

**County of Marin
Regulatory Improvements Advisory Committee
Meeting 5: Countywide Plan
February 21, 2013**

Time: Info Session – 12:30 – 1:25 pm
RIAC Meeting - 1:30 – 3:30pm

Location: Marin County Civic Center Administration Building, Conference Room 410B

Countywide Plan Session – NOTE: This is to provide an overview of the Countywide Plan. If you are not interested in this piece of the meeting, please arrive at 1:30.

12:30 – 1:25 (55 mins.) Overview of Countywide Plan programs and objectives as they relate to the development review process (Staff)

Review material distributed to Committee
Discussion of primary goals and key policies

RIAC Meeting Agenda (1:30 – 3:30):

1:30 (5 mins.) Welcome and overview of meeting agenda (LWC)

1:35 (45 mins.) Open Discussion (RIAC)

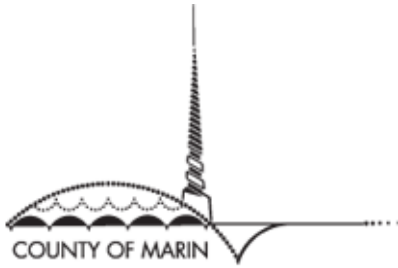
Roundtable discussion of Committee members
backgrounds/perspectives and objectives of the Committee

2:20 (30 mins.) Review notes from Meetings 1, 2, 3, and 4 (LWC and Staff)

2:50 (35 mins.) Discussion of Countywide Plan (RIAC)

Key policies that impact the development review process and
strategies for implementation

3:25 (5 mins.) Next steps and adjourn (LWC)



**County of Marin
Regulatory Improvements Advisory Committee
Meeting 1: Introductions and Overview**

Date/Time: October 31, 2012, 1:30 – 3:30pm

Location: Conference Room 410B, Marin County Civic Center Administration Building

Attendance:

Committee Members: Charles Ballinger, Bob Brown, Nona Dennis, Elida Doldan-Schujman, Robert Eyler, Wade Holland, Richard Kalish, Klif Knoles, David Smadbeck, Kim Thompson, Jan Alff Wiegel

Other: Lisa Wise (Lisa Wise Consulting, Inc.), Kim Obstfeld (Lisa Wise Consulting, Inc.), Brian Crawford (Director, Community Development Agency), Steve Kinsey (Supervisor), Kate Sears (Supervisor), Debra Stratton (Senior Secretary, Community Development Agency), Eric Steger (Assistant Director, Public Works), Berenice Davidson (Senior Civil Engineer, Public Works)

Meeting Summary:

Opening Remarks and Project Overview (Supervisor Kinsey, Lisa Wise Consulting, Inc., and Brian Crawford)

- Project goal is to reward applicants who propose projects that are consistent with the Countywide Plan and other planning documents while not weakening our environmental protections.
- The Committee is an outgrowth of an ongoing initiative of the County to improve the efficiency of its permit review process.
- The Community Development Agency has been working on internal review improvements (through the Permit Efficiency Group) and zoning code amendments over the past few years. The RIAC was selected to bring together diverse points of view from external interest groups to identify appropriate efficiency measures.
- The RIAC will address permit review, CEQA, Countywide Plan implementation and fees in regular meeting through next summer. Recommendations will be compiled in a Findings Report.
- Relevant documents will include the Marin Countywide Plan, Marin County Development Code, Marin County Environmental Review Guidelines, and the Community Development Agency Fee Ordinance.

RIAC Comments

Issues to address:

- Sustainable balance – economic, social, environmental.

- The environment is the playing field, without it, there is no business or social equity. If good projects are in bad locations, will not work.
- Online tracking for projects.
- Should not leave building permit out – big part of issue.
- Bumps or road blocks often occur early in process (due to lack of preparation). If on either side of table “project continued” is worst thing you can hear. Continuance is costly.
- “Sitting” needs to be erased – need to know it is moving forward. Everyone’s projects are important.
- Costs
 - Repair jobs can be 45 to 50% more expensive due to fees – people can’t afford it.
 - Expense of fees for entitlement, both explicit (fee) and implicit (time).
- Communication (Staff to Applicant)
 - Needs to close gap between counter and private owner.
 - Transparency can be improved – how to get from A to B.
 - Drawings go in to black hole – never know what’s going on behind the scenes.
 - Need someone in planning who invested in project (regardless of size) from the beginning who understands spirit of project and background. Need information and feedback.
- Perception and Communication (with Public)
 - Perception that business interests are separate from community interests. Business interests are essential to a healthy community. If targeted industries take root it will be in everyone’s interest. Business creates funds for special interests. Planning processes should coordinate the other important objectives of supporting targeted industries. Need good jobs and businesses to create life for families in the community.
 - Public perception – sometimes the problem is not one of processing but one of communication. Misinformation is abundant.
 - Changes to how people learn about what’s going on in County. Communication tools (internet) have changed the pace and amount of information (good and bad). People should know what the regulations are and how process works. Work on public understanding.
 - Communication to public including neighborhoods is very important. They don’t know what’s going on with projects until reach Planning Commission. They come to the table at the last minute because it’s not in front of them. Public needs transparency – just applicant does.
 - Need to do outreach, extra effort to push information not just make it available.
 - Do an analysis of how projects have been covered in the media – how are things be slanted or reframed. How can we use this? Outcome should be a positive message to take out to public.
- “NIMBYs” who take extreme measures to cost thousands of dollars to projects.
- Regulations are difficult and the community is litigious.
- Large number of unpermitted projects (many second units) – address public health and safety issues with this. Work done by unlicensed contractors. Result of an expensive (lots of impact fees) and onerous process.
- Ways to expedite the permitting process.

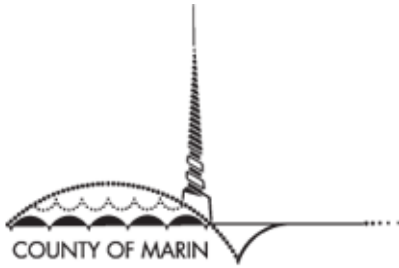
- Expedition of certain projects similar to the color code system for homeland security – think about level of review. Certain steps can be taken for different projects.
- Decision-making on which projects get priority – decision-making process.
- Planning should be stewards, not driving projects.
- All projects should be subject to same scrutiny.
- Coordination (hard to do this on an island without water, fire, etc.). Change will be marginal if not done with others.

Desired outcomes:

- Produce something reassuring for the public. The term “Streamlining” has a bad connotation with the public now. Ensure that “streamlining” does not impede public access to process.
- Change the public perception of the CDA staff. There is already a great group of people, if can pull it together will be one of the best.
- Define and communicate what it is that can get through the process with minimal resistance. Applicants should know up front what types of projects will be easiest to get through – they will go that route.
- Reduce bureaucracy – the process is more onerous than the fees.
- Improve service for all projects, rather than giving special attention to just a few.
- Hope to see explicit changes as a result of this process.

Relevant examples:

- San Francisco has an online system. Users can go on and see assigned planners and find direct contact information.
- Santa Rosa permitting process (made some significant changes).



County of Marin
Regulatory Improvements Advisory Committee
Notes from Meeting 2: Permit Review

Meeting Date: December 6, 2012, 1:30 – 3:30pm

Location: Friends of Marin Room, Exhibit Hall Building, Marin Center, San Rafael

Attendance:

Committee Members: Charles Ballinger, Bob Brown, Nona Dennis, Elida Doldan-Schujman, Robert Eyler, Dominic Grossi, Wade Holland, Richard Kalish, David Smadbeck, Kim Thompson, Jan Alff Wiegel, John Young

Other: Scott Alber (Fire Marshal, Marin County Fire Department), Leslie Alden (Aide to Supervisor Kate Sears), Brian Crawford (Community Development Agency Director), Kim Obstfeld (Lisa Wise Consulting, Inc.), Eric Steiger (DPW), Debra Stratton (Senior Secretary, Community Development Agency), Jeremy Tejirian (Principal Planner, Marin County), Jason Weber (Fire Chief, Marin County Fire Department), Lisa Wise (Lisa Wise Consulting, Inc.)

Meeting Summary:

Logistics

1. Review of notes from last meeting - no comments
2. Activity since the last meeting:
 - o Board of Supervisors check-in on November 6th
 - o Committee tour of CDA on November 16th
3. Next meeting: January 10th at 1:30pm, Civic Center, Room 410B (finish Planning Permit discussion and discuss Building permits)
4. Interim idea sharing and discussion may be initiated by Committee members via email

Discussion Items

Staff provided an overview of the permit review process and reviewed the package of information previously distributed to the Committee. The key items covered in this presentation were:

- Overview of the Community Development Agency
- Application Submittal
- Completeness Review
- Merits Review and Decision
- Recent Code Development Amendments

A discussion of the process ensued. Key findings and recommendations identified by the Committee are described below.

Findings/Recommendations

Completeness Review

1. **Community group transmittal.** Applications are transmitted to some community groups prior to the application being deemed complete by the CDA (at the same time that they are transmitted to other government agencies). Community groups include design review boards and other groups with a clear stake in the project (e.g. a homeowner's association) or long-standing organizations that have requested to be on the transmittal list. Since the community groups are intimately familiar with the area in question, they sometimes can assist staff in better understanding of the context of a project. While there are disadvantages in this early input in that a project may not be fully vetted, it provides greater transparency in project approval, and it can be helpful for applicants to receive initial community comments before engaging the development team in several rounds of revisions. Input from community groups is currently provided to applicants at the end of the completeness review along with Staff's "preliminary merit comments".
 - a. Consider training and informational material, such as YouTube videos, for new design review board members that explain the advisory role of the board, meeting protocol, and objectives of the review. This information could also prove useful to applicants.
 - b. Consider modifying this procedure once the new website is live so that interested community groups are automatically notified and can download public information for review.
2. **Serial review.** The first step in the formal application process is reviewing the application materials submitted for the project to see if they are adequate to fully review the project. This process is governed by the Permit Streamlining Act, which specifies that an agency must provide a comprehensive list of every item of information that can be required for an application (see Planning Permit Application Submittal Checklist) and that a determination regarding whether an application is complete must be made within 30 days of the date of submittal. If the application is not complete, then those items of information that are still necessary should be prepared by the applicant and submitted within one month, but this step can take substantially longer depending on the type of information requested by staff and the length of time it takes the applicant to prepare it. Once the applicant resubmits an application, planning staff again has up to one month to determine whether the application is complete.
 - a. Consider evaluating projects that are deemed incomplete to determine the most common issues encountered at this stage. Based on this review and evaluation, consider revising the submittal checklist, improving coordination with public agencies, and additional staff training to improve customer service.

Appeals

3. **De novo appeals.** Currently the Planning Commission (PC) conducts a "de novo" hearing on appeal. In a de novo hearing, the PC has the opportunity to look at a project as a new matter, rather than just considering the grounds of the appeal.
 - a. Consider instituting "limited" appeals in which the PC and Board of Supervisors (BOS) would address only the points articulated in the appeal letter, rather than the "de novo" approach currently in place. (Note: Appeal rules should be precise and consistent throughout the County's Municipal Code to avoid unintended legal issues if the permit or project is taken to court.)

~~4. **Frivolous appeals.** Frivolous appeal is a legal term that refers to an action that is clearly intended merely to delay or embarrass the opposition. Frivolous appeals would include appeals that are not based on County standards or policy.~~

~~a.b. Consider allowing the CDA Director to send frivolous appeals of administrative decisions directly to the BOS. In these cases, there is a strong likelihood that they will go to the BOS eventually because any decision by the PC is likely to be appealed. Sending the appeal straight to the BOS will save the applicant and the County time and money.~~

4. **Appeals - General Procedures.** In accordance with Section 22.114.020 (Appeal Subjects and Jurisdiction) of the County's Development Code. The CDA Director may refer an appeal directly to the Board of Supervisors if the application:

- Is consistent with the Countywide Plan, applicable Community Plan and Local Coastal Program, and the Single-family Residential Design Guidelines;
- Meets all legally-required findings in the Development Code;
- Would not raise substantial policy issues or result in community-wide impacts, including community character and traffic congestion; and
- Would not result in potentially-significant environmental impacts that would require preparation of an Environmental Impact Report (EIR).

1. Consider modifying these provisions and allowing the Director to send appeals of administrative decisions directly to the BOS (e.g. the application may not be consistent with the Countywide Plan, applicable Community Plan and Local Coastal Program, or the Single-family Residential Design Guidelines). In these cases, there is a strong likelihood that they will go to the BOS eventually because any decision by the PC is likely to be appealed. Sending the appeal straight to the BOS will save the applicant and the County time and money.

Current Planning Website

4.5. **Online zoning information and permit history.** Online access to relevant zoning information and permit history for a parcel can save time and money for property owners and the County due to fewer phone calls and trips to the front counter. It will also give property owners, builders, and architects greater access to information earlier in the process, which should help to make more informed decisions about project feasibility.

- a. As part of the CDA's website upgrades, create a portal where the public can enter an APN and retrieve relevant zoning information and permit history for a parcel.

5.6. **Participation guidelines on website.** Redesigning the County's current planning website means improved customer service, better access to information, and greater transparency of CDA activities.

- a. Consider creating a page or section of the current planning website that describes opportunities for public participation. Develop and post a guidebook for constructive involvement in the development review process. Include sections such as "frequently asked questions", ~~and~~ "ten most common blunders", and informational videos to guide public testimony at meetings, interaction with Staff, and submittal of comments. This will be useful in setting expectations for an appellate and ensure that public participants are appropriately prepared. (See Attachment 1 for a list of ideas from the RIAC.)

Other Items for Future Discussion

6.7. Subjective terms and policies. Subjective or non-quantifiable terms and policies complicate the permitting process and reduce predictability for applicants. Wherever possible, clarify or minimize qualitative policies and make standards precise and direct. (This will be revisited in the meeting(s) on the General Plan.

7.8. Appeal fees. Fees for appeals to the PC and BOS are relatively low. They were set at a relatively modest rate to promote due process and to allow residents to address legitimate complaints. However, the fees are lower than many jurisdictions and do not ~~begin to~~ cover the County's costs. (This will be revisited in the meeting on fees.)

ATTACHMENT 1

Imagine what it would be like if elected officials, staff, members of the public, and applicants were able to point others to a web site that offers the following pointers all in one place. For example, the following information outlines an online public outreach system:

Design Review Boards

- Board Protocols
- DRB as gateway to local design review process
- Advisory Role of DRB to County; Organizational Chart
- What happens at a DRB meeting?
- Who can attend a DRB meeting?
- How to work with a DRB
- How to participate in DRB project review
- What a DRB can and can't do
- How DRBs submit local feedback to the County
- History of the 3 County DRB's
- How to contact a DRB

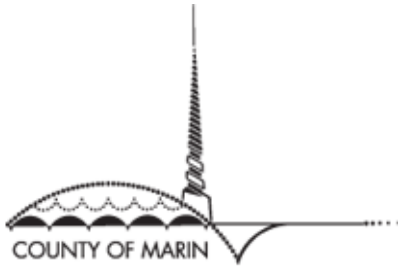
Public Participation in the Project Review Process

- Outline of Review Process
- Who are the decision-makers and when in the process do they become involved?
- Points at which public participation is appropriate
- How to learn about upcoming projects and public hearing dates
- How does the County communicate with the public?
- What happens at a public hearing?
- Who attends public hearings?
- Different ways in which to communicate a viewpoint, e.g., in writing, during a hearing, meet with staff
- Public testimony rules and public speaking tips
- What to bring with you when you testify, e.g., photos, reports, etc.
- How to organize a group of speakers for maximum effectiveness at the podium
- How is public participation recorded and acted upon?
- Do's and Don'ts of Public Participation
- Who's Who at the CDA; Organizational Chart
- What you can do if you don't like the decision; filing an appeal

Applicant Participation in the Project Review Process

- Outline of Review Process
- Who are the decision-makers and when in the process do they become involved?
- Points at which applicants need to communicate to the public
- How to learn about public hearing dates relevant to applicant's project
- What happens at a public hearing?
- Who attends public hearings?
- Different ways in which to communicate a viewpoint, e.g., in writing, during a hearing, meet with staff
- Public testimony rules and public speaking tips
- How to present a project in public and what to bring to the hearing
- Importance of local support to applicant's project and how to solicit that support
- How to organize a group of speakers for maximum effectiveness at the podium
- How is public participation recorded and acted upon?
- Do's and Don'ts of Public Participation

- [Who's Who at the CDA; Organizational Chart](#)
- [What you can do if you don't like the decision; filing an appeal](#)



**County of Marin
Regulatory Improvements Advisory Committee
Notes from Meeting 3: Building and Fire Permit Review**

Meeting Date/Time: January 10, 2013, 1:30 – 3:30pm

Location: Marin County Civic Center, Administration Building, Rm 410B

Attendance:

Committee Members: Charles Ballinger, Bob Brown, Elida Doldan-Schujman, Robert Eyler, Wade Holland, Kliff Knoles, David Smadbeck, Kim Thompson, Jan Alff Wiegel

Other: Brian Crawford (CDA Director), Tom Lai (CDA Assistant Director), Jeremy Tejrjian (CDA Planning Manager), Bill Kelley (CBO), Eric Steiger (DPW), Jason Weber (Fire Chief, Marin County Fire Department), Lisa Wise (Lisa Wise Consulting, Inc.)

Meeting Summary:

Logistics

1. Review of notes from December 6, 2012, meeting. Several comments and clarifications were made to the notes from the December 6th meeting. These will be incorporated into the notes and redistributed to the Committee.
2. The Committee continued discussion from December 6th on Planning Permits (results of that discussion are incorporated in the Findings/Recommendations below).
3. In terms of the final report, the Committee recommended that the report be organized as follows:
 - o Description of the components of the regulatory process that have the greatest opportunity for improvement.
 - o Evaluation of the changes and improvements underway in the CDA (and other agencies, as appropriate).
 - o Prioritization of RIAC recommendations.
4. Next meeting: January 30th (Wednesday) at 1:30 pm, Civic Center, Room 410B (Topic: CEQA)
5. Consider inviting guest speakers (e.g. CDA applicants for planning and building permits) to one or more meetings.

Discussion Items/Staff Presentation

Staff provided an overview of the building and fire permit review process and reviewed the package of information previously distributed to the Committee. The key items covered in this presentation were:

- Service delivery model
- Most common customer complaints

- Permit reform strategy
- CDA building permitting reform initiatives underway, including 3rd Party Plan Review, Express Permitting, Overtime Plan Review and Inspection, Electronic Inspection, Alternative Construction Compliance, and Online Permits

A discussion of the process ensued. Key findings and recommendations identified by the Committee are described below.

[Attachments A and B reflect additional input from the Committee.](#)

Findings/Recommendations Talking Points

1. **Streamline building permit review.** The Building and Safety Division has implemented or partially implemented a number of meaningful reform initiatives in the last few years to enhance customer choice and improve the user experience. These initiatives include: 3rd Party Plan Review, Express Permitting, Overtime Plan Review and Inspection, Electronic Inspection, Alternative Construction Compliance, Online Permits, and Reexamining Local Green Building and Road Impact Mitigation Requirements. Additional initiatives that should be considered to continue to improve customer service include:
 - a. Complete a thorough review of the building permit review process and identify the area(s) that most often bottleneck the process and opportunities for concurrent review.
 - b. Refine the system of routing permits to department specialists (i.e. Planning, Building, Environmental Health Services, Public Works, and Fire) to a system with “generalists” that can perform several functions. For example, for a site plan review on a residential addition:
 - Instead of Planning reviewing the zoning, EHS reviewing the septic/leach-field impacts, DPW reviewing the grading and drainage, and the Fire Department reviewing vegetation clearance considerations, a site plan generalist would review the site plan, floor plan and exterior elevations. Under this scenario, four reviews are reduced to one performed by a planner or land development engineer. (Note: This is one step of many on a residential addition, and could be replicated for building plan review and inspections.)
 - c. Under the Express Permitting initiative, a customer can request to have their plans reviewed and/or inspections provided while they wait for certain types of smaller projects (e.g. standard retaining walls, rooftop PVs, non-structural interior remodels). This initiative could be expanded or tiered so that projects that meet a slightly larger threshold (e.g. xxxx) could be processed in five business days. For example, if you drop off the application on Monday by 9:00 am, it would be processed by Friday at 5:00 pm.
2. **Electronic building permit application submission.** Currently a building permit requires three sets of hard copy plans - one set goes to the Assessor’s Office and the other two sets stay together and are routed through the approval process (e.g. DPW and Planning, as needed). Of the two sets that are routed for approval, one goes to the building site and one stays in the Building and Safety Division.
 - a. Consider establishing an electronic building permit application process that enables applicants to submit plans and documents electronically to the County for review using the PDF file format. This initiative would reduce costs, reduce the amount of

paper generated during the permitting and plan review process, and expedite the process. (Large screens would be needed for plan review in CDA.)

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3. **Require project managers to proactively process applications.** CDA recognizes that property owners, design professionals, engineers, and others perceive that the County permitting process is difficult and cumbersome to navigate. In order to overcome systematic inefficiencies that result in low customer satisfaction, the CDA is implementing Project Management Procedures for Development Review Services (July 2011). The purpose of this program is to reinforce the Agency's commitment to excellence in client service by establishing procedures for delivering effective and efficient project management services by the Current Planning section. The program has cycle time targets for project reviews (first, second, and subsequent).
 - a. Review these procedures, meet with project managers, and evaluate cycle time objectives to ensure that the goals of this program are achieved. The focus should be on ensuring that applicants feel confident that they have knowledgeable County contact that ~~is advocating for their application~~ clearly understands County policy and requirements, has the authority and capacity to investigate potential bottlenecks in the system, and is responsive to their questions.
4. **Public relations campaign.** The Committee feels that there is a negative public perception of regarding the CDA the process, which may be based on a small number of high profile cases.
 - a. Consider developing a public relations strategy that identifies the most significant sources of negative perceptions and identifies a multi-faceted public relations campaign that highlights the importance of customer service, the role of government, the ongoing improvements at the CDA, and opportunities for the public to get involved.
 - b. Consider developing material for the new website that reinforces the capabilities of the Agency, creates positive perceptions about the Agency, and mitigates negative publicity. The web material could promote CDA streamlining initiatives and other customer service enhancements.
5. **League of Women Voters of Marin County.** The Transportation/Land Use/Housing Committee prepared a number of recommendations for the RIAC to consider as the RIAC develops its report. These recommendations should be evaluated individually and considered at the appropriate time(s) throughout the process. (See Attachment A.)

ATTACHMENT A

LEAGUE OF WOMEN VOTERS OF MARIN COUNTY TRANSPORTATION/LAND USE/HOUSING COMMITTEE SUGGESTIONS TO REGULATORY IMPROVEMENTS ADVISORY COMMITTEE MEMBERS

1. The most important mechanism to reduce red tape for affordable housing is to have rezoning in place.
2. The next is to evaluate public processes and reduce the duplications in the review process. We need to deal with Marin County's unusually high number of conditions of approval on housing developments; many have to do with secondary policy goals, which, while worthy, create a cumulative impact in an already complex and daunting process that makes affordable housing much more difficult to achieve.
3. Save much red tape by designating sites and zoning for multifamily use, such as already been done for mixed-use sites.
4. Mixed-use and multifamily housing need to have already-established design standards that are appropriate to the building requirements.
5. Traffic modeling is old fashioned and limited in that it doesn't account for lower traffic generation in all transit-oriented development (TOD) and affordable and senior housing.
6. There is much data on parking that needs to be taken into consideration for affordable housing and TOD; reduced parking requirements make designs better and less costly.
7. Mandates for transportation infrastructure improvements need to be funded from other sources than affordable housing.
8. We need a sustainability model: e.g., attached, smaller units have lower water and energy use, and residents are more likely to use public transit, etc. Without this, the traditional approval process misses essential aspects of a proposal.
9. An EIR must be focused on relevant studies. The county tends to expand the cost and time requirements of EIRs by unnecessarily adding additional studies not in line with the nature of the site or the proposal in response to issues raised by opponents.
10. Last, but not least, require a community acceptance plan with all proposals. Lack of adequate effort in building support and preparing to respond to neighborhood concerns in advance leads to unnecessarily longer and more contentious meetings and extra time spent by the planning commission and the BOS.

ATTACHMENT B

January 30, 2013

To: RIAC

From: Elida Doldan Schujman

Re: **RIAC January 10, 2013 - Meeting Summary**

Findings and recommendations, item 1.c: Express Permitting

“Same Day Approval” Permit suggested projects:

- Foundation repairs within the building foot print.
- Foundation replacements within the building foot print, with a soils engineer recommendation/report and submitted by the structural engineer of record.
- Dry rot repair, siding, window and door replacement.
- Roofing replacement.
- Deck replacement.
- New deck, porch or patio within set backs.
- Interior remodels (non structural)
- Kitchen, bath and laundry room upgrades.
- Solar panels.
- HVAC upgrade.

One week Permit approval:

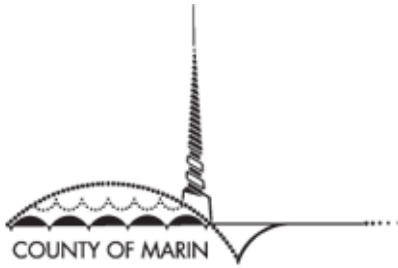
- Any “same day approval” application that did not have complete plans and the required information.
- Small to median size remodels with structural work where the plans are presented to the plan checker, at the counter, by the architect and the engineer of record.

What is needed to implement the above:

- New remodeled space per your proposed plan (Very Nice!!)
- Senior and experienced plan checkers and planners at the service counter.
- Clerk to assist the plan checkers and planners with filing.

Outcome:

- Lower fees and time saved for customers.
 - Increased income for CDA because of higher volume of projects is processed in shorter time.
 - It unclogs the CDA processing system allowing more time for staff to work on complex projects.
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**County of Marin
Regulatory Improvements Advisory Committee
Notes from Meeting 4: CEQA**

Meeting Date/Time: January 30, 2013, 1:30 – 3:30pm

Location: Marin County Civic Center, Administration Building, Rm 410B

Attendance:

Committee Members: Charles Ballinger, Nona Dennis, Elida Doldan-Schujman, Robert Eyler, Wade Holland, Kliff Knoles, David Smadbeck, Kim Thompson, Jan Alff Wiegel

Other: Tom Lai (CDA Assistant Director), Jeremy Tejirian (CDA Planning Manager), Rachel Warner (Environmental Planning Manager), Jason Weber (Fire Chief, Marin County Fire Department), Lisa Wise (Lisa Wise Consulting, Inc.)

Meeting Summary:

Logistics

1. Review of notes from January 10, 2013, meeting. Several comments and clarifications were made to the notes from the January 10th meeting. These will be incorporated into the notes and redistributed to the Committee.
2. The Committee discussed meeting procedures and deliverables with the intent to make the meetings more productive through case studies and invited speakers. The Committee was also encouraged to speak with their constituents and peers to relay stories and permit processing experiences back to the Committee.
3. Next meeting: February 21st (Thursday) at 1:30 pm, Civic Center, Room 410B (Topic: Countywide Plan).

Discussion Items/Staff Presentation

At the request of the Committee, an “Info Session” was held (from 1:00 to 1:25) prior to the RIAC meeting to provide more time for the Committee to discuss issues during the two-hour scheduled meeting time. Rachel Warner (Environmental Planning Manager) gave a 25-minute presentation on CEQA and County-related procedures.

Three CEQA practitioners were invited to the RIAC meeting to provide their perspective on CEQA implementation in the County. The invited speakers were Greg Zitney (Zitney & Associates), Gary Oates (ESA), and Dan Sicular (ESA). All three speakers have years of experience in preparing CEQA documents and working with the County. The presentation by the speakers and the RIAC discussion centered on the following questions:

- What are the County’s primary goals for CEQA implementation?
- Where is the CEQA process working well for the County?
- Where can CEQA implementation be improved at the County level?

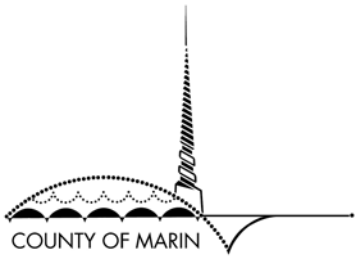
It was generally agreed that the County practices a robust implementation strategy for CEQA and that this has benefitted the County in many ways. Key talking points from the Committee's discussion are described below.

Talking Points

1. **Independence.** CEQA documents are objective disclosure documents. Pursuant to CEQA, the CEQA process relies upon independent judgment and analysis of a project to decide whether a project may have the potential to cause substantial environmental harm. The CEQA process also evaluates local circumstances not considered by the State when developing its impact list.
 - a. The Committee noted that this is an important consideration, especially for large or controversial projects. The Committee emphasized that the Environmental Coordinator needs to exercise independence from politics and protect the County from significant effects on the environment.
2. **Public Process.** As noted above the County practices a robust implementation strategy for CEQA, consequently in some areas the County goes beyond State requirements and sometimes beyond its own CEQA Guidelines. This can be seen clearly in terms of public input on the CEQA process. For example,
 - For the certification review of a Final EIR, the County's guidelines recommend:

A minimum 10-day period shall be provided for review of the Final EIR prior to any action to certify it. The review of a Final EIR shall exclusively focus on the adequacy of the response to comments on the Draft EIR. A separate public hearing to receive testimony on the recommendation to certify or certification of a Final EIR shall not be required. Written comments received on the Final EIR response to comments within the review period deadline shall be considered together with any written or oral response from staff or the EIR preparer, at the time action is taken by the certifying or recommending body to certify the EIR. (Marin County EIR Guidelines, pages 18 - 19)

The County's standard practice is to hold a public hearing on the FEIR, although this is not required under County Guidelines (or State law).
 - The FEIR is considered an informational document prepared by the lead agency that must be considered by the decision-makers before approving or denying a project. Marin County is one of the only jurisdictions that accepts and responds to comments on a FEIR.
 - Other examples???
 - a. Consider reviewing the CEQA Guidelines, reevaluate the public review and input process, and consider putting a limit on late input in the CEQA process.
3. **Mitigation Monitoring.** CEQA Mitigation requirements are translated to conditions of approval in staff reports for decision-makers. Mitigation measures may be technical or scientific in nature, and the initial intent of the mitigation can be lost through this process.
 - a. Consider reviewing a sampling of staff reports to determine if this is an issue. If so, identify practices or procedures that address problems related to this translation process.



**To: Regulatory Improvements Advisory Committee
Lisa Wise Consulting, Inc.**

From: Tom Lai

Date: February 14, 2013

Re: Marin Countywide Plan

In preparation for the two upcoming committee meetings on the Countywide Plan (CWP) scheduled for February 21 and March 21, staff has compiled selective policies and programs from the Countywide Plan that may inform the types of strategies and different approaches to their implementation in order to improve efficiencies in the entitlement review process. Please see Attachment 1 for excerpts of CWP policies and programs. The ensuing section organizes topics for discussion.

1. Stream Conservation Area

- The SCA applies to all perennial, intermittent, and certain ephemeral streams. (See BIO-4.1 et al.) An ephemeral stream is subject to the SCA policies if it: (1) supports riparian vegetation for a length of 100 feet or more, and/or (b) 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. Application of the second criteria for designating a SCA on an ephemeral stream could have the effect of requiring a significant number of property owners to incur additional expense to avoid, minimize, and mitigate encroachments into the SCA for having property that is located in areas with sensitive communities, even if the specific wildlife or plant is not dependent on or affected by development activity in the SCA for the ephemeral stream.
- The SCA policies require the preparation of a site assessment for any proposed encroachment into the SCA or where full compliance with all SCA criteria would not be met, regardless of type, magnitude, or impacts of the proposed development. The costs for preparing the site assessment rest of the property owner, and could be significant. Please see Attachment 2 for an example of the scope of a biological assessment site assessment. Should there be flexibility afforded in the requirement for preparing a site assessment or the scope of that assessment?
- The CWP does not acknowledge or provide a means to address existing non-permitted nonconforming structures and improvements located in the SCA.

- For all corridors, the policies provide the ability to increase the SCA setback through a site assessment, but does not provide the same ability to decrease the setback based on an actual review of the site conditions.

2. Commercial Floor Area Ratio

The CWP introduces the concept of limiting residential densities and floor area ratio to the lowest end of the land use designation on sites with sensitive habitat, sites located within the Baylands Corridor or Ridge and Upland Greenbelt, and sites not served by public water or sewer systems. (See Policy CD-1.3 et al.) Most of West Marin is served by wells and individual sewage disposal systems. With maximum Floor Area Ratios (FAR) ranging from 10 to 50%, there are a number of existing uses within the rural village areas that are already at or above the CWP FARs.

- The FAR limitations have the greatest potential to affect commercial properties within the village areas, which are commonly characterized by small lots and high existing FARs. What is the impact of this policy on the ability for commercial properties to undertake modest improvements?

3. Mixed-Use Residential

In order to contribute to the County's stock of workforce housing and reduce commutes for employees, the CWP promoted the concept of mixed-use development, where residential units would be permitted (and required) through the development of commercial properties. (See Policy CD-8.7) It requires that a percentage of new floor area in commercial/mixed use districts be developed for housing based on the size of the lot. For example, for lots larger than 2 acres in size, at least 50% of new floor area shall be developed for housing. For lots 2 acres and less in size, 25% of the new floor area shall be developed for housing. During the preparation of the Development Code amendments that implement the CWP's mixed-use policies in 2011, allowance was made for small additions to be made without triggering the requirement to provide housing. For lots larger than 2 acres in size, additions up to 1,000 square feet were exempted from compliance. For lots 2 acres in size and smaller, additions up to 2,000 square feet were exempted from compliance. (Marin County Code Section 22.32.150.C.)

- Could the mixed-use program's requirement for providing housing affect the ability of small businesses to expand?. For instance, a 5,000 square foot retail store on a 1 acre lot wants to add 1,200 square feet of additional storage. The project will be required to provide a 300 square foot employee unit (25% of 1,200 square feet), effectively reducing the size of the storage space to 900 square feet. To obtain a net increase in storage area of 1,200 square feet, the applicant would need to add a 400 square foot employee unit, effectively making the project a 1,600 square foot structure (25% of 1,600 square feet).

Attachments:

- (1) Marin Countywide Plan Policy and Program Excerpts
- (2) Biological Assessments

STREAM CONSERVATION AREA POLICIES

GOAL BIO-4

Riparian Conservation. Protect and, where possible, restore the natural structure and function of riparian systems.

Policies

BIO-4.1 Restrict Land Use in Stream Conservation Areas. A *Stream Conservation Area* (SCA) is established to protect the active channel, water quality and flood control functions, and associated fish and wildlife habitat values along streams. Development shall be set back to protect the stream and provide an upland buffer, which is important to protect significant resources that may be present and provides a transitional protection zone. Best management practices¹ shall be adhered to in all designated SCAs. Best management practices are also strongly encouraged in ephemeral streams not defined as SCAs.

Exceptions to full compliance with all SCA criteria and standards may be allowed only if the following is true:

1. A parcel falls entirely within the SCA; or
2. Development on the parcel entirely outside the SCA either is infeasible or would have greater impacts on water quality, wildlife habitat, other sensitive biological resources, or other environmental constraints than development within the SCA.

SCAs are designated along perennial, intermittent, and ephemeral streams as defined in the Countywide Plan Glossary. Regardless of parcel size, a site assessment is required where incursion into an SCA is proposed or where full compliance with all SCA criteria would not be met. An ephemeral stream is subject to the SCA policies if it: (a) supports riparian vegetation for a length of 100 feet or more, and/or (b) supports special-status species and/or a sensitive natural community² type, such as native grasslands, regardless of the extent of riparian vegetation associated with the stream. For those ephemeral streams that do not meet these criteria, a minimum 20-foot development setback should be required.

SCAs consist of the watercourse itself between the tops of the banks and a strip of land extending laterally outward from the top of both banks to the widths defined below (see Figure 2-2). The SCA encompasses any jurisdictional wetland or unvegetated other

² Sensitive natural communities are natural community types that are considered particularly rare or threatened by the California Natural Diversity Data Base of the California Department of Fish and Game. Sensitive natural community types in Marin include, but are not limited to, coastal and valley freshwater marsh, freshwater seep and spring, riparian forest and woodland, coastal brackish marsh, coastal terrace prairie, central dune scrub, coastal bluff scrub, northern coastal salt marsh, northern maritime chaparral, northern vernal pool, serpentine bunchgrass, valley needlegrass grasslands, old-growth redwood and Douglas fir forests, and deciduous woodlands dominated by valley oaks or Oregon white oak. (CWP Pg. 2-9)

waters within the stream channel, together with the adjacent uplands, and supersedes setback standards defined for WCAs. Human-made flood control channels under tidal influence are subject to the Bayland Conservation policies. The following criteria shall be used to evaluate proposed development projects that may impact riparian areas:

City-Centered Corridor:

- * For parcels more than 2 acres in size, provide a minimum 100-foot development setback on each side of the top of bank.
- * For parcels between 2 and 0.5 acres in size, provide a minimum 50-foot development setback on each side of the top of bank.
- * For parcels less than 0.5 acres in size, provide a minimum 20-foot development setback. The developed portion(s) of parcels (less than 0.5 acres in size) located behind an existing authorized flood control levee or dike are not subject to a development setback.
- * Regardless of parcel size, an additional buffer may be required based on the results of a site assessment. A site assessment may be required to confirm the avoidance of woody riparian vegetation and to consider site constraints, presence of other sensitive biological resources, options for alternative mitigation, and determination of the precise setback. Site assessments will be required and conducted pursuant to Program BIO-4.g, *Require Site Assessment*.

Coastal, Inland Rural, and Baylands Corridors:

- * For all parcels, provide a development setback 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. An additional setback distance may be required based on the results of a site assessment. A site assessment may be required to confirm the avoidance of woody riparian vegetation and to consider site constraints, presence of other sensitive biological resources, options for alternative mitigation, and determination of the precise setback. Site assessments will be required and conducted pursuant to Program BIO-4.g, *Require Site Assessment*. SCAs shall be measured as shown in Figure 2-2.

Allowable uses in SCAs in any corridor consist of the following, provided they conform to zoning and all relevant criteria and standards for SCAs:

- * Existing permitted or legal nonconforming structures or improvements, their repair, and their retrofit within the existing footprint;
- * Projects to improve fish and wildlife habitat;
- * Driveway, road and utility crossings, if no other location is feasible;
- * Water-monitoring installations;
- * Passive recreation that does not significantly disturb native species;

- * 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:
 - a. The removal of woody riparian vegetation;
 - b. The installation of fencing within the SCA that prevents wildlife access to the riparian habitat within the SCA;
 - c. Animal confinement within the SCA; and
 - d. A substantial increase in sedimentation.

BIO-4.2 Comply with SCA Regulations. Implement established setback criteria for protection of SCAs through established discretionary permit review processes and/or through adoption of new ordinances. Environmental review shall be required where incursion into an SCA is proposed and a discretionary permit is required.

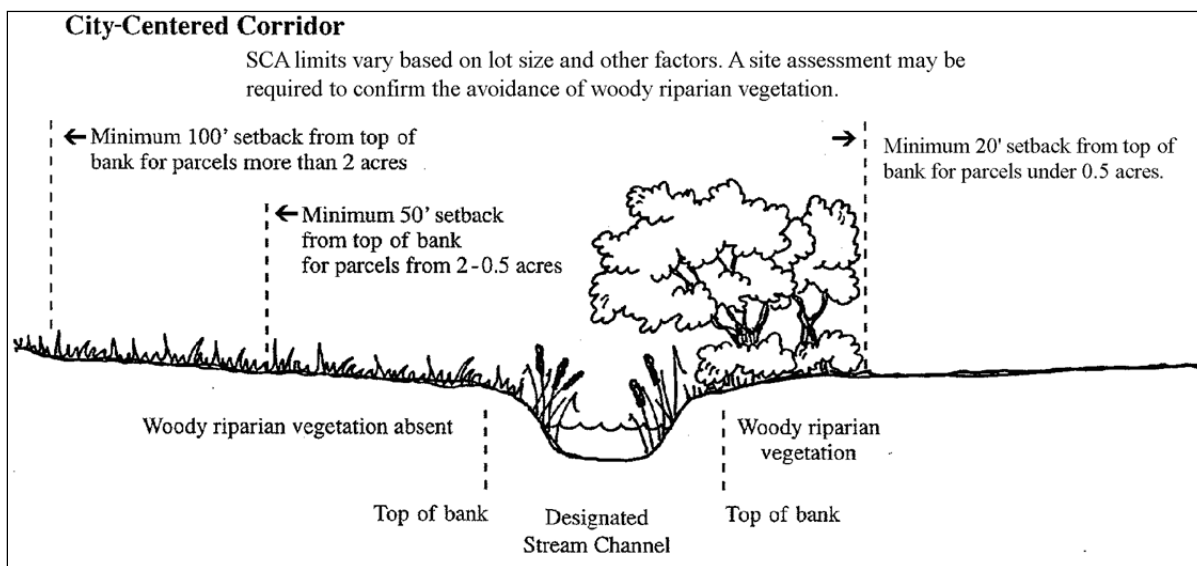
In determining whether allowable uses are compatible with SCA regulations, development applications shall not be permitted if the project does any of the following:

- * Adversely alters hydraulic capacity;
- * Causes a net loss in habitat acreage, value, or function;
- * Degrades water quality.

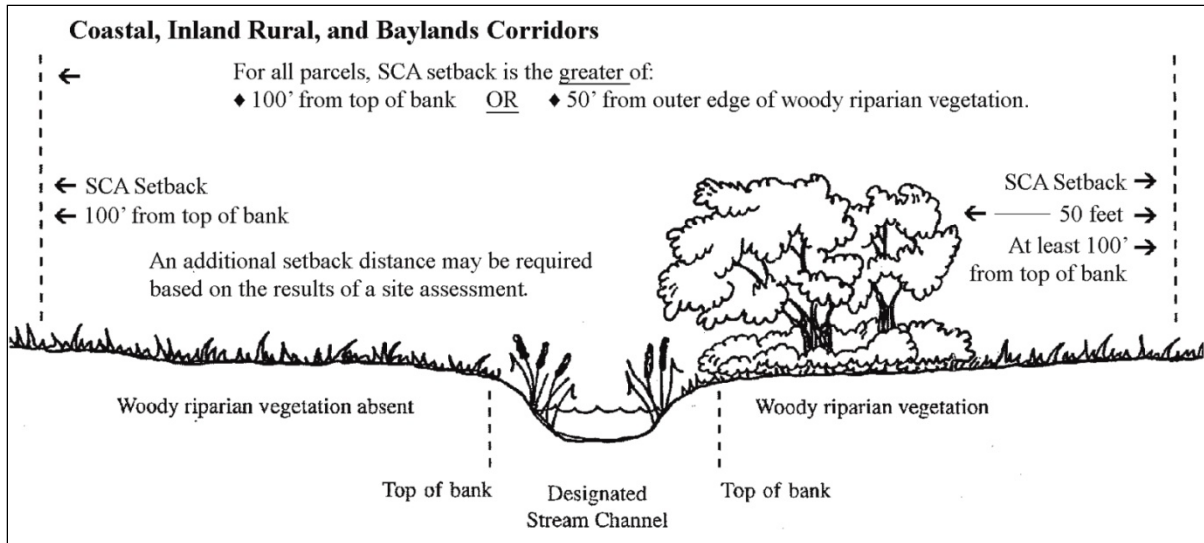
BIO-4.3 Manage SCAs Effectively. Review proposed land divisions in SCAs to allow management of a stream by one property owner to the extent possible.

BIO-4.4 Promote Natural Stream Channel Function. Retain and, where possible, restore the hydraulic capacity and natural functions of stream channels in SCAs. Discourage alteration of the bed or banks of the stream, including filling, grading, excavating, and installation of storm drains and culverts. When feasible, replace impervious surfaces with pervious surfaces. Protect and enhance fish habitat, including through retention of large woody debris, except in cases where removal is essential to protect against property damage or prevent safety hazards. In no case shall alterations that create barriers to fish migration be allowed on streams mapped as historically supporting salmonids. Alteration of natural channels within SCAs for flood control should be designed and constructed in a manner that retains and protects the riparian vegetation, allows for sufficient capacity and natural channel migration, and allows for reestablishment of woody trees and shrubs without compromising the flood flow capacity where avoidance of existing riparian vegetation is not possible.

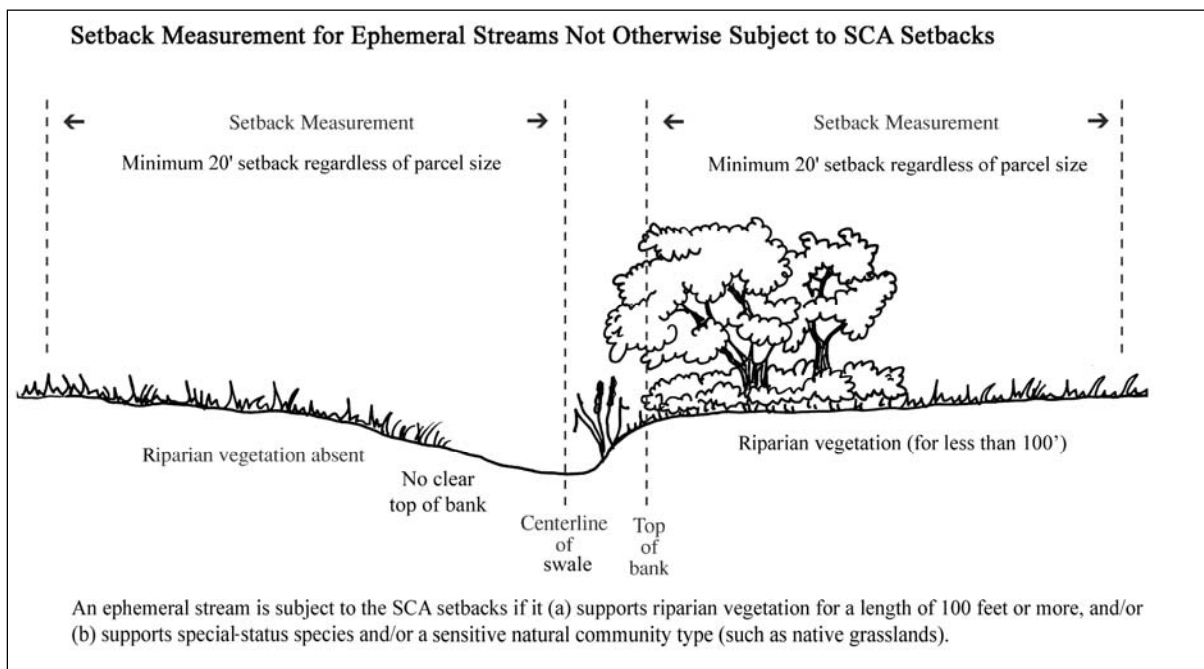
Figure 2-2
Typical Cross-Section of a Stream Conservation Zone



- * Minimum setback distance of 100 feet from top of bank for parcels more than 2 acres.
- * Minimum setback distance of 50 feet from top of bank for parcels between 2 and 0.5 acres.
- * Minimum setback distance of 20 feet from top of bank for parcels less than 0.5 acres.
- * A site assessment may be required to confirm the avoidance of woody riparian vegetation and to consider site constraints, presence of other sensitive biological resources, options for alternative mitigation, and determination of the precise setback. Site assessments will be required and conducted pursuant to Program BIO-4.g, *Require Site Assessment*.
- * Regardless of parcel size, a site assessment is required where incursion into an SCA is proposed and where full compliance with all SCA criteria would not be met.



- * For all parcels, minimum setback distance is 50 feet from outer edge of woody riparian vegetation but no less than 100 feet from top of bank, unless an exception is allowed because parcel falls entirely within SCA, or development outside SCA is either infeasible or would have greater impacts.
- * An additional setback distance may be required, based on the results of a site assessment, if such an assessment is determined to be necessary.
- * Regardless of parcel size, a site assessment is required where incursion into an SCA is proposed and where full compliance with all SCA criteria would not be met.



- * For all parcels, regardless of corridor, minimum setback distance is 20 feet.
- * A site assessment is required where incursion into the setback is proposed.

BIO-4.5 Restore and Stabilize Stream Channels. Pursue stream restoration and appropriate channel redesign where sufficient right-of-way exists that includes the following: a hydraulic design, a channel plan form, a composite channel cross-section that incorporates low flow and bankfull channels, removal and control of invasive exotic plant species, and biotechnical bank stabilization methods to promote quick establishment of riparian trees and other native vegetation.

BIO-4.6 Control Exotic Vegetation. Remove and replace invasive exotic plants with native plants as part of stream restoration projects and as a condition of site-specific development approval in an SCA, and include monitoring to prevent reestablishment.

BIO-4.7 Protect Riparian Vegetation. Retain riparian vegetation for stabilization of streambanks and floodplains, moderating water temperatures, trapping and filtering sediments and other water pollutants, providing wildlife habitat, and aesthetic reasons.

BIO-4.8 Reclaim Damaged Portions of SCAs. Restore damaged portions of SCAs to their natural state wherever possible, and reestablish as quickly as possible any herbaceous and woody vegetation that must be removed within an SCA, replicating the structure and species composition of indigenous native riparian vegetation.

BIO-4.9 Restore Culverted Streams. Replace storm drains and culverts in SCAs with natural drainage and flood control channels wherever feasible. Reopening and restoring culverted reaches of natural drainages should be considered part of review of development applications on parcels containing historic natural drainages where sufficient land area is available to accommodate both the reopened drainage and project objectives. Detailed hydrologic analysis may be required to address possible erosion and flooding implications of reopening the culverted reach, and to make appropriate design recommendations. Incentives should be provided to landowners in restoring culverted, channelized, or degraded stream segments. Where culverts interfere with fish migration but replacement is not possible, modify culverts to allow unobstructed fish passage.

BIO-4.10 Promote Interagency Cooperation. Work in close cooperation with flood control districts, water districts, and wildlife agencies in the design and choice of materials for construction and alterations within SCAs.

BIO-4.11 Promote Riparian Protection. Support agencies, organizations, and programs in Marin County that protect, enhance, and restore riparian areas.

BIO-4.12 Support and Provide Riparian Education Efforts. Educate the public and County staff about the values, functions, and importance of riparian areas. Landowner education regarding the sensitivity of riparian corridors will be provided as part of the Natural Resource Information Program called for in Program BIO-1.c. An emphasis will be placed on public outreach to owners of developed properties encompassing or adjacent to SCAs where minimum setback distances are not provided. Information on regulations protecting riparian corridors should be available, together with general methods to minimize disturbance and improve habitat values. An updated list of regulatory agencies and their contact information should be maintained as part of the Natural Resource Information Program.

BIO-4.13 Provide Appropriate Access in SCAs. Ensure that public access to publicly owned land within SCAs respects the environment, and prohibit access if it will degrade or destroy riparian habitat. Acquire public lands adjacent to streams where possible to make resources more accessible and usable for passive recreation, and to protect and enhance streamside habitat.

BIO-4.14 Reduce Road Impacts in SCAs. Locate new roads and roadfill slopes outside SCAs, except at stream crossings, and consolidate new road crossings wherever possible to minimize disturbance in the SCA. Require spoil from road construction to be deposited outside the SCA, and take special care to stabilize soil surfaces.

BIO-4.15 Reduce Wet Weather Impacts. Ensure that development work adjacent to and potentially affecting SCAs is not done during the wet weather or when water is flowing through streams, except for emergency repairs, and that disturbed soils are stabilized and replanted, and areas where woody vegetation has been removed are replanted with suitable species before the beginning of the rainy season.

BIO-4.16 Regulate Channel and Flow Alteration. Allow alteration of stream channels or reduction in flow volumes only after completion of environmental review, commitment to appropriate mitigation measures, and issuance of appropriate permits by jurisdictional agencies based on determination of adequate flows necessary to protect fish habitats, water quality, riparian vegetation, natural dynamics of stream functions, groundwater recharge areas, and downstream users.

BIO-4.17 Continue Collaboration with the Marin Resource Conservation District. Continue to collaborate with, support, and participate in programs provided by the Marin Resource Conservation District and the Natural Resource Conservation Service to encourage agricultural operators who conduct farm or ranch activities within a Streamside Conservation Area to minimize sedimentation and erosion to enhance habitat values.

BIO-4.18 Promote the Use of Permeable Surfaces When Hardscapes Are Unavoidable in the SCA and WCA. Permeable surfaces rather than impermeable surfaces shall be required wherever feasible in the SCA and WCA.

BIO-4.19 Maintain Channel Stability. Applicants for development projects may be required to prepare a hydraulic and/or geomorphic assessment of on-site and downstream drainageways that are affected by project area runoff. This assessment should be required where evidence that significant current or impending channel instability is present, such as documented channel bed incision, lateral erosion of banks (e.g., sloughing or landsliding), tree collapse due to streambank undermining and/or soil loss, or severe in-channel sedimentation, as determined by the County.

Characteristics pertinent to channel stability would include hillslope erosion, bank erosion, excessive bed scour or sediment deposition, bed slope adjustments, lateral channel migration or bifurcation, channel capacity, and the condition of riparian vegetation. The hydraulic and/or geomorphic assessment shall include on-site channel or drainageway segments over which the applicant has control or access. In the event that project development would result in or further exacerbate existing channel instabilities, the applicant could either propose his/her own channel stabilization program subject to County approval or defer to the mitigations generated during the required environmental review for the project, which could include maintenance of peak flows at

pre- and post-project levels, or less. Proposed stabilization measures shall anticipate project-related changes to the drainageway flow regime.

All project improvements should be designed to minimize flood hydrograph peak flow or flood volume increases into drainage courses. To this end, design features such as porous pavement, pavers, maximizing overall permeability, drainage infiltration, disconnected impervious surfaces, swales, biodetention, green roofs, etc., should be integrated into projects as appropriate.

For projects subject to discretionary review, the applicant may be required, as appropriate, to submit a pre-and post-project hydrology and hydraulic report detailing the amount of new impervious surface area and accompanying surface runoff from all improvement areas, including driveways — with a goal of zero increase in runoff (no net increase in peak off-site runoff). The applicant may be required to participate in a peak stormwater runoff management program developed pursuant to new Program BIO-4.20.

BIO-4.20 Minimize Runoff. In order to decrease stormwater runoff, the feasibility of developing a peak stormwater management program shall be evaluated to provide mitigation opportunities such as removal of impervious surface or increased stormwater detention in the watershed.

Implementing Programs

BIO-4.a Adopt Expanded SCA Ordinance. Adopt a new SCA ordinance that would implement the SCA standards for parcels traversed by or adjacent to a mapped anadromous fish stream and tributary. Such an ordinance could, by way of example, require compliance with the incorporation of best management practices into the proposed project and could consider modest additions to existing buildings that would not result in significant impact to riparian resources, such as additions that do not exceed 500 square feet of total floor area and that do not increase the existing horizontal encroachment into the SCA, provided a site assessment first confirms the absence of adverse impacts to riparian habitats. As part of the new ordinance, consider including additional incentives, such as reduced fees or other similar incentives, to reduce the extent of existing development within an SCA or improve conditions that may be impacting sensitive resources.

BIO-4.b Reevaluate SCA Boundaries. Beginning with the City-Centered Corridor and smaller parcels, conduct a comprehensive study to reevaluate standards used to protect SCAs and regulate development adjacent to streams. The study shall consider available data on stream protection and management standards, their effectiveness, and the effectiveness of the current standards used in Marin County, including the 50- and 100-foot setback distances (plus additional setbacks from the edge of riparian vegetation where applicable). The study shall consider stream functions on a watershed-level basis, and include input from professionals such as a fluvial geomorphologist, hydrologist, wildlife biologist, and vegetation ecologist, together with resource agencies and interested members of the public. Each SCA should encompass all woody riparian vegetation and be of sufficient width to filter sediments and other pollutants before they enter the stream channel. Careful study may be needed to distinguish woody riparian vegetation from other types of woodland or forest vegetation in some areas.

BIO-4.c *Prepare County Stream Map.* Use the County GIS to map perennial, intermittent, and, where feasible, ephemeral streams subject to SCA policies. Use the resulting mapping in conjunction with USGS [maps-data](#) and the “ephemeral stream” definition to confirm SCAs on parcels proposed for development. Add to and update the [map-data](#) on an ongoing basis as additional streams are surveyed.

(Updated per Resolution 2009-07)

BIO-4.d *Establish Functional Criteria for Land Uses in SCAs.* Develop detailed criteria for protection of riparian functions, and identify methods for their use in evaluating proposed development.

BIO-4.e *Identify Proposals Within SCAs.* Determine whether a proposed development falls wholly or partially within an SCA, through agency review by County staff, and as necessary by a qualified professional, of discretionary application materials and site inspection.

BIO-4.f *Identify Potential Impacts to Riparian Systems.* At the time of a development application, evaluate potential impacts on riparian vegetation and aquatic habitat, and incorporate measures to protect riparian systems into the project design and construction. Retain and minimize disturbance to woody and herbaceous riparian vegetation in SCAs and adjacent areas. (Tree growth may be cleared from the stream channel where removal is essential to protect against property damage or prevent safety hazards.)

BIO-4.g *Require Site Assessment.* Require development applications to include the submittal of a site assessment prepared by a qualified professional where incursions into the SCA are proposed, or adverse impacts to riparian resources may otherwise occur. Unless waived, the qualified professional shall be hired by Marin County. The site assessment shall be paid for by the applicant and considered in determining whether any adverse direct or indirect impacts on riparian resources would occur as a result of the proposed development, whether SCA criteria and standards are being met, and to identify measures necessary to mitigate any significant impacts. The site assessment may also serve as a basis for the County to apply restrictions in addition to those required by State and federal regulations.

BIO-4.h *Comply with SCA Criteria and Standards.* All development permit applications shall be reviewed for conformity with these SCA policies, criteria, and standards and in accordance with the California Environmental Quality Act. Proposals that do not conform to SCA policies, and cannot be modified or mitigated to conform, shall be denied. If a proposal involves the creation of a new parcel that is wholly or partially in an SCA, the land division shall be designed to ensure that no development occurs within the SCA.

BIO-4.i *Replace Vegetation in SCAs.* When removal of *native* riparian vegetation is unavoidable in an SCA, and mitigation is required, require establishment of native trees, shrubs, and ground covers within a period of five years at a rate sufficient to replicate, after a period of five years, the appropriate density and structure of vegetation removed. Require replacement and enhancement planting to be monitored and maintained until successful establishment provides for a minimum replacement or enhancement ratio of 2:1.

BIO-4.j *Continue Funding Fencing of Sensitive Stream Areas.* Encourage continued funding in conjunction with the Marin Resource Conservation District, the Natural Resource and Conservation Service, and other relevant agencies, to pay the cost of fencing sensitive streamside areas (on both public lands and private property) that could be impacted by cattle grazing.

BIO-4.k *Locate Trails Appropriately.* Situate trails at adequate distances from streams to protect riparian and aquatic habitat and wildlife corridors. Trails may occasionally diverge close to the top of bank to provide visual access and opportunities for interpretive displays on the environmental sensitivity of creek habitats. (See policies and programs in the Trails Section of this Element.)

BIO-4.l *Monitor Stream Conservation Areas.* Establish a system of monitoring SCAs, which may include mapping fenced streams and stream restoration areas to ensure the protection of vegetation, soils, water quality, and wildlife habitat along streams.

BIO-4.m *Encourage Conservation Plans Within the Stream Conservation Area.* Continue to collaborate with the Marin Resource Conservation District to encourage and support the continued implementation of the Marin Coastal Watersheds Permit Coordination Program, especially the preparation of management and conservation plans where appropriate for agricultural activities within the Stream Conservation Areas.

BIO-4.n *Provide Information to Reduce Soil Erosion and Sedimentation.* Provide information and fact sheets on programs offered by the Marin Resource Conservation District at the Community Development Agency front counter to landowners and applicants who submit development proposals within the Streamside Conservation Area in the Stemple, Walker, and Lagunitas creek watersheds.

BIO-4.o *Consider Culvert Restoration.* As part of the expanded SCA ordinance, consider additional policy language to encourage reopening culverted reaches and restoring channelized reaches of natural drainages. This may include adjustments in minimum standard setback distances where site constraints prevent complete compliance along the restored or enhanced channel reach. A detailed analysis may be required to demonstrate restoration feasibility and address possible effects on erosion and flooding potential. Incentives may be available to landowners to encourage restoration and enhancement efforts.

BIO-4.p *Implement NPDES Phase II.* Continue to implement NPDES Phase II permit requirements relating to peak flow controls to ensure that project related and cumulative impacts to peak flows are minimized or avoided through conditions on project approval as required by the ordinances.

BIO-4.q *Develop Standards Promoting Use of Permeable Materials.* Review existing permit requirements for development in SCAs and WCAs, and recommend additional standards for project review and corrective measures as needed to protect SCAs and WCAs from inappropriate ministerial and discretionary development. Develop additional standards for requiring the use of best management practices, including measures such as the use of permeable materials in the SCA and WCA. A checklist of Best Management Practices should be made available to applicants.

BIO-4.r *Review Septic System Setbacks in SCA and WCA.* Review existing septic requirements within SCAs and WCAs, and revise requirements as necessary to provide monitoring and to protect SCAs and WCAs from impacts associated with septic systems. Consider adopting larger setback standards applied to new development for septic systems and their associated leachfields.

BIO-4.s *Continue Collaboration with the Marin Resource Conservation District and Agricultural Commissioner.* Continue to collaborate with, support, and participate in programs provided by the Marin Resource Conservation District, the Natural Resource Conservation Service, and the Agricultural Commissioner's Office to encourage agricultural operators who conduct farm or ranch activities within a Streamside Conservation Area to minimize pesticide use and activities that cause sedimentation and erosion, to enhance habitat values.

BIO-4.t *Collaborate with Groups to Address Implementation of Protections to SCAs and WCAs.* Collaborate with local, regional, State, and federal organizations (Marin Organic, MALT, SPAWN, Marin Audubon, RCD, Fish and Game, RWQCB, Sierra Club, Farm Bureau, Trout Unlimited, and affected property owners) to address long term habitat protection and develop funding mechanisms to address the issue.

BIO-4.u *Investigate Tax Delinquent Properties.* Investigate conversion of tax delinquent properties in SCAs into public ownership.

POLICIES RELATED TO DENSITY/FAR

GOAL CD-1

Environmental Corridor Land Use Framework. Establish, maintain, and continue to improve a broad land use management framework using the County’s environmental corridors as a basis for local policies and regulation, and to maintain the character of each of the corridors.

Policies and Programs

CD-1.3 Reduce Potential Impacts. Calculate potential residential densities and commercial floor area ratio (FAR) at the lowest end of the applicable range on sites with sensitive habitat, ~~or on sites~~ within the Ridge and Upland Greenbelt, or Baylands Corridor, or ~~on sites~~ ~~properties~~ lacking public water or sewer systems ~~except for multi-family parcels identified in certified Housing Elements.~~ 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 or sewer 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.

(Modified per Resolutions 2009-07 and 2012-120)

CD-1.c Reduce Potential Impacts. Amend the Development Code to calculate potential residential density and commercial floor area ratio (FAR) at the lowest end of the applicable range on sites with sensitive habitat, ~~or on sites~~ within the Ridge and Upland Greenbelt, or the Baylands Corridor, or ~~properties on sites~~ lacking public water or sewer systems ~~except for parcels identified in certified Housing Elements.~~ 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 or sewer 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.

(Modified per Resolutions 2009-07 and 2012-120)

GOAL CD-5

Effective Growth Management. Manage growth so that transportation, water, sewer, wastewater facilities, fire protection, and other infrastructure components remain adequate.

Policy

CD-5.2 Correlate Development and Infrastructure. For health, safety, and general welfare, new development should occur only when adequate infrastructure is available, consistent with the following findings:

- a. Project-related traffic will not cause the level of service established in the circulation element to be exceeded (see TR-1.e).
- b. Any circulation improvements or programs needed to maintain the established level of service standard have been programmed and funding has been committed.
- c. Environmental review of needed circulation improvement projects or programs has been completed.
- d. The time frame for completion of the needed circulation improvements or programs will not cause the established level of service standard to be exceeded.
- e. Wastewater, water (including for adequate fire flows), and other infrastructure improvements will be available to serve new development by the time the development is constructed.

Implementing Program

CD-5.e Limit Density for Areas Without Water ~~and/or~~ Sewer Connections. Calculate density at the lowest end of the Countywide Plan designation density range for subdivisions new development proposed in areas without public water ~~and/or~~ sewer service. ~~Densities for housing units, affordable to very low and low income residents, that are capable of providing adequate water and/or sewer services may be considered on a case-by-case basis.~~ 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 or sewer 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.

(Modified per Resolution 2012-120)

GOAL CD-6

Confinement of Urban Development. Concentrate new medium- to high-intensity land uses at infill areas where services can be provided.

Policy

CD-6.1 Coordinate Urban Fringe Planning. Seek city review of development proposed adjacent to urban areas. Discourage development requiring urban levels of service from locating outside urban service areas. Coordinate with cities and towns regarding their plans and rules for annexing urbanized areas.

Implementing Program

CD-6.a Consider Annexation of Urbanized Areas. Encourage annexation of lands proposed for intensified development in urban service areas or within established urban growth boundaries by calculating density at the lowest end of the Countywide Plan designation range, thereby allowing less-intensive development than permitted by the neighboring city or town (unless limited to housing affordable to very low or low income residents, or specified in an adopted specific, community, or master plan).

GOAL CD-8

Land Use Categories. Map land use categories that further the goals of the Countywide Plan.

Policies

CD-8.7 Establish Commercial/Mixed-Use Land Use Categories and Intensities.

Commercial/mixed-use land use categories are established to provide for a mix of retail, office, and industrial uses, as well as mixed-use residential development, in a manner compatible with public facilities, natural resource protection, environmental quality, and high standards of urban design. Mixed-use developments are intended to incorporate residential units on commercial properties, including on-site housing for employees, thereby contributing to affordable housing and reduced commutes. For projects consisting of low and very low income affordable units, the FAR may be exceeded to accommodate additional units for those affordable categories. For projects consisting of moderate income housing, the FAR may be exceeded in areas with acceptable levels of service – but not to an amount sufficient to cause an LOS standard to be exceeded. Up to 1,036 residential units may be approved countywide for mixed-use development, subject to a discretionary approval process.

The following criteria shall apply to any mixed-use development:

1. For parcels larger than 2 acres in size, no more than 50% of the new floor area may be developed for commercial uses, and the remaining new floor area shall be developed for new housing.

For parcels 2 acres and less in size, no more than 75% of the new floor area may be developed for commercial uses, and the remaining new floor area shall be developed for new housing.

2. Projected peak-hour traffic impacts of the proposed mixed-use development are no greater than that for the maximum commercial development permissible on the site under the specific land use category.
3. Priority shall be given to the retention of existing neighborhood serving commercial uses.
4. The site design fits with the surrounding neighborhood and incorporates design elements such as podium parking, usable common/open space areas, and vertical mix of uses, where appropriate. In most instances, residential uses should be considered above the ground floor or located in a manner to provide the continuity of store frontages, while maintaining visual interest and a pedestrian orientation.

5. For projects consisting of low income and very low income affordable units, the FAR may be exceeded to accommodate additional units for those affordable categories. For projects consisting of moderate income housing, the FAR may only be exceeded in areas with acceptable traffic levels of service — but not to an amount sufficient to cause an LOS standard to be exceeded.
6. Residential units on mixed-use sites in the Tamalpais Area Community Plan area shall be restricted to 100 residential units, excluding units with valid building permits issued prior to the date of adoption of the Countywide Plan update. The 100 unit cap includes any applicable density bonus and such units are not subject to the FAR exceptions listed in #5 above due to the area’s highly constrained (week and weekend) traffic conditions, flooding, and other hazards.

Renovations not resulting in additional square footage will be exempt from the above requirements if consistent with the requirements of the Marin County Jobs-Housing Linkage Ordinance, Chapter 22.22 of the Development Code.

The following categories shall be established for commercial land uses:¹

General Commercial/Mixed Use. The General Commercial mixed-use land use category is established to allow for a wide variety of commercial uses, including retail and service businesses, professional offices, and restaurants, in conjunction with mixed-use residential development. The Development Code includes permitted and conditional uses and development standards consistent with this designation. The Land Use Policy Maps provide floor area ratio (FAR) standards for this designation. Residential development located in a mixed-use development within this designation shall be included in the permissible amount of development under these FARs. For projects consisting of low and very low income affordable units, the FAR may be exceeded to accommodate additional units for those affordable categories. For projects consisting of moderate income housing, the FAR may be exceeded in areas with acceptable traffic levels of service – but not to an amount sufficient to cause an LOS standard to be exceeded. (Refer to CD-2.3 for projects located within the Housing Overlay Designation.)

Consistent Zoning: C P
 C1-H
 H-1
 RMP-.1 to RMP-30

Office Commercial/Mixed Use. The Office Commercial/Mixed Use land use category is established to encourage a mixture of professional, administrative, and medical office uses, in conjunction with mixed-use or residential development where appropriate. Employee and resident-serving retail and service businesses may also be permitted within this category. The Development Code includes permitted and conditional uses and development standards consistent with this designation. The Land Use Policy Maps provide for commercial floor area

¹Note that the zoning designations listed in each category are examples of consistent zoning and are not the only possible consistent zoning designations. A complete list of permitted and conditional uses and development standards can be found in the Development Code. Educational, charitable, and philanthropic institutions such as schools, libraries, community centers, museums, hospitals, child care centers, and places of worship may be permitted in any commercial area.

ratio (FAR) standards for this designation. Residential development located in a mixed-use development within this designation shall be included in the permissible amount of development under these FARs. For projects consisting of low and very low income affordable units, the FAR may be exceeded to accommodate additional units for those affordable categories. For projects consisting of moderate income housing, the FAR may be exceeded in areas with acceptable traffic levels of service – but not to an amount sufficient to cause an LOS standard to be exceeded. (Refer to CD-2.3 for projects located within the Housing Overlay Designation.)

Consistent Zoning: A - P
 O - P
 RMP-.1 to RMP-30

Neighborhood Commercial/Mixed Use. The Neighborhood Commercial/Mixed Use land use category is established to encourage smaller-scale retail and neighborhood-serving office and service uses in conjunction with residential development oriented toward pedestrians and located in close proximity to residential neighborhoods. The Development Code includes permitted and conditional uses and development standards consistent with this designation. The Land Use Policy Maps provide for floor area ratio (FAR) standards for this designation. Residential development located in a mixed-use development within this designation shall be included in the permissible amount of development under these FARs. For projects consisting of low and very low income affordable units, the FAR may be exceeded to accommodate additional units for those affordable categories. For projects consisting of moderate income housing, the FAR may be exceeded in areas with acceptable traffic levels of service – but not to an amount sufficient to cause an LOS standard to be exceeded. (Refer to CD-2.3 for projects located within the Housing Overlay Designation.)

Consistent Zoning: VCR
 RMPC
 VCR:B2

Recreational Commercial. The Recreational Commercial land use category is established to provide for resorts, lodging facilities, restaurants, and privately owned recreational facilities, such as golf courses and recreational boat marinas. See the Development Code for a complete list of permitted and conditional uses and development standards. Refer to the Land Use Policy Maps for commercial Floor Area Ratio (FAR) standards. For projects consisting of low and very low income affordable units, the FAR may be exceeded to accommodate additional units for those affordable categories. For projects consisting of moderate income housing, the FAR may be exceeded in areas with acceptable traffic levels of service – but not to an amount sufficient to cause an LOS standard to be exceeded. (Refer to CD-2.3 for projects located within the Housing Overlay Designation.)

Consistent Zoning: RCR
 BFC:RCR

Industrial. The Industrial land use category is established to provide for industrial uses such as warehouses, storage, laboratories, retail sales, and administrative offices. Housing for employees or very low and low income housing may also be permitted, except that FAR is not applied to affordable or workforce housing. See the Development Code for a complete list of permitted and

conditional uses and development standards. Refer to the Land Use Policy Maps for commercial floor area ratio (FAR) standards. For projects consisting of low and very low income affordable units, the FAR may be exceeded to accommodate additional units for those affordable categories. For projects consisting of moderate income housing, the FAR may be exceeded in areas with acceptable traffic levels of service – but not to an amount sufficient to cause an LOS standard to be exceeded.

Consistent Zoning: RMPC
 IP

GOAL DES-4

Protection of Scenic Resources. Minimize visual impacts of development and preserve vistas of important natural features.

Policy

DES-4.1 Preserve Visual Quality. Protect scenic quality and views of the natural environment — including ridgelines and upland greenbelts, hillsides, water, and trees — from adverse impacts related to development.

Implementing Program

DES-4.e Protect Views of Ridge and Upland Greenbelt Areas. Employ a variety of strategies to protect views of Ridge and Upland Greenbelt areas, including the following:

- * Identifying any unmapped ridgelines of countywide significance, both developed and undeveloped, and adjusting the Ridge and Upland Greenbelt Areas map as appropriate;
- * Amending the Development Code and County zoning maps to designate a suburban edge on all parcels contiguous to the City-Centered Corridor that abut the Ridge and Upland Greenbelt, and requiring that those parcels develop at rural densities with visually sensitive site design;
- * Rezoning Ridge and Upland Greenbelt lands to the Planned District category and adjacent buffer areas to a transitional district, thereby subjecting them to County Design Review Requirements that include hillside protection;
- * Requiring buildings in Ridge and Upland Greenbelt areas to be screened from view by wooded areas, rock outcrops, or topographical features (see DES-3.b); and
- * Calculating density for Ridge and Upland Greenbelt subdivisions at the lowest end of the General Plan designation range.

GOAL TR-1

Safe and Efficient Movement of People and Goods. Provide a range of transportation options that meet the needs of residents, businesses, and travelers.

Policy

TR-1.1 Manage Travel Demand. Improve the operating efficiency of the transportation system by reducing vehicle travel demand and provide opportunities for other modes of travel. Before funding transportation improvements consider alternatives — such as Transportation Demand Management (TDM) — and prioritize projects that will reduce fossil fuel use and reduce single-occupancy vehicle trips.

Implementing Program

TR-1.e Uphold Vehicle Level of Service Standards. Uphold peak-hour vehicle Level of Service standard LOS D or better for urban and suburban arterials and LOS E or better for freeways and rural expressways³. Only the Congestion Management Program–specified roadway and highway segments operating at a lower LOS than the standard in 1991 are grandfathered and may continue to operate at the lower LOS standard until such time as the roads are improved or the traffic load or demand is reduced or diverted. An improvement plan should be developed for Highway 101 and the grandfathered roadway segments to address existing deficiencies. Unless determined to be infeasible, alternatives that reduce fossil fuels and single occupancy vehicle use should be considered a priority over infrastructure improvements such as road widening.

New development shall be restricted to the lowest end of the applicable residential density/commercial floor area ratio range where the LOS standards will be exceeded at any intersection or road segment or worsened on any grandfathered segment. Densities higher than the low end of the applicable residential density/commercial floor area ratio may be considered for the following:

- * Development that qualifies as Housing Overlay Projects in accordance with Policy CD-2.3, Establish a Housing Overlay Designation, and Program CD-2.d, Implement the Housing Overlay Designation.
- * Mixed-use projects developed in accordance with Policy CD-8.7.
- * Second units developed pursuant to State law.
- * New housing units affordable to very low and low income households.

All projects shall be conditioned to include feasible mitigation measures for project-related traffic impacts.

(Modified per Resolution 2009-07)

³2007 Draft CMP.

MIXED USE POLICY

CD-2.c *Enact Zoning Changes.* Amend the Development Code for residential and commercial land uses to

- * rezone lands at appropriate locations for a mix of housing types and densities;
- * encourage nodes of commercial and higher-intensity residential development at locations near existing employment bases that can be served efficiently by transit;
- * designate areas that allow for expansion or nearby relocation of existing businesses in a manner sensitive to environmental constraints, desired community character, and the ability to provide services;
- * require new commercial developments (including major remodels of shopping centers) to integrate housing that will reduce the need for commuting and expand the opportunities for residential development;
- * guide development away from areas with environmental hazards and areas with high natural resource value, or, if other threats to life or property exist, to minimize adverse impacts to buildings and their occupants; and
- * allow residential duets at appropriate locations on corner lots in single-family zones.

CD-2.g *Identify and Plan Mixed-Use Sites.* Work with local cities and towns and the proposed City-County Planning Committee, the Marin Environmental Housing Collaborative, and similar collaborative venues to find sites suitable for mixed-use development (such as existing retail centers where housing can be added), and to establish appropriate site-specific standards that accommodate mixed use (such as increasing allowable building height). Seek funding to prepare specific plans and related environmental documents to facilitate mixed-use development at selected sites, and to allow these areas to serve as receiver sites for transfer of development rights away from environmentally sensitive lands. (See CD-2.a, CD-5.b, DES-2.a, DES-2.c, DES-3.a, HS-3.n through HS-3.t, and TR-3.e.)

CD-2.7 *Enhance Existing Commercial and Industrial Areas and Businesses.* Enhance functioning commercial areas, especially historic downtowns, so that they continue to define community identity, while also encouraging mixed-use development.

CD-2.a *Increase the Affordable Housing Supply.* Utilize all available methods to create affordable housing, including redevelopment of commercial areas for mixed use, air rights over parking areas for housing, residential duets on corner lots, upper-story housing over one-story commercial buildings, and Transfer of Development Rights (TDR) programs. (See CD-2.d, CD-5.b, DES-2.a, DES-3.a, DES-2.c, HS-3.n through HS-3.t, and TR-3.e.)

CD-5.b *Develop Highway 101 Corridor-Specific Plans.* Work with the proposed City-County Planning Committee and the cities and towns of Marin to formulate specific or master plans along the 101 corridor that identify and plan for appropriate sites for higher-intensity, transit-oriented development, including mixed-use projects. (See CD-2.a, CD-2.d, DES-2.a, DES-2.c, DES-3.a, and HS-3.n through HS-3.t.)

CD-8.7 Establish Commercial/Mixed-Use Land Use Categories and Intensities.

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2. Projected peak-hour traffic impacts of the proposed mixed-use development are no greater than that for the maximum commercial development permissible on the site under the specific land use category.
3. Priority shall be given to the retention of existing neighborhood serving commercial uses.
4. The site design fits with the surrounding neighborhood and incorporates design elements such as podium parking, usable common/open space areas, and vertical mix of uses, where appropriate. In most instances, residential uses should be considered above the ground floor or located in a manner to provide the continuity of store frontages, while maintaining visual interest and a pedestrian orientation.
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6. Residential units on mixed-use sites in the Tamalpais Area Community Plan area shall be restricted to 100 residential units, excluding units with valid building permits issued prior to the date of adoption of the Countywide Plan update. The 100 unit cap includes any applicable density bonus and such units are not subject to the FAR exceptions listed in #5 above due to the area’s highly constrained (week and weekend) traffic conditions, flooding, and other hazards.

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Consistent Zoning: C P
C1-H
H-1
RMP-.1 to RMP-30

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Consistent Zoning: A - P
O - P
RMP-.1 to RMP-30

Neighborhood Commercial/Mixed Use. The Neighborhood Commercial/Mixed Use land use category is established to encourage smaller-scale retail and neighborhood-serving office and service uses in conjunction with residential development oriented toward pedestrians and located in close proximity to residential neighborhoods. The Development Code includes permitted and conditional uses and development standards consistent with this designation. The Land Use

Policy Maps provide for floor area ratio (FAR) standards for this designation. Residential development located in a mixed-use development within this designation shall be included in the permissible amount of development under these FARs. For projects consisting of low and very low income affordable units, the FAR may be exceeded to accommodate additional units for those affordable categories. For projects consisting of moderate income housing, the FAR may be exceeded in areas with acceptable traffic levels of service – but not to an amount sufficient to cause an LOS standard to be exceeded. (Refer to CD-2.3 for projects located within the Housing Overlay Designation.)

Consistent Zoning: VCR
RMPC
VCR:B2

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Consistent Zoning: RCR
BFC:RCR

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Consistent Zoning: RMPC
IP

DES-1.e *Expand Design Guidelines.* Expand design guidelines to address commercial, mixed-use, multifamily residential, and community gateway projects.

DES-1.f *Rural Sign Regulation.* Revise sign standards in the Development Code to address commercial, mixed-use, multi-family residential, and community gateway projects.

DES-2.a *Designate Target Nodes.* Work with cities and towns and the Transportation Authority of Marin to identify transit nodes appropriate for mixed-use development, and promote transit-oriented development through means including the following:

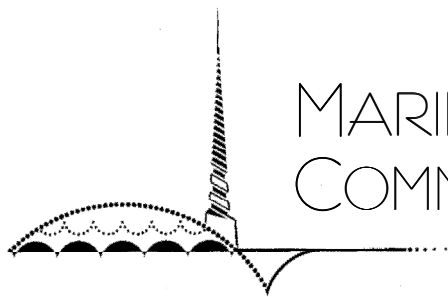
- * rezoning of commercial properties to residential and/or mixed use;
- * expanded zoning for multifamily housing;
- * flexible parking and building height limitations;
- * design guidelines for private and public spaces; and
- * incentives for redevelopment of underutilized areas, such as surface parking lots (see other Community Development, Housing, and Transportation programs).

DES-2.b *Encourage Flexible-Use Building Types.* Encourage more mixed uses, and enable prototype structures for use in neighborhood center zones that can be adapted to new uses over time with minimal internal remodeling, avoiding the need for expensive and energy intensive demolition and reconstruction.

DES-2.c *Allow Mixed Use in Commercial Districts.* Amend the Development Code to allow residential and mixed-use development in commercial zoning districts, including through infill development and redevelopment of surface parking lots, and employing techniques such as those listed in DES-2.a. (See other Community Development, Housing, and Transportation programs.)

TR-3.3 *Develop Mixed-Use Intermodal Hubs.* Support and participate in the development of intermodal transit hubs that expand alternative transportation use.

TR-3.f *Promote Transit-Oriented Development.* Amend the Development Code to encourage compact mixed-use development within one-half mile of intermodal hubs and future rail stations, and to offer flexible standards for affordable housing to create sufficient ridership to support such uses.



MARIN COUNTY COMMUNITY DEVELOPMENT AGENCY

BRIAN C. CRAWFORD, DIRECTOR

PREPARATION OF BIOLOGICAL SITE ASSESSMENTS

I. INTRODUCTION

In accordance with the policy requirements of the Marin Countywide Plan¹ and the planning application submittal guide, a biological site assessment (BSA) may be required when a project is proposed adjacent to or within an area that may contain sensitive biological resources. The need for a BSA is most often identified in a “notice of project status” letter, which is issued a month after the application is submitted, but a BSA can also be recommended during a Pre-application or General Consultation with planning staff. A “notice of project status” letter will normally provide a preliminary indication of any particular issues the BSA should address.

The general objectives of a BSA are to (1) determine whether there are any sensitive biological resources such as wetlands, streams, or habitats for special status species in proximity to a proposed project; (2) to accurately map any biological constraints on a site plan for the project; and (3) to determine whether a project would result in potentially significant adverse biological impacts, pursuant to the California Environmental Quality Act (CEQA). Sensitive biological resources include the following:

- A. Plants or animals that are listed as rare, threatened, or endangered or as a species of special concern, pursuant to Federal or State law, and habitat essential to special status species of wildlife;
- B. Natural communities indicated as rare or threatened by the California Natural Diversity Data Base of the California Department of Fish and Game;
- C. Within the Coastal Zone, beaches and sand dunes, wetlands, streams shown on USGS maps and the riparian vegetation surrounding them, or natural vegetation designated by the local coastal program as significant natural habitat; and
- D. Natural communities and associated buffers protected under the Marin Countywide Plan, including Wetland Conservation Areas (WCAs) and Stream Conservation Areas (SCAs).

BSAs do not include measures intended to mitigate or reduce impacts to sensitive biological resources.

II. CONDUCTING THE ASSESSMENT

The scope of the BSA should be limited to evaluating those areas that are within or near the proposed project and may reasonably be expected to be affected by any aspect of the project (i.e. new roads, construction areas and immediate surroundings, site grading, vegetation management, tree removal). The scope of the study should depend on the particular characteristics of the project and the area, and will often include an inventory of all plant communities on the site as well as a discussion of geological and hydrological features that are particularly relevant to biological resources. The consulting biologist should contact the planner assigned to the project to discuss the scope of the study prior to initiating any investigations. At a minimum, the scope of the study should include the following:

¹ See CWP programs BIO-2.a, BIO-3.c, and BIO-4.g

1. Review the “notice of project status” letter and any biological information provided by the Planning Division.
2. Review relevant biological protection policies contained in the Countywide Plan, as well as the biological protection policies of a local Community Plan or the Local Coastal program if applicable.
3. Conduct a records search of the California Natural Diversity Data Base (CNDDDB) for the site and surrounding area as habitat conditions and regional species distributions dictate.
4. Review the Local Coastal Program Natural Resources Maps for projects located in the Coastal Zone.
5. Review the book “Marin Flora” published by the California Academy of Sciences and California Native Plant Society (Howell et. al., 2007) for information on the location of special status plant species.
6. Review any biological assessments, arborist’s reports, vegetation management plans, geotechnical reports, and hydrological reports recently prepared and available for the project, the site, and the surrounding area.
7. Visit the site to identify, evaluate, and map any sensitive biological resources that may be affected by the project.
8. Conduct a wetland delineation if wetland indicators are found within the study area. The wetland delineation should follow the Army Corps of Engineer’s guidance outside of the Coastal Zone and should follow the California Coastal Commission’s guidance in the Coastal Zone.
9. Map the top of bank of any stream and the upland extent of any riparian vegetation surrounding streams found in the study area.
10. Map ecological buffers that apply to the site, as defined in the Stream Conservation Area and Wetland Conservation Area policies of the Countywide Plan and the stream buffer and wetland buffer policies of the Local Coastal Program.
11. Determine whether any other biological studies should be conducted evaluating the potential impacts of the project.
12. Prepare a report, with attached photographs, field reports and maps as appropriate, describing the methods and findings of the BSA. The findings of the report should be coordinated with all other technical studies and reports being prepared for the project.
13. Integrate maps of any sensitive biological resources that are found in the study area into project site plans that show other development constraints, landscaping and vegetation management, grading and erosion control, drainage and storm water control, site improvements and building construction.

III. PREPARING THE REPORT

In preparing the BSA report, the biologist should describe the methods used for the study and all sensitive biological resources that have been identified within the study area. In determining potential impacts, relevant policy documents and regulations should be consulted, including the CEQA Guidelines, Appendix G, Section IV. Biological Resources, which provides a list of sample questions that are intended to encourage thoughtful assessment of impacts in determining significance. In

addition, per the Marin County EIR Guidelines, Appendix N, Criteria For Significance, the following questions regarding the determination of significance of impacts should be answered:

1. Would the project substantially reduce the number or restrict the range of a rare, endangered or threatened plant or animal?
2. Would the project cause a fish or wildlife population to drop below self-sustaining levels?
3. Would the project adversely affect significant riparian lands, wetlands, marshes, and other significant wildlife habitats?

Based on the evidence collected and analyzed, the BSA shall clearly recommend one of the following two conclusions regarding the project:

“The project will not result in any potentially significant adverse biological impacts to the environment.”

“The project could result in potentially significant adverse biological impacts to the environment.”

Even if the biologist concludes that there are potentially significant impacts, the BSA shall not identify any impact mitigation or reduction measures. There is no such thing as a mitigated categorical exemption from CEQA, and any mitigation measures recommended in the BSA serve as an indication that an environmental review is required for the project. However, CEQA is intended to help avoid any unintended environmental consequences of development and the Planning Division encourages incorporating elements that safeguard biological resources into the initial design of the project. For example, if a property owner hires a biologist to map a Stream Conservation Area before preparing plans, it will be easier to design the project to avoid the sensitive area before submitting a formal development application that could require a BSA. This type of preliminary biological research can reduce both the costs and the time associated with the planning process.

If the BSA recommends that the project could result in a potentially significant biological impact, then the Planning Division will require a peer review of the BSA and/or a full biological assessment that identifies measures to mitigate the impacts of the project. The Planning Division will hire a qualified biologist to undertake the additional study, at the applicant’s expense, unless this requirement is waived by the Director.