



Butte Creek Canyon Overlay Planning Commission Workshop

SUMMARY NOTES

April 27, 2017

The Butte County Planning Commission held a Public Workshop on April 27, 2017, for the consideration of the proposed Draft Butte Creek Canyon Overlay Zone Ordinance and Overlay Map. This workshop was continued from the January 26, 2017 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's comments and directions.

Principal Planner Dan Breedon provided a staff presentation. Mr. Breedon summarized the Planning Commission's recommended amendments to the Draft Butte Creek Canyon Overlay Ordinance from the last workshop pertaining to the following draft ordinance sections:

1. Amend the Overlay Boundary by removing the AG-160 (Agriculture), TM (Timber Mountain) and TP (Timber Production) Zones.
2. Section 24-34.1 D.2 (b) ii. Fuel Breaks and reduction projects
3. Section 24-34.1 D.4 Butte Creek Canyon Ridgeline Development, Alternative Design Standards
4. Section 24-34.1 D.6 Heavy Equipment Storage
5. Section 24-34.1 D.8 (b). Maximum Impervious Surface

Mr. Breedon additionally provided new recommendations for the Planning Commission's review concerning the following draft ordinance sections, and reported about the Wastewater Advisory Committee's directions concerning the use of septic systems in the Butte Creek Canyon area:

1. Section 24-34.1.D.7. Residential Lighting
2. Section 24-34.1. D.8 (d). Septic System Regulations

Lastly, Mr. Breedon covered a request from the Butte Creek Canyon Overlay Committee that would make the Alternative Ridgeline Design Standards applicable only when a parcel could not accommodate a Ridgeline Setback, otherwise the ridgeline setback would apply.

Planning Commission Questions and Comments

Commissioner Grundmann inquired on the ridgeline restrictions and the use of regulations for other adjacent watersheds. Commissioner Grundmann also inquired about noticing owners about the Overlay. Staff responded that owners were noticed concerning the regulations, and that in the future the applicability of the overlay would be available in the County's public look-up tool, available online and at the Development Services office.

Commissioner Kennedy inquired about whether the residential lighting standards applied strictly to residential uses and not to barnyard or agricultural lighting. Staff responded that the lighting standards applied to residential lighting and not to agricultural lighting. Commissioner Kennedy felt that the residential lighting standards should apply across the county to all types of lighting.

Commissioner Kennedy asked about the existing development standard not being subject to a 200 ft. septic system setback. Staff indicated that the ability to improve an existing septic system could have a positive impact on water quality.

County Counsel Felix Wannemacher commented that the idea is not to deprive people of something they already have. There are always standards for new development but with existing development you cannot just take away a right to develop based upon the inability to meet a standard.

Additional discussion took place regarding existing vs. new septic system development, and that some leeway should be considered for existing development.

Discussion took place regarding the alternative ridgeline design standards and the proposal made by the Butte Creek Canyon Overlay Committee worked.

Commissioner Chase indicated that the original intention was not to make the alternative design standards as an either/or situation, the alternative standards disregard the setback. Commissioner Chase indicated that nobody would subject themselves to the setback.

Commissioner Kennedy asked whether landowners would have to have the local fire safe council permit fuel reduction activities. Staff indicated that projects would be consistent with goals and stated projects undertaken by local fire safe councils.

Principal Planner Dan Breedon covered several additional edits that are being recommended by staff concerning the draft overlay, and these were displayed on the projector.

THE HEARING WAS OPENED FOR PUBLIC COMMENT

Mark Gregoire (Distributed set of photos showing deer on his property)

- 10-acres ranging from creek side to Canyon hilltop, home is on hilltop.
- House is in deer herd migration breeding grounds (Ca. Dept. of Fish and Game)
- Vegetation removal does seem to have a harmful effect on his property.
- There are many deer on property
- In 20 years, development of his home has not had an effect on deer herd area.

Alan Harthorne – Butte Creek Canyon Overlay Committee (provided PowerPoint on viewsheds)

- Discussed lighting pollution from marijuana grow operations in Humboldt County, this should be considered by Butte County
- The fire issue is connected with the ridgeline setback, vegetation below a house is a problem.
- Discussed homes in Spanish Gardens, discussed home showing tower that is visible from many parts of lower canyon
- Discussed alternative design standards, and indicated that they would not have the effect that a setback would
- The ridgelines are above some of the most scenic areas of Butte County

Greg Colby - Canyon resident and landowner since 1981

- Why are we here? The GP 2030 policy to develop the overlay is NIMBYism at its worst
- Water quality is good to excellent in BCC. There is no need to control development.
- New septic regulations proposed would preclude development of smaller parcels.
- Impervious surfaces regulations are in some cases more restrictive than they were previously.
- Existing parcels need to be specifically exempted.
- Meline- Rabo FR zoned parcels are now excluded from the overlay; what is the difference between the Meline and Rabo parcels and everybody else? They should also be excluded.
- As retired firefighter, ridge top houses are not necessarily a problem when it comes to fire protection; the issue is vegetation clearance.
- Seeks more involvement from majority of owners in BCC.

Pamela Posey – Butte Creek Canyon Overlay Conservation Committee.

- When Overlay was proposed, it was intended to protect Butte Creek Canyon for perpetuity.
- Individual self-interest should not outweigh the public's interest
- A 100'-setback is reasonable and consistent with requirements for a 100-foot clearance around homes for fire protection.
- Development of a property is not a guaranteed right. There are options and alternatives.
- The Alternative Design Standards should only be offered as a last resort, not an either/or option
- Supports lighting standards ("Dark Skies"); we all have a right to see the stars at night.

Greg Engelbrecht - 15-year Centerville Road resident, owns 80 acre parcel

- Was involved with development of neighboring 200-acre property
- Wants to be able to divide their large property in the future; development should continue to be allowed
- The small group that supports the Overlay committee were the same ones that opposed development of the property
- Believed the restrictions on development are over the top (e.g. Dark skies)
- Helped to support alcohol ban on the creek with the Board of Supervisors
- Expressed concern that the proposed overlay will affect property values
- Wants Butte County Fire Department to provide unbiased information regarding the issue of homes adjacent to ridgelines
- Existing restrictions are appropriate and sufficient
- He will work to pull together other large property owners that share his concerns to participate in consideration of the overlay

Kathy Faith - Lives in Canyon 40-50 years; homeowner for 20 years

- In Butte Creek Canyon, there is a combination of public and private interests
- Discussed Bidwell Park and the importance of saving it, Butte Creek Canyon is a public place and a private place and there is a responsibility to take care of it and balance interests
- Each side needs to let go of some of the things they wanted.

April Engelbrecht

- Question of application of 200' setback to existing septic systems, seems unfair to smaller parcel owners
- Property owners have to be able to clear property for fire protection.
- The prior 5-acre minimum parcel sizes was changed to 25-acres (with adoption of the current Zoning Ordinance in 2012); these changes take our property value away from us.
- Wildlife is doing fine, no further restrictions are needed, there is a balance that needs to be maintained; tubers on creek create more garbage and impact
- We will not be able to sell our property with these restrictions.

Robert Catalano

- Overlay includes administrative relief for all regulations, to provide for residential development if the parcel is constrained by regulations
- Most landowners are not large parcel owners, this majority supports this
- Deer Herd is not an issue of the Overlay
- Zoning changes were completed in 2012, the Overlay Zone is not changing this zoning

THE PUBLIC HEARING WAS CLOSED

Commissioner Kennedy brought up a question about the Administrative Relief section of the Draft overlay, and whether there is a right to appeal determinations. Staff responded that there was a right to appeal.

Commissioner Donati asked whether there was a right to appeal a setback.

County Counsel Felix Wannemacher the administrative relief is not a variance. Administrative relief allows you to build a primary residence on your property. The question is whether we can make it work and whether someone can appeal that. We could think about whether an appeal is appropriate, you cannot get an appeal with a building permit. He indicated that he can think about it some more. The standard should be maintained as much as possible and at the same time allow the building of a house. Planning Commissioners discussed this issue at some length.

Planning Manager Chuck Thistlethwaite indicated the only way to provide relief for a regulation is through a variance. The Administrative Relief provides the right to develop a residence.

Chair John noted that the Administrative Relief already exists.

COMMISSION DIRECTION

1. New Draft Overlay Section 24-34.1.D.7. Residential Lighting

- Staff recommends Option 2 –Applying the Article 14, Outdoor Lighting standards to all properties in the Overlay regardless of zoning
- Commissioner Chase - moved to accept Option 2
- Second – Commissioner Donati
- Vote: Motion passes 5-0

2. New Draft Overlay Section 24-34.1. D.8 (d). Septic System and Portable Chemical Toilet Setbacks

Commissioner Grundmann discussed his concern about inconsistency in application of setbacks for new vs. replacement systems and indicated that he was comfortable that this is appropriate with provisions that local enforcement agency will ensure that water quality can be maintained.

- Commissioner Grundmann moved to accept language as proposed
- Second – Commissioner Chase
- Vote: Motion passes 4-1 (Kennedy, no)

3. Butte Creek Canyon Overlay Committee Request for New Language – Applying the Alternative Ridgeline Design Standards only when a parcel cannot accommodate the Ridgeline Setback.

- Commissioner Chase - Moved to adopt the new language as proposed by the Butte Creek Canyon Overlay Committee
- Second: Commissioner John
- Commission discussion took place before the vote:
 - Commissioner Donati questioned how this would apply if someone wants to build a very large house (20,000 sq. ft.) that would not fit within the ridgeline setback
 - Commissioner Chase: you are saying there is a loophole for a large house?
 - Commissioner John - Disagrees, this is not a loophole. It indicates that if the property can accommodate the setback you have to comply with the 100 or 150 ft. setback.
 - Commissioner Grundmann indicated that if a house could not fit in the setback due to large size they would qualify for the alternative (Commissioners Chase and John disagreed and Commissioner Donati agreed).
 - Commissioner Donati asked staff to provide some more direction to forward something on.
 - Principal Planner Breedon indicated that if a house is sized to the point it cannot be accommodated within the setback the house would have to be smaller.
 - Commissioner Grundmann indicated that we decided the alternative before with multiple people in room who are not here.
- Vote: Motion fails 2-3 (Kennedy, Grundmann and Donati, no)
 - Commissioner Chase motioned, but then just commented that the alternative design standards should be removed because they do not mean anything.

4. Close the workshop and schedule a public hearing to make a recommendation to the Board of Supervisors:

- Motion: Commissioner Grundmann
- Second: Commissioner Kennedy - Second
- Vote: Motion passes 5-0