

March 9, 2021

From: Willits Environmental Center
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To: Mendocino County Board of Supervisors
501 Low Gap Rd.
Ukiah, CA 95482
bos@mendocinocounty.org

Re: Board of Supervisors' March 9, 2021 meeting Agenda Item 5f, Consideration of a Draft Oak Tree/Oak Woodland Protection Ordinance

Dear Chair Gjerde and Members of the Board;

The Willits Environmental Center urges the Board to oppose the above referenced draft Oak Tree Oak/Woodland Protection Ordinance for the following reasons.

1. This draft ordinance excludes the AG zone District, and new residential development from oak removal prohibitions. The greatest current human-caused threat to the County's oaks and oak woodlands are agricultural land development, and commercial and residential development in the rangeland and other rural zones of the County. Both types of development would be greatly incentivized by the proposed new cannabis cultivation Land Use Ordinance presently being discussed by the Board. With the above exemptions, these two ordinances together, ironically, heighten the threat to the County's oak woodlands and puts them directly in the crosshairs.
2. This draft ordinance is not really an oak tree/oak woodland protection ordinance. It is more accurately a permitting process for cutting down oaks. In addition to several outright exemptions, there are almost no situations where an applicant for an oak/oak woodland removal permit would be denied a permit provided the applicant claims no feasible alternative location for the desired project, and agrees to the, for the most part, irrelevant mitigation/monitoring requirements of the permit.
3. The "mitigations" of this ordinance for oak/oak woodland removal rely substantially on planting and recruiting replacement seedlings and saplings. These are laudable activities and should be encouraged, but they are not mitigations for the loss of mature oak trees and oak woodlands. Under favorable conditions an oak seedling may grow to be a six inch dbh young tree in 25 to 30 years, but this tree, or stand of trees, will not begin to replace the climate moderating, soil enrichment, or the habitat diversity functions of mature oaks, and certainly not of oak woodlands, for another 25 to 50 years - the span of a human life. Honest mitigation for loss of a mature oak or oak woodland must be, at least, strict criteria for avoiding non-essential removal, and permanent protection of oaks and oak woodlands to offset the inevitable loss of oaks due to life-threatening or other essential reasons for removal.

4. This Ordinance, or any regulatory ordinance, should be buttressed by a detailed budget showing cost in staff time and expertise needed to implement the provisions of the ordinance, as well as the anticipated revenue from fees and fines. Without such verifiable data that supports the proposed ordinance with a well-grounded analysis of its fiscal impact on the County, further discussions are a waste of the Board's time and taxpayers' money. Staff should provide the Board this analysis.

5. Despite notorious enforcement failures of other County ordinances, enforcement again appears to be an afterthought for this ordinance. Except for those unlucky property owners whose activities are in full view of the public, or for those who have come to the Department for a building permit, this ordinance provides no mechanism by which County staff will know if oaks or oak woodlands are being damaged or cut down in violation of the ordinance. Does the County plan to do aerial surveillance; roam the County looking to see if someone has cut an oak, or failed to fence a 6-inch mitigation tree? Without budgetary and staff commitments to real enforcement, one must assume there won't be enforcement. This ordinance goes so far as to issue after-the-fact oak removal permits for those got caught violating the ordinance. (The penalties for not getting a permit seem more onerous to the County - an extended 20-yr monitoring period - than to the violator!)

The County actually has in place an excellent oak tree/oak woodland protection ordinance! That ordinance is the existing Cannabis Cultivation Ordinance. When enforced, it keeps commercial cannabis cultivation sites relatively small; it closes the oak/oak woodland-rich rangeland zoning district to new commercial cannabis development; and it entirely prohibits the removal of oaks to create a new cannabis cultivation site. This existing ordinance offers the best protection by essentially eliminating the most serious and pressing human-caused threats to the County's oaks and oak woodlands.

Thank you for your serious consideration of these summary comments. Please contact WEC Board member Ellen Drell, at 707-459-2643 to discuss any of these and related issues in more detail.

Sincerely,
Ellen Drell for the Willits Environmental Center