

PROCESS APPROACHES FOR THE OAK WOODLAND MANAGEMENT PLAN

The Board of Supervisors (Board) gave County staff direction to return on November 17, 2014 with a scope of work and cost estimate for preparation of an EIR that would evaluate the implementation of the current (2008) Oak Woodland Management Plan (OWMP). In particular, the Board is interested in timely application of the in-lieu fee for loss of oak woodlands originally envisioned in the General Plan (GP), identified as Option B in Policy 7.4.4.4. The in-lieu fee program was challenged and the court determined that the environmental document (Negative Declaration) was inadequate, thereby disallowing use of Option B and making oak canopy preservation and replacement the only option for oak woodland mitigation (Option A in GP Policy 7.4.4.4).

The Board directed staff to proceed with Option 3 as discussed in the Options Memo (Attachment) and added a new task to complete an EIR on the OWMP. Staff has identified 3 process approaches to meet the Board goal of OWMP implementation, particularly a timely application of the in-lieu fee identified as Option B in Policy 7.4.4.4. Each of these processes will require preparation of an Environmental Impact Report (EIR) and require various Board actions. The discussion below outlines the approaches along with some considerations for each. The final page of this document (Summary Table) includes a summary chart of what has been discussed below. A general discussion on the environmental review and EIR process precedes the approaches.

Environmental Review

Environmental review of the County's actions in accordance with the California Environmental Quality Act (CEQA) would be required for any of the approaches. The intent of the environmental review is to identify, evaluate, and mitigate the adverse environmental effects that may result from implementation of GP policies and the OWMP. The EIR does not debate the merits of the proposed project (policies and/or OWMP) and will not include a recommendation of approval or denial. It is an informational document intended to inform the Board's decisions through the policy-making process.

The GP EIR concluded that impacts to biological resources would be significant and unavoidable; and it is expected that the EIR for the OWMP would reach similar conclusions. When there is a potential for significant environmental impacts, CEQA requires preparation of an EIR. When significant and unavoidable impacts are identified, CEQA also requires adoption of a Statement of Overriding Considerations, which is a written statement of the reasons that support the Board's action (in this case to adopt the OWMP) despite the significant and unavoidable impacts. CEQA allows, and in fact requires, that the Board balance the project's environmental consequences with consideration of other project matters. The Statement of Overriding Considerations documents this balancing, and must demonstrate that there are specific economic, legal, social, technological, or other benefits that outweigh the project's unavoidable adverse environmental effects.

Attachment 7B

Biological Policy Update: Additional Task for OWMP
November 6, 2014

Process Approaches**Approach A - Mitigation/Conservation Option with limited public outreach**

This approach is similar to the Mitigation/Conservation option identified for updating all the biological resources policies that the Board preferred at the October 7, 2014 meeting. In recognition of the Board's desire to expedite completion of this process, this approach would potentially limit public input to focused Planning Commission and Board meetings. The TGPA/ZOU process has used this approach to receive public comment rather than the public outreach program currently identified for input on revisions to the policies. The Board would make decisions on specific issues related to the biological resources. This would be followed by a detailed Resolution of Intent and draft GP policy language would be prepared based on the ROI and specific direction provided in the public meetings. Following acceptance of the draft biological resources policies an EIR would be completed.

General Plan Policy Consideration Examples:

- Definition of clear and consistent set of terms and conditions to prepare a site-specific resource inventory for development projects that address potential impacts to biological resources.
- With removal of the Integrated Natural Resource Management Plan (INRMP) from the policies, some combination of habitat inventory, wildlife movement corridor and road undercrossing guidelines, mitigation assistance, and/or habitat acquisition, management, monitoring, and funding would need to be considered.
- Evaluating the Important Biological Corridor (IBC) overlay provisions as they are, streamlining them to various degrees, and/or eliminating the IBC overlay may include requirements that projects not conflict with the IBC overlay; establishment of standards for minimum parcel size, contiguous areas, and minimum corridor widths; and/or restrictions on barriers to wildlife movement.
- Oak woodland-related policy revisions to include language ensuring consistency between policies and potential consolidation of policies. Development of a two-tiered approach to oak tree/woodland mitigation, and/or completion of an updated OWMP.

Estimated Consultant Cost and Timeframe: This approach would be covered in the County's current contract with Dudek, including the EIR. It would require a change to the scope of work to revise the Public Outreach task. No additional funds are anticipated to make this revision. The estimated timeframe for completion of this process approach is approximately 18 months – 24 months depending on varied level of and type of public outreach and timely decisions made by the Board at key scheduled milestones.

Approach B - Current Oak Woodland Management Plan

This approach would involve preparing an EIR to evaluate the existing 2008 OWMP. To complete this approach, minor edits/modifications to the existing OWMP and GP

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policies would be necessary. Such edits would include clarifying language in the OWMP and GP to maintain consistent wording and terminology between the applicable policies. This approach assumes that the INRMP and other biological resource policies and implementation measures in the GP would remain unchanged. This approach would require that a simple Resolution of Intent (ROI) be prepared and adopted by the Board. The ROI would list the minor OWMP and GP edits and provide direction to staff for proceeding with preparation of the EIR and associated OWMP and GP edits.

General Plan Policy Revision Examples:

- Potential revision to Policies 7.4.4.4 (Option B) and 7.4.5.2 would clarify that oak mitigation funds would be deposited in an oak woodland conservation fund
- Distinguish between oak woodlands and other important habitat (such as those for rare, threatened, or endangered species)

OWMP Content Considerations:

- Decisions already made in formulating the OWMP would remain, such as: measuring impacts and mitigation based on oak canopy rather than oak woodland extents, and allowing for exemptions (for agricultural, fire safety, public road/utility projects) and canopy retention reductions (affordable housing projects).
- The current in-lieu fee structure and per-acre amount (\$4,700/acre) may require additional analysis and consideration of current market data to ensure that in-lieu fees are adequate to ensure the effectiveness of the OWMP.
- The OWMP implementing ordinance, with minor modifications, would need to be adopted by the Board upon completion of the OWMP and its EIR.
- All data used and created during preparation of the OWMP would be retained. For example, oak woodland distribution data, Important Biological Corridors (IBCs), and Priority Conservation Areas (PCAs) identified in the OWMP would remain unchanged.

EIR Considerations: The OWMP specifically does not address habitat connectivity, relying on other GP Implementation Measures (particularly the INRMP) to address this issue. While this approach assumes those programs would continue to be implemented, because they have not yet been fully implemented the EIR would not be able to rely on them to mitigate impacts. It is expected that the OWMP EIR would find significant and unavoidable impacts to biological resources (e.g. habitat fragmentation, impacts to wildlife movement) and the Board would be required to adopt a Statement of Overriding Considerations, making the findings described above.

Estimated Consultant Cost and Timeframe: The estimated timeframe for completion of this process approach is 12 months with an estimated cost of \$140,000 - \$170,000.

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Approach C - Updated Oak Woodland Management Plan

This approach would involve separating the OWMP from other biological resource policies, specifically the INRMP. Under this approach, edits/modifications to the OWMP and GP policies would be necessary to create a stand-alone OWMP that addresses mitigation and conservation requirements for oak woodland impacts. Revisions to the in-lieu fee language (Option B) would also be made to identify a specific oak woodland conservation fund. An ROI would be prepared and adopted by the Board directing staff to proceed with this approach and prepare the updated OWMP, EIR, and associated GP edits.

General Plan Policy Revision Examples:

- Stand-alone oak woodland policies that do not rely on preparation of an INRMP.
- The GP policies would be edited to identify an oak woodland-specific conservation fund that would function separately from any funds related to the INRMP.

OWMP Content Considerations:

- The OWMP would be modified to remove references to the INRMP, thereby making it a stand-alone document.
- Confirm measurement of oak impacts by canopy versus woodland extent.
- The in-lieu fee structure and per-acre amount (\$4,700/acre) may require additional analysis and consideration of current market data to ensure that in-lieu fees are adequate to ensure the effectiveness of the OWMP.
- Cost of lands along the Highway 50 corridor would be considered as a part of overall oak woodland value calculations.
- In-lieu fees would be placed in an Oak Conservation Fund to be spent only on projects related to oak conservation, protection, or restoration.
- Consider addressing habitat connectivity and wildlife movement.
- The OWMP implementing ordinance would be modified and analyzed during preparation of the EIR and adopted by the Board upon completion of the EIR.
- Oak woodland and conservation area data sets (Priority Conservation Areas and IBCs) may be updated to reflect current conditions.

EIR considerations: The EIR would evaluate implementation of the OWMP as an independent County program (not tied to the INRMP). Depending on the edits made to the OWMP, the document could provide for greater protection of oak woodlands than the GP EIR evaluated and could provide additional mitigation for issues such as habitat connectivity and wildlife movement. However, it is still possible that the OWMP EIR would identify significant and unavoidable impacts, requiring a Statement of Overriding Considerations, as described above.

Estimated Consultant Cost and Timeframe: The estimated timeframe for completion of this process approach is 15 months with an estimated cost of \$160,000 - \$185,000.

Summary Table: Oak Woodland Management Plan Approaches

	APPROACH A	APPROACH B	APPROACH C
	Task: Biological Policy Update		
	(Including OWMP)		
	Mitigation/Conservation Plan (Option 3)	Current OWMP	Updated OWMP
Summary	Mitigation/Conservation Approach	EIR prepared on existing OWMP with minor revisions to OWP and GP Policies	OWMP separated from INRMP in GP Policies; OWMP updated
Retain Link to INRMP	No (but retain PCAs and IBCs)	Yes	No
Edits to Existing OWMP	Moderate/High	Low	Moderate/High
Revisions to General Plan Policies	Moderate/High	Low	Moderate/High
Significant and Unavoidable Impacts	Moderate/Low	High	Moderate/High
Estimated Consultant Cost	Within Existing Agreement	New Agreement: \$140,000 - \$170,000	New Agreement: \$160,000 - \$185,000
Estimated Staff Time	Moderate/High	Low	Moderate
Estimated Timeframe	18 - 24 Months (depending on varied level and type of public outreach)	12 Months	15 Months
Board Decisions	Board to make decision regarding overall mitigation/conservation approach (e.g. removing requirement for INRMP, oak woodland measurement methods, County involvement identifying, acquiring and managing conservation easements/lands, etc.)	Board would maintain consistency with previous decisions made for existing OWMP	Board would need to make some additional decisions regarding approach (e.g. oak woodland measurement method, mitigation fee revisions, etc.)

OWMP - Oak Woodland Management Plan

EIR - Environmental Impact Report

INRMP - Integrated Natural Resource Management Plan

IBC - Important Biological Corridors

PCA - Priority Conservation Areas