



**Department of Development Services**

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**Butte County Planning Commission**  
**PUBLIC HEARING - AGENDA REPORT**  
**Butte County General Plan 2030 – Draft Butte Creek Canyon Overlay Zone**

November 9, 2017

**To:** Butte County Planning Commission  
**From:** Dan Breedon, AICP, Principal Planner  
**Subject:** **Butte County General Plan 2030**  
**Draft Butte Creek Canyon Overlay Zone Ordinance and Map**

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**I. RECOMMENDATION:**

1. **Recommended Motion:** The Planning Commission recommends to the Board of Supervisors the Amendments to the Zoning Ordinance and Zoning Map as set forth under the attached **Resolution (Attachment A and Exhibit 1)**; and, the approval of an **EIR Addendum (Attachment B)** to the General Plan 2030 Final EIR and Supplemental EIR prepared in accordance with the California Environmental Quality Act (CEQA).

**II. AGENDA FOR PUBLIC HEARING**

1. Development Services Staff Presentation (~10 minutes)
2. Planning Commission Question and Answer Period (~10 minutes)
3. Public Comment (~45 minutes)
4. Planning Commission Discussion and Direction (~15 minutes)

### **III. 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 zoning overlay since 2013.

Over the last several years a local community group, the Butte Creek Canyon Overlay 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 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.

Four Planning Commission Workshops were held 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. Recommendations provided by the Planning Commission on this project will be provided to the Board for review and consideration of adoption.

#### Public Outreach

Staff performed the following specific public outreach concerning this proposal:

- October 5, 2013 presentation to the Butte Creek Canyon community on the General Plan, Zoning Ordinance and Overlay Zones by Development Services Principal Planner Dan Breedon;
- Direct mail to over 1,000 property owners within the proposed overlay boundaries informing owners of the June 30, 2016 and January 26, 2017 Public Workshops and the November 9, 2017 Planning Commission 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 Committee

Development Services staff worked in coordination with the Butte Creek Canyon Overlay Committee, a group of private citizens who work in support of the 164 active members of the Friends of Butte Creek, and who provide information to 850 people listed on the Friends of Butte Creek contact list. A total of 20 active members make-up the Butte Creek Canyon Overlay Committee, with support from the Centerville Historical & Recreation Association. The Butte Creek Canyon Overlay Committee provided presentations at all four Planning Commission Workshops, and their members and associates provided public comment in support of the overlay. The Committee held meetings concerning the draft overlay at the Centerville Schoolhouse. The Committee additionally provided 105 signed comment cards in support of the draft overlay 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. The Information on the Committee's history is provided under public comment (Attachment C).

#### CEQA Review: Environmental Impact Report (EIR) Addendum (Attachment B)

An Addendum to the previously certified Butte County General Plan Final Environmental Impact Report (SCH#2008092062) and Supplemental 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 amendments do 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.

#### **IV. PROJECT DESCRIPTION**

The Zoning Ordinance Amendments proposed under the Butte Creek Canyon Overlay apply to the unincorporated portion of Butte County more particularly described by the overlay 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 draft of this 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

The Overlay 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. 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 Conservation and Open Space Element Pages 239-240)”*



*Butte Creek Canyon*

The draft overlay zone includes a section regarding development standards for canyon ridgelines. The use of development standards for ridgelines in scenic areas is supported by the General Plan. 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.

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

## V. ANALYSIS

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 General Plan Action Item COS-A6.2, directing the preparation of the planning strategy and overlay.
2. **Community Outreach.** Outreach and meetings with the Butte Creek Canyon community and Butte Creek Canyon Committee regarding the planning strategy and overlay.
3. **Staff Work.** Formulation of the Draft Butte Creek Canyon Overlay by Planning Division staff, including the development of Land Use Development Standards
4. **Public Workshops.** Planning Commission Public Workshops (4) and associated public outreach.
5. **Public Hearings** (currently taking place with the Planning Commission).

This analysis discusses the refinements made to the draft Butte Creek Canyon Overlay that took place during the four Planning Commission Workshops, and the development of the draft overlay's Land Use Development Standards and other related information provided under the following major sections:

1. Planning Commission Public Workshops;
2. Butte Creek Canyon Land Use Development Standards;
3. Potential Growth within the Overlay Boundary;
4. Supplemental Background Information; and a
5. Comparison between the Butte Creek Canyon Overlay Zone and the Magalia Watershed Protection Overlay Zone

#### **1. Planning Commission Public Workshops (Attachment C)**

Four public workshops were held with the Planning Commission on June 30, 2016, October 27, 2016, January 26, 2017, and April 26, 2017. The Planning Commission Workshops were structured so that the public and the landowners within the proposed overlay zone could provide input directly to the Planning Commission, with the Planning Commission providing direction to staff on numerous refinements to the draft overlay. Many different issues were explored during these workshops. Major refinements made as a result of the public workshop process are summarized under each applicable section of the draft overlay in the following:

- **Butte Creek Canyon Overlay Boundary.** The Planning Commission directed the proposed Overlay 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. These parcels were removed 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.
- **Issues relating to the Boundary of the Butte Creek Canyon Overlay Zone.** Several comments were made during the Public Workshops concerning 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 would be included in the overlay. In other words, portions of some properties may drain away from Butte Creek, and should not be included in the Overlay. 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 boundary cut through individual parcels. However, this results in portions of some parcels, especially in the vicinity of the western extent of the boundary, to be located within the Draft Overlay, but not located within the Butte Creek Watershed. Portions of these parcels drain into the adjacent Little Chico Creek Watershed.

**Staff Comment:** The Planning Commission may wish to consider whether it is more appropriate to map the Overlay 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.

- **Administrative Relief.** Included a new section on Administrative Relief to ensure that the Overlay's regulatory constraints would not otherwise prohibit the development of a dwelling if allowed under the base zoning.
- **Applicability.** In response to concerns from property owners, this section was amended to indicate that the Butte Creek Canyon Overlay will not require changes to existing legal uses and structures, provided that any expansion or modification of nonconforming uses and structures shall comply with the overlay and the requirements of Butte County Code Chapter 24, Article 22. Nonconforming Uses and Structures.
- **Ridgeline Development.** The Planning Commission recommended approval of the Ridgeline Setbacks as set-forth under the Draft Ordinance, and additionally approved Alternative Design Standards. The Alternative Design Standards were provided as an option to those property owners who felt that the Ridgeline Setback was too restrictive and who wanted 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 that will have less of a visual impact along canyon ridgelines.
- **Heavy Equipment Storage.** The Planning Commission directed that the FCR (Foothill Country Residential) and RCR (Rural Country Residential) Zone's Heavy Equipment Storage criteria be applied to in the draft overlay, and that the screening requirement for heavy equipment remain within the draft overlay Zone. The application of the FCR and RCR criteria was in response to public concerns that the previous requirements in the draft overlay zone were too strict. This change allows for greater numbers of heavy equipment to be stored based upon parcel size, and the ability to apply for a Minor Use Permit if more heavy equipment is needed to be stored. This standard does not apply to Agriculture zones, or heavy equipment that is used onsite for agriculture or maintenance of the property.
- **Outdoor Lighting.** The Planning Commission directed that existing Zoning Ordinance Section Article 14, Outdoor Lighting standards be applied to all properties in the Overlay. This was in response to public concerns regarding glare and unwanted light diminishing the darker night skies that are valued by residents in the Butte Creek Canyon area.
- **Land Use Regulations.** The initial draft overlay indicated that zoning amendments that propose to allow for the creation of additional parcels (exceeding amounts allowed under the November 6, 2012 Zoning Map) shall not be allowed. The Planning Commission directed that this section be amended to indicate that the Board of Supervisors, through its police powers, may legally act to amend this section of the Zoning Ordinance to allow such zoning amendments by majority vote.

- **Maximum Impervious Surface.** The Planning Commission directed the removal of the 1.5-acre cap to the Impervious Surface Limitation for parcels greater than 10 acres in size. Parcels greater than one acre in size will still be subject to a 15 percent overall limit on impervious surface, but will no longer be subject to a 1.5 acre cap on impervious surface. This change was in response to concerns from the public that the 1.5 acre limitation placed upon parcels greater than one acre did not provide enough flexibility for new development. This change effects parcels exceeding 10 acres. This section was also amended to indicate that road surfaces and other areas such as patios and driveways would not count as being impervious if they are surfaced with gravel, or are finished with pervious pavement or asphalt.
- **Vegetative Buffers.** The Planning Commission directed the inclusion of additional allowances for vegetation removal 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 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 that the language in this section be amended 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.
- **Septic System and Portable Chemical Toilet Setbacks.** This issue was referred to the Wastewater Advisory Committee (WAC) by the Planning Commission for further review, which took place at the WAC's March 14, 2017 meeting. The consensus from the WAC was in support of the 200 ft. setback for new construction. The WAC also recommended that septic repairs for existing development (as opposed to new development) that does not achieve a 200 ft. setback be allowed if it is determined by the Local Enforcement Agency that water quality could be maintained.

## 2. Butte Creek Canyon Land Use Development Standards

The Butte Creek Canyon Overlay Zone Ordinance would establish a number of new development standards within the effective limits of the Overlay Zone. The purpose of the planning strategy under the Butte Creek Canyon Overlay as identified under Conservation and Open Space Action COS- A6.2 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. All of the requirements set forth below have been developed in support of this stated purpose. The following provides an overview of the major development standards, and a staff discussion related to the applicability of that standard.

**Hill-Side Development Standards –Slope:** This section indicates that development in areas with a slope of greater than 15 percent would not be allowed unless there is no alternative location.

Staff Discussion: This requirement would exclude development on slopes greater than 15 percent 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. When it can be demonstrated that the parcel cannot accommodate development on a slope of less than or equal to 15 percent, the development would be allowed.

**Hillside Development Standards – Vegetation Removal:** Vegetation removal outside of a development area would be prohibited except as specifically allowed under the overlay zone.

Staff Discussion: Vegetation removal loosens 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.

**Clustered Development:** 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, provided that the overall number of parcels allowed under the applicable zone is not exceeded. 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.

Staff Discussion: The Butte Creek Canyon Overlay Committee requested that clustered development be prohibited in the Overlay Zone. They indicate that much of the canyon is undevelopable due to the presence of steep slopes and that the allowance of clustered development puts additional development pressure in areas that should not be intensively developed as would be the case in a clustered development project. They also maintain that clustering encourages additional development on properties that would not ordinarily be suitable to develop in a conventional manner. 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 through the California Department of Fish and Wildlife would require costly studies and potential mitigation, and positive outcomes cannot be guaranteed.

**Butte Creek Canyon Ridgeline Development.** This standard is discussed in sections IV. Project Description, and in Section V. Planning Commission Public Workshops.

**Historic, Cultural, and Archeological Sites.** 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.

Staff Comment: The requirement is intended to ensure for the preservation of recognized historic sites 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:** This section applies additional standards to the storage of heavy equipment in the FR (Foothill Residential) and RR (Rural Residential) zones within the overlay zone. These zones currently have no restriction on the storage of heavy equipment. The restrictions pertaining to heavy equipment storage has been discussed under two of the prior public workshops. The Butte Creek Canyon Overlay Committee supported the inclusion of this limitation to support the overall purpose of the Overlay. This section of the draft overlay applies to the FR and RR zones. This restriction would not apply to heavy equipment or vehicles used primarily for on-site maintenance and/or agricultural activities, or recreational vehicles.

Staff Discussion: The Butte Creek Canyon area contains residential development and scenic resources. The limitations on heavy equipment helps to balance the needs for rural land uses and practices with the need to protect the quiet residential setting and scenic views in the Butte Creek Canyon area. Limits on the storage of heavy equipment can also mitigate stormwater pollution and impacts to the watershed. The minor use permit process allows for the consideration of greater numbers of heavy equipment storage, while providing the ability to address impacts related to water quality and runoff.

**Outdoor Lighting.** 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.

Staff Discussion: 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. This section directs that outdoor lighting will use full cut-off fixtures directing lighting to 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**

**Land Use Regulations:** 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 Committee indicates that the November 6, 2012 Zoning Map is reflective of community desires as expressed during the General Plan 2030 process and should therefore be upheld by the Butte Creek Canyon Overlay. This section includes a caveat that the Board of Supervisors, in exercising its legislative police powers, may amend this section of the ordinance in the future to consider zoning map amendments that would allow for the creation of additional parcels.

Staff Discussion: 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 at a community meeting on June 16, 2007, and at an April 13, 2010 Board of Supervisors meeting. Additionally, a meeting on the Zoning Map for the Butte Creek Canyon area was held by the Planning Commission 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, 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 is consistent with the General Plan and Zoning established for the Butte Creek Canyon area.

**Maximum Impervious Surfaces:** 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. For parcels less than 1-acre in size, a table is provided in the ordinance for the maximum allowable impervious surface amounts for various sizes of parcels.

Staff Discussion: The applicable impervious surface standards were adapted from similar impervious surface standards adopted for the North Chico Specific Plan area. This standard is also supported by the Butte County General Plan Water Resources Element under Policy W-P1.4:

**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 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 area to impervious changes the natural flow on individual development sites and in a watershed as a whole.

Figure 1. below is taken from a presentation on Low Impact Development 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.

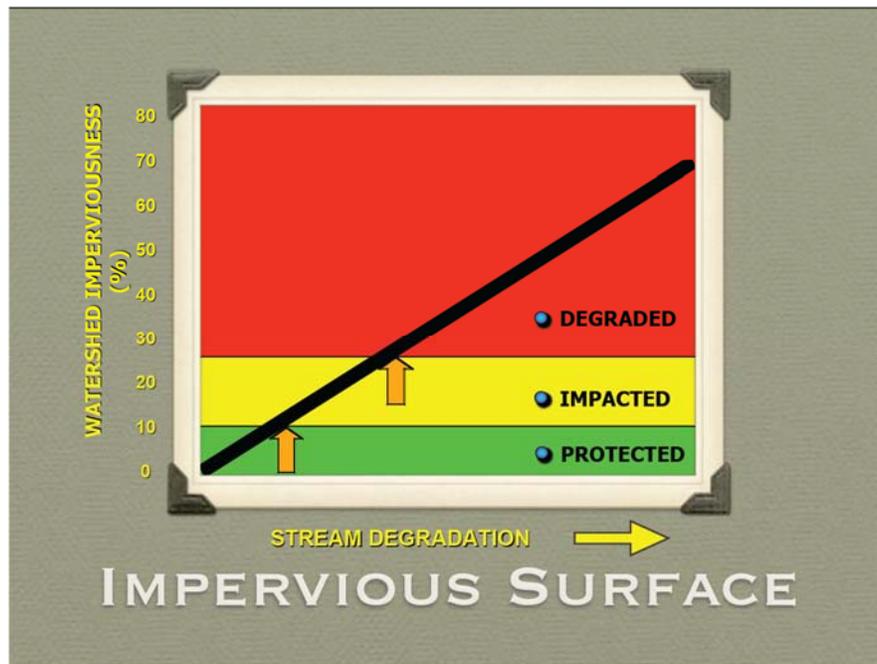


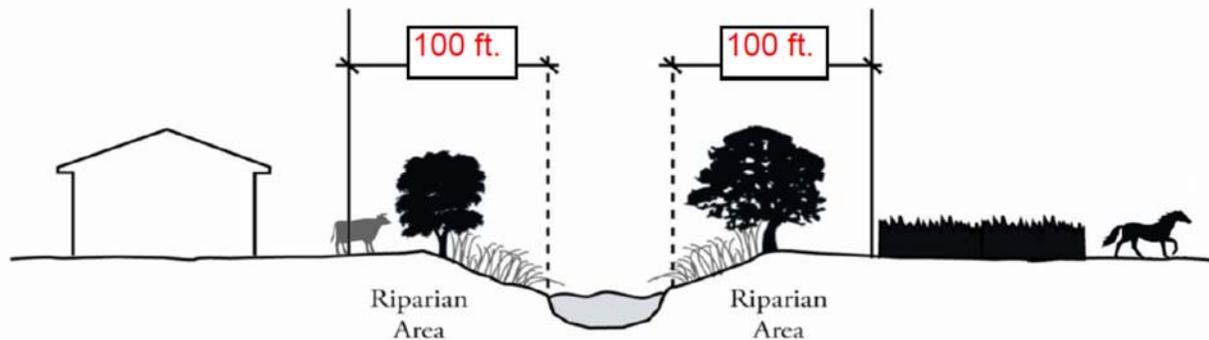
Figure 1.

**Vegetative Buffers:** 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. This requirement is an increase in the existing Riparian Buffer set forth under Article 16 of the 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 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.

Staff Discussion: Pursuant to 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:



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:** This section requires that leach fields, septic tanks, and chemical toilets be setback 200 feet from perennial and intermittent rivers and streams.

Staff Discussion: The standard is increased for 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 for the Butte Creek Canyon area imposes a 200-foot setback.

Several members of the public brought up this section of the draft overlay and the appropriate standards to use regarding septic systems, such as engineered septic systems, reduced setbacks, and monitoring of individual septic systems. It was also pointed out that an engineered septic system would be more of a financial burden than a traditional septic system.

This requirement was included in the draft overlay 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 is currently used in the Magalia Watershed. This supports the overall purpose of the overlay to protect and preserve the ecological foundation of Butte Creek Canyon, including the survival of salmon.

This issue was referred to the Butte County Wastewater Advisory Committee (WAC) for further review at their March 14, 2017 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. The soils in the Butte Creek Canyon Overlay Zone were generally recognized as being rockier and less suitable for conventional and engineered on-site septic systems and that the additional setback was appropriate given the conditions in the area.

**Erosion Control.** 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 Discussion: 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 within sensitive watershed areas. This standard supports the overall purpose of the overlay to protect and preserve the ecological foundation of Butte Creek Canyon, including the survival of salmon.

### **3. Potential Growth within the Overlay Boundary**

During the public workshop process, Planning Commissioner Jacquie Chase inquired about growth within the proposed Overlay boundary and how much future growth could be anticipated. Since this inquiry, the Overlay boundary has been scaled back due to the removal of properties and the AG-160, TM, and TPZ zones and other changes. The original overlay boundary encompassed

approximately 23,581 acres. The revised boundary that is currently being recommended comprises approximately 5,837 acres. The new boundary focuses more specifically on residential zones, where new growth is expected to occur.

Within the overlay area, existing zoning would generally allow for the creation of 110 new parcels, and development on 115 existing parcels, for a potential total of 225 new residential units. 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 from being developed for unknown reasons. The number of allowed units nevertheless points to the potential for future growth, and the need to apply the overlay zone's development standards to address this growth with the requirements that support of the overall purpose of the overlay.

#### 4. **Supplemental Background Information (Attachment E)**

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 help to 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 if something more recent could be made available.

While the Butte Creek Watershed Project included with the October 26, 2016 Staff Report was prepared in August 1998, the Sacramento Watershed Program provides more recent information which was provided in the staff report. This information indicates that the Department of Water Resources has been monitoring water quality in Butte Creek at various locations for many years (1952 – 2008 for the Butte Creek Station). This report goes on to indicate:

Comprehensive nutrient, mineral, minor element, and water temperature data, along with limited benthic macroinvertebrate data, exist. These data can be found online via DWR's Water Data Library at [www.water.ca.gov/waterdatalibrary](http://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.

Monitoring reports indicate that the overall water quality of Butte Creek is considered to be good to excellent, 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 impacts 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.

#### **5. Comparison between the Butte Creek Canyon Overlay Zone and the Magalia Watershed Protection Overlay Zone**

The Watershed Protection Overlay is connected to the Butte Creek Canyon Overlay Zone and occupies a portion of the Upper Butte Creek Watershed. On October 6, 1987, the Butte County Board of Supervisors designated the area in the vicinity of Paradise Reservoir, Magalia Reservoir, and the Firhaven Creek Watersheds as a Watershed Protection Overlay Zone (Attachment D).

Similar to the proposed Butte Creek Canyon Overlay zone, the Watershed Protection (-WP) Overlay Zone is intended to maintain 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 were identified to result in the degradation of water quality and an increase in the water costs due to greater water filtration needs. Likewise 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. A comparison of the requirements and standards for both the Butte Creek canyon Overlay and the Watershed Protection Overlay is provided under **Table 1**, shown below.

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

<b>Requirement/Standard</b>	<b>Butte Creek Canyon Overlay</b>	<b>Magalia Watershed Protection Overlay (adopted 1987)</b>
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) <sup>[1]</sup>	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.

## **VI. NEXT STEPS**

The Planning Commission's recommendations will be presented to the Board of Supervisors for their review and consideration at a future public hearing.

## **ATTACHMENTS**

- A. Planning Commission Resolution
  - 1. Draft Butte Creek Canyon Overlay and Exhibit Map
- B. EIR Addendum
- C. Planning Commission Public Workshop Summary Notes and Public Comment
- D. Exhibit Maps
- E. Supplemental Background Information