

COMMUNITY DEVELOPMENT AGENCY

Brian C. Crawford
DIRECTOR

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

Building and Safety
Environmental Health Services
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February 11, 2020

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

SUBJECT: Marin Countywide Plan Update Phase 1 Work Program with a Focus on the Expanded Stream Conservation Area Ordinance for the San Geronimo Valley

Dear Board Members,

RECOMMENDATION:

Staff recommends your Board take the following actions:

1. Approve the proposed Countywide Plan Phase 1 work program to develop an Expanded Stream Conservation Area Ordinance for the San Geronimo Valley; and
2. Approve the budget adjustment as detailed in the staff report.

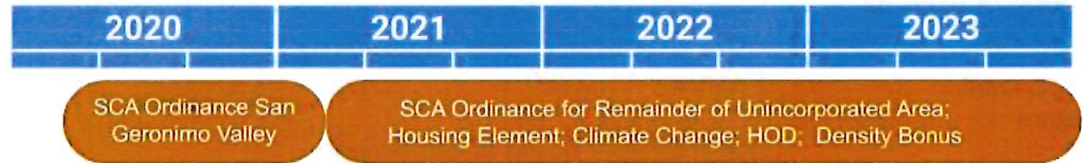
SUMMARY:

The Marin Countywide Plan (CWP) is a comprehensive long-range general plan for the unincorporated areas of Marin County. Substantive updates of the original 1973 CWP have been completed approximately every 12 -13 years, with comprehensive amendments adopted in 1982, 1994, and 2007. The County has also adopted Housing Element updates in 2013 and 2015. Overall, the 2007 CWP remains relevant by integrating sustainability principles, addressing climate change, and linking equity, economy, and the environment in its policies and programs.

Over the past several months, staff has been working with a Board of Supervisors' Ad Hoc Subcommittee (Board Subcommittee), comprised of Board President Sears and Supervisor Rodoni to review the scope and schedule for the CWP update. Staff recommends a modest scope of amendments conducted in phases, focusing on Board priorities such as stream conservation, housing, climate change, and compliance with new state planning laws. This initiative is consistent with the 2019 – 2020 CDA Performance Plan.

Staff anticipates completing the amendments over a projected timeline of approximately 4 to 5 years, factoring in the proposed scope of work and compliance with the California Environmental Quality Act (CEQA). The project will occur in two phases as shown in Figure 1 and described below:

Figure 1: Project Timeline 2020 - 2023



Project Phases

Phase 1: Phase 1 will focus on amendments to the County’s Stream Conservation Area (SCA) Ordinance for the San Geronimo Valley (“Valley”) and if needed, a consistency update to the SCA policy language in the CWP. Providing an initial geographic focus for the SCA Ordinance will implement a prior court directive to achieve CEQA compliance for cumulative stream impacts in the Valley. Further SCA code amendments are expected to be introduced as part of Phase 2 Countywide Plan work program in 2021. The work schedule and budget for this effort is described in more detail below.

Timeline: Staff anticipates completing this phase by Winter 2020/21. This schedule assumes the Final Supplemental Environmental Impact Report with a Focus on Potential Cumulative Impacts to Salmonids in the San Geronimo Valley (2019 FSEIR) addresses environmental review requirements under CEQA. Staff will confirm whether additional CEQA review is required pursuant to CEQA Guidelines upon development of a proposed SCA Ordinance. The Salmon Protection and Watershed Network and Center for Biological Diversity filed suit on September 26, 2019 challenging the Board’s certification of the 2019 FSEIR and adoption of the 2007 CWP with respect to salmonids in the San Geronimo Valley. Staff recommends moving forward with initiating work to implement the FSEIR mitigation measures pertaining to the SCA Ordinance for the San Geronimo Valley.

Phase 2: Phase 2 will address various state general plan mandates, state housing law, and SCA regulations for the remainder of unincorporated Marin outside of San Geronimo Valley as follows:

- a. Update housing policy by: i) completing the next Housing Element for the 2022-2030 cycle (due by December 2022); and ii) evaluating changes to Housing Overlay policies and implementing policy changes for enhanced effectiveness in facilitating a range of housing choice and ensuring compliance with State housing laws;
- b. Update SCA regulations for streams and tributaries located outside of San Geronimo Valley;
- c. Update the Safety Element to address new statutory requirements pertaining to fire risk and flood hazards (Attachment 2).

Update climate adaptation and resiliency strategies in the CWP pursuant to Senate Bill 379 (Attachment 2) using the vulnerability assessment tool,

resiliency strategies and implementation measures that build on the County's current efforts to address changes in sea level rise in Marin's coastal zone (C-SMART) and bayfront areas (BayWAVE); and

- d. Update the CWP's Implementation Program to reflect completed, obsolete, and new programs to implement updated policies.

Timeline: Staff anticipates completing these projects between 2021 – 2024, with housing related amendments completed according to statutory requirements.

Staff will continue to work with the Board of Supervisors Subcommittee to develop a detailed scope of work, schedule, and budget for Phase 2 that would be integrated with the Community Development Agency's performance plans.

BACKGROUND:

In 2013, your Board approved an interim SCA Ordinance following a comprehensive public engagement process. This Ordinance was subsequently rescinded due to litigation. In August 2019 your Board approved the 2019 FSEIR, which was prepared to analyze the overall environmental effects of implementing policies in the 2007 CWP on salmonids in the San Geronimo watershed. The 2019 FSIER includes several measures developed to mitigate potentially significant impacts. These measures include a requirement for the County to adopt an Expanded SCA Ordinance consistent with CWP Goal BIO-4 pertaining to riparian conservation and associated Implementing Programs. Other measures require provisions to control and reduce delivery of fine sediment to streams and inclusion of biotechnical and techniques and salmonid habitat enhancement elements in all stream bank stabilization projects.

Focus on the San Geronimo Valley

Lagunitas Creek in the San Geronimo Watershed remain as one of the largest runs of wild Coho salmon between Humboldt and Monterey counties. Steelhead trout and Chinook salmon have also been documented within the watershed. Once plentiful, recent spawning Coho counts are well below the federal recovery target needed to bring the salmon out of its endangered status. The Coho are listed as endangered under the federal Endangered Species Act and the California Endangered Species Act, while both the steelhead trout and chinook salmon are listed as threatened under the ESA. Overall, the Central California Coast Coho salmon and steelhead populations are in danger of extinction.

Coho salmon are just one important indicator of the health of the stream ecosystem. Given the importance of the Coho within the San Geronimo Watershed, work to implement an SCA Ordinance will start there, then expand to include other unincorporated areas of the county. The potential benefit of phasing implementation would allow staff to capture lessons learned after each milestone to improve future processes.

Phase 1 Work Program – Stream Conservation Area Ordinance for the San Geronimo Valley

The recommended work program and budget vetted by the Board of Supervisors Subcommittee is provided as Attachment 1. The work program will be managed by Community Development Agency staff in coordination with the Department of Public Works (DPW). DPW staff will coordinate with public engagement efforts; identify functional responsibilities and technical assistance pertaining to the Creek Permit, Local Stormwater and watershed programs; and evaluate the existing Creek Permit program for potential amendment to streamline the process for property owners. CDA will also coordinate outreach to other County departments and outside agencies, as well as provide periodic consultation with the Board Subcommittee.

Public Education and Outreach

Staff will conduct targeted outreach to key stakeholder groups with the objective of educating residents on the proposed SCA permit and compliance requirements as well as providing information on stream and riparian resource protection techniques to support and promote stewardship. Support is also anticipated from staff in the County's landowner assistance and education program, which is administered by the Marin Resources Conservation District, and outside technical expertise in the areas of fluvial geomorphology, stream ecology and hydrology, and restoration. Given the complexity of issues, an impartial, objective facilitator will be needed to guide a constructive engagement process.

SCA Ordinance for the San Geronimo Valley

The proposed work program builds upon the 2013 Ordinance as a basis for addressing issues analyzed in the 2019 FSEIR. Fundamental to the 2013 Ordinance is a tiered permitting structure to account for differences in the extent of stream impacts associated with various development activities. These elements would be combined into a new ordinance consistent with the certified 2019 FSEIR mitigation measures. On a parallel track, assistance to affected property owners would be provided through the County's landowner assistance and education program. Other potential measures include providing for offsite mitigation as well as developing performance indicators to measure the effectiveness of the SCA Ordinance, thereby enabling adaptive management. SCA policy language from the current CWP will also be reviewed to determine if revisions are appropriate for consistency with the new SCA Ordinance amendments.

Define Interdepartmental, Interagency, and Stakeholder Needs

A key element of the work program is balancing the need for meaningful stakeholder engagement with completing the Phase 1 Ordinance in a timely manner. A combination of targeted outreach to stakeholder groups and broader community workshops would be provided at key stages of the SCA Ordinance, in addition to public hearings before the Planning Commission and Board of Supervisors as the draft ordinance progresses toward adoption. Staff will engage stakeholder groups through one-on-one meetings to gather and share information, identify interests and concerns, manage expectations, and build community awareness and ownership. These

meetings will be followed with up to two facilitated community workshops focused on inviting broader public input on a draft of the SCA Ordinance.

Ephemeral Streams and Improved Mapping

Existing CWP language for ephemeral streams is largely carried over from the 1994 CWP and is based upon the best information and understanding available at the time. The CWP defines ephemeral streams as watercourses that carry surface runoff and flows during and immediately after periods of precipitation. However, the level of knowledge about ephemeral streams has since advanced, primarily due to improvements in mapping. Additionally, a number of water quality and sediment control measures have been promulgated.

Of note is the 2019 FSEIR's approach towards ephemeral streams. According to current CWP Policy BIO-4.1, ephemeral streams are subject to the SCA setback standard if they: a) support riparian vegetation for a length of 100 feet or more; and/or b) support special-status species and/or a sensitive natural community type (such as native grasslands). If the ephemeral stream is not subject to the SCA setback, then the setback measurement is a minimum of 20 feet, regardless of parcel size. While the policy requires adherence to Best Management Practices within the SCA, some latitude towards this mandate is afforded for ephemeral streams not defined as an SCA. However, 2019 FSEIR Mitigation Measure 5.2-1 (Control and Reduce Production and Delivery of Fine Sediment to Streams) calls for the application of BMPs for stormwater, low impact development (LID), erosion, and sediment control measures for development located outside the SCA. This offers important protections to ephemeral streams that otherwise would not be subject to SCA requirements.

In June 2019, your Board approved an agreement with the Golden Gate National Parks Conservancy to create a countywide stream network utilizing color digital orthoimagery and Light Detection and Ranging (LiDAR) technology compliant with the National Hydrography Dataset. This effort will provide more refined and accurate mapping and imagery of stream channels and topography, as well as improved comprehensiveness of the overall stream/drainage network, including ephemeral streams. It will further inform work in Phase 2 of the CWP update towards identification of the most effective measures to protect stream functions on a watershed-level basis.

FISCAL/STAFFING IMPACT:

There is no impact to the General Fund net county cost as a result of your Board's approval of the recommended actions. Your Board's approval will increase Community Development Agency's Miscellaneous Project Fund (1010) expenditure appropriations by \$128,500 (project 40CWP) for Phase 1 fully offset by a corresponding reduction in non-departmental appropriations as approved in a one-time Budget Change Proposal for the Countywide plan update as part of the FY 2019-20 Adopted Budget.

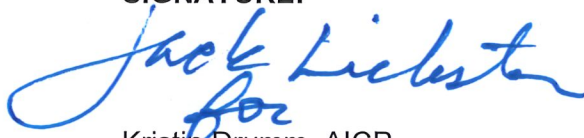
The Department of Public Works, which is assisting in this effort, will return to your Board at a later date to recommend adjustments to their expenditure appropriations.

Munis BUA #3279 (Period 6/2020)

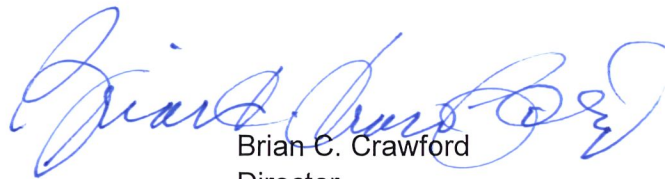
REVIEWED BY:

<input type="checkbox"/> Department of Finance	<input checked="" type="checkbox"/> N/A
<input checked="" type="checkbox"/> County Counsel	<input type="checkbox"/> N/A
<input type="checkbox"/> Human Resources	<input checked="" type="checkbox"/> N/A
<input checked="" type="checkbox"/> County Administrator	<input type="checkbox"/> N/A

SIGNATURE:



Kristin Drumm, AICP
Senior Planner



Brian C. Crawford
Director

Attachments:

1. Phase 1 Work Program and Budget.
2. Summary of New General Plan Related Legislation.

STREAM CONSERVATION AREA WORK PROGRAM

February 11, 2020

1. SCA Scope of Work

Phase 1 (FY 2020 – 2021)

A. Define interdepartmental, interagency, and stakeholder needs.

- Objective:** Engage relevant departments and agencies to review scope, understand needs, define roles, and collaborate to ensure resources are allocated to support the initiative.
- Engage targeted stakeholder groups through one-on-one meetings to gather and share information; identify interests, concerns, and expertise; manage expectations; and build community awareness and ownership.

Marin County Department of Public Works (DPW) – Land Development

- Coordinate on Public Engagement Plan with CDA;
- Coordinate implementation of the FSEIR Mitigation Measures; identify functional responsibilities (Creek Permit Program, MCSTOPPP, Watershed, Roads, etc); and develop a Work Program and Budget integrated with the SCA Work Program;
- Provide technical assistance to CDA and other participants through stormwater, watershed, and creek permit programs; and
- Coordinate relationship of the Creek Permit with proposed SCA Permit and with the Marin RCD Permit Coordinator Program (PCP).

Marin County Parks

- Advise on relationship to surrounding Open Space Preserves (Roy's Redwoods and Gary Giacomini OSP); and
- Lend biological, watershed, and regulatory expertise.

Marin County Fire

- Vegetation management review for SCA Permits and impact of fire management on vegetation within the SCA; and
- Coordination with FIRESafe Marin, the proposed Marin Wildfire Prevention Authority (MWPA – pending approval of ballot measure), and PG&E tree trimming and removal program under the California Public Utilities Commission.

CDA Environmental Health Service (EHS)

- Clarify SCA permit applicability regarding management of onsite wastewater treatment systems; and
- Coordinate with the pending Woodacre/San Geronimo Flats Wastewater Recycling Project (Community wastewater recycling option).

Targeted Agency Representatives:

- California Department of Fish and Wildlife (CDFW)
- Federated Indians of Graton Rancheria
- Marin Municipal Water District (MMWD)
- Marin Resource Conservation District (RCD)
- National Marine Fisheries Services (NMFS)
- National Parks
- Pacific Gas and Electric Company
- Regional Water Quality Control Board
- State Parks

Lagunitas Creek Technical Advisory Committee (L-TAC)

- Serve as an advisory body with updates provided as needed.

Contractors and Building Professionals (architects, builders, arborists, landscapers)

- Identify those active in the San Geronimo Valley;
- Communicate purpose and requirements of proposed regulations and policies; and
- Provide support and training.

Scientific and Technical Expertise

- On as-needed basis, consult with expert(s) in the areas of fluvial geomorphology, hydrology, fisheries biology and wildlife ecology, and stream restoration.

Targeted Stakeholder Groups

- San Geronimo Valley Planning Group
- San Geronimo Valley Stewards
- Environmental Action Committee of West Marin (EAC)
- Marin Conservation League
- Salmon Protection and Watershed Network (SPAWN) / Turtle Island Restoration Network / Stanford Environmental Law
- Sierra Club Marin Group
- San Geronimo Valley Land Trust
- The Trust for Public Land (TPL)
- Watershed Alliance of Marin
- Center for Biological Diversity

B. Develop an Expanded SCA Ordinance for the San Geronimo Valley and update SCA policies in the Countywide Plan (CWP) as necessary.

- Compile identified issues from both the 2013 Interim SCA Ordinance and FSEIR process;
- Use the 2013 Interim SCA Ordinance as a base for developing a new ordinance with a tiered permitting structure to account for differences in various development activities and associated stream impacts tailored for the San Geronimo Valley;

- Update the ordinance consistent with Mitigation Measure 5.1-1 adopted in the 2007 CWP Final Supplemental Environmental Impact Report with a Focus on Potential Cumulative Impacts to Salmonids in the San Geronimo Valley (FSEIR) as well as updated information on salmonids and operational lessons learned through the County's funding of the Marin RCD's Landowner Assistance and Education Program;
- Consider CDFW, RWQCB, and Army Corps of Engineers stream regulatory programs and requirements for consistency with the SCA Ordinance;
- Update the CWP's Natural Systems Element SCA policies, as necessary to ensure vertical consistency between the SCA ordinance and the CWP;
- Develop a program to provide for offsite mitigation; and
- Develop ideas for reviewing effectiveness of the SCA Ordinance.
- Schedule: Approximately one year (includes four-week contingency) to conclude March 2021.

Milestone	Date
Board approves work program	February 11, 2020
Community engagement – ongoing targeted outreach	Ongoing
Draft Ordinance to conform to FSEIR and Updates to CWP SCA policies, as necessary <ul style="list-style-type: none"> a. Administrative Draft b. Public Review Draft Execute consultant contracts	Weeks 1 – 20
Community Workshops Objective: educate residents on permit process and available resources	Weeks 22 and 27
Planning Commission Draft Ordinance	Week 28
Planning Commission Hearing	Week 32
Board of Supervisors Hearing	Week 42
Adopted Ordinance and CWP Update	Week 48
Training	Week 48 and ongoing
Contingency	+ 4 weeks

C. Community Engagement

- Targeted outreach to community stakeholder groups;
- Conduct one to two facilitated community workshops in addition to public hearings with Planning Commission and Board of Supervisors
- Provide resources and materials including the “Landowner Resource Guide” (aka Toolkit) and information regarding implementation and best management practices; and
- Conduct a Pilot Demonstration Program of Best Management Practices and SCA Permit process: through field training, workshops, and staff assistance working through one to two SCA permit applications – otherwise conduct voluntary site demonstrations.

Communication Channels

- Stakeholders: targeted outreach to stakeholder groups;
- Webpage: webpage with information, resources, FAQs, and other materials;
- Email: utilize GovDelivery to push news, press release, and status updates;
- Direct Mail: Notification to streamside and Valley residents;
- Media: prepare and issue media releases to local news outlets;
- Print materials: flyers, fact sheets, and brochures;
- Workshops and webinars: engage and educate community members;
- Online Q&A: prepare questions for online conversation;
- Video: Develop instructional “how to” videos on how to apply Best Management Practices (BMPs).
- Social Media: Utilize Nextdoor, Twitter, Facebook, and others as feasible.

D. Map streams in compliance with CWP Program BIO-4.c (map perennial, intermittent, and, where feasible, ephemeral streams subject to SCA policies).

E. Implementation

Training

- Conduct CDA staff training (planners, customer service team, building and EHS staff) as well as DPW staff in Flood Control and Land Development;
- Provide ordinance, procedural guidance and summary documents, such as the toolkit, to CDA and DPW staff;
- Provide update at CDA agency meetings;
- Issue RFP for two training sessions, which should include video recording and virtual online options, to be posted online;
- Conduct two (2) contractor information sessions; and
- Post recordings of training sessions online.

Administration

- Update toolkit, planning application guide, applications, fee schedule, fact sheets, Development Code, MuniCode, and other resources.

Materials and Resources

- Coordinate updated website
- Provide fact sheets, toolkit, and similar resources at Community Development and Public Works service counters (and online)
- Provide toolkit to stakeholders and contractors (note contractors may need a different toolkit than those for residents for applicability reasons);
- Distribution of materials and resources to stakeholders, agencies and departmental partners, including relevant libraries; and
- Mail summary of proposed ordinance to all impacted property owners.

F. Initiate planning for Phase 2 - Develop work program for Phase 2 of the SCA Ordinance to apply to streams located outside of the San Geronimo Valley and present to the Board of Supervisors for approval.

2. Budget

Staff anticipates an approximate one-year time frame, including contingency.

The following are preliminary budget estimates for implementing this program. Precise costs will be developed upon approval of specific scopes of work. Costs for County staff have not been included.

Additional expense for environmental review is not anticipated for this phase.

Phase 1 Expenses	Budget
Develop SCA Ordinance for the San Geronimo Valley and CWP SCA policies as necessary	In-kind staff time from various Departments.
Marin RCD Technical Support	\$57,500
Biological and watershed technical support	\$40,000
Facilitation and Meeting Costs	\$27,000
Materials and Resources, Printing, and Mailing	\$4,000
Environmental Review	TBD
Phase 1 Non-staff Cost	\$128,500

SUMMARY OF GENERAL PLAN RELATED LAWS AND LEGISLATION (2019 – 2007)

AB 747 (Levine, 2019) – Safety Element

Requires local governments, on or after January 1, 2022, to review and update the safety element to identify evacuation routes and their capacity, safety, and viability under a range of emergency scenarios.

SB 99 (Nielsen, 2019) – Safety Element

Requires a local government to review and update the safety element during the next revision of the housing element occurring on or after January 1, 2020, to identify residential developments in hazard areas that do not have at least two emergency evacuation routes.

SB 1000 (Leyva, 2016) – Environmental Justice.

Requires both cities and counties that have disadvantaged communities to incorporate environmental justice policies into their general plans, either in a separate element or by integrating related goals, policies, and objectives throughout the other elements. This update, or revision if the local government already has Environmental Justice goals, policies, and objectives, must happen “upon the adoption or next revision of two or more elements concurrently on or after January 1, 2018.”

SB 379 (Jackson, 2015) – Safety Element

Requires adaptation planning in the safety element. This bill would, upon the next revision of a local hazard mitigation plan on or after January 1, 2017, or, if the local jurisdiction has not adopted a local hazard mitigation plan, beginning on or before January 1, 2022, require the safety element to be reviewed and updated as necessary to address climate adaptation and resiliency strategies applicable to that city or county.

AB 1739 (Dickinson, 2014) – Groundwater Management

Prior to the adoption or any substantial amendment of a general plan, the planning agency is required to review and consider certain specified groundwater plans and refer a proposed action to certain specified groundwater management agencies.

SB 1241 (Kehoe, 2012) – Safety Element

Revises safety element requirements for state responsibility areas and very high fire hazard severity zones and requires the safety element to take into account specified considerations, including the most recent version of the Office of Planning and Research’s “Fire Hazard Planning” document. *Amends Sections 65302 and 65302.5 of, and adds Sections 65040.20 and 66474.02 to, the Government Code, and adds Section 21083.01 to the Public Resources Code.*

SB 1090 (2012) – Land Use Element

Amends statutory language added by SB 244 (2011). Requires the update of the land use element to be based on specified available data and to include identification of each island or fringe community that is a disadvantaged unincorporated community.

SB 244 (Wolk, 2011) – Land Use Element

Requires the land use element to include analysis of the presence of island, fringe, or legacy unincorporated communities. Subsequently amended by SB 1090 (2012).

AB 1358 (Leno, 2008) – Circulation Element

Requires a city or county, upon any substantive revision of the circulation element, to modify the circulation element to plan for a balanced, multimodal transportation network that meets the needs of all users of streets, roads, and highways, in a manner that is suitable to the rural, suburban, or urban context of the general plan.

Amends Sections 65040.2 and 65302 of the Government Code.

AB 162 (Wolk, 2007) – Safety Element

Requires specified elements to address flood hazards and identify areas that may accommodate floodwater for purposes of groundwater recharge and stormwater management. Requires safety element to address flood hazards as specified.

Amends Sections 65302, 65303.4, 65352, 65584.04, and 65584.06 of, and adds Sections 65300.2 and 65302.7 to, the Government Code.