

County Planners Working on Stream Protection Ordinance

by Ann Thomas

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The County of Marin has begun work to develop an ordinance that could strengthen protections for waterways in unincorporated areas under the jurisdiction of County. A December workshop on the draft ordinance filled the Planning Commission chambers at the Civic Center with about 80 people who raised a number of issues, making it clear that this is a controversial move. It will likely be several months before anything is approved.

Although the Marin Countywide Plan contains policies supporting strong stream protections, these have not been incorporated into the zoning code, making the protections enforceable. Federal and State efforts to safeguard steelhead and coho habitat – particularly the State’s recent listing of coho as a threatened species – have prodded local jurisdictions into giving teeth to policies aimed at protecting streams that provide fish habitat. Last fall, as a first step, Marin County amended its zoning code to require design review on 219 vacant lots within the Stream Conservation Area (SCA). The Marin County SCA is defined as a watercourse and the land extending laterally outward from the top of both banks, to a width of 50 feet on each side of the waterway in the City Centered Corridor and 100 feet on each side in the Inland Rural Corridor. Corte Madera Creek and its tributaries are in the City Centered Corridor, so many of its waterways are in incorporated areas and would not be affected. The proposed ordinance would expand this to include all conventionally-zoned developed parcels as well. It would affect 2,600 parcels county-wide.

The draft ordinance presented at the December workshop proposed a requirement for design review for all development proposals on streamside parcels including, but not limited to, buildings, structures, parking and loading areas, driveways, retaining walls, fences and trash enclosures. A number of exemptions were suggested in the draft. These included waiving the design review requirement in the following cases:

- An addition to a legal structure that does not increase the structure’s lot coverage within the SCA, such as a second-story addition, and where the addition maintains an equal or greater setback to the top of the creek bank than the existing structure.
- An addition that does cumulatively increase the floor area within the SCA by more than 50% or 500 square feet, whichever is smaller, and where the addition maintains an equal or greater setback to the top of the creek bank than the existing structure.
- Minor repair, maintenance and restoration projects undertaken by a public entity, which restore and/or enhance a riparian habitat, including the removal of barriers to fish passage.

Due to intense public interest and the large number of issues that were raised, the County scheduled a second public workshop on the proposed ordinance before the County Planning Commission on January 13. A formal hearing is not expected before February at the earliest.

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Friends of Corte Madera Creek Watershed

P.O. Box 415, Larkspur, California 94977 phone: (415) 457-6045 fax: (415) 457-6362

info@friendsofcortemaderacreek.org