



COUNTY OF SAN MATEO
Inter-Departmental Correspondence
Planning and Building



Date: September 14, 2016
Board Meeting Date: September 20, 2016
Special Notice / Hearing: 10 days; within 500 feet
Vote Required: Majority

To: Honorable Board of Supervisors

From: Steve Monowitz, Community Development Director

Subject: Consideration of amendments to Section 12,000 (Significant Tree Regulations) and Section 11,000 (Heritage Tree Regulations) of the San Mateo County Ordinance Code, to improve protection of Significant and Heritage Trees in the Unincorporated areas of San Mateo County.

County File Number: PLN 2016-00372 (Planning and Building Department)

RECOMMENDATION:

Adopt the proposed amendments to Section 12,000 (Significant Tree Regulations) and Section 11,000 (Heritage Tree Regulations) of the San Mateo County Ordinance Code, to add specific language to improve protection of Significant and Heritage Trees.

BACKGROUND:

On July, 26, 2016, the Board of Supervisors received a report from staff responding to a request by Menlo Oaks Tree Advocacy to adopt an urgency ordinance prohibiting the removal or major trimming of Heritage Oaks in Menlo Oaks. After discussing the issues raised by this request, including the update to tree regulations currently underway, the Board directed staff to expedite a set of initial improvements, including increased penalties for the unpermitted removal of trees, and review of tree removal applications by an independent arborist.

The recommended amendments to the County's Significant Tree and Heritage Tree regulations attempt to carry out this directive, and include additional changes to clarify and codify existing and new requirements. Specifically, the recommended amendments require:

1. Submittal of an Existing Tree Plan as part of any submittal for a Planning or Building permit, including Grading or Demolition permits that may impact a Significant or Heritage Tree. The plan must include an arborist's report which assesses the impact of proposed development upon protected trees and

recommends both short and long term measures to ensure their long-term survivability.

2. Implementation of a tree protection plan, as a requirement for all Planning and Building permits that authorize activities that may impact Significant or Heritage Trees.
3. Supplemental tree removal permit application and processing requirements, including review by an independent arborist.
4. Measures to discourage unpermitted tree removal, including increased penalties and restrictions on resuming or undertaking new development.

Presentation of these proposed amendments constitutes the first reading as required by Section 25131 of the California Government Code.

Report Prepared By: Michael Schaller, Senior Planner

Applicant: San Mateo County Planning and Building Department

Location: Countywide

DISCUSSION:

A. THE PROPOSED AMENDMENTS

1. **Plan requirements.** Existing Heritage and Significant Tree Regulations do not specifically require applicants for development to clearly show the location, size and canopy of existing tree resources on development parcels. Nor do they require arborist's reports documenting the health and the potential impact of proposed development upon tree resources on the development parcel.

Staff has interpreted the existing language of the ordinances to provide it with the ability to require this information on an ad hoc basis. However, what has been submitted by applicants has varied widely in scope and accuracy. Additionally, the current ordinances lack a clear requirement for tree protection measures when development is adjacent to trees that are not proposed for removal.

To fix these holes in the ordinances, staff is recommending the addition of language requiring the submittal of a separate tree plan as part of any Planning or Building permit application that proposes development that may impact Significant or Heritage Trees. This plan must clearly show the location, species and size of tree (both trunk and canopy) as well as the footprint of any existing or proposed structures. The plan must be prepared by a licensed surveyor or registered civil engineer in order to ensure spatial accuracy. Additionally, an arborist's report must accompany the plan. The

report must assess the potential impact of new development on trees that are not proposed for removal and measures to avoid and remediate any impact that does occur.

The recommended amendments also codify the requirement for a tree protection plan as part of any Planning or Building permit, as well as the requirement for a pre-construction site inspection to verify that all required tree protection and erosion control measures are in place prior to construction.

2. **Penalty and Mitigation Measures.** Staff is also proposing to strengthen the ordinance's regulations addressing unpermitted tree removal by increasing penalty fees, and by supplementing mitigation requirements.

Violation of the revised regulations will result in the issuance of a Stop Work Notice which will restrict all construction activity on the subject parcel until a mitigation plan is submitted, approved, and implemented, as well as penalties and After-the-Fact Tree Removal Permit fees collected. After-the-Fact Tree Removal Application fees can be up to 10 times the normal permit fee, as currently allowed by the Planning Department's fee schedule. In addition, staff is proposing the following new penalty fees:

First Heritage Tree	\$5,000	First Significant Tree	\$2,500
Second Heritage Tree	\$7,500	Second Significant Tree	\$3,750
Each Additional Heritage Tree	\$10,000	Each Additional Significant Tree	\$5,000

These higher penalty fees are intended to deter the unpermitted removal of trees, account for the increased time and administrative costs associated with the processing of violations and After-the-Fact Tree Removal Permits, and reflect the significant community and environmental benefits that Heritage and Significant Trees provide.

B. ENVIRONMENTAL REVIEW

The proposed Ordinance Code amendments are exempt from the California Environmental Quality Act (CEQA) pursuant to California Public Resources Code, Section 15061(b)(3). The amendments are covered by the General Rule, which states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. There is no evidence to suggest that the proposed amendments to the County Ordinance Code will have a significant negative impact on the natural or built environment. Their intention is to prevent or deter the accidental or intentional removal or destruction of trees.

C. REVIEWING AGENCIES
County Counsel

County Counsel has reviewed and approved the proposed materials as to form and content.

The approval of the proposed amendments to the County's tree regulations contributes to the 2025 Shared Vision outcome of a Livable Community by ensuring that tree resources are protected during the land development process.

FISCAL IMPACT:

There is no anticipated fiscal impact to the County as a result of this amendment.

ATTACHMENTS

- A. Recommended Findings
- B. Resolution Adopting Revisions to (1) Part III of Division VIII of the San Mateo County Ordinance Code ("the Significant Tree Ordinance") and (2) Ordinance No. 2427 ("the Heritage Tree Ordinance")
- C. Proposed revisions – Section 12,000 et sequitar (Significant Tree Ordinance)
- D. Proposed revisions – Section 11,000 et sequitar (Heritage Tree Ordinance)