

4. Measurement of Oak Woodland: The Board chose to use “oak canopy” as the terminology for the measurement of oak woodland.
5. Application of the OWMP to Defensible Space Requirements for New Construction: The Board approved staff’s recommendation. With new subdivisions and parcel maps, staff is proposing to add language that recognizes that not all vegetation is removed with the defensible space requirements, and that typically about 20% of the tree canopy is retained in the 30’ to 100’ zone around structures. This will assist applicants and their agents in designing projects and minimizing oak woodland loss, and reducing the need for specific calculations for each lot at the tentative map stage.
6. Establishing a Threshold for Road Projects: The Board directed County Counsel, Department of Transportation, and the Planning Division to review the reasonableness of the application of these policies as it relates to road projects and to bring back potential exemption language.
7. Conditioning Discretionary Projects for Future Use of Option B, When Available: The Board directed that staff be allowed to condition projects to use Option A; however, if Option B has been put in place and the same maps are still in process, then the applicant could select Option A or Option B.

DISCUSSION

Staff and consultant EN2 Resources reviewed the comments received from the public and the Agricultural Commission. In reviewing comments, changes were made to the October 25, 2007 Revised Public Review Draft OWMP. In order to maintain transparency for stakeholders, the Final Administrative Draft OWMP is being presented to you in an underline and strikeout version, to enable you and other readers to readily identify changes. The underline/strikeout version is available online at Planning Services’ Oak Woodlands webpage, as well as hard copies at the Placerville and El Dorado Hills planning counters, and at El Dorado County public libraries. Hard and cd copies are also available for purchase from Planning Services.

The key remaining unresolved issue is the amount of the Option B In-Lieu Fee. The economic consultant hired by the County reviewed information presented from the County Assessor’s office, the public, Supervisor Jack Sweeney, a Registered Professional Forester regarding fuels management, and local land conservancies. The consultant reviewed each line item of the October 25, 2007 proposed total fee of \$7,300 per acre. Based on an evaluation of this new data, the consultant recommends lowering the In-Lieu fee to \$7,000 per acre. This is the amount that the consultant recommends as the lowest fee to feasibly implement the acquisition, management, and monitoring of oak conservation easements.

Members of the public have suggested that an in-lieu fee of \$3,250 per acre will suffice for the acquisition, management, and monitoring of conservation easements. In-lieu fee estimates can vary greatly depending on the source of cost and land data, conservation easement location, scope of activities under the three cost categories, market conditions of lands available for conservation easements, and the size (area) of the conservation easements (e.g., economies of scale with larger sized parcels). The \$7,000 per acre in-lieu fee, recommended by the consultant,

is based on land values and acreages within the PCAs, a common methodology (Property Analysis Record (PAR) model) for fee determination, and recent data on local conservation easement acquisitions provided by conservation organizations. Specifically, Draft OWMP comment letter #34 from the American River Conservancy (ARC) notes concerns with a lower fee. ARC has operated as a land trust in El Dorado County since 1989. ARC states that in their experience, "...appraised values of conservation easements can range anywhere from 50% to 80% of the fee title value." The prior proposed OWMP in-lieu fee of \$7,300 per acre was based on conservation easement values of 25% of fee title (the higher fee was due to management and monitoring costs which have since been reduced). ARC gives an example of a recent conservation easement of 92 acres valued at 56% of the fee-title value of the property, with a per-acre value of the easement being \$9,782. ARC gives a second example (of a bargain sale) of a recent conservation easement that was valued at 79% of the appraised fee title. The current proposed fee of \$7,000 per acre is based on County Assessor data for rural areas of the county. The average parcel size within the PCAs is about 125 acres, with a median size of 84 acres, so the Assessor's parcel range of between 60 acres and greater than 120 acres was used by the consultant hired by the County. The consultant also used the average value for acreage from this range (Assessor data requested by Supervisor Sweeney), and an 80% of fee title for the conservation easement value.

The fee proposed by members of the public of \$3,250 is based on economies of scale with purchases of 500 acre blocks, which typically have a less per-acre cost. ARC's comment letter states, "...the goal of only protecting 500-acre expanses is unrealistic and is severely limiting in terms of what conservation goals can be achieved. Language supporting the acquisition of properties 20 acres and larger within Priority Conservation Areas...would serve the conservation purposes of the OWMP better." Draft OWMP comment letter #29 from Cynthia Shaffer, submitted on behalf of the Community Coalition, uses an average \$5,000 fee title value with a 25% conservation easement value, to arrive at the land acquisition value part of the \$3,250 fee. While Ms. Shaffer is using a higher fee title value, a 25% conservation easement value is less than ARC has experienced in recent conservation easement transactions in El Dorado County.

Another difference in the proposed fees is fuels management. The Community Coalition's \$3,250 per acre fee assumes that, "...30% of the lands will require intensive fuel management (at \$950 per acre), that an additional 30% of the lands would require moderate levels of initial fuel management (at \$475 per acre), and that the remaining 40% would be left in its natural state, resulting in an average cost per are of about \$425." The County consultant, in preparing the \$7,000 per acre fee, states, "Fuels treatments in oak savannah landscapes that have been and will continue to be heavily grazed could cost as little as \$425 per acre for prescribed burning. On steep slopes along the rivers and on lands that have high fuel loading, the costs can easily exceed \$4,500 per acre. Treatment on these lands will involve a variety of techniques...To minimize the risk of intense stand-killing fires, fuel treatment measures need to be repeated approximately every 10-15 years. No endowment has been established for these expected treatments because of the uncertainty of which lands will be acquired...Because of all the uncertainties associated with the locations, type, and condition of conservation easement acquisitions, fuels treatment costs are estimated as being \$900 per acre."

Staff has also had communication with a for-profit conservation banking company that has a possible interest in operating a conservation bank in the County. Their representative believed that a fee in the \$7,000 range would be difficult, but could be possible, but a lower fee than that would not be economically feasible. Based on our discussions with both non-profit and for-profit conservation organizations as to actual feasibility of acquiring, monitoring, and managing conservation easements with the proposed in-lieu fees, staff recommends the \$7,000 per acre fee.

For the mitigation components of the Conservation Fund program, the sufficiency of the in-lieu fee would be determined by comparing annually the collected in-lieu fee amounts and removed oak canopy acreage to the actual costs of acquiring oak woodland conservation easements on a per acre basis. The In-Lieu Fee amount can be initially established at a reasonable amount and then either increased or decreased on an annual basis depending on the results of the annual program review. Because of this flexibility to annually adjust the fee, and because of the County's commitment to annually review and adjust the fee as necessary, the in-lieu fee program would be expected to achieve the intended goals and objectives of the OWMP.

Consistency with General Plan

The 2004 General Plan and EIR refer to natural resource protection and wildlife habitat primarily in the Conservation and Open Space Element. Numerous General Plan policies promote land uses, planning techniques, and development mitigation that protect and conserve natural resources from degradation. Policies are supportive of habitat preservation and protection and conservation of forest and woodland resources. Policy 7.4.4.4 sets standards for oak canopy retention and outlines mitigation for new development projects that will remove oak canopy. The OWMP, the subject of the Initial Study, implements policies 7.4.4.4 and 7.4.4.5 and partially implements Policy 7.4.2.8 and Implementation Measure CO-P of the General Plan. Policy 7.4.4.5 directs that continuity shall be retained within an oak tree stand by corridor retention. The OWMP represents the initial oak woodland portion of the County's INRMP, which will be prepared in accordance with Policy 7.4.2.8. Policy 7.4.5.2, which is not addressed by the OWMP, outlines the components of and will be the subject of a future oak tree preservation ordinance.

Consistency with State Law

In 2004, Senate Bill 1334 was passed by the California State Legislature, amending the Public Resources Code with Section 21083.4. This legislation applies only to counties, requiring them to determine if a project involving the conversion of oak woodlands will have a significant impact on the environment. If the County determines that oak woodland conversion would result in a significant impact, then they must apply the following guidelines for mitigation of the loss:

- Conserve oaks through the use of conservation easements;
- Plant and maintain an appropriate number of trees either on-site or in restoration of a former oak woodland (tree planting is limited to half the mitigation requirement);
- Contribute funds to the (state) Oak Woodlands Conservation Fund for the purpose of purchasing conservation easements; or
- Other mitigation measures developed by the County.

Exceptions to these requirements are described for affordable housing projects, agricultural operations, and projects exempt from CEQA requirements under PRC Section 21080.5.

The OWMP meets or exceeds the State oak mitigation requirements.

ENVIRONMENTAL REVIEW

EN2 Resources prepared an Initial Study (IS) based on the Final Administrative Draft OWMP. The findings of significance of the IS led to a Negative Declaration (ND) being prepared. The IS/ND is also available for public review.

Key issues raised by the public and identified and addressed in the IS/ND include the following:

- Locations and size of Priority Conservation Areas (PCAs);
- Potential conflict between oak conservation and fire/defensible space;
- Connectivity between PCAs and relationship to Important Biological Corridors (IBCs);
- Need for flexibility in mitigation requirements of Policy 7.4.4.4 Options A and B; and
- Amount of Policy 7.4.4.4 Option B Conservation Fund In-Lieu Fee.

The Initial Study found the following:

CEQA Mandatory Findings of Significance

The effect of the OWMP on the quality of the environment, fish and wildlife habitat and populations, and communities would be beneficial due to the long-term preservation of a variety of oak woodland habitat. As indicated in the Initial Study, some minor or temporary impacts to wildlife and habitat as well as cultural resources may occur as a result of management within Priority Conservation Areas (PCAs). These impacts would be less than significant due to the measures and guidelines in the OWMP; therefore overall environmental impacts would also be less than significant.

Cumulative impacts to the environment from OWMP activities would generally be beneficial as oak woodland habitat is preserved over time. The OWMP also provides for flexibility through its adaptive management and annual review. The OWMP requires an annual report to the County Planning Commission and Board of Supervisors, designed to assess the effectiveness of the plan in meeting its objectives. The adaptive management provisions allow the County to make changes to the plan if the goals and objectives are not being successfully met. This process would provide an additional mechanism to identify and rectify unanticipated cumulative environmental effects, should they arise. Cumulative impacts would be less than significant.

Adverse impacts to humans as a result of the OWMP would be less than significant. Management activities within PCAs such as controlled burning for fuels reduction and weed control using herbicides would be performed in compliance with existing permits laws, and regulations governing these activities. The anticipated levels of smoke and herbicide exposure are not expected to result in substantial adverse effects to humans because of the infrequency of the activities, the additional CEQA review on a project level, and the other reasons stated in each

resource section; therefore, the overall adverse environmental effects on humans would be less than significant

RECOMMENDATION:

Staff recommends the Planning Commission forward a recommendation to the Board of Supervisors to take the following actions based on the Initial Study and the findings contained in Attachment 1:

1. Adopt the Negative Declaration;
2. Adopt the Oak Woodland Management Plan; and
3. Adopt the Oak Woodland Management Plan Implementing Ordinance.

Attachments:

Attachment 1: Findings

**ATTACHMENT 1
FINDINGS**

**FILE NUMBER SA06-0608
Oak Woodland Management Plan**

1.0 CEQA FINDINGS

- 1.1 The proposed Oak Woodland Management Plan (OWMP) is the implementation of mitigation measures developed in the 2004 General Plan EIR to protect oak trees while allowing land development. Pursuant to State CEQA Guidelines §15177, El Dorado County conducted an initial study. The initial study showed that there is no substantial evidence that the OWMP may have a significant effect on the environment; therefore, a Negative Declaration has been prepared for this project.
- 1.2 The conditions described in State CEQA Guidelines §15177 have been met:
 - 1.2.1 El Dorado County is the lead agency for the OWMP and was identified as the lead agency in the 2004 General Plan EIR;
 - 1.2.2 El Dorado County has prepared an initial study on the proposed OWMP;
 - 1.2.3 El Dorado County determines that no additional significant environmental effect will result from the proposed OWMP; no new additional mitigation measures or alternatives are required; and the proposed OWMP is within the scope of the 2004 General Plan EIR;
 - 1.2.4 The proposed OWMP is implementation of mitigation measures set forth in the 2004 General Plan EIR;
 - 1.2.5 El Dorado County has provided notice as required under State CEQA Guidelines § 15087; and
 - 1.2.6 El Dorado County shall file a notice as required by State CEQA Guidelines § 15075 when the OWMP is approved, pursuant to § 15177.
- 1.3 The Initial Study identifies that this project proposes a less than significant impact on the environment, and would be beneficial to the environment due to the long-term preservation of a variety of oak woodland habitats. Cumulative impacts to the environment would be less than significant and would generally be beneficial to the environment as oak woodland is preserved over time, and adaptive management would provide annual monitoring and allow the County to make changes to the OWMP to rectify unanticipated cumulative effects, if necessary. Adverse impacts to humans as a result of the OWMP would be less than significant, and any infrequent Priority Conservation Area management activities would conform to existing laws and regulations, and would be subject to additional CEQA review at the project level.

- 1.4 El Dorado County has considered the Negative Declaration together with the comments received during the public review process. The Negative Declaration reflects the independent judgment of the County, has been completed in compliance with CEQA, and is adequate for this project.

2.0 GENERAL PLAN CONSISTENCY FINDINGS

- 2.1 The OWMP implements General Plan Policy 7.4.4.4. This policy sets standards for oak canopy retention and outlines mitigation for new development projects that will remove oak canopy.
- 2.2 The OWMP implements General Plan Policy 7.4.4.5. This policy directs that continuity shall be retained within an oak tree stand by corridor retention.
- 2.3 The OWMP represents the initial oak woodland portion of El Dorado County's Integrated Natural Resources Management Plan (INRMP), which is required by General Plan Policy 7.4.2.8, which protects important habitat (important habitat will be defined through the INRMP).

3.0 STATE OF CALIFORNIA PUBLIC RESOURCES CODE 21083.4 CONSISTENCY FINDINGS

- 3.1 The OWMP meets or exceeds PRC §21083.4. This code requires counties to determine if projects involving the conversion of oak woodlands will have a significant impact on the environment, and to apply mitigation to offset the impact. El Dorado County, through the adoption of the OWMP, has implemented guidelines which meet or exceed the following PRC §21083.4 alternatives to mitigate the significant effect of the conversion of oak woodlands (underlined text refers to Section 21083.4 alternatives).
- 3.1.1 Conserve oak woodlands, through the use of conservation easements. The OWMP offers the use of conservation easements as a mitigation alternative in both Option A and Option B, and utilizes the Conservation Fund In-Lieu Fees collected to acquire conservation easements in identified Priority Conservation Areas;
- 3.1.2 Plant an appropriate number of trees, including maintaining plantings and replanting dead or diseased trees; maintain trees for seven years after the trees are planted; mitigation pursuant to planting shall not fulfill more than one-half of the mitigation requirement for the project; and the requirements in this paragraph also may be used to restore former oak woodlands. The OWMP offers the alternative of replanting trees through Option A. Option A fulfills the requirement that no more than one-half of the mitigation shall be through replanting by requiring oak canopy retention as the remainder of the mitigation. The OWMP requires

maintenance of replanted trees for seven years and requires replanting if success criteria are not met at the end of the seven years maintenance;

- 3.1.3 Other mitigation measures developed by the county. The OWMP provides as an alternative the option of payment of a Conservation Fund In-Lieu Fee into the County Conservation Fund to acquire oak woodland conservation easements in identified Priority Conservation Areas. This mitigation substitutes for contribution of funds to the (State) Oak Woodlands Conservation Fund;
- 3.1.4 Exceptions to these requirements are described in PRC §21083.4 for affordable housing projects, agricultural operations, and projects exempt from CEQA requirements under PRC §21080.5. The OWMP provides a reduction in oak canopy requirements for affordable housing projects and exempts agricultural operations. PRC §21080.5 is not applicable to El Dorado County.