



COMMUNITY DEVELOPMENT AGENCY

LONG RANGE PLANNING

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MEMORANDUM

Date: November 10, 2016
To: El Dorado County Planning Commission
From: Anne Novotny, Senior Planner
Subject: **Development of a Cultural Resources Ordinance**

PURPOSE

The purpose of this memo is to:

1. Present the Planning Commission with a summary of the Cultural Resources Ordinance public workshop with the Board of Supervisors (Board) on August 16, 2016;
2. Review the Board's direction to staff regarding development of a Cultural Resources Ordinance and updating the Guidelines for Cultural Resources Studies approved by the Board on August 17, 1999;
3. Discuss options that may include proposed amendments to General Plan Policy 7.5.1.5; for the Board to consider; and
4. Review next steps for preparation of a Cultural Resources Ordinance and updating the Guidelines for Cultural Resources Studies.

BACKGROUND

Board of Supervisors Cultural Resources Ordinance Public Workshop August 16, 2016

On August 16, 2016, the Board held a public workshop regarding development of a Cultural Resources Ordinance ([8/16/2016 Agenda](#), Item No. 26, (Legistar File No. [16-0660](#), Attachment A [Staff memo] and Attachment B [Presentation]). The workshop included the following:

- Background and framework for the development of a Cultural Resources Ordinance;
- Comparison of General Plan Policy 7.5.1.1 Ordinance Provisions with ordinances and policies of other Northern California rural counties;
- Staff recommendation; and
- Next Steps.

Staff Recommendation the Board Considered at the Public Workshop

At the workshop, staff recommended the Board direct staff to complete the following items:

1. Prepare Cultural Resources Ordinance pursuant to General Plan Policy 7.5.1.1

Ordinance would include (but not be limited to) identification of related General Plan policies, implementation measures, applicability, definitions, public noticing, and reporting requirements.

Board Guidance: Directed staff to proceed with preparing a Cultural Resources Ordinance.

2. Update Guidelines for Cultural Resource Studies (August 1999)

The update would include (but not be limited to) compliance with changes in the California Environmental Quality Act (CEQA) and related federal, state and local statutes, include the County's public noticing procedures, and updates to the California Office of Historic Preservation (OHP)'s Archaeological Resources Management Reports (ARMR): Recommended Contents and Format, February 1990. Revisions to the Guidelines would also address General Plan Policies 7.5.1.1.B (100-foot development setback), 7.5.1.1.C (identification of appropriate buffers) and 7.5.1.1.D (definition of cultural resources).

Board Guidance: Directed staff to update the Guidelines for Cultural Resources Studies.

3. Proposed Amendments to General Plan Policy 7.5.1.5

A. Option A – Remove Policy 7.5.1.5

This policy called for the formation of a Cultural Resources Preservation Commission. The Commission was established in 1998 by the Board (Ordinance No. 4488). The Board disbanded the Commission in 2003 (Ordinance No. 4621). The duties of the Commission can be achieved by implementing a Cultural Resources Ordinance, updating the Cultural Resources Guidelines, and with assistance from the County's Development Services staff, Historical Museum, Historical Society, Cemetery Advisory Committee, and Surveyor's Office (GIS mapping support).

B. Option B – Revise Policy 7.5.1.5

This policy also calls for the County to 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. One of the requirements of the CLG program is the establishment of a qualified historic preservation review commission. If the Board desires the County become a CLG, staff recommends revising the Commission's duties as stated in Policy 7.5.1.5 (A-D) to be consistent with the state's requirements for local governments to be certified to participate in the CLG program.

These requirements are included in Legistar File [16-0660](#), Attachment A [Staff memo], Exhibit L.

Board Guidance: Directed staff to explore options which may include amendments to General Plan Policy 7.5.1.5, formation of a Cultural Resources Preservation Commission, which was disbanded by the Board of Supervisors on January 28, 2003, should the County become a CLG.

Next Steps

At the conclusion of the public workshop, staff presented the Board with the following next steps in the process of developing a Cultural Resources Ordinance:

- 1) Present the Planning Commission with an informational item summarizing this presentation and the Board's direction;
- 2) Prepare a draft Resolution of Intention, preliminary draft ordinance and proposed revisions to the Cultural Resources Guidelines;
- 3) Prepare an environmental review checklist to determine the level of environmental review necessary; and
- 4) Return to the Board with:
 - a. A public review draft of a proposed ordinance;
 - b. Proposed revisions to the guidelines; and
 - c. Recommendation for (the required) environmental document.

Public Outreach Following August 16, 2016 Board Workshop

Staff met with the Cemetery Advisory Committee on August 24 and September 28, 2016 and the Historical Society on October 11, 2016 to receive comments on suggested revisions to the 1999 Guidelines for Cultural Resources Studies. Staff also conducted a direct mailing to California Native American tribes with representation in El Dorado County also seeking their comments on suggested revisions to the 1999 guidelines. An email was also sent to a list of consultants that have staff specializing in cultural resources. The requested deadline to receive comments was November 1, 2016.

CERTIFIED LOCAL GOVERNMENT (CLG) PROGRAM

Summary of CLG Program

Policy 7.5.1.5 includes the requirement that the County shall request to become a Certified Local Government (CLG) through the State Office of Historic Preservation (SHPO). Certification would qualify the County for CLG grants to aid historic preservation projects. One of the requirements to be a CLG is the establishment of an historic preservation review commission by

local ordinance. The commission shall include a minimum membership of five individuals with all members having demonstrated interest, competence or knowledge in historic preservation; and at least two Commission members are encouraged to be appointed from among professionals in various disciplines related to historic preservation such as pre-historic and historic archaeology. Other CLG requirements include: enforce appropriate state and local laws and regulations for the designation and protection of historic properties; maintain a system for the survey and inventory of historic properties; provide for public participation in the local preservation program; and satisfactorily perform responsibilities delegated to it by the state.

The primary benefit of becoming a CLG is the opportunity to apply for and receive CLG grant funding to aid local historic preservation programs. Each state is required to pass through 10 percent of its annual Historic Preservation Fund grant from the National Park Service to CLGs to fund their preservation activities. In the 2015-2016 CLG grants cycle, a total of \$167,000 was awarded to five cities (\$33,400 average per applicant). Currently (as of August 2016), there are 67 CLGs of which only 6 are counties (Monterey, San Diego, Santa Clara, Santa Cruz, Tuolumne, and Ventura). Based on previous appropriations, OHP anticipates \$150,000, at a minimum, will be available for the 2016-2017 funding cycle to fund grants in amounts from \$2,500 to \$40,000.

Another benefit of being a CLG is access to a CLG listserv hosted by OHP. Membership is limited to SHPO staff, CLG coordinators, members of CLG boards/commission, and other interested staff in the CLG. OHP uses the listserv to forward information about training opportunities, publications, grants, and a variety of technical assistance to CLGs. The listserv is also a communication tool for members to exchange suggestions or questions to other members of the listserv.

Survey of California CLG Counties

Staff conducted a phone survey of the six CLG counties which is summarized below.

Certification: Santa Cruz (1986), San Diego (1989), Tuolumne and Venture (1991), Monterey (1997), and Santa Clara (2008).

Process: Monterey noted that it took about three months to become certified after the county's Historic Preservation Ordinance was completed; minimal staff time required completing the certification process.

Benefits: Ability to apply for CLG grants; membership on CLG listserv; access to OHP resources/building relationship with OHP staff; training available from OHP.

Disadvantages/Challenges: Staff time needed to apply for, and administer any grants received; matching funds/in-kind required (1 to 1 ratio, e.g. \$25,000 grant requires \$25,000 matching funds or equivalent in-kind contribution); state-mandated filing of detailed annual report; state-mandated annual OHP training for historic review board members; Historic preservation review commission required to meet four times per year; General Fund used for staff support to prepare/conduct Commission meetings and prepare annual report.

CLG Grant Funding Received: Monterey received approximately 10 grants (one grant per year) at \$25,000 each for a total of \$250,000. San Diego received two grants for a total of \$43,000. Ventura received one grant for \$25,000. Santa Cruz received one grant. Santa Clara applied but did not receive any grants in 2014 and 2015. Tuolumne has not applied for any grants due to budget and staff constraints.

Historic Preservation Review Commission Role: The role of the Commission varies by county; Functions provided include: reviews all permits (both major ministerial and discretionary) that might affect historic buildings or historic/cultural resources; reviews historic and cultural resources being considered for historic designations; approving body for Historic Preservation Plans; advisory to Planning Director, Planning Commission, and Board of Supervisors.

Commission Composition/Meeting Frequency: Four counties have seven members, one has the minimum of five members, and one has nine seats; membership follows the state requirements for member qualifications; members include: historian, landscape/historic architect, archaeologist, Native American, cultural expert, and attorney; two counties meet quarterly, three meet monthly, and one meets twice a month.

Commission's Recommendations: Each county processes commission recommendations differently. Monterey's commission recommendations are forwarded to the Planning Commission and Board of Supervisors. San Diego's commission serves as advisory body to the Planning Director, Planning Commission and Board of Supervisors. Santa Clara's commission recommendations on design review applications are forwarded to the Zoning Administrator and recommendations on designated or potential designated resources are forwarded to the Board of Supervisors. Santa Cruz's commission approves Historic Preservation Plans and reviews ministerial projects on an as-needed basis. Tuolumne's commission recommendations are typically incorporated into discretionary project approvals, but the commission typically does not review ministerial projects. Ventura reviews discretionary projects for compliance with CEQA and makes advisory recommendations to the Lead Agency, and also recommends approval or denial of requests for alterations to specific designated landmarks or historic sites.

Cultural/Historic Resource Preservation Guidelines: Monterey has guidelines for evaluation of property/resource significance, and guidelines for consultants that review historic resources for purposes of CEQA. San Diego has Significance Guidelines for Archaeological and Historic Resources. Santa Cruz County Code has a chapter that contains criteria and findings for historic resources. Santa Clara, Tuolumne and Ventura follow CEQA and OHP guidelines. Tuolumne has guidelines for when studies are required for discretionary development.

Cultural Resource Preservation Commission Duties included in General Plan Policy 7.5.1.5

- 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 protections and mitigation
- D. Reviewing sites for possible inclusion in the National Register of Historic Places, California Register, and other State and local lists of cultural properties.

A separate, formal board-appointed commission is not required to accomplish the duties listed above, unless the County becomes a CLG. Provisions A and B can be accomplished collectively with the County's Development Services staff, Historical Museum, Historical Society, and Cemetery Advisory Committee, with the Historical Museum as the lead on Provision B and GIS mapping support from the County Surveyor's Office. Provision C is being done as part of the County's discretionary project review process. Provision D can be accomplished collectively with the County Historical Museum and Historical Society.

PLANNING COMMISSION DISCUSSION/RECOMMENDATION TO THE BOARD

1. Comments on updates to the 1999 Guidelines for Cultural Resource Studies
2. Recommendation on whether the County should pursue becoming a Certified Local Government, thereby amending General Plan Policy 7.5.1.5.

Contact

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