STAFF REPORT TO THE MARIN COUNTY PLANNING COMMISSION

Development Code Amendments for the Stream Conservation Area (SCA) Ordinance for San Geronimo Valley

Recommendation:	**Conduct a hearing to consider the proposed rezoning and code amendments**
Hearing Date:	**June 13, 2022**

Agenda Item:	5	Project Planner:	Kristin Drumm, AICP (415) 473-6290 kdrumm@marincounty.org

Signature Kristin Drumm

PROJECT SUMMARY

Your Commission considered the proposed Development Code Amendments for the Stream Conservation Area Ordinance (SCA Ordinance) for San Geronimo Valley during a public workshop on November 7, 2021, and a public hearing on December 13, 2021 (Attachments 1 and 2). The proposed SCA Ordinance is part of a larger, interdepartmental program to ensure that development in the San Geronimo Valley Watershed is consistent with the Marin Countywide Plan (CWP) and 2019 Final Supplemental Environmental Impact Report with a Focus on Potential Cumulative Impacts on Salmonids in San Geronimo Valley (FSEIR). At the conclusion of the hearing, your Commission unanimously recommended adoption of the SCA Ordinance to the Board of Supervisors with the following requested modifications:

- Modify Section 22.30.045.D (Limitations on Uses) to clarify additions to existing structures would need to comply with all other applicable requirements of the Development Code. This would address public concern that the cumulative 500 square foot floor area allowance is not a blanket allowance and would be required to comply with the development standards for floor area, height, and setbacks of the underlying zoning district; and
- Modify Section 22.52.030.D.2 (Site Plan Review Exemptions) to ensure removal of pyrophytic vegetation, which would be exempt from Site Plan Review, would require consistency with Chapter 22.62 (Tree Removal Permits).

Your Commission's recommendation also included a request that staff's biannual report to the Board of Supervisors on the SCA Ordinance performance include information such as: the number of Site Plan Review applications approved, conditionally approved or denied; project type(s); appeals; enforcement actions; and amount of impervious area created or replaced.

On May 16, 2022, the Board reached a tentative settlement framework (Tentative Agreement) with the Salmon Protection and Watershed Network as provided in Attachment 3. The terms of the Tentative Agreement would resolve all ongoing litigation going back to the original litigation

challenging the adequacy of the Final Environmental Impact Report (EIR) for the Marin Countywide Plan (CWP) certified by the Board of Supervisors in 2007. The Tentative Agreement would revise the SCA Ordinance approved by your Commission with new content not previously considered, as shown in the Revised SCA Ordinance, which is presented for your consideration in Attachment 1.

BACKGROUND

As recommended for approval by your Commission, the SCA Ordinance consists of a suite of amendments to the County's zoning ordinance (Development Code) that builds upon the Marin Countywide Plan's (CWP) commitment to protect riparian resources, which dates to the early 1970's, to safeguard the health of streams and habitat for endangered coho salmon and steelhead trout in the San Geronimo Valley. Coupled with the FSEIR mitigation measures, the SCA Ordinance advances stream protections not only within the SCA, but to all properties throughout the Valley watershed. The SCA Ordinance also includes various supporting resource materials to provide guidance to homeowners and contractors.

Consistent with CWP Goal BIO-4 (Riparian Conservation), the proposed Development Code amendments would establish a regulatory framework consisting of standards for development and permit review procedures specific for the SCA in San Geronimo Valley that would:

- Establish an SCA buffer on each side of the top of bank that is 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, along all perennial and intermittent streams, and certain ephemeral streams.
- Expand the types of improvements that require discretionary review to include any activity, use of land, or other improvement that would: a) entail grading or otherwise expose soil; b) increase lot coverage or surface runoff; c) remove vegetation or woody riparian vegetation; or d) alter the bed, bank, or channel of any stream.
- Require Site Plan Review for proposed development within the SCA. This permit is intended to ensure that development respects the natural constraints of the property and protects environmental resources from excessive disturbance.
- Limit exemptions from discretionary review to the trimming and removal of dead, invasive, and exotic vegetation, including fire-prone (pyrophytic) vegetation consistent with wildfire and defensible space requirements. Repair and maintenance of septic systems, development subject to a Creek Permit, and subdivisions pursuant to the Subdivision Map Act would also be exempt.
- Require a site assessment for development located in the SCA to evaluate a site's biological setting assess potential impacts to stream ecology, riparian ecology, and hydrology, including the potential for impacts to anadromous salmonids; and provide findings regarding potential environmental effects. The site assessment would also map the precise boundary of the SCA.
- Require development incorporate site appropriate Standard Management Practices (SMPs) for the protection of hydrologic processes, stream and riparian habitat, and water quality. The SMPs consist of vegetation management, stormwater run-off, erosion and sediment control measures, and construction management practices that directly

offset or avoid impacts to salmonids. These best practices are identified as part of the site assessment.

- Limit land uses within the SCA to the maintenance and repair of existing structures; projects to improve fish and wildlife habitat; stream crossings for roads and driveways, if no other location is feasible; passive recreation; water supply and flood control projects; and certain agricultural activities that would not remove woody riparian vegetation, prevent wildlife access, increase sedimentation, or confine animals in the SCA.
- Allow additions to existing structures of up to a cumulative total of 500 square feet of floor area subject to compliance with all other Development Code requirements, including floor area ratio, height, and setback standards. The addition must not expand closer to the stream than the existing footprint, while no additional floor area will be permissible once the allowance is exhausted, consistent with state law.
- Require a new finding, in addition to existing findings that development in the SCA would not: a) adversely alter hydraulic capacity; b) result in a net loss of habitat acreage, value or function; and/or c) degrade water quality.
- Ensure stormwater and Low Impact Development (LID) requirements are applied throughout the entire San Geronimo watershed, not just within the SCA. Requiring some degree of LID measures regardless of location is a standard practice used by other municipalities in California and the Pacific Northwest.

The proposed SCA Ordinance would also rezone all lots within the boundary of San Geronimo Valley to add the new SGV (San Geronimo Valley) combining district (Attachment 2). This rezoning would ensure uniform permit requirements for development in both planned and conventional zoning districts within the SCA, as well as enable compliance with stormwater, erosion and sediment control, and Low Impact Development (LID) requirements on properties outside the SCA and throughout the Valley watershed.

For unincorporated areas outside San Geronimo Valley, Site Plan Review would continue to be required for vacant legal lots of record within the SCA that adjoin a mapped anadromous fish stream and tributary.

DISCUSSION

As summarized above, various modifications are proposed to the Planning Commission recommended Development Code Amendments for the SCA Ordinance. These changes would: 1) Require new standards for LID and road and driveways for properties outside the SCA; 2) Modify site assessment requirements; 3) Expand the SCA to include all ephemeral streams; 4) Clarify measurement of SCA for ephemeral streams; 5) Create a minimum 35-foot buffer along all streams; 6) Reduce additions from 500 s.f. of floor area to 300 s.f. of lot coverage; 7) Modify exceptions to SCA compliance; 8) Modify exemptions allowing for the removal of pyrophytic vegetation; 9) Clarify “not net loss of habitat”; 10) Require a Habitat Restoration Program fee; and 11) Enforce compliance with SCA provisions. Additional settlement terms would: 12) Establish a voluntary point of sale inspection program; 13) Implement system to allow anonymous complaints; 14) Expand enforcement capacity; and 15) Address specific metrics in the biannual report.

The proposed modifications to the Revised SCA Ordinance are color coded as follows:

- Items in red ~~strikethrough~~ or underline show modifications in response to the Tentative Agreement dated May 16, 2022.
- Items in yellow highlights show proposed staff recommended changes.

1. Require new standards for LID and roads and driveways for properties outside the SCA

FSEIR Mitigation Measure 5.2-1 requires the County to adopt changes to existing stormwater, Low Impact Development (LID), erosion, and sediment control requirements within the SCA. To comply, staff recommends a modification to Section 22.30.045 that would: 1) provide new design criteria for non-county maintained and privately owned roads; and 2) apply enhanced LID requirements for development throughout the San Geronimo Valley watershed, not just within the SCA. These measures are necessary to avoid or minimize hydrologic effects and stream sedimentation associated with potential development on redd scour and degradation of salmonid winter rearing habitat. These proposed changes are shown as follows:

1. **Roads and Driveways**. Non-county maintained roads and privately owned and maintained roads, including new roads and driveways, either paved or unpaved, shall be constructed to the standards specified below:
    a. Surface drainage.
        i. Road surfaces and ditches are hydrologically "disconnected" from streams and stream crossing culverts, with a maximum allowable hydrologic connectivity of 25% of the total new road surface and compacted shoulder area (paved and unpaved). To be considered disconnected, road surface runoff is dispersed, rather than collected and concentrated, and does not return to a connected ditch farther downstream.
        ii. Fine sediment contributions from roads, cutbanks and ditches are minimized by utilizing seasonal closures and installing a variety of surface drainage techniques including berm removal, road surface shaping (i.e., outsloping, insloping, crowning), rolling dips, ditch relief culverts, waterbars and other measures to disperse road surface runoff and reduce or eliminate sediment delivery to the stream.
    b. Road fills.
        i. Unstable and potentially unstable road fills that could deliver sediment to a stream are excavated (removed) or structurally stabilized
        ii. Excavated spoil is placed in locations where eroded material will not enter a stream
        iii. Excavated spoil is placed where it will not cause a slope failure or landslide
    c. Off-site retrofits. If on-site avoidance or minimization of surface runoff and sediment erosion is not feasible using the above criteria, off-site retrofit of existing impaired sites (e.g., stream crossings currently diverted or with diversion potential, culverts likely to plug or undersized culverts), would occur at a 2:1 ratio for total runoff area in a functionally equivalent riparian area of San Geronimo Creek or its major tributaries (North Fork San Geronimo

Creek, Woodacre Creek, Montezuma Creek, Arroyo/Barranca/El Cerrito Complex, Larsen Creek) within reaches accessible to anadromous salmonids. . If functionally equivalent off-site mitigation opportunities cannot be identified within these locations, then opportunities can be selected elsewhere in San Geronimo Valley and/or in the downstream Lagunitas Creek watershed using existing site-specific sediment source assessments.

2. **Low Impact Development**. Development outside the Stream Conservation Area that would create or replace 500 square feet or more of ~~impervious surface~~ lot coverage shall incorporate low impact development practices and designs that are demonstrated to prevent offsite discharge from events up to the 85th percentile 24-hour rainfall event. This requirement applies to retention of the entire volume of each day's rainfall that does not achieve this total volume, and the first increment of rain up to this volume for those 24-hour periods whose rainfall exceeds this volume. Specifically:

    a. Complete a stormwater control plan that achieves retention of the 85th percentile, 24 - hour design storm for the newly created or replaced impervious surface, or for an equivalent area of previously unretained impervious surface on the same site. It is acceptable for the Stormwater Control Plan to use the existing runoff reduction measures as described in Appendix C of the Bay Area Stormwater Management Agencies Association (BASMAA) Post-Construction Manual to retain the 85th percentile, 24-hour design storm standard. It is also acceptable to use the bioretention sizing factor (0.04) described in Appendix D of the BASMAA Post-Construction Manual to retain the 85th percentile, 24-hour design storm standard.
    b. Complete a stormwater control plan that achieves retention of the 85th percentile, 24- hour design storm for the newly created or replaced impervious surface, or for an equivalent area of previously unretained impervious surface on the same site It is acceptable for the SCP to use the bioretention sizing factor (0.04) described in Appendix D of the BASMAA Post-Construction Manual to retain the 85th percentile, 24-hour design storm standard.

The Planning Commission approved SCA Ordinance would require Site Plan Review to evaluate proposed development within the SCA. Staff recommends the same approach for projects located outside the SCA. Thus, staff recommends a revision to Section 22.52.020 to carry out the above provisions:

G. In those instances where development subject to the SGV combining district located outside the Stream Conservation Area would:

    1. Create new roads or driveways; or
    2. Create or replace 500 square feet or more of lot coverage.

2. Modify site assessment requirements

The Planning Commission approved staff's recommended language regarding site assessment requirements. Recall that a site assessment for development located within the SCA. The Tentative Agreement would add language to clarify the site assessment shall identify site appropriate standard management practices and confirm the proposed development would

result in no net loss of habitat, acreage, value, or function. A staff proposed change would clarify the site assessment is required as part of a Site Plan Review permit application for development proposed within the SCA. The changes to Section 22.30.045 are indicated below:

> **Site Assessment**. A site assessment is required as part of a Site Plan Review permit application when development is proposed in the Stream Conservation Area, where adverse impacts to riparian resources may occur, or where full compliance with Subsection E would not be met. The site assessment shall identify site specific standard management practices in accordance with the provisions in Subsection G and shall confirm that the proposed development would result in no net loss of habitat acreage, value, or function.

3. Expand the SCA to include all ephemeral streams

As approved by your Commission, the SCA is designated along perennial, intermittent and those ephemeral streams that: (a) support riparian vegetation for a length of 100 feet or more; and/or (b) support special-status species and/or sensitive natural community type, such as native grasslands, regardless of the extent of riparian vegetation associated with the stream consistent with CWP stream policies. A 20-foot buffer would be required for ephemerals that would not meet these criteria.

Instead, the Tentative Agreement would expand the SCA to apply along all ephemeral streams in the Valley, not just those subject to the CWP criteria. This approach would support public comments that all ephemerals deserve protection given their important ecological and hydrological importance to overall watershed health and function. While this change is more protective of stream resources, it maintains consistency with the CWP since it furthers the CWP's vision for improved watershed function, preservation of riparian vegetation, and restoration of stream corridors. Thus, staff recommends modifying the Stream Conservation Area definition in Section 22.130 for this approach as follows:

> The Stream Conservation Area applies to ephemeral streams that:
>
> (a) support riparian vegetation for a length of 100 feet or more; and/or
>
> (b) support special-status species and/or sensitive natural community type, such as native grasslands, regardless of the extent of riparian vegetation associated with the stream.
>
> Except for ephemeral streams within the SGV combining district, a minimum 20-foot buffer should be required for ephemeral streams that do not meet these criteria. In the SGV combining district, the Stream Conservation Area applies to all ephemeral streams as mapped on the most recent appropriate USGS National Hydrography Dataset.

4. Clarify measurement of SCA for ephemeral streams

As defined, the SCA is measured laterally outward from the stream top of bank. In many cases it is straightforward to determine stream top of bank. However, it is often more difficult with seasonal streams such as ephemerals. Some members of the public expressed concerns regarding the lack of clarity on how to determine the boundary of the SCA if the stream lacks evidence of a well-defined top of bank. For ephemeral streams outside the SCA, CWP Figure 2-2 illustrates measuring the minimum setback from the centerline of swale for ephemeral streams lacking top of bank. Staff proposes the following modification to the Stream Conservation Area definition in Section 22.130 to incorporate this standard for ephemerals within the SCA in San Geronimo Valley:

The Stream Conservation Area consists of the watercourse itself between the tops of the banks and a strip of land extending laterally outward from the top of both banks that is the width 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. The SCA is measured from the centerline of the swale for ephemeral streams with no clear top of bank located in the SGV combining district as shown in Figure 8-9.

An additional buffer may be required based on the results of a site assessment to protect riparian habitat.

This modified measurement is shown in Section 22.130, Figure 8-9: *Buffer Measurement for Ephemeral Streams Subject to the Stream Conservation Area in San Geronimo Valley.*

5. Create a minimum 35-foot buffer along all streams

As recommended for approval by your Commission, the SCA is defined as a buffer along all perennial and intermittent streams, and certain ephemeral streams, to protect the stream channel and associated fish and wildlife habitat, including important water quality and flood control functions. The SCA extends 100 feet landward from the top of stream bank, and/or 50 feet from the outer edge of woody riparian vegetation, whichever is greater. The SCA may be extended based on the results of a site assessment. A 20-foot buffer would be required along ephemeral streams not defined as SCA, consistent with creek setback regulations provided in Marin County Code Section 24.04.560 (Drainage Setbacks). In addition, allowable uses within the SCA would be limited to the maintenance and repair of existing structures, floor area additions up to 500 square feet, and other natural resource related projects.

The Tentative Agreement, however, would create a new 35-foot minimum buffer within the SCA. The 35-foot buffer is not a new concept; it is based on guidance provide in the San Geronimo Valley Salmon Enhancement Plan (2010). According to the SEP, such a buffer "can make a crucial contribution to filtering most sediment and sediment-attached pollutants, while also providing shade and natural bank stabilization." Moreover, the Tentative Agreement would limit allowable uses within the 35-foot buffer to the maintenance and repair of existing structures within the existing footprint, and would eliminate the option for potential home additions, as further described in Item 6 below. Outside the new 35-foot buffer and within the remainder of the SCA, potential home additions would be reduced from 500 square feet of floor area to 300 square feet of lot coverage. These modifications to Section 22.30.045 are provided below:

2. **Limitations on Uses.** Allowable land uses subject to the SGV combining district and located within the Stream Conservation Area shall be limited to the following;

   a. Allowable uses within 35 feet from top of bank, or from centerline of swale for ephemeral streams where there is no defined top of bank, within the Stream Conservation Area:

      1) Maintenance and repair of existing permitted structures within the existing footprint;
      2) Projects to improve fish and wildlife habitat;
      3) Driveway, road and utility crossings, if no other location is feasible and that minimize impacts to stream function and fish and wildlife habitat;

4) Water-monitoring installations;
5) Passive recreation that does not ~~significantly~~ disturb native species.
6) Necessary water supply and flood control projects that minimize impacts to stream function and to fish and wildlife habitat;

~~a. Agricultural uses that do not result in any of the following:~~
~~i. The removal of woody riparian vegetation;~~
~~ii. The installation of fencing within the Stream Conservation Area that prevents wildlife access to the riparian habitat within the Stream Conservation Area;~~
~~iii. Animal confinement within the Stream Conservation Area; and~~
~~iv. A substantial increase in sedimentation.~~

b. Allowable uses outside 35 feet from top of bank, or from centerline of swale for ephemeral streams where there is no defined top of bank, within the Stream Conservation Area:

1) Maintenance and repair of existing permitted structures;
2) ~~Floor area~~ Additions to existing permitted structures that do not:
   a) Increase the lot coverage within the Stream Conservation Area by more than a cumulative total of 300 square feet; or
   b) Increase the horizontal encroachment into the Stream Conservation Area.

   Vertical additions to existing permitted structures that do not expand the existing footprint are not counted towards the 300 square foot cumulative lot coverage allowance.

   The ~~500~~ 300 square feet of cumulative ~~floor area~~ lot coverage is calculated on a per parcel basis following the effective date of this section (, 2022). No additional lot coverage may be allowed once the allowance is exhausted. Notwithstanding the foregoing, state law may require the allowance of other certain other uses and/or development that is not otherwise contemplated by this section.
3) Projects to improve fish and wildlife habitat;
4) Driveway, road and utility crossings, if no other location is feasible;
5) Water-monitoring installations;
6) Passive recreation that does not ~~significantly~~ disturb native species.
7) Necessary water supply and flood control projects that minimize impacts to stream function and to fish and wildlife habitat;
8) Agricultural uses that do not result in any of the following:
   a) The removal of woody riparian vegetation;
   b) The installation of fencing within the Stream Conservation Area that prevents wildlife access to the riparian habitat within the Stream Conservation Area;
   c) Animal confinement within the Stream Conservation Area; and
   d) A substantial increase in sedimentation.

The above listed uses shall comply with all other applicable requirements of this Development Code.

Land uses and improvements not listed above are prohibited, unless such improvements and land use meet the criteria for an exception in Subsection 4, below.

6. Reduce additions from 500 s.f of floor area to 300 s.f of lot coverage

The SCA Ordinance recommended for approval by your Commission would, among other things, allow floor area additions up to a cumulative of 500 square feet. Your Commission directed staff add language to clarify that any addition must be consistent with the underlying zoning, and that the addition allowance would not be an automatic entitlement.

As discussed above, the Tentative Agreement would reduce the cumulative allotment allowed for potential additions from 500 square feet of floor area to 300 square feet of lot coverage. The change from "floor area" to "lot coverage" is noteworthy in that the former would prohibit improvements such as balconies, decks, porches, and terraces, while the latter would allow these improvements. Lot coverage is the percentage of total site area occupied by buildings and other structures, impervious paving, and other hard surfaces that have a water runoff factor of 0.5 or more. This term was introduced into the Development Code in 2017 to align with the Bay Area Storm Water Management Agencies Association impervious surface requirements. Finally, Tentative Agreement would also add language to exclude vertical additions from the 300 square foot lot coverage allowance as an incentive to build up, not out, and minimize the overall development footprint within the SCA. These proposed modifications are shown in the above discussion regarding item 5) Create a minimum 35-foot buffer along all streams.

7. Modify exceptions to SCA compliance

The SCA Ordinance recommended for approval by your Planning Commission would allow homeowners a limited range of development opportunities within the SCA as provided in Section 22.30.045.D (Limitations on Uses). Exceptions to compliance with this provision may be granted under certain circumstances, such as when:

a. The parcel falls entirely within the SCA; or

b. Locating the proposed development outside the SCA is infeasible or would have greater impacts on resources than if the proposed project was located within the SCA.

Several members of the public commented that the term "infeasible" is vague and that the ordinance lacks objective standards to evaluate proposed development, is overly permissively, and allows development that would otherwise be prohibited. As defined "feasible" is "that which is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technology factors." For example, the SCA Ordinance does not provide a standard of review to determine whether a project is economic or social feasible, which gives the project applicant substantial leeway to cite evidence in order to support the exception.

To address this ambiguity, the Tentative Agreement would first clarify the exception may only be allowed for undeveloped lots. Second, "infeasible" would be replaced with "cannot be accomplished even if the proposed development is limited to 1,000 square feet or less of lot coverage…" This 1,000 square foot limitation, which is derived from Coastal Commission recommended policies guiding the size of residences in the Coastal Zone to avoid takings, would similarly guarantee the footprint and size of new development's lot coverage within the SCA would be minimized. Third, any proposed exception must demonstrate good cause and would be subject to public noticing and appeal requirements. Finally, these exceptions would

not apply within the proposed 35-foot buffer, which means no deviation from the provisions would be allowed. These changes are shown below:

4. Exceptions. Exceptions to full compliance in Subsection 2b, above, may be allowed only if the parcel is undeveloped as of the effective date of this Section and the following is true:

a. A lot falls entirely within the Stream Conservation Area; or

b. Development on the parcel entirely outside the Stream Conservation Area:

1) ~~Is infeasible~~ Cannot be accomplished even if the proposed development is limited to 1,000 square feet or less of lot coverage on the parcel as a whole with the least possible encroachment into the Stream Conservation Area, or relocated to another suitable portion of the parcel that avoids encroachment in the Stream Conservation Area; or

2) Would have greater impacts on water quality, wildlife habitat, other sensitive biological resources, or other environmental constraints than development within the Stream Conservation Area.

Exceptions under this subsection would require an application supported by a showing of good cause and public noticing and shall be subject to the provisions in Chapter 22.114 (Appeals).

8. Modify exemptions allowing for the removal of pyrophytic vegetation

As approved by your Commission, the amendments would exempt the removal of dead, exotic, or invasive vegetation, as well as pyrophytic (fire prone) vegetation from the SCA from a discretionary permit. Pyrophytic vegetation removed in this manner must be consistent with defensible space requirements in Marin County Code Chapter 16.16. This exemption is intended to encourage compliance with vegetation management rules for fire safety. However, native tree species such as tanoak, California bay laurel, and Douglas Fir, which are commonly found in the Valley's stream riparian corridors and are also defined as a Heritage and Protected trees under Marin County's Tree Protection Ordinance, would be eligible for this exemption.

Members of the public raised concern these exemptions are too broad and could result in the wholesale removal of native vegetation, particularly mature native trees. As a result, your Commission directed staff to add language to clarify that removal of any protected or heritage tree would need to comply with the Chapter 22.62 (Tree Removal Permits). The Tree Permit would preserve and protect native trees and may removal of protected and heritage trees in specific circumstances to allow for the reasonable use and enjoyment of property.

The Tentative Agreement would further augment these exemptions and add language to clarify that consultation with the County, California Department of Fish and Wildlife, and/or Marin Municipal Water District is required prior to removal of any woody debris below the stream top of bank. Furthermore, no live tree or vegetation that is greater than six inches in diameter below the stream top of bank would be exempt from Site Plan Review, unless the vegetation removed presents an immediate hazard to public safety. Staff recommends a technical edit to clarify the size of the tree removed. The proposed revisions to Section 22.52.030 (Site Plan Review Exemptions) are as follows:

D. The following types of development subject to the SGV combining district:

1. Removal of dead, invasive, or exotic vegetation, including leaf litter, except for woody debris located below the stream top of bank. Consultation with the County, California Department of Fish and Wildlife, and/or Marin Municipal Water District is required prior to removal of any woody debris below the stream top of bank.

2. Removal or trimming of pyrophytic combustible live trees and/or vegetation consistent with Chapter 22.62 (Tree Removal Permits) and Title 16 – Provision 16.16.040, including tanoak, California bay laurel, and Douglas fir tree species.

   Removal of any live tree or vegetation that is greater than six inches in diameter at breast height and below the top of bank is not exempt, unless the tree or vegetation presents an immediate hazard to public safety.

The Tentative Agreement also requires "no project shall be approved if it would require removal of native vegetation below top of bank." Staff recommends locating this provision as a standard in Section 22.30.045 (San Geronimo Valley Community Standards) as follows:

> **Vegetation Removal Below Top of Bank.** The removal of native vegetation below top of bank shall be prohibited.

9. Clarify "no net loss of habitat"

The CWP states that protecting and restoring native habitat are the most effective methods of preserving plant and animal diversity. CWP Policy BIO-2.1 *Include Resource Preservation in Environmental Review* calls for "no net loss" of sensitive habitat, values or function, while CWP Policy BIO-4.1 requires denial of a project that would: a) adversely alter hydraulic capacity; b) cause a net loss in habitat acreage, value or function; or c) degrade water quality. As approved by your Commission, Section 22.52.050 (Site Plan Review Exemptions) requires an application for Site Plan Review may only be approved or conditionally approved if all findings are made. These findings include a specific obligation that development within the SCA must not result in the net loss of habitat acreage, value, or function.

Members of the public expressed concern that the SCA Ordinance does not define core terms like "net loss of habitat" and "habitat." The Tentative Agreement would revise Section 22.130 (Definitions) to carryover over the CWP Glossary definition for "habitat" and add a new definition for "no net loss of habitat" as follows:

> **Habitat.** The physical location or type of environment in which an organism or biological population lives or occurs.
>
> **No Net loss of Habitat.** Complete replacement of habitat of equivalent acreage, value, and function on the same parcel on which habitat will be displaced by the project, except that offsite mitigation of habitat loss may be allowed under a County approved mitigation program. Complete replacement means replacement with native vegetation at a 2:1 ratio, which is monitored for a period of no less than five years to ensure effective replacement.

10. Require a Habitat Restoration Program fee

Public comment supported creation of a mitigation program for habitat restoration within the Valley watershed. Establishing a mitigation bank is a complex process requiring a high-level coordination and collaboration with multiple stakeholders, including landowners and outside agencies such as the Army Corps of Engineers, not only with the creation of the mitigation bank, but also its ongoing and future maintenance. Staff supports creation of such a program;

however, additional time and resources will be needed to develop and implement the program as part of a separate public outreach process, which would not be feasible given the current ordinance schedule.

In the meantime, Tentative Agreement would ensure a mechanism is in place to establish program funding. New language is added to require compliance with any development impact fees at the time a Site Plan Review permit is approved to offset impacts within the SCA through restoration and enhancement of riparian areas within the Valley. The ordinance presented to the Board at the July hearing will include a statement affirming this approach.

> **Habitat Restoration Program**. Applicants subject to the SGV combining district shall be subject to compliance with any development impact fees, established to offset development impacts to the Stream Conservation Area through restoration and enhancement of riparian habitat within the San Geronimo Valley, applicable at the time an application for Site Plan Review is approved.

11. Enforce compliance with SCA provisions

Public comment expressed concern regarding the need to ensure property owners comply with the ordinance provisions and that violations are responded to in a timely manner. This is important since unpermitted development is often unmitigated and may negatively impact stream resources. In addition, feedback stressed the importance of providing measures to incentivize compliance. CDA's existing enforcement programs are described below.

CDA's Code Compliance program carries out enforcement of the County's laws and regulations for zoning, construction, and environmental health. The Code Compliance team will only investigate written and signed complaints, which are kept confidential. Anonymous complaints are not currently investigated. Development Code Chapter 22.122 (Enforcement of Development Code Provisions) provides procedures and legal remedies to correct and/or abate nuisances and violations. In addition, any violation would also be subject to the remedies and penalties specified in Title 1, Chapter 1.05 (Nuisance Abatement) of the County Code.

To incentivize permit compliance, staff will report a builder to the State licensing board if it is discovered that construction has been done without first obtaining the required permits. In addition, no construction permits will be issued for development on the property unless those permits are to resolve the violation. Outstanding enforcement fees will be required to be paid before the case is formally closed.

The Tentative Agreement would add language to clarify how violations of the Revised SCA Ordinance would be enforced and remedied. Further, violations of the limitations of uses provided in Section 22.30.045(C) (Limitations on Uses) would amount to a public nuisance subject to nuisance abatement procedures and penalties authorized in Chapters 1.05 and 1.07 of the Marin County Code, as follows:

> **Violations**. Any violation of the provisions in this Section shall be enforced through any legal remedies available to correct and/or abate a nuisance or violation subject to the Development Code, including but not limited to the administrative citation penalty schedule as provided in Chapters 1.05 (Nuisance Abatement) and 1.07 (Imposition of Administrative Fines for Ordinance Violations) of the Marin County Code.
>
> 1. Any violation of the limitations on use established in Section 22.30.045(C) constitutes a public nuisance subject to the provisions in Chapters 1.05 (Nuisance

Abatement) and 1.07 (Imposition of Administrative Fines for Ordinance Violations) of the Marin County Code.

Additional Settlement Terms

Section III of the Tentative Agreement would result in programmatic changes that are outside the scope of these Development Code amendments. The terms below are provided for your information.

12. Establish a voluntary point of sale inspection program

The County currently does not require residential pre-sale (or resale) inspections. However, all other Marin cities and towns require some form of resale inspection. Generally, a resale inspection is required when any residential property changes ownership and may include a report of a property's building permit history and/or physical inspection of the property. The purpose of the program is to identify any health and safety issues and verify conformance to applicable development codes. The County has explored the possibility of developing such a resale program in the past, but the idea generated public controversy and was not pursued.

The Tentative Agreement would require the County adopt a pilot voluntary point-of-sale inspection program for the San Geronimo Valley by September 1, 2022, with program implementation no later than March 2023. The voluntary program would provide property owners – or prospective buyer(s) with the owner(s) consent - the option to request a free on-site property inspection and permit history report for any property, located either wholly or partially within the SCA, to determine compliance with the SCA Ordinance provisions. Staff will develop a communication and outreach plan to ensure program awareness.

Moreover, the Tentative Agreement would require every application subject to Site Plan Review for development within the SCA include an inspection for any existing SCA violation. Any violation would require enforcement as part of any condition of approval.

After a period of five years, staff will provide a report that evaluates the program's success to the Board of Supervisors. This report will include options to increase public participation, alternatives to improve compliance with the SCA provisions, and whether the program should be continued, among other discussion topics.

13. Implement system to allow anonymous complaints

As previously mentioned, the Code Compliance team will only investigate written and signed complaints, which are kept confidential. Anonymous complaints are not investigated. The Tentative Agreement would require CDA provide an option to field anonymous complaints for suspected violations of the SCA ordinance. This new platform will be established as a pilot program for the San Geronimo Valley. Complaints received through this system would be prioritized and responded based on whether the violations propose an imminent threat to health and safety, environmental quality, or community impact.

Details on the design, operation, and staffing needed to implement this system will need to be developed. Additional program information will be provided at the Board's July hearing. Indeed, the program could be modeled based on similar systems used by other jurisdictions, such as Santa Clara County, which offers "Insite Public Portal," an online application where citizens can submit an enforcement complaint. The portal is accessible 24 hours a day, 7 days a week, and users are required to register an account prior to submitting a complaint.

14. Expand enforcement capacity

The Tentative Agreement would require the County "expand enforcement staff capacity sufficient to process, respond, and address complaints regarding violations of the SCA Ordinance" and "compliance issues identified during inspections. This includes ensuring on-call availability to process and respond to time-sensitive complaints that come in during non-business hours, including evenings, weekends, and holidays." This new initiative will address an existing enforcement gap given staff currently investigate suspected code violations during business hours, which means work conducted after hours or on weekends would likely miss verification.

15. Address specific metrics in the biannual report

As discussed at the December 2021 hearing, FSEIR Mitigation Measure 5.1-1 requires the County to provide twice yearly, publicly noticed reports on the progress of the SCA Ordinance to the Board of Supervisors but does not mandate what the report address. Your Commission agreed CDA staff should track the following relevant and timely metrics, including:

- Number of Site Plan Review applications approved, conditionally approved, or denied;
- Project types;
- Appeals;
- Enforcement actions;
- Amount of impervious area authorized under Site Plan Review to be added to the San Geronimo Valley SCA.
- New: Amount of habitat authorized under Site Plan Review to be removed from the San Geronimo Valley SCA.

In addition, Section III, Term D of the Tentative Agreement would commit CDA to monitor the amount of habitat authorized under Site Plan Review to be removed from the San Geronimo Valley SCA. CDA has the authority and resources to track these particular metrics.

PUBLIC NOTICE

Notice of the Planning Commission hearing has been published in the Marin Independent Journal. The Community Development Agency also mailed a copy of the public notice describing the proposed Development Code amendments to all property owners within the San Geronimo Valley, including interested public agencies, community groups, and individuals. Notice was also posted on the project website (www.marincounty.org/sca) and distributed to 993 subscribers of the project's GovDelivery email subscription service on Thursday, May 26, 2022. The Board approved settlement agreement was made available on the project website on Monday, May 16, 2022, and the Revised SCA Ordinance was posted on Friday, May 20, 2022.

CONCLUSION

The CWP demonstrates a strong regulatory approach towards stream protection that dates to the early 1970's. The proposed Development Code amendments would continue to contribute towards the overall improvement of the watershed and would be most protective towards the fish. Moreover, the proposed amendments would clarify existing policy ambiguities, provide incentives for landowners, include enforcement mechanisms, and would be supported with landowner education and assistance programs. This approach maintains consistency with the CWP and complies with the FSEIR requirements.

The terms of the settlement are contingent on the Board adopting an SCA Ordinance that conforms to the agreed upon terms. Staff will bring your Commission's recommendations and feedback to the Board of Supervisors hearing scheduled on July 19th, 2022.

RECOMMENDATION

Staff recommends the Planning Commission review the administrative record, conduct a public hearing, and approve the following:

1. Resolution Recommending that the Board of Supervisors Adopt an Ordinance Amending Marin County Code Tittle 22 for the Stream Conservation Area; and
2. Resolution Recommending that the Board of Supervisors Adopt an Ordinance Rezoning all Lots Located in San Geronimo Valley.

ATTACHMENTS:

1. Resolution Recommending that the Board of Supervisors Adopt an Ordinance Amending Marin County Code Title 22 (Development Code) for the Stream Conservation Area for San Geronimo Valley
2. Resolution Recommending that the Board of Supervisors Adopt the Rezoning for all Lots Located in San Geronimo Valley
3. Settlement Framework between the County of Marin and the Salmon Protection Watershed Network (SPAWN), dated May 16, 2022
4. Correspondence:
    - Email from John Clarke, dated May 26, 2022
    - Email from Albert DeSilver, dated April 14, 2022
    - Email from Caryn Graves, dated March 28, 2022
    - Postcards, received March 16, 2022
    - Letter from Fire and Environmental Resilience Network, dated February 21, 2022

MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. _____

A RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT AN ORDINANCE AMENDING MARIN COUNTY CODE TITLE 22 (DEVELOPMENT CODE) FOR THE STREAM CONSERVATION AREA FOR SAN GERONIMO VALLEY

*** ***

WHEREAS, the Marin County Community Development Agency proposes a set of amendments to the Marin County Development Code Title 22 (Development Code), which establishes 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) for the stream conservation area for the San Geronimo Valley and: (1) establish a new SGV combining district in Section 22.14.050, Table 2-11, B-Combining District Development Standards, to apply uniform standards for all zoning districts within the San Geronimo Valley; (2) amend text of Section 22.06.050 (Exemptions from Land Use Permit Requirements) regarding exemptions for various activities, uses of land, and other improvements; (3) establish new development standards in Section 22.30.045 (San Geronimo Valley Community Standards) for development located both within and outside the stream conservation area within the San Geronimo Valley; (4) amend Chapter 22.52 (Site Plan Review) to require Site Plan Review for new development subject to the SGV (San Geronimo Valley) combining district located within the stream conservation area (5) amend Chapter 22.52 (Site Plan Review) to require Site Plan Review for certain development subject to the SGV (San Geronimo Valley) combining district located outside the stream conservation area; and (6) incorporate and amend select technical terms and phrases from the Countywide Plan in Chapter 22.130 (Definitions). The proposed stream conservation area is applicable to all perennial, intermittent, and ephemeral streams within San Geronimo Valley; and

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 of riparian vegetation. The policies of the CWP aim to protect natural stream channel function and water quality, control exotic vegetation, retain riparian vegetation, promote riparian protection, maintain channel stability and minimize runoff; and

WHEREAS, the proposed amendments to the Development Code will implement Program BIO-4.a (Adopt Expanded SCA Ordinance) of the Countywide Plan and will further the implementation of Programs 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); and

WHEREAS, the proposed amendments to the Development Code establish the purpose, applicability, standards, permit procedures and findings necessary to implement the policies of the CWP relating to riparian protection; and

WHEREAS, the proposed amendments to the Development Code are exempt from the requirements of CEQA, pursuant to Sections 15307 and 15308, Classes 7 and 8 of the State CEQA Guidelines because the proposed amendments set the regulatory framework for permitting in accordance with the CWP and are intended to strengthen and ensure consistent application of standards for the maintenance, restoration, enhancement, and protection of natural resources and the environment; and

WHEREAS, the Marin County Community Development Agency conducted a series of facilitated focus group meetings to informally engage known and interested stakeholder groups in a small group setting to discuss interests, concerns and suggestions relative to the preliminary draft of the Development Code Amendments for the stream conservation area on July 28, August 3, August 4, August 10, August 11, and August 12, 2021. Participants included representatives from the Environmental Action Committee of West Marin, Marin Audubon Society, Marin Conservation League, Salmon Protection and Watershed Network (SPAWN), San Geronimo Valley Stewards, San Geronimo Valley Planning Group, Sierra Club, and Watershed Alliance of Marin; and

WHEREAS, on November 8, 2021, and December 13, 2021, the Marin County Planning Commission held a duly noticed public workshop and hearing, respectively, to take public testimony and consider this Resolution; and

WHEREAS, on May 16, 2022, the County and the Salmon Protection and Watershed Network agreed to a preliminary settlement framework to resolve legal actions and claims against the County. The terms of this preliminary settlement framework introduce new content not previously considered; and

WHEREAS, on June 13, 2022, the Marin County Planning Commission held a duly noticed public hearing to take public testimony and consider this Resolution.

NOW, THEREFORE, THE MARIN COUNTY PLANNING COMMISSION RESOLVES as follows:

The Marin County Planning Commission recommends that the Marin County Board of Supervisors adopt an Ordinance to amend the Development Code for the stream conservation area in San Geronimo Valley that contains the following terms:

1. This Ordinance amends the following Sections of Marin County Code Title 22 (Development Code) as indicated in Exhibit A.

    ARTICLE II: ZONING DISTRICT AND ALLOWABLE LAND USES

    Section 22.06.050 – Exemptions from Permit Requirements
    Section 22.14.050 – Minimum Lot Size “-B” Combining District

    ARTICLE III: SITE PLANNING AND GENERAL DEVELOPMENT REGULATIONS

    Section 22.30.045 – San Geronimo Valley Community Standards

    ARTICLE IV: LAND USE DEVELOPMENT PERMITS

    Section 22.52.020 – Applicability
    Section 22.52.030 – Site Plan Review Exemptions
    Section 22.52.040 – Application, Filing, Processing, and Review
    Section 22.52.050 – Decision and Findings

ARTICLE VIII: DEFINITIONS

Anadromous Fish
Bankfull
Habitat
No Net Loss of Habitat
Recreation, Passive
Riparian
Riparian Habitat
Riparian Vegetation
Site Assessment
Stream
Standard Management Practices
Stream, Ephemeral
Stream, Intermittent
Stream, Perennial
Stream Conservation Area
Top of Bank
Wetland, Jurisdictional

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin held on this 13th day of June, 2022 by the following vote:

AYES: COMMISSIONERS

NOES:

ABSENT:

DON DICKENSON, CHAIR
MARIN COUNTY PLANNING COMMISSION

Attest:

Ana Hilda Mosher
Planning Commission Recording Secretary

Exhibit A

Revised Development Code Amendments for the Stream Conservation Area Ordinance (SCA Ordinance) for San Geronimo Valley

May 20, 2022

Notes:

- Items in red ~~strikethrough~~ or underline show modifications in response to terms provided in the Settlement Agreement, Attachment A, dated May 16, 2022.

- Items highlighted in yellow show staff proposed recommended changes.

22.06.050 – Exemptions from Land Use Permit Requirements

The following activities, uses of land, and other improvements, are permitted in all zoning districts and do not require a land use permit; however, other permits may be required in compliance with Subsection G., below.

A. Sitework. The installation of irrigation lines, decks, platforms, on-site paths, driveways, and other improvements that do not increase lot coverage, and are not over 18 inches above grade. Improvements located within a Stream Conservation Area in the San Geronimo Valley combining district are not exempt. Improvements that are necessary to meet accessibility requirements, regardless of whether they are subject to building or grading permits, are also exempt in all zoning districts.

B. Governmental activities. Official activities and development of the County, the Marin Emergency Radio Authority, the State or an agency of the State, or the Federal Government on land owned or leased by a governmental agency are exempt from discretionary permits except Coastal Permits.

C. Interior remodeling. Interior alterations that do not:

1. Result in an increase in the gross floor area within the structure;

2. Change the permitted use; and

3. Change the exterior appearance of the structure.

D. Repairs and maintenance. Ordinary repairs and maintenance of an existing improvement, provided that the repairs and maintenance work do not:

1. Result in any change of the approved land use of the site or improvement; and

2. Expand or enlarge the improvement.

E. Play structures. Typical play structures and play equipment that are not required to have building or grading permits by Title 19 or Title 23 of the County Code and do not exceed 15 feet in height. Play structures located within a Stream Conservation Area in the San Geronimo Valley combining district are not exempt.

F. Accessory Dwelling Units. Accessory Dwelling Units that comply with Development Code Section 22.32.120.A (Residential Accessory Dwelling Units) and the tables in this article entitled Allowed Uses and Permit Requirements.

G. **Utilities.** Public utility facilities shall be exempt from land use permit requirements of this Development Code only to the extent provided by Government Code Section 53091, and the California Public Utilities Code.

H. **Solar Energy Systems.** Solar energy systems that do not exceed the height limit of the governing zoning district for structures or the roof height of a building by more than two feet, whichever is less restrictive. Solar energy systems within a Stream Conservation Area within the San Geronimo Valley are not exempt, unless the exemption is required by State law.

I. **Electronic Vehicle Charging Stations.** Electronic Vehicle Charging Stations are exempt from the land use permit requirements of this Development Code. Electronic Vehicle Charging Stations within a Stream Conservation Area within the San Geronimo Valley are not exempt, unless the exemption is required by State law.

J. **Other permits may still be required.** A permitted land use that is exempt from a land use permit or has been granted a land use permit may still be required to obtain Building Permits or other permits before the use is constructed or otherwise established and put into operation. Nothing in this Article shall eliminate the need to obtain any other permits or approvals required by:

1. Other provisions of this Development Code, including any subdivision approval required by Article VI (Subdivisions);

2. Other provisions of the County Code, including but not limited to Building Permits, Grading Permits, or other construction permits if they are required by Title 19, or a business license if required by Title 5; or

3. Any other permit required by a regional, State or Federal agency.

4. All necessary permits shall be obtained before starting work or establishing new uses.

22.14.050 – Minimum Lot Size "-B" Combining District

A. Purpose. The Minimum Lot Size "-B" combining district is intended to establish lot area, setback, height, and floor area ratio (FAR) requirements for new development that are different from those normally applied by the primary zoning district applicable to a site; and to configure new development on existing lots, where desirable because of specific characteristics of the area.

B. Development standards. Where the B combining district is applied, the minimum lot area, setback, height, and floor area ratio standards in Table 2-11 (B Combining District Development Standards) shall be required, instead of those that are normally required by the primary zoning district. The maximum residential density for proposed subdivisions for that portion or portions of properties with sensitive habitat or within the Ridge and Upland Greenbelt or the Baylands Corridor, and properties that lack public water or sewer systems, shall be calculated at the lowest end of the density range as established by the governing Countywide Plan Land Use Designation. This restriction does not apply to lots governed by the Countywide Plan's PD_AERA (Planned Designation – Agricultural and Environmental Reserve Area) land use designation and to lots in the Baylands Corridor that are two acres or less in size that were legally created prior to January 1, 2007. Densities higher than the lowest end of the applicable density range may be considered on a case-by-case basis for new housing units affordable to very low and low income households that are capable of providing adequate water and sanitary services, as long as the development complies with the California Environmental Quality Act and all other applicable policies in the Countywide Plan including, but not limited to, those governing environmental protection.

TABLE 2-11
B COMBINING DISTRICT DEVELOPMENT STANDARDS

<table>
<tr><th rowspan="2">Zoning District</th><th rowspan="2">Minimum Lot Area (1)</th><th colspan="3">Minimum Setback Requirements (2)</th><th colspan="2">Height Limit (3)</th><th rowspan="2">Maximum FAR (4, 5)</th></tr>
<tr><th>Front</th><th>Sides</th><th>Rear</th><th>Primary</th><th>Accessory</th></tr>
<tr><td>B1</td><td>6,000 sq.ft.</td><td rowspan="2">25 ft.</td><td>5 ft., 10 ft. on street side</td><td rowspan="4">20% of lot depth to 25 ft. max.</td><td rowspan="6">30 ft.</td><td rowspan="6">16 ft.</td><td rowspan="6">0.30</td></tr>
<tr><td>B2</td><td>10,000 sq.ft.</td><td>10 ft.</td></tr>
<tr><td>B3</td><td>20,000 sq.ft.</td><td rowspan="3">30 ft.</td><td>15 ft.</td></tr>
<tr><td>B4</td><td>1 acre</td><td>20 ft.</td></tr>
<tr><td>B5</td><td>2 acres</td><td rowspan="2">20 ft., 30 ft. on street side</td><td rowspan="2">30 ft.</td></tr>
<tr><td>B6</td><td>3 acres</td></tr>
<tr><td>BD</td><td colspan="7">See Section 22.30.050 (Sleepy Hollow Community Standards)</td></tr>
<tr><td>BLV</td><td colspan="7">See Section 22.30.040 (Lucas Valley Community Standards)</td></tr>
<tr><td><u>SGV</u></td><td colspan="7"><u>See Section 22.30.045 (San Geronimo Valley Community Standards)</u></td></tr>
</table>

Notes:

(1) Minimum lot area shown applies except where Section 22.82.050 (Hillside Subdivision Design) establishes a different standard.

(2) See Section 22.20.090 (Setback Requirements and Exceptions) for setback measurement, allowed projections into setbacks, and exceptions to required setbacks.

(3) See Section 22.20.060 (Height Measurement and Height Limit Exceptions) for height measurement and exceptions. Single-family dwellings over 30 feet in height require Design Review approval in compliance with Chapter 22.42 (Design Review), and single-family dwellings over 35 feet in height require Design Review and Variance approval in compliance with Chapters 22.42 (Design Review) and 22.54 (Variances).

(4) Single-family dwellings that contain over 3,500 square feet of floor area require Design Review approval in compliance with Chapter 22.42 (Design Review).

(5) The maximum non-residential and non-agricultural floor area for that portion or portions of properties with sensitive habitat or within the Ridge and Upland Greenbelt or the Baylands Corridor, and properties that lack public water or sewer systems, shall be calculated at the lowest end of the floor area ratio range as established by the governing Countywide Plan Land Use Designation. The floor area ratio restrictions do not apply to additions to non-residential and non-agricultural structures not exceeding 500 square feet. This restriction does not apply to lots governed by the Countywide Plan's PD-AERA (Planned Designation – Agricultural and Environmental Reserve Area) land use designation and to lots in the Baylands Corridor that are two acres or less in size that were legally created prior to January 1, 2007. Densities higher than the lowest end of the applicable density range may be considered on a case-by-case basis for new housing units affordable to very low and low income households that are capable of providing adequate water and sanitary services.

Chapter 22.30 – Standards for Specific Communities

Sections:

22.30.045 – San Geronimo Valley Community Standards

A. **Applicability.** The standards of this Section apply to development and land uses within the area identified as San Geronimo Valley in the Countywide Plan (San Geronimo Valley Land Use Policy Map 7.10.0) and the governing SGV (San Geronimo Valley) combining district.

B. **General Development Standards**. The standards of this Subsection apply to development and land uses outside the Countywide Plan Stream Conservation Areas in the governing SGV (San Geronimo Valley) combining district.

1. **Roads and Driveways**. Non-county maintained roads and privately owned and maintained roads, including new roads and driveways, either paved or unpaved, shall be constructed to the standards specified below:

a. Surface drainage.

1) Road surfaces and ditches are hydrologically "disconnected" from streams and stream crossing culverts, with a maximum allowable hydrologic connectivity of 25% of the total new road surface and compacted shoulder area (paved and unpaved). To be considered disconnected, road surface runoff is dispersed, rather than collected and concentrated, and does not return to a connected ditch farther downstream.

2) Fine sediment contributions from roads, cutbanks and ditches are minimized by utilizing seasonal closures and installing a variety of surface drainage techniques including berm removal, road surface shaping (i.e., outsloping, insloping, crowning), rolling dips, ditch relief culverts, waterbars and other measures to disperse road surface runoff and reduce or eliminate sediment delivery to the stream.

b. Road fills.

1) Unstable and potentially unstable road fills that could deliver sediment to a stream are excavated (removed) or structurally stabilized

2) Excavated spoil is placed in locations where eroded material will not enter a stream

3) Excavated spoil is placed where it will not cause a slope failure or landslide

c. Off-site retrofits. If on-site avoidance or minimization of surface runoff and sediment erosion is not feasible using the above criteria, off-site retrofit of existing impaired sites (e.g., stream crossings currently diverted or with diversion potential, culverts likely to plug or undersized culverts), would occur at a 2:1 ratio for total runoff area in a functionally equivalent riparian area of San Geronimo Creek or its major tributaries (North Fork San Geronimo Creek, Woodacre Creek, Montezuma Creek, Arroyo/Barranca/El Cerrito Complex, Larsen Creek) within reaches accessible to anadromous salmonids. . If functionally equivalent off-site mitigation opportunities cannot be identified within these locations, then opportunities can be selected elsewhere in San Geronimo Valley and/or in the downstream Lagunitas Creek watershed using existing site-specific sediment source assessments.

2. **Low Impact Development**. Development outside the Stream Conservation Area that would create or replace 500 square feet or more of ~~impervious surface~~ lot coverage shall incorporate low impact development practices and designs that are demonstrated to prevent offsite discharge from events up to the 85th percentile 24-hour rainfall event. This requirement applies to retention of the entire volume of each day's rainfall that does not achieve this total volume, and the first increment of rain up to this volume for those 24-hour periods whose rainfall exceeds this volume. Specifically:

a. Complete a stormwater control plan that achieves retention of the 85th percentile, 24 - hour design storm for the newly created or replaced impervious surface, or for an equivalent area of previously unretained impervious surface on the same site. It is acceptable for the Stormwater Control Plan to use the existing runoff reduction measures as described in Appendix C of the Bay Area Stormwater Management Agencies Association (BASMAA) Post-Construction Manual to retain the 85th percentile, 24-hour design storm standard. It is also acceptable to use the bioretention sizing factor (0.04) described in Appendix D of the BASMAA Post-Construction Manual to retain the 85th percentile, 24-hour design storm standard.

b. Complete a stormwater control plan that achieves retention of the 85th percentile, 24- hour design storm for the newly created or replaced impervious surface, or for an equivalent area of previously unretained impervious surface on the same site It is acceptable for the SCP to use the bioretention sizing factor (0.04) described in Appendix D of the BASMAA Post-Construction Manual to retain the 85th percentile, 24-hour design storm standard.

C. **General Stream Conservation Area Standards**. The standards of this Subsection apply to development and land uses within Stream Conservation Areas in the governing SGV (San Geronimo Valley) combining district.

1. Site Assessment. A Site Assessment is required as part of a Site Plan Review permit application when development is proposed in the Stream Conservation Area, where adverse impacts to riparian resources may occur, or when full compliance with Subsection 2, below, would not be met. The site assessment shall identify site specific standard management practices in accordance with Subsection 5, below,

and shall confirm that the proposed development would result in no net loss of habitat acreage, value, or function.

2. **Limitations on Uses.** Allowable land uses subject to the SGV combining district and located within the Stream Conservation Area shall be limited to the following;

   a. Allowable uses within 35 feet from top of bank, or from centerline of swale for ephemeral streams where there is no defined top of bank, within the Stream Conservation Area:

      1) Maintenance and repair of existing permitted structures within the existing footprint;

      2) Projects to improve fish and wildlife habitat;

      3) Driveway, road, and utility crossings, if no other location that avoids encroaching in the buffer is feasible and the crossing is sited to minimize environmental impacts;

      4) Water-monitoring installations;

      5) Passive recreation that does not ~~significantly~~ disturb native species.

      6) Necessary water supply and flood control projects that minimize impacts to stream function and to fish and wildlife habitat;

   ~~Agricultural uses that do not result in any of the following:~~

      ~~i. The removal of woody riparian vegetation;~~

      ~~ii. The installation of fencing within the Stream Conservation Area that prevents wildlife access to the riparian habitat within the Stream Conservation Area;~~

      ~~iii. Animal confinement within the Stream Conservation Area; and~~

      ~~iv. A substantial increase in sedimentation.~~

   b. Allowable uses outside 35 feet from top of bank, or from centerline of swale for ephemeral streams where there is no defined top of bank, within the Stream Conservation Area:

      1) Maintenance and repair of existing permitted structures;

      2) ~~Floor area~~ Additions to existing permitted structures that do not:

         a) Increase the lot coverage within the Stream Conservation Area by more than a cumulative total of 300 square feet; or

         b) Increase the horizontal encroachment into the Stream Conservation Area.

      Vertical additions to existing permitted structures that do not expand the existing footprint are not counted towards the 300 square foot cumulative lot coverage allowance.

      The ~~500~~ 300 square feet of cumulative ~~floor area~~ lot coverage is calculated on a per parcel basis following the effective date of this Section (____, 2022). No additional lot coverage may be added once the allowance is exhausted,

consistent with state law. Notwithstanding the foregoing, state law may require the allowance of certain other uses and/or development that is not otherwise contemplated by this Section.

3) Projects to improve fish and wildlife habitat;

4) Driveway, road and utility crossings, if no other location is feasible;

5) Water-monitoring installations;

6) Passive recreation that does not ~~significantly~~ disturb native species.

7) Necessary water supply and flood control projects that minimize impacts to stream function and to fish and wildlife habitat;

8) Agricultural uses that do not result in any of the following:
   a) The removal of woody riparian vegetation;
   b) The installation of fencing within the Stream Conservation Area that prevents wildlife access to the riparian habitat within the Stream Conservation Area;
   c) Animal confinement within the Stream Conservation Area; and
   d) A substantial increase in sedimentation.

The above listed uses shall comply with all other applicable requirements of this Development Code.

Land uses and improvements not listed above are prohibited, unless such improvements and land use meet the criteria for an exception in Subsection 4, below.

3. **Vegetation Removal Below Top of Bank.** The removal of native vegetation below top of bank shall be prohibited.

4. Exceptions. Exceptions to full compliance with all Stream Conservation Area criteria and standards in Subsection 2b, above, may be allowed only if the parcel is undeveloped as of the effective date of this Section and the following is true:

a. A lot falls entirely within the Stream Conservation Area; or

b. Development on the parcel entirely outside the Stream Conservation Area:

   1) ~~Is infeasible~~ Cannot be accomplished even if the proposed development is limited to 1,000 square feet or less of lot coverage on the parcel as a whole with the least possible encroachment into the Stream Conservation Area, or relocated to another suitable portion of the parcel that avoids encroachment in the Stream Conservation Area; or

   2) Would have greater impacts on water quality, wildlife habitat, other sensitive biological resources, or other environmental constraints than development within the Stream Conservation Area.

Exceptions under this Subsection would require an application supported by a showing of good cause and public noticing and shall be subject to the provisions in Chapter 22.114 (Appeals).

5. Standard Management Practices. Development in the Stream Conservation Area subject to the SGV combining district shall incorporate appropriate Standard Management

Practices identified in the Site Assessment, unless site specific measures identified through environmental review would result in equal or greater environmental benefit.

D. **Habitat Restoration Program.** Approval of Site Plan Review permits within the SGV combining district shall be subject to compliance with any development impact fees, applicable at the time an application for Site Plan Review is approved, established to offset development impacts to the Stream Conservation Area through restoration and enhancement of riparian habitat within the San Geronimo Valley.

E. **Violations**. Any violation of the provisions in this Section shall be enforced through any legal remedies available to correct and/or abate a nuisance or violation of the Development Code, including but not limited to the administrative citation penalty schedule as provided in Chapters 1.05 (Nuisance Abatement) and 1.07 (Imposition of Administrative Fines for Ordinance Violations) of the Marin County Code.

1. Any violation of the limitations on use established in Section 22.30.045.C.2 constitutes a public nuisance subject to the provisions in Chapters 1.05 (Nuisance Abatement) and 1.07 (Imposition of Administrative Fines for Ordinance Violations) of the Marin County Code.

Chapter 22.52 – Site Plan Review

Sections:

22.52.010 – Purpose of Chapter

This Chapter provides procedures for Site Plan Review consisting of a review of site plans for the arrangement and design of physical improvements in order to implement the goals of the Countywide Plan and is intended to ensure that:

A. Sound and creative design principles are used by applicants in designing proposed projects, which will result in high quality site planning;

B. The natural heritage and beauty of the County will be preserved and adverse physical effects which might otherwise result from unplanned or inappropriate development, design, or placement are minimized or eliminated.

22.52.020 – Applicability

The provisions of this Chapter apply under any of the following circumstances:

A. Proposed development would increase the lot coverage above 75 percent on a single family residential lot.

B. Site Plan Review was required by a Master Plan, Design Review Waiver, or as a mitigation measure for a previous planning permit approval.

C. The construction of any new driveway that exceeds a length of 250 feet in the A2, C1, H1, RA, RR, RE, R1, R2, and VCR zoning districts.

D. All development and improvements on lots accessed by paper streets, without regard to the size of the lots or the applicable zoning district.

E. 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, except for those activities, uses of land, and other improvements subject to the SGV combining district in Subsection F below, any proposed development within the Countywide Plan's Stream Conservation Area that adjoins a mapped anadromous fish stream and tributary shall be subject to Site Plan 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 combining 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.

F. In those instances where an activity, use of land, or other improvement subject to the SGV combining district located within the Stream Conservation Area would:
   1. Entail grading or otherwise expose soil;
   2. Increase lot coverage or surface runoff;
   3. Remove vegetation or woody riparian vegetation; or
   4. Alter the bed, bank, or channel of any stream.

G In those instances where development subject to the SGV combining district located outside the Stream Conservation Area would:
   1. Create new roads or driveways; or
   2. Create or replace 500 square feet or more of lot coverage.

H. Any development seaward of the mean higher high tide and any increase of lot coverage within a tidelands area.

22.52.030 – Site Plan Review Exemptions

The following types of development are exempt from Site Plan Review:

A. Development outside of the SGV combining district that is subject to Design Review or Variance requirements.

B. Floating homes**.**

C. Accessory Dwelling Units that meet the applicable standards set forth in Section 22.32.120.A (category 1), B (category 2), and C (category 3).

C. Signs**.**

D. The following types of development subject to the SGV combining district:

1. Removal of dead, invasive, or exotic vegetation, including leaf litter, except for woody debris located below the stream top of bank. Consultation with the County, California Department of Fish and Wildlife, and/or Marin Municipal Water District is required prior to removal of any woody debris below the stream top of bank.
2. Removal or trimming of pyrophytic combustible live trees and/or vegetation consistent with Chapter 22.62 (Tree Removal Permits) and Title 16 – Provision 16.16.040, including tanoak, California bay laurel, and Douglas fir tree species.

   Removal of any live tree or vegetation that is greater than six inches in diameter at breast height and below the top of bank is not exempt, unless the tree or vegetation presents an immediate hazard to public safety. ~~No development project shall be approved if it would require removal of native vegetation below the top of the bank~~

3. Planting of non-pyrophytic native vegetation.
4. Voluntary creek restoration projects consistent with and authorized under the Marin Resource Conservation District's Permit Coordination Program.
5. Repair and maintenance, including the replacement, of existing degraded septic systems that incorporate Marin County Stormwater Pollution Prevention Program (MCSTOPPP) minimum erosion and sediment controls and best management practices.
6. Subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use.
7. Development that is permitted pursuant to Chapter 11.08 (Watercourse Division or Obstruction).

22.52.040 – Application Filing, Processing, and Review

A. Filing. An application for a Site Plan Review shall be submitted, filed, and processed in compliance with and in the manner described in Chapter 22.40 (Application Filing and Processing, Fees).

Site Plan Review application forms are available online and at the Agency's public service counter.

B. Site Plan Review Procedures. The Director shall approve, conditionally approve, or deny all Site Plan Review applications in compliance with Section 22.42.060 (Decision and Findings), except as otherwise provide in Subsections D and E, below.

C. Zoning Administrator review. When the Site Plan Review application is associated with a permit application that requires a public hearing, the Site Plan Review action may be taken by the Zoning Administrator.

D. Referral to Commission. When the Director finds that significant policy issues are raised by the proposed project, the Director may refer the Site Plan ~~Design~~ Review application to the Planning Commission for a final action.

E. Notice of action and/or hearing date. Administrative decisions and public hearings on a proposed Site Plan Review application shall be noticed in compliance with Chapter 22.118 (Notices, Public Hearings, and Administrative Actions).

22.52.050 – Decision and Findings

The Review Authority may only approve or conditionally approve an application if all of the following findings are made:

A. The development would be consistent with all the site development criteria established in the Discretionary Development Standards.

B. The development would be consistent with any applicable site development criteria for specific land uses provided in Section 22.30.045, Chapter 22.32 and special purpose combining districts provided in Chapter 22.14 of this Development Code.

C. The development would employ best management practices for drainage and storm water management.

D. The development would hold ground disturbance to a minimum and every reasonable effort would be made to retain the natural features of the area, such as skyline and ridge tops, rolling land forms, knolls, significant native vegetation, trees, rock outcroppings, shorelines, streambeds and watercourses.

E. If substantial ground disturbance is entailed in the development, the site would be adequately landscaped with existing or proposed vegetation at project completion.

F. Development within a Stream Conservation Area in the SGV combining district would not:
   1. Adversely alter hydraulic capacity;
   2. Result in a net loss in habitat acreage, value or function; and/or
   3. Degrade water quality.

Chapter 22.130 – Definitions

Sections:

22.130.010 – Purpose of Chapter

This Chapter provides definitions of terms and phrases used in this Development Code that are technical or specialized, or that may not reflect common usage.

22.130.020 – Applicability

If any of the definitions in this Chapter conflict with definitions in other chapters of the Marin County Code, these definitions shall prevail for the purposes of this Development Code. If a word used in this Development Code is not defined in this Chapter, or other Titles of the County Code, the most common dictionary definition is presumed to be correct.

22.130.030 – Definitions of Specialized Terms and Phrases

A. Definitions, "A."

Anadromous Fish. Species of fish that mature in the ocean and migrate into streams to spawn.

B. Definitions, "B."

Bankfull. Indicates the height (or stage) of a stream that just fills the stream channel.

H. Definitions, “H.”

Habitat. The physical location or type of environment in which an organism or biological population lives or occurs.

N. Definitions, “N.”

No Net loss of Habitat. Complete replacement of habitat of equivalent acreage, value, and function on the same parcel on which habitat will be displaced by the project, except that offsite mitigation of habitat loss may be allowed under a County approved mitigation program. Complete replacement means replacement with native vegetation at a 2:1 ratio, which is monitored for a period of no less than five years to ensure effective replacement.

R. Definitions, "R."

Recreation, Passive. A type of recreation that does not require the use of organized play areas.

Riparian. Associated with or dependent upon a river, stream, or other water body.

Riparian Habitat. Areas of riparian vegetation that are characterized by plant species that occur along and adjacent to fresh water courses, including perennial and intermittent streams, lakes, springs, and other bodies of fresh water. Riparian habitats include transitional zones between land and water and are distinguished by characteristic woody trees and shrubs, a variety of important ecological functions, and generally high wildlife habitat values.

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.

S. Definitions, "S."

Site Assessment. An analysis of the environmental setting of developed or undeveloped land, including but not limited to sensitive wildlife habitats and sensitive resources, such as baylands, wetlands, stream and riparian systems, and special-status species and species of concern. A site assessment may also include findings regarding potential environmental effects resulting from a development application, and recommendations for measures that may avoid or minimize such effects.

Stream. A natural or once natural flowing open drainage channel with an established bed and bank. These consist of perennial, intermittent, and ephemeral streams, including open waterways that have been restored, modified, or channelized, but do not include ditches, culverts, or other above- or below ground conduits constructed specifically for storm drainage function. Perennial and intermittent streams, shown as solid or dashed blue lines (or purple lines) on the most recent appropriate USGS data, and ephemeral streams as defined below, are subject to Stream Conservation Area protection policies. See "Stream Conservation Area (SCA)."

Standard Management Practices. Method or techniques maintained by the Community Development Agency for the protection of hydrologic processes, stream and riparian habitat, and water quality to avoid or minimize impacts to salmonids within the Stream Conservation Area within the San Geronimo Valley.

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. Intermittent streams are typically shown as a dashed blue line on USGS data.

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; or supports special-status species and/or a sensitive natural community type, such as native grasslands, regardless of the extent of riparian vegetation associated with the stream. See Marin Countywide Plan policy BIO-4.1.

The Stream Conservation Area is a buffer established to protect the active channel, water quality and flood control functions, and associated fish and wildlife habitat values along streams.

The Stream Conservation Area encompasses any jurisdictional wetland or unvegetated other waters within the stream channel, together with the adjacent uplands, and supersedes buffer standards defined for Wetland Conservation Areas.

The Stream Conservation Area consists of the watercourse itself between the tops of the banks and a strip of land extending laterally outward from the top of both banks that is the width 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. Within the SGV combining district, the Stream Conservation Area is measured from the centerline of the swale for ephemeral streams with no clear top of bank as shown in Figure 8-9.

An additional buffer may be required based on the results of a site assessment to protect riparian habitat.

The Stream Conservation Area applies to ephemeral streams that:

(a) support riparian vegetation for a length of 100 feet or more; and/or

(b) support special-status species and/or sensitive natural community type, such as native grasslands, regardless of the extent of riparian vegetation associated with the stream.

Except for ephemeral streams within the SGV combining district, a minimum 20-foot buffer should be required for ephemeral streams that do not meet these criteria. In the SGV combining district, the Stream Conservation Area applies to all ephemeral streams as mapped on the most recent appropriate USGS National Hydrography Dataset.

T. Definitions, "T."

Top of Bank. The elevation at which flow spills out of a stream channel and onto the floodplain.

W. Definitions, "W."

Wetland, Jurisdictional. An area that meets the criteria established by the U.S. Army Corps of Engineers (Corps or COE) for Wetlands (as 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.

FIGURE 8-8

TYPICAL CROSS SECTION OF A STREAM CONSERVATION AREA

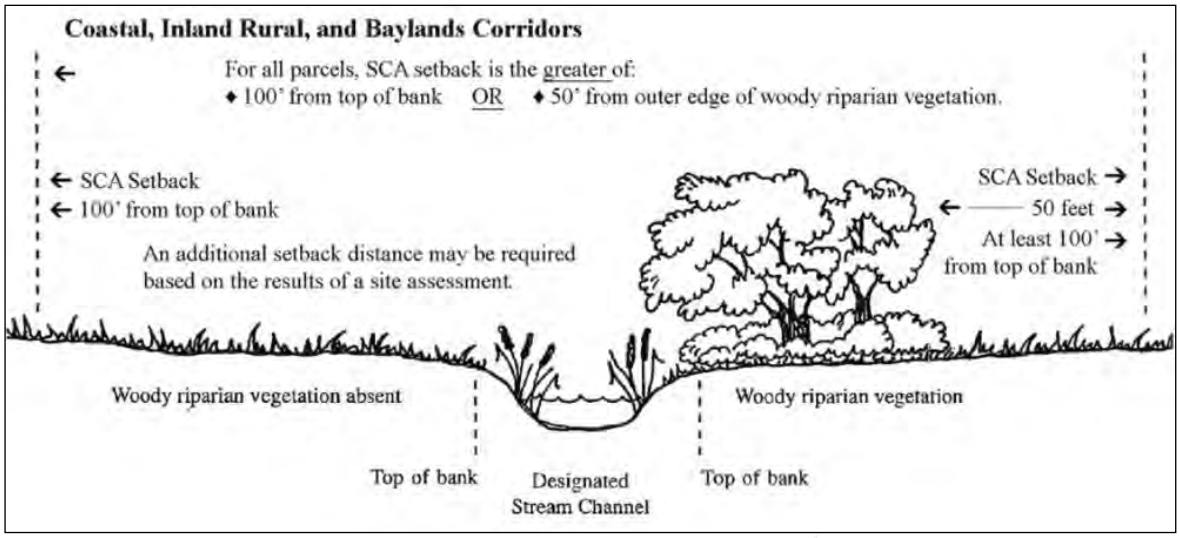


FIGURE 8-9

BUFFER MEASUREMENT FOR EPHEMERAL STREAMS SUBJECT TO THE STREAM CONSERVATION AREA IN SAN GERONIMO VALLEY

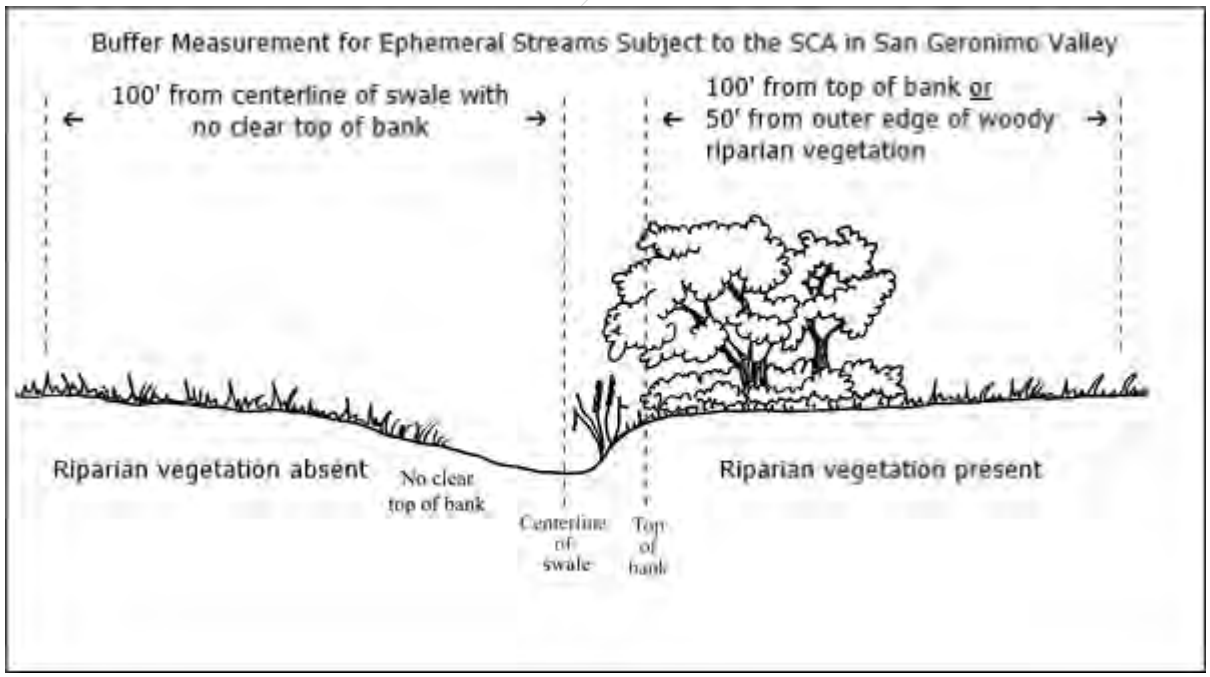
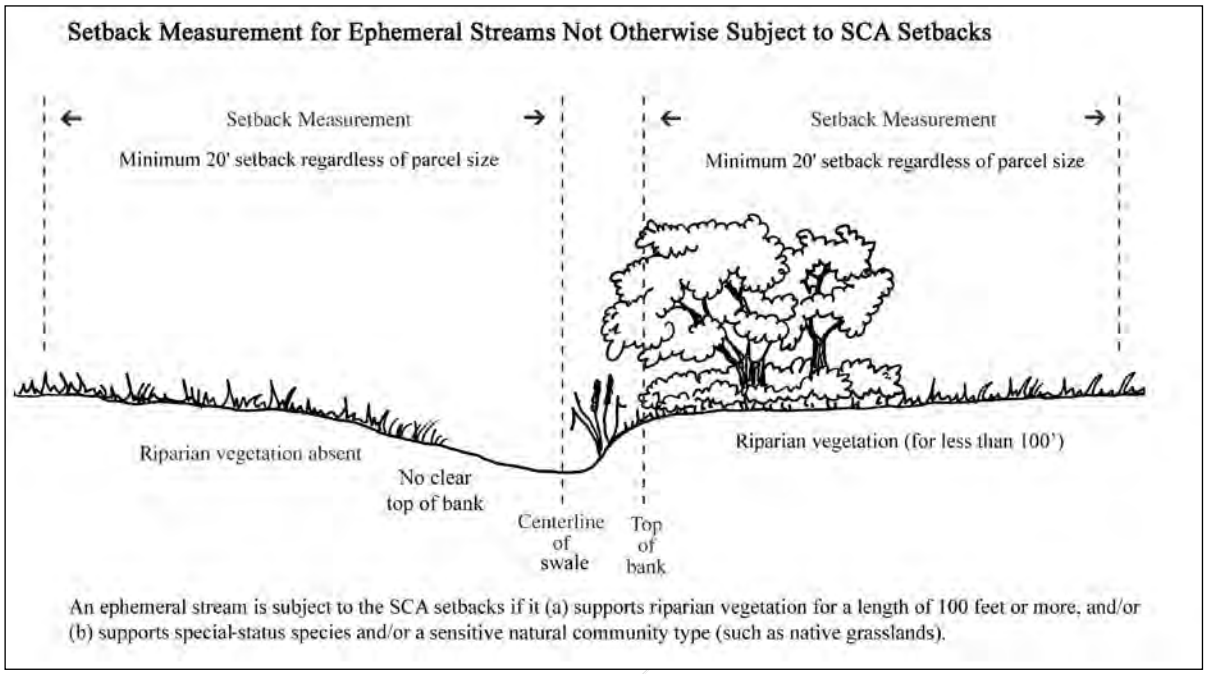


FIGURE 8-10

SETBACK MEASUREMENT FOR EPHEMERAL STREAMS NOT OTHERWISE SUBJECT TO SCA SETBACKS



MARIN COUNTY PLANNING COMMISSION

RESOLUTION NO. _____

A RESOLUTION RECOMMENDING THAT THE BOARD OF SUPERVISORS ADOPT THE REZONING FOR ALL LOTS LOCATED IN SAN GERONIMO VALLEY

*** ***

WHEREAS, the Marin County Community Development Agency proposes to rezone all lots within the boundary of the San Geronimo Valley for the new SGV (San Geronimo Valley) combining district to establish consistent permit requirements in planned and conventional zoning districts for the stream conservation area and throughout San Geronimo Valley as shown in Exhibit A; and

WHEREAS, the Marin County Planning Commission wishes through this Resolution to recommend an Ordinance to rezone all lots within the boundary of the San Geronimo Valley for the new SGV (San Geronimo Valley) combining district to establish consistent permit requirements in planned and conventional zoning districts for the stream conservation area and throughout San Geronimo Valley; and

WHEREAS, on November 8, 2021, and December 13, 2021, the Marin County Planning Commission held a duly noticed public workshop and hearing, respectively, to take public testimony and consider this Resolution; and

WHEREAS, on June 13, 2022, the Marin County Planning Commission held a duly noticed public hearing to take public testimony and consider this Resolution.

NOW, THEREFORE, THE MARIN COUNTY PLANNING COMMISSION RESOLVES as follows:

The Marin County Planning Commission recommends that the Marin County Board of Supervisors adopt an Ordinance to rezone all lots within the boundary of the San Geronimo Valley to the SGV (San Geronimo Valley) combining district that contains the following terms:

1. This Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Sections 15061(b)(3) and 15268(a) of the State CEQA Guidelines because the rezoning will not increase the intensity of use or development allowed on the lots.

2. Rezone all lots located in San Geronimo Valley to the SGV combining district under this Ordinance as indicated in the table below:

Existing Zoning	Description	Proposed Zoning
OA	Open Area	SGV-OA
ARP-20	Agriculture, Residential Planned	SGV-ARP-20
ARP-10	Agriculture, Residential Planned	SGV-ARP-10
ARP-7.5	Agriculture, Residential Planned	SGV-ARP-7.5
ARP-2	Agriculture, Residential Planned	SGV-ARP-2
ARP-1	Agriculture, Residential Planned	SGV-ARP-1
RSP-0.05	Residential, Single Family Planned	SGV-RSP-0.05
RSP-0.09	Residential, Single Family Planned	SGV-RSP-0.09

Existing Zoning	Description	Proposed Zoning
RSP-0.1	Residential, Single Family Planned	SGV-RSP-0.1
RSP-0.47	Residential, Single Family Planned	SGV-RSP-0.47
RSP-0.5	Residential, Single Family Planned	SGV-RSP-0.5
RSP-0.625	Residential, Single Family Planned	SGV-RSP-0.625
RSP-1	Residential, Single Family Planned	SGV-RSP-1
PF-RSP-0.1	Public Facility, Residential, Single Family Planned	SGV-PF-RSP-0.1
RA-B4	Residential, Single Family	SGV-RA-B4
R1-B4	Residential, Single Family	SGV-R1-B4
R1-B3	Residential, Single Family	SGV-R1-B3
R1-B2	Residential, Single Family	SGV-R1-B2
RCR	Resort and Commercial Recreation	SGV-RCR
VCR	Village Commercial/Residential	SGV-VCR
CP	Commercial, Planned	SGV-CP
H1	Limited Roadside Business	SGV-H1

PASSED AND ADOPTED at a regular meeting of the Planning Commission of the County of Marin held on this 13th day of June, 2022 by the following vote:

AYES: COMMISSIONERS

NOES:

ABSENT:

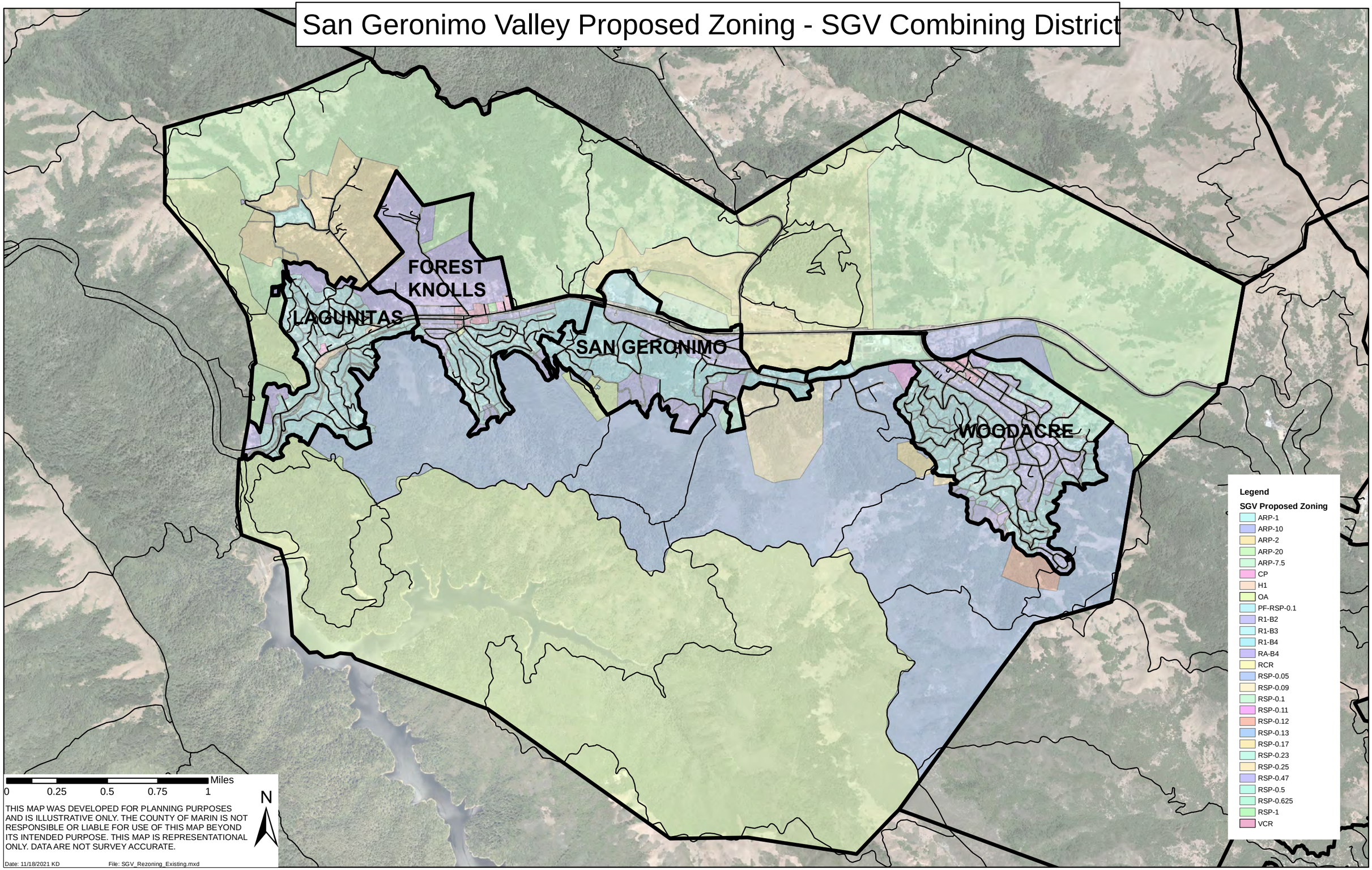
DON DICKENSON, CHAIR
MARIN COUNTY PLANNING COMMISSION

Attest:

Ana Hilda Mosher
Planning Commission Recording Secretary

EXHIBIT A

San Geronimo Valley Proposed Zoning - SGV Combining District



THIS MAP WAS DEVELOPED FOR PLANNING PURPOSES AND IS ILLUSTRATIVE ONLY. THE COUNTY OF MARIN IS NOT RESPONSIBLE OR LIABLE FOR USE OF THIS MAP BEYOND ITS INTENDED PURPOSE. THIS MAP IS REPRESENTATIONAL ONLY. DATA ARE NOT SURVEY ACCURATE.

Date: 11/18/2021 KD File: SGV_Rezoning_Existing.mxd

TERM SHEET

Since 2010, SALMON PROTECTION AND WATERSHED NETWORK, a Project of TURTLE ISLAND RESTORATION NETWORK ("SPAWN") and CENTER FOR BIOLOGICAL DIVERSITY ("CBD," and together with SPAWN, "Petitioners") have asserted legal actions and claims against the COUNTY OF MARIN ("County") alleging, in summary, that the County violated the California Environmental Quality Act ("CEQA") in connection with its adoption of the 2007 Countywide Plan as it relates to environmental impacts on anadromous fish species in the San Geronimo Valley. The County has denied, and continues to deny, any wrongdoing or legal liability regarding the allegations in these legal actions. Nevertheless, Petitioners and the County each share a common interest in preserving the natural resources of Marin County and protecting important habitat for anadromous fish species in the San Geronimo Valley. To better focus their respective resources towards furthering these common interests rather than continuing to pursue litigation, the parties have reached an agreement in principle to settle these legal actions according to the terms in Attachment A. To memorialize their agreement in principle, the parties hereby agree as follows:

1. The parties will negotiate in good faith to finalize a full and complete settlement agreement reflecting the terms in Attachment A within one month of the date last executed below.
2. The parties will cooperate in all manners necessary to effectuate the terms of this Term Sheet including, but not limited to, executing all necessary documents.
3. The parties will work in good faith to coordinate the timing of their respective announcements of the agreement in principle.
4. Each of the individuals executing this Term Sheet represents and warrants that they have been authorized to do so and have the power to bind the party for whom they are signing.
5. This Term Sheet may be executed in multiple counterparts, and by way of facsimile or electronic signature, and if so, each counterpart will be deemed to be an original copy and all of which, when taken together, will be deemed to constitute one and the same Term Sheet.

Dated: _____, 2022

SALMON PROTECTION & WATERSHED NETWORK

By:_____

Its:

Dated: _____, 2022

CENTER FOR BIOLOGICAL DIVERSITY

By:_____

Its:

Dated: May 16, 2022

COUNTY OF MARIN

By:_____

Its: Board President, Supervisor Katie Rice

TERM SHEET

Since 2010, SALMON PROTECTION AND WATERSHED NETWORK, a Project of TURTLE ISLAND RESTORATION NETWORK ("SPAWN") and CENTER FOR BIOLOGICAL DIVERSITY ("CBD," and together with SPAWN, "Petitioners") have asserted legal actions and claims against the COUNTY OF MARIN ("County") alleging, in summary, that the County violated the California Environmental Quality Act ("CEQA") in connection with its adoption of the 2007 Countywide Plan as it relates to environmental impacts on anadromous fish species in the San Geronimo Valley. The County has denied, and continues to deny, any wrongdoing or legal liability regarding the allegations in these legal actions. Nevertheless, Petitioners and the County each share a common interest in preserving the natural resources of Marin County and protecting important habitat for anadromous fish species in the San Geronimo Valley. To better focus their respective resources towards furthering these common interests rather than continuing to pursue litigation, the parties have reached an agreement in principle to settle these legal actions according to the terms in Attachment A. To memorialize their agreement in principle, the parties hereby agree as follows:

1. The parties will negotiate in good faith to finalize a full and complete settlement agreement reflecting the terms in Attachment A within one month of the date last executed below.
2. The parties will cooperate in all manners necessary to effectuate the terms of this Term Sheet including, but not limited to, executing all necessary documents.
3. The parties will work in good faith to coordinate the timing of their respective announcements of the agreement in principle.
4. Each of the individuals executing this Term Sheet represents and warrants that they have been authorized to do so and have the power to bind the party for whom they are signing.
5. This Term Sheet may be executed in multiple counterparts, and by way of facsimile or electronic signature, and if so, each counterpart will be deemed to be an original copy and all of which, when taken together, will be deemed to constitute one and the same Term Sheet.

Dated: May 16, 2022

SALMON PROTECTION & WATERSHED NETWORK

By: Preston Brown

Its: Director of Watershed Conservation

Dated: May 16, 2022

CENTER FOR BIOLOGICAL DIVERSITY

By: Peter Broderick

Its: Attorney

Dated: _____, 2022

COUNTY OF MARIN

By: _____

Its:

APPROVED AS TO FORM:

Dated: May 13, 2022

COUNTY COUNSEL, BRIAN E. WASHINGTON

By: _____

Brandon W. Halter
Attorneys for Respondent
COUNTY OF MARIN

Dated: May 16, 2022

ENVIRONMENTAL LAW CLINIC
Mills Legal Clinic at Stanford Law School

By: _____

Stephanie L. Safdi
Attorneys for Petitioners
SALMON PROTECTION & WATERSHED NETWORK and CENTER FOR BIOLOGICAL DIVERSITY

ATTACHMENT A

Settlement Parameters

I. Legal Framework

Conditional on the County's final adoption of an SCA Ordinance that includes the terms identified for inclusion in Section II, and agreement to the additional terms in Section III, as well as the expiration of 91 days following final adoption of the SCA Ordinance without a legal challenge to such SCA Ordinance by any third party*:

A. The County agrees to:

1) Dismiss the pending appeals in Case Nos. A1628632 and A162863; and

2) Pay $240,000 to counsel for SPAWN/CBD within 45 days as compensation for attorneys' fees and costs and to resolve any and all claims by SPAWN/CBD for attorneys' fees and costs.

B. SPAWN/CBD agree to:

1) Coordinate with the County on necessary filings to resolve and discharge all writ obligations arising from Case Nos. CIV 1903709 and CIV 1004866; and

2) Release the County from all CEQA claims arising from its approval of the 2007 Countywide Plan and certification of the related EIR and FSEIR with respect to the San Geronimo Valley; and

3) Release the County from all CEQA claims arising from the County's adoption of the SCA Ordinance; and

4) Withdraw their pending motion for attorneys' fees and costs in Case Nos. CIV 1903709 and CIV 1004866 and release the County from liability for fees and costs incurred in this litigation or the appeals in Case Nos. A1628632 and A162863.

*In the event that a challenge to the SCA Ordinance is filed within the 91-day window set forth above, the settlement agreement and the above terms shall take effect upon the final dismissal of such challenge, provided the County does not amend the SCA Ordinance in response to litigation in a way that is inconsistent with the terms of the settlement.

II. SCA Ordinance Terms

As discussed above, the settlement agreement will be contingent on the County adopting an SCA Ordinance that matches the ordinance considered at the December 13, 2021 Planning Commission Hearing, with the additions and modifications set forth in this Section. Nothing in this settlement agreement shall abrogate or impair the County's future exercise of its sovereign police power.

A. Revise Section 22.30.045(C) "Site Assessment" as follows:

> "**Site Assessment**. A Site assessment is required when development is proposed in the Stream Conservation Area, where adverse impacts to riparian resources may occur, or when full compliance with subsection D below would not be met. The Site Assessment shall identify site specific standard management practices in accordance with the provisions in subsection F, and shall confirm that the proposed development would result in no net loss of any of the following: habitat acreage, value, or function."

B. Revise section 22.30.045 to add an additional subsection providing for a 35-foot streamside buffer within the Stream Conservation Area, as measured from the top of the stream bank, where allowable land uses shall be limited to the following:

   a. Maintenance and repair of existing permitted structures within the existing footprint
   b. Projects to improve fish and wildlife habitat
   c. Water-monitoring installations
   d. Passive recreation that does not disturb native species
   e. Necessary water supply and flood control projects that minimize impacts to stream function and to fish and wildlife habitat
   f. Driveway, road, and utility crossings, if no other location that avoids encroaching in the buffer is feasible and the crossing is sited to minimize environmental impacts

C. Add language clarifying that limitations on uses under subsection 22.30.045(D) also apply to portions of the SCA outside the 35-foot buffer zone.

D. Add language clarifying that the 35-foot buffer applies to all ephemeral streams in the San Geronimo Valley only.

E. Replace Draft Section 22.30.045(D)(2), in its entirety, with the following language:

> "Additions to existing permitted structures that do not: (1) increase the lot coverage within the Stream Conservation Area

by more than a cumulative total of 300 square feet; or (2) increase the horizontal encroachment into the Stream Conservation Area. Vertical additions to existing permitted structures that do not expand the existing footprint are not counted toward the 300 square foot cumulative lot coverage allowance.

The 300 square feet of cumulative lot coverage is calculated on a per parcel basis following the effective date of this section (_, 2022). No additional lot coverage may be added once the allowance is exhausted, consistent with state law. Notwithstanding the foregoing, state law may require the allowance of certain other uses and/or development that is not otherwise contemplated by this section."

F. Replace section 22.30.045(E) in its entirety with the following[1]:

"Exceptions. Exceptions to full compliance with section 22.30.45(D) may be allowed only if the parcel is undeveloped as of the effective date of this section and the following is true:

1. A lot falls entirely within the Stream Conservation Area; or

2. Development on the parcel entirely outside the Stream Conservation Area
   a. Cannot be accomplished even if the proposed development project is limited to 1000 square feet or less of lot coverage on the parcel as a whole, with the least possible encroachment into the SCA, or relocated to another suitable portion of the parcel that avoids encroachment into the SCA; or

   b. Would have greater impacts on water quality, wildlife habitat, other sensitive biological resources, or other environmental constraints than development within the Stream Conservation Area.

Exceptions under this subsection require an application supported by a showing of good cause and public

[1] The reference to section 22.30.045(D) refers to the subsection as enumerated in Exhibit A to the December 13, 2021 Staff Memorandum to the Marin County Planning Commission; if the ordinance provisions are renumbered, this clause should be adjusted as necessary to maintain the reference to the provision setting forth limitations on uses for the SCA area outside the 35 foot buffer.

noticing, and they must be subject to appeal."

G. Replace subsections 22.52.030(D)(1) and (2) with the following[2]:

1. "Removal of dead, invasive, or exotic vegetation, including leaf litter, except for woody debris located below the stream top of bank. Consultation with the County, California Department of Fish and Wildlife, and/or Marin Municipal Water District is required prior to removal of any woody debris below the stream top of bank.
2. Removal or trimming of pyrophytic combustible live trees and/or vegetation consistent with Chapter 22.62 (Tree Removal Permits) and Title 16 – Provision 16.16.040, including tanoak, California bay laurel, and Douglas fir tree species. Removal of any live tree or vegetation that is greater than six inches in diameter and below the top of bank is not exempt from Site Plan Review, unless the tree or vegetation presents an immediate hazard to public safety. No development project shall be approved if it would require removal of native vegetation below the top of the bank.

H. Add the following definitions to Section 22.130.030:

"No net loss of habitat. Complete replacement of habitat of equivalent acreage, value, and function on the same parcel on which habitat will be displaced by the project, except that offsite mitigation of habitat loss may be allowed under a County-approved mitigation program. Complete replacement means replacement with native vegetation at a 2:1 ratio, which is monitored for a period no less than five years to ensure effective replacement."

"Habitat. "Habitat" shall have the definition provided in the operative version of the Countywide Plan. If no definition is provided in the operative version of the Countywide Plan, "Habitat" is defined as: The physical location or type of environment in which an organism or biological population lives or occurs."

[2] The County may adjust the codification of these provisions, so long as their substance is not affected. For example, the County may elect to move the term prohibiting the approval of any development project would require removal of native vegetation below the top of the bank to Section 22.30.045 (San Geronimo Community Standards).

I. Habitat Restoration Program[3]

Add a provision to Chapter 22.52 specifying that "Approval of Site Plan Review applications for uses within the San Geronimo Valley Combining District shall be subject to property owner compliance with any development impact fees, applicable at the time the Site Plan Review application is approved, established for the purpose of offsetting development impacts on the SCA through restoration and enhancement of riparian habitat within the San Geronimo Valley."

- Add a provision authorizing the County Board of Supervisors to adopt by resolution a development impact fee to be used to fund the Habitat Restoration Program.

J. Add a provision providing that violations of SCA ordinance provisions are enforceable through any legal remedies available for correcting/and or abating nuisances and violations of the Development Code, including but not limited to the administrative citation penalty schedule provided for in Chapter 1.05 of the Marin County Code.

K. Add a provision defining any violation of the provisions of the SCA Ordinance governing "limitations on use" within the SCA to constitute a "public nuisance" for purposes of Chapter 1.05 (Nuisance Abatement) of the Marin County Code.

III. Additional Settlement Terms

A. Inspections for SCA Ordinance Violations

- By September 1, 2022, the County shall adopt a voluntary point of sale inspection pilot program ("Program") for the San Geronimo Valley SCA, which will allow any owner of property wholly or partially within the SCA in the San Geronimo Valley Combining District (or any prospective buyer of such property, with the property owner's consent) to request and obtain a free on-site, County-provided inspection for compliance with provisions of the SCA Ordinance. The County shall advertise the Program to increase awareness among property owners and

[3] The County may adjust the codification of these provisions, so long as the substance is not affected. For example, County may elect to move this content to Section 22.30.045 (San Geronimo Community Standards) and add as a standard for development. Under this approach this language would be added as a condition of approval for the Site Plan Review permit.

purchasers of their ability to request an inspection from the County, as well as to request public records regarding the property. The County shall begin full implementation of the Program (including advertising the Program and making inspections available upon request) no later than Q1 of 2023. The County shall have sole discretion to discontinue the Program after a period of five years from the Program's implementation, conditional on the County first holding a public meeting with opportunity for public comment and accompanied by a staff report analyzing the success of the Program, options to increase public participation to warrant continuing the Program, and alternatives to improve on compliance with the SCA Ordinance.

- Before approving an application for a development project or activity that is subject to Site Plan approval under the SCA Ordinance, on a parcel wholly or partially within the San Geronimo Valley Combining District SCA, the County shall perform an inspection for existing SCA Ordinance violations and review for enforcement.

B. Anonymous Complaints

The County shall create and implement a system for receiving complaints regarding violations of the SCA Ordinance within the San Geronimo Valley that allows complainants to remain anonymous, provided that the County shall have full discretion as to the design and operation of such system, including but not limited to discretion regarding whether to assign lesser weight to complaints submitted anonymously.

C. Expansion of Enforcement Capacity

The County shall expand enforcement staff capacity sufficient to process, respond to, and address complaints regarding violations of the SCA Ordinance in the San Geronimo Valley and SCA Ordinance compliance issues identified during inspections. This includes ensuring on-call availability to process and respond to time-sensitive complaints that come in during non-business hours, including evenings, weekends, and holidays.

D. Biannual Reporting

The County will commit to provide twice-yearly reports to the Board of Supervisors, as proposed in Staff's December 13, 2021 presentation to the Planning Commission, with the following metrics to track implementation of the SCA

Ordinance:

1. The number of Site Plan Review applications approved, conditionally approved, or denied;
2. Project types;
3. Appeals;
4. Complaints;
5. Inspections;
6. Enforcement actions;
7. Amount of impervious area authorized under Site Plan Review to be added to the San Geronimo Valley SCA; and
8. Amount of habitat authorized under Site Plan Review to be removed from the San Geronimo Valley SCA.

From: Lai, Thomas
To: Drumm, Kristin
Subject: FW: NO on new Stream Ordinance
Date: Thursday, May 26, 2022 10:01:41 AM

Hi Kristin,

Here's a public comment, in the event you did not receive a separate email from Mr. Clarke.

Regards,
-Tom

From: John Clarke <john@oceanexportinc.com>
Sent: Thursday, May 26, 2022 9:50 AM
To: Lai, Thomas <TLai@marincounty.org>
Subject: NO on new Stream Ordinance

I do not support the new stream ordinance

Regards,

John Clarke VP/MM
Ocean Export Inc. / CSOE LLC
1200 Harbour Way South 106 / 110
Richmond, CA 94804
office 510-232-5850
fax 510-232-5854
cell 415-308-8858

From: asisowl@gmail.com
To: Drumm, Kristin
Subject: SGV Stream Ordinance
Date: Thursday, April 14, 2022 4:32:46 PM

Albert DeSilver would like information about:
Dear Kristin, I am a SGV resident of Woodacre and am alarmed to read about the Stream Ordinance Redux. Is this just for the SGV or does this effect the entire county? I am an environmentalist, I love the fish and am in full support of protecting Salmon and wildlife habitat, but we need MORE HOUSING in the county, and especially more AFFORDABLE housing in the county. I'm afraid this ordinance will unduly restrict the rights of property owners to rightfully develop existing legally designated properties that would NOT adversely harm stream habitat and wildlife and would actually provide much needed housing in our county. Can you share with me the timing of implementation of this ordinance? I'm sure you realize a 100 foot setback requirement on any lots near creeks and streams would render many otherwise buildable lots worthless. We have advanced technologies now that can protect habitat and provide safe secure housing for humans. Thanks for reading:)

From: Kutter, Rhonda
To: Drumm, Kristin
Cc: Rodoni, Dennis
Subject: FW: Concerned citizen who wants a science based SCA passed
Date: Tuesday, March 29, 2022 11:35:03 AM

FYI

From: Caryn Graves <caryn@lmi.net>
Sent: Monday, March 28, 2022 2:34 PM
To: BOS <BOS@marincounty.org>
Subject: Concerned citizen who wants a science based SCA passed

Dear Marin Board of Supervisors ,

I ask that you please tweak the SCA Ordinance so that it follows the California Environmental Quality Act, saves the streams, and protects folks from flooding.

Without change, we will kill the last of the Coho Salmon that have populated the waters of Marin County for millions of years. We must enact change, protect the habitats of the Coho Salmon, and establish a secure future for Coho Salmon in Marin.

With the number of flash floods greatly increasing, we must prepare to protect natural wildlife and surrounding land by preserving riparian habitats. Without these habitats, the effects of flash flooding will only increase, completely eradicating the Coho Salmon species and preventing them from ever returning to the waters of Marin County.

My main concern is that the current version of the SCA is just a paper document without adequate enforcement.

Please communicate to county staff that the Board of Supervisors would like to see an Ordinance that includes real enforcement mechanisms that don't solely rely on voluntary compliance.

Let's make it count!

I cannot thank you enough for taking the time to enact positive change. You are making a difference in this fight and success is impossible without people like you.

Sincerely,
Caryn Graves
caryn@lmi.net 94702

left on the ground.

16 MAR 2022 PM 4 L

COASTAL COMMISSION
coast4u.org
(800) coast4u

"A Seal on a Rock"
Kyra Baldwin
9th Grade

Thank you for considering passage of the Stream Conservation area ordinance (SCA). Please make sure the ordinance goes beyond Voluntary compliance! Make sure the language is clear. Lets protect our creeks + wildlife! Future generations deserve to have nature. AF

Marin County Supervisors
3501 Civic Center Dr.
#330
San Rafael, CA
94903

2007 Coastal Art and Poetry Contest Winner

and wildlife.

16 MAR 2022 PM 4 L

COASTAL COMMISSION
coast4u.org
(800) coast4u

"Coralline Escape"
Ciera Cavanaugh
12th Grade

Dear Supervisors,

Thank you for considering the passage of the Stream Conservation Area (SCA) ordinance. Please ensure the final SCA is

- Science Based
- clearly written
- GOES BEYOND VOLUNTARY COMPLIANCE

Lets protect our streams for generations to come! thank you, mia

Marin County Supervisors
3501 Civic Center Drive
#330
San Rafael, CA 94903

2007 Coastal Art and Poetry Contest Winner

14 MAR 2022 PM 4 L

coast4u.org
(800) coast4u

"California Sea Lions"
Shivya Ganesh
1st grade

Dr. Supervisor Rodoni,

I encourage the adoption of the Marin Co. SCA ordinance soon. Please ensure it is science based and clearly written, including enforcement procedures. I am Mel Wright of Woodacre and I thank you.

Supervisor Dennis Rodoni
3501 Civic Center Drive
Suite 329
San Rafael, CA 94903

2007 Coastal Art and Poetry Contest Winner

fire & environment resilience network

Marin Audubon Society, Environmental Action Committee of West Marin, California Native Plant Society, Marin Chapter, Stewards

Integrating environment with fire protection

February 21, 2022

Katie Rice, President
Board of Supervisors.
3501 Civic Center Drive
San Rafael, CA 94903

ATT: Kristin Drumm

RE: Stream and Creekside Ordinance for San Geronimo Drive

Dear President Rice and Supervisors,

I am writing on behalf of the Fire and Environment Resilience Network (FERN) to express concerns about the draft Stream and Creekside Ordinance for San Geronimo Creek Section 22.52.030 Site Plan Review D.2. FERN consists of representatives of three prominent Marin County environmental organizations: Marin Audubon Society, the Marin Chapter of the California Native Plant Society and the Environmental Action Committee of West Marin. Collectively, we represent over 2700 Marin residents. Our purpose is to work to integrate natural resource protections into the fire suppression activities.

Section 22.52.030 D.1.of the draft ordinance exempts three native plant species from site plan review (required by Section 22.52.020 F.c.) because they are identified as pyrophytic or combustible.

> *Section 22.52.030 D.2. Removal or trimming of pyrophytic or combustible live trees and/or vegetation consistent with Title 16 – Provision 16,16040, including tanoak, California bay laurel , and Douglas Fir tree species. MM 5.1-1 Exemption 3*

First, we question why the flammability or combustibility of trees is being considered in a creek protection ordinance. These qualities have no apparent bearing on the purposes of this ordinance, which is to protect the endangered salmonid habitat and other natural resources of the creek.

Native trees growing along streams are part of the native riparian ecosystem providing resting, nesting and foraging habitat for birds and other wildlife. Native trees growing along San Geronimo Creek are particularly important habitat providing shade, detritus and erosion protection that benefit the endangered fish species that depend on this Creek. Furthermore, species growing adjacent to creeks are usually well hydrated due to the presence of surface and ground water, and therefore, would not present a fire danger.

We recommend that the native tanoak, California Bay laurel, and Douglas fir be removed from the Site Plan Review Exemption. This would ensure their removal is adequately evaluated, as it will be for other native species. We further note that removal from this list does not mean they could not be removed. It simply means that their removal would be evaluated and justified by a Site Plan review.

Sincerely,

Barbara Salzman
On behalf of Fern