



Sonoma County Planning Commission STAFF REPORT

FILE: ORD21-0001
DATE: August 3, 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 separately noticed.

SUMMARY

Applicant: County of Sonoma, Permit Sonoma

Supervisory District: All

Location: All unincorporated parcels outside coastal zone

Description: Amendments to Sonoma County Code Chapter 26 (Sonoma County Zoning Regulations) including technical changes and updates to the Tree Protection Ordinance, Riparian Corridor Ordinance, and the Minor and Major Timberland Conversion Ordinances.

CEQA Review: Categorical Exemptions Section 15307 for Actions by Regulatory Agencies for Protection of Natural Resources, and Section 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 adopt a resolution recommending that the Board of Supervisors adopt the attached ordinance (Attachment 2) and find the proposed action exempt from the California Environmental Quality Act (CEQA).

EXECUTIVE SUMMARY

Trees are an essential component of the County landscape. Individual trees as well as woodlands and forests provide a range of basic, fundamental services to the community: beauty, clean air and water, habitat, natural cooling and climate moderation, and cultural value. Pressures from climate change,



natural disasters and development threaten the health, diversity and distribution of local trees and the benefits they provide.

The County supports the protection of trees in its General Plan, which calls for the establishment of standards and programs to protect native trees, and the County's Five Year Strategic Plan, which calls for maximizing carbon sequestration and minimizing the loss of natural carbon sinks including old growth forests.

Conserving the county's trees and maximizing their benefits can be achieved through a number of approaches including regulation, education, incentive-based programs, active stewardship and procurement of conservation easements. This project focuses on one part of the regulatory approach, while acknowledging that regulation is just one important piece of a complex system necessary to conserve and enhance this natural resource.

This report identifies several proposed updates to existing regulations that would help improve their effectiveness and implement existing County natural resource and climate policy. These updates are primarily focused on the Tree Protection Ordinance (Zoning Code Section 26-88-010(m)), but also include minor changes to the Riparian Corridor Ordinance (Zoning Code Article 65) and Minor and Major Timberland Conversions Ordinances (Zoning Code Sections 26-88-140 and 26-88-160), as well as removal of redundant language in the Subdivision Ordinance (Sonoma County Code Chapter 25). These changes are the result of multiple public meetings with the Board of Supervisors and Planning Commission since 2021, as well as extensive public outreach from 2020 and 2023 with representatives from local stakeholder groups, organizations and county and state agencies. The proposed changes include:

- Expanding the applicability of the Tree Protection Ordinance to require mitigation in more circumstances
- Not requiring mitigation for tree removals that are necessary for public health and safety
- Expanding the list of protected species to include more native species
- Protecting smaller, younger trees to support regrowth
- Exempting maintenance of existing agricultural cultivation areas while requiring mitigation for new or expanded operations involving tree removal

The purpose of this Planning Commission meeting is to conduct a public hearing on the draft ordinance amending Chapter 26 to align County Code with existing conservation policies, and County and State regulations. In response to feedback from the Planning Commission, Board of Supervisors, and public stakeholders, staff will return at a separate future hearing with a separate draft ordinance for the targeted protection of oak woodlands.

POLICY FRAMEWORK

The proposed code updates 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.

Sonoma County Five Year Strategic Plan contains climate goals and objectives which are supported by proposed Code updates:

- **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.

PRIOR HEARINGS

On May 18, 2021, the Sonoma County Board of Supervisors held a public workshop to discuss current County 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 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 presented potential improvements to Code that would update existing tree regulations and develop 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. During this meeting the Planning Commission asked staff to explore the relationship between the project and the County's climate goals, define native trees more broadly and review discrepancies between where valley oaks occur and where valley oak protections apply.

On August 18, 2022, the Planning Commission reviewed potential updates to the Tree Protection Ordinance, Riparian Corridor Combining Zone, and Timberland Conversion Ordinances. The Commission requested specific updates to ordinance text to expand the applicability of the Tree Protection Ordinance. Whereas the current ordinance only applies to discretionary permits, the Commission directed staff to update the ordinance to apply to all actions involving the removal of protected tree species over a threshold size. The Commission also asked planning staff to return at a future hearing to provide policy options regarding the existing exemption for agricultural uses, modification of existing mitigation measures, and potential updates to mitigation fees.

OUTREACH

For several years prior to the initiation of this multi-phase project, local organizations including Sonoma County Climate Action and Forests Unlimited requested that the County take action to improve protection of forest resources. Their feedback included requests for a tree-cutting moratorium to prevent further destruction of forest resources while the County develops a longer term solution. Staff did not receive direction to pursue a temporary moratorium so the scope of this project ultimately focuses on long-term measures to improve tree protection. Staff has continued to meet with members of these and other groups throughout the course of this project. Outreach has included meetings with:

- Laguna de Santa Rosa Foundation
- Pepperwood Foundation
- Forests Unlimited
- Sonoma County Conservation Action
- Department of Agriculture, Weights and Measures
- Sonoma Water Agency
- Sonoma Ecology Center
- Sonoma County Farm Bureau
- Sonoma County Agricultural Preservation and Open Space District



- Russian River Keeper
- Professional foresters
- Airport Business Center

Through the course of this outreach staff identified several dominant themes in the feedback of participants:

- Current regulations are not effective because: 1) most projects are exempt from tree protection ordinances, 2) even when applicable, the regulations don't prevent removal of trees, 3) mitigations often allow paying fees which are too low and make "feeing out" too easy, and 4) regulations don't consider cumulative effects of removals.
- Ordinances should emphasize retaining existing trees, not mitigation.
- Tree preservation and wildfire hazard mitigation are compatible.
- New policies or changes to existing policies should not get in the way of wildfire hazard mitigation.
- Incentive based mechanisms should be considered where available to encourage private ownership land management.
- Tree protection is necessary to meet carbon sequestration and climate adaptation goals.

Following the Planning Commission hearings in fall of 2022, staff conducted additional outreach, including one or more meetings with the following stakeholders:

- Sonoma County Farm Bureau
- Community Alliance for Family Farming
- California Native Plant Society
- Sonoma Land Trust
- North Bay Association of Realtors
- Sonoma County Agricultural Commissioner
- Federated Indians of Graton Rancheria
- California Department of Fish and Wildlife
- Sonoma County Forest Working Group
- Munselle Civil Engineering
- Adobe Associates Inc.
- Wildlife Conservation Board
- Sonoma County Conservation Action
- Sonoma County Regional Parks
- California Wildlife Foundation
- Representatives from Sonoma County Municipalities

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:
 - Removal of 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. The ordinance continues to provide flexibility in mitigation options by allowing applicants to choose between planting or in-lieu fees. This option remains in the draft ordinance, with additional language allowing for offsite mitigation if onsite mitigation is not feasible.

DISCUSSION

The following section discusses the recommended changes to each section of County Code. A full list of changes is available in two separate attachments. Attachment 2, Exhibit A contains a copy of all ordinances with the recommended changes while Attachment 3 includes a record of all changes.

Part 1. Tree Protection Ordinance.

County Code Section 26-88-010(m), the Tree Protection Ordinance, was adopted in 1989 by Ordinance 4014. The Tree Protection Ordinance is based on the premise that: 1) native trees are valuable to the environment and the community, 2) if those trees are removed there are often negative impacts or loss of ecosystem services, 3) landowners should be free to remove trees in most circumstances, and 4) in certain limited circumstances where native trees are removed, the impacts to the environment should be offset by replanting or paying in-lieu fees to eventually replace what was lost.

The ordinance functions by requiring mitigations if trees of a certain type and size are removed as part of a discretionary project (e.g. design review or use permit). When the ordinance applies, it does not prohibit removal of trees but instead requires mitigations for trees that are removed. Non-discretionary permits or actions involving tree removal, such as most agricultural uses, are exempt from the mitigation requirements in the ordinance. The ordinance also contains separate standards to protect trees that are not proposed for removal, such as the use of protective fencing during grading or other site disturbance.

Proposed Changes.

Since its adoption in 1989, the effectiveness of the ordinance has been limited by its narrow applicability. With current declines in forest health resulting from drought, pests, disease, wildfire and human disturbance, the Planning Commission discussed the increasing importance of tree protection



and the need for tree removal impacts to be appropriately mitigated. The Planning Commission requested that staff expand the applicability of the ordinance to address the removal of protected trees beyond only discretionary permits. The following changes would maintain the tree protection ordinance as a permissive, mitigation-based ordinance, but would apply to more species, at a greater range of sizes, and require mitigation in more circumstances when a protected tree is removed.

1. Expand the applicability of the ordinance to all removals of protected trees

The ordinance currently applies to only discretionary permits. As shown in Table 1 below, the ordinance would remain permissive, so tree removal would remain by-right unless otherwise prohibited by county code. The proposed changes would not alter the uses otherwise allowed by underlying zoning or create a discretionary process unless already required by code. The ordinance would continue to limit cumulative loss of tree cover countywide by requiring trees to be replaced by the applicant or that the applicant pay mitigation fees to support county-led planting and maintenance of trees.

Table 1. Overview of Permitted Tree Removal under Proposed Ordinance Changes

Example of removal activity	Tree removal allowed?		Subject to ordinance?		Mitigation required?	
	<i>Existing</i>	<i>Proposed</i>	<i>Existing</i>	<i>Proposed</i>	<i>Existing</i>	<i>Proposed</i>
<i>Discretionary Permits (e.g. use permit)</i>	Yes	Yes	Yes	Yes	Yes	Yes
<i>Tree removal for permitted residential development</i>	Yes	Yes	No	Yes	No	Yes
<i>Tree removal for Agricultural Crop cultivation areas</i>	Yes	Yes	No	Yes	No	Yes
<i>Tree removal to maintain defensible space</i>	Yes	Yes	No	No	No	No
<i>Tree removal for dead or dying trees</i>	Yes	Yes	No	No	No	No

2. Lower threshold size of protected trees from 9 to 6 inches.

The Tree Protection Ordinance applies to “protected tree species” as defined by code. These include trees of certain species with a trunk diameter of at least 9 inches at breast height (dbh). The Planning Commission recommended that the dbh threshold be reduced from 9 to 6 inches. Doing so would have several outcomes including:

- a) Expand applicability of the ordinance to a greater number of trees;



- b) Support younger generations of trees necessary for regeneration and more resilient, diverse stands of trees; and
- c) A lower size threshold will better account for variations in tree size seen across the county’s tree species.

3. Update protected trees list to include additional native species

Table 2 represents existing, proposed, and optional species – all of which are native to the county. Species listed in the additional species represent proposed additions to the existing species list and would better encompass the full range of native trees in Sonoma County. This list encompasses more riparian hardwood species, upland hardwoods and the County’s native pines.

Two species that were proposed at the August 18th, 2022 PC meeting are no longer recommended due to stakeholder feedback. Multiple stakeholders expressed concern about Douglas-fir and tanoak being included in the protected species list. Concern was focused primarily on tanoak as a vector and host for Sudden Oak Death (*Phytophthora ramorum*) and Douglas-fir as a driver of wildland fires, a vigorous colonizer post-fire, as well as often being a target species for oak woodland restoration efforts. Staff also recommend removing Oracle Oak (*Quercus morehus*) as it is a hybrid between Black Oak (*Quercus kelloggii*) and Interior Live Oak (*Quercus wislizenii*) and the definition of protected trees already includes hybrids of protected species.

Table 2. Existing, Proposed, and Not Recommended Tree Species under Proposed Ordinance Changes

Existing Species	Additional Species	Not Recommended Species
Big Leaf Maple (<i>Acer macrophyllum</i>)	Alder (<i>Alnus spp</i>)	Douglas fir (<i>Pseudotsuga menziesii</i>)
Black Oak (<i>Quercus kelloggii</i>)	California buckeye (<i>Aesculus californica</i>)	Tanoak (<i>Notholithocarpus densiflorus</i>)
Blue Oak (<i>Quercus douglasii</i>)	Willow species (<i>Salix laevigata, S. lucida</i>)	Oracle Oak (<i>Quercus morehus</i>)
Coast Live Oak (<i>Quercus agrifolia</i>)	Boxelder (<i>Acer negundo</i>)	
Interior Live Oak (<i>Quercus wislizenii</i>)	Northern California Black Walnut (<i>Juglans hindsii</i>)	
Madrone (<i>Arbutus menziesii</i>)	Cottonwood species (<i>Populus fremontii, P. trichocarpa</i>)	
Oregon Oak (<i>Quercus garryana</i>)	Cypress species (<i>Hesperocyparis macrocarpa, H. macnabiana</i>)	
Redwood (<i>Sequoia sempervirens</i>)	Grand fir (<i>Abies grandis</i>)	
Valley Oak (<i>Quercus lobata</i>)	Oregon ash (<i>Fraxinus latifolia</i>)	
California Bay (<i>Umbellularia californica</i>)	Pine species (<i>Pinus attenuata, P. contorta, P.</i>	

	<i>lambertiana, P. muricata, P. ponderosa, P. sabiniana)</i>	
	Western hemlock (<i>Tsuga heterophylla</i>)	

4. Add common exemptions to support health and safety, and hazard mitigation

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:

1. **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.
2. **Emergency Operations.** Actions taken by public agencies during emergency operations or in post-disaster remediation.
3. **Hazardous, Dead, Dying, or Diseased Trees.** The removal of dead, dying, or diseased trees, is permitted, subject to criteria specified in the ordinance.
4. **Resource Management.** Projects consistent with an approved Forest Management Plan, Natural Communities Conservation Plan, Habitat Conservation Plan or equivalent.
5. **Projects of the County.** As provided for in County Code Section 26-02-070, the provisions of this ordinance (and the entirety of Chapter 26) do not apply to public projects of the county.
6. **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, which is outside the County’s jurisdiction.
7. **Affordable Housing.** Affordable housing projects on sites identified in the Sonoma County Housing Element, and affordable housing projects for lower income households, that are located within an urbanized area, or within a sphere of influence.

Additional Policy Considerations.

Address Agricultural Exemption.

Under the existing Tree Protection Ordinance, agricultural operations involving tree removal are exempt from mitigation requirements. The Planning Commission asked staff to identify ways to make the ordinance more effective, including eliminating or modifying this exemption. In response, staff developed the following approaches:

Option 1. No change. Maintain existing agricultural exemption.



Option 2. Revise agricultural exemption. Exempt maintenance of existing cultivated land not involving new or expanded agricultural crop cultivation area.

Option 3. Remove agricultural exemption.

Most county lands are in private hands and the majority of those lands are zoned for agricultural use. As a result, the effectiveness of the ordinance largely hinges on whether the ordinance applies to agricultural zones.

Option 1 would continue to allow tree removal on agricultural lands without requiring mitigation. This option would have the least impact on agricultural operations but would allow the greatest unmitigated impact on the resource. Like Option 1, Option 2 and 3 would have no impact on the allowed uses of a property, and would not result in prohibition of tree removal, however both Option 2 and 3 would be more protective because they would require mitigation in most (Option 2) or all (Option 3) circumstances.

With the Planning Commission's direction to alternatives to the existing exemption, staff held multiple meetings with agricultural stakeholders including members of the Farm Bureau and Community Alliance for Family Farming (CAFF). These meetings included a town hall meeting with members of the Farm Bureau, and smaller scale meetings with the Farm Bureau and CAFF. Through these discussions, staff found general consensus that:

- most agricultural operations do not involve tree removal;
- trees often provide benefits, such as shade for cattle;
- many farmers and ranchers have been stewards for multiple generations and trees are an integral part of the landscape and their identities; and
- where tree removal is proposed, it is often minimal but costly, and done only to address individual problem trees, particularly those that pose a risk to staff or infrastructure.

Through these conversations staff confirmed with multiple stakeholders that removing the current exemption and applying this ordinance to agricultural operations would not impact the majority of agricultural operations because tree removal is not a typical component of day-to-day farming operations. Staff also heard that when tree removal does occur on lands under current cultivation, it is often undesirable because of its expense, and only typically undertaken when it is necessary to address a falling tree or similar situation that threatens infrastructure or staff.

Staff recommends Option 2, which is reflected in the draft ordinance, because it strikes a balance between continued facilitation of agricultural uses while ensuring mitigations are required for tree removals that exceed the scope of basic property maintenance. The text in the draft ordinance is as follows:

"Maintenance of Existing Agricultural Crop Cultivation Areas. Agriculture uses exempt from the tree protection ordinance would be limited to existing agricultural crop cultivation and maintenance of existing access roads, drainage, planting, seeding, fertilizing, weeding, tree trimming, irrigation, and harvesting. Expansions of cultivation areas into land not currently used for crop production and



cultivation and which involve tree removal, would be subject to the provisions of this section. The Department of Agriculture/Weights, and Measures may enforce the provisions of this ordinance for permits issued by their department.

Avoiding tree removal

The Tree Protection Ordinance is permissive and instead of determining whether or not a tree can be removed, it allows tree removal and determines whether mitigations are required. The current ordinance applies only to discretionary permits. In meetings with the Planning Commission and public stakeholders, staff received feedback asking for ways to prevent tree removal, while also hearing consistent feedback that the Ordinance should support conservation without adding undue complexity or financial burden for applicants – particularly for removals associated with hazard mitigation, property maintenance, or housing development. The County could consider replace the existing, mitigation based ordinance with a protective ordinance that prohibits tree removal. Alternatively, as proposed, the County could update the existing ordinance to require that applicants explore alternatives to tree removal and demonstrate that no less damaging alternatives are available or feasible.

In order to improve the effectiveness of the ordinance without significantly expanding permitting timelines or cost, staff recommends the adoption of a new provision that would facilitate avoidance of impacts as part of existing discretionary permit processes. For example, if a project is subject to a discretionary permit (e.g. conditional use permit) and the project includes tree removal, the County would require the applicant to evaluate alternatives to tree removal. In contrast, allowed uses such as the development of a residence that involve the removal of trees would not be subject to this provision. At the same time, supplemental tree protections would continue to apply in sensitive areas and to sensitive species through the Riparian Corridor Ordinance, Biotic Habitat Zoning, and potentially a future Oak Woodland Ordinance.

The following language has been added to the Tree Protection Ordinance to prioritize the avoidance of impacts in the planning and review of discretionary projects:

“When a project requiring discretionary permits proposes removal or impacts to protected trees, the applicant shall identify and discuss the availability and feasibility of alternatives that avoid or minimize the impacts to protected trees. The responsible decisionmaker or decision-making body must make the finding that no feasible options are available to avoid impacts to protected trees, and that any lower impact alternatives have been explored and either adopted, or are determined to be infeasible.”

Survey requirement

The Planning Commission previously asked staff to consider requiring a site survey instead of a site plan for tree removal applications. Staff explored this option but ultimately recommends maintaining the existing site plan requirement for several reasons. The tree protection ordinance is fundamentally permissive and does not involve staff discretion to determine whether a tree should be removed. The role of the site plan is to help staff identify the number, type and general location of trees proposed for removal and the location of any proposed mitigation. A site plan provides sufficient level of detail for implementing the ordinance and is the most accessible option because it can be hand drawn by most

applicants or prepared using free online tools. A survey provides a higher degree of precision and depending on who prepares it, may improve staff confidence in what is represented. That said, it comes at a significant increase in cost (e.g. \$5,000-\$10,000) and does not provide any significant benefit for implementation, given that the ordinance's primary purpose is simply to require adequate mitigation. With the expanded applicability of the ordinance beyond discretionary permits, the ordinance would apply to some minor projects involving only the removal of a single tree. Requiring a site survey for all such projects would impose a significant cost burden on applicants with no clear benefit and could lead to unintended consequences of non-compliance and deferred property management. For these reasons, staff recommends no change to the existing site plan requirement. Resources to assist landowners and applicants with species identification could include online resources and utilizing other existing publications and guides, and will be provided for the Department as part of implementing the new updates to the ordinance.

Part 2. Adopt Clarifying Updates to the Riparian Corridor Combining Zone, Timberland Conversion Ordinances, and Subdivision Ordinance

Riparian Corridor Combining Zone (Section 26-65)

This zoning district is intended to protect and enhance the natural function and biotic value of streams and adjacent areas, and balance the demand for uses like agriculture, urban development, timber and mining operations with the preservation of riparian vegetation, protection of water resources, floodplain management, wildlife habitat and movement, stream shade, fisheries, water quality, slope stability, groundwater recharge, opportunities for recreation, education and aesthetic appreciation. The ordinance prohibits grading, vegetation removal, agricultural cultivation, structures and roads within recognized stream channels or streamside conservation areas, with limited exceptions.

The proposed changes would:

- Clarify that invasive plant removal is not limited to the invasive species listed in the ordinance; and
- Add language clarifying that tree or stump removal subject to zoning permit approval in riparian corridors shall protect functions and values of the riparian corridor.

Minor Timberland Conversion Ordinance (Section 26-88-140)

The Minor Timberland Conversion Ordinance was adopted in 1996, by Ordinance 4985. A zoning permit is required for the one-time conversion of less than 3 acres of timberland to a non-timber growing use. The applicant must specify the new non-timber use and neighbors are notified of the conversion application. In order to approve the zoning permit, the analysis must include the economic feasibility of the conversion, the environmental feasibility of the conversion, including the suitability of soils, slope, aspect, quality and quantity of water, and microclimate, and any other foreseeable factors necessary for successful conversion to the new non-timber growing use. Minor timberland conversions are allowed in most rural zoning districts.



The proposed changes would:

- Add clarifying language noting that existing process is discretionary; and
- Where the ordinance states that minor timberland conversions shall “minimize” soils, surrounding vegetation, etc, the word “minimize” would be replaced with “avoid.”

Major Timberland Conversion Ordinance (Section 26-88-160)

Major Timberland Conversion Ordinance was adopted in 2006 by Ordinance 5651. These regulations require a use permit for conversion of more than three acres of timberland in the Resources and Rural Development (RRD) and Timberland Production (TP) zoning districts. Major conversions must include protection of other timberlands and must demonstrate public benefit. Major timberland conversions in the TP zoning district cannot detract from or inhibit timber production on the property. Major timberland conversions are a permitted use in all other rural zoning districts (including agricultural zones) and are subject to regulation by the state (CalFire)

The proposed changes would:

- Update application requirements to require a copy of the timberland conversion permit and timber harvesting plan approved by the California Department of Forestry and Fire Protection.

Subdivision Ordinance (Chapter 25)

The County’s Subdivision Code is adopted for the purpose of regulating the division of land in the unincorporated area of the county pursuant to Article XI, Section 7 of the California Constitution and the Subdivision Map Act. The Subdivision Code currently includes a copy of the Tree Protection Ordinance which is redundant and unnecessary to implement that ordinance. Staff recommends that these provisions of Chapter 25 be removed to reduce the potential for internal inconsistency within Code.

Chapter 25 is not within the jurisdiction of the Planning Commission so no action is needed by the Commission at this time. Staff will propose that the Board of Supervisors take action to remove Section 25-44(o) and associated definitions in Section 25-2 at a future Board hearing.

Part 3. Additional Discussion Requested by the Planning Commission

At their August 18, 2022 meeting, the Planning Commission requested discussion on the following questions.

1. *What is the effect of the “complete site analysis” mitigation option in the TPO, and can it be removed?*

The complete site analysis (Arboreal Value Chart No. 2) could allow for the removal of up to 50% of the arboreal value on a site, without mitigations, if a complete inventory of protected trees is completed for the site. An example of this is if there are ten trees on the site within the 9-15” DBH class equaling 10 Arboreal Value Points, and the project proposes to remove 6 of these trees, equaling six Arboreal Value



Points, then the project applicant would only be responsible for mitigating for one Arboreal Value Point. If Arboreal Value Chart No. 1 was to be used for the same project, then the project applicant would be responsible for mitigation for six Arboreal Value points, evaluating only protected trees removed in the project footprint, without considering the rest of the site. Staff have not discussed removing Arboreal Value Chart No. 2 with stakeholders, and therefore have not developed a recommendation for keeping or removing the chart. See Comparison Tables below.

Comparison Tables:

Arboreal Value Chart 1

To Be Used For Measuring Trees Removed Only in The Development Areas.			
DBH	REMOVED TREES	WEIGHTED VALUE	ARBOREAL VALUE
9-15	6	1	6
15-21		2	0
21-27		3	0
27-33		4	0
Over 33		5	0
		Total	6

Arboreal Value Chart 2

Table A. To Be Used For Measuring Existing Trees On The Entire Site.			
Existing DBH	Existing Trees	Weighted Value	Existing Arboreal Value
9-15	10	1	10
15-21		2	0
21-27		3	0
27-33		4	0
Over 33		5	0
		Total	10
Table B. To Be Used for Measuring Trees to be Removed.			
Removed DBH	Removed Trees	Weighted Value	Removed Arboreal Value
9-15	6	1	6
15-21		2	0
21-27		3	0
27-33		4	0
Over 33		5	0
		Total	6



2. *Mitigation fees for the Valley Oak Habitat (VOH) Combining Zone (Zoning Code Article 67) and the Tree Protection Ordinance are outdated, can we update mitigation fees?*

The Planning Commission requested updates to mitigation fees to appropriately reflect current costs of mitigation and to serve as a deterrent to tree removal. Updating mitigation fees would require a fee study. Direction to pursue a fee study would need to come from the Board of Supervisors. Staff have not been directed to pursue a fee study to date. The Planning Commission may recommend to the Board that it direct and fund a fee study.

3. *How are fees from the Valley Oak Habitat (VOH) Combining Zone (Zoning Code Article 67) and the Tree Protection Ordinance processed – where do they go?*

Staff met with Sonoma County Regional Parks planning staff to discuss the use of funds from the Tree Protection Ordinance and the Valley Oak Habitat Combining Zone Ordinance. Parks staff provided the following summary of the use of funds from 2018 to 2023:

Year	2018	2019	2020	2021	2022	2023	Grand Total
<i>Protection Ordinance</i>	\$ 125.00	\$ 7,337.00	\$ 2,000.00	\$ 5,400.00	\$ 14,481.25	\$ 600.00	\$ 29,943.25
<i>Valley Oak Ordinance</i>	\$ 475.00	\$ 150.00	\$ 300.00				\$ 925.00
Grand Total	\$ 600.00	\$ 7,487.00	\$ 2,300.00	\$ 5,400.00	\$ 14,481.25	\$ 600.00	\$ 30,868.25

Parks staff also stated that these fees are used exclusively for tree planting purposes, typically for planning projects that involve landscaping elements, but also occasionally for other circumstances like revegetation projects or community planting days.

4. *Is the County able to regulate utility line tree removal?*

Staff were asked about the County’s abilities to regulate electrical utility infrastructure related tree removal. Staff received a memo from PGE in May 2023, that summarized their rights as follows, *“Local jurisdictions lack the authority to require PG&E to obtain or comply with discretionary local permits (whether pertaining to siting, design, construction, operation or maintenance of utility facilities - and including tree removal/pruning permits) because the operation and maintenance of utility facilities falls within the exclusive jurisdiction of the California Public Utilities Commission (CPUC) as well as the federal government -- and is therefore preempted.”*

The memo did state that the County does have the authority to, *“regulate the time, place and manner of PG&E’s work within a public right of way and, for instance, may require a ministerial encroachment permit. But any such encroachment permits cannot be tied to, or conditioned with, respect to compliance with local tree ordinances.”*



Staff interpret this as meaning that the County can regulate work in the public right of way, but that outside of this right of way the County is unable to subject utility line tree removal to local tree protection ordinances.

ANALYSIS

General Plan Consistency

General Plan Goals, Objectives and Policies applicable to this project:

- **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 project implements these goals, objectives and policies by requiring that mature, native trees are either protected during the course of construction, or if removed, are adequately mitigated through replanting, or paying in-lieu fees that support replanting and forest health. These ordinances also complement other environmentally relevant regulations in County, State and Federal Code, including but not limited to the Biotic Habitat Combining Zone (Zoning Code Article 66), Landmark and Heritage Tree Ordinance (Sonoma County Code Chapter 26D), and Vineyard and Orchard Site Development Ordinance (Sonoma County Code Chapter 36).

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) Introducing a separate oak woodland ordinance, expected to come before the Planning Commission in September 2023, to address a unique and sensitive habitat type that represents one of the County's largest gaps in protection of locally important species.
- 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 VEGAMP 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 in CEQA Guidelines Section 15307 for Actions by Regulatory Agencies for Protection of Natural Resources and Section 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.

RECOMMENDATION

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

Attachments

- 1) Planning Commission Resolution
- 2) Draft Ordinance
 - a) Exhibit A – County Code With Tracked Changes