

# DEVELOPMENT SERVICES DEPARTMENT

(Distributed at  
meeting) PC 1/26/12  
#9.a

COUNTY OF EL DORADO

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TO: El Dorado County Planning Commission

FROM: Mel Pabalinas, Senior Planner *MP*

DATE: January 25, 2012

RE: General Plan Policy 7.4.4.4 Option A  
Treviso II (File Application Nos. Z11-0001, PD11-0001, TM11-1502)  
January 26, 2012 Planning Commission Agenda Item No.9

## **Background**

With the recent court ruling against the County's Oak Woodland Management Plan (OWMP) and Oak Woodland Conservation under Chapter 17.73 of the Zoning Ordinance, which provides for an in-lieu fee payment option (Option B) for impacted oak trees, mitigation of impacts reverts to the Option A of General Policy 7.4.4.4 (Attachment 1). This option requires project to meet the retention and replacement standards based on the existing oak canopy within the project site (see Table 1 below). Option A is further clarified by the Interim Interpretive Guideline of policy which was adopted in November 9, 2006 (Attachment 2).

<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

## **Treviso II Oak Tree Impacts and Consistency with Option A**

Treviso II is currently conditioned (see below) to mitigate oak tree impacts via payment of in-lieu fee established under the OWMP and Chapter 17.73 of the Zoning Ordinance. With the fee option currently not available, the applicant submitted a revised Tree Preservation Plan

STAFF MEMO 01-25-12  
12-0254.C.1

consistent with the standards under Option A of General Plan Policy 7.4.4.4 and the Interim Interpretive Guideline of this policy (Attachment 3).

Specifically, the project, which has an existing oak canopy of 2.86 acres, is required to retain 80% (2.28 acres) of the canopy in accordance with the standards under Option A. The maximum allowed removal per the standard is 20%, which equates to 0.57 acres of oak canopy (19.9% of existing canopy). The Tree Preservation Map identifies location of the canopy to be retained predominantly within the Open Space Lot A of the project. The canopy identified for removal consists of stands of oak trees impacted by grading activities for the construction of the private road and residential pads.

A revised condition of approval (see below) would require a submittal of Oak Tree Survey, Preservation, and Replacement Plan. In accordance with the Interim Interpretive Guideline, this plan would provide detailed alternatives in mitigating impacts to oak trees which include on-site replanting of oak trees and establishing of off-site conservation easement.

#### **Revised Condition of Approval No.14**

Staff recommends a revised Condition of Approval No.14 to read as follows:

*Prior to issuance of a grading permit and/or removal of indigenous oak trees, the applicant shall conform to one of the following options under General Plan Policy 7.4.4.4:*

1. *Submit and implement an Oak Tree Survey, Preservation, and Replacement Plan in accordance with the Interim Interpretive Guidelines for Policy 7.4.4.4 (Option A) adopted on November 12, 2006. Specifically, the plan shall provide detailed oak tree replacement program in accordance with the guidelines to subject to review and approval by the Development Services Department- Planning Services; OR*
2. *In the event that the in-lieu fee payment option under Option B of the policy is in effect, remit full payment of the in-lieu fee mitigation to Development Services Department- Planning Services.*

#### **Attachments**

1. General Plan Policy 7.4.4.4
2. Interim Interpretive Guideline to General Plan Policy 7.4.4.4
3. Revised Tree Preservation Plan for Treviso II

Policy 7.4.4.4 For all new development projects (not including agricultural cultivation and actions pursuant to an approved Fire Safe Plan necessary to protect existing structures, both of which are exempt from this policy) that would result in soil disturbance on parcels that (1) are over an acre and have at least 1 percent total canopy cover or (2) 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:

Percent Existing Canopy Cover	Canopy Cover to be Retained
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 in Policy 7.4.2.8.

- Policy 7.4.4.5 Where existing individual or a group of oak trees are lost within a stand, a corridor of oak trees shall be retained that maintains continuity between all portions of the stand. The retained corridor shall have a tree density that is equal to the density of the stand.

**OBJECTIVE 7.4.5: NATIVE VEGETATION AND LANDMARK TREES**

**Protect and maintain native trees including oaks and landmark and heritage trees.**

- Policy 7.4.5.1 A tree survey, preservation, and replacement plan shall be required to be filed with the County prior to issuance of a grading permit for discretionary permits on all high-density residential, multifamily residential, commercial, and industrial projects. To ensure that proposed replacement trees survive, a mitigation monitoring plan should be incorporated into discretionary projects when applicable and shall include provisions for necessary replacement of trees.

- Policy 7.4.5.2 It shall be the policy of the County to preserve native oaks wherever feasible, through the review of all proposed development activities where such trees are present on either public or private property, while at the same time recognizing individual rights to develop private property in a reasonable manner. To ensure that oak tree loss is reduced to reasonable acceptable levels, the County shall develop and implement an Oak Tree Preservation Ordinance that includes the following components:

- A. Oak Tree Removal Permit Process. Except under special exemptions, a tree removal permit shall be required by the County for removal of any native oak tree with a single main trunk of at least 6 inches diameter at breast height (dbh), or a multiple trunk with an aggregate of at least 10 inches dbh. Special exemptions when a tree removal permit is not needed shall include removal of trees less than 36 inches dbh on 1) lands in Williamson Act Contracts, Farmland Security Zone Programs, Timber Production Zones, Agricultural Districts, designated Agricultural Land (AL), and actions pursuant to a Fire Safe plan; 2) all single family residential lots of one acre or less that cannot be further subdivided; 3) when a native oak tree is cut down on the owner's property for the owner's personal use; and 4) when written approval has been received from the County Planning Department. In passing judgment upon tree removal permit applications, the County may impose such reasonable conditions of approval as are necessary to protect the health of existing oak trees, the public and the surrounding property, or sensitive habitats. The County Planning Department may condition any removal of native oaks upon the replacement of trees in



**INTERIM INTERPRETIVE GUIDELINES  
FOR EL DORADO COUNTY  
GENERAL PLAN POLICY 7.4.4.4 (OPTION A)**

**ADOPTED NOVEMBER 9, 2006  
AMENDED OCTOBER 12, 2007**

**BACKGROUND**

The adopted 2004 El Dorado County General Plan, Conservation and Open Space Element provides for the conservation and protection of soils, minerals, water, wildlife and fisheries, vegetation, cultural resources, and open space. Policies adopted in this element serve to guide the design of new development to meet these objectives. Policy 7.4.4.4 (Option A), reproduced below, addresses oak canopy retention standards. These Guidelines are intended to clarify the scope and implementation of Option A of this policy and provide for a process to consider limited modifications to oak canopy replacement and retention requirements for existing legal parcels if necessary to ensure reasonable use of those parcels. Option B (Mitigation Fee) will be available upon completion of the Oak Woodland Management Plan (OWMP) and related fee studies and implementing ordinances.

**OBJECTIVE 7.4.4: FOREST AND OAK WOODLAND RESOURCES**

**Protect and conserve forest and woodland resources for their wildlife habitat, recreation, water production, domestic livestock grazing, production of a sustainable flow of wood products, and aesthetic values.**

**Policy 7.4.4.4**

For all new development projects (not including agricultural cultivation and actions pursuant to an approved Fire Safe Plan necessary to protect existing structures, both of which are exempt from this policy) that would result in soil disturbance on parcels that (1) are over an acre and have at least 1 percent total canopy cover or (2) 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:

Percent Existing Canopy Cover	Canopy Cover to be Retained
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 Program 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.

Note: For purposes of implementing these guidelines, "tree canopy" retention shall mean oak tree canopy retention and replacement of "woodland habitat" shall mean replacement of oak canopy.

### DEFINITIONS

For the purposes of these Guidelines, the following words and phrases shall have the meanings respectively ascribed to them by this section:

1:1 Woodland Replacement (Replacement Land Area/Replacement Tree/Replacement Acorn-Density Ratio): Replacement of removed tree canopy shall be at a 200 trees (saplings or one gallon trees) per acre density or as recommended by a qualified professional. Replacement is subject to intensive to moderate management<sup>1</sup> and 10 to 15 years of monitoring, respectively. The survival rate shall be 90 percent as specified in the approved monitoring plan for the project, prepared by a qualified professional. Acorns may be used instead of saplings or one gallon trees. If acorns are used, they

<sup>1</sup> Management intensity assumes that 10 years after planting 1 year old saplings that trees that have been nurtured with high management intensity will be on average 2 inches DBH with 90 percent survival; moderate management intensity will result in trees that are on average 1.5 inches DBH with 85 percent survival. See Standiford et al 2002.

shall be planted at a 3:1 ratio as determined by the tree replacement formula<sup>2</sup>. The replacement is as follows:

- Replacement replanting from saplings or one-gallon trees, that are locally sourced, shall follow this formula for ratios:

(Replacement Area in acres) x 200 trees per acre = the total number of replacement trees to be replanted

- Replacement replanting by acorn shall be from locally-sourced acorns (acorns gathered locally). The replacement ratio by acorn replanting shall be obtained by the following formula:

(Replacement Area in acres) x (200 trees per acre) x (3 acorns per tree) = the total number of acorns to be replanted

Agricultural Conversion: As defined by General Plan Policy 7.1.2.7.

Agricultural Cultivation/Operations: As defined by General Plan Policy 8.2.2.1.

Agricultural Lands: As defined by General Plan Policies 2.2.1.2 and 8.1.1.8, and further, Policy 8.2.2.1.

Arborist: A person certified by the International Society of Arboriculture (I.S.A.) or other recognized professional organization of arborists that provides professional advice and licensed professionals to do physical work on trees in the County.

Biological Resources Study and Important Habitat Mitigation Program: The Biological Resources Study is an evaluation of a project site that quantifies the amount of important habitat, by habitat type, and addresses the potential for the project to adversely affect important habitat through conversion or fragmentation. The Important Habitat Mitigation Program identifies options that would avoid, minimize, or compensate for impacts on important habitats in compliance with General Plan policies 7.4.4.4 and 7.4.5.2, including a monitoring and reporting component (General Plan 2004 Measure CO-U). The Important Habitat Mitigation Program includes components which address "Certified Arborist Reports" and "Tree Protection Plans". The Biological Resources Study and Important Habitat Mitigation Program shall be prepared by a qualified professional. See separate guidelines for detailed requirements.

CDF: California Department of Forestry.

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<sup>2</sup> McCreary DD. 2001. *Regenerating rangeland oaks in California*. Berkeley (CA): University of California, Agriculture and Natural Resources. Communication Services Publication #21601. 62 p.

Construction/Disturbance Area: Any area in which movement of earth, alteration in topography, soil compaction, disruption of vegetation, change in soil chemistry, and any other change in the natural character of the land occurs as a result of site preparation, grading, building construction or any other construction activity.

Diameter at breast height (Dbh): The measurement of the diameter of the tree in inches, specifically four (4) feet six (6) inches above natural grade on the uphill side of the tree. In the case of trees with multiple trunks, the diameter of all stems (trunks) at breast height shall be combined to calculate the diameter at breast height of the tree.

Fire Safe Plan: Defined by the El Dorado County Department of Forestry Guidelines ([http://www.co.el-dorado.ca.us/building/PDF/Booklets/Fire safe regs.pdf](http://www.co.el-dorado.ca.us/building/PDF/Booklets/Fire%20safe%20regs.pdf) ), and the CDF General Guidelines for Creating Defensible Spaces ([http://www.bof.fire.ca.gov/pdfs/4291finalguidelines2\\_23\\_06.pdf](http://www.bof.fire.ca.gov/pdfs/4291finalguidelines2_23_06.pdf) ), and as defined by Goal 6.2 Fire Hazards of the Public Health, Safety, and Noise element of the General Plan.

Given Unit of Land: The land contained within the project site. If the project site, prior to any proposed land division, is comprised of multiple parcels, the parcels may be treated as a single given unit of land for the purpose of calculating oak canopy cover and retention requirements.

Habitat: The physical location or type of environment in which an organism or biological population lives or can be found (General Plan 2004).

Heritage trees: Trees planted by a group or individuals or by the City or the County in commemoration of an event or in memory of a person figuring significantly in history (General Plan 2004).

Important Habitat: Defined as habitats that support important flora and fauna, including deer winter, summer, and fawning ranges and migration routes; stream, river, and lakeshore habitat; fish spawning areas; seeps, springs, and wetlands; oak woodlands; large expanses of native vegetation; and other unique plant, fish, and wildlife habitats generally located within or adjacent to designated Ecological Preserves, the Important Biological Resource Corridor Overlay, or in other locations otherwise recognized as being important habitat by Federal, State or County agencies.

Landmark Tree: Trees whose size, visual impact or association with a historically significant structure or event has led the government to designate them as landmarks (General Plan 2004).

Licensed engineers and land surveyors: Professionals that are licensed by the California Board for Professional Engineers and Land Surveyors.



Oak Canopy Cover: The area directly under the live branches of the oak trees, often defined as a percent, of a given unit of land.

Oak Woodlands: A given unit of land, with one or more groupings of live trees, where the dominant species (i.e. a plurality) of the live trees within the groupings are native oaks (genus quercus). "Stand" means a group or groupings of trees.

Oak woodlands with oak tree canopy coverage of less than 10 percent of the project site for parcels one acre or less in size, or oak woodlands with oak tree canopy coverage of less than 1 percent on parcels of land that are more than one acre in size, are **not** subject to the oak tree canopy cover retention requirements of Policy 7.4.4.4 Option A.

Protected Trees: Trees of the genus quercus (oak trees), landmark, and heritage trees, which are subject to County review pursuant to General Plan Policies 7.4.4.4, 7.4.5.1, and 7.4.5.2.

Qualified Professional: An arborist certified by the International Society of Arborists, a qualified wildlife biologist, or a registered professional forester (RPF).

Qualified Wildlife Biologist: A professional with a BA or BS or advanced degree in biological sciences or other degree specializing in the natural sciences; professional or academic experience as a biological field investigator, with a background in field sampling design and field methods; taxonomic experience and knowledge of plant and animal ecology; familiarity with plants and animals of the area, including the species of concern; and familiarity with the appropriate county, state, and federal policies and protocols related to special status species and biological surveys.

Registered Professional Forester (RPF): A Registered Professional Forester (RPF) is a person licensed by the State of California to perform professional services that require the application of forestry principles and techniques to the management of forested landscapes. RPFs have an understanding of forest growth, development, and regeneration; soils, geology, and hydrology; wildlife and fisheries biology and other forest resources. RPFs are also trained in fire management and, if involved in timber harvesting operations, have expertise in both forest road design and application of the various methods used to harvest timber (California Licensed Foresters Association).

Removal: The physical destruction, displacement or removal of a tree, or portions of a tree caused by poisoning, cutting, burning, relocation for transplanting, bulldozing or other mechanical, chemical or physical means.

Replacement: See 1:1 Woodland Replacement definition.

Self Certification: Acknowledgment by an applicant constructing a single-family dwelling or accessory structures and appurtenances to a single-family dwelling that the removal

of oak trees not otherwise in compliance with these interim guidelines and Policy 7.4.4.4, is in compliance with General Plan Policy 7.1.2.2 and are therefore exempt from the provisions of Policy 7.4.4.4 as "reasonable use."

Sensitive Habitat: In El Dorado County, this includes the following habitat types: montane riparian, valley-foothill riparian, aspen, valley oak woodland, wet meadow, and vernal pools (General Plan EIR).

Tree Survey, Preservation, and Replacement Plan: A plan that identifies trees at the project site, shows how specific trees shall be protected during development and related work, and includes any required mitigation measures and ensures viability of trees after construction. A Tree Survey, Preservation, and Replacement Plan is a stand-alone report, and is also included as part of an Important Habitat Mitigation Program. The plan shall be prepared by a qualified professional. See separate guidelines for requirements.

Woodland Habitats: Biological communities that range in structure from open savannah to dense forest. In El Dorado County, major woodland habitats include blue oak-foothill pine, blue oak woodland, montane hardwood, montane hardwood-conifer, and montane riparian.

#### **Guidance for Application of Policy 7.4.4.4:**

1. Trees subject to canopy retention and replacement – Policy 7.4.4.4 is intended to apply exclusively to retention and replacement of oak canopy within oak woodlands. All oak trees, of all sizes, are included in the measurement of oak canopy.  
  
Any oak tree canopy, landmark or heritage trees, including native oak trees that do not qualify for review as oak woodland under Policy 7.4.4.4 may be subject to review under Policy 7.4.5.2.
2. Minimum oak canopy area – The oak canopy retention requirements of Policy 7.4.4.4 are intended only to apply to:
  - a. Parcels greater than 1.0 acre that contain 1 percent or more oak canopy cover; or
  - b. Parcels 1.0 acre or smaller that contain 10 percent or more oak canopy cover.
3. Exceptions to oak canopy retention/replacement requirements – Policy 7.4.4.4 intends that the following activities are not subject to oak canopy cover retention or replacement requirements:

- a. Agricultural cultivation/operations, whether for personal or commercial purposes, on land planned (AL, NR, RR, and Agricultural Districts [-A]) or zoned (AE, AP, A, PA, SA-10, RA, TPZ, and MR) for agricultural use per Policy 2.2.1.5 (Table 2-4 General Plan Land Use Designation and Zoning District Consistency Matrix, page 21), by the El Dorado County General Plan or Zoning Ordinance;
- b. Tree removal associated with an approved Fire Safe Plan as necessary to protect an existing structure or structures. The Fire Safe Plan shall take into consideration the El Dorado County Department of Forestry SRA Fire Safe Regulations and the CDF General Guidelines for Creating Defensible Space. Fire Safe Plans are prepared by a RPF or other qualified professional subject to review and approval by the County. See Exhibit One for more information.
- c. Development on parcels that are one acre or larger and have less than 1 percent total oak canopy cover;
- d. Development on parcels that are less than one acre and have less than 10 percent total oak canopy cover; or
- e. Oak trees determined to be dead or diseased and dying by a certified arborist or registered forester are excluded from calculations of canopy cover and retention and replacement requirements.
- f. Applicant has "self certified" compliance with Policy 7.1.2.2. For properties located outside of an Important Biological Corridor (IBC) and Mitigation Area 0 of the Ecological Preserve (EP), the removal of natural vegetation, including oak trees (less than 36 inches dbh), is demonstrated to be limited to areas proposed to be graded or cleared for single-family residential development to include the following (for ministerial permits and Director approved design review applications):
  - Primary residence
  - Accessory structures (including secondary residence, garages, workshops, barns, swimming pools, decks, etc.)
  - Driveways and parking area
  - Septic systems
  - Wells and storage tanks
  - Propane tanks

- Yard areas immediately surrounding the primary residence and any accessory structure
- Yard areas immediately surrounding the primary and any accessory structures
- Retaining walls necessary for any of the above

Replacement of oak trees will be required on-site to the greatest extent feasible and an oak replacement agreement shall be recorded requiring self-monitoring and maintenance.

4. Qualified Professional – For the purposes of Policy 7.4.4.4, “Qualified Professionals”, refers to professionals approved by Development Services, suitably trained and experienced in wildlife biology, botany, arboriculture, or forestry such as qualified wildlife biologists, I.S.A. certified arborists, or Registered Professional Foresters (RPFs) can determine “habitat” value and canopy cover of oak woodlands determined from baseline aerial photography. The professional may be under contract to either the County or the property owner. The professional should be able to perform a species-focused site survey, use GPS to locate species and habitat on a map or aerial photograph, and should be able to address oak tree corridors (if applicable) for Policy 7.4.4.5. The qualified professional will need to prepare a Biological Resources Study and Important Habitat Mitigation Program that satisfies County requirements. In the event that a dispute arises involving the contents of the Biological Resources Study and/or Important Habitat Mitigation Program the County may refer the matter to an outside qualified consultant, retained by the County and paid for by the applicant/property owner, to develop recommendations for dispute resolution.

If there is a need to provide a survey level of detail to fully ascertain which canopy level applies per Policy 7.4.4.4, then the survey shall be conducted by a California professional engineer or a California professional land surveyor.

Generalized maps may be provided by a qualified professional using GPS.

5. Site Assessment Form and Tree Survey, Preservation, and Replacement Plan Required: An initial Site Assessment Form (Attachment 1) and Tree Survey, Preservation, and Replacement Plan must be prepared by a qualified professional and submitted to the Planning Services Division for review for all projects proposing removal of oak canopy cover. The purpose of the Site Assessment is to determine if the proposed removal of oak canopy cover would impact any of the following:

- Landmark or heritage trees (See Policy 7.4.5.2 A);

- Oak corridor continuity, between all portions of existing stands of oak woodland habitat with connecting corridors at a tree density that is equal to the density of the stand (See Policy 7.4.4.5);
- Sensitive or important oak woodland habitats (See Policy 7.4.5.2 A);
- Oak woodland within or directly adjacent to an important biological resource corridor overlay or an ecological preserve overlay (See Policies 7.4.2.9 and 7.4.1.4);
- Listed or special status plant or animal species observed or expected to occur on the project site or in adjacent areas that may be directly or indirectly affected by the project (See Policy 7.4.1.5); or
- Removal of oak canopy that exceeds retention requirements of Policy 7.4.4.4.

For discretionary projects, the Site Assessment must also include a conclusion by the qualified professional as to whether the proposed oak tree canopy cover removal would have the potential to cause a significant effect on the environment.

If the Site Assessment concludes that the project would not impact any of the above, and the County concurs, and the retention/replacement requirements of Policy 7.4.4.4 are satisfied, the proposed oak tree canopy cover removal may be found consistent with Policy 7.4.4.4 without preparation of a Biological Resource Study and Important Habitat Mitigation Program. A Tree Survey, Preservation, and Replacement Plan, prepared according to County requirements, shall be required prior to issuance of a grading or building permit for the project. The Tree Survey, Preservation, and Replacement Plan will address long term preservation as well as protection of oak trees required to be retained or replaced during grading and construction.

If the Site Assessment, or the County, concludes that the proposed project would impact any of the above resources, and/or for discretionary projects could have the potential to cause a significant impact on the environment, then a full Biological Resources Study and Important Habitat Mitigation Program for the project must be provided to the County for review and approval. For ministerial projects, this must occur prior to issuance of a grading or building permit for the project. For discretionary projects, this must occur as part of the environmental review process. The recommendations of the plan must be fully implemented prior to final grading or building inspection for the project.

6. Project Sites Within or Directly Adjacent to Important Biological Corridor Overlay or Ecological Preserve Overlay Areas: Any projects (ministerial or discretionary) proposing any oak canopy cover removal within or directly

adjacent to the an Important Biological Corridor Overlay Designation or Ecological Preserve Overlay Designation shall require the submittal of Oak/Canopy Site Assessment Form, tree survey, and biological report. Should a dispute arise regarding recommendations of the biological report, review by the Planning Commission will be required to ensure consistency with Policies 7.4.2.9 and 7.4.1.4 unless the subject property is also located within an Agricultural District Overlay or Agricultural Lands designation in which case it would not be subject to additional requirements per Policy 7.4.2.9. The Biological Resources Study and Important Habitat Mitigation Program must address the requirements of Policies 7.4.2.9 and 7.4.1.4, including, but not limited to the potential for higher oak canopy cover retention and mitigation standards than for projects located outside of the Important Biological Corridor Overlay and Ecological Preserve Overlay areas.

7. Replacement Provisions – Where Policy 7.4.4.4 requires oak canopy cover replacement, the replacement shall be at a 1:1 ratio of canopy removed to canopy replaced as defined in these Guidelines or as specified by a qualified professional approved by the County. The 1:1 replacement ratio can be determined by a simple projection of an aerial photograph justified to the same scale as the underlying parcel is sufficient to estimate the land area, measured in square feet, subject to oak canopy coverage (land area in square feet shall be converted to acreage). Replacement may be by one of the following methods, at the discretion of the Development Services Director (Director):
  - a. On-Site Replacement Tree Planting. The replacement requirement is calculated as set forth in the tree replacement formula. Refer to the 1:1 Woodland Replacement definition. Replacement trees are to be planted on-site to the satisfaction of the Development Services Director. The size of the designated replacement area shall equal at a minimum the total area of the oak canopy cover proposed to be removed. An agreement to the satisfaction of County Counsel and the Director shall be required to ensure the long term maintenance and preservation of any on or off-site replacement trees planted. Maintenance and monitoring shall be required for a minimum of 10 years after planting. Any trees that do not survive during this period of time shall be replaced by the property owner.
  - b. On-Site Planting of Acorns. Under the direction of a qualified biologist, certified arborist and/or registered professional forester, acorns may be planted at a density designed to achieve oak canopy coverage which will equal the canopy coverage removed within no more than 15 years from the date of planting. The

minimum replacement ratio for acorns is calculated as set forth in the tree replacement formula. Refer to the 1:1 Woodland Replacement definition. Recommendations from the qualified professional shall include a minimum of: site planting design; acorn planting ratios to ensure success; acorn collection areas or nurseries; propagation measures; acorn protection techniques; maintenance, and monitoring and reporting. The size of the designated replacement area shall equal at a minimum, the total area of the oak canopy cover that is proposed to be removed. An agreement to the satisfaction of County Counsel and the Director shall be required to ensure the long term maintenance and preservation of any on or off-site replacement acorns planted. Maintenance and monitoring shall be required for a minimum of 15 years after planting. Any trees that do not survive during this period of time shall be replaced by the property owner.

- c. On-Site Replacement of Canopy Area. Under the direction of a qualified biologist, certified arborist and/or registered professional forester, acorns, oak trees or a combination of both may be planted on-site. The replacement requirement is calculated as set forth in the tree replacement formula. Refer to the 1:1 Woodland Replacement definition. Replacement plantings should be at a density designed to achieve oak woodland canopy coverage which will equal the canopy coverage removed within 15 years from date of planting or sooner.

Recommendations from the qualified professional shall include a minimum of: Site planting design; planting ratios to ensure success; any required acorn collection areas or nurseries; propagation measures; acorn and tree protection techniques; maintenance, monitoring and reporting requirements. The size of the designated replacement area shall equal at a minimum, the total area of the oak canopy cover that is proposed to be removed. An agreement to the satisfaction of County Counsel and the Director shall be required to ensure the long term maintenance and preservation of any replacement trees and/or acorns planted. Maintenance and monitoring shall be required for a minimum of 10 years after planting. Any trees that do not survive during this period of time shall be replaced by the property owner.

Replacement (and execution of related maintenance and monitoring agreements) shall be completed to the County's satisfaction prior to final grading or building inspection of the project.

- d. Off-Site Replacement of Canopy Area. The applicant may be permitted to procure an off-site planting area for the replacement trees and/or planting of acorns, preferably in close proximity and/or in connection with any oak woodland contiguous to the project site or within or adjacent to an Important Biological Corridor or Ecological Preserve as designated in the General Plan, to implement the replacement planting. The size of the off-site replacement planting area shall equal at a minimum the total area of oak canopy cover proposed to be removed. Oaks planted shall have characteristics of the receiver site. Replacement shall occur at a 1:1 ratio as defined in these Guidelines or as otherwise specified by a qualified professional approved by the County. A Conservation Easement to the satisfaction of County Counsel and the Director shall be required to ensure the long term maintenance and preservation of any on or off-site replacement trees and/or acorns planted. The Conservation Easement shall provide for the preservation of the designated area in perpetuity and shall include such terms, conditions, and financial endowments for monitoring and management deemed necessary by the County to ensure the long term preservation of the oak woodland within the easement area. The Conservation Easement shall be in favor of the County or a County approved conservation organization. Maintenance and monitoring shall be required for a minimum of 10 years (15 years for acorns) after planting. Any trees that do not survive during this period of time shall be replaced by the property owner; or
- e. Off-Site Conservation Easement to Protect Existing Oak Woodland in Lieu of Replacement. The applicant may obtain a Conservation Easement on property off-site with healthy oak woodland canopy area equivalent to 100 percent of the oak canopy area proposed to be removed. The conservation easement site should either be in close proximity and/or in connection with any oak woodland contiguous to the project site or within or adjacent to an Important Biological Corridor or Ecological Preserve as designated in the General Plan. The Conservation Easement shall provide for the preservation of the designated area in perpetuity and shall include such terms, conditions, and financial endowments for monitoring and management deemed necessary by the County to ensure the long term preservation of the oak woodland within the easement area. The Conservation Easement shall be in favor of the County or a County approved conservation organization.



8. Ministerial Projects on Existing Legal Lots for which Previous Approvals or Determinations of Developable Area have been made by County Decision-Makers: Previously approved discretionary projects that have conditions of approval and/or mitigation measures specifying detailed oak tree protection and mitigation plans shall not be required to demonstrate further consistency with Policy 7.4.4.4. However, canopy that was required to be retained in prior approvals must continue to be retained, unless modified by the decision-making authority for the original protection plan. This provision does not apply to any development project whose approval has expired and a time extension is applied for.

### **Reasonable Use Provisions for Development on Existing Legal Lots**

A. Reasonable Use Related to Oak Canopy Cover Retention:

For existing legal lots, where strict compliance with the oak canopy cover retention requirements of Policy 7.4.4.4 could preclude reasonable use of the property or cause substantial inconsistencies with other General Plan policies protective of the environment, due to factors which are unique to the proposed property, such as topographic constraints, configuration of the remaining area useable for development, access requirements, lot size, and/or other physical or environmental limitations, or conflict with the requirements of an approved Fire Safe Plan, the Development Services Director may grant relief as described below, or the Planning Commission may grant relief to the retention requirements of Policy 7.4.4.4 for the project if the following findings are made pursuant to a noticed public hearing:

Development Services Director Relief:

The Director may grant a reduction in the retention requirements by up to 50 percent of what is specified in the Option A Retention Table after meeting all the required findings herein (subsection i. through iv.) and meeting one of the following conditions.

- For existing legal lots ½ acre in size or less with up to 100 percent disturbed area proposed; or
- For existing legal lots greater than ½ acre up to one acre in size with not more than 20,000 square feet of development/disturbed area proposed; or
- For existing legal lots greater than one acre in size but not greater than five acres in size with not more than 25,000 square feet of development/disturbed area proposed, excluding driveway access

removing oak canopy (intrusion of up to 25 percent of the dripline permitted).

- For existing legal lots greater than five acres with not more than 30,000 square feet of development/disturbed area proposed excluding driveway access removing oak canopy (intrusion of up to 25 percent of the dripline permitted).

If the lot is within an Important Biological Corridor or Ecological Preserve, relief may only be granted by the Planning Commission.

Planning Commission Relief:

Where the Director cannot grant relief, the Commission may grant relief when the following findings can be made.

- i. The applicant demonstrates that 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.
- ii. The proposed project is limited to development and site disturbance that is typical and prevalent for the general area surrounding the project site.
- iii. 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;
  - f. 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.*
- iv. If the project site is within ~~or directly adjacent to~~ an Important Biological Corridor Overlay or Ecological Preserve a Biological Resources Study and Important Habitat Mitigation Program have been prepared by a qualified professional and approved by the County and will be fully implemented by the applicant. The Study shall be prepared in accordance with the *Biological Resources Study and Important Habitat Mitigation Program Interim Guidelines*, adopted November 9, 2006.

Replacement of any oak tree canopy area allowed to be removed by the Planning Commission in excess of the retention standards in the General Plan shall be required. At a minimum, the replacement shall be completed in accordance with the tree replacement formula. Refer to the 1:1 Woodland Replacement definition. A 2:1 ratio or as otherwise specified by a qualified professional approved by the County, pursuant to the options and methods specified in these Guidelines, may be applied at the discretion of the Planning Commission. Further, for discretionary projects, any effects on biological resources will be analyzed in the environmental document and appropriate additional mitigation proposed as required by the California Environmental Quality Act, California Oak Woodlands Conservation Law and other applicable statutes.

**B. Reasonable Use Related to Oak Corridor Retention:**

In order to ensure that reasonable use of the property is provided, an applicant may request the Planning Commission to provide relief from the strict application of this corridor retention requirement (Policy 7.4.4.5) in the same manner as described above. In addition, for discretionary projects, any effects on biological resources will be analyzed in the environmental document and appropriate mitigation proposed as required by the California Environmental Quality Act, California Oak Woodlands Conservation Law and other applicable statutes.

**GENERAL REQUIREMENTS APPLICABLE TO ALL PROJECTS**

Compliance with the General Plan:

In addition to compliance with these guidelines for these Policies, the proposed development shall be in conformance with all other applicable policies of the County General Plan and any applicable Specific Plans and/or Development Agreements.

Compliance with the Zoning Ordinance and Grading Ordinance and Building Codes:

The proposed development shall be in compliance with all applicable requirements of the County Zoning Ordinance, Grading Ordinance, and Building Codes.

County, State, or Federal Agency Requirements:

County, State and Federal agencies have different jurisdictional authority which may result in different conditions for approval. In the event of multiple agency permit approval, the most restrictive set of conditions shall apply.

Important Biological Corridor Overlay Designation and Ecological Preserve Overlay Designation:

Proposals for removal of any oak canopy cover on property within or directly adjacent to an Important Biological Corridor Overlay (IBC) designation or Ecological Preserve Overlay (EP) designation pursuant to the General Plan shall require review by the Planning Commission to ensure consistency with the requirements of Policies 7.4.2.9 and 7.4.1.4. A Biological Resource Study and Important Habitat Mitigation Program shall be required.

**SITE ASSESSMENT FORM REQUIREMENTS AND THE TREE SURVEY, PRESERVATION, AND REPLACEMENT PLAN REQUIREMENTS**

The Site Assessment Form requirements are detailed in Attachment 1.

**BIOLOGICAL RESOURCE STUDY AND IMPORTANT HABITAT MITIGATION PROGRAM REQUIREMENTS**

Biological Resource Study and Important Habitat Mitigation Program requirements are detailed in Attachment 2.

## ADMINISTRATION

The above guidelines are interim standards utilized by the Development Services Department of El Dorado County to provide for consistent review of projects for conformance with Policy 7.4.4.4 pending adoption of permanent regulations.

~~Penalties for Violation – Pursuant to Policy 7.4.5.2-D, If oak trees are removed prior to review by the County and without appropriate retention and replacement provisions implemented in anticipation of development of a site, the County may withhold and defer approval of any application for development of that property for a period of up to five years. Additionally, fines may be applied as high as three times the current market value of replacement trees plus the cost of replacement, and/or replacement tree(s) may be required at a 3:1 ratio at sites approved by the County. The cost of maintenance, monitoring, and reporting of any replacement trees shall be paid for by the applicant, until such time as the amount of oak tree canopy removed is determined and appropriate replacement and mitigation provisions are met in conformance with Policy 7.4.4.4 to the satisfaction of the Director.~~

## INTERNET RESOURCES

California Department of Conservation, Office of Mine Reclamation, Fall 2005 SMARA Newsletter regarding the State Oak Woodlands Conservation Law  
<http://www.consrv.ca.gov/omr/smara/newsletter/Fall%202005.pdf>

California Department of Forestry Fire Safe Plan  
[http://www.fire.ca.gov/php/education\\_100foot.php](http://www.fire.ca.gov/php/education_100foot.php)

California Department of Forestry Fire Safe Regulations  
<http://www.co.el-dorado.ca.us/building/FSArticle1.htm>

California Licensed Foresters Association  
[http://www.clfa.org/registered\\_professional.htm](http://www.clfa.org/registered_professional.htm)

California Board for Professional Engineers and Land Surveyors:  
<http://www.dca.ca.gov/pels/>

CDF General Guidelines for Creating Defensible Spaces  
[http://www.bof.fire.ca.gov/pdfs/4291finalguidelines2\\_23\\_06.pdf](http://www.bof.fire.ca.gov/pdfs/4291finalguidelines2_23_06.pdf)

El Dorado County Department of Forestry SRA Fire Safe Regulations  
[http://www.co.el-dorado.ca.us/building/PDF/Booklets/Fire\\_safe\\_regs.pdf](http://www.co.el-dorado.ca.us/building/PDF/Booklets/Fire_safe_regs.pdf)

El Dorado County General Plan  
<http://www.co.el-dorado.ca.us/Planning/GeneralPlanAdopted.html>

El Dorado County General Plan EIR  
<http://www.co.el-dorado.ca.us/Planning/GeneralPlanDraftEIR.htm>

McCreary DD. 2001. *Regenerating rangeland oaks in California*.  
Berkeley (CA): University of California, Agriculture and Natural  
Resources. Communication Services Publication #21601. 62 p.

Standiford, Richard and Douglas McCreary and William Frost. 2002. *Modeling the  
Effectiveness of Tree Planting to Mitigate Habitat Loss in Blue Oak Woodlands*. USDA  
Forest Service Gen. Tech. Rep. PSW-GTR-184. Available at:  
<http://danr.ucop.edu/ihrmp/proceed/standiford.pdf>

Western Chapter – International Society of Arboriculture Publications (Guide for Plant  
Appraisal, Item # P1209, to determine market values of trees)  
<http://wcisa.wcainc.com/docs/Publication.pdf>

## **ATTACHMENTS**

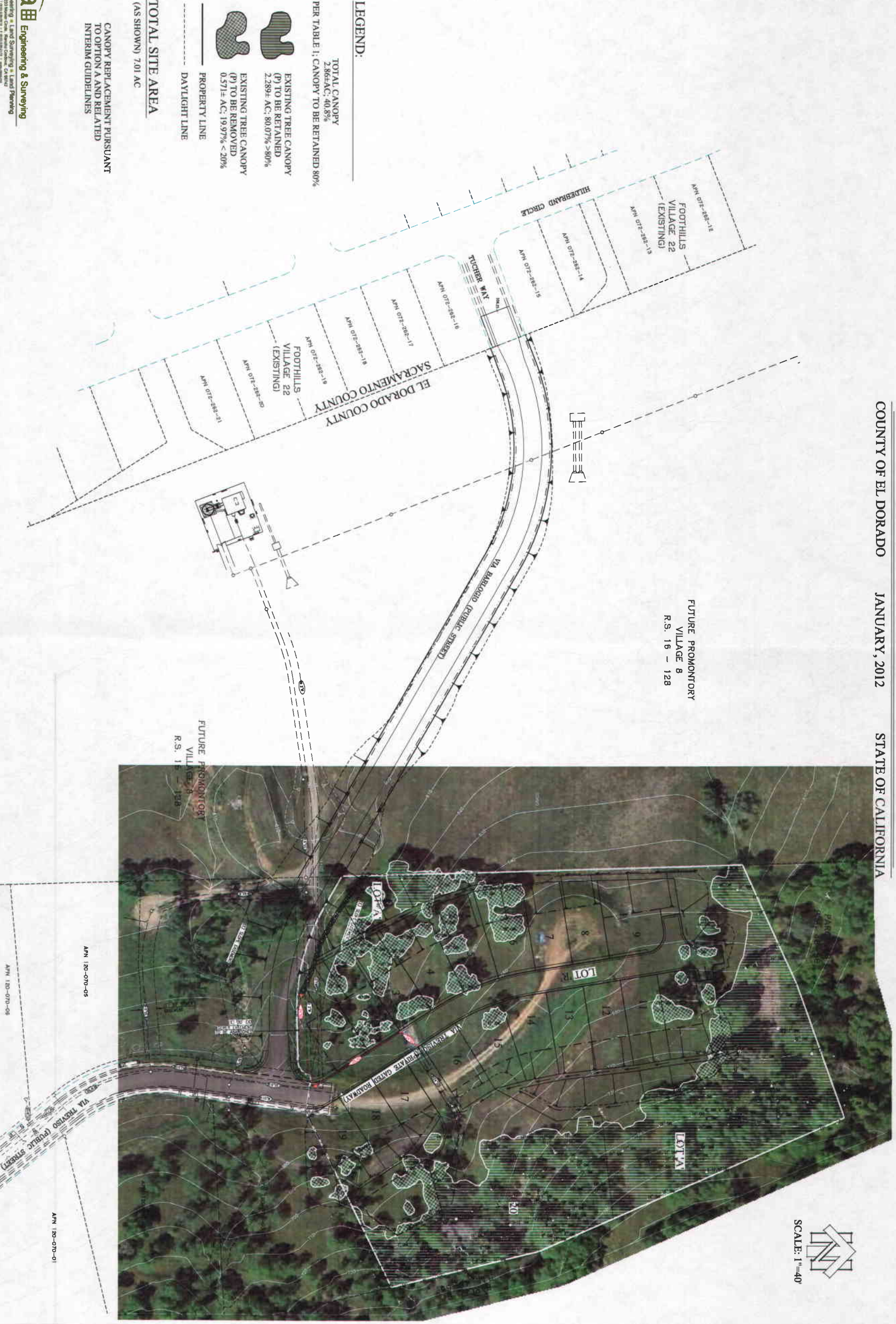
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|--------------|---|
| Exhibit One  | CDF Fire Safe Plan Brochure   |
| Attachment 1 | Site Assessment Form  |
| Attachment 2 | Biological Resources Study and Important Habitat Mitigation<br>Program Requirements |

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**TREE PRESERVATION MAP**  
**TREVISO II**  
**LOT A OF RIDGEVIEW WEST UNIT 4**  
 COUNTY OF EL DORADO    JANUARY, 2012    STATE OF CALIFORNIA

SCALE: 1"=40'

**cta** Engineering & Surveying  
 Civil Engineering & Land Surveying & Land Planning  
 10201 Valley View, Rosemead, California 91769  
 626-282-2200

ATTACHMENT 3