

ATTACHMENT 2

FROM THE MINUTES OF MARCH 13, 2008 Planning Commission Hearing

9. GENERAL PLAN UPDATE

Oak Woodland Management Plan (OWMP): To receive public input on the final OWMP and negative declaration.

Peter Maurer recommended approval to the Board of Supervisors. He gave the Commission copies of the recently received correspondence and briefly reviewed the correspondence with the Commission. Mr. Maurer gave a brief update on the item.

Chair Tolhurst asked about monitoring. Mr. Maurer commented that is built into the ordinance, and the fee would be adjusted annually, as appropriate.

Commissioner Knight asked what staff is asking the Commission to do today. Mr. Maurer would like the Commission to make a recommendation to the Board. If there are any changes the Commission would like to make, those changes will be forwarded to the Board.

Commissioner Mathews asked the position of the County legally in the case of a fire. Edward Knapp, County Counsel, stated the County would not be liable. Mr. Maurer spoke about Fire Safe Regulations related to building.

Commissioner Mathews asked for clarification on Page 14, Item 4. Mr. Maurer explained.

Commissioner Knight commented the fee is on a two-to-one basis, so the fee is not \$7,000 but \$14,000 per acre. He also has a problem with the 80 percent value of conservation easements relative to the fee title value. . Commissioner Knight stated he is very sensitive to any additional fees imposed on building.

Chair Tolhurst asked if there is a requirement for replanting certain species. Mr. Maurer replied the replanting would come out of the biological study. You would replant the tree most appropriate for the location. Chair Tolhurst asked about growing oaks for future harvesting, i.e. furniture building, etc. Mr. Maurer replied that would not be in perpetuity. Commissioner Mac Cready stated no one wants California oak.

Art Marinaccio commented we need to have workshops on substantive issues. Changing valley oak to a habitat oak rather than a species oak should not be done. He believes Policy 7.4.4.5, Page 10, needs to be removed from the General Plan. We need to do the initial habitat inventory maps. Mr. Marinaccio spoke about the trees being deeded to the County. He does not believe the County wants the responsibility. It would really be burdensome. We have not had the discussion of what we really want to accomplish.

Commissioner Knight asked why Policy 7.4.4.5 is now being included in the document. Mr. Maurer said staff felt it was overlooked previously. Monique Wilber stated it was included because of a comment received in one of the letters.

Cindy Schaffer spoke about the amount of the in-lieu fee. Their group came up with an alternate calculation. The County should use arms-length transactions for easements. She stated there are different approaches for fuel management and fuel modification.

Chris Alaron agrees with Mrs. Schaffer. If trees are going to be cut down for a map, pay for the trees then. Also, if more trees are removed for a building, pay for that removal with that permit.

Olga Sciorelli, referring to the fee, asked why there would be a ten-year average if the fee is reviewed every year. On Page 14, 2.c., you do not remove trees for installation of a leach field. She is concerned they will have to mitigate for the leach field with the document as currently written. On the fees, she feels \$3,600 is sufficient. Eighty percent on the fire defensible space would be better than 20 percent. If an applicant can demonstrate they can retain more, that should be allowed. Ms. Sciorelli gave the Commission a tentative map with different hatch marks indicating the reasons for tree removal. She would like to mitigate for grading and roads at that stage. You would also mitigate for any trees at the building permit stage. She would like to see the mitigation phased.

Referring to 17.72.020(a), Camille Courtney does not believe disturbance triggers mitigation. On Page 2, No. 2, we are still applying this to under one acre. She understands we need to process a General Plan amendment to remove that, but it causes an inconsistency. Ms. Courtney spoke about the appraisal process. We phase maps, so requiring the fee up front would be unreasonable and unfair. Based on CEQA, you mitigate when there is an impact. The fees need to be related to an impact. You need to look at projects on a case-by-case basis.

Kathye Russell asked that the Commission consider that there are many acres that are not divided by subdivision maps but parcel maps. She supports the comments of Olga Sciorelli, Cindy Schaffer, and Camille Courtney regarding paying the mitigation fee when the impact occurs.

Valerie Zetner, El Dorado County Farm Bureau, thanked staff for their work on this document. She spoke about the economic value of trees for agriculture and agricultural tourism. The definition of Agriculture is key to the ability to survive in the County (Page 5). She agrees with Art Marinaccio that 7.4.4.5 does not need to be in the document but perhaps in the INRMP. Rural parcels should not be treated the same as a subdivision. The law does require an arms length appraisal on the easements.

Ray Nutting, timber harvester, said it has been his experience that leach fields and replacement areas are not touched because of the value of the trees.

David Bolshan said he has been involved in the oak tree ordinance since the mid 1970s. Creating little islands of trees does not perpetuate habitat. Can a private individual cut down five acres of trees? Mr. Maurer said there is nothing that prohibits an individual cutting down trees unless there is a discretionary permit involved. That would be considered with the Oak Tree Ordinance. This plan addresses the effects of projects.

Sherry (?) said there are other things to come. We need to keep this fee as low as possible. This is not happening.

Ken Greenwood stated we are completely exempting agriculture. He questions whether we have analyzed what those impacts will be. Have we done the analysis correctly for all these exemptions?

Dave Pratt, Agricultural Commissioner, member of the Grape Growers Association, and grape grower, feels this is punitive. There are no incentives. It is still one size fits all. We are not differentiating between the different oaks. In the conservation areas, there is nothing pertaining to quality. We do not have a problem. We have had tree canopy growing for years. Trees are a value. The annual review is a good thing. Regulations never get less; it is always more. The fire threats are the canyons. He does not know if we need anything other than state standards. Thresholds of significance can be increased if degradation occurs.

Tom Heflin, Economic Development Advisory Committee, spoke about Policy 10.1.2.5 and the economic affects and takings on private property, and private property rights. Has this been analyzed? He is concerned it has not been. Mr. Heflin agrees with a lot of the comments that have been made, with the exception of the loss of trees with agriculture. Commissioner Knight said Policy 10.1.2.5 needs to be addressed as we work through this document.

There was no one else in the audience wishing to give input.

Mr. Maurer suggested language for the payment of fees when the impact occurs. There was a question about the 10-year average. It is actually the trend line of the average cost of land, not a 10-year average. Regarding soil disturbance, it is when there is a permit in relation to the disturbance. Regarding leach fields, it is only when trees are being removed. If trees are not being removed, it is not a problem. Perhaps the 20 percent should be separated so it is clear that it applies to defensible space.

MOTION: COMMISSIONER KNIGHT, SECONDED BY COMMISSIONER TOLHURST AND CARRIED BY THE FOLLOWING VOTE: AYES – COMMISSIONERS KNIGHT, MAC CREADY, MATHEWS, AND TOLHURST; ABSENT – COMMISSIONER MACHADO, IT WAS MOVED TO RECOMMEND THE BOARD OF SUPERVISORS SPLIT SECTION 5 (2c) ON PAGE 14 INTO TWO SECTIONS WITH SECTION 2d AS FOLLOWS: A site specific analysis of tree removal may be used instead of the 20 percent retention assumption with regards to fire defensible space.

MOTION: COMMISSIONER MATHEWS, SECONDED BY COMMISSIONER KNIGHT AND CARRIED BY THE FOLLOWING VOTE: AYES – COMMISSIONERS KNIGHT, MAC CREADY, MATHEWS, AND TOLHURST; ABSENT – COMMISSIONER MACHADO, IT WAS MOVED TO RECOMMEND THE BOARD OF SUPERVISORS ADOPT THE FOLLOWING CHANGE ON PAGE 15, #6: The payment of the fee may be phased to reflect the timing of the tree canopy removal.

MOTION: COMMISSIONER KNIGHT, SECONDED BY COMMISSIONER MATHEWS AND CARRIED BY THE FOLLOWING VOTE: AYES – COMMISSIONERS KNIGHT, MAC CREADY, MATHEWS, AND TOLHURST; ABSENT – COMMISSIONER MACHADO, IT WAS MOVED TO RECOMMEND THE BOARD OF SUPERVISORS DELETE THE REFERENCE TO POLICY 7.4.4.5 ON PAGE 10(g) AND THROUGHOUT THE DOCUMENT.

MOTION: COMMISSIONER KNIGHT, SECONDED BY COMMISSIONER TOLHURST AND CARRIED BY THE FOLLOWING VOTE: AYES – COMMISSIONERS KNIGHT, MAC CREADY, MATHEWS, AND TOLHURST; ABSENT – COMMISSIONER MACHADO, IT WAS MOVED TO RECOMMEND THE BOARD OF SUPERVISORS CHANGE THE CONSERVATION EASEMENT PERCENTAGE FROM 80 PERCENT TO 40 PERCENT OF FEE TITLE VALUE.

MOTION: COMMISSIONER TOLHURST, SECONDED BY COMMISSIONER MATHEWS AND CARRIED BY THE FOLLOWING VOTE: AYES – COMMISSIONERS KNIGHT, MAC CREADY, MATHEWS, AND TOLHURST; ABSENT - COMMISSIONER MACHADO, IT WAS MOVED TO FORWARD A RECOMMENDATION THAT THE BOARD OF SUPERVISORS ADOPT THE NEGATIVE DECLARATION, AS PREPARED; ADOPT THE OAK WOODLAND MANAGEMENT PLAN; AND ADOPT THE OAK WOODLAND MANAGEMENT PLAN IMPLEMENTING ORDINANCE, BASED ON THE FINDINGS PROPOSED BY STAFF; AND FURTHER THAT STAFF PROVIDE THE BOARD OF SUPERVISORS WITH A REPORT OF THE IMPACT OF THE PLAN ON ECONOMIC DEVELOPMENT AT THEIR HEARING ON THIS PLAN.