



COUNTY OF SANTA CRUZ

PLANNING DEPARTMENT

701 OCEAN STREET, 4TH FLOOR, SANTA CRUZ, CA 95060
(831) 454-2580 FAX: (831) 454-2131 TDD: (831) 454-2123
KATHLEEN MOLLOY PREVISICH, PLANNING DIRECTOR

April 6, 2015

AGENDA DATE: April 16, 2015

Agenda Item #: 7

Time: after 1:30 p.m.

Agricultural Policy Advisory Commission
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

SUBJECT: CONSIDER DRAFT ORDINANCE AMENDMENTS REGARDING FENCING ON AGRICULTURAL LAND

Members of the Commission:

This report provides information about fencing on agricultural lands and proposes amendments to fencing regulations. After considering public concerns about the appearance of temporary fencing, reviewing existing county regulations and policies, and discussing agricultural fencing needs with the Santa Cruz County Farm Bureau and Agricultural Commissioner's office, planning staff drafted proposed ordinance amendments for the Board of Supervisors to consider that would allow limited temporary agricultural fencing to support the needs of local farmers, while including standards to protect scenic areas and visual resources (Exhibit A). Where the agricultural fencing need is longer term, a discretionary fence permit pathway is proposed that would allow longer term fencing when permit approval findings can be made.

As directed by the Board of Supervisors on March 17, planning staff is providing the attached report and proposed amendments to your Commission for review and recommendation. After receiving comments and recommendations from your Commission, planning staff will complete environmental review on the proposed amendments, bring the draft ordinance to the Planning Commission for a public hearing, followed by a public hearing before the Board of Supervisors later this year for final consideration of the proposed amendments.

BACKGROUND

In 2014, the County received numerous complaints from local residents regarding temporary black plastic and black fabric fencing on agricultural properties, especially along scenic corridors such as Corralitos Road. Public concerns include the unattractive appearance of thin black plastic and black opaque woven fabric as fencing material, and the lack of proper maintenance which results in torn fabric, graffiti, and loose fencing material littering roadways. Site visits conducted by planning staff at agricultural properties in the County determined that temporary fencing ranged in height from three to six feet, with some fencing in good condition and other fences poorly maintained (Exhibit B).

To understand the perspective of the farming community, planning staff met in November 2014 and January 2015 with the Santa Cruz County Farm Bureau and a number of local farmers. Summarizing the issue from the farmer's perspective, temporary fencing using affordable woven material (including woven plastic) supported by or metal wood stakes that can quickly and easily be installed and removed is an essential tool for many local farming operations. Such temporary agricultural fencing protects crops from dust and pests, protects farmworkers from traffic and passers by, and may be required by produce buyers. Food safety concerns have resulted in stronger measures being taken by farmers to ensure that animals are excluded from fields and crops are protected from contamination. Produce buyers may even reject crops from growers who do not provide adequate fencing. Particularly for farmers who lease farmland, woven fabric fencing may be the only affordable and feasible fencing option. Discussions with and a letter from the Farm Bureau did not identify any readily available alternatives to the black woven or plastic material that would be affordable, control dust effectively, and provide a better appearance (Exhibit C).

EXISTING COUNTY REGULATIONS AND POLICIES

Existing Santa Cruz County Code regulations for agricultural fencing in agricultural zone districts [SCCC Section 13.10.525(C)(2)(a)] allow fencing in front, side and rear yards up to 6 feet in height that is "made of wire which is paced a minimum of 6 inches apart... or made of horizontally oriented wooden members which are spaced a minimum of one foot apart", without requiring a discretionary permit. Therefore, current regulations do not adequately address modern needs for dust and contamination control fencing, and therefore the use of plastic sheeting or woven fabric as temporary agricultural fencing can be considered a violation of the County Code.

Considering dust and contamination control fencing in a wider context, county regulations and policies are strongly protective of local agriculture. SCCC Section 13.10.311(A) states that a purpose of the Commercial Agricultural zone district is "to maintain the economic integrity of the economic farm units comprising the commercial agricultural areas of the County." Similarly, one General Plan objective (5.13) is "to recognize that agriculture is a priority land use and to resolve policy conflicts in favor of preserving and promoting agriculture on designated commercial agricultural lands." The General Plan also recognizes scenic roads and scenic areas as important visual resources that should be protected. General Plan Objective 5.10b is "to ensure that new development is appropriately designed and constructed to have minimal to no adverse impact upon identified visual resources." However, GP Policy 5.10.11 also recognizes the special status of agriculture: "structures appurtenant to agricultural uses on agriculturally designated parcels shall be considered to be compatible with the agricultural character of the surrounding area."

DISCUSSION OF PROPOSED AMENDMENTS TO AGRICULTURAL FENCING REGULATIONS

Proposed amendments regarding agricultural fencing are contained in Exhibit A. While it is preferred that agricultural property owners employ permanent fencing solutions, there is a need to allow for temporary fencing strategies. Planning staff is recommending amendments to fencing regulations that would add flexibility for designs of permanent fencing, and would also accommodate the needs of local farmers for temporary dust and contamination control fencing on a limited basis without permit. For sites that propose use of temporary fencing more than 2 out of 5 years, a discretionary agricultural fencing permit would be required in order to consider extended durations. This provides for County review and approval of locations, materials and screening strategies as appropriate.

The amended regulations for permanent agricultural fencing would allow closer spacing of wire or wood board fencing to provide for more flexibility in fence design, and better privacy and animal exclusion, while still providing a “see-through” fence that protects public viewsheds. The additional flexibility for permanent agricultural fences is intended to encourage increased use of permanent fencing as the preferred fence type on agricultural properties. The ordinance also clarifies that, as is the case for fencing in other zone districts, permanent agricultural fencing exceeding specified height limits may be considered through a discretionary “over height fence certification.”

It may be beneficial for farmers and property owners to consider construction of permanent agricultural fencing consisting of wire fencing material supported by posts, against which the temporary woven material could be installed during the growing season on the crop side of the fence. Vegetative screening along the frontage or public road side of the fencing could be added to the fencing arrangement to protect views and the character of scenic areas.

As proposed, the code would allow temporary agricultural fencing constructed of solid woven material (including woven plastic) without requiring a discretionary permit. Temporary would be defined as nine months per year for no more than two years within a five-year period. The ordinance would limit the temporary fence height to 4 feet in yards abutting a street to protect scenic views from roadways, and would allow fencing up to 6 feet in other yards. The ordinance would require that the temporary fencing be maintained in good condition free of litter and graffiti, and would also require that the temporary fencing be removed after 9 months to ensure that the fencing remains temporary and does not become dilapidated. The nine-month period would allow for the typical growing season and harvest cycle to be completed for crops such as berries. Further, this nine-month fencing period would be allowed for no more than two years within a five-year period before the fence is no longer considered to be temporary, and an extended temporary fence permit would be required.

To recognize that particular farm circumstances may call for additional flexibility and accommodation, a new discretionary fence permit for extended dust and contamination control fencing could allow taller fences, and timeframes that exceed 2 years out of any 5 years, if approved by the Planning Director. As part of the permit process, the height, design, materials and duration of the proposed fence would be reviewed. The fence permit would not be approved unless it was determined that the proposed fence was visually compatible with the agricultural character of the community, and minimized impacts on public vistas. Screening with vegetation will be encouraged where feasible, and conditions of approval could be added to require vegetative screening and address other factors as warranted. In addition, the applicant would be required to demonstrate a need for fencing that could not feasibly be accommodated by permanent or temporary agricultural fencing that is allowed by right.

If these new standards are adopted by the County but not adhered to by property owners and farmers, then code compliance efforts could be initiated. It is relevant to note that code compliance officers have the new tool of administrative citations and associated fines, which will be helpful in facilitating enforcement, along with other available code enforcement tools.

CONCLUSION AND RECOMMENDATION

The proposed amendments address the needs of local farmers for affordable and effective dust and contamination control fencing, while including standards that protect scenic areas and require the fencing to be maintained in good condition in order to prevent adverse impacts on community and neighborhood character.

It is therefore recommended that your Commission consider the proposed amendments to SCCC Section 13.10.525 regarding agricultural fencing, and provide a recommendation to the Board of Supervisors regarding the proposed amendments.

Sincerely,

A handwritten signature in cursive script that reads "Annie Murphy". The signature is written in dark ink and is positioned above the printed name and title.

Annie Murphy
Planner III

Exhibits:

- A. Proposed Amendment to SCCC Section 13.10.525 regarding agricultural fencing
- B. Photographs of temporary agricultural fencing in the County
- C. Letter from Farm Bureau dated February 11, 2015

**STRIKETHROUGH COPY OF ORDINANCE AMENDING SECTION 13.10.525 OF THE
SANTA CRUZ COUNTY CODE REGARDING AGRICULTURAL FENCES**

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

Subsection 13.10.525(C)(2) of Section 13.10.525, "Regulations for fences and retaining walls within required yards" is hereby amended to read as follows:

(2) Maximum Fence and Retaining Wall Heights and Other Design Criteria

(a) Permanent Fencing in agricultural zone districts. In agricultural zone districts, fencing for agricultural purposes may have heights up to six feet in all yards; provided, that such fencing, ~~including gates,~~ is: (i) six feet or less in height; and (ii) made of wire which is spaced a minimum of ~~six~~ one inches apart ~~(i.e., typical field fencing), supported with wood or metal posts,~~ or made of horizontally oriented wooden members which are spaced a minimum of one foot 8 inches apart (i.e., typical wooden corral fencing). ~~Such f~~Fencing meeting these criteria shall be exempt from development a ~~discretionary fence permit approval requirement unless such fencing is located on property adjacent to Highway One, in which case a development permit approval by the Planning Director (Level 3 administrative permit approval) is required. Agricultural fencing located within a corner sight clearance triangle shall be a maximum of three feet in height pursuant to subsection (e) below. Hedgerows or other living fences are allowed in agricultural zone districts and are not subject to fencing regulations. Vegetative screening of fences is encouraged where feasible.~~

Agricultural fencing exceeding six feet in height requires an over-height fence certification pursuant to Section 13.10.525(D), and is limited to a maximum height of eight feet. Agricultural fencing exceeding eight feet requires fence permit approval by the Planning Director with public notice (Level 4 administrative permit approval), pursuant to Chapter 18.10.

In addition to the requirements of this section, agricultural fencing within or adjacent to sensitive habitats is subject to regulations in Title 16, Environmental and Resource Protection. In the Coastal Zone, a coastal development permit will be required for all fencing in agricultural zone districts unless it is exempted or excluded from coastal development permit requirements pursuant to SCCC 13.20.060 or 13.20.070.

(b) Temporary fencing in agricultural zone districts. Where permanent agricultural fencing is not feasible but temporary fencing is necessary for an agricultural use, for purposes such as dust control, animal control, food safety, windbreaks, farmworker protection, and trespass prevention, temporary fencing consistent with the criteria below is allowed without discretionary fence permit approval:

- (i) Height. Temporary fence heights shall not exceed 4 feet in required yards abutting a street and 6 feet in other required yards.
- (ii) Materials and construction. Temporary fencing may be solid in appearance, consisting either of woven material or other fabric installed at the interior of an existing permanent fence, or as a separate temporary fence structure consisting of woven material or other fabric supported by wood or metal stakes.
- (iii) Duration. Temporary fencing is allowed for time periods not to exceed nine months in one year, and for no more than 18 months within any five-year period.
- (iv) Maintenance. Temporary fencing shall be repaired, replaced or removed when torn or degraded; and shall be maintained free of graffiti and litter.

(c) Extended temporary fencing in agricultural zone districts.

When there is a demonstrated need for dust and contamination control fencing exceeding the height or time limits provided above for

temporary fencing, a discretionary agricultural fence permit issued by the Planning Director (Level 3 administrative permit approval) is required. The permit application review process may require submittal of the fence design, sample materials, photographs of the surrounding properties, documentation supporting the need for the proposed fence, and the proposed extended duration for the temporary fence. Any approved extended temporary fencing shall be maintained in accordance with subsection (b)(iv) above. The fence height shall be limited to the minimum necessary to support the agricultural use. The permit may specify fence materials and design, require vegetative screening, or include other conditions as needed to comply with the following findings for approval of the agricultural fence permit for an extended temporary fence:

(1) The applicant has a demonstrated need for fencing related to an agricultural use that cannot be accommodated by permanent agricultural fencing or temporary fencing as described in subsections (a) and (b) above; and

(2) The fence height, materials, colors, and any proposed vegetative screening are visually compatible with the agricultural character of the community, minimize impacts on significant public vistas, and preserve public ocean vistas to the greatest extent feasible; and

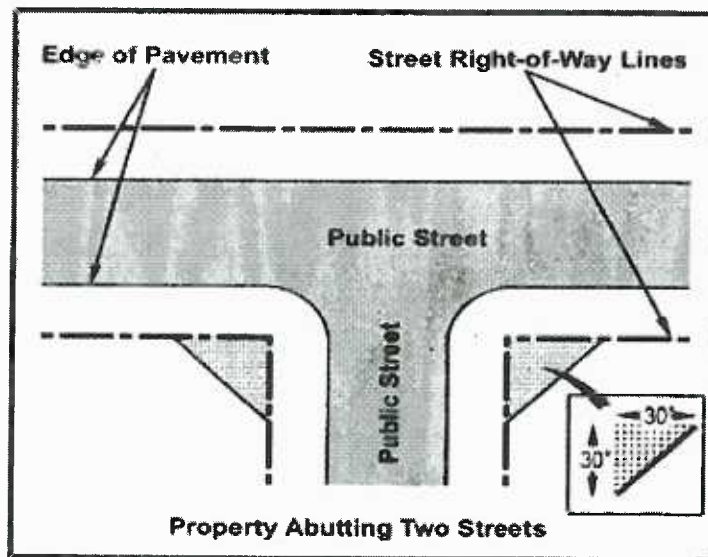
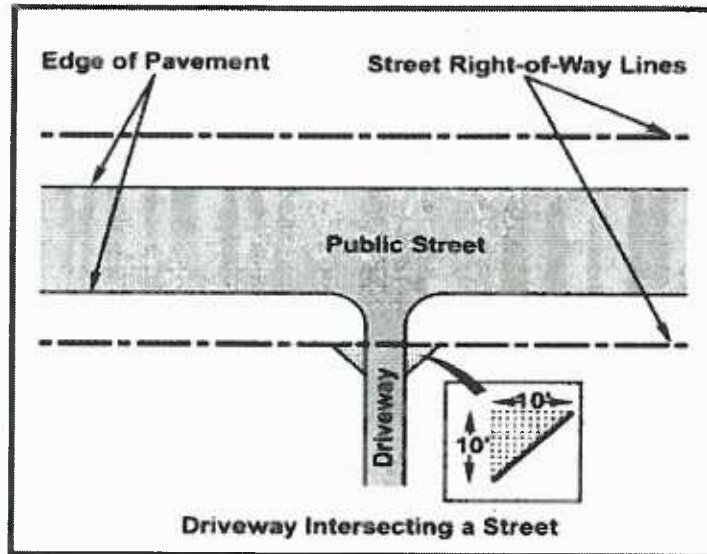
(3) The fence material is of woven or fabric construction, or other suitable material.

(b d) Except as provided in SCCC 13.10.323(D)(5)(a), maximum heights for fences and retaining walls not located in a corner sight clearance triangle are shown on the fence location and height table given in subsection (C)(3) of this section. Examples of corner sight clearance triangles are shown in the diagrams below.

(e e) Except as provided in SCCC 13.10.323(D)(5)(a), within corner sight clearance triangles no fence or retaining wall shall exceed three feet in height, if the fence or retaining wall is:

(i) Located in a corner sight clearance triangle on a parcel located at the intersection of two local neighborhood streets for a distance of 30 feet along each street right-of-way; or

- (ii) Located in a residential driveway or alley corner sight clearance triangle for a distance of 10 feet along the street right-of-way on each side of the driveway or alley; or
- (iii) Located in a corner sight clearance triangle determined to be applicable by the County based on professional standards established by the American Association of State Highway and Transportation Officials (AASHTO) or other applicable technical publications. Greater sight clearance triangles may be required for front and side yards adjacent to roads that allow vehicular travel speeds of more than 25 miles per hour.



SECTION II

Subsection 13.10.525(C)(3), "Fence Location and Height Table," is hereby amended to read as follows:

(3) Fence Location and Height Table. This table applies to all zone districts. However, within agricultural zone districts, this table applies only to fencing for non-agricultural uses.

| Property and Fence Location | Maximum Height without Permit Outside of Corner Sight Distance Triangles**, *** | Maximum Height with Over-Height Fence Certification outside of Corner Sight Distance Triangles**, *** | Maximum Height with a Level IV or above Permit *** |
|---|---|---|--|
| Front Yard inside Urban Services Line (USL) and Rural Services Line (RSL) | 3 feet* | 6 feet | As determined through permit process |
| Front Yard outside USL and RSL | 3 feet* | 8 feet | As determined through permit process |
| Side/Rear Yard Abutting on a Street | 6 feet | 8 feet if fence at least 5 feet back from property line | As determined through permit process |
| Side/Rear Yard Not Abutting on a Street | 8 feet | N/A: already at 8 feet; would need Level IV to go higher | As determined through permit process |

The following would be allowed without any discretionary approval in all locations, except for corner sight clearance triangles:

1. Archways/trellises/pergolas up to 8 feet tall associated with a walkway through a fence and not making up more than 25% of the length of the fence along the applicable property line.
2. Open decorative features such as lattice that do not exceed the given maximum fence heights by more than 6 inches. Except as allowed by SCCC 13.10.323(D)(5)(a)

*Except as allowed by SCCC 13.10.323(D)(5)(a)

** County Public Works Department guidelines establish applicable corner sight clearance triangle requirements

*** In the coastal zone, a coastal development permit will be required for all fence and retaining wall development unless it is exempt or excluded from coastal development permit requirements pursuant to SCCC 13.20.060 or 13.20.070.

Photographs:

Temporary Agricultural fencing in various locations throughout the County















141 MONTE VISTA AVENUE, WATSONVILLE, CA 95076
P. (831) 724-1356 F. (831) 724-5821
sccfb@sbcglobal.net
www.sccfb.com

EXHIBIT C

February 11, 2015

Supervisor Zach Friend
Santa Cruz County Board of Supervisors
701 Ocean St. Room #510
Santa Cruz, CA 95060

Recommendations and comments for proposed fencing regulations on agricultural lands:

Dear Supervisor Friend,

We understand your dilemma on this issue, and appreciate you providing Santa Cruz County Farm Bureau some additional time to further address the issue of agricultural fencing. After our meeting on January 6th, further discussions were conducted with our Board members and with farmers in our community regarding the issues surrounding temporary fencing. We have the following comments and recommendations for the proposed ordinance amendments.

Planning Staff recommendations from the December 9th 2014 Agenda clearly recognize the importance of temporary agricultural fencing and the complexity of factors surrounding this agricultural practice. This implement of farming is critical in addressing food security, field worker safety, site-specific installation limitations and trespassing. Other issues that need to be factored in are crop type, location, overall cost, seasonality or rotation of crops and a limited selection of materials.

There is a general consensus among growers that imposing overly prescriptive regulations would seriously impact current agricultural operations in the county. Expensive permanent fencing alternatives would ultimately result in some of the same problems, and not provide some critical protections or even be possible in some locations. Though it has the appearance of just defaulting to the least expensive option, temporary barriers serve very specific and important functions critical to local crops and farmers.

Through this discussion, we hope that residents will have an understanding of the temporary barriers, and that in areas zoned as commercial agriculture a farmer has an inherent right to farm which requires him/her to apply the best available tools and practices to be successful.

Farmers agree with the need for maintenance and upkeep standards and will consider alternate colors or fabric compositions and vegetative screening of fencing or of crops without fencing when appropriate.

Specific Recommendations:

Maintenance Standards are a reasonable and acceptable method to improve the visual aesthetics of temporary fencing. This could include trash accumulation, graffiti, and disrepair of fencing.


A five-month time period was recommended to consider a fence temporary in nature. Five months is too short for any of the major crops currently being grown locally. A typical growing season for strawberries for example is 8 months, or longer for cane berries which is typically 18 months or longer. Implementing this restriction will negate the use of barriers for numerous crops leaving issues such as food safety difficult to address.

We recommend that Temporary be defined as nine months. Additional language could specify removal of fencing with change in crop if less than nine months. Temporary fencing would be allowed for any 9-month period out of 12 months, with allowance for use with the subsequent crops over multiple years. It is crucial to allow fencing practices flexibility in order to accommodate multi-seasonal cropping practices and time-periods. Staff recommended a height of temporary fencing to four feet in height along frontage roads, six feet in other specified locations. This would be acceptable to include in the ordinance.

Currently no low cost alternative to woven plastic fencing is available that would provide solutions to the issues at hand, and be functional for farming. Farmers currently plant vegetative screens along many of their fields and we believe that such a practice could be more widely encouraged along scenic corridors in the county.

We appreciate your consideration of the information we have provided and the subsequent recommendations.

Sincerely,


David Van Lennep, President
Santa Cruz County Farm Bureau

DVL/mg