



PLANNING COMMISSION REGULAR MEETING

Clearlake City Hall Council Chambers
14050 Olympic Dr, Clearlake, CA

Tuesday, October 22, 2024

6:00 PM

The Planning Commission meetings are viewable in person in the Council Chambers, via livestreaming on the City's YouTube Channel (https://www.youtube.com/channel/UCTyifT_nKS-3woxEu1ilBXA) or "Lake County PEG TV Live Stream" at <https://www.youtube.com/user/LakeCountyPegTV/featured> and the public may participate through Zoom at the link listed below. The public will not be allowed to provide verbal comment during the meeting if attending via Zoom. The public can submit comments in writing for Commission consideration by commenting via the Q&A function in the Zoom platform or by sending comments to the Administrative Services Director/City Clerk at mswanson@clearlake.ca.us. To give the Commission adequate time to review your comments, you must submit your written emailed comments prior to 4:00 p.m. on the day of the meeting.

AGENDA

MEETING PROCEDURES: *All items on agenda will be open for public comments before final action is taken. Citizens wishing to introduce written material into the record at the public meeting on any item are requested to provide a copy of the written material to the Administrative Services Director/City Clerk prior to the meeting date so that the material may be distributed to the Planning Commission prior to the meeting. Speakers must restrict comments to the item as it appears on the agenda and stay within a three minutes time limit. The Mayor has the discretion of limiting the total discussion time for an item.*

Pursuant to Senate Bill 1100 and the City Council Norms and Procedures, any member of the public making personal, impertinent, and/or slanderous or profane remarks, or who becomes boisterous or belligerent while addressing the Commission, staff or general public, or while attending the Planning Commission meeting and refuses to come to order at the direction of the Presiding Officer, shall be removed from the Council Chambers or the Zoom by the sergeant-at-arms or the City Clerk and may be barred from further attendance before the Commission during that meeting. Unauthorized remarks from the audience, stamping of feet, whistles, yells, and similar demonstrations shall not be permitted by the Presiding Officer. The Presiding Officer may direct the sergeant-at-arms to remove such offenders from the room.

AMERICANS WITH DISABILITY ACT (ADA) REQUESTS

If you need disability related modification, including auxiliary aids or services, to participate in this meeting, please contact Melissa Swanson, Administrative Services Director/City Clerk at the Clearlake City Hall, 14050 Olympic Drive, Clearlake, California 95422, phone (707) 994-8201, ext 106, or via email at mswanson@clearlake.ca.us at least 72 hours prior to the meeting, to allow time to provide for special accommodations.

AGENDA REPORTS

Staff reports for each agenda item are available for review at www.clearlake.ca.us. Any writings or documents pertaining to an open session item provided to a majority of the Planning Commission less than 72 hours prior to the meeting, shall be made available for public inspection on the City's website at www.clearlake.ca.us.

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US: +1 669 444 9171 or +1 720 707 2699 or +1 253 205 0468 or +1 253 215 8782 or +1 346 248 7799 or +1 719 359 4580 or +1 646 931 3860 or +1 689 278 1000 or +1 301 715 8592 or +1 305 224 1968 or +1 309 205 3325 or +1 312 626 6799 or +1 360 209 5623 or +1 386 347 5053 or +1 507 473 4847 or +1 564 217 2000 or +1 646 558 8656

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A. ROLL CALL

B. PLEDGE OF ALLEGIANCE

C. ADOPTION OF THE AGENDA *(This is the time for agenda modifications.)*

D. PUBLIC COMMENT: *This is the time for any member of the public to address the Planning Commission on any matter not on the agenda that is within the subject matter jurisdiction of the City. **The Brown Act, with limited exceptions, does not allow the Commission or staff to discuss issues brought forth under Public Comment.** The Commission cannot take action on non-agenda items. Concerns may be referred to staff or placed on the next available agenda. Please note that*

comments from the public will also be taken on each agenda item. Comments shall be limited to three (3) minutes per person.

E. CONSENT AGENDA: *All items listed under the Consent Agenda are considered to be routine in nature and will be approved by one motion. There will be no separate discussion of these items unless a member of the Commission requests otherwise, or if staff has requested a change under Adoption of the Agenda, in which case the item will be removed for separate consideration. Any item so removed will be taken up following the motion to approve the Consent Agenda.*

F. PUBLIC HEARING

1. Continuation of Public Hearing: Zoning Ordinance Text Amendments, ZOA 2024-02 & 2024-06
Recommended Action: Adopt Resolution 2024-03

G. BUSINESS

2. Review and Discussion of the Native Tree Protection Ordinance in Accordance with Section 18-40 of the City Municipal Code
Recommendation: Provide direction to staff

H. CITY MANAGER AND COMMISSIONER REPORTS

I. FUTURE AGENDA ITEMS

J. ADJOURNMENT

POSTED: October 18, 2024

BY:



Melissa Swanson, City Clerk



City of Clearlake Planning Commission

STAFF REPORT	
SUBJECT: Continuation Zoning Ordinance Text Amendment, ZOA 2024-02 Categorical Exemption, CE 2024-06	
DATE: Octobert 22 nd , 2024	TIME: 6:00 PM
SUBMITTED BY: Mark Roberts – Senior Planner	
REPORT PURPOSE: <input checked="" type="checkbox"/> Action Item <input type="checkbox"/> Discussion <input type="checkbox"/> Information Only	
APPLICANT: City of Clearlake	

WHAT IS BEING ASKED OF THE PLANNING COMMISSION:

The Planning Commission is being asked to consider proposed Zoning Ordinance Text Amendments, ZOA 2024-02 and corresponding environmental filing, Categorical Exemption, CE 2024-06 and to make the appropriate recommendations to the City Council for adoption.

PROJECT SUMMARY:

Project Background: The City’s Municipal Zoning Code Regulations are responsible for providing standards, requirements and guidelines for orderly development in the City. On occasion, refinements to the Zoning Code Regulations are required to clarify these regulations to help expediate review timelines, implement new statutes, and refine regulations to improve administration.

On September 10th, 2024, the Planning Commission was presented proposed amendments to the City’s Municipal Zoning Code Regulations. The proposed changes were recommended for approval to the City Council, except for Section 18-20-140 (Curb, Gutter, Sidewalk), which was continued to September 24th 2024, for further discussion.

On September 24th, 2024, Staff presented the proposed amendments to Section 18-20-140 (Curb, Gutter, Sidewalk) before the Planning Commission. The Planning Commission considered the proposed amendments, including public input, and by unanimous vote continued the hearing to October 22, 2024, directing staff to provide additional information as follows

- *To increase the current base value of \$10,000 .*
- *Develop the code section, to include general property maintenance (such as windows, cool/heating, sewer/water lines, etc.) are exempt.*
- *Provide further clarification on general requirements/process.*

ENVIRONMENTAL REVIEW (CEQA):

Staff has made the determination pursuant to the California Environmental Quality Act (CEQA) Sections 15060(c)(2) [the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment], 15060(c)(3) [the activity is not a project as defined in Section 15378] , and Section 15061 (b)(3) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3 because it has no potential for resulting in physical change to the environment, directly or indirectly. Additionally, the proposed text amendment serves to establish general standards and regulations. Individual projects that are subject to the Ordinance would still require

individual review for conformance with CEQA. **Therefore, the proposed amendments are exempt from CEQA.**

LEGAL NOTICE & PUBLIC COMMENT

This is a continuation of the Planning Commission Meeting from September 10th, 2024, at 6:00PM. Since this is a continuation, the republication of a legal notice in the Lake County Record Bee in accordance with the City Municipal Code, including posting a copy of the notice in the City's Bulletin Board is not required.

MOTION/OPTIONS:

- 1. Move to Adopt Resolution PC 2024-03, A Resolution of the Planning Commission of the City of Clearlake Recommending the City Council Adopt Zoning Ordinance Text Amendment, ZOA 2024-02 and corresponding environmental fling Categorical Exemption, CE 2024-06.

- 2. Move to Deny PC Resolution PC 2024-03.

- 3. Move to continue the item and provide alternate direction to staff.

ATTACHMENTS:

- 1) Proposed amendments for Section 18-20-140 (Curb, Gutter, Sidewalk)
- 2) Planning Commission Resolution PC 2024-03
- 3) Draft City Council Ordinance 271-2024

Attachment # 1**Section 18-20-140 – Curb, Gutter, Sidewalks Improvements**

A. Purpose Establish pedestrian safe corridors by providing a uniform procedure for the installation of curb, gutter, and sidewalks; to impose a reasonable public property improvement requirement as a condition of construction of buildings or other improvements for the orderly development and improvement of public property consistent with public health, safety and enhancing the appearance of the City.

B. General Provisions:

1. **Property Improvements:** When property improvements exceed \$50,000 on a parcel, the installation of curb, gutter and sidewalk improvements shall be required to applicable road standards. If the existing right-of-way improvements are damaged or in a state of disrepair they shall be reconstructed to comply with the current standards. This requirement shall apply to all Land Use Zoning Designations within the City.
2. **Discretionary/Entitlement Permits:** The installation of Curb, Gutter, Sidewalks Improvements shall be a standard condition of approval for all Discretionary Land Use Permits/Entitlements (Administrative Use Permits, Conditional Use Permits, Parcel/Subdivision Maps, Rezones, General Plan Amendments, Planned Development Projects, etc.)
3. **Exemptions:** The following property improvements are exempt from these requirements:
 - Repairs made to comply with state or local health and safety regulations to assure safe living conditions.
 - Repairs made to restore a structure to its pre-existing condition when the damage has been caused by a natural disaster (such as fires, earthquakes, floods, slides, and/or a strong wind events).
 - Routine property maintenance such as re-roofing, replacement of heating/cooling equipment, sewer/water line repairs, electrical/plumbing repairs, existing foundation repair, and required upgrades to bring a structure into compliance with the Americans Disabilities Act (ADA).
 - Improvements to elevate structures within a floodplain to current FEMA and local agency requirements.

C. Submittal & Completion Requirements:

1. **Plan Requirements:** All Curb, Gutter and Sidewalk Improvement Plans shall be prepared and stamped by a California Licensed Civil Engineer and prepared in accordance with all applicable Federal, State, and local agency requirements, including the City of Clearlake Municipal Code and Design/Construction Standards.
2. **Inspection of Right-of-Way Improvements:** The City Manager or designee shall have the power to appoint qualified persons to inspect construction of the work specified in this chapter. If the inspection requires a Licensed Special Inspector, it shall be the responsibility of the applicant to secure such inspection.
3. **Permit Requirements:** Prior to installation, the applicant shall apply for and secure all required Federal, State and local agency permits, including an Encroachment Permit with the City.
4. **Installation Requirements:** All Curb, Gutter and Sidewalk Improvements shall be installed on all street frontages prior to final inspection and/or occupancy.

D. Construction Requirement Waiver.

1. A waiver from requiring curb, gutter, and sidewalk to be installed in conjunction with the improvements to the abutting property may be granted under the following circumstances:
 - a. Where the upon request by application the City Manager or designee finds and determines there are circumstances applying to the project site, such as size, shape or topography, which do not apply generally to land within the vicinity. Such circumstances shall not constitute a grant of special privilege/entitlement inconsistent with the limitations upon other properties in the vicinity; or
 - b. If the project parcel is located within a City Roadway Improvement Project, in lieu of installing such improvements, as normally required, the applicant shall pay a fee to the City equal to the cost of installing the improvements to the City. Said fee shall be determined by the City Engineer; or
 - c. Enter into an Improvement Deferral Agreement approved by the City Attorney which shall contain, required timelines for installation among other provisions determined by the city, agreement by applicant to furnish improvement security by cash deposit or bond(s) duly authorized corporate surety with the City. The amount of said improvement security shall be determined by the City Engineer and shall be equal to the City's Engineers estimate of the cost of the improvement to be deferred, plus ten (10) percent. The security shall run with the land and shall be binding upon successors in interest to the property receiving deferral. Said Improvement Deferral Agreement shall be record at the Lake County Assessor/Recorders Office.

RESOLUTION NO. PC 2024-03

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CLEARLAKE RECOMMENDING TO THE CITY COUNCIL ADOPTION OF ZONING ORDINANCE TEXT AMENDMENT ZOA 2024-02 TO REPEAL CHAPTER 18, ZONING OF THE CLEARLAKE MUNICIPAL CODE AND REPLACE WITH AMENDED CHAPTER 18, ZONING OF THE CLEARLAKE MUNICIPAL CODE.

WHEREAS, the City of Clearlake has initiated a Zoning Ordinance Text Amendment, ZOA 2024-02 to update the Zoning Code; and

WHEREAS, the Planning Commission has determined that this project is not subject to environmental review in accordance with Sections 15060(c)(3), 15378, and 15061 (b)(3) of the California Environmental Quality Act (CEQA) Guidelines, California Code of Regulations; and;

WHEREAS, the Planning Commission has duly called, advertised published in the Lake County Record Bee on August 31st, 2024, the public had the opportunity to submit input, and on September 10th, 2024, Public Hearing required by law concerning the proposed amendments to the Zoning Ordinance; and

WHEREAS, on September 10th, 2024, the City of Clearlake Planning Commission held a public hearing, and has considered the proposed amendments, including public input and recommended to the City Council adoption of Zoning Ordinance Text Amendment Application ZOA 2024-02, excluding Section 18-20.140 (Curb, Gutter, Sidewalk).

WHEREAS, on September 10th, 2024, the City of Clearlake Planning Commission continued the public hearing to September 24th, 2024, to discuss Section 18-20.140 (Curb, Gutter, Sidewalk).

WHEREAS, on September 24th, 2024, the City of Clearlake Planning Commission held a public hearing regarding Section 18-20.140 (Curb, Gutter, Sidewalk), and has considered the proposed amendments, including public input and continued the public hearing to October 22nd, 2024, and

WHEREAS, on September 10th, 2024, September 24th, 2024 and on October 22nd, 2024, the City of Clearlake Planning Commission held a public hearing, and has considered the proposed amendments, including public input and recommended to the City Council adoption of Zoning Ordinance Text Amendment Application ZOA 2024-02.

NOW, THEREFORE, BE IT RESOLVED CITY OF CLEARLAKE PLANNING COMMISSION, THAT THE PLANNING COMMISSION RECOMMENDS, BASED ON THE FINDING WITHIN THIS RESOLUTION (BELOW), THAT THE CITY COUNCIL OF THE CITY OF CLEARLAKE ADOPT THE FOLLOWING AS SHOWN IN EXHIBIT A:

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLEARLAKE REPEALING AND REPLACING CHAPTER 18 OF THE CLEARLAKE MUNICIPAL CODE

FINDINGS OF FACT

1. The proposed amendments to the City of Clearlake Municipal Code, Chapter 18 (Zoning) provide for the “public necessity and convenience and general welfare;” and
2. The proposed amendments would not be detrimental to the public’s health, safety and welfare; and
3. The proposed amendments are exempt under California Environmental Quality Act (CEQA) Sections 15060(c)(2) [the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment], 15060(c)(3) [the activity is not a project as defined in Section 15378] , and Section 15061 (b)(3) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3 because it has no potential for resulting in physical change to the environment, directly or indirectly. Additionally, the proposed text amendment serves to establish general standards and regulations. Individual projects that are subject to the Ordinance would still require individual review for conformance with CEQA; and
4. The Project was duly noticed for public hearing before City of Clearlake Planning Commission, and there were no comments or opposition to the project; and
5. The project is consistent with the goals and policies of the General Plan; and
6. The Planning Commission hereby recommends to the City Council adoption of Clearlake Zoning Ordinance Text Amendment ZOA 2024-02.

THE PLANNING COMMISSION OF THE CITY OF CLEARLAKE HEREBY ORDERS AS FOLLOWS:

Section 1. The Planning Commission hereby authorizes and directs the officers, employees, staff, consultants and attorneys for the Planning Commission to take any and all actions that may be necessary to effectuate the purposes of this resolution or which are appropriate or desirable in the circumstances. If prior to the adoption of the City Council desires to make any minor, technical, or clarifying changes to the Clearlake Zoning Ordinance Text Amendment ZOA 2024-02, the Planning Commission hereby finds and determines that any such minor, technical, or clarifying changes need not be referred to it for further report and recommendation.

Section 2. The Planning Commission hereby authorizes and directs staff to transmit a copy of this resolution to the City Council.

PASSED, APPROVED and ADOPTED this September 10, 2024, and on October 24th, 2024, by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

Planning Commission Chair

ATTEST:

City/Deputy Clerk

CITY OF CLEARLAKE

ORDINANCE NO. 271-2024

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLEARLAKE TO REPEAL CHAPTER 18 OF THE CLEARLAKE MUNICIPAL CODE – CITY OF CLEARLAKE ZONING CODE AND REENACT CHAPTER 18 OF THE CLEARLAKE MUNICIPAL CODE – CITY OF CLEARLAKE ZONING CODE, REPLACING THE OFFICIAL CITY CODES AND REGULATIONS

WHEREAS, the City of Clearlake has initiated Zoning Ordinance Application ZOA 2024-02 to update the Zoning Code and incorporate applicable State housing law provisions and other enhancements and clarifications into the Clearlake Zoning Ordinance; and

WHEREAS, the City of Clearlake City Council has considered the recommendations of the Zoning Code Update: and

WHEREAS, the Planning Commission held a duly noticed Public Hearings on September 10th, 2024; September 24th, 2024 and on October 24th, 2024 to consider and recommended adoption of the Zoning Ordinance ZOA 2024-02, to the City Council; and

WHEREAS, the City Council finds that the amendments of this Ordinance are consistent with the City of Clearlake’s General Plan; and

WHEREAS, the amendments to the City of Clearlake Municipal Code set forth herein provide for the “public necessity and convenience and general welfare” and would not be detrimental to the public’s health, safety, and welfare; and

WHEREAS, the City Council has determined that Zoning Ordinance ZOA 2024-02 is exempt from environmental review in accordance with Sections 15060(c)(2), 15060(c)(3), and Section 15061 (b)(3) of the CEQA Guidelines, California Code of Regulations, and

WHEREAS, the City of Clearlake City Council has considered public comment at duly noticed public hearings on _____ 2024.

THE CITY COUNCIL OF THE CITY OF CLEARLAKE DOES ORDAIN AS FOLLOWS:

Section 1. The City of Clearlake City Council finds that this Ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment), 15060(c)(3) (the activity is not a project as defined in Section 15378) , and Section 15061 (b)(3) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3 because it has no potential for resulting in physical change to the environment, directly or indirectly, and directs staff to file a Notice of Exemption accordingly.

Section 2. Chapter 18 of the Clearlake Municipal Code, the City of Clearlake Zoning Code, is hereby repealed in its entirety and reenacted as set forth in the attached Exhibit A, that is incorporated herein by this reference.

Section 3. The City Council declares that, should any provision, section, subsection, sentence, paragraph, clause, phrase, or word of this Ordinance, or the Code section hereby adopted, be rendered or declared invalid by any final court action in a court of competent jurisdiction, or by any reason of any preemptive legislation, the remaining provisions, sections, subsections, sentences, paragraphs, clauses, phrases or words of this Ordinance and Code section hereby adopted shall remain in full force and effect.

Section 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause a summary of the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

Introduced at a Regular Meeting of the City Council of the City of Clearlake on _____ 2024 by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

Mayor

Passed and Adopted at a Regular Meeting of the City Council of the City of Clearlake on _____ 2024 by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

MAYOR

I hereby certify that the foregoing Ordinance was PASSED, APPROVED and ADOPTED this ____ day of _____, 2024.

ATTEST:

CITY/DEPUTY CLERK

Exhibit A

Zoning Code Amendments for Zoning Ordinance Amendment ZOA 2024-02



City of Clearlake Planning Commission

STAFF REPORT	
SUBJECT: Native Tree Protection Ordinance	
DATE: October 22 nd 2024	TIME: 6:00 PM
SUBMITTED BY: Mark Roberts – Senior Planner	
REPORT PURPOSE: <input type="checkbox"/> Action Item <input checked="" type="checkbox"/> Discussion <input type="checkbox"/> Information Only	
APPLICANT: City of Clearlake	

WHAT IS BEING ASKED OF THE PLANNING COMMISSION:

The Planning Commission is being asked to discuss the Native Tree Protection Ordinance in accordance with Section 18-40 of the City Municipal Code.

PROJECT SUMMARY:

The purpose of the Native Tree Protection Ordinance, (<https://clearlake.municipal.codes/CMC/18-40>) is for the preservation and protection of natural resources while balancing the needs of commerce, industry, population, and economic growth within the city. The Native Tree Protection Ordinance requires a Zoning Permit for the removal of Heritage Oak Trees with the specified size in Section 18-40.020. Zoning permits are approved at the staff level and do not require a public hearing. Below are highlights of each section.

Section 18-40.020 (Protected Trees):

Specified size requirements which, requires a Zoning Permit for removal, unless exempted under Section 18-40.030.

- *Blue Oak (Quercus douglasii) greater than six (6") DBH.*
- *Valley Oak (Quercus lobata) greater than six (6") inch DBH.*
- *Interior Live Oak (Quercus wislizeni) greater than six (6") inch DBH.*
- *California Black Oak (Quercus kelloggii) greater than six (6") inch DBH.*
- *Canyon Live Oak (Quercus chrysolepsis) greater than six (6") inch DBH.*
- *Oregon White Oak (Quercus garryana) greater than six (6") inch DBH.*
- *Any other tree designated by the City Council as a "heritage tree" as described in Section 18-40.060.*

Section 18-40.030 (Exemptions from Protection and Removal Regulations):

The Native Tree Protection Ordinance was designed with provisions that exclude one for meeting the required tree replacement ratio and/or paying the required tree replacement mitigation fee for each tree removed. These provisions are still subject to obtaining a zoning permit.

- *The removal of trees judged to be hazardous to life or property.*
- *The removal of trees judged by a public utility company to be a hazard to the safety of high voltage power lines in accordance with Public Resources Code 4293.*
- *The removal of trees that must be felled to accommodate public improvements by the city, County or public utility company.*
- *The removal of trees that pose a fire safety hazard as certified by the Lake County Fire Protection District.*

- *The removal of trees whose dripline falls within the footprint of a proposed single-family dwelling, garage and driveway on an existing lot where the trees cannot be reasonably avoided for construction.*
- *The thinning of a stand of trees to improve the overall health of the stand. In this instance, the Planning and Community Development Director shall have discretion to approve which trees shall be removed.*

Section 18-40.040 (Tree Protection Regulations):

Any disturbances which might cause harm to a protected tree, are strictly prohibited within the Root Protection Zone (RPZ):

- *The removing, moving or failing to install and maintain proper temporary protection fencing in the vicinity of construction prior to completion of on-site work.*
- *Trenching.*
- *Any permanent or temporary structures. However, temporary structures not fixed to the ground shall be allowed as long as they will not compact the soil.*
- *Grading, cutting, filling or changing the natural grade in any way.*
- *Installation of an irrigation system.*
- *Covering with any substance impermeable to air and rainwater, such as asphalt, concrete, plastic, etc. However, pervious surfacing such as pavers, gravel, pervious asphalt or other materials may be used to within one-half (1/2) the distance from the dripline of the tree to the trunk.*
- *Burning, open fires or open flames.*
- *Compaction of the soil.*
- *Girdling and/or topping.*

Section 18-40.050 (Removal Regulations):

If an applicant is granted a Zoning Permit to remove Heritage Oak Trees, they will be required to meet specific criteria unless exempted per Section 18-40.040. These requirements, include but are not limited to:

- Onsite tree replacement of the same species removed at the required ratio within twelve months or offsite at another property owned by the applicant. If the applicant chooses to replant, then a Tree Replacement Plan shall be submitted to the City for review/approval, prior to the issuance of the Zoning Permit.
- If the applicant is unwilling or unable to replant, then the applicant shall contribute to a fund for each tree felled. The required fee is established by City Council and will be used to replant on a designated public parcel.

Section 18-40.060 (Designation of Heritage Trees)

An applicant may request by application the City Council establish by resolution the designation of a tree or group of trees located on their property as heritage tree(s). Once an application has been submitted and prior to Council action, the requested tree or trees shall be afforded the same level of statutory protection as a designated heritage tree.

To designate a tree(s) as a Heritage Tree(s), the City Council must find that the tree(s) will be a significant beneficial feature of the community and possesses one or more of the following attributes:

- The tree is an outstanding specimen of a desirable species.
- The tree is one of the largest or oldest trees in Clearlake.
- The tree is of historical interest.
- The tree is of distinctive appearance.

Declassification of Heritage Trees. An owner of a heritage tree(s) may request by application the City Council declassify by resolution a tree or group of trees previously designated as a heritage tree(s) and/or the City Council on its own accord may declassify the designation. To declassify a heritage tree(s) it must no longer be a significant community benefit because:

- It has deteriorated in health or appearance.
- It no longer has habitat value.
- It prevents reasonable use of the property.

Section 18-40.070 (Penalty):

This section allows the city to impose additional penalties if one is found to be in violation of the Native Tree Protection Ordinance, including but not limited to:

- Any violation of this article shall constitute a misdemeanor. However, the City Attorney or prosecuting attorney has the discretion to deem a violation of this article as an infraction in accordance with Section 1-5 of the City Municipal Code.
- Any person found guilty of violating this article shall be fully responsible for all costs arising from or relating to enforcement, investigation and legal costs associated with an infraction or misdemeanor. Each tree removed or damaged in violation of this article shall constitute a separate violation.
- The felling, removal or damage of a tree in violation of this article shall be punishable by a fine of one thousand (\$1,000.00) dollars.
- Any person who causes a tree to be removed or damaged in violation of this article shall repair or replace any such tree at the violator's expense pursuant to double the ratio of the tree replacement requirements set forth in Section 18-40.050(d). The location, species and planting specifications for replacement trees shall be approved by the Director prior to replanting.

Motions/Options:

1. Provide direction to staff



California Wildlife Foundation/California Oaks, 201 University Avenue, H-43 Berkeley, CA 94710, (510) 763-0282

October 22, 2024

Mark Roberts, Senior Planner
Community Development Department
City of Clearlake
14050 Olympic Drive
Clearlake, CA 94522

Transmitted via e-mail: mroberts@clearlake.ca.us

Re: Lax enforcement of the City of Clearlake’s native tree ordinance, ideas on how to strengthen the measure, insurance demands to trim or remove oak trees, and information on Mediterranean Oak Borer

Dear Mr. Roberts:

The [California Oaks](#) program of the [California Wildlife Foundation](#) works to conserve oak ecosystems because of their critical role in sequestering carbon, maintaining healthy watersheds, providing plant and wildlife habitat, and sustaining cultural values. California Wildlife Foundation/California Oaks is writing at the request of Deb Sally, Chair of the Sierra Club Lake Group and a member of a Blue and Valley Oak Workgroup that California Oaks is convening with the [Global Conservation Consortium for Oak](#). Ms. Sally reports that the City of Clearlake’s oak ordinance is not consistently enforced, resulting in trees being removed without permits. It is unfair to those who comply with the ordinance and counter to its purpose for it to not be enforced consistently. Lack of enforcement means the intent and objectives of the ordinance are not advanced, diminishing quality of life and citizens’ faith in the city.

Ms. Sally also identified mitigation requirements of the ordinance that are not sufficiently protective, which are described below. California Oaks has additional feedback on the ordinance’s definition of the root protection zone and exemption for construction activities associated with proposed single-family dwellings.

Ms. Sally also described difficulties some property owners face when the companies that provide property insurance require either tree trimming that is damaging or removal because of perceived fire risk. We share information from Los Angeles County’s General Plan associated with oak trees and fire safety.

Lastly, we include two links to information about Mediterranean Oak Borer (MOB) as well as a link with contact information for a University of California expert on this insect who works in Lake County.

Need to strengthen the native tree ordinance

Mitigation is not sufficiently protective of the City of Clearlake’s oak trees: The requirement that two trees be installed to replace the first 10 inches of diameter at breast height (DBH) is insufficiently protective. When oaks are removed, they should be replaced at a level that will offset the lost biomass and canopy of the removed trees and the substantial temporal loss of growth habitat structure and diversity. Further, trees planted need to be spaced in a manner that promotes their long-term growth and restores the area that has been damaged.

Additionally, Ms. Sally reports that a \$600 fee is often collected by the City of Clearlake in cases where the subject property does not have adequate space for mitigation tree(s) rather than requiring that trees are planted elsewhere or providing an opportunity to contribute to a conservation easement that protects oaks. This practice, presumably in accordance with section 18-40.050 d.4, results in a net loss of the city’s canopy since the fee of \$600 is so low that it does not act as a deterrent to tree removals and is insufficient to properly establish replacement trees. Surely there are natural areas that would benefit from conservation easements as mitigation, or other solutions that would protect or improve the city’s natural oak infrastructure if the ordinance were strengthened.

Exemption for oak impacts at single family dwellings is too permissive: California Oaks also questions the exemption from the ordinance for “removal of trees whose dripline falls within the footprint of a proposed single-family dwelling, garage and driveway on an existing lot where the trees cannot be reasonably avoided for construction” (18.40.030 a.6). The ordinance does not prevent removals, but simply requires that removals are mitigated. With this exemption very few trees are protected, limiting the efficacy of this measure.

Root protection zone excludes areas that should be undisturbed: Section 18-40.040, Tree Protection Regulations, describes *root protection zone* (RPZ) prohibitions, but the prohibitions only cover one third of the area that should be protected. For example, one of the prohibitions is: “Covering with any substance impermeable to air and rain water, such as asphalt, concrete, plastic, etc.; however, pervious surfacing such as pavers, gravel, pervious asphalt or other such materials may be used to within one-half (1/2) the distance from the dripline of the tree to the trunk.” The root protection area, which is half again as large as the area from the trunk to the dripline of an oak, is critical to oak tree health. The area of half of the distance from the dripline to the trunk is only one third of the area considered as the RPZ for oaks. [Care of California’s Native Oaks](#) provides additional information.

Oak trees and fire safety

As discussed above, another concern raised by Ms. Sally is pressure that the insurance industry is exerting on homeowners to remove or severely cut back trees. Different species burn with different intensities yet this is rarely understood by insurers. A number of areas of California are acting on these differences. For example, the Los Angeles County General Plan's [Safety Element](#) contains language about oak trees and fire:

Oak woodlands play an important role in reducing wildfire risk. The native oak woodland understory typically contains less flammable vegetation compared to other types of trees. Oak trees are also harder to ignite and not as prone to rapid combustion. Well-maintained oak stands prevent slope failure, reduce erosion, and can slow down a wildfire. As described in the Conservation and Natural Resources Element, the Department of Regional Planning will work to expand documentation of oak woodlands as part of the implementation of the Oak Woodlands Conservation Management Plan (page 191 of the plan).

and

Policy S 4.10: Encourage the planting of native oaks in strategic locations and near existing oak woodlands, including those to be mapped in the Oak Woodlands Conservation Management Plan, to protect developments from wildfires, as well as to lessen fire risk associated with developments (page 195 of the plan).

Mediterranean Oak Borer

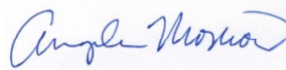
We share a [link](#) to a University of California Cooperative Extension (UCCE) website on Mediterranean Oak Borer as well as a [link](#) to a recording of a presentation Michael Jones of UCCE and Curtis Ewing of CalFire made on MOB in the late summer of 2023, which includes information on safe disposal of infected trees. [Dr Jones](#) is a Forestry Advisor in Lake, Mendocino, and Sonoma counties.

Thank you for your consideration of our comments.

Sincerely,



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