

## COMMUNITY DEVELOPMENT AGENCY

Brian C. Crawford  
DIRECTOR

August 20, 2013

Marin County Civic Center  
3501 Civic Center Drive  
Suite 308  
San Rafael, CA 94903  
415 473 6269 T  
415 473 7880 F  
415 473 2255 TTY

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

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

Dear Supervisors,

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

[www.marincounty.org/cda](http://www.marincounty.org/cda)

**RECOMMENDATION:**

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

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

**BACKGROUND:**

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

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

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

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

**DISCUSSION:**

*Guiding Principles and Framework*

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

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

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

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

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

*Interim SCA Ordinance and Fees*

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

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

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

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

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

**FISCAL IMPACT:**

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

**CONCLUSION:**

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

**SIGNATURE:**

  
Suzanne Thorsen  
Planner

  
Brian C. Crawford  
Director

**REVIEWED BY: (These boxes must be checked)**

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

**Attachments**

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

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

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



**Proposed Framework for Countywide Plan Amendments:  
Stream Protection and Watershed Enhancement**  
August 20, 2013

1. **Focus on Stream Protection Zone**, a special permit zone that requires low impact development/watershed protection and incorporates a broad set of techniques to protect and enhance stream and riparian resources.
  - a. Account for the latest science: watershed planning, studies, map and information resources, and technology.
  - b. Complement other related regulations: State of CA Phase II stormwater, Native Tree Protection Ordinance, Anadromous Fish Stream Ordinance, Creek Permit, drainage setback, etc.
  - c. Evaluate requirements for site assessments (BIO-4.g), particularly for small (e.g., ministerial) projects and where best management practices are incorporated.
  - d. Provide a path for possible legalization of nonconforming structures built prior to a certain date, subject to permitting, conformance with standards and appropriate mitigation.
2. **Identify Headwaters as Special Focus** by expanding and modifying BIO-4 to identify a distinct “Headwaters Protection Zone” focused on protecting the functions of ephemeral streams.
  - a. Critically evaluate the definition of ephemeral streams as well as current policies, practices and regulations to identify opportunities for protection of ephemeral stream functions.
  - b. Techniques for headwaters protection may differ from those applicable to streams but should be coordinated with existing permit procedures and best practices to the extent feasible.
3. **Implement Program BIO-4.b Reevaluate SCA Boundaries** in the City-Centered Corridor and smaller parcels.
  - a. Review existing science supporting standards to protect streams and regulate development.
  - b. Assess the effectiveness of current County standards, including setback distances. Consider stream functions on a watershed-level basis, including input from professionals such as a fluvial geomorphologist, hydrologist, wildlife biologist and vegetation ecologist, together with resource agencies and interested members of the public.
4. **Advance Overall Watershed Improvement** through a watershed enhancement program that may include creek stewardship management practices, homeowner assistance, and funding mechanisms to support restoration (stream bank, native vegetation, removal of structures).

***Guiding Principles:***

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

**RESOLUTION NO. PC13-002**  
**RESOLUTION OF THE MARIN COUNTY PLANNING COMMISSION RECOMMENDING**  
**THAT THE BOARD OF SUPERVISORS ADOPT AMENDMENTS TO**  
**MARIN COUNTY CODE TITLE 22 (DEVELOPMENT CODE)**  
**(STREAM CONSERVATION AREA)**

**SECTION I: FINDINGS**

The Marin County Planning Commission hereby finds and declares the following:

1. **WHEREAS**, the Marin County Community Development Agency initiated the proposed amendments to the Marin County Code Title 22 (Development Code). The Development Code includes the zoning and subdivision regulations that govern the development and use of private and public land, buildings, and structures located within the unincorporated areas of Marin County. The proposed amendments (Exhibit A) would modify Title 22 (Development Code) by: (1) establishing Chapter 22.33 (Stream Protection) and Chapter 22.63 (Stream Conservation Area Permits); (2) providing new definitions and amending the text of definitions in Chapter 22.130 (Definitions); (3) amending the text of Sections 22.06.050 (Exemptions from Land Use Permit Requirements), 22.08.040 (Agricultural District Development Standards), 22.40 (Application Filing and Processing, Fees), 22.42.025 (Exemptions from Design Review), 22.42.045 (Design Review for Development Along Anadromous Fish Streams and Tributaries), 22.42.055 (Project Review Procedures), 22.56.050 (Decision and Findings for New Second Units) and 22.62.040 (Exemptions) as necessary to effectuate the SCA Ordinance. The proposed amendments are applicable to those perennial, intermittent and ephemeral streams identified in the Stream Conservation Area map and data that is maintained and periodically updated by the Marin County Community Development Agency.
2. **WHEREAS**, the Development Code implements the goals, policies and programs of the Marin Countywide Plan (CWP) which are necessary to protect the public health, safety, and welfare of residents and businesses in the unincorporated areas of Marin County.
3. **WHEREAS**, the Marin County Community Development Agency conducted significant outreach and met with the following organizations or their representatives to discuss and accept comments on the draft ordinance: Marin Conservation League; Marin Audubon Society, Friends of Corte Madera Creek, Salmon Protection and Watershed Network (SPAWN), the San Geronimo Valley Stewards, the San Geronimo Valley Planning Group, Marin County Farm Bureau, Marin Association of Realtors, Marin CSA 13, Lucas Valley Homeowners Association, Kentfield Planning Advisory Board, Kent Woodlands Property Owners Association, Tam Design Review Board, and Sleepy Hollow Homeowners Association.
4. **WHEREAS**, the Marin County Planning Commission conducted public hearings on April 1, 2013 and May 13, 2013 to take public testimony regarding the project and consider the proposed amendments to the Development Code.
5. **WHEREAS**, the 2007 Marin Countywide Plan ("CWP") establishes goals, policies and implementing programs for riparian protection. Pursuant to Goal BIO-4 Riparian Conservation, the CWP designates Stream Conservation Areas along perennial, intermittent, and ephemeral

streams. Development setbacks are established from all streams based upon the location of the top of stream bank or presence or riparian vegetation. The policies of the plan aim to protect natural stream channel function and water quality, control exotic vegetation, retain riparian vegetation, promote riparian protection, maintain channel stability and minimize runoff.

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

7. **WHEREAS**, the proposed amendments to the Development Code will implement Program BIO-4.a (Adopt an Expanded SCA Ordinance) of the Countywide Plan and will further the implementation of Programs BIO-4.d (Establish Functional Criteria for Land Uses in SCAs), BIO-4.e (Identify Proposals Within SCAs), BIO-4.f (Identify Potential Impacts to Riparian Systems), BIO-4.g (Require Site Assessment), BIO-4.h (Comply with SCA Criteria and Standards ), BIO-4.i (Replace Vegetation in SCAs) and BIO-4.q (Develop Standards Promoting Use of Permeable Materials).

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

9. **WHEREAS**, the proposed amendments to the Development Code are within the scope of the certified 2007 Countywide Plan Environmental Impact Report (EIR). A subsequent or supplemental EIR is not required pursuant to State CEQA Guidelines Sections 15162 and 15163 because the project does not involve or result in substantial changes to the 2007 Countywide Plan involving new or substantially more severe significant environmental effects, nor does the proposal involve new information that was not known at the time the EIR for the Countywide Plan was certified. Further, the project is exempt from CEQA pursuant to Sections 15307 and 15308 of the CEQA Guidelines (Classes 7 and 8 Protection of Natural Resources and Protection of the Environment) because the project sets the regulatory framework for permitting in accordance with the CWP and increases protections afforded to streams and riparian habitat as compared with current County regulations.

10. **WHEREAS**, the proposed amendments to the Development Code have been guided by public engagement processes that included community meetings with neighborhood groups, consultation with environmental, agricultural, and trade interest organizations, a publicly-noticed SCA Open House and an online civic engagement forum (Open Marin). Further, the Marin County Planning Commission held two duly noticed public hearings, on April 1<sup>st</sup>, 2013 and on May 13<sup>th</sup>, 2013, to take public testimony and consider recommending that the Board of Supervisors adopt the SCA Ordinance.

**SECTION II: ACTION**

**NOW, THEREFORE, BE IT RESOLVED**, that the Marin County Planning Commission recommends that the Board of Supervisors adopt amendments to the Marin County Code Title 22 (Development Code) establishing an expanded Stream Conservation Area Ordinance.

**SECTION III: ADOPTION**

**PASSED AND ADOPTED** at a regular meeting of the Planning Commission of the County of Marin held on this 13<sup>th</sup> day of May 2013, by the following vote:

AYES: CRECELIUS, DICKENSON, ELLER, HOLLAND, LUBAMERSKY, THERAN

NOES: NONE

ABSENT: ERICKSON



WADE HOLLAND, CHAIR  
MARIN COUNTY PLANNING COMMISSION

ATTEST:



Debra Stratton  
Planning Commission Secretary



## EXHIBIT A

### SUBJECT 1:

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

#### **CHAPTER 22.33 – STREAM PROTECTION**

##### **Sections:**

22.33.010 – Purpose of Chapter

22.33.020 – Applicability

22.33.030 – Stream Conservation Area General Requirements

##### **22.33.010 – Purpose of Chapter**

The provisions of this Chapter are intended to implement the Stream Conservation Area (SCA) policies and programs in the Countywide Plan to protect the active channel, water quality and flood control functions, and associated fish and wildlife habitat values along streams. This is accomplished by assuring that permitted development avoids SCAs wherever feasible, minimizes any unavoidable incursion into the SCA, and mitigates adverse impacts.

##### **22.33.020 – Applicability**

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

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

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

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

## **22.33.030 – Stream Conservation Area General Requirements.**

### **A. Requirements.**

Consistent with the purpose of this Chapter, the following requirements shall be implemented to achieve maximum protection of stream and riparian resources:

1. Development shall avoid SCAs wherever feasible.
2. Where complete avoidance of an SCA is not feasible, the stream channel shall be avoided to the maximum extent feasible and incursion into the SCA shall be minimized.
3. Development within the SCA shall not be permitted if it would directly or indirectly result in any of the following:
  - a. Adverse alteration of hydraulic capacity;
  - b. A net loss in habitat acreage, value, or function;
  - c. Degradation of water quality.

### **B. SCA Setbacks.**

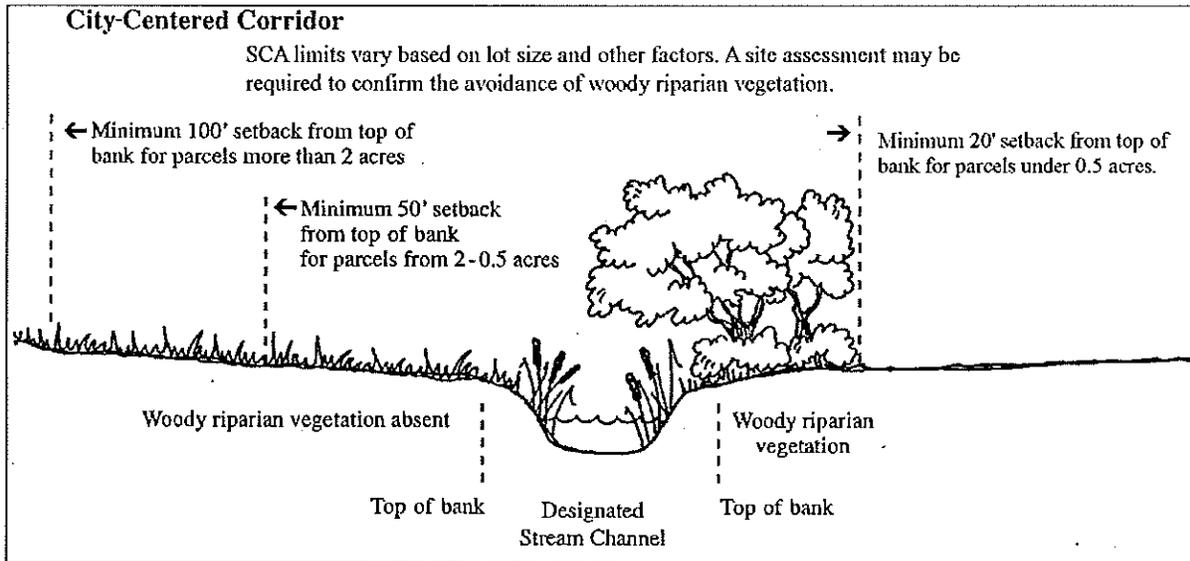
The Stream Conservation Area includes SCA setbacks as provided in this subsection.

1. City-Centered Corridor:
  - a. For lots more than 2 acres in size, the SCA setback shall be a minimum of 100 feet from each side of the top of bank;
  - b. For lots from 0.5 acres to 2 acres in size, the SCA setback shall be a minimum of 50 feet from each side of the top of bank; and
  - c. For lots less than 0.5 acres in size, the SCA setback shall be a minimum of 20 feet from each side of the top of bank.
  - d. For all lots, an additional SCA setback may be required based on the results of a Site Assessment if the additional SCA setback is necessary to protect riparian resources, such as woody riparian vegetation that extends beyond the SCA setback.
2. Inland Rural, Baylands, and Coastal Corridors:
  - a. The SCA setback shall be the greater of either: (a) 50 feet landward from the outer edge of woody riparian vegetation associated with the stream; or (b) 100 feet landward from the top of bank.
  - b. An additional SCA setback may be required based on the results of a Site Assessment if the additional SCA setback is necessary to protect riparian

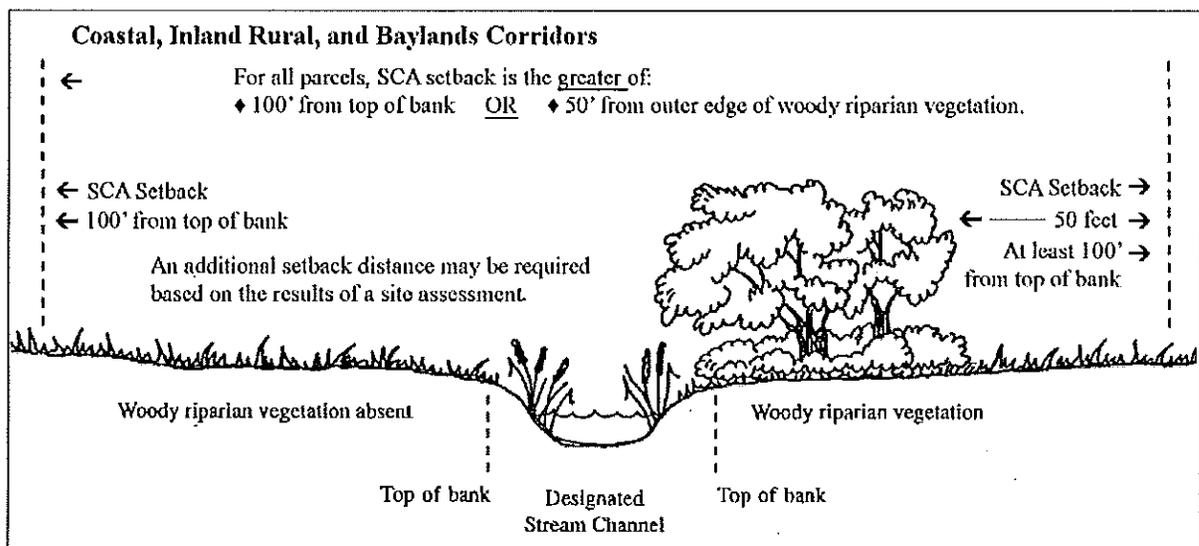
resources, such as woody riparian vegetation that extends beyond the SCA setback.

3. For all mapped ephemeral streams, the SCA setback applies only if there is riparian vegetation that extends along the stream for a length of 100 feet or more as determined by a qualified biologist or natural resources specialist.
4. On properties zoned for agriculture (A, ARP or APZ), the outer edge of woody riparian vegetation shall be determined on the basis of the most recent aerial photography on file with the County as of February 25, 2013.
5. A Site Assessment is required for any permitted development in the SCA in order to confirm the avoidance of woody riparian vegetation and to consider site constraints, provide options for alternative mitigation, and determine the precise SCA setback.

**Figure 3-16**  
**Typical Cross-Section of a Stream Conservation Area**



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



## **Chapter 22.63 – STREAM CONSERVATION AREA PERMIT**

### **Sections:**

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

### **22.63.010 – Purpose of Chapter**

This Chapter provides procedures for the processing of Stream Conservation Area (SCA) Permits where avoidance of the SCA is not feasible.

### **22.63.020 – Applicability to Development**

#### **A. Application of SCA Provisions.**

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

## **B. Exemptions.**

### **1. Exempt without further determination.**

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

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

Documentation may include a letter or report from a licensed contractor and photographs of the property and improvements or structures to verify the activity will comply with this Section.

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

#### **22.63.030 – Stream Conservation Area Permit (Tier 1)**

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

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

Development activities listed herein shall be ineligible for an SCA Permit (Tier 1) if the proposed development would not meet applicable Development Standards and incorporate applicable Standard Management Practices as required by a Site Assessment or would result in adverse impacts to hydraulic capacity; stream or riparian habitat acreage, value or function; or water quality.

**B. SCA (Tier 1) Project Review Procedure**

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

4. **Site Assessment (Tier 1).** The Site Assessment (Tier 1) shall be prepared by a qualified professional. The assessment shall delineate the extent of the SCA on the lot, including the precise stream location and limits of woody riparian vegetation; and identify Standard Management Practices corresponding to the nature of development that would ensure that the project will not cause adverse impacts to the stream and riparian resources. The Site Assessment (Tier 1) is part of the SCA Permit (Tier 1).

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

#### **22.63.040 – Stream Conservation Area Permit (Tier 2)**

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

#### **B. SCA (Tier 2) Project Review Procedure**

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

3. **Standard Management Practices.** The project shall incorporate any applicable Standard Management Practices on file in the CDA, except as determined in accordance with a Site Assessment (Tier 2) and applicable mitigations.
4. **Site Assessment (Tier 2).** The Site Assessment (Tier 2) shall encompass all requirements of the Site Assessment (Tier 1) and determine whether an additional setback is required to avoid adverse impacts to the SCA.

The Site Assessment (Tier 2) shall also include:

- a. Additional studies necessary to determine the extent of development impacts to hydraulic capacity, habitat and water quality including but not limited to hydrological assessments; stream and riparian habitat studies; and stormwater analysis. A hydraulic and/or geomorphic assessment of on-site and downstream drainageways that are affected by project run-off may be required where there is evidence that significant current or impending channel instability is present, as determined by the County. The hydraulic and/or geomorphic assessment shall include on-site channel or drainageway segments over which the applicant has control or access.
  - b. A description of mitigation measures that conform to criteria in Section C (Mitigation Criteria), and any additional mitigation measures that would avoid or reduce the adverse impact of the proposed development on hydraulic capacity, habitat, or water quality within the SCA. Such measures shall include feasible design and site specific measures, in addition to local, state and federal regulations. All such measures shall be incorporated into the project or be required through conditions of approval.
  - c. If the lot is not entirely within the SCA, the Site Assessment (Tier 2) shall also evaluate whether development on the lot entirely outside the SCA is infeasible and whether potential impacts on water quality, wildlife habitat, native vegetation, or other sensitive biological resources would be greater as a result of development outside the SCA than development within the SCA.
- C. Mitigation Criteria.** Where development would occur within an SCA, and adverse impacts to hydraulic capacity, habitat, or water quality are identified, mitigation shall conform to the provisions below and shall be incorporated into the project or be required through conditions of approval. The Site Assessment (Tier 2) shall present options for alternative mitigation that meet the following criteria.
1. When removal of riparian vegetation is unavoidable in an SCA, require establishment of native trees, shrubs, and ground covers at a rate sufficient to replicate, after a period of five years, the appropriate density and structure of vegetation removed. Replacement and enhancement planting shall be monitored and maintained until successful establishment provides for a minimum replacement or enhancement ratio of 2:1 (individuals planted: individuals removed).
  2. A condition of approval for the Stream Conservation Area Permit (Tier 2) shall require a schedule of mitigation work and development work. Mitigation shall be implemented prior to final inspection to minimize any short-term adverse impacts to hydraulic capacity,

habitat, or water quality. Mitigation plans must, to the extent feasible, be designed so that mitigations are self-sustaining.

#### **22.63.050 – Application Filing, Processing and Review**

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

#### **22.63.060 – Decision and findings**

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

- A. For a SCA (Tier 1) Permit:**
  - 1. The project meets the requirements of Section 22.63.030 (Stream Conservation Area Permit (Tier 1)).
  - 2. The project will not adversely alter hydraulic capacity; will not cause a net loss in habitat acreage, value or function; and will not degrade water quality.
- B. For a SCA (Tier 2) Permit:**
  - 1. The project meets the requirements of Section 22.63.040 (Stream Conservation Area Permit (Tier 2)).

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

## **SUBJECT 2:**

### **22.130.030 – Definitions of Specialized Terms and Phrases**

Definitions are listed in alphabetical order.

...

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

...

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

...

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

...

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

...

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

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

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

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

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

...

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

...

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

**SUBJECT 3:**

**22.06.050 – Exemptions from Land Use Permit Requirements**

The following activities, uses of land, and other improvements, are permitted in all zoning districts and do not require a land use permit; however, other permits may be required in compliance with Subsection H., below. The exemptions do not apply to development proposed in a Stream Conservation Area. See Chapter 22.33 (Stream Protection) and Chapter 22.63 (Stream Conservation Area Permit).

- A. **Decks, paths, driveways, and other minor improvements.** Decks, platforms, on-site paths, driveways, and other improvements that are not required to have building or grading permits by Title 19 of the County Code, and are not over 18 inches above grade and not over any basement or story below, except in the ARP, RSP, RMP, RX, CP, OP, RCR, RMPC, RF, and IP zoning districts.

- B. Governmental activities.** Official activities and development of the County, State or an agency of the State, or the Federal Government on land owned or leased by a governmental agency are exempt from discretionary permits except Coastal Permits.
- C. Irrigation.** The installation of irrigation lines.
- D. Interior remodeling.** Interior alterations that do not:
  - 1. Result in an increase in the gross floor area within the structure;
  - 2. Change the permitted use; and
  - 3. Change the exterior appearance of the structure.
- E. Repairs and maintenance.** Ordinary repairs and maintenance of an existing improvement, provided that the repairs and maintenance work do not:
  - 1. Result in any change of the approved land use of the site or improvement; and
  - 2. Expand or enlarge the improvement.
- F. Play structures.** Typical play structures and play equipment that are not required to have building or grading permits by Title 19 or Title 23 of the County Code and do not exceed 15 feet in height.
- G. Utilities.** Public utility facilities shall be exempt from the land use permit requirements of this Development Code only to the extent provided by Government Code Section 53091, and the California Public Utilities Code.
- H. Other permits may still be required.** A permitted land use that is exempt from a land use permit or has been granted a land use permit may still be required to obtain Building Permits or other permits before the use is constructed or otherwise established and put into operation. Nothing in this Article shall eliminate the need to obtain any other permits or approvals required by:
  - 1. Other provisions of this Development Code, including but not limited to any subdivision approval required by Article VI (Subdivisions);
  - 2. Other provisions of the County Code, including but not limited to Building Permits, Grading Permits, or other construction permits if they are required by Title 19, or a business license if required by Title 5; or
  - 3. Any other permit required by a regional, State or Federal agency.
  - 4. All necessary permits shall be obtained before starting work or establishing new uses.

**SUBJECT 4:**

**22.08.040 – Agricultural District Land Uses and Permit Requirements**

The uses of land allowed by this Chapter in each agricultural zoning district are identified in Table 2-1 (Allowed Uses and Permit Requirements for Agricultural and Resource-Related Districts) as being:

...

- E. **Agricultural Processing.** A Use Permit is required: (1) if any agricultural products to be processed are not produced on the same site or on other agricultural properties located in Marin County that are owned or leased by the processing facility owner or operator; or (2) if the building(s) or structure(s) used for processing activities exceed an aggregate floor area of 5,000 square feet. Agricultural products do not include additives or ingredients that are incidental to processing.
  
- F. **Sale of Agricultural Products.** A Use Permit is required: (1) if any agricultural products to be sold are not produced on the same site, or on other agricultural properties located in Marin County that are owned or leased by the sales facility owner or operator; or (2) if the building(s), structure(s), or outdoor sales area used for the retail sales activities exceed an aggregate floor area of 500 square feet.

**SUBJECT 5:**

*Delete Section 22.42.045 – Design Review for Development Along Anadromous Fish Streams and Tributaries.*

**SUBJECT 6:**

**22.42.025 – Exemptions from Design Review**

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

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

<b>Standards</b>		<b>One-Story Single-family Additions and Detached Accessory Structure</b>
Max. increase in building area		750 sq. ft. or 20% of the existing building area, whichever is less
Max. total building area		4,000 sq. ft. (3,000 sq. ft. where either the lot or the natural grade in the area of the building footprint has an average slope of > 25%) or the applicable floor area ratio (FAR) limit under the zoning district or in a Community Plan, whichever is more restrictive
Max. height	Single-family Addition	20 ft. or the coastal zoning height standards, whichever is more restrictive
	Detached Accessory Structure	15 ft. where either the lot or the natural grade in the area of the building footprint has an average slope that equals or is less than 25%  20 ft. where either the lot or the natural grade in the area of the building footprint has an average slope of > 25%
Min. lot area		Not applicable
Min. setbacks		5 ft. to all property lines on lots up to 6,000 sq. ft. 6 ft. to all property lines on lots up to 7,500 sq. ft. 10 ft. to all property lines on lots up to 10,000 sq. ft. 15 ft. to all property lines on lots > 10,000 sq. ft. (Or the required setbacks in a Community Plan or Master Plan, whichever is more restrictive)
Environmental Protection (Countywide Plan Consistency)		Outside of a Wetland Conservation Area
SFR Design Guidelines		Complies with Guideline C-1.11 (Exterior Lighting)

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

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

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

## **SUBJECT 7:**

### **22.42.055 – Project Review Procedures**

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

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

**SUBJECT 8:**

**22.56.050 - Decision and Findings for New Second Units.**

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

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**SUBJECT 9:**

**22.62.040 – Exemptions**

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

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

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

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

**SUBJECT 10:**

**CHAPTED 22.40 APPLICATION FILING AND PROCESSING, FEES**

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**22.40.020 – Review Authority for County Land Use and Zoning Decisions**

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

Type of Permit or Decision	(1) (2) Role of Review Authority			
	(3) Director	(3) Zoning Administrator	Planning Commission	Board of Supervisors
Coastal Permit, Administrative	Decide		Appeal Action	Appeal Action
Coastal Permit, Public Hearing	Recommend	Decide	Appeal Action	Appeal Action
Community or Countywide Plan Amendment	Recommend		Recommend	Decide
Design Review	Decide		Appeal Action	Appeal Action
Development Code Amendment	Recommend		Recommend	Decide
Floating Home Adjustment Permit	Decide		Appeal Action	Appeal Action
Floating Home Architectural Deviation	Decide		Appeal Action	Appeal Action
Interpretations	Decide		Appeal Action	Appeal Action

Lot Line Adjustment	Decide		Appeal Action	Appeal Action
Master Plan	Recommend		Recommend	Decide
Precise Development Plan	Decide		Appeal Action	Appeal Action
Sign Review	Decide		Appeal Action	Appeal Action
Stream Conservation Area Permit (Tiers 1 and 2)	Decide		Appeal Action	Appeal Action
Temporary Use Permit	Decide		Appeal Action	Appeal Action
Tentative Map	Recommend	Decide	Appeal Action	Appeal Action
Tidelands Permit	Decide		Appeal Action	Appeal Action
Tree Removal Permit	Decide		Appeal Action	Appeal Action
Use Permit	Recommend	Decide	Appeal Action	Appeal Action
Variance	Decide		Appeal Action	Appeal Action
Zoning Map Amendment	Recommend		Recommend	Decide

**Notes:**

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

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**22.40.030 – Application Submittal and Filing**

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

**Discretionary Permit Applications**

1. Design Review;
2. Floating Home Adjustment Permits and Architectural Deviations;
3. Master Plans or Precise Development Plans;
4. Temporary Use Permits;
5. Tentative Maps and Vesting Tentative Maps;
6. Lot Line Adjustments;
7. Stream Conservation Area Permit (Tier 2)

8. Tidelands Permits;
9. Tree Removal Permits
10. Use Permits;
11. Variances; and
12. Sign Reviews.

**Ministerial Planning Permit Applications**

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

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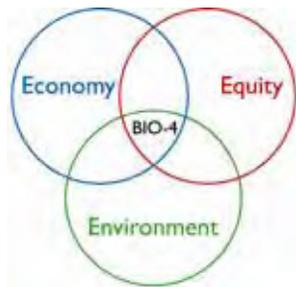


# MARIN COUNTYWIDE PLAN

**BIO-3.h** *Evaluate Wetlands Definitions.* Conduct a study to evaluate whether to continue to rely on the Army Corps of Engineers definition of wetlands outside of the Coastal Zone or to expand the use of the Coastal Zone (or “Cowardin”) definition to the entire county. The study should consider all of the following in developing a recommendation to the Board of Supervisors: (1) the effect of the expanded wetland definition when coupled with SCA and WCA requirements; (2) the extent of the geographic areas potentially affected by the expanded definition; (3) performance of wetland delineations for areas outside the Coastal Zone (in-house staff or consultants); (4) potential costs and workloads associated with delineations, administration, and appeals; (5) overall feasibility of implementation and enforcement responsibilities associated with an expanded definition; (6) benefits and challenges of a consistent definition throughout the county; (7) what percentage of wetlands would continue to be regulated by the Army Corps of Engineers; and (8) what percentage of cost could be paid for by the applicant.

## What Are the Desired Outcomes?

### 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 practices<sup>1</sup> 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

<sup>1</sup>Such as those outlined in *Start at the Source* and *Start at the Source Tools Handbook* (Bay Area Stormwater Managers Agencies Association).



## NATURAL SYSTEMS & AGRICULTURE ELEMENT

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 community 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 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*.



*Woody riparian vegetation* includes plants that have tough, fibrous stems; vines; and branches covered with bark and composed largely of cellulose and lignin. Characteristic woody riparian species include willow, alder, box elder, big-leaf maple, cottonwood, dogwood, elderberry, elk clover, thimbleberry, and California blackberry, among others. See glossary for additional information on stream characteristics and definitions.



## MARIN COUNTYWIDE PLAN

### *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.

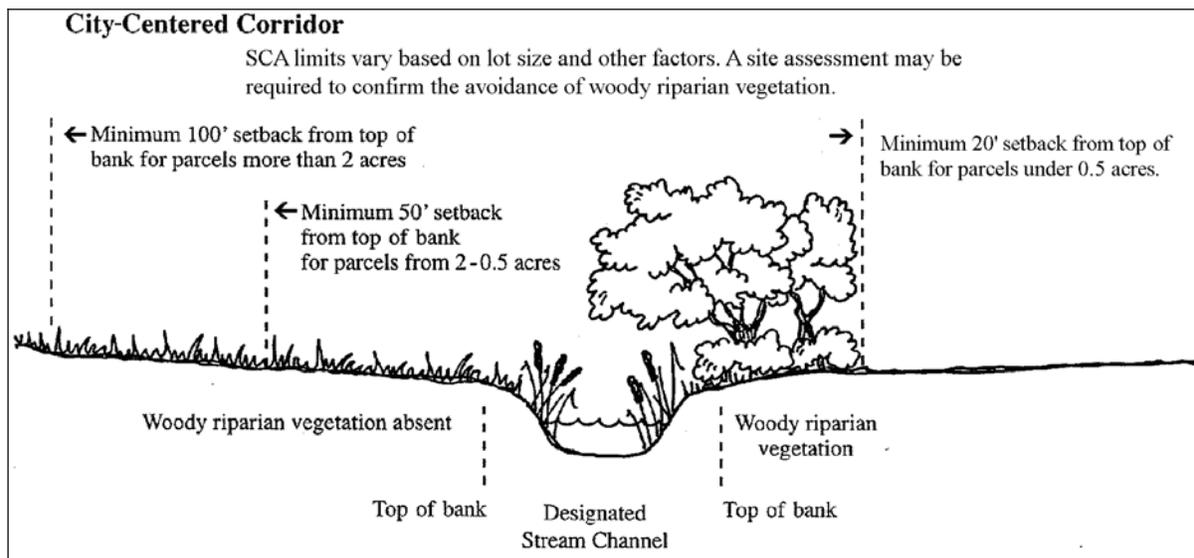


## NATURAL SYSTEMS & AGRICULTURE ELEMENT

**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.

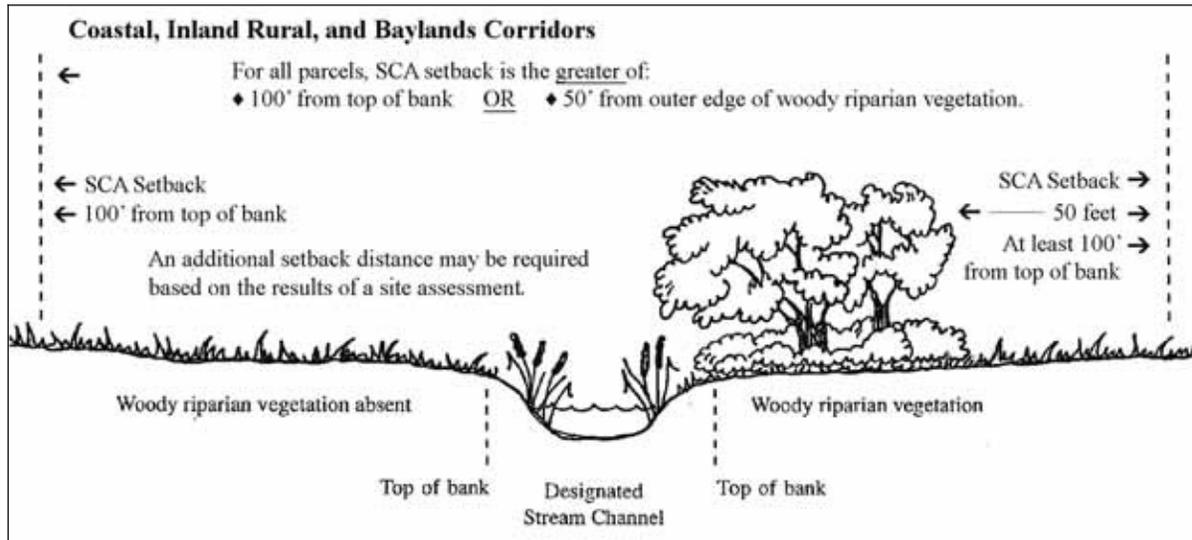
**Figure 2-2**  
**Typical Cross-Section of a Stream Conservation Zone**



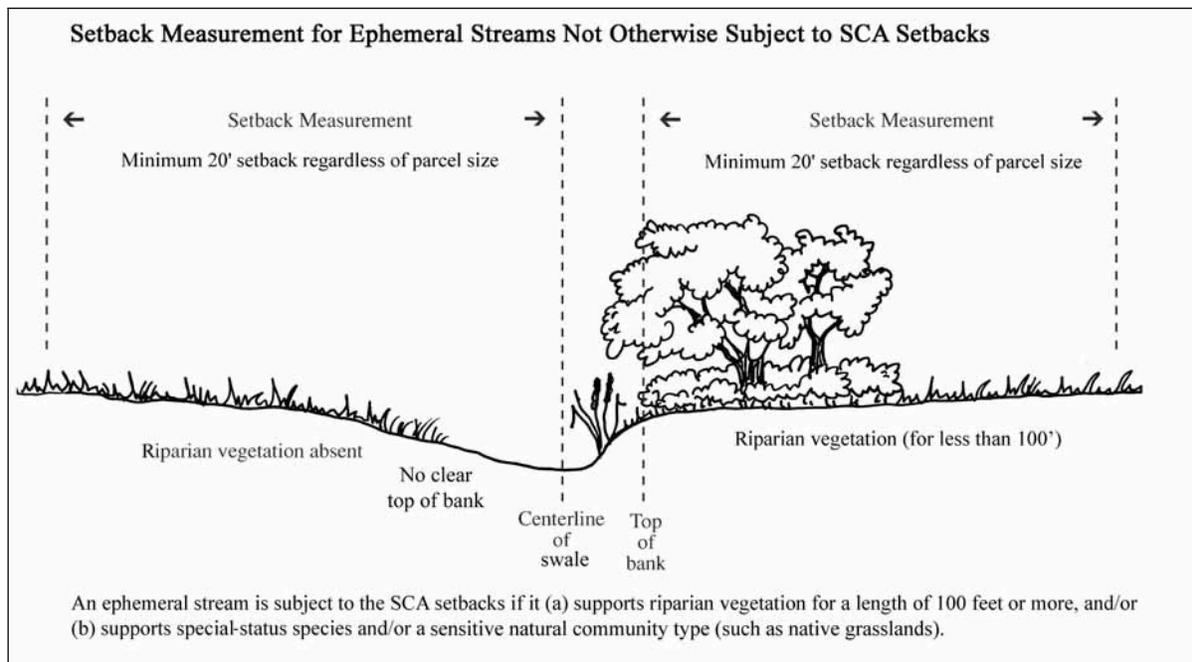
- ◆ Minimum setback distance of 100 feet from top of bank for parcels more than 2 acres.
- ◆ Minimum setback distance of 50 feet from top of bank for parcels between 2 and 0.5 acres.
- ◆ Minimum setback distance of 20 feet from top of bank for parcels less than 0.5 acres.
- ◆ A site assessment may be 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.



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- ◆ 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.



## NATURAL SYSTEMS & AGRICULTURE ELEMENT

- 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



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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.



## NATURAL SYSTEMS & AGRICULTURE ELEMENT

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, bioretention, 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.

### *Why is this important?*

Riparian habitats are irreplaceable, vital biological systems that provide critical functions for water purification, flood control, fish and wildlife movement, and native habitat. However, large portions of existing riparian systems have been eliminated by past stream channelization, agricultural expansion, and urban development.

**Environment:** Preserving and restoring riparian habitats is essential to maintaining habitat connectivity and improving degraded conditions for fish and wildlife species. Adequate setbacks and limitations on uses within designated Stream Conservation Areas are needed to minimize disturbance to sensitive resources and to maintain and improve wildlife habitat, flood protection, and water purification.

**Economy:** Maintaining healthy waterways and natural habitat areas is critical to the economic health and vitality of the county. Protecting and restoring native vegetation along riparian corridors minimizes



## MARIN COUNTYWIDE PLAN

potential erosion, downstream sedimentation, and water quality degradation. Directing development out of floodways reduces potential costly flood damage and loss.

**Equity:** Protecting and restoring riparian corridors provide an opportunity to link urban and natural areas to benefit human beings as well as native plants and wildlife. This expands the network of open space lands, areas for healthy recreation and exercise, an appreciation of natural systems, and aesthetic benefits.

### *How will results be achieved?*

## 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 and the “ephemeral stream” definition to confirm SCAs on parcels proposed for development. Add to and update the map on an ongoing basis as additional streams are surveyed.



## NATURAL SYSTEMS & AGRICULTURE ELEMENT

- 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.



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- 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



## NATURAL SYSTEMS & AGRICULTURE ELEMENT

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.

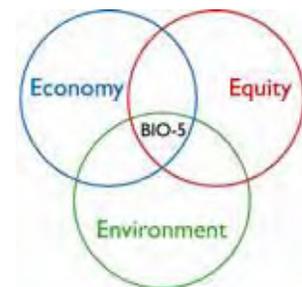
### What Are the Desired Outcomes?

#### GOAL BIO-5

**Baylands Conservation.** Preserve and enhance the diversity of the baylands ecosystem, including tidal marshes and adjacent uplands, seasonal marshes and wetlands, rocky shorelines, lagoons, agricultural lands, and low-lying grasslands overlying historical marshlands.

The Baylands Corridor is described in Maps 2-5a and 2-5b. While the mapped areas include lands within incorporated cities, the policies, programs, and implementation measures related to the Baylands Corridor apply only within unincorporated Marin County.

The Baylands Corridor consists of areas previously included in the Bayfront Conservation Zones in the 1994 Countywide Plan, as well as all areas included in Bayfront Conservation Zone overlays adopted since the 1994 Countywide Plan. The Baylands Corridor consists of land containing historic bay marshlands based on maps prepared by the San Francisco Estuary Institute. Based upon information contained in studies completed during the preparation of this Plan,



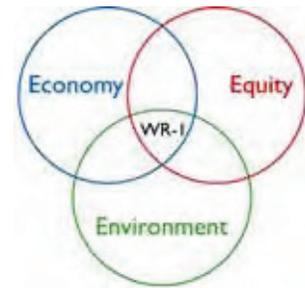


# NATURAL SYSTEMS & AGRICULTURE ELEMENT

## What Are the Desired Outcomes?

### GOAL WR-I

**Healthy Watersheds.** Achieve and maintain proper ecological functioning of watersheds, including sediment transport, groundwater recharge and filtration, biological processes, and natural flood mitigation, while ensuring high-quality water.



### Policies

- WR-1.1**      **Protect Watersheds and Aquifer Recharge.** Give high priority to the protection of watersheds, aquifer-recharge areas, and natural drainage systems in any consideration of land use.
- WR-1.2**      **Restore and Enhance Watersheds.** Support watershed restoration efforts, coordinate County watershed activities with efforts by other groups, and simplify permit acquisition for watershed restoration and enhancement projects.
- WR-1.3**      **Improve Infiltration.** Enhance water infiltration throughout watersheds to decrease accelerated runoff rates and enhance groundwater recharge. Whenever possible, maintain or increase a site’s predevelopment infiltration to reduce downstream erosion and flooding.
- WR-1.4**      **Protect Upland Vegetation.** Limit development and grazing on steep slopes and ridgelines in order to protect downslope areas from erosion and to ensure that runoff is dispersed adequately to allow for effective infiltration.

#### *Why is this important?*

According to the Bay Area Stormwater Management Agencies Association, watershed health suffers when impervious land coverage exceeds 10%. Impervious surfaces in Marin approach that threshold.

**Environment:** Sediment, pathogens, nutrients, and other chemical pollutants have devastating impacts on water quality and on watershed health and diversity. Local watershed areas vary from steep creek canyons with limited groundwater recharge capacity to tidal lands such as those bordering Tomales Bay. Tomales Bay alone is home to nearly 900 species of plants, 500 species of birds, and a mariculture industry. Proposed increases in the amount of paved and other unnatural surfacing should be carefully scrutinized and tightly controlled.

**Economy:** The use of best management practices and improvements in water quality, related regulations, and



*“People have a fundamental yearning for great bodies of water. But the very movement of the people toward the water can also destroy the water.”*

– Christopher Alexander, Sara Ishikawa, and Murray Silverstein, *A Pattern Language: Towns, Buildings, Construction* (Oxford, 1977)



## MARIN COUNTYWIDE PLAN

education are smart financial investments toward preventing watershed degradation, which can be costly to the local economy.

**Equity:** Water quality is vital to community health and prosperity. Pollutants from nonpoint sources and improperly functioning septic systems pose significant human and nonhuman health risks.

*How will results be achieved?*

### Implementing Programs

**WR-1.a** *Support Watershed Education and Outreach.* Continue to support and fund the Marin County Stormwater Pollution Prevention Program and local county stormwater program efforts to encourage residents to adopt practices that increase groundwater infiltration, and to educate them about how they can make a significant difference.



*“Wetlands have a poor public image. . . . Yet they are among the earth’s greatest natural assets . . . mankind’s waterlogged wealth.”*

— Edward Maltby,  
*Waterlogged Wealth*, 1986

**WR-1.b** *Establish Development Standards for Infiltration.* Establish qualitative standards to maximize groundwater infiltration and minimize surface water runoff based on criteria developed by the Bay Area Stormwater Management Agency Associates. Standards should regulate the amount of impervious surfaces; vary by project type, land use, building-site placement, soils, and area characteristics; and provide for water impoundments, protecting and planting vegetation, cisterns, and other measures, such as restricting wet weather grading to increase groundwater recharge and reduce sedimentation.

**WR-1.c** *Seek Watershed Assessment and Monitoring Assistance.* Pursue federal and State funding to conduct baseline assessments and trend monitoring of water quality, aquatic habitat, sensitive species, and restoration in County watersheds.

**WR-1.d** *Coordinate Watershed Efforts.* Work with land and water management agencies, community-based watershed restoration groups, and private property owners to explore methods and programs for maintaining and improving watershed health, including carrying out the actions recommended in the *Marin County and Tomales Bay Watershed Plans* and *Redwood Creek Watershed, Vision for the Future*, July 2003.

**WR-1.e** *Require Restoration of Degraded Areas.* Require replanting of vegetation and remediation of associated erosion in conjunction with requested land use approvals, especially those including roads and over-grazing on steep slopes.

**WR-1.f** *Require Stream Restoration Projects.* Require restoration of streams in conjunction with associated land use approvals to improve groundwater recharge and filtration and to ensure high-quality water. Restoration projects should follow the design principles of natural channel restoration utilizing geomorphic concepts.

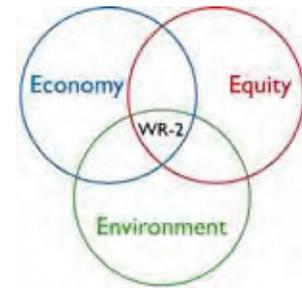


## NATURAL SYSTEMS & AGRICULTURE ELEMENT

### What Are the Desired Outcomes?

#### GOAL WR-2

**Clean Water.** Ensure that surface and groundwater supplies are sufficiently unpolluted to support local natural communities, the health of the human population, and the viability of agriculture and other commercial uses. (Policies on water availability are found in the Public Facilities and Services Section of the Built Environment Element.)



#### Policies

- WR-2.1**      **Reduce Toxic Runoff.** Reduce the volume of urban runoff from pollutants – such as pesticides from homes, golf courses, cleaning agents, swimming pool chemicals, and road oil – and of excess sediments and nutrients from agricultural operations.
- WR-2.2**      **Reduce Pathogen, Sediment, and Nutrient Levels.** Support programs to maintain pathogen and nutrient levels at or below target levels set by the Regional Water Quality Control Board, including the efforts of ranchers, dairies, agencies, and community groups to address pathogen, sediment, and nutrient management in urban and rural watersheds.
- WR-2.3**      **Avoid Erosion and Sedimentation.** Minimize soil erosion and discharge of sediments into surface runoff, drainage systems, and water bodies. Continue to require grading plans that address avoidance of soil erosion and on-site sediment retention. Require developments to include on-site facilities for the retention of sediments, and, if necessary, require continued monitoring and maintenance of these facilities upon project completion.
- WR-2.4**      **Design County Facilities to Minimize Pollutant Input.** Design, construct, and maintain County buildings, landscaped areas, roads, bridges, drainages, and other facilities to minimize the volume of toxics, nutrients, sediment, and other pollutants in stormwater flows, and continue to improve road maintenance methods to reduce erosion and sedimentation potential.
- WR-2.5**      **Take Part in Water Quality Education.** Continue to support local stormwater and community watershed group efforts to inform the public about practices and programs to minimize water pollution.

#### *Why is this important?*

Stormwater runoff is increasingly trapped above impervious surfaces picking up pollutants before running off into streams, lakes, and estuaries.



## MARIN COUNTYWIDE PLAN

**Environment:** Runoff from urban and agricultural uses is contributing to excessive pollutant levels in local streams and bays. Reducing the source volume of pollutants is necessary so that levels of sediment, nutrients, pathogens, and other pollutants do not threaten the health of natural and human communities.

**Economy:** Maintaining nonpolluted water sources supports local businesses that depend on clean water, including agriculture, mariculture, tourism, and recreation.

**Equity:** Ensuring that runoff is free of harmful pollutants is essential to maintaining healthy living and working conditions.

*How will results be achieved?*

### Implementing Programs

**WR-2.a** *Participate in Updating Standards.* Work with the Regional Water Quality Control Boards and interested parties in the development and implementation of reasonable and achievable standards for clean water. Participate in the development and implementation of Total Maximum Daily Load (TMDL) standards for impaired water bodies, both for pollutants from the built environment and from agricultural and rural activities as identified by the Regional Boards, to achieve to the maximum extent practicable compliance with adopted TMDLs. (See also Agriculture and Food Program AG-1.r.)



The State Porter-Cologne Act (enacted 1969) authorizes Regional Boards to address nonpoint sources through local watershed planning. The federal Clean Water Act (originally enacted 1972) emphasizes control of nonpoint pollutants such as nutrients, pathogens, and chemicals (in descending order of importance).

**WR-2.b** *Integrate Bay Area Stormwater Management Agencies Association (BASMAA) Stormwater Quality Protection Guidelines into Permitting Requirements for All Development and Construction Activities.* All projects should integrate stormwater pollution prevention design features for water quality protection to the extent feasible, such as those included in the BASMAA *Start-at-the-Source* manual and the *Tools Handbook*.

**WR-2.c** *Research and Implement Safe and Effective Alternative Waste Options.* Research the potential to expand the use of alternative waste disposal methods – such as pretreatment drip dispersal septic systems, graywater systems, composting toilets, waterless urinals, and other techniques – and community systems to help reduce the potential for contaminants to pollute water bodies and create human health hazards. Continue to allow carefully monitored demonstration projects for experimental systems to ensure consistency with local public health protection standards. Revise the appropriate codes to permit technologies and practices that prove safe and effective. (Also see Program PFS-2.p in the Public Facilities and Services Section of the Built Environment Element.)



## NATURAL SYSTEMS & AGRICULTURE ELEMENT

- WR-2.d** *Continue Alternative Septic/Waste System Monitoring.* Establish a Septic/Waste Alternatives Maintenance and Inspection Program to ensure the proper installation, maintenance, and use of alternative septic systems. Work with manufacturers, suppliers, and installers to provide guidelines for approvable alternative septic/waste systems.
- WR-2.e** *Continue Providing High-Priority Inspections.* Continue providing no-cost inspections of on-site wastewater systems if funds are available and make improvement recommendations to decrease impacts of high-priority systems near waterways.
- WR-2.f** *Continue Alternative Septic System Monitoring.* Conduct alternative septic system inspections and participate in manufacturer feedback regarding efficacy of the systems.
- WR-2.g** *Inspect Septage Haulers.* Review reports from septage haulers, and ensure compliance with health and safety requirements.
- WR-2.h** *Establish Additional County Service Areas.* Establish a Marshall County Service Area to relocate septic systems away from Tomales Bay, and to instigate monitoring of on-site septic systems in a risk-based, comprehensive, and cost-effective manner. The proposed boundary of the County Service Area should include the entire East Shore planning area. Additional County Service Areas should include the rural communities of Tomales and Nicasio. In addition to wastewater services, County Service Areas should provide water supply services.
- WR-2.i** *Establish a Septic Inspection, Monitoring, and Maintenance District.* Establish a countywide Septic Inspection, Monitoring and Maintenance District that would include all or portions of unincorporated areas with septic systems. Modify applicable codes to enable the inspection and monitoring of on-site septic systems in a risk-based, comprehensive, and cost-effective way. Establishment requires a petition or election to put the district in place.
- WR-2.j** *Continue Public Outreach Regarding Toxic Chemical Use.* Continue to educate homeowners, the public, businesses, and agricultural operators about toxicity issues related to use of pesticides, cleaning agents, and other commonly used chemicals through the Marin County Stormwater Pollution Prevention Program.
- WR-2.k** *Establish Educational Partnerships to Protect Water Quality.* Initiate discussions with the Regional Water Quality Control Board, Marin Resource Conservation District, University of California Cooperative Extension, Natural Resources Conservation Service, Marin County Stormwater Pollution Prevention Program, watershed groups, the public, stakeholders, and other interested parties to develop and implement public education programs and provide technical assistance to find alternatives and minimize erosion and sedimentation, pathogen and nutrient, and chemical sources of water pollution. This would begin with letters to establish a lead agency to direct the effort. It would include soliciting input from local, State, and federal recreation management



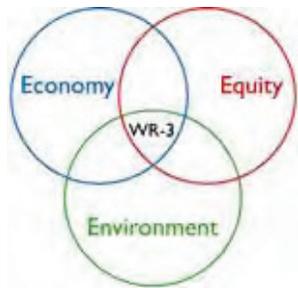
## MARIN COUNTYWIDE PLAN

agencies to educate boaters and other recreational groups regarding proper management and disposal of human waste.

- WR-2.l** *Implement County Ordinances.* Continue to implement County ordinances addressing nonpoint source pollution, erosion and sediment control, and surface runoff pollution control plans to ensure that project-related and cumulative impacts to water quality standards are minimized or avoided through conditions of project approval as required by the ordinances.
- WR-2.m** *Nontoxic Building Materials Standards.* Consider adoption of standards for nontoxic exterior building materials to reduce the potential of toxics entering stormwater.
- WR-2.n** *Implement Least Toxic Methods for Maintenance and Pest Control.* Utilize Integrated Pest Management (IPM) practices for County facilities. Develop a maintenance program for all County facilities that specifies least toxic methods. Minimize the need for toxic materials by designing and constructing facilities and landscaping to be durable, easily maintained, and pest resistant.
- WR-2.o** *Establish a Groundwater Monitoring Program for Unincorporated County Areas.* Establish a countywide groundwater monitoring program that would include all or portions of unincorporated areas that use groundwater. Conduct periodic water level measuring and water quality sampling with regular reporting (at least annually) to the Board of Supervisors.

### What Are the Desired Outcomes?

#### GOAL WR-3



**Adequate Water for Wildlife and Humans.** Ensure that the available supply of surface and groundwater is used responsibly, so that the needs of both wildlife and human populations are met.

#### Policies

**WR-3.1 Conserve Water and Develop New Sustainable Sources.** Reduce the waste of potable water through efficient technologies, conservation efforts, and design and management practices, and by better matching the source and quality of water to the user's needs.

- WR-3.2** *Mitigate Water Demand in New Development.* Assess and mitigate the impacts of new development on potable water supplies and water available for wildlife.

**From:** [peggycreeks@comcast.net](mailto:peggycreeks@comcast.net)  
**To:** [Kinsey, Steven](#); [Sears, Kathrin](#); [Crosse, Liza](#); [Crawford, Brian](#); [Lai, Thomas](#); [Thorsen, Suzanne](#)  
**Cc:** [Niz Brown](#)  
**Subject:** Homeowners Must Have Seats at the Table, for Re-drafting CWPlan and New Stream Ordinance  
**Date:** Tuesday, June 25, 2013 2:26:16 PM

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To: Supervisor Steve Kinsey, Supervisor Kathrin Sears,  
Supervisor Aide Liza Crosse  
Community Development Agency--Brian Crawford,  
Tom Lai, Suzanne Thorsen

From: San Geronimo Valley Stewards  
Niz Brown 308-3900  
Peggy Sheneman 488-4426

We appreciate the decision of the Board of Supervisors to refer to your Subcommittee the process for amending CountyWide Plan BIO-4 and redrafting the stream conservation ordinance.

At the June 18 Board meeting, San Geronimo Valley Stewards listened to the Supervisors' comments and the many good ideas presented by other speakers. We believe there is an opportunity for stakeholders to reach consensus on some issues that previously divided the groups.

#### Active Role for Homeowners

Now is the time for homeowner groups to actively participate in redrafting CWPlan BIO-4 and the new stream ordinance. For the past six years, people who own land along creeks have watched from the sidelines. The County and self-appointed environmental groups insist on moratoriums, extensions, salmon advisory plans, ordinances and injunctions. The results have been announced to the populace in massive public meetings, where homeowners have 3 minutes to speak and few people listen to other viewpoints.

You have an opportunity to break this pattern, which so far has resulted in failure. We still have no stream protection program, no stream ordinance, and no resolution of the Spawn litigation.

Success will come only when homeowners sit at the table with County officials and environmental groups as equal partners. Respectful patient discussion of alternatives, compromises, and new approaches would serve common interests.

#### Invite Representative Groups to Working Sessions.

We request the County schedule a series of Working Sessions, with each homeowner group and environmental group entitled to send two representatives of their choosing. (We are busy with work and family obligations, so allow each group to

select alternate representatives.)

The scope of the Working Sessions should include:

- the current EIR for current CWPlan BIO-4,
- recent update of cumulative impact report,
- 2009-10 ECR and SEP report,
- scope and process for Supplemental EIR to amend BIO-4,
- Amendments to CWPlan BIO-4,  
acknowledging different locales,
- a permanent countywide stream ordinance,  
consistent with BIO-4 amendments.

### Geographic Areas.

Ms. Thorsen made a chart of the 3,600 lots in various geographic communities that fall within the stream conservation area. (See PC Staff Report, April 1, 2013, Item No. 4, page 7.) Homeowner groups from these communities (whether formal associations or informal organized neighbors) should be included:

#### Existing Homes Near Streams in Planned or Conventional Zoning Areas

San Geronimo Valley	955
Lucas Valley & Marinwood	388
Tam Valley & Almonte	284
Kentfield Greenbrae	214
Sleepy Hollow	81
Indian Valley	60

The large number of streamside homes in San Geronimo (as compared to other areas) may be due to the County having mapped ephemeral streams in our area, while other area maps are (currently) limited to perennial and seasonal streams.

In addition, Ms. Thorsen lists 162 vacant lots in the San Geronimo Valley, of which 95 are sufficient size for potential development. (2010 SEP Report pages 2-27 and 2-28.) Each of the other geographic areas has a handful of vacant lots.

We have been informed Kent Woodlands has an active homeowners association with 46 homes, and we are not sure if these are included in the chart. Two comments from Kent Woodlands were received for the June 18 Board meeting.

The chart also lists over 1,000 lots as "other unincorporated". We are not sure if that includes lots owned by schools, government agencies, ranches, or whomever.

### Meeting Agendas Should Focus on Important Issues

The purpose of the Working Sessions would be to amend the CWPlan BIO-4 and outline a permanent stream conservation ordinance that would apply to the entire County and would relieve San Geronimo Valley of the "temporary" stream ordinance

Supervisor Kinsey proposes.

However, the CWPlan amendments and the stream ordinance must accommodate the differing topography, biology, and human social development in each area of the County. One size does not fit all.

Each meeting agenda should focus on a few important issues, and allow adequate time for discussion of each issue. This is not a speed race, but a search for middle ground and accommodation of diverse interests. Some suggested topics:

- setbacks and other protections for fish-bearing main stem creeks
- setbacks and alternative protections for perennial and seasonal streams
- new structures site planning (coverage ratios, flood elevation, etc.)
- ephemeral creeks: definitions, functions, limited protections
- creek restoration and flood control
- future stream mapping
- riparian vegetation and trees
- existing homes and second units
- exemptions for homes and small lots
- Tier 1 permits for homes and small lots
- site assessments: triggers, scope, who does it, who pays
- site assessment impacts and development standards
- positive incentives and collaborative partnering with govt agencies and NGO's
- ombudsman to assist homeowners navigate the dozen federal, state and local agencies regulating creeks

We encourage the County to ask other neighborhood and environmental groups for their suggested topics and agendas.

Each topic should be considered by the entire Working Session. We ask you not divide us into "little circles" to discuss discrete issues and "report back" to the whole group. We have attended six years of such County meetings, and this method accomplishes nothing, because it dilutes major concerns and dampers the discovery of commonality among attendees. We also do not care to wander the room posting sticky tabs on little easels. Please, let's make the most of our time.

San Geronimo Valley Stewards has participated for three years in regular meetings of the Lagunitas Creek Technical Advisory Committee (TAC). This group holds constructive discussions among 12 government agencies, plus various homeowner groups and NGO's so we know it can be done.

As the meetings progress, some groups may drop out. Other homeowner groups are just now getting organized and later may ask to join. Please remain flexible.

Meetings should be open for any member of the public to observe. Public comments or questions should be channeled through the representative groups, so we don't bog down in hours of 3 minute speeches.

### Funding for Neighborhood Groups.

Homeowners and community groups depend on hours of volunteer services. We do not have paid staff.

We rely on individual donations, and do not receive taxpayer dollars as grants or contracts, which are sources for many (but not all) environmental groups who have commented on the stream issues.

The County should budget or assist in obtaining grants for homeowner groups to consult with outside experts in biology, hydrology, environmental law and land use planning. Seed money from the County would facilitate homeowner groups pooling resources and would encourage volunteers and donors to contribute to the effort.

### Conclusion.

San Geronimo Valley Stewards look forward to meeting with all groups of good will, and trust that this fresh approach may encourage reasonable accommodations. Thank you for your consideration.

**From:** [BOS](#)  
**To:** [Albert, Tanya](#); [Alden, Leslie](#); [Clark, Susannah](#); [Crosse, Liza](#); [Escobar, David](#); [Fraits, Rick](#); [Laird, Sandy](#); [Parton, Maureen](#); [Vernon, Nancy](#); [Weber, Leslie](#)  
**Cc:** [Thorsen, Suzanne](#)  
**Subject:** FW: Fax Message NO.6728  
**Date:** Monday, July 01, 2013 1:35:35 PM  
**Attachments:** [20130701121904162.tif](#)

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This fax message was received through the email address link for sending one email to all Supervisors. Please forward as you deem appropriate.

-----Original Message-----

From: Savin6055@marincounty.org [<mailto:Savin6055@marincounty.org>]  
Sent: Monday, July 01, 2013 9:19 AM  
To: BOS  
Subject: Fax Message NO.6728

This E-mail was sent from "RNPE6830B" (C6055).

Queries to: [Savin6055@marincounty.org](mailto:Savin6055@marincounty.org)



**Salmon Protection And Watershed Network**

PO Box 370 • Forest Knolls, CA 94933  
9255 Sir Francis Drake Blvd. • Olema, CA 94950  
Ph. 415.663.8590 • Fax 415.663.9534

*www.SpawnUSA.org*

1 July 2013

TO: MARIN COUNTY SUPERVISORS

RE: **MARIN COUNTY STREAM CONSERVATION ORDINANCE  
SIGNATURES IN SUPPORT OF A STRONG, SCIENCE-BASED ORDINANCE  
TO PROTECT ENDANGERED COHO SALMON**

On behalf of the supporters of SPAWN's efforts to ensure a strong science-based ordinance to protect endangered coho salmon and the critical riparian habitat this species depends on, we respectfully submit the following additional signatories for the administrative record. These signatories **are in addition to** the approximate 2,100 previously submitted before June 18, 2013.

We have sorted these by zip codes to enable Supervisors to identify supporters in their respective districts.

Thank you for your consideration.

**From:** [Andrea Taber](#)  
**To:** [Kinsey, Steven](#); [Rice, Katie](#); [Sears, Kathrin](#); [Arnold, Judy](#); [Adams, Susan](#); [Lai, Thomas](#); [Thorsen, Suzanne](#)  
**Cc:** [beth\\_descala](#)  
**Subject:** Marin Stream Conservation and Restoration Trust (MAST)  
**Date:** Tuesday, July 02, 2013 9:01:59 AM

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

We are in the very initial stage of forming an incentive based nonprofit ([marinstreams.org](http://marinstreams.org)) to address the issues identified in the SCA Ordinance and restore and conserve Marin County stream corridors. Since the success of the conservation easement component of our nonprofit is directly correlated with the timing of the SCA Ordinance adoption, we urge you to please include us in the discussion moving forward. Our goal is to work in a collaborative fashion with environmental groups, property owners, and the County in putting forth a program which incentivizes property owners to take measures to restore stream corridors in unincorporated Marin County.

We are available to discuss the formation of MAST at your convenience and look forward to hearing from you soon. Thank you very much.

Sincerely,

Andrea Taber  
Beth DeScala

Collaborating organizations include

Marin Conservation League \* Marin Audubon Society \* Marin Baylands Advocates \* Sierra Club Marin Group  
Salmon Protection and Watershed Network \* San Geronimo Valley Planning Group

July 3, 2013

Supervisors Steve Kinsey and Kate Sears  
Marin County Board of Supervisors  
3501 Civic Center Drive  
San Rafael, CA 94903

Re: Supervisors' Task Force on Stream Conservation Ordinance

Dear Supervisors Kinsey and Sears:

It's time to act to recover the health of our waterways!

Marin County's creeks and the creatures that depend on them for survival are in crisis mode. This has resulted from decades of structures, roads, levees, dams and parking lots replacing native landscape; recreational overuse; excessive runoff, and a growing list of pollutants entering waterways that can sicken wildlife and humans alike. This letter presents Community Marin's recommendations to address these critical problems.

You are heirs to a long legacy of leadership in a county nationally admired for its protection of the environment. We have waited too long, however, to ensure the long-term health of creeks that are the connective tissue for a natural world that is beyond value. Community Marin recommends the Board of Supervisors do the following:

1. Adopt a stream conservation ordinance with strong and reasonable standards that will accomplish the vision set forth in the Countywide Plan: *To protect the active channel, water quality and flood control functions, and associated fish and wildlife habitat along streams.* Among its features the ordinance should achieve the following, as recommended in *Community Marin 2013*, which has been adopted by Marin's major environmental organizations.

- Build on the watershed-based planning which your board has so capably begun.
- Support natural year-round creek flows and protective policies.
- Implement the 2007 Countywide Plan stream and creek protection policies and enforce them to protect all ephemeral, intermittent, and perennial streams.
- Provide adequate buffers and natural habitat along streams that help maintain hydraulic capacity, stabilize channels, manage stormwater, and alleviate flooding.
- Reduce or eliminate disturbances that might alter runoff such as loss of riparian vegetation and erosion.
- Prevent adverse changes to the chemistry and biology of streams and runoff.
- Improve water filtration by prohibiting further impervious pavement surfaces in the Stream Conservation Area.

This ordinance could be used as a model for the cities and towns.

2. Embrace and use the Countywide Plan that was developed and approved in partnership with the public over years of intensive research, review, and hearings. It guides our land use for the coming decades and contains prudent and well-defined environmental protections. Do not weaken this document.

3. **Act immediately to protect and nurture Coho** in the Lagunitas Creek watershed. This once abundant species is fighting for survival in Marin County as well as statewide. The Lagunitas Creek watershed supports 10 to 20 percent of the California Central Coast Coho and this population is recognized as nationally significant, with numerous State of California and federal agencies working toward its recovery. Marin County's support for this species' survival can be viewed as a touchstone gauge of our environmental ethic.

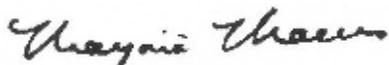
**Coho recovery is crucial. They need protection now, not in the future.**

4. Utilize the broad stream conservation ordinance to develop detailed plans customized to each of the county's watersheds and to set priorities and specific timelines for implementation.

At a time when so much government seems to be in the hands of those who would exploit the natural world, when the bottom line often trumps the environment, we look to Marin County's elected leaders to defend nature and set an example for others to follow.

Thank you for this opportunity to comment.

Yours truly,



Marge Macris, Community Marin Chair  
Environmental Action Committee of West Marin  
Marin Audubon Society  
Marin Baylands Advocates  
Marin Conservation League  
Salmon Protection and Watershed Network (SPAWN)  
San Geronimo Valley Planning Group  
Sierra Club Marin Group  
Watershed Alliance of Marin

CC: Marin County Board of Supervisors  
Brian Crawford, Community Development Agency  
Tom Lai, Community Development Agency  
Marin County Planning Commission

**From:** [Stratton, Debra](#)  
**To:** [Crawford, Brian](#); [Lai, Thomas](#); [Thorsen, Suzanne](#); [FYI](#)  
**Subject:** FW: MAST - Marin Stream Conservation and Restoration Trust  
**Date:** Friday, July 05, 2013 9:41:00 AM

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FYI

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**From:** beth descala [mailto:[bethdescala@gmail.com](mailto:bethdescala@gmail.com)]  
**Sent:** Friday, July 05, 2013 9:39 AM  
**To:** [bethdescala@gmail.com](mailto:bethdescala@gmail.com) descala  
**Subject:** MAST - Marin Stream Conservation and Restoration Trust

As a result of public dissatisfaction with the draft Stream Conservation Area Ordinance, the Board of Supervisors voted on June 18 to form a subcommittee to reconsider the details and implications of the current draft. This delay provided an opportunity to create an incentive based program for the preservation of stream corridors in unincorporated Marin County. We wanted to let you know that we are in the initial stages of forming a new nonprofit called "Marin Stream Conservation and Restoration Trust" (MAST) at [marintreams.org](http://marintreams.org). The mission of MAST is to promote responsible stream conservation and restoration initiatives in Marin County through conservation easements, education, incentives, and creek stewardship through the collaboration of environmental organizations, property owners, and agencies. We believe that this platform will create a balanced and win/win scenario for the environment, as well as property owners.

Thank you for your support and interest in the Stream Conservation Area Ordinance. We value your input and creative ideas as we move forward and will keep you informed of our progress.

Andrea Taber [ataber@marinstreams.org](mailto:ataber@marinstreams.org)  
Beth DeScala [bdescala@marinstreams.org](mailto:bdescala@marinstreams.org)

July 7, 2013

To: SCA Task Force, Supervisor Kinsey and Sears  
3501 Civic Center Drive, San Rafael, CA 94903

Re: Task Force assignment

Note: Following letter is attached.

Dear Supervisors Kinsey and Sears:

As you take on the task assigned to you by Board President Judy Arnold, we, the undersigned collaborating environmental organizations in Marin, ask you to please keep the following key recommendations uppermost in your considerations . . .

1. Focus on the objectives so well-articulated in the Countywide Plan: *To protect the active channel, water quality and flood control functions, and associated fish and wildlife habitat along streams.* County policies that support these objectives have endured 40 years, through three rigorous Countywide Plan updates, and should not be rewritten or weakened. They have played a critical role in helping to keep our creek side environments protected and improved, and to rewrite them at this point sets a dangerous precedent for other major policies. Your decisions should be consistent with these fundamental objectives and policies.
2. Work toward creative solutions that retain and enhance healthy streamside habitat, and protect endangered (salmon) and threatened (steelhead trout) species.
3. Base your decisions for protection *and necessary enhancement* of the creek side environment on science and well-documented research. The County's substantial investment in the Salmon Enhancement Plan provides a strong foundation, reinforced by numerous other research efforts and reports. Vital decisions can only benefit from solid information that provides a basis for action and measuring results.
4. Consider how the Ordinance is implemented to be almost as important as the Ordinance itself. Implementation programs such as the Landowner's Assistance Program, funding an Outreach Coordinator at DPW, a "Streamside Compliant" designation to reward landowners' stewardship, and other volunteer programs like those already practiced in the San Geronimo Valley and elsewhere – *supported by the standards of a strong Ordinance* – will offer the best chance of protecting an invaluable County resource, now and into the future.
5. As a practical consideration, bear in mind that the more effective the Ordinance is, the more likely it is to attract funding from other sources to supplement the County's own funds.
6. Before 'grandfathering' all non-legal development, ensure that an attempt is made to assess the extent of illegal properties – e.g., dangerous or harmful building conditions – that could be 'legalized' to the detriment of all. Be wary of setting a precedent that rewards illegal activity and indirectly harms those who have followed the rules. In particular, the County should recognize those residents who have developed their properties according to County regulations, or foregone development altogether.
7. Base acceptable standards for setbacks on the needs of streamside environments that, fortunately, *still support viable populations of endangered and threatened species or have great potential for restoring them*, not on setbacks in geographic environments that have already lost these species. "Benchmarking" should set a desirable standard, not one that has resulted in no improvement or degradation.
8. Respect the time, money, and effort that have been expended by stakeholders over many years – including using the force of legal remedies – in keeping our creek side environments in a state where they still *can* be protected and improved. These efforts deserve acknowledgment for their furthering the objectives of the Countywide Plan and they deserve, in turn, to be supported by an implementing Ordinance.

9. Finally, this is your opportunity to perpetuate Marin County's long-standing legacy of leadership by establishing sound environmental policy. Beyond that, you have an obligation to protect and enhance a resource of critical state and federal importance – the coho salmon and steelhead trout. The courage and leadership that you bring are qualities needed to move the County forward to meet the goals of the SCA Ordinance.

Signed, in collaboration, by the following Marin environmental organizations:

- Environmental Action Committee of West Marin - Amy Trainer, Executive Director
- Marin Conservation League - David Schnapf , President
- Mill Valley StreamKeepers, Joyce Britt, Contact person
- San Geronimo Valley Planning Group - Jean Berensmeier, Chair
- Sierra Club Marin Group - Michele Barni, chair
- SPAWN (Salmon Preservation and Watershed Network) - Todd Steiner, Executive Director
- Watershed Alliance of Marin, Contact Laura Chariton - Director

cc: Marin County Board of Supervisors

Brian Crawford, Director - Community Development Agency

Tom Lai, Deputy Director - Community Development Agency

Suzanne Thorsen, Planner - Community Development Agency

Bob Beaumont, Director - Dept. of Public Works

Liz Lewis, Principal Planner - Dept. of Public Works

**From:** [Andrea Taber](#)  
**To:** [Rice, Katie](#); [Sears, Kathrin](#); [Arnold, Judy](#); [Kinsey, Steven](#); [Adams, Susan](#); [Lai, Thomas](#); [Thorsen, Suzanne](#)  
**Cc:** [Beth DeScala](#)  
**Subject:** Marin Stream Conservation and Restoration Trust (MAST) Executive Summary  
**Date:** Friday, July 12, 2013 8:32:06 AM  
**Attachments:** [MAST-Executive Summary.docx](#)  
[ATT00001.htm](#)

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

We are working hard on the development of MAST and excited about the opportunities it presents for the Marin County environmental community, as well as property owners. Attached please find our initial Executive Summary. It is a work in progress and we value your feedback and suggestions.

Wishing you a pleasant weekend.

Kind regards,

Andrea Taber  
Beth DeScala

# MAST

Marin Stream  
Conservation & Restoration Trust



## Executive Summary

The “Marin Stream Conservation and Restoration Trust” (MAST) is a citizens’ group<sup>1</sup> which has formed in response to Marin County’s widespread and passionate interest in protecting and restoring its fresh water streams and the wildlife that they shelter. The mission of MAST is the following:

*To promote responsible stream conservation and restoration initiatives in Marin County, utilizing conservation easements, education, incentives, and creek stewardship measures, through the collaboration of environmental organizations, property owners, and public and private agencies.*

In order to promote creek stewardship and maximize financial incentives for property owners located within stream corridors in unincorporated Marin County, MAST initiatives will be designed and implemented in coordination with the adoption by the Board of Supervisors in the future of an ordinance governing development within the County’s riparian corridors. However, MAST envisions not only protection of the streams but also restoration of streams already impacted by development, particularly in the urban areas in eastern Marin. MAST’s goals include restoring much of the ancient spawning habitat in the urban areas of Marin, enabling Marin residents to live in close proximity to several healthy populations of anadromous fish. Thus, MAST’s mission will go far beyond what the ordinance can be expected to accomplish.

The Stream Conservation Area policies and programs identified in the 2007 Marin Countywide Plan are intended “to protect the active water channel, water quality and flood control functions, and associated fish and wildlife habitat values along streams in unincorporated Marin County”. MAST will develop a phased implementation strategy for the Inland Rural Corridor and City-Centered Corridor as identified in the Countywide Plan. These corridors are defined by natural boundaries formed by north and south running ridges and include a significant number of private properties within the Stream Conservation Area. Additional corridors will be considered at a later date.

Comprehensive planning studies and environmental reports by Marin County and private consultants which document existing conditions of declining anadromous fish populations and overall stream corridor health have been completed. Recommendations and policies to protect the salmon, restore the riparian corridor, increase wildlife habitat, improve water quality, and restore stream corridor ecological health and balance have been identified and documented. These include the following: 1) Protect and restore existing riparian habitat; 2) Protect areas that provide habitat for wildlife; 3) Stabilize stream banks; 4) Prevent sediments from degrading stream corridors; 5) Decrease total impervious surface area; 6) Develop a riparian management plan with fire officials; 7) Reduce invasive plant populations

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<sup>1</sup> MAST is being formed as a California 501(c)3 Nonprofit Public Benefit Corporation.

# MAST

Marin Stream Conservation & Restoration Trust

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and encourage planting of native species; and 8) Design and implement an overall stream bank rehabilitation program.

It is the intent of MAST to utilize these recommendations and policies to identify and structure funding mechanisms which will enable stream side property owners and residents to implement, on a voluntary basis, environmentally beneficial improvements. Voluntary landowner incentive programs may include planning assistance, site assessments by technical experts, vegetation consultation, funding, and construction. A comprehensive community outreach and educational program will be established and implemented.

In addition to identifying funding sources and securing and managing grant funding to assist homeowners in implementing enhancement projects, MAST will create and utilize a conservation easement program as a tool for compensating landowners for properties identified for natural resource protection and conservation. Parcels which have a healthy riparian habitat and are adjacent to high functioning or critical stream corridors will be given near-term priority. The conservation easement program will be identified and implemented in Phase 1 of MAST program development, so that it can be closely timed with the implementation of the Stream Conservation Area Ordinance. Additional funding opportunities for landowner assistance will be available on an ongoing basis.

Many Marin residents choose to live in the County because they greatly appreciate the extraordinary natural environment and the value that is placed upon its preservation and conservation. MAST is an organization that supports a balanced approach between environmental protection and the rights of property owners and the inherent belief and conviction that it can be accomplished through collaboration between environmental groups, organizations, agencies, and property owners.

## THE MAST TEAM

ANDREA TABER is an accomplished environmental professional & entrepreneur. She has been part of the leadership team of four successful startup companies, including three companies which pioneered important innovations in sustainable energy. As an environmental planner for the National Park Service, she led the creation of the Santa Monica Mountains National Recreation Area for the NPS. She has managed large construction projects, including portions of the 1200 MW Helms Hydroelectric Facility in California. She has served as a board Member of the Women's Environmental Network and as the founder of the Bay Area chapter of Women of Wind Energy. She studied landscape architecture and environmental planning at the University of Michigan and at U.C. Berkeley.

BETH DESCALA, a native Californian, is a graduate of San Francisco State with a BS in Biology and a master's in education. After 7 years of teaching school in California, Texas, and Germany she returned to Marin County and worked for the next several years in a family business. From 1998 - 2008 she ran a retail business in San Anselmo. Since 2008, she has been volunteering, traveling, and working in local environmental causes.

# MAST

Marin Stream Conservation & Restoration Trust

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For further information please contact:

- Andrea Taber | +1 415 269 1848 | ataber@marinstreams.org
- Beth DeScala | +1 415 608 9391 | bdescala@marinstreams.org

<http://marinstreams.org/>

**From:** [peggycreeks@comcast.net](mailto:peggycreeks@comcast.net)  
**To:** [Kinsey, Steven](#); [Sears, Kathrin](#); [Crawford, Brian](#); [Lai, Thomas](#); [Thorsen, Suzanne](#)  
**Cc:** [Niz Brown](#)  
**Subject:** Response to SGVStewards June 25 letter "Seats at the Table"?  
**Date:** Monday, July 22, 2013 3:09:58 PM

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**From:** Peggy Sheneman and Niz Brown  
San Geronimo Valley Stewards

We read in the Sunday Marin IJ that Supervisors Kinsey and Sears "are meeting privately with partisans" and staff to determine policies for the stream ordinance and Countywide Plan amendments.

We have had no response from any County official to our June 25 letter (below). Please tell us this is not a repeat of the failed process used repeatedly over the past 6 years.

Private meetings, followed by announcement of a "plan", and then 3 minutes of public comment?

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**From:** [peggycreeks@comcast.net](mailto:peggycreeks@comcast.net)  
**To:** "Supvsr. Kinsey" <[skinsey@marincounty.org](mailto:skinsey@marincounty.org)>, "Supervsr. Sears" <[KSears@marincounty.org](mailto:KSears@marincounty.org)>, "Liza Crosse" <[LCrosse@marincounty.org](mailto:LCrosse@marincounty.org)>, "Director Crawford" <[BCrawford@co.marin.ca.us](mailto:BCrawford@co.marin.ca.us)>, "Thomas Lai" <[TLai@co.marin.ca.us](mailto:TLai@co.marin.ca.us)>, "Suzanne Thorsen" <[SThorsen@marincounty.org](mailto:SThorsen@marincounty.org)>  
**Cc:** "Niz Brown" <[niz@niz.com](mailto:niz@niz.com)>  
**Sent:** Tuesday, June 25, 2013 2:26:07 PM  
**Subject:** Homeowners Must Have Seats at the Table, for Re-drafting CWPlan and New Stream Ordinance

To: Supervisor Steve Kinsey, Supervisor Kathrin Sears,  
Supervisor Aide Liza Crosse  
Community Development Agency--Brian Crawford,  
Tom Lai, Suzanne Thorsen

**From:** San Geronimo Valley Stewards  
Niz Brown 308-3900  
Peggy Sheneman 488-4426

We appreciate the decision of the Board of Supervisors to refer to your Subcommittee the process for amending CountyWide Plan BIO-4 and redrafting the stream conservation ordinance.

At the June 18 Board meeting, San Geronimo Valley Stewards listened to the Supervisors' comments and the many good ideas presented by other speakers. We believe there is an opportunity for stakeholders to reach consensus on some issues that previously divided the groups.

Active Role for Homeowners

Now is the time for homeowner groups to actively participate in redrafting CWPlan BIO-4 and the new stream ordinance. For the past six years, people who own land along creeks have watched from the sidelines. The County and self-appointed environmental groups insist on moratoriums, extensions, salmon advisory plans, ordinances and injunctions. The results have been announced to the populace in massive public meetings, where homeowners have 3 minutes to speak and few people listen to other viewpoints.

You have an opportunity to break this pattern, which so far has resulted in failure. We still have no stream protection program, no stream ordinance, and no resolution of the Spawn litigation.

Success will come only when homeowners sit at the table with County officials and environmental groups as equal partners. Respectful patient discussion of alternatives, compromises, and new approaches would serve common interests.

Invite Representative Groups to Working Sessions.

We request the County schedule a series of Working Sessions, with each homeowner group and environmental group entitled to send two representatives of their choosing. (We are busy with work and family obligations, so allow each group to select alternate representatives.)

The scope of the Working Sessions should include:

- the current EIR for current CWPlan BIO-4,
- recent update of cumulative impact report,
- 2009-10 ECR and SEP report,
- scope and process for Supplemental EIR to amend BIO-4,
- Amendments to CWPlan BIO-4,  
acknowledging different locales,
- a permanent countywide stream ordinance,  
consistent with BIO-4 amendments.

Geographic Areas.

Ms. Thorsen made a chart of the 3,600 lots in various geographic communities that fall within the stream conservation area. (See PC Staff Report, April 1, 2013, Item No. 4, page 7.) Homeowner groups from these communities (whether formal associations or informal organized neighbors) should be included:

Existing Homes Near Streams in Planned or Conventional Zoning Areas

San Geronimo Valley	955
Lucas Valley & Marinwood	388
Tam Valley & Almonte	284

Kentfield Greenbrae	214
Sleepy Hollow	81
Indian Valley	60

The large number of streamside homes in San Geronimo (as compared to other areas) may be due to the County having mapped ephemeral streams in our area, while other area maps are (currently) limited to perennial and seasonal streams.

In addition, Ms. Thorsen lists 162 vacant lots in the San Geronimo Valley, of which 95 are sufficient size for potential development. (2010 SEP Report pages 2-27 and 2-28.) Each of the other geographic areas has a handful of vacant lots.

We have been informed Kent Woodlands has an active homeowners association with 46 homes, and we are not sure if these are included in the chart. Two comments from Kent Woodlands were received for the June 18 Board meeting.

The chart also lists over 1,000 lots as "other unincorporated". We are not sure if that includes lots owned by schools, government agencies, ranches, or whomever.

#### Meeting Agendas Should Focus on Important Issues

The purpose of the Working Sessions would be to amend the CWPlan BIO-4 and outline a permanent stream conservation ordinance that would apply to the entire County and would relieve San Geronimo Valley of the "temporary" stream ordinance Supervisor Kinsey proposes.

However, the CWPlan amendments and the stream ordinance must accommodate the differing topography, biology, and human social development in each area of the County. One size does not fit all.

Each meeting agenda should focus on a few important issues, and allow adequate time for discussion of each issue. This is not a speed race, but a search for middle ground and accommodation of diverse interests. Some suggested topics:

- setbacks and other protections for fish-bearing main stem creeks
- setbacks and alternative protections for perennial and seasonal streams
- new structures site planning (coverage ratios, flood elevation, etc.)
- ephemeral creeks: definitions, functions, limited protections
- creek restoration and flood control
- future stream mapping
- riparian vegetation and trees
- existing homes and second units
- exemptions for homes and small lots
- Tier 1 permits for homes and small lots
- site assessments: triggers, scope, who does it, who pays
- site assessment impacts and development standards
- positive incentives and collaborative partnering with govt agencies and NGO's
- ombudsman to assist homeowners navigate the dozen federal,

state and local agencies regulating creeks

We encourage the County to ask other neighborhood and environmental groups for their suggested topics and agendas.

Each topic should be considered by the entire Working Session. We ask you not divide us into "little circles" to discuss discrete issues and "report back" to the whole group. We have attended six years of such County meetings, and this method accomplishes nothing, because it dilutes major concerns and dampers the discovery of commonality among attendees. We also do not care to wander the room posting sticky tabs on little easels. Please, let's make the most of our time.

San Geronimo Valley Stewards has participated for three years in regular meetings of the Lagunitas Creek Technical Advisory Committee (TAC). This group holds constructive discussions among 12 government agencies, plus various homeowner groups and NGO's so we know it can be done.

As the meetings progress, some groups may drop out. Other homeowner groups are just now getting organized and later may ask to join. Please remain flexible.

Meetings should be open for any member of the public to observe. Public comments or questions should be channeled through the representative groups, so we don't bog down in hours of 3 minute speeches.

#### Funding for Neighborhood Groups.

Homeowners and community groups depend on hours of volunteer services. We do not have paid staff.

We rely on individual donations, and do not receive taxpayer dollars as grants or contracts, which are sources for many (but not all) environmental groups who have commented on the stream issues.

The County should budget or assist in obtaining grants for homeowner groups to consult with outside experts in biology, hydrology, environmental law and land use planning. Seed money from the County would facilitate homeowner groups pooling resources and would encourage volunteers and donors to contribute to the effort.

#### Conclusion.

San Geronimo Valley Stewards look forward to meeting with all groups of good will, and trust that this fresh approach may encourage reasonable accommodations. Thank you for your consideration.



July 24, 2013

Marin County Board of Supervisors  
3501 Civic Center Drive, Room 329  
San Rafael, CA 94903

Dear Board of Supervisors:

We are writing to inform The Board of Supervisors and the Marin County Planning Commission of the Kent Woodlands Property Owners Association Board's position that (1) circumstances unique to its community should exempt Kent Woodlands from any Stream Conservation Area (SCA) Ordinance and (2) any entity exploring a future SCA plan should formally include a representative of KWPOA.

Kent Woodlands is a unique unincorporated area in that we are a highly regulated geographic area with very strict CC&R's that are upheld by a stringent review process through our Architectural Committee and our Board of Directors. In our CC&R's, we have clearly delineated setbacks from any creeks and streams to ensure our water-based habitat and water quality are not negatively impacted by our human footprint. As such, Kent Woodlands stringently governs stream quality in a manner similar to *incorporated* parts of the county and hence does not merit special governance by any county administered SCA Ordinance directed at protecting water quality in unincorporated areas. Moreover, Kent Woodlands contains only "seasonal" streams that **DO NOT CONTAIN ANY FISH**. Therefore, governance under an SCA ordinance is not appropriate for our geographic area. Based on the above, we strongly believe that we should be exempted from the SCA Ordinance, which is a "one size fits all" set of regulations.

We appreciate and applaud the Marin County Board of Supervisors' decision to return to the drawing board to draft an ordinance with a more balanced approach, incorporating the property rights of individual home owners. While our primary assertion is that Kent Woodlands' circumstances do not merit inclusion in any future SCA Ordinance, we further note that any such ordinance is detrimental to the right of property owners to utilize their properties in a reasonable and realistic manner. The contemplated inclusion of vaguely mapped and ill-defined "ephemeral" streams, as well as arbitrary language regarding enforcement make this Stream Ordinance all the more onerous to property owners.

In the event that efforts to revise and redraft an SCA move forward, KWPOA believes it is imperative that we have formal inclusion in discussions regarding this Ordinance so that we can ensure that the interests of our over five hundred households can be directly represented by our Board of Directors.

(Cont.)

Marin County Board of Supervisors  
July 24, 2013  
Page 2

We appreciate the importance of your work to preserve Marin's water quality and hope that you in turn understand that additional regulation of KWPOA properties is both unnecessary and irrelevant to the success of that endeavor.

Sincerely,

Kathy Goldsmith, President  
Kent Woodlands Property Owners Association Board of Directors



# Friends of Corte Madera Creek Watershed

P.O. Box 415 • Larkspur • California 94977

[info@friendsofcortemaderacreek.org](mailto:info@friendsofcortemaderacreek.org) (415) 456-5052 [www.friendsofcortemaderacreek.org](http://www.friendsofcortemaderacreek.org)

July 26, 2013

Marin County Board of Supervisors  
Supervisor Judy Arnold, President  
3501 Civic Center Drive,  
San Rafael CA 94903

RE: Stream Conservation Area Ordinance

Dear Supervisor Arnold:

Friends of Corte Madera Creek Watershed opposes weakening the 2007 Countywide Plan to appease a few vocal critics of efforts to maintain stream protection measures. Although protective measures would ideally be based on a scientific rationale such as flow regime and the specific resources being protected, rather than arbitrary setbacks, that would result in a more complex set of standards and, in many situations, larger setbacks. The 2007 Countywide Plan programs and policies strike a balance and we urge you to move forward to approve the substance of the originally proposed ordinance, which reflects the 2007 CWP policies. Mitigation criteria (22.63.040.C) should provide that compensation planting is done on site or, if that is not possible, within the same watershed. Additionally, to alert future owners of the property about the need to maintain the mitigation project, it should be recorded either in documentation at the CDA or in the Recorder's files.

Although protecting coho habitat has been a major focus for SCA discussions, steelhead are still found in several of Marin's watersheds, and a number of Marin creeks historically supported fish populations and have the potential to do so again if barriers are removed and habitat restored. Prior to the Army Corps' levee construction in Tam Valley steelhead spawned upstream in Coyote Creek. Steelhead are regularly seen in Corte Madera Creek and its tributaries and, in 2004, a Chinook was identified at the Lagunitas Road Bridge in Ross. The proposed ordinance would provide essential protections for Corte Madera and other Marin Creeks that are or could be habitat for steelhead and other native fish populations.

Public education for the ordinance should note the need for healthy creeks and their tributaries throughout the county if reintroduction of species is ever to be possible.

Thank you for this opportunity to comment. We look forward to continuing to work with County staff to improve the water quality and habitat value of our creeks.

Sincerely,

Sandra Guldman  
President, Friends of Corte Madera Creek Watershed

c: Supervisor Katie Rice (email)  
Suzanne Thorsen (email)

**From:** [Stratton, Debra](mailto:Stratton,Debra)  
**To:** [Lai, Thomas](mailto:Lai,Thomas); [Thorsen, Suzanne](mailto:Thorsen,Suzanne)  
**Subject:** FW: CORRECTION for "SCA Issues and Policy" letter of July 26  
**Date:** Monday, July 29, 2013 10:12:10 AM

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**From:** Adrienne Terrass [mailto:[aterrass@gmail.com](mailto:aterrass@gmail.com)]  
**Sent:** Friday, July 26, 2013 5:49 PM  
**To:** Adams, Susan; Rice, Katie; Sears, Kathrin; Kinsey, Steven; Arnold, Judy  
**Cc:** Stratton, Debra; Crawford, Brian; Jackson, Lorene  
**Subject:** CORRECTION for 'SCA Issues and Policy' letter of July 26

Please replace my letter of July 26,2013 'SCA Issues and Policy' with this one, which reflects corrected figures for the percentage of SCA properties in Planned District zoning.

I apologize for the inconvenience,

Adrienne Terrass

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July 25, 2013

Marin County Board of Supervisors  
Marin County Civic Center  
3501 Civic Center Drive, Rm. 329  
San Rafael, CA 94901

Dear Marin County Supervisors,

My previous letter addressed the fact that our proposal for reconstruction, which we were negotiating with the County when the current building moratorium in San Geronimo Valley took effect, does not entail any of the contentious effects under discussion for regulation by an expanded SCA ordinance, and so should not be subject to the delay of a continuing moratorium. However, the issue as a whole is far larger than any one project, and more needs to be said on the policy front even if some of it should be addressed as much to your constituents as to the Board itself. That said, I am sending this to you so it will be part of the public record, and perhaps have a chance to be informative to some.

Few people concerned with the issues surrounding the adoption of an expanded SCA ordinance in Marin seem to be aware of what is perhaps the County's most compelling reason for 'leveling the playing field' for properties in SCAs. I trust the Board is aware of the liability of the existing inequity facing property owners in Planned District zoning, even if the public is not. I'm referring to the 24% of SCA property owners countywide singled out to be held to a much more restrictive and costly standard than the remaining 76%, who are in the dramatically less-encumbered Conventional zoning. Both of these zonings exist directly along and/or bisected by creeks, and are independent of property size. They are a remnant of the historical progression of zoning regulations and have nothing to do with environmental conditions or disparities. This not only prejudicially subjects a subset of citizens to a potentially unlawful inequity, but the resulting unequal application of environmental protections along creeks is counter-productive given the contiguous nature of habitat. This disparity means that currently a proposed project with a significantly detrimental impact can be subject to far less scrutiny and regulation than one with a fully mitigated or even beneficial impact, even though both are within an SCA. The expanded ordinance is intended to correct this indefensible inequity by placing the emphasis on overall ecological function rather than the irrelevant historical artifact of inequitable zoning.

I believe the County is now taking this inequity seriously and is working to correct the situation because it remains legally vulnerable until having done so, yet it doesn't point out this inequity to explain to concerned residents why the expanded ordinance is not *new* policy but a necessary *revision* of it, perhaps not wishing its vulnerability publicized. For their part, SCA property owners under Conventional zoning, when aware of the disparity, naturally would prefer to maintain the advantage it gives them to do what they want with far less restriction, substantially lower planning fees, and significant savings on expenses incurred to negotiate the planning process, and so many vociferously oppose the proposed Streamside

Conservation Ordinance. Also among those who oppose it are some who fail to realize that their property is already in the more highly restricted category of Planned District zoning and thereby subject to existing regulations as stringent as or more-so than those under consideration.

The failure of opponents to recognize this legal imperative to unify regulation and hold all SCA properties to the same standards is precisely why we need County officials to exercise the courage to stand up to misconceptions. As the governmental body responsible for enacting regulation, your judgement should be influenced only by criticism truly germane to the issues. When someone demonstrates a lack of understanding of regulatory terms or process (such as “the 100’ SCA setback would render my entire property unbuildable” or “discretionary review means county staff can demand whatever they want” or “this ordinance would be an uncompensated ‘taking’ of my property”) that comment should be discounted and corrected then and there, because it represents a mistaken concept of the actuality of the discretionary process. Please stand up to these inaccuracies when they occur, so misinformation doesn’t persist and proliferate as it has until now. Please don’t yield to those whose judgement is clouded by emotion or narrow self-interest, or a persistent inability to grasp the necessary give and take of the regulatory process. Recognize that the chronic lack of understanding of some is a poor reason to hold the entire SCA community in interminable uncertainty and disagreement, let alone to a moratorium which suspends the rights to make improvements to existing homes or properties. Worse still in the long-run, this failure to understand the terms and nature of the regulatory process causes otherwise well-meaning people to demand *lower standards* for protection of the natural environment.

As several Supervisors noted on June 18th, the environmental preservation ideals of Marin County are indeed well established and laudable, but they have not resulted in regulations that function well to attain the goals embraced by those ideals. Residents are plagued by the sheer complexity and uncertainty of the process, the expense of which puts making substantial improvements out of reach of many, if not most. Illegal construction or dereliction of properties within the SCA are hardly desirable alternatives, and the County’s effort to make regulation Clear, Affordable, Simple, and Enforceable responds to that. The current draft proposal would be a serviceable interim ordinance, granting that to become permanent regulation, the issue of ephemeral streams needs further clarification. Refinement is likely also needed to prevent the exploitation of loopholes at the ministerial permit level, and definitely is still needed to improve simplicity and affordability at the discretionary level.

Environmental preservation benefits everyone in the county, including businesses and County tax revenues, and to expect a limited sector of the population to accomplish that goal is unrealistic at best. Not only does too much expense fall on too few, but too little protection and/or restoration will take place not to be overshadowed by poor environmental practices on adjacent properties held to a lower standard. Rather than acquiesce to public demands for less protection, County government needs to reevaluate how seriously it embraces long held values to preserve and protect the natural environment, ascertain whether it can access funds to support those values, and decide how much responsibility can reasonably be required of citizens to attain that goal. Likewise citizens, who claim to share those ideals, need to get more realistic about what it will take, identify every opportunity to mitigate impacts to offset any proposed development, and support restoration proposals and regulation that is equitable to all, including wildlife and its habitat.

A net benefit to or improvement of ecological conditions should be the overarching requirement for obtaining permission for development, and would prompt property owners to get a lot more creative about what they themselves could contribute. The County could significantly incentivize this process by identifying and making available expertise and funding resources, such as has been done by the pilot Landowner Assistance Program. Resident’s willingness to undertake ecological improvements could then replace the existing rampant distrust of environmental regulation.

Please adopt an interim ordinance to end the moratorium as soon as possible. Then, in determining permanent regulation, focus on optimum ecological impact, affordability, and the attainability of widespread compliance, to ensure it will be enacted, adhered to, and effective.

Sincerely,

Adrienne Terrass and Aldo Tarigo  
21 Barranca Rd., Lagunitas, CA

**From:** [Stratton, Debra](#)  
**To:** [Lai, Thomas](#); [Thorsen, Suzanne](#)  
**Subject:** FW: CORRECTION for "Interim SCA Ordinance/relief from moratorium" letter of July 25  
**Date:** Monday, July 29, 2013 10:12:19 AM

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**From:** Adrienne Terrass [mailto:[aterrass@gmail.com](mailto:aterrass@gmail.com)]  
**Sent:** Friday, July 26, 2013 5:49 PM  
**To:** Adams, Susan; Rice, Katie; Sears, Kathrin; Kinsey, Steven; Arnold, Judy  
**Cc:** Stratton, Debra; Crawford, Brian; Jackson, Lorene  
**Subject:** CORRECTION for 'Interim SCA Ordinance/relief from moratorium' letter of July 25

Please replace my letter of July 25, 2013 'Interim SCA Ordinance/relief from moratorium' with this one, which reflects corrected figures for the percentage of SCA properties in Planned District zoning.

I apologize for the inconvenience,

Adrienne Terrass

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July 23, 2013

Marin County Board of Supervisors  
Marin County Civic Center  
3501 Civic Center Drive, Rm. 329  
San Rafael, CA 94901

Dear Marin County Supervisors,

My family lives in Lagunitas on an acre and a half which is bisected by Barranca Creek and is effectively entirely within an SCA. Our land, formerly part of adjacent properties, was settled and domesticated for farming between 1906 and 1911, and has changed little since that time. In our 20 years here, we have eliminated ramshackle structures, years of accumulated non-natural debris, and cleared non-native plants such as Himalayan blackberry, vinca, broom, and thistle, growing natives in their stead. We share the majority of the property with deer and other wildlife, which freely range on it. We were nearly a year and \$25,000 into the existing Marin County planning process under Planned District zoning when the current building moratorium in San Geronimo Valley was imposed ten months ago. Having been in limbo since then, we're extremely disappointed that the Board of Supervisors postponed taking action on June 18th. Considerable progress had been made by the Planning Commission and staff, and it's dismaying that the adoption of the current draft proposal was not considered even *as an interim* despite that accomplishment.

The current draft ordinance was well supported by those who realize that only a middle ground between environmental protection and property rights is likely to be complied with and thereby effective. County planning staff has painstakingly adjusted SCA policy to balance the prevailing rights of property owners with the environmental imperative to move toward ecologically sensitive functionality. Their mandate to work within the confines of the Countywide Plan, a document which itself was crafted with great expenditure of time and resources, means policy must evolve in an incremental manner. Adopting the current draft proposal as an interim measure would end the moratorium in SGV, and by eliminating that polarizing influence, would facilitate a constructive process for reaching accord on acceptable regulation. It would also immediately correct the significant current inequity that the 24% of county SCA properties under Planned District zoning are subject to a dramatically higher standard than the remaining 76% under Conventional zoning.

Already overdue, it is essential that an interim measure be enacted as soon as possible now that it appears the binding nature of the Countywide Plan will delay the task of finalizing the expanded ordinance. Revisiting the CWP to accomplish that has the potential to tremendously lengthen the moratorium, prolonging the uncertainty that has prevented affected property-owners from making necessary and reasonable property improvements. A repair permit, as allowed under the injunction, is

an inadequate alternative when faced with the comprehensive replacement of a seriously failing house over 100 years old.

Our proposal does not entail any of the contentious effects under discussion to be limited by expanded regulation. The project does not disturb raw land, native plants, or trees, and requires no grading. There would be no disturbance of riparian habitat and a net lessening of 1300 square feet of impervious area to be restored with native plants and proper drainage. The issues in contention are not germane to our situation. Further delay is counter-productive in that the net environmental benefit to be achieved by these improvements (which include an up-to-date engineered septic system to replace a functioning but outdated one close to the creek) would be delayed as well. The only truly sensitive aspect of our project is in fact its location in an SCA. To limit the work to what would be allowed under a repair permit would create comparable impacts from construction but preclude much of the environmental improvement being proposed.

Because it is difficult to have confidence that the adoption of an interim ordinance is imminent, we respectfully ask that the Board of Supervisors concurrently petition the Marin Superior Court for relief from the injunction for those San Geronimo Valley projects which are currently under Planned District zoning, *or at least* those that were in the permit process at the time the moratorium took effect (two such projects to my knowledge under PDZ, of three in total). For a comprehensive project this designation is functionally equivalent to the proposed Tier Two, and thereby subject to regulations at least as stringent as any being considered for inclusion in an expanded SCA ordinance. Either County Counsel failed to convey to the Court the stringency of policy to which those projects in Planned District zoning were subject at the time of the lawsuit, or Judge Lynn Duryee failed to realize the unfairness of not exempting them from the terms of the injunction and consequent moratorium when already subject to regulations as stringent as those required to lift that very injunction. Despite its judgement denying SPAWN's petition, the Court thereby penalized, without cause, those SCA property owners complying with the County's existing process, rather than provide an exception to the injunction to allow those few projects to proceed on their merits. This error needs to be rectified without further delay. Please *insist* on relief from the burden of the moratorium for those already held to a standard which equals, and may very well exceed, that to be adopted in an expanded ordinance.

We request the favor of a reply from the Board to know where things stand and whether you will try to help us move forward in the face of the Court's short-sighted ruling coupled with intractable politics.

Sincerely,

Adrienne Terrass and Aldo Tarigo  
21 Barranca Rd., Lagunitas, CA

August 1, 2013

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

**RE: SCA issues**

Dear President Arnold and Board Members:

We are a group of individuals who for decades have participated in the county's efforts to protect the environment. As a result of recent Board actions, we recommend:

1. *Do NOT amend CWP SCA policies; and*
2. *Adopt the SCA ordinance recommended by your Planning Commission and Staff.*

Beginning with its first Countywide Plan in 1973, Marin has had policies addressing SCAs, but has never had an ordinance to implement those policies. Our current 2007 CWP includes Program BIO-4.a: "Adopt Expanded SCA Ordinance", which you gave high priority and was to be accomplished within 1-4 years. In 2010 an SCA-lite type of ordinance written for the San Geronimo Valley (SGV) reached the Board. Residents of the SGV insisted that they should not be singled out, but that such an ordinance should apply to the whole County. The Board agreed, and directed staff to write a Countywide SCA ordinance. In June, 2013 a draft countywide ordinance was produced and, after considerable staff time and effort, Planning Commission public hearings and meticulous review, this draft reached your Board with a recommendation to adopt. The Board chose instead to appoint a subcommittee to examine a different, more targeted watershed SCA approach that incorporates greater "flexibility".

We believe that the considerable time and money this new exercise will require would be better spent on improved stream mapping, implementation of CWP Program BIO-4.b: "Re-evaluate SCA boundaries", and other efforts to protect and restore our environment.

We are also concerned about the undefined "flexibility" a CWP amendment may include. Flexibility is a double-edged sword. It sounds customized, likely to provide a better fit. But, compared to our current setback policy, it is likely to be more expensive, take more time to explain and administer, invite uneven application, increase uncertainty for property owners as to what they can actually do, and invite argument and lawsuits.

The CWP's current explicit setbacks do provide certainty, clarity and consistency. They have the advantage of being fully vetted and can be applied now. Moreover, both the CWP and the proposed ordinance allow reasonable exceptions and flexibility, as shown in Attachment B below.

If the Board directs staff to make a third attempt to craft an ordinance, SCA's on conventionally zoned lots will continue to lack protection during this potentially lengthy process, allowing stream degradation to persist. Note that lots in planned districts are governed by CWP policy. This split in policy application is unfair to residents and, without an adopted countywide ordinance, is going to remain in place indefinitely.

No policy, no ordinance, is perfect. There is no guarantee that a new effort will produce a better result than current CWP policy or the June, 2013 draft ordinance. Certainly, it will not be less controversial.

The County appears to be engaged in a ceaseless and circular effort that is going nowhere. First a targeted SCA-type approach, then a countywide approach and, now again, a targeted approach. Amending the CWP represents significant effort, time, money and continued uncertainty for property owners. It is time to call the question.

Sincerely,

Priscilla Bull

Barbara Salzman

Randy Greenberg

Susan Stompe

Marge Macris

Ann Thomas

Cc: Brian Crawford, Director  
Tom Lai, Assistant Director  
Suzanne Thorsen, Planner

**ATTACHMENTS:**

- A. Outline of SCA history and associated issues
- B. Excerpts from 2007 CWP and draft 6/18/13 countywide SCA ordinance that allow *exemptions/flexibility*
- C. Excerpts from 2007 Countywide Plan re SCA's

## ATTACHMENT A

### Outline of SCA History & Associated Issues

#### History:

1. 1973 CWP sets stream buffer zones at 300' from side of each bank, allows only limited development under strict controls in this area, with required findings.
2. 1982 CWP recognizes importance of SCA's, which apply to all perennial and intermittent streams, as well as ephemerals that support riparian vegetation for a length of 100' or more. Provides 100' setbacks from the side of each bank for Coastal Recreation and Inland Rural Corridor plus 50' landward of riparian vegetation as necessary, and 50' setbacks for City-Centered Corridor, except for large parcels which should have 100' setbacks. States that riparian systems, streams and their riparian and woodland habitat are irreplaceable.
3. 1994 CWP restates 1982 SCA policies and suggests creating an ordinance to carry out SCA policies.
4. 2007 CWP fine tunes Countywide SCA policies, includes program to adopt ordinance.
  - a. Public fully engaged in process
  - b. Current CWP approach supported by staff
  - c. Specifics of current approach represent a fair compromise of dissenting sides
  - d. Current approach science based
  - e. Includes implementing program BIO-4.a: Adopt Expanded SCA Ordinance. High Priority – complete in 1-4 years.
  - f. CWP includes implementing program BIO-4.b “Reevaluate SCA Boundaries”
5. 2010 BoS initiated SCA-lite ordinance for San Geronimo Valley based on Salmon Enhancement Plan completed.
  - a. Community/PC/BoS meetings
  - b. Recommended for approval by PC, rejected by Board. Board expressed need for SCA Ordinance that applies countywide. Directed staff to work on issues with a subcommittee (Kinsey/McGlashan. BoS Minutes, 8/10/10).
  - c. SGV states they shouldn't be singled out, should be a countywide ordinance
  - d. Ordinance withdrawn, followed by SPAWN lawsuit for not implementing CWP policy
  - e. Lengthy building moratorium in SGV
6. BoS asks for a countywide ordinance
  - a. Multiple hearings/community outreach
  - b. 2013 draft ordinance recommended by PC - to apply in all unincorporated areas outside the Coastal Zone and waters under tidal influence
  - c. 6/13 BoS sets aside draft countywide SCA ordinance
  - d. BoS subcommittee (Kinsey/Sears) appointed to make recommendations to explore SCA watershed approach, greater flexibility in SCA setbacks, and a “pathway to legalization for illegal structures in the SCA.
  - e. Approach seems to require CWP Amendment and interim ordinance for SGV
  - f. No end in sight.

**Current CWP SCA benefits:**

1. Adopted policies clear and readily applicable.
2. Multiple public hearings to hear and resolve issues accomplished.
3. Setbacks science based (Habitat Goals Report, Vegetation Management Plan, Restoration Plan, Regional Board input, etc.)
4. Compromises in setbacks represented in current policy
5. 2007 CWP provides certainty with some flexibility/exemptions
  - a. Good for property owners (specificity lets people *know*, not wonder/argue)
  - b. Current language in 2007 CWP and 6/13 Draft SCA ordinance provide for exemptions that allow for reasonable flexibility while protecting stream health/habitat

**Issues Associated with CWP Amendment approach:**

1. Process takes a considerable time – years.
2. Staff time/\$\$\$ better spent improving mapping, expediting CWP Program BIO-4.b
3. Deficient protections if no implementation of countywide ordinance while awaiting completion of amendment process & watershed approach.
4. No ordinance = no SCA protections for conventionally zoned properties. How long does this continue?
5. May result in less clarity, greater implementation problems than current policies
6. Replay of contentious hearings
7. Proposed “greater flexibility” *not* a benefit. [See *Attch. B for CWP & 6/13 Draft SCA exemption/flexibility language*]
  - a. Mandates uncertainty – property owner isn’t sure what is possible
  - b. Every decision open to interpretation - invites argument/dissension/lawsuits
  - c. Potentially unfair
  - d. Requires greater staff effort
  - e. Takes more time
  - f. Costs more for applicant/county

## ATTACHMENT B

### Excerpts from 6/18/13 BoS staff report, 6/13 draft countywide SCA ordinance and 2007 CWP that allow exemptions/flexibility

1. BoS 6/18/13 staff report, p. 2. “Unlike a building setback, the SCA setback functions as a special permit area in which development activity is evaluated for potential stream impacts. ***It does not necessarily eliminate or restrict the use of land within the SCA***, so long as adverse impacts to habitat, hydraulic capacity, and water quality are avoided...”
2. BoS 6/18/13 staff report, p. 3. “The ***proposed ordinance is focused on new development activity in the SCA and would not affect existing authorized structures and ongoing uses. Many common residential activities would be exempt from an SCA permit***, including second story additions and minor improvements such as accessory structures under 120 square feet in size located in previously disturbed areas, vegetation management to protect life and property, and maintenance, repair, and replacement of structures...”
3. 6/18 Draft SCA ordinance. “22.63.020 Applicability to Development B. Exemptions
  1. ***Exempt without further determination (some lettered items omitted).***
    - b. ***Emergency measures*** requiring prompt actions, where such measures are immediately necessary to avoid or prevent loss of, or damage to, the health, property of essential public services resulting from a sudden, unexpected occurrence.
    - c. ***Tree and vegetation removal or trimming on a developed lot for the purpose of protecting life or property*** from a fire hazard, public nuisance or any other threat to public health and safety. Vegetation that is dead, invasive or exotic may also be removed under this exemption.
    - g. ***Maintenance, accessibility retrofit, and repair of permitted or legal non-conforming structures, water supply and septic facilities that existed prior to February 25, 2013.***
    - h. ***Maintenance or replacement of landscaping.***
    - i. ***New fences that do not restrict wildlife access to streams and adjacent riparian vegetation.*** Exempt fences include any fence within or on the perimeter of a previously disturbed area.
  2. ***Exempt subject to determination.*** [This item lists a number of activities which *may* be exempt, including, but not limited to, replacement of permitted and legal non-conforming structures and development in previously disturbed areas.
4. 6/18 Draft SCA ordinance, Attch. A, p. 22. “22.63.040 – Stream Conservation Area Permit (Tier 2)
  - B.4. Site Assessment
    - c. If the lot is not entirely within the SCA, the Site Assessment (Tier 2) shall also evaluate whether development on the lot entirely outside the SCA is infeasible and whether potential impacts on water quality, wildlife habitat, native vegetation, or other sensitive biological resources would be greater as a result of development outside the SCA than development within the SCA.”

**From 2007 CWP:**

5. p. 2-28 BIO 4-1 Restrict Land Use in SCA's

**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.

- **NOTE:** "other environmental constraints" is language that covers a wide range of site conditions. This language could be construed to provide some of the flexibility in regard to building within an SCA the subcommittee may be looking for.

6. p. 2-28 SCAs are designated along perennial, intermittent, and ephemeral streams as defined in the CWP 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...For those ephemeral streams that do not meet these criteria, a minimum 20-foot development setback **should** be required.

- **NOTE:** Site assessment issue is expense and time. Our proposal is for County to develop a site assessment check list that would apply to most parcels (only a small number should need something more elaborate (indicators for more information required to be part of checklist)), with clear standards to expedite process. Further, a dedicated staff/consultant should handle these assessments for efficiency, consistency and cost effectiveness.
- **NOTE:** Current "should" language does *not require* 20' development setback for ephemeral streams. Again, flexibility appears built in.

7. p. 2-29 & repeated on 2-30 for City-Centered, Coastal, Inland Rural & Baylands Corridors: "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**."

- **NOTE:** Site assessment is discretionary, not an absolute requirement, as indicated by "may".
- **NOTE:** The "determination of the precise setback" here allows some flexibility, and specifically allows consideration of incursion into an SCA (see p. 2-31, 5<sup>th</sup> bullet).

8. p. 2-31 First 3 bullets at page bottom. **Sets minimum setback distances** from top of banks

- **NOTE:** Although these are specific minimum setbacks, exceptions are allowed, providing reasonable flexibility (see p. 2-28, BIO- 4.1).

## ATTACHMENT C

### 2007 CWP Excerpts re SCAs

p. 2-10-11 (p.43-44 online) Streams convey, filter, and store sediment and nutrients. Their floodplains are important for recharge of groundwater aquifers and flood prevention. They also provide critical wildlife movement corridors between important habitats for both aquatic and terrestrial species. *Ephemeral channels are important for maintaining healthy watersheds.* Perennial and intermittent streams provide more permanent aquatic habitat and serve as fish migration, spawning, and rearing habitat. Riparian habitat is essential to provide proper functioning of stream systems and is a critical component of high-quality fish habitat. Woody vegetation provides shade that keeps water temperatures within tolerable ranges for fish and other aquatic organisms, stabilizes streambanks and floodplains, provides protective cover for wildlife, and contributes debris to stream channels for fish habitat structure. Herbaceous vegetation helps stabilize streambanks, and filters and traps sediments and pollutants.

The continued *health and restoration of streams and riparian resources has become an increasingly important policy objective with the designation of the coho salmon and steelhead trout as special-status species* by the State and federal governments. Stream Conservation Area policies were strengthened with the adoption of zoning regulations that expand and refine the applicability of stream setback requirements for development projects that have the potential for harming riparian vegetation and water quality. Additional development review procedures and standards are established or recommended in policies for stream conservation as an ongoing effort to create a well-balanced regulatory approach to protecting these important resources. Policies for riparian protections also serve to prioritize land for restoration and open space acquisition.

p. 2-5 (p. 38 online) Watershed function will improve with enhancements to water infiltration, *preservation of stream-flow capacity and riparian vegetation, and restoration of stream corridors*, marshlands, and other natural wetlands.

p. 2.5 (p. 38 online) Water Resources: ...Preserving and improving water and watershed quality depends on maintaining equilibrium between inflow and consumption, and *avoiding human alterations that can diminish natural functions.*

p. 2-12 (p. 45 online) Intensive development and *inadequate buffers threaten streams*, shorelines, wetlands, and protected open space lands.

p. 2-20 (p. 53 online) *Why is this important?* The loss of critical, sensitive biological resources is well documented. *To minimize further loss, it is necessary to identify remaining sensitive resources and their habitats to protect them from the impacts of development.*

p. 2-30 (p. 63 online) 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.

p. 2-30 (p. 63 online) BIO 4-2. 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.

p. 2-36 “ **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.