

**CITY OF OAKLAND
AGENDA REPORT**

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OFFICE OF THE CITY CLERK
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TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community & Economic Development Agency
DATE: May 9, 2006

RE: Public Hearing And Ordinance To Rezone The Panoramic Hill Neighborhood, Comprising Approximately 30 Acres Of Land, In An Area Generally Located North Of Dwight Way, South Of Panoramic Place, East Of The Oakland Berkeley Border, And West Of Panoramic Way, From The R-20 Low Density Residential Zone / S-4 Design Review Combining Zone And S-18 Mediated Residential Design Review Combining Zone To R-10 Estate Residential Zone / S-4 Design Review Combining Zone And S-18 Mediated Residential Design Review Combining Zone (Case File Number RZ04-042)

SUMMARY

Staff proposes to rezone the area known as Panoramic Hill from the R-20 Low Density Residential Zone / S-4 Design Review Combining Zone / S-18 Mediated Design Review Combining Zone to R-10 Estate Residential Zone / S-4 Design Review Combining Zone / S-18 Mediated Design Review Combining Zone. Panoramic Hill is located south of the University of California's Botanic Gardens, east of the Oakland/Berkeley border, and west and north of Claremont Canyon Preserve. The area proposed for rezoning is indicated on Attachment A.

On March 3, 2004, staff presented three rezoning proposals (Panoramic Hill, two parcels on Skyline, and Butters Canyon) before the Planning Commission for a decision. Staff decided to split the rezoning proposal into three separate actions since each project area seemed to be at a different point in the public process. On August 18, 2004, the Planning Commission voted 7:0 to recommend to the City Council that the neighborhood be rezoned from the R-20 Low Density Residential Zone with the S-4 and S-18 overlay zones to the R-10 Estate Residential Zone with the same overlay zone designations.

Under the existing zoning, seven lots could be potentially subdivided under the existing zoning. The proposed rezoning would ensure that no further subdivisions would occur on the hill and specifically would reduce the potential future residential density of the area by approximately six units.

Staff considers the rezoning to be the first step in addressing the other complex development related issues in the area. Permanently limiting the number of allowable new parcels would reduce the capacity for development which is inconsistent with the known environmental and infrastructure constraints. These constraints include steep slopes and land stability, native plant and animal communities, creek habitats, dense vegetation, emergency access, lack of infrastructure, and fire safety.

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Staff has received comment letters both in support and in opposition to the proposed rezoning.

FISCAL IMPACT

The proposed rezoning would permanently limit the number of potential new lots that could be created in the area. Consequently, this action would limit the number of new homes and would potentially reduce future tax revenue to the City (e.g., property tax revenue, real estate transfer tax revenue, and revenue to the Wildfire Prevention Assessment District). Due to the limited number of homes that the rezoning would prevent from being built, the overall adverse impact to the City's General Fund would be negligible. Reducing the number of new homes would also result in a minor positive fiscal impact on the City by reducing future Capital Improvement Program (CIP) costs (e.g., street and sewer construction and maintenance costs).

BACKGROUND

1917-1996

On June 25, 1917, the Council of the City of Oakland approved the map to subdivide Panoramic Hill. The map entitled University Uplands: Oakland – Berkeley Alameda County California was filed in July of 1917.

In the late 1940's, a group of neighborhood residents formed the Berkeley/Oakland Association, later the Panoramic Hill Association (PHA), to present information concerning traffic and parking to the City of Berkeley. These issues are still a concern to this day.

In 1959, Oakland and Berkeley participated in a joint study of access options. Several options were identified, although no alternative access route was constructed.

In the 1970's a fire occurred within Claremont Canyon. This was the impetus of the Panoramic Hill Area Development and Environmental Resources Study (dated 1974) that looked at issues on Panoramic Hill but with a focus on the area in Berkeley. As a result of the study, the PHA was successful in pushing for the adoption of a special zoning district (ES-R Environmental Safety Residential) on the Berkeley side of Panoramic Hill. This designation is the most restrictive concerning development in the City of Berkeley.

In 1984, the Oakland City Council passed Ordinance No. 10526 C.M.S. which prohibited the construction of septic tanks within the City. This was included as Section 13.08.340 of the Municipal Code.

In 1985 the City of Oakland initiated the "Panoramic Way Sewer Hydraulic Capacity Study to investigate the sewer capacity. The study analyzed whether the current infrastructure would be able to accommodate the existing residences still using septic tanks. The results of this study showed that with proper cleaning and maintenance of root or vegetation penetrations the

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infrastructure could support the existing homes as well as 100 new residences. The results of this study were passed along to Berkeley staff, who stated that they did not agree with the methods, assumptions, or conclusions outlined in the report. They also stated that the 6” sewer main was inadequate to handle any additional flow.

In 1987, Oakland and Berkeley City Councils entered into an agreement that allowed the property at 690 Panoramic Way a connection to the Berkeley sewer pipe because the deteriorating septic tank would result in imminent failure.

The 1991 Oakland Hills fire destroyed more than 3,200 homes and caused 25 deaths. The University of California, Berkeley, officials and area fire agencies launched an extensive fire prevention effort including the pruning and elimination of trees and brush to protect homes in the Panoramic Hill area above the campus.

The 1996 Open Space and Recreation Element (OSCAR) of the General Plan calls for a “Specific Plan” to address access and infrastructure issues as well as indicate the maximum number of units that could be built in this area. No funding source was identified in the OSCAR Element for a Specific Plan.

Through the 1990’s and up to the present, the City of Oakland has received numerous inquires related to new development. The City has required developers to prepare detailed environmental evaluations and they have elected not to do so; therefore the City of Oakland has not issued planning approvals or building permits for new construction.

In 1997, Public Works distributed a letter to existing residents on Panoramic Hill regarding the condition of their septic tanks and the possibility of funding a Sewer Assessment District. Ten people responded and were willing to fund a district. A Sewer Assessment District was not implemented.

2002-Present

The PHA revived discussions with Oakland City Council and Planning staff starting in 2002 regarding the complex multi-jurisdictional issues pertaining to Berkeley and Oakland development of Panoramic Hill. After reviewing all of the available documents it was clear that all of the issues could not be addressed at once. A reduction of possible lots was determined to be the first step in a long process to bring improvements to the area. This is the impetus for the current rezoning proposal and the PHA board voted unanimously in favor of the rezoning proposal.

On February 18, 2004 planning staff held an informational community meeting to discuss the proposed rezoning with the neighborhood residents, and to explain the changes that would be brought about by the proposed rezoning. There was extensive public comment regarding issues

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in the area. Most residents were concerned that the other problems, such as utilities, emergency access, and City services would not be addressed in a timely manner.

On March 3, 2004 the Planning Commission held a public hearing on the proposed rezoning. Staff received public comment letters regarding the project and several residents spoke both in support and in opposition to the rezoning. After taking public testimony, the Planning Commission asked that staff bring the proposal to the Special Projects Committee for review.

On March 31, 2004 the Special Projects Committee reviewed the rezoning proposal and asked staff to include more detailed information on the emergency access and utility issues.

On August 18, 2004, the Planning Commission voted 7:0 to recommend to the City Council that the area be rezoned. At this hearing, the commission received testimony both in support and in opposition to the rezoning.

PROPERTY DESCRIPTION

The area subject to this proposed rezoning is generally located north of Dwight Way, south of Panoramic Place, east of the Oakland / Berkeley border, and west of Panoramic Way. The area is characterized by steep slopes and substandard infrastructure. The only access is via Panoramic Way, a narrow road without curb and gutter. Derby Creek runs south through the middle of the neighborhood. The area consists of approximately 303 parcels, comprising about 30 acres of land. The neighborhood consists of 58 single-family lots and 245 vacant lots, with an average lot size of between 2,000 and 5,000 sq. ft.

POLICY DESCRIPTION

Rezoning Proposal

The area is located within the R-20 Low Density Residential Zone / S-4 Design Review Combining Zone / S-18 Mediated Residential Design Review Combining Zone. The R-20 zone is “intended to create, preserve, and enhance areas for single-family dwellings at very low densities in spacious environments, and is typically appropriate to portions of the Oakland hill area” (Section 17.14.010 Oakland Planning Code). The S-4 and S-18 overlay zones regulate the design review procedures.

Staff proposes rezoning the area to R-10 Estate Residential Zone / S-4 Design Review Combining Zone / S-18 Mediated Residential Design Review Combining Zone. The R-10 zone is “intended to create, preserve, and enhance areas for single-family estate living at very low densities in spacious environments, and is typically appropriate to portions of the Oakland hill area” (Section 17.12.010 Oakland Planning Code).

The regulations set forth under the R-20 and R-10 zones are identical with the sole exception of minimum lot size, minimum lot width, lot coverage and the rear yard setbacks. This rezoning

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would not affect any other zoning regulations, including but not limited to maximum height, parking, usable open space, front yard paving, fence height, or landscaping requirements.

The table below highlights the effects rezoning would have on development potential:

	<i>Existing</i>	<i>Proposed</i>
Zoning District	R-20 Zone	R-10 Zone
Minimum Lot Size Required*	12,000 sq. ft.	25,000 sq. ft.
Minimum Lot Width Required	90 ft.	100 ft.
Front Yard Setback	20 ft. *	25 ft. *
Side Yard Setback	6 ft or 15% of lot width when slope is greater than 20%	6 ft or 15% of lot width when slope is greater than 20%
Rear Yard Setback**	25	35
Maximum Lot Coverage	2,000 sq. ft. or 25% of the lot area (whichever is greater)	2,000 sq. ft. or 20% of the lot area (whichever is greater)
Existing Lots	303	303
Existing Vacant Lots	245	245
Subdividable Lots***	7	1
Potential New Lots (subdivided)	252	246

Note

* The Hillside Regulations allow for a 5' front yard on any lot with a street-to-setback gradient that exceeds twenty (20) percent

**For lots which abut an adjoining rear yard, the minimum rear yard depth shall be increased by an additional one-half (0.5) foot of rear yard depth for each additional one foot of lot depth over one hundred (100) feet, up to a maximum rear yard depth of eighty (80) feet.

***Subdivision regulations require that the size of new lots must be the same size or larger than the median size of lots within 200 feet.

The proposed rezoning is intended to address the General Plan policy of indicating the maximum number of units that could be built in this area. By permanently limiting the number of future lots, staff can begin to address the density and other environmental constraints on the hill.

KEY ISSUES AND IMPACTS

The following interconnected key issues and impacts are related to the rezoning proposal and any future new development in the Panoramic Hill neighborhood.

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- General Plan Implementation
- Existing Lot Sizes and Setback Relationship
- Lot Merger Ordinance
- Lack of Utilities (sewer)
- Emergency Access / Services
- Neighborhood Character
- Natural Resources / Environmental Issues
- Property Values

A discussion and response to each issue follows:

General Plan Implementation

The principal goals for Oakland's neighborhood areas are located in the Land Use and Transportation Element's (LUTE) Policy Framework section. These goals include recognizing neighborhood identity, preserving neighborhood character, and protecting neighborhoods from incompatible development. The Open Space Conservation and Recreation Element (OSCAR) is the primary document that addresses the management of open land, natural resources, and parks in Oakland.

The proposal would implement the General Plan LUTE and OSCAR policies by applying a zoning designation that is more consistent with the General Plan. Specifically, the following policies endorse the proposed rezoning:

Policy N7.2 Defining Compatibility: Infrastructure availability, environmental constraints and natural features, emergency response and evacuation times, street width and function, prevailing lot size, predominant development type and height, scenic values, distance from public transit, and desired neighborhood character are among the factors that should be taken into account when developing and mapping zoning designations or determining compatibility. These factors should be balanced with the citywide need for additional housing.

Policy N7.3 Subdividing Hill Properties: At least 8,000 sq. ft. of lot area per dwelling unit should be required when land in the hill area is subdivided. Lots smaller than 8,000 square feet may be created to cluster development, and as long as this ratio is maintained for the parcel being divided.

Policy N7.7 Facilitating Lot Consolidation: Where full development of subdivided parcels cannot occur due to infrastructure constraints, the City should work with property owners to facilitate lot consolidation that will permit development.

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Policy OS-4.3 Protection of Rural Character: Conserve the rural open character of areas which have historically developed at very low densities, particularly those areas where the prevailing lot size is one acre or larger.

The following policies indirectly apply to Panoramic Hill and any possible future development, as well as the implementation of an emergency vehicle access road.

Policy OS-1.3 Development of Hillside Sites: On large sites with subdivision potential generally conserve ridges, knolls, and other visually prominent features as open space.

Action OS-1.3.5 Conservation of Unstable Parcels: Use the Building Code and environmental review requirements to ensure that development of hillside parcels will be structurally sound, that infrastructure will be provided and that adequate access will be available.

Action OS-1.3.6 and LUTE Improvement Strategies for the North/South Hills - Panoramic Hill Specific Plan: Following the adoption of the new Land Use and Transportation Elements, prepare a Specific Plan for Panoramic Hill which resolves access and infrastructure issues and indicate the maximum number of units that could be built in this area.

Action CO-11.1 Protection (of Wildlife) from Urbanization: Protect wildlife from the hazards of urbanization, including loss of habitat and predation by domestic animals.

Action CO-11.2.1 Wildlife Corridor Designation: To the extent legally permissible, designate the following areas within Oakland as wildlife corridors for habitat management purposes.

- Strawberry Canyon above Centennial Drive
- Claremont Canyon above John Garber Park
- Etc.

Key Issues: Although the General Plan and OSCAR call for a “Specific Plan” to address access and infrastructure issues and indicate the maximum number of units that could be built in this area, City Council has not yet allocated funds for this analysis. Many neighborhood residents believe that a Specific Plan should be completed before the rezoning, other policy decisions, or improvements are undertaken. Other residents believe that the access and infrastructure issues should be analyzed first.

Staff’s Response: California Government Code Section 65450 defines the content of a Specific Plan. The purpose of a Specific Plan is the “systematic implementation” of the General Plan. In this instance, a Specific Plan would include but not be limited to how the infrastructure including road improvements, emergency access roads, utilities, future development, and environmental

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impacts would be addressed. “Section 65451 of the Government Code mandates that a specific plan be structured as follows:

(a) A specific plan shall include a text and a diagram or diagrams which specify all of the following in detail:

(1) The distribution, location, and extent of the uses of land, including open space, within the area covered by the plan.

(2) The proposed distribution, location, and extent and intensity of major components of public and private transportation, sewage, water, drainage, solid waste disposal, energy, and other essential facilities proposed to be located within the area covered by the plan and needed to support the land uses described in the plan.

(3) Standards and criteria by which development will proceed, and standards for the conservation, development, and utilization of natural resources, where applicable.

(4) A program of implementation measures including regulations, programs, public works projects, and financing measures necessary to carry out paragraphs (1), (2), and (3).

(b) The specific plan shall include a statement of the relationship of the specific plan to the general plan.”

Since the Specific Plan would require thorough research, technical studies and analysis of proposals and alternatives, staff has estimated that a Specific Plan for Panoramic Hill would cost approximately \$1,000,000.00. Oakland has only completed one specific plan, the North Oakland Hill Area Specific Plan (NOHASP). Staff reviewed the cost estimate for the NOHASP which would be similar to a Specific Plan for Panoramic Hill. The cost of the NOHASP was approximately \$300,000.00 in 1985 dollars. Given the City’s current budget situation it is unlikely that a Specific Plan for Panoramic Hill would be initiated by staff in the near future.

The General Plan mandates that the City pay for the Specific Plan. Staff has discussed possible development alternatives with City of Berkeley staff. One suggestion was that staff from both Berkeley and Oakland would work together to identify the necessary elements that would need to be addressed in a Specific Plan process. The Specific Plan could recommend comprehensive solutions to infrastructure and development issues, including how necessary infrastructure could be funded. Prospective developers would be required to pay for preparation of the plan and then pursuant to Section 66487 of the Subdivision Map Act, the developer would be reimbursed with any future development funds or through a special assessment of existing property owners.

Although staff believes that the access and infrastructure issues are immediate, these issues cannot be addressed separately from the other environmental factors without thorough environmental review. Therefore, the approach recommended above is the most reasonable solution.

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Existing Lot Sizes and Setback Relationship

As stated above in the *Background* section, Panoramic Hill was subdivided in 1906 into mostly 25' x 100' lots. Currently, the average lot size in the area is between 2,000 and 5,000 sq. ft. Under the current zoning all but 18 parcels are substandard and do not meet the required lot size of 12,000 sq. ft. The proposed R-10 zone would require a maximum lot size of 25,000 sq. ft. In addition, the lot width, lot coverage, and rear yard setback would also increase. Under the proposed rezoning, all but seven parcels would become substandard.

Key Issues: Some residents feel that it doesn't make sense to rezone the neighborhood to a zone that requires lots that are larger than the majority of the existing lots (under the new rezoning proposal 296 out of 303 parcels would become substandard). Many residents are also concerned that the proposed rezoning with the increased rear setback and lot coverage requirement would reduce the already deficient amount of buildable area on a lot. In addition, many residents are concerned that if their lot does not meet the minimum lot size they will not be able to build on it. Other residents expressed interest in a new zone similar to Berkeley's ES-R Environmental Safety Residential.

Staff's Response: Panoramic Hill is clearly an area that was subdivided without regard for buildable area, steep slopes, or environmental constraints, such as creeks, trees, wildlife habitat, and geologic conditions. The result is a residential density that is actually very high and similar to parcels found in West Oakland. Almost all of the lots would have difficulty meeting the existing zoning regulations since the requirements such as setbacks and lot coverage are intended to be in proportion to the lot size. If the rezoning were approved, these lots would have an even greater difficulty and might require zoning variances. However, in the past, it has not been uncommon for the City to rezone hillside residential areas with existing smaller lots to a zone that requires larger lots in order to preserve the existing wooded/rural-like setting or reduce environmental and safety impacts. This would be the case for Panoramic Hill.

Staff has stated that if a lot is substandard or non-conforming and was created legally, than the lot would be buildable subject to the new zoning regulations. A further discussion is continued in the *Lot Merger Ordinance* section of this report.

Staff has reviewed Berkeley's ES-R Environmental Safety Residential regulations. Below is a comparison of those regulations and Oakland's proposed R-10 regulations.

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	<i>Berkeley's Existing Zone</i>	<i>Oakland's Current Zone</i>	<i>Oakland's Proposed Zone</i>
Zoning District	ES-R	R-20	R-10 Zone
Minimum Lot Size Required	9,000 sq. ft.*	12,000 sq. ft.	25,000 sq. ft.
Minimum Lot Width Required	N/A	90 ft.	100 ft.
Front Yard Setback**	20 ft.	20 ft. *	25 ft. *
Side Yard Setback**	15 ft.	6 ft or 15% of lot width when slope is greater than 20%	6 ft or 15% of lot width when slope is greater than 20%
Rear Yard Setback**	20 ft.	25 ft.	35 ft.
Maximum Lot Coverage	30% of the total lot area	2,000 sq. ft. or 25% of the lot area (whichever is greater)	2,000 sq. ft. or 20% of the lot area (whichever is greater)
Building Height	24' average 35' with a limit of 2-stories	Upslope lots: 30' maximum and up to 35' for pitched roofs. Downslope lots: 20-40% slope, 30' maximum and up to 32' for pitched roofs, CUP for 36'; 40+% slope, 30' maximum and up to 36' for pitched roofs, CUP for 40'.	Upslope lots: 30' maximum and up to 35' for pitched roofs. Downslope lots: 20-40% slope, 30' maximum and up to 32' for pitched roofs, CUP for 36'; 40+% slope, 30' maximum and up to 36' for pitched roofs, CUP for 40'.
Open Space	400 sq. ft.	N/A (based on setbacks)	N/A (based on setbacks)
Accessory Dwelling Units	Prohibited	Allowed provided that the proposal can meet all of the other zoning regulations.	Allowed provided that the proposal can meet all of the other zoning regulations.
Floor Area Limitation	30% of lot area*	No Floor Area limit	No Floor Area limit
Building Separation	30 ft. **	Per Building Code	Per Building Code
Residential Additions	CUP required for additions of 500 sq. ft. or more	Additions under 10% are exempt with matching design and materials. Additions between 10-20% are permitted through compliance with a Special Residential Design Review Checklist. Additions that are over 20% are required to go through the Special Residential Design Review Discretionary procedure. All additions must comply with the Zoning Ordinance	Additions under 10% are exempt with matching design and materials. Additions between 10-20% are permitted through compliance with a Special Residential Design Review Checklist. Additions that are over 20% are required to go through the Special Residential Design Review Discretionary procedure. All additions must comply with the Zoning Ordinance

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*Lots containing less than 5,250 square feet, which have no contiguous property under the same ownership, shall be allowed no more than one Dwelling Unit of no more than 1,500 square feet of gross floor area.

** Setbacks and building separation may be reduced with a Use Permit subject to Fire Department review and approval. No building may be closer than 30 feet to another building unless a Use Permit is obtained.

A comparison of the ES-R regulations and the R-10 regulations demonstrate that in many instances Berkeley's regulations are less limiting than the R-10 regulations. The hill's current R-20 zoning regulations would seem more consistent with the ES-R regulations. However, the ES-R zone applies to areas already mostly developed. Furthermore, most new development on the hill within Berkeley is processed through a Conditional Use Permit procedure. The intent of the proposed R-10 regulations would be to limit the amount of development/density on the hill consistent with the identified environmental factors and hazards.

Lot Merger Ordinance

Currently, the merger provisions of Planning Code Sections 17.106.010A and Section 17.106.020C are not being enforced because they are similar to provisions that have been invalidated by the State Supreme Court. A new Lot Merger Ordinance has been drafted and presented to the City Planning Commission. The Planning Commission recommended approval of the new Lot Merger Ordinance conditioned upon returning to the Planning Commission to re-notice the change to Zoning Section 17.106.020C and a timeframe for the design review standards regarding substandard lots. Staff is currently working to these requests and expects to report to the Planning Commission in May of this year and then to the City Council in June.

The City of Berkeley wrote a letter to the Oakland City Manager on March 31, 2004. The letter recommended approval of a lot merger ordinance, as well as the rezoning proposal. Beginning in 2001, the City of Berkeley notified 15 property owners of its intent to merge 33 separate lots under State law and Berkeley's merger ordinance. As of this date, the process is completed except for one unresolved appeal.

Key Issue: Staff has received comments both in support and in opposition to a lot merger on Panoramic Hill.

Staff Response: Staff acknowledges that the rezoning would have a negligible effect on density or the other critical issues in the neighborhood. However, the rezoning, as a first step, would increase the minimum lot size. The lot merger, as the second step would require that those lots under adjacent ownership be combined to meet the larger lot size. This would have the dramatic effect of reducing the number of lots from 303 parcels to approximately 163 parcels. This would result in a more reasonable density than is currently on the hill. Once the rezoning and lot merger have taken place, staff can begin to address the capacity of utility infrastructure and traffic on a secondary means of access. Due to the increase in lot size, potential development would occur away from landslides, trees, creeks, etc. thereby reducing environmental impacts. If the lot

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merger were to occur without the rezoning, the number of lots would be reduced from 303 to 190. In other words, with the increase in lot size and the lot merger density on the hill would be reduced by 27 units. Many residents have stated that the City can already analyze capacity of the utilities and secondary access road without the rezoning or the lot merger. This reasoning does not account for the residential density currently permitted in the area.

Lack of Utilities (Sewer)

As demonstrated in the *Background* section, the area is being served by the City of Berkeley's sewer system which is assumed to have limited capacity and would require major upgrades to support new development. Of the existing homes that have been built on the hill, 22 have a connection to the Berkeley public sewer system and 38 homes still maintain septic tanks. In a 2001 letter to the Public Works Department, the City of Berkeley expressed concern that some homes connected to its sewer system have done so illegally via sewer laterals that are routed through or connected to other private property sewers.

Key Issues: Residents who currently have septic tanks are concerned about the habitability of their homes if their septic tank were to fail. In fact, staff has received several comment letters about sewage running down the street. In addition, the issue of sewer hook-ups is intrinsically tied to the issue of emergency access (See section below for more detail). Furthermore, residents are concerned that providing sewer access to the hill would open the area for development.

Staff's Response: The issue of septic tank failure is a real concern for both Berkeley and Oakland staff, as many of these tanks are aging. After one septic tank failed in 1987, the two Cities reached an agreement allowing that property and potentially seven other existing homes nearby to connect to the Berkeley sewer system. Berkeley has requested additional information from the Public Works Agency regarding the capacity studies that the City of Oakland performed in 1985. To staff's knowledge, this information has not been provided. There have been several sewer alternatives but the 1987 agreement acknowledges that extensions and construction of the public sewer system in the area could disrupt emergency vehicular access. These routes would need to be reexamined for feasibility. An agreement must be reached with Berkeley about the extent of sewer upgrades to be completed. The City of Berkeley stated in their 2001 letter that their staff was willing to discuss options for the longstanding problems in the Panoramic Hill area, but that this issue can not be resolved without addressing the overriding issues of general access, emergency access, and overall circulation. In addition, it is likely that in order to fully address this issue necessary rights-of-way and easements would need to be obtained.

The rezoning and the lot merger would limit the number of lots on Panoramic Hill. This reduction would limit the number of sewer hook-ups required and would permit staff to better gauge anticipated sewer capacity requirements.

Emergency Access / Emergency Services

The neighborhood is served by one access road, Panoramic Way, which begins in the City of Berkeley and dead ends at the top of the hill in Oakland. This road varies in width from 12 to 18 feet, is without curb or gutter, includes three hairpin turns, and accommodates traffic in both

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directions. Also, because of the steep lots, there is inadequate off-street parking and many vehicles park along the street. According to the “Panoramic Hill Area Development and Environmental Study” dated June 1974, much of the area has parking limited to one side only, however this is rarely enforced. Both the narrowness of the road, the parking situation, and the turns create a potential risk in the event of a fire or other emergency if residents are unable to safely navigate in and out of the neighborhood. As it is, emergency response vehicles cannot negotiate the road and the neighborhood lacks any other available emergency access route. The current policy of the Fire, Engineering, and Planning departments is that no subdivision or new construction of dwelling units be permitted on a public or a private street of more than 600 feet in length without a secondary ingress/egress facility.

Key Issue: Residents and City staff (Berkeley and Oakland) are concerned that additional development in the area, without emergency vehicle infrastructure, will further exacerbate the evacuation problem by introducing additional residents and vehicles into the neighborhood.

Staff’s Response: Due to public health and safety concerns related to potential fires and earthquakes as well as the state of the current road, an alternative emergency access route is critical. Furthermore, any infrastructure improvements are tied to the construction of a road since the utilities would most likely run underneath the road. Staff assumes that a Sewer Assessment District was not formed because of the lack of an access point while the sewer main was increased/constructed. The 1959 access study analyzed several alternatives. At that time, a route was selected that would cross an improved portion of the University of California campus. The solution was not generally acceptable to the University and was not implemented. Since that time an active landslide over the Oakland terminus and the other improvements made that route no longer feasible. Other routes have been rejected due to massive grading that would need to occur in open space/park areas. Alternative access routes would need to be re-reviewed and it is likely that more than one road should be constructed.

Neighborhood Character

The North Oakland Hills are generally characterized by very low-density residential properties in a natural wooded setting amidst steep slopes and canyons. As stated above, the density on Panoramic Hill is actually very high. Since most of these lots (245) are undeveloped, the area seems rural and of very low density. Were all of the vacant lots developed, the existing wooded/rural character would disappear and the area would exhibit a density similar to West Oakland.

Key Issues: Staff received one comment that asked “if the neighborhood character is currently lots with an average size of 2,000 to 5,000 sq. ft., how does the down zoning preserve neighborhood character?” On the opposite side of the issue, there is concern among residents that new development would adversely affect the low-density appearance of the neighborhood.

Staff’s Response: The proposed rezoning would limit the number of subdividable lots and would ensure that those large lots remain. The proposed rezoning along with the possible lot merger would reduce the number of lots from 303 to approximately 163. This type of density

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would be consistent with the existing neighborhood character enjoyed by the current residents. Furthermore, this type of density is more consistent with the actual capacity for development given the environmental and infrastructure constraints on the parcels.

Natural Resources/ Environmental Issues

The Panoramic Hill area exhibits many environmental constraints. The following is a brief description of those factors. First, the area is heavily wooded and any development would be subject to the Tree Removal/Protection Ordinance. Second, the hill is divided by two creeks (including Derby Creek) that run south through the neighborhood. Many of the lots are designated as “creekside properties” and would be subject to the Creek Protection Ordinance. Third, the area consists of a major and minor ridge and exhibits severe geotechnical problems. The hill is physically separated from Berkeley by the Hayward Fault that runs across Panoramic Way right above the UC Stadium. Several landslides have been documented and there is evidence of mudslides. Furthermore, the majority of lots are on slopes steeper than 20%. Fourth, the hill is adjacent to the UC Botanical Gardens and Claremont Canyon. As noted, Claremont Canyon is identified as a possible wildlife corridor. The upper portion of the hill is within the area mapped as Critical Habitat for the Alameda Whipsnake, a federally listed endangered species. It is reasonable that other sensitive natural resources are located on and adjacent to the project site. Fifth, the hill is in an identified wildfire hazard area. Many of the vacant lots do not receive proper vegetation management. Many existing homes are constructed of materials no longer approved for fire hazard areas. To exacerbate the situation, the East Bay Municipal District (EBMUD) has noted deficiencies in the area’s water distribution system.

Key Issues: All of these hazards are known to the residents. The residents are concerned that incompatible development could adversely affect these natural resources.

Staff Response: The hill was subdivided in 1917 without regard to these environmental constraints. In fact it was subdivided before the advent of traffic congestion or the actual engineering ability to build a structure on these lots. As stated before, the rezoning would be a first step that would begin to address the other issues on the hill. The proposed rezoning, along with the lot merger, would protect the environment by limiting development impacts on these sensitive and fragile ecosystems and determine a density that is more consistent with these environmental hazards.

Property Values

Under the proposed regulations the required minimum lot size for new lots would increase. Therefore, six of the lots that are subdividable now would no longer be subdividable. In addition, the buildable area for the rest of the hill would decrease.

Key Issue: Some residents are concerned that this will cause the value of these lots to decrease.

Staff Response: As stated throughout this report, staff believes that the down zoning will be the first step in a plan to address the development related issues on the hill. Without an existing dwelling unit, the value of the vacant lots is low and will remain so unless the other issues

Item: _____

Community and Economic Development Committee

May 9, 2006

outlined above are addressed. Also, the current zoning is already very restrictive in terms of buildable area. On a 25'x100' lot, the current zoning would only allow a building footprint of 13'x70'. The new zone would reduce the buildable footprint to 13'x65'. This smaller footprint would protect privacy, preserve vegetation, and preclude construction of larger homes that would be out of character on the hill. These are qualities of which buyers would be aware. Finally, the City regularly changes land use regulations that affect allowable densities and development controls. These changes in turn affect property values. Staff also notes that it is possible some buyers would be willing to pay more for a property if the regulations were changed to restrict the amount of future development in the area.

ENVIRONMENTAL DETERMINATION

The proposed rezoning is considered exempt from the environmental review requirements of the California Environmental Quality Act (CEQA), based on Section 15061(B)(3) of the State CEQA Guidelines, which states that “where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.” The rezoning would reduce the allowed residential density in the area, therefore, the potential environmental impact of future development would be less than under the current zoning. In addition, the project is also exempt from CEQA based upon section 15183 of the CEQA Guidelines because the ordinance is consistent with the general plan for which an EIR was prepared and there are no project- specific significant effects which are peculiar to the area affected by the rezoning.

COMPLIANCE WITH STATE HOUSING LAW

California Government Code Section 65863 (as amended) states that a city or county may not rezone an area to a lower residential density if the California Department of Housing and Community Development utilized the original higher residential density in determining compliance with the housing element law. As specified in the Housing Element of the Oakland General Plan (adopted in 2004), there are no properties located within the proposed rezoning area that were used to calculate available land for future housing supply. Furthermore, the rezoning only decreases the number of potential sub-dividable lots by six, this minimal amount would be insignificant in regards to the entire City of Oakland. Furthermore, the Housing Element does not address restrictions on lot coverage or building floor area/footprint. Therefore, the proposed rezoning complies with the provisions of Government Code Section 65863.

SUSTAINABLE OPPORTUNITIES

This section describes the sustainable opportunities that are being addressed or will be implemented as part of the item, such as:

Economic: The rezoning would limit the impact of development on the neighborhood and reduce traffic, utility and other public safety impacts.

Item: _____

Environmental: The rezoning would limit the number of new homes that could be built, thereby, better protecting Oakland’s creeks, riparian corridors, native plant communities, and wildlife habitats.

Social Equity: The rezoning would preserve the unique natural character of the Panoramic Hill neighborhood and the adjacent open space as a natural resource for all residents of Oakland to enjoy.

DISABILITY AND SENIOR CITIZEN ACCESS

The proposed rezoning would not directly affect accessibility for people with disabilities or senior citizens. Any new development in the area would be subject to the Americans with Disabilities Act (ADA), as provided for in the Uniform Building Code (UBC), and in Title 24 of the California State Code.

RECOMMENDATION AND RATIONALE

The Planning Commission recommends, and staff concurs, that the City Council adopt the proposed rezoning for the following reasons:

- 1. General Plan Implementation** – The proposed rezoning would increase the minimum required lot size to implement the policies of the General Plan. This would permanently limit the number of new lots which is a specific action in the OSCAR element.
- 2. Neighborhood Character** – The proposed rezoning would promote a low-density residential character in keeping with the current wooded/rural character.
- 3. Environmental Protection** – The proposed rezoning would limit the number of new homes that could be built, thereby better protecting sensitive natural resources on the hill, including trees, creeks, wildlife habitat, and steep topography.
- 4. Public Safety** – The proposed rezoning would limit the development in that neighborhood, thereby reducing potential traffic and public safety impacts.

Item: _____

ACTION REQUESTED OF THE CITY COUNCIL

The City Planning Commission recommends that the City Council adopt the attached ordinance to rezone the Panoramic Hill neighborhood, consisting of 303 parcels and comprising approximately 30 acres of land, in an area generally located north of Dwight Way, south of Panoramic Place, east of the Oakland / Berkeley border, and west of Panoramic Way, from the R-20 Low Density Residential Zone with the S-4 and S-18 overlay zones to the R-10 Estate Residential Zone with the same overlay zones.

Respectfully submitted,

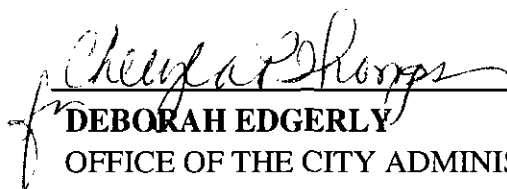


CLAUDIA CAPPIO
Development Director
Community & Economic Development Agency

Reviewed by:
Gary Patton, Deputy Director of Planning
Planning & Zoning Division

Prepared by:
Heather Klein, Planner III
Planning & Zoning Division

APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE:


DEBORAH EDGERLY
OFFICE OF THE CITY ADMINISTRATOR

ATTACHMENTS:

- A. Map of Proposed Rezoning Area
- B. Planning Commission Staff Report (Dated August 18, 2004)
- C. Properties Located in the Proposed Rezoning Area (Listed by Assessor's Parcel Number)

INTRODUCED BY COUNCIL MEMBER _____
OFFICE OF THE CLERK

APPROVED AS TO FORM AND LEGALITY

Mark P. Wald
City Attorney

2006 APR 27 PM 4:48 ORDINANCE NO. _____ C.M.S.

ORDINANCE TO REZONE THE PANORAMIC HILL NEIGHBORHOOD, COMPRISING APPROXIMATELY 30 ACRES OF LAND, IN AN AREA GENERALLY LOCATED NORTH OF DWIGHT WAY, SOUTH OF PANORAMIC PLACE, EAST OF THE OAKLAND BERKELEY BORDER, AND WEST OF PANORAMIC WAY, FROM THE R-20 LOW DENSITY RESIDENTIAL ZONE / S-4 DESIGN REVIEW COMBINING ZONE AND S-18 MEDIATED RESIDENTIAL DESIGN REVIEW COMBINING ZONE TO R-10 ESTATE RESIDENTIAL ZONE / S-4 DESIGN REVIEW COMBINING ZONE AND S-18 MEDIATED RESIDENTIAL DESIGN REVIEW COMBINING ZONE (CASE FILE NUMBER RZ04-042)

WHEREAS, in 2004, in response to concerns regarding the impact of development on the safety and character of the Panoramic Hill neighborhood, staff reviewed and initiated the process to rezone the Panoramic Hill neighborhood; and

WHEREAS, on February 18, 2004, a community meeting was held to discuss the land use and development issues affecting the Panoramic Hill neighborhood; and

WHEREAS, on March 3, 2004, a duly noticed public hearing was held on this matter by the City Planning Commission; and

WHEREAS, on March 31, 2004, a duly noticed public hearing was held on this matter by the Special Projects Committee of the City Planning Commission; and

WHEREAS, on August 18, 2004, a duly noticed public hearing was again held on this matter by the City Planning Commission, which voted 7:0 to recommend rezoning the Panoramic Hill neighborhood from the R-20 One-Family Residential Zone / S-4 Design Review Combining Zone / S-18 Mediated Residential Design Review Recombining Zone to the R-10 Estate Residential Zone / S-4 Design Review Combining Zone / S-18 Mediated Residential Design Review Recombining Zone, as set forth below; and

WHEREAS, said rezoning is exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) under Sections 15061(b)(3) and 15183 of the State CEQA Guidelines because the amendment would reduce future development in the area and this rezoning is consistent with the certified EIR prepared for the Land Use and Transportation Element of the general plan and there are no project- specific significant effects which are peculiar to the area affected by the rezoning; and

WHEREAS, the City Council finds and determines that said rezoning is consistent with the goals and policies of the Oakland General Plan, as detailed in the May 9, 2006 City Council Agenda Report; and

WHEREAS, the City Council finds and determines that the public safety, health, convenience, comfort, prosperity, and general welfare will be furthered by said rezoning, as detailed in the May 9, 2006 City Council Agenda Report ; now, therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

SECTION 2. The City Council finds and determines that the adoption of this Ordinance complies with the California Environmental Quality Act and a Notice of Exemption shall be filed with the appropriate agencies.

SECTION 3. The designation and location of zones and zone boundaries on the Zoning Map Numbers 345 and 346 are hereby amended as shown on the map attached and incorporated herein by reference as Attachment A.

SECTION 4. This Ordinance shall be effective upon its adoption if it receives at least six affirmative votes; otherwise, it shall be effective upon the seventh day after final adoption, but shall not apply to permits already issued or to zoning applications approved by the City for which permits have not been issued, or to subdivision applications deemed complete by the date of May 16, 2006.

SECTION 5. If any provisions of this Ordinance or application thereof to any person of circumstances is held invalid, the remainder of this Ordinance and the application of provisions to other persons or circumstances shall not be affected thereby.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20_____

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT DE LA FUENTE

NOES-

ABSENT-

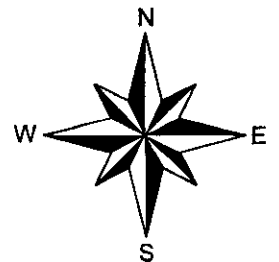
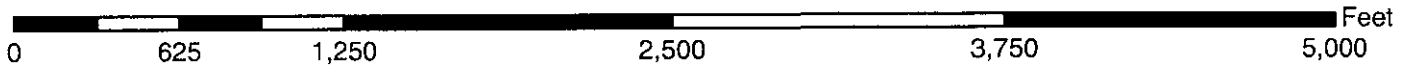
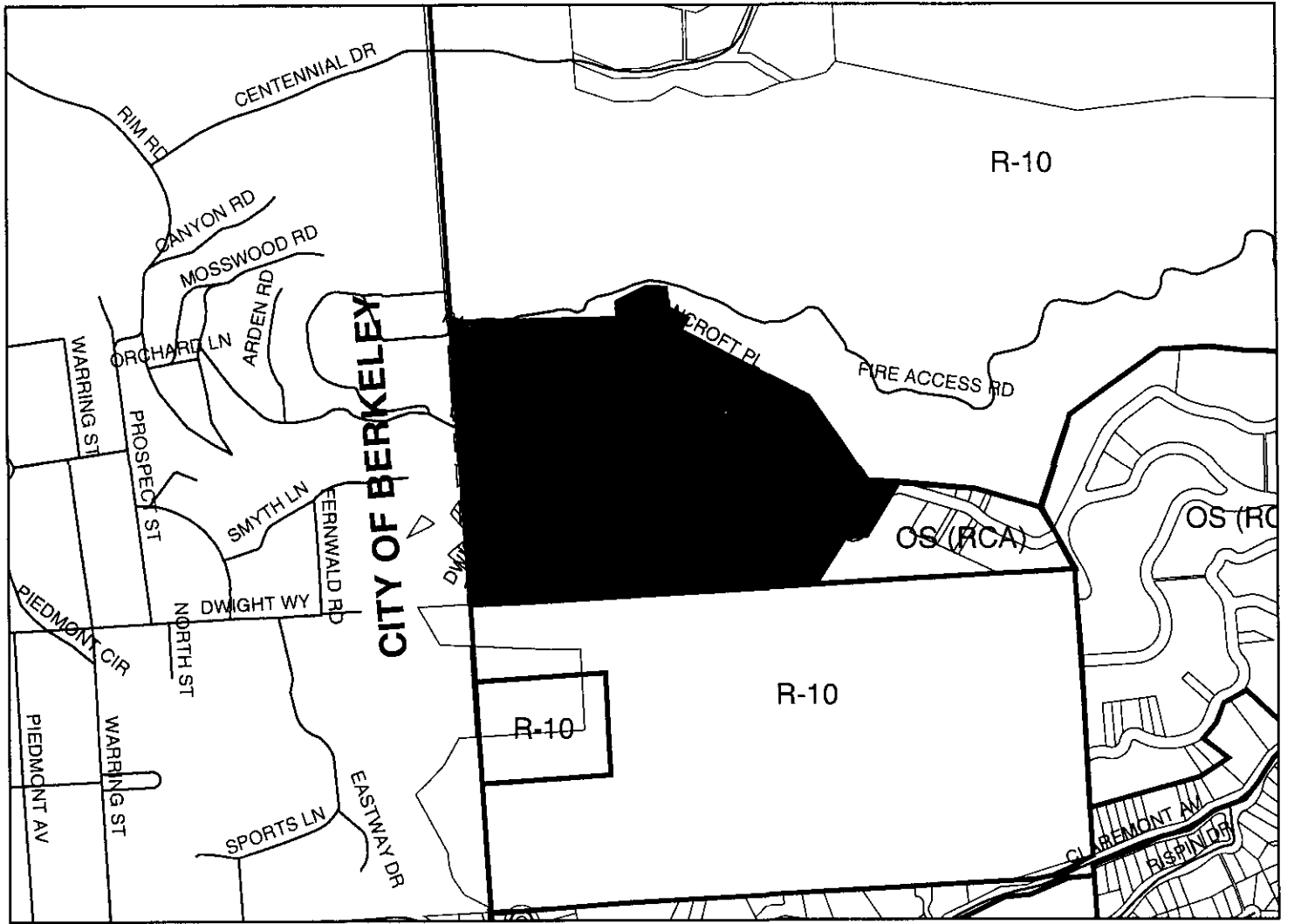
ABSTENTION-

ATTEST: _____

LaTonda Simmons
City Clerk and Clerk of the Council
Council of the City of Oakland, California

EXHIBIT A

AMENDMENT TO ZONING MAP



Case File Number RZ04-042

August 18, 2004

Project Name:	Panoramic Hill Rezoning
Location:	Panoramic Hill neighborhood (generally located north of Dwight Way, south of Panoramic Place, east of the Oakland / Berkeley border, and west of Panoramic Way).
Assessors Parcel Numbers:	Various
Proposal:	Proposal to rezone 303 parcels, comprising approximately 30 acres of land in the Panoramic Hill neighborhood from R-20 / S-4 / S-18 to R-10 / S-4 / S-18.
Applicant:	City of Oakland
Owner:	Various
Planning Permits Required:	Rezoning application
General Plan:	Hillside Residential
Zoning:	R-20 Low Density Residential Zone, S-4 Design Review Recombining Zone, and S-18 Mediated Residential Design Review Recombining Zone.
Environmental Determination:	Exempt, Section 15061(b)(3), State CEQA Guidelines, proposal which will not result in a significant effect on the environment.
Historic Status:	Various
Service Delivery District:	II- North Oakland
City Council District:	1
Date Filed:	February 2, 2004
Last Date for Consideration:	N/A
Support/Opposition:	Staff has received public comments both in support and in opposition.
Status:	The Special Projects Committee reviewed the proposal and referred it to back to the Planning Commission on March 31, 2004.
Staff recommendation:	Forward to the City Council with a recommendation to approve the proposed rezoning.
For further information:	Contact case planner Heather Klein at (510) 238-3659 or hklein@oaklandnet.com.

SUMMARY

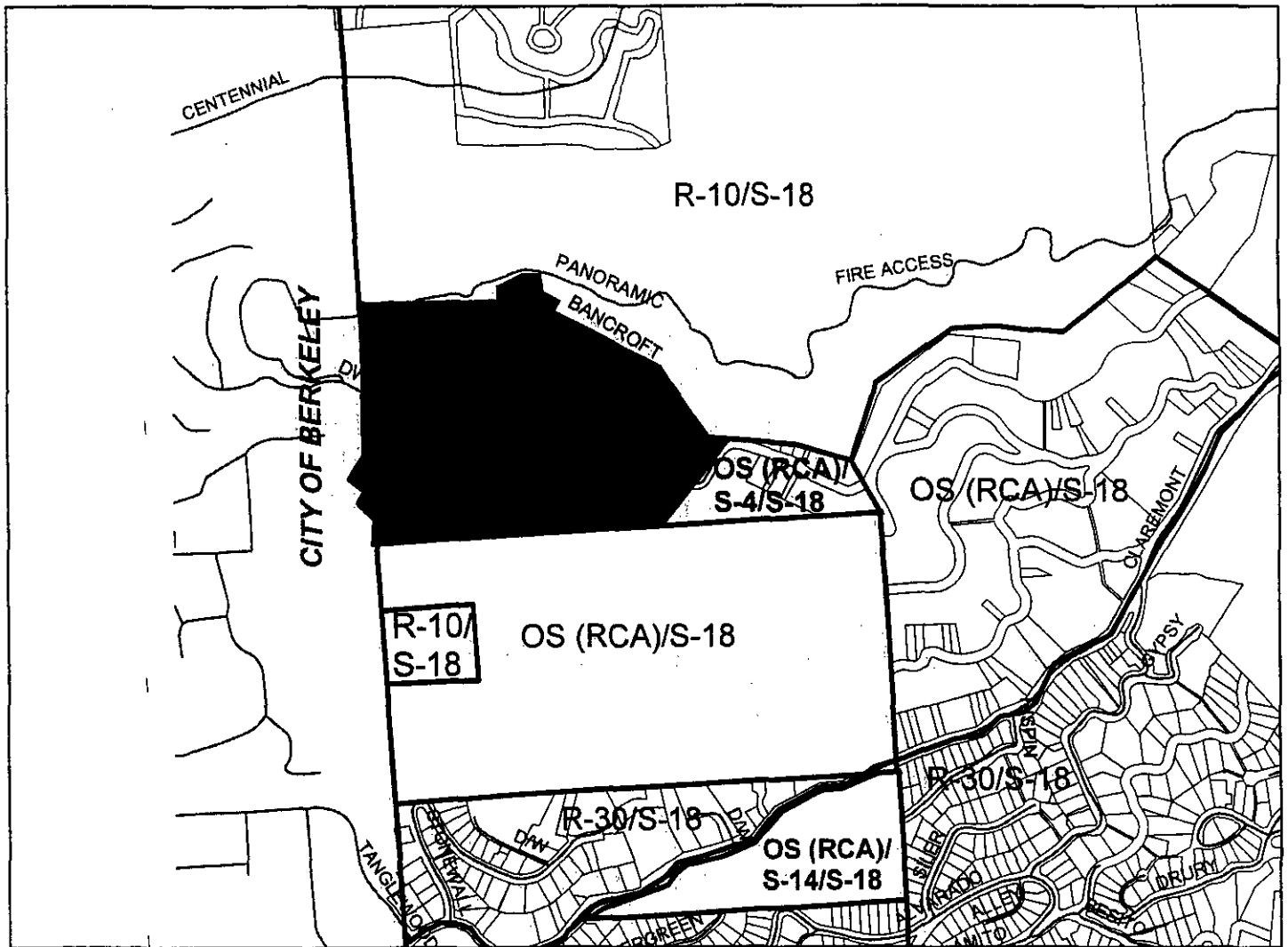
In March of 1998, the City of Oakland adopted the Land Use and Transportation Element (LUTE) of the General Plan, a document that maps the entire City's future land use development. Since then, the City of Oakland's Strategic Planning Division has begun a major revision of the Planning and Zoning regulations to make them consistent with the new General Plan. The Strategic Planning Division has identified Panoramic Hill as an area having serious issues regarding utilities, safety, access, and environmental impacts in relation to existing density regulations. In response to community concerns and City Council's direction, staff has initiated a proposal to change the zoning regulations that apply to new development for Panoramic Hill. This proposal would help to determine the number of maximum of units that could be built in this area.

On March 3, 2004, the proposal was brought before the Planning Commission. Staff received public comment letters regarding the project and several residents spoke both in support and in opposition to the rezoning. After taking public testimony, the Planning Commission asked that staff bring the proposal to the Special Projects Committee for review. The Special Projects Committee reviewed the proposal and

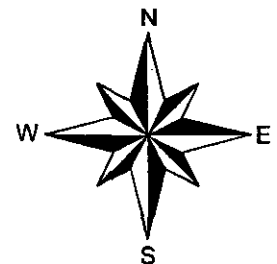
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ATTACHMENT B

CITY OF OAKLAND PLANNING COMMISSION



Case Files: RZ04-042
Applicant: City of Oakland
Address: Panoramic Hill
Zone: R-20/S-4/S-18



directed staff to include more detailed information on the emergency access and utility issues before bringing the project back before the Planning Commission.

The neighborhood generally known as Panoramic Hill consists of 303 parcels totaling approximately 30 acres of land. Currently, the area is zoned R-20 Low Density Residential / S-4 Design Review / S-18 Mediated Design Review. This zone permits one single-family dwelling on a 12,000 S.F. lot. The proposed R-10 Estate Residential / S-4 / S-18 zoning permits one single family dwelling on a 25,000 S.F. lot. The majority of the lots in this area range from 2,000 to 5,000 square feet in size, although there are larger lots that range from 10,000 to 46,000 S.F. There are only 6 lots in the project area that would be affected by the density limits of this proposed rezoning. The proposed rezoning would result in the loss of 6 potential additional dwelling units.

The proposed rezoning conforms with the General Plan policies, is consistent with the zoning of similar neighborhoods in the Oakland hills, and will not have a significant environmental impact. Staff believes that the proposed rezoning appropriately addresses both public concerns and the City's General Plan. Staff is asking that the Planning Commission review the proposal and recommend approval to City Council.

PROPERTY DESCRIPTION

The area subject to this proposed rezoning is generally located north of Dwight Way, south of Panoramic Place, east of the Oakland / Berkeley border, and west of Panoramic Way. The area is characterized by steep slopes and substandard infrastructure. The only access is via Panoramic Way, a narrow road without curb and gutter. Derby Creek runs south through the middle of the neighborhood. The area consists of approximately 303 parcels, comprising about 30 acres of land. The neighborhood consists of 58 single-family lots and 245 vacant lots, while the average lot size is between 2,000-5,000 S.F.

PROJECT BACKGROUND

Both the Open Space, Conservation, and Recreation (OSCAR) Element and the Land Use and Transportation Element (LUTE) of the General Plan contain specific policies related to the Panoramic Hill area. These policies called for the preparation of a Specific Plan (Action OS-1.3.6 and LUTE Improvement Strategies for the North/South Hills) that "would resolve access and infrastructure issues and indicate the number of maximum of units that could be built in this area."

In the late 1940's, a group of neighborhood residents formed the Panoramic Hill Association (PHA) to present information concerning traffic and parking to the City of Berkeley. These issues are still a concern to this day. In recent years, the PHA has been successful in pushing for the adoption of a special zoning district (ES-R Environmental Safety Residential) on the Berkeley side of Panoramic Hill. This designation is the most restrictive concerning development in the City of Berkeley. The PHA has had discussions with Oakland City Council staff regarding a rezoning proposal for this area, and this is the impetus for the proposal.

On February 18, 2004, Planning & Zoning staff held an informational community meeting to discuss the proposed rezoning with the neighborhood residents, and to explain the changes that would be brought about by the proposed rezoning. There was extensive public comment regarding issues in the area. Most residents were concerned that the other problems, such as utilities, emergency access, and City services would not be addressed in a timely manner. Several residents believed that instead of proceeding with the rezoning, that the OSCAR action regarding a "Specific Plan" to address issues of maximum number of units, utilities, and infrastructure *should be the first step.*

On March 3, 2004 the Planning Commission held a public hearing on the proposed rezoning. Approximately 5 neighborhood residents spoke on the matter. The majority of speakers were in favor of the proposal. The Planning Commission referred the item to the Special Projects Committee.

On March 31, 2004 the Special Projects Committee reviewed the rezoning proposal and asked staff to include more detailed information on the emergency access and utility issues.

GENERAL PLAN ANALYSIS

The proposed rezoning area is located within the Hillside Residential General Plan Land Use Classification. The Hillside Residential classification is "intended to create, maintain, and enhance neighborhood residential areas characterized by detached, single unit structures on hillside lots." Typical lot sizes range from approximately 8,000 S.F. to 1 acre in size.

ZONING ANALYSIS

The area is located within the R-20 Low Density Residential Zone / S-4 Design Review Recombining Zone / S-18 Mediated Residential Design Review Recombining Zone. The R-20 zone is "intended to create, preserve, and enhance areas for single-family dwellings at very low densities in spacious environments, and is typically appropriate to portions of the Oakland hill area" (Section 17.14.010 Oakland Planning Code).

Staff proposes rezoning the area to R-10 Estate Residential Zone / S-4 Design Review Recombining Zone / S-18 Mediated Residential Design Review Recombining Zone. The R-10 zone is "intended to create, preserve, and enhance areas for single-family estate living at very low densities in spacious environments, and is typically appropriate to portions of the Oakland hill area" (Section 17.12.010 Oakland Planning Code).

The regulations set forth under the R-20 and R-10 zones are identical with the sole exception of *minimum lot size, minimum lot width, and the front and rear yard setbacks*. This rezoning would not affect any other zoning regulations, including but not limited to lot coverage, maximum height, parking, usable open space, front yard paving, fence height, or landscaping requirements.

ENVIRONMENTAL DETERMINATION

This rezoning is considered exempt from the requirements of the California Environmental Quality Act (CEQA), based on Section 15061(B)(3) of the State CEQA Guidelines, which states that "where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA."

This rezoning would not in itself adversely affect the environment, and, on the contrary, would be more restrictive than current zoning because of the reduced maximum residential density. Therefore, it can be seen with certainty that effects on the environment would be less than under current zoning, and thus the activity is not subject to CEQA.

KEY ISSUES AND IMPACTS

Rezoning

The main impact under the proposed rezoning is its effect on the number of new housing units that could be constructed. The following table outlines the existing number of lots and lot sizes:

LOT AREA	NUMBER OF LOTS
Over 25,000 S.F.	7
25,000 S.F. – 12,000 S.F.	11
12,000 S.F. – 5,000 S.F.	54
Under 5,000 S.F.	231

Staff is proposing to rezone the neighborhood from the R-20 / S-4 / S-18 to R-10 / S-4 / S-18. The new zoning would enlarge the minimum lot size, lot width, and setback requirements thereby reducing the number of new lots that could be created. Below is table highlighting the effects the rezoning would have on the development area:

ZONING REGULATIONS	Existing	Proposed
Zoning District	R-20 / S-4 / S-18	R-10 / S-4 / S-18
Minimum Lot Size Required*	12,000 S.F.	25,000 S.F.
Existing Lots	303	303
Existing Vacant Lots	245	245
Subdividable Lots	7	1
Development Sites **	252	246
Potential New Lots (subdivided)	15	8
Potential New Units ***	260	254

Notes

* Subdivision regulations require that the size of the new lots must be the same size or larger than the median lot size of lots within 200'

** Development sites = existing vacant lots + subdividable lots

*** Potential New unit = Vacant lots + Potential new lots

**** These numbers are based on lot area alone.

If the neighborhood is rezoned to the R-10 zone, the minimum lot size will be 25,000 S.F. and the minimum lot width shall be 100 ft. Existing lots that do not meet these requirements would be considered substandard. This would be the majority of lots in this area (285 total). The rezoning does not prevent a property owner from developing an existing vacant substandard lot if it was created legally prior to the rezoning taking effect (the lot would be considered legal non-conforming or "grandfathered"). Owners of substandard lots containing existing homes would not be prevented from making modifications to their homes as long as the modifications met all the required zoning requirements.

Other Issues

The following is a discussion of additional neighborhood concerns:

- *Lack of a Specific Plan.* Although the General Plan and OSCAR call for a "Specific Plan" to address access and infrastructure issues and indicate the number of maximum of units that could be built in this area, City Council has not yet allocated funds for this analysis. Staff believes that in lieu of a specific plan that the rezoning proposal would be the first step in addressing the other issues. By indicating the maximum number of lots that could be developed, staff could more thoroughly address the utility and emergency access issues.
- *Existing Lot Sizes.* The average lot size in the area is between 2,000 and 5,000 S.F. The R-10 zone requires a maximum lot size of 25,000 S.F. Some residents feel that it doesn't make sense to rezone the neighborhood to a zone that requires lots that are larger than the majority of the existing lots. Under the new rezoning proposal 296 out of 303 parcels would become substandard. In the past, it has not been uncommon for the City to rezone hillside residential

areas with existing smaller lots to a zone that requires larger lots in order to preserve neighborhood character or reduce environmental and safety impacts.

- *Property Values.* Under the proposed regulations the required minimum lot size for new lots would increase. Therefore, 7 of the lots that are subdividable now would no longer be subdividable. Some residents are concerned that this will cause the value of these lots to decrease. Staff points out that the City regularly changes land use regulations that affect allowable densities and this in turn affects property values. Staff also points out that it is possible that some buyers would be willing to pay more for a property if the regulations were changed to restrict the amount of future development in the area.
- *Lack of utilities.* From 1967 to 1989 there was an informal understanding between both Oakland and Berkeley Mayors and Public Works Directors to pause permits for new construction. On October 13, 1984, Oakland City Council passed an ordinance prohibiting the installation of any new septic tanks systems. In 1987, Oakland and Berkeley City Councils entered into an agreement that allowed 690 Panoramic Way a connection to the Berkeley sewer pipe because the deteriorating septic tank would result in imminent failure. Through the 1990's and up to the present, the City of Oakland has received numerous inquires related to new development; however the City of Berkeley has not allowed any new connections to their sewer.

The City of Berkeley wrote a letter to the Oakland City Manager on March 31, 2004, that provided additional background information, as well as outlining the situation to date on issues such as sewer, utilities, and emergency vehicle access. The letter recommended approval of a lot merger ordinance, as well as the rezoning proposal, and stated that they were eager to meet with City of Oakland staff to discuss the long-standing issues surrounding this neighborhood. The City of Oakland responded by outlining the steps that have been taken to address the issues, thus far, and requested a meeting to begin the process of finding and implementing solutions to the long-standing problems.

Staff Involvement: The City of Oakland has scheduled a meeting with the City of Berkeley for August 12, 2004. Comments from the meeting will be reported at the Planning Commission hearing.

- *Public Safety.* The neighborhood is served by one access road, Panoramic Way, which begins in the City of Berkeley and dead ends at the top of the hill in Oakland. This road varies in width from 12 to 18 feet, is without curb or gutter, includes three hairpin turns, and accommodates traffic in both directions. Also, because of the steep lots there is inadequate off-street parking and many vehicles park along the street. According to the "Panoramic Hill Area Development and Environmental Study" dated June 1974, much of the area has parking limited to one side only, however this is rarely enforced. Both the narrowness of the road, the parking situation, and the turns create a potential risk in the event of a fire or other emergency if residents and emergency response vehicles are unable to safely navigate in and out of the neighborhood.

Possible solutions: At the community meeting, one resident mentioned that the City had purchased 2 lots for the purpose of constructing an emergency access route. Staff does not know the feasibility or the timeframe of this construction. There are also a number of fire trails, including the Jordan Trail and UC Botanical Garden Trail that could serve the Panoramic Hill area and provide secondary emergency access. Emergency access alternatives will be part of the ongoing discussions with the City of Berkeley.

Staff Involvement: After hearing public comments about the lack of timely emergency response, staff contacted several people from the Fire and Police Departments, including the Neighborhood Services Coordinator, the Beat Officer, and the dispatcher. The police dispatcher stated that any untimely emergency responses were due to incorrect maps that the dispatcher and officers were using to find the neighborhood. She suggested that we submit a new map that could be handed out to all the beat officers, the fire and EMT personnel, and included in the map books. Planning staff has initiated this task and distributed copies of the map for mark-up to the Vice-President of the PHA. Staff is awaiting the comments and marked-up maps for final revision before distribution.

CONCLUSION:

The proposed rezoning is an appropriate strategy for addressing the issues related to new development in the Panoramic Hill neighborhood. The rezoning would limit future density in the area, thereby reducing the environmental and public safety impacts. The proposed rezoning would not completely solve all the problems present in the neighborhood, but it is an appropriate first step toward that goal. The rezoning would also implement the policies of the General Plan, which call for a maximum number of units that could be built in this area.

RECOMMENDATION:

- 1) Affirm staff's environmental determination.
- 2) Recommend approval of the rezoning proposal to the City Council.
- 3) Direct staff to continue to work cooperatively with City of Berkeley staff to develop recommendations concerning utility improvements, emergency access, and other concerns of mutual interest based on preliminary outcomes of the August 12, 2004 meeting.

Prepared by:



Heather Klein
Planner II

Approved by:



CLAUDIA CAPPIO
Development Director

Attachments:

- A. List of Assessor's Parcel Numbers affected by the rezoning
- B. Public Comment Letters
- C. Letter from the City of Berkeley, dated March 31, 2004
- D. Letter from the City of Oakland, dated June 16, 2004
- E. Map distributed to the Vice-President of the Panoramic Hill Association
- F. Map showing Fire Trails.
- G. Additional Public Comments

Panoramic Hill

List of Assessor's Parcel Numbers affected by the rezoning

APN	ADDRESS	APN	ADDRESS
048H769700100	PANORAMIC WY	048H769708500	STATE PL
048H769700200	900 PANORAMIC WAY	048H769708600	STATE PL
048H769700300	PANORAMIC WY	048H769708700	PANORAMIC WY
048H769700400	PANORAMIC WY	048H769708800	PANORAMIC WY
048H769700500	PANORAMIC WY	048H769708900	PANORAMIC WY
048H769700600	PANORAMIC WY	048H769709000	PANORAMIC WY
048H769700700	PANORAMIC WY	048H769709100	PANORAMIC WY
048H769700800	PANORAMIC WY	048H769709200	PANORAMIC WY
048H769700900	PANORAMIC WY	048H769709300	PANORAMIC WY
048H769701000	PANORAMIC WY	048H769709400	PANORAMIC WY
048H769701100	PANORAMIC WY	048H769709500	PANORAMIC WY
048H769701200		048H769709600	PANORAMIC WY
048H769701300		048H769709700	PANORAMIC WY
048H769701400		048H769709800	PANORAMIC WY
048H769701500		048H769709900	PANORAMIC WY
048H769701600	PANORAMIC WY	048H769710000	PANORAMIC WY
048H769701700	PANORAMIC WY	048H769710100	PANORAMIC WY
048H769701800	PANORAMIC WY	048H769710200	PANORAMIC WY
048H769701900	PANORAMIC WY	048H769710300	PANORAMIC WY
048H769702000	PANORAMIC WY	048H769710400	PANORAMIC WY
048H769702100	PANORAMIC WY	048H769710500	PANORAMIC WY
048H769702200	PANORAMIC WY	048H769710600	PANORAMIC WY
048H769702300	PANORAMIC WY	048H769710700	PANORAMIC WY
048H769702400	PANORAMIC WY	048H769710800	PANORAMIC WY
048H769702500	PANORAMIC WY	048H769710900	PANORAMIC WY
048H769702600	PANORAMIC WY	048H769711000	PANORAMIC WY
048H769702700	PANORAMIC WY	048H769711100	PANORAMIC WY
048H769702800	PANORAMIC WY	048H769800101	929 PANORAMIC WAY
048H769702900	PANORAMIC WY	048H769800300	PANORAMIC WY
048H769703000	PANORAMIC WY	048H769800400	959 PANORAMIC WAY
048H769703100	1050 PANORAMIC WAY	048H769800500	959 PANORAMIC WAY
048H769703200	PANORAMIC WY	048H769800600	959 PANORAMIC WAY
048H769706900	STATE PL	048H769802402	1001 PANORAMIC WAY
048H769707000	STATE PL	048H769802403	999 PANORAMIC WAY
048H769707100	STATE PL	048H769802500	959 PANORAMIC WAY
048H769707200	STATE PL	048H769802600	959 PANORAMIC WAY
048H769707300	STATE PL	048H769900100	PANORAMIC WY
048H769707400	STATE PL	048H769900200	PANORAMIC WY
048H769707500	STATE PL	048H769900300	PANORAMIC WY
048H769707600	STATE PL	048H769900400	STATE PL
048H769707700	STATE PL	048H769900500	STATE PL
048H769707800	STATE PL	048H769900600	STATE PL
048H769707900	STATE PL	048H769900700	STATE PL
048H769708000	STATE PL	048H769900800	STATE PL
048H769708100	STATE PL	048H769900900	STATE PL
048H769708200	STATE PL	048H770000101	571 DWIGHT PL
048H769708300	STATE PL	048H770000301	595 DWIGHT PL
048H769708400	STATE PL	048H770000501	DWIGHT WY

048H770000701	3527 DWIGHT WAY
048H770001202	3541 DWIGHT WAY
048H770001601	3555 DWIGHT WAY
048H770001901	511 DWIGHT PL
048H770002000	DWIGHT PL
048H770002100	DWIGHT PL
048H770002200	545 DWIGHT PL
048H770002300	545 DWIGHT PL
048H770002400	545 DWIGHT PL
048H770002503	545 DWIGHT PL
048H770002801	549 DWIGHT PL
048H770003001	555 DWIGHT PL
048H7701	
048H770100100	3303 DWIGHT WAY
048H770100200	3315 DWIGHT WAY
048H770100401	3323 DWIGHT WAY
048H770100500	3333 DWIGHT WAY
048H770100600	3343 DWIGHT WAY
048H770100701	3333 DWIGHT WAY
048H770100712	3367 DWIGHT WAY
048H770100713	3343 DWIGHT WAY
048H770100804	572 DWIGHT PL
048H770101001	570 DWIGHT PL
048H770101100	564 DWIGHT PL
048H770101200	560 DWIGHT PL
048H770101300	
048H770101400	
048H770101500	
048H770101600	
048H770101700	
048H770101800	
048H770102600	DWIGHT WY
048H770102700	DWIGHT WY
048H770102800	DWIGHT WY
048H770102900	3241 DWIGHT WAY
048H770103000	DWIGHT WY
048H770103100	DWIGHT WY
048H770103200	
048H770103301	10 DWIGHT PL
048H770103501	540 DWIGHT PL
048H770104000	DWIGHT WY
048H7702	
048H7703	
048H7703	
048H770300200	
048H770300300	PANORAMIC WY
048H770300400	PANORAMIC WY
048H770300501	430 PANORAMIC WAY
048H770300800	PANORAMIC WY
048H770301100	PANORAMIC WY
048H770301200	454 PANORAMIC WAY
048H770301300	PANORAMIC WY

048H770301401	470 PANORAMIC WAY
048H770301600	PANORAMIC WY
048H770301700	PANORAMIC WY
048H770301901	
048H770302101	498 PANORAMIC WAY
048H770302200	PANORAMIC WY
048H770302300	
048H770302400	
048H770302500	
048H770302600	
048H770302700	
048H770302800	PANORAMIC WY
048H770302900	PANORAMIC WY
048H770303000	PANORAMIC WY
048H770303100	PANORAMIC WY
048H770303200	PANORAMIC WY
048H770303300	PANORAMIC WY
048H770303802	PANORAMIC WY
048H770303803	PANORAMIC WY
048H770303803	PANORAMIC WY
048H770303900	PANORAMIC WY
048H770304001	604 PANORAMIC WAY
048H770304301	622 PANORAMIC WAY
048H770304600	PANORAMIC WY
048H770305101	650 PANORAMIC WAY
048H770305400	PANORAMIC WY
048H770305500	PANORAMIC WY
048H770305600	PANORAMIC WY
048H770305700	PANORAMIC WY
048H770305800	PANORAMIC WY
048H770306202	690 PANORAMIC WAY
048H770306202	690 PANORAMIC WAY
048H770306501	3560 DWIGHT WAY
048H770306903	PANORAMIC WY
048H770306904	3514 DWIGHT WAY
048H770307601	3456 DWIGHT WAY
048H770308000	3450 DWIGHT WAY
048H770308101	3444 DWIGHT WAY
048H770308101	3444 DWIGHT WAY
048H770308300	3434 DWIGHT WAY
048H770308401	3420 DWIGHT WAY
048H770308401	3420 DWIGHT WAY
048H770308504	3400 DWIGHT WAY
048H770308601	3390 DWIGHT WAY
048H770309000	3382 DWIGHT WAY
048H770309601	3360 DWIGHT WAY
048H770309700	DWIGHT WY
048H770309800	DWIGHT WY
048H770309900	DWIGHT WY
048H770310001	3326 DWIGHT WAY
048H770311000	630 PANORAMIC WAY
048H770311100	640 PANORAMIC WAY

MPW

NOTICE AND DIGEST

PUBLIC HEARING AND ORDINANCE TO REZONE THE PANORAMIC HILL NEIGHBORHOOD, COMPRISING APPROXIMATELY 30 ACRES OF LAND, IN AN AREA GENERALLY LOCATED NORTH OF DWIGHT WAY, SOUTH OF PANORAMIC PLACE, EAST OF THE OAKLAND BERKELEY BORDER, AND WEST OF PANORAMIC WAY, FROM THE R-20 LOW DENSITY RESIDENTIAL ZONE / S-4 DESIGN REVIEW COMBINING ZONE AND S-18 MEDIATED RESIDENTIAL DESIGN REVIEW COMBINING ZONE TO R-10 ESTATE RESIDENTIAL ZONE / S-4 DESIGN REVIEW COMBINING ZONE AND S-18 MEDIATED RESIDENTIAL DESIGN REVIEW COMBINING ZONE (CASE FILE NUMBER RZ04-042)

This ordinance rezones the Panoramic Hill neighborhood by increasing the minimum lot size, the minimum lot width, the building setbacks, and the maximum lot coverage requirements.