



COMMUNITY DEVELOPMENT SERVICES

LONG RANGE PLANNING

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Date: September 28, 2017
To: Planning Commission
From: Anne Novotny, Principal Planner
Subject: General Plan Biological Resources Policy Update Project

PURPOSE

On September 12, 2017, the Board of Supervisors (Board) directed staff to return to the Planning Commission (Commission) with additional modifications to the proposed General Plan Amendment to the biological resources policies, objectives, and implementation measures, and Oak Resources Conservation Ordinance that were not considered by the Commission on April 27, 2017.

BACKGROUND

The General Plan Biological Resources Policy Update (proposed Project) consists of amendments to the biological resources policies, objectives, and implementation measures in the General Plan; adoption of an Oak Resources Management Plan (ORMP); adoption of an in-lieu mitigation fee to mitigate impacts to Oak Woodland Areas and Individual Oak Trees; adoption of an Oak Resources Conservation Ordinance (Ordinance), and certification of an Environmental Impact Report (EIR).

On April 27, 2017, the Commission held a public hearing on the proposed Project and EIR. The Commission considered the Project and forwarded a recommendation to the Board to approve staff's recommended actions for the Board's consideration, including six additional recommendations for the Board to consider. (The Commission's recommendations are listed on Attachment 24B to Legistar File 12-1203).

Staff and the consultant (Dudek) prepared an analysis on the additional recommendations and included several minor changes to the proposed General Plan amendments, ORMP, Ordinance, and Final EIR.

On July 18, 2017, the Board held a public hearing on the proposed Project and EIR, and to consider the Commission's additional recommendations, and other modifications to the proposed ORMP, Ordinance and Draft EIR. After closing the public hearing, the Board deliberated and voted to approve certain changes and additions recommended by staff and to incorporate the changes into the final documents for Board adoption and to continue this matter to September 12, 2017.

Additional modifications to the proposed General Plan Amendment and Ordinance that were not previously considered by the Commission are required to be referred to the Commission for recommendation before final Board approval, pursuant to Sections 65356 (General Plan Amendments) and 65857 (Zoning Amendments) of the California Government Code.

The Planning Commission hearing was closed on April 27, 2017. The public hearing on the proposed Project was closed by the Board of Supervisors on July 18, 2017. The public will be given the opportunity to comment only on the limited proposed modifications to the proposed General Plan Amendment and Ordinance that are being presented to the Planning Commission on this item; however, the public hearings remain closed.

PROPOSED CHANGES

The table included in Attachment 2B summarizes and identifies all the proposed changes to the General Plan Conservation and Open Space Element, ORMP, Ordinance, and Draft EIR that were made after the Commission's April 27, 2017 hearing. Following the table are only the pages from the Conservation and Open Space Element and ORMP with changes (shown in Track Changes) made after July 18, 2017. Changes to the ORMP and EIR are included for reference, but are not required to be referred to the Commission.

The proposed changes made for the Commission's review and recommendation consist of:

- 1) Minor revision to General Plan Measure CO-K to delete reference to Objective 7.4.3 which has been eliminated; *see Attachment 2B, Page 159 (pdf page 9 of 27)*
- 2) Revise Section 130.39.030 definition of "Developed Parcel" to replace "as well as design review approval under Chapter 130.27 (Combining Zones – Design Review)" with " or applicable Design Review Permit under Section 130.52.030 (Design Review Permit); *see Attachment 2B, Page XX3 (pdf page 16)*
- 3) Revise subsection 130.39.050(J) to clarify that valley oak trees are not exempt from mitigation; *see Attachment 2B, Page XX7 (pdf page 20)*
- 4) Revise subsection 130.39.060(B) to add clarification on the Code Compliance Certificate requirement; *see Attachment 2B, Page XX8 (pdf page 21)*
- 5) Revise subsection 130.39.060(E) to clarify mitigation requirements for impacts to Heritage Trees, "regardless of location within or outside of an oak woodland"; *see Attachment 2B, Page XX9 (pdf page 22)*
- 6) Add subsection 130.39.070(E) regarding Code Compliance Certificate requirement; *see Attachment 2B, Page XX12 (pdf page 25)*
- 7) Add subsection 130.39.070(G) to identify security deposit requirements for on-site oak tree/oak woodland replacement planting; *see Attachment 2B, Page XX12 (pdf page 25)*
- 8) Add Section 130.39.080 for In-Lieu Fee Appeals; *see Attachment 2B, Page XX13 (pdf page 26)*
- 9) Revise Section 130.30.090 to include subsections A (Fines) and B (Other Penalties); *see Attachment 2B, Pages XX13 and XX14 (pdf pages 26-27)*
- 10) Add subsection 130.30.090(A)(1) to define fines associated with unpermitted oak woodland removal; *see Attachment 2B, Page XX13 (pdf page 26)*

- 11) Add subsection 130.30.090(A)(2) to define fines associated with unpermitted individual native oak tree removal; *see Attachment 2B, Page XX13 (pdf page 26)*
- 12) Add subsection 130.30.090(A)(3) to define fines associated with unpermitted Heritage Tree removal; *see Attachment 2B, Page XX14 (pdf page 27)*
- 13) Add subsection 130.39.090(B) to clarify other penalties associated with non-permitted oak resources removal; *see Attachment 2B, Page XX14 (pdf page 27)*
- 14) Revise Section 130.39.100 title to "Mitigation Maintenance, Monitoring and Reporting"; *see Attachment 2B, Page XX14 (pdf page 27)*
- 15) Renumbered various sections, corrected typographic errors, and clarified referenced tables.

Attachment 2B includes the complete Ordinance with changes shown in Track Changes as follows:

- Red Font only – changes presented to the Commission on April 27, 2017
- Red Font highlighted in yellow – changes made after April 27, 2017 and were presented to the Board on July 18, 2017
- Blue Font – changes made after the Board hearing on July 18, 2017

Attachment 2C contains a final draft of the proposed Oak Resources Conservation Ordinance.

STAFF RECOMMENDATION

Planning staff recommend that the Commission forward a recommendation of approval to the Board of the proposed modification to General Plan Measure CO-K and to the proposed Oak Resources Conservation Ordinance that have been made since the Commission hearing of April 27, 2017.

NEXT STEPS

Staff will return to the Board on October 10, 2017 with the Commission's recommendation regarding the additional modifications to the proposed ordinance, and with the final documents for the Board to take final action on:

- 1) Certifying the EIR; making CEQA Environmental Findings of Fact; adopting a CEQA Statement of Overriding Considerations; and approving the Mitigation Monitoring and Reporting Program;
- 2) Adopting a General Plan Amendment to the biological resources policies, objectives, and implementation measures in the General Plan;
- 3) Adopting an Oak Resources Management Plan;
- 4) Approving the establishment of an in-lieu fee to mitigate impacts to Oak Woodland Areas and Individual Oak Trees; and
- 5) Approving an Oak Resources Conservation Ordinance.