

Jo: Peter Maurer

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Oak Woodlands Management Plan
Discussion – El Dorado County Agricultural Commission
Nov. 14, 2007 Agenda

VI. Oak Woodlands Management Plan – Public Review Draft, presentation by Peter Maurer, Principal Planner (*This item was continued from the October 10, 2007 meeting*)

Peter Maurer was present to give explanation of the Revised Public Review Draft of the Oak Woodland Management Plan, stating it is ready for public review and comment now through December 13, 2007 (next Planning Commission hearing). He suggested the Ag Commission consider the following two specific areas of the drafted plan that are somewhat unresolved:

1. The exemption provided in the Policy 7.4.4.4 which relates to Agricultural Cultivation, states, "The removal of native vegetation for the purposes of planting, growing and harvesting of crops or plants or the preparation of land for this purpose is exempt. Cultivation does not include the construction of buildings used on agricultural land, whether for housing, or the storage and processing of agricultural products." There has been a proposal to expand this statement to include "any type of structure or disturbance of land for Agricultural operations." It is the opinion of Development Services that if this language were to be included, it would require a General Plan Amendment, which the Commission may recommend, but under the provisions of the policy it is clear that it is "cultivation" and that is limited to the preparation of land for "crop land" - the planting of trees, vineyards or crops.
2. The Conservation Fund In-Lieu Fee (Option B) is the dollar amount for someone to pay who removes oak trees in excess of that allowed under the policy. The fee would be deposited into a fund that would be used to acquire a conservation easement off-site in lieu of retaining the trees, or planting on or off site. The major focus of the plan is to conserve and protect oak woodlands while allowing development in areas that exceed the tree removal requirements in the plan. If planting on or off site is not feasible, the appropriate fee can then be paid into a fund that will be managed by the County of El Dorado or contracted out to another agency or entity that would then acquire conservations easements on land from willing sellers. This has the potential to benefit larger agricultural land owners where there is some land that has been identified as a Priority Conservation Area (PCA) that is not in cultivation or being used as grazing land that has a mix of oak woodland and open grassland. If this is the case, then someone could supplement their income by selling their development rights through a conservation easement. This could be of benefit to the Agricultural Community. Development Services has tried to write this policy so that it conforms to the requirements of State Law which then allows the county the opportunity to apply for certain grants and other programs that would supplement the county's fee structure. There are varieties of other programs that the Wildlife Conservation Board has, in addition to the permanent conservation easement that offers some temporary leases, etc. that can be taken advantage of by the County. The plan allows the county to move forward with a reasonable program that protects the Oak Woodlands as well as allow for reasonable growth within the County.

Comments from Ag Dept. re 11/14 mtg.
for file
-Arlc 11/30

As to process, after the public comment period has closed, the comments will be taken into consideration before preparing the final draft. At this point, Development Services believes a Negative Declaration may be appropriate since the plan is implementing a conservation plan with no new identified impacts although some members of the public may still argue that not enough is being done to protect the Oak Woodlands while others may believe the plan is too stringent. The final draft will then go back to the Planning Commission with a formal recommendation to the Board of Supervisors in February with final adoption in late February or early March.

Development Services has been working on the Oak Woodlands Management Plan for approximately 1½ years, with numerous workshops. The most recent round of actions was to propose to the Board a very comprehensive plan that identified the Priority Conservation Areas in the county which are those areas that were deemed suitable for conservation easements. For management efficiency when acquiring easements, the Board would like to have fairly large tracks of land that should limit conflict. It was very critical, both as part of the lawsuit/settlement agreement and the need to have the Option B fee program in place, to move forward with the Oaks component of the Integrated Natural Resource Management Plan at this point in time.

Comments and discussion points:

- “Ag Exempt for Cultivation.” State Law that was passed shortly after the General Plan was approved that references similar language except it includes “Agricultural Production and Processing” including grazing. By using the word, “Cultivation” the OWMP is more restrictive than the State Law.
- The Interim Interpretive Guidelines adopted on November 9, 2006 and amended October 20, 2007 defined Agricultural cultivation/operation specifically by certain Ag districts or zoning. There is a substantial amount of farming in El Dorado County that goes on outside of Ag Districts and ag zoned parcels. Consideration should be given to those types of properties that are being utilized in El Dorado County but are not specifically under the proposed guidelines.
- Mr. Maurer stated that there have been a lot of internal discussions about that issue and just what the exemption should provide. He added that Agriculture is important to the county and that they are trying to determine where the priorities lie. During the General Plan hearings, it was his opinion that the focus was on the commercial producer and though there are a lot of smaller operations, the line has to be drawn somewhere. For example, if someone were to come in and say they have an Ag operation could it be two acres of orchard on an RE5 piece of land, which is a hobby orchard, or is it someone who is producing commercially? Development Services staff felt that the Ag zoning was probably the easiest way to identify ag cultivation but suggested that if the Commission wanted to make the recommendation that would draw the line somewhere else that would certainly be in their purview.
- Some provisions should be added to the OWMP so that the Development Services Director and Planning Commission could make some exceptions on some of the issues to at least offer some options that could be considered.

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- All RE parcels are not solely residential and may contain agriculture; it is very difficult to try to tie the cultivation exemption to the existing zoning. The GP Land Use Designation probably carries more weight, at this point, as far as practical application in regards to what the parcel is intended to be used for because it is more current than what has gone on with the zoning. Excluding RE from that conversation, in its entirety, without any qualifiers, is unacceptable.
- The Commission asked for further definition of Agricultural Cultivation Operations with Mr. Maurer stating that though they are constantly defining the OWMP it does not specifically say whether it is Ag land, Ag designation or Ag zoning. He said clearly, this is something that should be included in the plan and will be added as part of the public comment.
- In the Interim Interpretive Guidelines adopted November 9, 2006 and amended October 20, 2007, it specifies that Agricultural cultivation/operation is for “personal or commercial purposes”. RE zoned land currently allows Agricultural Operations in the zoning code which would suggest that RE zoned land should be included in any ag exempt language in the plan.
- Does the OWMP treat all Oaks the same i.e. such as between deciduous Oaks, shrub Oaks or Black Oaks? Five Oak Woodland habitats have been identified. Valley Oak Woodland is considered a sensitive habitat more so than the others as less than ten percent of the Oaks in the county are that type. When people refer to scrub Oak, they typically mean, the immature Live Oak. The draft plan treats all oaks the same.
- If a person wanted to take two-acres of Valley Oak Woodland and mitigate it with two acres of Live Oaks would Development Services approve of it? What would typically be required is a biological report that identifies how much oak woodland and the type that would be lost to the project. Depending on whether the option would be just to pay the fee; they would track the loss; focus the acquisition to the degree that someone mitigates on-site; a one-to-one replacement may not be required because, in some cases, there may be a mixture of different species of oaks where the project building is proposed to go could be one site and the place where they could plant on-site might be a different habitat for an oak woodland. The final requirements will ultimately be based on the specifics of the site and the biological report as to the type of replacement that will be needed. Concern was expressed that this type of latitude and interpretive element was not evident in the draft plan. The plan appears to be punitive and is solely geared towards costly mitigation, which may work in some areas and applications but not in others especially if there are no impacts to the oak woodland if one or two trees are removed.
- Referring to Objective 7.4.4., “Protect and conserve forest and woodland resources for their wildlife habitat, recreation, water production, domestic livestock grazing, production of sustainable flow of wood products, and esthetic values.” Objective 7.4.4. excludes Ag Cultivation from the requirements of the oak woodlands, however, the August 2007 draft of the EDC Oak Woodland Management Plan, Appendix G7, under “Existing Threats” the oak woodlands in the Sierra Nevada foothills include development, fragmentation, agricultural development, livestock grazing, regeneration and woodcutting. Residential development and intensive agricultural conversion, primarily to vineyards are the primary threats to oak woodlands in the Sierra Nevada’s. Concerns were expressed regarding Development Services commitment to Agriculture with the type of language used in the OWMP. Peter Maurer said

that the language as pointed out is a factual statement about the conversion of oak woodlands to vineyards, which has been identified as a threat to oak woodlands. Certain grazing activities preclude the regeneration of oak woodlands. What is stated in the OWMP is that Agricultural cultivation/operations are exempt from the policy. The Board of Supervisors has made the decision that agriculture is a preferred use and therefore, through these policies, Development Services provided the exemptions. Although the language in the appendix reads in that way, it does not necessarily mean the county is choosing oaks over agriculture.

- In round numbers, approximately 250,000 acres have been identified as oak woodlands with less than 2,500 acres of developed vineyards in El Dorado County. Vineyards and their development do not appear to be a huge threat to oak woodlands with only 1% of the analyzed acreage. Also, the total vineyard acreage includes areas that have not been determined to be oak woodlands so the net effect on oak woodlands is probably less than 1%. Fire and other applications have a much greater impact.
- It appears that when the analysis was completed years ago, it was at a time when there were huge increases in vineyard acreage development. The consultants used those increases and extrapolated a continuing drastic upswing to make their projections. A quick analysis using the last ten years of EDC crop statistics will be compiled for the next meeting. At the GP hearings, the ag industry supplied good information to the Board of Supervisors such as the "Oak Woodland Canopy Change" and "Monitoring Land Coverage Changes in California." Both documents state that vineyard development/operations do not have an impact but fire and development do have significant impacts to oak woodlands; agriculture does not even show up on any of the tables in those publications.
- For clarity concerning what defines Agricultural cultivation/operation in regards to horticulture and viticulture, operational observations are that nearby oak trees, within 100 feet, have a dramatic negative effect on the border rows. It is customary when planting a vineyard to clear additional surrounding areas because the perimeter vineyard rows become marginal, less vigorous when subjected to the effects of nearby oaks. Also, if a vineyard owner performs brushing or clearing to facilitate air drainage for frost protection, how would this be viewed by Development Services? How would roads around the vineyard perimeter used for harvesting/cultivation be interpreted? Peter Maurer replied that these were good questions that would need to be clarified in detail. His initial thoughts were that these described practices would be part of the Agricultural cultivation/operation definition.

The following public comments were received.

Bill Draper, RPF, referred to the Interim Interpretive Guideline. The opening objective of Policy 7.4.4. relates to protecting and conserving forest and woodland resources and yet, timberland is not included in the exemption for cultivation - it just says "agriculture." It seems like a distinction is being made, even though timberland and timber production is agriculture. That needs a specific inclusion which would mean a General Plan Amendment if we can not define Agriculture as including timber. Also, Mr. Draper suggested that the Table on page 2 of the OWMP needs some clarification. It refers to percent of existing canopy cover and then the canopy cover to be retained. If a parcel is 80% to 100% canopy cover would it only need to retain 60% without having to plant or mitigate one-for-one? At 59%, would a one-for-one planting be required? If the canopy cover is reduced by 20 to 40% then is anything required?

Peter Maurer explained that the General Plan Policy included that Table which identifies the amount of oaks that can be removed as far as the development of a property. So the more oaks a person has on their property, the more you are allowed to remove without being in conflict with the policy. But if there are just a few trees on the property, the intent of the policy is to not impact the oak trees with the project. For clarification, if a site contains 100% oaks, one would need to remove some trees to have reasonable use of the property. This specific Table which was also part of the 1996 General Plan, identifies how much oak woodland may be removed for a development project before an owner receives a higher level of review.

Mr. Draper stated that with that explanation, the plan may work well with the comments regarding the Fire Safe Plan for existing structures. The county is requiring fire safe plans on all new development and yet there is no provision to make those new developments fire-safe without incurring some sort of penalty. But with this Table applicants may be able to maneuver through the process without incurring high mitigation costs.

The Commission decided on two tentative dates for the Special Meeting to discuss the OWMP – Tuesday, November 27th or Thursday, November 29th at 5:30 pm.

