

**El Dorado County  
Board of Supervisors, District II**

# Memo

**To:** Members of the Board of Supervisors  
**From:** Supervisor Helen Baumann, District II  
**Date:** 04/30/2007  
**Subject:** El Dorado County Oak Tree Ordinance – CEQA

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In April 2006, I asked Greg Fuz to provide a comparative analysis of the County's Oak Tree Ordinance and the requirements contained within SB 1334 (Kuehl) Oak woodlands conservation: environmental quality. This legislation was signed by the Governor on September 24, 2004.

Greg's analysis is attached for your review.

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Helen,

Attached is a quick comparison...the yellow highlighting identifies key provisions of the legislation..and the blue text represents my comments comparing the legislation to GP requirements..... the legislation is now a part of the California Environmental Quality Act..and is applicable to any CEQA documents/analyses prepared by the County.... in the case of EDC, our GP includes similar, though somewhat different requirements...compliance with the GP is addressed when projects are reviewed for consistency with the GP.... We are including a request for funding in our upcoming budget for contract assistance to begin preparation of the INRMP (focusing on the oak woodland issue)...I'm working with staff to get an RFP ready to go asap so that a consultant can be brought on board as soon as the funding is approved. Because we've been unable to fill senior planning positions, we will need to outsource this project..... I had a conversation recently with a consultant who assisted Placer County on its Placer Legacy project...that project is a similar effort...and according to him, has taken 3 years so far..to just address a portion of the county..... and its still not completed.....he suggested identifying areas most likely to be facing development pressures in the next 5 to 10 years..and designing a plan that would address mitigation for those projects..rather than initially taking on the entire County...we'll be looking at that approach, and others as the RFP is drafted.....

Greg

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4/29/2007

## **§ 21083.4. Oak woodlands conservation**

(a) For purposes of this section, "oak" means a native tree species in the genus *Quercus*, not designated as Group A or Group B commercial species pursuant to regulations adopted by the State Board of Forestry and Fire Protection pursuant to Section 4526, and that is 5 inches or more in diameter at breast height.

This is more specific than the County's definition and the threshold of 5 inches or more diameter at breast height differs from the standard in policy 7.4.5.2 in the general plan...which establishes the threshold for exempting oak tree removals from permit requirements at 6 inches diameter at breast height...or 10 inches for multi-trunk trees...

(b) As part of the determination made pursuant to Section 21080.1, a county shall determine whether a project within its jurisdiction may result in a conversion of oak woodlands that will have a significant effect on the environment. If a county determines that there may be a significant effect to oak woodlands, the county shall require one or more of the following oak woodlands mitigation alternatives to mitigate the significant effect of the conversion of oak woodlands:

(1) Conserve oak woodlands, through the use of conservation easements.

Use of conservation easements to protect woodland habitat can be allowed per policy 7.4.2.8 D... once the integrated natural resource management plan is in place to determine the appropriate locations for the areas to be protected.

(2) (A) Plant an appropriate number of trees including maintaining plantings and replacing dead or diseased trees.

~~Policy 7.4.4.4 and 7.4.5.2 provides for replanting and includes replanting ratios (1:1 in conjunction with Option A; 2:1 habitat acquisition/preservation for Option B; and inch for inch replacement per Policy 7.4.5.2)~~

(B) The requirement to maintain trees pursuant to this paragraph terminates seven years after the trees are planted.

County has not yet established a standard for long term maintenance.

(C) Mitigation pursuant to this paragraph shall not fulfill more than one-half of the mitigation requirement for the project.

The General Plan does not have a similar limit on the use of replanting to meet mitigation requirements.

(D) The requirements imposed pursuant to this paragraph also may be used to restore former oak woodlands.

The General Plan policies also provide for restoration of former oak woodlands per 7.4.2.8.

(3) Contribute funds to the Oak Woodlands Conservation Fund, as established under subdivision (a) of Section 1363 of the Fish and Game Code, for the purpose of purchasing oak woodlands conservation easements, as specified under paragraph (1) of subdivision (d) of that section and the guidelines and criteria of the Wildlife Conservation Board. A project applicant that contributes funds under this paragraph shall not receive a grant from the Oak Woodlands Conservation Fund as part of the mitigation for the project.

“Option B” in the General Plan provides for a mitigation fee for similar purposes for a local fund administered by the County or its designee(s).

(4) Other mitigation measures developed by the county.

The County General Plan calls for preparation of an Integrated Natural Resource Management Plan and an Oak Woodland Management Plan. Fees collected through implementation of Option B are intended to fund implementation of these plans.

(c) Notwithstanding subdivision (d) of Section 1363 of the Fish and Game Code, a county may use a grant awarded pursuant to the Oak Woodlands Conservation Act (Article 3.5 (commencing with Section 1330) of Chapter 4 of Division 2 of the Fish and Game Code) to prepare an oak conservation element for a general plan, an oak protection ordinance, or an oak woodlands management plan, or amendments thereto, that meets the requirements of this section.

The County may choose to pursue a grant to fund these activities as noted in this section.

(d) The following are exempt from this section:

(1) Projects undertaken pursuant to an approved Natural Community Conservation Plan or approved subarea plan within an approved Natural Community Conservation Plan that includes oaks as a covered species or that conserves oak habitat through natural community conservation preserve designation and implementation and mitigation measures that

are consistent with this section.

The County's Integrated Natural Resources Management Plan is intended to serve the same purpose as the Natural Community Conservation Plan (NCCP). Once it is implemented provided that it is drafted in a manner that meets the legal requirements for an NCCP.

(2) Affordable housing projects for lower income households, as defined pursuant to Section 50079.5 of the Health and Safety Code, that are located within an urbanized area, or within a sphere of influence as defined pursuant to Section 56076 of the Government Code.

The County General Plan does not include a similar policy; however County CEQA analyses could take this into consideration.

(3) Conversion of oak woodlands on agricultural land that includes land that is used to produce or process plant and animal products for commercial purposes.

County GP Policy 7.4.4.4 includes an exception for agricultural cultivation and related impacts on woodlands.

(4) Projects undertaken pursuant to Section 21080.5 of the Public Resources Code.

(e) (1) A lead agency that adopts, and a project that incorporates, one or more of the measures specified in this section to mitigate the significant effects to oaks and oak woodlands shall be deemed to be in compliance with this division only as it applies to effects on oaks and oak woodlands.

County GP similarly would allow either retention per county standards with 1:1 replacement for removals or payment of a mitigation fee for the purpose of acquisition of habitat, conservation easements, management/restoration, etc... once the INRMP is in place.

(2) The Legislature does not intend this section to modify requirements of this division, other than with regard to effects on oaks and oak woodlands.

(f) This section does not preclude the application of Section 21081 to a project.

(g) This section, and the regulations adopted pursuant to this section, shall not be construed as a limitation on the power of a public agency to comply with this division or any other provision of law.