



COMMUNITY DEVELOPMENT AGENCY

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August 20, 2013

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Marin County Board of Supervisors
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SUBJECT: Stream Conservation Area: Update to the Board of Supervisors of Board Subcommittee Progress and Recommendations.

Dear Supervisors,

RECOMMENDATION:

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

1. Review and approve the "Framework for Countywide Plan Amendments" including guiding principles relating to stream protection and watershed enhancement;
2. Direct staff to prepare a work program, budget and schedule for amendments to the Countywide Plan and County Code pursuant to the Guiding Principles and Framework;
3. Direct staff to schedule a hearing for review of an interim expanded Stream Conservation Area ordinance for the San Geronimo watershed based on the approach recommended by the Planning Commission; and
4. Direct staff to prepare amendments to the Planning Division fee schedule for new/adjusted fees applicable to permitting in the Stream Conservation Area, within the San Geronimo watershed.

BACKGROUND:

The Marin Countywide Plan (CWP) was approved by the Board of Supervisors on November 6, 2007. Goal BIO-4 (Riparian Conservation) of the CWP establishes policies and programs for the Stream Conservation Area (SCA), including SCA setbacks along streams. In particular, program BIO-4.a requires the County to adopt an expanded SCA ordinance to implement the CWP standards.

Pursuant to program BIO-4.a, an expanded SCA ordinance was considered by the Planning Commission during public hearings on April 1 and May 13, 2013. At the conclusion of the hearings, the Commission recommended adoption of the ordinance to the Board. At that time, the Planning Commission also noted that amendments to the Countywide Plan may be necessary to address public comments received during the public hearing relating to ephemeral streams, "top of bank" measurement of SCA setbacks, and site assessments.

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On June 18, 2013, your Board conducted a public hearing on proposed amendments to the Development Code (Title 22) to implement the Stream Conservation Area policies of the Countywide Plan. The hearing was continued for a subcommittee of the Board of Supervisors (comprised of Supervisors Kinsey and Sears) to work with staff to develop a framework for an interim SCA ordinance that, if adopted, would implement the goals of the Countywide Plan and lift the existing court-ordered injunction for development permits in the San Geronimo Valley. The subcommittee was also asked to identify the scope of potential amendments to the Marin Countywide Plan, develop a work program and schedule for a subsequent SCA ordinance, and present these recommendations at a future meeting.

The subcommittee met with staff from the Community Development Agency and Department of Public Works over the past two months to develop a framework for future County efforts related to riparian protection and watershed enhancement. Over the course of three meetings, the subcommittee reviewed existing CWP policies and programs, discussed key issues identified by the community, examined drafts of the County's improved stream maps, considered approaches for homeowner assistance and community engagement, discussed potential amendments to the Countywide Plan, and evaluated alternatives for interim SCA regulations that would end the permit injunction that is currently in place for the San Geronimo watershed.

DISCUSSION:

Guiding Principles and Framework

The subcommittee supports adoption of guiding principles and framework for amendments to the Countywide Plan, provided in Attachment 1. The proposed principles reflect overarching themes identified throughout the public process for the SCA ordinance and are intended to provide a touchstone for any future SCA amendments or regulations moving forward.

The proposed framework will form the basis for a more refined scope and work program for Countywide Plan amendments. Recognizing the substantial public feedback and Board support for an approach based in watershed principles, the proposed framework builds upon current policies to better integrate with the County's existing policy, information and resource framework for watersheds, as well as the need for better coordination of public education and homeowner assistance.

With respect to the SCA, the framework proposes to broaden the existing set of techniques for stream protection, particularly for small developed parcels in already-urbanized areas, to recognize the importance of low impact development for small-scale development as well as more extensive activities. This approach, in turn, will enable development of an integrated approach to SCA regulations and watershed programs in the future.

Finally, the framework acknowledges the distinct characteristics and important functions of ephemeral streams as the headwaters of significant watercourses in

Marin. With an emphasis on protecting the functions of ephemeral streams, the subcommittee recommends that the County review the existing policies together with current regulations, watershed science, best practices and enhanced geographic information to identify the opportunities for policy improvements. This review is also an important opportunity to eliminate ambiguities and increase landowner certainty about the applicability of policies for ephemeral streams.

Interim SCA Ordinance and Fees

The current court-imposed injunction for development permits in the San Geronimo Valley will remain in place until the County adopts an expanded SCA ordinance. Currently, there are three pending permits that are affected by the injunction.

The subcommittee recommends that an interim SCA ordinance be adopted for the San Geronimo watershed based on the approach recommended by the Planning Commission. The interim ordinance could be in place for a period of two years or until amendments to the Countywide Plan and a revised SCA ordinance are adopted, whichever occurs first. The Planning Commission-recommended ordinance provides a tiered permitting structure to account for differences in the extent of stream impact based on the size and type of development and requires the use of best practices (“Standard Management Practices”). Within this framework, projects of a smaller scale can be reviewed efficiently, with respect to time and cost, as ministerial (staff-level) permits. The interim ordinance would also increase stream protections by regulating removal of riparian vegetation and installation of “flatwork” (e.g., patios, driveways) that are currently not regulated but could have potentially harmful impacts in the SCA. Not adopting the interim ordinance will also prevent many property owners in the San Geronimo watershed from obtaining permits for improvements to their homes and properties.

An improved stream map for the San Geronimo watershed has also been developed and is currently in review as an administrative draft. The map incorporates feedback provided by residents, including correction of inaccurate stream locations. The map will be finalized and made available for public review prior to your Board’s consideration of the interim SCA ordinance.

Should your Board direct staff to proceed with the preparation of an interim expanded SCA ordinance that would apply to the San Geronimo watershed using the tiered-permitting approach, staff recommends that the fees be set at a level low enough to minimize or avoid creating a disincentive to property owners to comply with the regulations. One option includes fees of \$250 (flat rate) for a Tier 1 (ministerial) SCA Permit, \$2,500 (flat rate) for a Tier 2 (discretionary) SCA Permit, and \$5,000 (deposit) for a Tier 2 Initial Study (unused deposit based fees will be refunded to the applicant). By way of example, Tier 2 projects would include new single family homes and major remodels. No fees would be charged for work that is exempt from the ordinance. Based on the estimated permit activity within the San Geronimo watershed, the proposed fee structure may result in a loss of approximately \$40,000 in flat fee revenues per year, and additional revenue losses depending on the extent of work required to complete Initial Studies. Staff is

requesting direction from the Board with respect to this matter so that amendments to the Planning Division's fee schedule can be scheduled for review by the Board at a future meeting date to coincide with consideration of the interim ordinance.

FISCAL IMPACT:

The fiscal impact of this work, including staff resources and budget, will be discussed in the subcommittee's recommended work program, to be presented to your Board in September 2013.

CONCLUSION:

On behalf of the subcommittee, staff requests that your Board provide direction on the proposed framework and approach for Countywide Plan amendments and an interim SCA ordinance. Based upon this direction, staff will draft the interim ordinance and prepare a detailed work program, budget and time frame for future work for approval at your meeting on September 17, 2013.

SIGNATURE:


Suzanne Thorsen
Planner


Brian C. Crawford
Director

REVIEWED BY: (These boxes must be checked)

- Department of Finance N/A
- County Counsel N/A
- Human Resources N/A

Attachments

1. "Guiding Principles and Framework" for amendments to the Countywide Plan relating to stream protection and watershed enhancement
2. Planning Commission Resolution 13-002 Recommending Approval of the SCA Ordinance
3. Countywide Plan Policies BIO-4.1 to 4.20 and Programs BIO-4.a to 4.u
4. Countywide Plan Policies WR-1 and WR-2
5. Public Correspondence:
 - a. San Geronimo Valley Stewards, 6/25/2013
 - b. SPAWN, 7/1/2013
 - c. MAST/Andrea Taber and Beth Descala, 7/2/2013
 - d. Community Marin, 7/3/2013
 - e. MAST/Andrea Taber and Beth Descala, 7/5/2013
 - f. Environmental Action Committee of West Marin; Marin Conservation League; Mill Valley Streamkeepers; San Geronimo Valley Planning

Group; Sierra Club Marin Group; SPAWN; Watershed Alliance of Marin, 7/7/2013

- g. MAST/Andrea Taber and Beth Descala, 7/12/2013
- h. Peggy Sheneman and Niz Brown/ San Geronimo Valley Stewards, 7/22/2013
- i. Kent Woodlands Property Owners Association, 7/24/2013
- j. Friends of Corte Madera Creek, 7/26/2013
- k. Adrienne Terrass, 7/29/2013
- l. Priscilla Bull, Randy Greenberg, Marge Macris, Barbara Salzman, Susan Stompe, Ann Thomas, 8/2/2013