



# 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
  - Outreach Efforts to Date
- **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



Planning Commission,  
11/10/2016

Cultural Resources Ordinance Public Workshop

# 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:

- <i>improvements</i>	- <i>features</i>	- <i>places</i>
- <i>buildings</i>	- <i>sites</i>	- <i>areas</i>
- <i>structures</i>	- <i>scenic areas</i>	- <i>landscapes</i>
- <i>signs</i>	- <i>views and vistas</i>	- <i>trees</i>

- 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"/> <b>CO-Q* (Not Implemented)</b>
<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



Planning Commission,  
11/10/2016

Cultural Resources Ordinance Public Workshop

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



# Comparison of Napa, Placer & Tuolumne Counties

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

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.

- 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)



Planning Commission,  
11/10/2016

Cultural Resources Ordinance Public Workshop

25

# 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.





# Planning Commission Discussion



Planning Commission,  
11/10/2016

Cultural Resources Ordinance Public Workshop

## Board Direction from 8/16/2016

- 1) Prepare a Cultural Resources Ordinance pursuant to General Plan Policy 7.5.1.1
- 2) Substantially update the 1999 Guidelines for Cultural Resource Studies
- 3) Explore options, which may include amendments to General Plan Policy 7.5.1.5, of how duties of Cultural Resources Preservation Commission would be handled if the Commission was not reinstated

The Board also asked for more information about the State Office of Historic Preservation's Certified Local Government (CLG) Program



# Public Outreach Following 8/16/16 Board Workshop

- **Cemetery Advisory Committee** – attended Aug. 24 & Sep. 28 meetings; received comments Nov. 4
- **Historical Society** – attended Oct. 11 meeting; received comments Nov. 3
- **Direct mailing to 14 CA Native American tribal contacts** – met Nov. 2 with two reps for El Dorado Miwok and conference call with rep for United Auburn Indian Community
- **Email to 24 consultants** with cultural resources expertise; received comments from 3 consultants
- **Historic Preservation Workshop Oct. 21** by State Office of Historic Preservation – 2 staff attended





# Certified Local Government (CLG) Program

## General Plan Policy 7.5.1.5

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.

- Certification would qualify County to apply for CLG grants to aid preservation projects
- Requires adoption of historic preservation plan (or historic preservation element of the General Plan) prior to or upon applying for a CLG grant
- Requires adoption of local historic preservation ordinance
- CLG requires establishment of Historic Preservation Review Commission; minimum membership of 5 individuals with interest, competence or knowledge in historic preservation



# Other CLG Program Requirements

- Enforce appropriate state/local laws and regulations for designation and protection of historic properties
- Maintain system for survey and inventory of historic properties
- Provide for adequate public participation in local historic preservation program
- Satisfactorily perform responsibilities delegated to the CLG by the state
- Establish local procedures for National Register of Historic Places nomination process consistent with NHPA requirement

*(See Legistar File 16-0660, Attachment A, Exhibit L for complete list of CLG requirements)*



# Benefits of Being a CLG

- Opportunity to apply for and receive CLG grants to aid local historic preservation programs
  - Total CLG funding available annually is about \$150K; grant awards range from \$2,500 to \$40K
- Access to a CLG listserv hosted by OHP
  - Communication tool for OHP to share information (e.g., training, publications, grants, technical assistance) and for members to exchange suggestions or questions
- Access to OHP resources including training



# Survey of California CLG Counties

- 67 Total CLGs, **6 are Counties** (Monterey, Santa Clara, Santa Cruz, San Diego, Tuolumne and Ventura)
- Minimum staff time required to complete certification process (takes about 3 months)
- Staff time needed to apply for/administer grants
- CLG grants require matching funds/in-kind (1 to 1 ratio)
- Commission required to meet 4 times/year
- State-mandated filing of detailed annual report
- General Fund used for staff support (0.5 – 1 FTE)



# Survey of California CLG Counties

- **Commission's role varies by County; Functions include:**
  - Review all permits (both major ministerial and discretionary that might affect historic resources)
  - Review historic/cultural resources considered for historic designation
  - Approving body for History Preservation Plans
  - Advisory to Planning Director, Planning Commission and Board of Supervisors
- **Commission Composition / Meeting Frequency**
  - Four counties have 7 members, one has 5 and one has 9
  - Members include: historian, landscape/historic architect, archaeologist, Native American, cultural expert, attorney
  - Two counties meet quarterly, three meet monthly, and one meets twice a month
- **Commission Recommendations Process Varies**



# Cultural Resource Preservation Commission Duties included in General Plan Policy 7.5.1.5

- Separate board-appointed commission not required to accomplish duties included in Policy 7.5.1.5 (***unless the County becomes a CLG***)

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.



# Cultural Resource Preservation Commission Duties

- 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);
- These duties can be accomplished collectively with County Development Services staff, Historical Museum, Historical Society, Cemetery Advisory Committee, and GIS mapping support from County Surveyor's Office



# Cultural Resource Preservation Commission Duties

- 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.

- **(C)** is currently being done by County's discretionary project review process
- **(D)** can be accomplished collectively with Historical Museum and Historical Society





# Planning Commission Items for Discussion

- Discuss whether County should request becoming a Certified Local Government (CLG)
- If “yes” to becoming a CLG, discuss whether to amend General Plan Policy 7.5.1.5 to revise Cultural Resources Preservation Commission’s duties for consistency with the state’s CLG program requirements (*listed on Exhibit L of Attachment A to Legistar File 16-0660*)

