

COMMUNITY DEVELOPMENT AGENCY

Brian C. Crawford
DIRECTOR

October 29, 2013

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Marin County Board of Supervisors
3501 Civic Center Drive
San Rafael, CA 94903

SUBJECT: Stream Conservation Area Work Program and Interim Ordinance

Dear Supervisors,

RECOMMENDATION:

On behalf of the Board's subcommittee on the Stream Conservation Area, staff recommends that your Board take the following actions:

1. Accept the staff report on the continued work of the Board of Supervisors subcommittee on the Stream Conservation Area (SCA);
2. Approve the draft work program for the SCA implementation program; and
3. Conduct a hearing on the interim SCA ordinance and fee resolution, and consider approval of the interim SCA ordinance for the San Geronimo Watershed (Option A – see Attachment 3) or for all unincorporated areas outside the Coastal Zone (Option B – see Attachment 4).

Building and Safety
Environmental Health Services
Planning
Environmental Review
Housing
Sustainability
Code Enforcement
GIS
Federal Grants

www.marincounty.org/cda

BACKGROUND:

The Marin Countywide Plan (CWP) was approved by the Board of Supervisors on November 6, 2007. Goal BIO-4 (Riparian Conservation) of the CWP establishes policies and programs for the SCA, including setbacks along streams. Program BIO-4.a requires the County to adopt an expanded Stream Conservation Area ordinance to implement the CWP. In addition to implementing the CWP, approval of an expanded SCA ordinance would end the court-imposed injunction on the issuance of building permits that is currently in place for the SCA in the San Geronimo Valley.

The Planning Commission considered the expanded SCA ordinance during public hearings on April 1 and May 13, 2013. At the conclusion of the hearings, the Commission recommended adoption of the ordinance to the Board.

On June 18, 2013, your Board conducted a public hearing on the proposed amendments to the Development Code (Title 22) to implement the Stream Conservation Area policies of the Countywide Plan.

The hearing was continued for a subcommittee of the Board of Supervisors (comprised of Supervisors Kinsey and Sears) to work with staff to develop a framework for an interim SCA ordinance and to identify the scope of potential

amendments to the CWP, develop a work program and schedule for a subsequent SCA ordinance, and present these recommendations at a future meeting.

At the subsequent public hearing on August 20, 2013 the Board's subcommittee presented its recommendations for the SCA work program, including support for adoption of an interim SCA ordinance for the San Geronimo Watershed based on the approach recommended by the Planning Commission. At the conclusion of the hearing, your Board directed staff to prepare a work program for implementation of the SCA policies that incorporates watershed principles, provides for landowner education and assistance, and identifies alternatives for addressing key concerns about the SCA through County Code amendments where possible, but including an option for undertaking limited amendments to the CWP. Staff was additionally directed to "schedule a hearing for review of an interim expanded SCA ordinance for the San Geronimo Watershed based on the approach recommended by the Planning Commission for the County of Marin as a whole."

A hearing scheduled for October 1, 2013 was continued to October 29, 2013 in order for County Counsel to work with the California Fair Political Practices Commission (FPPC) to resolve potential conflicts of interest issues with regard to the ownership of personal residences by Supervisors Adams, Kinsey, and Rice within 500 feet of an SCA.

DISCUSSION:

SCA Work Program

There are three major components to the proposed SCA work program (provided as Attachment 1):

1. Scientific review of ephemeral stream SCA standards for the City-Centered Corridor and smaller lots in the Inland-Rural Corridor and development of commensurate standards to protect these zones;
2. Watershed enhancement program for private landowners (education, homeowner assistance, permitting assistance, and funding mechanisms to support long-term protection of habitat); and
3. Updated County stream map for perennials and intermittent streams.

The work program will be managed by staff in the Community Development Agency in coordination with the Department of Public Works and periodic consultation with the Board's subcommittee. An advisory group representing a diverse background will provide local knowledge or technical expertise and give input on specific issues and draft strategies. In addition to the advisory group, the broader community will be involved through public workshops, local community meetings, and ongoing communication via the County web page and Open Marin.

The estimated timeframe to implement the program is approximately one year. Upon completion of the work program, your Board will be presented with Existing Conditions and SCA Strategies Reports, including options for County Code and/or CWP amendments relating to the scope identified in the work program. At that time,

your Board may accept the reports and direct staff to prepare amendments to the County Code or undertake additional Countywide Plan amendments, as needed.

Ephemeral Stream SCA Standards and County Stream Map

The current CWP language for ephemeral streams is largely carried over from the 1994 CWP and is based upon the best information and understanding available at the time. However, the level of knowledge about ephemeral streams has since advanced, primarily due to improvements in mapping. Additionally, a number of water quality and sediment control measures have been promulgated through Federal and State Stormwater permit compliance programs.

The Community Development Agency is presently updating the County stream map, using the most sophisticated and detailed topographic information available, Light Detection and Ranging (LiDAR). Although the map is not finalized, it is expected to improve the accuracy of existing mapped stream channels as well as the comprehensiveness of the overall stream/drainage network in the County, including identification of additional ephemeral streams.

The Board’s subcommittee has identified that further investigation of ephemeral streams and identification of the most effective measures to protect their ecological and hydrologic function in the watershed is an important effort that will also require critical evaluation of current definitions and policies to ensure appropriate protections.

Public Education and Outreach

The proposed draft Guiding Principles and Framework for Countywide Plan Amendments (August 20, 2013) stated that overall watershed improvement should include creek stewardship management practices and homeowner assistance. The Board’s subcommittee supports these efforts in the proposed work program with a recommendation to retain an outreach coordinator. This position would provide public information and materials, workshops and informational meetings about creek care, coordinate with ongoing efforts of the Watershed Program (www.marinwatersheds.org) and the County’s stormwater pollution program (MCSTOPPP), and serve as an ombudsperson to assist homeowners with permitting processes.

Interim Ordinance

The Planning Commission-recommended ordinance provides a tiered permitting structure to account for differences in the extent of stream impact associated with various development activities. Importantly, the ordinance requires best practices as a condition of any permit approval in the SCA (“Standard Management Practices”). Within this framework, projects of a smaller scale can be reviewed efficiently, with respect to time and cost, as ministerial (staff-level) permits. The ordinance would also increase stream protections by regulating removal of riparian vegetation and installation of “flatwork” (e.g., patios, driveways) that are currently not regulated but could have potentially harmful impacts in the SCA.

The proposed ordinance is largely consistent with the Planning Commission’s recommended approach. As proposed, the ordinance would be in place for a limited duration, expiring on April 28, 2016 or upon adoption of subsequent amendments to the Marin Countywide Plan and/or County Code that pertain to the SCA, whichever occurs first.

Public notice for the interim ordinance was distributed to property owners in the San Geronimo Watershed and published in the Marin Independent Journal in advance of the October 1 public hearing. However, the subcommittee of the Board has requested that the Board be presented with the option to apply the ordinance countywide due to the potential lack of SCA protection during the timeframe of the SCA work program. Therefore, public notice was subsequently distributed countywide and published in the Marin IJ to reflect the options that are under consideration for the October 29 hearing.

Two versions of the SCA ordinance are provided for your consideration. Option A (Attachment 3) would be applicable only in the San Geronimo Watershed; Option B (Attachment 4) would be applicable countywide to those unincorporated areas of the County outside the Coastal Zone.

Interim Ordinance Cost and Workload Impacts

The proposed SCA ordinance establishes a new permit type, permit requirements for previously unregulated activities, and site assessment and inspection requirements. Staff training will be required for Tier 1 (ministerial permit) site assessments which are limited in scope (identify riparian vegetation and stream bank). The estimated cost for this training, including completion of a reference manual, field exercises, and an SCA ordinance toolkit, is \$10,000. Although not budgeted in the current fiscal year, funding is available from a set aside the Board approved in Fiscal Year 2010-2011 for the SCA implementation program.

Implementation of the ordinance will also require outreach to homeowners, contractors, and community organizations to ensure that all interested parties are aware of the regulatory changes, including procedures and new permit requirements. As your Board noted on August 20, 2013, homeowner education is a critical component of future efforts, not only to support individual stewardship but also to increase understanding of the individual and collective benefits of streamside conservation requirements as well as the basis for permit standards.

FISCAL IMPACT:

Work Program:

The proposed one-year work program includes a preliminary budget of \$130,000 (excluding staff time) to include the costs for preparation of the existing conditions and SCA strategies reports, public information and community engagement. The addition of an outreach coordinator/ombudsperson would add an additional cost of approximately \$85,000 per year. Funding for most of the work program is available from money that your Board set aside in Fiscal Year 2010-11 for SCA implementation. Based on your Board’s acceptance of the preliminary estimate and

additional direction, staff will provide a more precise budget for final approval prior to initiation of the work program.

Interim Ordinance:


The proposed ordinance is likely to result in fiscal impacts to the General Fund. User fees are established in the Planning Division's fee schedule for various Planning-related permits and services. Revenue generated from the fees help the Planning Division meet its cost recovery target and offset the amount of general fund support to the program. Pursuant to the direction received at your Board's August 20, 2013 meeting, staff recommends that your Board approve the attached resolution setting fees at \$250 (flat) for a Tier 1 SCA Permit, \$2,500 (flat) for a Tier 2 SCA Permit, and \$5,000 (deposit) for a Tier 2 Initial Study. No fees would be charged for review of work that qualifies for an exemption.

It is difficult to use historic permit trends to forecast permit demand because the proposed ordinance would apply to work that currently does not require permits. In addition, demand for home improvements and construction are affected by broader trends in the economy, and some development will presumably be undertaken without permits.

- *San Geronimo Watershed Ordinance (Option A):* If the limited-term SCA ordinance were to apply to the San Geronimo Watershed only, it would likely result in an annual increase of approximately fifteen Tier 1 Permits and five Tier 2 Permits. Based on the recommended fees, this could result in a loss of approximately \$40,000 in flat fee revenues per year. For Tier 2 permits, a \$5,000 deposit for the cost of preparing an Initial Study is recommended. However, if your Board wishes to reduce the cost of environmental review for Tier 2 Permits, the deposit could be changed to a flat fee. Conversion of the deposit to a flat fee would result in additional revenue impacts of approximately \$120,000 per year depending on the actual cost for completing the Initial Study.
- *Countywide Ordinance (Option B):* Countywide, the limited-term SCA ordinance would likely result in an annual increase of approximately forty-five Tier 1 Permits and fifteen Tier 2 Permits. Based on the recommended fees, this may result in a loss of approximately \$120,000 in revenues per year. For Tier 2 permits, a \$5,000 deposit for the cost of preparing an Initial Study is recommended. Conversion of the deposit to a flat fee would result in additional revenue impacts of approximately \$362,000 per year depending on the actual cost for completing the Initial Study.

Given the limited number of permits projected and the uncertainty about the actual impact to staff workload, no increase in staffing is recommended at the present time, although staff expects to continually evaluate the staff resource needs for the Planning Division and may propose adjustments in the future.

SIGNATURE:



Suzanne Thorsen
Planner



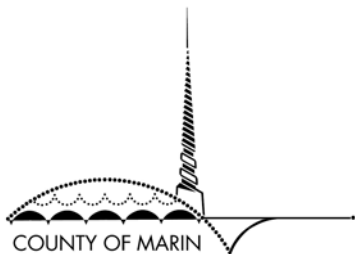
Brian C. Crawford
Director

REVIEWED BY: (These boxes must be checked)

- | | |
|--|---|
| <input type="checkbox"/> Department of Finance | <input checked="" type="checkbox"/> N/A |
| <input checked="" type="checkbox"/> County Counsel | <input type="checkbox"/> N/A |
| <input type="checkbox"/> Human Resources | <input checked="" type="checkbox"/> N/A |

Attachments

1. Stream Conservation Area Implementation Work Program
2. Framework and Guiding Principles (Revised)
3. Option A (San Geronimo Watershed) Ordinance Approving Amendments to Title 22 (Development Code) including Exhibit A
4. Option B (Countywide Ordinance Approving Amendments to Title 22 (Development Code) including Exhibit A
5. Draft Standard Management Practices
6. Resolution Approving Fees Associated with Development in the Stream Conservation Area
7. Public Correspondence:
 - a. Sleepy Hollow Homes Association, 10/19/2013
 - b. Thomas G. Lambach, 10/21/2013



**STREAM CONSERVATION AREA IMPLEMENTATION
WORK PROGRAM**
(October 1, 2013)

1. Goal

- a. Assess effectiveness of the existing Stream Conservation Area (SCA) standards applicable to ephemeral streams to the City Centered Corridor and smaller lots in the Inland Rural Corridor (Program BIO-4.b)
- b. Implement watershed enhancement program that includes education, homeowner assistance, permitting assistance, and funding mechanisms to support long-term protection of habitat (Programs WR-1.a, WR-1.d, BIO-4.j, BIO-4.n, BIO-4.s, BIO-4.t)
- c. Update county stream map (Program BIO-4.c)

2. Roles and Responsibilities

Board of Supervisors (BOS) Oversight Sub-committee

- a. Review and approve implementation of detailed work program
- b. Provide policy direction, as needed
- c. Coordinate with CAO on budget

CDA

- a. Sponsor, project manage, and oversee implementation of the project
- b. Map SCAs for compliance with Program BIO-4.c
- c. Implement watershed enhancement and ombudsperson programs
- d. Conduct public outreach and communications plan (online, social media, workshops)
- e. Oversee Stream Watershed Advisory Group (SWAG) and public workshops (may involve third-party meeting facilitator)
- f. Engage consulting fluvial geomorphologist, hydrologist, and wildlife biologist/ecologist
- g. Provide staff support to the BOS Oversight Sub-committee

DPW

- a. Provide technical assistance through stormwater and watershed programs
- b. Provide technical support and attend SWAG meetings
- c. Provide guidance on how existing stormwater management and sediment control measures can be integrated with implementation of the SCA.

Stream Watershed Advisory Group (SWAG)

Formed by invitation from the CDA director, the Stream Watershed Advisory Group (SWAG) is comprised of 12 to 14 individuals representing various backgrounds

(resource agency, environmental organization, homeowner association, etc.). Meetings are anticipated to be scheduled during business hours, but may extend into the early evening. The meetings are not public meetings, although members of the public may attend as observers. In the interest of maintaining consistency in meeting attendance, only one representative from each stakeholder group will participate on the SWAG.

The SWAG's role includes:

1. Providing input on how specific issues should be evaluated;
2. Applying technical expertise, where appropriate, to specific issue areas;
3. Providing input on draft strategies and how they relate to existing state and federal requirements; and
4. Applying local knowledge and expertise.

Agency representatives:

Marin Municipal Water District
California Department of Fish and Wildlife
National Marine Fisheries Services
Marin County Resource Conservation District

{Agency representatives may also be invited to serve on a technical subcommittee of the SWAG along with other Agency representatives (e.g. Regional Water Quality Control board).}

Community stakeholders:

Community Marin
Farm Bureau/Agriculture
Community organizations

Schedule (approximately 38 to 46 weeks)

The work program will be implemented in multiple phases.

Phase I: Assess Existing Conditions (18 to 22 weeks)

Goal: Using information from existing watershed studies and the Salmon Enhancement Plan, assess the characteristics and function of ephemeral streams within the Southern Marin, Ross Valley, and Lucas Valley watersheds. (CWP :Program BIO-4.b)

Deliverable: Existing Conditions Report

Milestone	Date
Mobilization: RFP/Consultant selections, contracts, collect existing background information, form SWAG	Weeks 1 to 12
SWAG Meeting #1 <ul style="list-style-type: none"> • Review goals/schedule • Review scope of work for Phase I (Existing Conditions) 	Week 12
Meetings with SWAG Technical Subcommittee and interested parties, as needed	Weeks 12 - 16
Issue draft Existing Conditions Report to SWAG	Week 16
SWAG Meeting #2 – Review Existing Conditions Report and scope of work for Phase II	Week 18
<i>Contingency</i>	<i>+ 4 weeks</i>

Phase II: Evaluate effectiveness of SCA standards (20 to 24 weeks)

Goal: Using the existing conditions report, data on stream protection and management standards, and information from the Salmon Enhancement Plan and work completed for the watershed planning areas, evaluate the effectiveness of the CWP SCA standards governing ephemeral streams, including the 50- and 100-foot setback distances to properties in the City-Centered Corridor and smaller parcels in the Inland Rural Corridor. (CWP Program BIO-4.a)

Deliverable: SCA Strategies Report

Milestone	Date
Issue draft SCA Strategies Report to SWAG	Week 24
SWAG Meeting #3 – Review SCA Strategies Report	Week 26
Public Workshop #1 – Review Existing Conditions and SCA Strategies Report	Week 32
SWAG Meeting #4 – Review Workshop #1 Comments	Week 36
BOS Meeting #1 <ul style="list-style-type: none">• Accept Existing Conditions and SCA Strategies Report• Provide direction on scope of amendments to County Code and/or CWP.	Week 44
Contingency	+ 4 weeks

3. Costs (Phases I and 2)

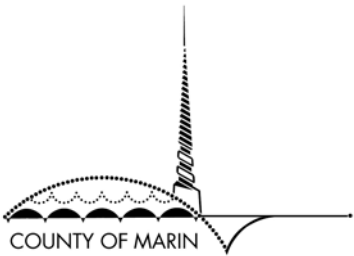
Phases I and 2

The following are preliminary budget estimates for implementation of the SCA program. Precise costs will be developed upon approval of specific scopes of work. Costs for County staff (CDA, DPW, etc.) have not been included, although time committed for the project will affect the scope and schedule for other items in the work program for the respective departments (CDA, DPW, etc.).

• Existing Conditions/Strategies	\$100k
• Public outreach/communications	\$10k
• <u>Facilitator</u>	<u>\$20k</u>
TOTAL (excluding County staff)	\$130k

Other

• Ombudsperson	\$85k/year
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**Stream Protection and Watershed Enhancement:
Framework and Guiding Principles**
October 1, 2013

1. **Landowners will receive increased support** through improved education and assistance.
 - a. Retain an Outreach Coordinator who will provide public information through written materials, workshops and informational meeting about creek care issues important to landowners and serve as an ombudsperson to assist landowners with permitting.
 - b. Complement and coordinate with ongoing efforts of the Marin Watershed Program and MCSTOPPP.
2. **Stream Conservation Area is a special permit zone** that is important to watershed protection and requires low impact development. The SCA should incorporate a broad set of techniques to protect and enhance stream and riparian resources.
 - a. Account for the latest science: watershed planning, studies, map and information resources, and technology.
 - b. Complement other related regulations: State of CA Phase II stormwater, Native Tree Protection Ordinance, Anadromous Fish Stream Ordinance, Creek Permit, drainage setback, etc.
2. **Headwaters are distinct** and will be the subject of additional scientific analysis. Any subsequent County Code or Countywide Plan amendments relating to ephemeral streams will recognize their unique function, characteristics, and vulnerabilities.
 - a. Critically evaluate the definition of ephemeral streams as well as current policies, practices and regulations to identify opportunities for protection of ephemeral stream functions.
 - b. Techniques for headwaters protection may differ from those applicable to perennial and intermittent streams but should be coordinated with existing permit procedures and best practices to the extent feasible.
3. **Implement Program BIO-4.b Reevaluate SCA Boundaries** in the City-Centered Corridor and smaller parcels.
 - a. Review existing science including local watershed information and literature supporting standards to protect streams and regulate development.
 - b. Assess the effectiveness of current County standards. Consider stream functions on a watershed-level basis, including input from professionals such as a fluvial geomorphologist, hydrologist, wildlife biologist and vegetation ecologist, together with resource agencies and interested members of the public.

Guiding Principles:

- Future actions should contribute to the overall improvement of the watershed.
- Expand available tools for watershed stewardship, including education and incentives.
- Recognize the distinction between historic neighborhoods with smaller developed lots and those areas of the county with larger lots or vacant parcels.
- Achieve consistency and avoid redundancy with existing regulations.
- Support public and private investments that protect habitat and improve watershed health.
- The Countywide Plan establishes policy objectives while regulatory details are best suited to County Code.
- Avoid ambiguity and eliminate inconsistencies.

MARIN COUNTY BOARD OF SUPERVISORS

ORDINANCE NO. _____

AN ORDINANCE APPROVING AMENDMENTS TO
MARIN COUNTY CODE TITLE 22 (DEVELOPMENT CODE)
FOR DEVELOPMENT IN STREAM CONSERVATION AREAS
WITHIN THE SAN GERONIMO WATERSHED

SECTION I: FINDINGS

The Board of Supervisors of the County of Marin ordains as follows:

I. WHEREAS, the Marin County Community Development Agency initiated the proposed amendments to the Marin County Code Title 22 (Development Code). The Development Code includes the zoning and subdivision regulations that govern the development and use of private and public land, buildings, and structures located within the unincorporated areas of Marin County. The proposed amendments (Exhibit A) would modify Title 22 (Development Code) by: (1) establishing Chapter 22.33 (Stream Protection) and Chapter 22.63 (Stream Conservation Area Permits); (2) providing new definitions and amending the text of definitions in Chapter 22.130 (Definitions); (3) amending the text of Sections 22.06.050 (Exemptions from Land Use Permit Requirements), 22.08.040 (Agricultural District Development Standards), 22.40 (Application Filing and Processing, Fees), 22.42.025 (Exemptions from Design Review), 22.42.045 (Design Review for Development Along Anadromous Fish Streams and Tributaries), 22.42.055 (Project Review Procedures), 22.56.050 (Decision and Findings for New Second Units) and 22.62.040 (Exemptions) as necessary to effectuate the SCA Ordinance. The proposed amendment is applicable to those perennial, intermittent and ephemeral streams identified in the Stream Conservation Area map and data that is maintained and periodically updated by the Marin County Community Development Agency.

II. WHEREAS, the Marin County Planning Commission conducted public hearings on April 1, 2013 and May 13, 2013 to consider the proposed amendments to the Development Code and voted to recommend that the Board of Supervisors adopt an ordinance approving the proposed amendments, as modified, to Marin County Code Title 22 (Development Code).

III. WHEREAS, the Development Code implements the goals, policies and programs of the Marin Countywide Plan (CWP) which are necessary to protect the public health, safety, and welfare of residents and businesses in the unincorporated areas of Marin County.

IV. WHEREAS, the 2007 Marin Countywide Plan ("CWP") establishes goals, policies and implementing programs for riparian protection. Pursuant to Goal BIO-4 Riparian Conservation, the CWP designates Stream Conservation Areas along perennial, intermittent, and ephemeral streams. Development setbacks are established from all streams based upon the location of the top of stream bank or presence or riparian vegetation. The policies of the plan aim to promote natural stream channel function, control exotic vegetation, protect riparian vegetation, promote riparian protection, maintain channel stability, and minimize runoff.

V. WHEREAS, the CWP provides that development applications shall not be allowed if a project adversely alters hydraulic capacity; causes a net loss in habitat acreage, value or function; or degrades water quality. Hydraulic capacity refers to the rate and timing of stream flows produced by rainfall and is a measure of the efficiency of draining an area that is affected by the level of imperviousness. Habitat function means the chemical, physical, and biological processes that allow an ecosystem to exist and maintain its integrity (e.g., food, water, shelter, migration corridors, spawning, nesting or breeding sites, shade, and nutrients). Habitat value means the aspects of habitat valued by society but not necessary for the existence and function of the ecological unit (e.g., aesthetic, recreational, flood control, and groundwater recharge). Water quality refers to the chemical, physical and biological characteristics of water within a stream which can be measured by indicators such as pH, temperature, suspended solids, dissolved solids, color, concentration of pollutants, and the prevalence of certain bacteria or insects.

VI. WHEREAS, the proposed amendments to the Development Code establish the purpose, applicability, standards, permit procedures and findings necessary to implement the policies and programs of the CWP relating to riparian protection, including Programs BIO-4.a (Adopt an Expanded SCA Ordinance), BIO-4.d (Establish Functional Criteria for Land Uses in SCAs), BIO-4.e (Identify Proposals Within SCAs), BIO-4.f (Identify Potential Impacts to Riparian Systems), BIO-4.g (Require Site Assessment), BIO-4.h (Comply with SCA Criteria and Standards), BIO-4.i (Replace Vegetation in SCAs), and BIO-4.q (Develop Standards Promoting Use of Permeable Materials).

VII. WHEREAS, the Marin County Board of Supervisors certified a Final Environmental Impact Report (EIR) for the CWP prior to adoption of the CWP. The certified EIR adequately evaluated the Development Code, which functions as an implementing program to the CWP. A subsequent or supplemental EIR is not required pursuant to State CEQA Guidelines Sections 15162 and 15163 because the project does not involve or result in substantial changes to the 2007 Countywide Plan involving new or substantially more severe significant environmental effects, nor does the proposal involve new information that was not known at the time the EIR for the Countywide Plan was certified. Further, the project is exempt from CEQA pursuant to Sections 15307 and 15308 of the CEQA Guidelines (Classes 7 and 8 Protection of Natural Resources and Protection of the Environment) because the project sets the regulatory framework for permitting in accordance with the CWP and increases protections afforded to streams and riparian habitat as compared with current County regulations.

VIII. WHEREAS, the proposed amendments to the Development Code have been guided by public engagement processes that included outreach and consultation with the following organizations or their representatives to discuss and accept comments on the draft ordinance: Marin Conservation League, Marin Audubon Society, Friends of Corte Madera Creek, Salmon Protection and Watershed Network (SPAWN), the San Geronimo Valley Stewards, the San Geronimo Valley Planning Group, San Geronimo Valley Technical Advisory Committee, Marin County Farm Bureau, Marin Association of Realtors, Marin CSA 13, Lucas Valley Homeowners Association, Kentfield Planning Advisory Board, Kent Woodlands Property Owners Association, Tam Design Review Board, Sleepy Hollow Homeowners Association, neighborhood groups, and other environmental, agricultural, and trade interest organizations, as well as a publicly-noticed SCA Open House and an online civic engagement forum (Open Marin). Further, the Marin County Planning Commission held two duly-noticed public hearings, on April 1, 2013 and on May 13, 2013, to take public testimony and consider recommending that the Board of Supervisors adopt the SCA Ordinance.

IX. WHEREAS, the Marin County Board of Supervisors conducted duly-noticed public hearings on June 18, 2013, October 1, 2013, and October 29, 2013 to accept public testimony and consider the proposed SCA Ordinance.

X. WHEREAS, the Board of Supervisors decided to adopt the amendments to Marin County Code Title 22 (Development Code). The Stream Conservation Area Ordinance shall apply to the San Geronimo Watershed as depicted in Exhibit "A" of this Ordinance. The court-imposed injunction on the approval of development applications in the San Geronimo Watershed shall expire upon the effective date of this ordinance.

SECTION II: AMENDMENTS TO TITLE 22

NOW, THEREFORE, BE IT RESOLVED that the Marin County Board of Supervisors hereby adopts the amendments to Marin County Code Title 22 (Development Code) as depicted in Exhibit "B" of this Ordinance. The requirements of Marin County Code Section 22.01.040.F.2 to F.5 shall govern the applicability of the approved amendments to existing projects that are in the development review process. The amendments will apply to land use permit and subdivision applications in the San Geronimo Watershed that are complete at the time this ordinance takes effect.

NOW, THEREFORE, BE IT FURTHER RESOLVED that this ordinance shall not be further enforced or applied should litigation against the County of Marin challenging the validity of any part of this ordinance or its environmental review be filed in a court of law.

NOW, THEREFORE, BE IT FURTHER RESOLVED that notwithstanding the provisions of the prior paragraph any land use permit and subdivision applications and extension requests that have been determined by the Community Development Agency to be complete before the date of any such litigation , shall continue to be processed in compliance with the Development Code.

SECTION III: EFFECTIVE DATE

This Ordinance shall be and is hereby declared to be in full force and effect as of November 28, 2013 and shall remain in effect for a period of up to 30 months (April 28, 2016) or upon adoption of subsequent amendments to the Marin Countywide Plan and/or County Code that pertain to the SCA. At such time, Subjects 1, 3, 4, 5, 6, 7 and 8 of Exhibit "B" shall expire automatically without further action by the Board of Supervisors.

This Ordinance shall be published once before the expiration date of fifteen (15) days after its passage, with the names of Supervisors voting for and against the same in the Marin Independent Journal, a newspaper of general circulation published in the County of Marin.

SECTION IV: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors and the County of Marin, State of California, on the 29th day of October 2013, by the following vote to wit:

AYES:

NOES:

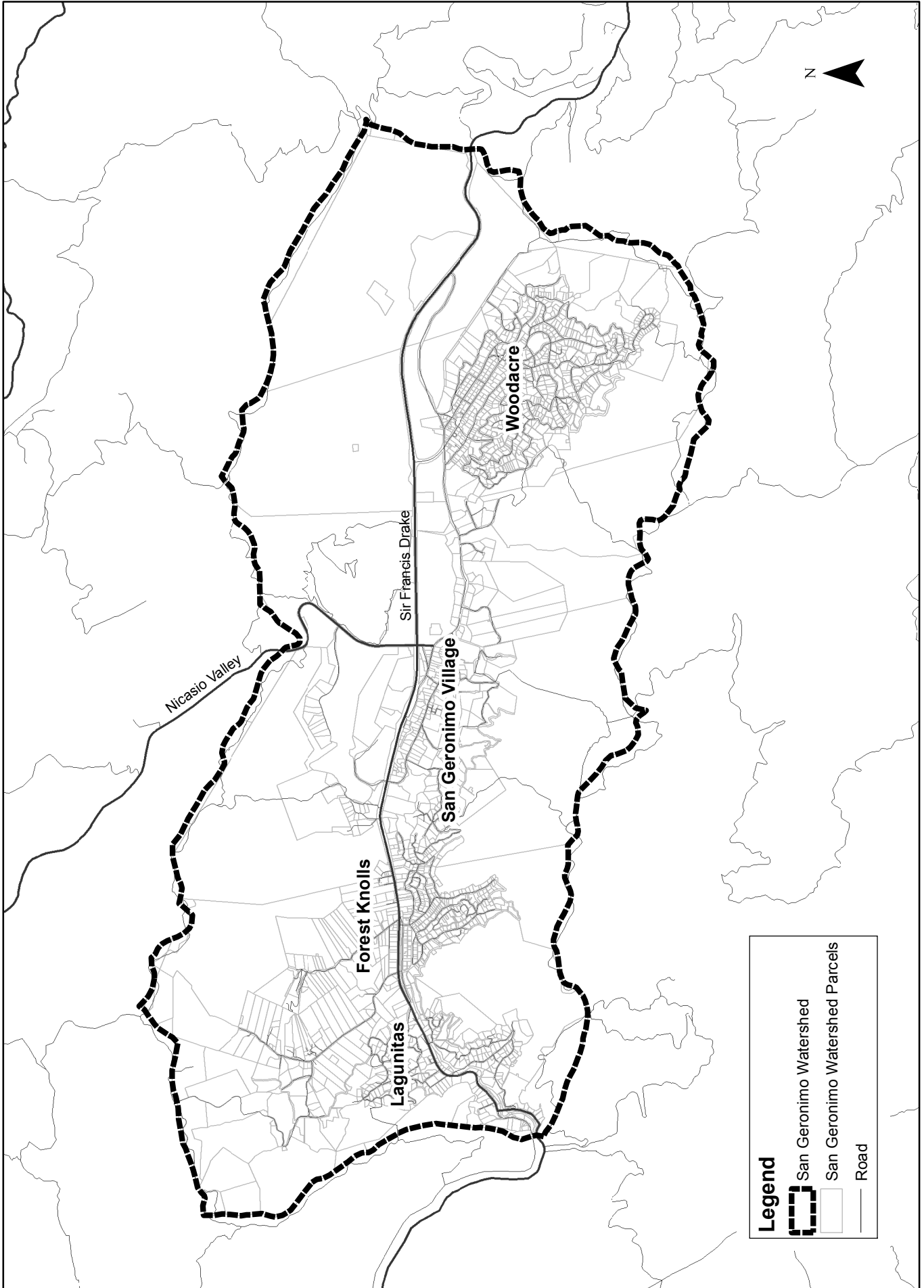
ABSENT:

JUDY ARNOLD, PRESIDENT
MARIN COUNTY BOARD OF SUPERVISORS

Attest:

Matthew Hymel
Clerk of the Board of Supervisors

San Geronimo Watershed



Legend




-  San Geronimo Watershed
-  San Geronimo Watershed Parcels
-  Road

Exhibit A

**EXHIBIT “B” TO MARIN COUNTY BOARD OF SUPERVISORS
ORDINANCE _____**

SUBJECT 1:

STREAM CONSERVATION AREA ORDINANCE (Dev. Code Articles III and IV)

CHAPTER 22.33 – STREAM PROTECTION (SAN GERONIMO WATERSHED)

Sections:

22.33.010 – Purpose of Chapter

22.33.020 – Applicability

22.33.030 – Stream Conservation Area General Requirements

22.33.010 – Purpose of Chapter

The provisions of this Chapter are intended to implement the Stream Conservation Area (SCA) policies and programs in the Countywide Plan to protect the active channel, water quality and flood control functions, and associated fish and wildlife habitat values along streams.

22.33.020 – Applicability

A. The SCA consists of the stream itself between the tops of the banks and a strip of land extending laterally outward from the top of both banks to the widths defined in Section 22.33.030.B and shown in Figure 3-16. The SCA extends along those perennial, intermittent, and ephemeral streams identified in the SCA data and map that is maintained and periodically updated by the Marin County Community Development Agency. In the event there is uncertainty about the location of the stream and corresponding SCA, the Director may determine the applicability of this chapter to a lot based on the latest data and evidence that is available and/or submitted to the Community Development Agency.

The SCA encompasses any jurisdictional wetland within the stream channel, together with adjacent uplands, and supersedes setback standards defined for Wetland Conservation Areas in the Countywide Plan.

B. The standards of this Chapter apply to all areas of the San Geronimo Watershed located within the SCA excluding official activities and development of the County, State or an agency of the State, or the Federal Government, including work done on behalf of the governmental agency that assumes full responsibility for the work on land owned or controlled by the agency, such as through a lease or easement.

22.33.030 – Stream Conservation Area General Requirements.

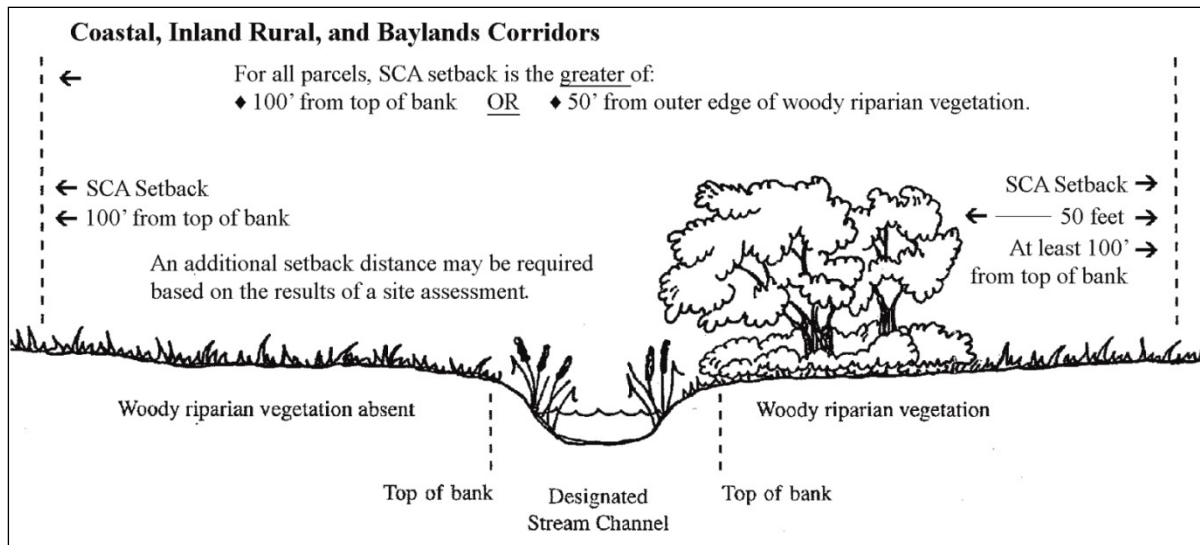
A. SCA Setbacks.

The Stream Conservation Area for the San Geronimo Watershed includes SCA setbacks as provided in this subsection.

1. The SCA setback shall be the greater of either: (a) 50 feet landward from the outer edge of woody riparian vegetation associated with the stream; or (b) 100 feet landward from the top of bank.
2. An additional SCA setback may be required based on the results of a Site Assessment if the additional SCA setback is necessary to protect riparian resources, such as woody riparian vegetation that extends beyond the SCA setback.
3. For all mapped ephemeral streams, the SCA setback applies only if there is riparian vegetation that extends along the stream for a length of 100 feet or more.
4. On properties zoned for agriculture (A, ARP or APZ), the outer edge of woody riparian vegetation shall be determined on the basis of the most recent aerial photography on file with the County as of February 25, 2013.
5. A Site Assessment is required for any permitted development in the SCA in order to confirm the avoidance of woody riparian vegetation and to consider site constraints, provide options for alternative mitigation, and determine the precise SCA setback.

Figure 3-16

Typical Cross-Section of a Stream Conservation Area



Chapter 22.63 – STREAM CONSERVATION AREA PERMIT (SAN GERONIMO WATERSHED)

Sections:

- 22.63.010 – Purpose of Chapter
- 22.63.020 – Applicability to Development
- 22.63.030 – SCA Permit (Tier 1)
- 22.63.040 – SCA Permit (Tier 2)
- 22.63.050 – Application Filing, Processing and Review
- 22.63.060 – Decision and Findings

22.63.010 – Purpose of Chapter

This Chapter provides procedures and requirements for Stream Conservation Area (SCA) Permits, which regulate development within the SCA as defined in Chapter 22.33 (Stream Protection). The SCA permit requirements support healthy watersheds by ensuring that development respects existing natural riparian features and promotes important ecological functions such as groundwater recharge and infiltration.

22.63.020 – Applicability to Development

A. Application of SCA Provisions.

1. The provisions of this Chapter apply to development within the Stream Conservation Area in the San Geronimo Watershed, as described in Chapter 22.33 (Stream Protection). The exemptions from Land Use Permit Requirements in Section 22.06.050 (Exemptions from Land Use Permit Requirements) do not apply to development within the Stream Conservation Area. Exemptions for development in the Stream Conservation Area are contained in this Chapter. As used in this Chapter, development that may be permitted in the Stream Conservation Area includes the following:
 - a. All structures, regardless of whether the work requires a building or grading permit, including fencing, decks, platforms, parking lots, utility crossings, pedestrian or vehicular access routes, and other similar improvements;
 - b. Clearing of land or removal of any vegetation, including any protected or heritage tree; or
 - c. The deposition of refuse or other nonindigenous material not otherwise subject to a permit pursuant to Marin County Code Section 11.08 (Watercourse Diversion or Obstruction).
2. Compliance with this Chapter does not affect applicability of any other requirements by this or any other agency. This Chapter shall not be applied in a manner that supersedes other local, state or federal laws applicable to protection of riparian and stream resources.

B. Exemptions.

1. Exempt without further determination.

- a. Public utility facilities, including their location, construction, maintenance, repair and replacement, that are exempt from local agency building and zoning requirements pursuant to Government Code Section 53091, Public Resources Code Section 4292, and the California Public Utilities Code;
- b. Emergency measures requiring prompt action, where such measures are immediately necessary to avoid or prevent loss of, or damage to, life, health, property or essential public services resulting from a sudden, unexpected occurrence;
- c. Tree and vegetation removal or trimming on a developed lot for the purpose of protecting life or property from a fire hazard, public nuisance, or any other threat to public health and safety. Vegetation that is dead, invasive, or exotic may also be removed under this exemption;
- d. Resource management programs carried out in accordance with the programmatic requirements or funding of a governmental agency or in coordination with a governmental agency;
- e. Infrastructure and vegetation maintenance activities of a governmental agency, whether on public or private land;
- f. Any development that is permitted pursuant to Marin County Code Section 11.08 (Watercourse Division or Obstruction), Section 23.08 (Excavating, Grading and Filling), or Section 24.04.560 (Drainage Setbacks);
- g. Maintenance, accessibility retrofit, and repair of permitted or legal non-conforming structures, water supply and septic facilities that existed prior to February 25, 2013.
- h. Maintenance or replacement of landscaping.
- i. New fences that do not restrict wildlife access to streams and the adjacent riparian vegetation. Exempt fences include any fence within or on the perimeter of a previously disturbed area;
- j. Agricultural uses on property zoned for agriculture (A, ARP or APZ), including removal and trimming of vegetation planted for a commercial enterprise, that do not result in the removal of woody riparian vegetation or animal confinement within the SCA.

- 2. Exempt subject to determination.** The following activities are exempt subject to determination by the Director, based upon photographs, illustrations and other appropriate documentation submitted by the applicant, to confirm that the activity will meet the criteria below. Where appropriate, the Director shall confirm the extent of vegetation modification and management requirements with the Fire Marshal. Documentation may include a letter or report from a licensed contractor and

photographs of the property and improvements or structures to verify the activity will comply with this Section.

- a. Replacement of permitted and legal non-conforming structures, water supply and septic facilities that existed prior to February 25, 2013, provided that such activity does not expand the footprint within the SCA setback or result in the removal of woody riparian vegetation.
- b. Development activities pursuant to Section 22.63.020.A.1 located within previously disturbed areas as determined by the Director. Addition of a cumulative total of 120 square feet of impervious surface in a previously disturbed area, provided that the improvement is located at least 20 feet from the top of the stream bank, does not result in the removal of woody riparian vegetation, and disperses storm water run-off over a pervious area (such as a lawn or garden).
- c. Tree and vegetation removal or trimming on a vacant lot for the purpose of protecting life or property from a fire hazard, public nuisance, or any other threat to public health and safety. Vegetation that is dead, invasive, or exotic may also be removed under this exemption.

22.63.030 – Stream Conservation Area Permit (Tier 1)

A. SCA (Tier 1) Development. Permitted development activities eligible for consideration under the Stream Conservation Area (Tier 1) Permit Review Procedures include but are not limited to:

1. Addition(s) to permitted or legal non-conforming primary structures that existed prior to February 25, 2013, provided that the work does not increase the footprint within the SCA by a cumulative total of more than 500 square feet and is not closer to the stream than the existing structure or any structure removed, whichever is more restrictive;
2. New or expanded water supply or septic facilities, including any excavation or disturbance that is necessary for facility connections;
3. Fences that are not otherwise exempt pursuant to Section 22.63.020.B.1.i;
4. New decks, patios, platforms and other similar improvement as determined by the Director;
5. Pedestrian or vehicular access routes, including paths, ramps, driveways and roads;
6. Drainage improvements, such as downdrains, pipes and swales;
7. Retaining walls, erosion control structures, and similar improvement located upland from the top of bank as determined by the Director;
8. Removal of protected or heritage trees.

Development activities listed herein shall be ineligible for an SCA Permit (Tier 1) if the proposed development would not meet applicable Development Standards and incorporate applicable Standard Management Practices through the Site Assessment.

B. SCA (Tier 1) Project Review Procedure

- 1. Ministerial Review.** The Stream Conservation Area Permit (Tier 1) shall be undertaken as a ministerial action subject to implementation of required Development Standards and project-specific Standard Management Practices.
- 2. Development Standards.** Stream Conservation Area (Tier 1) Permits shall comply with the following Development Standards:
 - a. Where permitted development within an SCA setback would result in removal of riparian vegetation, such vegetation must be replaced on-site as required in accordance with a Standard Management Practice. Replacement vegetation shall consist of native trees, shrubs and ground covers appropriate to replicate the structure and species composition of vegetation that is removed, subject to County approval.
 - b. New impervious area within the SCA shall not drain directly to the stream or storm drain. Run-off from new impervious surfaces shall flow to an adjacent pervious area (i.e., vegetated or porous surface).
 - c. New driveways, roads and roadfill slopes shall be located outside SCAs, except at stream crossings.
 - d. Pedestrian bridges shall be designed such that no portion of the structure or its related abutments extends between and below the top of banks of the stream.
 - e. Permitted work shall not result in alterations that directly or indirectly create barriers to fish migration near or within streams mapped as currently and/or historically supporting salmonids.
 - f. Subdivisions shall be designed so that no future development will occur within the SCA, and where the SCA setback is determined by the size of the lot, the SCA setback that applies to the lot prior to any subdivision shall apply to all subsequent lots that are created.
- 3. Standard Management Practices.** The CDA shall maintain a list of Standard Management Practices to be incorporated into all projects for the protection of hydraulic capacity, stream and riparian habitat and water quality within SCAs. The Site Assessment (Tier 1) will identify those Standard Management Practices appropriate to ensure that adverse impacts of permitted development are avoided, therefore fulfilling the requirements of a Site Assessment. Applicable Standard Management Practices shall be implemented at the earliest possible time but in any event no later than final inspection.
- 4. Site Assessment (Tier 1).** The Site Assessment (Tier 1) shall be prepared by trained CDA staff. The assessment shall delineate the extent of the SCA on the lot, including the precise stream location and limits of woody riparian vegetation; and identify Standard

Management Practices corresponding to the nature of development that would ensure that the project will not cause adverse impacts to the stream and riparian resources. The Site Assessment (Tier 1) is part of the SCA Permit (Tier 1).

If the Site Assessment confirms that impacts to hydraulic capacity, stream and riparian habitat and water quality can be avoided through implementation of specific Standard Management Practices, the County shall process the application as a Tier 1 permit.

22.63.040 – Stream Conservation Area Permit (Tier 2)

A. SCA (Tier 2) Development. The Stream Conservation Area Permit (Tier 2) shall be required for any development types not listed as exempt per Section 22.63.020.B or eligible for Tier 1 as provided in Section 22.63.030; for any project eligible for Tier 1 that does not incorporate the design standards and/or Standard Management Practices necessary to avoid adverse impacts; and for any development that would, despite the application of Standard Management Practices, result in adverse impacts to hydraulic capacity, stream or riparian habitat, or water quality.

B. SCA (Tier 2) Project Review Procedure

- 1. Discretionary Review.** The Stream Conservation Area Permit (Tier 2) shall be undertaken as a discretionary action subject to incorporation of Development Standards, Standard Management Practices, and/or any other mitigations as determined through a Site Assessment (Tier 2) necessary to avoid adverse impacts to hydraulic capacity; habitat acreage, value or function; and water quality.
- 2. Development Standards.** Stream Conservation Area (Tier 2) Permits shall comply with the following Development Standards:
 - a. All Development Standards applicable to Tier 1 permits provided in Section 22.63.030.B.2, except where the a Site Assessment (Tier 2) demonstrates that alternate mitigations would be more appropriate to prevent adverse alteration of hydraulic capacity; a net loss in habitat acreage, value or function; or degradation of water quality.
 - b. Any development that would, on the basis of a Site Assessment, cause or exacerbate existing channel instabilities shall require County approval of a channel stabilization program in accordance with a hydrological or geomorphic assessment; or comply with the mitigations generated during the required environmental review process. Mitigations shall include maintenance of peak flows at pre- and post-project levels, or less. Proposed stabilization measures shall anticipate project-related changes to the drainageway flow regime.
- 3. Standard Management Practices.** The project shall incorporate any applicable Standard Management Practices on file in the CDA, except as determined in accordance with a Site Assessment (Tier 2) and applicable mitigations.
- 4. Site Assessment (Tier 2).** The Site Assessment (Tier 2) shall encompass all requirements of the Site Assessment (Tier 1), shall be prepared by a qualified professional, and shall determine whether an additional setback is required to avoid adverse impacts to the SCA.

The Site Assessment (Tier 2) shall also include:

- a. Additional studies necessary to determine the extent of development impacts to hydraulic capacity, habitat and water quality including but not limited to hydrological assessments; stream and riparian habitat studies; and stormwater analysis. A hydraulic and/or geomorphic assessment of on-site and downstream drainageways that are affected by project run-off may be required where there is evidence that significant current or impending channel instability is present, as determined by the County. The hydraulic and/or geomorphic assessment shall include on-site channel or drainageway segments over which the applicant has control or access.
- b. A description of mitigation measures that conform to criteria in Section C (Mitigation Criteria), and any additional mitigation measures that would avoid or reduce the adverse impact of the proposed development on hydraulic capacity, habitat, or water quality within the SCA. Such measures shall include feasible design and site specific measures, in addition to local, state and federal regulations. All such measures shall be incorporated into the project or be required through conditions of approval.
- c. If the lot is not entirely within the SCA, the Site Assessment (Tier 2) shall also evaluate whether development on the lot entirely outside the SCA is infeasible and whether potential impacts on water quality, wildlife habitat, native vegetation, or other sensitive biological resources would be greater as a result of development outside the SCA than development within the SCA.

C. Mitigation Criteria. Where development would occur within an SCA, and adverse impacts to hydraulic capacity, habitat, or water quality are identified, mitigation shall conform to the provisions below and shall be incorporated into the project or be required through conditions of approval. The Site Assessment (Tier 2) shall present options for alternative mitigation that meet the following criteria.

1. When removal of riparian vegetation is unavoidable in an SCA, require establishment of native trees, shrubs, and ground covers at a rate sufficient to replicate, after a period of five years, the appropriate density and structure of vegetation removed. Replacement and enhancement planting shall be monitored and maintained until successful establishment provides for a minimum replacement or enhancement ratio of 2:1 (individuals planted: individuals removed).
2. A condition of approval for the Stream Conservation Area Permit (Tier 2) shall require a schedule of mitigation work and development work. Mitigation shall be implemented prior to final inspection to minimize any short-term adverse impacts to hydraulic capacity, habitat, or water quality. Mitigation plans must, to the extent feasible, be designed so that mitigations are self-sustaining.

22.63.050 – Application Filing, Processing and Review

- A. Filing and processing.** Stream Conservation Area Permit (Tier 1) applications shall be completed, submitted, and processed in compliance with Section 22.40.052 (Initial Application Review for Ministerial Planning Permits). Stream Conservation Area Permit (Tier 2) applications shall be completed, submitted, and processed in compliance with Section 22.40.050 (Initial Application Review for Discretionary Permits). Each Stream Conservation Area Permit shall be analyzed by the Agency to ensure that the application is consistent with the purpose and intent of Chapter 22.33 (Stream Protection).
- B. Project review procedure.** The Review Authority shall approve, conditionally approve, or deny all Stream Conservation Area Permit applications in compliance with the findings required by Chapter 22.63 (Stream Conservation Area Permit).
- C. Public hearings.** When the Stream Conservation Area Permit application is associated with a permit application that requires a public hearing, the Stream Conservation Area Permit action may be taken by the appropriate County hearing body as determined by the Director.
- D. Notice of action and/or hearing date.** Administrative decisions and public hearings on a proposed Stream Conservation Area Permit (Tier 2) application shall be noticed in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions). The Director may provide expanded public notice to ensure maximum public awareness of any Stream Conservation Area Permit (Tier 2) application.

22.63.060 – Decision and findings

The Review Authority shall issue the decision and the findings upon which the decision is based. The Review Authority may approve or conditionally approve an application only if all of the following findings are made:

- A. For a SCA (Tier 1) Permit:

The project meets the requirements of Section 22.63.030 (Stream Conservation Area Permit (Tier 1)), which ensure that the project will not adversely alter hydraulic capacity, will not cause a net loss in habitat acreage, value or function, and will not degrade water quality.

- B. For a SCA (Tier 2) Permit:

1. The project meets the requirements of Section 22.63.040 (Stream Conservation Area Permit (Tier 2)).
2. The project will not adversely alter hydraulic capacity; will not cause a net loss in habitat acreage, value or function; and will not degrade water quality. Exceptions may be allowed if the lot falls entirely within the SCA or development on the lot entirely outside the SCA is infeasible or would have greater impacts on water quality, wildlife habitat, native vegetation, other sensitive biological resources, or other environmental constraints than development within the SCA.

SUBJECT 2:

22.130.030 – Definitions of Specialized Terms and Phrases

Definitions are listed in alphabetical order.

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Discretionary Permit. A permit granted by a review authority in response to a land use permit application after applying the exercise of judgment or deliberation prior to making a decision. Includes any of the following entitlements/approvals established by Article IV (Land Use and Development Permits): Coastal Permits, Design Review, Floating Home Adjustment Permits, Floating Home Architectural Deviations, Master Plans and Precise Development Plans, Use Permits, Sign Review, Stream Conservation Area Permit (Tier 2), Temporary Use Permits, Tentative Maps, Tidelands Permits, and Variances. See also "Ministerial Permit."

...

Disturbed Area. An area that has experienced significant alteration from its natural condition as a result of clearing, grading, paving, construction, landscape and other activities, as determined by the Director.

...

Ministerial Permit. A permit granted to a project after applying fixed, objective standards with little or no subjective evaluation as to the wisdom or manner of carrying out the project. Examples are Sign Permit, Large Family Day-care Permit, Homeless Shelter Permit, Certificate of Compliance, Second Unit Permit, Stream Conservation Area Permit (Tier 1), Final Map approval, and Building Permits. See also "Discretionary Permit."

...

Riparian Vegetation. Vegetation associated with a watercourse and relying on the higher level of water provided by the watercourse. Riparian vegetation can include trees, shrubs, and/or herbaceous plants. Woody riparian vegetation includes plants that have tough, fibrous stems and branches covered with bark and composed largely of cellulose and lignin. Herbaceous riparian vegetation includes grasses, sedges, rushes and forbs – broad-leaved plants that lack a woody skeleton.

...

Stream, Ephemeral. A watercourse that carries only surface runoff and flows during and immediately after periods of precipitation.

Stream, Intermittent. A watercourse that is temporally intermittent or seasonal and that flows during the wet season, continues to flow after the period of precipitation, and ceases surface flow during at least part of the dry season.

Stream, Perennial. A watercourse that flows throughout the year (except for infrequent or extended periods of drought), although surface water flow may be temporarily discontinuous in some reaches of the channel, such as between pools. Perennial streams can be spatially intermittent but flow all year.

Stream Conservation Area. An area designated by the Marin Countywide Plan along all natural watercourses shown as a solid or dashed blue line on the most recent appropriate USGS topographic quadrangle map, or along all watercourses supporting riparian vegetation for a length of 100 feet or more. See Marin Countywide Plan policy EQ-2.3, The Stream

Conservation Area consists of the stream itself between the tops of the banks and a strip of land extending laterally outward from the top of both banks to the widths defined in Section 22.33.030.B and shown in Figure 3-16. The SCA extends along those perennial, intermittent, and ephemeral streams identified in the SCA data and map that is maintained and periodically updated by the Marin County Community Development Agency. Streams do not include ditches, culverts, and other above- or below-ground conduits constructed specifically for storm drainage.

Stream Conservation Area Setback. The distance measured laterally and perpendicular to the top of bank or edge of woody riparian vegetation. See Section 22.33.030.B.

...

Top of Bank. Top of bank is the elevation of land that confines waters of a stream to their natural channel in their normal course of flow, and above such elevation the waters will leave the channel and disperse in an uncontrolled manner.

...

Wetland, Jurisdictional. An area that meets the criteria established by the U.S. Army Corps of Engineers (Corps or COE) for Wetlands (a set forth in their Wetlands Delineation Manual). Such areas come under the jurisdiction of the Corps of Engineers for permitting certain actions such as dredge and fill permitting.

SUBJECT 3:

22.06.051 – Exemptions from Land Use Permit Requirements in the San Geronimo Watershed

The exemptions listed in Section 22.66.050 do not apply to activities, uses of land, and other improvements proposed in the Stream Conservation Area in the San Geronimo Watershed. See Chapter 22.33 (Stream Protection) and Chapter 22.63 (Stream Conservation Area Permit).

SUBJECT 4:

22.42.046 – Design Review for Development Along Anadromous Fish Streams and Tributaries in the San Geronimo Watershed

The requirements of Section 22.42.045 do not apply to the San Geronimo Watershed. Development in the Stream Conservation Area in the San Geronimo Watershed shall comply with Chapter 22.33 (Stream Protection) and Chapter 22.63 (Stream Conservation Area Permit).

SUBJECT 5:

22.42.026 –San Geronimo Watershed

The Environmental Protection standard in Table 4-2 does not apply to proposals in the Stream Conservation Area in the San Geronimo watershed, which shall comply with Chapter 22.33 (Stream Protection) and Chapter 22.63 (Stream Conservation Area Permit).

SUBJECT 6:

22.42.055 – Project Review Procedures

- A. Purpose.** This Section provides procedures for Design Review. It includes procedures for reviewing Minor Design Review and Design Review applications.
- B. Minor Design Review.** If a project is not exempt from Design Review as defined in Section 22.42.025 (Exemptions from Design Review), an applicant may apply for a Minor Design Review by staff. A Minor Design Review application may be approved or conditionally approved by staff following a site visit if it meets all of the requirements contained in this Section. A notice of the proposed project shall be posted at the site pursuant to Section 22.118.020(D). The Minor Design Review application is intended to streamline the Design Review process for minor projects that may be approved without required noticing or a public hearing, provided the application does not require a public hearing Coastal Permit. Minor Design Review decisions are appealable pursuant to the requirements of Chapter 22.114 (Appeals).
- 1. Requirements.** A project eligible for a Minor Design Review must:
- a. Not conflict with previous County conditions of approval that were imposed on the property;
 - b. Be consistent with the purpose of Design Review pursuant to Section 22.42.010 (Purpose of Chapter);
 - c. Comply with existing Master Plans and applicable standards in a Community Plan;
 - d. Be located outside of Stream Conservation Areas, Wetland Conservation Areas or other mapped environmentally sensitive areas as designated by the Countywide Plan;
 - e. Comply with the County's Single-family Residential Design Guidelines;
 - f. Comply with Marin County Green Building Standards (Section 19.04.110) and exceed Minimum Compliance Threshold by one level, with the exception that additions with a valuation exceeding \$300,000 shall attain a minimum compliance threshold that requires 20 additional points than that which is required by the Green Building Standards; and
 - g. Not be located on a property that meets either of the following conditions, as applicable:
 1. If the residence on the property was not subject to Design Review, final inspection by the Building and Safety Division has not been approved or was approved less than 24 months ago; or

2. If any previous addition to the residence on the property was issued a Minor Design Review pursuant to Section 22.42.055 (B), final inspection by the Building and Safety Division has not been approved or was approved less than 24 months ago.

C. San Geronimo Watershed. The requirements of 22.42.055.B.1.d for development to be located outside of a Stream Conservation Area do not apply to the San Geronimo Watershed. Development in the Stream Conservation Area in the San Geronimo Watershed shall comply with Chapter 22.33 (Stream Protection) and Chapter 22.63 (Stream Conservation Area Permit).

SUBJECT 7:

22.56.051 San Geronimo Watershed. The exceptions of 22.56.050 do not apply to second units proposed in the Stream Conservation Area in the San Geronimo Watershed, which shall comply with Chapter 22.33 (Stream Protection) and Chapter 22.63 (Stream Conservation Area Permit).

SUBJECT 8:

22.62.041 – San Geronimo Watershed. The exceptions of 22.62.040 do not apply to the Stream Conservation Area in the San Geronimo Watershed, which shall comply with Chapter 22.33 (Stream Protection) and Chapter 22.63 (Stream Conservation Area Permit).

SUBJECT 9:

CHAPTER 22.40 APPLICATION FILING AND PROCESSING, FEES

...

22.40.020 – Review Authority for County Land Use and Zoning Decisions

...

**TABLE 4-1
REVIEW AUTHORITY FOR DISCRETIONARY APPLICATIONS**

Type of Permit or Decision	(1) (2) Role of Review Authority			
	(3) Director	(3) Zoning Administrator	Planning Commission	Board of Supervisors
Coastal Permit, Administrative	Decide		Appeal Action	Appeal Action
Coastal Permit, Public Hearing	Recommend	Decide	Appeal Action	Appeal Action
Community or Countywide Plan Amendment	Recommend		Recommend	Decide
Design Review	Decide		Appeal Action	Appeal Action
Development Code Amendment	Recommend		Recommend	Decide
Floating Home Adjustment Permit	Decide		Appeal Action	Appeal Action
Floating Home Architectural Deviation	Decide		Appeal Action	Appeal Action
Interpretations	Decide		Appeal Action	Appeal Action
Lot Line Adjustment	Decide		Appeal Action	Appeal Action
Master Plan	Recommend		Recommend	Decide
Precise Development Plan	Decide		Appeal Action	Appeal Action
Sign Review	Decide		Appeal Action	Appeal Action
Stream Conservation Area Permit (Tiers 1 and 2)	Decide		Appeal Action	Appeal Action
Temporary Use Permit	Decide		Appeal Action	Appeal Action
Tentative Map	Recommend	Decide	Appeal Action	Appeal Action
Tidelands Permit	Decide		Appeal Action	Appeal Action
Tree Removal Permit	Decide		Appeal Action	Appeal Action
Use Permit	Recommend	Decide	Appeal Action	Appeal Action
Variance	Decide		Appeal Action	Appeal Action
Zoning Map Amendment	Recommend		Recommend	Decide

Notes:

1. "Recommend" means that the Review Authority makes a recommendation to the decision-making body; "Decide" means that the Review Authority makes the final decision on the matter; "Appeal Action" means that the Review Authority may consider and decide upon appeals of the decision of an earlier decision-making body, in compliance with Chapter 22.114 (Appeals).
2. In any case where a project involves applications for more than one entitlement, and entitlements require review and approval by different review authorities, all entitlements shall be reviewed and decided upon by the highest Review Authority.
3. The Director or Zoning Administrator may refer any matter subject to the Director's or Zoning Administrator's decision to the next highest authority, so that the next highest Review Authority may instead make the decision.

...

22.40.030 – Application Submittal and Filing

- A. **Applicability.** This Section shall apply to the submission and processing of the following development applications:

Discretionary Permit Applications

1. Design Review;
2. Floating Home Adjustment Permits and Architectural Deviations;
3. Master Plans or Precise Development Plans;
4. Temporary Use Permits;
5. Tentative Maps and Vesting Tentative Maps;
6. Lot Line Adjustments;
7. Stream Conservation Area Permit (Tier 2);
- ~~7~~8. Tidelands Permits;
- ~~8~~9. Tree Removal Permits
- ~~9~~10. Use Permits;
- ~~10~~11. Variances; and
- ~~11~~12. Sign Reviews.

Ministerial Planning Permit Applications

1. Certificates of Compliance
2. Homeless Shelter Permits
3. Large Family Day-care Permits
3. Second Unit Permits
4. Sign Permits
5. Stream Conservation Area Permit (Tier 1)
- ~~5~~6. Use Permit Renewals

...

MARIN COUNTY BOARD OF SUPERVISORS

ORDINANCE NO. _____

AN ORDINANCE APPROVING AMENDMENTS TO
MARIN COUNTY CODE TITLE 22 (DEVELOPMENT CODE)
FOR DEVELOPMENT IN STREAM CONSERVATION AREAS

SECTION I: FINDINGS

The Board of Supervisors of the County of Marin ordains as follows:

I. WHEREAS, the Marin County Community Development Agency initiated the proposed amendments to the Marin County Code Title 22 (Development Code). The Development Code includes the zoning and subdivision regulations that govern the development and use of private and public land, buildings, and structures located within the unincorporated areas of Marin County. The proposed amendments (Exhibit A) would modify Title 22 (Development Code) by: (1) establishing Chapter 22.33 (Stream Protection) and Chapter 22.63 (Stream Conservation Area Permits); (2) providing new definitions and amending the text of definitions in Chapter 22.130 (Definitions); (3) amending the text of Sections 22.06.050 (Exemptions from Land Use Permit Requirements), 22.08.040 (Agricultural District Development Standards), 22.40 (Application Filing and Processing, Fees), 22.42.025 (Exemptions from Design Review), 22.42.045 (Design Review for Development Along Anadromous Fish Streams and Tributaries), 22.42.055 (Project Review Procedures), 22.56.050 (Decision and Findings for New Second Units) and 22.62.040 (Exemptions) as necessary to effectuate the SCA Ordinance. The proposed amendment is applicable to those perennial, intermittent and ephemeral streams identified in the Stream Conservation Area map and data that is maintained and periodically updated by the Marin County Community Development Agency.

II. WHEREAS, the Marin County Planning Commission conducted public hearings on April 1, 2013 and May 13, 2013 to consider the proposed amendments to the Development Code and voted to recommend that the Board of Supervisors adopt an ordinance approving the proposed amendments, as modified, to Marin County Code Title 22 (Development Code).

III. WHEREAS, the Development Code implements the goals, policies and programs of the Marin Countywide Plan (CWP) which are necessary to protect the public health, safety, and welfare of residents and businesses in the unincorporated areas of Marin County.

IV. WHEREAS, the 2007 Marin Countywide Plan ("CWP") establishes goals, policies and implementing programs for riparian protection. Pursuant to Goal BIO-4 Riparian Conservation, the CWP designates Stream Conservation Areas along perennial, intermittent, and ephemeral streams. Development setbacks are established from all streams based upon the location of the top of stream bank or presence or riparian vegetation. The policies of the plan aim to promote natural stream channel function, control exotic vegetation, protect riparian vegetation, promote riparian protection, maintain channel stability, and minimize runoff.

V. WHEREAS, the CWP provides that development applications shall not be allowed if a project adversely alters hydraulic capacity; causes a net loss in habitat acreage, value or function; or degrades water quality. Hydraulic capacity refers to the rate and timing of stream flows produced by rainfall and is a measure of the efficiency of draining an area that is affected by the level of imperviousness. Habitat function means the chemical, physical, and biological processes that allow an ecosystem to exist and maintain its integrity (e.g., food, water, shelter, migration corridors, spawning, nesting or breeding sites, shade, and nutrients). Habitat value means the aspects of habitat valued by society but not necessary for the existence and function of the ecological unit (e.g., aesthetic, recreational, flood control, and groundwater recharge). Water quality refers to the chemical, physical and biological characteristics of water within a stream which can be measured by indicators such as pH, temperature, suspended solids, dissolved solids, color, concentration of pollutants, and the prevalence of certain bacteria or insects.

VI. WHEREAS, the proposed amendments to the Development Code establish the purpose, applicability, standards, permit procedures and findings necessary to implement the policies and programs of the CWP relating to riparian protection, including Programs BIO-4.a (Adopt an Expanded SCA Ordinance), BIO-4.d (Establish Functional Criteria for Land Uses in SCAs), BIO-4.e (Identify Proposals Within SCAs), BIO-4.f (Identify Potential Impacts to Riparian Systems), BIO-4.g (Require Site Assessment), BIO-4.h (Comply with SCA Criteria and Standards), BIO-4.i (Replace Vegetation in SCAs), and BIO-4.q (Develop Standards Promoting Use of Permeable Materials).

VII. WHEREAS, the Marin County Board of Supervisors certified a Final Environmental Impact Report (EIR) for the CWP prior to adoption of the CWP. The certified EIR adequately evaluated the Development Code, which functions as an implementing program to the CWP. A subsequent or supplemental EIR is not required pursuant to State CEQA Guidelines Sections 15162 and 15163 because the project does not involve or result in substantial changes to the 2007 Countywide Plan involving new or substantially more severe significant environmental effects, nor does the proposal involve new information that was not known at the time the EIR for the Countywide Plan was certified. Further, the project is exempt from CEQA pursuant to Sections 15307 and 15308 of the CEQA Guidelines (Classes 7 and 8 Protection of Natural Resources and Protection of the Environment) because the project sets the regulatory framework for permitting in accordance with the CWP and increases protections afforded to streams and riparian habitat as compared with current County regulations.

VIII. WHEREAS, the proposed amendments to the Development Code have been guided by public engagement processes that included outreach and consultation with the following organizations or their representatives to discuss and accept comments on the draft ordinance: Marin Conservation League, Marin Audubon Society, Friends of Corte Madera Creek, Salmon Protection and Watershed Network (SPAWN), the San Geronimo Valley Stewards, the San Geronimo Valley Planning Group, San Geronimo Valley Technical Advisory Committee, Marin County Farm Bureau, Marin Association of Realtors, Marin CSA 13, Lucas Valley Homeowners Association, Kentfield Planning Advisory Board, Kent Woodlands Property Owners Association, Tam Design Review Board, Sleepy Hollow Homeowners Association, neighborhood groups, and other environmental, agricultural, and trade interest organizations, as well as a publicly-noticed SCA Open House and an online civic engagement forum (Open Marin). Further, the Marin County Planning Commission held two duly-noticed public hearings, on April 1, 2013 and on May 13, 2013, to take public testimony and consider recommending that the Board of Supervisors adopt the SCA Ordinance.

IX. WHEREAS, the Marin County Board of Supervisors conducted duly-noticed public hearings on June 18, 2013, October 1, 2013, and October 29, 2013 to accept public testimony and consider the proposed SCA Ordinance.

X. WHEREAS, the Board of Supervisors decided to adopt the amendments to Marin County Code Title 22 (Development Code). The Stream Conservation Area Ordinance shall apply to unincorporated areas of Marin County outside the Coastal Zone. The court-imposed injunction on the approval of development applications in the San Geronimo Watershed shall expire upon the effective date of this ordinance.

SECTION II: AMENDMENTS TO TITLE 22

NOW, THEREFORE, BE IT RESOLVED that the Marin County Board of Supervisors hereby adopts the amendments to Marin County Code Title 22 (Development Code) as depicted in Exhibit "A" of this Ordinance. The requirements of Marin County Code Section 22.01.040.F.2 to F.5 shall govern the applicability of the approved amendments to existing projects that are in the development review process. The amendments will apply to land use permit and subdivision applications that are complete at the time this ordinance takes effect.

NOW, THEREFORE, BE IT FURTHER RESOLVED that this ordinance shall not be further enforced or applied should litigation against the County of Marin challenging the validity of any part of this ordinance or its environmental review be filed in a court of law.

NOW, THEREFORE, BE IT FURTHER RESOLVED that notwithstanding the provisions of the prior paragraph any land use permit and subdivision applications and extension requests that have been determined by the Community Development Agency to be complete before the date of any such litigation, shall continue to be processed in compliance with the Development Code.

SECTION III: EFFECTIVE DATE

This Ordinance shall be and is hereby declared to be in full force and effect as of December 28, 2013 and shall remain in effect for a period of up to 29 months (April 28, 2016) or upon adoption of subsequent amendments to the Marin Countywide Plan and/or County Code that pertain to the SCA. At such time, Subjects 1, 3, 4, 5, 6, 7 and 8 of Exhibit "A" shall expire and the stricken provisions of Subjects 4, 5, 6, 7 and 8 shall be reinstated automatically without further action by the Board of Supervisors.

This Ordinance shall be published once before the expiration date of fifteen (15) days after its passage, with the names of Supervisors voting for and against the same in the Marin Independent Journal, a newspaper of general circulation published in the County of Marin.

SECTION IV: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors and the County of Marin, State of California, on the 29th day of October 2013, by the following vote to wit:

AYES:

NOES:

ABSENT:

JUDY ARNOLD, PRESIDENT
MARIN COUNTY BOARD OF SUPERVISORS

Attest:

Matthew Hymel
Clerk of the Board of Supervisors

**EXHIBIT “A” TO MARIN COUNTY BOARD OF SUPERVISORS
ORDINANCE _____**

SUBJECT 1:

STREAM CONSERVATION AREA ORDINANCE (Dev. Code Articles III and IV)

CHAPTER 22.33 – STREAM PROTECTION

Sections:

22.33.010 – Purpose of Chapter

22.33.020 – Applicability

22.33.030 – Stream Conservation Area General Requirements

22.33.010 – Purpose of Chapter

The provisions of this Chapter are intended to implement the Stream Conservation Area (SCA) policies and programs in the Countywide Plan to protect the active channel, water quality and flood control functions, and associated fish and wildlife habitat values along streams.

22.33.020 – Applicability

A. The SCA consists of the stream itself between the tops of the banks and a strip of land extending laterally outward from the top of both banks to the widths defined in Section 22.33.030.B and shown in Figure 3-16. The SCA extends along those perennial, intermittent, and ephemeral streams identified in the SCA data and map that is maintained and periodically updated by the Marin County Community Development Agency. In the event there is uncertainty about the location of the stream and corresponding SCA, the Director may determine the applicability of this chapter to a lot based on the latest data and evidence that is available and/or submitted to the Community Development Agency.

The SCA encompasses any jurisdictional wetland within the stream channel, together with adjacent uplands, and supersedes setback standards defined for Wetland Conservation Areas in the Countywide Plan.

B. The standards of this Chapter apply to all areas of the County located within the SCA excluding the following:

1. The Coastal Zone as defined pursuant to the Coastal Act of 1976;
2. Tidally influenced waters and adjacent land;
3. Land adjacent to levees, dikes or berms in the City-Centered Corridor;
4. Publicly owned or maintained flood control facilities under tidal influence; and
5. Official activities and development of the County, State or an agency of the State, or the Federal Government, including work done on behalf of the governmental agency that assumes full responsibility for the work on land owned or controlled by the agency, such as through a lease or easement.

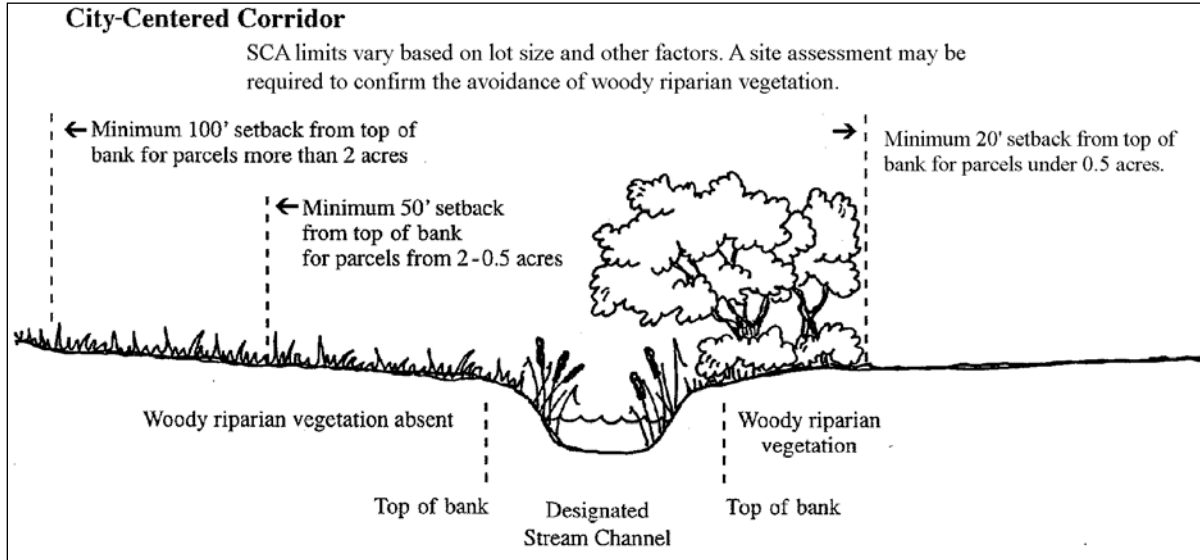
22.33.030 – Stream Conservation Area General Requirements.

A. SCA Setbacks. The Stream Conservation Area includes SCA setbacks as provided in this subsection.

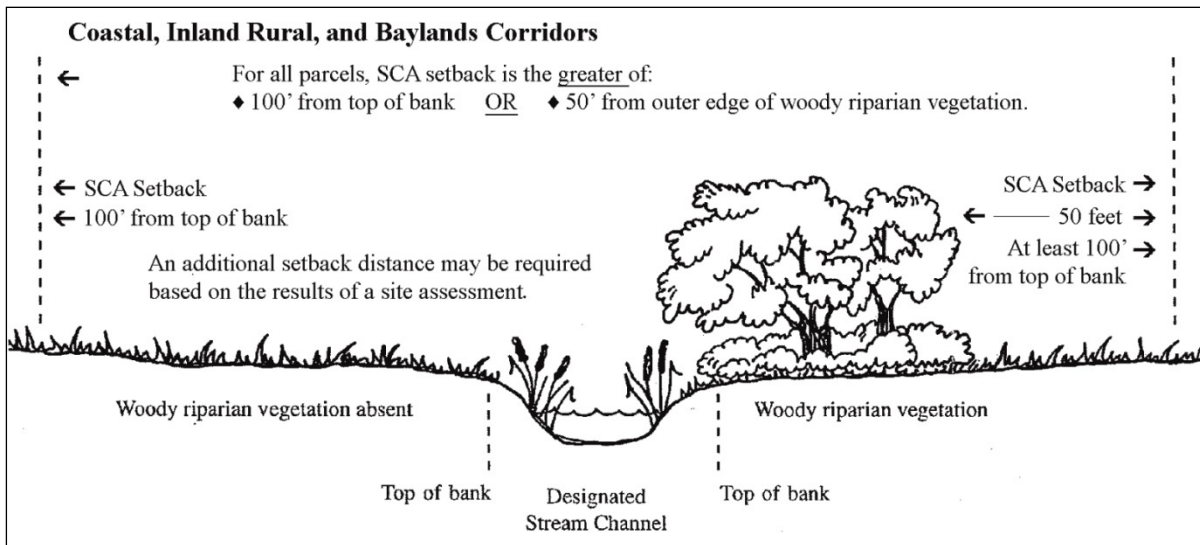
1. City-Centered Corridor:
 - a. For lots more than 2 acres in size, the SCA setback shall be a minimum of 100 feet from each side of the top of bank;
 - b. For lots from 0.5 acres to 2 acres in size, the SCA setback shall be a minimum of 50 feet from each side of the top of bank; and
 - c. For lots less than 0.5 acres in size, the SCA setback shall be a minimum of 20 feet from each side of the top of bank.
 - d. An additional SCA setback may be required based on the results of a Site Assessment if the additional SCA setback is necessary to protect riparian resources, such as woody riparian vegetation that extends beyond the SCA setback.
2. Inland Rural, Baylands, and Coastal Corridors:
 - a. The SCA setback shall be the greater of either: (a) 50 feet landward from the outer edge of woody riparian vegetation associated with the stream; or (b) 100 feet landward from the top of bank.
 - b. An additional SCA setback may be required based on the results of a Site Assessment if the additional SCA setback is necessary to protect riparian resources, such as woody riparian vegetation that extends beyond the SCA setback.
3. For all mapped ephemeral streams, the SCA setback applies only if there is riparian vegetation that extends along the stream for a length of 100 feet or more.
4. On properties zoned for agriculture (A, ARP or APZ), the outer edge of woody riparian vegetation shall be determined on the basis of the most recent aerial photography on file with the County as of February 25, 2013.
5. A Site Assessment is required for any permitted development in the SCA in order to confirm the avoidance of woody riparian vegetation and to consider site constraints, provide options for alternative mitigation, and determine the precise SCA setback.

Figure 3-16

Typical Cross-Section of a Stream Conservation Area



- * Minimum SCA setback distance of 100 feet from top of bank for lots more than 2 acres.
- * Minimum SCA setback distance of 50 feet from top of bank for lots from 2 to 0.5 acres.
- * Minimum SCA setback distance of 20 feet from top of bank for lots less than 0.5 acres.



Chapter 22.63 – STREAM CONSERVATION AREA PERMIT

Sections:

- 22.63.010 – Purpose of Chapter
- 22.63.020 – Applicability to Development
- 22.63.030 – SCA Permit (Tier 1)
- 22.63.040 – SCA Permit (Tier 2)
- 22.63.050 – Application Filing, Processing and Review
- 22.63.060 – Decision and Findings

22.63.010 – Purpose of Chapter

This Chapter provides procedures and requirements for Stream Conservation Area (SCA) Permits, which regulate development within the SCA as defined in Chapter 22.33 (Stream Protection). The SCA permit requirements support healthy watersheds by ensuring that development respects existing natural riparian features and promotes important ecological functions such as groundwater recharge and infiltration.

22.63.020 – Applicability to Development

A. Application of SCA Provisions.

1. The provisions of this Chapter apply to development within the Stream Conservation Area, as described in Chapter 22.33 (Stream Protection). The exemptions from Land Use Permit Requirements in Section 22.06.050 (Exemptions from Land Use Permit Requirements) do not apply to development within the Stream Conservation Area. Exemptions for development in the Stream Conservation Area are contained in this Chapter. As used in this Chapter, development that may be permitted in the Stream Conservation Area includes the following:
 - a. All structures, regardless of whether the work requires a building or grading permit, including fencing, decks, platforms, parking lots, utility crossings, pedestrian or vehicular access routes, and other similar improvements;
 - b. Clearing of land or removal of any vegetation, including any protected or heritage tree; or
 - c. The deposition of refuse or other nonindigenous material not otherwise subject to a permit pursuant to Marin County Code Section 11.08 (Watercourse Diversion or Obstruction).
2. Compliance with this Chapter does not affect applicability of any other requirements by this or any other agency. This Chapter shall not be applied in a manner that supersedes other local, state or federal laws applicable to protection of riparian and stream resources.

B. Exemptions.

1. Exempt without further determination.

- a. Public utility facilities, including their location, construction, maintenance, repair and replacement, that are exempt from local agency building and zoning requirements pursuant to Government Code Section 53091, Public Resources Code Section 4292, and the California Public Utilities Code;
- b. Emergency measures requiring prompt action, where such measures are immediately necessary to avoid or prevent loss of, or damage to, life, health, property or essential public services resulting from a sudden, unexpected occurrence;
- c. Tree and vegetation removal or trimming on a developed lot for the purpose of protecting life or property from a fire hazard, public nuisance, or any other threat to public health and safety. Vegetation that is dead, invasive, or exotic may also be removed under this exemption;
- d. Resource management programs carried out in accordance with the programmatic requirements or funding of a governmental agency or in coordination with a governmental agency;
- e. Infrastructure and vegetation maintenance activities of a governmental agency, whether on public or private land;
- f. Any development that is permitted pursuant to Marin County Code Section 11.08 (Watercourse Division or Obstruction), Section 23.08 (Excavating, Grading and Filling), or Section 24.04.560 (Drainage Setbacks);
- g. Maintenance, accessibility retrofit, and repair of permitted or legal non-conforming structures, water supply and septic facilities that existed prior to February 25, 2013.
- h. Maintenance or replacement of landscaping.
- i. New fences that do not restrict wildlife access to streams and the adjacent riparian vegetation. Exempt fences include any fence within or on the perimeter of a previously disturbed area;
- j. Agricultural uses on property zoned for agriculture (A, ARP or APZ), including removal and trimming of vegetation planted for a commercial enterprise, that do not result in the removal of woody riparian vegetation or animal confinement within the SCA.

- 2. Exempt subject to determination.** The following activities are exempt subject to determination by the Director, based upon photographs, illustrations and other appropriate documentation submitted by the applicant, to confirm that the activity will meet the criteria below. Where appropriate, the Director shall confirm the extent of vegetation modification and management requirements with the Fire Marshal. Documentation may include a letter or report from a licensed contractor and

photographs of the property and improvements or structures to verify the activity will comply with this Section.

- a. Replacement of permitted and legal non-conforming structures, water supply and septic facilities that existed prior to February 25, 2013, provided that such activity does not expand the footprint within the SCA setback or result in the removal of woody riparian vegetation.
- b. Development activities pursuant to Section 22.63.020.A.1 located within previously disturbed areas as determined by the Director. Addition of a cumulative total of 120 square feet of impervious surface in a previously disturbed area, provided that the improvement is located at least 20 feet from the top of the stream bank, does not result in the removal of woody riparian vegetation, and disperses storm water run-off over a pervious area (such as a lawn or garden).
- c. Tree and vegetation removal or trimming on a vacant lot for the purpose of protecting life or property from a fire hazard, public nuisance, or any other threat to public health and safety. Vegetation that is dead, invasive, or exotic may also be removed under this exemption.

22.63.030 – Stream Conservation Area Permit (Tier 1)

A. SCA (Tier 1) Development. Permitted development activities eligible for consideration under the Stream Conservation Area (Tier 1) Permit Review Procedures include but are not limited to:

1. Addition(s) to permitted or legal non-conforming primary structures that existed prior to February 25, 2013, provided that the work does not increase the footprint within the SCA by a cumulative total of more than 500 square feet and is not closer to the stream than the existing structure or any structure removed, whichever is more restrictive;
2. New or expanded water supply or septic facilities, including any excavation or disturbance that is necessary for facility connections;
3. Fences that are not otherwise exempt pursuant to Section 22.63.020.B.1.i;
4. New decks, patios, platforms and other similar improvement as determined by the Director;
5. Pedestrian or vehicular access routes, including paths, ramps, driveways and roads;
6. Drainage improvements, such as downdrains, pipes and swales;
7. Retaining walls, erosion control structures, and similar improvement located upland from the top of bank as determined by the Director;
8. Removal of protected or heritage trees.

Development activities listed herein shall be ineligible for an SCA Permit (Tier 1) if the proposed development would not meet applicable Development Standards and incorporate applicable Standard Management Practices through the Site Assessment.

B. SCA (Tier 1) Project Review Procedure

- 1. Ministerial Review.** The Stream Conservation Area Permit (Tier 1) shall be undertaken as a ministerial action subject to implementation of required Development Standards and project-specific Standard Management Practices.
- 2. Development Standards.** Stream Conservation Area (Tier 1) Permits shall comply with the following Development Standards:
 - a. Where permitted development within an SCA setback would result in removal of riparian vegetation, such vegetation must be replaced on-site as required in accordance with a Standard Management Practice. Replacement vegetation shall consist of native trees, shrubs and ground covers appropriate to replicate the structure and species composition of vegetation that is removed, subject to County approval.
 - b. New impervious area within the SCA shall not drain directly to the stream or storm drain. Run-off from new impervious surfaces shall flow to an adjacent pervious area (i.e., vegetated or porous surface).
 - c. New driveways, roads and roadfill slopes shall be located outside SCAs, except at stream crossings.
 - d. Pedestrian bridges shall be designed such that no portion of the structure or its related abutments extends between and below the top of banks of the stream.
 - e. Permitted work shall not result in alterations that directly or indirectly create barriers to fish migration near or within streams mapped as currently and/or historically supporting salmonids.
 - f. Subdivisions shall be designed so that no future development will occur within the SCA, and where the SCA setback is determined by the size of the lot, the SCA setback that applies to the lot prior to any subdivision shall apply to all subsequent lots that are created.
- 3. Standard Management Practices.** The CDA shall maintain a list of Standard Management Practices to be incorporated into all projects for the protection of hydraulic capacity, stream and riparian habitat and water quality within SCAs. The Site Assessment (Tier 1) will identify those Standard Management Practices appropriate to ensure that adverse impacts of permitted development are avoided, therefore fulfilling the requirements of a Site Assessment. Applicable Standard Management Practices shall be implemented at the earliest possible time but in any event no later than final inspection.
- 4. Site Assessment (Tier 1).** The Site Assessment (Tier 1) shall be prepared by trained CDA staff. The assessment shall delineate the extent of the SCA on the lot, including the precise stream location and limits of woody riparian vegetation; and identify Standard

Management Practices corresponding to the nature of development that would ensure that the project will not cause adverse impacts to the stream and riparian resources. The Site Assessment (Tier 1) is part of the SCA Permit (Tier 1).

If the Site Assessment confirms that impacts to hydraulic capacity, stream and riparian habitat and water quality can be avoided through implementation of specific Standard Management Practices, the County shall process the application as a Tier 1 permit.

22.63.040 – Stream Conservation Area Permit (Tier 2)

A. SCA (Tier 2) Development. The Stream Conservation Area Permit (Tier 2) shall be required for any development types not listed as exempt per Section 22.63.020.B or eligible for Tier 1 as provided in Section 22.63.030; for any project eligible for Tier 1 that does not incorporate the design standards and/or Standard Management Practices necessary to avoid adverse impacts; and for any development that would, despite the application of Standard Management Practices, result in adverse impacts to hydraulic capacity, stream or riparian habitat, or water quality.

B. SCA (Tier 2) Project Review Procedure

- 1. Discretionary Review.** The Stream Conservation Area Permit (Tier 2) shall be undertaken as a discretionary action subject to incorporation of Development Standards, Standard Management Practices, and/or any other mitigations as determined through a Site Assessment (Tier 2) necessary to avoid adverse impacts to hydraulic capacity; habitat acreage, value or function; and water quality.
- 2. Development Standards.** Stream Conservation Area (Tier 2) Permits shall comply with the following Development Standards:
 - a. All Development Standards applicable to Tier 1 permits provided in Section 22.63.030.B.2, except where the a Site Assessment (Tier 2) demonstrates that alternate mitigations would be more appropriate to prevent adverse alteration of hydraulic capacity; a net loss in habitat acreage, value or function; or degradation of water quality.
 - b. Any development that would, on the basis of a Site Assessment, cause or exacerbate existing channel instabilities shall require County approval of a channel stabilization program in accordance with a hydrological or geomorphic assessment; or comply with the mitigations generated during the required environmental review process. Mitigations shall include maintenance of peak flows at pre- and post-project levels, or less. Proposed stabilization measures shall anticipate project-related changes to the drainageway flow regime.
- 3. Standard Management Practices.** The project shall incorporate any applicable Standard Management Practices on file in the CDA, except as determined in accordance with a Site Assessment (Tier 2) and applicable mitigations.
- 4. Site Assessment (Tier 2).** The Site Assessment (Tier 2) shall encompass all requirements of the Site Assessment (Tier 1), shall be prepared by a qualified professional, and shall determine whether an additional setback is required to avoid adverse impacts to the SCA.

The Site Assessment (Tier 2) shall also include:

- a. Additional studies necessary to determine the extent of development impacts to hydraulic capacity, habitat and water quality including but not limited to hydrological assessments; stream and riparian habitat studies; and stormwater analysis. A hydraulic and/or geomorphic assessment of on-site and downstream drainageways that are affected by project run-off may be required where there is evidence that significant current or impending channel instability is present, as determined by the County. The hydraulic and/or geomorphic assessment shall include on-site channel or drainageway segments over which the applicant has control or access.
- b. A description of mitigation measures that conform to criteria in Section C (Mitigation Criteria), and any additional mitigation measures that would avoid or reduce the adverse impact of the proposed development on hydraulic capacity, habitat, or water quality within the SCA. Such measures shall include feasible design and site specific measures, in addition to local, state and federal regulations. All such measures shall be incorporated into the project or be required through conditions of approval.
- c. If the lot is not entirely within the SCA, the Site Assessment (Tier 2) shall also evaluate whether development on the lot entirely outside the SCA is infeasible and whether potential impacts on water quality, wildlife habitat, native vegetation, or other sensitive biological resources would be greater as a result of development outside the SCA than development within the SCA.

C. Mitigation Criteria. Where development would occur within an SCA, and adverse impacts to hydraulic capacity, habitat, or water quality are identified, mitigation shall conform to the provisions below and shall be incorporated into the project or be required through conditions of approval. The Site Assessment (Tier 2) shall present options for alternative mitigation that meet the following criteria.

1. When removal of riparian vegetation is unavoidable in an SCA, require establishment of native trees, shrubs, and ground covers at a rate sufficient to replicate, after a period of five years, the appropriate density and structure of vegetation removed. Replacement and enhancement planting shall be monitored and maintained until successful establishment provides for a minimum replacement or enhancement ratio of 2:1 (individuals planted: individuals removed).
2. A condition of approval for the Stream Conservation Area Permit (Tier 2) shall require a schedule of mitigation work and development work. Mitigation shall be implemented prior to final inspection to minimize any short-term adverse impacts to hydraulic capacity, habitat, or water quality. Mitigation plans must, to the extent feasible, be designed so that mitigations are self-sustaining.

22.63.050 – Application Filing, Processing and Review

- A. Filing and processing.** Stream Conservation Area Permit (Tier 1) applications shall be completed, submitted, and processed in compliance with Section 22.40.052 (Initial Application Review for Ministerial Planning Permits). Stream Conservation Area Permit (Tier 2) applications shall be completed, submitted, and processed in compliance with Section 22.40.050 (Initial Application Review for Discretionary Permits). Each Stream Conservation Area Permit shall be analyzed by the Agency to ensure that the application is consistent with the purpose and intent of Chapter 22.33 (Stream Protection).
- B. Project review procedure.** The Review Authority shall approve, conditionally approve, or deny all Stream Conservation Area Permit applications in compliance with the findings required by Chapter 22.63 (Stream Conservation Area Permit).
- C. Public hearings.** When the Stream Conservation Area Permit application is associated with a permit application that requires a public hearing, the Stream Conservation Area Permit action may be taken by the appropriate County hearing body as determined by the Director.
- D. Notice of action and/or hearing date.** Administrative decisions and public hearings on a proposed Stream Conservation Area Permit (Tier 2) application shall be noticed in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions). The Director may provide expanded public notice to ensure maximum public awareness of any Stream Conservation Area Permit (Tier 2) application.

22.63.060 – Decision and findings

The Review Authority shall issue the decision and the findings upon which the decision is based. The Review Authority may approve or conditionally approve an application only if all of the following findings are made:

- A. For a SCA (Tier 1) Permit:

The project meets the requirements of Section 22.63.030 (Stream Conservation Area Permit (Tier 1)), which ensure that the project will not adversely alter hydraulic capacity, will not cause a net loss in habitat acreage, value or function, and will not degrade water quality.

- B. For a SCA (Tier 2) Permit:

1. The project meets the requirements of Section 22.63.040 (Stream Conservation Area Permit (Tier 2)).
2. The project will not adversely alter hydraulic capacity; will not cause a net loss in habitat acreage, value or function; and will not degrade water quality. Exceptions may be allowed if the lot falls entirely within the SCA or development on the lot entirely outside the SCA is infeasible or would have greater impacts on water quality, wildlife habitat, native vegetation, other sensitive biological resources, or other environmental constraints than development within the SCA.

SUBJECT 2:

22.130.030 – Definitions of Specialized Terms and Phrases

Definitions are listed in alphabetical order.

...

Discretionary Permit. A permit granted by a review authority in response to a land use permit application after applying the exercise of judgment or deliberation prior to making a decision. Includes any of the following entitlements/approvals established by Article IV (Land Use and Development Permits): Coastal Permits, Design Review, Floating Home Adjustment Permits, Floating Home Architectural Deviations, Master Plans and Precise Development Plans, Use Permits, Sign Review, Stream Conservation Area Permit (Tier 2), Temporary Use Permits, Tentative Maps, Tidelands Permits, and Variances. See also "Ministerial Permit."

...

Disturbed Area. An area that has experienced significant alteration from its natural condition as a result of clearing, grading, paving, construction, landscape and other activities, as determined by the Director.

...

Ministerial Permit. A permit granted to a project after applying fixed, objective standards with little or no subjective evaluation as to the wisdom or manner of carrying out the project. Examples are Sign Permit, Large Family Day-care Permit, Homeless Shelter Permit, Certificate of Compliance, Second Unit Permit, Stream Conservation Area Permit (Tier 1), Final Map approval, and Building Permits. See also "Discretionary Permit."

...

Riparian Vegetation. Vegetation associated with a watercourse and relying on the higher level of water provided by the watercourse. Riparian vegetation can include trees, shrubs, and/or herbaceous plants. Woody riparian vegetation includes plants that have tough, fibrous stems and branches covered with bark and composed largely of cellulose and lignin. Herbaceous riparian vegetation includes grasses, sedges, rushes and forbs – broad-leaved plants that lack a woody skeleton.

...

Stream, Ephemeral. A watercourse that carries only surface runoff and flows during and immediately after periods of precipitation.

Stream, Intermittent. A watercourse that is temporally intermittent or seasonal and that flows during the wet season, continues to flow after the period of precipitation, and ceases surface flow during at least part of the dry season.

Stream, Perennial. A watercourse that flows throughout the year (except for infrequent or extended periods of drought), although surface water flow may be temporarily discontinuous in some reaches of the channel, such as between pools. Perennial streams can be spatially intermittent but flow all year.

~~Stream Conservation Area.~~ ~~An area designated by the Marin Countywide Plan along all natural watercourses shown as a solid or dashed blue line on the most recent appropriate~~

USGS topographic quadrangle map, or along all watercourses supporting riparian vegetation for a length of 100 feet or more. See Marin Countywide Plan policy EQ-2.3. The Stream Conservation Area consists of the stream itself between the tops of the banks and a strip of land extending laterally outward from the top of both banks to the widths defined in Section 22.33.030.B and shown in Figure 3-16. The SCA extends along those perennial, intermittent, and ephemeral streams identified in the SCA data and map that is maintained and periodically updated by the Marin County Community Development Agency. Streams do not include ditches, culverts, and other above- or below-ground conduits constructed specifically for storm drainage.

Stream Conservation Area Setback. The distance measured laterally and perpendicular to the top of bank or edge of woody riparian vegetation. See Section 22.33.030.B.

...

Top of Bank. Top of bank is the elevation of land that confines waters of a stream to their natural channel in their normal course of flow, and above such elevation the waters will leave the channel and disperse in an uncontrolled manner.

...

Wetland, Jurisdictional. An area that meets the criteria established by the U.S. Army Corps of Engineers (Corps or COE) for Wetlands (a set forth in their Wetlands Delineation Manual). Such areas come under the jurisdiction of the Corps of Engineers for permitting certain actions such as dredge and fill permitting.

SUBJECT 3:

22.06.051 – Exemptions from Land Use Permit Requirements

The exemptions listed in Section 22.66.050 do not apply to activities, uses of land, and other improvements proposed in the Stream Conservation Area. See Chapter 22.33 (Stream Protection) and Chapter 22.63 (Stream Conservation Area Permit).

SUBJECT 4:

22.42.045 – Design Review for Development Along Anadromous Fish Streams and Tributaries

In those instances where a vacant legal lot of record in the Countywide Plan's City-Centered, Baylands, or Inland Rural Corridor is proposed for development, any proposed development within the Countywide Plan's Stream Conservation Area that adjoins a mapped anadromous fish stream and tributary shall be subject to Design Review as provided by this chapter if the lot is zoned A, A-2, RA, H1, O-A, RR, RE, R1, R2, C-1, A-P, or VCR, including all combined zoning districts. Development includes all physical improvements, including buildings, structures, parking and loading areas, driveways, retaining walls, fences, and trash enclosures. The determination of the applicability of this requirement shall be based on the streams and tributaries shown on the map entitled "Marin County Anadromous Fish Streams and Tributaries," which is maintained and periodically updated by the Community Development Agency.

SUBJECT 5:

22.42.025 – Exemptions from Design Review

Review, except as provided by Sections 22.42.030 (Design Review for substandard and hillside building sites), 22.42.035 (Design Review for Certain Driveways) and 22.42.040 (Design Review for Development Along Paper Streets), and ~~22.42.045 (Design Review for development along anadromous fish streams and tributaries)~~, and except where a Community Plan adopted by the Board of Supervisors requires Design Review to implement specific design standards. In addition, where a conflict arises between conditions of approval of a discretionary application (e.g., Master Plan, Precise Development Plan, Design Review) and the exemptions listed below, the project-specific conditions of approval shall be the applicable regulations. Development and physical improvements that are exempt from Design Review shall be located outside of the ~~Stream Conservation Area and Wetland Conservation Area~~ setbacks established in the Countywide Plan and Article V (Coastal Zones - Permit Requirements and Development Standards). The requirements of Chapter 22.114 (Appeals) do not apply to determinations issued under this Section.

...

**TABLE 4-2
STANDARDS FOR EXEMPTION FROM DESIGN REVIEW FOR ONE-STORY ADDITIONS
TO SINGLE-FAMILY RESIDENCES AND FOR DETACHED ACCESSORY STRUCTURES
IN PLANNED DISTRICTS**

Standards		One-Story Single-family Additions and Detached Accessory Structure
Max. increase in building area		750 sq. ft. or 20% of the existing building area, whichever is less
Max. total building area		4,000 sq. ft. (3,000 sq. ft. where either the lot or the natural grade in the area of the building footprint has an average slope of > 25%) or the applicable floor area ratio (FAR) limit under the zoning district or in a Community Plan, whichever is more restrictive
Max. height	Single-family Addition	20 ft. or the coastal zoning height standards, whichever is more restrictive
	Detached Accessory Structure	15 ft. where either the lot or the natural grade in the area of the building footprint has an average slope that equals or is less than 25% 20 ft. where either the lot or the natural grade in the area of the building footprint has an average slope of > 25%
Min. lot area		Not applicable

Min. setbacks	5 ft. to all property lines on lots up to 6,000 sq. ft. 6 ft. to all property lines on lots up to 7,500 sq. ft. 10 ft. to all property lines on lots up to 10,000 sq. ft. 15 ft. to all property lines on lots > 10,000 sq. ft. (Or the required setbacks in a Community Plan or Master Plan, whichever is more restrictive)
Environmental Protection (Countywide Plan Consistency)	Outside of a Stream Conservation Area and Wetland Conservation Area
SFR Design Guidelines	Complies with Guideline C-1.11 (Exterior Lighting)

**TABLE 4-3
STANDARDS FOR EXEMPTION FROM DESIGN REVIEW FOR MULTI-STORY
ADDITIONS TO SINGLE-FAMILY RESIDENCES IN PLANNED DISTRICTS**

Standards	Multi-Story Single-family Addition
Max. increase in building area	750 sq. ft. or 20% of the existing building area, whichever is less
Max. total building area	4,000 sq. ft. (3,000 sq. ft. for lots with average slopes > 25%) or the applicable floor area ratio (FAR) limit under the zoning district or in a Community Plan, whichever is more restrictive
Max. height (Multi-story Additions)	30 ft. in non-coastal zone; 25 ft. in coastal zone or the coastal zoning height standards, whichever is more restrictive; 20 ft. in stepback zone (See SFR Design Guideline B-1.1)
Min. lot area	Not Applicable
Min. setbacks	5 ft. for lots up to 6,000 sq. ft. 6 ft. for lots up to 7,500 sq. ft. 10 ft. for lots up to 10,000 sq. ft. 15 ft. for lots > 10,000 sq. ft. (Or the required setbacks in a Community Plan or Master Plan, whichever is more restrictive)
Environmental Protection (Countywide Plan Consistency)	Outside of a Stream Conservation Area and Wetland Conservation Area
SFR Design Guidelines	Complies with Guideline B-1.1 (Building Setbacks and Stepbacks) and Guideline C-1.11 (Exterior Lighting)

- B. Agricultural Accessory Structures.** Agricultural accessory structures that comply with ~~the Stream Conservation Area and Wetland Conservation Area~~ setbacks established in the Countywide Plan, the Planned District Development Standards for agricultural zones (Sections 22.08.040, 22.16.040) and Article V (Coastal Zones - Permit Requirements and Development Standards), and that are 300 feet or more from a property line of an abutting lot in separate ownership, and which are at least 300 feet from a street. The minimum setback to qualify for an exemption is reduced to 50 feet for an agricultural accessory structure that does not exceed 2,000 square feet in size. This exception does not apply to facilities for processing or retail sale of agricultural products.

SUBJECT 6:

22.42.055 – Project Review Procedures

- A. Purpose.** This Section provides procedures for Design Review. It includes procedures for reviewing Minor Design Review and Design Review applications.
- B. Minor Design Review.** If a project is not exempt from Design Review as defined in Section 22.42.025 (Exemptions from Design Review), an applicant may apply for a Minor Design Review by staff. A Minor Design Review application may be approved or conditionally approved by staff following a site visit if it meets all of the requirements contained in this Section. A notice of the proposed project shall be posted at the site pursuant to Section 22.118.020(D). The Minor Design Review application is intended to streamline the Design Review process for minor projects that may be approved without required noticing or a public hearing, provided the application does not require a public hearing Coastal Permit. Minor Design Review decisions are appealable pursuant to the requirements of Chapter 22.114 (Appeals).
- 1. Requirements.** A project eligible for a Minor Design Review must:
- a. Not conflict with previous County conditions of approval that were imposed on the property;
 - b. Be consistent with the purpose of Design Review pursuant to Section 22.42.010 (Purpose of Chapter);
 - c. Comply with existing Master Plans and applicable standards in a Community Plan;
 - d. Be located outside of ~~Stream Conservation Areas~~, Wetland Conservation Areas or other mapped environmentally sensitive areas as designated by the Countywide Plan;
 - e. Comply with the County's Single-family Residential Design Guidelines;
 - f. Comply with Marin County Green Building Standards (Section 19.04.110) and exceed Minimum Compliance Threshold by one level, with the exception that additions with a valuation exceeding \$300,000 shall attain a minimum compliance threshold that requires 20 additional points than that which is required by the Green Building Standards; and

- g. Not be located on a property that meets either of the following conditions, as applicable:
 - 1. If the residence on the property was not subject to Design Review, final inspection by the Building and Safety Division has not been approved or was approved less than 24 months ago; or
 - 2. If any previous addition to the residence on the property was issued a Minor Design Review pursuant to Section 22.42.055 (B), final inspection by the Building and Safety Division has not been approved or was approved less than 24 months ago.

SUBJECT 7:

22.56.050 - Decision and Findings for New Second Units.

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- L. A second unit shall be located outside of the ~~Stream Conservation Area~~ and identified Wetland Conservation Areas except under the following circumstances: (1) the unit is created within an existing authorized primary or accessory structure through the alteration of existing floor area without increasing the cubical contents of the structure (with the exception of minor dormers, bay windows, and stairwells); and (2) no site disturbance related to the provision of parking and access improvements or other construction encroaches into a ~~Stream Conservation Area~~ or Wetland Conservation Areas.

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SUBJECT 8:

22.62.040 – Exemptions

The removal of any protected or heritage tree on a lot is exempt from the requirements of this Chapter if it meets at least one of the following criteria for removal:

- A. The general health of the tree is so poor due to disease, damage, or age that efforts to ensure its long-term health and survival are unlikely to be successful;
- B. The tree is infected by a pathogen or attacked by insects that threaten surrounding trees as determined by an arborist report or other qualified professional;
- C. The tree is a potential public health and safety hazard due to the risk of its falling and its structural instability cannot be remedied;
- D. The tree is a public nuisance by causing damage to improvements, such as building foundations, retaining walls, roadways/driveways, patios, sidewalks and decks, or interfering with the operation, repair, or maintenance of public utilities;

- E. The tree has been identified by a Fire Inspector as a fire hazard;
- F. The tree was planted for a commercial tree enterprise, such as Christmas tree farms or orchards;
- G. Prohibiting the removal of the tree will conflict with CC&R's which existed at the time this Chapter was adopted;
- H. The tree is located on land which is zoned for agriculture (A, ARP, APZ, C-ARP or C-APZ) and that is being used for commercial agricultural purposes. (This criterion is provided to recognize the agricultural property owner's need to manage these large properties and continue their efforts to be good stewards of the land.);
- I. The tree removal is by a public agency to provide for the routine management and maintenance of public land or to construct a fuel break;
- J. The tree removal is on a developed lot and: 1) does not exceed two protected trees within a one-year timeframe; 2) does not entail the removal of any heritage trees; and 3) does not entail the removal of any protected or heritage trees within a ~~Stream Conservation Area~~ or a Wetland Conservation Area.

It is recommended that a property owner obtain a report from a licensed arborist or verify the status of the tree with photographs to document the applicability of the criteria listed above to a tree which is considered for removal in compliance with this section.

SUBJECT 9:

CHAPTER 22.40 APPLICATION FILING AND PROCESSING, FEES

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22.40.020 – Review Authority for County Land Use and Zoning Decisions

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**TABLE 4-1
REVIEW AUTHORITY FOR DISCRETIONARY APPLICATIONS**

Type of Permit or Decision	(1) (2) Role of Review Authority			
	(3) Director	(3) Zoning Administrator	Planning Commission	Board of Supervisors
Coastal Permit, Administrative	Decide		Appeal Action	Appeal Action
Coastal Permit, Public Hearing	Recommend	Decide	Appeal Action	Appeal Action
Community or Countywide Plan Amendment	Recommend		Recommend	Decide
Design Review	Decide		Appeal Action	Appeal Action
Development Code Amendment	Recommend		Recommend	Decide
Floating Home Adjustment Permit	Decide		Appeal Action	Appeal Action
Floating Home Architectural Deviation	Decide		Appeal Action	Appeal Action
Interpretations	Decide		Appeal Action	Appeal Action
Lot Line Adjustment	Decide		Appeal Action	Appeal Action
Master Plan	Recommend		Recommend	Decide
Precise Development Plan	Decide		Appeal Action	Appeal Action
Sign Review	Decide		Appeal Action	Appeal Action
Stream Conservation Area Permit (Tiers 1 and 2)	Decide		Appeal Action	Appeal Action
Temporary Use Permit	Decide		Appeal Action	Appeal Action
Tentative Map	Recommend	Decide	Appeal Action	Appeal Action
Tidelands Permit	Decide		Appeal Action	Appeal Action
Tree Removal Permit	Decide		Appeal Action	Appeal Action
Use Permit	Recommend	Decide	Appeal Action	Appeal Action
Variance	Decide		Appeal Action	Appeal Action
Zoning Map Amendment	Recommend		Recommend	Decide

Notes:

1. "Recommend" means that the Review Authority makes a recommendation to the decision-making body; "Decide" means that the Review Authority makes the final decision on the matter; "Appeal Action" means that the Review Authority may consider and decide upon appeals of the decision of an earlier decision-making body, in compliance with Chapter 22.114 (Appeals).
2. In any case where a project involves applications for more than one entitlement, and entitlements require review and approval by different review authorities, all entitlements shall be reviewed and decided upon by the highest Review Authority.
3. The Director or Zoning Administrator may refer any matter subject to the Director's or Zoning Administrator's decision to the next highest authority, so that the next highest Review Authority may instead make the decision.

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22.40.030 – Application Submittal and Filing

- A. **Applicability.** This Section shall apply to the submission and processing of the following development applications:

Discretionary Permit Applications

1. Design Review;
2. Floating Home Adjustment Permits and Architectural Deviations;
3. Master Plans or Precise Development Plans;
4. Temporary Use Permits;
5. Tentative Maps and Vesting Tentative Maps;
6. Lot Line Adjustments;
7. Stream Conservation Area Permit (Tier 2);
- ~~7~~. Tidelands Permits;
- ~~8~~. Tree Removal Permits
- ~~9~~. Use Permits;
- ~~10~~. Variances; and
- ~~11~~. Sign Reviews.

Ministerial Planning Permit Applications

1. Certificates of Compliance
2. Homeless Shelter Permits
3. Large Family Day-care Permits
3. Second Unit Permits
4. Sign Permits
5. Stream Conservation Area Permit (Tier 1)
- ~~5~~. Use Permit Renewals

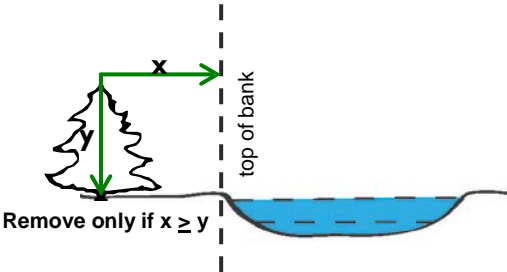
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Standard Management Practices

DRAFT June 18, 2013

Riparian Vegetation and Wildlife Habitat.

SMPs are required for vegetation removal within the Stream Conservation Area Setback. Vegetation removal below top of banks may require a Creek Permit from the Department of Public Works (<http://www.marincounty.org/pw>).

Distance (From Top of Bank)	Management Practice	✓
0-35 feet	1. Do not remove tree roots or grind stumps.	<input type="checkbox"/>
0-15 feet	2. Do not remove riparian vegetation.	<input type="checkbox"/>
15-35 feet	3. Do not remove saplings or riparian shrubs \geq 125 square feet in total canopy area.	<input type="checkbox"/>
35 feet to limits of SCA	4. Do not remove saplings or riparian shrubs \geq 250 square feet in total canopy area.	<input type="checkbox"/>
Entire SCA Setback	5. Replace areas of herbaceous riparian vegetation that have been removed using a native seed mix comprised of San Francisco Bay Area native species. Apply native seed mix at a rate of 40 lbs/acre.	<input type="checkbox"/>
Entire SCA Setback	6. Do not remove any tree or shrub if the distance from the base of the trunk to the top of stream bank is less than its overall height (a 1:1 ratio). 	<input type="checkbox"/>
Entire SCA Setback	8. Do not remove more than two trees (not including saplings).	<input type="checkbox"/>
Entire SCA Setback	9. Replace trees and shrubs on-site at a 2:1 ratio using native species recommended in the Marin SCA Riparian List (attached).	<input type="checkbox"/>
Area of riparian vegetation	10. Avoid removal of wood rat nests identified during the Site Assessment, or disassemble nests by hand and move elsewhere within the area of riparian vegetation.	<input type="checkbox"/>
Entire SCA Setback	11. Do not remove trees during avian breeding season (February 1- August 31), or provide breeding bird survey by qualified biologist within 15 days prior to vegetation removal to verify that no nesting birds are present. Vegetation removal during avian breeding season will not be authorized if nesting birds are present.	<input type="checkbox"/>
Entire SCA Setback	12. Do not use heavy equipment (i.e., bobcats, tractors, dozers, etc.) for initial clearing of vegetation, leaf litter, and other debris.	<input type="checkbox"/>
Entire SCA Setback	13. Clearing of leaf litter and debris must be limited to areas of construction, staging and stockpiling identified on the site plan.	<input type="checkbox"/>
Entire SCA Setback	14. For new outdoor lighting, use light fixtures that incorporate a shield to direct light toward the ground and away from vegetated riparian areas. Do not use lighting, such as globe fixtures, that directs lighting in an upward or uncontrolled direction.	<input type="checkbox"/>

Water Quality & Hydraulic Capacity

SMPs are required for all development that requires an SCA Permit. The following shall be implemented if the project is not a Regulated Project under Provision E.12 of the statewide municipal Phase II NPDES permit (for more information: <http://mcstoppp.org>).

Entire SCA Setback	15.	New or replaced impervious areas (e.g., roofs, paving, or hardscape) shall not drain directly to storm drains or streams (i.e., run-off must disperse across a pervious vegetated surface).	<input type="checkbox"/>
Entire SCA Setback	16.	Disperse runoff from new or replaced impervious areas. Runoff shall be dispersed to pervious areas that meet the following parameters: <ul style="list-style-type: none"> Pervious area is at least ½ the size (footprint) of impervious area. The minimum ratio for dispersed runoff must be at least 2:1 (impervious: pervious). Slope of receiving pervious area is ≤ 2%. Receiving area is vegetated with uncompacted soils. 	<input type="checkbox"/>
Entire SCA Setback	17.	If runoff from new or replaced impervious areas is not dispersed to pervious areas, it must be directed to a bioretention facility built to the design standard of NPDES Phase II permit Provision E.12: <ul style="list-style-type: none"> Maximum surface loading rate of 5 inches per hour, based on the flow rates calculated. A sizing factor of 4% of tributary impervious area may be used. Minimum surface reservoir volume equal to surface area times a depth of 6 inches. Minimum planting medium depth of 18 inches. The planting medium must sustain a minimum infiltration rate of 5 inches per hour throughout the life of the project and must maximize runoff retention and pollutant removal. A mixture of sand (60%-70%) meeting the specifications of American Society for Testing and Materials (ASTM) C33 and compost (30%-40%) may be used. Subsurface drainage/storage (gravel) layer with an area equal to the surface area and having a minimum depth of 12 inches. Underdrain with discharge elevation at top of gravel layer. No compaction of soils beneath the facility, or ripping/loosening of soils if compacted. No liners or other barriers interfering with infiltration. Appropriate plant palette for the specified soil mix. 	<input type="checkbox"/>
Entire SCA Setback	18.	Underdrain and overflow from the bioretention facility shall be connected to an existing drainage system or dispersed downgradient using perforated pipe dissipaters.	<input type="checkbox"/>

Construction Phase – Pollution Prevention

SMPs are required for all development that requires an SCA Permit. The following SMPs are adequate if either Condition A or B below is met:

- A. New site disturbance (e.g., grading, vegetation removal, construction staging, etc) that occurs between May 1 and September 30 *only* and all disturbed areas are stabilized and/or revegetated by September 30; *or*
- B. A new site disturbance ≤ 2500 square feet where:
- Slope in disturbed area is ≤ 10%; and
 - Disturbance is not within a distance of 20 feet from the top of bank; and
 - No portion of the site disturbance drains directly to the stream either via conveyance or watercourse.

Entire SCA Setback	19.	Implement MCSTOPPP “Minimum Erosion and Sediment Control Measures for Small Construction Projects” and “Pollution Prevention: It’s Part of the Plan.”	<input type="checkbox"/>
Entire SCA Setback	20.	If site will not be permanently stabilized and/or revegetated by September 30, also implement and maintain sediment and control measures identified in MCSTOPPP “Minimum Erosion and Sediment Control Measures for Small Construction Projects” throughout the rainy season.	<input type="checkbox"/>

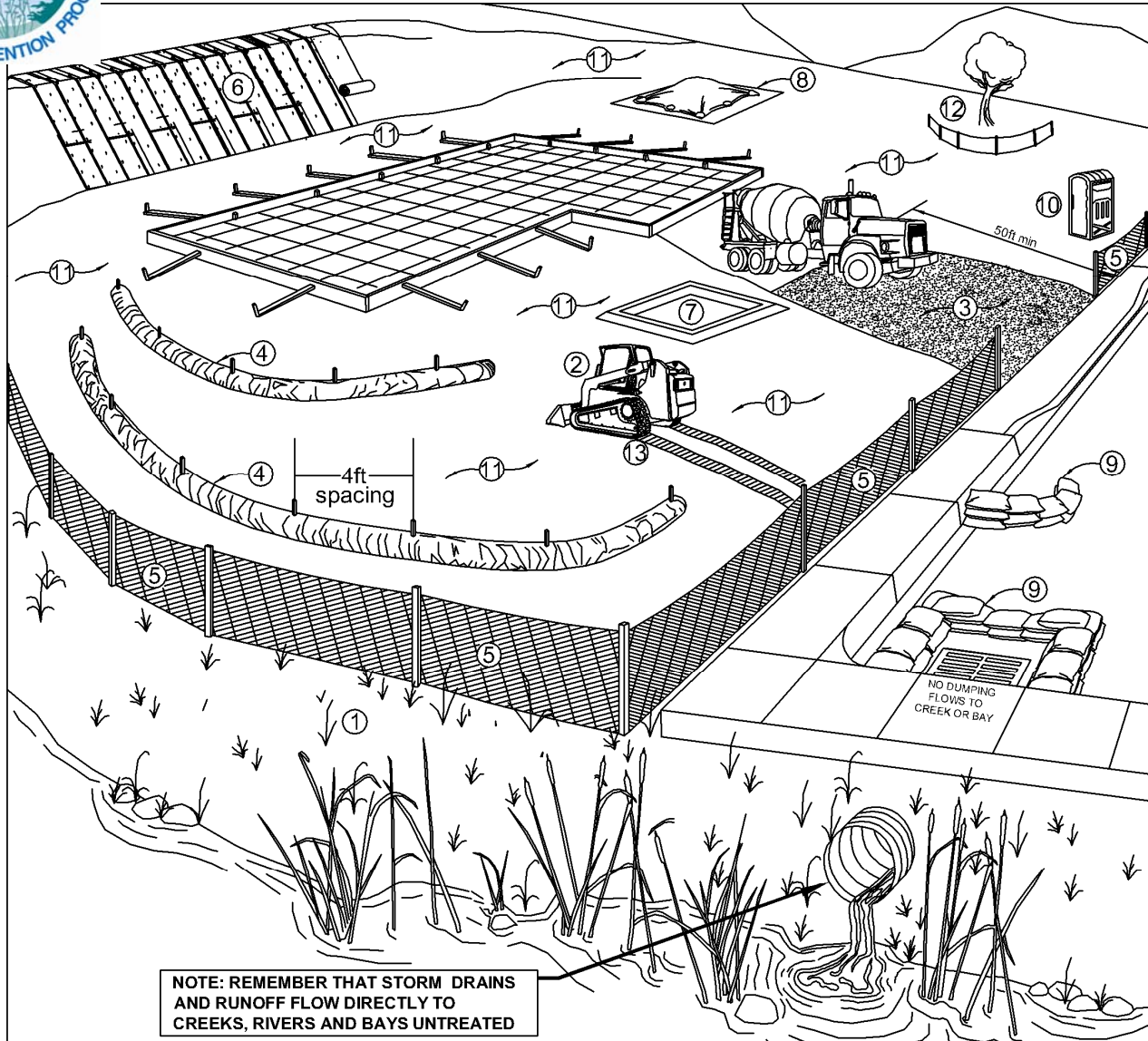
Native Plants Common to Riparian Areas in Marin County

Common Name	Scientific Name	Life Form
Lady fern	<i>Athyrium filix-femina</i>	Fern
California polypody	<i>Polypodium californicum</i>	Fern
Western sword fern	<i>Polystichum munitum</i>	Fern
Giant chain fern	<i>Woodwardia fimbriata</i>	Fern
Elk clover	<i>Aralia californica</i>	Shrub
Mugwort	<i>Artemisia douglasiana</i>	Shrub
Coyote brush	<i>Baccharis pilularis</i>	Shrub
Stream dogwood	<i>Cornus sericea</i>	Shrub
California hazelnut	<i>Corylus cornuta</i>	Shrub
Toyon	<i>Heteromeles arbutifolia</i>	Shrub
Ocean spray	<i>Holodiscus discolor</i>	Shrub
Twinberry	<i>Lonicera involucrata</i>	Shrub
Creek monkeyflower	<i>Mimulus guttatus</i>	Shrub
Wax myrtle	<i>Myrica californica</i>	Shrub
Ninebark	<i>Physocarpus capitatus</i>	Shrub
Coffeeberry	<i>Rhamnus californica</i>	Shrub
Fuchsia-flowering gooseberry	<i>Ribes californicum</i>	Shrub
Pink flowering currant	<i>Ribes sanguineum</i>	Shrub
Rose, California	<i>Rosa californica</i>	Shrub
Rose, Wood	<i>Rosa gymnocarpa</i>	Shrub
Thimbleberry	<i>Rubus parviflorus</i>	Shrub
Salmonberry	<i>Rubus spectabilis</i>	Shrub
California blackberry	<i>Rubus ursinus</i>	Shrub
Blue elderberry	<i>Sambucus nigra canadensis</i>	Shrub
Red elderberry	<i>Sambucus racemosa</i>	Shrub
Snowberry	<i>Symphoricarpos spp.</i>	Shrub
Poison oak	<i>Toxicodendron diversilobum</i>	Shrub
Pacific Madrone	<i>Arbutus menziesii</i>	Tree
Big leaf maple	<i>Acer macrophyllum</i>	Tree
Box elder	<i>Acer negundo var. californicum</i>	Tree
California buckeye	<i>Aesculus californica</i>	Tree
Alder, white or red	<i>Alnus spp.</i>	Tree
Oregon ash	<i>Fraxinus latifolia</i>	Tree
Tanoak	<i>Lithocarpus densiflorus</i>	Tree
Coast live oak	<i>Quercus agrifolia</i>	Tree
California black oak	<i>Quercus kelloggii</i>	Tree
Valley oak	<i>Quercus lobata</i>	Tree
Arroyo willow	<i>Salix lasiolepis</i>	Shrub-like tree
Yellow willow	<i>Salix lucida lassianandra</i>	Tree
Coast redwood	<i>Sequoia sempervirens</i>	Tree
California bay-laurel	<i>Umbellularia californica</i>	Tree



Marin County Stormwater Pollution Prevention Program

Minimum Erosion/Sediment Control Measures For Small Construction Projects

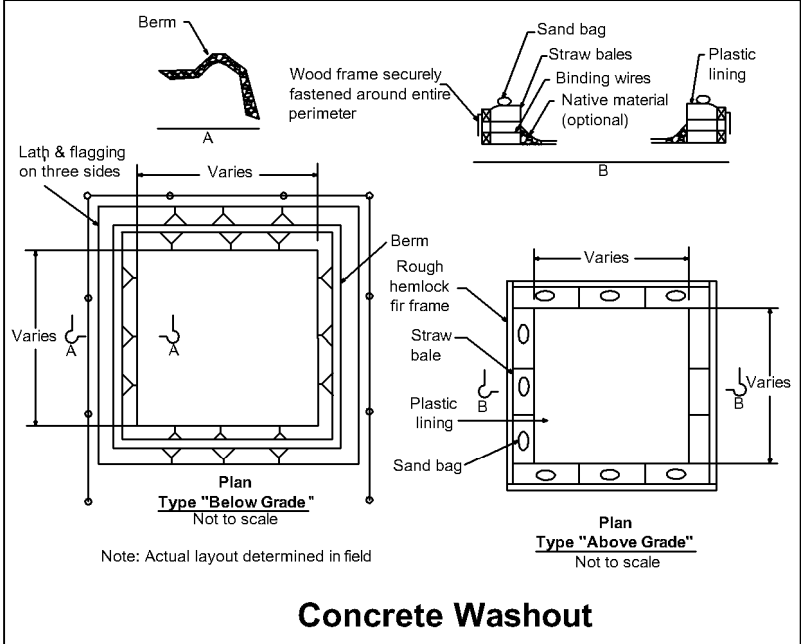
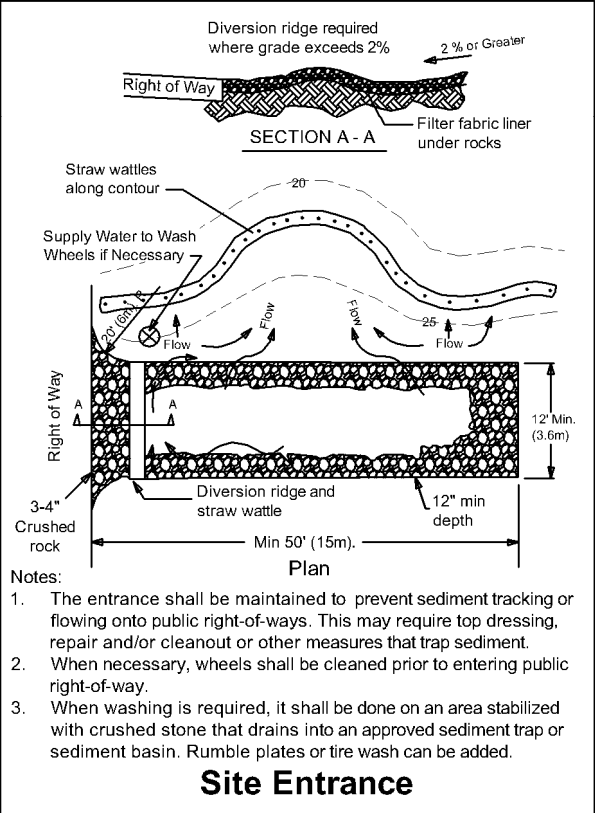
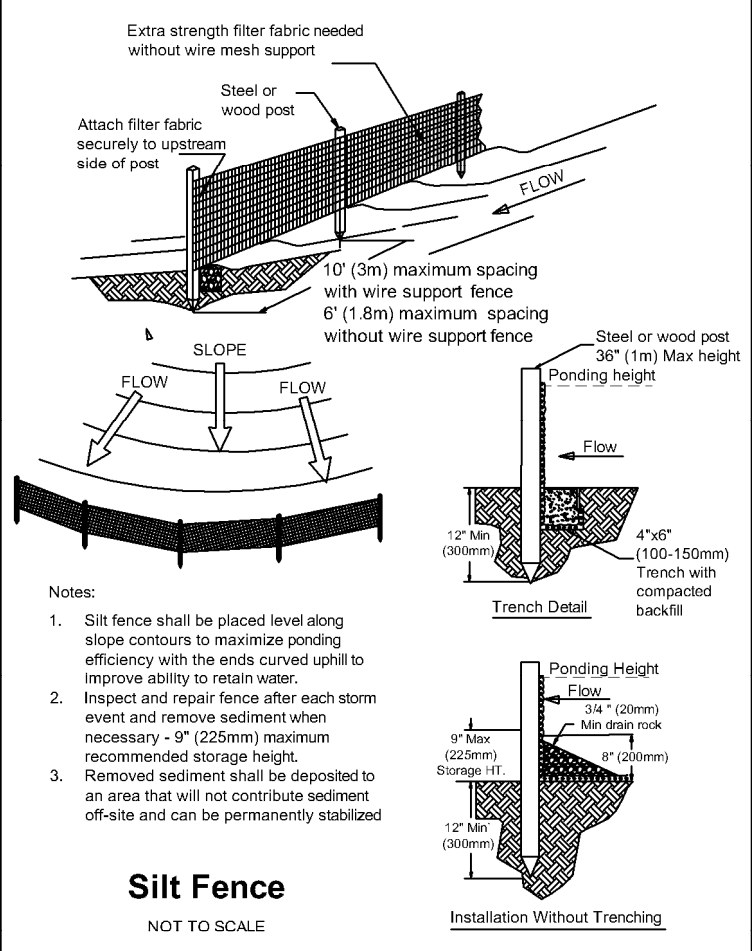
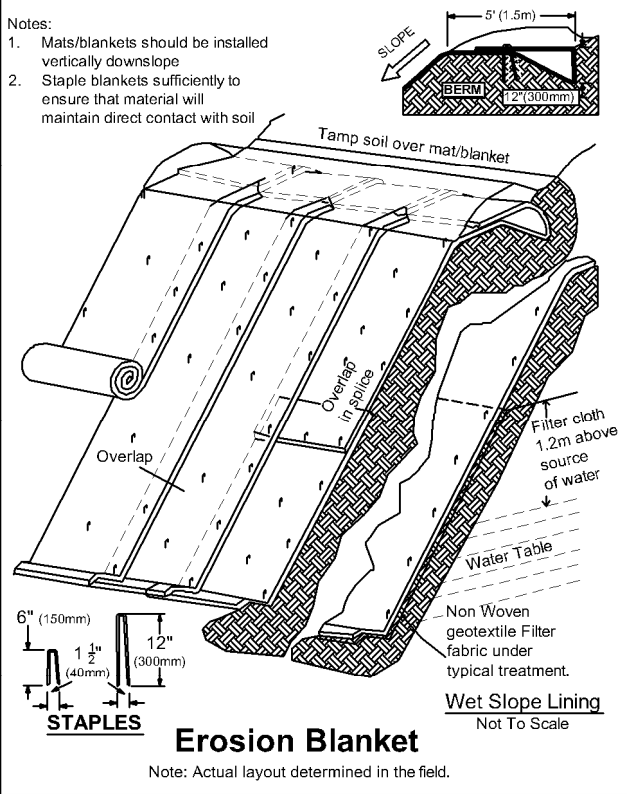


- (1) Check with your local Planning and Public Works departments for creek setback requirements. Grading and/or building may be limited within creekside buffers.
- (2) During grading phase, track-walk up and down slopes (not parallel to them).
- (3) *Stabilize site entrance and temporary driveway – use 3-4" crushed rock for a minimum of 50' (or as far as possible) to prevent tracking soil offsite. This can be used in conjunction with a tire wash or rumble plates.
- (4) *Use straw wattles along contours of short slopes or slopes 3:1 or flatter, keyed into ground at least 3" deep (typically 25' apart).
- (5) *Install silt fence along contours as secondary measure to keep sediment onsite and to minimize vehicle and foot traffic beyond limits of site disturbance. Silt fencing must be keyed in.
- (6) *Install erosion control blankets (or equivalent) on any disturbed site with 3:1 slopes or steeper, keyed into the ground at least 3".
- (7) *Construct a concrete washout site adjacent to stabilized entrance. Clean as needed and remove at end of project.
- (8) Cover all stockpiles and landscape material and berm properly with straw wattles or sand bags. Keep behind silt fence, away from water bodies. Hazardous materials must be kept in closed containers that are covered and utilize secondary containment, not directly on soil.
- (9) *Use pea-gravel bags, (or similar product) around drain inlets located both onsite and in gutter as a last line of defense.
- (10) Place port-a-potty near stabilized site entrance, behind the curb and away from gutters, storm drain inlets, and water bodies.
- (11) Cover all exposed soil with straw mulch and tackifier (or equivalent).
- (12) Existing vegetation should be preserved as much as possible. Areas of disturbed soil/vegetation should be revegetated as soon as practical.
- (13) Prevent equipment fluid leaks onto ground by placing drip pans or plastic tarps under equipment.

Note: Schedule construction activities to reduce erosion potential. Sediment and erosion control shall be continually maintained throughout the rainy season (October 15th – April 15th) and must remain effective through the construction and landscape phases. Inspect and maintain Best Management Practices (BMPs) before and after rain events. *See reverse for detail drawings. Visit www.mcstoppp.org for more information on construction site management.

Notes:

1. Mats/blankets should be installed vertically downslope
2. Staple blankets sufficiently to ensure that material will maintain direct contact with soil



If you require materials in alternative formats, please contact:
415-473-4381 voice/TTY or disabilityaccess@co.marin.ca.us

POLLUTION PREVENTION

IT'S PART OF THE PLAN

MAKE SURE YOUR CREWS AND SUBS DO THE JOB RIGHT!

Runoff from streets and other paved areas is a major source of pollution in San Francisco Bay. Construction activities can directly affect the health of the Bay unless contractors and crews plan ahead to keep dirt, debris, and other construction waste away from storm drains and local creeks. Following these guidelines will ensure your compliance with local ordinance requirements. Contact your local stormwater coordinator (see reverse). Storm drain polluters may be liable for fines!

EARTHWORK & CONTAMINATED SOILS

- ▶ Avoid scheduling earth disturbing activities during the rainy season if possible. If grading activities during wet weather are allowed in your permit, be sure to implement all measures necessary to prevent erosion.
- ▶ Mature vegetation is the best form of erosion control. Minimize disturbance to existing vegetation whenever possible.
- ▶ If you disturb a slope during construction, prevent erosion by securing the soil with erosion control fabric, or seed with fast-growing grasses as soon as possible. Place a silt barrier downslope until soil is secure.
- ▶ Keep excavated soil on the site where it is least likely to collect in the street. Transfer to dump trucks should occur on the site, not in the street.
- ▶ Use sand bags, silt fences, hay bales, straw logs or other control measures to prevent the flow of silt off the site and into storm drains or creeks.

PAVING/ASPHALT WORK

- ▶ Do not pave during wet weather or when rain is forecast.
- ▶ Always cover storm drain inlets and manholes when paving or applying seal coat, tack coat, slurry seal, or fog seal.
- ▶ Do not sweep or wash down excess materials into storm drains, ditches or creeks. Collect these materials and return them to stockpiles, or dispose of as trash.
- ▶ Do not use water to wash down fresh asphalt or concrete pavement.

DEWATERING OPERATIONS

- ▶ Reuse water for dust control, irrigation, or another on-site purpose to the greatest extent possible.
- ▶ Be sure to call the local Stormwater Coordinator before discharging water to a street, storm drain, or creek. Filtration or diversion through a basin, tank, or sediment trap may be required.

MATERIALS STORAGE & WASTE DISPOSAL

- ▶ Sweep streets and other paved areas daily. Never wash down streets or work areas with water!
- ▶ Be sure to store any stockpiles of dirt, sand, asphalt, concrete, grout, or mortar under cover and away from drainage areas. These materials must never reach a storm drain, or other watercourse.
- ▶ Wash out concrete equipment trucks off-site, or designate an on-site area for washing where water will flow into a temporary pit in a dirt area. Let the water seep into the soil and dispose of hardened concrete with trash.
- ▶ Divert water from washing exposed aggregate concrete to a dirt area where it will not run into a gutter, street, or storm drain.
- ▶ If a suitable dirt area is not available, collect the wash water and remove it for appropriate disposal off site.

HAZARDOUS MATERIALS MANAGEMENT

- ▶ Label all hazardous materials/wastes (such as pesticides, paints, thinners, solvents, fuel, oil, and antifreeze) in accordance with city, state, and federal regulations.
- ▶ Store hazardous materials and wastes in secondary containment and cover them during wet weather.
- ▶ Follow manufacturer's application instructions for hazardous materials. Be careful not to use more than necessary.
- ▶ Do not apply chemicals outdoors when rain is forecast within 24 hours.
- ▶ Dispose of hazardous materials/waste at the Hazardous Waste Collection Facility. For more information:
Novato businesses call 892-6395
All other businesses in Marin call 485-5648

CONTINUED ON BACK

PAINTING

- ▶ Never rinse paint brushes or materials into a storm drain or on the street!
- ▶ Paint out excess water-based paint before rinsing brushes, rollers, or containers in a sink. If you can't use a sink, direct wash water to a dirt area, and spade it into the dirt with a shovel.
- ▶ Paint out excess oil-based paint before cleaning brushes in paint thinner.
- ▶ Filter paint thinners and solvents for reuse whenever possible. Dispose of oil-based paint sludge and unusable thinner at the hazardous waste collection facility. (See reverse for Hazardous Materials Management.)

LANDSCAPING

- ▶ Schedule grading and excavation projects for dry weather.
- ▶ Protect stockpiles and landscaping materials from wind and rain by storing them under tarps and secured plastic sheeting.
- ▶ Store pesticides, fertilizers, and other chemicals indoors or in a locked shed or storage cabinet.
- ▶ Make sure products are properly labeled and check inventory before buying additional products.
- ▶ Rinse containers and use rinse water as products before tossing out empty containers (5 gallons or less) in the trash.
- ▶ Get rid of unwanted products through the hazardous waste facility. (See reverse for Hazardous Materials Management.)
- ▶ Use temporary check dams or ditches to divert runoff away from storm drains.
- ▶ Protect storm drain inlets with berms, filter mats or other inlet protection measures.
- ▶ Revegetate the area. It's an excellent form of erosion control for any site.
- ▶ Collect lawn and garden clippings, pruning waste and tree trimmings. Chip, if necessary, and compost.
- ▶ Do not place yard waste in gutters. In communities with curbside yard waste recycling, leave clippings and pruning waste for pick-up in approved bags or containers or, take to a landfill that composts yard waste.
- ▶ Do not blow or rake leaves into the street.
- ▶ Call the County Stormwater Program at 499-6528 and ask for a copy of "Here's What To Do with the Water" or look in "other businesses" under www.mcstoppp.org

POOL/FOUNTAIN/SPA MAINTENANCE

- ▶ Never discharge pool or spa water (and/or backwash water) to a street or storm drain. Call the County at 499-6528 for a copy of "Here's What To Do with the Water" or look in "other businesses" under www.mcstoppp.org

VEHICLE & EQUIPMENT

MAINTENANCE

- ▶ Frequently, inspect vehicles and equipment for leaks. Use drip pans to catch leaks until repairs are made; repair leaks promptly.
- ▶ Fuel and maintain vehicles on site only in a bermed area or over a drip pan that is big enough to prevent runoff.
- ▶ If you must clean vehicles or equipment on site, clean with water only - and in a bermed area that will not allow rinsewater to run into streets, stormdrains, ditches, or creeks.
- ▶ Do not clean vehicles or equipment on site using soaps, solvents, degreasers, steam cleaning equipment, etc.

SAW CUTTING

- ▶ Always completely cover or barricade storm drain inlets when saw cutting. Use filter fabric, sand bags, or fine gravel dams to keep slurry out of the storm drain system. If saw-cut slurry enters a stormdrain, clean up immediately.
- ▶ Shovel, absorb, or vacuum saw-cut slurry and pick up all waste as soon as you are finished in one location and by the end of each work day.

STORMWATER COORDINATORS (During Normal Business Hours)

Town of San Anselmo
Rabi Elias/Dave Craig
258-4616

City of Sausalito
Todd Teachout
289-4111

Town of Corte Madera
Kevin Kramer
927-5057

City of San Rafael
Richard Landis
485-3355

City of Belvedere
Scott Derdenger
435-3838

County of Marin
Howard Bunce
499-3748

Town of Ross
Rob Maccario
453-8287 ext. 163

Town of Tiburon
Matt Swalberg
435-7354

Town of Fairfax
Kathy Wilkie
453-0291

City of Larkspur
Mike Myers
927-5017

City of Novato
Dave Harlan
899-8246

City of Mill Valley
Jill Barnes
388-4033 ext. 116

To report illegal discharges to local waterways occurring after normal business hours, call 911; or, the County Sheriff's non-emergency line at 499-7233.

To report oil and chemical spills occurring in "open waters" or "on land" call 1-800-OILS911.

To report fish kills or poaching, call the California Department of Fish and Game at 1-888-334-2258.

RESOLUTION NO. 2013-_____

**RESOLUTION OF THE MARIN COUNTY BOARD OF SUPERVISORS
ESTABLISHING PLANNING DIVISION FEES IN CONJUNCTION WITH
THE INTERIM STREAM CONSERVATION AREA ORDINANCE**

WHEREAS, the Board of Supervisors held a duly noticed public hearing and considered oral and written presentations regarding the proposed Planning Division fees; and

WHEREAS, pursuant to Government Code Section 54985 *et seq.*, the Board of Supervisors hereby determines that the fees described herein do not exceed the estimated amount required to provide the service for which the fee is charged as further set forth in the fee study that evaluated the Planning Division's services, costs reasonably borne, the beneficiaries of those services, and the revenues produced by those paying fees and charges for special services; and

WHEREAS, the Board of Supervisors hereby determines that the fees adopted herein shall apply to the applicable permit applications submitted during the effective term of the interim Stream Conservation Area ordinance; and

WHEREAS, the proposed amendments do not meet the requirements for a "project" pursuant to Sections 15378(a) and 15378(b)(2) of the California Environmental Quality Act (CEQA) Guidelines, and the establishment of fees and charges is also statutorily exempt from CEQA under Public Resources Code Section 21080(b)(8) as the establishment and modification of charges by a public agency to meet operating expenses; and

WHEREAS, all requirements of Government Code Section 66014 and other applicable laws are hereby found to have been complied with.

BE IT RESOLVED THAT, the fees on Exhibit A are adopted and established.

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin held on this 29th day of October, 2013, by the following vote:

AYES:

NOES:

ABSENT:

Judy Arnold, President
Marin County Board of Supervisors

Attest:

Matthew Hymel
Clerk of the Board of Supervisors

EXHIBIT A

CATEGORY	PROPOSED FEE
Stream Conservation Area (Tier 1) Permit	\$250 (Flat Fee)
Stream Conservation Area (Tier 2) Permit	\$2,500 (Flat Fee)
Environmental Review (Initial Study)	\$5,000 (Deposit)

Note: With the exception to the Environmental Review (Initial Study) deposit, all existing fees for Planning Division services established in Board of Supervisors Ordinance 3579 apply to development.

October 19, 2013

Dear Supervisors Rice, Adams, Sears, Kinsey, Arnold, Suzanne and Tom,

The Sleepy Hollow Homeowners Association adamantly opposes the countywide interim Stream Conservation Area Ordinance for Sleepy Hollow as currently drafted. An interim ordinance for San Geronimo Valley and other developed areas where it has community support makes excellent sense. The Sleepy Hollow community, however, is broadly opposed. The ordinance as currently drafted is completely unworkable due to our unique development configuration and will create confusion and uncertainty for the public. The notion of testing the "pros and cons" of an ordinance which is known to be completely unworkable from the start is a seriously flawed approach. The members of our community have spent many hours of personal time working toward developing an acceptable, applicable, and enforceable ordinance for Sleepy Hollow and have received a great deal of support and responsiveness throughout the process from CDA staff. Our goal has always been to assist in the drafting of a responsible ordinance within the next 12 months which contains strong environmental protection and can be supported by members of our community. To sabotage all of this hard work and good faith effort will generate a great deal of ill will and resentment toward the County.

Sincerely,

Dan Stein
President
Sleepy Hollow Homeowners Association

From: [T. G. Lambach](#)
To: [Thorsen, Suzanne](#)
Subject: Comment [Ltr to Marin IJ] for BOS 10/29 Meeting
Date: Monday, October 21, 2013 3:36:49 PM
Attachments: [Marin Readers Forum Oct20.pdf](#)

Hello:

The attachment is my letter to the Marin IJ that was published Sunday October 20th.

Thomas G. Lambach

Marin Readers' Forum for Oct. 20

Posted:

marinij.com

Follow science and logic

David Schnapf's Oct. 15 Marin Voice column is an environmentalist advocacy position published ahead of a supervisors' hearing scheduled for Oct. 29.

San Geronimo Valley residents know their streams are a valuable asset and seek to protect the salmon that inhabit those waters. Yet Mr. Schnapf implies otherwise, that lacking the measures he advocates, those salmon are doomed.

Overlooked by him is that the Pacific coho salmon, along the California and Oregon fishery, is endangered and, given that designation, most streams along that coastline are federally designated as "endangered habitat."

Yet, he chooses to blame our supervisors for the salmon's decline and pressures the county into passing a crude ordinance to create setbacks along all streams in the unincorporated areas, regardless of fish being present, or just being dry ditches.

The old county plans Schnapf cites were not based on science. Those plans set arbitrary setbacks from streams to be imposed in lieu of quantifiable clean water standards.

So in 2013, Mr. Schnapf still wants to apply 1994 measures to stop the salmon's decline.

Too late for that. And suing the county doesn't help the fish either.

Our supervisors wisely called a "time out" to try to graft some science and logic onto the ideologies of the streams' water quality issue.

Let's define a "water quality" goal and assess which watersheds meet that goal and which don't and why. Then devise a remedy to deal with the identified problems. Then, at least we'll know that we're not causing the fish to decline. And, after all, that's all we can do.

It would be more constructive if the environmental community would apply science and logic to saving the salmon than recite the same out of date dogma that demands crude arbitrary setbacks from all streams, regardless of need.

Thomas G. Lambach, Kentfield