



Butte Creek Canyon Overlay Planning Commission Workshop

SUMMARY NOTES

October 27, 2016

The Butte County Planning Commission held a Public Workshop on October 27, 2016, for the consideration of the proposed Draft Butte Creek Canyon Overlay Zone Ordinance and Overlay Map. This workshop was continued from the June 30, 2016 public workshop. The purpose of the Public Workshop was to introduce the draft Ordinance and Map to the Planning Commission and public and to answer questions and receive comment and direction. The public was encouraged to attend and provide comment, either written or orally at the Planning Commission Workshop. Further direction from the Planning Commission will be incorporated into a final draft ordinance with further hearings scheduled at the Planning Commission for further consideration and action, prior to review by the Board of Supervisors. The following presents a summary of public comment and the Planning Commission comments and directions.

Principal Planner Dan Breedon provided a staff presentation. He additionally referenced comment letters received and distributed at the Planning Commission meeting from Robert Catalano, Ken W. Davis, Greg Heidenreich, Bonny Burnham, Liz Heller and Max Dobeck, Carol and Matt Brown, and Michael Connolly.

Mr. Breedon summarized staff recommended amendments to the Butte Creek Canyon Overlay Ordinance stemming from the last workshop pertaining to the following draft ordinance sections:

1. Applicability of the Overlay to the AG (Agriculture), TM (Timber Mountain) and TP (Timber Production) Zones.
2. Section 24-34.1 B. Administrative Relief.
3. Section 24-34.1. C. (3) Applicability.
4. Section 24-34.1 D.2 (b) Vegetation Removal.
5. Section 24-34.1 D.4 Butte Creek Canyon Ridgeline Development.
6. Section 24-34.1 D.5 Historic, Cultural and Archeological Site.
7. Section 24-34.1 D.6 Heavy Equipment Storage.

8. Section 24-34.1 D.7 b. Maximum Impervious Surface.

9. Issues relating to the boundary of the Butte Creek Canyon Overlay Zone

Planning Commission Questions and Comments

Larry Grundmann: Concern regarding ridgeline standards. Recommended changing the setback to proportionality, as height gets greater setback could also be greater.

Jacque Chase: Inquired as to the legal implications of two zoning designations or overlays on one property. Staff response: It is legal to have more than one zoning designation or overlay on a property.

Larry Grundmann: Would the ridgeline development standards be reviewed on a case-by-case basis by parcel? Staff response: Yes.

Mary Kennedy: Does the Overlay apply to Agriculture and Timber zones? Staff response: Yes.

Jacque Chase: How much property is not developed in the Overlay area? What is the potential for change? Staff response: Could provide information on potential for future development, but do not have this information at this time.

Larry Grundmann: Concern about dead underbrush and fuel located in Canyon as discussed in supplemental reports. Staff response: Fuel reduction considerations can be included in the ordinance.

THE HEARING WAS OPENED FOR PUBLIC COMMENT

Allen Harthorne: Spoke to the commission representing the Butte Creek Canyon Overlay Committee. Executive Director of Friends of Butte Creek and canyon resident for 40 years; involved in salmon and creek restoration. Butte Creek only population of sustaining status for salmon and not declared as a high risk for extinction. Many people interested in the salmon fisheries of Butte Creek. Read letter from Dr. Peter Boyle, a UC Davis fish biologist with 45 years of experience. Climate change could severely impact salmon on Butte Creek.

Pamela Posey, member of Butte Creek Canyon Coalition, retired from teaching, currently organic farmer. Started watershed education program in Junior High school. The purpose of the overlay is for future generations; called the “Little Grand Canyon of Butte County”, but described as more unique due to the presence of fish and bear. Read letter from wildlife photographer Ken Davis. Delivered 100 postcard in support of the Butte Creek Canyon Overlay, 26 from Butte Creek Canyon residents, others from Chico and outlying areas.

Chris Jennings: Canyon owner for 39 years. Encouraged all to visit Butte Creek Canyon. Mentioned Honey Run Road and Coleman Museum.

Dan Allen: Commercial real estate developer. Landowner in Canyon, 2 miles up from Covered Bridge. Owned property for 12 years. Recently installed road to home site. Commends what he heard today; indicates that you are trying to do it right, a good conservative overlay. Butte Creek Canyon is a beautiful place. Suggestions: Septic systems along creek, failures can result in pollution to creek. Engineered septic systems should be required after an existing septic system fails, provides 3 levels of protection, almost potable water at the back end. Engineered septic systems should be a criteria for all new development in the canyon, not just simple septic systems. Recommends going to 100 foot creek setback septic instead of 200 foot setback for engineered systems. Recommends flexibility in where to build with regard to ridgeline setback and 15 percent slope standard.

Robert Catalano: President of the Honey Run Covered Bridge Association and the Centerville Recreation and Historic Association. Many people enjoy the creek, swimming, fishing, hunting and recreating, and this should be protected. We do not want to eliminate development, we want responsible development. Area has an economic impact to Butte County, visitors from Iceland to New Zealand. The area has a history from Gold Rush, and icons like the Honey Run Covered Bridge. This draws people to the County.

Mike Wimer: Canyon resident since 1975. Thinks Overlay and other regulations are not necessary. The problem with the salmon is lack of water. Problems with the creek include septic systems going bad. There is no transparency as to who the committee is. There is hardly anyone here. Many canyon residents feel the same as I do. There should be some kind of vote as far as the overlay is concerned. Smart to remove the 15 percent standard. People would lose money if this goes through. There are enough requirements already.

Aaron Wimer: Family has been in the Canyon since the 60s. Hopes that common sense dictates decisions. Respects the goals of the overlay committee to protect the resources. There are diverse properties in the canyon and a broad brush approach is not appropriate. Notification by mail or minimum by newspaper would be good. Transparency is good and applauds efforts.

James Kutz: President and CEO of the Butte Creek Watershed Conservancy, applauds what Allen and Pamela has done, worked on it for years. Landowners are up in arms about this. Just received notice has been out of the area. Conservancy was formed to maintain the cultural, ecological, and economic viability of the watershed. Historically the Conservancy has been against Overlays due to the economic burden on people who have invested in property. Butte

Creek Canyon has one of the largest salmon and restoration project completed in the north state. Work has totaled 40 million dollars. Fish have come back without an Overlay, we have an abundance of deer, bear, raptors, etc. in the Canyon. Landowners will be negatively affected by the overlay. The scope of this area goes into government ownership, BLM property. Recommends excluding government owned lands. Recommends removing AG, TPZ and TM zoning, believes this has already been done. Must maintain economic value of these lands. Must have the ability to allow fuel breaks. View sheds go both ways, looking up and looking down. Property owners invested heavily on views. Recommends 3-5 year inspections for septic systems. Engineered septic systems are a financial burden. Everything can be accomplished with existing zoning. Blanket Overlay is overkill, in the opinion of those on my Board. Does applaud work completed and but need to take in economic impact.

Greg Colby: Owned property 35 years and resident for 33 years. Retired fire captain from CAL-Fire. Referred to existing conditions report, which states that the water quality is excellent. Why do we need to further restrict septic regulations? Does add an economic impact. Administrative relief is step in the right direction. It will cost more to develop property. Not going far enough to protect private property rights. Most people are good stewards, this is an inference that we cannot be good stewards. Difficult to works with CAL-Fire to obtain permits for individual tree cutting. Heavy Equipment Section, Rural Residential and Foothill Residential, limited to 2 pieces of equipment. Where did the limit to 2 come from? Impervious Surface Limitations, Magalia allows 50 percent, but Butte Creek Canyon requires 15 percent. Should not be required. Water quality is already excellent. Vegetative buffers, did not understand what “maintained” meant. 100 foot Setback is a huge chunk of a parcel. Foothill Residential zones allows agriculture, and should be exempted the same as agriculture. Does not believe there is a mandate to do this. Should step back and not rush in and make decisions at this point, and table the matter.

Dylan Burge: Grew up in Butte Creek Canyon. Botanical Consultant. California regulations created industry for environmental professionals and high quality jobs. As a botanist, works with BLM and others and is impressed by biological diversity of Butte Creek Canyon. Lots of rare plants in Butte Creek Canyon. Sees value in preserving ecosystems and thinks it is a good Overlay, is happy with the progress being made.

Mark Murray: Family in town since 1947. Owns property on Doe Mill Ridge, purpose is to have beautiful view. No objections to doing what is best for the canyon. Ridge properties were bought under premium prices for the view.

Greg Peitz: Architect with office in Chico, practicing for 30 years. Many residential projects located in canyon and looking down on the canyon. Very familiar with concept of view impacts. Views are an Intangible aspect to property. He is here on behalf of client. Home site is planned to have incredible view. Moving house back 100 feet would essentially take from him what he has spent 10 years planning on doing. Parcels in Canyon Oak Golf Course are valued 2 – 3 times greater than adjacent parcels simply based upon their view. There is no compensation to the property owner for the loss of the view from the regulations. Instead of a shotgun approach, look more creatively at the problem. Acknowledge existing parcels as opposed to new subdivisions could go through a different process. There are other means to mitigate impact, such as earth tone colors, materials that blend into landscape, so that when they do develop it can be a win-win situation where they can have their view but the impact to those looking up can be minimized.

John Campbell: Referenced road construction on Signalized Intersection project. Provided PowerPoint. Construction is flooding neighbors, road, and water systems. The drainages have never been cleaned out. Original pictures are on file with Public Works. It is important what is graded and how it is graded.

Dale Rudesill: Discussed information presented and is very impressed with how process is being run and expresses appreciation.

Kathy Faith: Appreciate the amount of work that has been done and the responsive changes that have been prepared. The canyon is an amazing place. Economic value would be positively affected. It could be profitable for developers in the long run. Water quality is great because of the amount of water. Septic reviews would be valuable; however it is not acceptable to say the water is good and forget it. It is clear that regulations are important and there for a reason. Views can be protected by having patios (instead of homes) where the view is.

Randall Meline: Represents 25 percent interest in 4,500 acre ranch, 80 year history, leased for cattle. Property is the same today as it was 80 years ago, partly because of being kept in agriculture. Much of this is agricultural land that is being included in the Overlay. Farmers borrow against their property to continue farming. If they cannot due to regulations it puts agriculture at risk to conversion. Is the overlay compliant with Agricultural Element when applied to Agricultural zoning? Does not see requirement for ridgeline restrictions in overlay's purpose. It is a takings of existing parcels value and a transfer of economic value to those who have already developed. What are the points and authorities for the County to propose such a thing? There should be a financial and sociological impact report. How much value is being taken from

landowners who have not developed and transferred to those already with a view? Canyon overlay is a taking and an insult.

Jeff Carter: Represents Randall Meline branch of property owners. The property is zoned predominantly AG-160 with some Foothill Residential and Resource Conservation. Today we revisit what property should be included/excluded in the overlay. What happened to Resource Conservation zoning? When will we discuss why. The existing committee does not represent the wide diverse group that the Butte Creek Conservancy represents. Shouldn't we be developing a strategy to explore an overlay zone including a group of stakeholders? The zoning of this property already accomplishes what we are trying to do. What is going to be done by this that has not already been accomplished? Are we just adding a new overlay? One way to preserve the land is through a conservation easement; however, overlay would deny benefit of selling a conservation easement. Develop a strategy and send it to a committee that is representative of all property owners and that benefit from the resources in the canyon, then come back and decide on the overlay, and what property should be included.

William Logsdon: Did not receive notice of meeting. Owns property on ridgeline, 40 acres. Would make over half of his property unusable. Supports and appreciates protection of wildlife but does not think enough time was given to see who this would affect. Requested more information on who is involved. The overlay is overreaching. Should do trades on property, right now it benefits people who already have residences and are on the water. Other agencies and rules and regulations are in place. Hopes that in the future he gets information in a timely manner.

Robert Catalano. Commented on meeting notification. Twice since the June meeting a newsletter has gone out to 400+ canyon families regarding meetings. Announcement is also placed on the Internet's neighborhood site.

PUBLIC HEARING CLOSED.

Rocky Donati: Had question about exclusion of heavy equipment. Allen Harthorn commented for the Butte Creek Canyon Overlay Committee. Clarified that requirement only applies to main County roads such as Centerville Road and Honey Run Road. Question about ridgeline setback requirement, would color scheme help visually to resolve impacts?

Allen Harthorn replied that it could be considered but was concerned about impact of telling people how to paint their house, potential involvement of an architecture review board. The canyon is too beautiful to allow homes to be placed right on the cliff.

Several commissioners indicated that a color scheme would be more viable than indicating that a building site could not be approved at all.

Mr. Donati also indicated that the point has been made that landowners are the best stewards of the land. What is the purpose of including agricultural land in the Overlay zone when it is already protected?

Mr. Harthorne indicated that the ridgelines should be protected for the future, when things can change. Wish to ensure that all these areas will continue to be preserved. Ridgelines are not protected under the existing Agricultural zoning. There can be no guarantee that we will have as good stewards as the Meline and Rabo owners in the future. Mr. Donati indicated that the overlay needed to focus on lands needing protection and not agricultural lands.

Mary Kennedy: Lives on land surrounded by rangeland. Does not have say over what they do. Knows canyon, grew up in Chico and indicates that the cliffs are gorgeous. But does not own land and does not believe they have the right to say what they can do with the land unless I buy it from them.

Larry Grundmann: Viewshed aspect of this is one of my problems all along, this is an area of concern for me. The preservation of Butte Creek Canyon is absolutely valid and rationale. However, suggests to staff that we should not look at this as an all-or-nothing approach, should be a “cafeteria” approach, options to resolve issues, get input from people to resolve this. Pointed out that the study included on water quality in staff report is 20 years old. Fuel load is another important aspect, and should be addressed. The Foothill Residential zone should be treated the same as the Agricultural zone. Referred to comment by member of the public regarding impervious surface standards in Magalia.

Allen Harthorne: Responded that he highly encourages solutions to fuel and brush build-up. The overlay in no way affects the ability for a person to protect their home. Brought up concern about cliff side development and danger to homes built there from canyon firestorms.

County Counsel Felix Wannemacher: Responded concerning ridgeline development standards being supported and directed by General Plan policy and not simply staff generated; indicating that Butte Creek Canyon is a scenic resource, and directed under policy and action supporting ridgeline standards, and that ridgeline protection is also identified as an environmental mitigation under the General Plan. Larry Grundmann responded about standards for views from the ridgeline on homes in the canyon. Mr. Wannemacher responded that a discussion on standards is appropriate.

Jacque Chase: There are more people looking up than are looking down from ridgelines. We are talking about protecting the rights of those looking up. There are people who do not have millions of dollars, and their rights concerning scenic resources should be considered as well. Agrees there are many ways to approach conservation goals. There is a missing voice or element when it all converges around property rights.

Mary Kennedy: Question about Overlay section about no new parcels, and whether it would prohibit land divisions under zoning. Staff replied that land divisions would be allowed as per the existing zoning. There would be a restriction on additional rezoning under the Overlay; however, that could also be removed by the Board of Supervisors under their police powers.

Ms. Kennedy also inquired about utility-scale solar development in the Overlay area and asked if a project had been submitted. Staff responded that nothing had been submitted to date, but that the overlay would not restrict allowances for utility scale solar as permitted under the base zoning.

Phil John: Reiterated County Counsel's comment that the overlay ordinance was being driven by the General Plan, and not just being initiated by staff. Mr. Johns also requested a topography exhibit map showing elevations.

Rocky Donati: Asked about Sierra Pacific Industry comment. Staff indicated that they were satisfied with the exclusion of the TP zone from the Overlay standards.

A discussion took place regarding the boundary options for the Overlay. Discussed Meline properties and whether they should be excluded from the Overlay based upon the fact that they are already restricted by AG-160 zoning. Direction from the full Planning Commission was received to remove the AG-160 zoned Meline and Rabo parcels on the western boundary of the Overlay. A discussion took place regarding additional exceptions for vegetation removal for public utilities as well as fuel breaks. Direction from the full Planning Commission was received to additionally allow exceptions for regional fuel breaks and fuel reduction measures.

Larry Grundman: Asked for an additional workshop to address "cafeteria" aspects of the ordinance (there is a need to address a range of choices for the different elements of the ordinance and to vote upon them). Commissioner Phil Johns indicated that one of those elements was the varying standards for septic systems discussed earlier.

Direction was received from the full Planning Commission to continue the workshop to January 26, 2017. It was also noted that staff will be providing mailed notice again to all property owners.