



AGENCY:	Planning Commission
MEETING DATE:	September 11, 2019
DEPARTMENT:	CDD
PRESENTED BY:	S McCormick

AGENDA ITEM SUMMARY

TITLE: Receive Report and Provide Interpretation to Staff Regarding Definition for Major Vegetation Removal in the Coastal Zone

ISSUE:

The City's Coastal Land Use and Development Code (CLUDC) requires a Coastal Development Permit (CDP) for Major Vegetation Removal. However, the CLUDC does not include a definition of Major Vegetation Removal. In order to fairly apply the code, staff is seeking an interpretation from the Planning Commission regarding what constitutes Major Vegetation Removal. An interpretation of the definition of Major Vegetation Removal would enable staff to determine, based on objective criteria, if a proposed course of action warrants review through the Coastal Development Permit process.

ANALYSIS:

The City's Coastal Land Use and Development Code (CLUDC) includes the following definition of Development:

On land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or of any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of use of land, including, but not limited to, subdivision pursuant to the subdivision map act (commencing with Government Code Section 66410), and any other division of land except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of use of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the **removal or harvesting of major vegetation** other than for agricultural purposes, kelp harvesting, and timber operations in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg Nejedly Forest Practice Act of 1973 (commencing with Public Resources Code Section 4511).

All projects that include development, as defined above, are required to obtain a Coastal Development Permit, if they are located in the Coastal Zone. Through the review process of a Coastal Development Permit, a project would be analyzed for compliance with policies contained in the City's Coastal General Plan. As noted in the Coastal General Plan on Page 1-3:

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“The policies contained within the Coastal General Plan constitute the Land Use Plan portion of the City’s Local Coastal Program and govern the review and approval of Coastal Development Permits.”

For context, the City’s Coastal General Plan, includes the following policies relevant to Planning Commission’s consideration of a Coastal Development Permit for Major Vegetation Removal projects:

Policy CD-1.2: The large trees fronting the west side of Highway One between the North Cliff Hotel and Cypress Street shall be retained as far as feasible; trees may be removed if they are dead or damaged or pose a public safety hazard, or to provide driveways or new public streets. The forested area north of the Georgia-Pacific nursery and south of Maple Street shall be maintained as a sensitive natural habitat and scenic resource, and it shall not be developed.

Policy CD-1.11: New development shall minimize removal of natural vegetation. Existing native trees and plants shall be preserved on the site to the maximum extent feasible.

Policy OS-1.14: Vegetation Removal in ESHA. Prohibit vegetation removal in Environmentally Sensitive Habitat Areas and buffer areas except for:

- a) Vegetation removal authorized through coastal development permit approval to accommodate permissible development,
- b) Removal of trees for disease control,
- c) Vegetation removal for public safety purposes to abate a nuisance consistent with Coastal Act Section 30005, or
- d) Removal of firewood for the personal use of the property owner at his or her residence to the extent that such removal does not constitute development pursuant to Coastal Act Section 30106.

Such activities shall be subject to restrictions to protect sensitive habitat values.

Policy OS-2.1 Riparian Habitat: Prevent development from destroying riparian habitat to the maximum feasible extent. Preserve, enhance, and restore existing riparian habitat in new development unless the preservation will prevent the establishment of all permitted uses on the property.

Policy OS-5.2: To the maximum extent feasible and balanced with permitted use, require that site planning, construction, and maintenance of development preserve existing healthy trees and native vegetation on the site.

Policy OS-14.3: Minimize Disturbance of Natural Vegetation. Construction shall minimize the disturbance of natural vegetation (including significant trees, native vegetation, and root structures), which are important for preventing erosion and sedimentation.

Staff reached out to Coastal Commission staff to determine what constitutes Major Vegetation Removal. The Coastal Commission indicated that Major Vegetation Removal is not defined in the Coastal Act and different communities use different definitions. The Coastal Commission staff pointed to Mendocino and Humboldt County’s definitions as possible definitions for Fort Bragg to consider.

The Mendocino County LCP defines Major Vegetation Removal as follows:

"Major Vegetation, Removal or Harvesting" shall be defined to include one (1) or more of the following:

- (1) The removal of more than fifteen (15) trees or ten (10) percent of the total number of trees on the parcel, whichever is less, with a diameter of twelve (12) inches or a circumference of thirty-eight (38) inches or more measured at four and one-half (4 ½) feet vertically above the ground; or
- (2) The removal of trees within a total contiguous ground area of six thousand (6,000) square feet, or within a noncontiguous area or areas not exceeding a total of six thousand (6,000) square feet measured as the area located directly beneath the tree canopy; or
- (3) The Planning and Building Services Director may determine that a proposal to remove vegetation constitutes major vegetation removal if the Planning and Building Services Director finds that it may result in a significant impact. In making a finding that the proposed major vegetation removal may result in a significant impact, the Planning and Building Services Director shall review the proposal and determine if any of the following conditions exist or are proposed:
 - (a) The vegetation removal involves the use of heavy equipment, or
 - (b) The vegetation removal is proposed on a steep slope (fifteen percent (15%) or greater) and the removal of vegetation may result in soil erosion or landslide, or
 - (c) The vegetation removal is located within or adjacent to an environmentally sensitive habitat, or
 - (d) The vegetation removal may result in significant exposure of adjacent trees to wind damage, or
 - (e) The vegetation removal may result in significant degradation of the viewshed, or
 - (f) The removal of one (1) or more trees which measure twenty-four (24) inches or more in diameter at breast height and which are visually or historically significant, exemplary of their species, or ecologically significant.
- (4) Exempt from this definition would be one (1) or more of the following:
 - (a) Removal of trees and other vegetation that have been reviewed and approved in conjunction with an associated development permit, or
 - (b) Removal or harvesting of vegetation for agricultural purposes in areas presently used for agriculture, or
 - (c) Kelp harvesting, or
 - (d) Timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

The Humboldt County LCP defines Major Vegetation Removal as follows:

64.1.4 Definition of Major Vegetation Removal. For purposes of this section major vegetation removal shall be defined to include one or more of the following: (Former Section CZ#A314-20(D))

64.1.4.1 The removal of one or more trees with a circumference of thirty-eight inches (38") or more measured at four and one-half feet (4½') vertically above the ground; (Former Section CZ#A314-20(D)(1))

64.1.4.2 The removal of trees within a total aggregate contiguous or non-contiguous area or areas exceeding 6,000 square feet, measured as the total of the area(s) located directly beneath the tree canopy; or (Former Section CZ#A314-20(D)(2))

64.1.4.3 The Director may determine that a proposal to remove woody vegetation constitutes major vegetation removal if the Director finds that it may result in a significant environmental impact pursuant to this section. In making a finding that the proposed major vegetation removal may result in a significant environmental impact, the Director shall review the proposal and determine if any of the following conditions exist or are proposed: (Former Section CZ#A314-20(D)(3))

64.1.4.3.1. The major vegetation removal involves the use of heavy equipment; (Former Section CZ#A314-20(D)(3)(a))

64.1.4.3.2. The major vegetation removal:

64.1.4.3.2.1 is proposed on either a steep slope (15% or greater), or on a slope designated on the Geological Map of the General Plan with slope stability index of "2" - moderate instability, or "3" - high instability; and (Former Section CZ#A314-20(D)(3)(b))

64.1.4.3.2.2 may result in soil erosion or landslide; (Former Section CZ#A314-20(D)(3)(b))

64.1.4.3.3. The major vegetation removal is located within or adjacent to an environmentally sensitive habitat as identified in the applicable coastal area plan; or (Former Section CZ#A314-20(D)(3)(c))

64.1.4.4 The major vegetation removal may result in significant exposure of adjacent trees to wind damage. (Former Section CZ#A314-20(D)(3)(d))

64.1.5 Appeal of the Director's Determination of Major Vegetation Removal. Appeals may be filed pursuant to the appeal procedures in Chapter 2, Section 312-13.

The primary difference between the two definitions is the number of trees which can be removed before triggering a Coastal Development Permit: Mendocino County allows the removal of up to 15 trees, while Humboldt County does not allow the removal of one tree that is more than 12 inches in diameter (38 inches in circumference) without a Coastal Development Permit.

Staff is seeking guidance from the Planning Commission regarding a reasonable definition for Major Vegetation Removal for Fort Bragg. The Planning Commission could direct staff to apply one of the definitions above or a hybrid definition for Fort Bragg. The Humboldt definition might be too restrictive, while the Mendocino County definition might be too permissive for Fort Bragg.

Staff recommends that Planning Commission consider a revision to the Mendocino County definition (changes noted in **Bold** text):

"Major Vegetation, Removal or Harvesting" shall be defined to include one (1) or more of the following:

- (1) The removal of more than **(fill in the number) trees** or **(fill in the number)** percent of the total number of trees on the parcel, whichever is less, with a diameter of twelve (12) inches or a circumference of **(fill in number)** inches or more measured at four and one-half (4 ½) feet vertically above the ground; or
- (2) The removal of trees **and shrubs** within a total contiguous ground area of **(fill in the number)** square

- feet, or within a noncontiguous area or areas not exceeding a total of **(fill in the number)** square feet measured as the area located directly beneath the tree canopy; or
- (3) The Review Authority may determine that a proposal to remove vegetation constitutes major vegetation removal if it could result in a significant impact. In making a finding that the proposed major vegetation removal could result in a significant impact, the Review Authority determine if any of the following conditions exist or are proposed:
- (a) The vegetation removal involves the use of heavy **equipment (equipment of more than 1 ton)**, or
 - (b) The vegetation removal is proposed on a steep slope (fifteen percent (15%) or greater) and the removal of vegetation may result in soil erosion or landslide, or
 - (c) The vegetation removal is located within **100 feet of** environmentally sensitive habitat, or
 - (d) The vegetation removal may result in significant exposure of adjacent trees to wind damage, or
 - (e) The vegetation removal may result in significant degradation of the viewshed; or
 - (f) The removal of one (1) or more trees which measure twenty-four (**12**) inches or more in diameter at breast height and which are ~~visually or historically significant¹~~ or exemplary of their species, ~~or ecologically significant.~~
- (4) Exempt from this definition would be one (1) or more of the following:
- (a) Removal of trees and other vegetation that have been reviewed and approved in conjunction with an associated development permit, or
 - (b) Removal or harvesting of vegetation for agricultural purposes in areas presently used for agriculture, or
 - (c) Timber operations which are in accordance with a timber harvesting plan submitted pursuant to the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 (commencing with Section 4511).

¹. A Historical significant landscape as defined according to National Register Bulletin 30 and/or the State Office of Historic Preservation.

As the Planning Commission deliberates, some items to consider include:

1. What is a correct number of trees that could be removed without a CDP?
2. Should shrubs be included in the removal or should it just include trees? The Mendocino ordinance does not require a CDP for elimination of any amount of non-tree vegetation. Staff has generally not considered mowing as major vegetation removal, as mowing is required for fire suppression; however shrubs could be considered major vegetation.
3. What constitutes a significant degradation of a viewshed? Trees can block views to the ocean, open space, buildings, and parking lots. Some tree removal might be considered an improvement to the view shed while other would not be.

The Planning Commission may be curious about past practice with regard to Major Vegetation Removal. Staff is aware of a few instances of Major Vegetation Removal in Fort Bragg, as follows:

1. The previous owners of the North Cliff Hotel cut down approximately ten eucalyptus trees in 2010 without a permit. An after the fact site review revealed that about half of the trees were less than 12 inches in diameter. This was a code enforcement case.
2. Seven pines located along Noyo Point Road were removed by the City, in 2015, as

part of the CDP to install the solid fence along Noyo Point Road for the Coastal Trail project.

3. Ten pines were removed by GP along Hwy 1 and south of Cypress Street because they were heavily diseased and had started to fall over onto Hwy 1. This was a safety-related code enforcement case.
4. Approximately 12 large pine and redwood trees were removed at the Noyo Harbor Inn in 2011. The tree removal was approved by the Planning Commission as part of the CDP for the project.
5. Recently, a small stand of Tan oak trees was removed on a property on N Harbor Drive. These trees were located within an ESHA. This is an existing violation and the property owner is getting an after the fact Coastal Development Permit.
6. Recently, an applicant in the Coastal Zone contacted the City on August 20, 2019 to remove two trees from the rear of their property off N Harbor Drive: 1) dead; 2) uprooted (Attachment 1).
7. Recently, the City received an inquiry from a property owner on the Mill Site interested in completing some tree and vegetation removal for fire safety and vehicular safety on Hwy 1.

RECOMMENDED ACTION:

Provide direction to staff interpreting the definition of Major Vegetation Removal in Fort Bragg.

ALTERNATIVE ACTION(S):

None.

GREENHOUSE GAS EMISSIONS IMPACT:

Removal of trees could result in a minor reduction in GHG sequestration as trees absorb CO2 as they grow.

CONSISTENCY:

The CLUDC should be formally amended to include a definition of Major Vegetation Removal, as part of the next LCP amendment. However, in the meantime, direction from the Planning Commission will provide staff with some guidance on how to define Major Vegetation Removal. This will provide consistency in how the term Major Vegetation Removal is applied.

IMPLEMENTATION/TIMEFRAMES:

Staff would immediately begin interpreting Major Vegetation Removal as directed by the Planning Commission.

ATTACHMENTS:

1. Memo regarding request to remove trees on N Harbor Drive

NOTIFICATION:

1. Notify-Me Subscriber List: Mill Site Plan