intent.** To improve avian safety and reduce avian injuries and death by restricting reflective and transparent windows.

(2) Regulations.

(i) Bird-Safe Window and Facade Requirement. Any windows, free-standing glass walls and facades, skywalks, greenhouses, or balconies with segments of reflective or transparent building elements that are not visually distinguishable or physically separate from one another by seams, joints, frames, or other opaque material, measuring at least 40 square feet in size must incorporate at least one of the following treatments for bird safety:

- a. **Fritted Glass Window.** Closely spaced opaque dots (frits) fused on the outer surface of glass or other

reflective or transparent materials making them highly visible to birds.

b. Angled Glass. Position windows downward (recommended minimum 20 degrees) to limit reflection of sky and trees on the glass.

c. UV Reflective Glass. Patterned UV coating or use of contrasting patterned UV-absorbing and UV reflective films, which are visible to birds and transparent to humans.

d. Frosted, Stenciled, Etched, or Sandblasted Windows. Any pattern frosted, stenciled, etched or sandblasted onto the glass with recommended dimensions including vertical elements of the window patterns at least 1/8 inch wide at a maximum spacing of 4 inches, and horizontal elements at least 1/8 inch wide at a maximum spacing of 2 inches.

a. Architectural Features. Overhangs, louvers, awnings, screens, or other elements that layer, recess, or otherwise visually break up large expanses of reflective or transparent surfaces into segments smaller than 24 square feet.

(j) Trash Enclosures (Applies to project types: New Construction, Major Remodels - Hillside)

(1) Intent. To minimize occurrences of human-wildlife interaction by restricting unenclosed trash areas.

(2) Regulations.

(i) Locational Standards. All trash and recycling receptacles shall be stored inside a building or within an enclosed structure.

a. For new construction projects, the proposed location of the trash and recycling enclosures shall be identified on the site plan.

(ii) Trash Enclosure Design Standards. All exterior trash and recycling enclosures shall meet the following design standards:

- a. Be contained within a wall height that exceeds the disposal unit;
- b. Have a solid roof to deter birds and animals;
- c. Have solid doors that accommodate a lock and remain closed when not in use;
- d. Not be constructed of chain link;
- e. Not be constructed of wood (or other flammable materials).

(k) Site Plan Review.

(1) Intent. To maintain biodiversity and protection of natural resources, and ensure projects do not negatively impact habitats or cause habitat fragmentation by providing additional technical review of existing resources, potential impacts, and required mitigations.

(2) Regulations.

(i) No grading permit, foundation permit, building permit, or use of land permit shall be issued for any of the following Projects unless a site plan approval has first been obtained pursuant to Section 16.05 of this Code. In addition to the Site Plan Review findings contained in Sec. 16.05.F, the findings established in Section 13.21.F.2(b)(3) must also be met for all Projects in Wildlife Districts requiring Site Plan Review:

- (1)** Any Project in a Wildlife District (WLD) that proposes 1,000 cubic yards or more of Remedial Grading as the term is defined in Section 12.03. of this Chapter.
- (2)** Any Project in a Wildlife District (WLD) that creates or results in ~~7,500~~ 6,000 square feet or more of Residential Floor Area.

2. Wildlife Resources. In addition to the District-Wide regulations contained in Paragraph 1 of Subsection F of this Section, the following regulations apply to all lots in a Wildlife District where a Wildlife Resource has been identified on a map created, maintained, and adopted by the Department of City Planning in conjunction with the application of a Wildlife District.

(a) Intent. To protect Wildlife Resources that provide wildlife habitat and connectivity opportunities by requiring review of projects that may impact such resources, and buffering from waterways and open spaces and limiting disturbance to soils, waterways, vegetation, and habitat areas.

(b) Regulations.

- (1) A Biological Assessment is required for any Project proposed within a Wildlife Resource or its buffer, as shown on ~~Map X~~ [the Wildlife Resources Map](#).
- (2) Site Plan Review is required for all Projects located within identified Wildlife Resources and their buffers, as outlined in Table 4.1 below:

Table 4.1 Wildlife Resource Buffer Requirement	
Wildlife Resource	Buffer
Water features (lakes, reservoirs, ponds, wetlands, rivers, streams, creeks, riparian areas)	50'
Open Channels	15'
Open Space (zoned open space, conservation easements, protected areas)	25'

(i) Rules of Measurement.

- a. All Wildlife Resource buffers should be measured horizontally, in plan view. All wetland delineations should follow the methodology described in the US Fish and Wildlife Service Classification of Wetlands and Deepwater Habitats of the United States (Cowardin, 1979). The Mapping Episodic Stream Activity (MESA) protocol (Vyverberg and Brady, 2013) developed by CDFW and the California Energy Commission should be employed to accurately document episodic streams when water is absent. *Refer to Table 7.2*

Table 7.2 Measurement of Wildlife Resources	
Wildlife Resource	Measured From
Lakes, reservoirs, ponds	High water mark.
Rivers, streams, creeks, riparian	Outside edge of riparian vegetation on either side of the channel. If vegetation is absent or sparse, use the bank of the wet season active channel inclusive of any braided channel conditions.
Wetlands	Edge of saturated soil
Open Channel	Outside edge of riparian vegetation, edge of the channel or basin.
Open Space (open space zoning, conservation easements, protected areas)	Nearest property boundary of any Open Space property.

(3) Site Plan Review. Site Plan Review is required for any Project, including construction staging, requiring a permit within a Wildlife Resource or its buffer. Interior remodeling and additions that do not alter or expand a building's footprint shall not count as Projects.

(i) A Biological Assessment is required for any Project within a Wildlife Resource or its Buffer.

(ii) Additional Findings. In addition to the Site Plan Review findings contained in Sec. 16.05.F, the following findings must also be met for all Projects in Wildlife Districts requiring Site Plan Review:

The applicant must provide information supporting the following additional Wildlife findings:

1. That the proposed Project, roads, and utilities serving the proposed Project are located and designed to be highly compatible with and have minimal impact on any and all natural features and resources present, including landforms, vegetation, and existing natural and altered watercourses.
2. That the Project is located to avoid substantial landform alteration, including by locating development away from steep slopes and/or that alternatives to

substantial landform alteration including, but not limited to, deepened foundations, caissons and soldier piles have been utilized.

3. That the proposed Project is designed to be highly compatible with the biotic resources present, including setting aside of appropriate and sufficient undisturbed areas; retaining native vegetation cover and/or open spaces to buffer critical resource areas from such Project;
4. That any existing Wildlife Resources and Resource Buffers have been clearly identified on site plans and that Project designs, as well as all construction activities and staging, are specifically and explicitly adapted to the preservation or enhancement of identified resources in their existing location, and do not substantially impede wildlife access to the resource.

Project modifications could include: locating the project away from resource areas, additional setbacks from adjacent Wildlife Resource areas, permeable fencing for Resource areas, landscaping with Preferred Plant species, retaining existing Protected Trees, or other such modifications to protect or enhance wildlife habitat or connectivity.

G. Issuance of Building Permits. For any Project within a WLD District, ~~no the Department of Building and Safety shall not issue any~~ permits shall be issued, including, but not limited to, grading, shoring or building permits unless an Administrative Review, WLD Adjustment, WLD Exception, or Site Plan Review approval has been obtained pursuant to the applicable procedures in Section 13.21.H of this Code.

H. Review Procedures for Projects in Wildlife Districts.

1. **Application.** All Projects proposed within a WLD District shall be submitted for approval with a WLD application and form available at the Planning Department's Development Services Counter. Prior to deeming the application complete, the Director shall determine and advise the applicant, if necessary, of the processes to be followed, materials to be submitted, and

fees to be paid. The granting of the WLD approval shall not imply or be deemed to constitute compliance within any other applicable provisions of this Code.

- 2. WLD Administrative Review.** An applicant who complies with the WLD District regulations shall submit plans to the Director for an Administrative Review pursuant to Section 12.32.S.4 of this Code. Applicants requesting an Adjustment shall submit plans per Subdivision 3 (a) below. A Project that cannot comply with the requirements of the WLD District may request relief through the Exception procedures set forth in Subdivision 3 (b) of this Subsection.

3. Relief

- (a) WLD Adjustments - Director Authority with Appeal to the Area Planning Commission.** The Director or the Director's designee shall have initial decision-making authority to grant a WLD Adjustment with an appeal to the Area Planning Commission in accordance with the procedures set forth in Section 11.5.7.C.4-6. of this Code. In granting an Adjustment from WLD regulations, the Director may impose conditions to assure compliance with the objectives of the General Plan and the purpose and intent of the WLD District.

(1) Limitations.

- (i)** Unless otherwise limited by the WLD District, a WLD Adjustment shall be limited to deviations of up to 10 percent from each of the quantitative development regulations. If applicable, each adopted WLD District shall indicate those development regulations that are not eligible for an Adjustment through this section. If an application requests more than one WLD Adjustment, the Director may advise the applicant, prior to the application being deemed complete, that the request be filed and processed as a WLD Exception, pursuant to Subdivision 3 (b) of this section. All Projects seeking relief from any development regulation designated in the WLD District as not eligible for Adjustment shall be processed through the WLD Exception procedures listed in Subdivision 3 (b) of this Subsection.

- (ii) Findings.** The Director may grant an Adjustment upon making all of the following findings:

1. Special circumstances applicable to the Project or Project site exist that make the strict application of the WLD regulation(s) impractical;
2. The Project, as approved, is consistent with the purpose and intent of the WLD District and substantially complies with the applicable WLD regulations; and
3. In granting the Adjustment, the Director has considered and finds no detrimental effects of the Adjustment on surrounding properties, the public, or public rights-of-way.

(b) WLD Exception- Area Planning Commission Authority with Appeals to the City Council.

(1) Authority. The Area Planning Commission shall have initial decision-making authority for granting an Exception from the WLD District regulations with an appeal to the City Council in accordance with the procedures set forth in Section 11.5.7.F of this Code. In granting an Exception from WLD regulations, the Area Planning Commission shall impose conditions to protect the public health, safety, and welfare; and to assure compliance with the objectives of the General Plan and the purpose and intent of the WLD District. An Exception from a WLD regulation shall not be used to grant a special privilege, nor to grant relief from a self-imposed hardship.

(i) Findings. The Area Planning Commission may permit an Exception from a WLD regulation if it makes all the following findings:

1. The strict application of the WLD regulations to the subject property would result in practical difficulties or an unnecessary hardship inconsistent with the general purpose and intent of the WLD District and its regulations;
2. Exceptional circumstances or conditions applicable to the subject property involved or to the intended use or development of the subject property exist that do not apply generally to other properties in the WLD District;
3. An Exception from the WLD regulation is necessary for the preservation and enjoyment of a substantial

property right or use generally possessed by other property within the WLD District and in the same zone and vicinity, but which, because of a special circumstance and practical difficulties or unnecessary hardship, is denied to the property in question;

4. The granting of an Exception will not be detrimental to the public welfare or injurious to the property or improvements adjacent to, or in the vicinity of, the subject property; and
5. The granting of an exception will be consistent with the principles, intent and goals of the WLD District and any applicable element of the General Plan.

I. Severability. If any provision of this ordinance is found to be unconstitutional or otherwise invalid by any court of competent jurisdiction, that invalidity shall not affect the remaining provisions of this ordinance, which can be implemented without the invalid provisions and, to this end, the provisions of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted each and every provision and portion thereof not declared invalid or unconstitutional, without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

Sec. 7. Paragraph (f) of Subdivision 1 of Subsection C of Section 16.05 shall be moved to Paragraph (e), and new Paragraphs (f), (g), and (h) shall be added to read as follows:

(f) Any Project, as defined in Subsection D of Sec. 13.21 of this Chapter, within an identified Wildlife Resource or its buffer within a Wildlife District (WLD).

(g) Any Project, as defined in Subsection D of Sec. 13.21 of this Chapter, that proposes 1,000 cubic yards or more of Remedial Grading as the term is defined in Section 12.03 of this Chapter, in a Wildlife District (WLD).

(h) Any Project, as defined in Subsection D of Sec. 13.21 of this Chapter, which creates or results in 7,500 square feet or more of Residential Floor Area within a Wildlife District (WLD).

This subdivision shall not apply to one-family dwellings located outside of a HCR District or WLD District

Sec. 8. The City Clerk shall certify that....

DRAFT

Sec. 8. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by positing for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

Pursuant to Section 558 of the City Charter, the City Planning Commission on **December 8, 2022** recommends this ordinance **BE ADOPTED** by the City Council.

By *Cecilia Lamas* (Electronic Signature due to COVID-19)
Cecilia Lamas
Commission Executive Assistant

File No. _____

CITY CLERK

MAYOR

Ordinance Passed _____

Approved _____

City of Los Angeles Wildlife Ordinance

PROPOSED Preferred Plant List

Planting of the following species is beneficial to native plant communities and/or wildlife and is, therefore, recommended within the City of Los Angeles where the Wildlife Ordinance applies. Use this list of preferred plants as a general guide only, tailoring the landscaping to the specific environment of the property, if necessary, in consultation with native plant experts.

***Plants with an asterisk are prohibited within Planting Zone A**

Botanical Name	Common Name	Type
<i>Calandrinia ciliata</i>	Red maids	Annual
<i>Castilleja densiflora</i>	Owl's clover	Annual
<i>Castilleja exserta</i>	Purple owl's clover	Annual
<i>Clarkia botatae</i>	Punchbowl godetia	Annual
<i>Clarkia purpurea</i>	Winecup clarkia	Annual
<i>Clarkia unguiculata</i>	Elegant clarkia	Annual
<i>Collinsia heterophylla</i>	Chinese houses	Annual
<i>Erysimum capitatum</i>	Douglas wallflower	Annual
<i>Eschscholzia caepitosa</i>	Collarless poppy	Annual
<i>Eschscholzia californica</i>	California poppy	Annual
<i>Gilia capitata</i>	Globe gilia	Annual
<i>Lasthenia californica</i>	Gold fields	Annual
<i>Lasthenia glabrata</i>	Yellow rayed lasthenia; Goldfields	Annual
<i>Layia platyglossa</i>	Tidy tips	Annual
<i>Lupinus bicolor</i>	Miniature lupine	Annual
<i>Lupinus hirsutissimus</i>	Stinging lupine	Annual
<i>Lupinus succulentus</i>	Arroyo lupine; Succulent lupine	Annual
<i>Nemophila menziesii</i>	Baby blue eyes	Annual
<i>Nicotiana quadrivalvis</i>	Indian tobacco	Annual
<i>Phacelia grandiflora</i>	Large-flowered phacelia	Annual
<i>Phacelia minor</i>	Wild canterbury bells	Annual
<i>Phacelia parryi</i>	Parry's phacelia	Annual
<i>Phacelia tanacetifolia</i>	Lacy phacelia	Annual
<i>Platystemon californicum</i>	Cream cups	Annual
<i>Salvia columbariae</i>	Chia	Annual
<i>Lupinus nanus</i>	Sky lupine	Annual
<i>Clarkia purpurea</i>	Purple clarkia	Annual
<i>Limnanthes douglasii ssp. sulphurea</i>	Meadowfoam	Annual
<i>Limnanthes douglasii</i>	Common meadowfoam, Poached egg plant	Annual
<i>Phacelia grandiflora</i>	Large-flowered phacelia	Annual
<i>Phacelia tanacetifolia</i>	Lacy phacelia	Annual
<i>Bloomeria crocea</i>	Golden stars	Bulb
<i>Calochortus albus</i>	White globe lily	Bulb
<i>Calochortus catalinae</i>	Catalina mariposa lily	Bulb
<i>Calochortus clavatus</i>	Yellow mariposa	Bulb

<i>Dichelostemma capitatum</i>	Blue dicks	Bulb
<i>Lilium humboldtii</i>	Humboldt lily	Bulb
<i>Zigadenus fremontii</i>	Star lily	Bulb
<i>Adiantum capillus veneris</i>	Venus hair fern	Fern
<i>Adiantum jordanii</i>	California maiden hair fern	Fern
<i>Dryopteris arguta</i>	Coastal wood fern	Fern
<i>Pellaea andromedaefolia</i>	Coffee fern	Fern
<i>Pellaea mucronata</i>	Bird's foot fern	Fern
<i>Pentagramma triangularis</i>	Goldback fern	Fern
<i>Polypodium californicum</i>	California polypody fern	Fern
<i>Pteridium aquilinum</i> var. <i>pubescens</i>	Brackenfern	Fern
<i>Woodwardia fimbriata</i>	Chain fern	Fern
<i>Abronia umbellata</i>	Sand verbena	Perennial
<i>Achillea millefolium</i>	Common yarrow	Perennial
<i>Acmispon glaber</i>	Deer weed	Perennial
<i>Anemopsis californica</i>	Yerba mansa	Perennial
<i>Antirrhinum multiflorum</i>	Many flowered snapdragon	Perennial
<i>Aolidago velutina</i> spp. <i>californica</i>	California goldenrod	Perennial
<i>Asclepias californica</i>	California milkweed	Perennial
<i>Asclepias eriocarpa</i>	Indian milkweed	Perennial
<i>Asclepias fascicularis</i>	Narrow-Leaf milkweed	Perennial
<i>Astragalus trichopodus</i>	Locoweed	Perennial
<i>Camissonia cheiranthifolia</i>	Dune primrose	Perennial
<i>Castilleja affinis</i>	Indian paintbrush	Perennial
<i>Clinopodium douglasii</i>	Yerba buena	Perennial
<i>Coreopsis gigantea</i>	Tree coreopsis	Perennial
<i>Croton californicus</i>	California croton	Perennial
<i>Delphinium cardinale</i>	Scarlet larkspur	Perennial
<i>Delphinium parryi</i>	Blue larkspur	Perennial
<i>Delphinium patens</i>	Blue larkspur	Perennial
<i>Dicentra ochroleuca</i>	Silver ear drops	Perennial
<i>Diplacus aurantiacus</i>	Bush monkeyflower	Perennial
<i>Dodecatheon clevelandii</i>	Padre's shootingstar	Perennial
<i>Dudleya cymosa</i> S	Canyon dudleya	Perennial
<i>Dudleya lanceolata</i>	Lance live forever	Perennial
<i>Dudleya pulverulenta</i>	Chalk live dudleya	Perennial
<i>Encelia californica</i>	California bush sunflower	Perennial
<i>Epilobium canum</i>	California fuchsia	Perennial
<i>Epipactis gigantea</i>	Stream orchid	Perennial
<i>Eriogonum crocatum</i>	Conejo buckwheat	Perennial
<i>Eriogonum elongatum</i>	Wand buckwheat	Perennial
<i>Eriophyllum confertiflorum</i>	Golden yarrow	Perennial
<i>Erythranthe cardinalis</i>	Scarlet monkeyflower	Perennial
<i>Erythranthe guttata</i>	Seep monkeyflower; Yellow monkeyflower	Perennial
<i>Gnaphalium bicolor</i>	Two-tone everlasting	Perennial

<i>Gnaphalium californicum</i>	California everlasting	Perennial
<i>Grindelia camporum</i> var. <i>bracteosum</i>	Gum plant	Perennial
<i>Haplopappus venetus</i>	Coastal isocoma	Perennial
<i>Helianthus gracilentus</i>	Dwarf sunflower	Perennial
<i>Heliotropium curassavicum</i>	Salt heliotrope	Perennial
<i>Hesperoyucca whipplei</i>	Yucca; Our lord's candle	Perennial
<i>Heuchera maxima</i>	Island alum root	Perennial
<i>Iris douglasiana</i>	Douglas iris	Perennial
<i>Isocoma arguta</i>	Coastal isocoma	Perennial
<i>Iva hayesiana</i>	Poverty weed; Spreading rush	Perennial
<i>Juncus textilis</i>	Basket rush	Perennial
<i>Keckiella cordifolia</i>	Heart-leaved penstemon	Perennial
<i>Lepechinia calycina</i>	White pitcher sage	Perennial
<i>Lepechinia fragrans</i>	Fragrant pitcher sage	Perennial
<i>Leptodactylon californicum</i>	Prickly phlox	Perennial
<i>Lithophragma affine</i>	Woodland star	Perennial
<i>Lupinus bicolor</i>	Miniature lupine	Perennial
<i>Lupinus hirsutissimus</i>	Stinging lupine	Perennial
<i>Lupinus longiflorus</i>	Bush lupine	Perennial
<i>Lupinus succulentus</i>	Arroyo lupine	Perennial
<i>Mentzelia laevicaulis</i>	Blazing star	Perennial
<i>Mirabilis laevis</i> v. <i>crassifolia</i>	Wishbone bush; Wild four o'clock	Perennial
<i>Oenothera elata</i>	Hooker's evening primrose/Tall evening primrose	Perennial
<i>Oenothera elata</i> ssp. <i>hookeri</i>	Evening primrose	Perennial
<i>Paeonia californica</i>	California peony	Perennial
<i>Penstemon centranthifolius</i>	Scarlet bugler	Perennial
<i>Penstemon heterophyllus</i>	Foothill penstemon	Perennial
<i>Penstemon spectabilis</i>	Royal penstemon; Showy penstemon	Perennial
<i>Phyla nodiflora</i>	Turkey tangle fogfruit	Perennial
<i>Potentilla glandulosa</i>	Sticky cinquefoil	Perennial
<i>Romneya coulteri</i>	Coulter's matilija poppy	Perennial
<i>Salvia spathacea</i>	Hummingbird sage	Perennial
<i>Saxifraga californica</i>	California saxifrage	Perennial
<i>Scrophularia californica</i>	California figwort	Perennial
<i>Scutellaria tuberosa</i>	Skull cap	Perennial
<i>Sidalcea malviflora</i>	Checker bloom	Perennial
<i>Silene laciniata</i>	Indian pink	Perennial
<i>Sisyrinchium bellum</i>	Blue-eyed grass	Perennial
<i>Solanum xanti</i>	Purple nightshade	Perennial
<i>Stachys bullata</i>	California hedgenettle	Perennial
<i>Stanleya pinnata</i>	Prince's plume	Perennial
<i>Symphyotrichum chilense</i>	California aster	Perennial
<i>Thalictrum fendleri</i>	Meadow rue	Perennial
<i>Trichostema lanatum</i>	Woolly blue curls	Perennial
<i>Venegasia carpesiodes</i>	Canyon sunflower	Perennial

<i>Verbena lasiostachys</i>	Western verbena	Perennial
<i>Viola pedunculata</i>	Johnny jump up	Perennial
<i>Agropyron parishii</i>	Wheat grass	Perennial Grass
<i>Agrostis diegoensis</i>	San Diego bentgrass	Perennial Grass
<i>Agrostis exarata</i>	Bentgrass	Perennial Grass
<i>Agrostis pallens</i>	Dune bent grass; Thingrass	Perennial Grass
<i>Andropogon glomeratus</i>	Beard grass	Perennial Grass
<i>Andropogon glomeratus</i> var. <i>scabriglumis</i>	Southwestern bushy bluestem	Perennial Grass
<i>Bothriochloa barbinodis</i>	Cane bluestem,; Plumed beard grass	Perennial Grass
<i>Bouteloua curtipendula</i>	Side oats grama	Perennial Grass
<i>Bouteloua dactyloides</i>	Buffalo grass	Perennial Grass
<i>Bouteloua gracilis</i>	Blue grama	Perennial Grass
<i>Bromus carinatus</i>	California brome	Perennial Grass
<i>Bromus laevipes</i>	Woodland brome	Perennial Grass
<i>Carex pansa</i>	Dune Sedge	Perennial Grass
<i>Carex spissa</i>	San Diego sedge	Perennial Grass
<i>Distichlis spicata</i>	Salt grass	Perennial Grass
<i>Elymus condensatus</i>	Giant wild rye	Perennial Grass
<i>Elymus glaucus</i>	Western rye grass	Perennial Grass
<i>Elymus multisetus</i>	Squirreltail	Perennial Grass
<i>Elymus stebbinsii</i>	Wheat grass	Perennial Grass
<i>Elymus triticoides</i>	Creeping wild rye	Perennial Grass
<i>Festuca elmeri</i>	Elmer's fescue	Perennial Grass
<i>Festuca rubra</i> /F. <i>idahoensis</i> /F. <i>occidentalis</i>	Native Mow Free Blend™	Perennial Grass
<i>Festuca rubra</i> /Stipa <i>cernua</i> /S. <i>pulchra</i>	Native Preservation Mix™	Perennial Grass
<i>Hordeum brachyantherum</i> ssp. <i>californicum</i>	Meadow barley	Perennial Grass
<i>Juncus patens</i>	Rush	Perennial Grass
<i>Koeleria macrantha</i>	June grass	Perennial Grass
<i>Melica imperfecta</i>	Chaparral melica	Perennial Grass
<i>Muhlenbergia aspenifolia</i>	Scratch grass	Perennial Grass
<i>Muhlenbergia rigens</i>	Deergrass	Perennial Grass
<i>Poa scabrella</i>	Malpais bluegrass	Perennial Grass
<i>Stipa cernua</i>	Nodding needlegrass	Perennial Grass
<i>Stipa coronata</i>	Porcupine grass	Perennial Grass
<i>Stipa lepida</i>	Foothill needlegrass	Perennial Grass
<i>Stipa pulchra</i>	Purple needlegrass	Perennial Grass
<i>Adenostoma fasciculatum</i> *	Chamise*	Shrub
<i>Adenostoma sparsifolium</i> *	Red shank*	Shrub
<i>Amorpha californica</i>	False indigo	Shrub
<i>Arctostaphylos glandulosa</i>	Eastwood manzanita	Shrub
<i>Arctostaphylos glauca</i>	Big Berry manzanita	Shrub
<i>Artemisia californica</i> *	California sagebrush*	Shrub
<i>Atriplex lentiformis</i>	Quail bush	Shrub
<i>Baccharis pilularis</i>	Coyote brush	Shrub
<i>Baccharis salicifolia</i>	Mulefat	Shrub

<i>Berberis nevinii</i>	Nevin's barberry	Shrub
<i>Berberis pinnata</i>	Barberry	Shrub
<i>Brickellia californica</i>	California brickellbush	Shrub
<i>Ceanothus crassifolius</i>	Hoaryleaf ceanothus	Shrub
<i>Ceanothus cuneatus</i>	Buckbrush	Shrub
<i>Ceanothus leucodermis</i>	whitebark ceanothus	Shrub
<i>Ceanothus megacarpus</i>	Big Pod ceanothus	Shrub
<i>Ceanothus oliganthus</i>	Hairyleaf ceanothus	Shrub
<i>Ceanothus spinosus</i>	Greenbark ceanothus	Shrub
<i>Ceanothus thyrsiflorus</i> 'Yankee Point'	Blueblossom ceanothus	Shrub
<i>Cercocarpus betuloides</i>	Mountain mahogany	Shrub
<i>Comarostaphylis diversifolia</i>	Summer holly	Shrub
<i>Cornus glabrata</i>	Smooth dogwood	Shrub
<i>Dendromecon rigida</i>	Bush poppy	Shrub
<i>Ericameria linearifolia</i>	Narrowleaf/Linear Leaved Goldenbush	Shrub
<i>Eriodictyon crassifolium</i>	Yerba santa	Shrub
<i>Eriogonum cinereum</i>	Ashyleaf buckwheat	Shrub
<i>Eriogonum fasciculatum</i> *	California buckwheat*	Shrub
<i>Eriogonum parvifolium</i>	Seacliff buckwheat	Shrub
<i>Eriogonum wrightii</i> var. <i>membranaceum</i>	Spreading buckwheat	Shrub
<i>Frangula (Rhamnus) californica</i>	Coffeeberry	Shrub
<i>Garrya veatchii</i>	Silktassel bush	Shrub
<i>Hazardia squarrosa</i>	Common hazardia; Goldenbush; Sawtooth goldenbush	Shrub
<i>Heteromeles arbutifolia</i>	Toyon	Shrub
<i>Holodiscus discolor</i>	Cream bush	Shrub
<i>Isocoma menziesii</i> var. <i>menziesii</i>	Mensies' goldenbush	Shrub
<i>Lepechinia fragrans</i>	Fragrant pitcher sage	Shrub
<i>Malacothamnus fasciculatus</i>	Chaparral mallow	Shrub
<i>Malosma laurina</i>	Laurel sumac	Shrub
<i>Mirabilis laevis</i> var. <i>crassifolia</i> (<i>M. californica</i>)	Wishbone bush	Shrub
<i>Myrica californica</i>	Pacific wax myrtle	Shrub
<i>Opuntia littoralis</i>	Coastal prickly pear	Shrub
<i>Peritoma (Isomeris) arborea</i>	Bladderpod	Shrub
<i>Pickeringia montana</i>	Chapparal pea	Shrub
<i>Pluchea sericea</i>	Arrow weed	Shrub
<i>Prunus ilicifolia</i>	Hollyleaf cherry	Shrub
<i>Quercus berberidifolia</i>	Scrub oak	Shrub
<i>Quercus dumosa</i>	Nuttals scrub oak	Shrub
<i>Rhamnus crocea</i>	Redberry	Shrub
<i>Rhamnus ilicifolia</i>	Hollyleaf redberry	Shrub
<i>Rhus aromatica trilobata</i>	Fragrant sumac	Shrub
<i>Rhus integrifolia</i>	Lemonade berry	Shrub
<i>Rhus ovata</i>	Sugar bush	Shrub
<i>Rhus trilobata</i>	Squaw bush	Shrub
<i>Ribes aureum</i>	Golden currant	Shrub

<i>Ribes californicum</i>	Hillside currant; Hillside gooseberry	Shrub
<i>Ribes indecorum</i>	White-flowering currant	Shrub
<i>Ribes malvaceum</i>	Chaparral currant	Shrub
<i>Ribes speciosum</i>	Fuchsia-flowering gooseberry	Shrub
<i>Ribes viburnifolium</i>	Evergreen current; Catalina Perfume	Shrub
<i>Rosa californica</i>	California wild rose	Shrub
<i>Salix exigua</i>	Sandbar willow	Shrub
<i>Salvia apiana</i>	White sage	Shrub
<i>Salvia leucophylla</i>	Purple sage	Shrub
<i>Salvia mellifera</i>	Black sage	Shrub
<i>Sambucus nigra</i>	Blue elderberry; Mexican elderberry	Shrub
<i>Symphoricarpos mollis</i>	Snowberry	Shrub
<i>Acer macrophyllum</i>	Big leaf maple	Tree
<i>Alnus rhombifolia</i>	White alder	Tree
<i>Cercis occidentalis</i>	Western redbud	Tree
<i>Fraxinus dipetala</i>	California ash	Tree
<i>Fraxinus velutina</i>	Velvet ash	Tree
<i>Hesperocyparis forbesii</i>	Tecate cypress	Tree
<i>Juglans californica</i>	Black walnut	Tree
<i>Juniperus californica</i>	California juniper	Tree
<i>Lyonothamnus floribundus</i>	Santa Cruz island ironwood	Tree
<i>Platanus racemosa</i>	California sycamore	Tree
<i>Populus balsamifera</i>	Balsam poplar	Tree
<i>Populus fremontii</i>	Fremont cottonwood	Tree
<i>Populus trichocarpa</i>	Black cottonwood	Tree
<i>Quercus agrifolia</i>	Coast live oak	Tree
<i>Quercus lobata</i>	Valley oak	Tree
<i>Quercus wislizeni</i>	Interior live oak	Tree
<i>Salix exigua</i>	Sandbar willow	Tree
<i>Salix laevigata</i>	Red willow	Tree
<i>Salix lasiolepis</i>	Arroyo willow	Tree
<i>Umbellularia californica</i>	California bay laurel	Tree
<i>Calystegia macrostegia</i>	Morning glory	Vine
<i>Clematis lasiantha</i>	Virgin's bower	Vine
<i>Clematis ligusticifolia</i>	Western virgin's bower	Vine
<i>Lathyrus laetiflorus</i>	Wild sweet pea	Vine
<i>Lonicera hispidula</i>	California honeysuckle	Vine
<i>Lonicera interrupta</i>	Chaparral honeysuckle	Vine
<i>Lonicera subspicata</i>	Wild honeysuckle	Vine
<i>Marah macrocarpa</i>	Wild cucumber	Vine
<i>Solanum xanti</i>	Purple nightshade	Vine
<i>Vitis girdiana</i>	Desert wild grape	Vine

City of Los Angeles Wildlife Ordinance

PROPOSED Prohibited Plant List

The Wildlife Ordinance prohibits the installation of any plant material categorized as 'Moderate' or 'High' in the current Invasive Plant Inventory for the Southwest region by the California Invasive Plant Council (CAL-IPC), and plants that are listed as noxious weeds by the California Department of Food & Agriculture or already prohibited by the City or surrounding jurisdictions. This includes the following plant species:

Botanical Name	Common Name
<i>Acacia dealbata</i>	Silver wattle
<i>Acacia longifolia</i>	Sidney golden wattle
<i>Acacia melanoxylon</i>	Blackwood acacia
<i>Acacia retinodes</i>	Water Wattle
<i>Acroptilon repens</i>	Russian knapweed
<i>Aegilops triuncialis</i>	Barb goatgrass
<i>Ageratina adenophora</i>	Eupatory
<i>Ailanthus altissima</i>	Tree-of-heaven
<i>Alhagi maurorum</i>	Camelthorn
<i>Alternanthera philoxeroides</i>	Alligatorweed
<i>Amaranthus albus</i>	Tumbleweed
<i>Ammophila arenaria</i>	European beachgrass
<i>Anthoxanthum odoratum</i>	Sweet vernalgrass
<i>Aptenia cordifolia</i>	Red apple
<i>Arctotheca calendula</i>	Fertile capeweed
<i>Arctotheca calendula</i>	Capeweed
<i>Arctotheca prostrata</i>	Capeweed
<i>Arundo donax</i>	Giant reed
<i>Asparagus asparagoides</i>	Bridal creeper
<i>Asphodelus fistulosus</i>	Onion weed
<i>Atriplex semibaccata</i>	Australian saltbush
<i>Avena barbata</i>	Slender oat
<i>Avena fatua</i>	Wild oats
<i>Bassia hyssopifolia</i>	Bassia
<i>Bellardia trixago</i>	Mediterranean linseed
<i>Brachypodium distachyon</i>	Annual false-brome
<i>Brachypodium sylvaticum</i>	Slender false-brome
<i>Brassica nigra</i>	Black mustard
<i>Brassica rapa</i>	Field mustard
<i>Brassica spp.</i>	Mustard
<i>Brassica tournefortii</i>	Sahara mustard
<i>Bromus diandrus</i>	Ripgut brome
<i>Bromus hordaceus</i>	Brome grass; Soft chess

<i>Bromus madritensis ssp. rubens</i>	Red brome
<i>Bromus rubens</i>	Foxtail chess
<i>Bromus tectorum</i>	Cheatgrass
<i>Cardaria draba</i>	Hoary cress
<i>Carduus nutans</i>	Musk thistle
<i>Carduus pycnocephalus</i>	Italian thistle
<i>Carpobrotus chilensis</i>	Sea fig; Ice plant
<i>Carpobrotus edulis</i>	Highway iceplant, Hottentot fig
<i>Carpobrotus spp.</i>	Ice Plant
<i>Carrichtera annua</i>	Ward's weed
<i>Carthamus lanatus</i>	Woolly distaff thistle
<i>Centaurea calcitrapa</i>	Purple starthistle
<i>Centaurea diffusa</i>	Diffuse knapweed
<i>Centaurea jacea ssp. pratensis</i>	Meadow knapweed
<i>Centaurea maculosa</i>	Spotted knapweed
<i>Centaurea melitensis</i>	Tocalote
<i>Centaurea solstitialis</i>	Yellow starthistle
<i>Centaurea stoebe ssp. micranthos</i>	Spotted knapweed
<i>Centaurea virgata var. squarrosa</i>	Squarrose knapweed
<i>Chenopodium album</i>	Pigweed; lamb's quarters
<i>Chenopodium murale</i>	Goosefoot
<i>Chondrilla juncea</i>	Skeleton weed
<i>Chrysanthemoides monilifera ssp. monilifera</i>	Boneseed
<i>Chrysanthemum coronarium</i>	Garland daisy
<i>Cirsium arvense</i>	Canada thistle
<i>Cirsium spp.</i>	Thistle
<i>Cirsium vulgare</i>	Bull thistle
<i>Clematis vitalba</i>	Old man's beard
<i>Colocasia esculenta</i>	Taro root
<i>Conicosia pugioniformis</i>	Narrow-leaf Iceplant
<i>Conium maculatum</i>	Poison-hemlock
<i>Cortaderia jubata</i>	Jubata Grass
<i>Cortaderia selloana</i>	Pampasgrass
<i>Cotoneaster franchetii</i>	Orange cotoneaster
<i>Cotoneaster lacteus</i>	Milkflower cotoneaster
<i>Cotoneaster pannosus</i>	Silverleaf cotoneaster
<i>Cynara cardunculus</i>	Artichoke thistle
<i>Cynodon dactylon</i>	Bermuda grass
<i>Cynoglossum officinale</i>	Common houndstongue
<i>Cynosurus echinatus</i>	Hedgehog dogtail
<i>Cyperus difformis</i>	Umbrella sedge
<i>Cytisus canariensis</i>	Canary Island broom
<i>Spartium junceum</i>	Spanish broom
<i>Cytisus scoparius</i>	Scotch broom; English broom; Common broom

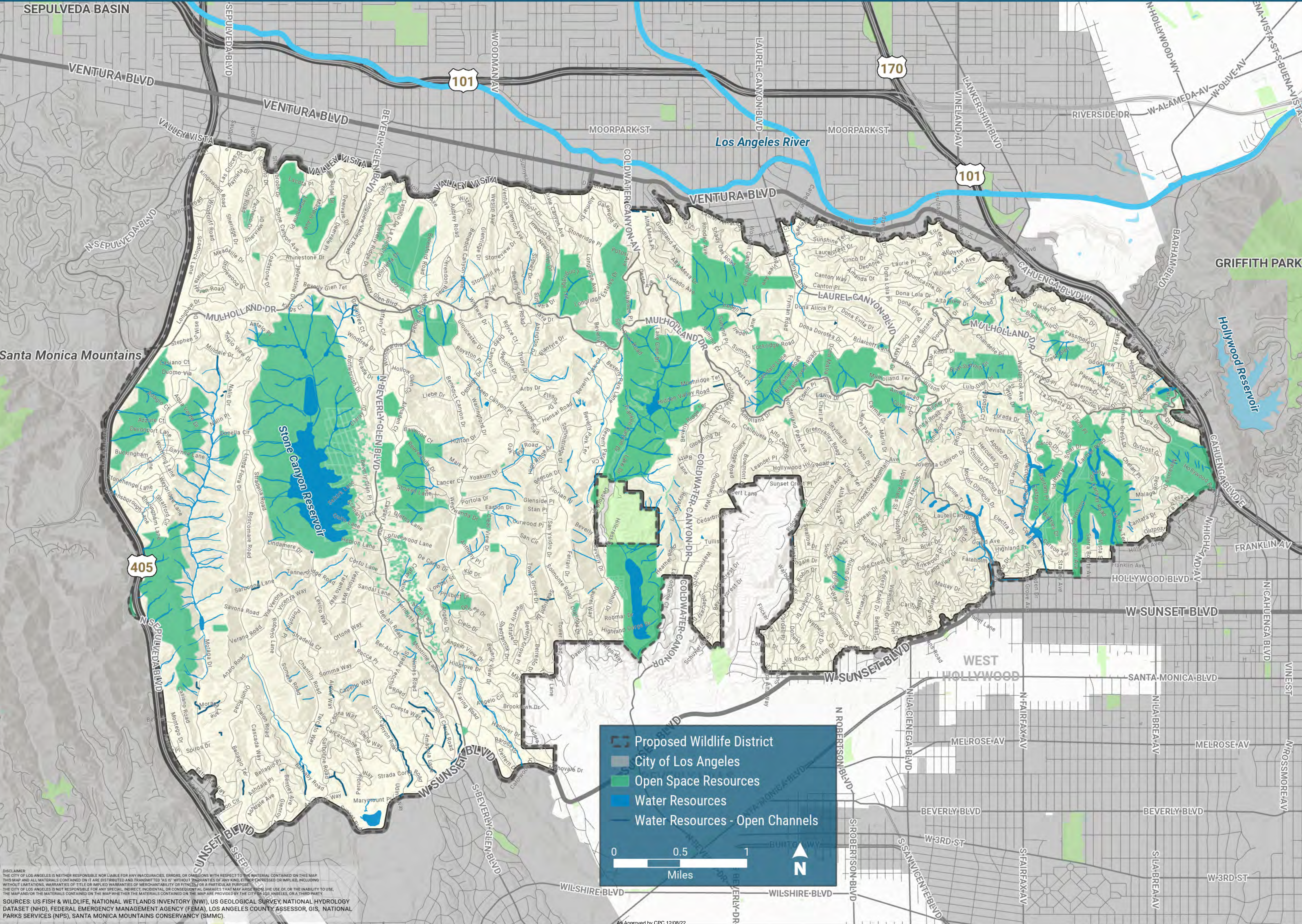
<i>Cytisus striatus</i>	Portugese broom
<i>Delairea odorata</i>	Cape ivy; German ivy
<i>Descurainia sophia</i>	Flixweed
<i>Digitalis purpurea</i>	Foxglove
<i>Dipsacus fullonum</i>	Common teasel
<i>Dipsacus sativus</i>	Fullers teasel
<i>Dittrichia graveolens</i>	Stinkwort
<i>Egeria densa</i>	Brazilian egeria; Dense waterweed
<i>Ehrharta calycina</i>	Purple veldtgrass; African veldtgrass; Perennial veldtgrass
<i>Ehrharta erecta</i>	Panic veldtgrass
<i>Eichhornia crassipes</i>	Water hyacinth
<i>Elaeagnus angustifolia</i>	Russian olive; Oleaster
<i>Elaeagnus spp.</i>	Silverberry/Oleaster/Russian Olive
<i>Elymus caput-medusae</i>	Medusahead
<i>Emex spinosa</i>	Devil's thorn
<i>Erechtites glomerata</i>	Cutleaf fireweed
<i>Erechtites minima</i>	Australian fire weed
<i>Erodium botrys</i>	Storksbill
<i>Erodium cicutarium</i>	Storksbill; Filaree
<i>Eucalyptus calmaldulensis</i>	Red gum
<i>Eucalyptus globulus</i>	Blue gum eucalyptus
<i>Euphorbia terracina</i>	Geraldton carnation weed
<i>Euphorbia virgata</i>	Leafy spurge
<i>Fallopia japonica</i>	Japanese knotweed
<i>Fallopia sachalinensis</i>	Giant knotweed
<i>Festuca arundinacea</i>	Reed fescue, tall fescue
<i>Festuca myuros</i>	Rat-tail fescue
<i>Festuca perennis</i>	Italian ryegrass
<i>Ficus carica</i>	Edible fig
<i>Foeniculum vulgare</i>	Fennel; sweet fennel; sweet anise
<i>Gazania linearis</i>	Gazania
<i>Genista monosperma</i>	Bridal veil broom
<i>Genista monspessulana</i>	French broom; soft broom
<i>Genista spp.</i>	Brooms
<i>Geranium dissectum</i>	Cutleaf geranium
<i>Gleditsia triacanthos</i>	Honey locust
<i>Glyceria declinata</i>	Mannagrass
<i>Halogeton glomeratus</i>	Halogeton
<i>Hedera canariensis</i>	Algerian ivy
<i>Hedera helix</i>	English ivy
<i>Hedera spp.</i>	Ivy
<i>Hirschfeldia incana</i>	Short-pod mustard
<i>Holcus lanatus</i>	Common velvet grass
<i>Hordeum leporinum</i>	Foxtail barley

<i>Hordeum marinum</i>	Mediterranean barley
<i>Hordeum murinum</i>	Hare barley
<i>Hydrilla verticillata</i>	Hydrilla; Water thyme; Florida elodea
<i>Hypericum canariense</i>	Canary Island St. Johns wort
<i>Hypericum perforatum</i>	Common St. Johns wort
<i>Hypochaeris radicata</i>	Rough cat's-ear
<i>Ilex aquifolium</i>	English holly
<i>Iris pseudacorus</i>	Yellow flag iris
<i>Isatis tinctoria</i>	Dyer's woad
<i>Kochia scoparia</i>	Kochia
<i>Lactuca serriola</i>	Prickly lettuce
<i>Lantana camara</i>	Lantana
<i>Lepidium chalepense</i> ; <i>Cardaria chalepensis</i>	Lens-podded hoary cress
<i>Lepidium draba</i>	Heart-podded hoary cress
<i>Lepidium latifolium</i>	Perennial pepperweed
<i>Lepidium latifolium</i>	Perennial/Broadleaved pepperweed; Tall whitetop
<i>Leptospermum laevigatum</i>	Australian tea tree
<i>Leucanthemum vulgare</i>	Ox-eye daisy
<i>Ligustrum spp.</i>	Privet
<i>Limnobium laevigatum</i>	South American spongeplant; West Indian sponge
<i>Limnobium spongia</i>	South American Spongeplant
<i>Limonium duriusculum</i>	European sea lavender
<i>Limonium perezii</i> / <i>L. sinuatum</i>	Statice
<i>Linaria dalmatica ssp. dalmatica</i>	Dalmatian toadflax
<i>Linaria vulgaris</i>	Yellow toadflax
<i>Lobularia maritima</i>	Sweet alyssum
<i>Lonicera japonica</i>	Japanese honeysuckle
<i>Ludwigia hexapetala</i>	creeping waterprimrose; Uruguay waterprimrose
<i>Ludwigia peploides</i>	Floating waterprimrose
<i>Ludwigia peploides ssp. montevidensis</i>	Creeping waterprimrose
<i>Lythrum hyssopifolium</i>	Hyssop loosestrife
<i>Lythrum salicaria</i>	Purple loosestrife
<i>Malva parviflora</i>	Cheeseweed
<i>Marrubium vulgare</i>	Horehound
<i>Mentha pulegium</i>	Pennyroyal
<i>Mesembryanthemum crystallinum</i>	Crystalline iceplant
<i>Myoporum laetum</i>	Ngaio tree
<i>Myriophyllum aquaticum</i>	Parrotfeather; Brazilian watermilfoil; Thread-of-life
<i>Myriophyllum spicatum</i>	Spike watermilfoil
<i>Nicotiana glauca</i>	Tree tobacco
<i>Onopordum acanthium</i>	Scotch thistle; Cotton/wolly/winged thistle; Heraldic thistle
<i>Oryzopsis meliacea</i>	Ricegrass; Smilo grass
<i>Oxalis corniculata</i>	Oxalis
<i>Oxalis pes-caprae</i>	Bermuda buttercup

<i>Oxalis rubra</i>	Oxalis
<i>Pennisetum clandestinum</i>	Kikuyu grass
<i>Pennisetum setaceum</i>	Crimson fountain grass,; Green fountain grass
<i>Phalaris aquatica</i>	Harding grass
<i>Picris echioides</i>	Bristly ox-tongue
<i>Podocarpus spp.</i>	Podocarpus
<i>Potamogeton crispus</i>	Curly-leaved pondweed
<i>Raphanus sativus</i>	Wild radish
<i>Retama monosperma</i>	Bridal Broom
<i>Rhus laucea</i>	African Sumac
<i>Ricinus communis</i>	Castor bean
<i>Robinia pseudoacacia</i>	Black locust
<i>Rubus armeniacus</i>	Himalayan blackberry
<i>Rumex acetosella</i>	Sheep sorrel
<i>Rumex conglomerates</i>	Creek dock
<i>Rumex crispus</i>	Curly dock
<i>Saccharum ravennae</i>	Ravennagrass
<i>Salsola soda</i>	Glasswort
<i>Salsola tragus</i>	Russian thistle
<i>Salvinia molesta</i>	Giant salvinia; Karibaweed; Water velvet; African pyle
<i>Scabiosa spp.</i>	Pincushion flowers
<i>Schinus terebinthifolius</i>	Brazilian pepper tree
<i>Senecio glomeratus</i>	Cutleaf burnweed
<i>Senecio mikanioides</i>	German ivy
<i>Senna (Cassia) didymobotrya</i>	Popcorn senna
<i>Sesbania punicea</i>	Scarlet wisteria
<i>Silybum marianum</i>	Milk thistle
<i>Sisymbrium irio</i>	London rocket
<i>Sisymbrium officinale</i>	Hedge mustard
<i>Sisymbrium orientale</i>	Eastern rocket
<i>Sonchus oleraceus</i>	Sow thistle
<i>Sorghum halepense</i>	Johnsongrass
<i>Spartina alterniflora</i> x <i>S. foliosa</i>	Smooth hybrid cordgrass
<i>Spartina anglica</i>	English cordgrass
<i>Spartina densiflora</i>	Dense-flowered cordgrass; Chilean cordgrass.
<i>Spartium junceum</i>	Spanish broom
<i>Stipa (Nassella) tenuissima</i>	Mexican feathergrass
<i>Stipa capensis</i>	Cape ricegrass, mediterranean steppegrass
<i>Taeniatherum sp.</i>	Medusahead
<i>Tamarix spp.</i>	Tamarisk; Saltcedar
<i>Tanacetum vulgare</i>	Common tansy
<i>Torilis arvensis</i>	Hedgeparsley
<i>Triadica sebifera</i>	Chinese tallow tree
<i>Tribulus terrestris</i>	Puncture vine

<i>Trifolium hirtum</i>	Rose clover
<i>Ulex europaeus</i>	Gorse; Common gorse; Furze; Prickly broom
<i>Vinca spp.</i>	Periwinkles
<i>Vulpia myruros</i>	Rattail fescue
<i>Washingtonia robusta</i>	Mexican fan palm
<i>Xanthium spinosus</i>	Cocklebur
<i>Zostera japonica</i>	Dwarf eelgrass

Proposed Wildlife Resources





Department of City Planning

City Hall, 200 N. Spring Street, Room 272, Los Angeles, CA 90012

December 7, 2022

TO: City Planning Commission

FROM: Patrick Whalen, City Planner

TECHNICAL MODIFICATION/CORRECTION TO THE STAFF RECOMMENDATION REPORT FOR CASE NO. CPC-2022-3413-CA and CPC-2022-3712-ZC; Citywide

The following technical corrections are to be incorporated into the Proposed Ordinance accompanying the staff recommendation report to be considered at the City Planning Commission meeting of December 8, 2022, related to Item Nos. 6 and 7 on the meeting agenda.

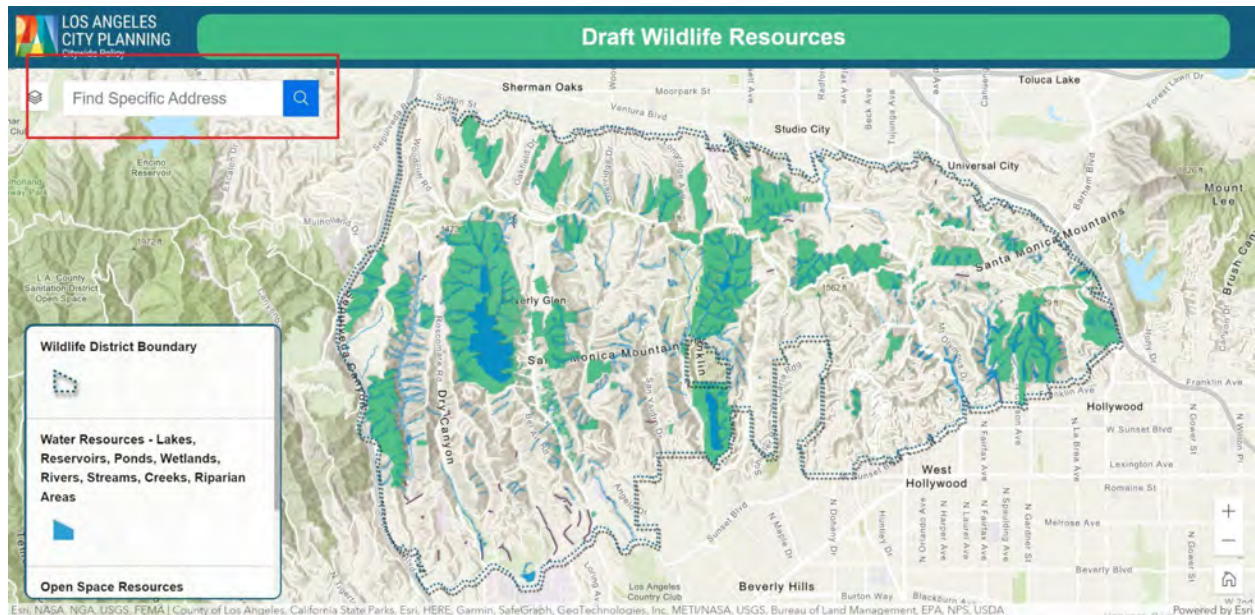
1. On page 4 of the Ordinance, the reference to "Map B Draft Resources Map" in the Wildlife Resource definition should be corrected to read "Wildlife Resources Map"
 - a. **"Wildlife Resource.** Features which provide wildlife benefits, ecosystem services, and contribute to the overall quality of the natural and built environment. Wildlife Resources are identified in ~~Map B: Draft Resource Areas~~ the Wildlife Resources Map, and include:
 - water features, such as lakes, reservoirs, ponds, wetlands, rivers, streams, creeks, and riparian areas;
 - open space, including zoned open space conservation easements, and protected areas;
 - open channels;"
2. On page 8 of the Ordinance, reference to utility easements should be deleted from the Open Space definition.
 - a. **"Open Space.** Any parcel or area of land or water that is zoned or designated for Open Space, essentially unimproved and devoted to an open-space use, including: (1) protected areas for preservation of natural resources, e.g., preservation of flora and fauna, animal habitats, bird flyways, ecologic and other scientific study areas, watershed; (2) managed production of resources, e.g., recharge of ground water basins or containing mineral deposits that are in short supply; (3) outdoor recreation, e.g., beaches, waterways, ~~utility easements~~, trails, scenic highway corridors; and/or (4) public health and safety, e.g., flood, seismic, geologic or fire hazard zones, air quality enhancement."

3. On page 8 of the Ordinance, the sentence regarding development initiated by the City being exempt from the Ordinance regulations should be removed.
 - a. **"C. District Identification.** The provisions of this Section apply to any lot designated as WLD as a part of its zone designation. Development on properties within the Wildlife District are subject to the development regulations, as applicable, in Subsection F of this Section. ~~Development initiated by the City is exempt from all regulations contained in this Section."~~
4. On page 11 of the Ordinance, "woven wire" should be removed from the list of prohibited fencing materials in order to be consistent with the previous removal of chain link fencing as a prohibited fencing material.
 - a. "a. Wall and Fence Design Materials
 - i. The following materials and design features are prohibited on any fencing:
 1. Prohibited Materials
 - a. Barbed Wire
 - b. Plastic Mesh
 - c. ~~Woven Wire~~
 - d. Concertina Wire
 - e. Razor Wire"
5. On page 20 of the Ordinance, the reference to Map X should be corrected to reference the Wildlife Resource Map.
 - a. "(1) A Biological Assessment is required for any Project proposed within a Wildlife Resource or its buffer, as shown on ~~Map X~~ the Wildlife Resources Map."
6. On page 22 of the Ordinance, the reference to the Department of Building and Safety issuing permits should be removed.
 - a. **"G. Issuance of Building Permits.** For any Project within a WLD District, ~~no the Department of Building and Safety shall not issue any permits~~ shall be issued, including, but not limited to, grading, shoring, or building permits unless an Administrative Review, WLD Adjustment, WLD Exception, or Site Plan Review approval has been obtained pursuant to the applicable procedures in Section 13.21.H of this Code."

A5- Proposed Wildlife District Ordinance Online Interactive Wildlife Resource Buffer Map

The proposed Wildlife District Ordinance online interactive Wildlife Resource Buffer map can be accessed at <https://experience.arcgis.com/experience/779e7266be1d40298035cb0394a58f63> or by following the link on the Wildlife Ordinance webpage <https://planning.lacity.org/plans-policies/wildlife-pilot-study#about>.

Enter an address in the search bar in the upper left of the map to zoom in and view Wildlife Resources, Resource Buffers, property lines, and building footprints.



Water Resources are shown in blue with buffer areas in light blue. Open Space Resources are shown in green with buffer areas in light green. Open Channels, which are part of the stormwater system, are shown in purple with buffer areas in light purple. Property lines are shown in black when the map is zoomed in. Primary structures are also visible when zoomed in.

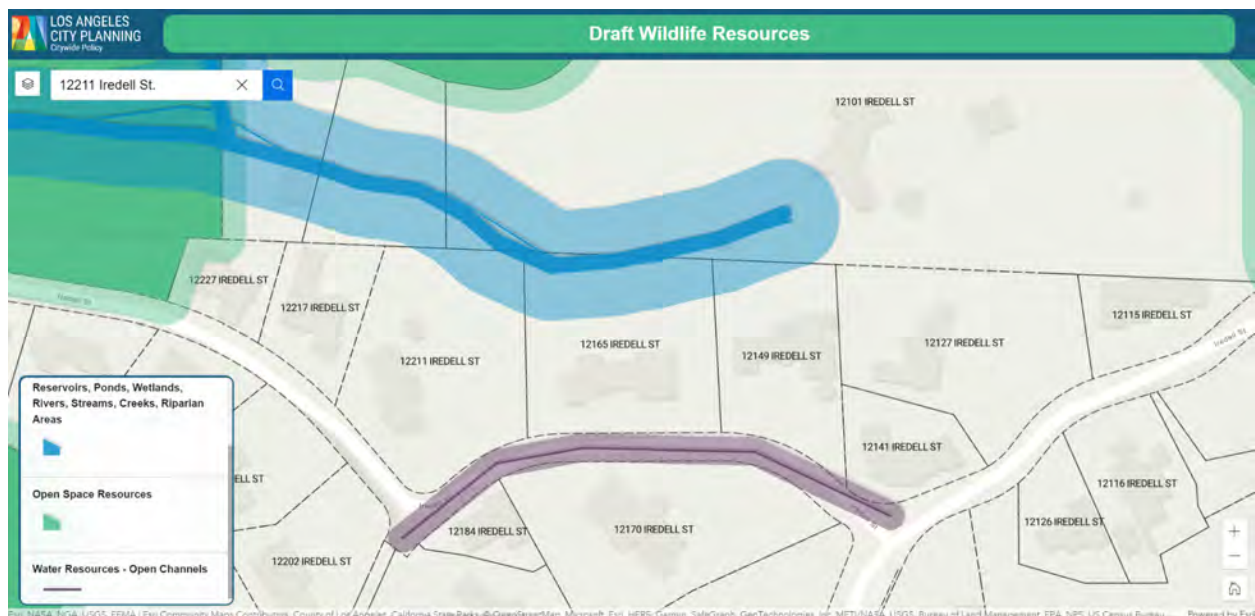


EXHIBIT 4

June 13, 2023

Los Angeles City Council and Los Angeles City Planning
Attention: PLUM Committee c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

RE: THE PROPOSED DRAFT WILDLIFE ORDINANCE (CF 14-0518)

Dear Honorable Members and Los Angeles City Planning Staff,

Our offices are coming together to share our feedback in anticipation of the Draft Wildlife Ordinance being before the PLUM Committee on June 20, 2023. While this effort predates our time in office by many years, we are encouraged at the high level of engagement by community stakeholders, various city departments, and local and regional elected officials on this topic.

We are proud to represent districts that feature prevalent and unique hillside geographies, most notably along the Santa Monica Mountains range. However, we deal with numerous development challenges: projects that push for out-of-scale development resulting in excessive grading, mature and protected tree removals, and wildlife habitat disruption. This out-of-scale development not only negatively impacts our local ecology and wildlife, it also burdens our constituents with larger projects that require more time and complicated construction, with the resulting mansions affordable to only the super-wealthy.

This is why having robust hillside policies is a key priority for our offices. In the last two years, alongside our City Council colleagues, we successfully applied Hillside Construction Regulations to new neighborhoods; co-sponsored legislation directing city departments to develop a comprehensive regional wildlife habitat connectivity plan in partnership with neighboring jurisdictions; advocated for incorporating environmental justice values, metrics, and policy programs through updates to the General Plan and through the creation of a standalone Environmental Justice Element; and passed a resolution requiring city departments to consult with the Santa Monica Mountains Conservancy on any draft negative declarations and environmental impact reports under CEQA for projects within the Santa Monica Mountains Zone. We also supported directing growth away from sensitive hillside areas, especially in high risk fire, earthquake, and landslide prone areas in recently adopted Housing Element, Community Plan, and Safety Element updates.

The Draft Wildlife Ordinance presents a critical opportunity to create sensible land use and zoning regulations that can address hillside issues and climate resiliency goals on a more systemic level. The latest Draft Wildlife Ordinance does address key concerns from local stakeholders regarding small lots, site plan review, project definition and applicability, and development standards, and closes loopholes in existing hillside policies. Of note, the Ordinance includes rigorous grading standards, an overall height standard throughout the pilot area, calculates basements as part of the total residential floor area, and frontloads expectations for environmental assessments, all of which are important levers in controlling the size, scale, and impacts of development.

We would like to propose the following changes to the Draft Wildlife Ordinance for your review and consideration:

- Reverse the City Planning Commission's action that would have allowed up to 1,000 square feet of basement area to be exempted from Residential Floor Area (RFA) calculations.
- Add in additional details regarding what application materials are required as a starting point, but allow for flexibility in the future as well (i.e., a list of common application materials and other materials as determined by city or state agencies).

- Ensure that the definition of "Open Space" from Version 2 is restored to include current City-owned vacant land: *"Open Space shall also include City-owned vacant land that, while not zoned as Open Space, meets the criteria above."*
- Revert back to having a limitation on calculation of RFA for 60% slopes, which was in Version 2.
- Ensure that Biological Assessments must be conducted by a certified biologist.

Additionally, we respectfully request that the Committee take the following actions:

- For Biological Assessments, which, as proposed, are required for any Project within a Wildlife Resource or its buffer, direct Los Angeles City Planning to proactively create a vetted list of registered certified biologists that applicants may select from and that is maintained and updated by the Department.
- Support the creation of a Hillside Development Review Unit with dedicated funding that can support staff from across departments with case processing.
- Direct the City Attorney's Office to initiate the Form and Legality process.
- Direct Los Angeles City Planning, the Department of Building and Safety, the Bureau of Street Services, the Urban Forestry Division of the Public Works Department, and any other relevant departments and units, to report back on resources needed to implement the Ordinance upon its completion after the Form and Legality process.

This Ordinance, which represents the hard work and collaboration of numerous stakeholders, our offices (past and present), and city staff, will help Los Angeles prepare for continued climate change and ongoing aridification while bolstering biodiversity by fostering wildlife connectivity alongside responsible development patterns. We respectfully ask that you consider this feedback in your deliberative process.

Thank you for your attention to this matter.

Sincerely,



Nithya Raman
Councilmember, 4th Council District
City of Los Angeles



Katy Yaroslavsky
Councilmember, 5th Council District
City of Los Angeles

EXHIBIT 5

DEPARTMENT OF
CITY PLANNING

COMMISSION OFFICE
(213) 978-1300

CITY PLANNING COMMISSION

SAMANTHA MILLMAN
PRESIDENT

CAROLINE CHOE
VICE-PRESIDENT

MARIA CABILDO
MONIQUE LAWSHE
HELEN LEUNG
KAREN MACK
JACOB NOONAN
ELIZABETH ZAMORA

CITY OF LOS ANGELES
CALIFORNIA



KAREN BASS
MAYOR

EXECUTIVE OFFICES

200 N. SPRING STREET, ROOM 525
LOS ANGELES, CA 90012-4801
(213) 978-1271

VINCENT P. BERTONI, AICP
DIRECTOR

SHANA M.M. BONSTIN
DEPUTY DIRECTOR

ARTHI L. VARMA, AICP
DEPUTY DIRECTOR

LISA M. WEBBER
DEPUTY DIRECTOR

June 16, 2023

Los Angeles City Council
c/o Office of the City Clerk
City Hall, Room 395
Los Angeles, California 90012

Attention: PLUM Committee

Dear Honorable Members:

**PLUM COMMITTEE CONSIDERATION ITEMS FOR THE PROPOSED WILDLIFE DISTRICT
ORDINANCE; CF 14-0518; CASE NO. CPC-2022-3413-CA; CPC-2022-3712-ZC**

This memorandum has been prepared in response to a letter from Council Districts 4 and 5 dated June 13, 2023, and includes three sections: a discussion of potential modifications to the proposed ordinance for consideration by the PLUM Committee, responses to additional topics raised in the letter from the Council offices, and potential additional actions for consideration.

A. Modification for Consideration

This report includes for City Council consideration optional modifications (Council Modifications) to the City Planning Commission's (CPC) recommendations on the proposed Wildlife Ordinance that were transmitted to the City Council on January 18, 2023. Additions to the proposed ordinance are proposed in response to the letter dated June 13, 2023 from Council Districts 4 and 5 and indicated by underlined text and deletions to a proposed ordinance are indicated by strikethrough.

1. Amend the definition of Open Space in Sec. 13.21 D to read as follows:

Open Space. Any parcel or area of land or water that is zoned or designated for Open Space, essentially unimproved and devoted to an open-space use, including: (1) protected areas for preservation of natural resources, e.g., preservation of flora and fauna, animal habitats, bird flyways, ecologic and other scientific study areas, watershed; (2) managed production of resources, e.g., recharge of ground water basins or containing mineral deposits that are in short supply; (3) outdoor recreation, e.g., beaches, waterways, trails, scenic highway corridors; and/or (4) public health and safety, e.g., flood, seismic, geologic or fire hazard zones, air quality enhancement. Open Space shall also include City-owned property that is vacant as of the effective date of this ordinance

2. Modify the Residential Floor Area provisions contained in Section 13.21F.1(d)(2) to read as follows:

(i) ~~Within Wildlife Districts, no more than 1,000 square feet of Basement area, where the height from the finished floor of the Basement to the finished ceiling of the Basement does not exceed ten (10) feet, may be exempted from Residential Floor Area calculations. Any portion of a Basement area which exceeds 1,000 square feet or ten feet (10) in height from the finished floor of the Basement to the finished ceiling of the Basement shall count toward maximum allowable floor area.~~ Within Wildlife Districts, the Basement exemption contained within the Residential Floor Area definition in Section 12.03 shall not apply.

(ii) Allocation of Residential Floor Area for 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%.

3. Amend the requirement for a Biological Assessment in Sec. 13.21 F.2(b)(1) to read as follows:

(1) A Biological Assessment, which must be prepared by a Qualified Biologist, is required for any Project proposed within a Wildlife Resource or its buffer, as shown on the Wildlife Resources Map.

4. Amend Sec. 13.21 F.2(b)(3)(i), for consistency, to read as follows:

(i) A Biological Assessment, which must be prepared by a Qualified Biologist, is required for any Project within a Wildlife Resource or its Buffer.

5. Amend the Review Procedures for Projects in Wildlife Districts in Section 13.21.H.1 to provide examples of required application materials, as follows:

H. Review Procedures for Projects in Wildlife Districts.

1. Application. All Projects proposed within a WLD District shall be submitted for approval with a WLD application and form available at the Planning Department's Development Services Counter. Prior to deeming the application complete, the Director shall determine and advise the applicant, if necessary, of the processes to be followed, materials to be submitted, and fees to be paid. Applications filed must include all of the information required by the Department, including any information required by the instructions on an application form and any applicable adopted guidelines. All applications shall be made on forms prepared by and available from the Department. The granting of the WLD approval shall not imply or be deemed to constitute compliance within any other applicable provisions of this Code.

B. Discussion of Additional Topics

This report also includes Discussion of Additional Topics including:

1. Modifications to the definition of Open Space

The Wildlife Ordinance has two broad categories of Wildlife Resources— water sources and open space. Open Space is defined in the ordinance as “Any parcel or area of land or water that is zoned or designated for Open Space, essentially unimproved and devoted to an open-space use, including: (1) protected areas for preservation of natural resources, e.g., preservation of flora and fauna, animal habitats, bird flyways, ecologic and other scientific study areas, watershed; (2) managed production of resources, e.g., recharge of ground water basins or containing mineral deposits that are in short supply; (3) outdoor recreation, e.g., beaches, waterways, trails, scenic highway corridors; and/or (4) public health and safety, e.g., flood, seismic, geologic or fire hazard zones, air quality enhancement.” The June 13th letter from Council Districts 4 and 5 requests an additional provision be added to include City-owned vacant property to this definition. This change would ensure that these properties also trigger buffer thresholds since they are often undeveloped properties with vegetation and trees providing important habitat potential. Amending this definition will add approximately 300 parcels to the Open Space mapped parcels of the Wildlife District Wildlife Resources Map, with the result of adding resource buffers to about 1,000 additional parcels. If this change is included in the Council’s action, Department of City Planning (DCP) staff will work to prepare the updated map along with the final ordinance.

2. Biological Resource Assessments

DCP currently requires various levels of biological review for certain discretionary projects subject to environmental analysis under the California Environmental Quality Act (CEQA), such as selected hillside and coastal projects proposing removal of native vegetation and/or trees. Forms, templates, and instructions have been created by DCP and are provided to applicants.

Since early 2020, DCP staff have worked to create standardized protocols and templates pertaining to Biological Resources, which were modeled after Los Angeles County and San Diego County biological assessments and California Department of Fish and Wildlife (CDFW) protocols. These forms and templates represent several levels of required documentation, ranging from an Owner’s Declaration of Biological Resources or a Biologist’s Statement, to a Biological Resources Report, depending on the proposed project and existing site conditions. These documents have been revised based on both feedback and consultation with Qualified

Biologists, City staff, the California Department of Fish and Wildlife, and the Santa Monica Mountains Conservancy (SMMC), and were subsequently published onto the Forms page of the DCP website in January 2023.

With the proposed Wildlife Ordinance, Biological Resource Assessments would be required if a proposed project is within a Wildlife Resource and/or a Wildlife Resource Buffer, as well as when Site Plan Review (SPR) is triggered. The requirement for a Biological Resource Assessment will assist in identifying resources on proposed project sites (e.g., identification of trees/woodlands, etc.). A Qualified Biologist is required to complete Biological Resource Assessments per current City Planning practice. The City is currently using LA County's Qualified Biologist List while working to develop a Qualified Biologist List for the City to provide applicants with contracting biologists that meet qualifications. This process will ensure that Biological Resource Assessments are performed in a standard manner by a qualified professional.

3. Tree reporting standards and tree removal review

The Wildlife Ordinance proposes more review for projects that will affect existing trees. Tree Removal is one of the Project Types proposed under the Wildlife Ordinance that will require additional review for development projects located within the Proposed Wildlife District. As proposed, Tree Removal includes the removal of any Protected Tree, Significant Tree or tree within the public right-of-way (Street Tree). The City currently has procedures and some regulations in place for Protected Trees and Street Trees. Significant Trees, those that are mature (measuring more than 12 inches in diameter) that are located on privately-owned property are currently only regulated within the Mount Washington-Glassell Park Specific Plan area of the City.

Los Angeles Municipal Code (LAMC) Section 46.00 requires disclosure and protection of *certain trees* located on private and public property, and that the trees be shown on submitted and approved site plans. City Planning continues to coordinate with Urban Forestry and Building and Safety to ensure that existing trees are disclosed as early as possible and identified on permit and development applications so that projects may go through the appropriate tree review process. There is shared responsibility across City Planning, Urban Forestry, and Building and Safety to implement the tree review process and conduct environmental review for discretionary actions due to limited staff resources.

The effect of adding Tree Removal to the Project types will be to ensure that tree removals are identified early in the development review process, even for ministerial projects. Today, disclosure of trees on sites is not required of all development activity in the hillsides, such as grading and by-right development. This will provide an incentive to design projects to retain trees on site and will trigger City review of those projects that involve tree removals.

4. Application materials, forms and requirements for project applications

As described in sections 3 and 4 above, many improvements have been integrated into project review in the hillsides with respect to Biological Assessments and tree review. DCP staff continue to work with the Department of Building and Safety and Bureau of Street Services' Urban Forestry Division to update procedures for project referrals and review and will follow up with the preparation of a Wildlife Application Instructions form to be made available on the DCP website. This application form will identify the information required by the Department for review.

In regards to additional details on application material requirements, as requested in the June 13th letter from Council Districts 4 and 5, DCP anticipates that application materials may include such items as site plans, landscape plans, tree disclosures and/or reports, and lighting and window schedules, and other items identified by the Director of Planning. In order to ensure consistency with future Code modifications with the implementation of the recently adopted Processes and Procedures Ordinance and to allow the Department to update and revise application forms and instructions as needed, an optional modification to the Ordinance has been provided for consideration in Section A of this report, as follows:

Applications filed must include all of the information required by the Department, including any information required by the instructions on an application form and any applicable adopted guidelines. All applications shall be made on forms prepared by and available from the Department.

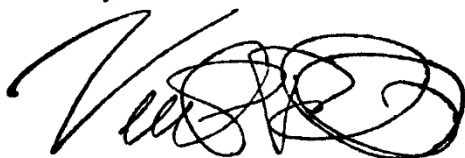
A detailed list of the application materials and documentation required will be made available on forms accessible on the Department website and at our City's Development Services Center locations. Examples of Application Filing Instructions and Application Checklist for Ministerial Review forms prepared by City Planning and currently in use can be viewed for the Mulholland Scenic Corridor Specific Plan and River Implementation Overlay (RIO).

C. Additional Actions for Consideration

The PLUM Committee is requested to consider incorporating the following additional instructions to City Staff:

1. Direct City Planning to proactively create a vetted list of registered Qualified Biologists that applicants may select from and that is maintained and updated by the department.
2. Direct City Planning, the Department of Building and Safety, the Bureau of Street Services, the Urban Forestry Division of the Public Works Department, and any other relevant departments and units, to report back on resources needed, including the creation of a Hillside Development Review Unit, to implement the Ordinance upon its completion following the Form and Legality process.
3. Direct the City Attorney to prepare the Ordinance for form and legality.

Sincerely,

A handwritten signature in black ink, appearing to read 'Vincent P. Bertoni', with a large, stylized circular flourish at the end.

VINCENT P. BERTONI, AICP
Director of Planning

EXHIBIT 6



Neutral

As of: August 22, 2023 7:53 PM Z

Yard v. City of Culver City

Superior Court of California, County of Los Angeles

May 26, 2022, Decided; May 26, 2022, Filed

CASE NO. 20STCV43253

Reporter

2022 Cal. Super. LEXIS 52096 *

YES IN MY BACK YARD, a California nonprofit Corporation; and SONJA TRAUSS, Petitioner and, Plaintiff, v. CITY OF CULVER CITY; CITY COUNCIL OF THE CITY OF CULVER CITY; and DOES 1-25, Respondents and, Defendants.

Counsel: [*1] For CITY OF CULVER CITY and CITY COUNCIL OF THE CITY OF CULVER CITY, Plaintiff: JUNE S. AILIN, State Bar No. 109498, PAM K. LEE, State Bar No. 246369, ALESHIRE & WYNDER, LLP, El Segundo, California.

Judges: Mary Strobel, Judge.

Opinion by: Mary Strobel

Opinion

JUDGMENT GRANTING PETITION FOR WRIT OF MANDATE

Dept: 82

Hearing Date: February 22, 2022

Time: 9:30 a.m

This matter came regularly before this court on February 22, 2022, at 9:30 a.m. for hearing in Department 82 of the Los Angeles County Superior Court, the Honorable Mary Strobel presiding. Ryan J. Patterson and Brian O'Neill appeared as attorneys for Petitioners and Plaintiffs Yes In My Back Yard and Sonja Trauss ("Petitioners"). June S. Ailin appeared as attorney for Respondents City of Culver City and City Council of the City of Culver ("Respondents").

The record of the administrative proceedings having been received into evidence and examined by the court, arguments having been presented, requests for judicial

notice having been considered, and the court having issued an order stating the grounds for its ruling ("Order"), which was filed on February 22, 2022 and which is incorporated here by reference,

IT IS HEREBY ORDERED, DECREED, AND ADJUDGED that:

1. Judgment [*2] be, and hereby is, entered in favor of Petitioners and against Respondents for the reasons set forth in the Court's Order, a copy of which is attached hereto as Exhibit 1.

2. A peremptory writ of mandamus ("Writ") will issue from this Court, directing Respondents to take the following actions not later than 30 days from the date Respondents are served with the Writ:

a. Repeal Ordinance No. 2020-010 and its approval of zoning code amendment P2019-0036-ZCA.

b. Remove all changes to Title 17 of the City of Culver City Municipal Code effected by Ordinance No. 2020-010.

c. Refrain from enforcing any of the provisions of Ordinance No. 2020-010, specifically and including refraining from applying any provisions of Ordinance No. 2020-010 in performing plan check of documents submitted to the City for plan check as part of the building permit application process which were submitted to the City after July 13, 2020, the date on which Ordinance No. 2020-010 was approved by the City Council.

d. If persons with building permit applications in process or who have obtained building permits which were subject to the provisions of Ordinance No. 2020-010 choose to revise their plans and/or building permits [*3] in light of the judgment in this case, the City shall credit all plan check and building permit fees paid previously against the plan check and building permit fees required under the City's fee schedule for the revised project.

3. The Court exercises continuing jurisdiction, and orders Respondents to file with the Court and serve on all parties a return to the Writ not later than 60 days from the date Respondents are served with the Writ, in which Respondents must demonstrate what they have done to comply with the Court's Order, this Judgment, and the Writ.

4. Under [Code of Civil Procedure section 1096](#), the Court orders that electronic service of the Writ per the parties' electronic service stipulation in this case constitutes personal service of the Writ upon all named Respondents for all purposes, including but not limited to for purposes of [sections 1096](#) and [1097](#) of the Code of Civil Procedure.

IT IS SO ORDERED.

Dated: 5/26/22

/s/ [Signature]

Hon. Mary Strobel

Judge of the Superior Court

EXHIBIT 1

YES IN MY BACK YARD, A CALIFORNIA CORPORATION, et al. vs CITY OF CULVER CITY, et al.

20STCV43253

SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES Civil Division Central District, Stanley Mosk Courthouse, Department 82

February 22, 2022

NATURE OF [*4] PROCEEDINGS: HEARING ON PETITION FOR WRIT OF MANDATE

Judge: Honorable Mary H. Strobel

APPEARANCES:

For Petitioner(s): Ryan J Patterson, Esq. (Telephonic) and Brian O'Neill (X)

For Respondent(s): June S. Ailin (x) (Telephonic)

Matter comes on for hearing and is argued.

Petitioner's exhibit 1 (administrative record) is admitted

into evidence.

The court adopts its tentative ruling except for the declaratory relief cause of action as the order of the court and is set forth in this minute order.

Petitioners Yes In My Back Yard ("YIMBY") and Sonja Trauss (collectively "Petitioners") petition for a writ of ordinary mandate directing Respondents City of Culver City and the City Council of the City of Culver City ("Respondents") to refrain from enforcing City's Ordinance No. 2020-010 (hereafter "Ordinance"). Petitioners also pray for an order declaring the Ordinance null and void.

Judicial Notice

Respondents' RJN Exhibits 1-3 – Granted.

Petitioners' Reply RJN Exhibits 1 -2 – Granted.

Background

The City Conducts Research to Protect Neighborhood Character

In or about July 2017, the City retained John Kaliski Architects ("JKA") to conduct neighborhood Studies to address community concerns regarding "mansionization" [*5] in the single-family residential zones. (AR 66.) In June-August 2018, JKA held a series of community meetings that found, inter alia, that residents believed houses "should not be built to maximize the existing zoning envelope and allowable floor area ratio (FAR)," and that "new homes were too large and allowed excessive building area on a parcel." (AR 67, 69; see also AR 29, 170, 207, 210, 212, 216, 218, 392, 539, 553.) In its presentations, JKA defined FAR as the ratio of floor area to total lot area. (AR 12.)

Based on the public's input, JKA developed a set of recommendations for amending the City's R-1 development standards and also developed unique hillside development standards addressing the differences between development standards for the City's hillside neighborhoods relative to neighborhoods built on largely level topography. (AR 12-15, 36-57.) As relevant to the issues raised by Petitioners in this case, JKA's initial recommendations included the following proposed changes to the development standards:

- Change FAR from .60 to .45 for lots less than 10,000 square feet ("SF") and .35 for lots 10,000 SF and larger (AR 12)

- Modify the FAR definition "to include mezzanine area [*6] and accessory buildings in addition to any floor area within the main dwelling unit" (AR 12)

A footnote in the JKA recommendations states that the 0.60 FAR in existing standards "excludes detached garages in rear 1/3 of property and basements." (AR 12.) The JKA recommendations also states that the "existing" definition of FAR "is the ratio of floor area to total lot area" and that a basement is not included in the calculation. (Ibid.)

On May 8, 2019, the City held a Joint Study Session to discuss and provide direction on potential zoning changes for single-family homes. (AR 66.) In that session, JKA confirmed residents' opinions that "[h]ouses that maximize the existing zoning envelope and allowable [FAR] are consistently disliked across all neighborhoods." (AR 29.) Members of the Planning Commission and City Council discussed various zoning code amendments, including a reduction of the existing 0.60 FAR standard to 0.50. (AR 169-171.) A staff report states that "the intent of the proposed FAR reduction is to reduce bulk and mass of new structures as a part of overall allowable square footage." (AR 169.)

The City Council and Planning Commission also directed staff to consider how accessory [*7] structures, such as ES garages and ADUs, contribute to lot coverage and FAR. (AR 70.) City Planning staff and JKA held an internal meeting following the joint session where staff members noted that exempting ADUs from FAR calculations "[o]ptically encourages" ADUs. (AR 79.)

Housing Crisis of Act of 2019 (SB 330)

The California legislature has determined that California's housing shortage is "a crisis of historic proportions despite the fact that, for decades, the Legislature has enacted numerous statutes intended to significantly increase the approval, development, and affordability of housing." ([Gov. Code § 65589.5\(a\)\(2\)\(J\)](#).) To address this crisis, the California Legislature enacted Senate Bill 330, the Housing Crisis Act of 2019, codified at *Gov. Code § 66300 et al.* ("SB 330"). As relevant to this case, SB 330 prohibits a local agency from enacting an ordinance that would reduce the "intensity of land use" for a zoning district below what was allowed under zoning ordinances in effect on January 1, 2018.

City's Ordinance Regarding ADUs and JADUs

On January 13, 2020, the City Council had adopted an ordinance regarding accessory dwelling units ("ADUs")

and junior accessory dwelling units ("JADUs"), in compliance with new statutes requiring, [*8] among other things, that ADUs and JADUs not be counted toward FAR. (See *Oppo*, 7:22-26; AR 148-159.) The City's ordinance prohibits ADUs in the Culver Crest overlay zone, but not other hillside areas, due to differing topographic, roadway geometrics, and geologic conditions. (AR 140, 155, 156, 158.)

The City's Planning Commission Adopts Recommendations to the City Council Regarding Amending Development Standards in the R-1 Zone

On January 22, 2020, City staff presented to the City's Planning Commission revised recommendations from JKA for amendments to development standards for the single-family (R-1) residential zone. (AR 160-165, 166-296, 297-306.) The recommendations included:

- Reduce the FAR in single-family neighborhoods from 0.60 to 0.45 (AR 169, 181)
- Exclude detached garages located "entirely behind" the dwelling unit from calculation of FAR (previously all detached garages were excluded from calculation of FAR) (AR 170)
- Increase front and side yard setbacks (AR 171)
- Count double height area twice in calculating FAR, but exclude 250 SF of that area from the calculation (AR 171-172)
- Allow half covered or uncovered parking in rear or sideyard setbacks (AR 172, 188-189)

The Planning [*9] Commission voted to recommend the changes to the City Council as proposed with the exception of the FAR. The Planning Commission recommended, on a 3 to 2 vote, that the FAR be changed to .50 instead of .45. (AR 304, 450-451.)

First Reading of Ordinance by City Council

The City Council held a public hearing on the Planning Commission's recommendation on May 26, 2020, and Ordinance No. 2020-010 ("Ordinance") was introduced. (AR 495-772.) The proposed changes to the development standards, largely in line with prior proposals, are summarized in the staff report for that meeting. (AR 513-516.) Much of the discussion at the meeting centered around whether the FAR should be .50 or .45. (AR 691-692, 742, 750-765.) The City Council decided to set the FAR at .45 and to adopt the other changes in the development standards as

recommended by the Planning Commission. (AR 647-648, 768-770.) Petitioners' Comments

On June 5, 2020, the City received a comment letter regarding the proposed ordinance from Petitioner Sonja Trauss of YIMBY Law. (AR 854-855.) Petitioners asserted that the proposed ordinance, particularly the FAR and setback modifications, would violate *Government Code section 66300* of the Housing Crisis Act of 2019, also [*10] referred to as SB 330. (AR 854.) Among other things, the letter asserts: "The ordinance under consideration would violate [section 66300] in two ways. First, the reduction in permitted floor-area-ratio from .60 to .45 would clearly reduce the intensity of residential use in the affected zones. Second, the changes in the method by which side and front yard setback requirements are applied to buildings of particular heights would also result in a reduction in residential intensity permitted on affected sites." (AR 855.) City Council Adopts the Ordinance

On the July 13, 2020 City Council agenda, the second reading and adoption of the Ordinance was again on the consent calendar. (AR 974 [item C-15].) The staff report concluded the Ordinance is consistent with SB 330, noting that the Ordinance did not reduce the number of units that could be built on a lot, facilitates construction of more units per lot, and overall does not actually decrease the total square footage allowed on a lot. (AR 981-983.) The City Council voted unanimously to approve the Ordinance. (AR 1058, 1075; see AR 1043-1058 [the Ordinance].)

Procedural History

On November 10, 2020, Petitioners filed their petition for writ of mandate pursuant [*11] to [CCP section 1085](#) and complaint for declaratory relief.

On December 8, 2020, Respondents filed an answer.

On April 29, 2021, at a trial setting conference, the court set the writ petition for hearing for February 22, 2022, and set a briefing Schedule.

On December 9, 2021, Petitioners filed their opening brief in support of the petition. The court has received Respondents' opposition, Petitioners' reply, the administrative record, and the joint appendix.

Standard of Review

The petition for writ of mandate is brought pursuant to [CCP section 1085](#). There are two essential

requirements to the issuance of an ordinary writ of mandate under [Code of Civil Procedure section 1085](#): (1) a clear, present, and ministerial duty on the part of the respondent, and (2) a clear, present, and beneficial right on the part of the petitioner to the performance of that duty. ([California Ass'n for Health Services at Home v. Department of Health Services \(2007\) 148 Cal.App.4th 696, 704](#).) "An action in ordinary mandamus is proper where ... the claim is that an agency has failed to act as required by law." ([Id. at 705](#).)

"Normally, mandate will not lie to control a public agency's discretion, that is to say, force the exercise of discretion in a particular manner. However, it will lie to correct abuses of discretion. In determining whether a public agency has abused its discretion, the court may not [*12] substitute its judgment for that of the agency, and if reasonable minds may disagree as to the wisdom of the agency's action, its determination must be upheld. A court must ask whether the public agency's action was arbitrary, capricious, or entirely lacking in evidentiary support, or whether the agency failed to follow the procedure and give the notices the law requires." ([County of Los Angeles v. City of Los Angeles \(2013\) 214 Cal.App.4th 643, 654](#).)

"On questions of law arising in mandate proceedings, [the court] exercise[s] independent judgment.' Interpretation of a statute or regulation is a question of law." ([Christensen v. Lightbourne \(2017\) 15 Cal.App.5th 1239, 1251](#).)

Petitioners bear the burden of proof and persuasion in a mandate proceeding brought under [CCP section 1085](#). ([California Correctional Peace Officers Assn. v. State Personnel Bd. \(1995\) 10 Cal.4th 1133, 1154](#); [Fukuda v. City of Angels \(1999\) 20 Cal. 4th 805, 817](#).)

Analysis

Petitioners contend that SB 330 "prohibits any reduction in FAR," and that the Ordinance plainly violates SB 330 because it reduces the existing FAR for residential properties in the City's R-1 Zone. (Opening Brief ("OB") 9-13.) Respondents interpret SB 330 differently. Respondents contend that *Government Code section 66300*, which codifies SB 330, "does not contain an absolute prohibition on certain changes in development regulations" and "recognizes that development regulations, if read literally and narrowly, may appear to reduce housing density and intensity when [*13] they do not." (Oppo. 4.) As framed, Respondents concede that the Ordinance, "if read literally," appears to reduce

the intensity of land use by reducing the FAR in the RI zone from 0.60 to 0.45. Nonetheless, Respondents contend that the Ordinance does not violate SB 330 because it does not "actually" reduce the maximum buildable square footage in the RI zone and also facilitates the development of ADUs and "housing for lower income households."

The parties raise questions of statutory interpretation. "The rules governing statutory construction are well settled. We begin with the fundamental premise that the objective of statutory interpretation is to ascertain and effectuate legislative intent. [Citations.] To determine legislative intent, we turn first to the words of the statute, giving them their usual and ordinary meaning. [Citations.] When the language of a statute is clear, we need go no further. However, when the language is susceptible of more than one reasonable interpretation, we look to a variety of extrinsic aids, including the ostensible objects to be achieved, the evils to be remedied, the legislative history, public policy, contemporaneous administrative construction, [*14] and the statutory scheme of which the statute is a part." (*Nolan v. City of Anaheim* (2004) 33 Cal.4th 335, 340.)

When interpreting a statute, the court must construe the statute, if possible to achieve harmony among its parts. (*People v. Hall* (1991) 1 Cal. 4th 266, 272; *Legacy Group v. City of Wasco* (2003) 106 Cal.App. 4th 1305, 1313.) "When the legislature has carefully employed a term in one place and has excluded it in another, it should not be implied where excluded." (*Wasatch Property Management v. Degrate* (2005) 35 Cal.4th 1111.)

Respondents' Exhaustion Defense

As a preliminary matter, Respondents argue that Petitioners "did not exhaust administrative remedies as to the claim the Legislature's intent was the creation of larger homes and more bedrooms." (Oppo. 11.) This argument is not persuasive. Exhaustion of administrative remedies is "a jurisdictional prerequisite to judicial review." (*Cal. Water Impact Network v. Newhall County Water Dist.* (2008) 161 Cal.App.4th 1464, 1489.) The petitioner is not required to have brought the precise legal inadequacy that it raises before the trial court to the administrative agency's attention to preserve the issue for judicial review so long as the petitioner fairly apprised the agency of the substance of its claim. (*Save Our Residential Environment v. City of West Hollywood* (1992) 9 Cal.App.4th 1745, 1750.) As applied here, Petitioners

clearly exhausted the pertinent argument that the Ordinance violates SB 330 because the change in FAR would reduce the intensity of residential [*15] use in the affected zone. (AR 854-855; see also AR 857-859, 955-956.) Respondents' exhaustion defense is denied.

SB 330 Generally Prohibits Reductions in FAR for Residential Parcels and Zones In July 2020, when the Ordinance was adopted, *Government Code* section 66300 provided in pertinent part:

(b)(1) Notwithstanding any other law except as provided in *subdivision* (i), with respect to land where housing is an allowable use, an affected county or an affected city shall not enact a development policy, standard, or condition that would have any of the following effects:

(A) Changing the general plan land use designation, specific plan land use designation, or zoning of a parcel or parcels of property to a less intensive use or reducing the intensity of land use within an existing general plan land use designation, specific plan land use designation, or zoning district below what was allowed under the land use designation and zoning ordinances of the affected county or affected city, as applicable, as in effect on January 1, 2018, except as otherwise provided in clause (ii) of subparagraph (B). For purposes of this subparagraph, "less intensive use" includes, but is not limited to, reductions to height, density, or floor area ratio, [*16] new or increased open space or lot size requirements, or new or increased setback requirements, minimum frontage requirements, or maximum lot coverage limitations, or anything that would lessen the intensity of housing.

...[¶]

(f)(1) Except as provided in *paragraphs* (3) and (4) and *subdivisions* (h) and (i), this section shall prevail over any conflicting provision of this title or other law regulating housing development in this state to the extent that this section more fully advances the intent specified in *paragraph* (2). (2) It is the intent of the Legislature that this section be broadly construed so as to maximize the development of housing within this state. Any exception to the requirements of this section, including an exception for the health and safety of occupants of a housing development project, shall be construed narrowly.

(3) This section shall not be construed as prohibiting the adoption or amendment of a development policy, standard, or condition in a manner that:

- (A) Allows greater density.
- (B) Facilitates the development of housing.
- (C) Reduces the costs to a housing development project.

...[¶]

(i)(1) This section does not prohibit an affected county or an affected city from changing a land use designation or zoning ordinance **[*17]** to a less intensive use if the city or county concurrently changes the development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure that there is no net loss in residential capacity.

(See 2019 Cal. Legis. Serv. Ch. 654 (S.B. 330) (WEST) [bold italics added].)

As a preliminary matter, *Section 66300(b)(1)(A)* has been subsequently amended by the Legislature, including amendments enacted by SB 8 that went into effect in January 2022. The parties appear to agree that the court's determination of the legality of the Ordinance should be based on the statute in effect in July 2020. (See OB 9-11 and Oppo. 13-18, discussing 2020 version of *section 66300*.) For purposes of analysis in this tentative ruling, the court, like the parties, focuses on the version of *section 66300* in effect in July 2020, when the Ordinance was adopted. In any event, it appears any relevant amendments to *section 66300* are consistent with the court's interpretation of the July 2020 version set forth below.

Section 66300 defines "development policy, standard, or condition" to include a provision of or an amendment to a zoning ordinance. Here, the Ordinance is a "development policy, standard, or condition" within the meaning of *section 66300* because it amends **[*18]** City's zoning code. (AR 147-153.)

Petitioners contend that the definition of "less intensive use" is clear and unambiguous and shows that SB 330 prohibits "any reduction" in FAR. (OB 10.) For the most part the court agrees. In the version in effect in July 2020, *Section 66300* provided that "less intensive use includes, but is not limited to, reductions to height, density, or floor area ratio." (bold italics added.) When construing a statute, "significance should be given to every word, phrase, sentence and part of an act" (*People v. McCart (1982) 32 Cal.3d 338, 342-343*.) "The ordinary, familiar meaning of 'or' is a delineation of alternatives." (*Kray Cabling Co. v. County of Contra*

Costa (1995) 39 Cal.App.4th 1588, 1593.) The Legislature's use of the word "or" shows that a "less intensive use" includes a reduction in height, density, or floor area ratio, meaning that a reduction in FAR alone constitutes a "less intensive use."

Petitioners appear to contend that the definition of "less intensive use" also applies to the phrase "reducing the intensity of land use" in *section 66300(b)(1)(A)*. (See OB 10:12-18.) Respondents contend that *section 66300* "does not define the terms 'intensity of land use,' [and] 'intensity of housing.'" (Oppo. 14-15.) As noted above, SB 330 included an express definition of "less intensive use." Given the close similarity between **[*19]** the concepts of "less intensive use" and "reducing the intensity of land use," the court agrees with Petitioners that the definition of "less intensive use" is reasonably interpreted also to apply to "intensity of land use." When interpreting a statute, the court must construe the statute, if possible to achieve harmony among its parts. (*People v. Hall (1991) 1 Cal. 4th 266, 272*; *Legacy Group v. City of Wasco (2003) 106 Cal.App. 4th 1305, 1313*.) Respondents develop no reasonable interpretation of the statute under which a "less intensive use" includes a reduction in FAR, while a reduction in the "intensity of land use" does not. The court interprets *section 66300(b)(1)(A)* such that a reduction in "the intensity of land use" may be caused by a reduction in FAR. 1

The parties agree that *section 66300(b)* focuses on the effect of a change in development standards. (See OB 12-13; Oppo. 15:15-16; Reply 5-6.) Here, the Ordinance amended the development standards for the entire RI zone. (See AR 1041-1058.) *Section 66300(b)(1)(A)* provides that "with respect to land where housing is an allowable use, ... an affected city shall not enact a development policy, standard, or condition that would have any of the following effects: (A)... reducing the intensity of land use within an existing ... zoning district below what was allowed under the land use designation **[*20]** and zoning ordinances of the affected county or affected city. as applicable, as in effect on January 1, 2018." (bold italics added.) As discussed below, the pertinent issue here is whether the Ordinance has the effect of reducing FAR in the RI zone to below what was allowed under the City's zoning ordinance in effect on January 1, 2018.

In the title to section III.B of the opposition, Respondents contend that *section 66300* does not "absolutely prohibit" changes in development standards that affect housing density and intensity. (Oppo. 13-15.)

While Respondents cite various provisions from *section 66300*, they provide no legal analysis in support of the assertion made. (See Oppo. 15:1-6.) As presented, this section of Respondents' brief is not persuasive.

Respondents also cite to *section 66300(f)(3)*, which states that *section 66300* "shall not be construed as prohibiting the adoption or amendment of a development policy, standard, or condition in a manner that: (A) Allows greater density. (B) Facilitates the development of

housing. (C) Reduces the costs to a housing development project." (Oppo. 14.)

While the argument is not fully developed by Respondents, the court views some potential ambiguity created by the definition of "less intensive use" [*21] in *section 66300(b)(1)(A)* and the interpretive instruction provided in *section 66300(f)(3)* that *section 66300*. In the abstract, if an amendment to a zoning ordinance had the effect of reducing FAR for residential parcels, but such FAR reduction also had the effect of allowing greater density or facilitating the development of housing, *section 66300(f)(3)* plausibly would suggest that, in such circumstances, a FAR reduction should not be viewed as a "less intensive use." However an arguably more reasonable interpretation is that *section 66300(f)(3)* is a general interpretive provision, not a statutory exemption from the requirements of *section 66300(b)(1)(A)*. In any event, the court does not find this potential ambiguity in *section 66300* to be dispositive in this case for reasons discussed further below.

Respondents contend that "statements of legislative intent make it clear the objective [of SB 330] was increased density – more dwelling units per lot – rather than increased square footage per dwelling unit." Relatedly, Respondents contend that "the Legislature is focused on additional homes, not additional bedrooms." (Oppo. 11.)

Statutes must be considered "in the context of the entire statutory system." (*People v. Woodhead* (1987) 43 Cal. 3d 1002, 1009.) The Legislature "is deemed to be aware of statutes and judicial decisions already in existence, and to [*22] have enacted or amended a statute in light thereof." (*People v. Harrison* (1989) 48 Cal.3d 321, 329.) The Legislature used the term less intensive use rather than density in *section 66300*. For example, the Housing Accountability Act, codified at [Gov. Code § 65589.5 et al.](#), which was amended as part of SB 330, defines "lower density" to include "any conditions that have the same effect or impact on the ability of the

project to provide housing." ([Gov. Code § 65589.5\(h\)\(7\)](#).) If the Legislature had intended for SB 330 to only apply to zoning changes that would lower density, or have the same effect as lowering density, it would have used the term "lower density" in the same manner as in the Housing Accountability Act.

The statements of legislative intent cited by Respondents do suggest that the Legislature was focused in SB 330, to substantial degree, on increasing the housing supply and the number of available housing units in California. (See Oppo. 11, citing AR 1009-1011; see also Resp. RJN Exh. 1 -2.) However, the Legislature has acknowledged that the housing crisis is caused by a variety of factors, including lengthy permitting times, fees, and "excessive standards for housing development projects." ([Gov. Code § 65589.5\(a\)\(1\)\(D\)](#) and [\(2\)\(B\)](#).) As argued by Petitioners in

reply, the statutory language that was eventually [*23] enacted demonstrates that the Legislature intended for *Government Code section 66300(b)* to cast a wide net to prohibit any standard that would potentially lessen the intensity of housing. (Reply 6-7; see Reply RJN Exh. 1, pp. 11-12.) Furthermore, in some circumstances, the development of larger, multi-generational houses instead of adding an ADU could be entirely consistent with the policies set forth in SB 330. (See discussion at OB 15, citing AR 961-962 [resident comment that building an ADU would be cost prohibitive for housing her aging father, and that expanding the main house was the preferred option for her family].)

The Legislature also broadly defined "less intensive use" to include "anything that would lessen the intensity of housing." (§ 66300(b)(1)(A).) *Section 66300(f)(2)* also states, "It is the intent of the Legislature that this section be broadly construed so as to maximize the development of housing within this state." The Legislature has therefore directed that any question of interpretation should land on the side of more protections for housing.

Based on the foregoing, *section 66300(b)(1)(A)* prohibited City from enacting a zoning ordinance that has the effect of reducing the intensity of land use in the RI zone to below what was allowed under the City's [*24] zoning ordinance in effect on January 1, 2018. The court interprets "reducing the intensity of land use" in *section 66300(b)(1)(A)* to include a reduction in FAR for parcels within the applicable zone. Applying this interpretation, the court considers below whether the

Ordinance violated *section 66300(b)(1)(A)*.

Did the Ordinance Reduce FAR in the City's R-1 Zone?

Petitioners contend that the Ordinance effectively reduces FAR for R-1 parcels in violation of *section 66300(b)(1)(A)*. (OB 12-13.) Respondents, in contrast, contend that the Ordinance does not "actually" result in a reduction of "maximum buildable square footage" in the R-1 zone. (Oppo. 15-16.)

In their briefs, the parties do not discuss the standard of review that the court should apply to these arguments. 2 The parties rely primarily on the language of the Ordinance and other undisputed evidence. In this context, the court applies a de novo standard in determining whether the Ordinance violates *section 66300(b)(1)(A)*. However, even if a more deferential standard applies, the court would reach the same result.

Prior to enacting the Ordinance, the existing FAR limit for R-1 parcels in Culver City was 0.60. The Ordinance reduced the FAR for the primary residence from 0.60 to 0.45, a reduction of 0.15

FAR. (AR 169, 1046.) [*25] Thus, unless the definition of FAR materially changed in the Ordinance, it appears that the Ordinance reduced FAR in the R1 zone by about 0.15 (0.60 - 0.45.)

In the opening brief, Petitioners provide calculations suggesting that, including ADUs, the Ordinance reduced the effective or actual FAR for R-1 zones from 0.84 to 0.69, which (like the reduction from 0.60 to 0.45) is a difference of 0.15. (OB 12:3-22.) Petitioners represent, and Respondents do not dispute, that "state ADU law exempts ADUs from FAR regulations and requires the approval of a maximum of one 1,200 square-foot ADU per lot." (OB 12.) Thus, Petitioners calculate the "effective", pre-Ordinance FAR by multiplying 0.60 by the typical lot square footage and then adding a 1,200 square-foot ADU to the FAR calculation. Petitioners calculate the effective, post-Ordinance FAR in the same way, except they substitute 0.45 for 0.60 in the calculation of FAR excluding any ADU or JADU. Petitioners' calculations of effective FAR in the R1 zone before or after the Ordinance are reasonable and support the conclusion that the Ordinance reduced the intensity of land use in the R1 zone. While it is unnecessary for the court to quantify [*26] the reduction in the intensity of land use, Petitioners estimate that the Ordinance could have caused a total reduction in residential capacity of more than 3,000,000 square feet. (See OB 12 and fn. 2.)

Consistent with Petitioners' calculations, Respondents have made certain admissions suggesting that the Ordinance effectively reduced FAR in the R1 Zone. At the Planning Commission meeting held May 26, 2020, City's Planning Manager Michael Allen, stated that without the ordinance, actual "FAR would otherwise be approximately .85." (AR 671.) In their opposition brief, Respondents state that "maximum square footage on a typical 5,000 square foot lot, including areas that were modified to not count towards FAR, such as garages, and ADUs, is 4,250 square feet., which would result in an actual FAR of as much as .70. (AR 666-667; see also AR 981-982.)" (Oppo. 15:26-28.) Respondents appear to include ADUs in the calculation of FAR, but, as discussed below, they do not show with record citation that City's pre-Ordinance law included ADUs in the calculation of FAR. Respondents appear to admit that the Ordinance would reduce effective FAR from about 0.85 to 0.70, or a difference of about 0.15. [*27]

Respondents contend that Petitioners' calculations "ignore[] the fact the Ordinance also made changes in the type of building area included in calculating FAR, with the result being that the amount of square footage that can be built is not impacted by the Ordinance." (Oppo. 15:23-25.) As support for this contention, Respondents suggest that the Ordinance materially changed how City calculates FAR in the R-1 zone with respect to ADUs and JADUs, basements, garages, covered parking, setbacks, staircases, elevators, and other "double height spaces." (Oppo. 15-16, 17-18.)

Changes to FAR Related to Basements, Garages, Covered Parking, Setbacks, and "Double Height Spaces"

Respondents do not show any material changes to the calculation of FAR related to basements, garages, covered parking, setbacks, staircases, elevators, and other "double height spaces." (Oppo. 15-16, 17-18.)

The Ordinance made no changes to how basements are calculated toward FAR. The floor area of basements was excluded from FAR in the pre-Ordinance standards and also in the Ordinance. (See AR 1046-1055.)

Respondents do not cite any material changes to the FAR calculation with respect to covered parking. (Oppo. 15-16.)

The existing [*28] pre-Ordinance standards already exempted detached garages from FAR calculations. (See AR 1046-1055.) The Ordinance restricted this exemption to apply only to detached garages located in

the rear half of the lot. (See AR 1051.) The Ordinance made no change with respect to attached garages, which are included in the FAR in the pre-Ordinance standards and under the Ordinance. (AR 1048, 1051.) Respondents have not cited any evidence that this change in the exemption for detached garages - specifically the inclusion of detached garages in the front half of the lot - shows that the Ordinance did not have the effect of reducing FAR.

As Petitioners note (see Reply 8, fn. 3), the Ordinance does contain one new 200-square-foot exemption for attached, front-facing garages within the Residential Hillside Overlay Zone. (AR 1052.) Petitioners contend in reply that this zone represents a small portion of the total parcels affected by the Ordinance and that ADUs are prohibited in this zone. (See Reply 8, fn. 3.) While Respondents should address that reply contention at the hearing, Petitioners appear to be correct. (See e.g. AR 1052-53, 156-158.) In any event, Respondents do not show, with record [*29] citation, that this minor exemption, which does not apply throughout the R-1 zone, establishes that the Ordinance does not have the effect of reducing FAR in the R-1 zone.

While there were some minor changes to the setback requirements, Respondents do not show that any setback changes are dispositive to the FAR calculation. Previously, the front setback required for a single-story home was 20 feet; that setback is unchanged. (AR 1046.) For two-story homes, the previous requirement was 20 feet for the first story if the second floor were stepped back an additional 5 feet, but 25 feet if the second story was not stepped back. The Ordinance changed that to simply 20 feet for the first story and 25 feet for the second story. (AR 1047.) While presumably this could have some minor impact on the FAR calculation for some two-story homes, Respondents fail to show, with record citation, that this change materially impacts the overall calculation of FAR after the Ordinance.

Respondents state that the Ordinance added a new 250-square-foot exemption for staircases, elevators, and other "double height" spaces. Respondents assert that "Double height spaces such as stairwells and elevator shafts increase [*30] mass but are not living space" and that this new provision "discourages double height spaces." (Oppo. 17-18.) The Ordinance added an exemption to FAR in the RI zone which states that "Interior areas with ceiling heights greater than 14 feet shall be counted twice towards the floor area with the exception that the first 250 square feet of such areas

shall be counted only once towards the floor area." (AR 995, 1051.) In reply, Petitioners cite a red-lined version of City's zoning code section 17.260.040, which was apparently the prior version of the Culver Crest Hillside Overlay amended by the Ordinance. As Petitioners note (see Reply 8), this red-lined document suggests that, prior to the adoption of the Ordinance, City's relevant definition of FAR stated that "Staircases, elevator shafts, and the like, shall be counted as one (1) plane per floor." (AR 996.) The 250-square-foot exemption in the amended FAR definition was intended to discourage the construction of "a grand entry hall with a grand stair in it." (AR 410.) The court agrees with Respondents that the double counting of "double height spaces," except for the 250-foot exemption, seems consistent with the policies of SB 330 to encourage the [*31] development of housing and "living space." However, Respondents fail to show that, when the 250-foot exemption is applied, the double counting of "double height spaces" applies to a meaningful number of houses in City. On this briefing, the court has no basis to conclude that the new 250-square-foot exemption materially impacts the analysis of whether the Ordinance had the effect of reducing the intensity of land use in the RI Zone.

Did the Ordinance Reduce or Change FAR in RI Zone Related to ADUs and JADUs?

Petitioners argue persuasively that the prior 0.60 FAR did not preclude the development of ADUs. (See OB 13-14.) For the typical 5,000 square foot lot, a 0.60 FAR allows for a 3,000 square foot primary residence. In the proceedings below, architectural consultant JKA provided City a diagram showing the "typical massing" for a residence at the existing 0.60 FAR, plus "California's new maximum of 1,200 square feet, exempted from FAR, for an ADU." (AR 296.) This evidence, not rebutted or explained by Respondents, strongly suggests that the pre-Ordinance 0.60 FAR did not preclude homeowners in the RI zone from developing a full-sized ADU on their property.

In their opposition brief, Respondents [*32] acknowledge that, before the Ordinance was passed, state law already prohibited City from counting ADUs and JADUs toward FAR. Respondents further appear to admit that, when the Ordinance was passed in July 2020, City had already amended its municipal code to exempt ADUs and JADUs from FAR. (See Oppo. 7; AR 148-159.) Based on this briefing, it appears that neither the 0.60 FAR in the pre-Ordinance development standards nor the 0.45 FAR in the Ordinance included ADUs or JADUs in the FAR calculation. (See Oppo.

7:22-26; see also AR 148-159 and 1046-1055.) Thus, in their opposition brief, Respondents do not show any material changes to the FAR calculation with respect to ADUs or JADUs. (Oppo. 15-16.)

Subject to argument at the hearing, the court concludes that the Ordinance violates *section 66300(b)(1)(A)* because it has the effect of reducing the intensity of land use in the RI zone to below what was allowed under the City's zoning ordinance in effect on January 1, 2018. Specifically, the Ordinance reduces the intensity of land use because it causes a reduction in the FAR for the RI zone. The reduction in FAR, both as defined in the zoning code and the "actual" or "effective" FAR including an ADU, was about [*33] 0.15. City had admitted that approximately 4,165 residential parcels are subject to the Ordinance. (AR 1133.) Applied across the entire RI zone the reduction in FAR is substantial and clearly shows that the Ordinance reduces the intensity of land use in violation of *section 66300(b)(1)(A)*.

Does the Ordinance "Incentivize" ADUs?; and Does the Ordinance Facilitate the Development of Housing for Lower Income Households and Increase Density?

In the administrative proceedings, City argued that the Ordinance incentivizes ADUs by reducing costs and providing property owners "a potential income source to offset their own housing costs and provide additional housing supply to multigenerational family members." (AR 982.) In their opposition brief here, Respondents similarly argue that the "Ordinance increase[s] the potential for construction of up to three dwelling units on a lot where only one unit could have been built." (Oppo. 12.) Relatedly, Respondents argue that "[a] property owner who wants to maximize square footage can do so by including an ADU or JADU on the property, which doubles density on an R-1 lot, and creates housing for lower income households as contemplated by § 66300(f)(A) and (C) and G)." (Oppo. 18.)

Section 66300(f)(3) states that [*34] *section 66300* "shall not be construed as prohibiting the adoption or amendment of a development policy, standard, or condition in a manner that: (A) Allows greater density. (B) Facilitates the development of housing. (C) Reduces the costs to a housing development project."

Section 66300(j) states: "Notwithstanding *subdivisions (b) and (f)*, this section does not prohibit an affected city or an affected county from enacting a development policy, standard, or condition that is intended to preserve or facilitate the production of housing for lower

income households, as defined in [Section 50079.5 of the Health and Safety Code](#), or housing types that traditionally serve lower income households, including mobilehome parks, single-room occupancy units, or units subject to any form of rent or price control through a public entity's valid exercise of its police power."

The court has concluded above that the Ordinance violates *section 66300(b)(1)(A)* because it has the effect of reducing the intensity of land use in the RI zone because it causes a substantial reduction in FAR. As noted above, and despite the reduction in FAR, there is a potential interpretation of *sections 66300(f)(3) and (j)* under which a reduction in FAR might be permissible if it allowed for greater density, facilitated the development of housing, reduced the costs [*35] to a housing development project, or facilitated the production of housing for lower income households. *section 66300(b)(1)(A)*. As discussed further below, it is unnecessary for the court to resolve this issue of statutory interpretation under the circumstances of this case.

Respondents fail to support their contention that reducing FAR, as defined in City's zoning ordinances, encourages development of ADUs or reduces the costs of building an ADU. As discussed above. Petitioners argue persuasively that the prior 0.60 FAR did not preclude the development of ADUs. (See OB 13-14; see AR 296.) Based on the court's independent review of the record, the court has no reason to believe that the pre-Ordinance 0.60 FAR precluded homeowners in the R1 zone from developing a full-sized ADU (i.e. up to 1,200 square feet) on their property. Because full-sized ADUs could be developed under the pre-Ordinance standards in the RI zone, the FAR reduction cannot be justified on the grounds that it allows greater density or facilitates the development of housing.

Nor does Respondents show that the Ordinance "reduces the costs to a housing development project." (§ 66300(f)(3)(C).) Respondents do not identify any pertinent "housing development [*36] project" or explain how the Ordinance reduced the costs for the project.

Finally, Respondents do not show that the Ordinance falls within the exemption set forth in *section 66300(j)*. This exemption provides a specific list of four instances where a zoning change to a less intensive use is allowed – none of which is applicable to changes intended to facilitate ADUs. ADUs are not restricted as housing for qualified lower income households, are not

mobilehome parks, are not single-room occupancy units, and are not necessarily subject to rent or price control. Respondents have provided no evidence to demonstrate that ADUs within the City qualify as "housing for lower income households" within the meaning of *section 66300(j)*.

Based on the foregoing, Respondents do not show that the Ordinance is permissible under *section 66300(f)(3)* or *(j)*.

Does the Ordinance Effectively Lower Density?

SB 330's definition of "less intensive use" includes a list of specific changes that constitute a less intensive use, such as reductions in density or FAR. However, the definition also provides a catchall provision that includes "anything that would lessen the intensity of housing." (*Gov. Code § 66300(b)(1)(A)*.)

Petitioners contend that the Ordinance effectively lowers density, in violation **[*37]** of *section 66300(b)(1)(A)*, because "definitions were added to prohibit an owner from creating multiple independent living spaces within a single unit, which was entirely permissible prior to the enactment of the ordinance." Specifically, Petitioners contend that the Ordinance added definitions to the term "kitchen" and "dwelling unit" to explicitly prohibit more than one kitchen per unit. (OB 16, citing AR 321-22.) Petitioners contend that the definitions were added to address concerns that "people were building lots of kitchens in units and, in essence, were creating internal apartment buildings...." (OB 16, citing AR 321-22.)

The revised definition of dwelling unit in the Ordinance states that "a dwelling unit shall have no more than one (1) kitchen." (AR 1051.) While perhaps not dispositive on its own, in conjunction with the FAR reduction this limitation on building more than one kitchen in a dwelling unit is an additional factor showing that the Ordinance "lessen[s] the intensity of housing" in violation of SB 330 and *section 66300(b)(1)(A)*. Respondents failed to address this issue in opposition and apparently concede this argument. (See [*Sehulster Tunnels/Pre-Con v. Traylor Brothers, Inc. \(2003\) 111 Cal.App.4th 1328, 1345, fn. 16*](#) [failure to address point is "equivalent to a concession"].)

SB 330 Exemptions

As noted **[*38]** by Petitioners in the opening brief, *Section 66300(i)* provides certain exemptions from *section 66300(b)(1)(A)*. (OB 17.) The most relevant exemption states: "This section does not prohibit an

affected county or an affected city from changing a land use designation or zoning ordinance to a less intensive use if the city or county concurrently changes the development standards, policies, and conditions applicable to other parcels within the jurisdiction to ensure that there is no net loss in residential capacity." (*§ 66300(i)(1)*.) In their opposition brief, Respondents have not argued that any of the exemptions in *section 66300(i)* apply here.

For the reasons stated above, the Ordinance violates *section 66300(b)(1)(A)* because it has the effect of reducing the intensity of land use in the R1 zone to below what was allowed under the City's zoning ordinance in effect on January 1, 2018. Respondents do not show any valid exemptions. Accordingly, the offending provisions of the Ordinance must be set aside.

HDCs Statements Regarding the Ordinance Are Not Entitled to Deference

Respondents contend that "HCD was on notice of the City's Ordinance, both before and after its adoption, and concluded it did not have any issues with the Ordinance's consistency with SB 330. (AR 1122-1130, 1373-1383.)" **[*39]** (Oppo. 16.)

To the extent "purely legal issues involve the interpretation of a statute an administrative agency is responsible for enforcing, [the court] exercise[s] [its] independent judgment, 'taking into account and respecting the agency's interpretation of its meaning.'" ([*Housing Partners I, Inc. v. Duncan \(2012\) 206 Cal.App.4th 1335, 1343*](#).)

The deference owed to an administrative agency's interpretation of a statute "has limits" and depends on the circumstances of each case. ([*Orange Citizens for Parks & Recreation v. Superior Court \(2016\) 2 Cal. 5th 141, 146*](#); see [*American Coatings Assn. v. South Coast Air Quality Management Dist. \(2012\) 54 Cal.4th 446, 461-462*](#).)

In this case, an individual HCD staff member remarked that the ordinance "seems to be inline with SB 330" after she received multiple emails explaining City's position about the alleged validity of the Ordinance. (AR 1123.) This same staff member had previously explained that the Ordinance's consistency with SB 330 was "actually a hard question" because "what it could impact in the number of bedrooms that can be built in a structure, that might trigger the less intensive use provision." (AR 1127.) This staff member's equivocal opinion is not dispositive of HCD's position or the legality of the

ordinance. Nor do Respondents show that HCD had any obligation to review the Ordinance formally at the time of its adoption or that HCD provided any formal opinion on the Ordinance. [*40] In these circumstances, HCD's equivocal and informal opinion in the record is entitled to no deference.

The court schedules a status conference for March 17, 2022, at 1:30 p.m. in Department 82 regarding whether further proceedings with respect to the declaratory relief cause of action are necessary. Counsel are to meet and confer regarding any possible severance.

Counsel for petitioner is to give notice.

FOOTNOTES:

1- Although not dispositive to the court's interpretation of the 2020 version of *section 66300(b)(1)(A)*, the court notes that the 2022 amended version now defines the phrase "reducing the intensity of land use" instead of the phrase "less intensive use." Like the prior definition of "less intensive use," the 2022 version defines "reducing the intensity of land use" to include "reductions to floor area ratio." The amended definition also includes "any other action that would individually or cumulatively reduce the site's residential development capacity." (2021 Cal. Legis. Serv. Ch. 161 (S.B. 8) (WEST).)

2- In violation of Local Rules, Respondents' brief does not include any discussion of the applicable standard of review. (Local Rule 3.231(i).)

PROOF OF SERVICE

Yes In My Back Yard, et al. vs. City of Culver City, [*41] et al.

Case No. 20STCV43253

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of Los Angeles, State of California. My business address is 2361 Rosecrans Ave., Suite 475, El Segundo, CA 90245.

On May 24, 2022, I served true copies of the following document(s) described as **[PROPOSED] JUDGMENT**

GRANTING PETITION FOR WRIT OF MANDATE on the interested parties in this action as follows:

ZACKS, FREEDMAN & PATTERSON, PC

Ryan J. Patterson, Esq.

601 Montgomery Street, Suite 400

San Francisco, CA 94111

Telephone: (415) 956-8100

Fax: (415) 288-9755

E-mail: ryan@zfplaw.com

Attorneys for Petitioner and Plaintiffs YES IN MY BACK YARD SONJA TRAUSS

BY E-MAIL OR ELECTRONIC TRANSMISSION:

Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent from e-mail address cevans@awattorneys.com to the persons at the e-mail addresses listed in the Service List. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury [*42] under the laws of the State of California that the foregoing is true and correct.

Executed on May 24, 2022, at El Segundo, California.

/s/ [Signature]

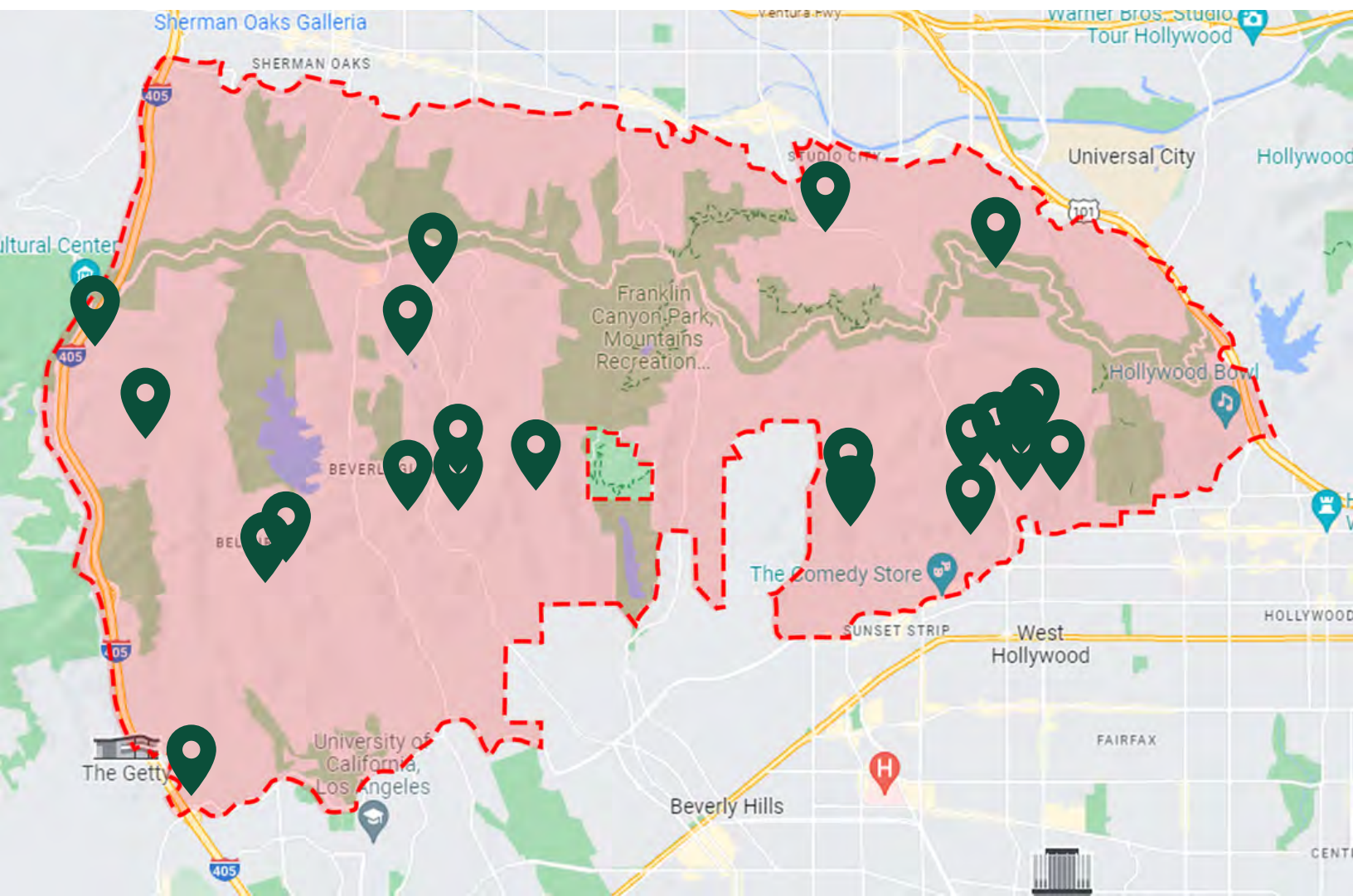
Claire Z. Evans

End of Document

EXHIBIT 7

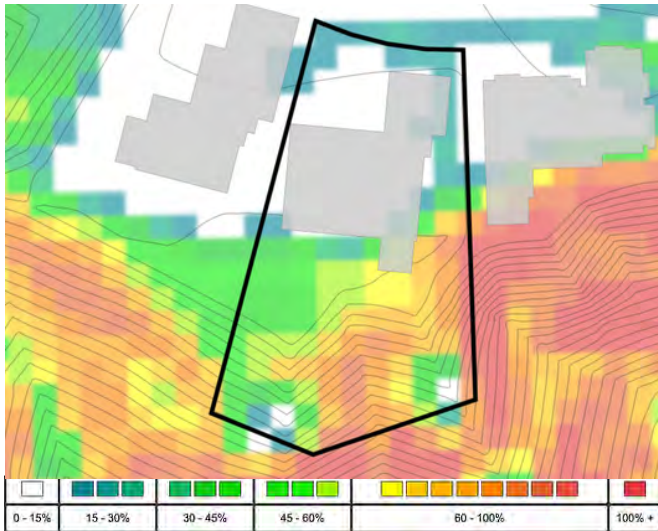
Case Study Examples of Wildlife Ordinance Impacts

The data below was produced with software that analyzed publicly available GIS topographical information to create an estimated slope band analysis in order to (1) determine the maximum residential floor area for these various lots and (2) the estimated basement floor area based on allowable grading quantities for each lot. This data was then adjusted to account for the Wildlife Ordinance's removal of slopes above 60% from the estimated slope band analysis and the basement exemption.



Case Study #1

1760 Stone Canyon Rd, Los Angeles, CA 90077



Lot Size: 14,475 sq. ft.



Existing House Size: 3,819 sq. ft.



Allowable Sq. Ft. under
Existing Code: 7,302 sq. ft.

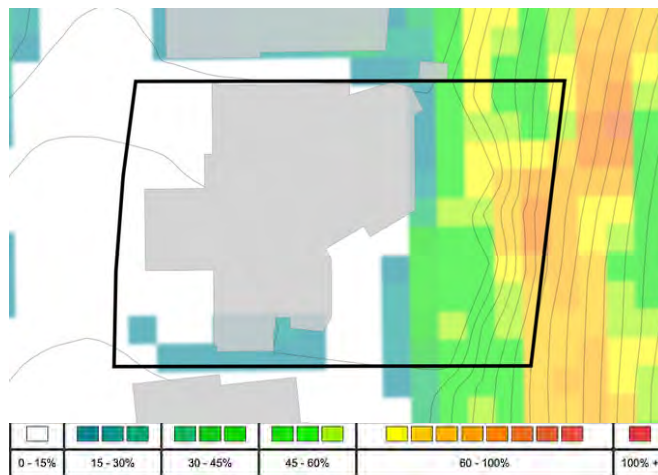


Allowable Sq. Ft. under
Proposed Wildlife Ordinance: 3,197 sq. ft.

**Allowable Sq Ft Reduction under
Proposed Wildlife Ordinance: 56%**

Case Study #2

1564 Tower Grove Dr, Los Angeles, CA 90210



Lot Size: 15,225 sq. ft.



Existing House Size: 3,801 sq. ft.



Allowable Sq. Ft. under
Existing Code: 8,255 sq. ft.

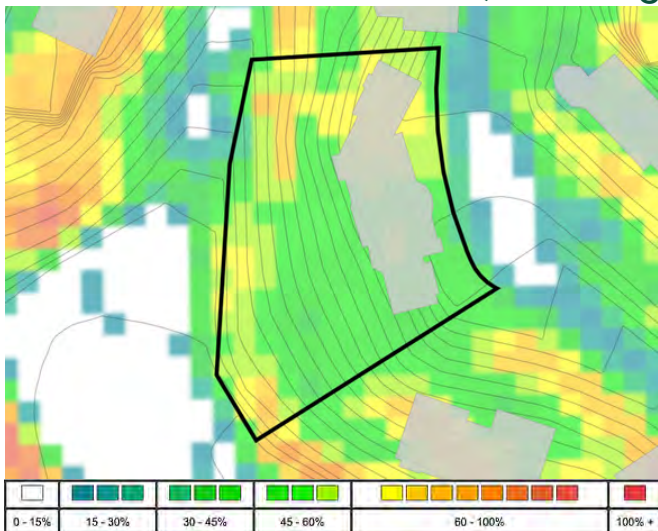


Allowable Sq. Ft. under
Proposed Wildlife Ordinance: 4,357 sq. ft.

**Allowable Sq Ft Reduction under
Proposed Wildlife Ordinance: 47%**

Case Study #3

1345 Tower Grove Dr, Los Angeles, CA 90210



Lot Size: 15,658 sq. ft.



Existing House Size: 3,065 sq. ft.



Allowable Sq. Ft. under
Existing Code: 6,914 sq. ft.

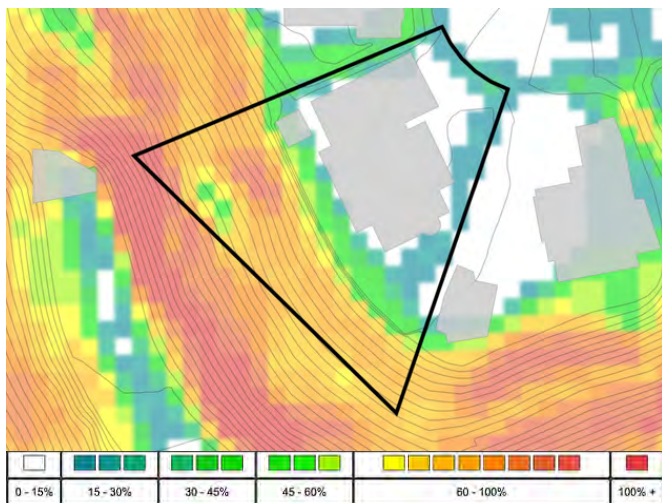


Allowable Sq. Ft. under
Proposed Wildlife Ordinance: 2,948 sq. ft.

**Allowable Sq Ft Reduction under
Proposed Wildlife Ordinance: 57%**

Case Study #4

9286 Nightingale Dr, Los Angeles, CA 90069



Lot Size: 24,347 sq. ft.



Existing House Size: 6,344 sq. ft.



Allowable Sq. Ft. under
Existing Code: 11,287 sq. ft.

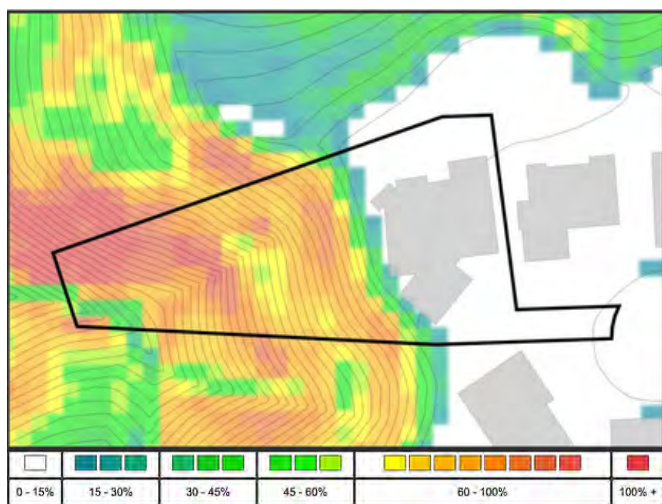


Allowable Sq. Ft. under
Proposed Wildlife Ordinance: 5,587 sq. ft.

**Allowable Sq Ft Reduction under
Proposed Wildlife Ordinance: 51%**

Case Study #5

15523 Casiano Ct, Los Angeles, CA 90077



Lot Size: 29,080 sq. ft.



Existing House Size: 4,738 sq. ft.



Allowable Sq. Ft. under
Existing Code: 11,787 sq. ft.

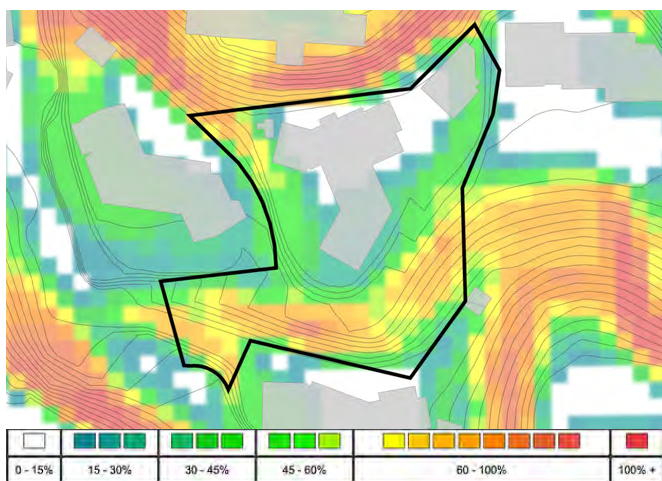


Allowable Sq. Ft. under
Proposed Wildlife Ordinance: 4,277 sq. ft.

**Allowable Sq Ft Reduction under
Proposed Wildlife Ordinance: 64%**

Case Study #6

1898 N Stanley Ave, Los Angeles, CA 90046



Lot Size: 25,033 sq. ft.



Existing House Size: 3,584 sq. ft.



Allowable Sq. Ft. under
Existing Code: 10,744 sq. ft.

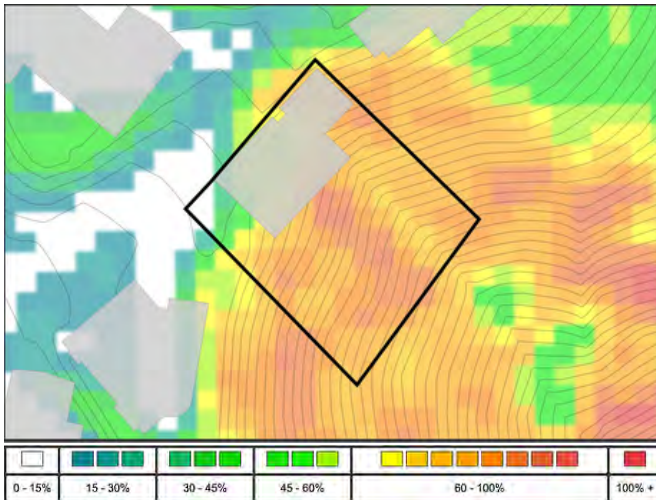


Allowable Sq. Ft. under
Proposed Wildlife Ordinance: 5,381 sq. ft.

**Allowable Sq Ft Reduction under
Proposed Wildlife Ordinance: 50%**

Case Study #7

1550 Blue Jay Way, Los Angeles, CA 90069



Lot Size: 11,923 sq. ft.



Existing House Size: 3,056 sq. ft.



Allowable Sq. Ft. under
Existing Code: 5,446 sq. ft.

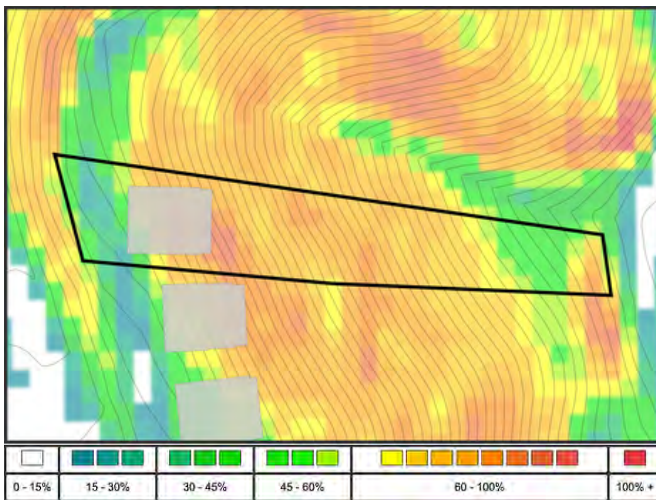


Allowable Sq. Ft. under
Proposed Wildlife Ordinance: 2,146 sq. ft.

**Allowable Sq Ft Reduction under
Proposed Wildlife Ordinance: 61%**

Case Study #8

1368 Angelo Dr, Los Angeles, CA 90210



Lot Size: 14,997 sq. ft.



Existing House Size: 1,709 sq. ft.



Allowable Sq. Ft. under
Existing Code: 5,323 sq. ft.

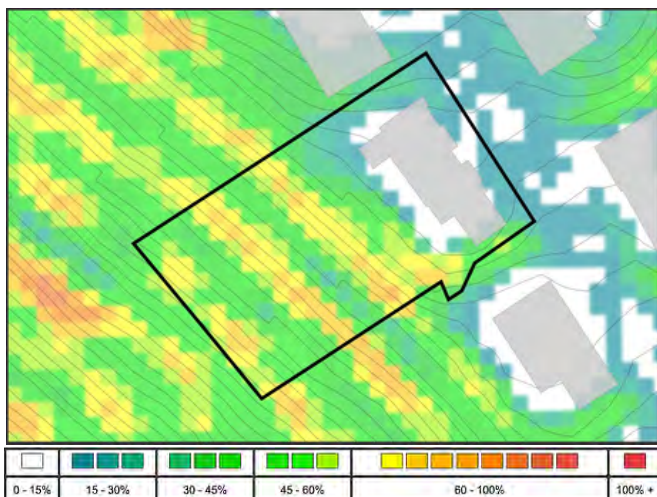


Allowable Sq. Ft. under
Proposed Wildlife Ordinance: 2,699 sq. ft.

**Allowable Sq Ft Reduction under
Proposed Wildlife Ordinance: 49%**

Case Study #9

2129 Hercules Dr, Los Angeles, CA 90046



Lot Size: 27,088 sq. ft.



Existing House Size: 2,378 sq. ft.



Allowable Sq. Ft. under
Existing Code: 11,200 sq. ft.

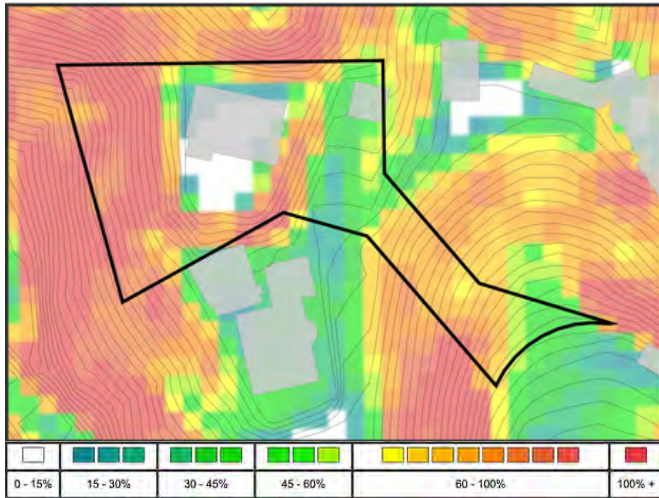


Allowable Sq. Ft. under
Proposed Wildlife Ordinance: 5,700 sq. ft.

**Allowable Sq Ft Reduction under
Proposed Wildlife Ordinance: 49%**

Case Study #10

8573 Franklin Ave, Los Angeles, CA 90069



Lot Size: 20,942 sq. ft.



Existing House Size: 2,124 sq. ft.



Allowable Sq. Ft. under
Existing Code: 8,090 sq. ft.

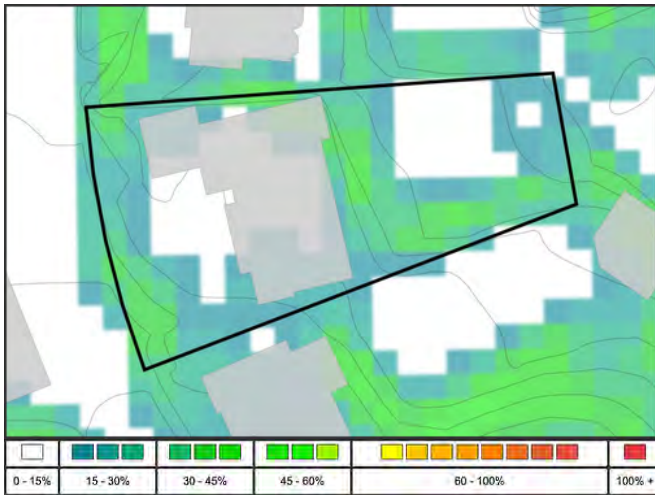


Allowable Sq. Ft. under
Proposed Wildlife Ordinance: 3,770 sq. ft.

**Allowable Sq Ft Reduction under
Proposed Wildlife Ordinance: 53%**

Case Study #11

200 Ashdale Ave, Los Angeles, CA 90049



Lot Size: 15,634 sq. ft.



Existing House Size: 3,782 sq. ft.



Allowable Sq. Ft. under
Existing Code: 8,757 sq. ft.

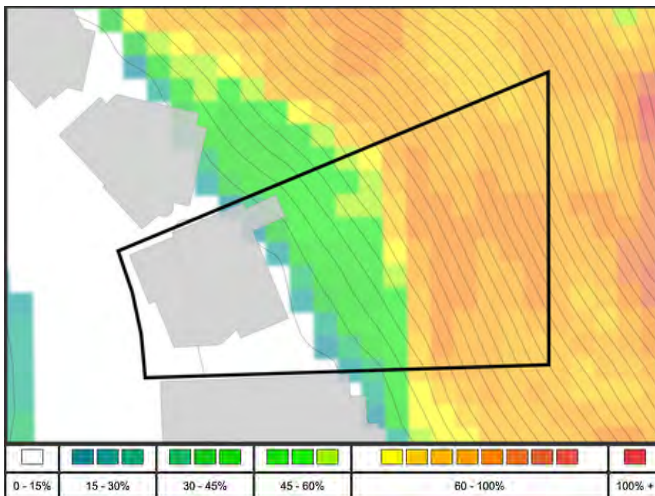


Allowable Sq. Ft. under
Proposed Wildlife Ordinance: 4,757 sq. ft.

**Allowable Sq Ft Reduction under
Proposed Wildlife Ordinance: 46%**

Case Study #12

2014 Hercules Dr, Los Angeles, CA 90046



Lot Size: 16,041 sq. ft.



Existing House Size: 2,870 sq. ft.



Allowable Sq. Ft. under
Existing Code: 6,025 sq. ft.

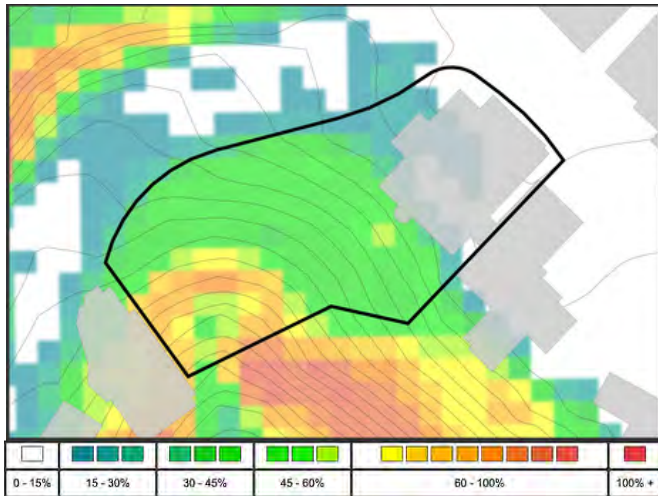


Allowable Sq. Ft. under
Proposed Wildlife Ordinance: 2,806 sq. ft.

**Allowable Sq Ft Reduction under
Proposed Wildlife Ordinance: 53%**

Case Study #13

8228 Bellgave Pl, Los Angeles, CA 90069



Lot Size: 15,431 sq. ft.



Existing House Size: 2,549 sq. ft.



Allowable Sq. Ft. under
Existing Code: 7,000 sq. ft.

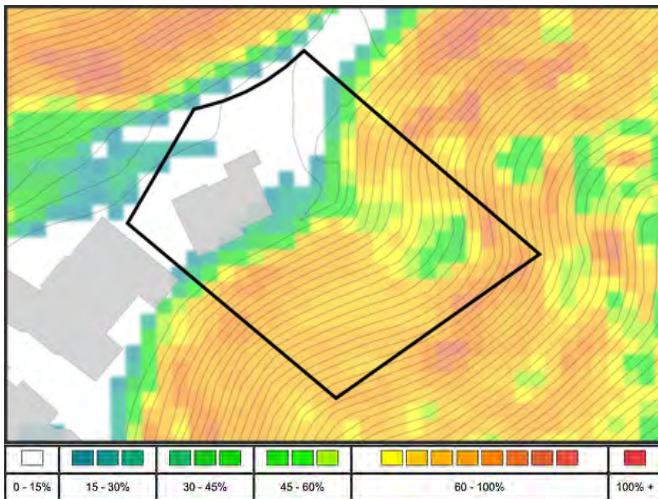


Allowable Sq. Ft. under
Proposed Wildlife Ordinance: 3,735 sq. ft.

**Allowable Sq Ft Reduction under
Proposed Wildlife Ordinance: 46%**

Case Study #14

2300 Astral Dr, Los Angeles, CA 90046



Lot Size: 30,737 sq. ft.



Existing House Size: 2,783 sq. ft.



Allowable Sq. Ft. under
Existing Code: 10,690 sq. ft.

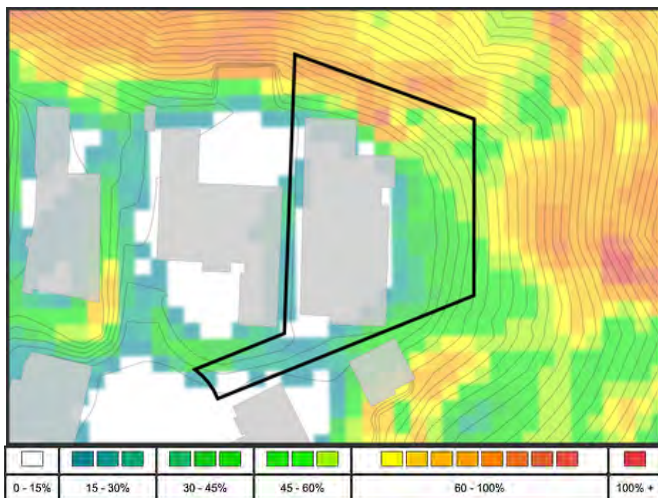


Allowable Sq. Ft. under
Proposed Wildlife Ordinance: 4,710 sq. ft.

**Allowable Sq Ft Reduction under
Proposed Wildlife Ordinance: 55%**

Case Study #15

1470 Laurel Way, Los Angeles, CA 90210



Lot Size: 18,678 sq. ft.



Existing House Size: 3,163 sq. ft.



Allowable Sq. Ft. under
Existing Code: 8,019 sq. ft.



Allowable Sq. Ft. under
Proposed Wildlife Ordinance: 4,738 sq. ft.

**Allowable Sq Ft Reduction under
Proposed Wildlife Ordinance: 41%**