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THE CITY CLERK
OAKLAND

CITY OF OAKLAND

AGENDA/REPORT

2004 OCT 14 PM 5:47

TO: Office of the City Administrator
ATTN: Deborah Edgerly
FROM: Community & Economic Development Agency
DATE: October 26, 2004
RE: **ORDINANCE TO AMEND THE OAKLAND PLANNING CODE TO REZONE APPROXIMATELY 423 PARCELS, COMPRISING APPROXIMATELY 121 ACRES OF LAND, IN AN AREA GENERALLY BOUNDED BY JOAQUIN MILLER ROAD AND PARK TO THE NORTH, HOLY NAMES COLLEGE AND HIGHWAY 13 TO THE SOUTH AND WEST, AND CRESTMONT DRIVE TO THE EAST, AND COMMONLY REFERRED TO AS THE BUTTERS CANYON NEIGHBORHOOD, FROM THE R-30 ONE-FAMILY RESIDENTIAL ZONE TO THE R-20 LOW DENSITY RESIDENTIAL ZONE (CASE FILE NUMBER RZ04-043)**

SUMMARY

The Butters Canyon neighborhood in the Oakland Hills is an area characterized by steep hills, creeks, and narrow winding roads. There are a number of large lots that have the potential to be subdivided into multiple lots and developed with new homes. A number of neighborhood residents are concerned about the impact of this potential new development on the safety and character of the neighborhood.

In response to concerns from neighborhood residents, in January 2002 the City Council passed a resolution directing the City Planning Commission to study the possibility of rezoning the neighborhood to address these issues. On June 16, 2004, the Planning Commission voted to recommend to the City Council that the neighborhood be rezoned from the R-30 One-Family Residential Zone to the R-20 Low Density Residential Zone. The new zoning would increase the minimum required lot area from 5,000 square feet to 12,000 square feet and increase the minimum required lot width from 45 feet to 90 feet. Approximately 16 lots that could be potentially subdivided under the existing zoning would no longer be able to be subdivided under the new zoning. Overall, the new zoning would reduce the potential future residential density of the area by approximately 22 units. Reducing the number of allowable new units would reduce the potential impact of new development on the safety and character of the neighborhood.

The majority of neighborhood residents appear to support the proposed rezoning. During the Planning Commission's review of the proposal, some neighborhood residents expressed concerns regarding the proposed rezoning. These concerns primarily centered around the effect of the new zoning on property values and the legal status of existing lots less than 12,000 square feet in size. It is possible that the proposed rezoning would reduce the value of properties that are currently subdividable but would no longer be subdividable under the new zoning. The City regularly adjusts land use regulations that affect allowable development densities which in turn

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affects property values. Property values are generally considered “willingness to pay” (meaning that the value of the property is the amount of money a buyer is willing to pay to purchase the lot). It is possible that some buyers would be willing to pay more for a property since the rezoning would restrict the amount of future development in the area.

Existing lots less than 12,000 square feet in size would be considered “legally nonconforming” under the new zoning. The rezoning will not prevent a property owner from developing an existing vacant substandard lot if it was created legally prior to the rezoning taking effect as long as the proposed development complies with all other applicable zoning standards. Owners of substandard lots containing existing homes would not be prevented from making modifications to their homes as long as the modifications met all zoning requirements.

FISCAL IMPACT

The proposed rezoning would limit the number of potential new homes that could be built in the area. Limiting the potential number of new homes 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 maintenance costs).

BACKGROUND

In 2001 the Friends of the Last Wild Canyon, a community group comprised of Butters Canyon residents, submitted a request to the City Council requesting that the City initiate a process to rezone the Butters Canyon neighborhood. In January 2002 the City Council passed a resolution directing the Planning Commission to study the possibility of rezoning the area.

Beginning in February 2004, a community meeting and a series of public hearings before the Planning Commission were held to discuss the proposed rezoning. Neighborhood residents and property owners were notified of the community meeting and the subsequent public hearings. The community meeting, held on February 24, 2004, was attended by approximately 80 people.

Following the community meeting, the Planning Commission held three public hearings on the proposed rezoning. At each hearing the majority of speakers spoke in favor of the proposal.

At the last hearing, on June 16, 2004, the Planning Commission voted to recommend to the City Council that the area be rezoned. At this hearing, no neighborhood residents or property owners spoke in opposition to the proposal.

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KEY ISSUES AND IMPACTS

Neighborhood Description

The Butters Canyon neighborhood is generally bounded by Joaquin Miller Road and Park to the north, Holy Names College and Highway 13 to the south and west, and Crestmont Drive to the east. Peralta Creek runs through the northern portion of the site between Butters Drive and Robinson Drive. A tributary of Lion Creek runs along the southeast boundary of the area between Robinson Drive and Crestmont Drive. The area is characterized by steep slopes and winding narrow roads.

The area contains approximately 423 parcels, comprising approximately 121 acres. The area is primarily developed with single-family homes. Approximately 83 percent of the existing lots are developed. Existing lots range in size from 4,356 square feet to 131,987 square feet. The median lot size in the area is approximately 10,500 square feet.

Neighborhood Issues

The proposed rezoning is intended to address the following key issues and impacts related to new development in the Butters Canyon neighborhood:

- **Neighborhood Character** – The existing character of the neighborhood is a low-density residential neighborhood in a natural setting. The area is hilly with narrow, winding roads and steep slopes. Approximately 51 large lots in the area could be potentially subdivided into smaller lots and developed with new homes. There is concern among some residents that these new homes would increase the density of the area thereby adversely affecting the low-density character of the neighborhood.
- **Creek Protection** – There is one major creek that traverses the neighborhood—Peralta Creek—and a minor creek in the area—a tributary to Lion Creek. The area surrounding a portion of Peralta Creek near Butters Drive is largely undeveloped and undisturbed. The Butters Land Trust, a non-profit land conservation trust affiliated with the Friends of the Last Wild Canyon, has acquired title to some of the parcels located along the Peralta Creek corridor. Approximately 16 lots along the corridor are large and potentially subdividable under current zoning regulations. There is concern among some residents that subdivision and development of these lots would impact the water quality and riparian habitat of the creek and disturb the character of the creek corridor.
- **Public Safety** – The existing roads in the neighborhood are primarily narrow, winding, hillside streets. In many areas of the neighborhood, cars are parked along the roadway thereby further reducing the travel width of the roadway. These circumstances 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. Many

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residents are concerned that the additional development in the area will further exacerbate this problem by introducing additional residents and vehicles into the neighborhood.

POLICY DESCRIPTION

Rezoning Proposal

The proposed rezoning would change the zoning of the area from the R-30 One-Family Residential Zone to the R-20 Low Density Residential Zone. The new zoning would increase the minimum lot area and lot width requirements thereby reducing the number of new lots that may be created. Below is a table highlighting the effects the rezoning would have on development potential in the area.

	<i>Existing</i>	<i>Proposed</i>
Zoning District	R-30 Zone	R-20 Zone
Minimum Lot Size Required*	5,000 sq. ft.	12,000 sq. ft.
Minimum Lot Width Required	45 ft.	90 ft.
Existing Lots	423	423
Existing Vacant Lots	52	52
Subdividable Lots	51	35 (-31%)
Potential New Lots (subdivided)	101	79 (-22%)
Potential New Units	153	131 (-14%)

Note

* 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.

Rezoning Area

The area proposed for rezoning is indicated on Attachment A. During the Planning Commission's review of the proposed rezoning, some neighborhood residents suggested that the area under consideration should be limited to the canyon area surrounding Peralta Creek. The Planning Commission decided to include the larger neighborhood in the proposal because issues related to neighborhood character and public safety affect the entire neighborhood, not just the Peralta Creek canyon area. The design of the road system, with only limited points of entry into and out of the neighborhood, creates a situation where residents driving or walking in the neighborhood circulate through much of the area so that over time the larger neighborhood plays an important role in the daily lives of residents. Lots located on Crockett Place, Hedge Court, and the north side of Crane Way are not included in the rezoning area. Lots on these three streets tend to be smaller in size and are more reflective of conventional subdivisions. Furthermore, the street pattern largely separates these streets from the other streets in the neighborhood. The lots located on the south side of Crane Way are included in the study area because there are a number of large lots on that side of the street that extend to Butters Drive and Peralta Creek. A large

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City-owned parcel, zoned Open Space (Resource Conservation Area), located on Joaquin Miller Road near Butters Drive was also excluded from the area under consideration because it is designated as open space in the Open Space Conservation and Recreation Element of the Oakland General Plan.

General Plan Conformity

The Butters Canyon neighborhood falls under the Hillside Residential land use classification of the Oakland General Plan. Areas designated as Hillside Residential are characterized by detached, single-unit structures on hillside lots. Policy N7.3 of the General Plan states that at least 8,000 square feet of lot area per dwelling unit should be required when land in hillside areas is subdivided into new lots.

Concerns from Neighborhood Residents Regarding the Proposal

During the review of the rezoning proposal, neighborhood residents raised some concerns regarding the proposal. These concerns are identified and addressed in detail in the June 16, 2004, Planning Commission staff report (see Attachment C). At the final Planning Commission hearing, no one from the community spoke in opposition to the proposal.

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.

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. Therefore the proposed rezoning complies with the provisions of Government Code Section 65863.

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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 safety and character of the neighborhood. Preserving the safety and unique character of the neighborhood would provide a high quality of life for current residents while attracting new residents, employees, and employers to the City.

Environmental: The rezoning would limit the number of new homes that could be built in creekside areas thereby better protecting the fragile ecosystems of the creek corridors.

Social Equity: The rezoning would preserve the unique natural character of the neighborhood 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 that the City Council adopt the proposed rezoning for the following reasons:

1. **Neighborhood Character** – The proposed rezoning would better preserve the existing low-density residential character of the neighborhood.
2. **Creek Protection** – The proposed rezoning would limit the number of new homes that could be built in creekside areas thereby better protecting creeks.
3. **Public Safety** – The proposed rezoning would prevent existing deficiencies in the road system from further exacerbating to the extent that they would under the existing zoning.
4. **General Plan Implementation** – The proposed rezoning would increase the minimum required lot size to implement the policies of the General Plan.

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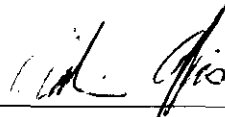
Community and Economic Development Committee

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ACTION REQUESTED OF THE CITY COUNCIL

The City Planning Commission recommends that the City Council adopt the attached ordinance to amend the Oakland Planning Code to rezone approximately 423 parcels, comprising approximately 121 acres of land, in an area generally bounded by Joaquin Miller Road and Park to the north, Holy Names College and Highway 13 to the south and west, and Crestmont Drive to the east, and commonly referred to as the Butters Canyon neighborhood, from the R-30 One-Family Residential Zone to the R-20 Low Density Residential Zone

Respectfully submitted,



CLAUDIA CAPPIO

Development Director

Community & Economic Development Agency

Reviewed by:

Gary Patton, Deputy Director of Planning
Planning & Zoning Division

Prepared by:

Darin Ranelletti, Planner II
Planning & Zoning Division

APPROVED AND FORWARDED TO THE
COMMUNITY AND ECONOMIC DEVELOPMENT COMMITTEE:



DEBORAH EDGERLY

OFFICE OF THE CITY ADMINISTRATOR

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ATTACHMENTS:

- A. Map of Proposed Rezoning Area
- B. Draft Ordinance
- C. Planning Commission Staff Report (Dated June 16, 2004)
 - Planning Commission Staff Report Attachment:*
 - (A) Properties Located in the Proposed Rezoning Area (Listed by Assessor's Parcel Number)

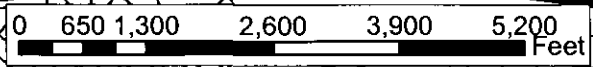
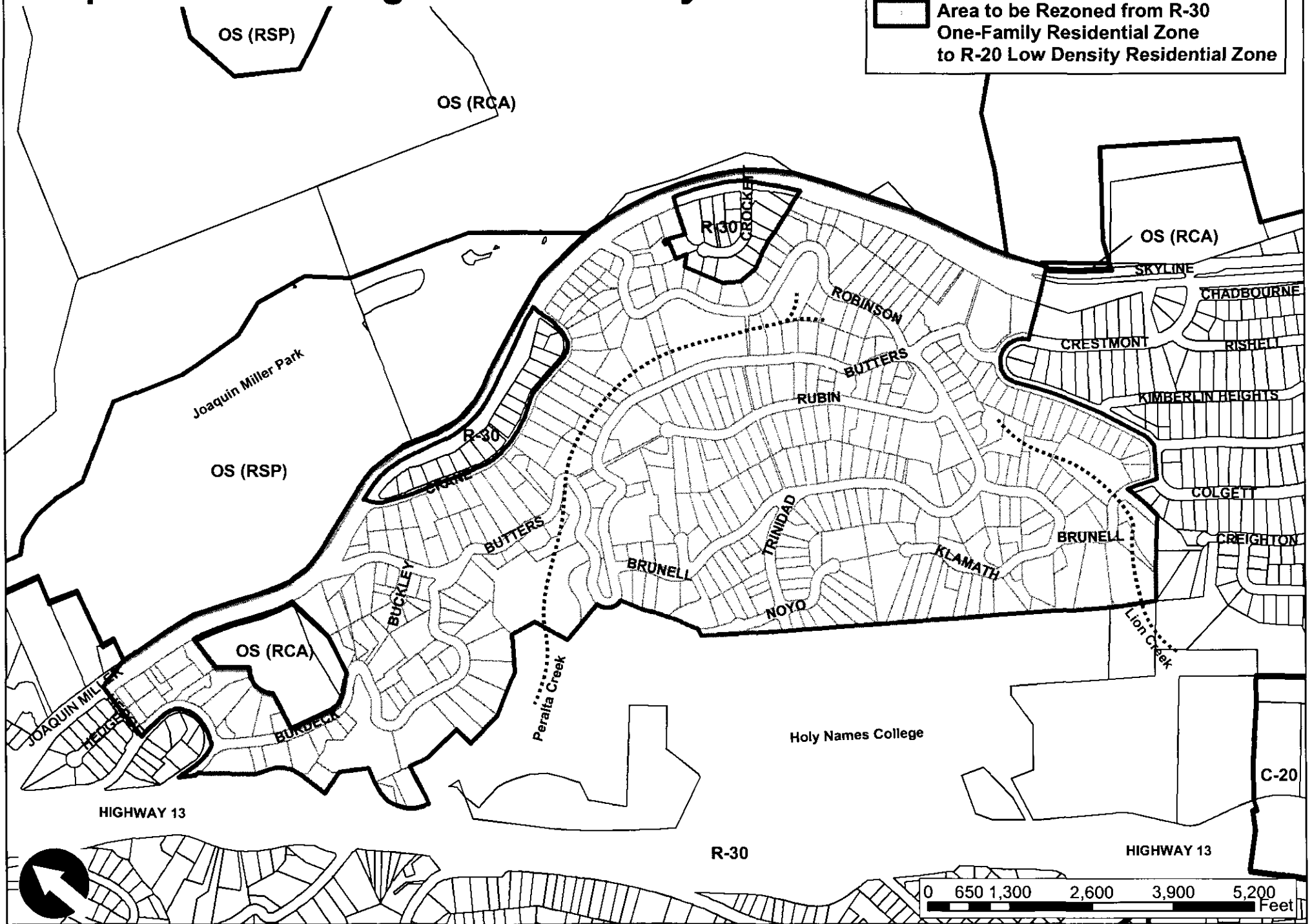
ATTACHMENT A

Map of Proposed Rezoning Area

Proposed Rezoning - Butters Canyon

Parcels

Area to be Rezoned from R-30 One-Family Residential Zone to R-20 Low Density Residential Zone



ATTACHMENT B

Draft Ordinance

MPW

NOTICE AND DIGEST

AN ORDINANCE TO AMEND THE OAKLAND PLANNING CODE TO REZONE APPROXIMATELY 423 PARCELS, COMPRISING APPROXIMATELY 121 ACRES OF LAND, IN AN AREA GENERALLY BOUNDED BY JOAQUIN MILLER ROAD AND PARK TO THE NORTH, HOLY NAMES COLLEGE AND HIGHWAY 13 TO THE SOUTH AND WEST, AND CRESTMONT DRIVE TO THE EAST, AND COMMONLY REFERRED TO AS THE BUTTERS CANYON NEIGHBORHOOD, FROM THE R-30 ONE-FAMILY RESIDENTIAL ZONE TO THE R-20 LOW DENSITY RESIDENTIAL ZONE.

This ordinance increases the minimum required lot area from 5,000 square feet to 12,000 square feet and increases the minimum required lot width from 45 feet to 90 feet.

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INTRODUCED BY COUNCILMEMBER _____

APPROVED AS TO FORM AND LEGALITY

Mark P. Wald
CITY ATTORNEY

ORDINANCE NO. _____ C.M.S.

AN ORDINANCE TO AMEND THE OAKLAND PLANNING CODE TO REZONE APPROXIMATELY 423 PARCELS, COMPRISING APPROXIMATELY 121 ACRES OF LAND, IN AN AREA GENERALLY BOUNDED BY JOAQUIN MILLER ROAD AND PARK TO THE NORTH, HOLY NAMES COLLEGE AND HIGHWAY 13 TO THE SOUTH AND WEST, AND CRESTMONT DRIVE TO THE EAST, AND COMMONLY REFERRED TO AS THE BUTTERS CANYON NEIGHBORHOOD, FROM THE R-30 ONE-FAMILY RESIDENTIAL ZONE TO THE R-20 LOW DENSITY RESIDENTIAL ZONE.

WHEREAS, in 2001, in response to concerns regarding the impact of new development on the safety and character of the Butters Canyon neighborhood, a group of Butters Canyon neighborhood residents submitted a request to the City Council to rezone the neighborhood; and

WHEREAS, in January 2002, the City Council passed a resolution directing the City Planning Commission to study the possibility of rezoning the Butters Canyon neighborhood; and

WHEREAS, on February 24, 2004, a community meeting was held to discuss the land use and development issues affecting the Butters Canyon 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 June 16, 2004, a duly noticed public hearing was again held on this matter by the City Planning Commission at which hearing the City Planning Commission voted to recommend amending the Oakland Planning Code to rezone the Butters Canyon neighborhood from the R-30 One-Family Residential Zone to the R-20 Low Density Residential Zone as set forth below; and

WHEREAS, said amendment to the Oakland Planning Code is exempt from the environmental review requirements of the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the State CEQA Guidelines because the amendment would reduce future development in the area; and

WHEREAS, the City Council finds and determines that said amendment is consistent with the goals and policies of the Oakland General Plan; and

WHEREAS, the City Council finds and determines that the public safety, health, convenience, comfort, prosperity, and general welfare will be furthered by said amendment; 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.

SECTION 3. The designation and location of zones and zone boundaries on section maps 211, 212, 228, and 229 in Chapter 17.154 of the Oakland Planning Code are hereby amended as indicated in Exhibit A.

SECTION 4. This Ordinance shall be effective upon adoption, subject to the provisions of Section 216 of the Charter of the City of Oakland, but shall not apply to permits already issued or to zoning applications approved by the City for which permits have not been issued.

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, _____, 2004

PASSED BY THE FOLLOWING VOTE:

AYES-

NOES-

ABSENT-

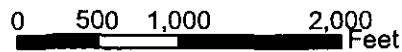
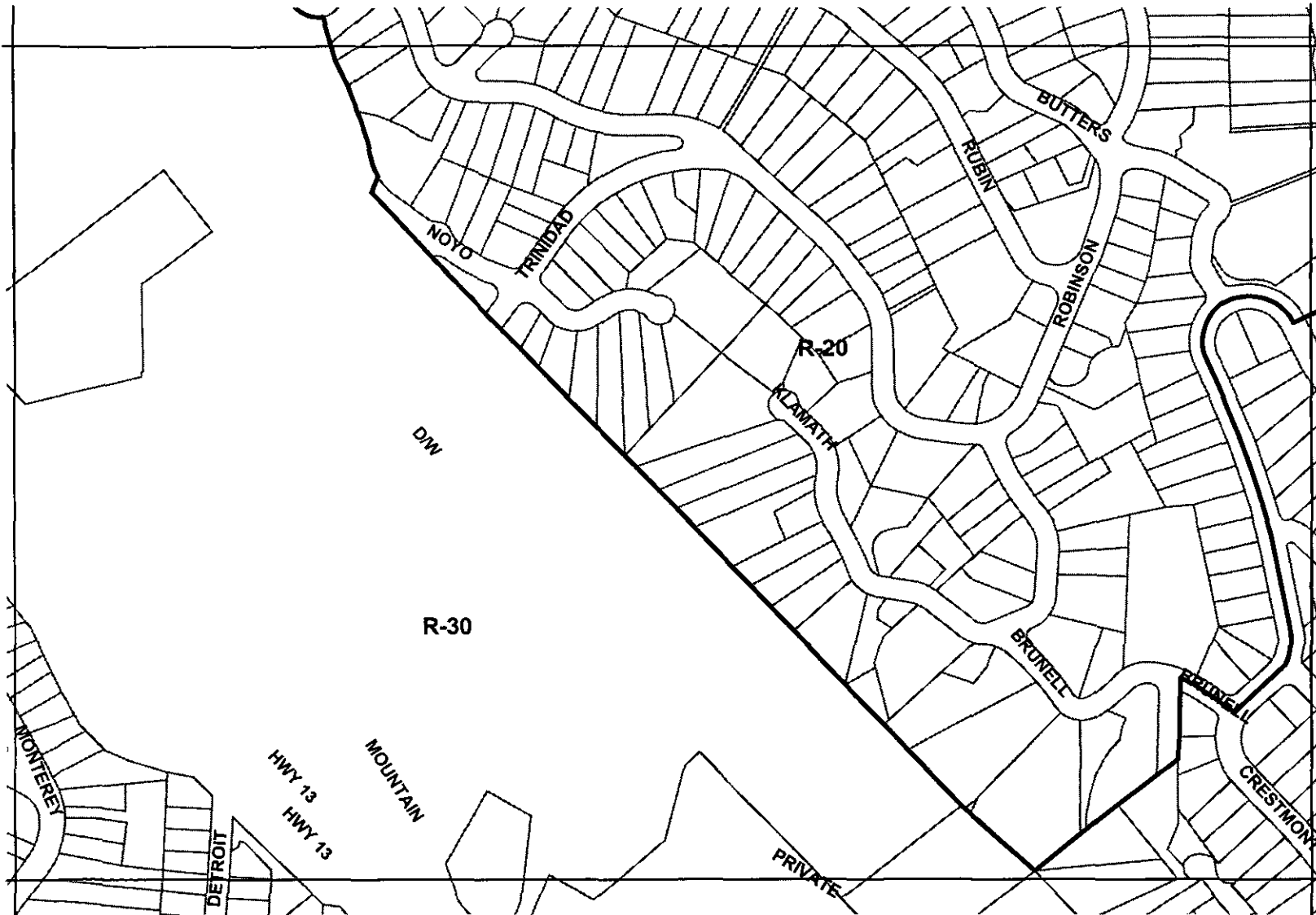
ABSTENTION-

ATTEST: _____

CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California

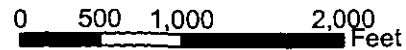
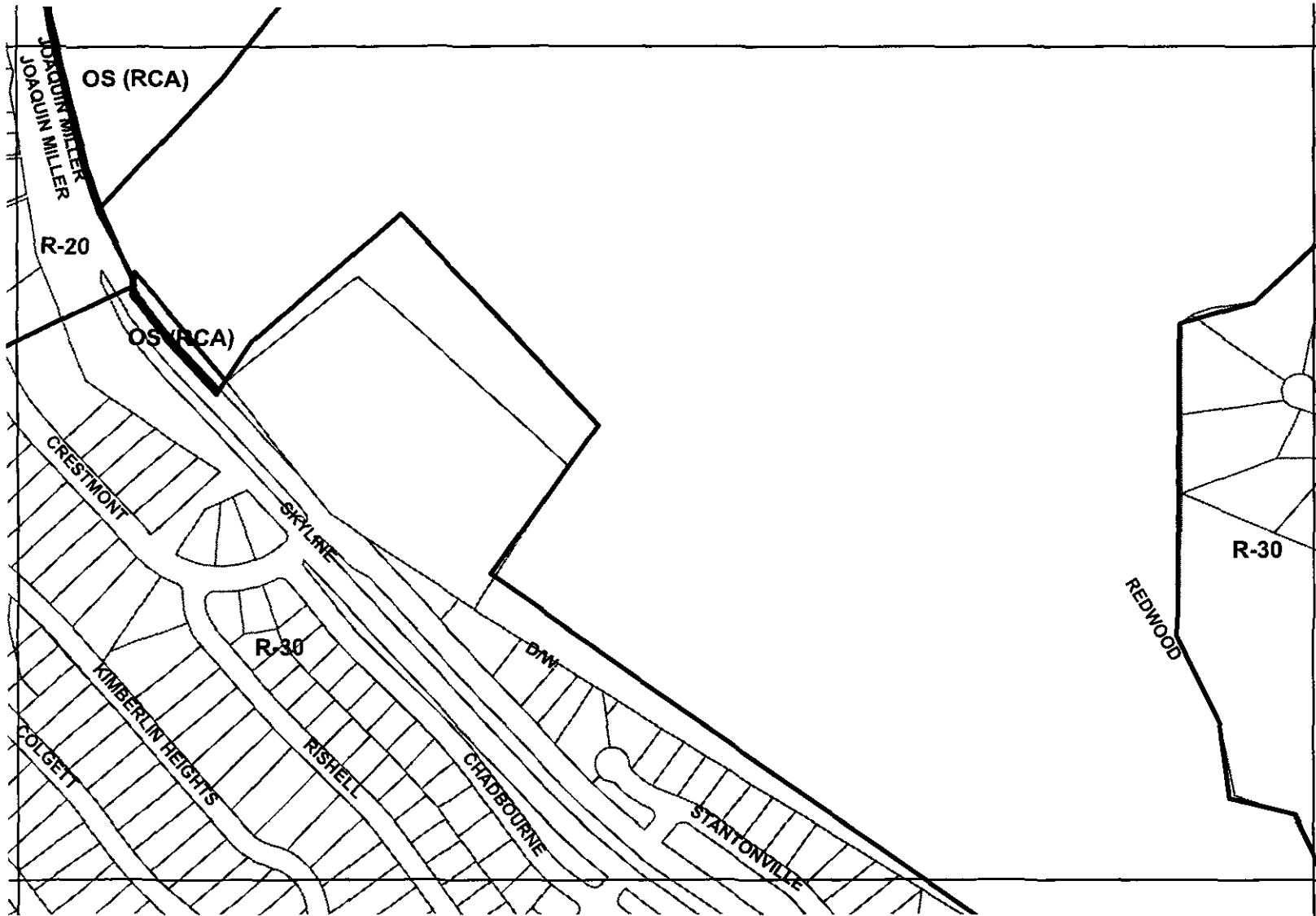
City of Oakland Zoning Map

211



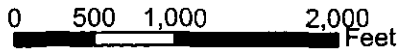
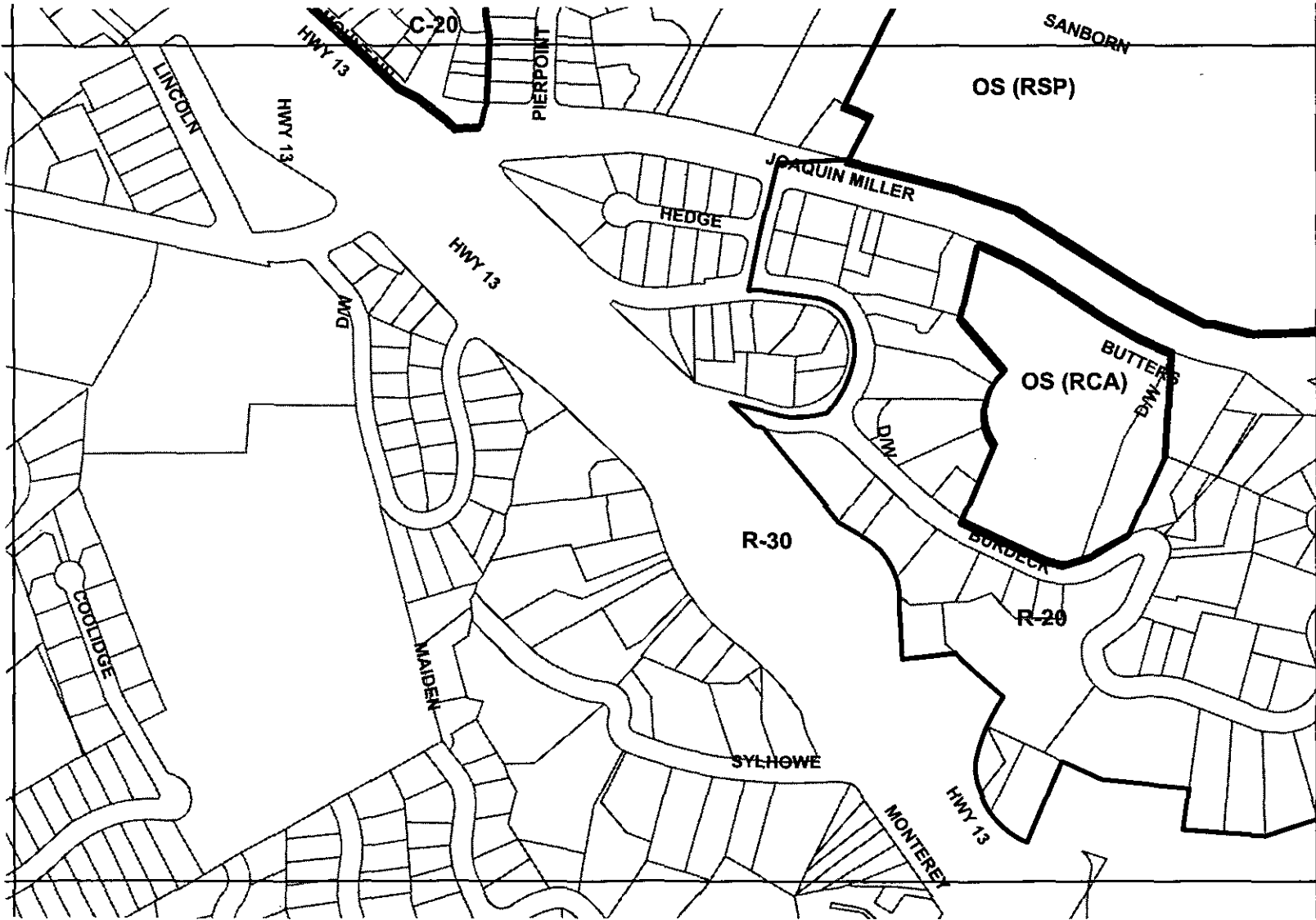
City of Oakland Zoning Map

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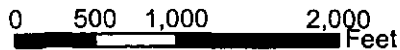
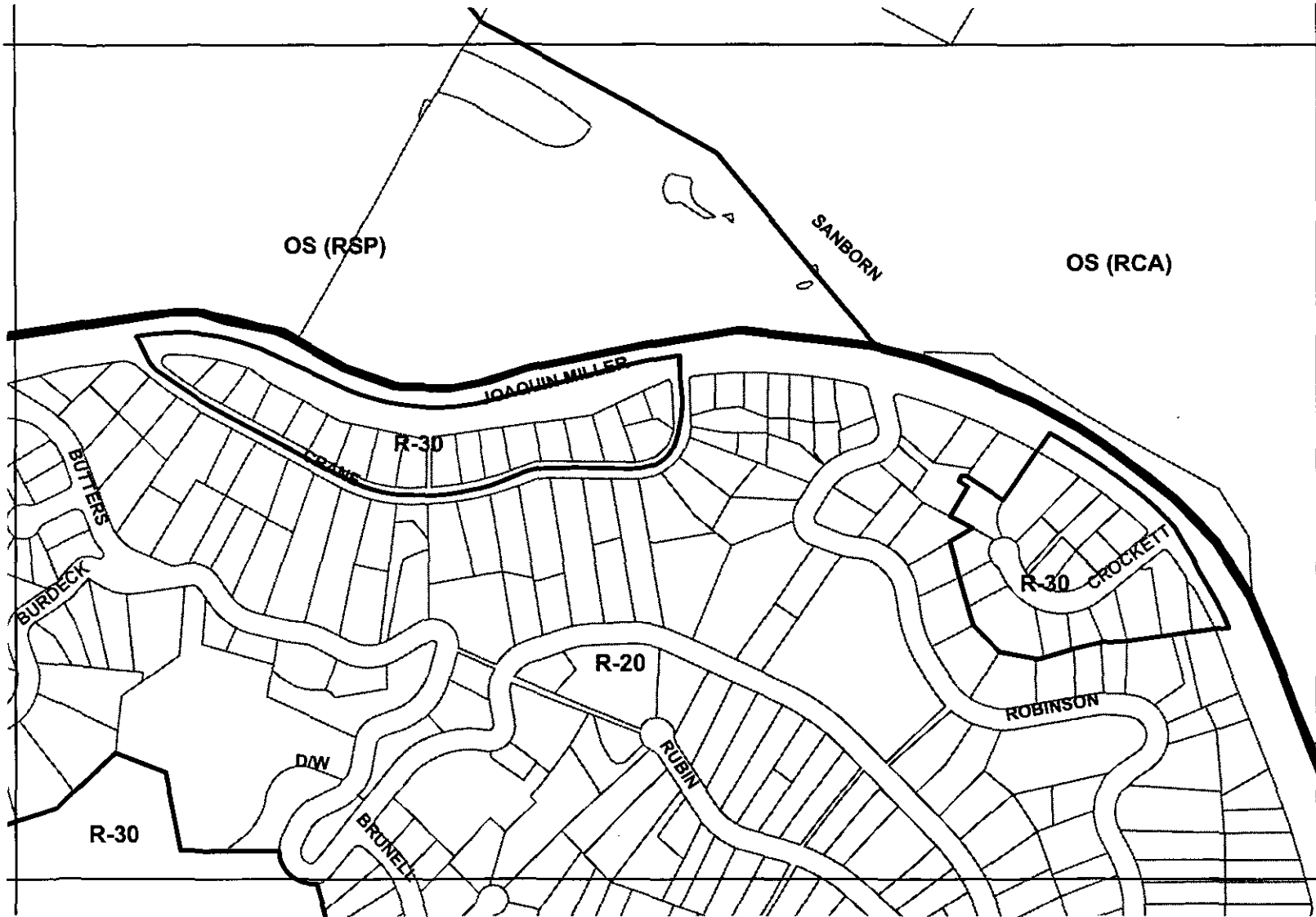
City of Oakland Zoning Map

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City of Oakland Zoning Map

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ATTACHMENT C

Planning Commission Staff Report (Date June 16, 2004)

Location:	Butters Canyon neighborhood (area generally bounded by Joaquin Miller Road/Park to the north, Holy Names College and Highway 13 to the south and west, and Crestmont Drive to the east) (See map on reverse)
Assessors Parcel Numbers:	Various
Proposal:	Rezone from the R-30 One-Family Residential Zone to the R-20 Low Density residential Zone
Applicant:	City of Oakland
Owners:	Various
Planning Permits Required:	Rezone
General Plan:	Hillside Residential
Zoning:	R-30 One Family Residential Zone
Environmental Determination:	Exempt, Section 15061(b)(3), State CEQA Guidelines, projects which will not result in a significant effect on the environment.
Historic Status:	Various
Service Delivery District:	IV – South Hills
City Council District:	4
Status:	The Special Projects Committee reviewed the proposal on March 31, 2004 and forwarded the matter to the Planning Commission.
Action to be Taken:	Recommendation to the City Council
For Further Information:	Contact case planner Darin Ranelletti, Planner II , at 510-238-3663.

SUMMARY

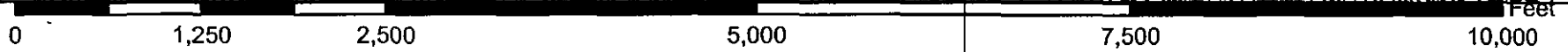
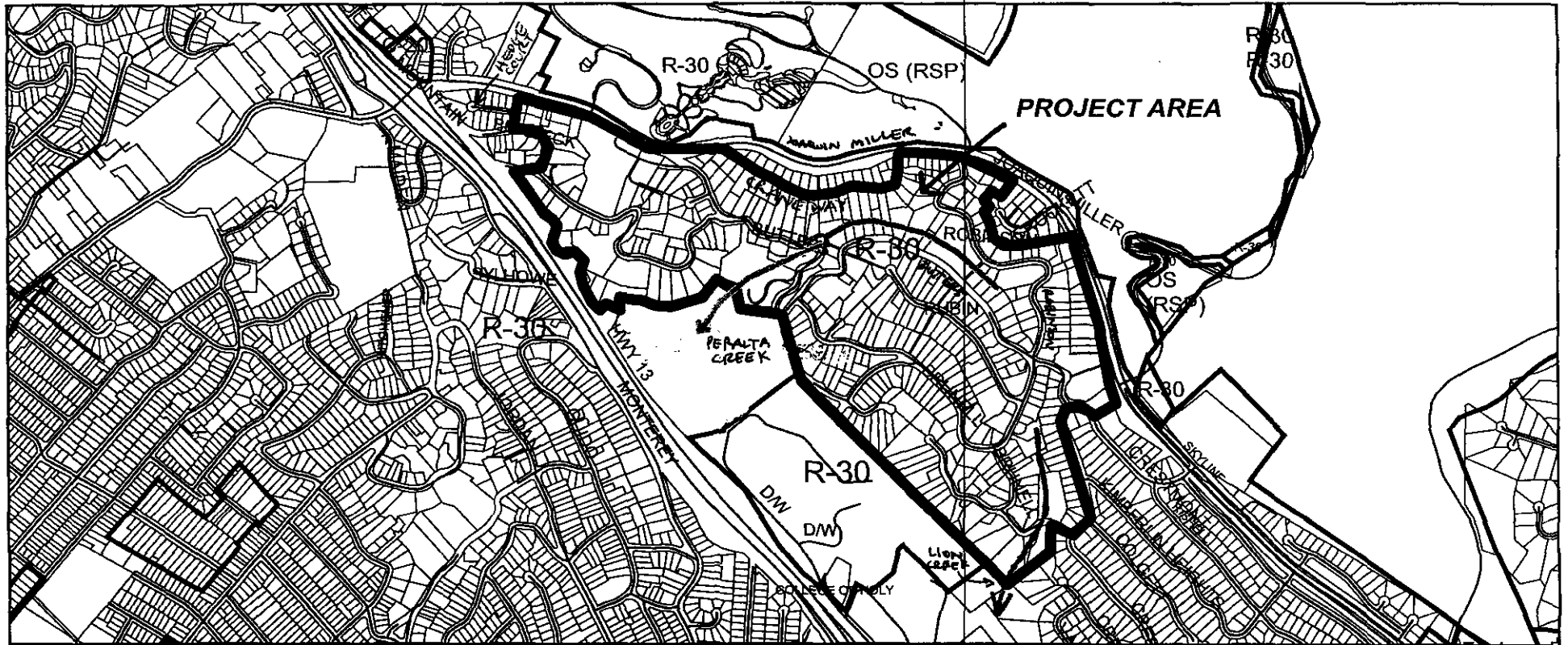
In response to concerns from residents of the Butters Canyon neighborhood regarding the impact of new development on the safety and character of the neighborhood, in January 2002 the Oakland City Council directed the City Planning Commission to initiate a study to examine the possibility of rezoning the neighborhood to address these issues. Staff proposes to rezone the area from the R-30 One-Family Residential Zone to the R-20 Low Density Residential Zone. A public hearing before the Planning Commission was held on this matter on March 3, 2004. At that hearing the Commission referred the matter to the Special Projects Committee for further review. The Special Projects Committee reviewed the matter on March 31, 2004. The Committee referred the item back to the full Planning Commission for a recommendation to the City Council.

PROPERTY DESCRIPTION

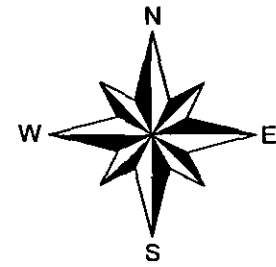
The Butters Canyon neighborhood is generally bounded by Joaquin Miller Road/Park to the north, Holy Names College and Highway 13 to the south and west, and Crestmont Drive to the east. Peralta Creek runs through the northern portion of the site between Butters Drive and Robinson Drive. A tributary of Lion Creek runs along the southeast boundary of the area between Robinson Drive and Crestmont Drive. The site is characterized by steep slopes and winding narrow roads.

The area contains 423 parcels, covering approximately 121 acres. The area is primarily developed with single-family homes. Approximately 83 percent of the existing lots are developed. Existing lots range in

CITY OF OAKLAND PLANNING COMMISSION



Case File: RZ04-043
Applicant: City of Oakland
Address: Butters Canyon Re-Zone
Zone: R-30



size from 4,356 square feet to 131,987 square feet. The median lot size is approximately 10,500 square feet.

GENERAL PLAN ANALYSIS

The entire area is designated Hillside Residential by the Oakland General Plan. The Hillside Residential designation is intended to create, maintain, and enhance neighborhood residential areas that are characterized by detached, single-unit structures on hillside lots. The General Plan states that at least 8,000 square feet of lot area per dwelling unit should be required when land in Hillside Residential areas is subdivided.

ZONING ANALYSIS

The area is currently in the R-30 One-Family Residential Zone. The Oakland Planning Code states that the R-30 Zone is intended to create, preserve, and enhance areas for single-family dwellings in desirable settings for urban living, and is typically appropriate to already developed lower density dwelling areas of the city. New lots in the R-30 Zone must have a minimum lot area of 5,000 square feet and a minimum lot width of 45 feet.

Staff proposes rezoning the area to the R-20 Low Density Residential Zone. The Planning Code states that the R-20 Zone is intended to create, preserve, and enhance areas for single-family dwellings at low densities in spacious environments, and is typically appropriate to portions of the Oakland Hills. Lots in the R-20 Zone must have a minimum lot area of 12,000 square feet and a minimum lot width of 90 feet. For new subdivisions, any individual lot within the subdivision may have a minimum lot area of 10,000 square feet and lot width of 75 feet as long as the average lot area of all lots in the subdivision is at least 12,000 square feet and the average lot width of all lots is at least 90 feet.

ENVIRONMENTAL DETERMINATION

The proposed 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." The rezoning would reduce the allowed density in the area, therefore the potential environmental impact of new development would be less than the current zoning.

KEY ISSUES AND IMPACTS

Background

In 2001 the Friends of the Last Wild Canyon, a community group comprised of Butters Canyon residents, submitted a request to the Oakland City Council requesting that the City initiate a process to rezone the Butters Canyon neighborhood. In January 2002 the Oakland City Council adopted a resolution directing the Planning Commission to study the possibility of rezoning the area.

Neighborhood Issues

Staff has identified the following key issues related to development in the neighborhood:

- **Neighborhood Character** – The existing character of the area is a hillside low-density residential neighborhood with narrow, winding roads and steep slopes. There are a number of

large, undeveloped lots in the area that could be potentially subdivided into smaller lots and developed with new homes. There is concern among some residents that these new homes would increase the density of the area thereby adversely affecting the low-density character of the neighborhood.

- **Creek Protection** – There is one major creek that traverses the neighborhood—Peralta Creek—and a minor creek in the area—a tributary to Lion Creek. The area surrounding a portion of Peralta Creek near Butters Drive, commonly referred to as Butters Canyon, is largely undeveloped and undisturbed. The Butters Land Trust, a non-profit land conservation trust affiliated with the Friends of the Last Wild Canyon, has acquired title to some of the parcels located along the Peralta Creek corridor. A number of the lots along the corridor are large and potentially subdividable under current zoning regulations. There is concern among some residents that subdivision and development of these lots would impact the water quality and riparian habitat of the creek and disturb the character of the creek corridor.
- **Public Review of New Development** – Under the existing R-30 Zone regulations, new single-family homes in the neighborhood are subject to the requirements of the Special Residential Design Review (New Construction Checklist) procedure. Under this process there is no public notification of proposed development and there is no consideration given to the impact new homes may have on adjacent lots or the character of the neighborhood. Some residents of the neighborhood are seeking a greater role in reviewing proposed new development so that new homes “fit in” with the character of the neighborhood and result in fewer impacts to adjacent properties.
- **Public Safety** – The existing roads in the neighborhood are primarily narrow, windy, hillside streets. In many areas of the neighborhood, cars are parked along the roadway thereby further reducing the travel width of the roadway. These circumstances 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. Many residents are concerned that the additional development in the area will further exacerbate this problem by introducing additional residents and vehicles into the neighborhood.

Rezoning Proposal

In order to address the issues identified above, staff is proposing to rezone the neighborhood from the R-30 Zone to the R-20 Zone. The new zoning would enlarge the minimum lot area and width requirements thereby reducing the number of new lots that may be created. Below is a table highlighting the effects the rezoning would have on development in the area.

	<i>Existing</i>	<i>Proposed</i>
Zoning District	R-30 Zone	R-20 Zone
Minimum Lot Size Required*	5,000 sq. ft.	12,000 sq. ft.
Minimum Lot Width Required	45 ft.	90 ft.
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Subdividable Lots	51	35 (-31%)
Potential New Lots (subdivided)	101	79 (-22%)
Potential New Units	153	131 (-14%)

Notes

* 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.

Previous Public Meetings and Hearings

On February 24, 2004 staff held a community meeting to discuss with neighborhood residents and property owners the proposed rezoning. The community meeting was attended by approximately 80 people. At the meeting, it appeared that approximately half the attendees were in favor of the proposed rezoning while approximately half were in opposition to the proposal.

On March 3, 2004 the Planning Commission held a public hearing on the proposed rezoning. Approximately 20 neighborhood residents spoke on the matter. The majority of speakers spoke in favor of the proposal. The Planning Commission referred the item to the Special Projects Committee for further review and consideration.

On March 31, 2004 the Special Projects Committee discussed the proposed rezoning. Approximately 10 neighborhood residents spoke on the matter. The majority of speakers spoke in favor of the proposal. A number of residents questioned whether the proposed rezoning is the best way to solve the development issues affecting the neighborhood. Some Committee members felt the proposed rezoning would not address all of the issues facing the neighborhood. Overall, the Committee felt that since there did not appear to be significant neighborhood opposition to the proposal, it was appropriate for the City to move forward with the matter so that it could be considered by the full Planning Commission. The Special Projects Committee requested that staff present more information to the full Planning Commission regarding how the proposal addresses the issues in the neighborhood and what other actions are being taken to address problems that would not be solved by the rezoning proposal. This information is contained in the "Effect of Rezoning" section of this report (see below).

Neighborhood Concerns about the Rezoning Proposal

The primary concerns expressed by residents and property owners regarding the proposal can be summarized as follows:

1. **Name of Neighborhood** – Some residents object to labeling the entire area under consideration "Butters Canyon." In the past, the name Butters Canyon was commonly used to refer primarily to the undeveloped canyon adjacent to Butters Drive that contains Peralta Creek. Over the years, other names have been used for other areas within the neighborhood, including "Joaquin Miller Heights" and "Brunell Heights." For the purposes of this rezoning study, the entire neighborhood is being referred to as "Butters Canyon" because that is the name that was used by the Friends of the Last Wild Canyon when they submitted the request to the City Council and it is the name the City Council used when directing the Planning Commission to undertake the study. Since that name has been used throughout the rezoning study process, for simplicity staff has continued to use the name. The name of the rezoning proposal does not have any effect on the merits of the proposal.
2. **Study Area** – Some residents think the area under consideration should be limited to the canyon that contains Peralta Creek. Staff has decided to include the larger neighborhood in the proposal because issues related to neighborhood character and public safety effect the entire neighborhood, not just the Peralta Creek canyon. The design of the road system, with only a few points of entry into and out of the neighborhood, creates a situation where residents driving or walking in the neighborhood circulate through much of the area so that overtime the larger

neighborhood plays an important role in the daily lives of residents. After the March 3, 2004 Planning Commission hearing, staff decided to make minor adjustments to the study area so that only the areas with geographical similarities and plot patterns were included in the study area. As a result, staff removed lots located on Crockett Place and Hedge Court and the lots located on the north side of Crane Way. Lots on these three streets tend to be smaller in size and are more reflective of conventional subdivisions. Furthermore, the street pattern largely separates these streets from the other streets in the neighborhood. The lots located on the south side of Crane Way were included in the study area because there are a number of large lots on that side of the street that extend to Butters Drive and Peralta Creek.

3. **Public Participation** – Some residents are concerned about the lack of a more thorough public participation process in the development of the rezoning proposal. There have already been three public meetings for residents to comment on the proposal and there will be additional opportunities for the public to comment. Staff has taken comments into consideration and, in certain cases, revised the proposal in response to public comments.
4. **Existing Lot Sizes** – The median lot size in the study area is approximately 10,500 square feet. The R-20 Zone requires a minimum lot size of 12,000 square feet. 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. Approximately 64 percent of the existing lots are less than 12,000 square feet in size. 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. The largest example is the Shepherd Canyon corridor, which was rezoned from the R-30 Zone to the R-20 Zone in the 1970s. Staff also points out that while 12,000 square feet is larger than the average existing lot size, it is closer to the average lot size than the minimum lot size required by the R-30 Zone (5,000 square feet).
5. **Ability to Develop Substandard Lots** – If the neighborhood is rezoned to the R-20 Zone, the minimum required lot size will be 12,000 square feet and the minimum required lot width will be 90 feet. Existing lots that do not meet these requirements would be considered substandard. The rezoning will 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 nonconforming 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 zoning requirements.
6. **Large Homes on Large Lots** – Some residents worry that if the neighborhood is rezoned to the R-20 Zone, since some of the owners of larger lots will no longer be able to subdivide the property into smaller lots, they may choose to develop one large house on the lot to achieve the same economic return as developing multiple smaller houses. The existing character of the neighborhood is primarily small and medium size homes on small, medium and large size lots. Introducing even larger homes into the neighborhood would therefore be out of character with the existing pattern of development. Staff points out that the existing design review process for new homes in the area does not prevent extremely large homes on the small lots allowed under the R-30 regulations. Assuming large homes are going to be constructed on vacant lots, larger homes on larger lots are more consistent with the character of the neighborhood than larger homes on small lots.
7. **Property Values** – Under the proposed regulations the required minimum lot size for new lots would increase. Therefore, some 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 "property value" can also be considered "willingness to pay" (meaning that the value of the property is the amount of money a buyer is willing to pay to purchase the lot) and 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.

8. **Fairness** – Some residents and neighborhood property owners argue that it is unfair that property owners in the past were able to subdivide property into smaller lots while under the new regulations property owners with existing large lots would not be able to subdivide. Staff acknowledges that the new regulations would grant different property rights to current property owners than were granted to property owners in the past. However, staff points out that the very nature of city planning is to make regulatory changes over time in response to changing social, economic, and geographic circumstances, and these regulatory changes often treat similar property owners differently over time.
9. **Relationship Between the Problems and the Proposal** – Some residents question whether the proposed rezoning is the most appropriate method for addressing the issues surrounding development in the neighborhood. Staff agrees that the proposal itself will not solve all of the development problems in the neighborhood, but the rezoning is one important component of a larger package of actions that the City is undertaking to address all of the development issues in the area. This topic is discussed in more detail under "Effect of Rezoning" (see below).

Effect of Rezoning

The primary effect of the proposed rezoning would be that the minimum lot size required in the neighborhood would increase thereby reducing the number of new lots that could be created through subdividing existing properties. By reducing the number of new lots that could be created, the rezoning would limit future residential density in the area. The effect of limiting future density, as it relates to development issues in the neighborhood, is discussed below:

- **Neighborhood Character** – Currently, there are a number of large, undeveloped lots in the area that could be potentially subdivided into smaller lots and developed with new homes. These new homes would increase the density of the area thereby adversely affecting the existing low-density character of the neighborhood. By reducing future density in the neighborhood, the proposal would better preserve the existing low-density character of the neighborhood.
- **Creek Protection** – There are a number of creekside properties in the neighborhood that are large and potentially subdividable under current zoning regulations. Development of these lots could impact the water quality and riparian habitat of the creeks and disturb the character of the corridor. By reducing future density in the neighborhood, the proposal would limit the number of new homes that could be built in creekside areas thereby better protecting creeks.
- **Public Review of New Development** – Under the existing design review regulations, there is no public notification of proposed development and there is no consideration given to the impact new homes may have on adjacent lots or the character of the neighborhood. The proposed rezoning would not affect the existing design review regulations. However, as a separate effort, staff is currently preparing proposed modifications to the design review regulations citywide. These modifications would also apply to the Butters Canyon area. As currently proposed, the new regulations would introduce some form of public notice for new homes and would require

the City to take into consideration neighborhood character and potential impacts to adjacent lots when reviewing new development. The Planning Commission has already held public hearings on these modifications and there will be additional public hearings prior to the modifications being adopted by the City Council.

- **Public Safety** – The existing roads in the neighborhood are substandard. As the density in the area increases and additional residents and vehicles are introduced, it will become more difficult for pedestrians, bicyclists, equestrians, motorists, and emergency response vehicles to safely navigate the area given the additional traffic and cars parked along the roads. The proposed rezoning would not correct the existing deficiencies in the road system but by reducing future density in the neighborhood, the rezoning would prevent this problem from further exacerbating to the extent it would under the existing zoning. Also, to further address the issue of development on substandard hillside properties citywide, Planning and Zoning staff is currently working with other City departments to create guidelines for roadway design for developments on hillside properties so that appropriate mitigation measures are required in order to limit public safety impacts. For example, when a new home is developed on a hillside lot, the guidelines may require the developer to widen the adjacent roadway or create a parking shoulder along the roadway in front of the property. These guidelines would apply to the Butters Canyon area and would further reduce the impacts of new development on public safety.

Other Options

The current proposal—rezoning the entire Butters Canyon neighborhood to the R-20 Zone—is only one land use planning tool available to the City to address the development issues facing the neighborhood. Below are other options staff considered but ultimately rejected:

- A. **Rezoning Only Peralta Creek Canyon** – The area to be rezoned to the R-20 Zone could be reduced in size to only cover the canyon area immediately adjacent to Peralta Creek. Staff decided against this option because issues related to neighborhood character and public safety effect the entire neighborhood, not just the Peralta Creek canyon.
- B. **New Base Zone** – Staff considered the possibility of creating a new base residential zone that requires a minimum lot size closer to what is required by the General Plan (8,000 square feet) or closer to the existing median lot size in the neighborhood (approximately 10,500 square feet). Staff decided to propose the R-20 Zone because it is an existing zoning district already in the Oakland Planning Code. The R-20 Zone is the next lower-density residential base zone after the R-30 Zone. Staff felt that the benefits of creating a new base zone would be outweighed by the amount of resources that would be required to create an entire new zone.
- C. **Overlay Zone** – The City could install an overlay zone on top of a base zone (either over the existing R-30 Zone or over the proposed R-20 Zone). Two other existing overlay zones were considered—the S-10 Scenic Route Combining Zone and the S-11 Site Development and Design Review Combining Zone. The S-10 Zone is currently located along the Shepherd Canyon corridor and along the ridge of the Oakland Hills. The S-10 Zone is intended to preserve scenic routes, particularly in undisturbed canyon areas and along ridge-top streets with scenic views. The S-11 Zone is intended to implement the policies of the North Oakland Hill Area Specific Plan which calls for new development to be sensitive to the natural topography. Staff decided against using either of these overlay zones because these zones were created to address specific geographic areas (i.e., Shepherd Canyon and specific streets in the case of the S-10 Zone and the defined North Oakland Hill Area in the case of the S-11 Zone). Staff also considered the

possibility of creating a new overlay zone specifically for the Butters Canyon area. This option was rejected because staff felt the current proposal was adequate to address the issues confronting the neighborhood.

D. Specific Plan – A Specific Plan for the Butters Canyon neighborhood would comprehensively analyze the issues facing the neighborhood, formulate a plan to improve the quality of life in the neighborhood, and identify appropriate zoning and non-zoning strategies for implementing that plan. A Specific Plan is a particularly appropriate strategy when inter-departmental coordination between multiple City agencies is required to address issues. Staff rejected this option because of the amount of time and resources that would be required to prepare a Specific Plan. There is a feeling among some neighborhood residents that a number of the larger lots will be developed soon, so if the City does not act immediately to restrict new development these lots will be developed and any regulatory changes will be too late.

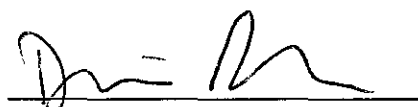
CONCLUSION

The proposed rezoning is an appropriate strategy for addressing the issues related to new development in the Butters Canyon neighborhood. The rezoning would limit future residential density in the area, thereby reducing the impact new development would have on neighborhood character, existing creeks, and public safety. Some residents and neighborhood property owners are concerned about the effects of the proposed rezoning but there is wide support in the community for the proposal. The proposed rezoning would not completely solve all of the problems present in the neighborhood but it is an appropriate step towards that goal. The rezoning would also implement the policies of the General Plan, which call for a density in the area that is lower than what is allowed by current zoning regulations.

RECOMMENDATION:

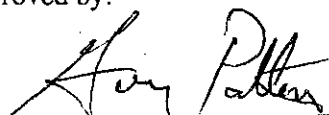
1. Affirm staff's environmental determination.
2. Recommend approval of the rezoning proposal to the City Council.

Prepared by:



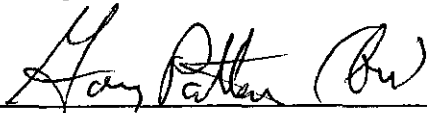
DARIN RANELLETTI
Planner II

Approved by:



GARY PATTON
Deputy Director of Planning and Zoning

Approved for forwarding to the
Planning Commission:



CLAUDIA CAPPIO
Development Director

ATTACHMENTS:

- A. Properties Located in the Area Proposed for Rezoning (Listed by Assessor's Parcel Number)

Properties Located in Proposed Rezoning Area (Listed by Assessor's Parcel Number)

029-1151-001-01	029-1155-007	029-1158-007	029-1161-004-03
029-1151-002-02	029-1155-008	029-1158-008	029-1161-004-04
029-1151-003	029-1155-009	029-1158-009-02	029-1161-004-05
029-1151-004	029-1155-011	029-1158-009-03	029-1161-004-06
029-1151-005	029-1155-012	029-1158-011-03	029-1161-004-07
029-1151-006	029-1155-013	029-1158-011-04	029-1161-005-03
029-1151-007	029-1155-014	029-1158-013	029-1161-005-05
029-1151-008	029-1155-015	029-1158-014	029-1161-005-06
029-1151-009	029-1155-017-01	029-1158-015	029-1161-005-07
029-1151-010	029-1155-020-03	029-1158-016	029-1161-005-08
029-1151-011	029-1155-022	029-1158-017	029-1161-006
029-1151-012	029-1155-023	029-1158-018	029-1161-007-01
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029-1151-037	029-1157-001-08	029-1160-007	029-1162-001-17
029-1151-038	029-1157-001-09	029-1160-008-01	029-1162-001-18
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029-1155-005	029-1158-005-04	029-1161-002	029-1163-003-07
029-1155-006	029-1158-005-07	029-1161-003-01	029-1163-003-08

Properties Located in Proposed Rezoning Area (Listed by Assessor's Parcel Number)

029-1163-003-09	029-1166-001	029-1168-005-01	029-1171-032-01
029-1163-003-10	029-1166-002	029-1168-005-02	029-1171-032-02
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029-1163-007-01	029-1166-004	029-1168-006-03	029-1171-034
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029-1163-009-03	029-1166-006	029-1168-012-02	029-1173-005
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029-1165-019-01	029-1168-004-01	029-1171-030	029-1174-012-03
029-1165-019-02	029-1168-004-02	029-1171-031	029-1174-013

Properties Located in Proposed Rezoning Area (Listed by Assessor's Parcel Number)

029-1174-014-05
029-1174-015-02
029-1174-016
029-1174-017
029-1174-018
029-1174-019