



## OROVILLE PLANNING COMMISSION/ HISTORICAL ADVISORY COMMITTEE

Council Chambers  
1735 Montgomery Street  
Oroville, CA. 95965

**June 27, 2024  
REGULAR MEETING  
6:00 PM  
AGENDA**

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### PUBLIC ACCESS AND PARTICIPATION

To view the meeting or provide comment, please see the options below.

#### To Watch or Listen to the Meeting:

1. Watch live feed <https://www.youtube.com/channel/UCAoRW34swYI85UBfYqT7IbQ/>
2. Zoom <https://zoom.us/j/99508232402?pwd=aThZc1BsUG9sWnhNYnlwZHZZdFFrQT09>  
Meeting ID: 995 0823 2402 Passcode: 17351735
3. Listen via telephone: 1-669-900-9128  
Meeting ID: 995 0823 2402 Passcode: 17351735

#### To Provide Comments:

1. Email before the meeting by 2:00 PM your comments to [publiccomment@cityoforoville.org](mailto:publiccomment@cityoforoville.org)
2. Attend in person

**If you would like to address the Commission at this meeting, you are requested to complete the blue speaker request form (located on the wall by the agendas) and hand it to the City Clerk, who is seated on the right of the Council Chamber. The form assists the Clerk with minute taking and assists the Mayor or presiding chair in conducting an orderly meeting. Providing personal information on the form is voluntary. For scheduled agenda items, please submit the form prior to the conclusion of the staff presentation for that item. The Commission has established time limitations of three (3) minutes per speaker on all items and an overall time limit of thirty minutes for non-agenda items. If more than 10 speaker cards are submitted for non-agenda items, the time limitation would be reduced to one and a half minutes per speaker. **(California Government Code §54954.3(b)).** Pursuant to Government Code Section 54954.2, the Commission is prohibited from taking action except for a brief response from the Council or staff to statements or questions relating to a non-agenda item.**

### CALL TO ORDER / ROLL CALL

Commissioners: Glenn Arace, Marissa Hallen, Natalie Sheard, Warren Jensen, Terry Smith,  
Vice Chairperson Wyatt Jenkins, Chairperson Carl Durling

### OPEN SESSION

Pledge of Allegiance

## **PUBLIC COMMUNICATION - HEARING OF NON-AGENDA ITEMS**

This is the time to address the Commission about any item not listed on the agenda. If you wish to address the Commission on an item listed on the agenda, please follow the directions listed above.

## **CONSENT CALENDAR**

No Consent Calendar items this meeting.

## **PUBLIC HEARINGS**

The Public Hearing Procedure is as follows:

- Mayor or Chairperson opens the public hearing.
- Staff presents and answers questions from Council
- The hearing is opened for public comment limited to two (2) minutes per speaker. In the event of more than ten (10) speakers, time will be limited to one and a half (1.5) minutes. Under Government Code 54954.3, the time for each presentation may be limited.
- Public comment session is closed
- Commission debate and action

**1. Use Permit No. UP24-07: The Planning Commission shall consider approving a Use Permit for Outpatient Services for the property located at 1440 Lincoln Street (APN 012-086-004).**

Dr. Trinh Vu has applied for an Outpatient Services Use Permit to establish a medical facility for Veterans in a MXD zoning district. The property is also within the Downtown Historic Overlay.

**RECOMMENDATION:**

- 1. CONDUCT A PUBLIC HEARING ON THE PROPOSED LAND USE.**
- 2. ADOPT THE NOTICE OF EXEMPTION AS THE APPROPRIATE LEVEL OF ENVIRONMENTAL REVIEW FOR THE PROJECT.**
- 3. APPROVE USE PERMIT UP24-07 WITH THE RECOMMENDED FINDINGS AND PROPOSED CONDITIONS.**
- 4. ADOPT RESOLUTION NO. P2024-09.**

## REGULAR BUSINESS

**2. Workshop and discussion of Zoning Code Amendment (ZC) 23-03 amending Section 17.12.060 (Tree Preservation), Section 17.12.065 (Oak Tree Loss Mitigation) and Section 17.48.070 (Tree Removal Permits) of the Oroville Municipal Code (OMC)**

The Planning Commission will hold a workshop and discuss potential further amendments to ZC 23-03, amending the City's oak tree loss mitigation standards, requirements, and applicability as found in Section 17.12.065 of the Oroville Municipal Code (OMC). ZC 23-02 would also amend Section 17.12.060 pertaining to tree preservation requirements and Section 17.48.070 pertaining to the City's tree removal permit requirements.

**RECOMMENDATION:**

- 1. RECEIVE STAFF'S PRESENTATION.**
- 2. PROVIDE DIRECTION TO STAFF.**

**3. General Plan Circulation Element revision and adoption of an Interim Transportation Threshold.** The Planning Commission will consider recommending a General Plan amendment that meets the requirements of Senate Bill 743, which requires Vehicle Miles Traveled (VMT) to be the new analytical emphasis for improving air quality.

**RECOMMENDATION:**

- 1. CONDUCT A PUBLIC HEARING ON THE PROPOSED AMENDMENT.**
- 2. DIRECT STAFF TO PRESENT THE PLANNING COMMISSION RECOMMENDATION THAT THE CITY COUNCIL ADOPT THE ATTACHED RESOLUTION NO XXXX: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OROVILLE AMENDING THE CIRCULATION ELEMENT OF THE GENERAL PLAN.**
- 3. DIRECT STAFF TO PRESENT THE PLANNING COMMISSION RECOMMENDATION THAT THE CITY COUNCIL ADOPT THE ATTACHED RESOLUTION NO XXXX: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OROVILLE ADOPTING AN INTERIM TRANSPORTATION THRESHOLD FOR THE PURPOSES OF IMPLEMENTING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FOR VEHICLE MILES TRAVELED (VMT).**

## REPORTS / DISCUSSIONS / CORRESPONDENCE

1. Commissioner Reports
2. Historical Advisory Commission Reports
3. Staff Reports

## ADJOURN THE MEETING

The meeting will be adjourned. A regular meeting of the Oroville Planning Commission will be held on July 25, 2024 at 6:00 PM.

*Accommodating Those Individuals with Special Needs* – In compliance with the Americans with Disabilities Act, the City of Oroville encourages those with disabilities to participate fully in the public meeting process. If you have a special need in order to allow you to attend or participate in our public meetings, please contact the City Clerk at (530) 538-2535, well in advance of the regular meeting you wish to attend, so that we may make every reasonable effort to accommodate you. Documents distributed for public session items, less than 72 hours prior to meeting, are available for public inspection at City Hall, 1735 Montgomery Street, Oroville, California.

*Recordings* - All meetings are recorded and broadcast live on [cityoforoville.org](http://cityoforoville.org) and YouTube.

*Planning Commission Decisions* - Any person who is dissatisfied with the decisions of this Planning Commission may appeal to the City Council by filing with the Zoning Administrator within fifteen days from the date of the action. A written notice of appeal specifying the grounds and an appeal fee immediately payable to the City of Oroville must be submitted at the time of filing. The Oroville City Council may sustain, modify or overrule this decision.



# City of Oroville

**Patrick Piatt**  
Director

## COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street  
Oroville, CA 95965-4897  
(530) 538-2401 FAX (530) 538-2426  
[www.cityoforoville.org](http://www.cityoforoville.org)

**PLANNING COMMISSION STAFF REPORT**

**Thursday, June 27, 2024**

**RE: Use Permit No. UP24-07: The Planning Commission shall consider approving a Use Permit for Outpatient Services for the property located at 1440 Lincoln Street (APN 012-086-004).**

**SUMMARY:** Dr. Trinh Vu has applied for an Outpatient Services Use Permit to establish a medical facility for Veterans in a MXD zoning district. The property is also within the Downtown Historic Overlay.

**RECOMMENDATION:** Staff recommends the following actions:

1. Conduct a Public Hearing on the proposed land use.
2. Adopt the Notice of Exemption as the appropriate level of environmental review for the project.
3. Approve Use Permit UP24-07 with the recommended findings and proposed conditions.
4. Adopt Resolution No. P2024-09

**APPLICANTS:** Dr. Trinh D. Vu

**LOCATION:**  
1440 Lincoln Street  
Oroville, CA 95966

**GENERAL PLAN:** Mixed Use  
**ZONING:** Downtown Mixed Use (MXD)  
**FLOOD ZONE:** X

**ENVIRONMENTAL DETERMINATION:** Categorically Exempt from CEQA as an Existing Facility per Section 15301 of the California Code of Regulations.

**REPORT PREPARED BY:**

\_\_\_\_\_  
Kristina Heredia, Planner  
Community Development Department

**REVIEWED BY:**

\_\_\_\_\_  
Patrick Piatt, Director  
Community Development Director

**SUMMARY FACT SHEET FOR Oroville Animal Health Center**  
1440 Lincoln Street (APN 012-086-004)

**Requested Action:** Use Permit

**Related Applications:** None

**Basis for Review:** City Code §17.44.060

**Proposed Use:** Medical Clinic – Outpatient Services

**Applicant:** Dr. Trinh Vu

**Owner:** Dr. Trinh Vu

**Location:** APN 012-086-004

**Parcel Size:** 0.21 acres, ±9,148 SF

**Floor Area Ratio:** 2.0 FAR maximum, OK

**Present General Plan/  
Zoning Designation:** Mixed Use  
MXD – Downtown Mixed Use

**Surrounding Land Uses:** North: Butte County Office of Education  
East: Butte County Office of Education  
South: Butte County Historical Society  
West: First Congregational Church

**PROJECT DESCRIPTION:**

The Griggs Building, located at 1440 Lincoln Street, was previously used as a law office. The new owner, Dr. Trinh Vu, has remodeled the former office into a medical clinic, and has applied for a use permit for “Outpatient Services.”

Title 17 of the Oroville Municipal Code defines Outpatient Services as being

“Any facility that provides outpatient medical care and does not allow patients to stay overnight. Outpatient services typically include but are not limited to: diagnosis, medical lab testing, wellness and prevention counseling, medical treatment, and physical therapy. Outpatient services are not considered a hospital, as defined in this Code. Outpatient services shall not include substance abuse counseling as a primary use.”

The applicant has submitted a letter outlining the services his practice provides (Attachment 2). The Dr. is insured to provide family medicine and minor surgeries that do not require generalized anesthesia; Staff has determined that the Dr.’s medical practice aligns with the definition of Outpatient Services and is recommending approval of this use permit, subject to all conditions of approval.

## DISCUSSION:

This project was reviewed at the Development Review Committee meeting on June 13, 2024, and the services the Dr. intends to provide were discussed. The applicant has also stated that his *“primary purpose is to provide disability and compensation exams for US military veterans on behalf of Veterans Affairs and Leidos QTC Health Services”* (Attachment 2), whom he is contracted with.

Prior to submitting his application for a use permit, the applicant had hired workers to install a handicap ramp on the outside of the building, and to pave sidewalks and a parking lot behind the building. Unfortunately, the contractors did not submit plans or apply for a building permit, and the work was not completed to current building and accessibility standards. The applicant is now actively working with Community Development staff to address all concerns and is working to have plans developed to submit to the City that will meet building standards, ADA regulations, and City code.

**Site Access and Parking:** The applicant is currently working with the Building Department to ensure that improvements to the parking area and driveway are compliant with current building and City standards and ADA regulations.

The parking lot is approximately 3,500 square feet, and the medical clinic is 1,423 square feet. A medical clinic of this size needs to provide 5 (five) parking spaces. An additional two parking spaces are required for the residence upstairs for a total of 7 (seven) off-street parking spaces. The applicant is working with staff to ensure the parking lot will be reconstructed to City standards and will be stripped to accommodate the required 7 spaces.

The applicant has also stated that the Butte County Office of Education has given him and his patients permission to utilize their parking lot to the south. Staff will include as part of the Conditions of Approval that this permission be delineated in writing and/or a shared parking agreement be executed if parking in that location is found to be necessary to meet City parking standards.

**Signs:** Signage has not been submitted as part of this application. The applicant will need to submit a separate sign application, and he is aware of this requirement.

**HVAC and Mechanical Equipment:** All HVAC and other mechanical, electrical, and communications facilities must be screened from public view through architectural integration, fencing, landscaping, or combination thereof.

**1% Art in Public Places:** This project is exempt from the Art in Public Places as it is an existing structure undergoing a Tenant Improvement Building Permit.

**Environmental Determination:** The Class 01 “Existing Facilities” Categorical Exemption (15301.a) exempts an existing structure undergoing minor exterior and interior alterations.

**Required Findings for a Use Permit:** Pursuant to OMC Section 17.48.010.4, the Planning Commission may grant a use permit only upon making all of the following findings, based on substantial evidence:

- a. **The granting of the permit will not be incompatible with or detrimental to the general health, safety or public welfare of the surrounding area or of the city as a whole.**

1. As a medical facility providing services including minor surgery and outpatient care, the applicant is required to obtain a use permit prior to occupancy. The applicant specializes in assisting veterans with their health care and is contracted with the VA. A facility designed to meet the needs of our City's veterans will improve the health and safety of our community.
- b. The proposed use follows sound principles of land use by having a suitable location relative to the community as a whole, as well as to transportation facilities, public services and other land uses in the vicinity.**
1. The property has frontage on Lincoln Street and is properly zoned for the area.
- c. Public utilities and facilities, including streets and highways, water and sanitation, are adequate to serve the proposed use or will be made adequate prior to the establishment of the proposed use.**
1. The Griggs Building was constructed in the early 1900's, and the property has existing public utilities that are adequate to serve the proposed use.
- d. The location, size, design and operating characteristics of the proposed use will be harmonious and compatible with the surrounding neighborhood and will not adversely affect abutting properties.**
1. The clinic has ample off-street parking available, and the proposed use will not be incompatible with the neighborhood. The zoning is Downtown Mixed Use (MXD), and the clinic will be located on the first floor of the building, with the Dr.'s residence on the second floor. This style of development is suited to a mixed-use zoning district.
- e. The subject site is physically suitable for the type and intensity of land use being proposed.**
1. The total existing square footage of the structure is 2,846 square feet on a lot approximately 9,148 square feet in size, which is well below the permitted FAR maximum of 2.0.
  2. The existing structure has access to public utilities.
- f. The size, intensity and location of the proposed use will provide services that are necessary or desirable for the neighborhood and community as a whole.**
1. While the Dr.'s primary patient demographic is veterans, he will see private patients as well. Serving a variety of clients means that the community is served as a whole.
- g. The permit complies with all applicable laws and regulations, including the requirements of the general plan, of this title and of the city municipal code.**
1. As conditioned, this project will comply will all applicable laws and regulations, and is consistent with the General Plan.



**FISCAL IMPACT**

None. All Planning Division fees were paid prior to completing review.

**PUBLIC NOTICE**

The Planning Commission hearing for this project was publicly noticed in the local newspaper on June 17, 2024, and mailed to all property owners within 300 feet on June 10, 2024. As of publication, staff has received zero responses from the public notices.

**Attachments:**

1. Use Permit Application
2. Applicant Letters of Business Operation
3. CEQA Notice of Exemption
4. Resolution No. P2024-09
5. Draft Certificate of Approval

# Attachment 1



# City of Oroville

Planning Division - Community Development Department

1735 Montgomery Street  
 Oroville, CA 95965-4897  
 (530) 538-2430 FAX (530) 538-2426  
[www.cityoforoville.org](http://www.cityoforoville.org)

TRAKIT#: **PL2405-012**

## PLANNING DIVISION GENERAL APPLICATION

(Please print clearly and fill in all that apply)

APPLICANT'S INFORMATION		Project's:	
Name:	TRINH DUC VU	Name:	
Address:	975 CASC STREET, MONTEREY CA 93940	Company:	
Phone:	Cell 858-405-2918 Office 831 641 715	Address:	
Email:	TRINH DUC VU @ COMCAST.NET	Phone:	
Is the applicant the Owner?	<input type="checkbox"/>	If applicant is Not the owner, please provide owner /agent authorization on the reverse side	
Email:		Email:	

DEVELOPMENT PROJECTS & OTHER APPLICATIONS (Please check all that apply)			
<input type="checkbox"/>	Annexation	<input type="checkbox"/>	Landmark /Modification/Demolition
<input type="checkbox"/>	Appeal	<input type="checkbox"/>	Mining and Reclamation Plan
<input type="checkbox"/>	Development Review	<input type="checkbox"/>	Pre-Application
<input type="checkbox"/>	Final Map	<input type="checkbox"/>	Residential Density Bonus
<input type="checkbox"/>	General Plan Amendment/Rezone	<input type="checkbox"/>	Temporary Use
<input type="checkbox"/>	Landmark Designation	<input type="checkbox"/>	Tentative Map Extension
<input type="checkbox"/>	Other: (Please Specify)	<input type="checkbox"/>	Tentative Parcel Map
<input type="checkbox"/>		<input type="checkbox"/>	Tentative Subdivision Map
<input type="checkbox"/>		<input checked="" type="checkbox"/>	Use Permit
<input type="checkbox"/>		<input type="checkbox"/>	Variance
<input type="checkbox"/>		<input type="checkbox"/>	Wireless Communication Facilities
<input type="checkbox"/>		<input type="checkbox"/>	Zoning Clearance

ADMINISTRATIVE PERMITS (Please check all that apply)			
<input type="checkbox"/>	Adult Oriented Business	<input type="checkbox"/>	Outdoor Storage
<input type="checkbox"/>	Home Occupation	<input type="checkbox"/>	Outdoor Display & Sales
<input type="checkbox"/>	Large Family Day Care	<input type="checkbox"/>	Second Dwelling Unit
<input type="checkbox"/>	Mobile Food Vendor	<input type="checkbox"/>	Sign/Temporary Sign Permit
<input type="checkbox"/>	Other: (Please Specify)	<input type="checkbox"/>	Special Event
<input type="checkbox"/>		<input type="checkbox"/>	Street Closure
<input type="checkbox"/>		<input type="checkbox"/>	Tree Removal

\*Please provide a letter addressed to the Planning Division with a detailed description for the proposed project. Please include any site plans, maps, aerials, photos, and other relevant information that will help us in processing your application.  
 \*\* Any time a set of plans is required, three (3) sets of drawings shall be submitted, unless otherwise directed.

PROJECT INFORMATION	
Project Name: HERCULES MEDICAL CLINIC & URGENT CARE CENTER	Proposed Structure(s) (Sq Ft.):
Address: 1440 LINCOLN STREET, OROVILLE CA 95965	Existing Structure(s) (Sq Ft.):
Nearest Cross Street:	Water Provider:
Assessor Parcel Number: 012-086-004	School District:
Lot Size (Acres): 9147 sf / 0.210 acres	Number of Dwelling Units: 1

APPLICANT'S SIGNATURE	
I hereby certify that the information provided in this application is, to my knowledge, true and correct.	
Signature:	Date: 05/29/24

OFFICE USE ONLY							
General Plan: Mixed Use	Zoning: MxD	Zoning Conformity:	APN:				
File#	Overlay Zoning: DHG	Minimum Setbacks:	FY: 10	RY: 0	SY: 0		



# City of Oroville

Planning Division - Community Development Department

1735 Montgomery Street  
 Oroville, CA 95965-4897  
 (530) 538-2420 FAX (530) 538-2426  
 www.cityoforoville.org

TRAKIT#: PL2405-012

4P24-07

## USE PERMIT APPLICATION

(Please print clearly and fill in/provide all that apply)

REQUIRED FOR A COMPLETE APPLICATION		PERMIT TYPE	
<input checked="" type="checkbox"/>	Completed and signed Application Forms	<input checked="" type="checkbox"/>	New Use Permit: \$3,500 (Deposit) + \$210(6% Tech Fee) = \$3,710
<input checked="" type="checkbox"/>	Application Fee Paid	<input type="checkbox"/>	Amendment to Existing Use Permit: \$2,100 + \$126 (6% Tech Fee) = \$2,226

### PROJECT PLANS

All plans and drawings shall be drawn to scale to the extent feasible and shall indicate the full dimensions, contours and other topographic features and all information necessary to make a full evaluation of the project. Please include the following:

1. **Site and floor plans**, including the location, square footage and use of all structures.
2. **Architectural drawings** showing proposed building elevations.
3. Landscape plans showing the types, sizes and location of vegetation to be planted and the irrigation system to be installed
4. Plans for the configuration & layout of all off-street parking spaces, including entrances, exits and internal circulation routes.
5. Plans for all lighting to be installed on the site, including the location, type, height and brightness of each lighting fixture.
6. **Drawings of all signs** that are proposed in association with the project.
7. Plans showing the location, sq footage and capacity of any existing or proposed surface storm-water detention facilities.
8. Plans showing the location and square footage of any existing or proposed outdoor storage areas.
9. Descriptions of any off-site infrastructure improvements to be provided in conjunction with the project.
10. Hours of operation for all proposed land uses.
11. Number of employees and fleet vehicles for all proposed land uses
12. **A letter authorizing the use permit application from the owner of the property.**

### CLASSIFICATION

<input type="checkbox"/>	Alcohol & Beverage Sales	<input type="checkbox"/>	Nonconforming Uses & Structures	<input type="checkbox"/>	Uses in Industrial Districts
<input type="checkbox"/>	Agricultural Uses	<input type="checkbox"/>	Outdoor Storage	<input type="checkbox"/>	Uses Mini-Storage Overlay(MS-O)
<input type="checkbox"/>	Animal Keeping (Commercial)	<input type="checkbox"/>	Parking Requirement Exceptions	<input type="checkbox"/>	Uses in Residential Districts
<input type="checkbox"/>	Barbed/Razor Wire Fence	<input type="checkbox"/>	Temporary Use	<input type="checkbox"/>	Uses in Special Purpose Districts
<input type="checkbox"/>	Density Bonus & Other Incentives	<input type="checkbox"/>	Uses in a Conditional Overlay (C-O)	<input type="checkbox"/>	Uses not Specified but Allowed
<input type="checkbox"/>	Exceptions to Height Limits	<input checked="" type="checkbox"/>	Uses in Commercial & Mixed-Use Districts	<input type="checkbox"/>	Wireless Communication Facilities
<input type="checkbox"/>	Other: (Please Specify)	Outpatient Services			

### APPLICANT'S SIGNATURE

I hereby certify that the information provided in this application is, to my knowledge, true and correct.

Signature:	Date:
OFFICE USE ONLY	
Approved By:	Date:
Payment:	Number:

PROJECT DESCRIPTION	
Present or Previous Use:	Vacant - Law office
Proposed Use:	Outpatient Services
Detailed Description:	

The Community Development Department operates on a full cost recovery for processing of permits. Staff will charge their time and any expenses associated with processing the application against the initial deposit. Fees that have been captured for the reimbursement of City expenses are non-refundable.

Technology cost recovery fees are non-refundable

**Hercules Medical Clinic-Urgent Care Center****Trinh D Vu, MD****975 Cass Street., Monterey, CA 93940****Tel: 831-641-7155. Fax: 831-641-7181****Email: TrinhDVu@comcast.net****06/14/2023****Dear Mr. Wes Ervin,**

**I intend to purchase which is a two-story property in Oroville located at 1440 Lincoln St. The property is in need of some small remodeling in order to accommodate a medical clinic and living quarters.**

**I intend to use the bottom floor of the property for my clinic, and the upper floor as living quarters for my use.**

**The bottom floor of the property would be considered "Professional Office" with a focus on "Outpatient Services".**

**I will not have a Methadone clinic or an operating room ....**

**I will not provide intensive medical treatment or overnight lodging for patients.**

**I will not provide substance abuse counseling.**

**I am insured to provide Family Medicine and Minor Surgery that does not require an operation room or generalized anesthesia. Minor surgeries that I refer include removal of lumps and bumps such as lipoma, sebaceous cysts, growing skin lesions or growing skin cancer lesions, biopsy, laceration repair or cut wound repair, removal foreign body, fluid removal from the joints, incision and drainage abscess, steroid injection in the joints, removal ganglion cyst from fingers or joints, remove ingrowing toenail, repair nailbed etc. Minor surgeries procedures are performed without general anesthesia or respiratory assistance.**

**I would like to apply for the Use Permit as soon as possible before remodeling in order to show compliance with the City of Oroville's regulations.**

**I look forward to meeting you as soon as possible, possibly this Thursday June 15 at your convience or are you able to email the permit application to my email address: TrinDVu@comcast.net?**

**Please feel free to call me at 858-405-2918. If I am with a patient, I will call you back as soon as possible.**

**Thank you very much.**

**Sincerely,**

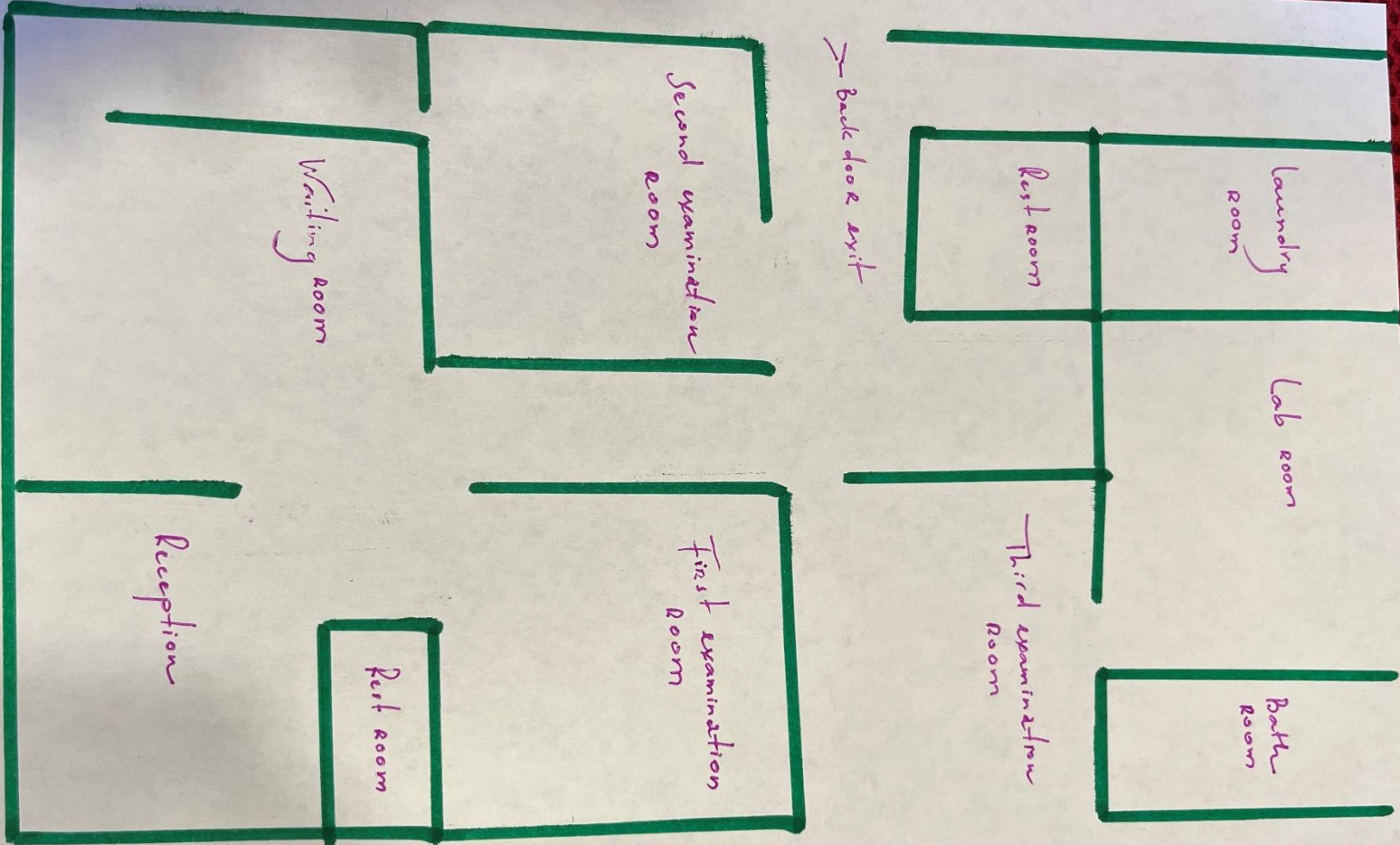
**Trinh Duc Vu, MD**



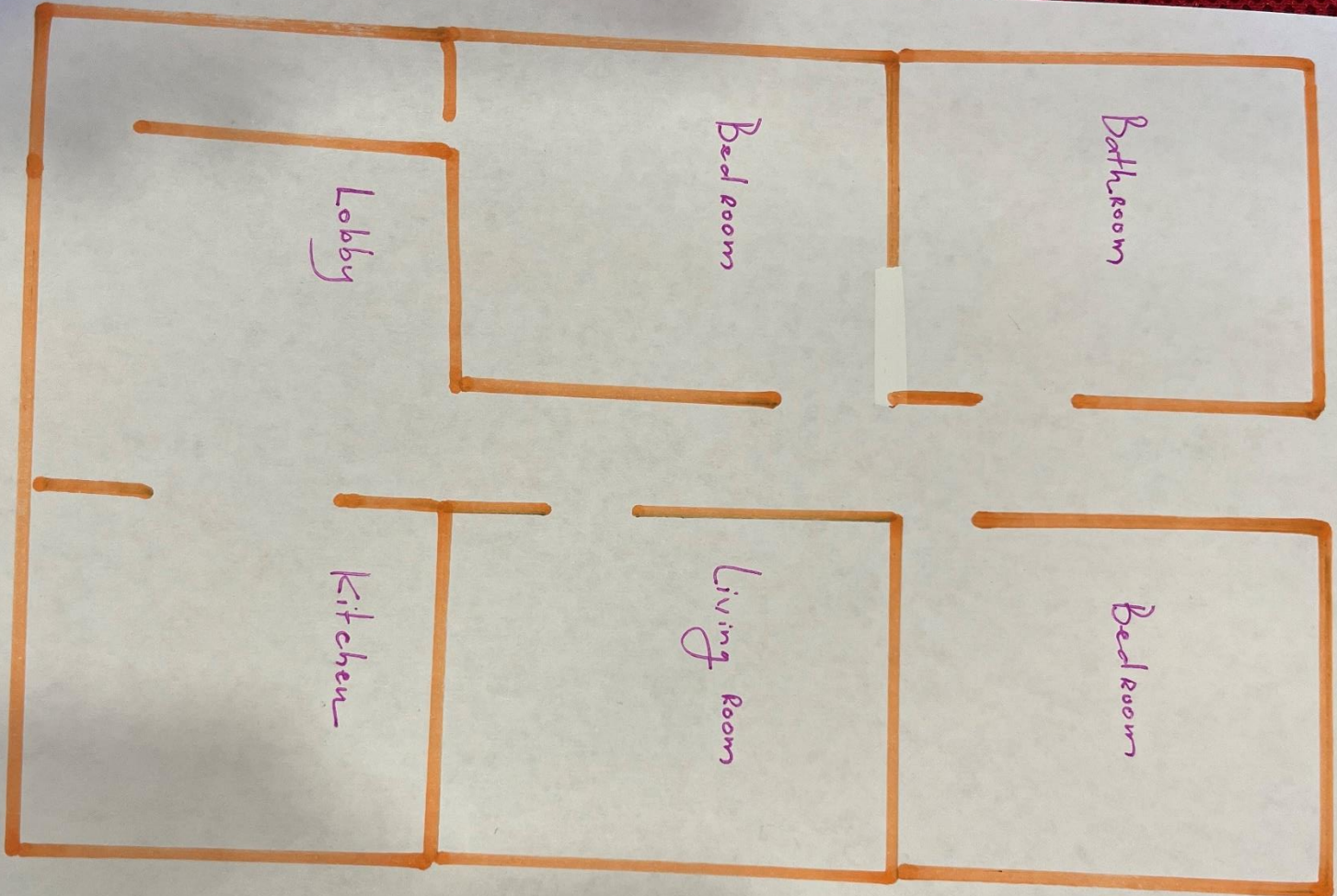








First floor plan for medical clinic  
1440 Lincoln Street, Oroville, CA 95965



Second level living floor plan  
1440 Lincoln Street, Orville, CA 95965

# Attachment 2

**Hercules Medical Clinic-Urgent Care Center****Trinh D Vu, MD****975 Cass Street., Monterey, CA 93940****Tel: 831-641-7155. Fax: 831-641-7181****Email: TrinhDVu@comcast.net****06/14/2023****Dear Mr. Wes Ervin,**

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**Please feel free to call me at 858-405-2918. If I am with a patient, I will call you back as soon as possible.**

**Thank you very much.**

**Sincerely,**

**Trinh Duc Vu, MD**

**Kristina Heredia**

---

**From:** trindhvu@comcast.net  
**Sent:** Thursday, June 13, 2024 1:14 PM  
**To:** Kristina Heredia  
**Subject:** Re: Clarification on Medical Facility

**ATTENTION:** This message originated from outside the **City of Oroville**. Please exercise judgment before opening attachments, clicking on links, or replying.

**Question to Dr. Vu: Can you confirm what medical services you will and will not be providing with your clinic?**

**Dr. Vu responded: My primary purpose is to provide disability and compensation exams for US Military Veterans on the behalf of Veterans Affairs and Leidos QTC Health Services with whom I am contracted. Private patients can call for an appointment for urgent care matters. Thank you very much!**

**Sincerely,**

**Trinh Duc Vu, MA**

Sent from my iPhone

On Jun 13, 2024, at 7:48 AM, Kristina Heredia <kheredia@cityoforoville.org> wrote:

Good morning Dr. Vu,

Can you confirm **what medical services you will and will not be providing** with your clinic? I know we have already spoken regarding this, and you have submitted your intent letter, however we have received an inquiry from the public, and I want to confirm.

Thank you!

*Very Truly Yours,*



*Kristina Heredia*

*Associate Planner*

**City of Oroville**

*1735 Montgomery Street*

*Oroville, CA 95965*

*(530) 538-2406 (O)*

[kheredia@cityoforoville.org](mailto:kheredia@cityoforoville.org)

This message may contain information and attachments that are considered confidential and are intended only for the use of the individual or entity addressed above. If you are not the intended recipient, then any use, disclosure, or dissemination of this information is prohibited. If you have received this message in error, please notify the original sender by telephone or by return email immediately. In addition, please delete this message and any attachments from your computer. Thank you.

# Attachment 3

# Notice of Exemption

Appendix E

Item 1.

**To:** Office of Planning and Research  
P.O. Box 3044, Room 113  
Sacramento, CA 95812-3044

County Clerk

County of: Butte

155 Nelson Ave,

Oroville, CA 95965

**From:** (Public Agency): City of Oroville  
1735 Montgomery Street  
Oroville, CA 95965

(Address)

Project Title: Use Permit for Outpatient Services

Project Applicant: Dr. Trinh Vu

Project Location - Specific:

1440 Lincoln Street, Oroville, CA, 95965

Project Location - City: Oroville Project Location - County: Butte

Description of Nature, Purpose and Beneficiaries of Project:

Use Permit to open a medical clinic with outpatient services

Name of Public Agency Approving Project: City of Oroville

Name of Person or Agency Carrying Out Project: \_\_\_\_\_

Exempt Status: **(check one):**

Ministerial (Sec. 21080(b)(1); 15268);

Declared Emergency (Sec. 21080(b)(3); 15269(a));

Emergency Project (Sec. 21080(b)(4); 15269(b)(c));

Categorical Exemption. State type and section number: Existing Facility 15301

Statutory Exemptions. State code number: \_\_\_\_\_

Reasons why project is exempt:

Existing structure has gone through an interior remodel from a law office to a medical clinic.

Lead Agency

Contact Person: Kristina Heredia Area Code/Telephone/Extension: 530-538-2406

**If filed by applicant:**

1. Attach certified document of exemption finding.

2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Title: Associate Planner

▪ Signed by Lead Agency      Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.

Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: \_\_\_\_\_

# Attachment 4

**CITY OF OROVILLE  
RESOLUTION NO. P2024-08  
A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF OROVILLE,  
CALIFORNIA, MAKING FINDINGS AND CONDITIONALLY APPROVING USE PERMIT  
UP24-07, FOR OUTPATIENT SERVICES FOR THE PROPERTY LOCATED AT 1440  
LINCOLN STREET (APN 012-086-004).**

**WHEREAS**, the City has received an application packet from Dr. Trinh Vu for a Use Permit for Outpatient Services, located at 1440 Lincoln Street; and

**WHEREAS**, Staff has reviewed the application and determined that the location is ideal for the proposed medical facility; and

**WHEREAS**, at a duly noticed public hearing, the Planning Commission considered the comments and concerns of public agencies, property owners, and members of the public who are potentially affected by the approval of the use permit described herein and considered the City's staff report regarding the request.

**NOW, THEREFORE, BE IT RESOLVED** by the Planning Commission as follows:

1. This action has been determined to be exempt from the California Environmental Quality Act (CEQA) review pursuant to Title 14, California Code of Regulations, Section 15301 "Existing Facilities."
2. The Planning Commission approves the conditions described in this Resolution.

**CONDITIONS OF APPROVAL**

**Approved project:** The Planning Commission hereby conditionally approves Use Permit UP24-07 for Outpatient Services to be within the existing structure located at 1440 Lincoln Street (APN 012-086-004). The subject property has a zoning designation of Downtown Mixed Use (MXD) and a General Plan land use designation of Mixed Use.

**Project Specific Conditions**

1. The applicant shall continue to work with Community Development staff to ensure all applicable building permits are submitted and approved for the external modifications of the existing structure prior to being issued a Certificate of Occupancy. The modifications that require building permits shall include, but are not limited to,
  - a. The handicap ramp with railings
  - b. The back parking lot
  - c. The driveway on the north side of the property
  - d. The sidewalk on the south side of the property

2. Any changes to the business operation outside of the original statement of operations submitted by the applicant on June 14, 2023, may not be started without an amendment to this Use Permit.
3. A Shared Parking Agreement shall be executed between Butte County Office of Education and Dr. Vu if utilization of Butte County's parking lot is determined necessary to meet City parking standards.

### **General Conditions**

1. Signage has not been submitted as part of this review. The applicant or property owner shall apply for the proper permits as required by OMC Chapter 17.20 prior to any new signage being erected.
2. The applicant and any/or subsequent owners shall have a current City of Oroville business license and any other applicable permit/license that may be required as part of their business operations.
3. Pursuant to Section 17.12.010, the proposed use of the site shall conform to the performance standards of the Oroville Municipal Code to minimize any potential negative effects that the building, structure, lighting or use could have on its surroundings, and to promote compatibility with surrounding uses and areas.
4. Applicable construction plans, calculations, specifications, applications, forms, etc. shall be submitted to the Building Division for review prior to the start of any construction activities requiring a building permit. All applicable plan review and development impact fees shall be paid at time of submittal.
5. All grading, paving, excavation and site clearance, including that which is exempt from obtaining a permit, shall be performed in conformance with the City's Engineering Design Standards; the Municipal Code; the requirements of the State Regional Water Quality Control Board; and any other applicable local, state, and federal requirements.
6. Pursuant to Section 17.12.050, landscaped areas shall be continually maintained in good condition and shall be kept clean and weeded and trees shall be pruned in a natural pattern and shall not be topped or pollarded.
7. Any roof mounted or ground placed utilities (HVAC, generators, etc.) shall include an architecturally compatible method of screening. This can include screening by landscaping or a decorative fence for ground placed utilities.
8. The applicant shall ascertain and comply with the requirements of all of City, County, State, Federal, and other local agencies as applicable to the proposed project.
9. The applicant and/or property owner will take appropriate measures to provide property maintenance of the building exterior, including provisions to keep the premise free of litter and debris.

10. The project shall remain in substantial conformance with the Conditions of Approval, as adopted by the Oroville Planning Commission. Any subsequent minor changes in the project (as determined by the Zoning Administrator) may only occur subject to appropriate City review and approval. Any subsequent substantive changes in the project (as determined by the Zoning Administrator) may only occur subject to discretionary review by the Oroville Planning Commission.
11. Pursuant to Section 17.48.010.D.3 of the City Code, the zoning administrator may inspect the premises for which the use permit is issued at any reasonable time to ensure compliance with the conditions of the use permit. Refusal to permit the zoning administrator to inspect the premises shall be rebuttably presumed to be grounds for revocation of the use permit.
12. Pursuant to Section 17.48.010.F of the City Code, the Planning Commission, upon its own motion, may modify or revoke any use permit that has been granted pursuant to the provisions of this section upon finding any of the following, based on substantial evidence:
  - a. Any of the conditions of the permit have not been satisfied within 1 year after it was granted.
  - b. Any of the terms or conditions of the permit have been violated.
  - c. A law, including any requirement in the Municipal Code Chapter 17, has been violated in connection with the permit.
  - d. The permit was obtained by fraud.
13. The applicant hereby certifies that any and all statements and information provided as part of the application are true and correct to the best of their knowledge and belief. Any misinformation provided, whether intentional or unintentional, that was considered in the issuance of this permit may be grounds for revocation.
14. The applicant shall hold harmless the City, its Council members, Planning Commissioners, officers, agents, employees, and representatives from liability for any award, damages, costs, and/or fees incurred by the City and/or awarded to any plaintiff in an action challenging the validity of this permit or any environmental or other documentation related to approval of this permit. Applicant further agrees to provide a defense for the City in any such action.

\*\*\*\*\*

**I HEREBY CERTIFY** that the foregoing resolution was duly introduced and passed at a regular meeting of the Planning Commission of the City of Oroville held on the 27<sup>th</sup> of June, 2024, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVE:

\_\_\_\_\_  
KAYLA REASTER,  
ASSISTANT CITY CLERK

\_\_\_\_\_  
WYATT JENKINS,  
VICE-CHAIRPERSON

DRAFT



# Attachment 5

# City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

## CERTIFICATE OF APPROVAL

### Use Permit UP24-07

On June 27, 2024, the City of Oroville Planning Commission conducted a public hearing and approved Use Permit UP24-07 for Outpatient Services at 1440 Lincoln Street (APN 012-086-004) to utilize an existing structure as a medical clinic

This approval is subject to the Conditions of Approval delineated in Resolution P24-09 and attached herein.

By signing, I certify that I have read, understand, and agree to abide by the Conditions of Approval relating to my project.

\_\_\_\_\_  
Dr. Trinh Vu

\_\_\_\_\_  
Date

\_\_\_\_\_  
Kristina Heredia  
Associate Planner  
City of Oroville

\_\_\_\_\_  
Date



# City of Oroville

COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street  
 Oroville, CA 95965-4897  
 (530) 538-2430 FAX (530) 538-2426  
[www.cityoforoville.org](http://www.cityoforoville.org)

## PLANNING COMMISSION STAFF REPORT

Thursday, June 27, 2024

**RE: Workshop and discussion of Zoning Code Amendment (ZC) 23-03 amending Section 17.12.060 (Tree Preservation), Section 17.12.065 (Oak Tree Loss Mitigation) and Section 17.48.070 (Tree Removal Permits) of the Oroville Municipal Code (OMC)**

**SUMMARY:** The Planning Commission will hold a workshop and discuss potential further amendments to ZC 23-03, amending the City’s oak tree loss mitigation standards, requirements, and applicability as found in Section 17.12.065 of the Oroville Municipal Code (OMC). ZC 23-02 would also amend Section 17.12.060 pertaining to tree preservation requirements and Section 17.48.070 pertaining to the City’s tree removal permit requirements.

**RECOMMENDATION: Staff recommends the following actions:**

1. Receive Staff’s presentation.
2. Provide Direction to Staff

**APPLICANT:** City of Oroville

**LOCATION:** City-Wide

**GENERAL PLAN:** N/A

**ZONING:** N/A

**FLOOD ZONE:** N/A

**ENVIRONMENTAL DETERMINATION:** This proposed Zoning Code Amendment is not subject to the provisions of the California Environmental Quality Act (“CEQA”) pursuant to Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of Environment). These exemptions cover actions taken to assure the maintenance, restoration, enhancement, or protection of natural resources or the environment where the regulatory process involves procedures for the protection of the environment. The proposed amendments to the OMC maintain regulations requiring permits for the removal of trees, including oak trees, meeting specific size criteria outlined in Title 17. Exceptions to permits and mitigation are limited to include routine tree maintenance, or when removal is determined as necessary to protect life, prevent damage to property, or for purposes of fuel management, while minimizing the removal of mature heritage trees. The proposed Zoning Code Amendment also is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

<p><b>REPORT PREPARED BY:</b></p>    <hr/> <p>Connor Musler, Contract Planner Community Development Department</p>	<p><b>REVIEWED BY:</b></p>    <hr/> <p>Patrick Piatt, Director Community Development Department</p>
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**BACKGROUND**

The Planning Commission previously adopted Resolution No. P2023-20 on November 9, 2023, recommending that the City Council adopt Zoning Code Amendment (ZC) 23-03 amending Section 17.12.060 (Tree Preservation), Section 17.12.065 (Oak Tree Loss Mitigation) and Section 17.48.070 (Tree Removal Permits) of the Oroville Municipal Code (OMC). This recommendation was a culmination of months of research and analysis by Staff and two Planning Commission workshops held on September 28, 2023, and October 26, 2023.

Following the Planning Commission adoption of Resolution No. P2023-20, Staff brought the proposed zoning code amendment before the City Council for a public hearing on January 2, 2024. After soliciting public comment and discussion with Staff, the Council requested minor modifications to the proposed ordinance, primarily concerning permit exceptions for non-native trees and specific tree species. To address these requests, Staff analyzed the amendments proposed under ZC 23-03 and proposed the following modifications:

- Moving permit and mitigation exceptions from Section 17.12.065 (Oak Tree Loss Mitigation) to Section 17.48.070 (Tree Removal Permits).
- Expanding the applicability of 17.48.070 (Tree Removal Permits) to include what is NOT considered a protected tree and providing a list of specific tree species that are considered invasive, highly flammable, or did not inherently contain value as habitat.

By moving exceptions to permits and mitigation to Section 17.48.070 (Tree Removal Permits), the applicability was expanded from solely oak trees to all trees, including non-native species. Additionally, by clarifying what was not considered a protected tree, property owners would be able to remove certain non-native, invasive, tree species that are not inherently of value, nor encouraged to be planted by the goals, policies, and actions of the 2030 General Plan.

Staff returned to the City Council on March 19, 2024, after making the aforementioned revisions to the proposed ordinance. At that meeting, members of the City Council expressed further concern that the proposed zoning code amendment did not go far enough and desired to see greater exemptions for larger properties and larger trees. Staff felt that it would be best to return to the Planning Commission and conduct an additional workshop/discussion regarding any potential further revisions before returning to the City Council for their consideration.

## DISCUSSION

The City currently has three primary municipal code sections pertaining to trees and their preservation and removal.

- Section 17.12.060 pertains to tree preservation requirements.
- Section 17.12.065 pertains to oak tree loss mitigation requirements.
- Section 17.48.070 pertains to the City's tree removal permit requirements.

Section 17.12.065 "Oak Tree Loss Mitigation" was added to the Oroville Municipal Code in 2015 as part of the larger "Oroville Sustainability Code Updates"; a collection of updates to bring the City's zoning code and planning documents in compliance with the 2030 General Plan that was adopted on June 2, 2009.

These three code sections are intended to work in coordination with each other, however, they currently lack clear and proper cross-referencing, and, in the case of Section 17.12.065 "Oak Tree Loss Mitigation," contain burdensome regulations and a lack of detailed exceptions for routine maintenance or the protection of property and public safety.

The intent of this ordinance is to:

- Simplify the City's oak tree mitigation requirements; and
- Ensure the City's codes pertaining to tree removal and permitting requirements do not conflict and are properly referenced within applicable code sections; and
- Balance the ability of property owners to remove trees on their properties while recognizing the key factor that trees have in contributing to Oroville's beauty and natural environment.

The table in **Attachment 1** summarizes the changes proposed under ZC 23-03.

This proposed ordinance helps implement guiding principles, goals, policies and actions of the City's 2030 General Plan.

### **General Plan Guiding Principles:**

**Livability.** Ensure that future development enhances the existing character of our city as a whole, as well as its individual neighborhoods, and has a positive effect on our surroundings and quality of life.

**Natural Resources and the Environment.** Highlight and protect our unique open spaces, natural resources, underdeveloped areas, specimen trees, riparian zones and wetlands.

### **General Plan Goals:**

Goal CD-1 As the community grows, maintain a coherent and distinctive physical form and structure that reflects Oroville's unique qualities.

Goal CD-7 Develop Oroville's major corridors as attractive locations with a diverse mix of land uses and development patterns that include high quality pedestrian-oriented design.

Goal OPS-1 Provide a comprehensive, high-quality system of recreational open space and facilities to maintain and improve the quality of life for Oroville residents.

Goal OPS-5 Maintain and enhance the quality of Oroville's scenic and visual resources.

Goal OPS-9 Protect areas of significant wildlife habitat and sensitive biological resources to maintain biodiversity among plant and animal species in the City of Oroville and the surrounding area.

### **General Plan Policies:**

P1.1 Require quality architectural and landscaping design as well as durable and efficient materials for all projects.

P2.3 Encourage imaginative design concepts in woodland areas to perpetuate and preserve native trees.

P2.4 Use appropriate landscaping to reduce the effects of surface runoff in developing areas, with an emphasis on native and drought-resistant species, minimization of impervious surfaces, and provisions for recharge.

P2.5 Continue to support and maintain Oroville's involvement and commitment to the Tree City USA® program.

P2.6 Encourage the planting of trees and other landscape features along Oroville's corridors to make them interesting, appealing, and inviting.

P1.1 Preserve and develop open space that includes a diversity of passive and active recreational amenities, that is geographically distributed throughout the City, and that is easily accessible by pedestrians and bicyclists.

P3.5 Enhance the wildlife value of the Planning Area's "urban forest" by landscaping park and recreation lands with native vegetation and by preserving existing trees and shrubs where they offer significant wildlife value.

P9.5 Require the preparation of a site-specific tree management and preservation report by a certified arborist or urban forester for development proposals on sites that contain significant oak woodlands and related habitat. This report shall include recommendations for the retention of healthy mature trees wherever feasible and promote the concept of oak regeneration corridors within project design.

**FISCAL IMPACT**

There is minimal fiscal impact associated with the recommended actions.

**ATTACHMENTS**

- A. Explanation Table of Proposed Changed
- B. City Council March 19, 2024, Packet

# Attachment 1



**Key:**

- **Strikethrough** – current provision to be deleted and/or replaced
- **“Red Text”** – New or Moved Standard

Current Code Requirements	Proposed Amendment	Purpose of Amendment
<p>17.12.060 Tree Preservation</p> <p><del>C. Applicability.</del></p> <p><del>1. The requirements of this section shall apply to any protected tree.</del></p> <p><del>2. A protected tree is defined as:</del></p> <p style="padding-left: 20px;"><del>a. Any tree on public property; or</del></p> <p style="padding-left: 20px;"><del>b. Any tree on private property that has a trunk diameter of at least 24 inches at 54 inches above grade.</del></p> <p><del>3. <b>Permit Required.</b> The removal of any protected tree requires approval of a tree removal permit, as provided in Section 17.48.070.</del></p> <p><del>4. <b>Removal Without a Permit.</b> If personal injury or property damage is imminently threatened, the fire chief, the chief of police or the zoning administrator may authorize the removal of a protected tree without obtaining the required permit. The removal shall be</del></p>		<p>Combine this section regulations with Section 17.48.070 to minimize cross referencing.</p>

<p><del>reported to the zoning administrator within 5 business days.</del></p>		
<p><b>17.12.65 Oak Tree Loss Mitigation</b></p> <p>A. <b>Purpose.</b> Oroville’s native oak trees provide wildlife habitat, control erosion, maintain water flow and quality, moderate temperatures, improve air quality, and contribute to the aesthetic character of the area. The purpose of this section is to preserve Oroville’s valuable native oak trees by protecting them during grading and construction, minimizing their removal, replacing them when removal is approved, and monitoring them to ensure that they are maintained.</p> <p>C. <b>Applicability.</b> The requirements of this section apply to any native oak tree on public or private land with the following minimum diameter at breast height (dbh) (i.e., 4.5 feet from the ground):</p> <ol style="list-style-type: none"> <li>1. Single main trunk: 6 inches.</li> <li>2. Multiple trunks (in aggregate): 10 inches.</li> <li>3. <b>Heritage Tree: 24 inches</b></li> </ol> <p>“Native oak tree” means an oak tree that is native to Butte County’s natural oak communities, including valley oak, black oak, blue oak, and canyon oak. <b>Interior live oak, while native to Butte</b></p>	<p>Added heritage trees to the list of applicability.</p>	<p>Heritage tree is currently defined within the Oroville Municipal Code as any tree with a 24-inch diameter at breast height (dbh) or greater. Adding heritage tree to this code section minimizes the need to refer back to the definitions and allows for the reader to know what a heritage tree is when this code section later talks about heritage trees.</p> <p>At their September 28, 2023, meeting, the Planning Commission expressed a desire to exempt non</p>

County, is not included in this definition and their removal is not subject to the requirements of this section unless meeting the criteria for classification as a heritage tree.

**C. Permits Required.**

1. **Tree Removal.** The city requires a tree removal permit in accordance with Section 17.48.070 to remove any oak tree that meets the applicability criteria above in subsection B (Applicability). The property owner must file a tree survey and an oak tree preservation plan with the community development department before the city will issue a permit. The plan shall describe all efforts to preserve trees to the extent feasible, replace trees that are removed, and maintain replacement trees. In addition, the plan shall address replacing any replacement trees that do not survive.
2. **Grading.** Grading projects shall retain oak trees wherever possible. To receive a grading permit, applicants must address oak tree preservation in their grading plan by identifying methods to:
  - a. Identify trees to be retained, through flagging or other obvious marking methods, prior to any grading.

Removed interior live oak from the applicability of the definition “native oak tree” unless meeting the criteria of a heritage tree (24 inches dbh or greater).

Added proper code referencing to the City’s tree removal permit code section.

heritage interior live oaks from the requirements of this section. The intent was to address the heavy presence of volunteer interior live oaks that take hold and tend to grow rapidly with the goal of exempting them to encourage fire-safe landscape practices.

Clarifies that the permitting process is in accordance with Section 17.48.070.

- b. Avoid compaction of the root zone and mechanical damage to trunks and limbs by installing temporary fencing along the outermost edge of the dripline of each retained tree or group of trees.
- c. Avoid trenching within driplines of retained trees. Any required utility line poles within the dripline should be installed by boring or drilling through the soil.

**3. Heritage Trees.**

- a. Grading, filling, trenching, paving, irrigation, and landscaping plans shall avoid the removal of or damage to the health of a heritage tree.
- b. A heritage tree may only be removed when approved as appropriate by a certified arborist, and upon receiving a tree removal permit in accordance with subsection (C)(1).

**C. Mitigation Options.** An applicant who has received a tree removal permit shall mitigate the removal by completing one or a combination of the following options, as well as paying a monitoring fee per tree as set by the city council.

<p>1. <b>On-Site Replacement.</b> Where physically feasible, a tree removed under a tree removal permit shall be replaced on the same property, in accordance with the standards in subsection F (Replacement Standards).</p> <p>1. <b>In-Lieu Fee.</b> When replacing a tree on site is not feasible, an applicant granted a tree removal permit may pay an in-lieu fee as set by the city council.</p> <p>2. <b>Off-Site Replacement.</b> When replacing a tree on site is not feasible, an applicant granted a tree removal permit may plant replacement trees off site if:</p> <ul style="list-style-type: none"><li>a. The off-site location is permanently protected under a conservation easement that includes a maintenance plan that meets the requirements in subsection F (Replacement Standards).</li><li>b. The off-site location is appropriate for oak tree plantings, as determined by the director of parks and trees <b>public works</b> or designee.</li></ul>	<p>Removed “parks and trees” and replaced with “public works” director.</p>	<p>Updated to reflect current organization structure.</p>
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c. The off-site location is sufficient to plant and maintain replacement trees in accordance with the standards in subsection F (Replacement Standards).

**C. Exceptions to Permits and Mitigation Requirements.** ~~Mitigation is not required for trees removed due to poor tree health or because removal furthers urban forestry or land management practices that support the health of native plant communities, as determined by the director of parks and trees or designee.~~ **Exceptions to permit and mitigation requirements shall be as specified in Section 17.48.070**

**C. Replacement Standards.** Replacement trees must meet the following standards.

1. **Replacement Ratio.** Each inch in dbh of oak removed shall be replaced by ~~2~~ **1** inches of native oaks (**1:1 ratio**), using trees planted at a minimum size of ~~one~~ **15** gallons. ~~For example, a 6-inch dbh tree may be replaced by four 3-inch trees or 12 one-inch trees.~~

2. **Timeframe.** ~~A replacement tree shall be planted within 90 days of the removal of the original tree.~~ **The schedule for**

Added referencing to the newly proposed exemptions in Section 17.48.070.

Reduced the mitigation replacement requirements from 2 inches for every inch removed to 1 inch for every inch removed. For example, removing 50 inches of tree required 100 inches to be replaced. Now removing 50 inches would require 50 inches to be replaced

Increased the minimum replacement size from one gallon to 15 gallons.

Currently this code section only allows for removal due to poor health or for best management practices. Staff have prepared an expanded list of exemptions that would be applicable to all tree types, including oak trees, and moved them to Section 17.48.070 where it was more appropriate.

Simplified the replacement ratio. A one-to-one replacement ratio is more straightforward and easier to meet. Increasing the minimum replacement size helps ensure survivability and

<p>planting of the replacement trees shall be subject to approval by the review authority as detailed in Section 17.48.070(C)(3).</p> <p>3. <b>Maintenance.</b> The applicant is responsible for protecting the health of a replacement tree. Replacement trees shall be irrigated in accordance with Oroville Municipal Code Section 17.12.050 (Landscaping standards). A replacement tree that dies within 5 years shall be replaced on a one-to-one basis.</p> <p>4. <b>Monitoring.</b> The applicant shall monitor the replacement tree and report its health status to the community development department annually, or upon request, for 5 years following planting.</p> <p>5. <b>Damage.</b> Purposeful damaging or neglect of a replacement tree will invalidate the tree removal permit.</p> <p>C. <b>Oak Tree Maintenance Fund.</b> The city shall place in-lieu tree-removal fees in an oak tree maintenance fund to be expended only for the following:</p>	<p>Refers to the review authority as outlined in Section 17.48.070 "Tree Removal Permits." Depending on the location of the tree removed, this is either the Director of Public Works, Zoning Administrator, or Planning Commission.</p>	<p>the trees tend to be larger dbh (around 1-2 inches).</p> <p>Allow for greater flexibility in determining when the best time may be for replacement trees to be planted. Under the current regulations, by requiring a replacement tree to be planted within 90 days of the removal of the original tree, this could result in the replacement tree being planted in substandard conditions in less-than-optimal planting times.</p>
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<p>1. <b>Planting New Trees.</b> Planting oak trees on public and private property within Oroville. These expenditures may include purchasing and planting trees, preparing the land for planting, and installing irrigation improvements. Private property owners may apply to have an oak tree planted on their property at public expense, provided the expense does not exceed the in-lieu fee amount.</p> <p>2. <b>Maintaining Existing Trees.</b> Caring for and preserving existing oak trees on public property or easements.</p> <p>C. <b>Monitoring.</b> The community development department shall prepare an annual report that addresses the following topics:</p> <p>1. <b>Tree Inventory.</b> The report shall inventory all replacement trees, including their type and health status, as reported by an applicant.</p> <p>2. <b>Fund Accounting.</b> The report shall account for the balance in the oak tree mitigation fund and summarize the use to which the fund was put during the preceding year.</p>		
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<p>C. <b>Fines.</b> The city may issue a fine for the destruction of an oak tree in violation of this section. Fines may be as high as the cost to replace and maintain up to 3 times the number of trees required by this section. The city shall deposit funds received from fines in the oak tree mitigation fund. (Ord. 1819 § 3, 2017).</p>		
<p><b>17.48.070 Tree Removal Permits</b></p> <p>A. <b>Purpose.</b> The purpose of requiring tree removal permits is to preserve the city’s mature trees by placing appropriate restrictions on their removal, while also allowing the removal of trees when necessary to protect the health, safety and welfare of the public.</p> <p>B. <b>Applicability.</b> The removal of any protected tree requires approval of a tree removal permit. The requirements of this section shall apply to any protected tree.</p> <p>1. A protected tree is defined as:</p> <ul style="list-style-type: none"><li>a. Any tree on public property; or</li><li>b. Any tree on private property that has a trunk diameter of at least 24 inches at 54 inches above grade.</li><li>c. An oak tree meeting the criteria of Section 17.12.065.</li></ul>	<p>Added applicability which was previously in a separate section (Sections 17.12.060 and 17.12.065)</p> <p>Created a new list of trees that do not require a permit to remove.</p>	<p>Combined multiple sections together that inferred that removal of trees required a tree removal permit to minimize cross referencing and the need to look at multiple code sections.</p> <p>The City Council at their January 2,</p>

2. A protected tree does not include the following species: Ailanthus, Chinese Tallow, Fremont Cottonwood or Poplar, Privet, Box Elder, Eucalyptus, Silver Wattle, Black Acacia, English Hawthorn, Red Gum, Tasmanian Blue Gum, Edible Fig, English Holly, Cherry Plum, Black Locust, Peruvian Peppertree, Brazilian Peppertree, Palm, Western Catalpa, Chinese Elm or Winged Elm; or fruit and nut trees.

**C. Exceptions to Permits and Mitigation Requirements.** A tree removal permit or mitigation shall not be required for the following circumstances:

1. When a tree is damaged and the city administrator, director of public works, director of community development, public safety personnel, code enforcement officer, or their designees has determined that its immediate removal is necessary to protect persons from imminent personal injury or to prevent imminent and substantial damage to property.
2. Removal of an interior live oak, unless meeting the criteria for classification as a heritage tree.

Added a list of exemptions where a tree removal permit or mitigation would not be required.

2024, meeting expressed desire to see a list of tree species that do not require a permit to remove. This list encompasses trees that are either non-native, invasive, pose a high fire threat, or are not of explicit value as a habitat.

Currently there are no exemptions of any kind for the removal of trees that require a permit. This proposed list of exemptions would apply to all trees subject to this code section, which include any tree on public property, any tree on private property that is

3. When removal is determined to be necessary by fire department personnel actively engaged in fighting a fire.
4. When removal is determined to be necessary by fire department personnel to comply with fuel modification requirements or defensible space requirements, as detailed in a defensible space inspection/report.
5. When removal is determined as necessary by the property owner's insurance provider, as detailed in an insurance report or other formal correspondence, to maintain homeowners' insurance coverage.
6. Routine trimming, pruning, or maintenance which does not cause damage or death of a tree.
7. Removal of a tree that is dead, dying, or in poor health as determined by a certified arborist.
8. Removal of a tree on a property developed with a single-family dwelling unit, provided that the following criteria is met:
  - a. The developed lot is not greater than 20,000 square feet in area and is zoned either RR-20, RR-10, RL, R-1, or R-2.
  - b. The developed lot is located outside of the Foothill Overlay (F-O) district.

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considered a heritage tree (24 inches dbh or greater), or an oak tree that is 6 inches (single trunk), 12 inches (multiple trunk), or a heritage oak tree (24 inches).

The proposed exemptions include provisions allowing for the removal for fire safety, in order to maintain homeowners' insurance coverage, and properties that are developed with a single-family home meeting certain lot size criteria. Under the current regulations, these property owners are required to obtain a tree

(1).If the developed lot is located within the Foothill Overlay (F-O) district, the tree(s) proposed to be removed must be located outside of a setback area abutting a street.

**D. Application.**

1. Application for a tree removal permit shall be made in a form prescribed by the zoning administrator and accompanied by a fee established by resolution of the city council. Only the owner of the site **or their authorized agent** may apply for a tree removal permit.
2. The application for a tree removal permit shall include a map depicting the location, size and type of all trees within or immediately adjacent to the subject property. The map shall also depict any permanent buildings or structures on the subject property.
3. The review authority for a tree removal permit shall be determined as follows:
  - a. For trees on public property, unless the removal is associated with a proposed development that requires planning commission

Added a provision allowing for an authorized agent (contractor, architect, family member, company, etc.) to apply for a tree removal permit.

removal permit regardless of circumstances for a tree that is 24 inches dbh or greater.

This is common practice with most applications submitted to the City.

<p>approval, the director of <del>parks and trees</del> <b>public works or designee</b> shall be responsible for issuing tree removal permits.</p> <p>b. For trees on private property, unless the removal is associated with a proposed development that requires planning commission approval, the zoning administrator shall be responsible for issuing tree removal permits.</p> <p>c. For any proposed development that requires planning commission approval, the planning commission shall review the trees being removed, and approval of the project shall also be approval to remove all specified trees.</p> <p><b>E. Required Findings.</b></p> <p>1. A tree removal permit shall not be issued unless the review authority finds, based on substantial evidence, that the owner has demonstrated that the removal is necessary in order to accomplish any one of the following objectives:</p> <p>a. To ensure public safety as it relates to the health of the tree,</p>	<p>Removed “parks and trees” and replaced with “public works” director.</p>	<p>Updated to reflect current organizational structure</p>
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<p>potential hazard to life or property, and proximity to existing or proposed structures, and interference with utilities or sewers.</p> <ul style="list-style-type: none"><li>b. To allow reasonable enjoyment of the property, including sunlight access and the right to develop the property.</li><li>c. To pursue good, professional practices of forestry or landscape design.</li></ul> <p>2. Any action regarding the issuance of a tree removal permit may be appealed, as provided in Section 17.56.100. Subject trees shall not be removed prior to the completion of the required appeal period. (Ord. 1749 § 4; Ord. 1762 § 12)</p> <p><b>F. Removal Without a Permit.</b> No person shall remove, cause to be removed, or effectively remove any tree from any property which is subject to this section without first obtaining a tree removal permit, unless otherwise provided by the exceptions of this section.</p>	<p>Added provisions for removal without a permit that was previously in Section 17.12.060.</p>	<p>Added from a different code section that is proposed to be removed. No change in wording from what is currently adopted.</p>
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# Attachment 2



## CITY OF OROVILLE STAFF REPORT

**TO: MAYOR PITTMAN AND COUNCIL MEMBERS**

**FROM: PATRICK PIATT, COMMUNITY DEVELOPMENT DIRECTOR  
CONNOR MUSLER, CONTRACT PLANNER**

**RE: SECOND READING OF ZONING CODE AMENDMENT (ZC) 23-03,  
AMENDING SECTION 17.12.060 (TREE PRESERVATION),  
SECTION 17.12.065 (OAK TREE LOSS MITIGATION) AND  
SECTION 17.48.070 (TREE REMOVAL PERMITS) OF THE  
OROVILLE MUNICIPAL CODE (OMC)**

**DATE: MARCH 19, 2024**

### SUMMARY

The Council will consider adopting ZC 23-03, amending the City’s oak tree loss mitigation standards, requirements, and applicability as found in Section 17.12.065 of the Oroville Municipal Code (OMC). ZC 23-03 would also amend Section 17.12.060 pertaining to tree preservation requirements and Section 17.48.070 pertaining to the City’s tree removal permit requirements.

### BACKGROUND

On January 2, 2024, the City Council conducted a public hearing and introduced by title ZC 23-03. After soliciting public comment and discussion with Staff, the Council requested minor modifications to the proposed ordinance, primarily concerning permit exceptions for non-native trees and specific tree species. To address these requests, Staff analyzed the modifications proposed under ZC 23-03 and are proposing the following modifications:

- Move permit and mitigation exceptions from Section 17.12.065 (Oak Tree Loss Mitigation) to Section 17.48.070 (Tree Removal Permits).
- Expand the applicability of 17.48.070 (Tree Removal Permits) to include what is NOT considered a protected tree and provide a list of specific tree species that are considered invasive, highly flammable, or do not inherently contain value as habitat.

By moving exceptions to permits and mitigation to Section 17.48.070 (Tree Removal Permits), the applicability is expanded from solely oak trees to all trees, including non-



native species. Additionally, by clarifying what is not considered a protected tree, property owners would be able to remove certain non-native, invasive, tree species that are not inherently of value, nor encouraged to be planted by the goals, policies, and actions of the 2030 General Plan. Article 7, Section 4 of the Charter of the City of Oroville and Government Code 36934 allows for ordinances to be altered after introduction.

**DISCUSSION**

The City currently has three primary municipal code sections pertaining to trees and their preservation and removal. Section 17.12.060 pertains to tree preservation requirements, Section 17.12.065 pertains to oak tree loss mitigation requirements, and Section 17.48.070 pertains to the City’s tree removal permit requirements. Section 17.12.065 “Oak Tree Loss Mitigation” was added to the Oroville Municipal Code in 2015 as part of the larger “Oroville Sustainability Code Updates”; a collection of updates to bring the City’s zoning code and planning documents in compliance with the 2030 General Plan that was adopted on June 2, 2009.

These three code sections are intended to work in coordination with each other, however, they currently lack clear and proper cross-referencing, and, in the case of Section 17.12.065 “Oak Tree Loss Mitigation,” contain burdensome regulations and a lack of detailed exceptions for routine maintenance or the protection of property and public safety.

The intent of this ordinance is to:

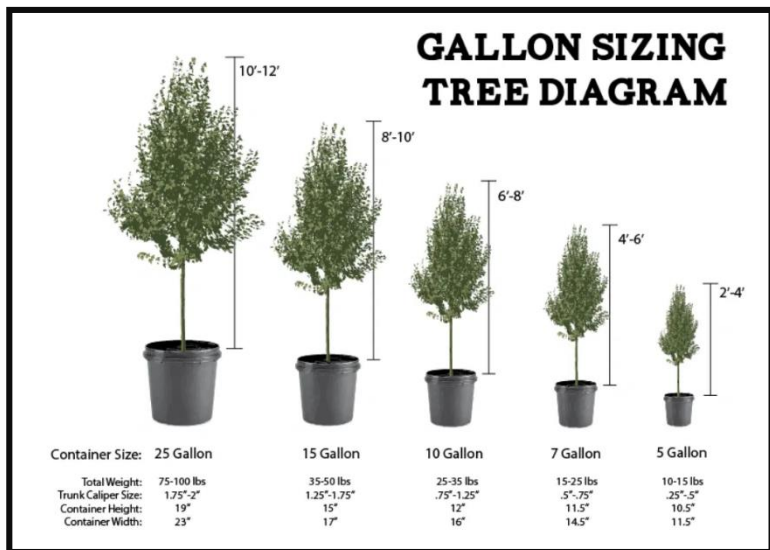
- Simplify the City’s oak tree mitigation requirements; and
- Ensure the City’s codes pertaining to tree removal and permitting requirements do not conflict and are properly referenced within applicable code sections; and
- Balance the ability of property owners to remove trees on their properties while recognizing the key factor that trees have in contributing to Oroville’s beauty and natural environment.

Based on direction received from the City Council, staff began preparing an update to the City’s oak tree mitigation regulations to simplify the overall regulations found within Section 17.12.065 of the OMC. Staff researched the cities of Chico, Rocklin, Roseville, Folsom, Fremont, and the County of Butte to further analyze how each jurisdiction approached tree removal permits and mitigation requirements and compare how the City’s current regulations compared. Staff found that the City’s current regulations were similar to the jurisdictions researched, however, the City’s regulations had a more burdensome replacement ratio of 2 inches of oak tree for every 1 inch removed and a lack of clearly outlined exceptions to the mitigation requirements.

The following changes are proposed:

**Amend the Replacement Ratio**

Currently, oak trees must be replaced at a 2:1 ratio (2 inches of replacement oak tree for every 1 inch removed). Staff are proposing to simplify the replacement standards to be a 1:1 ratio (1 inch of replacement oak tree for every 1 inch removed), with the replacement trees planted at a minimum size of 15 gallons.



**Expand the Scenarios where Mitigation is Exempt**

Currently, the only exception to the mitigation requirements of the oak tree ordinance is for “trees removed due to poor tree health or because removal furthers urban forestry or land management practices that support the health of native plant communities, as determined by the director of parks and trees or designee.”

Staff are proposing to expand the list of exceptions to the tree removal permit and mitigation requirements to include:

- Removal of a tree that is damaged and removal is necessary to protect persons and property from imminent damage.
- Removal by fire department personnel actively fighting fire.
- When removal is determined as necessary by fire department personnel as part of fuel modification or defensible space requirements, as detailed in a defensible space inspection/report.
- Routing trimming and maintenance which do not damage or result in the death of the tree.
- Removal of a dead, dying, or tree in poor health, as determined by an arborist.

The Planning Commission held a workshop on the proposed oak tree mitigation ordinance update at their September 28, 2023, meeting. Following that workshop, staff proposed two (2) additional mitigation exceptions and one (1) revised exception.

The two (2) additional proposed mitigation exceptions were:

- Removal of an interior live oak, unless meeting the criteria for classification as a heritage tree; and
- When removal is determined as necessary by the property owner’s insurance provider, as detailed in an insurance report or other formal correspondence, to maintain homeowners’ insurance coverage.

The proposed revised exception was:

- Removal of a tree on a property developed with a single-family dwelling unit, provided that the following criteria is met:
  - The developed lot is not greater than 1020,000 square feet in area and is zoned either RR-20, RR-10, RL, R-1, or R-2.
  - The developed lot is located outside of the Foothill Overlay (F-O) district.
  - If the developed lot is located within the Foothill Overlay (F-O) district, the oak tree(s) proposed to be removed must be located within the rear or side yard ~~within the rear or side yard not~~ outside of a setback area abutting a street.

These three mitigation exceptions that resulted from the Planning Commission workshop were added with the intent of assisting property owners who wish to create defensible space around their homes and assist owners within the Wildland Urban Interface (WUI) to maintain insurance coverage.

**Mitigation Option – In-Lieu Fee**

One of the mitigation options allowed by the oak tree ordinance is the payment of an in-lieu fee. The City does not currently have an in-lieu fee established within the City’s fee schedule. Based on correspondence from the City’s arborist/parks, streets, and trees supervisor, staff proposes an in-lieu fee set at \$220 per inch that needs to be mitigated. This is broken down as \$55-\$60 for a 15-gallon tree, with an average of 2 crew hours (\$75 an hour per crew member) spent to plant the tree, stake it, etc. plus \$10 for miscellaneous expenses such as tree stakes.

Additional changes are proposed to OMC Sections 17.12.060 (Tree Preservation) and 17.48.070 (Tree Removal Permits). Staff are proposing to combine Section 17.12.060 and Section 17.48.070 to minimize cross referencing for two code sections that work in close coordination with each other. Minor updates are also proposed to ensure proper cross-reference between the oak tree mitigation requirements and the tree removal permit section and updates to the department director positions referenced within the code sections.

The Planning Commission conducted a public hearing at a special meeting on November 16, 2023, and adopted Resolution No. 2023-20 by a vote of 4-0, with three commissioners absent, recommending that the City Council adopt the proposed

ordinance.

Following the Planning Commission’s adoption of Resolution No. 2023-20, the Butte Fire Safe Council provided comments on the proposed ordinance, which is included as **Attachment 4.**

**ENVIRONMENTAL REVIEW**

Zoning Code Amendment ZC23-03 is not subject to the provisions of the California Environmental Quality Act (“CEQA”) pursuant to Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of Environment). These exemptions cover actions taken to assure the maintenance, restoration, enhancement, or protection of natural resources or the environment where the regulatory process involves procedures for the protection of the environment. The proposed amendments to the OMC maintain regulations requiring permits for the removal of trees, including oak trees, meeting specific size criteria outlined in Title 17. Exceptions to permits and mitigation are limited to include routine tree maintenance, or when removal is determined as necessary to protect life, prevent damage to property, or for purposes of fuel management, while minimizing the removal of mature heritage trees. The proposed Zoning Code Amendment also is not subject to CEQA pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

**FISCAL IMPACT**

There is minimal fiscal impact associated with the recommended actions.

**RECOMMENDATION**

- 1. Adopt Ordinance No. 1877 AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OROVILLE AMENDING SECTION 17.12.060 “TREE PRESERVATION”, SECTION 17.12.065 “OAK TREE LOSS MITIGATION”, AND SECTION 17.48.070 “TREE REMOVAL PERMITS”**
- 2. Adopt Resolution No. 9213 amending the City’s master schedule of user and regulatory fees by adding an Oak Tree Mitigation In-Lieu Fee to the Planning Fees**

**ATTACHMENTS**

- 1. Ordinance No. 1877
- 2. Resolution No. 9213
- 3. November 16, 2023, Planning Commission Package.
- 4. Public Comments from Butte Safe Fire Council
- 5. Ordinance with Track Changes

**CITY OF OROVILLE  
ORDINANCE NO. 1877**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OROVILLE AMENDING SECTION 17.12.060 “TREE PRESERVATION”, SECTION 17.12.065 “OAK TREE LOSS MITIGATION”, AND SECTION 17.48.070 “TREE REMOVAL PERMITS”**

**WHEREAS**, the City of Oroville has prepared an Ordinance to amend Section 17.12.060 “Tree Preservation”, Section 17.12.065 “Oak Tree Loss Mitigation”, and Section 17.48.070 “Tree Removal Permits”; and

**WHEREAS**, the Oroville 2030 General Plan sets forth goals, objectives, and policies to protect, manage, and expand urban forestry and native vegetation while also considering public safety; and

**WHEREAS**, the City of Oroville currently requires tree removal permits to protect the City’s mature trees and a tree removal permit must be obtained prior to the removal of a protected tree, including native oak trees; and

**WHEREAS**, OMC Section 17.12.065 establishes regulations to protect native oak trees and outlines requirements for mitigation when removed; and

**WHEREAS**, City Staff identified challenges in implementing the current oak tree mitigation code as written and received direction from the City Council to identify opportunities to address those challenges; and

**WHEREAS**, the proposed amendments to OMC Section 17.12.065 include expanding the exceptions to the permit and mitigation requirements and simplifying the mitigation replacement ratio; and

**WHEREAS**, amendments are also proposed to Sections 17.12.060 and 17.48.070; and

**WHEREAS**, the Oroville Development Review Committee reviewed the proposed amendments at their regular meeting on September 14<sup>th</sup>, 2023; and

**WHEREAS**, the Oroville Planning Commission held a workshop at their September 28, 2023, meeting requesting modifications to the proposed ordinance and subsequently held a special meeting on November 16, 2023, and recommends that the City Council adopt the proposed changes to Section 17.12.060, Section 17.12.065, and Section 17.48.070; and

**WHEREAS**, the City Council conducted a public hearing and introduced by title only the proposed ordinance and requested additional minor modifications relating to permit exceptions; and

**WHEREAS**, Article 7, Section 4 of the Charter of the City of Oroville provides that a proposed ordinance may be amended or modified between the time of its introduction and the time of its final passage, provided its general scope and original purposes are retained; and

**WHEREAS**, staff have prepared said minor modifications and clarifications pertaining to permit exceptions; and

**WHEREAS**, the proposed amendments are internally consistent with other applicable provisions of the Zoning Code, the 2030 General Plan, and compatible with the uses authorized in the applicable zoning districts for which the revisions are proposed; and

**WHEREAS**, adoption of this Ordinance is not subject to the provisions of the California Environmental Quality Act (“CEQA”) pursuant to Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of Environment). These exemptions cover actions taken to assure the maintenance, restoration, enhancement, or protection of natural resources or the environment where the regulatory process involves procedures for the protection of the environment. The proposed amendments to the OMC maintain regulations requiring permits for the removal of trees, including oak trees, meeting specific size criteria outlined in Title 17. Exceptions to permits and mitigation are limited to include routine tree maintenance, or when removal is determined as necessary to protect life, prevent damage to property, or for purposes of fuel management, while minimizing the removal of mature heritage trees. The proposed Zoning Code Amendment also is not subject to CEQA pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment; and

**WHEREAS**, at a duly noticed public hearing, the City Council considered the comments and concerns of public agencies, property owners, and members of the public who are potentially affected by the approval of the code changes described herein and considered the City’s staff report regarding the project.

**NOW, THEREFORE, BE IT RESOLVED THAT THE COUNCIL OF THE CITY OF OROVILLE DO ORDAIN AS FOLLOWS:**

**SECTION 1: Findings.**

The City Council of the City of Oroville adopts and finds as true and correct the aforementioned recitals and incorporate them herein as findings.

**Section 2: Amendment to the Oroville Municipal Code Section 17.12.060 (Tree Preservation)**

The Oroville Municipal Code Section 17.12.060 (Tree Preservation) is hereby repealed and amended to read as follows:

**17.12.060 RESERVED**

**Section 3: Amendment to the Oroville Municipal Code Section 17.12.065 (Oak Tree Loss Mitigation)**

The Oroville Municipal Code Section 17.12.065 (Oak Tree Loss Mitigation) is hereby amended to read as follows:

**17-12.065 Oak Tree Loss Mitigation**

**A. Purpose.**

Oroville’s native oak trees provide wildlife habitat, control erosion, maintain water flow and quality, moderate temperatures, improve air quality, and contribute to the aesthetic character of the area. The purpose of this section is to preserve Oroville’s valuable native oak trees by protecting them during grading and construction, minimizing their removal, replacing them when removal is approved, and monitoring them to ensure that they are maintained.

**B. Applicability.** The requirements of this section apply to any native oak tree on public or private land with the following minimum diameter at breast height (dbh) (i.e., 4.5 feet from the ground):

- 1. Single main trunk: 6 inches.
- 2. Multiple trunks (in aggregate): 10 inches.
- 3. Heritage Tree: 24 inches

“Native oak tree” means an oak tree that is native to Butte County’s natural oak communities, including valley oak, black oak, blue oak, and canyon oak. Interior live oak, while native to Butte County, is not included in this definition and their removal is not subject to the requirements of this section unless meeting the criteria for classification as a heritage tree.

**C. Permits Required.**

- 1. **Tree Removal.** The city requires a tree removal permit in accordance with Section 17.48.070 to remove any oak tree that meets the applicability criteria above in subsection B (Applicability). The property owner must file a tree survey and an oak tree preservation plan with the community development department before the city will issue a permit. The plan shall describe all efforts to preserve trees to the extent feasible, replace trees that are removed, and maintain replacement trees. In addition, the plan shall address replacing any replacement trees that do not survive.
- 2. **Grading.** Grading projects shall retain oak trees wherever possible. To receive a grading permit, applicants must address oak tree preservation in their grading plan by identifying methods to:
  - a. Identify trees to be retained, through flagging or other obvious marking methods, prior to any grading.

- b. Avoid compaction of the root zone and mechanical damage to trunks and limbs by installing temporary fencing along the outermost edge of the dripline of each retained tree or group of trees.
- c. Avoid trenching within driplines of retained trees. Any required utility line poles within the dripline should be installed by boring or drilling through the soil.

3. **Heritage Trees.**

- a. Grading, filling, trenching, paving, irrigation, and landscaping plans shall avoid the removal of or damage to the health of a heritage tree.
- b. A heritage tree may only be removed when approved as appropriate by a certified arborist, and upon receiving a tree removal permit in accordance with subsection (C)(1).

D. **Mitigation Options.** An applicant who has received a tree removal permit shall mitigate the removal by completing one or a combination of the following options, as well as paying a monitoring fee per tree as set by the city council.

- 1. **On-Site Replacement.** Where physically feasible, a tree removed under a tree removal permit shall be replaced on the same property, in accordance with the standards in subsection F (Replacement Standards).
- 2. **In-Lieu Fee.** When replacing a tree on site is not feasible, an applicant granted a tree removal permit may pay an in-lieu fee as set by the city council.
- 3. **Off-Site Replacement.** When replacing a tree on site is not feasible, an applicant granted a tree removal permit may plant replacement trees off site if:
  - a. The off-site location is permanently protected under a conservation easement that includes a maintenance plan that meets the requirements in subsection F (Replacement Standards).
  - b. The off-site location is appropriate for oak tree plantings, as determined by the director of public works or designee.
  - c. The off-site location is sufficient to plant and maintain replacement trees in accordance with the standards in subsection F (Replacement Standards).

E. **Exceptions to Permits and Mitigation Requirements.** Exceptions to permit and mitigation requirements shall be as specified in Section 17.48.070.

F. **Replacement Standards.** Replacement trees must meet the following standards.

- 1. **Replacement Ratio.** Each inch in dbh of oak removed shall be replaced by 1 inch of native oaks (1:1 ratio), using trees planted at a minimum size of 15 gallons.



2. **Timeframe.** The schedule for planting of the replacement trees shall be subject to approval by the review authority as detailed in Section 17.48.070(C)(3).
  3. **Maintenance.** The applicant is responsible for protecting the health of a replacement tree. Replacement trees shall be irrigated in accordance with Oroville Municipal Code Section 17.12.050 (Landscaping standards). A replacement tree that dies within 5 years shall be replaced on a one-to-one basis.
  4. **Monitoring.** The applicant shall monitor the replacement tree and report its health status to the community development department annually, or upon request, for 5 years following planting.
  5. **Damage.** Purposeful damaging or neglect of a replacement tree will invalidate the tree removal permit.
- G. **Oak Tree Maintenance Fund.** The city shall place in-lieu tree-removal fees in an oak tree maintenance fund to be expended only for the following:
1. **Planting New Trees.** Planting oak trees on public and private property within Oroville. These expenditures may include purchasing and planting trees, preparing the land for planting, and installing irrigation improvements. Private property owners may apply to have an oak tree planted on their property at public expense, provided the expense does not exceed the in-lieu fee amount.
  2. **Maintaining Existing Trees.** Caring for and preserving existing oak trees on public property or easements.
- H. **Monitoring.** The community development department shall prepare an annual report that addresses the following topics:
1. **Tree Inventory.** The report shall inventory all replacement trees, including their type and health status, as reported by an applicant.
  2. **Fund Accounting.** The report shall account for the balance in the oak tree mitigation fund and summarize the use to which the fund was put during the preceding year.
- I. **Fines.** The city may issue a fine for the destruction of an oak tree in violation of this section. Fines may be as high as the cost to replace and maintain up to 3 times the number of trees required by this section. The city shall deposit funds received from fines in the oak tree mitigation fund. (Ord. 1819 § 3, 2017).

**Section 4: Amendment to the Oroville Municipal Code Section 17.48.070 (Tree Removal Permits)**

The Oroville Municipal Code Section 17.48.070 (Tree Removal Permits) is hereby amended to read as follows:

**17-48.070 Tree Removal Permits**

- A. **Purpose.** The purpose of requiring tree removal permits is to preserve the city's mature trees by placing appropriate restrictions on their removal, while also allowing the removal of trees when necessary to protect the health, safety and welfare of the public.
- B. **Applicability.** The removal of any protected tree requires approval of a tree removal permit. The requirements of this section shall apply to any protected tree.
1. A protected tree is defined as:
    - a. Any tree on public property; or
    - b. Any tree on private property that has a trunk diameter of at least 24 inches at 54 inches above grade.
    - c. An oak tree meeting the criteria of Section 17.12.065.
  2. A protected tree does not include the following species: Ailanthus, Chinese Tallow, Fremont Cottonwood or Poplar, Privet, Box Elder, Eucalyptus, Silver Wattle, Black Acacia, English Hawthorn, Red Gum, Tasmanian Blue Gum, Edible Fig, English Holly, Cherry Plum, Black Locust, Peruvian Peppertree, Brazilian Peppertree, Palm, Western Catalpa, Chinese Elm or Winged Elm; or fruit and nut trees.
- C. **Exceptions to Permits and Mitigation Requirements.** A tree removal permit or mitigation shall not be required for the following circumstances:
1. When a tree is damaged and the city administrator, director of public works, director of community development, public safety personnel, code enforcement officer, or their designees has determined that its immediate removal is necessary to protect persons from imminent personal injury or to prevent imminent and substantial damage to property.
  2. Removal of an interior live oak, unless meeting the criteria for classification as a heritage tree.
  3. When removal is determined to be necessary by fire department personnel actively engaged in fighting a fire.
  4. When removal is determined to be necessary by fire department personnel to comply with fuel modification requirements or defensible space requirements, as detailed in a defensible space inspection/report.
  5. When removal is determined as necessary by the property owner's insurance provider, as detailed in an insurance report or other formal correspondence, to maintain homeowners' insurance coverage.
  6. Routine trimming, pruning, or maintenance which does not cause damage or death of a tree.
  7. Removal of a tree that is dead, dying, or in poor health as determined by a certified arborist.

8. Removal of a tree on a property developed with a single-family dwelling unit, provided that the following criteria is met:
  - a. The developed lot is not greater than 20,000 square feet in area and is zoned either RR-20, RR-10, RL, R-1, or R-2.
  - b. The developed lot is located outside of the Foothill Overlay (F-O) district.
    - (1) If the developed lot is located within the Foothill Overlay (F-O) district, the tree(s) proposed to be removed must be located outside of a setback area abutting a street.

**D. Application.**

1. Application for a tree removal permit shall be made in a form prescribed by the zoning administrator and accompanied by a fee established by resolution of the city council. Only the owner of the site or their authorized agent may apply for a tree removal permit.
2. The application for a tree removal permit shall include a map depicting the location, size and type of all trees within or immediately adjacent to the subject property. The map shall also depict any permanent buildings or structures on the subject property.
3. The review authority for a tree removal permit shall be determined as follows:
  - a. For trees on public property, unless the removal is associated with a proposed development that requires planning commission approval, the director of public works or designee shall be responsible for issuing tree removal permits.
  - b. For trees on private property, unless the removal is associated with a proposed development that requires planning commission approval, the zoning administrator shall be responsible for issuing tree removal permits.
  - c. For any proposed development that requires planning commission approval, the planning commission shall review the trees being removed, and approval of the project shall also be approval to remove all specified trees.

**E. Required Findings.**

1. A tree removal permit shall not be issued unless the review authority finds, based on substantial evidence, that the owner has demonstrated that the removal is necessary in order to accomplish any one of the following objectives:

- a. To ensure public safety as it relates to the health of the tree, potential hazard to life or property, and proximity to existing or proposed structures, and interference with utilities or sewers.
  - b. To allow reasonable enjoyment of the property, including sunlight access and the right to develop the property.
  - c. To pursue good, professional practices of forestry or landscape design.
2. Any action regarding the issuance of a tree removal permit may be appealed, as provided in Section 17.56.100. Subject trees shall not be removed prior to the completion of the required appeal period. (Ord. 1749 § 4; Ord. 1762 § 12)

F. **Removal Without a Permit.** No person shall remove, cause to be removed, or effectively remove any tree from any property which is subject without first obtaining a tree removal permit, unless otherwise provided by the exceptions of this section (Ord. 1749 § 4).

**Section 5: Environmental Determination.**

Zoning Code Amendment ZC23-03 is not subject to the provisions of the California Environmental Quality Act (“CEQA”) pursuant to Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of Environment). These exemptions cover actions taken to assure the maintenance, restoration, enhancement, or protection of natural resources or the environment where the regulatory process involves procedures for the protection of the environment. The proposed amendments to the OMC maintain regulations requiring permits for the removal of trees, including oak trees, meeting specific size criteria outlined in Title 17. Exceptions to permits and mitigation are limited to include routine tree maintenance, or when removal is determined as necessary to protect life, prevent damage to property, or for purposes of fuel management, while minimizing the removal of mature heritage trees. The proposed Zoning Code Amendment also is not subject to CEQA pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

**Section 6: Severability.**

If any section, subsection, sentence, clause, or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of any competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each and every section, subsection, sentence, clause and phrase thereof not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

**Section 7: Effective Date.**

This ordinance shall take effect thirty (30) days after the date of its final adoption. The City Clerk shall certify to adoption thereof and cause its publication according to law.

PASSED AND ADOPTED by the City Council of the City of Oroville at a regular meeting held on this 19<sup>th</sup> day of March 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
David Pittman, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Scott E. Huber, City Attorney

\_\_\_\_\_  
Kayla Reaster, Assistant City Clerk

## RESOLUTION NO. 9213

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OROVILLE AMENDING THE CITY'S MASTER SCHEDULE OF USER AND REGULATORY FEES PERTAINING TO THE ADDITION OF AN IN-LIEU FEE FOR OAK TREE MITIGATION

**WHEREAS**, user and regulatory fees are established by the City Council; and

**WHEREAS**, on February 21, 2023, the City Council conducted a public hearing and adopted Resolution No. 9127, adopting an updated schedule of user and regulatory fees; and

**WHEREAS**, OMC Section 17.12.065(D)(2) allows an applicant granted a tree removal permit to pay an in-lieu fee as set by the city council; and

**WHEREAS**, the City's master schedule of user and regulatory fees does not contain said in-lieu fee for oak tree mitigation; and

**WHEREAS**, in-lieu tree-removal fees shall be placed in an oak tree maintenance fund to be expended only for planting new oak trees and maintaining existing oak trees; and

**WHEREAS**, City Staff examined the cost of planting an oak tree and propose an in-lieu fee of \$220 per inch of oak tree requiring mitigation; and

**WHEREAS**, the in-lieu fee of \$220 per inch of oak tree requiring mitigation is broken down as up to \$60 for a 15-gallon tree; \$75 per crew member, with an average of 2 crew hours spent planting the tree; and \$10 for tree stakes and miscellaneous expenses; and

**WHEREAS**, the Planning Commission of the City of Oroville at a special meeting on November 16, 2023, adopted Resolution No. 2023-20 recommending that the City Council adopt an in-lieu fee of \$220 per inch of oak tree requiring mitigation; and

**WHEREAS**, at a duly noticed public hearing, the City Council considered the comments and concerns of public agencies, property owners, and members of the public who are potentially affected by the approval of the changes described herein and considered the City's staff report regarding the project.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OROVILLE AS FOLLOWS:**

**SECTION 1.** The City Council of the City of Oroville adopts and finds as true and correct the aforementioned recitals and incorporates them herein as findings.

**SECTION 2.** The City Council hereby adopts the amended master schedule of user and regulatory fees by adding an in-lieu fee of \$220 per inch of oak tree requiring mitigation to the Planning Fees.

**SECTION 3.** California Government Code Section 66017, which outlines procedures for adopting fees, any new or increased development fees adopted by the City Council shall go into effect not sooner than 60 days after adoption. Consequently, the proposed amendment shall have an effective date of May 18, 2024.

\*\*\*\*\*

**PASSED AND ADOPTED** by the City Council of the City of Oroville at a regular meeting held on this 19<sup>th</sup> day of March 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

\_\_\_\_\_  
David Pittman, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Scott E. Huber, City Attorney

\_\_\_\_\_  
Kayla Reaster, Assistant City Clerk

# Attachment 3





# City of Oroville

## COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street  
Oroville, CA 95965-4897  
(530) 538-2430 FAX (530) 538-2426  
[www.cityoforoville.org](http://www.cityoforoville.org)

### PLANNING COMMISSION STAFF REPORT

Thursday, November 16, 2023

**RE: Consideration of Zoning Code Amendment (ZC) 23-03 amending Section 17.12.060 (Tree Preservation), Section 17.12.065 (Oak Tree Loss Mitigation) and Section 17.48.070 (Tree Removal Permits) of the Oroville Municipal Code (OMC)**

**SUMMARY:** The Planning Commission will consider recommending that the City Council adopt ZC 23-03, amending the City’s oak tree loss mitigation standards, requirements, and applicability as found in Section 17.12.065 of the Oroville Municipal Code (OMC). ZC 23-02 would also amend Section 17.12.060 pertaining to tree preservation requirements and Section 17.48.070 pertaining to the City’s tree removal permit requirements.

**RECOMMENDATION: Staff recommends the following actions:**

1. **Conduct a Public Hearing** on the proposed Zoning Code Amendment.
2. **Adopt** Resolution No. 2023-20 Recommending that the City Council adopt an ordinance amending Sections 17.12.060, 17.12.065, and 17.48.070 of the OMC

**APPLICANT:** City of Oroville

**LOCATION:** City-Wide

**GENERAL PLAN:** N/A

**ZONING:** N/A

**FLOOD ZONE:** N/A

**ENVIRONMENTAL DETERMINATION:** This proposed Zoning Code Amendment is not subject to the provisions of the California Environmental Quality Act (“CEQA”) pursuant to Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of Environment). These exemptions cover actions taken to assure the maintenance, restoration, enhancement, or protection of natural resources or the environment where the regulatory process involves procedures for the protection of the environment. The proposed amendments to the OMC maintain regulations requiring permits for the removal of trees, including oak trees, meeting specific size criteria outlined in Title 17. Exceptions to permits and mitigation are limited to include routine tree maintenance, or when removal is determined as necessary to protect life, prevent damage to property, or for purposes of fuel management, while minimizing the removal of mature heritage trees. The proposed Zoning Code Amendment also is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

<p><b>REPORT PREPARED BY:</b></p>    <hr/> <p>Connor Musler, Contract Planner Community Development Department</p>	<p><b>REVIEWED BY:</b></p>    <hr/> <p>Patrick Piatt, Director Community Development Department</p>
--	---

**DISCUSSION**

The City currently has three primary municipal code sections pertaining to trees and their preservation and removal. Section 17.12.060 pertains to tree preservation requirements, Section 17.12.065 pertains to oak tree loss mitigation requirements, and Section 17.48.070 pertains to the City’s tree removal permit requirements. Section 17.12.065 “Oak Tree Loss Mitigation” was added to the Oroville Municipal Code in 2015 as part of the larger “Oroville Sustainability Code Updates”; a collection of updates to bring the City’s zoning code and planning documents in compliance with the 2030 General Plan that was adopted on June 2, 2009.

These three code sections are intended to work in coordination with each other, however, they currently lack clear and proper cross-referencing, and, in the case of Section 17.12.065 “Oak Tree Loss Mitigation,” contain burdensome regulations and a lack of detailed exceptions for routine maintenance or the protection of property and public safety.

The intent of this ordinance is to:

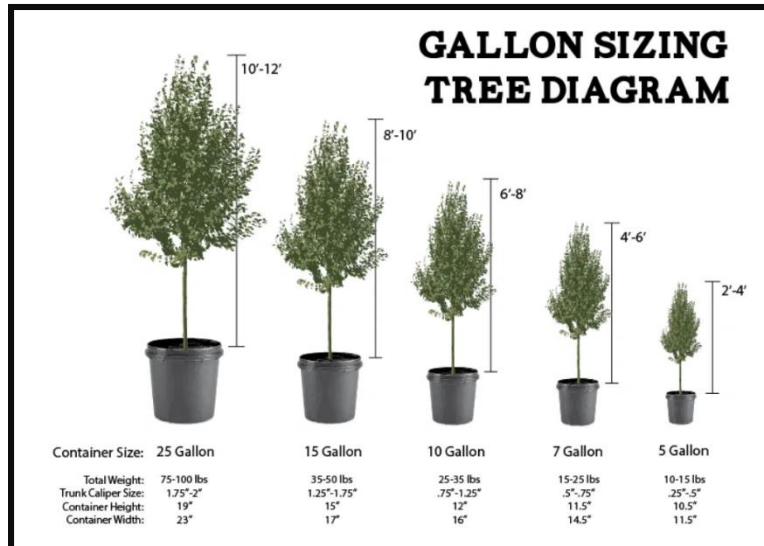
- Simplify the City’s oak tree mitigation requirements; and
- Ensure the City’s codes pertaining to tree removal and permitting requirements do not conflict and are properly referenced within applicable code sections; and
- Balance the ability of property owners to remove trees on their properties while recognizing the key factor that trees have in contributing to Oroville’s beauty and natural environment.

Based on direction received from the City Council, staff began preparing an update to the City’s oak tree mitigation regulations to simplify the overall regulations found within Section 17.12.065 of the OMC. Staff researched the cities of Chico, Rocklin, Roseville, Folsom, Fremont, and the County of Butte to further analyze how each jurisdiction approached tree removal permits and mitigation requirements and compare how the City’s current regulations compared. Staff found that the City’s current regulations were similar to the jurisdictions researched, however, the City’s regulations had a more burdensome replacement ratio of 2 inches of oak tree for every 1 inch removed and a lack of clearly outlined exceptions to the mitigation requirements.

The following changes are proposed:

### **Amend the Replacement Ratio**

Currently, oak trees must be replaced at a 2:1 ratio (2 inches of replacement oak tree for every 1 inch removed). Staff are proposing to simplify the replacement standards to be a 1:1 ratio (1 inch of replacement oak tree for every 1 inch removed), with the replacement trees planted at a minimum size of 15 gallons.



### **Expand the Scenarios where Mitigation is Exempt**

Currently, the only exception to the mitigation requirements of the oak tree ordinance is for “trees removed due to poor tree health or because removal furthers urban forestry or land management practices that support the health of native plant communities, as determined by the director of parks and trees or designee.”

Staff are proposing to expand the list of exceptions to the oak tree ordinance to include:

- Removal of an oak tree that is damaged and removal is necessary to protect persons and property from imminent damage.
- Removal by fire department personnel actively fighting fire.
- When removal is determined as necessary by fire department personnel as part of fuel modification or defensible space requirements, as detailed in a defensible space inspection/report.
- Routing trimming and maintenance which do not damage or result in the death of the tree.
- Removal of a dead, dying, or tree in poor health, as determined by an arborist.

The Planning Commission held a workshop on the proposed oak tree mitigation ordinance update at their September 28, 2023, meeting. Following that workshop, staff proposes two (2) additional mitigation exceptions and one (1) revised exception.

The two (2) new proposed mitigation exceptions are:

- Removal of an interior live oak, unless meeting the criteria for classification as a heritage tree; and
- When removal is determined as necessary by the property owner’s insurance provider, as detailed in an insurance report or other formal correspondence, to maintain homeowners’ insurance coverage.

The proposed revised exception is:

- Removal of an oak tree on a property developed with a single-family dwelling unit, provided that the following criteria is met:
  - The developed lot is not greater than 20,000 square feet in area and is zoned either RR-20, RR-10, RL, R-1, or R-2.
  - The developed lot is located outside of the Foothill Overlay (F-O) district.
  - If the developed lot is located within the Foothill Overlay (F-O) district, the oak tree(s) proposed to be removed must be located outside of a setback area abutting a street.

These three mitigation exceptions that resulted from the Planning Commission workshop were added with the intent of assisting property owners who wish to create defensible space around their homes and assist owners within the Wildland Urban Interface (WUI) to maintain insurance coverage.

**Mitigation Option – In-Lieu Fee**

One of the mitigation options allowed by the oak tree ordinance is the payment of an in-lieu fee. The City does not currently have an in-lieu fee established within the City’s fee schedule. Based on correspondence from the City’s arborist/parks, streets, and trees supervisor, staff proposes an in-lieu fee set at \$220 per inch that needs to be mitigated. This is broken down as \$55-\$60 for a 15-gallon tree, with an average of 2 crew hours (\$75 an hour per crew member) spent to plant the tree, stake it, etc. plus \$10 for miscellaneous expenses such as tree stakes.

Additional changes are proposed to OMC Sections 17.12.060 (Tree Preservation) and 17.48.070 (Tree Removal Permits). Staff are proposing to combine Section 17.12.060 and Section 17.48.070 to minimize cross referencing for two code sections that work in close coordination with each other. Minor updates are also proposed to ensure proper cross-reference between the oak tree mitigation requirements and the tree removal permit section and updates to the department director positions referenced within the code sections.

This proposed ordinance helps implement guiding principles, goals, policies and actions of the City’s 2030 General Plan.

**General Plan Guiding Principles:**

**Livability.** Ensure that future development enhances the existing character of our city as

a whole, as well as its individual neighborhoods, and has a positive effect on our surroundings and quality of life.

**Natural Resources and the Environment.** Highlight and protect our unique open spaces, natural resources, underdeveloped areas, specimen trees, riparian zones and wetlands.

**General Plan Goals:**

Goal CD-1 As the community grows, maintain a coherent and distinctive physical form and structure that reflects Oroville’s unique qualities.

Goal CD-7 Develop Oroville’s major corridors as attractive locations with a diverse mix of land uses and development patterns that include high quality pedestrian-oriented design.

Goal OPS-1 Provide a comprehensive, high-quality system of recreational open space and facilities to maintain and improve the quality of life for Oroville residents.

Goal OPS-5 Maintain and enhance the quality of Oroville’s scenic and visual resources.

Goal OPS-9 Protect areas of significant wildlife habitat and sensitive biological resources to maintain biodiversity among plant and animal species in the City of Oroville and the surrounding area.

**General Plan Policies:**

P1.1 Require quality architectural and landscaping design as well as durable and efficient materials for all projects.

P2.3 Encourage imaginative design concepts in woodland areas to perpetuate and preserve native trees.

P2.4 Use appropriate landscaping to reduce the effects of surface runoff in developing areas, with an emphasis on native and drought-resistant species, minimization of impervious surfaces, and provisions for recharge.

P2.5 Continue to support and maintain Oroville’s involvement and commitment to the Tree City USA® program.

P2.6 Encourage the planting of trees and other landscape features along Oroville’s corridors to make them interesting, appealing, and inviting.

P1.1 Preserve and develop open space that includes a diversity of passive and active recreational amenities, that is geographically distributed throughout the City, and that is easily accessible by pedestrians and bicyclists.

P3.5 Enhance the wildlife value of the Planning Area’s “urban forest” by landscaping park

and recreation lands with native vegetation and by preserving existing trees and shrubs where they offer significant wildlife value.

P9.5 Require the preparation of a site-specific tree management and preservation report by a certified arborist or urban forester for development proposals on sites that contain significant oak woodlands and related habitat. This report shall include recommendations for the retention of healthy mature trees wherever feasible and promote the concept of oak regeneration corridors within project design.

**FISCAL IMPACT**

There is minimal fiscal impact associated with the recommended actions.

**ATTACHMENTS**

- A. Resolution No. 2023-20
- B. Proposed Changes to OMC Section 17.12.060 (Tree Preservation)
- C. Proposed Changed to OMC Section 17.12.065 (Oak Tree Loss Mitigation)
- D. Proposed Changes to OMC Section 17.48.070 (Tree Removal Permits)

## RESOLUTION NO. P2023-20

**A RESOLUTION OF THE OROVILLE PLANNING COMMISSION RECOMMENDING THAT THE CITY COUNCIL ADOPT ZONING CODE AMENDMENT (ZC 23-03), THE PROPOSED AMENDMENTS TO THE OROVILLE MUNICIPAL CODE SECTION 17.12.060 “TREE PRESERVATION”, SECTION 17.12.065 “OAK TREE LOSS MITIGATION”, AND SECTION 17.48.070 “TREE REMOVAL PERMITS”**

**WHEREAS**, the Oroville 2030 General Plan sets forth goals, objectives, and policies to protect, manage, and expand urban forestry and native vegetation while also considering public safety; and

**WHEREAS**, the City of Oroville currently requires tree removal permits to protect the City’s mature trees; and

**WHEREAS**, a tree removal permit must be obtained prior to the removal of a protected tree, including native oak trees; and

**WHEREAS**, OMC Section 17.12.065 establishes regulations to protect native oak trees and outlines requirements for mitigation when removed; and

**WHEREAS**, City Staff identified challenges in implementing the current oak tree mitigation code as written and received direction from the City Council to identify opportunities to address those challenges; and

**WHEREAS**, the proposed amendments to OMC Section 17.12.065 include expanding the exceptions to the permit and mitigation requirements and simplifying the mitigation replacement ratio; and

**WHEREAS**, amendments are also proposed to Sections 17.12.060 and 17.48.070; and

**WHEREAS**, at a duly noticed public hearing, the Planning Commission considered the comments and concerns of public agencies, property owners, and members of the public who are potentially affected by the approval of the code changes described herein and considered the City’s staff report regarding the project.

**NOW, THEREFORE, BE IT RESOLVED BY THE OROVILLE PLANNING COMMISSION AS FOLLOWS:**

SECTION 1. The Planning Commission determines:

- A. That the proposed amendments are consistent with the General Plan; and
- B. The proposed amendments are consistent with other applicable provisions of the Municipal Code and compatible with the uses authorized in the applicable zoning districts for which the revisions are proposed.

SECTION 2. The Planning Commission finds that Zoning Code Amendment ZC23-03 is not subject to the provisions of the California Environmental Quality Act (“CEQA”) pursuant to Section 15307 (Actions by Regulatory Agencies for Protection of Natural Resources) and 15308 (Actions by Regulatory Agencies for Protection of Environment). These exemptions cover actions taken to assure the maintenance, restoration, enhancement, or protection of natural resources or the environment where the regulatory process involves procedures for the protection of the environment. The proposed amendments to the OMC maintain regulations requiring permits for the removal of trees, including oak trees, meeting specific size criteria outlined in Title 17. Exceptions to permits and mitigation are limited to include routine tree maintenance, or when removal is determined as necessary to protect life, prevent damage to property, or for purposes of fuel management, while minimizing the removal of mature heritage trees. The proposed Zoning Code Amendment also is not subject to the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

SECTION 3. The Planning Commission hereby recommends that the City Council adopt an ordinance amending the Oroville Municipal Code as set forth in Attachment B amending Section 17.12.060 (Tree Preservation), Attachment C amending Section 17.12.065 (Oak Tree Loss Mitigation), and Attachment D amending Section 17.48.070 (Tree Removal Permits).

SECTION 4. Furthermore, the Planning Commission hereby recommends that the City Council adopt an in-lieu fee of \$220 per inch of oak tree requiring mitigation.

\*\*\*\*\*

**PASSED AND ADOPTED** by the Planning Commission of the City of Oroville at a special meeting on November 16, 2023, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVE:

\_\_\_\_\_  
Kayla Reaster, Assistant City Clerk

\_\_\_\_\_  
Carl Durling, Chairperson



**SECTION 17-12.060****TREE PRESERVATION**~~17-12.060 — Tree Preservation~~~~A. — Applicability.~~

- ~~1. — The requirements of this section shall apply to any protected tree.~~
- ~~2. — A protected tree is defined as:
  - ~~a. — Any tree on public property; or~~
  - ~~b. — Any tree on private property that has a trunk diameter of at least 24 inches at 54 inches above grade.~~~~
- ~~3. — **Permit Required.** The removal of any protected tree requires approval of a tree removal permit, as provided in Section 17.48.070.~~
- ~~4.1. **Removal Without a Permit.** If personal injury or property damage is imminently threatened, the fire chief, the chief of police or the zoning administrator may authorize the removal of a protected tree without obtaining the required permit. The removal shall be reported to the zoning administrator within 5 business days. (Ord. 1749 § 4)~~

**SECTION 17-12.065****OAK TREE LOSS MITIGATION**

## 17-12.065 Oak Tree Loss Mitigation

A. **Purpose.**

Oroville’s native oak trees provide wildlife habitat, control erosion, maintain water flow and quality, moderate temperatures, improve air quality, and contribute to the aesthetic character of the area. The purpose of this section is to preserve Oroville’s valuable native oak trees by protecting them during grading and construction, minimizing their removal, replacing them when removal is approved, and monitoring them to ensure that they are maintained.

B. **Applicability.** The requirements of this section apply to any native oak tree on public or private land with the following minimum diameter at breast height (dbh) (i.e., 4.5 feet from the ground):

1. Single main trunk: 6 inches.
2. Multiple trunks (in aggregate): 10 inches.

“Native oak tree” means an oak tree that is native to Butte County’s natural oak communities, including valley oak, black oak, blue oak, ~~interior live oak~~, and canyon oak. Interior live oak, while native to Butte County, is not included in this definition and their removal is not subject to the requirements of this section unless meeting the criteria for classification as a heritage tree.

C. **Permits Required.**

1. **Tree Removal.** The city requires a tree removal permit in accordance with Section 17.48.070 to remove any oak tree that meets the applicability criteria above in subsection B (Applicability). The property owner must file a tree survey and an oak tree preservation plan with the community development department before the city will issue a permit. The plan shall describe all efforts to preserve trees to the extent feasible, replace trees that are removed, and maintain replacement trees. In addition, the plan shall address replacing any replacement trees that do not survive.
2. **Grading.** Grading projects shall retain oak trees wherever possible. To receive a grading permit, applicants must address oak tree preservation in their grading plan by identifying methods to:
  - a. Identify trees to be retained, through flagging or other obvious marking methods, prior to any grading.
  - b. Avoid compaction of the root zone and mechanical damage to trunks and limbs by installing temporary fencing along the outermost edge of the dripline of each retained tree or group of trees.
  - c. Avoid trenching within driplines of retained trees. Any required utility line poles within the dripline should be installed by boring or drilling through the soil.
3. **Heritage Trees.**
  - a. Grading, filling, trenching, paving, irrigation, and landscaping plans shall avoid the removal of or damage to the health of a heritage tree.

- b. A heritage tree may only be removed when approved as appropriate by a certified arborist, and upon receiving a tree removal permit in accordance with subsection (C)(1).

D. **Mitigation Options.** An applicant who has received a tree removal permit shall mitigate the removal by completing one or a combination of the following options, as well as paying a monitoring fee per tree as set by the city council.

1. **On-Site Replacement.** Where physically feasible, a tree removed under a tree removal permit shall be replaced on the same property, in accordance with the standards in subsection F (Replacement Standards).
2. **In-Lieu Fee.** When replacing a tree on site is not feasible, an applicant granted a tree removal permit may pay an in-lieu fee as set by the city council.
3. **Off-Site Replacement.** When replacing a tree on site is not feasible, an applicant granted a tree removal permit may plant replacement trees off site if:
  - a. The off-site location is permanently protected under a conservation easement that includes a maintenance plan that meets the requirements in subsection F (Replacement Standards).
  - b. The off-site location is appropriate for oak tree plantings, as determined by the director of ~~parcs and trees-public works~~ or designee.
  - c. The off-site location is sufficient to plant and maintain replacement trees in accordance with the standards in subsection F (Replacement Standards).

~~E.—Exceptions to **Permits and Mitigation Requirements.** Mitigation is not required for trees removed due to poor tree health or because removal furthers urban forestry or land management practices that support the health of native plant communities, as determined by the director of parks and trees or designee. A tree removal permit or mitigation shall not be required for the following circumstances:~~

- ~~1. When an oak tree is damaged and the city administrator, director of public works, director of community development, public safety personnel, code enforcement officer, or their designees has determined that its immediate removal is necessary to protect persons from imminent personal injury or to prevent imminent and substantial damage to property.~~
- ~~2. Removal of an interior live oak, unless meeting the criteria for classification as a heritage tree.~~
- ~~3. When removal is determined to be necessary by fire department personnel actively engaged in fighting a fire.~~
- ~~4. When removal is determined to be necessary by fire department personnel to comply with fuel modification requirements or defensible space requirements, as detailed in a defensible space inspection/report.~~
- ~~5. When removal is determined as necessary by the property owner's insurance provider, as detailed in an insurance report or other formal correspondence, to maintain homeowners' insurance coverage.~~

6. Routine trimming, pruning, or maintenance which does not cause damage or death of a tree.
7. Removal of an oak tree that is dead, dying, or in poor health as determined by a certified arborist.
8. Removal of an oak tree on a property developed with a single-family dwelling unit, provided that the following criteria is met:
  - a. The developed lot is not greater than 4020,000 square feet in area and is zoned either RR-20, RR-10, RL, R-1, or R-2.
  - b. The developed lot is located outside of the Foothill Overlay (F-O) district.
    - (1) If the developed lot is located within the Foothill Overlay (F-O) district, the oak tree(s) proposed to be removed must be located within the rear or side yard not outside of a setback area abutting a street.

F.

G.E. Replacement Standards. Replacement trees must meet the following standards.

1. **Replacement Ratio.** Each inch in dbh of oak removed shall be replaced by 2.1 inches of native oaks (1:1 ratio), using trees planted at a minimum size of one-15 gallons. ~~For example, a 6-inch dbh tree may be replaced by four 1.3-inch trees or 2.12 three-one-inch trees.~~
2. **Timeframe.** ~~A replacement tree shall be planted within 90 days of the removal of the original tree. The schedule for planting of the replacement trees shall be subject to approval by the review authority as detailed in Section 17.48.070(C)(3).~~
3. **Maintenance.** The applicant is responsible for protecting the health of a replacement tree. Replacement trees shall be irrigated in accordance with Oroville Municipal Code Section 17.12.050 (Landscaping standards). A replacement tree that dies within 5 years shall be replaced on a one-to-one basis.
4. **Monitoring.** The applicant shall monitor the replacement tree and report its health status to the community development department annually, or upon request, for 5 years following planting.
5. **Damage.** Purposeful damaging or neglect of a replacement tree will invalidate the tree removal permit.

H.F. Oak Tree Maintenance Fund. The city shall place in-lieu tree-removal fees in an oak tree maintenance fund to be expended only for the following:

1. **Planting New Trees.** Planting oak trees on public and private property within Oroville. These expenditures may include purchasing and planting trees, preparing the land for planting, and installing irrigation improvements. Private property owners may apply to have an oak tree planted on their property at public expense, provided the expense does not exceed the in-lieu fee amount.
2. **Maintaining Existing Trees.** Caring for and preserving existing oak trees on public property or easements.

I.G. **Monitoring.** The community development department shall prepare an annual report that addresses the following topics:

1. **Tree Inventory.** The report shall inventory all replacement trees, including their type and health status, as reported by an applicant.
2. **Fund Accounting.** The report shall account for the balance in the oak tree mitigation fund and summarize the use to which the fund was put during the preceding year.

J.H. **Fines.** The city may issue a fine for the destruction of an oak tree in violation of this section. Fines may be as high as the cost to replace and maintain up to 3 times the number of trees required by this section. The city shall deposit funds received from fines in the oak tree mitigation fund. (Ord. 1819 § 3, 2017).

**SECTION 17-48.070****TREE REMOVAL PERMITS**

## 17-48.070 Tree Removal Permits

A. **Purpose.** The purpose of requiring tree removal permits is to preserve the city's mature trees by placing appropriate restrictions on their removal, while also allowing the removal of trees when necessary to protect the health, safety and welfare of the public.

B. **Applicability.** The removal of any protected tree requires approval of a tree removal permit. The requirements of this section shall apply to any protected tree.

1. A protected tree is defined as:

a. Any tree on public property; or

b. Any tree on private property that has a trunk diameter of at least 24 inches at 54 inches above grade.

A.c. An oak tree meeting the criteria of Section 17.12.065.

B.C. **Application.**

1. Application for a tree removal permit shall be made in a form prescribed by the zoning administrator and accompanied by a fee established by resolution of the city council. Only the owner of the site or their authorized agent may apply for a tree removal permit.
2. The application for a tree removal permit shall include a map depicting the location, size and type of all trees within or immediately adjacent to the subject property. The map shall also depict any permanent buildings or structures on the subject property.
3. The review authority for a tree removal permit shall be determined as follows:
  - a. For trees on public property, unless the removal is associated with a proposed development that requires planning commission approval, the director of parks and trees public works or designee shall be responsible for issuing tree removal permits.
  - b. For trees on private property, unless the removal is associated with a proposed development that requires planning commission approval, the zoning administrator shall be responsible for issuing tree removal permits.
  - c. For any proposed development that requires planning commission approval, the planning commission shall review the trees being removed, and approval of the project shall also be approval to remove all specified trees.

C.D. **Required Findings.**

1. A tree removal permit shall not be issued unless the review authority finds, based on substantial evidence, that the owner has demonstrated that the removal is necessary in order to accomplish any one of the following objectives:
  - a. To ensure public safety as it relates to the health of the tree, potential hazard to life or property, and proximity to existing or proposed structures, and interference with utilities or sewers.

- b. To allow reasonable enjoyment of the property, including sunlight access and the right to develop the property.
- c. To pursue good, professional practices of forestry or landscape design.

2. Any action regarding the issuance of a tree removal permit may be appealed, as provided in Section 17.56.100. Subject trees shall not be removed prior to the completion of the required appeal period. (Ord. 1749 § 4; Ord. 1762 § 12)

2.E. **Removal Without a Permit.** If personal injury or property damage is imminently threatened, the city administrator, director of public works, director of community development, public safety personnel, code enforcement officer, or their designees may authorize the removal of a protected tree without obtaining the required permit. The removal shall be reported to the zoning administrator within 5 business days. (Ord. 1749 § 4).

# Attachment 4



## Connor Musler

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**From:** Taylor Nilsson <Taylorn@buttefiresafe.net>  
**Sent:** Sunday, November 26, 2023 10:40 AM  
**To:** Warren Jensen <Warren@garybess.com>  
**Subject:** RE: Contact information

Hi Warren,

I apologize, I do not know why the comments did not send when I replied to this. Hopefully it is not too late for another meeting to bring the comments from Kieran forward.

- The replacement ratio is still too high. So, for a 6-inch DBH oak tree that is removed, then six 15-gallon trees shall be replanted. This will cause an overstocking of trees (too many trees per acre) and increase overall Wildland/Urban fuel loading per acre. The alternative is offsite planting, which sounds like a feel-good approach, at first. However, the problem in this state is that we have too many trees per acre within the wildlands and in some instances in urban settings. Switching to a one tree removed/one tree replaced ratio may be a better alternative.



- “When removal is determined as necessary by fire department personnel as part of fuel modification or defensible space requirements, as detailed in a defensible space inspection/report.”

- Oroville Fire Department is now run by CAL FIRE. If they have the capacity to perform these inspection reports to trigger fuels modification, then the task of carrying out the fuel reduction for defensible space is placed squarely on the landowner/homeowner. This is reactive regulation. Suggested proactive regulation (exception) is listed below.

- Removal of hazardous understory trees to fulfill defensible space requirements and improve overall fire resiliency of residual trees within Wildland Urban Interface (WUI) area.
  - Removal operations shall be linked to a valid Community Wildfire Protection Plan (CWPP) for the City of Oroville.
  - Removal operations can be funded and administered by the Butte County Fire Safe Council (BCFSC) and/or Butte County Resource Conservation District (BCRCD).
  - Removal operations shall be administered by a Ca. Registered Professional Forester and/or CAL FIRE Resource Personnel.

One of the main concerns is who the responsibility falls upon to fulfill the defensible space requirements. Allowing the removal to be tied to a local non-profit such as the FSC or BCRCD opens up a host of opportunities.

We will work on scheduling a tour for January.

Thank you



**Taylor Nilsson**  
 Executive Director  
**Mobile:** 530-966-1620  
**Office:** 530-877-0984  
 6569 Clark Rd, Paradise, CA 95969  
[buttefiresafe.net](http://buttefiresafe.net)  
 Mail to: PO Box 699 Paradise CA 95967

# Attachment 5

**SECTION 17-12.060****TREE PRESERVATION**~~17-12.060 — Tree Preservation~~~~A. — Applicability.~~

- ~~1. — The requirements of this section shall apply to any protected tree.~~
- ~~2. — A protected tree is defined as:
  - ~~a. — Any tree on public property; or~~
  - ~~b. — Any tree on private property that has a trunk diameter of at least 24 inches at 54 inches above grade.~~~~
- ~~3. — **Permit Required.** The removal of any protected tree requires approval of a tree removal permit, as provided in Section 17.48.070.~~
- ~~4.1. **Removal Without a Permit.** If personal injury or property damage is imminently threatened, the fire chief, the chief of police or the zoning administrator may authorize the removal of a protected tree without obtaining the required permit. The removal shall be reported to the zoning administrator within 5 business days. (Ord. 1749 § 4)~~

**SECTION 17-12.065****OAK TREE LOSS MITIGATION**

## 17-12.065 Oak Tree Loss Mitigation

A. **Purpose.**

Oroville’s native oak trees provide wildlife habitat, control erosion, maintain water flow and quality, moderate temperatures, improve air quality, and contribute to the aesthetic character of the area. The purpose of this section is to preserve Oroville’s valuable native oak trees by protecting them during grading and construction, minimizing their removal, replacing them when removal is approved, and monitoring them to ensure that they are maintained.

B. **Applicability.** The requirements of this section apply to any native oak tree on public or private land with the following minimum diameter at breast height (dbh) (i.e., 4.5 feet from the ground):

1. Single main trunk: 6 inches.
2. Multiple trunks (in aggregate): 10 inches.
- 2.3. Heritage Tree: 24 inches

“Native oak tree” means an oak tree that is native to Butte County’s natural oak communities, including valley oak, black oak, blue oak, ~~interior live oak~~, and canyon oak. Interior live oak, while native to Butte County, is not included in this definition and their removal is not subject to the requirements of this section unless meeting the criteria for classification as a heritage tree.

C. **Permits Required.**

1. **Tree Removal.** The city requires a tree removal permit in accordance with Section 17.48.070 to remove any oak tree that meets the applicability criteria above in subsection B (Applicability). The property owner must file a tree survey and an oak tree preservation plan with the community development department before the city will issue a permit. The plan shall describe all efforts to preserve trees to the extent feasible, replace trees that are removed, and maintain replacement trees. In addition, the plan shall address replacing any replacement trees that do not survive.
2. **Grading.** Grading projects shall retain oak trees wherever possible. To receive a grading permit, applicants must address oak tree preservation in their grading plan by identifying methods to:
  - a. Identify trees to be retained, through flagging or other obvious marking methods, prior to any grading.
  - b. Avoid compaction of the root zone and mechanical damage to trunks and limbs by installing temporary fencing along the outermost edge of the dripline of each retained tree or group of trees.
  - c. Avoid trenching within driplines of retained trees. Any required utility line poles within the dripline should be installed by boring or drilling through the soil.
3. **Heritage Trees.**
  - a. Grading, filling, trenching, paving, irrigation, and landscaping plans shall avoid the removal of or damage to the health of a heritage tree.

- b. A heritage tree may only be removed when approved as appropriate by a certified arborist, and upon receiving a tree removal permit in accordance with subsection (C)(1).

D. **Mitigation Options.** An applicant who has received a tree removal permit shall mitigate the removal by completing one or a combination of the following options, as well as paying a monitoring fee per tree as set by the city council.

1. **On-Site Replacement.** Where physically feasible, a tree removed under a tree removal permit shall be replaced on the same property, in accordance with the standards in subsection F (Replacement Standards).
2. **In-Lieu Fee.** When replacing a tree on site is not feasible, an applicant granted a tree removal permit may pay an in-lieu fee as set by the city council.
3. **Off-Site Replacement.** When replacing a tree on site is not feasible, an applicant granted a tree removal permit may plant replacement trees off site if:
  - a. The off-site location is permanently protected under a conservation easement that includes a maintenance plan that meets the requirements in subsection F (Replacement Standards).
  - b. The off-site location is appropriate for oak tree plantings, as determined by the director of ~~parcs and trees-public works~~ or designee.
  - c. The off-site location is sufficient to plant and maintain replacement trees in accordance with the standards in subsection F (Replacement Standards).

~~E.—Exceptions to **Permits and Mitigation Requirements.** Mitigation is not required for trees removed due to poor tree health or because removal furthers urban forestry or land management practices that support the health of native plant communities, as determined by the director of parks and trees or designee. A tree removal permit or mitigation shall not be required for the following circumstances: Exceptions to permit and mitigation requirements shall be as specified in Section 17.48.070~~

~~—When an oak tree is damaged and the city administrator, director of public works, director of community development, public safety personnel, code enforcement officer, or their designees has determined that its immediate removal is necessary to protect persons from imminent personal injury or to prevent imminent and substantial damage to property.~~

~~—Removal of an interior live oak, unless meeting the criteria for classification as a heritage tree.~~

~~—When removal is determined to be necessary by fire department personnel actively engaged in fighting a fire.~~

~~—When removal is determined to be necessary by fire department personnel to comply with fuel modification requirements or defensible space requirements, as detailed in a defensible space inspection/report.~~

~~—When removal is determined as necessary by the property owner's insurance provider, as detailed in an insurance report or other formal correspondence, to maintain homeowners' insurance coverage.~~

- ~~— Routine trimming, pruning, or maintenance which does not cause damage or death of a tree.~~
- ~~— Removal of an oak tree that is dead, dying, or in poor health as determined by a certified arborist.~~
- ~~— Removal of an oak tree on a property developed with a single family dwelling unit, provided that the following criteria is met:~~
- ~~— The developed lot is not greater than 1020,000 square feet in area and is zoned either RR-20, RR-10, RL, R-1, or R-2.~~
- ~~— The developed lot is located outside of the Foothill Overlay (F-O) district.~~
- ~~— If the developed lot is located within the Foothill Overlay (F-O) district, the oak tree(s) proposed to be removed must be located within the rear or side yard not outside of a setback area abutting a street.~~

F. —

**G.E. Replacement Standards.** Replacement trees must meet the following standards.

1. **Replacement Ratio.** Each inch in dbh of oak removed shall be replaced by 21 inches of native oaks (1:1 ratio), using trees planted at a minimum size of one-15 gallons. ~~For example, a 6-inch dbh tree may be replaced by four 13-inch trees or 212 threecone-inch trees.~~
2. **Timeframe.** ~~A replacement tree shall be planted within 90 days of the removal of the original tree. The schedule for planting of the replacement trees shall be subject to approval by the review authority as detailed in Section 17.48.070(C)(3).~~
3. **Maintenance.** The applicant is responsible for protecting the health of a replacement tree. Replacement trees shall be irrigated in accordance with Oroville Municipal Code Section 17.12.050 (Landscaping standards). A replacement tree that dies within 5 years shall be replaced on a one-to-one basis.
4. **Monitoring.** The applicant shall monitor the replacement tree and report its health status to the community development department annually, or upon request, for 5 years following planting.
5. **Damage.** Purposeful damaging or neglect of a replacement tree will invalidate the tree removal permit.

**H.F. Oak Tree Maintenance Fund.** The city shall place in-lieu tree-removal fees in an oak tree maintenance fund to be expended only for the following:

1. **Planting New Trees.** Planting oak trees on public and private property within Oroville. These expenditures may include purchasing and planting trees, preparing the land for planting, and installing irrigation improvements. Private property owners may apply to have an oak tree planted on their property at public expense, provided the expense does not exceed the in-lieu fee amount.
2. **Maintaining Existing Trees.** Caring for and preserving existing oak trees on public property or easements.

I.G. **Monitoring.** The community development department shall prepare an annual report that addresses the following topics:

1. **Tree Inventory.** The report shall inventory all replacement trees, including their type and health status, as reported by an applicant.
2. **Fund Accounting.** The report shall account for the balance in the oak tree mitigation fund and summarize the use to which the fund was put during the preceding year.

J.H. **Fines.** The city may issue a fine for the destruction of an oak tree in violation of this section. Fines may be as high as the cost to replace and maintain up to 3 times the number of trees required by this section. The city shall deposit funds received from fines in the oak tree mitigation fund. (Ord. 1819 § 3, 2017).

**SECTION 17-48.070****TREE REMOVAL PERMITS**

## 17-48.070 Tree Removal Permits

- A. Purpose.** The purpose of requiring tree removal permits is to preserve the city's mature trees by placing appropriate restrictions on their removal, while also allowing the removal of trees when necessary to protect the health, safety and welfare of the public.
- B. Applicability.** The removal of any protected tree requires approval of a tree removal permit. The requirements of this section shall apply to any protected tree.
1. A protected tree is defined as:
    - a. Any tree on public property; or
    - b. Any tree on private property that has a trunk diameter of at least 24 inches at 54 inches above grade.
    - c. An oak tree meeting the criteria of Section 17.12.065.
  2. A protected tree does not include the following species: Ailanthus, Chinese Tallow, Fremont Cottonwood or Poplar, Privet, Box Elder, Eucalyptus, Silver Wattle, Black Acacia, English Hawthorn, Red Gum, Tasmanian Blue Gum, Edible Fig, English Holly, Cherry Plum, Black Locust, Peruvian Peppertree, Brazilian Peppertree, Palm, Western Catalpa, Chinese Elm or Winged Elm; or fruit and nut trees.
- C. Exceptions to Permits and Mitigation Requirements.** A tree removal permit or mitigation shall not be required for the following circumstances:
1. When a tree is damaged and the city administrator, director of public works, director of community development, public safety personnel, code enforcement officer, or their designees has determined that its immediate removal is necessary to protect persons from imminent personal injury or to prevent imminent and substantial damage to property.
  2. Removal of an interior live oak, unless meeting the criteria for classification as a heritage tree.
  3. When removal is determined to be necessary by fire department personnel actively engaged in fighting a fire.
  4. When removal is determined to be necessary by fire department personnel to comply with fuel modification requirements or defensible space requirements, as detailed in a defensible space inspection/report.
  5. When removal is determined as necessary by the property owner's insurance provider, as detailed in an insurance report or other formal correspondence, to maintain homeowners' insurance coverage.
  6. Routine trimming, pruning, or maintenance which does not cause damage or death of a tree.
  7. Removal of a tree that is dead, dying, or in poor health as determined by a certified arborist.
  8. Removal of a tree on a property developed with a single-family dwelling unit, provided that the following criteria is met:



a. The developed lot is not greater than 20,000 square feet in area and is zoned either RR-20, RR-10, RL, R-1, or R-2.

b. The developed lot is located outside of the Foothill Overlay (F-O) district.

A.(1) If the developed lot is located within the Foothill Overlay (F-O) district, the tree(s) proposed to be removed must be located outside of a setback area abutting a street.

#### B.D. Application.

1. Application for a tree removal permit shall be made in a form prescribed by the zoning administrator and accompanied by a fee established by resolution of the city council. Only the owner of the site or their authorized agent may apply for a tree removal permit.
2. The application for a tree removal permit shall include a map depicting the location, size and type of all trees within or immediately adjacent to the subject property. The map shall also depict any permanent buildings or structures on the subject property.
3. The review authority for a tree removal permit shall be determined as follows:
  - a. For trees on public property, unless the removal is associated with a proposed development that requires planning commission approval, the director of parks and trees public works or designee shall be responsible for issuing tree removal permits.
  - b. For trees on private property, unless the removal is associated with a proposed development that requires planning commission approval, the zoning administrator shall be responsible for issuing tree removal permits.
  - c. For any proposed development that requires planning commission approval, the planning commission shall review the trees being removed, and approval of the project shall also be approval to remove all specified trees.

#### C.E. Required Findings.

1. A tree removal permit shall not be issued unless the review authority finds, based on substantial evidence, that the owner has demonstrated that the removal is necessary in order to accomplish any one of the following objectives:
  - a. To ensure public safety as it relates to the health of the tree, potential hazard to life or property, and proximity to existing or proposed structures, and interference with utilities or sewers.
  - b. To allow reasonable enjoyment of the property, including sunlight access and the right to develop the property.
  - c. To pursue good, professional practices of forestry or landscape design.
2. Any action regarding the issuance of a tree removal permit may be appealed, as provided in Section 17.56.100. Subject trees shall not be removed prior to the completion of the required appeal period. (Ord. 1749 § 4; Ord. 1762 § 12)

2.F. **Removal Without a Permit.** No person shall remove, cause to be removed, or effectively remove any tree from any property which is subject to this section without first obtaining a tree removal permit, unless otherwise provided by the exceptions of this section. If personal injury or property damage is imminently threatened, the city administrator, director of public works, director of community development, public safety personnel, code enforcement officer, or their designees may authorize the removal of a protected tree without obtaining the required permit. The removal shall be reported to the zoning administrator within 5 business days. (Ord. 1749 § 4).

DRAFT



# City of Oroville

Patrick Piatt  
Director

## COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street  
Oroville, CA 95965-4897  
(530) 538-2401 FAX (530) 538-2426  
[www.cityoforoville.org](http://www.cityoforoville.org)

### PLANNING COMMISSION STAFF REPORT

Thursday, May 23, 2024

**RE: General Plan Circulation Element revision and adoption of an Interim Transportation Threshold.** The Planning Commission will consider recommending a General Plan amendment that meets the requirements of Senate Bill 743, which requires Vehicle Miles Traveled (VMT) to be the new analytical emphasis for improving air quality.

**SUMMARY:** Senate Bill 743 changed the metrics that local agencies utilize to determine transportation environmental impacts. Previously, level of service (LOS) was the threshold used for development projects, whereas vehicle miles traveled (VMT) is the current threshold.

**RECOMMENDATION: Staff recommends the following actions:**

1. Conduct a Public Hearing on the proposed amendment.
2. Direct staff to present the Planning Commission recommendation that the City Council adopt the attached Resolution No **XXXX**: A Resolution of the City Council of the City of Oroville amending the Circulation Element of the General Plan.
3. Direct staff to present the Planning Commission recommendation that the City Council adopt the attached Resolution No **XXXX**: A Resolution of the City Council of the City of Oroville Adopting an Interim Transportation Threshold for the Purposes of Implementing the California Environmental Quality Act (CEQA) for Vehicle Miles Traveled (VMT).

**ENVIRONMENTAL DETERMINATION:** Amendments of thresholds are not considered "projects" under CEQA and therefore are exempt from review.

**REPORT PREPARED BY:**

\_\_\_\_\_  
Wes Ervin, Principal Planner  
Community Development Department

**REVIEWED BY:**

\_\_\_\_\_  
Patrick Piatt, Director  
Community Development Director

**DISCUSSION:**

The proposed General Plan Update (proposed project), would modify the existing 2030 General Plan which was adopted by City Council June 2, 2009, modified by the City on

March 31, 2015, and serves as the City of Oroville (City's) guiding policy document that describes the vision for the future of the City (City of Oroville General Plan, Page 2-1).

On September 27, 2013, Governor Jerry Brown signed California Senate Bill 743 (SB 743) into law which changed the environmental emphasis from vehicle level of service (LOS) to vehicle miles travelled (VMT). A reduction in VMT is intended to further a state goal of reducing greenhouse gas emissions and improving air quality by reducing the emissions associated with the length and number of vehicle trips. Eliminating LOS as an environmental threshold makes congestion management a public policy issue rather than an environmental issue.

The State Office of Planning and Research (OPR) has published guidelines with recommendations on how VMT might be reduced. Most of the recommendations are more applicable to urban or built areas where land uses are closer together, mixed use is economically viable, and transit is more accessible. Many of the recommendations are unlikely to apply to a rural City like Oroville.

OPR recognizes that rural areas should be treated differently based on their land use and transportation context but uses a definition of rural that would exclude the city. The interim threshold drafted for consideration by the Council corrects this oversight and explains why the city should be considered rural.

This threshold is considered interim as modifications will occur over time, and state initiatives may change how the city will need to consider VMT for development projects. As adoption of SB 743 eliminated LOS as a threshold, the attached interim threshold adopts VMT as a threshold custom tailored to the unique needs of Oroville.

### **Butte County Association of Governments Guidance Document**

In 2021, the Butte County Association of Governments (BCAG) published the BCAG SB 743 Implementation guidance document that evaluated region wide VMT:

*“...to help BCAG member agencies understand the specific questions that need to be addressed when making these determinations and to provide research, analysis, and other evidence to support their final SB 743 implementation decisions. BCAG chose to lead this effort to help reduce the SB 743 implementation costs that would have otherwise been incurred by each member agency pursuing independent implementation efforts. BCAG provides this documentation as a resource for its member agencies and does not make any specific recommendations regarding SB 743 implementation.”*

Per the guidance document each member agency is required to make its own SB 743 implementation decisions and can rely on information in the report to the extent it is relevant. For purposes of the city's interim VMT threshold, we relied on formation from the report and additional analysis prepared by Fehr and Peers who provided technical input into the report.

## General Plan

The General Plan includes Policy P2.1 that reads:

*P2.1 Maintain a Level of Service (LOS) D or better as defined in the most current edition of the Highway Capacity Manual or subsequent revisions for roadways and intersections, except as specified below:*

While passage of SB 743 eliminated LOS as a threshold for CEQA it still allows the use of LOS in other planning efforts. Staff recommends keeping the policy in the General Plan but modifying it to make LOS a goal rather than a mandate. The Council should keep its ability to approve or modify projects that would affect roadway or intersection LOS. As such, staff is recommending that policy P2.1 be amended to read as follows.

*P2.1 **Strive to maintain** a Level of Service (LOS) D or better as defined in the most current edition of the Highway Capacity Manual or subsequent revisions for roadways and intersections, except as specified below:*

The change would give the Council the ability to approve projects that might both affect LOS per the policy but are still important to the community. The list of roadways associated with the policy remains unchanged. Note that Caltrans will likely require some version of LOS analysis for larger projects as LOS is used in evaluating safety of state facilities.

The existing Circulation Element also contains policy P2.5 that reads:

*P2.5 Reduce the total vehicle miles traveled through designation of land uses that support multi-modal travel and provision of more direct routes to high activity locations.*

This policy is adequate for the adoption of interim VMT thresholds.

## Climate Action Plan

The City's Community Climate Action Plan (CAP) was adopted in 2015 and sets a "... target to reduce GHG emissions from community activities to 11% below 2010 levels by 2020"—a goal referred to in this Climate Action Plan (CAP) as the 2020 emissions reduction target. This target is consistent with larger statewide initiatives adopted through Assembly Bill 32, the California Global Warming Solutions Act. This CAP describes the City's plan for achieving its emissions reduction goal. The CAP also outlines a plan that will better prepare the City to address and adapt to potential economic, environmental, and social effects of climate change. The CAP has programmed a slight reduction in GHG related to more mixed-use and concentrated development with a focus on improving the pedestrian network. Other reductions are from voluntary community trip reduction programs and the use of electrically powered construction and landscaping equipment. The increase in residential and commercial density represents a 501-1,000 MTCO<sub>2e</sub>

decrease in GHG but is noted in the CAP as difficult to quantify. While difficult to quantify, it is obvious that a combination of higher densities and mixed land use connected to a pedestrian network provides options for transportation that will reduce GHG.

## **CEQA**

The revisions to the Circulation Element are subject to CEQA review, and staff and Placeworks, our consultant on this project, have determined that an Addendum to the General Plan EIR is the appropriate CEQA document. It is attached for review and adoption by the City Council. No public review or public circulation of this document is required.

Regarding Thresholds of Significance, the California Environmental Quality Act (CEQA) Guidelines Section 15064.7. states that each public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. Thresholds of significance to be adopted for general use as part of the lead agency's environmental review process must be adopted by ordinance, resolution, rule, or regulation, developed through a public review process, and be supported by substantial evidence. Lead agencies may also use thresholds on a case-by-case basis as provided in Section 15064(b)(2).

Nothing in the CEQA Guidelines states that the adoption of thresholds is subject to environmental review. This is further supported by case law as discussed in the attached Threshold document:

### **Recommended VMT Standards/Thresholds of Significance**

The following thresholds of significance would be applied to all discretionary projects that are either unable to be screened from VMT analysis or are considered de minimis. Examples and discussion for each threshold are included in italics following the threshold statement.

## **TRANSPORTATION**

Would the project:

- A. Disrupt transit, bicycle and pedestrian facilities or interfere with planned facilities or cause a physical change inconsistent with bicycle and pedestrian policies contained in the City of Oroville General Plan and Oroville Bicycle Plan.

*For a project to result in a significant impact the physical design would be such that it interfered with city or transit agency standards for one or more non-motorized improvements. For example, not connecting to or providing for a future trail or not including sidewalks and connection(s) to adjacent uses where appropriate, not including bus turnout or stopping areas. This impact could be significant if a roadway connection isn't made that would expand or maintain the*

*transit network or if frontage improvements did not include a bus turnout or similar improvements consistent with city plans.*

- B. Generate home-based work VMT per employee at a rate that is greater than the citywide average under future general plan conditions.

*A project would cause a significant VMT impact if it generated VMT per capita above the unincorporated county baseline average. Baseline VMT estimates can be obtained from the latest version of the BCAG RTP/SCS model (currently Modified Version 1.1 -3.17.21) or other VMT data sources, a mobile device data vendor that offers SB 743 compliant VMT estimates based on current year estimates. For residential land uses, home-based VMT per capita can be used while work-related land uses can use home-based work VMT per employee.*

- C. Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., large trucks, farm equipment)?

*This is a design consideration and will be evaluated with each project for compliance with City standards.*

- D. Result in inadequate emergency access.

*This is a design consideration and will be evaluated with each project for compliance with City standards. As noted in the screening criteria, the addition of an emergency access route or connection is screened out of requiring a VMT analysis.*

### **FISCAL IMPACT**

None.

### **PUBLIC NOTICE**

The Planning Commission hearing for this amendment was publicly noticed in the local newspaper on May 13, 2024.

### **Attachments:**

1. Draft Interim Transportation Threshold
2. Draft Addendum to the General Plan EIR
3. Draft Resolution No XXXX Circulation Element
4. Draft Resolution No. XXXX Interim Transportation Threshold

**City of Oroville**  
**California Environmental Quality Act**  
**Interim Transportation Threshold**

## Overview

On September 27, 2013, Governor Jerry Brown signed California Senate Bill 743 (SB 743) into law. The goal of this legislation was to reform transportation impact analysis under the California Environmental Quality Act (CEQA) from an emphasis on automobile delay, measured as level of service (LOS), to meeting the state's goals of reducing greenhouse gas emissions and traffic-related air pollution, promoting the development of a multimodal transportation system, and providing clean, efficient access to destinations. The effect of this legislation was to remove level of service (LOS) as a means of determining a significant environmental impact when conducting environmental analysis under CEQA (PRC § 21099(b)(2)).

Prior to implementation of SB 743, lead agencies used a reduction in LOS to determine transportation-related environmental impacts under CEQA and to require mitigation. LOS measures vehicular delay, or the additional driving time encountered by drivers during the most congested times of travel. SB 743 prohibits the use of LOS to measure impacts under CEQA and requires agencies to adopt alternative measures of such impacts. Local agencies may continue to use LOS analysis for other programs unrelated to CEQA.

In December 2018, the California state Office of Planning and Research (OPR) prepared the report *Technical Advisory on Evaluating Impacts in CEQA* that includes Vehicle Miles Traveled (VMT) threshold recommendations that vary based on whether a project is located within a metropolitan planning organization (MPO)<sup>1</sup>. For projects within an MPO, OPR recommends the use of urban quantitative thresholds. In rural counties, the *Technical Advisory* recognizes rural areas should be treated differently based on their land use and transportation context. However, the recommendations fail to recognize that rural areas within MPO boundaries function identically to rural areas in parts of the state that are not covered by an MPO. This distinction is important because OPR recommends that rural areas outside of an MPO political boundary be treated differently when it comes to VMT thresholds, leaving the choice of threshold up to the lead agency. The City of Oroville is within the Butte County Association of Governments (BCAG) which is one of the 18 designated MPOs in the state.

On December 18, 2019, California's Third District Court of Appeal published an opinion in *Citizens for Positive Growth & Preservation v. City of Sacramento*, which involved a challenge to the City of Sacramento's adoption of its General Plan based on LOS instead of VMT for transportation impact identification. In reaching its decision in that case, the Court of Appeal applied Public Resource Code section 21099(b)(2) and stated, "existing law is that 'automobile delay, as described solely by level of service, or similar measures of vehicular capacity or traffic congestion shall not be considered a significant impact on the environment under CEQA, except for roadway capacity projects.'" The Court therefore concluded that the General Plan's policies that included LOS standards could not be used as a threshold to determine

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<sup>1</sup> Federal law requires that any urbanized area with a population of at least 50,000 be guided and maintained by a regional entity known as a metropolitan planning organization (MPO). SB 375 details specific roles for California MPOs, expanding their role in regional planning.



whether the project would have a significant environmental impact under CEQA. This paper presents the evidence for alternative CEQA threshold options for the City of Oroville.

## BCAG

BCAG adopted the *2020 Regional Transportation Plan / Sustainable Communities Strategy for Butte County (RTP/SCS)*, which specifies policies, projects and programs necessary over a 20+ year period to maintain, manage and improve the region's transportation system. The 2020 RTP/SCS covers the 20-year period between 2020 and 2040. The RTP/SCS includes an Air Quality Conformity Analysis and Determination as well as a Supplemental Environmental Impact Report. The regional transportation plan (RTP) contains policies that support a safe and efficient roadway system that accommodates the demand for the movement of people and goods in the county<sup>2</sup>. The SCS complies with Senate Bill 375 *The Sustainable Communities and Climate Protection Act of 2008*, by demonstrating the integration of land use, housing, and transportation to reduce passenger vehicle (cars & light trucks) greenhouse gas emissions (GHG). The intent of the SCS is to meet the GHG emission reduction targets set by the California Air Resources Board (CARB) for the years 2020 and 2035.

## City of Oroville

In California, transportation makes up 36.8% of emissions for the state and it was the largest source of GHG emissions in 2020. Of that, 25.5% of emissions are from passenger vehicles and 8.8% are heavy-duty vehicles. In Oroville between 2017 to 2021, the mean travel time to commute to work was 20.2 minutes and just over 3% of the workforce in Oroville has a commute that is over 90 minutes. This means that many of our residents either work locally or commute to Chico for employment. While local trips are excellent for a reduction in VMT, the hilly topography and need for bridges provide a circulation challenge for bicycle and pedestrian networks. Also, because of the topography, roads are often 'just wide enough' and expanding them for additional amenities such as trails or paths can be prohibitively expensive.

## Transit

Table 1 shows the existing Butte Regional Transit (BRT) and approximate frequency (headways) associated with each route. The timing of the headways is important as various land use designs and intensities are possible if a project can be within an area served by "high quality transit corridor" which is defined as having a 15 minute or less headway during peak commute hours (PRC § 21155(b)). The state also defines a major stop as a station that has either a ferry terminal or rail station that is served by bus or rail transit with 15 minute or less headway during peak commute hours (PRC § 21064.3). The expectation is that residents on or near either a high-quality transit corridor or major transit stop will use the public transit system thereby reducing vehicle miles travelled. As shown in Table 1, the City of Oroville does not have either a high-quality transit corridor or a major transit stop.

The public transportation system in Oroville includes the **B-Line service**, operated by the BCAG, which provides intercity/regional and local fixed-route connectivity. The B-Line's Oroville Transit Center is located on Spencer Avenue<sup>3</sup>. Six B-line routes (Route 20, Route 24, Route 25, Route 26, Route 27, and Route 30)

<sup>2</sup> Butte County Association of Governments (December 2020) 2020 Regional Transportation Plan / Sustainable Communities Strategy for Butte County, p. ES-2

<sup>3</sup> [Transit & Non-Motorized Plan | Existing Conditions Report](#)

serve within the City of Oroville<sup>4</sup> and are described in Table 1. Additionally, Butte Regional Transit offers paratransit service through B-Line paratransit, including on-demand shared ride services.

Oroville has one **Greyhound Bus** station located at 410 Oro Dam Boulevard E. The station is open 24 hours Monday through Sunday and their most popular bus trip destinations are Sacramento, Reno, and Sparks<sup>5</sup>. The **Oroville Amtrak** offers an unstaffed, curbside bus stop at the park-and-ride lot on Highway 70 and Grand Avenue<sup>6</sup>.

**Table 1: Existing Butte Regional Transit Service Schedule Summary**

Route	Weekday		Saturday	
	Freq. (min)	Span	Freq. (min)	Span
20 – Chico / Oroville <sup>1</sup>	40 – 120	5:50 AM – 8:00 PM	120 - 140	7:50 AM – 6:00 PM
24 - Thermalito	60	6:34 AM – 7:30 PM	NA	NA
25 – Oro Dam	60	6:12 AM – 6:50 PM	NA	NA
26 – Olive Highway	60	6:33 AM – 6:21 PM	NA	NA
27 – South Oroville	60	7:10 AM – 6:50 PM	NA	NA
30 – Oroville / Biggs	195-240	7:45 AM – 4:50 PM	180-240	8:47 AM – 5:00 PM



Source: [Butte Regional Transit](#), 2023

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<sup>4</sup> [Butte Regional Transit](#)  
<sup>5</sup> [Greyhound Oroville](#)  
<sup>6</sup> [Amtrak Oroville](#)

**Bicycle Facilities**

The following types of bicycle facilities exist within the City of Oroville. These facilities do not constitute a complete network but one that is still developing as funding and development opportunities present themselves.

<b>Class I “Bike Paths”</b>	
	<p>Class I facilities, commonly referred to as Bikeways or Bike Paths, are facilities separated from automobile traffic for the exclusive use of bicyclists. Class I facilities can be designed to accommodate other modes of transportation, including pedestrians and equestrians, in which case they are referred to as shared or multi-use paths.</p> <p><u>Locations in Oroville:</u></p> <ul style="list-style-type: none"> <li>• Bike path along south side of Feather River (Brad Freeman Trail) connecting Riverbend Park and SR 70</li> </ul>
<b>Class II “Bike Lanes”</b>	
	<p>Class II facilities, commonly referred to as Bike Lanes, are dedicated facilities for bicyclists immediately adjacent to automobile traffic. Class II facilities are identified with striping, pavement markings and signage.</p> <p><u>Locations in Oroville*:</u></p> <ul style="list-style-type: none"> <li>• Orange Avenue (between Montgomery Street and Oro Dam Boulevard);</li> <li>• Foothill Boulevard (between Pinedale Avenue and Olive Highway);</li> <li>• Grand Avenue (between 2nd Street and Table Mountain Boulevard);</li> <li>• and Nelson Avenue (between County Center Drive and Table Mountain Boulevard).</li> </ul>
<b>Class III “Bike Routes”</b>	
<p>Class III facilities, commonly referred to as Bike Routes, are on-street routes where bicyclists and automobiles share the road. They are identified with pavement markings and signage and are typically assigned to low-volume and/or low-speed streets.</p> <p>A Class III bike route exists on Washington Avenue (Orange Avenue to Oroville Dam Boulevard).</p>	

Source: Balanced Mode Circulation Plan

\*According to the 2015 Balanced Mode Circulation Plan, these four locations qualify as Class II facilities. However, the current street view shows signage and pavement marking inconsistencies.

## Pedestrian Facilities

Existing pedestrian facilities in the City of Oroville consist of sidewalks, crossings, trees, and landscaping (for shading) and other amenities. Many streets within the city have sidewalks on both sides; however, gaps or abrupt termination of sidewalks occur in various parts of the city. Additionally, there are rolled-edge curbs in some sections of the city. Rolled-edge curbs allow drivers to park on sidewalks, which can obstruct pedestrians.

Crossing major roads poses a challenge to pedestrians. Most major roads in the City are wide, with significant amounts of traffic, and do not provide crosswalks at all intersection locations. There are often two-way stop signs along major roads, forcing pedestrians, including seniors and children, to negotiate with drivers, cross wide intersections, and/or make a long detour to use a better crossing.

The streetscape environment varies greatly between neighborhoods within Oroville. Some neighborhoods have road-separated sidewalks, with landscaped parking strips between the curb and the sidewalk. These parking strips often contain street trees that provide shade for pedestrians. However, some of the streets have solid curbs and sidewalks, with no parking strip to provide a buffer between pedestrians and vehicle traffic. In some areas, street trees offer shading for pedestrians and landscaped parking strips separate vehicles from pedestrians on sidewalks.

Pedestrian amenities, such as benches, pedestrian-scaled lighting, and transparent store frontage, provide a comfortable and enjoyable environment for people to walk. Some of these features exist in downtown Oroville but are absent in other areas of the City.

## OPR VMT Reduction Measures

The OPR *Technical Advisory on Evaluating Transportation Impacts in CEQA* relies on largely urban methods of reducing VMT contained in the 2010 California Air Pollution Control Officers Association (CAPCOA) report *Quantifying Greenhouse Gas Mitigation Measures*, and notes that reduction of VMT in rural areas may need to be evaluated on a “case-by-case basis.”<sup>7</sup>

The CAPCOA document recommended measures that include increasing population density, encouraging housing near urban cores or employment, and an increase in transit accessibility. Examples of mitigation measures are shown in Table 2. As noted in the Table many of the recommendations do not apply in Oroville while others are already part of our development procedures.

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<sup>7</sup> California Office of Planning and Research (December 2018), *Technical Advisory on Evaluating Transportation Impacts in CEQA*, p. 19.

Table 2: Consideration of Example VMT Reduction Measures from OPR Technical Advisory

Possible VMT Reduction Measure	Applicability to the City of Oroville
Improve or increase access to transit.	Connecting sidewalks and trails to transit stops is a requirement of project approval.
Increase access to common goods and services, such as groceries, schools, and daycare.	The City can encourage, but not require businesses to locate in the City.
Incorporate affordable housing into the project.	The City encourages but cannot require that affordable housing be constructed.
Incorporate neighborhood electric vehicle network.	The hills and rivers make it difficult to create a continues NEV network, however as the state will require EVs by 2035, this issue has been addressed.
Orient the project toward transit, bicycle and pedestrian facilities.	This is already a requirement of the City.
Improve pedestrian or bicycle networks, or transit service.	BCAG governs Transit and the City has plans for improving networks.
Provide traffic calming.	This is project specific and already a requirement.
Provide bicycle parking.	Required by the California Building Code based on land use.
Limit or eliminate parking supply.	Impractical given the lack of transit.
Unbundle parking costs.	Impractical given the lack of transit.
Provide parking cash-out programs.	Impractical given the lack of transit.
Implement roadway pricing.	This is a form of toll road and impractical given the lack of alternative transportation.
Implement or provide access to a commute reduction program.	Park and ride is already available in the City and encouraged.
Provide car-sharing, bike sharing, and ride-sharing programs.	The City encourages these types of businesses, however none currently exist.
Provide transit passes.	Impractical given the lack of transit.
Shifting single occupancy vehicle trips to carpooling or vanpooling, for example providing ride- matching services.	The City has insufficient personnel to run a program like this, however a private business or non-profit would be welcome.
Providing telework options.	High speed internet is available in most of the City by private vendor. There is no restriction on telework by the City.
Providing incentives or subsidies that increase the use of modes other than single-occupancy vehicle.	The City has insufficient personnel to run a program like this, however a private business or non-profit would be welcome.
Providing on-site amenities at places of work, such as priority parking for carpools and vanpools, secure bike parking, and showers and locker rooms.	This is project dependent and could be mitigation considered at the time of application.
Providing employee transportation coordinators at employment sites.	The City has insufficient personnel to run a program like this, however a private business or non-profit would be welcome.
Providing a guaranteed ride home service to users of non-auto modes.	The City has insufficient personnel to run a program like this, however a private business or non-profit would be welcome.

## VMT Threshold Approach

BCAG prepared an implementation guide for member agencies to understand questions that needed to be addressed when implementing the vehicle miles traveled thresholds. The document includes research, analysis, and other evidence to support their final SB 743 implementation decisions. BCAG chose to lead this effort to help reduce SB 743 implementation costs that would have otherwise been incurred by each member agency pursuing independent implementation efforts. BCAG provides this documentation as a resource for its member agencies and does not make any specific recommendations regarding SB 743 implementation. Each member agency will be required to make its own SB 743 implementation decisions and may rely on this information to the extent it is relevant.

The BCAG Implementation Report discusses the following three options for establishing a threshold for VMT<sup>8</sup>:

1. **CEQA Guidelines.** Section 15064.3 can be interpreted as establishing a threshold where ‘any’ increase in VMT above baseline conditions would constitute a significant VMT impact. This threshold is recommended in the OPR Technical Advisory for retail land use projects. Caltrans also supports this threshold for roadway capacity projects stating, “Within MPO areas..., a project that results in an increase in VMT when comparing the future build alternative to the future no-build alternative (i.e., the VMT is higher under the future build scenario) will generally be considered significant...”
2. **OPR Technical Advisory.** The OPR Advisory contains VMT threshold recommendations that vary by type of project and type of land use as follows:
  - a. **Residential projects** – A proposed project exceeding a level of 15 percent below existing (baseline) VMT per capita may indicate a significant transportation impact. Existing VMT per capita may be measured as regional VMT per capita or as city VMT per capita.
  - b. **Office projects** – A proposed project exceeding a level of 15 percent below existing (baseline) regional VMT per employee may indicate a significant transportation impact.
3. **Non-Interference.** This option would focus on not interfering with the state’s ability to meet VMT/GHG reduction goals. This threshold recognizes that VMT reduction is tied to state GHG reduction goals and would allow the county to assess VMT impacts of projects based on whether they would interfere or prevent the state from taking actions necessary to reduce VMT consistent with state goals. The state has the authority to implement a wide variety of actions that could effectively reduce VMT such as higher gas taxes, a new VMT tax, new tolls, etc. Local projects that do not interfere with this authority could reflect that outcome as part of their VMT impact analysis using this threshold.

The recommended approach is a mix of the three options presented in the BCAG report.

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<sup>8</sup> Ibid, p. 40.

## Discussion

For large projects that would trigger an environmental impact report (EIR), it is reasonable for the City to request a VMT analysis as part of the EIR. This would also allow the City to make a statement of overriding considerations if the mitigation strategy associated with the project could not meet the VMT target. Projects that are smaller and fit within the OPR screening criteria would be excused from having to prepare a VMT analysis as there is a presumption that the project reduces VMT. Examples might include an increase in residential density where housing is already designated, smaller housing projects that generate 110 or fewer trips per day, small local-serving commercial, etc. Medium sized projects will likely need to demonstrate via analysis that their VMT will not increase beyond the threshold. While the cost of a VMT analysis is much lower than that of a traditional traffic impact study, if the impact on VMT is above the threshold it may trigger an EIR. As the threshold, and availability of mitigation will change over time, the City will need to continue to monitor the size of projects and the impact on VMT.

Generally, connecting to a sidewalk and trail network, increasing the efficient use of land, and placing services near homes will reduce VMT. This approach furthers existing goals in the Oroville General Plan and represents good land use planning. Because state goals and targets change, the City will need to review and update the interim VMT threshold periodically.

## Methodology for Establishing Threshold

In 2014 the California Air Resources Board (CARB) stated that

*“Achieving California’s long-term criteria pollutant and GHG emissions goals requires four strategies to be employed: (1) improve vehicle efficiency and develop zero emission technologies, (2) reduce the carbon content of fuels and provide market support to get these lower-carbon fuels into the marketplace, (3) plan and build communities to reduce vehicular GHG emissions and provide more transportation options, and (4) improve the efficiency and throughput of existing transportation systems.”<sup>9</sup>*

The first two criteria are under the sole purview of the State of California with little potential for the City to influence. The state mandates vehicle efficiencies and negotiates directly with manufacturers and licenses the vehicles for use in California. While the City encourages recharging stations and flexibility fueling locations (CNG, Hydrogen) through strategy LUT-6 of the 2015 Oroville Climate Action Plan (CAP) and enforcement of the California Green Building Code (CBC) through strategy BE-1, the structural change in vehicle efficiency is a state responsibility.

Table 3 shows the results of the BCAG RTP/SCS Travel Demand Model for the region and City for VMT. As shown in the table, the City’s home-based VMT per resident is higher than the region, while the home based VMT per employee is slightly less.

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<sup>9</sup> California Air Resources Board (May 2014) First Update to the Climate Change Scoping Plan, p. 46.

**Table 3: Baseline (2020) VMT Summary**

VMT Metric	BCAG Region	City of Oroville
Total Network VMT	4,710,000	453,400
Total VMT Generated by land uses within geographic area	7,532,100	1,235,400
Home-based VMT per resident	14.9	17.7
Home-based work VMT per employee	6.7	6.2

Source: BCAG RTP/SCS Travel Demand Model (modified version 1.3)

The City also has land use strategies from CAP that include LUT-1 Residential and Commercial density and LUT-2 Mixed-Use Development that are intended to ensure that compatible uses are built close to each other, and that the intensity of development makes efficient use of land. Figure LU-6, *2030 General Plan Land Use Designations*, designates where development occurs, as well as the density and intensity of each land use.

Similarly, since the early 1990s, CARB has regulated the composition of vehicle fuels sold in the state through the California Reformulated Gasoline Regulations. In September 2020, Governor Newsom approved Executive Order N-79-20, that states:

*“It shall be a goal of the State that 100 percent of in-state sales of new passenger cars and trucks will be zero-emission by 2035. It shall be a further goal of the State that 100 percent of medium- and heavy-duty vehicles in the State be zero-emission by 2045 for all operations where feasible and by 2035 for drayage trucks. It shall be further a goal of the State to transition to 100 percent zero-emission off-road vehicles and equipment by 2035 where feasible.”*

This area of reduction is also clearly the sole authority of the state. The change in fuel types is included in the air quality and greenhouse gas modeling conducted for projects.

The California Air Resources Board (CARB) in its 2018 progress report notes that “California cannot meet its climate goals without curbing growth in single-occupancy vehicle activity.” In other words, vehicle efficiency and better fuels are necessary, but insufficient, to address the GHG emissions from the transportation system. Land use patterns and transportation options also will need to change to support reductions in vehicle travel/VMT.

**Screening**

This document provides a two-step screening process that will apply to all development requests. Step 1 involves a screening process where qualifying projects will be relieved of having to perform VMT impact analysis because evidence supports a presumption that VMT impact will be less than significant. The determination will be made during the Pre-Application Review or during consultation with the Planning Department prior to making an application. Note that these screening determinations are not absolute, and the City may determine that a project specific VMT analysis must be prepared to support a project. For projects that are not exempt from VMT analysis, Step 2 will be required where the project will be evaluated



against whether it would generate VMT per capita at a higher rate than the baseline average for the BCAG Region.

Based on the OPR Technical Advisory, and the discussion in this memorandum, the following projects are considered to have a de minimis effect on VMT and after review of the project the City may determine that a project specific VMT Analysis is unnecessary:

**De Minimis Development projects:**

- Any project that generates or attracts 110 or fewer trips per day.** Depending on project location, this may correspond to the following “approximate” development potentials:
  - 10-15 single family housing units
  - 16-20 multi-family, condominiums, or townhouse housing units
  - 10,000 sq. ft. of office
  - 15-20,000 sq. ft. of light industrial
  - 63,000 sq. ft. of warehousing
- Projects statutorily or categorically exempt from CEQA.**
- Locally serving retail and other commercial uses 50,000 square feet or less.** Examples of local serving include, but are not limited to schools, civic buildings, medical buildings, cleaners, offices, and other land uses intended to serve the local community and to improve the convenience of obtaining services locally.
- Zone Changes to Increase Residential Density.** For land that is already planned for residential development, the increase in density will provide for a more efficient use of land and a more compact urban form. Ideally the area with increased density would be near trails, bike paths, transit, and services to provide mobility options that do not *require* use of a personal automobile.

**Transportation projects:**

The City can make mobility system improvements independent of, or concurrent with, development projects. The following improvements are shown in the OPR Technical Advisory as not considered to increase VMT and would therefore not be required to complete a VMT analysis.

- Rehabilitation, maintenance, replacement, safety, and repair projects designed to improve the condition of existing transportation assets and that do not add additional motor vehicle capacity.
- Roadside safety devices or hardware installation such as median barriers and guardrails
- Addition of an auxiliary lane of less than one mile in length designed to improve roadway safety
- Installation, removal, or reconfiguration of traffic lanes that are not for through traffic, such as left, right, and U-turn pockets, two-way left turn lanes, or emergency breakdown lanes that are not used as through lanes.
- Addition of roadway capacity on local or collector streets provided the project also substantially improves conditions for pedestrians, cyclists, and, if applicable, transit
- Conversion of existing general-purpose lanes (including ramps) to managed lanes or transit lanes, or changing lane management in a manner that would not substantially increase vehicle travel
- Addition of a new lane that is permanently restricted to use only by transit vehicles

- Reduction in number of through lanes
- Grade separation to separate vehicles from rail, transit, pedestrians or bicycles, or to replace a lane in order to separate preferential vehicles (e.g., HOV, HOT, or trucks) from general vehicles
- Installation, removal, or reconfiguration of traffic control devices, including Transit Signal Priority (TSP) features
- Installation of traffic metering systems, detection systems, cameras, changeable message signs and other electronics designed to optimize vehicle, bicycle, or pedestrian flow
- Timing of signals to optimize vehicle, bicycle, or pedestrian flow
- Installation of roundabouts or traffic circles
- Installation or reconfiguration of traffic calming devices
- Initiation of new transit service
- Conversion of streets from one-way to two-way operation with no net increase in number of traffic lanes
- Removal or relocation of off-street or on-street parking spaces
- Adoption or modification of on-street parking or loading restrictions (including meters, time limits, accessible spaces, and preferential/reserved parking permit programs)
- Addition of traffic and pedestrian wayfinding signage
- Rehabilitation and maintenance projects that do not add motor vehicle capacity
- Addition of new or enhanced bike or pedestrian facilities on existing streets/highways or within existing public rights-of-way
- Addition of Class I bike paths, trails, multi-use paths, or other off-road facilities that serve non-motorized travel
- Installation of publicly available alternative fuel/charging infrastructure

Based on the unique characteristics of the City and the potential for new roadways to assist in evacuation in the County, the following projects are considered to have a de minimis effect on VMT and the City may determine that a project specific VMT Analysis is unnecessary:

- Addition of secondary access roads and emergency access to serve existing development provided that the roadways are all at existing LOS C or better and are projected to remain at LOS C in the future condition.

It is an unfortunate truth that the region has been ravaged by natural disasters. The ability to evacuate areas ahead of wildfire or flood is essential. In some areas a single roadway in or out can hinder evacuation. For this screening threshold the addition of secondary access to roadways that are both operating at or better than an LOS C, and projected to continue to operate at LOS C, would not result in an increase in VMT. As there is no existing congestion on the roadway, and no congestion is forecast, the addition of a road access only increases access and emergency ingress/egress options for the residents and responders. This is in line with the OPR bullet above that states "Addition of roadway capacity on local or collector streets provided the project also substantially improves conditions for pedestrians, cyclists, and, if applicable, transit." In this context the additional capacity is in the form of an access option in case of an emergency.

## Threshold of Significance

The California Environmental Quality Act (CEQA) is intended to inform government decisionmakers and the public about the potential environmental effects of proposed activities and to prevent significant, avoidable environmental damage. The CEQA defines Thresholds of Significance as:

### 15064.7 (a)

- (a) A threshold of significance is an identifiable quantitative, qualitative or performance level of a particular environmental effect, non-compliance with which means the effect will normally be determined to be significant by the agency and compliance with which means the effect normally will be determined to be less than significant.

The environmental analysis relies on thresholds of significance to determine whether a projected impact is considered significant. The CEQA Guidelines state:

- (b) Each public agency is encouraged to develop and publish thresholds of significance that the agency uses in the determination of the significance of environmental effects. Thresholds of significance to be adopted for general use as part of the lead agency's environmental review process must be adopted by ordinance, resolution, rule, or regulation, and developed through a public review process and be supported by substantial evidence. Lead agencies may also use thresholds on a case-by-case basis as provided in Section 15064(b)(2).

Nothing in the CEQA Guidelines states that adopting a threshold is subject to environmental review. This is further supported by the *California Building Industry Association v. Bay Area Air Quality Management District (2015)* 62 Cal.4th 369 court decision. Initially, the litigation concerned whether BAAQMD's adoption of thresholds was a "project" subject to CEQA review. The trial court found that it was and issued a writ of mandate invalidating the thresholds for failure to comply with CEQA. The First District Court of Appeal reversed, finding that the thresholds were not subject to CEQA review for two reasons. First, the CEQA Guidelines establish the required procedure for enacting generally applicable thresholds of significance, and prior CEQA review is not part of that process. Second, the thresholds were not a "project" because the "environmental change" alleged by the California Building Industry Association (CBIA) was speculative and not reasonably foreseeable. The Supreme Court did not grant review over this issue and thus the Court of Appeal's holding that the act of adopting thresholds is not a project under CEQA stands.

The following thresholds of significance will be applied to all discretionary projects that are unable to be screened from VMT analysis or considered de minimis. Examples and discussion for each threshold is included in *italics* following the threshold statement.

**TRANSPORTATION.** Would the project:

- a) Disrupt transit, bicycle and pedestrian facilities or interfere with planned facilities or cause a physical change inconsistent with bicycle and pedestrian policies contained in the City of Oroville General Plan and Oroville Bicycle Plan.

*For a project to result in a significant impact the physical design would be such that it interfered with city or transit agency standards for one or more non-motorized improvements. For example, not*

*connecting to or providing for a future trail or not including sidewalks and connection(s) to adjacent uses where appropriate, not including bus turnout or stopping areas. This impact could be significant if a roadway connection isn't made that would expand or maintain the transit network or if frontage improvements did not include a bus turnout or similar improvements consistent with city plans.*

- b) Generate home-based work VMT per employee at a rate that is greater than the citywide average under future general plan conditions.

*A project would cause a significant VMT impact if it generated VMT per capita above the unincorporated county baseline average. Baseline VMT estimates can be obtained from the latest version of the BCAG RTP/SCS model (currently Modified Version 1.1 -3.17.21) or other VMT data sources, a mobile device data vendor that offers SB 743 compliant VMT estimates based on current year estimates. For residential land uses, home-based VMT per capita can be used while work-related land uses can use home-based work VMT per employee.*

- c) Substantially increase hazards due to a geometric design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., large trucks, farm equipment)?

*This is a design consideration and will be evaluated with each project for compliance with City standards.*

- d) Result in inadequate emergency access.

*This is a design consideration and will be evaluated with each project for compliance with City standards. As noted in the screening criteria, the addition of an emergency access route or connection is screened out of requiring a VMT analysis.*

December 2023 | General Plan EIR Addendum

# ADDENDUM TO THE GENERAL PLAN EIR

SCH No. 2008022024

FOR THE

# OROVILLE GENERAL PLAN UPDATE 2030

City of Oroville

DRAFT

*Prepared for:*

**City of Oroville**

Wes Ervin

Principal Planner

1735 Montgomery Street

Oroville, California 95965

*Prepared by:*

**PlaceWorks**

Mark Teague, AICP

101 Parkshore Drive, Suite 202

Folsom, California 95630

858.776.5574

info@placeworks.com

www.placeworks.com



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# 1. Addendum to the Adopted General Plan EIR

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## 1.1 BACKGROUND

The proposed General Plan Update (proposed project), would modify the existing 2030 General Plan which was adopted by City Council June 2<sup>nd</sup>, 2009, modified by the City on March 31<sup>st</sup>, 2015, and serves as the City of Oroville (City's) guiding policy document that describes the vision for the future of the City (City of Oroville, 2015a).

### 1.1.1 Oroville General Plan 2030

The Oroville 2030 General Plan is the foundation development policy document of the City of Oroville. It defines the framework by which the physical, economic, and human resources of the City are to be managed and used over time. The General Plan provides the City of Oroville with directions on how to fulfill future growth with a vision surrounding community interests. The General Plan acts to clarify and articulate the intentions of the City with respect to the rights and expectations of the public, property owners, and prospective investors and business interests. The General Plan informs the City's citizens of the goals, objectives, policies, and standards for development of the City and the responsibilities of all sectors in meeting these.

The Oroville 2030 General Plan provides the fundamental basis for the City's land use, development, and conservation policy, and represents the basic community values, ideals and aspirations that will govern the City through 2030. This General Plan addresses all aspects of development, including land use; community character; housing; economic development; circulation and transportation; open space, natural resources, and conservation; public facilities and services; safety; and noise.

The Oroville 2030 General Plan serves as the foundation document for all subsequent development standards and regulations, some of which are found in the municipal code such as Title 16 Subdivisions and Title 17 Zoning, and others in adopted engineering standards for construction. Nothing in the proposed project would change the standards for physical development or the provisions of the General Plan EIR, municipal code, and associated development regulations that are designed to reduce or avoid environmental impacts.

### 1.1.2 Certification of the General Plan EIR and Supplemental EIR

The General Plan Environmental Impact Report (EIR), certified on June 2<sup>nd</sup>, 2009, (State Clearinghouse Number 2008022024), evaluates the potential environmental impacts resulting from future development anticipated by the Oroville General Plan (City of Oroville, 2009).

On January 30<sup>th</sup>, 2015, the City of Oroville prepared a draft **SEIR** which evaluated the Oroville Sustainability Updates. This included the 2030 General Plan Updates, Municipal Code Updates, Design Guidelines Update, CAP, and Balanced Mode Circulation Plan. The 2030 General Plan Updates included changes to the land use map and designations, related updates to the expected 2030 development levels, revisions to the Circulation

**Commented [KH1]:** What does the "S" stand for?

## 1. Addendum to the Certified General Plan EIR

and Transportation Element to reflect the land use map changes and to support complete streets and walkability, addition of a new Economic Development Element, updates to reflect State statutes, and various policy revisions that address the City’s park standards, access to local and healthy food, and other topics. The SEIR was certified by the City Council on March 31, 2015 (State Clearinghouse Number 2014052001) (City of Oroville, 2015b).

### 1.1.3 California Senate Bill 743

On September 27, 2013, Governor Jerry Brown signed California Senate Bill 743 (SB 743) into law which changed the environmental emphasis from vehicle level of service (LOS) to vehicle miles travelled (VMT). The LOS rating system rating system was used previously as a means of determining projected traffic impacts of proposed developments on nearby intersections, streets, and highways. VMT measures the distance a motorized vehicle will travel to a destination, divided by the number of passengers (i.e., per capita). As defined under SB 743, VMT is the new standard for assessing the effects of growth and development in California on the transportation system. A reduction in VMT is intended to further a state goal of reducing greenhouse gas emissions and improving air quality by reducing the emissions associated with the length and number of vehicle trips. Eliminating LOS as an environmental threshold makes congestion management a public policy issue rather than an environmental issue.

The existing General Plan establishes policies about meeting a specific LOS, which was the standard approach to assessing transportation environmental impacts based on automobile delay. With the adoption of SB 743 LOS is no longer considered an environmental impact, though the City can keep LOS as a goal for the development of the community. Instead, the new metric is to ensure a reduction in vehicle miles travelled (VMT) as a means of reducing air quality and greenhouse gas impacts. The proposed project recognizes the shift from LOS to VMT and keeps the LOS standard as a goal rather than an absolute. This allows the City to plan for roadways as appropriate but does not require adherence to an adopted LOS standard.

#### Environmental Documentation

This document serves as the environmental documentation for the City’s proposed General Plan Update. This addendum to the City of Oroville’s General Plan EIR (State Clearinghouse Number 2008022024) demonstrates that the analysis in that EIR adequately addresses the potential physical impacts associated with implementation of the proposed project, and the proposed project would not trigger any of the conditions described in CEQA Guidelines Section 15162 calling for further environmental review.

## 1.2 GENERAL PLAN EIR FINDINGS

The General Plan EIR addresses potential impacts related to aesthetics, air quality and greenhouse gas emissions, biological resources, cultural resources, geology, soils, and mineral resources, hazards and hazardous materials, hydrology and water quality, land use, noise, population and housing, public services and recreation, transportation and circulation, and utilities, and infrastructure (City of Oroville, 2009).

In addition, the City has a development code and engineering standards that address the physical impacts of development on the environment. None of the regulatory processes are being amended by this project; therefore, they will continue to apply to all subsequent development.

**Commented [MB2]:** This should be a discussion of the 2009 GP EIR, not the findings of the SEIR.

**Commented [MB3]:** The General Plan EIR isn’t available anywhere online or in the project folder so I’m summarizing the impacts from a high-level, based on what is described in the SEIR.

**Commented [MB4]:** The DEIR combined air quality and greenhouse gas emissions into one chapter.

### 1. Addendum to the Certified General Plan EIR

The General Plan EIR determined that implementation of the City’s General Plan would result in significant and unavoidable impacts to the following environmental topics (City of Oroville, 2009):

- Air Quality: The Draft EIR determined that construction of development allowed by the General Plan would result in a significant and unavoidable air quality impact.
- Greenhouse Gas Emissions: The Draft EIR determined that even with implementation of General Plan policies to reduce GHGs, GHG emissions would result in a significant and unavoidable GHG impact.
- Hydrology and Water Quality: The Draft EIR found a significant and unavoidable impact related to exposure of people and structures to risks from flooding as a result of dam failure. Although the dam could withstand a 6.5 magnitude earthquake, which is the largest credible event projected for the region, development allowed by the 2030 General Plan would be within the dam inundation area, causing a significant impact.
- Hydrology and Water Quality: The Draft EIR found a significant and unavoidable cumulative impact due to the population and development increase within an area that is subject to dam inundation and seiche hazards.
- Noise: The Draft EIR predicted traffic noise levels in 2030 for the General Plan would contribute to cumulative noise impacts, resulting in a significant and unavoidable impact.
- Population and Housing: The Draft EIR for the General Plan found that the increase in residential units within the Project Area would be considered “substantial population growth,” and found the impact to be significant and unavoidable.
- Transportation and Circulation: The Draft EIR for the General Plan found that increased traffic from the General Plan would exacerbate existing deficiencies along Highways 70, 99, and 162, resulting in a significant and unavoidable impact.

**Commented [MB5]:** As noted above, the DEIR isn't available. I referred to the SEIR which discusses some of the significant and unavoidable impacts found in the 2009 DEIR for the General Plan Update.

### 1.3 PROJECT SUMMARY

CEQA requires the City to evaluate the environmental impacts associated with direct and reasonably foreseeable indirect physical changes to the environment. The proposed project would ensure the City follows current State regulations and would address the Circulation Element’s focus from LOS to VMT. The goals, policies, and actions in the existing General Plan would guide development and conservation in the City of Oroville through 2030. However, due to changes to CEQA, the General Plan no longer recognizes LOS and therefore must change the environmental emphasis from LOS to VMT. The remainder of the General Plan will also be revised in discussing LOS and reflect changes to local and regional priorities and ensure compliance with State law. Table 1-1, *Baseline (2020) VMT Summary* shows the proposed project’s results of the BCAG RTP/SCS Travel Demand Model for the region and City for VMT. As shown in Table 1-1, the City’s home-based VMT per resident is higher than the region, while the home based VMT per employee is slightly less.

**Commented [KH6]:** This doesn't make sense to me. How can something be higher and lower at the same time?

1. Addendum to the Certified General Plan EIR

**Table 1-1 Baseline (2020) VMT Summary**

<i>VMT Metric</i>	<i>BCAG Region</i>	<i>City of Oroville</i>
Total VMT Generated by land uses within geographic area	7,532,100	1,235,400
Home-based VMT per resident	14.9	17.7
Home-based work VMT per employee	6.7	6.2
Total Network VMT	4,710,000	453,400

While passage of SB 743 eliminated LOS as a threshold for CEQA but allows the use of LOS in other planning efforts, this would limit the ability of the City to approve projects that would affect roadway or intersection LOS. The limitation would come not from CEQA that would allow a statement of overriding considerations, but from the need to remain consistent with the Oroville General Plan that has no provisions to approve a project in conflict with an absolute statement. As such, a proposed change to the General Plan policy that directly addresses LOS would give the City the ability to approve projects that might both affect LOS per the policy, but are still important to the community.

In addition to the proposed change to the General Plan policy, the proposed project would modify two of the four existing thresholds of significance in the transportation environmental factor. Specifically, the proposed project would revise threshold “a” and “b” which would be applied to any discretionary projects. The modified transportation thresholds would consist of the following:

Would the Project:

- a. Disrupt transit, bicycle and pedestrian facilities or interfere with planned facilities or cause a physical change inconsistent with bicycle and pedestrian policies contained in the City of Oroville General Plan and Oroville Bicycle Plan.
- b. Generates home-based work VMT per employee at a rate that is greater than the citywide average under future General Plan conditions.

By modifying these two thresholds, the City would be able to stay consistent with the changes made as a result of SB 743 and the newly proposed General Plan policy regarding LOS.

## 1. Addendum to the Adopted General Plan EIR

### 1.4 PURPOSE OF AN EIR ADDENDUM

According to CEQA Guidelines Section 15164(a), an addendum shall be prepared if some changes or additions to a previously certified EIR are necessary, but none of the conditions enumerated in CEQA Guidelines Sections 15162(a)(1) – (3) calling for the preparation of a subsequent EIR have occurred. As stated in CEQA Guidelines Section 15162 (Subsequent EIRs and Negative Declarations):

When an EIR has been certified or negative declaration adopted for a project, no subsequent EIR shall be prepared for that project unless the lead agency determines, on the basis of substantial evidence in the light of the whole record, one or more of the following:

- (1) Substantial changes are proposed in the project which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects;
- (2) Substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; or
- (3) New information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the previous EIR was certified as complete or negative declaration was adopted, shows any of the following:
  - (a) The project will have one or more significant effects not discussed in the previous EIR or negative declaration;
  - (b) Significant effects previously examined will be substantially more severe than shown in the previous EIR;
  - (c) Mitigation Programs or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation Program or alternative; or
  - (d) Mitigation Programs or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation Program or alternative.

#### 1.4.1 Rationale for Preparing an EIR Addendum

As described in Section 1.1.2, the General Plan EIR was certified in 2009. Since, there have been CEQA changes in regard to analyzing environmental topics. This addendum serves to analyze the changes and determine whether the proposed project would result in significant changes that were not analyzed or considered in the existing General Plan. Table 1-2, *High-Level CEQA Changes*, summarizes the high-level CEQA changes that have occurred since certification of the General Plan EIR and provides an analysis of these changes in the context of the proposed project.

**Commented [MB7]:** [https://casext.com/regulation/california-code-of-regulations/title-14-natural-resources/division-6-resources-agency/chapter-3-guidelines-for-implementation-of-the-california-environmental-quality-act/article-11-types-of-eirs/section-15164-addendum-to-an-eir-or-negative-declaration#:~:text=Section%2015164%20%2D%20Addendum%20to%20an%20EIR%20or%20Negative%20Declaration%20\(a,a%20subsequent%20EIR%20have%20occurred.](https://casext.com/regulation/california-code-of-regulations/title-14-natural-resources/division-6-resources-agency/chapter-3-guidelines-for-implementation-of-the-california-environmental-quality-act/article-11-types-of-eirs/section-15164-addendum-to-an-eir-or-negative-declaration#:~:text=Section%2015164%20%2D%20Addendum%20to%20an%20EIR%20or%20Negative%20Declaration%20(a,a%20subsequent%20EIR%20have%20occurred.)

## 1. Addendum to the Certified General Plan EIR

As stated in CEQA Guidelines Section 15164 (Addendum to an EIR):

- (a) The lead agency or responsible agency shall prepare an addendum to a previously certified EIR if some changes or additions are necessary but none of the conditions described in Section 15162 calling for preparation of a subsequent EIR have occurred.
- (b) An addendum to an adopted negative declaration may be prepared if only minor technical changes or additions are necessary or none of the conditions described in Section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred.
- (c) An addendum need not be circulated for public review but can be included in or attached to the final EIR or adopted negative declaration.
- (d) The decision-making body shall consider the addendum with the final EIR or adopted negative declaration prior to making a decision on the project.
- (e) A brief explanation of the decision not to prepare a subsequent EIR pursuant to Section 15162 should be included in an addendum to an EIR, the lead agency's findings on the project, or elsewhere in the record. The explanation must be supported by substantial evidence.

A copy of this addendum, and all supporting documentation, may be reviewed or obtained at 1735 Montgomery Street, City of Oroville, California 95965.

1. Addendum to the Adopted General Plan EIR

Table 1-2 High-Level CEQA Changes

Topic	Date	Overview	Analysis
<b>Transportation</b>			
SB 743	2013	<ul style="list-style-type: none"> <li>• Amended CEQA Guidelines to change how lead agencies evaluate transportation impacts under CEQA, with the goal of better measuring the actual transportation-related environmental impacts of any given project.</li> <li>• Evaluated by examining whether the project is likely to cause automobile delay at intersections and congestion on nearby individual highway segments, and whether this delay will exceed a certain amount (LOS analysis).</li> <li>• Starting on July 1, 2020, agencies analyzing the transportation impacts of new projects must now look at a metric known as VMT instead of LOS. VMT measures how much actual auto travel (additional miles driven) a proposed project would create on California roads. If the project adds excessive car travel onto our roads, the project may cause a significant transportation impact.</li> </ul>	<ul style="list-style-type: none"> <li>• The General Plan EIR analyzes the General Plan through the outdated (LOS analysis) to measure transportation impacts.</li> <li>• The analysis provided adequately addresses the potential physical impacts associated with implementation of the proposed project since General Plan EIR originally used (level of service) as a threshold which was later made ineligible as a threshold, thus VMT is now used as a threshold that is custom to the unique needs of Oroville.</li> <li>• Nothing in the CEQA Guidelines states that adopting a threshold is subject to environmental review; see the California Building Industry Association v. Bay Area Air Quality Management District (2015) 62 Cal.4th 369 court decision.</li> </ul>

## 2. CEQA Analysis

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### 2.1 ENVIRONMENTAL ANALYSIS

The City of Oroville's General Plan contains policies related to land use, transportation and circulation, open space, safety, noise, housing, community design, economic development, and public facilities and services. The General Plan is largely designed to be self-mitigating by incorporating policies and implementation programs that address and mitigate environmental impacts related to implementing the General Plan, such as zoning codes and design standards. As previously described in Section 1.2 of this addendum, the City of Oroville's General Plan EIR addresses potential impacts related to aesthetics, air quality and greenhouse gas emissions, biological resources, cultural resources, geology, soils, and mineral resources, hazards and hazardous materials, hydrology and water quality, land use, noise, population and housing, public services and recreation, transportation and circulation, and utilities, and infrastructure (City of Oroville, 2009).

In addition, Table 1-2, *High-Level CEQA Changes*, provides a high-level overview of CEQA changes that have occurred since certification of the City's General Plan EIR and provides an analysis of these changes in regard to the proposed project. Since the changes in Table 1-2 would not significantly affect the proposed project or the impacts analyzed in the General Plan EIR, the impacts determined in the General Plan EIR would still apply to the proposed project. The adoption of the VMT threshold is not subject to environmental review as the transition from LOS to VMT would not create any significant environmental changes. As such, the proposed project would be no more substantial than analyzed in the General Plan EIR.

### 2.2 FINDINGS

The discussion in this addendum confirms that the proposed project has been evaluated for significant impacts pursuant to CEQA. The discussion is meaningfully different than a determination that a project is "exempt" from CEQA review because the proposed General Plan Update is not exempt. Rather, the determination here is that the General Plan Update does not require major revisions to the General Plan EIR due to the involvement of new significant environmental impacts or substantial increases to the severity of previously identified significant environmental impacts. The General Plan is a policy document, and its adoption would not produce environmental impacts since no actual development is proposed. Future development projects facilitated by the General Plan Update would generally be subject to project-level environmental review. Therefore, the General Plan EIR provides a sufficient and adequate analysis of the environmental impacts of the proposed General Plan.

There are no substantial changes in the circumstances or new information that was not known and could not have been known at the time of the adoption of the General Plan EIR. The proposed project consists entirely of land uses permitted by the project sites' existing General Plan land use designation and zoning and represents no change from the impacts that were assumed and analyzed by the General Plan EIR.



## 2. CEQA Analysis

As a result, and for the reasons explained in this addendum, the project would not cause any new significant environmental impacts or substantially increase the severity of significant environmental impacts disclosed in the General Plan EIR. Thus, the proposed project does not trigger any of the conditions in CEQA Guidelines Section 15162 allowing the preparation of a subsequent EIR, and the appropriate environmental document as authorized by CEQA Guidelines Section 15164(b) is an addendum. This EIR addendum has been prepared accordingly.

The following identifies the standards set forth in Section 15162 of the CEQA Guidelines as they relate to the proposed project.

1. **No substantial changes are proposed in the project which would require major revisions of the EIR due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects; and 2. No substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous EIR or negative declaration due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects.**

Table 1-2 *High-Level CEQA Changes*, highlights and evaluates the high-level CEQA changes that have occurred since the certification of the General Plan EIR. However, since the proposed project would not result in major physical changes from the transition from LOS to VMT, these CEQA changes would not result in significant changes as the adoption of a new threshold is not subject to environmental review. No physical changes are proposed; the new threshold can be used to calculate physical effects that later can be used to create new policies to reduce VMT.

3. **No new information of substantial importance, which was not known and could not have been known with the exercise of reasonable diligence at the time the EIR was certified shows:**
  - a. **The project will have one or more significant effects not discussed in the previous EIR.**

Table 1-2 *High-Level CEQA Changes*, provides analysis of these changes in the context of the proposed project. Although there are environmental topics not analyzed at the time of the General Plan EIR, the proposed change from LOS to VMT as a CEQA threshold would not introduce any new significant and unavoidable effects, as the adoption of a new VMT threshold is not subject to environmental review. Therefore, there would be no new environmental impacts.

- b. **Significant effects previously examined will be substantially more severe than shown in the previous EIR.**

The proposed project would have the same significant impacts as those disclosed in the certified General Plan EIR. The proposed change from LOS to VMT would not substantially alter the existing EIR, as the change to VMT would not be subject to environmental review. The previous EIR did not have any new significant impacts relating to transportation. Therefore, impacts determined in the General Plan EIR would be adequate for the proposed project.

## 2. CEQA Analysis

- c. **Mitigation measures or alternatives previously found not to be feasible would in fact be feasible and would substantially reduce one or more significant effects of the project, but the project proponents decline to adopt the mitigation measure or alternative.**

The proposed project would not result in physical changes to the environment that were not disclosed in the General Plan EIR. The proposed project would not create new impacts or the need for additional mitigation measures. The policies identified in the proposed project would reduce physical environmental effects associated with future development. The update to the General Plan would not result in significant environmental impacts or increase the severity of any environmental impacts previously evaluated in the General Plan EIR; therefore, there is no need for new mitigation measures or alternatives.

- d. **Mitigation measures or alternatives which are considerably different from those analyzed in the previous EIR would substantially reduce one or more significant effects on the environment, but the project proponents decline to adopt the mitigation measure or alternative.**

The proposed project would have the same significant impacts as the previously certified General Plan EIR, and all associated policies and mitigation measures identified in the General Plan EIR to reduce physical environmental effects would apply to all future development and have the same mitigating effect. There would be no new significant impacts resulting from adoption of the General Plan Update; therefore, there would be no new mitigation measures or alternatives required for the proposed project.

## 2. CEQA Analysis

### 2.3 REFERENCES

- City of Oroville. 2015a, March 31. City of Oroville General Plan 2030. <https://www.cityoforoville.org/services/planning-development-services-department/planning-division/planning-documents>
- \_\_\_\_\_. 2015b. City of Oroville Sustainability Updates Draft Supplemental EIR. <https://www.cityoforoville.org/home/showpublisheddocument/12202/635955765376170000>
- \_\_\_\_\_. 2009. City of Oroville General Plan Update Environmental Impact Report. <https://ceqanet.opr.ca.gov/2008022024/3>

**CITY OF OROVILLE  
RESOLUTION NO. XXXX**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OROVILLE, CALIFORNIA,  
AMENDING THE CIRCULATION ELEMENT OF THE GENERAL PLAN**

**WHEREAS**, the passage of SB 743 eliminated LOS as a threshold for CEQA but allows the use of LOS in other planning efforts; and

**WHEREAS**, Policy P2.1 of the Circulation Element would limit the ability of the Council to approve projects that would affect roadway or intersection LOS; and

**WHEREAS**, the limitation would come not from CEQA that would allow a statement of overriding considerations, but from the need to remain consistent with the General Plan that has no provisions to approve a project with an absolute statement; and

**WHEREAS**, the City of Oroville is updating Policy P2.1 of the Circulation Element to allow the flexibility to approve projects that might both affect LOS per the policy but still important to the community; and

**WHEREAS**, the list of roadways associated with the Policy P2.1 remains unchanged.

**NOW, THEREFORE, BE IT RESOLVED** by the Oroville City Council as follows:

Section 1. Policy P2.1 of the Circulation Element is amended to read, “Strive to maintain Maintain a Level of Service (LOS) D or better as defined in the most current edition of the Highway Capacity Manual or subsequent revisions for roadways and intersections, except as specified below:”

Section 2. The City Clerk shall attest to the adoption of this Resolution.

**PASSED AND ADOPTED** by the City Council of the City of Oroville at a regular meeting on **June 18, 2024**, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
David Pittman, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Scott E. Huber, City Attorney

\_\_\_\_\_  
Kayla Reaster, Assistant City Clerk

DRAFT

**CITY OF OROVILLE  
RESOLUTION NO. XXXX**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OROVILLE, CALIFORNIA,  
ADOPTING AN INTERIM TRANSPORTION THRESHOLD OF SIGNIFICANCE UNDER  
THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FOR VEHICLE MILES  
TRAVELED (VMT)**

**WHEREAS**, on September 27, 2013, Governor Jerry Brown signed California Senate Bill 743 (SB 743) into law which changed the environmental emphasis from vehicle level of service (LOS) to vehicle miles travelled (VMT); and

**WHEREAS**, the State Office of Planning and Research (OPR) has published guidelines with recommendations on how VMT might be reduced, many of the recommendations are unlikely to apply to a rural city such as Oroville; and

**WHEREAS**, OPR recognizes that rural areas should be treated differently based on their land use and transportation context but uses a definition of rural that would exclude the City of Oroville; and

**WHEREAS**, the interim threshold drafted for consideration corrects this oversight and explains why the City of Oroville should be considered rural; and

**WHEREAS**, this threshold is considered interim as modifications will occur over time, and state initiatives may change how the City will need to consider VMT from development projects; and

**WHEREAS**, the City of Oroville Planning Commission reviewed and considered the information in the administrative record, staff report, and all oral and written testimony presented to the Planning Commission and recommended approval of the Interim Transportation Threshold to the City Council; and

**WHEREAS**, the City of Oroville City Council has reviewed and considered the information in the administrative record, staff report, and all oral and written testimony presented to the City Council.

**NOW, THEREFORE, BE IT RESOLVED** by the Oroville City Council as follows:

- Section 1. Notice of the City Council hearing on the Interim Transportation Threshold was given as required by law and the actions were conducted in accordance with CEQA, and the State CEQA Guidelines
- Section 2. All individuals, groups and agencies desiring to comment were given adequate opportunity to submit oral and written comments on the Interim Vehicles Miles Travelled threshold.
- Section 3. The City Council was presented with all the information described in

the recitals and has considered this information in adopting this resolution.

Section 4. The proposed Adoption of the Interim Transportation Threshold is in the public interest, and protects the health, safety, and welfare of the City.

Section 5. Adopts the Interim Transportation Threshold as set forth under Exhibit A.

Section 6. The City Clerk shall attest to the adoption of this Resolution.

**PASSED AND ADOPTED** by the City Council of the City of Oroville at a regular meeting on **June 18, 2024**, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
David Pittman, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Scott E. Huber, City Attorney

\_\_\_\_\_  
Kayla Reaster, Assistant City Clerk