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November 14, 2022

VIA EMAIL

President Millman, and Honorable Members
of the City Planning Commission
Department of City Planning
City of Los Angeles
200 N Spring St.
Los Angeles, CA 90012
E-Mail: CPC@lacity.org

Re: **Comments on the Biology and Scientific Methodology of the Proposed
Wildlife Pilot Study Zone Change Ordinance**
Case No(s). CPC-2022-3413-CA and CPC-2022-3712-ZC
Env. Case No. ENV-2022-3414-CE
City Council File No. 14-0518

Dear Honorable Members of the City Planning Commission:

This office represents *Neighbors for Hillside Safety*, an unincorporated association of homeowners, residents, and stakeholders, who live and work within the proposed Wildlife Ordinance District being considered as part of the City's Wildlife Pilot Study and the associated Wildlife Ordinance District (the "Ordinance").¹ We submit this letter to reiterate several serious concerns and objections our client(s) have with this Ordinance as proposed, and to again express our clients' frustration over the City's decision to "fast track" a sweeping new zone change that impacts tens-of-thousands of homes without performing any environmental analysis.

This follows our previous letters dated August 22, 2022 (providing comprehensive comments to the Ordinance), and November 10, 2022 (focusing on CEQA and Housing Crisis Act issues). The focus of this letter is the flawed foundational science, methodology, and biology upon which the Ordinance is based. In this regard, this office has hired ECORP Consulting, Inc, expert environmental consultants to conduct a detailed analysis of the Ordinance and the cited source materials, and ECORP's summary report is attached hereto as Exhibit 1. The issues raised by ECORP highlight the need for CEQA review, as such an analysis would actually evaluate the real problems impacting wildlife, and provide a scientific basis upon which a measured response can be taken to address those issues. Note that while ECORP's summary findings are attached as

¹ We also represent 9922 LLC, a resident and homeowner within the proposed district, and Ardie Tavangarian, who similarly owns property in the district and is an architect with over 40 years of experience building and remodeling homes in the affected communities.

Exhibit 1, ECORP is continuing to do a thorough analysis of the proposed Ordinance, and plans to provide a more detailed report later in the administrative process (prior to the City Council hearing).

In conjunction with ECORP's analysis, we would like to bring the following issues to the City Planning Commission's attention, as they specifically relate to the biological foundations and scientific methodology used in the creation of the Ordinance:

1. **The Ordinance Does Not Achieve its Stated Purpose:** The Staff Report explains that PAWs are not well connected, which is why Wildlife Movement Pathways ("WMP") are necessary. (Staff Report, Appendix 1-6.) However, a closer read reveals that the Ordinance will not actually do a good job of connecting different PAWs, but rather, the "greatest potential for regional movement within the City is within the PAWs themselves" (Staff Report, Appendix 2-109, 110, 111.) The staff report goes on to admit: "Unlike true wildlife corridors, which consist of pieces of habitat connecting larger extensive core habitat patches, the majority of wildlife movement opportunities throughout the City consist of smaller constrained movement pathways many of which contain limited marginal (i.e., low quality) habitat or even some developed areas (e.g., road crossings) connecting PAWs or fragments of PAWs. Thus, the term Wildlife Movement Pathways (WMPs) is used to characterize these likely pathways that are not traditional wildlife corridors, rather they are constrained urban wildlife passage opportunities." In other words, what the City is selling to the public as a wildlife corridor ordinance is actually (and admittedly) nothing of the sort. (Staff Report, Appendix 2-109, 110, 111, 115, 124.)
2. **Bringing More Wildlife to Residential Areas Causes Problems for Both Humans and Wildlife:** The question of whether it is wise in the first place to have a wildlife corridor placed over a densely populated urban area has not been appropriately debated and addressed. Is it a good idea to encourage bringing more wildlife to this residential area? That would lead to more mixing of humans and wildlife, which is advisable to avoid as much as possible. A wildlife corridor ordinance could potentially work and be effective in rural areas where agriculture and open space is prevalent (like in Ventura County). But in this area that is entirely surrounded by major roads and freeways, it is simply inviting more problems. In this regard, the ESA Report relies heavily on a 2008 study from Northern Arizona University.² The study states: "Unlike road barriers (which can be modified with fencing and crossing structures), urban and industrial developments create barriers to movement which cannot easily be removed, restored, or otherwise mitigated. ...**Avoidance is the best way to manage urban impacts in a wildlife linkage.** Although some lizards and small mammals occupy residential areas, **most large carnivores, small mammals, and reptiles cannot occupy or even move through urban areas.** While mapped urban areas currently accounts for less than 1% of the land cover, residential development may increase rapidly in parts of the Linkage Design." Thus, the City's own science does not support the idea of turning existing developed urban areas into wildlife

² Paul Beier, Dan Majka, Shawn Newell, Emily Garding, Northern Arizona University January 2008, "Best Management Practices for Wildlife Corridors"; available at: <https://www.cbd.int/doc/pa/tools/Best%20management%20practices%20for%20wildlife%20corridors.pdf>

areas, since “most large carnivores, small mammals, and reptiles cannot occupy or even move through urban areas.”

3. **The Ordinance Deviates Substantially from the Recommendations Listed in the ESA Report:** The ESA Report, and the source documents referenced therein, provide the scientific and biological foundation for all of the zoning regulations that were later incorporated into the Ordinance. This ESA Report contains a detailed analysis of all of the proposed PAW and WMP zones, and scientifically justifies their designation. Importantly, the ESA Report also includes an entire section devoted to guiding the City staff in its drafting of the ordinance, entitled "Recommendations to Inform Policy and Planning." (Staff Report, Appendix 2-176 to 2-196.) Notably, the policy recommendations include only the following nine categories (several of which, like poison/traffic, are not addressed in the Ordinance at all), and to the extent that the Ordinance regulates things outside of this list (such as building height and FAR), those are not grounded in scientific reality:
 - Setback and Buffers from open spaces and natural resource areas
 - Fencing and Physical Barriers
 - Vegetation, Landscaping (and Brush Management)
 - Lighting
 - Windows
 - Noise
 - Poison
 - Traffic
 - Education
4. **No Nexus Between Floor Area Restrictions and Wildlife Protection:** There has been no explanation for how or why calculating basements as part of the floor area will help wildlife. The footprint of the building and the lot coverage is what actually matters with respect to wildlife movement and corridors. If there is additional hidden square footage in a basement that does not impact the overall footprint of the building, there is no nexus to how or why wildlife would be impacted. Lot coverage is the more relevant measurement. (See Staff Report, A-16.)
5. **No Nexus Between Height and Wildlife Protection:** The only explanation provided in the staff report for why height is important for wildlife movement is impacts to birds. (See Staff Report, A-22.) However, no scientific data was provided to support the fact that building height actually makes any difference for birds (or any other wildlife, for that matter). The regulations related to glass are sufficient to protect birds.
6. **Disproportionate Impacts on Smaller Lots:** The staff report acknowledges that the Ordinance has a disproportionate impact on smaller lots. All lots under 6,000 SF should be exempted from all aspects of the Ordinance.
7. **Resource Maps Violate Due Process:** The Ordinance acknowledges that there are "unmapped Resources" that are subject to further regulations, that there is conflicting and flawed resource data. This is a violation of due process, as there are property owners within the Wildlife District who would not have been notified that their properties are subject to these regulations until they are already in the process of developing their properties. In order to avoid a violation of due process, the City must make clear from the outset all of the "Wildlife Resources" that are

covered by the Ordinance in advance, and all of the parcels that can be effected by them. This cannot be left to a future reviewer to determine whether such resources exist on site. This has to be done now, or it violates the due process rights of all property owners whose properties contain these features, but are not identified on the relevant maps at the time the Ordinance is adopted. Also, there is no express ability to appeal a resource determination on individual parcels. An administrative appeal right must be added. (*See Staff Report, A-38-39, 43.*)

8. **Director Ability to Modify Resource Maps Violates Due Process:** The proposed revision to LAMC Section 12.03 notes that the Ridgeline Map is "adopted and maintained by the Director of Planning." However, this implies that the Director of Planning has the ability to make modifications to the maps at any time, and without any notice or opportunity to be heard. In other words, properties that are not currently subject to certain restrictions within the Ordinance because they are not close to a Ridgeline, can be made subject to those restrictions on the whim of the Director of Planning, and the effected property owners would not have notice or an opportunity to be heard regarding those changes, as the Ordinance is currently written. Any changes to the maps must be made now, and the Ordinance must have final maps that are incorporated into the terms of the Ordinance. The Director of Planning cannot have the ability to unilaterally make changes to the maps without notice and a hearing for those properties being impacted by the changes. Otherwise, the Ordinance violates the due process rights of all property owners whose properties contain these features, but are not identified on the relevant maps at the time the Ordinance is adopted. (*See Staff Report, A-38-39, 43.*)
9. **More effective, and less impactful measures are readily available:** The real problems for wildlife are car collisions and rodenticide. The City could achieve its goals of protecting wildlife and promoting biodiversity more effectively if it just 1) banned rodenticide products, and 2) implemented road modifications (such as signage to warn drivers about wildlife, and striping and/or speed bumps to keep speed down) to keep drivers alert, and to keep their driving speeds lower, so as to promote the ability to evade wildlife collisions. Such measures would likely be substantially more effective in achieving the goal of protecting wildlife, and at the same time, would be much less impactful on homeowners and the environment. (*See Staff Report, Appendix 1-10 [admission that freeway overpasses were not considered]*). Ancillary zoning restrictions will not solve the problems that are actually caused by the Freeways. (*See Staff Report, Appendix 2-19 [roadkill map].*)

Very truly yours,



BENJAMIN M. REZNIK of
Jeffer Mangels Butler & Mitchell LLP

EXHIBIT 1



November 14, 2022
(2022-259)

Mr. Seena Max Samimi
Jeffer Mangels Butler & Mitchell LLP
1900 Avenue of the Stars, 7th Floor
Los Angeles, CA 90067

Subject: Brief Biological Review of the City of Los Angeles' Proposed Revised Wildlife Ordinance

Dear Mr. Samimi:

ECORP Consulting, Inc. (ECORP) is pleased to provide a brief biological review of the proposed City of Los Angeles (City) Revised Wildlife Ordinance (Ordinance). The focus of this review includes a brief analysis of how the proposed Ordinance, as currently written, is not likely to achieve its stated purpose and that wildlife may actually be harmed or killed more frequently because they would be drawn to using areas within and around areas of dense human population. The Protected Areas for Wildlife and Wildlife Movement Pathways (ESA 2021) and The Missing Linkages: Restoring Connectivity to the California Landscape (Penrod et. al 2001) reports both document that dense human population, urban development, high-trafficked roads/freeways, anthropogenic disturbances, and fragmented and limited amounts of wildlife habitat are present in the Wildlife District.

- The City has presented no scientific evidence or data supporting the idea that implementing the Ordinance and associated WMPs in such a restrictive area with little available wildlife habitat would have any direct benefit to wildlife or are even effective at achieving the goals of the Ordinance.
- The City has not provided any scientific evidence that micromanagement of wildlife movement in small, constrained, and fragmented habitat areas benefits the population of local native wildlife.
- There is no justification that Ordinance restrictions related to reductions in building height, grading, residential floor area, and lot coverage would improve wildlife habitat and connectivity.

The Ordinance would draw wildlife to residential areas, dramatically increasing wildlife collisions with vehicles and interactions between wildlife and humans and their domestic pets. The Ordinance's intent is to provide habitat for medium and large mammal species to support occupation and movement in and around residential areas. Conflicts between wildlife and humans and their domestic pets will increase if medium and large mammals are given an enhanced opportunity to occupy and travel through existing residential areas.

- The City has provided no justification that wildlife, especially medium and large mammal species, would be protected or buffered from vehicle collisions occurring on the major freeways and busy roads within the Wildlife District. There is no analysis in the Ordinance on the safety of humans in such wildlife-vehicle collisions.
- Native vegetation planted within and around residences supports prey-sized wildlife for medium and large sized predators and undesirable reptiles, such as rattlesnakes. The ultimate outcome from wildlife interactions with humans and domestic pets will be the removal, injury, or killing of nuisance wildlife, exactly the opposite of the goals of the Ordinance. The City provides no scientific research or data that support the idea that attracting wildlife in and through residential properties would not result in deleterious wildlife-human/domestic pet interactions.
- Interactions between wildlife and domesticated animals promote transmission of disease and parasites; some zoonotic diseases are communicable to humans. The City has provided no analysis regarding impacts resulting from the Ordinance related to disease and parasite transmission between and domestic animals or humans.

The Ordinance is unjustified in associating the regulations outlined in the Ordinance with improving wildlife movement and connectivity of wildlife habitat. Limiting the development envelope to encourage wildlife to move between homes, particularly for small lots or in areas where homes are relatively close together, will put wildlife in harm's way and will increase the probability of human/wildlife and domestic pet/wildlife interactions. In addition, requiring landscaping with native plants will most likely draw additional wildlife species into areas near homes that would not typically utilize yards landscaped with ornamental plants. If the population of small prey animals increases near or between homes, the number of predators will also increase, which will also raise the probability of undesirable interactions between humans and domestic pets with wildlife. The result will most likely be complaints about nuisance wildlife species and the ultimate removal or killing of wildlife species from residential areas, which is counter to the City's goal of preserving wildlife and increasing wildlife populations in the Wildlife District. If you have any questions regarding this summary letter, please contact me at mquillman@ecorpc consulting.com.

Sincerely,

ECORP Consulting, Inc.



Mari Quillman
Program Manager



Kristen (Mobraaten) Wasz
Biology Manager/Senior Biologist