



**P.O. Box 935, San Andreas, CA 95249 • (209) 772-1463 • [www.calaverascap.com](http://www.calaverascap.com)**

***Protecting our rural environment by promoting citizen participation  
in sustainable land use planning since 2006***

To: The Calaveras County Hardwood Advisory Committee  
From: The Calaveras Planning Coalition  
Regarding: The Draft Oak Woodland Mitigation Ordinance  
Date: December 7, 2022

*Via email*

Dear Harwood Advisory Committee Members,

The Calaveras Planning Coalition (CPC) is a federation of regional and local organizations, community groups, and concerned individuals who promote public participation in land use and resource planning to ensure a healthy human, natural, and economic environment now and in the future. The CPC is administered by the Community Action Project (CAP) whose mission is to protect and improve the natural and built environments in Calaveras County by empowering people to claim their rights and participate in local government. CAP and the CPC thank you for the opportunity to comment on the draft Oak Woodland Mitigation Ordinance that will be under discussion at your meeting on December 8.

Generally, the CPC is surprised that there is no mention in the draft oak ordinance of obvious development techniques such as building envelopes and clustering to avoid oaks and keep more trees on-site, especially since the General Plan says, "Adopt standards for the application of clustered development or other innovative techniques that may provide development flexibility and minimize development impacts on resource production or other sensitive lands (LU-2E)."

Also, there is no discussion of how protected oak woodlands will fit into the open space zoning proposed in the General Plan (COS-1A), as mitigation for the loss of oaks usually involves protecting open space. And shouldn't there be a map of open space in the General Plan to help guide development and identify priority lands for preservation? There's an old 2015 map in the

background report, but that's not legally part of the general plan, and the map is not accurate. It kind of seems as if the oak ordinance is being drafted in a silo. Nevertheless, our more specific comments are below and suggested changes from California Wildlife Foundation/California Oaks are included as an attachment.

Please change the name, "Oak Woodland Mitigation Ordinance," to more accurately reflect the supposed intent of the ordinance. As you are not mitigating oak woodlands, meaning you do not intend to reduce the adverse impacts of oak woodlands themselves but rather the adverse impacts of their loss, the CPC suggests the following name, Oak Woodlands Conversion and Loss Mitigation Ordinance.

You have neglected to mention an important ecosystem service, carbon sequestration, provided by oak woodlands. Please insert the following sentence in the opening paragraphs: *In addition, oak woodlands and grassland are important carbon sinks that will help meet California's greenhouse gas emissions reduction goal of 40 percent below 1990 levels by 2030.*

The CPC suggests the following changes to the last sentence of the first paragraph: "For those reasons, the County of Calaveras must ~~do its part to~~ protect the species by passing an Oak Woodlands *Conversion and Loss* Mitigation Ordinance.

The CPC believes that the "primary purpose" of the ordinance should be "to mitigate significant direct and cumulative impacts to oak woodlands and to address *premature and* pre-development removal of oaks in conjunction with discretionary projects..." As an example, you may know that in Tuolumne County "On April 1, 2008, the Board of Supervisors adopted Ordinance 2903 which added chapter 9.24 to the Tuolumne County Ordinance Code. Chapter 9.24 is intended to discourage the **premature removal** of oak trees by establishing procedures and penalties for such removal. Premature removal means: removal of native oak trees resulting in a 10% or greater average decrease in native oak canopy cover within an oak woodland; removal of any old growth oak tree; and removal of any valley oak tree measuring five inches or greater in diameter at breast height (DBH) from a site within the five years preceding the submission of an application for a discretionary entitlement from Tuolumne County for a land development project." (The Tuolumne County ordinance is attached for your convenience.)

Please provide internal consistency by making a change in 17.101.010, E., "The purpose of Implementation measure COS-4D is to facilitate the environmental review process relative to mitigating significant direct and cumulative impacts to oak woodlands in conjunction with discretionary project approval and to address pre-development removal of oaks." The CPC recommends that you add, "*This ordinance will also address **premature** removal of oaks, which is consistent with COS-4D and its mandate to mitigate significant and cumulative impacts to oak woodlands.*"

Regarding 17.101.020, B. 8. Monitoring, it says, “The frequency and duration of the monitoring, including post-construction monitoring, shall be left to the discretion of the qualified professional.” If the qualified professional is hired and paid by the developer, this may create a temptation for the professional to acquiesce to his employer’s wishes rather than put the welfare of the oaks first. Shouldn’t there at least be a monitoring schedule as part of the professional’s overall assessment? How will the county exercise its responsibility “to protect the species,” which is the stated purpose of the ordinance, if developers are, essentially, monitoring themselves?

Under 17.101.030, 2, please specify how the Planning Department will “determine whether the proposed project may result in a conversion of oak woodlands that will have a significant effect on the environment.”

In regard to 17.101.030, 3, a, the CPC recommends the county create an open space inventory and an open space map that shows the location of all existing conservation easements in the county to facilitate the creation of an oak woodland conservation easement as mitigation. Grants and other funding for conservation easements are often leveraged if the new easement adds to a migration corridor or extends adjacent habitat, for example.

We appreciate the addition of this sentence, “Another purpose of this ordinance is to ensure that when developing within oak woodlands, project designs emphasize avoiding heritage trees and retaining wildlife corridors by leaving oak woodlands connected when possible.” However, our position is unchanged. Regarding 17.101.030, 5, the CPC recommends that Heritage Tree Removal be distinct from Native Oak Tree Removal. Heritage Trees are exceptional and should absolutely be retained whenever feasible. Native oak trees are much more abundant. We recommend that the following be deleted: ~~Individual Native Oak Tree/Heritage Tree Removal. If Individual Native Oak Trees, including Heritage Trees, will be impacted as part of the permit, the applicant shall mitigate for loss of individual tree(s) by one or more of the following options as specified in the ORMP:~~

We recommend that the above deleted language be replaced with the following: *Individual Heritage Tree Removal. If individual Heritage Trees may be impacted by a permitted project, the project applicant shall justify why it is essential to remove the legacy tree rather than avoidance. It is the intent of the County for Heritage Trees to be retained to the greatest extent feasible due to their uniqueness and special character as historic legacies and outstanding scenic resources in the County. If the County agrees that removal of a Heritage Tree is justified, the in-lieu fee payment for removal of the Heritage Tree shall be set at a rate 10 times the rate of payment for affecting an individual Native Oak Tree.*

Please bear in mind, the less you damage in the first place, the less you need to mitigate in the second place.

Sincerely,

Muriel Zeller, CAP Governing Committee Member

Attachments:

Tuolumne County Chapter 9.24: PREMATURE REMOVAL OF NATIVE OAK TREES

Recommended Changes from Angela Moskow, California Oaks Information Network Manager

CC:

Tom Infusino, Calaveras Planning Coalition Facilitator

Julie-Moss Lewis, Deputy County Counsel

Angela Moskow, California Oaks Information Network Manager