



COMMUNITY DEVELOPMENT SERVICES

LONG RANGE PLANNING

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Date: October 24, 2017
To: Board of Supervisors
From: Anne Novotny, Principal Planner
Subject: General Plan Biological Resources Policy Update, Oak Resources Management Plan, and Oak Resources Conservation Ordinance Final Environmental Impact Report Certification and Project Adoption

PURPOSE

The purpose of this memorandum is to provide the Board of Supervisors (Board) with final documents and information to assist with review and certification of the Final Environmental Impact Report (FEIR) and adoption of the General Plan Biological Resources Policy Update, Oak Resources Management Plan, and Oak Resources Conservation Ordinance (the "Project"). This memo is organized as follows:

- A. Summary of Board of Supervisors and Planning Commission Items from July 18, 2017 to October 10, 2017
 - B. Responses to Comments Submitted for the July 18, 2017 Board Hearing on the Project and FEIR, and Related Information
 - C. Responses to Comments Received after the Close of the July 18, 2017 Hearing
 - D. Summary of Final Project Documents for Board Adoption
 - E. Staff Recommendation for Board Action on October 24, 2017
- A. Summary of Board of Supervisors and Planning Commission Items from July 18, 2017 to October 10, 2017**

July 18, 2017 Board of Supervisors Meeting (Item 44)

On July 18, 2017, the Board held a public hearing to receive comments on the proposed Project and EIR, and to consider the Planning Commission's recommendations from April 27, 2017. After the close of the public hearing, the Board considered the Planning Commission's recommendations from April 27, 2017, as well as the comments forwarded from the Agricultural Commission on May 10, 2017, deliberated and voted to approve certain changes and additions recommended by Planning staff to the draft Oak Resources Conservation Ordinance (Ordinance) as shown in the staff report (Attachment 24A) as follows:

- 1) Incorporate proposed changes to Sections 130.39.080 and 130.39.090 as shown under Planning Commission Recommendation No. 1;
- 2) Incorporate proposed changes to Section 130.39.070 as shown under Planning Commission Recommendation No. 5;
- 3) Incorporate proposed changes to Section 130.39.060 as shown under Other Proposed Minor Changes; and
- 4) Change the word "Bi-annual" to "Biennial" in Section 130.39.090.B.

The Board also provided direction to staff to revise the Personal Use Exemption to allow removal of eight trees per parcel, or eight trees per dwelling unit per parcel. In addition, the Board approved staff's recommendation to incorporate other proposed changes (as shown on Attachment 24E).

On July 18, 2017, the Board also provided the following general direction listed below:

1. Develop metrics to measure mitigation effectiveness;
2. Return to the Board in one year after Project adoption with an assessment of the Project's implementation;
3. Also include more information about the various species of oak trees;
4. Return to the Board with a separate item regarding the Weber Creek Canyon Important Biological Corridor (IBC);
5. Provide a link to the GIS map with the complete IBC layer for the whole County that is located on the County website <http://gem.edcgov.us/ugotnet/>;
6. Return to the Board in about 90 days with a separate item that discusses tracking and reporting of existing mitigation and monitoring efforts, and how projects subject to the new oak mitigation requirements will be tracked and monitored after project adoption; and
7. Exclude Live Oaks from the definition of a Heritage Tree.

The Board's direction to staff noted above is included in the [July 18, 2017 Board Agenda Minutes](#) (Item 44).

Staff will address the Board's general direction on Items 1 through 7 above as follows:

- Items 1 and 3 will also be addressed when staff returns to the Board in one year after project adoption with the assessment of the project's implementation (Item 2).
- Item 4 will be addressed after the adoption of the General Plan Amendment to the biological resources policies as a zoning ordinance update to amend the IBC Overlay in the Weber Creek IBC to delineate the parcels located within the Weber Creek Canyon IBC. This zoning code amendment will include publicly noticed hearings with the Planning Commission and the Board of Supervisors. Notification of the public hearings will also be mailed to all the property owners of parcels located in the proposed Weber Creek Canyon IBC. (A map of the proposed Weber Creek Canyon

IBC is included in Legistar File 12-1203, Attachment 24E, p. 32). It is also available on the project webpage (under the Important Biological Corridors tab): <https://www.edcgov.us/Government/longrangeplanning/environmental/Pages/biopolicyupdate.aspx>

- Item 5 (link to GIS map with the county-wide IBC layer) is available on the County website on the project webpage (under the Important Biological Corridors tab) <https://www.edcgov.us/Government/longrangeplanning/environmental/Pages/biopolicyupdate.aspx>
- Item 6 will be brought to the Board in about 90 days after adoption of the new oak mitigation requirements.
- Item 7 – The definition of a Heritage Tree will not be modified to exclude live oaks. This change would result in reduced mitigation in that live oaks that meet the Heritage Tree criteria would no longer be mitigated at a 3:1 ratio. The environmental analysis in the EIR was at a programmatic level, and therefore did not address individual or Heritage Tree loss. Rather, the impact analysis was based on loss of oak woodlands using the California Department of Forestry and Fire Protection's (CAL FIRE) Fire Research and Assessment Program (FRAP) data. To determine the effect of excluding live oaks from the definition of Heritage Tree would require additional environmental analysis that is outside the scope of the consultant contract, and would require a contract amendment. The consultant estimated cost/timelines for an Addendum to the EIR could cost as much as \$100,000 and take up to 39 weeks to complete.

Proposed Modifications to the Project made after July 18, 2017

After the Board hearing on July 18, 2017, staff made revisions to the proposed Ordinance, based on the Board's direction, and other modifications including but not limited to: adding sections for in-lieu fee appeals; security deposit requirements for on-site oak tree/oak woodland replacement plantings; and fines and other penalties for unpermitted oak removal.

Additional modifications to the proposed General Plan Amendment and Ordinance that were not previously considered by the Commission are required to be referred back to the Commission for recommendation before final Board approval, pursuant to Sections 65356 (General Plan Amendments) and 65857 (Zoning Amendments) of the California Government Code.

Upon further review of the Board's direction to exclude Live Oaks from the Heritage Tree definition, and to modify the personal use exemption from 8 trees per parcel to 8 trees per parcel per dwelling unit, staff determined that these modifications would necessitate further environmental analysis under the California Environmental Quality Act (CEQA). Additional CEQA analysis would require the County to incur additional cost for an

amendment to the Dudek contact and staff time, further delaying the approval of the proposed Project.

September 12, 2017 Board of Supervisors Meeting (Item 27)

On September 12, 2017, staff returned to the Board with a recommendation that the Board redirect staff to remove the exclusion of Live Oaks from the Heritage Tree definition and the modification of the personal use exemption from the Project. Staff also recommended that the proposed modifications to the proposed General Plan Amendment and proposed Ordinance that were not previously considered by the Planning Commission during its hearing on April 27, 2017 be referred to the Planning Commission on September 28, 2017. The Board approved staff's recommendation and continued this matter to October 10, 2017.

September 28, 2017 Planning Commission Meeting (Item 4)

On September 28, 2017, staff presented the Planning Commission with the proposed modification to General Plan Measure CO-K and the proposed modifications to the proposed Ordinance that were made after the Commission's April 27, 2017 hearing. (See *Legistar File 17-0937, Attachments 2A and 2B*). The Planning Commission recommended approval to the Board of the proposed modification to General Plan Measure CO-K and the modifications to the proposed Ordinance with additional modifications (underlined) to Section 130.39.050(J), Exemption for Personal Use, as follows: "Removal of a native oak tree, other than a Heritage Tree or individual valley oak trees and valley oak woodlands..."

October 10, 2017 Board of Supervisors Meeting (Item 37)

On October 10, 2017, staff returned to the Board with a recommendation that this matter be continued to October 24, 2017 and to hold a limited public hearing to receive public comment only on the proposed modifications to General Plan Measure CO-K and the modifications to the proposed Ordinance that were considered by the Planning Commission on September 28, 2017. The Planning Commission's recommendation is required to be included in a public hearing notice published in at least one local newspaper of general circulation at least 10 days prior to the Board hearing (CA Government Code Sections 65090 and 65094). The Board approved staff's recommendation and continued this matter to October 24, 2017. The public hearing notice was published in the Mountain Democrat and Tahoe Tribune on October 11, 2017 (14 days prior to the October 24th Board hearing) and in the Georgetown Gazette on October 12th (13 days prior to the hearing). The public hearing notice was also posted on the County website home page under [County News and Hot Topics](#), on the Planning Services webpage under [Public Notices](#), and on the General Plan Biological Resources Policy Update [project webpage](#). On October 12, 2017, a GovDelivery email notification of the public hearing was sent to the Long Range Planning News and Updates subscription list (1,376 subscribers).

B. Response to Comments Submitted for the July 18, 2017 Board Hearing on the Project and FEIR, and Related Information

For the July 18, 2017 Board hearing on the Project and FEIR, six comment letters were submitted by four individuals, and four organizations submitted comments (California Oaks, El Dorado Senior Housing LLC, North State Building Industry Association, and the Quercus Group).

Staff has received, reviewed, and considered both written and oral comments provided during the Board hearing, and found that the issues raised were previously addressed during the procedural processing of this project. However, in light of the time that has elapsed between the inception of the project and the proposed final action, it seems appropriate to include the County's previous responses to comments, where applicable, in this memo. In addition, if any further response or clarification was deemed warranted, it is also included in this memo.

1. Oak Resources Management Plan (ORMP) Mitigation and Monitoring

1-B Issue: Two commenters reasserted their previous concerns about the success of existing mitigation and monitoring efforts for oak woodlands.

Response 1-B: This topic was discussed at both the Planning Commission public hearing on April 27, 2017 and the Board of Supervisors public hearing on July 18, 2017. The Staff Memo Supporting Documentation presented to the Board on July 18, 2017 included several examples of successful oak mitigation efforts including the El Dorado Hills Specific Plan (Serrano), a couple of discretionary projects, and the County's Department of Transportation road/bridge projects. (See Legistar File 12-1203, Attachment 24C).

The County's current mitigation and monitoring under existing Policy 7.4.4.4, Option A was addressed in several sections of the FEIR, including Chapter 2–Master Responses, Master Response 4 (ORMP Mitigation and Monitoring - Monitoring of the Oak Woodland In-Lieu Fee by the County); and Chapter 3–Comments and Responses, Section 3.4 (Individuals), Response to Comment (RTC) No. 12-11, p. 3- 437).

The County has received very few monitoring reports, as the current year 2017 is the first year for reporting for trees planted after the Interim Guidelines for General Plan Policy 7.4.4.4 (Option A) and the Biological Resources Study and Important Habitat Mitigation Program were moved for adoption by the Planning Commission on November 9, 2006. The Monitoring and Reporting Plan requires monitoring for ten years for tree plantings (15 years for acorns) and reporting at year ten for plantings and at year 15 for acorn plantings. (Refer to Biological Resources Study and Important Habitat Mitigation Program Interim Guidelines Adopted November 9, 2006, Section 2.2.3 (Monitoring and Reporting Plan). In contrast, the proposed Project would require annual monitoring and reporting (see proposed Oak Resources Conservation Ordinance, Section 130.39.100.A

(Annual Monitoring and Reporting). Specific Plans have their own mitigation requirements and are not subject to the Interim Guidelines for Policy 7.4.4.4 (Option A).

2. **Minimum Oak Retention Standards**

2-B Issue: Two commenters reasserted their previous statements that the oak retention standards of existing Policy 7.4.4.4 Option A (or similar retention requirement) should be retained as part of the Project.

Response 2-B: The comment that oak retention standards of existing Policy 7.4.4.4 Option A should be retained as part of the Project was addressed in the summary of public comments received (March 13 – April 27, 2017) presented to the Board on July 18, 2017. (See Legistar File 12-1203, Attachment 24D, RTC 10 – Incorporate Policy 7.4.4.4 Option A - Oak Retention Standards into ORMP).

The Option A retention standards were not incorporated into the proposed ORMP because the Board determined, in Decision Point 4, that an incentive-based approach to oak woodland conservation would better meet the County's overall General Plan and land use goals and objectives and the objectives of the Biological Resources Policy Update and ORMP project, as discussed in RTC No. 6-23. [Refer to FEIR Chapter 3–Comments and Responses, Section 3.4 (Individuals), RTC No. 6-23, pp. 3-234 through 3-236; also see Legistar File 12-1203, Attachment 11B, Decision Points 4 – 7].

As discussed in RTC No. 6-5 and No. 8-2, the EIR considers a reasonable range of project alternatives, as required by CEQA. The suggested alternative of adding the Option A retention standards to the proposed ORMP was not considered because it would not meet the project objectives and would not avoid any of the significant impacts of the proposed Project, as discussed in RTC 6-23. [Refer to FEIR Chapter 3–Comments and Responses, Section 3.4 (Individuals), pp. 3-219-220, 3-234-236, and 3-353-354].

The Staff Report presented to the Planning Commission on April 27, 2017 explained in great detail the struggles the County experienced with efforts to implement the biological resources policies in the 2004 General Plan. In 2006, significant staff resources were allocated to implementing General Plan Policies 7.4.4.4 (Option A), 7.4.4.5, 7.4.5.1, and 7.4.5.2. However, implementation was stymied, due to lack of clarity about how impacts and mitigation are measured. Additionally, various ambiguities and internal inconsistencies within the policies became evident during this process. To address these issues, Interim Interpretive Guidelines for Policy 7.4.4.4 (Option A) were adopted in November 2006. The County then spent the next six years trying to implement the biological resources policies without success, which brought staff to the realization that another approach was necessary to move forward. In September 2012, staff presented the Board with several options, and the Board directed staff to proceed with one of the options: to undertake a comprehensive analysis and update of all the General Plan

biological resources policies and related implementation measures, and to hire a consultant to assist the County with this effort and to prepare the related EIR. This is the Project that is being presented to the Board for adoption at this time. (See Legistar File 12-1203, Attachment 22A, Background and History section).

3. Greenhouse Gas Emissions

3-B Issue: A commenter questioned the adequacy of the EIR analysis and findings regarding greenhouse gas (GHG) emissions.

Response 3-B: The commenter's statements were previously addressed in the Draft DEIR (DEIR) Chapter 8–Greenhouse Gases; FEIR Chapter 3–Comments and Responses, Section 3.3 (Organizations), RTC No. 1-1, pp. 3-91-92; and are also addressed in the CEQA Findings of Fact, Section 14 (Findings Regarding Project Impacts and Mitigation Measures), p. 45, Impact GHG-1: Generate greenhouse gas emissions, either directly or indirectly, that may have a significant impact on the environment. [See Legistar File 12-1203, Attachment 27B, Resolution 127-2017, Exhibit A – CEQA Findings of Fact].

This commenter raised several issues which are addressed below.

Agricultural Exemption: The Board has made a policy decision that certain agricultural activities are exempt from the County's requirements for oak resource mitigation. This is a determination that is within the Board's purview when establishing policies for the County. Although the agricultural exemption could be applied to as much as 138,000 acres of land containing oak woodland, it is not expected that this exemption would result in conversion of 138,000 acres of oak woodland. It would require speculation to estimate the specific extent of oak woodland conversion that could occur under this exemption. The EIR contains analysis demonstrating that the agricultural exemption is not expected to result in substantial amounts of oak woodland conversion, based on historical data regarding agricultural activities in the County (from the annual crop reports) and the extent of oak woodland in the County (from CAL FIRE's FRAP data). Thus, the EIR includes substantial evidence supporting the expectation that the agricultural exemption would not contribute substantially to the loss of oak resources in the County or to the loss of GHG sequestration afforded by such resources.

The comment incorrectly asserts that projects requiring ministerial approvals are subject to CEQA. CEQA only applies to discretionary actions taken by a public agency.

Compliance with 2020, 2030 and 2050 GHG Reduction Targets: The commenter asserted that the EIR must demonstrate that the project includes mitigation that will be effective at achieving the State's GHG reduction targets. This comment was addressed in FEIR Chapter 3–Comments and Responses, Section 3.3 (Organizations), RTC No. 1-7, p. 3-106; RTC No. 1-9, p. 3-109; and RTC No. 1-11, p. 3-111. The EIR

evaluated whether there are any feasible mitigation measures that would substantially reduce the impact, and found none. [Refer to DEIR Chapter 8–Greenhouse Gases, p. 8-21]. The EIR demonstrates that there are no feasible mitigation measures to reduce the GHG emissions sufficient to achieve these targets and thus concludes that the impact would be significant and unavoidable.

The determination that there are no feasible mitigation measures under the proposed Project to avoid this impact reflects that the proposed Project would not directly result in any GHG emissions or loss of GHG sequestration. Rather, GHG emissions would be a result of development projects pursued as part of implementation of the General Plan. The EIR relies on growth projections for the County, which reflect the amount of development anticipated in the County through 2025 and 2035. Given the assumed amount of land development necessary to achieve those growth projections and the County's overall goals and objectives related to land use planning and the location of future development, it is not possible to avoid or substantially reduce the amount of natural land that would be converted to developed sites as part of ongoing implementation of the County's General Plan. [Refer to DEIR, Chapter 8–Greenhouse Gases, p. 8-21].

Further, the EIR does not assert that the County does not need to work towards achievement of the state's GHG reduction targets. However, it is beyond the scope of the Project to define mitigation measures that would regulate GHG emissions from land development projects. Typically, such mitigation would entail mechanisms to reduce vehicle miles traveled (VMT) and improve the energy-efficiency of the built environment. The Project proposes to modify only the biological resources portions of the General Plan Conservation and Open Space Element and to adopt the proposed Oak Resources Management Plan. This portion of the General Plan does not address any mechanisms that could lead to reductions in VMT and energy consumption. The proposed Project would support the County's defined objectives of focusing development in the Community Regions. As shown in the Alternatives analysis in the EIR, other Project alternatives would increase development pressures in the County's rural areas, which would contribute to increased VMT.

While it is proper and necessary for the County to identify ways to reduce all GHG emissions, it is beyond the scope of the Project because the Project addresses the County's regulations related to evaluation and mitigation of impacts to biological resources. It does not address the County's regulations specific to other components of future land development within the County, such as VMT and energy consumption.

Biogenic Emissions: The DEIR states that the EIR evaluates the “loss of [carbon] sequestration associated with the oak woodland impacts that would occur under the 2025 and 2035 General Plan buildout scenarios.” [Refer to DEIR, Chapter 8–Greenhouse Gases, p. 8-16]. Tables 8-4, 8-5, and 8-7 in Chapter 4–Text Changes to the Draft Environmental Impact Report, in the FEIR quantify the GHG emissions that would

result from combustion and decomposition of the vegetative materials removed from oak woodlands as a result of land development projects in the County, based on the growth projections relied upon in the EIR. Thus, the EIR has quantified the biogenic GHG emissions that would indirectly result from the project. As stated in the FEIR, the U.S. Environmental Protection Agency (EPA) defines biogenic emissions as “those that result from the combustion, harvest, digestion, fermentation, decomposition, or processing of biologically based materials, and those that occur as part of the natural carbon cycle” (EPA 2016a). These are precisely the GHG emissions disclosed in the EIR analysis. Table 8-5 in the FEIR quantifies the amount of GHG emissions associated with decomposition of landscaping materials while Table 8-7 in the FEIR quantifies the amount of GHG emissions associated with combustion. Thus the biogenic emissions are not aggregated. [Refer to FEIR Chapter 4–Text Changes to the Draft Environmental Impact Report, Table 8-4, Carbon Stock Release per Acre by Process, p. 8-19; Table 8-5, GHG Emissions from Decomposition of Landscaping Materials, p. 8-20; and Table 8-7, GHG Emissions from Burning of Firewood, p. 8-21].

With respect to methane emissions from decomposition of vegetative material, the FEIR explains that high rates of methane emissions result when decomposition occurs in an anaerobic condition and that such conditions are seen in large biomass to energy facilities but are not typical in residential landscaping applications. The EIR assumes that vegetative material removed from oak woodlands in El Dorado County would be used either as firewood or as mulch for existing and future land uses within the County. The use of chipped vegetative material as mulch would generate GHG emissions that are more typical of those associated with residential landscaping rather than large biomass to energy facilities. The EIR includes estimates of the amount of methane that would be emitted from decomposition of vegetative materials under typical residential landscaping applications.

Senate Bill 1383 and Methane Emissions: SB 1383 addresses the following sources of methane emissions: livestock manure management operations and dairy manure management operations; sustainable production and use of renewable gas; citywide and countywide integrated waste management plans; reducing organic waste in landfills. There is nothing in SB 1383 that addresses conversion of oak woodlands; residential, commercial, and industrial land development projects; or residential wood-burning. There is nothing in the proposed project that relates to the types of methane sources regulated under SB 1383. There is no correlation between SB 1383 and the proposed project.

Soil Organic Carbon: The research listed in Attachment A to the comment letter focuses on the effects of agricultural activities and natural lands management on the release of soil organic compound. The reference that includes the estimate that 30 percent of soil organic carbon may be released specifically addresses the effects of “30-50 years of tillage.” These references do not demonstrate that 25 to 30 percent of soil organic carbon would be released during earth disturbing activities associated with

typical land development projects. Attachment A demonstrates that the research on releases of soil organic carbon focuses on agricultural activities and management of natural lands rather than on the effects of land development projects.

The commenter is correct that the gridded soil survey database includes soil organic carbon data. As the comment notes, the amount of soil organic carbon released as a result of soil disturbance depends on “the depth of the grading, trenching, ripping, tilling, etc.” This information can vary widely depending on the specific existing conditions and proposed development for a given project site. The EIR relies on the County’s growth projections to estimate the locations and extent of future development, but estimating the amount and extent of grading would require a high degree of speculation as to the design of future projects as well as knowledge or speculation as to the project-specific soil conditions and topography. It is beyond the scope of the proposed Project and the associated programmatic environmental analysis to determine the extent of grading and other earth disturbance that would be needed for individual future development projects. This type of analysis would occur at the individual project level.

The comment is correct that it is foreseeable that land disturbance would be an integral part of future land development under the County’s General Plan, and that the locations of future development are included in the future growth projections for the County. However, as discussed above, it would require speculation to estimate the type and extent of grading and other earth disturbance necessary for future projects. Thus, it is not feasible to estimate the amount of soil organic carbon releases associated with future land development projects.

Black Carbon Emissions: The FEIR demonstrates that these emissions come largely from wildfires and both on-road and off-road vehicles. The source of black carbon emissions most closely associated with the project is from residential wood-burning, which accounts for 9 percent of statewide black carbon emissions. The EPA’s particulate matter regulations for wood-burning devices address all types of particulate matter, including black carbon. The Project would not directly lead to any increases in residential woodburning in the County and thus it is beyond the scope of this Project to further regulate particulate emissions from residential woodburning. While it is proper and necessary for the County to identify ways to reduce all GHG emissions, including those from residential woodburning, it is beyond the scope of the Project because the Project addresses the County’s regulations related to evaluation and mitigation of impacts to biological resources. It does not address the County’s regulations specific to other components of future land development within the County, such as VMT and energy consumption. [Refer to FEIR, Chapter 3–Comments and Responses, Black Carbon Emissions, pp. 3-99 through 3-101].

The comment is correct that if the County undertakes preparation of a Climate Action Plan, it would be appropriate to include analysis of and mitigation for black carbon

emissions associated with residential woodburning. Preparation of a Climate Action Plan is beyond the scope of the current Project.

Although the EIR states that emissions of organic carbon during woodburning could offset some amount of black carbon emissions, the impact analysis and conclusions regarding level of significance do not rely on this offset.

Additional Update Defects: Cutting down a tree does not generate GHG emissions, other than emissions from the combustion of fossil fuels to operate equipment used in tree cutting. Rather, the EIR makes the point that to the extent that vegetative material is used by existing County residents, whether for landscaping applications or for firewood, these emissions would not be new because existing County residents are already using vegetative material in these ways. [Refer to FEIR Chapter 3–Comments and Responses, Section 3.3 (Organizations), RTC No. 1-18, p. 3-117]. The EIR applies this statement equally to all types of GHG emissions that may be associated with the Project, not just to black carbon emissions as suggested by the commenter.

The FEIR states that the changes in global warming potential do not affect the impact analysis because the analysis is presented in terms of carbon dioxide equivalents, and the primary GHG evaluated is carbon dioxide (which would be emitted during combustion of vegetative materials removed from oak woodlands). Thus the increased global warming potential of other greenhouse gases does not affect the impact analysis. [Refer to FEIR Chapter 3–Comments and Responses, Section 3.3 (Organizations), RTC No. 1-3, p. 3-101].

4. General Plan Important Biological Corridor (IBC) Overlays

4-B Issue: A commenter asserts the Project will remove protections for lands designated in the General Plan as IBC's.

Response 4-B: This is incorrect; lands previously mapped with the IBC Overlay will not change and will continue to receive biological resources protections. Not only is the Project not proposing to remove or diminish the IBC Overlay, the criteria for the IBC Overlay has been clarified to include a “no net loss” performance standard, as described in proposed Policy 7.4.2.9:

“Properties within the –IBC overlay that are found to support wildlife movement shall provide mitigation to ensure there is no net loss of wildlife movement function and value for special-status species, as well as large mammals...”

The FEIR further notes that proposed Policy 7.4.2.8 establishes criteria to prioritize preservation in IBCs and Priority Conservation Areas (PCAs). [Refer to FEIR Chapter 3–Comments and Responses, Section 3.3 (Organizations), RTC No. 4-6, pp. 3-140-141).

C. Responses to Comments Received After July 18, 2017 Board Hearing (through October 19, 2017)

After the July 18, 2017 Board hearing on the Project and FEIR was closed, six comment letters were submitted by three individuals (two of the individuals had also submitted comments for the July 18, 2017 Board hearing). Also, six comment letters were received from five organizations (California Oaks, California Wildlife Foundation, El Dorado Senior Housing LLC (submitted two letters supporting the Project), Quercus Group, and Rural Communities United).

Staff has reviewed these additional comments and found that most of the issues raised have been previously addressed during the procedural processing of this Project. However, staff identified the following issues for further response or clarification.

1. 7-Year Monitoring Period under the ORMP

1-C Issue: A commenter reasserted previous concern about the 7-year monitoring period under the ORMP in contrast with the 10-15 year monitoring period, under the current Interim Guidelines for Policy 7.4.4.4 Option A.

Response 1-C: A 7-year monitoring period was included in the ORMP for consistency with the requirements of California Public Resources Code (PRC) Section 21083.4 (Kuehl Bill) and the standards included in the County's 2008 Oak Woodland Management Plan. The 10-15 year time periods included in the County's Interim Interpretive Guidelines were derived from a study (Standiford, McCreary, and Frost 2002¹) that used 10-year old trees as the baseline for modeling blue oak tree growth. This study did not determine or evaluate a minimum period needed to ensure tree establishment and survival. The intent of the 7-year monitoring and reporting period included in the ORMP is to ensure tree establishment and survival rather than to ensure that trees reach potential modeled sizes. In other words, the proposed Project requires monitoring for 7 years to ensure that trees become successfully established and can reasonably be expected to survive long-term. In comparison the interim guidelines required a longer monitoring period to ensure that trees reached a certain size. Further, the 7-year monitoring period is consistent with state-adopted standards for oak tree planting to support oak woodland mitigation (PRC 21083.4). [See Legistar File Attachment 27D, Exhibit A (Oak Resources Management Plan), Mitigation Maintenance, Monitoring and Reporting, p.31].

¹Standiford, Richard and Douglas McCreary and William Frost. 2002. Modeling the Effectiveness of Tree Planting to Mitigate Habitat Loss in Blue Oak Woodlands. USDA Forest Service Gen. Tech. Rep. PSW-GTR-184.

2. **Acorn Replanting**

2-C Issue: A commenter reasserted that acorn planting should be eliminated as tree replacement mitigation and cites professional opinion demonstrating lack of success with acorn replanting.

Response 2-C: The feasibility of acorn planting as mitigation was thoroughly discussed at two separate Board hearings. As stated in the Dudek memo dated June 16, 2015 (for the June 22, 2015 Board hearing), “The Draft ORMP outlines mitigation options, one of which is replacement planting, which is also consistent with state-level oak regulations (Kuehl Bill). Acorn planting is an accepted and often preferable practice. The provisions in the ORMP require planting at a 3:1 ratio if acorns are used in replacement planting mitigation efforts to account for potential mortality or predation of acorns. As discussed by McCreary (see footnote in Response 1-C above), the conditions of a planting site can dictate the suitability of using acorns and growth rates of acorn plantings may equal or surpass those for container plantings. The ORMP provides this option so that a replacement planting effort can be developed for a project that considers the specific suitability of the planting site. As with all planting programs under the proposed draft ORMP, acorn plantings would be required to meet the 7 year survival standard, consistent with the requirements of the Kuehl Bill” [Refer to DEIR Appendix E, Dudek Memos, Memo dated June 16, 2015, p. 15].

As stated in the Dudek memo dated September 18, 2015 (for the September 29, 2015 Board hearing), “Acorn and oak seedling (1-gallon and smaller) establishment success has been well-documented in field research, with several studies noting the successful establishment of planted oak seedlings in northern California sites. In some cases, acorns and smaller containers can outgrow larger container-sized trees¹, primarily due to taproot development being more successful as it is not inhibited by excessive time in containers. In the study by McCreary¹, blue oak acorns and 4-month-old seedlings outgrew 1-year old seedlings over a 4-year period once planted. The variation in seedling container sizes allows for flexibility in oak tree replacement projects that need to consider soil type, maintenance needs, access, and available irrigation.” [Refer to DEIR, Appendix E, Dudek Memos, Memo dated September 18, 2015, p. 10].

The opinions and statements provided by the commenter identify potential failures associated with acorn plantings; however, these do not consider that the use of acorns as mitigation for oak resources impacts under the ORMP requires that a 7-year survival standard be met. Should acorn planting efforts fail to meet the 7-year survival standard under the ORMP for any reason, when that mitigation was undertaken by a project applicant, that applicant would be responsible for replanting in appropriate quantities and again meeting the 7-year survival standard. This also applies to any tree planting mitigation undertaken by the County such as with use of in-lieu fees.

¹McCreary, D. 1996. The effects of stock type and radicle pruning on blue oak morphology and field performance. *Annales des Sciences Forestieres*. 53:641-648.

3. Blue Oak Species Protection Compared to Valley Oaks

3-C Issue: Two commenters reasserted that Blue Oaks should receive the same protections as Valley Oaks, due to their slow growth rates.

Response 3-C: The DEIR states that “of the oak woodland types in El Dorado County, only valley oak woodlands is identified as a sensitive habitat” [Refer to DEIR, Chapter 6–Biological Resources, p. 6-80]. It is designated by the California Department of Fish and Wildlife (CDFW) as a Special-Status Vegetation Community (S3) protected under state law (Public Resources Code Section 21083). [Refer to DEIR, Chapter 6–Biological Resources, Table 6-5 – Sensitive Habitats in El Dorado County, p. 6-20]. This was reflected in the 2004 General Plan EIR (El Dorado County General Plan EIR, Section 5.12 (Biological Resources), Table 5.12-1 – Major Habitat Types in El Dorado County, pp. 5.12-3 and Sensitive Habitats, pp. 5.12-23 through 5.12-25) and is reflected in the EIR for the proposed Project. Due to this designation as sensitive habitat, additional protection was identified for valley oak woodlands and valley oak trees (the primary component of valley oak woodland) under Mitigation Measure BIO-2. Blue oaks do not require a higher level of protection because of the prevalence of the species in the County. Blue oak woodland types comprise approximately 45 percent (over 111,000 acres) of the total oak woodlands in the County. In contrast, valley oak woodland comprise approximately 4,000 acres which is less than 2 percent of the County’s total oak woodlands. [Refer to ORMP p. 3, Table 1, Acreage of Oak Woodland Types in the ORMP Planning Area; and DEIR p. 6-5, Table 6-2, Acreage of Oak Woodland Types in the ORMP Area Below 4,000 Feet Elevation (2015 FRAP Data)]. The proposed ORMP requires a minimum of 1 to 1 preservation, which is sufficient to ensure long-term survival of blue oaks in the County, regardless of oak species growth rates.

4. SB 379 Compliance Requirements

4-C Issue: A commenter requested the Project retain existing natural features and ecosystem processes for purposes of resiliency to climate change and cites SB 379 which mandates counties to *include a set of adaption and resilience goals, policies, and objectives* in hazard mitigation and climate adaptation plans. Section (4) (VII)(C) states that guidelines shall include: *Feasible methods to avoid or minimize climate change impacts associated with new uses of land; (v) where feasible, plan shall use existing natural features and ecosystem processes...to increase resiliency to climate change...*

Response 4-C: Compliance with SB 379 is required a when the County updates its local hazard mitigation plan (LHMP) on or after January 1, 2017, or on or before January 1, 2022 if no updates are undertaken. The County’s consideration of the proposed Project does not trigger a requirement to comply with SB 379. Further, compliance with SB 379 does not require any specific content be included in the County’s oak woodland mitigation policies and standards, and the County’s adoption of the proposed policies, ORMP and ordinance would not impair the County’s ability to comply with SB 379.

The EIR demonstrates that under the proposed policies and ordinance, and the projected development in the County through 2035, the vast majority of the existing oak woodlands in the County would be retained. Master Response 9 notes that a maximum of 4,848 acres of oak woodlands could be lost under project 2035 development. [Refer to Master Response 9 (Recalculated Impact Totals), FEIR Chapter 2–Master Responses, p. 2-27]. Table 6-2 in the DEIR shows the County has 246,806 acres of oak woodlands currently. Thus, with the maximum loss of less than 5,000 acres of oak woodlands by 2035, nearly 242,000 acres would remain. [Refer to DEIR Chapter 6–Biological Resources, Table 6-2, Acreage of Oak Woodland Types in the ORMP Area Below 4,000 Feet Elevation (2015 FRAP Data), p. 6-5].

5. County’s Prior Mitigation Enforcement Record

5-C Issue: A commenter reasserted that the County’s past mitigation efforts were failures (lack of mitigation efficacy) and the FEIR should include a discussion of (previous) mitigation efforts undertaken by the County, reasons for mitigation failures and success of oak replanting. (Cites CEQA Section 15088(c) and *Laurel Heights Improvement Association of San Francisco v. Regents of the University of California* (1988) 47 Cal.3d 376, 420 [253 Cal.Rptr.426]).

Response 5-C: Evaluating the efficacy of other mitigation efforts undertaken by the County is beyond the scope of the proposed project and is not required by CEQA”. [Refer to FEIR Chapter 3–Comments and Responses, Section 3.4 (Individuals), RTC No. 8-53, p. 3-379). The County is allowed a presumption that it will comply with existing laws, including its own policies and ordinances (*Erven v. Board of Supervisors* (1975) 53 Cal.App.3d 1004). There is no reason to believe the County will not enforce its own regulations and standards.

The comment implies that past oak mitigation efforts in the County has always been unsuccessful. Four examples of successful mitigation efforts were presented to the Board of Supervisors on July 18, 2017 including a discretionary development project (subject to Policy 7.4.4.4 Option A), a Specific Plan (not subject to Policy 7.4.4.4 Option A), and two County Department of Transportation roadway and bridge replacement projects (exempt from Policy 7.4.4.4 Option A). (See Legistar File 12-1203, Attachments 24C and 24J).

It is expected that a large portion of mitigation actions taken under the proposed project would consist of acquiring land for habitat conservation, and that oak tree planting mitigation efforts would be more limited in frequency. This is a reasonable expectation because payment of the in-lieu fee is a one-time action on the part of a project applicant, while undertaking a tree planting effort is a multi-year process. In the County’s experience and Dudek’s experience working with land developers, the one-time action option is generally preferable to a long-term commitment of time and resources.

The proposed ORMP and oak conservation ordinance differ from the prior ORMP in that the criteria for mitigation are more clearly expressed, including that the proposed ORMP provides more specific and detailed requirements for tree replacement planting plans. The proposed ORMP identifies clear requirements for mitigation plans, specific performance standards for mitigation to be considered successful, and measures to be implemented when mitigation doesn't achieve the necessary performance standards.

- Where a project applicant elects to pay the County's in-lieu fee for habitat conservation, the County will use those funds to acquire habitat meeting the criteria identified in the General Plan policies, ORMP, and oak conservation ordinance.
- Where a project applicant elects to acquire conservation lands independently, the County must verify that the acquired lands meet the criteria identified in the General Plan policies, ORMP, and Oak Resources Conservation Ordinance before the applicant is issued permits that would allow removal of oak resources (such as a grading permit).
- Where a project applicant or the County elects to undertake a tree planting effort, the ORMP requires that a tree planting plan be prepared by a qualified expert. The ORMP stipulates the required content and considerations that must be demonstrated in a tree planting plan. This includes demonstrating that the selected planting site is appropriate and can be reasonably expected to support oak trees, and demonstrating how adequate irrigation will be provided to ensure that trees become established. The ORMP also requires annual monitoring and subsequent additional replanting if any of the required trees do not survive for the 7-year monitoring period.

6. Feasible Mitigation Measures

6-C Issue: A commenter reasserted that feasible mitigation measures were repeatedly overlooked and that the County has not done all it can to reduce impacts as required.

Response 6-C: The comment was non-specific. Where mitigation measures were suggested in the comments on the DEIR, the FEIR provided direct and specific responses. Further, the CEQA Findings of Fact acknowledges that some commenters on the DEIR suggested potential mitigation measures and/or alternatives that, if proposed, were considered but rejected as infeasible as set forth in the FEIR responses to comments. [Refer to FEIR Chapter 3–Comments and Responses]. Additionally, the rejected measures and alternatives would materially and adversely interfere with the County's ability to discharge its obligations under state law by potentially lowering densities and impacting the County's ability to meet its share of the regional housing need. [See Legistar File 12-1203, Attachment 27B, Exhibit A – CEQA Findings of Fact].

7. Use of Acorn Planting as Mitigation by Other Jurisdictions

7-C Issue: A commenter stated that FEIR RTC No. 6-55 gives false information regarding other jurisdictions' use of acorn planting as mitigation (FEIR pp. 3-250-251).

Response 7-C: The commenter's assertion that false information was provided in RTC No. 6-55 is incorrect. While the identified counties may not yet have acorn planting codified in their respective tree ordinances, they have adopted the practice of allowing acorn plantings or have approved oak woodland mitigation plans that utilize acorn plantings. [Refer to FEIR Chapter 3–Comments and Responses, Section 3.4 (Individuals), RTC No. 6-55, pp. 3-250-251]. The following examples support the RTC No. 6-55:

- Sacramento County approved acorn planting for oak impact mitigation for the Rancho Murieta project. Additionally, as noted in RTC No. 6-55, Sacramento County's General Plan Conservation Element does call for amending their Tree Preservation Ordinance to allow for acorn planting.
- Placer County approved mitigation that included acorn planting for the Placer County Animal Shelter Project.
- Nevada County approved the Darkhorse Golf Course and Residential Community Final Oak Woodland Mitigation and Monitoring Program which identified direct sowing of acorns for oak woodland impact mitigation purposes.

8. PRC Section 21083.4 Definition of "Oak"

8-C Issue: A commenter alleged that the proposed ordinance appears to violate PRC Section 21083.4 [definition of "oak" includes trees 5 inches or more in diameter].

Response 8-C: PRC Section 21083.4 requires counties to evaluate project-related impacts to oak woodlands and requires mitigation if oak woodland impacts are determined to be significant. It does not apply to individual oak trees located outside of oak woodlands and thus does not require that counties define individual oak trees as those that are 5 inches or more in diameter. The ORMP defines oak woodlands consistent with the Oak Woodlands Conservation Act (Article 3.5 (commencing with Section 1360) of Chapter 4 of Division 2 of the Fish and Game Code) as "an oak stand with a greater than ten percent canopy cover or that may have historically supported greater than ten percent canopy cover." The size of individual trees within the woodland is not considered. The inclusion of the 5-inch diameter definition is rooted in the original version of Senate Bill 1334 (Kuehl Bill), which, through subsequent revisions, added Section 21083.4 to the PRC. The original bill requires counties that include oak woodlands to develop oak woodland management plans requiring mitigation for oak woodland conversions. In the original bill version, such plans were allowed to exempt

activities that removed oaks no greater than 5-inches in diameter from within oak woodlands. This, the definition of “oak” in the current version of PRC 21083.4 is therefore not referring to individual oaks occurring outside of oak woodlands, but rather to smaller trees within oak woodlands that could have been removed without mitigation under the original bill language. Considering the intent of the 5-inch diameter threshold identified in the current PRC 21083.4, the ORMP as drafted is more restrictive as it does not afford this exemption for removal of small-diameter trees in oak woodlands and also requires mitigation for individual native oaks occurring outside of oak woodlands (which PRC 21083.4 does not). Dudek and staff researched 15 California jurisdictions (7 counties and 8 cities) that have minimum oak thresholds based on diameter inches and found that all have thresholds of 6 inches or greater. Five counties (Placer, Sacramento, Yuba, Marin, and Monterey) and 7 cities (Auburn, Elk Grove, Folsom, Lincoln, Rocklin, and Roseville) have 6 inch thresholds; Los Angeles County (8 inches); Santa Clara County (12 inches); City of Grass Valley 10 inches) and City of Pasadena (8 inches).

9. Mitigation Oversight

9-C Issue: A commenter requested the Planning Commission recommend to the Board that an oversight committee be appointed for mitigation oversight and in-lieu fee use. (Refers to ORMP Section 9.0, Administration of the Oak Woodland Conservation Program (ORMP Appendix A, pdf p. 49).

Response 9-C: Appendix A of the ORMP (page A-40) identifies two major components for administering the oak woodlands conservation program. Of these, one includes “One or more entities approved by the Board to assist in the management, maintenance, monitoring or restoration of oak woodlands acquired for any purpose authorized under this ORMP.” Such entities are intended to mean Land Conservation Organizations (LCOs) that may be engaged by the County to assist in managing acquired conservation land, not an oversight committee, as stated by the commenter. The ORMP defines performance standards and conservation criteria. It was intended to be self-implementing as that was one of the key project objectives identified by the Board of Supervisors. Thus an oversight committee would not be necessary or consistent with the project objectives.

10. Highway 50 Corridor Habitat Fragmentation

10-C Issue: A commenter asserted that the project mitigation fee program is not set up to preserve important oak woodland habitat within the Highway 50 Corridor, leading to habitat fragmentation.

Response 10-C: The oak woodland habitat along the Highway 50 corridor is already fragmented due to the high levels of development along the highway. The EIR addresses habitat fragmentation at a county-wide level, relying in part on the Saving and

Greenwood analysis¹ that showed a need to have at least one north-south corridor to connect the large un-fragmented habitat areas in the northern and southern portions of the County. The analysis did not show that there are existing patterns of wildlife habitation that require more than one north-south corridors or any particular focus on habitat fragmentation throughout the entire Highway 50 corridor. On March 30, 2015, the Board held a workshop to discuss specific standards that would apply to lands within the County's identified Important Biological Corridors (IBCs). The Board directed staff to revise General Plan Policy 7.4.2.9 and define IBC Overlay Standards. The standards identified in proposed Policy 7.4.2.9 include: a) Require site-specific biological resources technical report to determine presence of special-status species or habitat, and wildlife corridors, particularly for large mammals; Implement land use siting and design tools to achieve no net loss of habitat function or values for special-status species and large mammals – these requirements apply to all projects within the IBCs requiring discretionary County approval; b) Identify the Weber Creek Canyon IBC, which provides a north-south connection, as the location where these standards also apply to projects requiring ministerial approval. (See Legistar File 12-1203, Attachments 12B and 12C, page 22; also, Attachments 24A, page 5 and 24C, pages 4, 18). The higher degree of protection provided to the Weber Creek Canyon IBC under the proposed Project would address this need for at least one north-south corridor. No further provisions for addressing existing or future levels of habitat fragmentation along the Highway 50 corridor are necessary to retain the County's biological resources. [Refer to FEIR Chapter 3–Comments and Responses, Section 3.5 (Form Letters), RTC No. 1-1, p. 3-451; Master Response 2 (Priority Conservation Areas, Habitat Fragmentation, and On-Site Retention), FEIR Chapter 2–Master Responses, pp. 2-5 through 2-11; and Master Response 7 (Center for Sierra Nevada Conservation Alternative), pp. 2-21 through 2-25].

The proposed ORMP prioritizes oak woodland conservation within the PCAs. Conservation within the PCAs would result in conserved areas that are least likely to be adversely affected by habitat fragmentation or encroachment of development at the edges of the preserved areas. [Refer to Legistar File 12-1203, Attachment 27D, Exhibit A (ORMP), Section 4.0 (Priority Conservation Areas), pp. 23-24].

Master Response 2 explains why preservation of larger habitat areas is biologically superior to preservation of small areas. At a basic level, the larger a preserved area, the higher the biological value because there is a larger amount of space in which animals can move and find cover and forage, and there is a greater diversity of vegetation and wildlife that can be found in the area. [Refer to Master Response 2 (Priority Conservation Areas, Habitat Fragmentation, and On-Site Retention), FEIR Chapter 2–Master Responses, pp. 2-5 through 2-11].

¹Saving, S.C., and G.B. Greenwood. 2002. "The Potential Impacts of Development on Wildlands in El Dorado County, California." http://frap.fire.ca.gov/publications/paper_eldo_buildout.pdf
Accessed 10/20/2017.

11. In-Lieu Fee Relationship with Costs of Purchasing Lands in the Highway 50 Corridor

11-C Issue: A commenter asserted that the proposed in-lieu mitigation fee bears no relationship to actual costs of purchasing lands in the Highway 50 Corridor.

Response 11-C: The Highway 50 Corridor was not specifically excluded for purposes of calculating the mitigation in-lieu fee. However, the fee calculation was based on actual land transactions within and near the County and where the transaction involved land that supported oak woodlands. Due to limited land transactions along the Highway 50 corridor that meet the above criteria, the available data did not include any property within the Highway 50 corridor.

The in-lieu fee for the proposed ORMP is not based on land values only for properties in the PCAs. The in-lieu fee is based only on the mitigation ratios identified in the ORMP and recent land transaction data available for within El Dorado and Placer counties. As stated in the Nexus Study prepared in support of the in-lieu fee, the fee is based on “actual recent and/or current acquisition and management and monitoring costs faced by [land conservation organizations] actively conserving oak woodland resources or other tree dominated habitat.” [See Legistar File Attachment 27D, Exhibit A (ORMP), Appendix B (El Dorado County Oak Resources In-Lieu Fees Nexus Study), p. 8; also refer to Master Response 3 (In-Lieu Fee), FEIR Chapter 2–Master Responses, p. 2-11]; and The in-lieu fee was developed by considering three major categories of costs: property acquisition, initial management and monitoring, and long term management and monitoring. Acquisition can include acquisition by fee title or as a conservation easement. Acquisition of conservation easements is cheaper (on a per acre basis) than acquisition in fee title. As stated in the Nexus Study, the acquisition costs reflected in the in-lieu fee also “include legal services, appraisals, due diligence, title insurance and escrow fees, and organizational staff time associated with acquisition efforts.” [Refer to Legistar File Attachment 27D, Exhibit A (ORMP), Appendix B (Nexus Study), Acquisition (Year 0), p. 17].

As shown in Table 3.5 of the Nexus Study, data for property acquisition costs came from a variety of sources, including the only property transaction in El Dorado County within the last five years that included oak woodland habitat. The costs of land acquisition reported by several land conservation organizations were documented for reference and comparison, but the property acquisition costs reflected in the in-lieu fee were based specifically on data from El Dorado and Placer counties. The Nexus Study concludes that the acquisition cost of \$5,000 per acre was determined based a review of the data, stating on page 22 “this amount falls within the range of prices experienced and/or anticipated by the organizations actively conserving OWAs within closest proximity to El Dorado County and is aligned with the expertise of organizational staff. The selected price is also higher than the mid-point of the range to allow for purchase of non-OWA land included in a parcel that contains the desired amount of OWA acreage.”

Further, as discussed in Master Response 2 and 3, it is not necessary for mitigation to occur in proximity to the area of impact to be effective at conserving oak woodlands and protecting the habitat value of oak woodlands in the County. [Refer to FEIR Chapter 2–Master Responses, Master Response 2 (Priority Conservation Areas, Habitat Fragmentation, and On-Site Retention), pp. 2-5 through 2-11; and Master Response 3 (In-Lieu Fee), pp. 2-11-12].

The proposed ORMP identifies that conservation is preferred to occur in the PCAs, which are not within the Highway 50 Corridor, and where habitat is unfragmented and land values are lower. The mitigation strategy in the PCAs does not rely on or require conservation along the already fragmented Highway 50 corridor where land values are higher. Conservation could occur within the corridor if a conservation site meets the criteria identified in the ORMP. The criteria define sites that would be appropriate for conservation based on the biological value of the conservation area (i.e., minimum site size necessary to ensure that conserved habitat supports a wide diversity of species and is not adversely affected by habitat loss at the edges of the conserved area). [Refer to Master Response 2 (Priority Conservation Areas, Habitat Fragmentation, and On-Site Retention), FEIR Chapter 2–Master Responses, pp. 2-5 through 2-11.]

The In-Lieu Fee Nexus Study was prepared in compliance with the Mitigation Fee Act.

12. Proposed Project and the Integrated Natural Resources Management Plan (INRMP)

12-C Issue: A commenter asserted that the County has not replaced the INRMP with an adequate substitute plan.

Response 12-C: The CEQA Findings of Fact makes a finding that implementation of an INRMP as part of existing Policy 7.4.2.8 is infeasible for General Plan policy, legal, economic, and social reasons. [See Legistar File 12-1203, Attachment 27B, Exhibit A – CEQA Findings of Fact, pp. 48-50; Also refer to FEIR Chapter 3–Comments and Responses, Section 3.5 (Form Letters), RTC No. 1-1, p. 3-451; Master Response 2 (Priority Conservation Areas, Habitat Fragmentation, and On-Site Retention), pp. 2-5 through 2-11; and Master Response 7 (Center for Sierra Nevada Conservation Alternative), FEIR Chapter 2–Master Responses, pp. 2-21 through 2-25]. The proposed Project defines a new set of criteria for assessment and mitigation of impacts to biological resources. The EIR demonstrates the degree to which the proposed Project would be effective at mitigating these impacts. The conclusions are the same as those reached in the 2004 General Plan EIR, which showed that even with implementation of the INRMP, the impacts to biological resources due to implementation of the General Plan would be significant and unavoidable.

13. Proposed Policy Changes and Impacts to Oak Woodland Habitat

13-C Issue: A commenter asserted that the proposed changes to the prior General Plan policies protecting Oaks will lead to significant impacts to oak woodland habitat.

Response 13-C: Proposed Policy 7.4.2.8 directs that oak woodland impacts must be evaluated and mitigated as required in the ORMP, which includes specific criteria for required habitat assessments, conservation and/or replanting sites and plans, and mitigation ratios. Proposed Policy 7.4.2.8 contains similar provisions for evaluation and mitigation of impacts to other habitat types. Specifically, proposed 7.4.2.8.C identifies criteria for habitat assessments while proposed 7.4.2.8.D identifies criteria for conservation sites. In all cases, a biological study is required. [See Legistar File 12-1203, Attachment 27D, Exhibit A (ORMP); also refer to FEIR Chapter 3–Comments and Responses, Section 3.5 (Form Letters), RTC No. 1-1, p. 3-451; FEIR Chapter 2–Master Responses, Master Response 2 (Priority Conservation Areas, Habitat Fragmentation, and On-Site Retention), pp. 2-5 through 2-11; and Master Response 7 (Center for Sierra Nevada Conservation Alternative), pp. 2-21 through 2-25]. The EIR discloses that even with implementation of the proposed policies and ORMP, ongoing implementation of the General Plan would result in significant and unavoidable impacts to biological resources, including oak woodland habitat.

14. Greenhouse Gas Emissions

14-C Issue: A commenter asserted that the Project EIR does not assess the cumulative environmental impacts of GHG emissions that will be released due to the Project's allowances of 100 percent removal of oak woodlands from development parcels.

Response 14-C: This issue has been previously addressed in several documents, including the DEIR Chapter 11–Other CEQA Considerations, Section 11.6 (Cumulative Impacts), Greenhouse Gases, pp. 11-11-12; FEIR Chapter 3–Comments and Responses, Section 3.3 (Organizations), RTC No. 1-17, pp. 3-114-115; “Staff Memo based on 7/18/17 Board Direction 9-12-17” (Legistar File 12-1203, Attachment 25A). The GHG analysis assumes 100 percent removal of oak woodland on all parcels projected to be developed under full buildout.

15. Tiering and Streamlining the Analysis of GHG

15-C Issue: A commenter cites 14 California Code of Regulations (CCR) Section 15183.5 – Tiering and Streamlining the Analysis of Greenhouse Gas Emissions.

Response 15-C: The commenter asserts that the referenced portion of the CEQA Guidelines requires that an EIR fully account for GHG emissions within a geographic area. The text of the CEQA Guidelines that references a “geographic area” is found in 14 CCR Section 15183.5(b)(1)(A). This section is specific to preparation of a Plan for Reduction of

Greenhouse Gas Emissions, not to an EIR evaluating a project proposal. While the commenter is correct that this portion of the CEQA Guidelines identifies requirements to allow future tiering and streamlining of GHG analyses, these provisions do not apply to the current Project. This Project is not a Plan for the Reduction of Greenhouse Gas Emissions, thus it is not necessary for the Project or this EIR to meet the requirements for such a plan as identified in 14 CCR Section 15183.5. Additionally, this focused EIR would not serve as a first-tier programmatic analysis for issues outside the scope of the project. The EIR does not include analysis of GHG emissions associated with construction or operation of land development projects and therefore future projects could not “declare that GHG emissions have been sufficiently analyzed” as suggested by the commenter.

16. Adaptive Management (Section 8.3 in Appendix A of the ORMP)

16-C1 Issue: A commenter expressed concern about Adaptive Management as outlined in the draft ORMP, Section 8.3 that potential future revisions to the ORMP monitoring and reporting program may affect the success of future mitigation efforts; states mitigation that complies with (site-specific) requirements of biological reports is not sufficient.

Response 16-C1: The adaptive management portion of the ORMP (Appendix A, Section 8.3, Adaptive Management) is intended to strengthen the effectiveness of the County's oak resources mitigation program should one or more components of the program function inadequately or should more or additional information be necessary for proper implementation of the program. For example, should the County decide that the annual monitoring report submittal timeframe for oak woodland mitigation is inappropriate for decision-making purposes, this timeframe may be adjusted with modifications to the ORMP. It is also intended to update in-lieu fee amounts periodically such that the fees accurately reflect changes in actual costs over time. No modifications to the oak resources mitigation requirements outlined in the ORMP are anticipated under the adaptive management portion of the ORMP. Such changes would necessitate further environmental review under CEQA. [Refer to Legistar File 12-1203, Attachment 27D, Exhibit A (ORMP), Appendix A, Section 8.3 (Adaptive Management), p. A-39; also refer to FEIR, Chapter 3 –Comments and Responses, Section 3.4 (Individuals, RTC No. 1-16, p. 3-179)].

The commenter's reference to contingency plans is related to a different section of the ORMP that deals with monitoring reports prepared by a Qualified Professional (hired by project applicant). These reports are required to include contingencies or alternatives if the success criteria for replacement plantings have not been met at the end of the monitoring term. In other words, the ORMP requires that tree replacement plans include measures to be implemented if the replacement trees do not survive. Such contingencies or alternatives are intended to keep individual project mitigation plans on track and within required standards and are unrelated to the adaptive management portion of the ORMP.

16-C2 Issue: This same commenter asserted that “adaptive management as a tool for ORMP revision was buried in an appendix of an appendix in the project EIR, and that this violates CEQA and the EIR’s role as a full disclosure document.”

Response 16-C2: The commenter is referencing that the ORMP is Appendix C of the DEIR, and Adaptive Management is discussed in Appendix A of the ORMP). The Board will be adopting the ORMP by a separate Resolution which will include the ORMP as Exhibit A. It will therefore be a stand-alone adopted Plan (not buried within an appendix of an appendix).

The commenter incorrectly interpreted the intent of adaptive management and the relationship between adaptive management in the ORMP and CEQA. The adaptive management is not a tool for broad changes to the ORMP but allows for the County to consider modifications to ensure its effectiveness. Adaptive Management is mentioned only in the ORMP (Appendix A, Section 8.3, Adaptive Management, p. A-39), but does not exempt the County from additional environmental review should the County make changes requiring discretionary approval to the ORMP and oak ordinance.

The adaptive management portion of the ORMP is intended to strengthen the effectiveness of the County’s oak resources mitigation program should one or more components of the program function inadequately or should more or additional information be necessary for proper implementation of the program. For example, should the County decide that the annual monitoring report submittal timeframe for oak woodland mitigation is inappropriate for decision-making purposes, this timeframe may be adjusted with modifications to the ORMP. It is also intended to update in-lieu fee amounts periodically such that the fees accurately reflect changes in actual costs over time. No modifications to the oak resources mitigation requirements outlined in the ORMP are anticipated under the adaptive management portion of the ORMP. Such changes would necessitate further environmental review under CEQA. [Refer to FEIR Chapter 3–Comments and Responses, Section 3.4 (Individuals), RTC No. 1-16, p. 3-179].

17. Oak Woodland Removal and Erosion Impacting Amphibian and Fishery Habitat

17-C Issue: A commenter asserted that removal of oak woodlands leads to erosion and siltation of streams/waterways, impacting amphibian and fishery habitat.

Response 17-C: The proposed project would not make any changes to General Plan policies 7.1.2.2, 7.1.2.3, and 7.3.2.2 that address requirements for minimizing erosion associated with vegetation removal and ground disturbing activities. The Initial Study circulated with the Notice of Preparation for the EIR (and included in EIR Appendix A) states that while the proposed project does not include any specific development projects that could lead to erosion or water quality impacts, ongoing implementation of the County’s General Plan would include such activities but that such effects would be

controlled by compliance with existing regulations pertaining to minimizing erosion and protecting water quality.

18. Oak Woodland Removal and Invasive Species Impacts

18-C Issue: A commenter asserted that invasive species are likely to become established and spread rapidly in areas where oak woodlands have been removed or disturbed.

Response 18-C: Oak woodland areas subject to removal would not be subject to invasive species impacts because they would be converted to developed uses. In other words, the areas where oak woodland is removed would be converted to residential, commercial/retail, and/or industrial land uses and would no longer contain oak woodlands that could be adversely affected by invasive species. Where oak woodlands are removed, the ORMP would require mitigation through conservation of existing oak woodlands that are not subject to disturbance; mitigation may also include planting of new oak trees that may be located within other oak woodland habitat or may be in other habitat types. It is possible that oak woodland areas that are subject to disturbance (but not removed) could see increased levels of invasive species; however, disturbance to oak woodlands would be considered an impact to oak woodlands that requires mitigation under the ORMP. Conserved oak woodland areas would not be subject to disturbance and thus would not be subject to new impacts associated with invasive species.

19. Wildlife Habitat Fragmentation

19-C Issue: A commenter asserted that the proposed Project fails to avoid or feasibly mitigate wildlife habitat fragmentation due to the extent of habitat loss anticipated.

Response 19-C: The commenter states that the County could lose more than 80 percent of the existing oak woodlands, referencing the statement in the DEIR that a maximum of 145,552 acres of oak woodlands could be lost under the proposed Project. As reflected in Master Response 7, it is projected that up to 4,848 acres of oak woodlands could be impacted under the long-term General Plan planning horizon (2035). In addition, the agricultural exemptions included in the ORMP could allow for impacts to as many as 138,704 acres of oak woodlands throughout the County without a requirement for mitigation. [Refer to Master Response 7 (Center for Sierra Nevada Conservation Alternative), FEIR Chapter 2–Master Responses, p. 2-25].

These figures reflect corrected acreage totals for land cover type impacts as discussed in Master Response 9. As discussed above, the EIR presents substantial evidence supporting the expectation that the agricultural exemption would not contribute substantially to the loss of oak resources in the County or to the loss of GHG sequestration afforded by such resources. [Refer to Master Response 9 (Recalculated Impact Totals), FEIR Chapter 2–Master Responses, pp. 2-26 through 2-30].

As discussed in Master Response 10, the habitat loss that is expected due to residential, commercial, retail, and industrial development would predominantly occur within the County's Community Regions, where substantial development and habitat fragmentation has already occurred. Further, as discussed in Item 10 above, the proposed Project includes specific increased requirements and more stringent standards for development activities within the County's IBCs to ensure that wildlife movement corridors are maintained. Thus, the Project does address wildlife habitat fragmentation and is consistent with the findings and recommendations of the Saving and Greenwood assessment regarding maintaining habitat connectivity. [Refer to Master Response 10 (No Net Loss of Oak Woodland Alternative), FEIR Chapter 2–Master Responses, pp. 2-32 through 2-35; see also Saving and Greenwood footnote in Response 10-C above].

20. Vegetation Decomposition Methane Emissions Impacts

20-C Issue: A commenter asserted that the proposed Project is a concentrated effort to dissemble and diminish the actual vegetation decomposition methane emissions resulting from this countywide project.

Response 20-C: The EIR accounts for emissions from vegetation decomposition. The EIR assumes that vegetative materials removed from oak woodlands would be used by County residents and businesses for firewood and landscaping mulch. It does not assume the materials would be used for composting or biomass to energy applications. The California Air Resources Board First Update to the Climate Change Scoping Plan (CARB 2014) states: "Methane (CH₄) is the principal component of natural gas and is also produced biologically under anaerobic conditions in ruminants, landfills, and waste handling. Atmospheric methane concentrations have been increasing as a result of human activities related to agriculture, fossil fuel extraction and distribution, and waste generation and processing." The proposed project does not involve any of these activities. [Refer to FEIR, Chapter 4–Text Changes to the Draft EIR, pp. 8-19-20, including Tables 8-4 and 8-5; also refer to FEIR Chapter 3–Comments and Responses, Section 3.3 (Organizations), RTC No. 1-1 and 1-2, pp. 3-91 through 3-101.]

In application as landscaping mulch, the material is spread in a relatively thin layer (compared to compost piles), which ensures that oxygen is present. Thus the EIR makes a reasonable assumption that decay of this mulch would occur slowly over time and in aerobic conditions and therefore would not produce substantial methane emissions. Further, use of landscaping mulch has many environmental benefits, including increased soil carbon storage and improved stormwater management.

D. Summary of Final Project Documents for Board Adoption

The following documents, which were presented to the Planning Commission (in draft form) on April 27, 2017, have been modified as necessary to accommodate the Board's direction on July 18, 2017 and are attached to Legistar File No. 12-1203:

1. Resolution 127-2017 Certifying the Final Environmental Impact Report for the General Plan Biological Resources Policy Update, Oak Resources Management Plan, Oak Resources Conservation Ordinance; Making Environmental Findings of Fact (Exhibit A); Adopting a Statement of Overriding Considerations (Exhibit B); and Approving the Mitigation Monitoring and Reporting Program (Exhibit C), see *Attachment 27B for the Resolution*; the FEIR is posted on the County website at: <https://www.edcgov.us/Government/longrangeplanning/environmental/pages/biopolicyupdatedrafteir.aspx>
2. Resolution 128-2017 Adopting an Amendment to the Biological Resources Policies, Objectives, and Implementation Measures in the El Dorado County General Plan), see *Attachment 27C*;
3. Resolution 129-2017 Adopting the Oak Resources Management Plan, see *Attachment 27D*;
4. Resolution 130-2017 Establishing an In-Lieu Mitigation Fee to Mitigate Impacts to Oak Woodland Areas and Individual Oak Trees, see *Attachment 27E*; and
5. Ordinance 5061 Adopting an Oak Resources Conservation Ordinance to Implement the Oak Resources Management Plan, see *Attachment 27F*.

E. Staff Recommendation for Board Action on October 24, 2017

The Board is responsible for certifying the FEIR, making CEQA Environmental Findings of Fact, adopting the CEQA Statement of Overriding Considerations, and approving the Mitigation Monitoring and Reporting Program. The action of certifying the EIR does not approve or deny the Project; it finds that the EIR adequately analyzed the Project as described in the Project Description. The CEQA document must be certified before the Project can be approved.

As the County's legislative body, the Board is responsible for Project adoption and may consider a range of action(s) on the Project including, but not limited to: 1) approval of the Project as scoped, 2) approval of the Project with the revisions recommended by the Planning Commission and/or as deemed necessary by the Board, 3) selective approval of specific Project components, 4) revisions to the Project outside of the scope of the FEIR, or 5) denial of the Project.

Pursuant to the Board's direction on July 18, 2017 and on October 10, 2017, staff recommends that the Board take the following final actions:

1. Hold a limited public hearing to receive public comment only on the proposed modifications to General Plan Measure CO-K and the modifications to the proposed Ordinance that were considered by the Planning Commission on September 28, 2017. (The public hearing on the overall Project was closed on July 18, 2017 and remains closed.) After the close of the limited public hearing on October 24, 2017, staff recommends the Board consider the recommendation of the Planning Commission and then consider approval of the overall Project by adopting and authorizing the Chair to sign following Resolutions and Ordinance.
2. Resolution 127-2017 Certifying the Final Environmental Impact Report for the General Plan Biological Resources Policy Update, Oak Resources Management Plan, and Oak Resources Conservation Ordinance; Making Environmental Findings of Fact (Exhibit A); Adopting a Statement of Overriding Considerations (Exhibit B); and Approving the Mitigation Monitoring and Reporting Program (Exhibit C);
3. Resolution 128-2017 Adopting an Amendment to the Biological Resources Policies, Objectives and Implementation Measures in the El Dorado County General Plan;
4. Resolution 129-2017 Adopting an Oak Resources Management Plan;
5. Resolution 130-2017 Establishing an In-Lieu Mitigation Fee to Mitigate Impacts to Oak Woodland Areas and Individual Oak Trees;
6. Ordinance No. 5061 Adopting an Oak Resources Conservation Ordinance to Implement the Oak Resources Management Plan; and
7. Direct staff to return to the Planning Commission and Board within 12-18 months after adoption, or earlier if necessary, to review implementation of the Project.

ATTACHMENTS/EXHIBITS TO STAFF REPORT

Legistar File 12-1203 Attachment No.	Document
27B	Resolution 127-2017 Certifying the Final Environmental Impact Report; Making Environmental Findings of Fact; Adopting a Statement of Overriding Considerations; and Approving the Mitigation Monitoring and Reporting Program
27B	Resolution 127-2017 Exhibit A – CEQA Findings of Fact
27B	Resolution 127-2017 Exhibit B – CEQA Statement of Overriding Considerations
27B	Resolution 127-2017 Exhibit C – Mitigation Monitoring and Reporting Program
27C	Resolution 128-2017 Adopted an Amendment to the Biological Resources Policies, Objectives, and Implementation Measures in the El Dorado County General Plan
27C	Resolution 128-2017 Exhibit A – Conservation and Open Space Element
27D	Resolution 129-2017 Adopting an Oak Resources Management Plan
27D	Resolution 129-2017 Exhibit A – Oak Resources Management Plan, September 2017
27E	Resolution 130-2017 Establishing an In-Lieu Mitigation Fee to Mitigate Impacts to Oak Woodland Areas and Individual Oak Trees
27E	Resolution 130-2017 Exhibit A – Oak Woodland Area In-lieu Fee Rates
27E	Resolution 130-2017 Exhibit A – Individual Oak Tree In-Lieu Fee Rates
27F	Ordinance No. 5061 Adopting an Oak Resources Conservation Ordinance to Implement the Oak Resources Management Plan
27G	Errata Summary Table of Proposed Changes to the Project (4/27/17 – 9/28/17) with Track Change Pages
27H	Counsel Review Sheets for Resolutions
27I	Proof of Publications BOS 10-24-17 (Mountain Democrat, Georgetown Gazette, Tahoe Tribune)

The Draft and Final EIRs for the Project are posted on the County website at:
<https://www.edcgov.us/Government/longrangeplanning/environmental/pages/biopolicyupdate/drafteir.aspx>