

County of
**PLANNING
EL DORADO
SERVICES**

<http://www.co.el-dorado.ca.us/devservices>



PLACERVILLE OFFICE:
2850 FAIRLANE COURT
PLACERVILLE, CA 95667
(530) 621-5355
(530) 642-0508 Fax
Counter Hours: 8:00 AM to 4:00 PM
planning@co.el-dorado.ca.us

LAKE TAHOE OFFICE:
3368 LAKE TAHOE BLVD. SUITE 302
SOUTH LAKE TAHOE, CA 96150
(530) 573-3330
(530) 542-9082 Fax
Counter Hours: 8:00 AM to 4:00 PM
tahoebuild#@#co.el-dorado.ca.us

EL DORADO HILLS OFFICE:
4950 HILLSDALE CIRCLE, SUITE
100
EL DORADO HILLS, CA 95762
(916) 941-4967 and (530) 621-5582
(916) 941-0269 Fax
Counter Hours: 8:00 AM to 4:00 PM
planning@co.el-dorado.ca.us

September 18, 2007

Board of Supervisors
330 Fair Lane
Placerville, CA 95667

Dear Board Members:

Oak Woodland Management Plan (OWMP) Status and Key Issues Memo

Recommendation:

Development Services recommends that your Board:

1. Release the OWMP for public review through October 25;
2. Refer the draft OWMP to the Planning Commission and Agricultural Commission for review and comment during the public review period;
3. Direct staff to prepare and circulate a negative declaration upon completion of the public review period; and
4. Provide direction and guidance to staff on the issues listed in this memo.

Background:

The Board of Supervisors established the preparation of the Oak Woodland Management Plan as a matter of highest priority to the County of El Dorado. The process for the preparation of the plan began in October 2006 and continued through August 2007 when the attached public review draft was completed.

As part of this process, on June 25, 2007, the Board of Supervisors considered issues related to the mapping and prioritization of oak woodland. At that time your Board approved a single map entitled "El Dorado County Oak Woodland Habitat"

and directed that the draft plan be completed as soon as possible based on this map. The map title replaced the word “important” with “priority” and included the following Map Note: *“This map displays initial oak woodland habitat where willing landowners could be approached to negotiate General Plan Policy 7.4.4.4 mitigation and other types of oak woodland conservation land acquisition. Identification of oak woodland habitat as priority (green), or not identified as priority (brown) on this map, does not trigger or mandate Policy 7.4.1.6 or Measure CO-U requirements for Policy 7.4.4.4 Option A or Option B unless the oak woodland habitat is within (but not adjacent to) any lands that are already identified as containing threatened, rare, or endangered species.”* The Board also eliminated lands designated Low Density Residential (LDR) on the 2004 General Plan as areas for potential priority conservation areas (PCA).

Your Board then directed staff to release the draft OWMP as soon as it was completed for review and comment and directed staff to come back to the Board by August 28, 2007 for further direction. The consultant provided the administrative draft OWMP to the County on August 17; consequently, to provide sufficient time for internal and stakeholders review, this agenda item was continued to September 25, 2007. Focused stakeholder meetings which brought together the Planning Commission subcommittee, and environmental, agricultural, and development interests, were held on September 5 and September 12, 2007.

Throughout the process, every effort has been made to prepare the OWMP in a manner that implements existing policy of the General Plan and to establish the OWMP as the oak woodland portion of the Integrated Natural Resources Management Plan (INRMP) to expedite implementation of the Option B oak mitigation provisions of Policy 7.4.4.4.

Discussion of the Draft OWMP:

The OWMP has three purposes: to comply with General Plan implementation Measure CO-P; to provide the basis for implementing a conservation fee option for mitigating oak woodland loss (Option B); and to establish a plan for oak woodland conservation in El Dorado County which will assist landowners, the County, non-profit organizations, and others to seek grants from state and federal programs to conserve oak woodlands.

The OWMP features discussions of the following:

- oak woodland natural resource values;
- oak woodland economic value;
- threats to oak woodlands;
- County and State mitigation standards for loss to oak woodlands;
- mitigation Option B fee methodology;
- monitoring and reporting;

- administration of the OWMP;
- education and outreach;
- partnering opportunities;
- mapping of oak resources; and
- General Plan consistency.

These sections of the OWMP are included to comply with General Plan Implementation Measure CO-P; Policy 7.4.4.4; and PRC 21083.4 (California Oak Woodlands Law, sometimes referred to as SB1334 Kuehl). Consultant Rick Lind, of EN2 Resources, Inc., will cover the content of the OWMP in more detail in his presentation to your Board.

In addition, the OWMP is intended to establish the OWMP as the oak woodland portion of the Integrated Natural Resources Management Plan (INRMP), in compliance with the Settlement Agreement entered into on April 18, 2006, with the El Dorado County Taxpayers for Quality Growth. The OWMP was intended to satisfy the terms of the Settlement Agreement, in order to implement the Option B oak mitigation policy. Without the adoption of the OWMP as the oak woodland portion of the INRMP, the County cannot implement the Option B mitigation fee.

The OWMP, as the oak woodland portion of the INRMP, only addresses oak woodlands issues. The full INRMP, as defined in General Plan Policy 7.4.2.8, requires more analysis that will be accomplished through a separate process. Based on your Board's direction to establish the Oak Woodland Management Plan as a matter of highest priority, the oak woodland portion was separated from the full INRMP, as the full INRMP may take some time to develop and adopt.

At this time, the draft OWMP is ready for input from your Board and the public prior to completion of environmental review. Prior to future implementation of the plan and mitigation fee, several issues will require further direction and guidance from your Board. These issues have been identified through development of the OWMP by stakeholders and/or the consultant team. These issues are listed now for Board consideration and discussion so that they can be addressed prior to implementation of the OWMP and mitigation fee in the coming months.

Discussion of Key Issues:

1. Oak tree canopy approach versus oak woodland approach.

The Interim Interpretive Guidelines for El Dorado County General Plan Policy 7.4.4.4 (Option A), adopted on November 9, 2006, by the Planning Commission, took an oak tree canopy approach to applying the Option A tree canopy retention standards. This approach allows the delineation of oak tree canopy only – not the entire oak woodland, which can be comprised of as little as 10 percent oak canopy to be considered oak woodland. In taking this approach to Option A, rather than the

broader oak woodland approach, several factors are involved, including:

a. Biological habitat value of oak tree canopy versus oak woodland – By basing the avoidance and mitigation calculation for Option A on only the oak trees within a stand, any impacts to the broader oak woodland habitat are fully not addressed. Option A was interpreted in this manner since the intent of Option A with regard to applicability to oak canopy versus broader woodlands was unclear and because the specific definitions of oak woodlands and related policy decisions would occur through the OWMP. Now that a draft OWMP is completed, it is an appropriate opportunity to revisit this issue as part of your Board's deliberations. The consultant's recommendation is to require mitigation (through Option A and the future Option B) for impacts on the more broadly defined oak woodlands rather than the more limited "oak canopy." Policy 7.4.4.4 was one of several mitigation measures applied to the adoption of the General Plan to offset the impact of the loss and fragmentation of oaks, woodlands and wildlife habitat which will be fully addressed through the future INRMP.

b. Calculation of Option A tree retention standards – As interpreted by the Planning Commission, the retention standards in Option A apply to only that portion of the woodland comprised of oak trees. This reduces the area of the tree canopy that must be retained under Option A (in most instances), thereby providing greater flexibility in the design of a project.

c. Amount of mitigation required – As less canopy is calculated with the oak tree canopy interpretation, a lesser amount of mitigation is typically required versus using the broader definition of oak woodland (which can include a variety of non-oak trees, provided that oak canopy makes up at least 10 percent of the overall canopy area).

d. Ease of implementation – Oak tree canopy requires a tree-by-tree analysis of the parcel which can be time-consuming for a property owner's qualified professional (especially on parcels larger than one acre) and very expensive for the property owner. Oak woodland, although it would typically cover a larger area than the oak canopy, can be calculated on a broader scale and can use tools such as aerial photography since it is not necessary to identify and quantify the area of individual oak tree canopy. Some landowners may prefer to choose the oak woodland approach to keep the canopy coverage analysis costs low; however, some landowners may prefer the oak canopy approach to keep the mitigation fees lower.

The INRMP will address all of the various wildlife habitat issues and provide for a broad based mitigation program for impacts on "important" habitat. Consequently, for the purposes of implementing the future Option B oak mitigation program, Development Services recommends that the fee program provide for the maximum flexibility by allowing the applicant to base their calculations on either the oak canopy or the oak woodland approach. This would not lessen the oak protection currently allowed under the Interim Oak Woodland Guidelines. Final resolution of

this issue will be developed with the preparation of the INRMP.

Figures 1A and 1B (attached) provide a graphic representation of this issue.

2. Corridors.

This OWMP focuses on identifying those oak woodlands most valued as habitat where willing landowners could be approached to negotiate oak woodland conservation easements. Your Board directed that the INRMP will ultimately determine what is considered “important” habitat within the County taking into consideration all the various factors that are involved in that determination. However, the consultant and various stakeholders have pointed out in their review of the draft plan that it is necessary to recognize the concept of connectivity, in the form of corridors, to ensure that the oak woodlands that will be preserved in the future through the mitigation program will also be able to function as habitat. Therefore, oak woodland corridors have now been illustrated on the final map for your Board’s consideration. As this is an adaptive management plan, when the INRMP is completed, that analysis is intended to refine the mapping further in determining “important habitat.”

Corridors provide connections between large expanses of oak woodlands. Without corridors, fragmentation of habitat will result. Fragmentation results in the degradation of habitat and ecosystem values. The Saving and Greenwood study of El Dorado County (2002) emphasized the need for a program that focuses on critical areas of connectivity such as habitat corridors. They also concluded that 4 percent of oak woodland land cover would be physically lost to development but 40 percent of “rural” oak woodland would be converted to marginal or urban habitat. “...Areas that once functioned under a more natural state and presumably provided functional habitat for species are degraded, either due to proximity to urban land uses or by isolation from larger patches of contiguous natural vegetation.” They determined that rural residential development impacts habitat quality through fragmentation more than it impacts the extent (i.e., area) of habitat. The General Plan EIR discussed the importance of preserving connectivity in the form of riparian corridors, canyon bottoms, and ridgelines and also by maintaining a permeable landscape for migration (EN2, 2007).

At the September 12, 2007, focused stakeholder meeting, the representative from the American River Conservancy (ARC) noted that for every dollar that the County could get from the fee program towards acquisition of oak woodlands conservation easements, ten dollars could be obtained from grants elsewhere. It is important, in order for the program to supplement oak preservation with grants, that the OWMP specifically allow oak woodland acquisitions in corridors.

This proposed OWMP identifies that the priority conservation areas are the areas that funds acquired through Option B mitigation would be focused. However, it would not preclude acquisition within the corridor areas. It should also be noted that

the OWMP is not regulatory in nature in that it does not prescribe any specific management requirements or restrict development with the corridor areas, or the priority areas for that matter. The sale of conservation easements would be completely voluntary on the part of the land owner(s). Staff recommends that the corridors be included on the OWMP map, recognizing that including such corridors will facilitate in securing outside funding which could result in lower long term costs of the program, and it adds no additional restrictions on property owners within those corridors. Through the INRMP process, final determinations regarding important habitat, corridors, and related issues will be made.

3. Fee ratios.

Consultants PMC and TCW Economics, in association with EN2 Resources, conducted economic analyses to develop the Option B fee for oak woodland mitigation. The consultants developed three cost scenarios which were developed based on different assumptions on the ratio of rural to urban acquisitions, the ratio of fee title to conservation easement acquisitions, and the level of restoration and on-going management. Table 1 summarizes these three scenarios (a full discussion of the scenarios is located in the draft OWMP and will be presented by the consultant). The Low versus High ranges identified for each scenario refer to the assumed intensity of efforts related management, restoration, monitoring, etc. There was general consensus that the Low level of intensity for these activities would be appropriate. There was disagreement on which Rural/Urban ratio to use in making the fee calculation.

The consultant recommends the low level of acquisition, management, and restoration and Scenario #3, the 80% Rural/20% Urban Acquisition for a fee of \$14,000 per acre of required mitigation. The words "Rural" and "Urban" as used in this context represent land values associated with larger (Rural) versus smaller (Urban) parcel sizes. Rural parcel values were based on parcel sizes of 40 acres or larger. Urban parcel values were based on parcel sizes as small as five acres. The use of the terms "Rural" and "Urban" is not intended to have any specific land use connotation or meaning. The "Urban" or smaller parcels generally have a higher per acre value/cost than the larger "Rural" parcels. Since some of the key connections between large expanses of oak woodlands may occur on smaller parcels, and the per acre value/cost of these smaller parcels is likely to be much more than the per acre value/cost of larger acreage, including a small amount of "Urban"/smaller parcel size per acre costs is advisable when calculating the mitigation fee to ensure that adequate funds will be collected for purchase of higher cost, smaller parcels, in key areas.

At its April 26, 2007 meeting, the Planning Commission indicated that it preferred the lowest fee of Scenario #1, 100% Rural Land Acquisition.

Development Services staff recommends that your Board accept the Low-Cost

Scenario #3 as the appropriate fee amount for off-site mitigation under Option B.

Table 1. Summary of Off-Site Mitigation Cost Scenarios (Cost per Acre)

Scenario	Low ¹	High ²
#1 – 100% Rural Land Acquisition	\$ 8,700	\$20,000
#2 – 90% Rural/10% Urban Acquisition	\$11,400	\$24,700
#3 – 80% Rural/20% Urban Acquisition	\$14,000	\$29,300

¹ 100% conservation easement acquisition and low ranges of restoration, management and monitoring costs.

² 100% fee title acquisition and high ranges of restoration, management and monitoring costs.

Possible Amendments/Interpretations to General Plan Policy Language:

The consultants and members of the public have suggested that several amendments or clarifications to Policy 7.4.4.4 should be made in order to fully implement the OWMP and to clarify the procedures. Below is a list of issues:

1. Fire Safe Plan Exemption – Policy 7.4.4.4 exempts tree removal related to the implementation of a fire safe plan for existing structures. The California Department of Forestry and Fire Protection (CalFire) has expressed concerns over the use of that term, since it is not a term that is officially used by that agency. For the purposes of the OWMP and the implementing ordinance that would be adopted concurrently, staff recommends that the following language be utilized in place of the term “fire safe plan”:

Vegetation removal and fuel modification plans prepared by a Registered Professional forester and approved by CalFire or the local fire protection district pursuant to PRC §4291.

2. Affordable Housing Exemption – Public Resources Code §21083.4 provides for exemptions of certain requirements for affordable housing projects. This is consistent with Policies HO-1a and HO-1c, and Implementation Measure HO-EE of the Housing Element of the 2004 General Plan. Staff recommends that the implementing ordinance for this OWMP include a specific exemption for projects that are income restricted for low and very-low income households.

3. Public Road Safety Improvements – The Department of Transportation has requested that certain types of public health and safety improvements, such as road widening or construction of utilities for the purposes of protecting the public health and safety be exempt from these provisions. (See endnote¹ for DOT- recommended

wording.) Staff recommends that this provision be included in the final document.

4. Flexible Mitigation Options – While Policy 7.4.4.4 refers to utilization of either Option A or B, staff recommends that flexibility be provided so that a combination of Options A, B, a combination of the two, and other off-site mitigation opportunities be provided. Option A requires replacement of removed trees on-site. With greater flexibility, an applicant can meet some or all of this replacement with off-site planting or paying an equivalent fee under the OWMP program. The full range of options and the details of how that would be implemented would be included in the implementing ordinance for the mitigation fee.

5. Agricultural Exemption – Policy 7.4.4.4 provides an exemption for agricultural cultivation. Staff has heard concerns that a land owner could claim that the removal of oak woodland was for horticultural purposes, then immediately propose non-agricultural development on the site. Staff recommends that a time frame of five years be required for the agricultural use. If the cultivated land is proposed to be converted prior to that, the woodland removal and mitigation requirement would be calculated based on aerial photography or other information available at the time the woodland was removed.

6. Penalties – Policy 7.4.5.2 contains consequences to a land owner who removes trees without the appropriate permit or approval, but similar language is not contained in Policy 7.4.4.4. Staff recommends that the implementing ordinance include measures that would discourage the preemptive removal of oak woodland, perhaps with a 3:1 replacement requirement.

Four additional issues have been raised regarding Policy 7.4.4.4; however, in order to address these staff finds that a general plan amendment would be necessary. These are discussed briefly below:

1. Parcel Size and Canopy Thresholds – Policy 7.4.4.4 specifies the thresholds for when the canopy retention/woodland protection requirements are applied. However, there is some confusion, especially the provision that it applies to “parcels that are over an acre and have at least 1 percent total canopy cover”. On parcels slightly over an acre, this threshold would include lots with little more than 500 square feet of canopy, which in some cases could be a single tree. Staff believes that more thought needs to be put into defining this threshold so that it adequately applies to bonafide oak woodland, but is not so narrow as to apply to individual trees. It has also been suggested by the consultant that the threshold be eliminated entirely, so that the OWMP and mitigation requirements would apply to any project that impacts oak woodlands as defined.

2. De minimus Exemption for Single Family Residential Dwellings – It has been suggested that a threshold be established for single family residential dwellings. Staff is presently working on another amendment as directed by your Board to

consider modifying the threshold under Policy 2.2.5.20 which requires General Plan consistency review with every building permit. The modification of that threshold would address this issue and would be completed with its own environmental analysis and hearing process.

3. Changes to Option A Canopy Retention Table – Questions have been raised whether the canopy retention standards table under Option A have value from a biological viewpoint. It is unclear what the source is of those percentages. It has been suggested that the table be replaced after further review from a biological standpoint with regard to the effectiveness of these retention standards. With the availability of Option B, the retention standards in Option A may not remain a significant concern, although for properties within the PCA or corridor areas, your Board may want to consider requiring the use of Option A where feasible.

4. On-site and Off-site Replacement – Implementation Measure CO-U requires projects that exceed ten acres in size to not only provide funding at a 2:1 ratio for replacement of removed habitat, but also includes a requirement for 1:1 on-site replacement. This not only drives up the cost of a project but is very challenging as a practical manner for non-residential development on a large scale

Development Services recommends that your Board continue on the current OWMP path, through CEQA review and adoption, in order to attain Option B of Policy 7.4.4.4 by early 2008. On a parallel track, Development Services, the Planning Commission, your Board, and stakeholders can address and pursue necessary General Plan amendments so that they can be in place concurrently or shortly after the Option B fee program is implemented (see below for further discussion of process options).

Process:

Your Board has options in the process of the OWMP. If your Board decides to continue on the current path, the OWMP will be consistent with the General Plan EIR, and it is anticipated that it will only require a Mitigated Negative Declaration for the CEQA review; and the OWMP and Mitigation Fee will likely be adopted in early 2008. A second option would be to pause after the formal public review and consider incorporating any potential General Plan amendments into the CEQA process for the OWMP. This could cause a different level of CEQA review and delay the adoption of the OWMP, and thus the Option B fee mitigation. Lastly, a third option is to fold the OWMP into the full INRMP. This could delay the release of the OWMP and Mitigation Fee for several years.

Development Services recommends that you give direction after the September 25, 2007 meeting, and that you provide a public comment period before we further refine the document to get ready for the CEQA review. We are working on amending the consultant's contract, so the time between September 25, 2007, and

October 25, 2007, is a good opportunity to allow the public to provide input. The OWMP has been tentatively scheduled for the October 10, 2007, Agricultural Commission meeting, and at the October 11, 2007, Planning Commission meeting to allow further public comment.

The following processing options are available:

1. Begin the public comment period which would end on October 25, 2007 and begin preparation of the final draft OWMP and CEQA document based on public, Planning Commission, and Board comment;
2. Direct staff to return to your Board at the close of the comment period for further direction prior to preparation of the final draft OWMP and CEQA document; or
3. Defer further work on the OWMP and proceed immediately with the preparation of the INRMP, of which the OWMP shall be a part thereof.

Staff recommends that work continue on the OWMP as provided in the attached schedule, returning to your Board after completion of the CEQA document and review of the draft by the Planning Commission.

A revised Agreement for consultant services is in process and is expected to be before your Board very soon. Based on a significant amount of extra work and mapping that was completed during review by the Planning Commission, we were unable to complete the project within the original budget. The revised budget reflects additional work necessary to complete the work program and can reflect any additional analysis that may occur as a result of your Board's direction. Staff and consultants will be available for questions at the meeting.

Sincerely,

Gregory L. Fuz
Development Services Manager

ATTACHMENTS

Attachments 1A and 1B – Oak Woodland Coverage and Oak Tree Canopy Figures
Attachment 2 – OWMP Work Schedule
Attachment 3 –Public Review Draft Oak Woodland Management Plan

¹ Applicability to Public Road Right-of-Way and Utilities

Removal of oak trees necessary to complete Capital Improvement Projects which affect the health and safety of the public in existing or future public road right-of-ways, or removal of oak trees necessary to comply with the safety regulations of the Public Utilities Commission and necessary to maintain a safe operation of utility facilities, within a public road right-of-way or utility easement, is exempt from oak canopy retention and replacement standards. An example of this exemption would be the removal of oak trees for an operational and safety road improvement project.

This exemption to the oak tree canopy retention and replacement standards does not apply to: new proposed roads within the County Circulation Element; to any road re-alignment projects or utility projects that propose to remove significant oak trees within an oak woodland habitat; nor to internal circulation roads within new development.

Public road right-of-way and other linear utility projects which are not exempt and remove oak canopy cover shall calculate the project area (e.g., 10 feet wide by 40 feet long is 400 square feet), the total amount of oak canopy cover, and the amount of oak canopy to be removed, in order to determine the percentage of canopy retention and the replacement mitigation.