



FILE: ORD21-0001
DATE: August 18, 2022
TIME: 1:05pm
STAFF: Doug Bush
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SUMMARY

Supervisory District(s): All
Location: Countywide Excluding Coastal Zone
Description: Public hearing on draft ordinance to amend Chapter 26 to align county code with existing conservation policies, and county and state regulations.
CEQA Review: The proposed project is categorically exempt from CEQA under State CEQA Guidelines Sections 15307 (Actions by regulatory agencies for protection of natural resources and the environment) and 15308 (actions by regulatory agencies for protection of the environment) and Section 15061(b)(3) (common sense exemption.)

RECOMMENDATION

Hold a public hearing, review the draft code updates identified in Attachment 2 Exhibit A, identify the desired updates, and adopt a resolution (Attachment 1) making recommendations to the Board of Supervisors for their consideration at a future public hearing tentatively set for October 18, 2022.

EXECUTIVE SUMMARY

Following a May 2021 informational meeting with the Board of Supervisors, staff evaluated existing tree protection policy and developed updates to existing code which would improve implementation of existing general plan policy by clarifying existing code, closing gaps in resource protection, and improving natural resources protections to better implement county climate and natural resource policy. On November 4, 2021, staff presented an informational update to the Planning Commission, identifying gaps between general plan policies and implementing code, such as the goal to protect native trees and the implementing code that allow most native trees to be removed. At this hearing staff presented next steps for the project, which noted that staff would identify potential updates to existing code in order to address the gaps between the General Plan policies and the Zoning Code, and develop a new oak woodland ordinance to address additional gaps in policy implementation. This was supported by the Planning Commission.

The purpose of this Planning Commission is to conduct a public hearing on a draft ordinance to amend Chapter 26 to align county code with existing conservation policies, county and state regulations. Following this Planning Commission meeting, staff will present a final draft ordinance to the Board of Supervisors on October 18, 2022.

PROJECT HISTORY

Hearings

On May 18, 2021, the Sonoma County Board of Supervisors held a public meeting where staff presented an overview of existing general plan policies addressing trees, current tree regulations and a brief overview of potential 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
- We 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

During this meeting the Board provided staff the following direction:

- Define the problem: create an existing inventory and baseline
- Create performance measures to track loss of inventory
- Avoid conflict between hazard mitigation and conservation efforts
- Report on number of permits for tree removal
- Review local tree protection measures enacted by Napa and Marin counties
- Engage with the public to review existing and develop new tree protections
- Review potential for a moratorium

On November 4, 2021, the Planning Commission held a meeting where staff presented a general scope of work including future improvements to existing county code to improve protections of all trees, as identified above; and development of a new Oak Woodland Ordinance. The Planning Commission hosted a public workshop and informational meeting addressing these items and though no formal decision was under consideration, the Planning Commission and participating members of the public provided their support for the proposed scope of work.

During this meeting the Planning Commission provided the following direction:

- Explore methods for ordinance to address Sonoma County's climate commitments
- Define hardwood systems more broadly
- Define the focus of a potential moratorium on tree removal permits that members of the public have called for
- Address discrepancies between where valley oaks occur and where valley oak protections apply
- Explore other avenues of review for discretionary tree removal projects
- Identify how current in-lieu fees being used

OUTREACH

For several years prior to the initiation of this multi-phase project, local organizations including Sonoma County Climate Action and Forests Unlimited had requested that the county take action to improve protection of forest resources. Their feedback has included requests for a tree-cutting moratorium to prevent further destruction of forest resources while the county develops a longer term solution. Ultimately, moratoriums are the purview of the Board of Supervisors and staff has not been directed to pursue a moratorium. 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, 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

Ordinance Updates

EXISTING ORDINANCES

The Tree Protection Ordinance (Section 26-88-010 (m)) was adopted in 1989, by Ordinance 4014. It addresses trees on sites where a private development project is proposed, when that project is discretionary in nature (e.g. conditional use permit). The ordinance does not require a separate permit for tree removal and does not prohibit removal of trees. Instead, tree issues are addressed as part of the development permit process. Agricultural activities, including cultivation, are exempt from the Tree Protection Ordinance.

The Valley Oak Habitat (VOH) Zoning District (Article 67) was adopted by the Board in 1996, by Ordinance 4991. The purpose of the VOH District is to protect and enhance valley oaks and valley oak woodlands. The VOH zoning was placed on parcels using soil types that typically support valley oak trees. On properties within the VOH zone, a permit is required to remove valley oak trees. The applicant must mitigate the resulting valley oak loss by methods included in the ordinance, such as retaining other valley oaks on the subject property, planting replacement valley oaks on- or off-site, or paying an in-lieu fee.

The county also has **Timberland Conversion ordinances** that regulate the conversion of timberlands (as defined in the state Forest Practice Rules), which generally include land capable of growing commercial timber species.

Minor Timberland Conversions (Section 26-88-140) were adopted in 1996, by Ordinance 4985. These permits are processed with 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.

Major Timberland Conversions (Section 26-88-160) were adopted in 2006, by Ordinance 5651 § 1(y). 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)

DISCUSSION

Potential ordinance updates are included in Attachment 2 Exhibit A for the Commission's consideration. These updates, summarized below, would support implementation of the General Plan, including Objective OSRC-7.6 to "establish standards and programs to protect native trees and plant communities," (See Attachment 3 for relevant policies) and supporting mutually beneficial efforts to manage vegetation for wildfire resiliency and clarifying permit requirements to the benefit of code users.

Tree Protection Ordinance Updates

- Reduce threshold for protection from 9" in diameter to 6" (to align with standards recently proposed in the Sonoma County Local Coastal Plan Update)
- Expand protected species list to encompass broader range of native tree species
- Clean up existing language within code to improve clarity in implementation
- Expand applicability of ordinance to all development activities with significant tree impacts

Update Riparian Corridor Ordinance

- Clarify that defensible space exception applies to old-growth redwood protection, implementing General Plan Policy OSRC-7u.
- Update language in permitted uses to reflect current practice and increase efficiency

Update Minor and Major Timberland Conversion Ordinances

- Clarify that a discretionary zoning permit is required for minor timberland conversions in order to apply existing discretionary criteria. (The Zoning Code includes both ministerial and discretionary zoning permits. Where an ordinance includes discretionary factors, which the Minor Timberland Conversion Ordinance does, a zoning permit requires discretionary review.)
- Update existing language to reflect current CAL FIRE policies regarding major timberland conversions

CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA)

The proposed Zoning Ordinance Amendments are categorically exempt from CEQA under State CEQA Guidelines Sections 15307 and 15308 (Actions by Regulatory Agencies for Protection of Natural Resources and the Environment). These exemptions cover actions taken to assure the maintenance, restoration or enhancement of natural resources or the environment where the regulatory process involves procedures for the protection of the environment. The proposed project would only make changes to clarify and strengthen existing requirements, standards, and definitions in Sonoma County Code Chapter 26, thereby increasing protections for natural resources and the environment; and does not involve construction or any other activity that could degrade or physically change the environment. The proposed project is also exempt under CEQA Guidelines Section 15061(b)(3), which exempts projects where it can be seen with certainty that there is no possibility that the project will have a significant effect on the environment. There is no possibility the proposed Ordinance Amendments will have a significant effect on the environment because the proposed amendments strengthen protections of natural resources beyond that provided in existing code.

CONCLUSION

Wildfire and climate impacts have highlighted gaps in the county's tree protection measures and new analysis of forest health shows substantial declines in many local forest ecosystems. Updates to current code would address these critical issues by increasing the type, number, and location of trees that are protected under county code. Staff recommends that the Planning Commission hold a public hearing, review the draft code updates identified in Attachment 2 Exhibit A, identify the desired updates, and adopt a resolution (Attachment 1) making recommendations to the Board of Supervisors for their consideration at a public meeting set for October 18, 2022. At the conclusion of this item, staff will present a separate workshop item focused on addressing oak woodland conservation.

Attachments:

1. Draft Planning Commission Resolution
2. Draft Board of Supervisors Ordinance
2. Exhibit A. Draft Code Updates
3. General Plan Policies