



Sonoma County Planning Commission **STAFF REPORT**

FILE: ORD21-0001
DATE: September 21, 2023
TIME: At or after 1:05 pm
STAFF: Doug Bush, Comprehensive Planning
Robert Aguero, Natural Resources

A Board of Supervisors hearing on the project will be held at a later date 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: 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

Oak woodlands are a fundamental component of Sonoma County's natural and working lands. Oak woodlands support unparalleled biodiversity and provide essential community benefits ranging from clean air, climate moderation and soil stability, to aesthetic, cultural and habitat values. The conservation of oak woodlands is necessary to uphold these essential functions and achieve the County's natural resource and climate objectives.

This staff report presents a comprehensive analysis of a proposed Oak Woodland Combining District for consideration by the Sonoma County Planning Commission. The primary objective of this ordinance is to protect and conserve Sonoma County's invaluable oak woodlands while supporting responsible land use and sustainable development.

Key elements of the proposed ordinance include:

1. Oak Woodland Identification: The ordinance defines oak woodlands, identifies where they are most likely to occur and sets a clear threshold on when the ordinance applies.
2. Preservation and Mitigation: The ordinance prioritizes the preservation of oak woodlands - limiting disturbance and removal except in limited circumstances. When impacts occur, mitigation measures are typically required to offset impacts and support woodland restoration.
3. Permitting Process: The ordinance creates a clear permit process for activities within oak woodlands including processes for allowed uses and discretionary uses.
4. Monitoring and Enforcement: The ordinance emphasizes monitoring and enforcement to facilitate compliance with woodland protection measures and ensure successful mitigation.
5. Avoidance, Minimization and Mitigation: The ordinance prioritize avoidance where possible, minimization when it is not, and mitigations to address impacts.

The proposed Ordinance represents a critical step towards preserving and protecting Sonoma County's oak woodlands for future generations. By engaging stakeholders, utilizing sound scientific research, and incorporating best practices in conservation and land use, the ordinance balances development and environmental stewardship to advance the County's natural resource and climate objectives. Staff recommends that the Planning Commission recommend approval of the ordinance to safeguard the natural heritage and ecological integrity of the County's oak woodlands.

PUBLIC WORKSHOPS

On May 18, 2021, the Sonoma County Board of Supervisors held a public workshop to discuss existing tree protection policies, regulations and issues that could be addressed by the project. Feedback from the Board included the following:

- Trees are an essential part of our natural landscape, provide important habitat for wildlife and contribute to the scenic quality of the county.
- Trees are threatened by climate, fires, drought and development and should be protected.
- many people in the community are working hard to recover from wildfire and pandemic impacts and it is important that the project doesn't create undue burden on the community.
- The project should support both natural resources and fire hazard mitigation.
- The County should create an effective process that can be understood and followed by the public, reviewed and processed in a timely fashion, and enforced.
- There are loopholes in current protections that should be addressed.
- Staff should identify the issues facing local trees and establish a baseline of forest health conditions.
- Staff should identify opportunities to track removals and overall tree loss.
- The project should include robust engagement with local stakeholders.



On November 4, 2021, the Planning Commission held a public workshop where staff discussed the development of a new ordinance to address oak woodlands. The meeting was informational and though no formal decision was under consideration, the Planning Commission and all participating members of the public provided their support for the proposed scope of work.

On September 1, 2022, the Planning Commission held a second workshop to discuss oak woodlands and potential oak woodland policies with staff and the public. The Planning Commission directed staff to return with policy options for the protection of oak woodlands.

OUTREACH

Staff has conducted outreach with multiple stakeholders including but not limited to:

- Forests Unlimited
- Sonoma County Conservation Action
- North Bay Association of Realtors
- Sonoma County Regional Parks
- Sonoma County Department of Agriculture, Weights and Measures
- Sonoma County Farm Bureau
- Sonoma County Agricultural Preservation and Open Space District
- Resource Conservation Districts
- Professional Foresters
- Airport Business Center
- Community Alliance With Family Farming
- Laguna de Santa Rosa Foundation
- Pepperwood Foundation
- California Native Plant Society
- Federated Indians of Graton Rancheria
- California Department of Fish and Wildlife
- Sonoma County Forest Working Group
- Munselle Civil Engineering and Adobe Associates Inc.
- Wildlife Conservation Board
- California Wildlife Foundation / California Oaks
- Representatives from Sonoma County Municipalities

In addition to stakeholder meetings, a community survey was published online through various social media channels in May 2023 and was open for approximately one month. The survey asked four questions, two related to the Tree Protection Ordinance and two related to proposed oak woodland policies. The survey questioned whether certain tree removal activities should require mitigation. Over 500 people completed the survey. Survey responses favored (average 70% in favor of) mitigation requirements for tree removal activities.

The following themes/issues/recommendations were identified from multiple stakeholder groups:

- The following activities should be exempt from mitigation requirements:
 - Hazard trees
 - Defensible space
 - Other vegetation management for wildfire risk reduction
 - Affordable housing development
- The ordinance should include the ability to use offsite mitigation.

Staff have addressed these themes in the draft ordinance. Exceptions for defensible space, vegetation management activities, and hazard tree removal are included in the draft ordinance. Affordable housing is also exempt from the provisions of this ordinance.

DISCUSSION

The following section discusses major components of the proposed ordinance.

1. Definition of Oak Woodlands

The definition of oak woodlands is an important component of the ordinance because it defines the resource that the ordinance applies to. Staff reviewed existing woodland definitions from state agencies and other municipalities and conducting interviews with implementing staff. Stakeholders provided consistent feedback that the effectiveness of existing ordinances is limited by insufficient and unclear definitions of woodland. In many cases, this leads to diverging interpretations and inconsistent application of ordinances in each respective jurisdiction. This definition improves upon definitions used in other jurisdictions by including quantitative thresholds including the maximum distance between trees (200 feet), and the threshold size of when a stand of trees is considered a woodland (.5 acre).

The effectiveness of the ordinance hinges not only on the clarity of the definition, but also its scope. Many ordinances intend to protect oak woodlands but address only one component of that complex ecosystem – the trees. While trees are the anchor for woodlands, their health largely relies on the presence of a complex web of interrelated species. To protect the trees and the woodland, the definition must be inclusive of these species – also referred to as “strata” (e.g. canopy, subcanopy, shrub, herb and bryophyte) The inclusion of these strata also helps ensure that restoration or mitigation activities focus not only on trees, but also other associated understory species.

The following definition is based on basic scientific consensus, addresses woodlands as a complex ecosystems, is inclusive of oak woodlands in their various forms throughout the county (e.g. savannah, woodland, forest), incorporates lessons learned from stakeholder feedback, and aligns with state definitions for forest regulations:

“A contiguous stand of trees dominated by Native Oak Trees with at least one-half (0.5) acre of cover. For purposes of this definition, “contiguous stand” means a stand where all individual oak trees with diameter at breast height (dbh) equal to or greater than 6 inches have canopies located within 200 feet of one another on a parcel. Oak Woodland includes lands that supported

native oak trees as indicated in the 2013 Sonoma VegMap. Oak woodland is inclusive of associated vegetative strata including: canopy, subcanopy, shrub, herb and bryophyte.”

2. Implementation through Combining Zone

Staff recommends that these oak woodland protections be implemented through a combining zone. A combining zone is a special zoning tool that is used to apply unique regulatory standards to specific parcels, based on the presence of unique conditions (e.g. presence of oak woodlands). The County has 18 combining zones that are used to apply resource protections (e.g. Riparian Corridor Combining Zone), design standards (e.g. Scenic Resources Combining District), and other location-based standards that modify - but do not replace - the underlying zoning of certain parcels.

A combining zone would allow the County to filter out parcels that are least likely to contain oak resources and focus resource protections only where those resources are expected to occur. A combining zone is best when quality data is available to appropriately inform the application of the combining zone. The County is in a unique position to use this combining zone approach because the 2013 VEGMAP data provides accurate identification of where most oak-dominated resources are located in the County.

Without a combining zone, this ordinance would be applied to all unincorporated parcels. A combining zone is preferred because it supports permitting efficiency and reduces permitting time and expense for applicants, eliminates unnecessary review of parcels that do not contain the resource of interest, while focusing resource protections where needed. The potential drawback of a combining zone is that if woodlands occur outside of the combining zone boundaries, the associated protections would not apply. Stakeholder interviews with mapping experts most familiar with the 2013 VEGMAP dataset confirmed that the vast majority of oak woodlands are captured in the dataset, supporting confidence in the reliability of the dataset and the effectiveness of this approach.

The proposed combining zone is inclusive of most, but not all oak species. Staff received feedback from stakeholders concerning the inclusion of chaparral oak woodland communities, primarily leather oak (*Quercus durata*), scrub oak (*Quercus berberidifolia*), and interior live oak chapparal (*Quercus wislizenii* shrub). These plant communities are typically found in the drier, chapparal ecosystems of Sonoma County. These types of oaks typically grow in harsher site conditions and are limited in height. Sonoma County Code defines a tree as, “A healthy living large woody plant which ordinarily has a central trunk and at maturity exceeds a height of fourteen feet (14’).” Leather oak and scrub oak are trees that typically do not exceed 14’ in height. Chaparral ecosystems are incredibly important ecosystems and warrant significant protection, but chaparral protection is not in the scope of the Oak Woodland Ordinance. Staff do not recommend including tanoak in the combining zone, as it is often a component of more coniferous systems, a vector for Sudden Oak Death, and often a target species for removal in forestry and forest health projects.

Parcels containing .5 acres or more of the Oak Woodland Combining District would be rezoned and subject to the ordinance. The 12,968 parcels proposed for rezoning are included in Attachment 2,

Exhibit B and represent approximately 7% of parcels in the County. The definition of woodlands in the draft ordinance is such that stands of oaks under .5 acres are not considered woodland. It is for this reason that only parcels containing at least .5 acres are proposed for rezoning and application of the ordinance.

3. Oak Woodland Classifications

When oak woodland removal is associated with a use permit, or triggers discretionary review, the ordinance requires applicants to address the category of woodland resources on their parcel. The woodland “classes” differentiate between moderate and high-quality resources. These classes would help establish higher standards of protection for higher quality oak woodland and in doing so, would help create proportionality between resource conditions, the extent of permitted development, and any applicable mitigation ratios. As explained in more detail below, the class of woodland would typically be established by a report by a qualified professional, but could be treated as the highest quality woodland under certain circumstances, including absent a report or when trees are removed in violation of the permit requirement.

Higher quality oak woodlands would require higher mitigation ratios and higher thresholds for approval when development is proposed in those areas. Lower quality oak woodland would have lower mitigation ratios and lower thresholds for approving development in these areas.

The ordinance contains baseline criteria to aid in classification, which would be determined by a qualified professional. These criteria would be supplemented by future County guidelines and criteria that would be developed in coordination with stakeholders and technical experts.

If an oak woodland contained multiple quality criteria, or contained one criteria in a unique manner, it would be considered a higher class of oak woodland. Classes would be rated on a numeric scale from 1-3, with Class 1 Oak Woodlands being considered the highest classification of woodlands, and Class 3 Oak Woodlands being considered the lowest classification of woodlands.

4. Permitted Uses

Permit Sonoma is responsible for providing a process that balances orderly development with resource stewardship, and developing standards that protect the health and safety of the public. This ordinance balances development and resource stewardship by ensuring that impacts from tree removal are properly mitigated, while minimizing restraints where tree removal is necessary or beneficial to address basic hazards (e.g. hazard trees at risk of damaging life or property) or to support conservation (e.g. selective thinning to improve forest health). The draft ordinance exempts tree removal activities from mitigation fees or replanting requirements, including the following:

- A. Hazard Reduction. Vegetation management consistent with county approved vegetation management activities, including activities necessary to comply with local defensible space requirements. Prescribed or cultural burning projects also qualify in some circumstances.
- B. Emergency Operations. Actions taken by public agencies during emergency operations or in post-disaster remediation.

- C. Hazardous, Dead, Dying, or Diseased Trees. The removal of dead, dying, or diseased trees, is permitted, subject to criteria specified in the ordinance.
- D. Resource Management. Projects consistent with an approved Forest Management Plan, Natural Communities Conservation Plan, Habitat Conservation Plan or equivalent.
- E. Timber Harvest. The ordinance would not apply to trees which are the subject of a valid timber harvesting permit approved by the State of California.

To balance development and conservation, the ordinance allows for the one-time conversion of less than 1 acre of woodland to accommodate development or land-use that is otherwise allowed by the underlying zoning of the parcel. Such uses may include a dwelling and associated improvements (e.g. septic system and well), or development of a barn and corrals to support agricultural operations.

5. Discretionary Permit Process

Oak woodland conversion is subject to a use permit if proposed activities will impact oak woodlands and do not fall within one of the allowed uses described above. The use permit would follow the typical permitting process for use permits processed by Permit Sonoma but would be subject to unique analysis and findings as described below.

Oak Woodland Classifications. The application must include a determination of the oak woodland classifications as described earlier in this report. The classifications would be prepared and documented by a qualified professional hired by the applicant. If no report is provided in the application, all woodlands would be assumed to be of the highest quality, and therefore be subject to the most stringent findings and mitigation requirements.

Sequenced Alternatives Analysis. An alternatives analysis is required and must consist of an examination of alternatives in the following order of prioritization: avoidance, minimization, and mitigation. Efforts to avoid the oak woodland impact shall be documented. If no practicable alternative is available, as demonstrated by the analysis, then minimization efforts in the form of buffers shall be implemented. Mitigation shall also be required, which will be documented in the Oak Woodland Conservation Plan. Minimization requirements and mitigation ratios are dependent on the oak woodland ecological category.

The use permit is subject to specific findings intended to prioritize avoidance and minimization of impacts. A use permit may not be approved unless the following findings are made by the applicable decision makers:

- i) There is no feasible less environmentally damaging alternative;
- ii) Any proposed Oak Woodland to be removed will not result in the creation of two (2) or more separate Oak Woodlands as defined by this chapter; and
- iii) If Class I Oak Woodlands are proposed for conversion, the conversion provides a clear public need that outweighs the loss of the Oak Woodland.

In cases where Superior Oak Habitat (Class I) is proposed for conversion, an additional finding is required. The conversion must provide a clear and necessary public benefit that outweighs the loss of

the woodland. This benefit must be documented in the alternatives analysis. Each use permit must also include the submittal of an Oak Woodland Conservation Plan prepared by a qualified professional. The plan serves as a management document applying to the project site and any site used for mitigations. The Plan also serves as a mitigation monitoring and reporting tool, outlining how mitigations will be undertaken and maintained.

Section 6. Organization of Code

Permit Sonoma is engaged in ongoing efforts to streamline the Zoning Code to provide greater clarity, improve accessibility and support greater consistency in code implementation. Consistent with this effort, the proposed ordinance will integrate with Article 67 that currently contains the Valley Oak Habitat Combining Zone. With a new title of “OAK Oak Woodland Combining District and VOH Valley Oak Habitat Combining District,” consolidating these combining zones into one article will help applicants located related sections of code, consolidate redundant language, and simplify code organization. This reorganization makes no substantive changes to the provisions of the Valley Oak Habitat Combining Zone. In the future, Permit Sonoma may continue to relocate and consolidate other tree regulations into a single article to build on this streamlining effort.

ANALYSIS

Policy Consistency

The County calls for the protection of native trees, with an emphasis on oak woodlands and improving carbon sequestration. This ordinance is consistent with the General Plan because it protects native oaks and their associated ecosystems, while providing exemptions as necessary to balance resource protection with sustainable land use. Specifically, the proposed ordinance would further the following General Plan Goals, Objectives and Policies:

- **Goal OSRC-7:** Protect and enhance the County’s natural habitats and diverse plant and animal communities.
- **Objective OSRC-7.5:** Maintain connectivity between natural habitat areas.
- **Objective OSRC-7.6:** Establish standards and programs to protect native trees and plant communities.
- **Policy OSRC-7k:** Require the identification, preservation and protection of native trees and woodlands in the design of discretionary projects, and, to the maximum extent practicable minimize the removal of native trees and fragmentation of woodlands, require any trees removed to be replaced, preferably on the site, and provide permanent protection of other existing woodlands where replacement planting does not provide adequate mitigation.
- **Goal OSRC-12:** Preserve, sustain and restore forestry resources for their economic, conservation, recreation and open space values.



The Oak Woodland Ordinance would also support the Sonoma County Five Year Strategic Plan, including the following climate goals and objectives:

- **Climate Action and Resiliency Goal 5:** Maximize opportunities for mitigation of climate change and adaptation through land conservation work and land use policies.
- **Objective 1:** By 2025, update the County General Plan and other county/special district planning documents to incorporate policy language and identify areas within the County that have the potential to maximize carbon sequestration and provide opportunities for climate change adaptation. The focus of these actions will be to increase overall landscape and species resiliency, reduce the risk of fire and floods, and address sea level rise and biodiversity loss.
- **Objective 2:** Develop policies to maximize carbon sequestration and minimize loss of natural carbon sinks including old growth forests, the Laguna de Santa Rosa, and rangelands. Encourage agricultural and open space land management to maximize sequestration. Develop a framework and policies to incentivize collaboration with private and public landowners.

Related and Future Efforts

Through this project, staff identified separate opportunities that would also support tree protection and implementation of existing County tree protection and forest health policies:

- 1) Create guidance documents to support successful implementation of this ordinance, to facilitate compliance and encourage beneficial conservation practices.
- 2) Reorganizing code where feasible, to consolidate tree protection regulations into a single section for ease of use and improved implementation.
- 3) Continue to support updates of the 2013 VEGMAP datasets to allow continued monitoring of changes to land-cover, and post-fire landscape transitions.
- 4) Continue working with Resource Conservation Districts and other local organizations to support education, encourage beneficial stewardship and identify funding opportunities

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
- 3) Combining District Overview Map