



Sonoma County Planning Commission
Staff Memo

FILE: ORD21-0001
DATE: October 5, 2023
TIME: At or after 1:05 pm
STAFF: Doug Bush, Comprehensive Planning
Robert Aguero, Natural Resources

**A Board of Supervisors hearing
is tentatively scheduled for
November 28, 2023 and will be
noticed at that time.**

SUMMARY

Applicant: County of Sonoma, Permit Sonoma
Supervisory District: All
Location: Countywide; not applicable in Coastal Zone
Description: Continued hearing from September 21, 2023 to consider amendments to Chapter 26 of Sonoma County Code to incorporate an Oak Woodland Ordinance to conserve oak woodlands and their associated community benefits, and rezoning parcels to apply the OAK Oak Woodland Combining District.
CEQA Review: Categorical Exemptions Section 15307 for actions by regulatory agencies for protection of natural resources, 15308 Actions by Regulatory Agencies for Protection of the Environment
Zoning: Various

RECOMMENDATION

The Permit Resource and Management Department (Permit Sonoma) recommends that the Planning Commission find the proposed action exempt from CEQA and adopt a resolution recommending that the Board of Supervisors adopt the attached Ordinance (Attachment 2).

EXECUTIVE SUMMARY

On September 21, the Planning Commission held a public hearing to consider a proposed Oak Woodland Combining District, which would apply to approximately 13,000 parcels and prevent the conversion of oak woodlands. The Commission also considered changes to the Valley Oak Habitat Combining District to align its prescriptive mitigation options with those recently recommended for inclusion in the Tree Protection Ordinance. The hearing was continued to a date and time certain of October 5, 2023 at 1:05 pm.



This report provides a brief overview of changes made to the proposed ordinance. These changes including discrete modifications reflecting specific direction from the Planning Commission, as well as new options to refine and clarify the ordinance based on general points of discussion in the prior hearing. Substantive changes made since the September 21 hearing are shown using tracked-changes in Attachment 2 Exhibit A.

DISCUSSION

The following section includes highlighted changes to the proposed ordinance (Attachment X)

Clarifying Applicability. Sections 26-04-020 and 26-67-020(3).

Questions were raised about what activities would be subject to the ordinance, and how it would relate to other tree protections. The ordinance would typically apply if all the following conditions are met:

- 1) the subject parcel is located within the combining district and within an oak woodland;
- 2) the proposed activity would either cause a “Woodland Impact” (by removing trees or woodland vegetation) or would cause a “Type Conversion” (through development activities that would permanently remove the land’s capacity to support woodlands); and
- 3) the activity does not fall within one of the specified exemptions.

If a parcel is located in the combining district, and within an oak woodland BUT the proposed activity falls under one of the exemptions, then that activity may be subject to another protective ordinance such as the Tree Protection Ordinance.

The Definitions and Prohibition sections have been updated to further clarify this.

Supporting Housing and Resource Conservation. Sections 26-67-020(10) and 26-67-050.

One of the primary issues considered by the Planning Commission, was how to minimize conflicts with the development of housing which is considered by-right under state law, while also minimizing the loss of oak woodlands. Recent changes to state law increasingly exempt certain housing projects from local discretionary review when certain criteria are met. These criteria typically include – at minimum - the availability of public water and sewer service, which is typically concentrated in Urban Service Areas.

To minimize the potential for conflict with such projects, without creating an exemption that is unnecessarily broad, Staff developed the following options to address by-right housing in Urban Service Areas:

Option 1: Apply the by-right housing exemption only in Urban Service Areas.

Housing projects outside of Urban Service Areas would not be eligible for the exemption but could instead utilize the provision allowing for a one-time conversion. While the proposed ordinance previously included a 1-acre limit to this conversion, members of the Commission recommended that this be reduced to 0.5 acre, and that it apply only to undeveloped parcels. The original intent of the 1 acre recommendation was to accommodate uses like multi-family development that may require that much area to be feasible. Because most multi-family projects are now addressed with the “by-right

projects in Urban Service Areas” provision, the potential for conflict with state law is significantly reduced.

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Option 2: Exclude parcels in Urban Service Areas from the proposed combining district.

Parcel analysis shows that of the 176,495 acres of Oak Woodland that make up the proposed combining district, less than 2,500 acres occurs on parcels in Urban Service Areas, or less than 1.5% of the proposed combining district (Table 1).

Table 1. Parcel Zoning and Urban Service Area

Zoning and Urban Service Area	Oak Woodland Acres	Total Parcels
Agriculture and Resource Zones (DA, LEA, LIA, RRD, TP)	151,878.71	7,710
Outside Urban Service Area	151,196.68	7,646
Inside Urban Service Area	682.03	64
Residential Zones (AR, RR, R1, R2, R3)	12,077.13	4,987
Outside Urban Service Area	10,894.68	4,196
Inside Urban Service Area	1,182.45	791
Other	12,538.70	271
Outside Urban Service Area	11,905.29	193
Inside Urban Service Area	633.42	78
Grand Total	176,494.55	12,968
Total Outside Urban Service Area	173,996.65	12,035
Total Inside Urban Service Area	2,497.90	933

In addition to the two options described above, to further reduce the potential for conflict, while maintaining resource protect to the greatest extent, Staff recommends that the proposed ordinance include the following language,

“This section shall not be applied in a manner that would reduce allowable density lower than that permitted by the underlying zoning. To achieve this end, adjustments may be made to accommodate the minimum disturbance necessary to achieve allowable densities.”

Staff recommend a reduction of the one-time conversion provision to 0.5 acre for undeveloped parcels and the inclusion of the above language. This recommendation is reflected in the proposed ordinance.



Staff will update the ordinance to reflect the Planning Commission’s direction between Option 1 and Option 2 to address by-right housing and urban service areas.

Note: Projects that qualify for the by-right exemption, or the one-time conversion exemption may still be subject to the Tree Protection Ordinance or other ordinances, particularly if protected trees are proposed for removal. A provision in the proposed Oak Woodland Combining District specifies that in cases where codes overlap – the more protective provision shall apply.

Residential Maintenance Exemption. Section 26-67-040(3).

The residential maintenance exemption has been updated to specify that the exemption applies not only to maintenance of landscaped areas but also maintenance of existing structures including well and septic systems. This exemption is limited to those activities which do not further encroach into woodlands.

Woodland Delineation. Section 26-67-020(12).

The ordinance now specifies that location of woodland shall incorporate areas within 1.5x the distance between trunk and canopy – not just the “dripline” of trees.

Agricultural Maintenance Exemption. Section 26-67-040(5).

Clarification added that agricultural exemption applies only to maintenance but not expansion of agriculture.

Replanting in Oak Woodland Combining District. Section 26-67-060(6)(b)

When replanting is required to mitigate impacts from a discretionary action, that replanting must address not only trees, but also the other vegetation strata of the woodland. Language has been added to clarify this.

Use of In-lieu Fees. Section 26-67-060(6)(d).

The ordinance now specifies that in-lieu fees for the oak woodland combining district must be used for acquisition, conservation easements, planting or woodland management. This provision also provides flexibility for these fees to be used on private or public lands.

“In-lieu fees may be used to acquire and protect stands of native oak trees in-fee title or through conservation easements; or place and maintain native oak trees and associated woodland vegetation on lands within the County of Sonoma.”

Future Updates to Combining District Boundaries

The location of the combining district is based on the 2013 Sonoma County Vegetation Map. This dataset establishes a baseline, identifying not the location of woodlands at that time, but also the lands that supported them. The intent of this ordinance is to not only conserve woodlands, but also support the ability of woodlands to regenerate in areas where they have historically grown, it is essential for the

ordinance to expand if new data becomes available and supports such expansion. As recommended by the Commission, the ordinance now addresses this circumstance in Section V of the main ordinance,

“The boundaries of the Oak Woodland Combining District shall be the same as the boundaries of the following vegetation alliances, as mapped in the 2013 Sonoma Veg Map. These boundaries may be expanded to incorporate additional woodland areas as updated data becomes available...”

Valley Oak Habitat Combining District. Section 26-67-090(a).

The Sonoma County General Plan recognizes valley oaks as sensitive and valued natural resources. Valley oak (*Quercus lobata*) habitat has been reduced statewide by approximately 90% since the early 1800's. While estimates are lacking for Sonoma County, in Napa Valley for example, it is estimated that the number of valley oaks declined from 45,000 in the early 1800's to less than 1,000 today. It is for this reason, along with their aesthetic and habitat values, that the County has historically treated them with unique deference through the Valley Oak Habitat Combining Zone.

The Planning Commission recently passed a resolution recommending elevated tree protection mitigations in the Tree Protection Ordinance by increased planting ratios and replacing outdated in-lieu fees with a more comprehensive and proportional valuation approach. To follow this prior direction, these measures are included in Oak Woodland Combining District, as first discussed at the September 21, Planning Commission hearing.

The Planning Commission asked for staff to also utilize these same approaches in the Valley Oak Habitat Combining District. Based on Planning Commission direction and consistent with existing General Plan policy, the proposed ordinance now includes multiple changes to not only align with these complementary ordinances, but also ensure that valley oaks continue to be treated with elevated sensitivity. These changes include:

- 1) Striking the option to retaining existing trees as a mitigation requirement.
- 2) Striking the in-lieu fee option and replacing it with an option to allow use of appraisal methodologies, consistent with other tree protection ordinances.
- 3) Updating the mitigation ratios for valley oak to ensure they exceed updated mitigation ratios in the Tree Protection Ordinance, consistent with longstanding deference to valley oaks.

CEQA Determination

Adoption of the proposed ordinance amendments to County Code are exempt pursuant to the categorical exemptions provided at State CEQA Guidelines §15307 for Actions by Regulatory Agencies for Protection of Natural Resources and §15308 for Actions by Regulatory Agencies for Protection of the Environment because the amendments are regulatory in nature and are designed to assure the maintenance, restoration, or enhancement or protection of natural resources and the environment. No exceptions listed under Section 15300.2 apply. There is no reasonable possibility that the project would have a significant effect on the environment.



Attachments:

- 1) Planning Commission Resolution
- 2) Draft Ordinance
 - a) Exhibit A Oak Woodland Ordinance
 - b) Exhibit B Parcels for Rezoning
 - c) Informational Item - Oak Woodland Ordinance Revisions with Track Changes
- 3) Combining District Overview Map
- 4) 9/21 Planning Commission Staff Report