JMBM Jeffer Mangels Butler & Mitchell LLP

jmbm.com

1900 Avenue of the Stars, 7th Floor
Los Angeles, California 90067-4308
(310) 203-8080 (310) 203-0567 Fax
www.jmbm.com

November 9, 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 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.

While we appreciate the City's effort to address some of our clients' concerns with the prior draft of the Ordinance, such as the elimination of the fencing requirements, two of the most important issues we have raised have yet to be addressed. First, the City continues to refuse to conduct any CEQA review for a project that spans over 20,000 acres and makes significant zoning changes that have the potential to impact the environment. Instead, the City has doubled-down on its view that the Ordinance qualifies for inapplicable CEQA exemptions. Second, the Ordinance violates the Housing Crisis Act (SB 330), and in its most recent staff report, the City has openly acknowledged this violation. As such, this letter incorporates the relevant CEQA and Housing Crisis Act

[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.

comments from our prior August 22, 2022 letter (attached hereto as Exhibit 1), and urges the City to take these issues seriously, because if they are not addressed here in the administrative phase of this Ordinance, they will need to be addressed by the Courts. Specifically, this letter addresses the following issues:

(i) **Violation of CEQA due to Failure to Conduct Environmental Review.** The City's claim that the ordinance qualifies under several exemptions to CEQA are flawed. The City's claimed exemptions (Classes 7-8, and the "common sense" exemption) are inapplicable, and moreover, the CEQA Guidelines do indeed include an exemption for habitat restoration projects (Class 33 exemption), but that exemption is limited to projects that are 5 acres or less. Because this project spans over 20,000 acres, it obviously cannot qualify for the Class 33 exemption, and the City's attempt to pigeonhole this ordinance into other inapplicable exemptions will fail. The Ordinance also violates CEQA's project-splitting prohibition, and fails to evaluate the cumulative impacts of the Ordinance. The City must conduct an EIR to properly analyze the environmental impacts of this ordinance.

(ii) **Violation of the Housing Crisis Act due to Reduction in Residential Capacity.** The Housing Crisis Act prohibits any reduction of density without ***concurrent*** changes in development standards in other areas to ensure that there is no net loss in residential capacity. The City has openly admitted that there is no "concurrent" City action to up-zone other areas of the City, and therefore, this ordinance cannot be passed until the City has done so.

We urge the City to reconsider moving forward with the Ordinance in its current form without first 1) preparing an EIR that considers the Ordinance's impacts on the environment, and 2) complying with the Housing Crisis Act by concurrently (*i.e.*, on the same timeline as this Ordinance) changing the development standards on parcels elsewhere in the City to ensure no loss of residential capacity.

Notably, although we have outlined two of our main concerns with the Ordinance here, we will be submitting a second comment letter that addresses, among other things, the issues with the science and biology of the Ordinance, which will be accompanied by a report from expert environmental consultants.

I. THE ORDINANCE DOES NOT COMPLY WITH CEQA

Our August 22, 2022 letter sets forth in detail the reasons why the City's claimed exemptions – Classes 7 and 8, and the common sense exemption – are inapplicable. There, we explained that 1) CEQA must be conducted at the earliest feasible point in the planning process, 2) that other similar projects in other jurisdictions (*e.g.*, Riverside County, San Diego County, Orange County, Los Angeles County) underwent CEQA review, 3) that the Class 7-8 exemptions claimed by the City are inapplicable on their own terms, because the Ordinance does not "assure the maintenance, restoration, or enhancement" of the environment or natural resources, 4) that the Class 7-8

exemptions are inapplicable because of "unusual circumstances" such as fire hazards, topography, seismicity, and grading, and 5) that a negative declaration would be inappropriate for the Ordinance, as substantial evidence supports a fair argument that a significant environmental impact would occur.

This letter sets forth three additional reasons why the Ordinance violates CEQA: 1) the City has chosen the wrong CEQA Exemption, 2) the Ordinance violates CEQA's prohibition on project-splitting, and 3) the City has failed to analyze the cumulative impacts of similar wildlife-protection regulations throughout Southern California.

A. The City has Attempted to use Inapplicable Categorical Exemptions, While Ignoring the One Exemption that is On Point, but for which the Ordinance Does Not Qualify

There is a direct reason why the City's claimed categorical exemptions do not apply here: ***it has chosen the wrong categorical exemption for the Ordinance***. There is another exemption – Class 33 (CEQA Guidelines § 15333, Small Habitat Restoration Projects) – that is directly on point for wildlife corridors, but due to the massive geographic size of the Ordinance, it fails to qualify under Class 33, which limits the exemption to projects less than five acres in size.

"A categorical exemption can be relied on only if a factual evaluation of the agency's proposed activity reveals that it applies. The agency invoking the categorical exemption has the burden of demonstrating that substantial evidence supports its factual finding that the project fell within the exemption." (*Save Our Big Trees v. City of Santa Cruz* (2015) 241 Cal.App.4th 694, 705, *internal marks and cites removed; citing, Muzzy Ranch Co. v. Solano County Airport Land Use Com*. (2007) 41 Cal.4th 372, 386.) Entirely absent from the City's analysis of applicable CEQA exemptions is any discussion of the Class 33 exemption, which provides as follows:

> § 15333. Small Habitat Restoration Projects.
>
> Class 33 consists of projects **not to exceed five acres in size to assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife**…
>
> (d) Examples of small restoration projects may include, but are not limited to:
>
> (1) revegetation of disturbed areas with native plant species;
>
> (2) wetland restoration, the primary purpose of which is to improve conditions for waterfowl or other species that rely on wetland habitat;
>
> (3) stream or river bank revegetation, the primary purpose of which is to improve habitat for amphibians or native fish;

> (4) projects to restore or enhance habitat that are carried out principally with hand labor and not mechanized equipment.
>
> (5) stream or river bank stabilization with native vegetation or other bioengineering techniques, the primary purpose of which is to reduce or eliminate erosion and sedimentation… (CEQA Guidelines § 15333.)

The Class 33 categorical exemption is thus directly on point for an Ordinance that purports to "maintain, restore, enhance, or protect" "habitats" for "wildlife." (*Id*.) The Ordinance's plain terms and main purpose fall most directly under the purview of Class 33, in the sense that the exemption itself directly discusses protection of wildlife habitats, and addresses issues that are dealt with head-on in the Ordinance, such as the promotion of native plant species over invasive species, and restoration of wetlands, streams, and rivers. Indeed, the word "restoration" (in its various forms) appears in the staff report no less than 130 times, the word "habitat" appears at least 740 times, and the word "wildlife" over 1650 times.

The City admits, time and again, that restoration of habitat is front and center in the Ordinance:

> Future development will continue to put pressure on these limited remaining natural resource areas within the City, and wildlife will be forced to survive on fewer habitat areas and resources, which will continue to threaten the biodiversity remaining within the City. One of the City's Conservation Element objectives is to "preserve, protect, restore and enhance natural plant and wildlife diversity, habitats, corridors and linkages so as to enable the healthy propagation and survival of native species, especially those species that are endangered, sensitive, threatened or species of special concern." The City is committed to conserving natural habitat areas and provide connectivity for wildlife.

(Staff Report, 2-7.)

Also, the City does not even deny that the Ordinance is a project that is specifically designed to "***assure the maintenance, restoration, enhancement, or protection of habitat for fish, plants, or wildlife***"—*i.e.,* the activity class that is the subject of the Class 33 exemption. (CEQA Guidelines Section 15333.) In fact, the City acknowledges that the purpose of the Ordinance is just that: "The proposed Wildlife District Ordinance has a critical goal of protecting habitat and wildlife connectivity in the hillsides and is supportive of related goals for open space management…and maintaining overall quality of life for both people and wildlife. The Ordinance aims to reduce cumulative development impacts on plants, animals and natural resources for supporting wildlife connectivity while providing co-benefits related to climate resilience and public health."

However, there is a reason that such an exemption was designed by the Resources Agency to be limited to projects of "five acres" or less. When the Resources Agency contemplated this exemption for wildlife corridors, it established a five acre limit, presumably because it cannot make similar assumptions regarding environmental impacts for larger projects. In *Davidon Homes*

v. City of San Jose (1997) 54 Cal.App.4th 106, the court went to great lengths to explain that significant thought and consideration went into the identification of each of the categorical exemptions that are identified in the CEQA Guidelines. (*Davidon,* 54 Cal.App.4th at 116.) The term "categorical exemption" in CEQA Guidelines "means an exemption from CEQA for a class of projects based on a finding by the Secretary for Resources that the class of projects does not have a significant effect on the environment." (CEQA Guidelines § 15354.) Put differently, when the Resources Agency decided that this "class of projects" specifically relating to protection of wildlife was a class that is exempt from CEQA, it did so with the precise caveat that such projects must be limited to less than five acres. (CEQA Guidelines § 15333.) There is an implied finding within the Class 33 exemption that similar, but larger, projects are not automatically categorically exempt from CEQA, precisely because the Secretary for Resources is unable make a finding that such projects do "not have a significant effect on the environment." (CEQA Guidelines § 15333, 15354.)

In contrast to the Class 33 exemption, the Class 7-8 exemptions lack the specificity and direct applicability to wildlife corridors. Classes 7-8 cover regulatory actions to assure the maintenance, restoration, or enhancement of a natural resource (Class 7) and/or the maintenance, restoration, enhancement, or protection of the environment (Class 8). (CEQA Guidelines §§15307, 15308.)

In interpreting a statute, courts ascertain the underlying intent of the regulations "so as to effect the purpose of the law." (*City of Berkeley v. Cukierman* (1993) 14 Cal.App.4th 1331, 1338-39.) This includes various provisions within a comprehensive regulatory scheme. (*O'Brien v. Dudenhoeffer* (1993) 16 Cal.App.4th 327, 332 ["A statute must be construed in the context of the entire statutory scheme of which it is a part, in order to achieve harmony among its parts."] [*internal marks removed*].) "It is a settled axiom of statutory construction that significance should be attributed to every word and phrase of a statute, and a construction making some words surplusage should be avoided. (*People v. Woodhead* (1987) 43 Cal.3d 1002, 1010, *citing Moyer v. Workmen's Comp. Appeals Bd.* (1973) 10 Cal.3d 222, 230.) A statute is to be taken and considered as a whole, so that seeming inconsistencies are reconciled and that it is construed to give force and effect to all its provisions. (*Neuwald v. Brock* (1939) 12 Cal.2d 662, 668-69; Code of Civil Procedure § 1858.) In addition, "particular intent will control a general one." (Code of Civil Procedure § 1859; *In Re Haines* (1925) 195 Cal. 605, 613.)

In light of these canons of statutory interpretation, the three relevant CEQA exemptions (Classes 7, 8, and 33) should be interpreted in a way that gives effect to each of them, and the specific provisions should control over the general ones. If Classes 7 and 8 were meant to cover projects related to wildlife protection and habitat preservation, then there would be no need for the Class 33 exemption – it would be surplusage. Put differently, the Class 33 exemption would be rendered entirely meaningless and superfluous if any habitat enhancement project over five acres could be deemed exempt under Class 7 or 8. If that was a possibility, then why did the Resources Agency adopt Class 33 at all? Under the City's interpretation of the Class 7-8 exemptions, Class 33 exemptions would be mere surplusage. The Resources Agency would have no need to implement Class 33 if those activities were already covered by Classes 7-8. But it did. As such, Class 33, the exemption specifically drafted by the legislature to deal with habitat restoration projects, must be

given its intended meaning. If the size of the Ordinance kicks it out of the Class 33 exemption, then CEQA review must be conducted.

Another issue specified in the most recent staff report underlines the importance of CEQA review in this matter. The City lists a host of other jurisdictions that passed similar habitat restoration regulations, but fails to inform the public that most of those jurisdictions did in fact undergo CEQA review for their projects. (Staff Report, A-13.) The City instead focuses on the wildlife corridor ordinance passed in Ventura County (one of the few jurisdictions that used a CEQA Exemption to avoid environmental review), which covers mostly rural areas of the County that bear little resemblance to the densely populated urban areas that are the subject of the City's Ordinance. Also, it should be noted that after receiving comments through the administrative process, the industries that were most effected by Ventura County's ordinance (*e.g.*, agriculture, mining) were granted significant exemptions that largely allowed them to continue operations. There is no real equivalent to those exemptions here (unless the Ordinance had a blanket exemption for all residential properties), because the Ordinance mainly impacts residential areas. Also, the Ventura County ordinance is currently being challenged on appeal, so it has no precedential value relating to its CEQA exemption.

In short, Class 33 is the only applicable exemption to the Ordinance, and the Ordinance plainly does not qualify for it. The City cannot try to squeeze itself into other more broad exemptions (Classes 7-8, common sense) when it is unable to comply with the applicable Class 33 exemption – namely because the Ordinance covers over 20,000 acres of land, which is orders of magnitude greater than five.

B. The Splitting of the "Pilot" Area from the Rest of the Ordinance Constitutes Improper Project Splitting in Violation of CEQA

The City admits that this Ordinance is a test case for other areas of the City that will eventually also be subject to similar restrictions. (Staff Report, A-15, Ex. F-7.) If this area is to be used as a pilot or test area, why then, would the City attempt to avoid CEQA review that would properly evaluate all of the environmental impacts of the regulations? If anything, the fact that this area is a test only further supports our view that a thorough environmental review is needed.

"Project splitting," "piecemealing," or "segmentation," occurs when a project description does not encompass the entire project. The duty to evaluate the environmental effects of a project cannot be avoided by limiting the description of the project. *Rural Land Owners Association v. Lodi City Council* (1983) 143 Cal.App.3d 1013, 1025. Rather, CEQA requires that a project description must include all relevant aspects of a project, including reasonably foreseeable future activities that are part of the project. *Laurel Heights Improvement Assn. v. Regents of the University of California* (1988) 47 Cal. 3d 376, 396. An agency abuses discretion by failing to proceed in the manner required by law if its action or decision does not substantially comply with the requirements of CEQA. PRC 21168, 21168.5.

A project description that fails to account for anticipated development activities is counter to CEQA's mandate "that environmental considerations do not become submerged by chopping a

large project into many little ones – each with a minimal potential impact on the environment – which cumulatively may have disastrous consequences." *Bozung v. Local Agency Formation Comm'n.* (1975) 13 Cal. 3d 263, 283-84. As the court in *Santiago County Water Dist. v. County of Orange*, 118 Cal.App.3d 818, 828-30 (1981), observed, piecemealed environmental review undermines CEQA's central purpose:

> "Because of th[e] omission [of a key part of the project from the County's environmental review], some important ramifications of the proposed project remained hidden from view at the time the project was being discussed and approved. This frustrates one of the core goals of CEQA. 'Only through an accurate view of the project may affected outsiders and public decision-makers balance the proposal's benefit against its environmental cost, consider mitigation measures, assess the advantage of terminating the proposal . . . and weigh other alternatives in the balance. An accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIR.'" *Id*. (quoting *County of Inyo v. City of Los Angeles*, 71 Cal.App.3d 185, 192-93 (1977)).

CEQA does not allow an agency to review one part of a larger project in isolation. Instead, CEQA mandates that environmental review focus on the "whole of the action," so the true effects of the project may be analyzed in a public process and environmental impacts avoided or reduced. *See* CEQA Guidelines 15060; *Tuolumne County Citizens for Responsible Growth, Inc. v. City of Sonora* (2007) 155 Cal App.4th 1214, 1222. A "project" is "given a broad interpretation in order to maximize protection of the environment." *McQueen v. Bd. of Dirs.* (1988) 202 Cal.App.3d 1136, 1143. "This big picture approach to the definition of a project (*i.e.*, including 'the whole of an action') prevents a public agency from avoiding CEQA requirements by dividing a project into smaller components which, when considered separately, may not have a significant environmental effect." *Nelson v. County of Kern* (2010) 190 Cal.App.4th 252, 271 (reversing judgment denying writ of mandate; mining project improperly segmented). Thus, the broad scope of the term "project" prevents "the fallacy of division," which entails "overlooking [a project's] cumulative impact by separately focusing on isolated parts of the whole." *McQueen*, *supra*, 202 Cal.App.3d at 1144.

Case law would dictate a finding of project splitting in this case. In *Tuolumne,* the court held that the development of home improvement store and realignment of an adjacent road were part of single CEQA project given the close connection between the proposed activities, which were related in time, physical location and entity undertaking them. 155 Cal.App.4th at 1223. Here, the PAWs and WMPs have already been identified in the staff report (and its appendices) for all areas of greater Los Angeles, and the same regulations will be implemented in other areas of the City, depending on how this initial "pilot" area pans out. Yet, the claimed CEQA Exemptions only deal with this "pilot" area, without taking into account the full scope of the "project" as defined by CEQA.

In *Association for a Cleaner Environment v.Yosemite Community College Dist.*, the court determined that the closure, dismantling and transfer of a shooting range constituted a single project under CEQA because they were a "group of interrelated actions" and part of a "single, coordinated endeavor." 116 Cal.App.4th at 639. Here, the Ordinance's regulations throughout the entirety of the City (and not just the pilot area) are absolutely a "single, coordinated endeavor." *See also*, *Nelson*, *supra* 190 Cal.App.4th at 272 (mining reclamation plan and mining operations were part of a single CEQA project because they were "integrally related" to one another).

An EIR must analyze all relevant parts of a project, including future expansion or later phases of the project that will foreseeably result from project approval. *Laurel Heights, supra,* 47 Cal.3d at 394-98. In *Laurel Heights*, a University planned to move research units to a building in a residential neighborhood. The laboratories were to occupy 100,000 sf of a 354,000 sf building. The University claimed it had not decided to occupy the entire building, but evidence in the record indicated that it intended to occupy the rest of the building once another lease of that space expired. The court concluded that occupancy of the entire building was a reasonably foreseeable consequence. 47 Cal.3d at 398. Similarly, the City has here claimed that the Ordinance is limited to only pilot area. However, the actual evidence in the record belies this artificial delineation between the pilot area, and the wildlife designations in the rest of the City, all of which work hand in hand.

This is not merely a technical argument. The failure to study the entirety of the project in this case can have serious ramifications, because the assumptions being made throughout the Ordinance may not be entirely accurate when zoomed out to the eventual scale of the full Ordinance. This is the exact type of scenario that the CEQA prohibition on project splitting was designed to prevent.

C. The Ordinance Violates CEQA Due to Failure to Analyze Cumulative Impacts

The Staff Report acknowledges that other nearby jurisdictions throughout Southern California have implemented similar regulations relating to wildlife and habitat preservation. (Staff Report, A-13.) However, the City has not acknowledged that its failure to analyze cumulative impacts is fatal to its claim that the Class 7-8 exemptions are applicable here.

CEQA Guidelines Section 15300.2 provides: "Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place over time is significant."

In this case, there are multiple "successive projects of the same type in the same place over time," and the Staff Report specifically mentions that the Ordinance draws upon the "best practices" of other jurisdictions "in wildlife and natural resource protection." (Staff Report, A-13.) The Staff Report identifies the Counties of Los Angeles, San Diego, and Ventura, as well as the Cities of Malibu, Calabasas, Burbank, Glendale, Beverly Hills, and Pasadena as the nearby jurisdictions that have all undergone similar projects related to "wildlife and natural resource protection." However, the Staff Report is devoid of any analysis regarding why the cumulative impacts of the wildlife regulations in all of these jurisdictions (some of which have indeed undergone CEQA review, unlike the proposed Ordinance) do not trigger the cumulative impact exception to the City's

claimed CEQA Exemptions. The City must analyze the cumulative impacts of these successive wildlife regulations in order for the Ordinance to qualify for the Class 7-8 exemptions, or the common sense exemption. Its failure to do so renders the claimed exemptions inapplicable under CEQA.

II. THE ORDINANCE VIOLATES THE HOUSING CRISIS ACT, WHICH PROHIBITS CITIES FROM SIGNIFICANTLY REDUCING HOUSING INTENSITY THOUGH ZONE CHANGES.

Beyond the concerns raised about CEQA, our August 22, 2022 letter also set forth in detail the reasons why the Ordinance violates the Housing Crisis Act. In short, the Ordinance seeks to significantly reduce the intensity of use for all parcels within the purposed Wildlife District. It does this by creating substantial new regulations that reduce the possible building envelope through new restrictions on height, floor area ratio, lot size, setbacks, and lot coverage, all items specifically listed in SB 330, and all of which "would lessen the intensity of housing." Govt. Code 66300(b).

The unexpected development since the submittal of our last letter is the fact that the City has now openly admitted that the Ordinance indeed violates SB 330. Page A-37 of the staff report provides as follows:

> 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.

However, pointing to some future, unspecified, undefined, and vague upzoning of other properties close to transit infrastructure falls far short of what SB 330 actually requires. How many parcels are being upzoned? Where are those parcels located? When will this corresponding change of zoning take place? How will the City ensure that there is no net loss in residential capacity? The key language in SB 330 provides as follows:

> 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.*** Govt. Code 66300(i).

The City is admitting that it is not "concurrently" changing the development standards for other parcels, but rather, openly states in its staff report that it will consider future changes of zoning around transit infrastructure. This obviously cannot be the intent of SB 330. By this logic, any local government entity could skirt the law by simply downzoning any number of parcels through a sweeping ordinance, as long as it contains a promise somewhere in a staff report (as the City has done here) to consider upzoning other unspecified parcels in other areas. The Housing Crisis Act does not allow the City to do this, and such an attempt will assuredly be overturned by the courts.

Beyond the plain legal violation, there is also a compelling a public-policy reason that the City should not allow this Ordinance to go forward without first complying with SB 330 and identifying the precise parcels that will be upzoned elsewhere. The downzoning that is proposed through this Ordinance is taking place in the most exclusive part of the City which already enjoys among the lowest densities in the City. In contrast, the proposed upzoning briefly referenced in the staff report is in higher density sections of the City (closer to transit infrastructure). In other words, if the City actually implements this Ordinance, it will be making the public policy decision that it wants the already-high-density and highly congested areas of the City to take on even more of a population and development burden, so that decisionmakers can even further reduce the density in the hills, and the underlying reason for this is to allow more room for mountain lions, coyotes, and other wildlife? Beyond the likely failure of the Ordinance in the courts, such a decision will also not survive the court of public opinion.

The Ordinance violates SB 330 and its provisions cannot be harmonized with either the spirit or the letter of the relevant provisions of the state law. For this reason alone, the Ordinance cannot be adopted until this issue is addressed, and it is expressly reconciled with SB 330.[2]

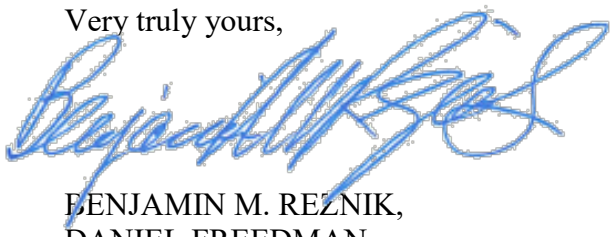
III. CONCLUSION.

For the foregoing reasons, the City should, at a minimum, conduct the mandated CEQA analysis prior to taking any further action on the Wildlife Ordinance. The City must also address the Ordinance's conflict with SB 330's provisions that prohibit the City from reducing the intensity of a use in a zone.

[2] The Ordinance also fails to explain how lot splits permitted under SB 9 and Accessory Dwelling Unit ("ADU") permitted under state law will interface with the requirements provided by the Ordinance. Homeowners should be informed upfront as to whether or not this Ordinance will impact their ability to add an ADU on their lot or subdivide their lot pursuant to SB 9.

Note that we will soon be submitting another comment letter that focuses on the scientific and biological foundations of the Ordinance, and why the regulations proposed in the Ordinance will do little, if anything, to actually obtain its stated goals.

Very truly yours,



BENJAMIN M. REZNIK,
DANIEL FREEDMAN,
SEENA M. SAMIMI, of
Jeffer Mangels Butler & Mitchell LLP