

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 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.
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%)

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 affect 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:

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Approved by:

GARY PATTON
Deputy Director of Planning and Zoning

Approved for forwarding to the
Planning Commission:

CLAUIA CAPPIO
Development Director

ATTACHMENTS:

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

