



OROVILLE PLANNING COMMISSION

Council Chambers
1735 Montgomery Street
Oroville, CA. 95965

**November 16, 2023
SPECIAL MEETING
OPEN SESSION 6:00 PM
AGENDA**

ALL MEETINGS ARE RECORDED AND BROADCAST LIVE

PUBLIC ACCESS AND PARTICIPATION

To view the meeting or provide comment, please see the options below.

To Watch or Listen to the Meeting:

1. Watch live feed <https://www.youtube.com/channel/UCAoRW34swYI85UBfYqT7IbQ/>
2. Zoom <https://zoom.us/j/99508232402?pwd=aThZc1BsUG9sWnhNYnlwZHZZdFFrQT09>
Meeting ID: 995 0823 2402 Passcode: **17351735**
3. Listen via telephone: 1-669-900-9128
Meeting ID: 995 0823 2402 Passcode: **17351735**

To Provide Comments:

1. Email before the meeting by 2:00 PM your comments to publiccomment@cityoforoville.org
2. **Attend in person**

If you would like to address the Commission at this meeting, you are requested to complete the blue speaker request form (located on the wall by the agendas) and hand it to the City Clerk, who is seated on the right of the Council Chamber. The form assists the Clerk with minute taking and assists the Mayor or presiding chair in conducting an orderly meeting. Providing personal information on the form is voluntary. For scheduled agenda items, **please submit the form prior to the conclusion of the staff presentation for that item.** The Commission has established time limitations of three (3) minutes per speaker on all items and an overall time limit of thirty minutes for non-agenda items. If more than 10 speaker cards are submitted for non-agenda items, the time limitation would be reduced to one and a half minutes per speaker. **(California Government Code §54954.3(b)).** Pursuant to Government Code Section 54954.2, the Commission is prohibited from taking action except for a brief response from the Council or staff to statements or questions relating to a non-agenda item.

CALL TO ORDER / ROLL CALL

Commissioners: Glenn Arace, Marissa Hallen, Natalie Sheard, Warren Jensen, Terry Smith, Vice Chairperson Wyatt Jenkins, Chairperson Carl Durling.

OPEN SESSION

Pledge of Allegiance

CORRESPONDENCE

There was no correspondence received.

APPROVAL OF MINUTES

1. Approval of the 08.24.2023 and 10.26.2023 City of Oroville Planning Commission Regular Meeting Minutes

The Commission will consider approving the Regular Meeting Minutes for August 24 and October 26, 2023.

ACTION REQUESTED -

APPROVE MINUTES AND AUTHORIZE THE CHAIR TO SIGN.

REGULAR BUSINESS

There are no Regular Business items this meeting.

PUBLIC HEARING

The Public Hearing Procedure is as follows:

- Chairperson opens the public hearing.
- Staff and Property Owner introduce item.
- Hearing is opened for public comment limited to three (3) minutes. In the event of more than ten (10) speakers, time will be limited to one and a half (1.5) minutes. Under Government Code 54954.3. the time for each presentation may be limited.
- Speakers are requested to provide a speaker card to the City Clerk
- Public comment session is closed
- Commissioners, discuss, debate and action.

1. Consideration of Zoning Code Amendment (ZC) 23-03 amending Section 17.12.060 (Tree Preservation), Section 17.12.065 (Oak Tree Loss Mitigation) and Section 17.48.070 (Tree Removal Permits) of the Oroville Municipal Code (OMC)

The Planning Commission will consider recommending that the City Council adopt ZC 23-03, amending the City's oak tree loss mitigation standards, requirements, and applicability as found in Section 17.12.065 of the Oroville Municipal Code (OMC). ZC 23-02 would also amend Section 17.12.060 pertaining to tree preservation requirements and Section 17.48.070 pertaining to the City's tree removal permit requirements.

ACTION REQUESTED:

CONDUCT A PUBLIC HEARING ON THE PROPOSED ZONING CODE AMENDMENT.

ADOPT RESOLUTION NO. 2023-20 RECOMMENDING THAT THE CITY COUNCIL ADOPT AN ORDINANCE AMENDING SECTIONS 17.12.060, 17.12.065, AND 17.48.070 OF THE OMC

ADJOURNMENT

The Planning Commission will adjourn until their next regularly scheduled meeting on December 28, 2023.

***** NOTICE *****

Accommodating Those Individuals with Special Needs – In compliance with the Americans with Disabilities Act, the City of Oroville encourages those with disabilities to participate fully in the public meeting process. If you have a special need in order to allow you to attend or participate in our public meetings, please contact the City Clerk at (530) 538-2535, well in advance of the regular meeting you wish to attend, so that we may make every reasonable effort to accommodate you. Documents distributed for public session items, less than 72 hours prior to meeting, are available for public inspection at City Hall, 1735 Montgomery Street, Oroville, California.

***** NOTICE *****

Any person who is dissatisfied with the decisions of this Planning Commission may appeal to the City Council by filing with the Zoning Administrator within fifteen days from the date of the action. A written notice of appeal specifying the grounds and an appeal fee immediately payable to the City of Oroville must be submitted at the time of filing. The Oroville City Council may sustain, modify or overrule this decision.



CITY OF OROVILLE
 Council Chambers
 1735 Montgomery Street
 Oroville, CA. 95965

PLANNING COMMISSION
October 26, 2023
MINUTES

This agenda was posted for publication at City Hall on October 20, 2023 and online.

***This meeting was recorded live on the City of Oroville website cityoforoville.org and on YouTube. ***

CALL TO ORDER / ROLL CALL

Present Commissioners: Glenn Arace, Marissa Hallen, Natalie Sheard, Warren Jensen, Terry Smith,
 Vice Chairperson Wyatt Jenkins, Chairperson Carl Durling

Present Staff Members: Patrick Piatt, Community Development Director; Wes Ervin, Principal Planner;
 Kayla Reaster, Assistant City Clerk; Larch McNeill, Consultant; Conner
 Musler, Consultant; Mark Wolfe, Consultant

OPEN SESSION

Pledge of Allegiance – Led by Chairperson, Carl Durling.

PUBLIC COMMUNICATION - HEARING OF NON-AGENDA ITEMS

No members of the public submitted public comment on this item.

CONSENT CALENDAR

There were no Consent Calendar items this meeting.

PUBLIC HEARINGS

The Public Hearing Procedure is as follows:

- Mayor or Chairperson opens the public hearing.
- Staff presents and answers questions from Council
- The hearing is opened for public comment limited to two (2) minutes per speaker. In the event of more than ten (10) speakers, time will be limited to one and a half (1.5) minutes. Under Government Code 54954.3, the time for each presentation may be limited.
- Public comment session is closed
- Commission debate and action

1. Ruddy Creek Subdivision Tentative Map Extension #1

Mark Wolfe, Consultant, presented this item to the Commission.

The Oroville Planning Commission considered extending approval of the existing Tentative Subdivision Map for Ruddy Creek to December 17, 2025.

The following member(s) of the public submitted public comment on this item:

Kathy Brazil (electronically and in-person), Linda Draper (electronically), Barbara Brazil (electronically), CA Wildlife Foundation (electronically), Jerry Rice (electronically), Douglas and Linda Weseman (electronically).

ACTIONS TAKEN:

Conducted a Public Hearing to consider extending the approved Ruddy Creek Subdivision Map.

Approved the Map extension until December 17, 2025; and

Adopted Resolution No. P2023-24 extending the deadline for filing a Final Subdivision Map for TSM 20-01 for two years until December 17, 2025, with the condition that approval of the Final Map shall remain subject to all conditions of approval identified in the Letter of Approval dated February 2, 2021, by the following **6-1 vote**:

Motioned: Commissioner Hallen

Seconded: Vice Chairperson Jenkins

Ayes: Commissioners Arace, Hallen, Jensen, Smith, Vice Chairperson Jenkins, and Chairperson Carl Durling

Noes: Commissioner Sheard

Abstention: None

Absent: None

2. The Oroville Rescue Mission – Establishment of a Homeless Shelter

Mark Wolfe, Consultant, presented this item to the Commission.

The Oroville Rescue Mission proposed to establish a homeless shelter on a 1.8 acre site at 4248 Lincoln Blvd. The proposed project would provide 35 'Pallet' shelters for up to 70 individuals, a 40-bed dormitory in an existing warehouse, and spaces for both tents and RV parking.

The following member(s) of the public submitted public comment on this item:

Alicia Cuevas (in person).

ACTIONS TAKEN:

Conducted a Public Hearing on the proposed project;

Adopted the Notice of Exemption as the appropriate level of environmental review in accordance with the California Environmental Quality Act (CEQA);

Adopted the recommended Findings for Use Permit No. UP23-010;

Approved Use Permit UP23-010 and recommended Conditions of Approval; and

Adopted Resolution No. P2023-22 by the following unanimous vote:

Motioned: Commissioner Jensen

Seconded: Commissioner Smith

Ayes: Commissioners Arace, Hallen, Sheard, Jensen, Smith, Vice Chairperson Jenkins, Chair Carl Durling

Noes: None

Abstention: None

Absent: None

2. Consideration of Zoning Code Amendment (ZC) 23-03 amending Section 17.12.060 (Tree Preservation), Section 17.12.065 (Oak Tree Loss Mitigation) and Section 17.48.070 (Tree Removal Permits) of the Oroville Municipal Code (OMC)

This item was continued to the November 9, 2023 City of Oroville Planning Commission Special Meeting.

3. Continuation of Hearing for Draft Food Truck Court Ordinance

This item was continued to the November 16, 2023 City of Oroville Planning Commission Regular Meeting.

REGULAR BUSINESS

5. Proposed Planning Commission Policy to Delegate review of Minor Land Divisions to the Zoning Administrator

This item was continued until further clarification on the item can be reviewed by staff.

REPORTS / DISCUSSIONS / CORRESPONDENCE

1. Commissioner Reports – None
2. Historical Advisory Commission Reports – None
3. Staff Reports – Wes Ervin, Principal Planner: Reported on the Historic Award scheduled to go before City Council on November 7, 2023 for approval; spoke on the upcoming DRC meeting regarding the ADU Ordinance and Food Truck Village Ordinance. Reported that the following are upcoming items to be heard by the Planning Commission: ADU Ordinance, Food Truck Village Ordinance, the RV Park @ Nelson and HWY 70 for comment and input, and a Use Permit for County Purchase of the FRRPD headquarters.

ADJOURN THE MEETING

The meeting was adjourned at 8:35PM.

Item 1.

APPROVED BY:

ATTESTED BY:

Carl Durling, Chairperson

Kayla Reaster, Assistant City Clerk



City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street
 Oroville, CA 95965-4897
 (530) 538-2430 FAX (530) 538-2426
www.cityoforoville.org

PLANNING COMMISSION STAFF REPORT

Thursday, November 16, 2023

RE: Consideration of Zoning Code Amendment (ZC) 23-03 amending Section 17.12.060 (Tree Preservation), Section 17.12.065 (Oak Tree Loss Mitigation) and Section 17.48.070 (Tree Removal Permits) of the Oroville Municipal Code (OMC)

SUMMARY: The Planning Commission will consider recommending that the City Council adopt ZC 23-03, amending the City’s oak tree loss mitigation standards, requirements, and applicability as found in Section 17.12.065 of the Oroville Municipal Code (OMC). ZC 23-02 would also amend Section 17.12.060 pertaining to tree preservation requirements and Section 17.48.070 pertaining to the City’s tree removal permit requirements.

RECOMMENDATION: Staff recommends the following actions:

1. **Conduct a Public Hearing** on the proposed Zoning Code Amendment.
2. **Adopt** Resolution No. 2023-20 Recommending that the City Council adopt an ordinance amending Sections 17.12.060, 17.12.065, and 17.48.070 of the OMC

APPLICANT: City of Oroville

LOCATION: City-Wide

GENERAL PLAN: N/A

ZONING: N/A

FLOOD ZONE: N/A

ENVIRONMENTAL DETERMINATION: This proposed Zoning Code Amendment is not subject to the provisions of the California Environmental Quality Act (“CEQA”) pursuant to Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of Environment). These exemptions cover actions taken to assure the maintenance, restoration, enhancement, or protection of natural resources or the environment where the regulatory process involves procedures for the protection of the environment. The proposed amendments to the OMC maintain regulations requiring permits for the removal of trees, including oak trees, meeting specific size criteria outlined in Title 17. Exceptions to permits and mitigation are limited to include routine tree maintenance, or when removal is determined as necessary to protect life, prevent damage to property, or for purposes of fuel management, while minimizing the removal of mature heritage trees. The proposed Zoning Code Amendment also is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

<p>REPORT PREPARED BY:</p> <hr/> <p>Connor Musler, Contract Planner Community Development Department</p>	<p>REVIEWED BY:</p> <hr/> <p>Patrick Piatt, Director Community Development Department</p>
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DISCUSSION

The City currently has three primary municipal code sections pertaining to trees and their preservation and removal. Section 17.12.060 pertains to tree preservation requirements, Section 17.12.065 pertains to oak tree loss mitigation requirements, and Section 17.48.070 pertains to the City’s tree removal permit requirements. Section 17.12.065 “Oak Tree Loss Mitigation” was added to the Oroville Municipal Code in 2015 as part of the larger “Oroville Sustainability Code Updates”; a collection of updates to bring the City’s zoning code and planning documents in compliance with the 2030 General Plan that was adopted on June 2, 2009.

These three code sections are intended to work in coordination with each other, however, they currently lack clear and proper cross-referencing, and, in the case of Section 17.12.065 “Oak Tree Loss Mitigation,” contain burdensome regulations and a lack of detailed exceptions for routine maintenance or the protection of property and public safety.

The intent of this ordinance is to:

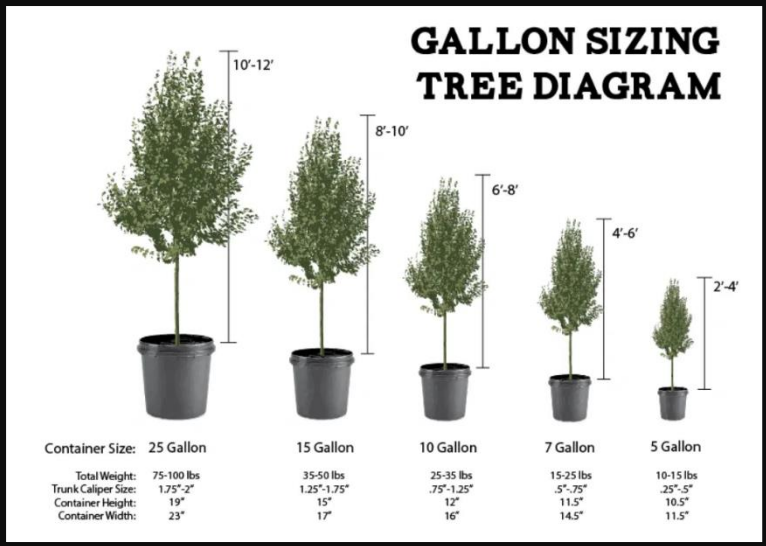
- Simplify the City’s oak tree mitigation requirements; and
- Ensure the City’s codes pertaining to tree removal and permitting requirements do not conflict and are properly referenced within applicable code sections; and
- Balance the ability of property owners to remove trees on their properties while recognizing the key factor that trees have in contributing to Oroville’s beauty and natural environment.

Based on direction received from the City Council, staff began preparing an update to the City’s oak tree mitigation regulations to simplify the overall regulations found within Section 17.12.065 of the OMC. Staff researched the cities of Chico, Rocklin, Roseville, Folsom, Fremont, and the County of Butte to further analyze how each jurisdiction approached tree removal permits and mitigation requirements and compare how the City’s current regulations compared. Staff found that the City’s current regulations were similar to the jurisdictions researched, however, the City’s regulations had a more burdensome replacement ratio of 2 inches of oak tree for every 1 inch removed and a lack of clearly outlined exceptions to the mitigation requirements.

The following changes are proposed:

Amend the Replacement Ratio

Currently, oak trees must be replaced at a 2:1 ratio (2 inches of replacement oak tree for every 1 inch removed). Staff are proposing to simplify the replacement standards to be a 1:1 ratio (1 inch of replacement oak tree for every 1 inch removed), with the replacement trees planted at a minimum size of 15 gallons.



Expand the Scenarios where Mitigation is Exempt

Currently, the only exception to the mitigation requirements of the oak tree ordinance is for “trees removed due to poor tree health or because removal furthers urban forestry or land management practices that support the health of native plant communities, as determined by the director of parks and trees or designee.”

Staff are proposing to expand the list of exceptions to the oak tree ordinance to include:

- Removal of an oak tree that is damaged and removal is necessary to protect persons and property from imminent damage.
- Removal by fire department personnel actively fighting fire.
- When removal is determined as necessary by fire department personnel as part of fuel modification or defensible space requirements, as detailed in a defensible space inspection/report.
- Routing trimming and maintenance which do not damage or result in the death of the tree.
- Removal of a dead, dying, or tree in poor health, as determined by an arborist.

The Planning Commission held a workshop on the proposed oak tree mitigation ordinance update at their September 28, 2023, meeting. Following that workshop, staff proposes two (2) additional mitigation exceptions and one (1) revised exception.

The two (2) new proposed mitigation exceptions are:

- Removal of an interior live oak, unless meeting the criteria for classification as a heritage tree; and
- When removal is determined as necessary by the property owner's insurance provider, as detailed in an insurance report or other formal correspondence, to maintain homeowners' insurance coverage.

The proposed revised exception is:

- Removal of an oak tree on a property developed with a single-family dwelling unit, provided that the following criteria is met:
 - The developed lot is not greater than 20,000 square feet in area and is zoned either RR-20, RR-10, RL, R-1, or R-2.
 - The developed lot is located outside of the Foothill Overlay (F-O) district.
 - If the developed lot is located within the Foothill Overlay (F-O) district, the oak tree(s) proposed to be removed must be located outside of a setback area abutting a street.

These three mitigation exceptions that resulted from the Planning Commission workshop were added with the intent of assisting property owners who wish to create defensible space around their homes and assist owners within the Wildland Urban Interface (WUI) to maintain insurance coverage.

Mitigation Option – In-Lieu Fee

One of the mitigation options allowed by the oak tree ordinance is the payment of an in-lieu fee. The City does not currently have an in-lieu fee established within the City's fee schedule. Based on correspondence from the City's arborist/parks, streets, and trees supervisor, staff proposes an in-lieu fee set at \$220 per inch that needs to be mitigated. This is broken down as \$55-\$60 for a 15-gallon tree, with an average of 2 crew hours (\$75 an hour per crew member) spent to plant the tree, stake it, etc. plus \$10 for miscellaneous expenses such as tree stakes.

Additional changes are proposed to OMC Sections 17.12.060 (Tree Preservation) and 17.48.070 (Tree Removal Permits). Staff are proposing to combine Section 17.12.060 and Section 17.48.070 to minimize cross referencing for two code sections that work in close coordination with each other. Minor updates are also proposed to ensure proper cross-reference between the oak tree mitigation requirements and the tree removal permit section and updates to the department director positions referenced within the code sections.

This proposed ordinance helps implement guiding principles, goals, policies and actions of the City's 2030 General Plan.

General Plan Guiding Principles:

Livability. Ensure that future development enhances the existing character of our city as

a whole, as well as its individual neighborhoods, and has a positive effect on our surroundings and quality of life.

Natural Resources and the Environment. Highlight and protect our unique open spaces, natural resources, underdeveloped areas, specimen trees, riparian zones and wetlands.

General Plan Goals:

Goal CD-1 As the community grows, maintain a coherent and distinctive physical form and structure that reflects Oroville’s unique qualities.

Goal CD-7 Develop Oroville’s major corridors as attractive locations with a diverse mix of land uses and development patterns that include high quality pedestrian-oriented design.

Goal OPS-1 Provide a comprehensive, high-quality system of recreational open space and facilities to maintain and improve the quality of life for Oroville residents.

Goal OPS-5 Maintain and enhance the quality of Oroville’s scenic and visual resources.

Goal OPS-9 Protect areas of significant wildlife habitat and sensitive biological resources to maintain biodiversity among plant and animal species in the City of Oroville and the surrounding area.

General Plan Policies:

P1.1 Require quality architectural and landscaping design as well as durable and efficient materials for all projects.

P2.3 Encourage imaginative design concepts in woodland areas to perpetuate and preserve native trees.

P2.4 Use appropriate landscaping to reduce the effects of surface runoff in developing areas, with an emphasis on native and drought-resistant species, minimization of impervious surfaces, and provisions for recharge.

P2.5 Continue to support and maintain Oroville’s involvement and commitment to the Tree City USA® program.

P2.6 Encourage the planting of trees and other landscape features along Oroville’s corridors to make them interesting, appealing, and inviting.

P1.1 Preserve and develop open space that includes a diversity of passive and active recreational amenities, that is geographically distributed throughout the City, and that is easily accessible by pedestrians and bicyclists.

P3.5 Enhance the wildlife value of the Planning Area’s “urban forest” by landscaping park

and recreation lands with native vegetation and by preserving existing trees and shrubs where they offer significant wildlife value.

P9.5 Require the preparation of a site-specific tree management and preservation report by a certified arborist or urban forester for development proposals on sites that contain significant oak woodlands and related habitat. This report shall include recommendations for the retention of healthy mature trees wherever feasible and promote the concept of oak regeneration corridors within project design.

FISCAL IMPACT

There is minimal fiscal impact associated with the recommended actions.

ATTACHMENTS

- A. Resolution No. 2023-20
- B. Proposed Changes to OMC Section 17.12.060 (Tree Preservation)
- C. Proposed Changed to OMC Section 17.12.065 (Oak Tree Loss Mitigation)
- D. Proposed Changes to OMC Section 17.48.070 (Tree Removal Permits)

RESOLUTION NO. P2023-20

A RESOLUTION OF THE OROVILLE PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT ZONING CODE AMENDMENT (ZC 23-03), THE PROPOSED AMENDMENTS TO THE OROVILLE MUNICIPAL CODE SECTION 17.12.060 “TREE PRESERVATION”, SECTION 17.12.065 “OAK TREE LOSS MITIGATION”, AND SECTION 17.48.070 “TREE REMOVAL PERMITS”

WHEREAS, the Oroville 2030 General Plan sets forth goals, objectives, and policies to protect, manage, and expand urban forestry and native vegetation while also considering public safety; and

WHEREAS, the City of Oroville currently requires tree removal permits to protect the City’s mature trees; and

WHEREAS, a tree removal permit must be obtained prior to the removal of a protected tree, including native oak trees; and

WHEREAS, OMC Section 17.12.065 establishes regulations to protect native oak trees and outlines requirements for mitigation when removed; and

WHEREAS, City Staff identified challenges in implementing the current oak tree mitigation code as written and received direction from the City Council to identify opportunities to address those challenges; and

WHEREAS, the proposed amendments to OMC Section 17.12.065 include expanding the exceptions to the permit and mitigation requirements and simplifying the mitigation replacement ratio; and

WHEREAS, amendments are also proposed to Sections 17.12.060 and 17.48.070; and

WHEREAS, at a duly noticed public hearing, the Planning Commission considered the comments and concerns of public agencies, property owners, and members of the public who are potentially affected by the approval of the code changes described herein and considered the City’s staff report regarding the project.

NOW, THEREFORE, BE IT RESOLVED BY THE OROVILLE PLANNING COMMISSION AS FOLLOWS:

SECTION 1. The Planning Commission determines:

- A. That the proposed amendments are consistent with the General Plan; and
- B. The proposed amendments are consistent with other applicable provisions of the Municipal Code and compatible with the uses authorized in the applicable zoning districts for which the revisions are proposed.

SECTION 2. The Planning Commission finds that Zoning Code Amendment ZC23-03 is not subject to the provisions of the California Environmental Quality Act (“CEQA”) pursuant to Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of Environment). These exemptions cover actions taken to assure the maintenance, restoration, enhancement, or protection of natural resources or the environment where the regulatory process involves procedures for the protection of the environment. The proposed amendments to the OMC maintain regulations requiring permits for the removal of trees, including oak trees, meeting specific size criteria outlined in Title 17. Exceptions to permits and mitigation are limited to include routine tree maintenance, or when removal is determined as necessary to protect life, prevent damage to property, or for purposes of fuel management, while minimizing the removal of mature heritage trees. The proposed Zoning Code Amendment also is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 3. The Planning Commission hereby recommends that the City Council adopt an ordinance amending the Oroville Municipal Code as set forth in Attachment B amending Section 17.12.060 (Tree Preservation), Attachment C amending Section 17.12.065 (Oak Tree Loss Mitigation), and Attachment D amending Section 17.48.070 (Tree Removal Permits).

SECTION 4. Furthermore, the Planning Commission hereby recommends that the City Council adopt an in-lieu fee of \$220 per inch of oak tree requiring mitigation.

PASSED AND ADOPTED by the Planning Commission of the City of Oroville at a special meeting on November 16, 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVE:

Kayla Reaster, Assistant City Clerk

Carl Durling, Chairperson

SECTION 17-12.060**TREE PRESERVATION**~~17-12.060 — Tree Preservation~~~~A. — Applicability.~~

- ~~1. — The requirements of this section shall apply to any protected tree.~~
- ~~2. — A protected tree is defined as:
 - ~~a. — Any tree on public property; or~~
 - ~~b. — Any tree on private property that has a trunk diameter of at least 24 inches at 54 inches above grade.~~~~
- ~~3. — **Permit Required.** The removal of any protected tree requires approval of a tree removal permit, as provided in Section 17.48.070.~~
- ~~4.1. **Removal Without a Permit.** If personal injury or property damage is imminently threatened, the fire chief, the chief of police or the zoning administrator may authorize the removal of a protected tree without obtaining the required permit. The removal shall be reported to the zoning administrator within 5 business days. (Ord. 1749 § 4)~~

DRAFT

SECTION 17-12.065**OAK TREE LOSS MITIGATION**

17-12.065 Oak Tree Loss Mitigation

A. Purpose.

Oroville's native oak trees provide wildlife habitat, control erosion, maintain water flow and quality, moderate temperatures, improve air quality, and contribute to the aesthetic character of the area. The purpose of this section is to preserve Oroville's valuable native oak trees by protecting them during grading and construction, minimizing their removal, replacing them when removal is approved, and monitoring them to ensure that they are maintained.

B. Applicability. The requirements of this section apply to any native oak tree on public or private land with the following minimum diameter at breast height (dbh) (i.e., 4.5 feet from the ground):

1. Single main trunk: 6 inches.
2. Multiple trunks (in aggregate): 10 inches.

"Native oak tree" means an oak tree that is native to Butte County's natural oak communities, including valley oak, black oak, blue oak, ~~interior live oak~~, and canyon oak. Interior live oak, while native to Butte County, is not included in this definition and their removal is not subject to the requirements of this section unless meeting the criteria for classification as a heritage tree.

C. Permits Required.

1. **Tree Removal.** The city requires a tree removal permit in accordance with Section 17.48.070 to remove any oak tree that meets the applicability criteria above in subsection B (Applicability). The property owner must file a tree survey and an oak tree preservation plan with the community development department before the city will issue a permit. The plan shall describe all efforts to preserve trees to the extent feasible, replace trees that are removed, and maintain replacement trees. In addition, the plan shall address replacing any replacement trees that do not survive.
2. **Grading.** Grading projects shall retain oak trees wherever possible. To receive a grading permit, applicants must address oak tree preservation in their grading plan by identifying methods to:
 - a. Identify trees to be retained, through flagging or other obvious marking methods, prior to any grading.
 - b. Avoid compaction of the root zone and mechanical damage to trunks and limbs by installing temporary fencing along the outermost edge of the dripline of each retained tree or group of trees.
 - c. Avoid trenching within driplines of retained trees. Any required utility line poles within the dripline should be installed by boring or drilling through the soil.
3. **Heritage Trees.**
 - a. Grading, filling, trenching, paving, irrigation, and landscaping plans shall avoid the removal of or damage to the health of a heritage tree.

- b. A heritage tree may only be removed when approved as appropriate by a certified arborist, and upon receiving a tree removal permit in accordance with subsection (C)(1).

D. **Mitigation Options.** An applicant who has received a tree removal permit shall mitigate the removal by completing one or a combination of the following options, as well as paying a monitoring fee per tree as set by the city council.

1. **On-Site Replacement.** Where physically feasible, a tree removed under a tree removal permit shall be replaced on the same property, in accordance with the standards in subsection F (Replacement Standards).
2. **In-Lieu Fee.** When replacing a tree on site is not feasible, an applicant granted a tree removal permit may pay an in-lieu fee as set by the city council.
3. **Off-Site Replacement.** When replacing a tree on site is not feasible, an applicant granted a tree removal permit may plant replacement trees off site if:
 - a. The off-site location is permanently protected under a conservation easement that includes a maintenance plan that meets the requirements in subsection F (Replacement Standards).
 - b. The off-site location is appropriate for oak tree plantings, as determined by the director of ~~parcs and trees-public works~~ or designee.
 - c. The off-site location is sufficient to plant and maintain replacement trees in accordance with the standards in subsection F (Replacement Standards).

~~E.—Exceptions to **Permits and Mitigation Requirements.** Mitigation is not required for trees removed due to poor tree health or because removal furthers urban forestry or land management practices that support the health of native plant communities, as determined by the director of parks and trees or designee. A tree removal permit or mitigation shall not be required for the following circumstances:~~

- ~~1. When an oak tree is damaged and the city administrator, director of public works, director of community development, public safety personnel, code enforcement officer, or their designees has determined that its immediate removal is necessary to protect persons from imminent personal injury or to prevent imminent and substantial damage to property.~~
- ~~2. Removal of an interior live oak, unless meeting the criteria for classification as a heritage tree.~~
- ~~3. When removal is determined to be necessary by fire department personnel actively engaged in fighting a fire.~~
- ~~4. When removal is determined to be necessary by fire department personnel to comply with fuel modification requirements or defensible space requirements, as detailed in a defensible space inspection/report.~~
- ~~5. When removal is determined as necessary by the property owner's insurance provider, as detailed in an insurance report or other formal correspondence, to maintain homeowners' insurance coverage.~~

6. Routine trimming, pruning, or maintenance which does not cause damage or death of a tree.
7. Removal of an oak tree that is dead, dying, or in poor health as determined by a certified arborist.
8. Removal of an oak tree on a property developed with a single-family dwelling unit, provided that the following criteria is met:
 - a. The developed lot is not greater than 4020,000 square feet in area and is zoned either RR-20, RR-10, RL, R-1, or R-2.
 - b. The developed lot is located outside of the Foothill Overlay (F-O) district.
 - (1) If the developed lot is located within the Foothill Overlay (F-O) district, the oak tree(s) proposed to be removed must be located within the rear or side yard not outside of a setback area abutting a street.

F.

G.E. Replacement Standards. Replacement trees must meet the following standards.

1. **Replacement Ratio.** Each inch in dbh of oak removed shall be replaced by 2.1 inches of native oaks (1:1 ratio), using trees planted at a minimum size of one-15 gallons. ~~For example, a 6-inch dbh tree may be replaced by four 1.3-inch trees or 2.12 three-one-inch trees.~~
2. **Timeframe.** ~~A replacement tree shall be planted within 90 days of the removal of the original tree. The schedule for planting of the replacement trees shall be subject to approval by the review authority as detailed in Section 17.48.070(C)(3).~~
3. **Maintenance.** The applicant is responsible for protecting the health of a replacement tree. Replacement trees shall be irrigated in accordance with Oroville Municipal Code Section 17.12.050 (Landscaping standards). A replacement tree that dies within 5 years shall be replaced on a one-to-one basis.
4. **Monitoring.** The applicant shall monitor the replacement tree and report its health status to the community development department annually, or upon request, for 5 years following planting.
5. **Damage.** Purposeful damaging or neglect of a replacement tree will invalidate the tree removal permit.

H.F. Oak Tree Maintenance Fund. The city shall place in-lieu tree-removal fees in an oak tree maintenance fund to be expended only for the following:

1. **Planting New Trees.** Planting oak trees on public and private property within Oroville. These expenditures may include purchasing and planting trees, preparing the land for planting, and installing irrigation improvements. Private property owners may apply to have an oak tree planted on their property at public expense, provided the expense does not exceed the in-lieu fee amount.
2. **Maintaining Existing Trees.** Caring for and preserving existing oak trees on public property or easements.

I.G. **Monitoring.** The community development department shall prepare an annual report that addresses the following topics:

1. **Tree Inventory.** The report shall inventory all replacement trees, including their type and health status, as reported by an applicant.
2. **Fund Accounting.** The report shall account for the balance in the oak tree mitigation fund and summarize the use to which the fund was put during the preceding year.

J.H. **Fines.** The city may issue a fine for the destruction of an oak tree in violation of this section. Fines may be as high as the cost to replace and maintain up to 3 times the number of trees required by this section. The city shall deposit funds received from fines in the oak tree mitigation fund. (Ord. 1819 § 3, 2017).

SECTION 17-48.070**TREE REMOVAL PERMITS**

17-48.070 Tree Removal Permits

A. **Purpose.** The purpose of requiring tree removal permits is to preserve the city's mature trees by placing appropriate restrictions on their removal, while also allowing the removal of trees when necessary to protect the health, safety and welfare of the public.

B. **Applicability.** The removal of any protected tree requires approval of a tree removal permit. The requirements of this section shall apply to any protected tree.

1. A protected tree is defined as:

a. Any tree on public property; or

b. Any tree on private property that has a trunk diameter of at least 24 inches at 54 inches above grade.

A.c. An oak tree meeting the criteria of Section 17.12.065.

B.C. **Application.**

1. Application for a tree removal permit shall be made in a form prescribed by the zoning administrator and accompanied by a fee established by resolution of the city council. Only the owner of the site or their authorized agent may apply for a tree removal permit.
2. The application for a tree removal permit shall include a map depicting the location, size and type of all trees within or immediately adjacent to the subject property. The map shall also depict any permanent buildings or structures on the subject property.
3. The review authority for a tree removal permit shall be determined as follows:
 - a. For trees on public property, unless the removal is associated with a proposed development that requires planning commission approval, the director of parks and trees public works or designee shall be responsible for issuing tree removal permits.
 - b. For trees on private property, unless the removal is associated with a proposed development that requires planning commission approval, the zoning administrator shall be responsible for issuing tree removal permits.
 - c. For any proposed development that requires planning commission approval, the planning commission shall review the trees being removed, and approval of the project shall also be approval to remove all specified trees.

C.D. **Required Findings.**

1. A tree removal permit shall not be issued unless the review authority finds, based on substantial evidence, that the owner has demonstrated that the removal is necessary in order to accomplish any one of the following objectives:
 - a. To ensure public safety as it relates to the health of the tree, potential hazard to life or property, and proximity to existing or proposed structures, and interference with utilities or sewers.

- b. To allow reasonable enjoyment of the property, including sunlight access and the right to develop the property.
- c. To pursue good, professional practices of forestry or landscape design.

2. Any action regarding the issuance of a tree removal permit may be appealed, as provided in Section 17.56.100. Subject trees shall not be removed prior to the completion of the required appeal period. (Ord. 1749 § 4; Ord. 1762 § 12)

2.E. **Removal Without a Permit.** If personal injury or property damage is imminently threatened, the city administrator, director of public works, director of community development, public safety personnel, code enforcement officer, or their designees may authorize the removal of a protected tree without obtaining the required permit. The removal shall be reported to the zoning administrator within 5 business days. (Ord. 1749 § 4).