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EL DORADO

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MEMORANDUM

DATE: March 28, 2008
TO: Board of Supervisors
FROM: Peter N. Maurer, Principal Planner
SUBJECT: Economic Analysis - OWMP

Policy 10.1.2.5 of the 2004 General Plan directs staff to prepare and present an analysis of the economic effect and taking implications of a proposed rule or regulation on private property and private property rights. Unfortunately, this requirement was overlooked in the effort to prepare the final draft Oak Woodlands Management Plan (OWMP) to the Planning Commission, until it was brought up by a member of the public.

Insufficient time is available to prepare a complete analysis, however, we have prepared a spreadsheet (Attachment 1) showing the basic costs to an individual homebuilder utilizing several different scenarios. While it is not possible to analyze all of the possible variations of oak canopy coverage and lot sizes, the examples used provide a reasonable range, and represent typical single family lots in El Dorado County.

Staff looked at three lot sizes: a quarter-acre lot, and parcels of one acre and five acres. On each of these, total oak canopy coverage is considered at 50 percent, 75 percent, and 100 percent coverage. With each of these coverage scenarios, staff calculated the costs associated with removing 50, 75, or 100 percent of oak canopy within the disturbed area. Staff assumed a 3,000 square foot building with a total of 5,000 square feet of disturbed area. Staff had to also assume that the oak canopy was evenly distributed across the parcel, and that there would be no attempts at minimizing the canopy loss by relocating disturbed areas outside of the canopy. If the latter were to occur, which is really the intent of the policy, the costs would be reduced. Also, the required replanting provisions under Option A of Policy 7.4.4.4 was satisfied by paying the 1:1 in-lieu fee as provided under the proposed OWMP and ordinance. For the canopy removed in excess of the amount permitted under Table 1 of Policy 7.4.4.4, the Option B, 2:1 ratio fee was applied.

These scenarios resulted in oak canopy removal ranging from 2,500 to 5,000 square feet with the oak woodland mitigation fee ranging from \$270 to \$962 per lot. As the table shows, the highest cost would apply to smaller parcels on heavily canopied sites. On larger parcels (most parcels over an acre) it is possible to satisfy the requirement solely using Option A. The fee for replacement would typically be \$270 to about \$600. The fee could be avoided entirely if the

builder opted to replant the lost canopy rather than pay the in-lieu fee. On parcels of five acres or greater, due to the percentage of canopy that can be removed under Option A, the land owner has a great deal of flexibility, with canopy removal permitted in the range of half an acre to several acres, depending on parcel size and percent of canopy cover that exists on the parcel.

To put this into perspective, the typical costs for a permit for a single family home runs from about \$32,000 to \$59,000, depending on the TIM fee zone in which the structure would be located. At the highest rate, the additional \$962 would add 1.6 to 3 percent to the cost of permits. This does not include the approximately \$30,000 for water and sewer fees for El Dorado Irrigation District (EID) or any park fees charged by the Community Services Districts. With EID fees included, the increase could be as low as 0.3 percent or as high as 1.5 percent. When compared to the cost of construction, which can run from \$175-225 per square foot, the additional cost is about one tenth of one percent for a 3,000 square foot home.

Also attached is a discussion of the potential benefits to property owners who sell to the County conservation easements prepared by the County's economic consultant hired to assist in the preparation of the OWMP. While there is no quantitative analysis, generally such easements have a positive economic effect for the owners of land with conservation easements. Please see Attachment 2.

ATTACHMENT 1 - SAMPLE CONSERVATION FUND IN-LIEU FEES FOR SINGLE-FAMILY RESIDENCES

Parcel Size	% Existing Canopy Cover Of Parcel	Total area of canopy on parcel	% canopy cover removed within building envelope	Area of canopy loss (sq. ft.) max 5,000 sq. ft. loss	Option A: Canopy cover to be retained per 7.4.4.4		Option A: Canopy cover removed per 7.4.4.4		Sq. Ft. required for replacement	Option A Fees (1:1)	Sq. Ft. in Excess of 7.4.4.4 Standards	Option B Fees (2:1)	Total Fee
					%	Sq. Ft.	%	Sq. Ft.					
0.25 acre (10,890 sq.ft.)	50%	5,445	50%	2,500	80%	4,356	20%	1,089	1,089	\$ 117.50	1,411	\$ 304.49	\$ 421.99
		5,445	75%	3,750	80%	4,356	20%	1,089	1,089	\$ 117.50	2,661	\$ 574.23	\$ 691.73
		5,445	100%	5,000	80%	4,356	20%	1,089	1,089	\$ 117.50	3,911	\$ 843.97	\$ 961.47
	75%	8,168	50%	2,500	70%	5,717	30%	2,450	2,450	\$ 264.38	50	\$ 10.74	\$ 275.11
		8,168	75%	3,750	70%	5,717	30%	2,450	2,450	\$ 264.38	1,300	\$ 280.48	\$ 544.85
		8,168	100%	5,000	70%	5,717	30%	2,450	2,450	\$ 264.38	2,550	\$ 550.22	\$ 814.60
	100%	10,890	50%	2,500	60%	6,534	40%	4,356	2,500	\$ 269.74	0	0	\$ 269.74
		10,890	75%	3,750	60%	6,534	40%	4,356	3,750	\$ 404.61	0	0	\$ 404.61
		10,890	100%	5,000	60%	6,534	40%	4,356	4,356	\$ 470.00	644	\$ 138.97	\$ 608.97
1.0 acre (43,560 sq. ft.)	50%	21,780	50%	2,500	80%	17,424	20%	4,356	2,500	\$ 269.74	0	0	\$ 269.74
		21,780	75%	3,750	80%	17,424	20%	4,356	3,750	\$ 404.61	0	0	\$ 404.61
		21,780	100%	5,000	80%	17,424	20%	4,356	4,356	\$ 470.00	644	\$ 138.97	\$ 608.97
	75%	32,670	50%	2,500	70%	22,869	30%	9,801	2,500	\$ 269.74	0	0	\$ 269.74
		32,670	75%	3,750	70%	22,869	30%	9,801	3,750	\$ 404.61	0	0	\$ 404.61
		32,670	100%	5,000	70%	22,869	30%	9,801	5,000	\$ 539.49	0	0	\$ 539.49
	100%	43,560	50%	2,500	60%	26,136	40%	17,424	2,500	\$ 269.74	0	0	\$ 269.74
		43,560	75%	3,750	60%	26,136	40%	17,424	3,750	\$ 404.61	0	0	\$ 404.61
		43,560	100%	5,000	60%	26,136	40%	17,424	5,000	\$ 539.49	0	0	\$ 539.49
5.0 acre (217,800 sq. ft.)	50%	108,900	50%	2,500	80%	87,120	20%	21,780	2,500	\$ 269.74	0	0	\$ 269.74
		108,900	75%	3,750	80%	87,120	20%	21,780	3,750	\$ 404.61	0	0	\$ 404.61
		108,900	100%	5,000	80%	87,120	20%	21,780	5,000	\$ 539.49	0	0	\$ 539.49
	75%	163,350	50%	2,500	70%	114,345	30%	49,005	2,500	\$ 269.74	0	0	\$ 269.74
		163,350	75%	3,750	70%	114,345	30%	49,005	3,750	\$ 404.61	0	0	\$ 404.61
		163,350	100%	5,000	70%	114,345	30%	49,005	5,000	\$ 539.49	0	0	\$ 539.49
	100%	217,800	50%	2,500	60%	130,680	40%	87,120	2,500	\$ 269.74	0	0	\$ 269.74
		217,800	75%	3,750	60%	130,680	40%	87,120	3,750	\$ 404.61	0	0	\$ 404.61
		217,800	100%	5,000	60%	130,680	40%	87,120	5,000	\$ 539.49	0	0	\$ 539.49

Oak Woodlands Mitigation Fee Per Acre \$ 4,700

Assumptions: 3,000 sq. ft. residence; 5,000 sq.ft. max. disturbed area; Owner has not tried to minimize oak canopy removal by relocating structure outside of canopy area

Attachment 2 – Economic Value of Conservation Easements on Private Property

The value of a conservation easement is defined as the difference between the land's value without the easement and its value with the easement restriction. Landowners voluntarily place conservation easements on their private property for a variety of reasons. Their motivations include permanently maintaining wildlife and habitat lands, providing a buffer from unwanted urban development, preserving open space and scenic landscape, generating income from sale of an easement, and maintaining productive farm and ranch lands.¹ However, a primary reason for placing a conservation easement is to ensure success in passing on the land to the next generation. Often times when the estate tax is triggered upon the owner's death and transfer to heirs, the amount of the tax is so great due to the value of the land that it could induce the unwilling sale of the property. A conservation easement could help to eliminate this unwanted scenario through the potential reduction of the property's value and subsequent tax savings.

The flexibility of a conservation easement contract is attractive in that it can be written to meet a particular landowner's needs while protecting the property's natural resources. A contract could include preserving some limited development potential on the land that is compatible with the existing use, such as an agricultural use. With the sale or donation of a conservation easement, the landowner retains fee title ownership for the land, but some or all of the other associated rights to use of the land is transferred to a unit of government, or a charitable conservation or historic preservation organization such as a non-profit land trust.

A Williamson Act contract is similar to an agricultural conservation easement in that both provide legal binding agreements to limit certain activities on the land as well as provide a reduction in assessed property value. However, a Williamson Act contract, as well as a Farmland Security Zone, expires after ten and twenty years, respectively, whereas a conservation easement is typically permanent. Future owners of the land will be bound by the conditions of the easement agreement.

When properly structured, a conservation easement can have financial benefits to the landowner and heirs. The benefits include qualifying a landowner for significant estate tax or inheritance tax savings, reduction of income taxes, and reduction of property taxes. To qualify for an income tax deduction, the tax law requires that the easement be "for conservation purposes" and meet one of the conditions, as defined in the Internal Revenue Service Code.² Under state law, the purpose of a conservation easement is "to retain land predominantly in its natural, scenic, historical, agricultural, forested or open-space condition".³

¹ Westrup, Laura. Land Conservation tools: the effective use of Agricultural Conservation Easements and the Williamson Act. California State Parks, Planning Division. June 2006

² Grossman, Lawrence. Smart Investment Strategies for California's Rural Landowners. December 2000.

³ Pollack, Harry. How Long is Forever? Agricultural Easements and the "In Perpetuity" Clause. Great Valley Center, Issue No. 2, Spring 2002.

The donation of a conservation easement to a land trust is treated as a charitable gift of the development rights. The donation creates a charitable tax deduction, equal to the value of the conservation easement, on the landowner's Federal and State income tax returns.⁴ The federal tax incentive for conservation easement donations includes a tax deduction a donor can take plus allowing a number of years to take the deductions. Property taxes can also be reduced as a result of the reduced valuation on the property subject to the conservation easement. A conservation easement can be valuable for estate planning purposes and transferring of land to heirs for the continuation of existing uses such as agricultural business.

A research effort by the Lincoln Institute of Land Policy calculates sample tax effects for a range of tax incentives and shows that many easements can qualify for tax subsidies that more than pay for the value of the easement.⁵ Future growth in property values will increase the deferred tax savings; in some cases the aggregate savings may be as much as twice the original value of the donation. The common use of deductions strongly favors donations by property owners with substantial tax liabilities, while property owners with low tax liabilities, who may have property with equal or greater conservation values, often have much less incentive to donate easements.

Depending on the location of the easement on the subject property, land use restrictions could affect only certain portions of a property but allow development on the remainder. This could impact the sales value of the property when it is sold or transferred. Research on conservation easements and property values by another institution shows that conservation easements have only modest, if any, negative impact on property values.⁶

However, further empirical research from the same study shows that, by indicating whether or not the easement restrictions were in place prior to the sale, it appears that easements do not reduce property values for residential parcels, but do have a significant negative impact on vacant parcels. This could suggest there is a strong demand for conservation properties with residences but also that there may be a selection issue where higher quality residential properties are more likely to have easements. On vacant lands, it appears that the conservation easements are most likely to be placed on the least valuable properties where it is less costly for landowners to give up their development rights. One implication is that voluntary easements may be protecting the parcels that are least likely to be developed.

Provided that the Priority Conservation Areas (PCAs) identified in the Oak Woodland Management Plan occur in primarily agricultural and rural residential zoned designations, conservation easements can make permanent these existing uses (e.g. farming, grazing and agriculture). Development rights would be transferred, although some limited

⁴ U.S. Fish & Wildlife Service. Habitat Management Techniques.

⁵ Sundberg, Jeffrey O. and Richard F. Dye. Tax and Property Value Effects of Conservation Easements. Lincoln Institute of Land Policy, Lincoln Institute Product Code: WP06JS1, 2006.

⁶ Michael, Jeffrey A. Conservation Easements and Property Values: Selection Effects and Differential Impacts on Vacant and Residential Properties. Department of Economics Towson University, Towson, MD. May 2007.

compatible development could be negotiated in the conservation easement agreement. Actual valuation of property in a conservation easement would depend upon conditions such as location of the easement on the parcel and the development potential in the easement location, as allowed by current zoning.