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Butte County Board of Supervisors
PUBLIC HEARING - AGENDA REPORT
Butte County General Plan 2030 – Draft Butte Creek Canyon Overlay Zone

February 27, 2018

To: Butte County Board of Supervisors
From: Tim Snellings, Development Services Director
Subject: **Butte County General Plan 2030**
Draft Butte Creek Canyon Overlay Zone Ordinance and Map

I. RECOMMENDATION:

1. Adopt a resolution approving an EIR Addendum pursuant to the California Environmental Quality Act (CEQA), and authorize the Chair to sign; and
2. Adopt an Ordinance amending Chapter 24, (Zoning Ordinance) making text and map amendments to include a new Section 24-34.1, entitled Butte Creek Canyon Overlay Zone, and authorize the Chair to sign.

II. AGENDA FOR PUBLIC HEARING

1. Development Services Staff Presentation (~20 minutes)
2. Board of Supervisors Question and Answer Period (~20 minutes)
3. Public Comment (~45 minutes)
4. Board of Supervisors Discussion and Action (~15 minutes)

III. SUMMARY

The proposed Draft Butte Creek Canyon (-BCC) Overlay Zone is a community proposed planning effort, supported by the General Plan. The proposed Overlay Zone preserves and protects the uniquely valuable qualities of Butte Creek Canyon, which is a significant resource of Butte County. General Plan Conservation and Open Space Element Action Item COS-A6.2 provides direction for the creation of the Overlay Zone. The purpose of the Overlay Zone is to facilitate the protection and preservation of the scenic resource and the historical and ecological foundation of Butte Creek Canyon. This includes the survival of endangered wild salmon, steelhead and other sensitive plants and animals such as the East Tehama Deer herd, preservation of historical sites and ecological preserves, and the optimum balance of recreation and residential use.

The Butte Creek Canyon Overlay will apply a new overlay zone designation to the Zoning Map. New text in the Zoning Ordinance will identify the overlay, explain its purpose and implement the new section devoted to the Butte Creek Canyon Overlay Zone. The Overlay Zone applies to the Butte Creek Canyon area, as shown on the Overlay Zone Map. An **overlay zone** “lays over” the existing zoning on a property and further influences land uses and regulations. The existing “base” zoning and all uses and regulations remain in place, unchanged. The Zoning Ordinance (under Section 24-33) indicates that whenever a requirement of an overlay zone conflicts with a requirement of the underlying base zone, the overlay zone requirements shall control. The proposed Overlay Zone combines with any base zone except the AG-160 (Agriculture, 160-acre minimum parcel size), TM (Timber Mountain), and TP (Timber Preserve) zones.

IV. BACKGROUND

The Butte County General Plan, adopted in 2010, directs the preparation of a planning strategy for a Butte Creek Canyon Overlay Zone under General Plan Conservation and Open Space Element Action COS-A6.2. This action is part of the General Plan’s implementation as approved by the Board of Supervisors. In accordance with COS-A6.2, Development Services staff has worked with Butte Creek Canyon residents on the development of this Overlay Zone since 2013.

Over the last several years a local community group, the Butte Creek Canyon Overlay Zone Committee held several meetings at the Centerville School to inform Canyon area residents of this process, as well as provide outreach to community members. Under the direction of the General Plan, Development Services staff held numerous meetings with the Butte Creek Canyon Overlay Zone Committee to begin drafting the Overlay Zone, which would amend the Zoning Ordinance (Butte County Code Chapter 24) by including a new section called the Butte Creek Canyon Overlay Zone.

The Planning Commission held four public workshops from June 2016 to April 2017 to encourage public participation, accept public comment, and help to refine the draft Overlay Zone in preparation for today's public hearing. The Planning Commission held a Public Hearing on November 9, 2017, recommending, on a 3-2 vote, that the Board of Supervisors adopt the proposed Butte Creek Canyon Overlay Zone and related EIR Addendum. The key areas of deliberation included the appropriate boundary of the Overlay Zone, as well as the development standards required under the Overlay Zone.

Public Outreach

Staff performed the following specific public outreach concerning this project:

- October 5, 2013 presentation to the Butte Creek Canyon community on General Plan 2030, the Zoning Ordinance, and Overlay Zones by Development Services Principal Planner Dan Breedon;
- Direct mail to property owners within the proposed Overlay Zone boundaries informing owners of the June 30, 2016 and January 26, 2017 Public Workshops and the November 9, 2017 Planning Commission public hearing and February 27, 2018 Board hearing;
- Availability of the draft ordinance and map online and at the Development Services offices, 7 County Center Drive, Oroville;
- Publication of display ads in the Chico Enterprise Record and the Paradise Post concerning the Public Workshops and the Planning Commission Public Hearing;
- News release concerning the Public Workshop to all major local papers and news organizations;
- Direct emails through Development Services' *Constant Contact* list of interested parties;
- General Plan Updates to the Board of Supervisors during public meetings;
- KPAY Radio Interview regarding public workshop (June 14, 2016); and
- Creation of the following webpage devoted to the Butte Creek Canyon Overlay Zone:

<http://www.buttecounty.net/dds/Planning/NotableProjects/ButteCreekCanyonOverlay.aspx>

Butte Creek Canyon Overlay Zone Committee

Development Services staff worked in coordination with the Butte Creek Canyon Overlay Zone Committee, a group of private citizens who support 164 active members of the Friends of Butte Creek, and provide information to 850 people listed on the Friends of Butte Creek contact list. A

total of 20 active member's make-up the Butte Creek Canyon Overlay Zone Committee, with support from the Centerville Historical & Recreation Association.

The Butte Creek Canyon Overlay Zone Committee provided presentations at all four Planning Commission Workshops and the public hearing, and their members and associates provided public comment in support of the Overlay Zone. The Committee held meetings concerning the draft Overlay Zone at the Centerville Schoolhouse, one of which included a presentation on the General Plan from Development Services staff as well as attendance by the area's District 5 Supervisor. The Committee additionally provided 105 signed comment cards in support of the draft Overlay Zone at the October 27, 2016 Planning Commission Public Workshop. The Committee maintains a presence on the Friends of Butte Creek website, <http://buttecreek.org/> and posts information regarding the draft Butte Creek Canyon Overlay Zone.

V. CEQA REVIEW: ENVIRONMENTAL IMPACT REPORT (EIR) ADDENDUM

An Addendum to the previously certified Butte County General Plan Final Environmental Impact Report (SCH#2008092062) and Supplemental Final Environmental Impact Report (GPA and Zoning Ordinance EIR, SCH#2012022059) was prepared in accordance with the California Environmental Quality Act (CEQA) to address the environmental effects associated with the proposed project. As demonstrated in the environmental analysis provided in Section 3.0 (Environmental Analysis) of the Addendum, the proposed amendment does not meet the criteria for preparing a subsequent EIR or negative declaration. An addendum is appropriate here because, as explained in the Environmental Analysis, none of the conditions calling for preparation of a subsequent EIR or negative declaration have occurred.

VI. PROJECT DESCRIPTION

The overall process related to the development of the Butte Creek Canyon Overlay Zone can be broken into five major activities:

1. **General Plan 2030.** Participation of Butte Creek Canyon community in the General Plan 2030 process, resulting in the inclusion of Action Item COS-A6.2 in the General Plan, directing the preparation of the planning strategy and Overlay Zone.
2. **Community Outreach.** Outreach and meetings with the Butte Creek Canyon community and Butte Creek Canyon Committee regarding the planning strategy and Overlay Zone.
3. **Staff Work.** Formulation of the Draft Butte Creek Canyon Overlay Zone by Planning Division staff, including the development of Land Use Development Standards
4. **Public Workshops.** Four Planning Commission Public Workshops, and associated public outreach were held to accept public comment and further refine the draft Overlay Zone

5. **Public Hearings.** The Planning Commission held a public hearing on November 9, 2017, with the Board’s hearing scheduled to take place on February 27, 2018.

The Zoning Ordinance Amendments proposed under the Butte Creek Canyon Overlay Zone apply to the unincorporated portion of Butte County more particularly described by the Overlay Zone map and covering a portion of the Butte Creek Canyon area. The Zoning Ordinance will be amended to include a new section entitled “Butte Creek Canyon Overlay Zone” (Butte County Code Chapter 24, Section 24-34.1), with major sections and subsections devoted to the following (see the attached Resolution, Exhibit A for the complete ordinance):

- A. Purpose
- B. Administrative Relief
- C. Applicability
- D. Land Use and Development Standards
 1. Public Hearings and Noticing
 2. Hillside Development Standards
 - a. Slope
 - b. Vegetation Removal
 3. Clustered Development
 4. Butte Creek Canyon Ridgeline Development
 - a. Ridgeline Setbacks
 - b. Alternative Building Design Standards
 5. Historic, Cultural, and Archeological Sites
 6. Heavy Equipment Storage
 7. Outdoor Lighting
 8. Watershed Protection
 - a. Land Use Regulations
 - b. Maximum Impervious Surface
 - c. Vegetative Buffers
 - d. Septic Systems and Portable Chemical Toilet Setbacks
 - e. Erosion Control
- E. Coordination with Other Regulatory Agencies

General Plan Direction: Butte Creek Canyon Overlay Zone

The Overlay Zone was developed under direction of General Plan Conservation and Open Space Element Action Item COS-A6.2:

COS-A6.2

Work with Butte Creek Canyon residents and local groups toward adopting a planning strategy for a Butte Creek Canyon Overlay Zone. The purpose of the planning strategy is to facilitate the protection and preservation of the historical and ecological foundation of Butte Creek Canyon, including the survival of salmon, steelhead and other sensitive plants and animals such as the East Tehama Deer Herd, preservation of historical sites and ecological preserves, and the optimum balance of recreation and residential use.

This Action supports General Plan Goal COS-6 to “engage in cooperative planning efforts to protect biological resources.” The General Plan’s Conservation and Open Space Element further indicates that:

“Butte County was historically one of the centers of wild salmon and steelhead, and the multitude of species dependent upon them, in the State of California. Oroville Dam ended the massive salmonid runs on the Feather River. Butte Creek and Big Chico Creek are the only undammed tributaries left in Butte County that support wild strains of endangered spring-run Chinook salmon and steelhead. Little Butte Creek and Dry Creek also support runs of critically designated steelhead. Although recovery efforts have boosted the population over the last 15 years, recent runs have declined significantly. Most measures show an average count of wild Butte Creek spring-run Chinook salmon of nearly 10,000 fish per year from 1998 to 2008. However, in 2009 only 2,561 fish returned to Butte Creek and a handful to Big Chico Creek. Nevertheless, Butte Creek supports the largest run of wild, naturally spawned, spring-run Chinook salmon in California. Protecting these last strongholds for these species is critical to our society. (General Plan 2030 Conservation and Open Space Element, Page 10-27)”



Butte Creek Canyon

General Plan Direction: Butte Creek Canyon Ridgeline Development Standards

The draft Overlay Zone includes a section regarding development standards for canyon ridgelines. The General Plan supports development standards for ridgelines in scenic areas. Specifically, Conservation and Open Space Element Goal COS-17 indicates that the County will maintain and enhance the quality of Butte County's scenic and visual resources. The Butte Creek Canyon area is identified under General Plan Figure COS-7, as a significant scenic resource. The General Plan further provides the following policies and action program concerning ridgeline development:

Conservation and Open Space Element Policy COS-P17.1

Views of Butte County's scenic resources, including water features, unique geologic features and wildlife habitat areas, shall be maintained.

Conservation and Open Space Element Policy COS-P17.2

Ridgeline development near scenic resources shall be limited via the adoption of specific development guidelines in order to minimize visual impacts.

Conservation and Open Space Element Action COS-A17.1

Adopt development guidelines that mitigate the impacts of ridgeline development near scenic resources.

Many Butte County residents and visitors use the Butte Creek Canyon area for recreational pursuits such as rafting, bicycling, site seeing, hiking, fishing, nature walks and hikes, and other activities. The protection of views and aesthetic qualities of the Butte Creek Canyon area upholds the purpose of the planning strategy, set forth under COS-A6.2, "to facilitate ... the optimum balance of recreational and residential uses."

VII. ANALYSIS

The following four sections provides further analysis concerning the Zoning Overlay:

1. Overview of Butte Creek Canyon Overlay Zone Development Standards
2. Potential Growth within the Overlay Zone Boundary
3. Comparison between the Butte Creek Canyon Overlay Zone and the Magalia Watershed Protection Overlay Zone
4. Supplemental Background Information

1. Overview of Butte Creek Canyon Overlay Zone Development Standards

The Planning Commission held four Public Workshops on June 30, 2016, October 27, 2016, January 26, 2017, and April 26, 2017. The Planning Commission additionally held a public hearing on November 9, 2017. The Planning Commission Workshops, and the public hearing, provided the public and the landowners within the proposed Overlay Zone the opportunity to provide input directly to the Planning Commission, with the Planning Commission providing direction to staff on numerous refinements to the draft Overlay Zone and related development standards.

The workshops and the public hearing were instrumental in exploring issues and hearing input from the community. The Butte Creek Canyon Overlay Zone Ordinance proposes a number of new development standards within the effective limits of the Overlay Zone. The following provides an overview of the major development standards, and staff discussions related to the applicability of that standard. All of the development standards as set forth below support the stated purpose of the Overlay Zone, as identified under Conservation and Open Space Action COS- A6.2:

...to facilitate the protection and preservation of the historical and ecological foundation of Butte Creek Canyon, including the survival of salmon, steelhead and other sensitive plants and animals such as the East Tehama Deer Herd, preservation of historical sites and ecological preserves, and the optimum balance of recreation and residential use.

- **Butte Creek Canyon Overlay Zone Boundary.** The Planning Commission directed that the proposed Overlay Zone not apply to the AG-160 (Agriculture, 160-acre minimum parcel size), TM (Timber Mountain) and TP (Timber Production) Zones due to the larger minimum parcel sizes required in these zones. The Planning Commission also directed the removal of larger landholdings and other connected parcels associated with the Meline & Rabo, and Alm Family ranches. Removal of these parcels was due to the larger size of the parcels, historic use and management of the property in its natural state and as working cattle ranches, the lack of development potential due to natural constraints, including lack of water and poor on-site septic suitability. At the November 9, 2017 Public Hearing, the Planning Commission removed several other areas from the Overlay Zone. These included the Nimshew and Humbug Road areas, and several other parcels that, although zoned residential, were not close enough in proximity to the Butte Creek Canyon area.
- **Issues relating to the Boundary of the Butte Creek Canyon Overlay Zone.** Several comments made during the Public Workshops concerned how the boundary of the Butte Creek Canyon Overlay Zone was determined. Public comment also questioned why parcels that were not

located in the Butte Creek Canyon Watershed were included in the Overlay Zone. In other words, portions of some properties may drain away from Butte Creek, and should not be included in the Overlay Zone. The boundary of the Draft Overlay is generally intended to follow the Butte Creek Canyon's "rim", which is made up of ridgelines that define the edges of the canyon area. Parcel boundaries were followed instead of having the Overlay Zone boundary cut through individual parcels. However, this resulted in portions of some parcels near the western extent of the boundary to be located within the Draft Overlay Zone, but not located within the Butte Creek Watershed. Portions of these parcels drain into the adjacent Little Chico Creek Watershed. The Planning Commission directed that it was more appropriate to map the Overlay Zone on these parcels only over the Butte Creek Watershed area, and to leave other portions of the properties that are not within the Butte Creek Watershed outside of the Overlay Zone.

- **Administrative Relief (Section 24-34.1 B).** In response to public concerns, a new section on Administrative Relief is included to ensure that the Overlay Zone's regulatory constraints would not otherwise prohibit the development of a dwelling if allowed under the base zoning. This would require coordination with the Department of Development Services to determine a feasible building site based upon site constraints and development standards.
- **Applicability (Section 24-34.1 C).** In response to concerns from property owners, this section was amended to indicate that the Butte Creek Canyon Overlay Zone would not require changes to existing legal uses and structures. Development Services staff, after further review additionally included a statement that the Overlay Zone will not cause such structures or uses to become non-conforming. Any expansion or modification of an otherwise nonconforming use or structure shall comply with the Overlay Zone and the requirements of Butte County Code Chapter 24, Article 22. Nonconforming Uses and Structures.
- **Hillside Development Standards –Slope (Section 24-34.1 D.2.a).** This section prohibits development in areas with a slope of greater than 15 percent unless there is no other suitable alternative location. This requirement is in recognition of the severe erosion hazard potential that makes up most of the Butte Creek Canyon watershed as identified by General Plan Conservation and Open Space Element Figure HS-1. Development would be allowed when it can be demonstrated that the parcel cannot accommodate development on a slope of less than or equal to 15 percent.
- **Hillside Development Standards – Vegetation Removal (Section 24-24.1 D.2.b).** This section prohibits vegetation removal outside of a development area except as specifically allowed under the Overlay Zone (e.g., defensible space, public utilities, non-native and invasive plant

eradication, walkways and trails). The development area encompasses the footprint of the building activity and other proposed improvements. Vegetation removal can loosen soil structure and increases erosion and sediment loading in creeks. This requirement helps to promote the retention of soil as well as maintain habitat for area wildlife.

The Planning Commission directed the inclusion of additional allowances for the removal of vegetation outside of a parcel's development area pertaining to fuel breaks and fuel reduction projects, routine agricultural grading, projects involving a public utility, non-native plant and invasive plant eradication, pedestrian walkways, projects. This would be limited to projects undertaken subject to the State Forest Practices Act or State Forest Practice Rules, and projects undertaken in compliance with a Streambed Alteration Permit approved by the California Department fish and Wildlife. The Planning Commission directed this amendment to ensure that property owners could undertake fuel reduction projects that were consistent with projects by local Fire Safe Councils or other public and non-profit entities, as well as property owner activities that were in support of wildfire safety and preparedness.

- **Clustered Development (Section 24-34.1 D.3.).** This section would prohibit clustered development as allowed under Article 18 of the Zoning Ordinance. Clustered development allows developers to cluster homes on smaller parcels, without exceeding the overall number of parcels allowed under the applicable zone. Clustered development provisions also allow a density incentive for projects that provide dedicated open space of 50 percent or more of the project's size. This allows up to 15 to 25 percent more home sites depending upon the amount of open space dedicated.

The Planning Commission upheld the Butte Creek Canyon Overlay Zone Committees request regarding the prohibition of clustered development in the Overlay Zone. They maintain that much of the canyon area is undevelopable due to the presence of steep slopes and other constraints, such as poor soils and access limitations. The allowance of clustered development could intensify development pressure in more level areas of Butte Creek Canyon. Clustered development also has the potential to be inconsistent with the area's 20 and 40-acre Deer Herd Migration Overlay Zone. Permitting clustered development within the Deer Herd Migration Overlay Zone would require further studies to determine impacts to the migratory deer herd.

- **Ridgeline Development (Section 24-34.1 D.4).** The Planning Commission recommended approval of the Ridgeline Setbacks as set-forth under the Draft Ordinance (see section entitled, *General Plan Direction: Butte Creek Canyon Ridgeline Development Standards*, above for further discussion on ridgeline protections), and additionally approved Alternative

Design Standards. The Alternative Design Standards provide an option for those property owners who wished to develop closer to the ridgeline. The Alternative Design Standards require that homes developed within the setback incorporate design that helps them blend into the surrounding landscape and have less of a visual impact along canyon ridgelines. The Alternative Design Standards provides a compromise between those supporting a ridgeline setback, and those who wished to build homes closer to the canyon ridgeline. There was not complete agreement on this issue during the Planning Commission's deliberations, and at least one Planning Commissioner, as well as members of the Butte Creek Canyon Overlay Committee, indicated that the alternative design standards could undermine the protection of designated ridgelines.

Public Resources Code 4291

During the Planning Commission workshops, related discussions took place concerning the benefit of ridgeline setbacks and defensible space for fire protection. Defensible space is that area that is a minimum of 100 feet from a home, as required under State Public Resources Code 4291. In this area, vegetation is modified to improve the odds for firefighters to defend a home from wildfire. The intensity of fuels management may vary within the 100-foot perimeter of the structure, the most intense being within the first 30 feet around the structure. Development on ridgelines can be susceptible to wildland fire due steep nearby slopes, high winds (prevalent in Butte Creek Canyon), and dense vegetation. Management of vegetation on steep nearby slopes may be prohibitive, exacerbating this problem.

Development Services staff contacted the Butte County Fire Department who agreed that creating defensible space on and near steep terrain is important. However, Butte County Fire confirmed that setbacks from steep slopes is not a requirement of Public Resources Code (PRC) Section 4291. Butte County Fire indicated that a combination of maintaining defensible space and fuels modifications, correct building siting, and 7A building material construction would give structures a much better chance of surviving a wildfire.

- **Historic, Cultural, and Archeological Sites (Section 24-34.1 D.5).** This section requires consultation with the California Historical Resources Information System (Northeast Information Center) at CSU Chico for recommendations and mitigations necessary to preserve historic, cultural and archeological resources at important sites within the Overlay Zone. These are historic areas recognized for their significance to Butte Creek Canyon history. This consultation would be required prior to the issuance of any building permit or discretionary approval. The requirement ensures for the preservation of recognized historic sites, of which there are several within the Overlay Zone. This is consistent with the California

Environmental Quality Act (CEQA) and State law concerning the preservation of recognized historic sites.

- **Heavy Equipment Storage (Section 24-34.1 D.6).** The Planning Commission directed that heavy equipment storage be setback 100 feet and be screened from County roads. Requirements that are more restrictive were originally proposed, including a limitation on the number of stored pieces of heavy equipment. The Planning Commission ultimately rejected those more restrictive requirements, based on public testimony from landowners, who felt that the rural nature of the area warranted more flexibility in regards to heavy equipment storage.
- **Outdoor Lighting (Section 24-34.1 D.7).** This section applies regulations as set forth under Zoning Ordinance Article 14 to the Overlay Zone, in order to reduce glare and preserve dark night skies in Butte Creek Canyon. The Planning Commission directed the application of Zoning Ordinance Section Article 14, Outdoor Lighting Standards be applied to all properties in the Overlay Zone. This was in response to public concerns regarding glare and unwanted light diminishing the darker night skies in the canyon area.

While Article 14 applies to residential zoning, the Butte Creek Canyon Overlay Zone also contains areas zoned Agriculture. The inclusion of this section applies the Article 14 requirements to residential uses in all zones within the Overlay Zone, including Agriculture zones. This section directs that outdoor lighting will use full cut-off fixtures directing lighting towards buildings and outdoor activity areas. Full-cut off fixtures are an industry standard that helps direct light to where it is needed, but shields glare and unwanted light from neighboring properties and the night sky.

- **Watershed Protection Standards (Section 24-34.1 D.8)**
Land Use Regulations (Section 24-34.1 D.8a). This section limits zoning amendments that would allow for the creation of additional parcels exceeding those amounts allowed under the Zoning Map adopted by the Board of Supervisors on November 6, 2012, the adoption date of the comprehensive update to the Zoning Map and Ordinance. The Butte Creek Canyon Overlay Zone Committee indicates that the effective November 6, 2012 Zoning Map is reflective of community desires as expressed during the General Plan 2030 process. The Planning Commission directed the amendment of this section to indicate that the Board of Supervisors, through the exercise of police powers, can legally act to allow such zoning amendments.

The Butte County General Plan 2030 process concluded in 2010 with the adoption of a new General Plan for Butte County. This comprehensive process included many community meetings, including meetings focused on the Butte Creek Canyon community and area. These meetings took place on June 16, 2007, and April 13, 2010. Additionally, the Planning Commission held a meeting devoted to the Zoning Map for the Butte Creek Canyon area on August 19, 2010.

Extensive discussion at these meetings revolved around maintaining the Migratory Deer Herd Range by implementing the appropriate winter (20-acre minimum parcel size) and critical winter (40-acre minimum parcel size) parcel size limitations. The current zoning map accurately reflects the adopted Migratory Deer Herd Overlay Zone, and is a reflection of the input and direction received during the General Plan and Zoning Ordinance Update process. Upholding this process through the proposed Butte Creek Canyon Overlay Zone is consistent with the vision set forth by the community under the General Plan 2030 process.

Maximum Impervious Surfaces (Section 24-34.1 D.8b). This section sets forth standards regarding maximum amounts of impervious surfaces (i.e., those surfaces that are 100 percent impermeable to water percolation). For parcels 1-acre in size or greater impervious surface amounts are limited to 15 percent of the parcel's total size. A separate table provides impervious surface limitations for parcels less than 1-acre in size. The applicable impervious surface standards for less than 1-acre were adapted from similar impervious surface standards applicable to the North Chico Specific Plan area.

The Planning Commission directed the removal of the originally proposed 1.5-acre cap on Impervious Surface for parcels greater than 10 acres in size. Parcels greater than one acre in size would be subject to a 15 percent overall limit on impervious surface, but would not be subject to have a 1.5-acre cap on impervious surfaces. This change was in response to concerns from the public that the 1.5-acre limitation placed upon parcels one-acre or greater in size did not provide enough flexibility for new development. Road surfaces and other areas such as patios and driveways would not count as being impervious if surfaced with gravel, or are finished with pervious pavement or asphalt.

The Butte County General Plan Water Resources Element under Policy W-P1.4 also supports the minimization of impervious surface:

Water Resources Element Policy W-P1.4

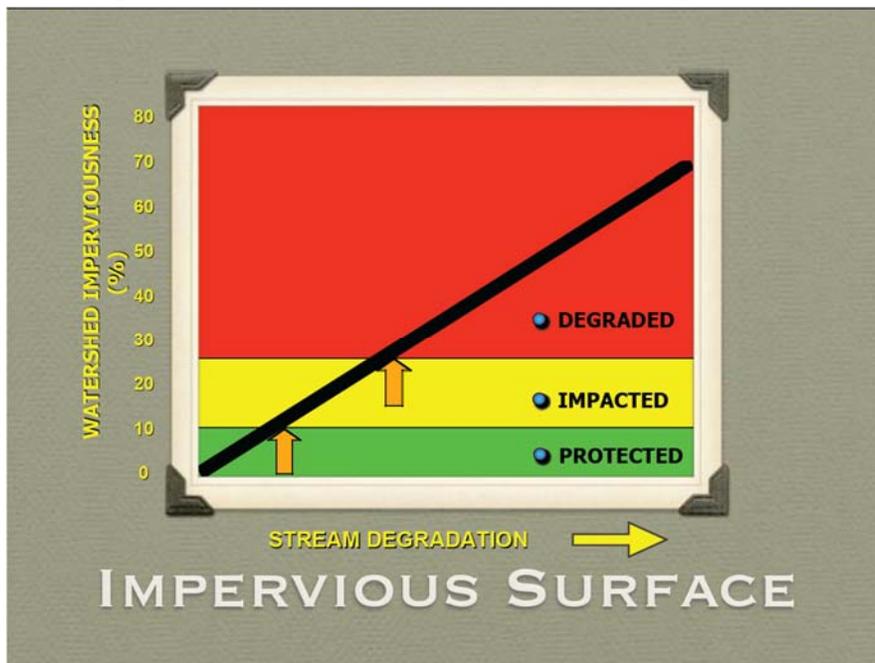
Where appropriate, new development shall be Low Impact Development (LID) that minimizes impervious area minimizes runoff and pollution, and incorporates best management practices.

The use of LID techniques such as the reduction of impervious area reduces the potential for downstream erosion and habitat degradation that is often associated with development and urbanization. Typically, urbanization decreases the amount of pervious area (e.g. open space, forests) in a watershed, while significantly increasing impervious area (e.g. buildings, roads).

Pervious areas within a watershed act like a sponge and allow natural hydrologic processes (e.g. infiltration, storage, evaporation) to take place. In contrast, impervious areas prevent these processes from occurring, or substantially reduce their effects. The conversion of pervious areas to impervious areas changes the natural flow on individual development sites and in a watershed as a whole.

The below figure (**Figure 1, Impervious Surface and Stream Degradation**) is taken from a presentation on LID techniques provided by Timothy Lawrence PhD, Center for Water and Land Use, UC Davis Extension, to the Butte County Citizens Advisory Committee during the Butte County General Plan 2030 process on August 7, 2007. This graphically shows the relationship between watershed imperviousness and stream degradation.

Figure 1. Impervious Surface and Stream Degradation



Vegetative Buffers (Section 24-34.1 D.8c). This section sets forth vegetative buffers of 100 lineal feet from perennial and intermittent rivers and streams, limiting certain development activities (structures, grading, excavation, removal of trees, use of fertilizers and pesticides, sewage disposal, and paving) in the buffer area.

(Staff Note: After further review, Development Services staff included text in the Zoning Overlay that Perennial and intermittent rivers and streams would be determined as shown on the latest USGS 7.5 minute quad map.)

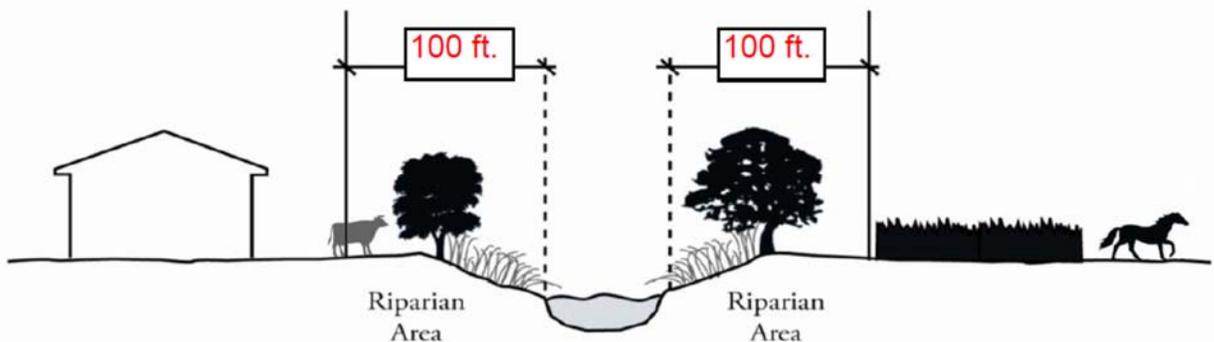
This requirement is an increase in the existing Riparian Buffer set forth under Article 16 of the Zoning Ordinance. Zoning Ordinance Article 16 (Riparian Areas) requires a 50-foot buffer area from intermittent rivers and streams, whereas the applicable vegetative buffer requirement within the proposed Overlay Zone would be 100 feet. The proposed Vegetative Buffer requirement would still be subject to the permitted and conditionally permitted activities as allowed under Butte County Code Article 16. Riparian Areas.

Pursuant to Zoning Ordinance Section Article 16. Riparian Areas:

- Reduce risks to property owners and the public from erosion and flooding;
- Protect and enhance the chemical, physical, and biological integrity of water resources in the county;
- Minimize pollutants entering water bodies from urban stormwater runoff; and
- Preserve riparian vegetation and protect wildlife habitat and wildlife corridors along natural drainage ways.

The standards set forth under the Vegetative Buffer section continue to implement Article 16 in support of these benefits, but additionally extend the buffer by an additional 50 feet for a total of 100 feet as shown in **Figure 2** below:

Figure 2. 100-foot Vegetative Buffer



This additional standard is in recognition of the fact that Butte Creek (along with Big Chico Creek) is the only undammed tributary left in Butte County that supports wild strains of endangered spring-run Chinook salmon and steelhead. Little Butte Creek and Dry Creek also support runs of critically designated steelhead. This requirement is also reflective of the same requirements set forth in the existing Watershed Protection Overlay Zone applicable to the Magalia area.

Septic System and Portable Chemical Toilet Setbacks (Section 24-34.1 D.8d). This section requires that leach fields, septic tanks, and chemical toilets be setback 200 feet from perennial and intermittent rivers and streams.

(Staff Note: After further review, Development Services staff included text in the Zoning Overlay that Perennial and intermittent rivers and streams would be determined as shown on the latest USGS 7.5 minute quad map.)

An increased standard applies to septic systems and portable toilets in recognition of the fact that these uses potentially pose a greater risk to water quality. This requirement also is reflective of requirements set forth in the existing Watershed Protection Overlay zone applicable to the Magalia area, although that Overlay Zone imposes a 150-foot setback, whereas the new Overlay Zone for the Butte Creek Canyon area imposes a 200-foot setback.

Several members of the public brought up this section of the draft Overlay Zone and the appropriate standards to use regarding septic systems, such as engineered septic systems, reduced setbacks, and monitoring of individual septic systems. Public comment identified an engineered septic system as more of a financial burden than a traditional septic system.

The 200-foot setback requirement was included in the draft Overlay Zone because septic systems can have a negative effect on water quality and additional setbacks from water sources is one known way to reduce impacts to adjacent water resources, as currently used in the Magalia Watershed. This supports the overall purpose of the Overlay Zone to protect and preserve the ecological foundation of Butte Creek Canyon, including the survival of salmon.

Wastewater Advisory Committee

The Planning Commission referred this issue to the Wastewater Advisory Committee (WAC), which took place at the WAC's March 14, 2017 public meeting. At this meeting, the WAC generally agreed with the increased setback to protect water quality, streambank erosion,

and habitat. There was discussion concerning the differing soils and geology between the Magalia Watershed Protection Zone and the Butte Creek Canyon Overlay Zone areas. Recognizing that the soils in the Butte Creek Canyon Overlay Zone were rockier and less suitable for conventional and engineered on-site septic systems, the WAC advised approval of the 200 ft. setback for new septic systems. The WAC also recommended an allowance for the repair of existing septic systems (as opposed to new systems) that do not achieve a 200 ft. setback, if the Local Enforcement Agency determines the maintenance of water quality.

- **Erosion Control (Section 24-34.1 D.8e).** This section sets forth requirements to submit an erosion control plan prior to the issuance of a building permit. This would not apply to accessory uses and structures allowed under the Zoning Ordinance. It also sets forth special measures concerning the surfacing of driveways to minimize erosion, limiting soil disturbance during the rainy season (November 15 through April 1), revegetation of cleared areas prior to December 1, and the limitation of site work to the permitted development area.

(Staff Note: After further review, Development Services staff included text in the Zoning Overlay that erosion control plans would not be required for additions to residences that are less than 25 percent of the size of the original structure.)

This requirement is similar to the requirement set forth under the existing Watershed Protection Overlay Zone located in the Magalia area (Butte County Code Section 24-46), which is intended to maintain and improve water quality by establishing additional development standards to reduce erosion within sensitive watershed areas. This standard supports the overall purpose of the Overlay Zone to protect and preserve the ecological foundation of Butte Creek Canyon, including the survival of salmon.

Code Enforcement Allegation

Unrelated to this Agenda Item: During the November 9, 2017 Public Hearing Planning Commission Chair Phil John asked staff to follow up on an alleged code enforcement issue brought to the Planning Commission's attention during public testimony provided by John Campbell. Mr. Campbell stated concern about unpermitted development activity on property owned by Signalized Intersection, located in Butte Creek Canyon and within the proposed boundary of the draft Overlay Zone. At the hearing, staff responded that the Land Development Division of Public Works had reviewed complaints at this site, and that the County was compelled to issue a grading permit, originally been denied by the Board of Supervisors, and litigated in Butte County Superior Court. After the November 9, 2017 hearing, Development Services staff followed up with Public Works regarding this matter. Public Works staff indicated that the California Department of Fish and Wildlife Service observed no further development activity at this site and that Cal. F&W was satisfied with the

repair work that had been undertaken. Staff could not find any further reason to pursue a zoning violation or further investigation into this site at this time.

2. Potential Growth within the Overlay Zone Boundary

During the public workshop process, Planning Commissioner Jacque Chase inquired about the anticipated amount of future growth within the Overlay Zone boundary. Several times since this inquiry, the Planning Commission scaled back the Overlay Zone boundary and size. Planning Commission direction removed the AG-160, TM, and TPZ zones from the overlay, as well as larger tracts of lands associated with ranching. This direction placed focus on residential zones and uses, where new growth is expected. Another reduction in the Overlay Zone's size took place, which called for the removal of the Nimshew and Humbug Roads area, as well as portions of parcels not located in the Butte Creek Watershed.

The original Overlay Zone boundary encompassed approximately 23,581 acres. Subsequent direction from the Planning Commission, as explained above, resulted in reductions in the Overlay Zone's size to approximately 5,837 acres, and then to a final size of 4,956 acres.

Within the current size (4,956 acres) and extent of the Butte Creek Canyon Overlay Zone Boundary, existing zoning would generally allow for the creation of 55 new parcels, and new development on 101 existing undeveloped parcels, for a potential of 156 new residential units within the Butte Creek Canyon Overlay Zone boundary. However, due to the steep terrain, rocky soils, and limited points of access, this estimate is likely to be high. Lands may also be constrained for reasons not known until future studies are undertaken. The number of allowed residential units nevertheless points to the potential for future growth, and the need to apply the Overlay Zone's development standards in support of Conservation and Open Space Action COS- A6.2 as described above.

3. Comparison between the Butte Creek Canyon Overlay Zone and the Magalia Watershed Protection Overlay Zone

The Magalia Watershed Protection Overlay Zone connects to the Butte Creek Canyon Overlay Zone and occupies a portion of the same Butte Creek Watershed. On October 6, 1987, the Butte County Board of Supervisors approved the Paradise Reservoir, Magalia Reservoir, and the Firhaven Creek Watersheds as a Watershed Protection Overlay Zone.

The Magalia Watershed Protection Overlay Zone maintains and improve water quality by establishing additional development standards within sensitive watershed areas. The Paradise and Magalia Reservoirs are the main sources of drinking water for the Town of Paradise, Magalia, and Paradise Pines. Increased soil erosion to these reservoirs results in the degradation of water quality

and an increase in water costs due to greater water filtration needs. The purpose of the Butte Creek Canyon planning strategy is to facilitate the protection and preservation of the historical and ecological foundation of Butte Creek Canyon, including the survival of salmon in Butte Creek through the protection of water quality. **Table 1**, shown below, provides a comparison of the requirements and standards for both the Butte Creek Canyon Overlay Zone and the Magalia Watershed Protection Overlay Zone. Standards do vary between the two Overlay Zones. This is due to the differing purposes of each overlay zone, and varied environmental conditions, as explained above.

Table 1. Watershed Overlay Zone Comparison – Butte Creek and Magalia

Requirement/Standard	Butte Creek Canyon Overlay	Magalia Watershed Protection Overlay (adopted 1987)
Hillside Development	Yes	No
Clustered Dev. Restriction	Yes	No
Ridgeline Development	Yes	No
Historic, Cultural, and Arch.	Yes	No
Heavy Equipment Storage	Yes	No
Applicable to AG-160, TM, TPZ Zones	No	Yes (except no AG zone in this Overlay)
Land Use Regulations	Yes	Yes
Maximum Impervious Surface	Yes (15 percent of parcel size; separate standards for parcels of less than 1-acre)	Yes (50 percent of total site area)
Vegetative Buffer	Yes (100 feet for streams)	Yes (100 feet for streams) (200 feet for lakes)
Septic System Setback	Yes (200 feet for streams) ^[1]	Yes (150 feet for streams) (250 feet for lakes)
Erosion Control	Yes	Yes

[1] Repair or replacement of a septic system on existing development that does not comply with the 200-foot setback may be allowed if it is determined by the Local Enforcement Agency that water quality can be maintained.

4. Supplemental Background Information

Two reports, the *Sacramento River Watershed Program's Chapter on Butte Creek*, and the *Butte Creek Watershed Project Existing Conditions Report* and related *Management Strategy*, help to highlight and document some of the natural features of the Butte Creek Canyon area and which make this area unique and valuable to fish and wildlife resources.

The two documents supplement the background information regarding Butte Creek and its related watershed. Both of these resources set forth valuable information regarding the physical characteristics and conditions of the watershed, including its water quality, fisheries, wildlife, and scenic and recreational resources. The *Butte Creek Watershed Project Existing Conditions Report* also sets forth a *Top Ten Issues and Concerns*, including the impact of urban run-off due to urbanization's contribution to water quality degradation. **Many of the management objectives set forth within these documents parallel the purpose of the Butte Creek Canyon Overlay Zone in helping to protect Butte Creek's water quality, biological communities, and watershed.**

Water Quality Data for Butte Creek Watershed

During the public workshop process, Planning Commissioners pointed out that water quality studies provided in staff reports for the public workshops were close to 20 years old, and asked for information that is more recent.

The Sacramento Watershed Program provides information as recently as 2008. The California Department of Water Resources (DWR) has been monitoring water quality in Butte Creek at many years (1952 – 2008 for the Butte Creek Station). This report goes on to indicate the availability of comprehensive nutrient, mineral, minor element and water temperature data, along with limited benthic macroinvertebrate data. These data can be found online via DWR's Water Data Library at www.water.ca.gov/waterdatalibrary. PG&E, timber owners, and others have also conducted monitoring (primarily water temperature and sediment) at various times and frequencies.

DWR's monitoring reports indicate good to excellent overall water in Butte Creek, especially in the upper watershed. Seasonal variability can occur related to weather patterns and reduced flow resulting from water diversions and other management activities. Increased water temperature is a definite concern, as it negatively influences the anadromous fish passage and survival. Sediment from surface erosion (roads, logging operations, etc.) is also a concern for the same reasons. Elevated bacteria levels downstream of populated areas from livestock grazing and natural sources can also occur on a sporadic basis.

VIII. NEXT STEPS

Upon adoption by the Board of Supervisors, the Butte Creek Canyon Overlay Zone will become effective in 30 calendar days.