



**STAFF REPORT TO THE MARIN COUNTY  
 PLANNING COMMISSION**

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

**Recommendation:**      **Hold a workshop to consider the proposed  
 code amendments**

**Hearing Date:**          **November 8, 2021**

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

**PROJECT SUMMARY**

The planning staff, as directed by the Board of Supervisors (BOS) following the adoption of a focused work program in February 2020 and consistent with Marin Countywide Plan (CWP) policy directives, is proposing an ordinance that would regulate development in Stream Conservation Areas (SCA) in the San Geronimo Valley. The proposed ordinance is part of a larger, interdepartmental program to ensure that development in the San Geronimo Valley Watershed is consistent with the 2019 Final Supplemental Environmental Impact Report (FSEIR) to the 2007 Marin Countywide Plan Update Final EIR that focused on potential cumulative impacts to salmonids in the San Geronimo Valley.

The proposed ordinance would involve amendments to the Marin County Development Code consisting of the following: (1) establish a San Geronimo Valley overlay zoning district (SGV) that would correspond to the area shown on the San Geronimo Valley Land Use Policy Map, Map 7.10.0, contained in the Marin Countywide Plan; (2) create “community standards” for the San Geronimo Valley, similar to those found in other unincorporated areas of the County such as Sleepy Hollow and Lucas Valley; and (3) amend the Marin County Development Code to expand the existing Site Plan Review provisions to encompass development activities proposed within SCAs located in the San Geronimo Valley.

The proposed amendments to the Development Code that would result from adoption of the ordinance are presented in a track changes version of those portions of the Development Code that would be amended (Exhibit B). Explanations of the proposed amendments are provided in the accompanying “Guide to the Expanded Stream Conservation Area Ordinance for the San Geronimo Valley, October 2021” (Exhibit A). Resource materials in support of the ordinance are provided in Exhibits C – H.

## BACKGROUND

Marin County is known for its distinctive natural setting and environmental heritage. The proposed SCA Ordinance will incorporate SCA buffer requirements in the San Geronimo Valley that have been a feature of the CWP since the early 1970s. Applying land use restrictions to protect streams is not unique to Marin - it is a common practice used throughout the nation, as well in the Bay Area in, for example, Napa, Santa Cruz and Sonoma Counties. Even some of Marin's cities and towns utilize stream setbacks as a conservation tool. These tools are necessary because riparian habitats are irreplaceable, vital biological systems that provide critical functions for water purification, flood control, fish and wildlife movement, and native habitat. However, large portions of existing riparian systems have been eliminated by past stream channelization and urban development. The proposed SCA Ordinance is a continuation of the County's effort to study, educate, and improve stream and streamside conditions.

Enhanced riparian protection in the San Geronimo Valley watershed is warranted due to the importance of Lagunitas Creek to the continued existence of the federally- and state-listed coho salmon run that utilize the creek for spawning and rearing of juvenile fish. This run of coho salmon belong to the "Central California Evolutionary Significant Unit" for the species. In addition, Lagunitas Creek supports the threatened steelhead trout and the fall run of chinook salmon.

In 2006, the Development Code Design Review provisions were amended to address development activities along anadromous creeks<sup>1</sup>, such as Lagunitas Creek. In particular, Design Review was required when development of a vacant lot that adjoins an anadromous creek was proposed, regardless of the zoning designation of the site. In 2018, the Development Code was amended to include Site Plan Review, a regulatory tool aimed at ensuring that the "natural heritage and beauty of the County is preserved and adverse effects from unplanned or inappropriate development, design or placement are minimized or eliminated." (Marin County Development Code Section 22.52.010). Subsequently, provisions for the development of vacant lots that adjoin anadromous creek were moved from the Design Review chapter of the Development Code (Chapter 22.42) to the Site Plan Review chapter of the Development Code (Chapter 22.52).

In 2007, the BOS approved amendments to the Countywide Plan, including to those policies targeted at creek and riparian protection. These 2007 CWP policies, BIO-4.1 through BIO 4-20 (SCA policies), and Implementing Programs BIO-4.a through BIO-4.u provide the framework for the protection of riparian areas in the unincorporated areas of the County. Following adoption of the CWP amendments and prior to certification, a legal challenge was brought against the County regarding the 2007 Marin Countywide Plan Final EIR and its analysis of potential cumulative impacts resulting from future development and implementation of the amended SCA policies with specific focus on the San Geronimo Valley Watershed. Subsequently, the County prepared a supplemental EIR (SEIR) with respect to the San Geronimo Valley Watershed. In August 2019, the Board approved the 2019 FSEIR which found that proposed development resulting from implementation of the 2007 CWP amendments would result in impacts to salmonids in the San Geronimo Valley and required several mitigation measures to reduce potential impacts to aquatic species.

On February 11, 2020, the Board of Supervisors approved a work program to develop an Expanded SCA Ordinance with a focus on the San Geronimo Valley. On December 7, 2020, staff

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<sup>1</sup> Anadromous creeks refer to freshwater rivers, creeks and streams that provide habitat for fish species that migrate from the ocean to freshwater to spawn.

met with the Board of Supervisors' Subcommittee (Board Subcommittee) comprised of then Board President Sears and Supervisor Rodoni to review the proposed ordinance scope and project schedule. During these meetings the Board Subcommittee confirmed that the proposed ordinance should: (1) conform to existing SCA policies in order to limit the need for additional environmental review; (2) implement the FSEIR mitigation measures; and (3) align with the 2019 FSEIR analysis. On March 3 and April 12, 2021, staff provided a status report to the Board of Supervisors and Planning Commission, respectively, on the effort to develop the proposed ordinance. On October 11, the Board Subcommittee, now comprised of Board President Rodoni and Supervisor Moulton-Peters, discussed options for amending the Planning Division's Fee Schedule to subsidize Site Plan Review and environmental review costs associated with ordinance compliance for future Board consideration, and extending the project schedule through March 2022 (Exhibit I).

Over the summer of 2021, County staff held a series of facilitated, informal stakeholder meetings with organizations and members of the public with a known interest in the proposed ordinance to preview a working draft. Stakeholder feedback revealed additional information was needed to clarify key terms and concepts (horizontal encroachment, what constitutes 100 feet of riparian vegetation; infeasibility) and to explain how different County programs, requirements, and departments will interface in assessing projects in the SCA and ensuring compliance with ordinance regulations.

## **DISCUSSION**

In order to comply with existing CWP SCA policies and the required legal framework of the 2019 FSEIR, the proposed ordinance would:

1. Apply to all perennial, intermittent and ephemeral streams (CWP Policy BIO-4.1);
2. Restrict activities to a limited set of allowable uses (CWP Policy BIO-4.1);
3. Allow up to 500 square feet of building area additions (CWP Program-4.a) subject to compliance with all SCA criteria (Policies BIO-4.1 and 4.2);
4. Require a site assessment for any incursion in a SCA (Policy BIO-4.1 and Program BIO-4.g);
5. Require discretionary review (Policies BIO-4.1 and 4.2) for projects proposed in a SCA that involve an 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, unless otherwise exempted; and
6. Require application of Standard Management Practices (SMPs) to offset or avoid impacts to hydraulic capacity, riparian habitat and water quality. The SMPs correspond to site features (e.g., slope) and development activities (e.g., distance from stream, vegetation removal, etc.) that can be objectively identified by a property owner or planner and are based upon common best practices or scientific principles for riparian protection.

A public review draft was initially released September 17, 2021. Public comment was accepted through October 25, 2021. A revised Public Review Draft, which incorporates new changes to address public comment and feedback, was released on October 29, 2021. These new revisions highlighted in ~~strike through~~ and underline format as follows:

#### 22.06.050 – Exemptions from Land Use Permits.

- 22.06.050.A and 22.06.050.E: Clarify that the San Geronimo Valley combining district triggers compliance with the San Geronimo Valley Community Standards.
- 22.06.050.H and 22.06.050.I: Clarify that solar energy systems and electronic vehicle charging stations are not exempt from land use permits in the stream conservation area when required by State law.

#### 22.30.045 – San Geronimo Valley Community Standards

- 22.30.045.A: Move language that defines the Stream Conservation Area, including where it is located and how it is measured, to the Stream Conservation Area definition in Chapter 22.130 – Definitions. This modification is consistent with the Development Code's structural framework.
- 22.30.045.B: Add new language to clarify the standards within this section apply to development and land uses within the Stream Conservation Area within the SGV combining district.
- 22.30.045.C: Modify language to clarify a site assessment is required not only for development located within the Stream Conservation Area, but if the limitations on uses in subsection D would not be met. The site assessment must also confirm the avoidance of woody riparian vegetation and determine the precise location of the buffer, among other things.
- 22.30.045.F: delete reference to consider establishing a mitigation bank program for mitigation sites within the San Geronimo Valley watershed. This language is not a regulation or standard and is not consistent with the Development Code structural framework. Further, mitigation bank program details would be developed as part of a separate public process.

#### 22.52 – Site Plan Review

- 22.52.020.F: Remove strike-thru language to correctly indicate new content that is not sourced from existing Code language.
- 22.52.030.D.5: Clarify that repair and maintenance, including replacement of an existing degraded septic systems that incorporate Marin County Stormwater Pollution Prevention Program (MCSTOPPP) minimum erosion and sediment controls and best management practices is exempt from discretionary review (Site Plan Review) in compliance with the FSEIR Mitigation Measure 5.1-1, Exemption 4.
- 22.52.030.D.7: Clarify that development permitted pursuant to Chapter 11.08 (Watercourse Division or Obstruction) is exempt from discretionary review (Site Plan Review). Chapter 11.08 requires a creek permit for the construction, placement, alteration or repair of any structure within, over, or under a creek, channel or watercourse.
- 22.52.050.C: Clarify that the findings require consistency with the San Geronimo Valley Community Standards, which includes the Standard Management Practices.
- 22.52.050.F: Clarify that development within a Stream Conservation Area in the SGV combining district must not adversely alter hydraulic capacity; result in a net loss in habitat acreage, value or function; and/or degrade water quality.

## 22.130 - Definitions

- Added new definition for Standard Management Practices.
- Modified the Stream Conservation Area definition for consistency with CWP Policy BIO-4.1.

## **PUBLIC NOTICE**

Notice of the Planning Commission workshop and upcoming 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](http://www.marincounty.org/sca)) and distributed to 906 subscribers of the project's GovDelivery email subscription service on October 13, 2021.

## **RECOMMENDATION**

Review the proposed Stream Conservation Area Ordinance for San Geronimo Valley, receive public testimony and begin deliberation on the ordinance.

## **EXHIBITS:**

- A. Guide to the Expanded Stream Conservation Area Ordinance for the San Geronimo Valley
- B. Proposed Development Code Amendments for the Expanded Stream Conservation Area Ordinance for the San Geronimo Valley, October 2021
- C. Map of the San Geronimo Valley
- D. Draft Site Assessment Requirements for Development Located in the Stream Conservation Area in the San Geronimo Valley
- E. Draft Standard Management Practices for Development Located in the Stream Conservation Area in the San Geronimo Valley
- F. Draft San Geronimo Valley Fact Sheet
- G. 2007 Marin Countywide Plan Riparian Protection Policies and Programs
- H. Mitigation Measures from the 2007 Marin Countywide Plan Final Supplemental EIR with a Focus on Potential Cumulative Impacts on Salmonids in San Geronimo Valley
- I. Revised Project Schedule
- J. Correspondence:
  - Letter from Mills Legal Clinic at Stanford Law School, dated October 7, 2021
  - Email from Jodi Charrier, Natural Resource Management Specialist, NOAA Fisheries/West Coast Region, dated October 18, 2021
  - Email from Ann Brown, dated October 18, 2021
  - Email from Laura Honda, dated October 21, 2021
  - Email from William Dreskin, dated October 21, 2021
  - Email from Stephanie Lapine, dated October 23, 2021

- Letter from Watershed Alliance, River Otter Ecology Project, Salmon Protection and Watershed Network, and Environmental Action Committee of West Marin, dated October 25, 2021
- Petition of 36 residents, submitted October 25, 2021