

SANTA BARBARA COUNTY BOARD AGENDA LETTER



Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Agenda Number:
Prepared on: 7/14/05
Department Name: P&D
Department No.: 053
Agenda Date: 7/26/05
Placement: Departmental
Estimate Time: 2 hours
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If Yes, date from:
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TO: Board of Supervisors

FROM: Michael F. Brown, County Executive Officer

STAFF CONTACT: Alan Seltzer, Deputy County Counsel (568-2970)
Alex Tuttle, Planning & Development (884-6844)

SUBJECT: Initiate text amendments to the Grading Ordinance (Chapter 14 of the County Code) and the Deciduous Oak Tree Protection and Regeneration Ordinance (Article IX of Chapter 35 of the County Code) and initiate a Supplemental EIR; Case Numbers 05ORD-00000-00010 and ORD-00000-00011.

Recommendation(s):

That the Board of Supervisors initiate revisions to the Oak Tree Ordinances (a) to make any oak tree subject to the Ordinances, except for mitigation trees, that began growing after January 1, 2005, exempt from the Ordinances, and (b) to otherwise transfer the existing Grading Ordinance Guidelines for Native Oak Tree Removal from Appendix A of the Grading Ordinance to Article IX of Chapter 35 of the County Code.

To accomplish the direction which the Board of Supervisors gave on May 24, 2005, it is recommended that the Board consider the following actions:

1. Initiate text amendments to Chapter 14 of the County Code;
2. Initiate text amendments to Article IX of Chapter 35; and
3. Initiate environmental review of said ordinance amendments pursuant to the *Guidelines for Implementation of the California Environmental Quality Act*.

Alignment with Board Strategic Plan:

The recommendation is primarily aligned with Goal No. 1. An Efficient Government Able to Respond Effectively to the Needs of the Community.

Executive Summary and Discussion:

On May 10, 2005, the Board received a status report regarding the Oak Tree Protection and Regeneration Program from Planning and Development and the Agricultural Commissioner. The Board continued the item to the May 24, 2005 hearing, at which the Board directed staff as follows:

1. That the County Executive Officer, consulting with appropriate County staff and the Agricultural Advisory Committee, propose revisions to the Oak Tree Ordinances (a) to make any Oak Tree subject to the Ordinances, except for mitigation trees, that began growing after January 1, 2005, exempt from the Ordinances, and (b) to otherwise transfer the existing Grading Ordinance Guidelines for Native Oak Tree Removal from Appendix A of the Grading Ordinance to a separate chapter of the County Code;
2. That the County Executive Officer report back to the Board within ninety days for initiation of proposed revisions to the Ordinances as set forth above and a Subsequent Environmental Impact Report (SEIR) to review those revisions to the Oak Tree Protection and Regeneration Program;
3. That the County Executive Officer, working with the Public Works Department, develop a pilot project to serve as the basis for a County "Adopt a Highway" program similar to the Cal Trans Program;
4. That the County Executive Officer, working with the Agricultural Commissioner, develop a program to recognize individuals who engage in oak tree preservation and propagation; and
5. That the County Executive Officer, working with the Agricultural Commissioner, develop a plan to promote oak trees in Santa Barbara County by means of voluntary programs.

In response to the first two items, staff has proposed ordinance amendments to the Grading Ordinance and Article IX. These proposed amendments are in front of your Board for initiation. The remaining three points identified above will be addressed separately. In addition, on May 24th, the Board directed staff to move forward on "Program Clean-Up Items" reflected on page 10 of the Oak Tree Protection and Regeneration Program Status Report. These items include:

1. Update the definition of "protected tree" in Article IX to exempt voluntarily planted trees
2. Add reference to Article IV and Ordinance 661 in Section I.C. of the Guidelines for Native Oak Tree Removal;
3. Add Mountainous Toro Canyon (MT-TORO) to the list of zone districts to which the Oak Tree Protection and Regeneration Program applies;
4. Adopt a fee for projects requiring a discretionary oak tree removal permit under Article IX Deciduous Oak Tree Protection and Regeneration; and
5. Change from dripline to critical root zone when discussing buffer areas around protected trees.

With the exception of clean-up item #4, which has not yet been addressed by your Board, these items have been incorporated into the ordinance amendments where appropriate. Lastly, your Board directed the County Executive Office to return with an analysis regarding the potential removal of Coast Live Oaks from the Oak Tree Protection and Regeneration Program. This would be analyzed in the SEIR for the Ordinance revisions.

At their meeting on July 6, 2005, the Agricultural Advisory Committee was presented with the proposed changes to the Oak Tree Protection and Regeneration Program and discussion was had regarding subsequent environmental review. The Committee supported the five points identified above as part of the May 24th Board direction, as well as incorporation of an analysis of removing coast live oaks from protection under the Program in the Supplemental EIR.

PROPOSED ORDINANCE AMENDMENTS

Under Board direction, County Counsel and Planning and Development staff worked to transfer the Guidelines for Native Oak Tree Removal from Chapter 14 into Article IX of Chapter 35: Deciduous Oak Tree Protection and Regeneration. The intent was to merge the Guidelines with Article IX with as few text and format changes as possible. To this end, the Guidelines for Native Oak Tree Removal were added as an appendix to Article IX, and the bulk of Article IX remains the same. Proposed ordinance amendments were included as attachments to the July 12th set hearing letter. All proposed ordinance amendments, including “clean-up items,” are shown as either ~~strikeout~~ (deletion) or underline (new language).

Additional changes to Chapter 14 include the following:

- Eliminate the references in Section 14-6 and 14-8 to native oak tree removal subject to the Guidelines for Native Oak Tree Removal, which eliminates the applicability of Chapter 14 to these removals;
- Clarify that native oak removal exempt from or subject to Article IX is not considered “grading” under Chapter 14; and
- Clarify that oak tree removal not subject to Article IX (e.g. removal in residential zone districts or in the coastal zone) is still subject to Chapter 14, primarily as it relates to the significant environmental impact/damage clause.

Additional changes to Article IX include the following:

- Delete “Deciduous” from the title of Article IX and the applicability section, as the ordinance would apply to both deciduous and live oak trees;
- Replace references to Chapter 14 with references to Appendix A to Article IX; and
- Add definitions for critical root zone, exempt oak tree, and live oak tree, and amend definition of protected oak tree to include live oak tree but exclude trees that are voluntarily planted or began growing after January 1, 2005 unless credited as mitigation.

Article IX would still be structured such that the permit requirements and procedures outlined in Divisions 2 through 4 would continue to apply only to deciduous oak trees, despite the fact that Article IX would govern coast live oak trees as well. Furthermore, restructuring of the ordinance would have no impact on the

administration of the program. The Agricultural Commissioner would continue to administer all but the discretionary permit portion of the program, which would continue to be administered by Planning and Development.

Mandates and Service Levels:

Amending the County Code is a legislative act under the jurisdiction of the BOS. Drafting the ordinance amendments and processing them through to the Board of Supervisors will require a minor work effort that can be accommodated within existing staff workloads and will not affect services levels of either the Agricultural Commissioner's Office or Planning and Development. However, preparation of the Supplemental EIR is not currently planned for in the Comprehensive Planning budget and could require the allocation of additional staffing and resources.

Fiscal and Facilities Impacts:

Funding to prepare this report was included in the adopted Fiscal Year 04/05 budget in the General Plan Elements program of the Comprehensive Planning Division on page D-286. Processing of the ordinance amendments will not require the augmentation of the Agricultural Commissioner's or Comprehensive Planning's budgets with additional funds. However, preparation of the Supplemental EIR is not currently planned or budgeted for and would require additional resources. The Supplemental EIR, which is proposed to be competitively bid to an outside contractor, is estimated to cost between \$200,000 and \$500,000 depending on the scope of work.

Special Instructions:

Clerk of the Board to place a legal ad in the Santa Barbara News Press 10 days prior to the Board hearing.

Concurrence: County Counsel

cc: Ron Cortez, Deputy County Executive Officer
Jim Laponis, Deputy County Executive Officer
Dianne Meester, Assistant Director, Planning and Development
Bill Gillette, Agricultural Commissioner
Anne Almy, Supervising Planner