

SAN BENITO COUNTY

| PROTECTIONS | Oak Tree Retention/ Replacement Requirements | Oak Protection During Construction | Heritage Tree Protection |
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| General Plan Language | The Natural and Cultural Resources Element encourages clustering of development near oak woodlands, transitional buffers, and, where tree removal cannot be avoided, tree replacement on- or offsite. (NCR 2.7) It also promotes regeneration of oak woodland through habitat conservation planning, interagency coordination, and updated development review. (NCR 2.6) To help reduce greenhouse gas emissions, County shall protect oak woodlands. (HS 5.7) | The Natural and Cultural Resource element states new development proposals shall require biological resource inventories, and analyses of projected impact, wildlife corridors and minimization/mitigation measure suggestions. (NCR 2.8) Avoid the introduction of invasive plant species during construction. (NCR 2.10) The County shall use CEQA process to development projects incorporate feasible mitigation measures (about air quality, but still triggers CEQA HS-5.1). The County shall continue to coordinate discretionary project review and permitting activities with applicable Federal and State regulatory agencies as required by law. (AD-2.3) | None |
| Specific Ordinance | Management and Conservation of Woodlands Ordinance (San Benito County Code, Title 19, Land Use and Environmental Regulations), Chapter 19.33: Section 19.33.008 applies the regulations set forth in Chapter 19.33 to parcels covered by at least 10% woodland vegetation as determined by the baseline retention canopy survey, which is on file with the County's Planning Division, and to parcels that currently support native trees or other woody vegetation but were farmed to agricultural crops at the time of the aforementioned baseline aerial photography. Section 19.33.006 prohibits | Development projects will be denied tree removal permits if judged that they will cause excessive and unnecessary disturbance of the site or excessive cutting on slopes greater than 30% in slope. (19.33.010 D) Subdivision tentative maps must include information about trees over 4 inches diameter at breast height. 23.07.02(B)(8)(a). Building site lots and parcels are subject to review and approval by the Planning Commission as well as the specific plan of the region they are within. (25.29.003 A, B) Subdivision tentative maps require information be submitted to allow for an environmental review by the Planning Department pursuant to CEQA. (23.07.003 D) Subdivision tentative map may be rejected if Planning | None |

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| | <p>clear cutting, grading in a manner that removes woodlands, vegetation removal and similar projects and Section 19.33.005 requires the issuance of a permit when the removal of individual or masses of trees within woodlands of between 90% and 100% as per the canopy retention standard, or any time removal is located on slopes greater than or equal to 30%. For removal on slopes less than 30%, reductions can be to the baseline indicated in 19.33.007(1) without a permit. Permits may be issued along with conditions of approval, as set forth in Section 19.33.010. Permits are discretionary. 19.33.005, and may require “such conditions as necessary to prevent creation of a public nuisance or hazard to public or private property” 19.33.010.</p> <p>San Benito County Permanent Tree Protection Article (San Benito County Code, Title 25 Zoning, Article VII, Chapter 25.29.210) (Ord. 936, § 3 [part], 2015) applies to all lands zoned Single Family Residential (R-1) or Residential Multiple District (RM) in the unincorporated areas of the county. Applies to tree having at least one trunk of eight inches or more in diameter measured four and one-half feet above the ground, or a multi-trunked tree having an aggregate diameter of ten inches or more,</p> | <p>Commission determines “the design of the subdivision or the proposed improvements are likely to cause substantial environmental damage or substantially and avoidably injure fish or wildlife or their habitat” unless overriding findings are made under CEQA. 23.07.006(E)(5).</p> | <p><i>TREES OF SPECIAL PROTECTION.</i></p> <p>(1) <i>HERITAGE TREES.</i> Any tree, regardless of species, which has a trunk diameter of 36 inches or greater measured four and one-half feet above the ground;</p> <p>(2) A tree shown to</p> |
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| | <p>measured four and one-half feet above the ground (diameter at breast height: dbh), with the exception of certain fruit and nut trees, not including oaks, that are cultivated for edible fruit production.</p> <p>Does not apply to trees damaged by natural disasters; tree removal associated with fighting active fires; trees planted, grown, or held for sale by a licensed nursery business; trees that require maintenance or removal for protection of electric power, communication lines, or other property of a public utility; trees within existing or proposed rights-of-way that block line-of-sight; trees removed pursuant to a state or federal agency, such as when work is being performed in a waterway to prevent floodway restriction; a diseased or drought-stressed tree that is unlikely to be restored to good condition; tree removals associated with a development that is subject to California Environmental Quality Act; and any tree whose trunk is fully located within a fully-fenced backyard or side-yard and is not a tree of special protection.</p> <p>No person shall trench, grade, or fill within the dripline of any tree or destroy, kill, remove, or seriously harm, any tree, as defined, in the R-1 and RM zones of the unincorporated area of San Benito</p> | | <p>be preserved on an approved Development Plan or specifically required by the Planning Commission to be retained as a condition of approval of an entitlement;</p> <p>(3) A tree required to be planted as mitigation or replacement for the removal of a protected tree; and/or</p> <p>(4) A LANDMARK TREE. Any tree or grove of trees, or type of tree, designated by resolution of the Board of Supervisors to be of historical or cultural value, an outstanding specimen, an unusual or native species and/or of significant community benefit. 25.29.212</p> |
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| | <p>County, on any property, whether public or private, without a permit. (Ord. 936, § 3 (part), 2015)</p> <p>PERMIT REQUIRED.</p> <p>(A) The tree removal permit application shall contain the number, species, size and location of protected tree(s) to be affected and a brief statement of the reason for action as well as any other pertinent information the Director may require. The permits shall only be issued to the applicant concurrent with or subsequent to all other necessary permits pertinent to site alteration and construction, if any. 25.29.214</p> <p>REVIEW (A) The Director may approve the removal of one tree per parcel every five years without making the findings summarized below, except for any "trees of special protection" as defined in this article. (See <i>Heritage Tree Protection</i>.) Factors to be considered in granting a permit include the health of the tree and any danger the tree may pose to human health or proximate structures, utility services, sewage infrastructure, and/or sidewalks; potential impacts of tree removals on proximate trees; the necessity of tree removal for enjoyment of the property or for economic purposes; the effect tree removal would have on soil</p> | | |
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| | <p>erosion shade, privacy, beauty, and property values in the area; habitat and other ecosystem values of the tree; the species; and proposed mitigation for the tree removal.</p> <p>(C) The Director shall approve a tree removal permit when: (1) That the location of the trees restricts the economic enjoyment of the property by severely limiting the use of property in a manner not typically experienced by owners of similarly zoned and situated property, and the applicant has demonstrated to the satisfaction of the approval authority that there are no reasonable alternatives to preserve the tree(s); or</p> <p>(2) That removal must be permitted to avoid an unconstitutional regulatory taking of property. 25.29.215</p> | | |
| Voluntary Guidelines | None | None | None |

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| PROTECTIONS | Riparian Vegetation Protections | Oak Canopy Retention Requirements | Oak Woodland Conservation Program |
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| General Plan Language | <p>County “shall encourage conservation and, where feasible, creation or restoration of open space areas that serve to protect water quality such as riparian corridors.” (NCR 4.4) For new communities/developments, Land Use Element promotes restoration of riparian corridors and permanent preservation of open space (LU 8.5i) The County also requires submitted site plans, tentative maps, and parcel maps to depict environmentally sensitive areas including riparian habitats. (LU-1.8) Natural and Cultural Resource Element requires buffers around riparian and oak woodlands, with trails and other features kept to the outside of sensitive habitat, with a few exceptions. (NCR 2.5). To help reduce greenhouse gas emissions, County shall protect riparian woodlands (HS 5.7). To facilitate groundwater recharge, the County “shall encourage new development to preserve, where feasible, areas that provide important groundwater recharge and stormwater management benefits such as . . . riparian corridors.” To facilitate flood control, the County shall “encourage multi-purpose flood control facilities that incorporate . . . preservation of natural riparian habitat.”</p> | See section on Management and Conservation of Woodlands Ordinance | <p>San Benito County has not adopted an Oak Woodland Conservation Plan, however through the oak woodland inventory program (NCR-H): County shall “coordinate, as necessary, with neighboring counties where oak hardwood communities intermingle to inventory resources, educate private and public landowners, and develop programs for regeneration and maintenance of these significant plant communities.”</p> |

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| | (HS 2.6) | | |
| Specific Ordinance | Land Use Ordinance states grading shall not take place within 50' of the top of the bank of a stream, creek, or river or within 50' of a wetland. (19.17.005) | The Conservation of Woodlands Ordinance lays out guidance for percentage of woodland canopy that must be retained during modification or maintenance on any parcel (see table at 19.33.007(1)). Canopy retention should retain undisturbed woodlands over individual trees. (19.33.007) Except as otherwise exempted, no person shall do any tree cutting or removal without first obtaining a permit. (19.33.008) The Zoning Ordinance designates Scenic Corridors of 340-400' from state highways. (25.15.062) | None |
| Voluntary Guidelines | None | None | None |

Documents reviewed:

☒ Open Space Element
☒ Conservation Element
☒ Land Use Element
☒ Zoning Ordinance

Date of Review: November 1, 2018 (updated Feb. 4, 2021 by Eric Biber)

☐ Roads/Sidewalk Tree Ordinance (N/A)
☒ Tree Removal Ordinance
☐ Voluntary Guidelines
☒ Other County Codes: Environmental

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X Subdivision Ordinance
X Grading and Erosion Ordinance
(Incorporated into section titled Land Use
and Environmental Regulations)

Resources Constraints Inventory

Note Specific Plan Documents not available on
county website.

Summary of Oak Protection Policies:

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| General Plan Open Space and Conservation (Natural and Cultural Resources Element) 2015 | <p>The majority of the relevant sections of San Benito County's oak protections are in the Natural and Cultural Resources Element (NCR), which encompasses what would traditionally occupy Open Space and Conservation elements. Below are some of the most relevant sections:</p> <p>OAK WOODLANDS: The County will promote restoration, restocking, and protection of oak woodland habitat on public and private lands in the County through habitat conservation planning, inter-agency coordination, and development review procedures. (NCR 2.6) Coordination with neighboring counties where oak hardwood communities intermingle is necessary to inventory resources, educate private and public landowners, and develop programs for regeneration and maintenance of these significant plant communities. (NCR-H, page 8-17) Where removal of trees cannot be avoided, a mitigation plan shall be developed for tree replacement on- or off-site. (NCR 2.7) Avoid the introduction of invasive plant species during construction. (NCR 2.10)</p> <p>WILDLIFE HABITAT: In rural areas, road and development sites shall be designed to maintain habitat connectivity of open space areas. Measures to maintain the long-term health of the plant and animal communities in the area shall be incorporated into project design. (NCR 2.4) Where mitigation is not feasible off-site mitigation measures shall be developed. (NCR 2.5)</p> <p>OPEN SPACE: Allow use of voluntary conservation easements on mineral lands to protect significant resources. (NCR 5.14) Proposed development areas shall protect resources on-site and contiguous to the project with clustering, ensuring transitional buffers and other similar efforts. (NCR 2.7)</p> |
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| <p>General Plan Other Sections 2015</p> | <p>The San Benito County General Plan discusses efforts to preserve riparian habitats in the Land Use (LU) and Health and Safety (HS) Elements, and also discusses discretionary project review in both the HS element and the Administration Element (AD).</p> <p>LAND USE ELEMENT- The County requires submitted site plans, tentative maps, and parcel maps to depict environmentally sensitive areas including riparian habitats. (LU-1.8) LU also promotes restoration of riparian corridors and permanent preservation of open space (LU 8.5i)</p> <p>HEALTH AND SAFETY ELEMENT: The County shall use CEQA process for development projects to incorporate feasible mitigation measures. (about air quality, but still triggers CEQA HS-5.1) HS also requires the County to encourage multi-purpose flood control facilities that preserve natural riparian habitat and promote resource conservation. (HS-2.6)</p> <p>ADMINISTRATION ELEMENT: The County shall continue to coordinate discretionary project review and permitting activities with applicable Federal and State regulatory agencies as required by law. (AD-2.3)</p> |
| <p>Environmental Resources and Constraints Inventory 1994</p> | <p>The Environmental Resources and Constraints Inventory gives background on the different categories of open space in San Benito County. (p. 6) General Plan Guidelines recommend that the County identify specific oak species that occur in stands 5 acres or larger and have 5 or more trees per acre. Hardwood rangeland covers nearly half of the County. Over 82% of the hardwood lands are in private ownership. (p. 65) None of the hardwood resources in the County are "reserved," or protected as habitat on public or private lands. One of the factors used to determine whether hardwoods are and will be threatened by urbanization is to review zoning and land use practices. (p. 66) The majority of the hardwood resources in the County are located within the Agricultural Rangeland zoning district with a minimum lot size of 40 acres. The base density will deter sub-urbanization of most woodlands. The allowed land uses of rangeland and some wood-cutting could hinder successful regeneration of some hardwood habitats particularly Blue Oak, Blue Oak Foothill Pine and Valley Oak. The Coast Oak Woodland is the only habitat in the County that may be threatened by suburban development. Existing and future development in the Aromas area with Rural (1 unit/5 acres) and Rural Transitional (1 unit/2.5 acres) zoning and the San Juan Canyon with Rural (1 unit /5 acres) zoning could limit habitat. (p. 69)</p> |
| <p>Zoning Ordinance Title 25</p> | <p>SCENIC VEGETATION: The Zoning Ordinance designates Scenic Corridors of 340-400' from state highways. (25.15.062) The County shall carefully review all projects involving grading within scenic corridors. The proposed project shall be relocated, modified, redesigned, or if no alternative, screened to minimize visual impacts of grading operations seen from any scenic highway. Vegetative cover is required to hide grading scars and blend with the natural landscape. (25.15.065)</p> <p>OPEN SPACE DISTRICTS: Open Space Districts are established to protect open space land for wildlife habitat. (25.15.095) Existing natural vegetation shall remain in a natural state unless modifications found to be necessary for specific use as approved by the Planning Commission. Reduction or elimination of fire hazards shall be required where</p> |

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| | <p>heavy concentrations of flammable vegetation occurs. (25.15.099 B) Removal of trees may be permitted upon approval of the Planning Commission. (25.15.099 C) All grading shall be subject to the provisions of the Grading and Erosion Control Ordinance. (25.15.099 D)</p> <p>DEVELOPMENT: Rezoning proposals will be reviewed by the Planning Commission and Board of Supervisors to determine if the rezoning serves public necessity, convenience, general welfare, and is good zoning practice. (25.45.005)</p> <p>Building site lots and parcels are subject to review and approval by the Planning Commission as well as the specific plan of the region they are within. (25.29.003 A, B)</p> |
| <p>Subdivision Ordinance Title 23</p> | <p>Subdivision tentative maps must show any trees proposed to be removed or impacted by species, dbh and dripline of existing trees with a dbh 4" or more. (23.07.002 8a) Tentative maps also require information be submitted to allow for an environmental review by the Planning Department pursuant to CEQA. (23.07.003 D) Tentative maps shall be denied if it is determined they are likely to cause substantial environmental damage unless, upon examining the Environmental Impact Report, the Planning Department determines mitigation efforts and/or alternatives are infeasible. (23.07.006 E5)</p> |
| <p>Management and Conservation of Woodlands Ordinance 19.33</p> | <p>The Management and Conservation of Woodlands section of Title 19 of San Benito's ordinances deals with canopy retention requirements, tree permits, and punishments for violators:</p> <p>TREE REMOVAL AND CANOPY RETENTION: The ordinance applies to parcels covered by at least 10% woodland vegetation or that historically supported woodlands, unless the property is less than 30% slope and removal would not go below the baselines in 19.33.007(1). The County shall be authorized to determine whether these provisions apply to a specific parcel, with burden of proof on the property owner. Except as otherwise exempted, no person shall do any tree cutting or removal without first obtaining a permit. (19.33.008) Applications for tree removal permits shall include: statement of the purpose of tree removal, details surrounding construction plans, dates and any other information required by the county to adequately describe and analyze the proposed project. (19.33.009) Allowable amounts are developed as canopy retention standards based on original canopy cover. All canopy must be retained when cover is 19% or less, for calculations, see table 19.33.007(1). Retention standards are increased for tree removal on slopes. The ordinance provides guidelines for the percentage of woodland canopy that must be retained during modification or maintenance on any parcel (see table). Canopy retention should retain undisturbed woodlands over individual trees. (19.33.007) Clearcutting and grading to remove woodlands is prohibited. (19.33.006) Permit applications must include a statement of reasons for removal. Permit conditions may include time of operation, a revegetation plan, and prohibition of removal of some trees. Reforestation must be started at least 1 year before clearing, grading, or construction permits are issued. (19.33.010 C2) A performance bond and inspection are required. (19.33.012-13) Violators are guilty of infractions and unlawful tree cutting or removal is to be treated as a public nuisance. (19.33.016)</p> |

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| Land Use and Environmental Regulations Ordinance Title 19 | Aside from the Management and Conservation of Woodlands Ordinance, Title 19 also includes some other relevant protections: Grading shall not take place within 50' of the top of the bank of a stream, creek, or river or within 50' of a wetland. (19.17.005) Grading requires a permit from the Planning Department, except for some exemptions. (19.17.004) Grading, dredging, or disking permits will be denied if not consistent with General Plan, or if County determines it will create an adverse environmental impact. (19.17.011) |
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| San Benito County Permanent Tree Protection Article Title 25 Zoning, Article VII, Chapter 25.29.210 | Establishes protections through a permitting process for eight-inch dbh single-trunked or greater, ten-inch multi-trunked or greater, heritage, and landmark trees on lands zoned as residential in unincorporated areas of the county, unless the tree removals are part of a development project subject to CEQA. Additionally, one tree per parcel; with the exception of heritage, landmark, and trees preserved or planted for mitigation; may be removed every five years through a process that includes less review than the tree removal permit. |
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Contact Information:

Resource Management Agency: Planning Department
2301 Technology Parkway, Hollister, CA 95023-2513
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831-902-2287 (Michael P. Kelly, Associate Planner)
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Website: <https://www.cosb.us/departments/resource-management-agency/planning-and-land-use-division>

Ordinances at:

[http://library.amlegal.com/nxt/gateway.dll/California/sanbenitocounty_ca/sanbenitocountycaliforniacodeofordinance?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:sanbenitocounty_ca](http://library.amlegal.com/nxt/gateway.dll/California/sanbenitocounty_ca/sanbenitocountycaliforniacodeofordinance?f=templates$fn=default.htm$3.0$vid=amlegal:sanbenitocounty_ca)

https://codelibrary.amlegal.com/codes/sanbenitocounty/latest/sanbenito_ca/0-0-0-27830

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- ☐ ☐ No contacts
- ☐ Policies provided by county staff
- ☐ Policies discussed with county staff
- ☒ Policy inventory reviewed by county staff