



**REQUESTED ACTION BY THE PLANNING COMMISSION:**

The applicants request relief from the requirement to retain 70 percent of oak canopy, because they contend that it is not feasible to comply with this requirement, and the associated on-site canopy replacement standards, and still be allowed “reasonable use” of the subject property. The project consists of the construction of a 4,936 square foot single family dwelling, three-car attached garage, an attached 496 square foot covered porch, and 30 foot wide back yard area. Under the applicant’s proposal, 60 percent of the oak tree canopy on the site would be retained.

**REQUIREMENTS OF POLICY 7.4.4.4:**

The proposed development of a single family dwelling would involve the removal of oak tree canopy and would be subject to the requirements of Policy 7.4.4.4 of the General Plan. The key sections of this policy and the Interim Interpretive Guidelines prepared for its implementation are described below.

**General Plan Policy 7.4.4.4:**

***Policy 7.4.4.4 (Summary; full policy available, see attachment 2)***

*For all new development that would result in soil disturbance on parcels that are less than an acre and have at least 10 percent total canopy cover by woodlands habitats as defined in this General Plan and determined from base line aerial photography or by site survey performed by a qualified biologist or licensed arborist, the County shall require one of two mitigation options: (1) the project applicant shall adhere to the tree canopy retention and replacement standards described below; or (2) the project applicant shall contribute to the County’s Integrated Natural Resources Management Plan (INRMP) conservation fund described in Policy 7.4.2.8.*

***Option A***

*The County shall apply the following tree canopy retention standards:*

<b>Percent Existing Canopy Cover</b>	<b>Canopy Cover to be Retained</b>
80–100	60% of existing canopy
60–79	70% of existing canopy
40–59	80% of existing canopy
20–39	85% of existing canopy
10-19	90% of existing canopy
1-9 for parcels > 1 acre	90% of existing canopy

*Under Option A, the project applicant shall also replace woodland habitat removed at 1:1 ratio. Impacts on woodland habitat and mitigation requirements shall be addressed in a Biological Resources Study and Important Habitat Mitigation Plan as described in Policy 7.4.2.8. Woodland replacement shall be based on a formula, developed by the County, that*

*accounts for the number of trees and acreage affected.*

**Option B**

*The project applicant shall provide sufficient funding to the County's INRMP conservation fund, described in Policy 7.4.2.8, to fully compensate for the impact to oak woodland habitat. To compensate for fragmentation as well as habitat loss, the preservation mitigation ratio shall be 2:1 and based on the total woodland acreage onsite directly impacted by habitat loss and indirectly impacted by habitat fragmentation. The costs associated with acquisition, restoration, and management of the habitat protected shall be included in the mitigation fee. Impacts on woodland habitat and mitigation requirements shall be addressed in a Biological Resources Study and Important Habitat Mitigation Plan as described by 7.4.2.8.*

**Draft Interim Interpretive Guidelines for Policy 7.4.4.4:**

In order to provide guidance to County staff and applicants on implementation of Policy 7.4.4.4, Interim Interpretive Guidelines were prepared and have been under consideration by your Planning Commission for the past two months. These Guidelines (Attachment 1) establish procedures for processing of development applications that involve the removal of oak tree canopy. The Guidelines outline the specific steps necessary to achieve consistency with the tree retention and replacement standards set forth in Policy 7.4.4.4-Option A. Because the “oak woodland” portion of an Integrated Natural Resources Management Plan has not yet been adopted by the County, Option B of Policy 7.4.4.4 (i.e. an offsite mitigation fund) is not currently available.

In cases where a proposed development would not meet either the tree removal or the tree replacement standards under Policy 7.4.4.4-Option A, the applicant may seek a reasonable use determination. The Interim Guidelines include specific reasonable use options (i.e. alternative mitigation measures) that would allow a finding of consistency with the Option A tree replacement and tree retention standards.

Pursuant to the Draft Interim Guidelines, the County may consider and allow removal of additional oak tree canopy when reasonable use of the property would otherwise be denied. The Commission is tasked with making the determination as to whether the proposed level of canopy removal can be found necessary to establish reasonable use of the subject property. In considering whether to grant relief to ensure reasonable use, the Guidelines specify that the applicant must demonstrate that:

1. The project is designed to maximize use of parcel area unconstrained by oak trees, unless precluded by other significant constraints such as steep slopes, streams, creeks, wetlands, or other sensitive environmental resources.
2. The proposed project is limited to development and site disturbance that is typical and prevalent for the general area surrounding the project site.
3. Soil disturbance and tree removal is minimized through the incorporation of some or all of the following measures into the project design:

- a. Stepped foundations are used on sloping areas rather than graded pads.
  - b. Depth of excavation and/or fill outside of the building footprint is limited to no more than five feet measured vertically from the natural ground surface, except for grading necessary to install retaining walls designed to reduce the total area of tree canopy that will be removed and/or damaged.
  - c. Structures and the configuration of the area of disturbance are designed to parallel the natural topographic contours to the greatest extent feasible.
  - d. Patio decks are included in the design of dwellings to minimize the need for graded yard areas.
  - e. Design techniques such as clustering of buildings are proposed to take advantage of the portions of the property which are least constrained by oaks.
4. The project is designed to maximize consistency with all applicable policies of the El Dorado County General Plan. *It is recognized that more than one policy may have to be considered in the determination of reasonable use of a particular parcel.*

## **ANALYSIS OF THE PROPOSED PROJECT**

### Discussion:

The following table describes the level of proposed oak canopy removal, and the retention and replacement standards specified under Policy 7.4.4.4-Option A.

Amount of parcel covered by canopy	65 percent
Total oak tree canopy coverage	14,100 square feet
Required retention under Option A	70 percent of existing canopy (9,900 square feet)
Canopy that may be removed	4,200 square feet
Proposed canopy to be retained under this development plan	60 percent of total canopy (8460 square feet)
1:1 replacement required (30 percent)	4,200 square feet
2:1 replacement required (10 percent)	2,800 square feet
Total canopy replacement required	7,000 square feet

The proposed development would retain approximately 60 percent of the existing tree canopy. Under General Plan Policy 7.4.4.4 Option A, 70 percent retention is required. Additionally, the amount of replacement canopy required under policy (for the 40 percent of canopy proposed for removal) would exceed the total area available on site for such canopy. Thus the development, as proposed, requires a reasonable use determination regarding both replacement of oak trees and the total allowed retention of existing oaks on the site.

No mitigation measures for the proposed oak canopy removal have been identified at this time. The level of development considered by your Commission to constitute reasonable use needs to be established in order for the required scope of mitigation to be known. Note that the figures included in the above table are estimates based on aerial photography (see Exhibit 3) provided for discussion purposes. These figures would be refined as part of any required mitigation plan.

Staff has reviewed the project for consistency with the design requirements included in the Interim Guidelines. The following comments are provided for consideration by your Commission to determine if the proposed development constitutes reasonable use of the property:

1. Building Location: The building location and area of disturbance is designed to avoid the most heavily wooded areas on the parcel. Additionally, the disturbance area is located on areas of the property least impacted by steep slopes.
2. Typical Development: The proposed project has limited the extent of disturbance to significantly less than is typical for other properties in The Summit subdivision in an effort to preserve a larger portion of the existing oak canopy.
3. Soil Disturbance: The proposed development has reduced the total soil disturbance by using the following design methods:
  - a. Stepped Foundation: A stepped foundation was used to raise the dwelling 2.5 feet higher than the garage level. This reduces the amount of total disturbance needed to install the structure.
  - b. Minimized Grading: The depth of excavation is minimized except where a six-foot-tall retaining wall was installed to reduce the total are of disturbance and protect the heavily forested area at the rear part of the lot. An additional small half circle retaining wall is proposed to protect two specific trees that could have been damaged from the proposed grading.
  - c. Structure Location and Topographical Layout: The proposed structure is a square shape which limits the amount that it can be built parallel to natural topographic contours, however, the location of the proposed structure is at the least steep area of the lot which helps to minimize the total amount of grading required.
  - d. Planned Patio: The proposed development includes a covered patio (labeled terrace on Exhibit 4) which helps to minimize the need for large graded yard areas.
  - e. Structure Layout and Configuration: The proposed development utilizes a general clustered layout of the building and is proposed roughly in the shape of a square to minimize the size of disturbance and the required amount of removed canopy. Additionally, the building is a two story structure which further minimizes the area of disturbance.
4. Conformance with other General Plan Policies: The proposed development employs the use of retaining walls to avoid disturbance of some of the most heavily forested areas of the property and avoids grading on slopes greater than 30 percent (General Plan Policy 7.1.2.1).

Staff recommendation:

Based on review of the findings discussed above, staff recommends that your Commission find that

the development as proposed constitutes a “reasonable use” of the subject property and that a reduction in the oak canopy retention requirement to 60 percent is warranted.

Alternatively, your Commission may provide direction to the applicants to reduce the scope of the development to a level considered necessary to establish “reasonable use” of the property. Any new design would be reviewed by staff for consistency with this determination and General Plan Policy 7.4.4.4 mitigation requirements.

### **EXHIBITS**

- 1) Location Map
- 2) Assessor’s Parcel Map
- 3) Aerial Photo of Parcel (Tree Canopy shown)
- 4) Full Size Site Plans (1”=10’ scale)

### **ATTACHMENT**

- 1) Adopted Interim Interpretive Guidelines for General Plan Policy 7.4.4.4
- 2) General Plan Policy 7.4.4