



Developing a Cultural Resources Ordinance

Bayley House in Pilot Hill, 1862
Photo (c2003) Courtesy EDC Photo Library

Board of Supervisors, 8/16/2016
Presented by:
Community Development Agency
Long Range Planning

Overview

- **Purpose / Introduction**
- **Background and Framework**
 - Related General Plan Policies
 - State Law Changes (Public Noticing Requirements)
 - County Public Notification Ordinance
 - Other Related Policies and Implementation Measures
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- **Comparison of other Northern California rural counties**
- **Staff Recommendation**
- **Next Steps**



Purpose / Introduction

■ General Plan Policy 7.5.1.1

- County shall establish a Cultural Resources Ordinance
- Broad regulatory framework for mitigation of impacts on cultural resources by discretionary projects
- Requires Ordinance include six provisions (*listed on the following slide*):



Purpose / Introduction

Policy 7.5.1.1 Ordinance Provisions

- A.** Notification of Native American monitors (tribes) of significant ground-disturbing activities
- B.** 100-foot development setback as study threshold
- C.** Identification of appropriate buffers relative to the resources where ground-disturbing activities should be limited
- D.** Definition of significant cultural resources
- E.** Project review guidelines for development projects
- F.** Cultural resources sensitivity map



Background

Policy 7.5.1.1 Provision A

A. Notification of appropriate Native American monitors (tribes) of projects involving significant ground-disturbing activities.

- **Senate Bill 18 (2004)** – Requires cities and counties to contact and consult with California Native American tribes prior to amending or adopting any general plan, or specific plan, or designating land as open space
- **Assembly Bill 52 (2014)** – Established new resources category, Tribal Cultural Resources, and process for consultation with California Native American tribes in California Environmental Quality Act (CEQA) process
- **Section 106 (National Historic Preservation Act of 1966)** – Requires consultation with Federally recognized Tribes when project has a federal nexus



Background

Policy 7.5.1.1 Provision A (con't)

- County implemented process to notify tribes
 - Complies with Senate Bill 18 and Assembly Bill 52
 - Consistent with Governor's Office of Planning & Research "Tribal Consultation Guidelines Supplement to General Plan Guidelines" (2005)
- Opportunity for **all interested individuals and parties** to comment on County projects requiring discretionary review



Background

Policy 7.5.1.1 Provisions B and C

B. *100-foot development setback in sensitive areas as study threshold when deemed appropriate.*

- Is 100-foot development setback appropriate measurement for study threshold?
- When is it “deemed appropriate” to conduct a study threshold?
- These questions to be addressed with update of Cultural Resources Guidelines

C. *Identification of appropriate buffers, given nature of resources within which ground-disturbing activities should be limited.*

- To be addressed with update of Cultural Resources Guidelines



Background

Policy 7.5.1.1 Provision D

D. Definition of cultural resources significant to the County

- Ordinance 4488 adopted 4/21/98: “Cultural resource/cultural heritage” means:
 - *improvements*
 - *buildings*
 - *structures*
 - *signs*
 - *features*
 - *sites*
 - *scenic areas*
 - *views and vistas*
 - *places*
 - *areas*
 - *landscapes*
 - *trees*
- or other objects of *scientific, aesthetic, educational, cultural, architectural, or historical* significance
- to the citizens of the county and the state of California, the Northern California region, or the nation
- which may be eligible for designation or designated and determined to be appropriate for historic preservation.



Background

Policy 7.5.1.1 Provision D (con't)

- Conform to significance criteria used for National Register of Historic Places (NRHP), California Register of Historical Resources (CRHR) and Society of Vertebrate Paleontology
 - *Note: Paleontological resources not listed in definition of cultural resources definition included in Ordinance 4488*
 - Consider modifying definition to include paleontological resources or modify this policy provision to remove paleontological resources
- Include definition in Cultural Resources Ordinance and Cultural Resources Guidelines



Background

Policy 7.5.1.1 Provision E

E. *Project review guidelines for development projects*

- **Guidelines for Cultural Resource Studies adopted 8/17/99**
(See Exhibit B)
 - Discretionary land use projects require CEQA compliance
 - Regulations and standards consistent with State Historic Preservation Office (SHPO)
 - Attachment 2: *Archaeological Resources Management Reports (ARMR): Recommended Contents and Format February 1990*
 - California Office of Historic Preservation considering updating this document



Background

Policy 7.5.1.1 Provision F

F. *Cultural resources sensitivity map*

- No state requirement that local jurisdictions have a cultural resources sensitivity map
- County review process for discretionary projects requires record search for archaeological resources
 - If search identifies need for field survey, a survey shall be required and meet “Guidelines for Cultural Resource Studies”
 - Process consistent with GP Policy 7.5.1.3 which requires cultural resource studies conducted prior to approval of discretionary projects



Background





Policy 7.5.1.1 Provision F (con't)

- **County completed cultural resources sensitivity maps for some specific areas of the county**
 - More than 1,300 prehistoric and historic cultural resources documented as of 2002
 - 79 other resources determined eligible for National Register of Historic Places and California Register of Historic Resources (not yet formally listed)
 - Development of base map would require substantial production resources (either staff or contracted)
- **Revising previously completed cultural sensitivity maps using latest GIS mapping technology**
 - Extremely costly and labor-intensive
 - May require on-site surveys of privately-owned parcels



Background

Policy 7.5.1.1 Summary

- Policy 7.5.1.1(A)  Implemented
- Policies 7.5.1.1(B), (C) and (D)  Address and incorporate into Cultural Resources Ordinance
- Policy 7.5.1.1(E)  Update for consistency with current state law and related regulation
- Policy 7.5.1.1(F)  Requires Board direction on whether cultural resources sensitivity map should be completed (*concurrently with Cultural Resources Guidelines update or under separate work effort*)



Background

Related General Plan Policies

- **Policy 7.5.1.2 – Requires reports/maps identifying specific locations of archaeological or historical sites kept confidential**
 - Confidentiality requirement intended to protect sites from unauthorized disturbances
 - County maintains confidential records of cultural resources identified in studies conducted prior to approval of discretionary projects



Background

Related General Plan Policies

- **Policy 7.5.1.5** - *“Cultural Resources Preservation Commission shall be formed to aid in the protection and preservation of the County’s important cultural resources.”*
 - **1996** – Adopted General Plan included this policy
 - **1998** – Board adopted Ordinance No. 4488 establishing Cultural Resources Preservation Commission (*See Exhibit D*)
 - **2002** – Board established Cemetery Advisory Committee (active and meets regularly)
 - **2003** – Board disbanded Cultural Resources Preservation Commission by adoption of Ordinance No. 4621 superseding Ordinance No. 4488 (*See Exhibit E*)



Background

County Public Notification Ordinance

- **September 2015** – Board adopted revised Ordinance No. 5026 to expand public notification of public hearings for land development applications; expanded mailed notices for all discretionary projects:
 - **300 – 999 lots:** from 500 feet to 1,000 feet from project parcel(s) boundaries
 - **1,000 lots or more:** from half-mile to one-mile; requires physically posting notice onsite
 - one-mile distribution boundary also required for Environmental Impact Reports (EIRs)



Background

Other Related Policies & Implementation Measures

- General Plan identifies 4 policies and 3 implementation measures specifically related to development of cultural resource ordinance (*See Exhibit A*)

Policies	Implementation Measures
<input checked="" type="checkbox"/> 7.5.1.3	<input checked="" type="checkbox"/> CO-R
<input checked="" type="checkbox"/> 7.5.1.6	<input checked="" type="checkbox"/> LU-C
<input checked="" type="checkbox"/> 2.2.3.1	<input type="checkbox"/> CO-Q* (Not Implemented)
<input checked="" type="checkbox"/> 9.3.4.1	

***CO-Q:** Develop and adopt a Cultural Resources Preservation Ordinance



Background

Initial Outreach Efforts to Date

- **June/July 2016** – staff reached out to El Dorado County Historical Museum Director, El Dorado County Historical Society, and County Cemetery Advisory Committee
 - Status on development of County Cultural Resources Ordinance
 - Input on suggested revisions to Cultural Resources Guidelines and General Plan
- Staff will continue to work with these groups and other stakeholders (including Tribes) as Ordinance development process moves forward





Comparison of Northern CA Rural Counties



Background

Comparison of Northern CA Counties

- 14 other rural counties in Northern CA were contacted:
 - 8 counties have related general plan policies but have not implemented an ordinance
 - 3 counties do not have any related general plan policies
 - 3 counties have adopted/codified ordinances:
 - **Napa** - Landmark Preservation Ordinance
 - **Placer** - Cultural and Historical Resources Preservation Ordinance
 - **Tuolumne** - Cultural Resources Ordinance

(See Exhibits J & K)



Comparison of Napa, Placer & Tuolumne Counties

EL DORADO COUNTY	Napa	Placer	Tuolumne
Proposed Ordinance Provisions	Landmark Preservation Ordinance	Cultural & Historic Resources Preservation Ordinance	Cultural Resources Ordinance
1. Native American Notification	No	Yes	Yes
2. Study Thresholds	No	No	No
3. Identification of appropriate buffers	No	No	No
4. Definition	Yes	Yes	Yes
5. Project Review Guidelines	Yes	Yes	Yes
6. Cultural Resources Sensitivity Map	No	No	No
7. Archaeological/ Historical Sites identified on maps or reports	Inventory	Inventory	Database
8. Requirements for cultural resource studies prior to approval of discretionary projects	No	Yes	Yes



Comparison of Napa, Placer & Tuolumne Counties

EL DORADO COUNTY	Napa	Placer	Tuolumne
Proposed Ordinance Provisions	Landmark Preservation Ordinance	Cultural & Historic Resources Preservation Ordinance	Cultural Resources Ordinance
9. Cultural Resources Preservation Commission	No	Historical Advisory Board	Historic Preservation Review Commission and subcommittee: Demolition Review Committee
10. Treatment of significant cultural resources in accordance with CEQA	Yes	Yes	Yes
11. Incentives to encourage indoor/outdoor art	No	No	No



Staff Recommendation

1. Prepare Ordinance pursuant to General Plan Policy 7.5.1.1

- Identify related General Plan policies, implementation measures, applicability, definitions, public noticing, and reporting requirements.

2. Update Guidelines for Cultural Resource Studies

- Reflect changes in CEQA and related federal, state and local statutes
- Include County public noticing procedures
- Updates to Archaeological Resources Management Reports (ARMR)
- Revisions would address General Plan Policies:
 - 7.5.1.1.B (100-foot development setback)
 - 7.5.1.1.C (identification of appropriate buffers)
 - 7.5.1.1.D (definition of cultural resources)



Staff Recommendation

3. Remove Policy 7.5.1.5 (Option A)

Policy **7.5.1.5** A Cultural Resources Preservation Commission shall be formed to aid in the protection and preservation of the County's important cultural resources. The Commission's duties shall include, but are not limited to:

- A. Assisting in the formulation of policies for the identification, treatment, and protection of cultural resources (including historic cemeteries) and the curation of any artifacts collected during field collection/excavation;
- B. Assisting in preparation of a cultural resources inventory (to include prehistoric sites and historic sites and structures of local importance);
- C. Reviewing all projects with identified cultural resources and making recommendations on appropriate forms of protection and mitigation; and
- D. Reviewing sites for possible inclusion in the National Register of Historic Places, California Register, and other State and local lists of cultural properties.

The County shall request to become a Certified Local Government (CLG) through the State Office of Historic Preservation. Certification would qualify the County for grants to aid in historic preservation projects. The Cultural Resources Preservation Commission could serve as the Commission required for the CLG program.

- Cultural Resources Preservation Commission disbanded by the Board in 2003
- Duties of the Commission will be achieved by implementing a Cultural Resources Ordinance and updating the Cultural Resources Guidelines



Staff Recommendation

3. Revise Policy 7.5.1.5 (Option B) - If the Board desires the County become a Certified Local Government (CLG), revise Commission's duties to be consistent with state requirements (*See Exhibit L*)

Policy 7.5.1.5 A Cultural Resources Preservation Commission shall be formed to aid in the protection and preservation of the County's important cultural resources. The Commission's duties shall include, but are not limited to:

- A. Assisting in the formulation of policies for the identification, treatment, and protection of cultural resources (including historic cemeteries) and the curation of any artifacts collected during field collection/excavation;
- B. Assisting in preparation of a cultural resources inventory (to include prehistoric sites and historic sites and structures of local importance);
- C. Reviewing all projects with identified cultural resources and making recommendations on appropriate forms of protection and mitigation; and
- D. Reviewing sites for possible inclusion in the National Register of Historic Places, California Register, and other State and local lists of cultural properties.

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- Primary benefit of becoming a CLG is opportunity to apply for and receive grant funding to aid local historic preservation programs
- In 2015-16, five cities received \$167,000 total in grant awards - **\$33,400 average per applicant**

66 Total CLGs in CA - Only 6 counties (Monterey, San Diego, Santa Clara, Santa Cruz, Tuolumne, and Ventura)



Next Steps

1. Present Planning Commission with informational item summarizing this presentation and Board's direction
2. Prepare draft Resolution of Intention, preliminary draft ordinance and proposed revisions to the Cultural Resources Guidelines
3. Prepare environmental review checklist to determine level of environmental review necessary
4. Return to Board with public review draft of proposed ordinance, proposed revisions to the Cultural Resources Guidelines, and recommendation for environmental document.

