

**A RESOLUTION OF THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CLARA
REGARDING THE USE OF THE GUIDELINES & STANDARDS FOR
LAND USES NEAR STREAMS DEVELOPED BY THE
SANTA CLARA VALLEY WATER
RESOURCES PROTECTION COLLABORATIVE**

WHEREAS, the Santa Clara Valley Water District ("District"), along with staff representatives of the County of Santa Clara ("County"), the fifteen Cities in Santa Clara County ("Cities"), the Guadalupe-Coyote Resource Conservation District ("GCRCD"), the San Francisco Bay Regional Water Quality Control Board, various business and development interests, property owners, and environmental and community interests have formed and are members of the Santa Clara Valley Water Resources Protection Collaborative ("Water Collaborative"); and

WHEREAS, all Collaborative members share the watershed resource protection goals of flood management, drinking water quality and adequate quantity, surface and groundwater quality and quantity, and habitat protection and enhancement; and

WHEREAS, the District, Cities and County are committed to furthering these goals through the adoption and implementation of Guidelines and Standards for Land Uses Near Streams ("Guidelines & Standards"), including the "Design Guides" jointly developed with Water Collaborative jurisdictions and stakeholders; and

WHEREAS, in order to accomplish these goals, the Collaborative recognizes the role and importance of private creekside property owners' interests, and the role of public information and assistance to property owners in addition to the planning, development activities, projects, and private land use and development permitting which the County and cities perform; and

WHEREAS, it is recognized that local control is a key principle to be followed in the implementation of resource protection goals, and that Cities and the County are the primary jurisdictions for land use planning and land use permit regulation, and that the broader stakeholder community has a central role in local stewardship and enhanced resource protection; and

WHEREAS, the Collaborative has reached consensus on a set of Guidelines & Standards and a framework for the implementation of those Guidelines & Standards, which the cities and County have agreed to bring to their respective legislative bodies for appropriate actions to assure appropriate implementation and use by applicable public agencies; and

WHEREAS, staff representatives of the County of Santa Clara's Roads and Airports, Planning and Development, Parks and Recreation, Fleet and Facilities, and County Executive's Office have participated in discussions regarding the appropriateness and implementation of the Guidelines & Standards, and have concurred that it is feasible and appropriate to incorporate and

implement the Guidelines & Standards, as appropriate, to each agency's activities, functions, and responsibilities; and

WHEREAS, the Housing, Land Use, Environment, and Transportation Committee of the Board of Supervisors considered the actions described herein at its April 19, 2007 meeting and voted to forward a favorable recommendation to the Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors for the County of Santa Clara, State of California, as follows:

SECTION 1. The Board of Supervisors supports the foundational principles of the Santa Clara Valley Water Resources Protection Collaborative cited above.

SECTION 2. The Board of Supervisors takes the following specific actions regarding the use of the "Guidelines & Standards" and "Design Guides" developed through the Water Collaborative for land use and development near streams:

1. The Board of Supervisors finds and affirms that existing County General Plan policies, development standards, discretionary permit requirements and review procedures, including California Environmental Quality Act (CEQA) review for private land use and development near streams are substantially consistent with the Guidelines & Standards and accompanying Design Guides.
2. The Board of Supervisors directs staff to continue its overall evaluation of existing stream-related policies and development review procedures, as part of the Riparian Resource Protection work plan item and in relation to the work and research of the Habitat Conservation Plan regarding riparian habitats and streams.
3. The Board of Supervisors directs staff to report back to the Housing, Land Use, Environment, and Transportation Committee (HLUET) and the Board of Supervisors in one year regarding issues related to the integration of the Guidelines & Standards into existing discretionary land use and review processes, the possible need to update and improve existing policies of the General Plan regarding stream protection, and related implementation matters.
4. The Board of Supervisors approves the Guidelines & Standards and Design Guides of the Water Collaborative for use by County agencies and departments performing work or construction near streams and to undertake appropriate coordination between County agencies and departments and the Water District, through the early consultation" process and ongoing communication. The implementation of the Guidelines & Standards and Design Guides to County projects and functions shall be

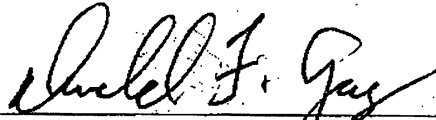
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based on determinations by the County agencies and departments regarding the most appropriate and applicable means of achieving consistency with the Guidelines & Standards, depending on the project and appropriate consultation with the District.

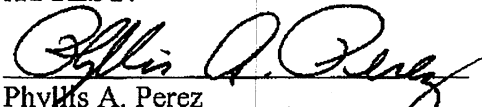
PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Clara, State of California on MAY 22 2007 by the following vote:

AYES: ALVARADO, GAGE, KNISE, MOWUCH, YEAGER
NOES: None
ABSENT: None
ABSTAIN: None

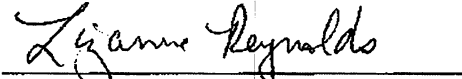


Donald F. Gage, Chairperson
Board of Supervisors

ATTEST:


Phyllis A. Perez
Clerk of the Board of Supervisors

APPROVED AS TO FORM AND LEGALITY:


Lizanne Reynolds
Deputy County Counsel

Added

County of Santa Clara
Department of Planning and Development
Planning Office



PLN03 052207

Prepared by: Bill Shoe
Principal Planner

Reviewed by: Michael Lopez
Planning Manager

DATE: May 22, 2007

TO: Board of Supervisors

FROM:

A handwritten signature in black ink that reads "Valentin Alexeeff" with a small "DM" superscript.

Valentin Alexeeff
Director, Department of Planning and Development

SUBJECT: Use of the "Guidelines & Standards" (G&Ss) and "Design Guides" developed by the Santa Clara Valley Water Resources Protection Collaborative ("Water Collaborative") by County agencies and departments.

RECOMMENDED ACTION

Adopt Resolution regarding the use of the Guidelines and Standards for Land Uses Near Streams developed by the Santa Clara Valley Water Resources Protection Collaborative. (Roll Call Vote)

FISCAL IMPLICATIONS

No fiscal impacts to the General Fund.

CONTRACT HISTORY

Not applicable.

REASONS FOR RECOMMENDATION

1. The proposed resolution for consideration by the Board of Supervisors contains the following list of recommended actions regarding the Water Collaborative's Guidelines and Standards and Design Guides:
 - a. Adopt a resolution affirming that existing County policies, standards, discretionary permit requirements and review procedures, including California Environmental Quality Act (CEQA) review, for private land use and development near streams are substantially consistent with the "G&S."
 - b. Direct staff to continue its overall evaluation of existing stream-related policies and development review procedures, as part of the Riparian Resources Protection work plan item and in relation to the work and research of the Habitat Conservation Plan regarding riparian habitats and streams.
 - c. Direct staff to report back to HLUET and the Board of Supervisors in one year on issues related to integration of the G&Ss into existing discretionary review processes, the possible need to update and improve existing policies of the General Plan regarding stream protection, and related implementation matters.
 - d. Approve the G&Ss and the Design Guides for use by County agencies and departments performing work or construction near streams and undertake appropriate coordination between County agencies, such as Roads & Airports, with the Santa Clara Valley Water District through the "Early Consultation" process and ongoing communication.

2. The implementation schedule agreed to by the Water Collaborative's participants establishes February 28, 2007 as the target date by which staff of each municipal organization, including the County, are to bring to their respective legislative decision-makers the "Guidelines & Standards" and "Design Guides" approved by the Water Collaborative for consideration and approval.

3. The "Guidelines & Standards" and "Design Guides" represent Chapters 3 and 4 of the Water Collaborative's July 2006 User Manual. Collectively these will be referred to as the "G&Ss" throughout the rest of this report. The Design Guides in particular are intended to supplement, clarify, and provide information to users of the G&Ss, not to impose any new regulatory requirements. They are similar to best management practices and educational information intended to help both public agencies and private individuals improve and protect stream resources.

4. The G&Ss are intended to supplement existing policies, standards, and procedures of the cities, Water District, and County, not create new policies or ordinances, effect new mandates, or impose new obligations upon the cities or County. The G&Ss are to be used in conjunction with existing procedures and practices by the various agencies and departments that may approve development near streams, effect maintenance and/or construction, or provide public outreach and information, including Planning & Development, Parks and Recreation, Roads and Airports, and others. Each agency and department will integrate the contents of the G&Ss as appropriate into the functions and activities to which the G&Ss may apply. Ongoing consultation and referrals with the Santa Clara Valley Water District and any other appropriate agencies will continue as appropriate.

5. The G&Ss, as well as the entire User Manual, culminate several years of productive and cooperative engagement between members of the Water Collaborative. Its goals and purposes include:

- a. To share and improve information, common understanding, and expertise among all participants, property owners, and interested parties regarding stream protection and enhancement;
- b. To improve stream environment and water quality;
- c. To improve and clarify regulatory oversight of land use and development near streams; and,
- d. To standardize and make consistent, as much as possible, the ways each jurisdiction, the Water District, cities, and County approach or regulate land use and development near streams.

6. Approval by the Board of Supervisors of the G&Ss for use by County agencies and departments in accordance with the established Water Collaborative schedule will enable the

County:

- a. to begin the process of integrating the G&Ss into existing procedures,
- b. adapting the G&Ss to the County's framework of policies, regulations, procedures and standards, and
- c. coordinating with each agency and other Collaborative members to adapt and improve the G&Ss over time.

7. The Water Collaborative has been recognized as a model of inter-jurisdictional and stakeholder collaboration. It has received recognition and awards from the Public Officials for Environmental Reform (POWER)-California Water Policy and from the Association of California Water Agencies (ACWA), for excellence in natural resource management.

8. If through further evaluation and integration of the G&Ss, staff determines that the County should consider policy and/or regulatory modifications for stream resources and land use/development near streams, such recommendations will be proposed and reviewed through standard General Plan amendment or ordinance amendment procedures.

BACKGROUND

Water Collaborative History

In August of 2005, the members of the Water Collaborative agreed by consensus to a series of work products presently published in the July 2006 User Manual. These include the Guidelines & Standards and Design Guides sections of that User Manual, Chapters 3 and 4, respectively. At the time, when approved in August 2005, these two chapters were referred to collectively as the Guidelines and Standards, or G&Ss. Of all the work products developed through the Collaborative and its work teams, consultants, and governmental agency staff, the "G&Ss" represent the core or essential building blocks of the work effort.

The agreements also included a schedule of continued participation and milestones. Most notably, each of the 15 cities and the County agreed to bring the G&Ss to their legislative bodies by February 2007 for consideration and approval. Upon approval, in whatever form or mechanism might be chosen by the municipality, the G&Ss would begin to be incorporated into existing policies, standards, procedures, and practices, as applicable and appropriate.

The Housing, Land Use, Environment and Transportation Committee (HLUET) voted to forward a favorable recommendation to the Board of Supervisors to adopt the attached resolution at HLUET's April 19, 2007 meeting.

G&Ss Supplement Local Policies and Procedures

The G&Ss are intended to supplement, not supersede, local ordinances, regulations, policies, or procedures. Each agency and department of the County or city must determine which aspects or contents of the G&S may be appropriate to their functions and activities, and to what extent. Because the G&Ss were developed collaboratively among the jurisdictions and non-governmental participants of the Water Collaborative, and draw on the collective experience and practices of the jurisdictions and stakeholders, they may not represent any departure from or difference between existing policies and practices employed by the County or any city.

For example, the G&Ss draw upon existing County policies and practices for such matters as trail planning and development along streams, as well as septic system placement and development near streams. The G&Ss impart no significantly new content or guidance in these matters. In a number of other respects, some cities report that the G&Ss would effect a lesser or minimum standard compared to what they may already be applying in some cases, so that there would not be any expected change in practice or policy. In other cases, such as the standard details drawings for drainage outfalls or similar construction improvements, the standard details employed by the District and others may be more specific or directive than those used by an individual jurisdiction. Where possible, the goal of the Collaborative has been to consolidate and standardize the use of such construction details, and gradually improve on them for everyone's benefit. The model would be the use of a uniform building code, with slight differences between jurisdictions to meet specific needs or circumstances. The ultimate goal of these standard details is less stream bank erosion and damage, but they also help developers know that the standards to be met in one jurisdiction will not be significantly different from those in another.

Water District's Revised Water Resources Protection Ordinance

The Water District Board approved a successor ordinance in October of 2006 to that presently referred to as Ordinance 83-2. Ordinance 83-2 required a permit from the District for certain activities, uses, or development within 50 feet of a jurisdictional stream (any stream that drains a watershed area in excess of 320 acres). It also regulated and required permits of certain activities within lands owned by SCVWD or lands on which the District maintains easements or rights-of-way.

The revised ordinance, to go into effect March 1, 2007, will not require permits for activities or uses outside of District property, easements, or rights-of-way. This change simplifies matters for property owners and local governments, in that permits and approvals for various uses, activities, or development not regulated by the District will be solely the regulatory jurisdiction of the cities or County. Instead, the District will require encroachment permits for any work within a jurisdictional stream or lands and streams over which they maintain easements, rights-of-way, or own in fee.

The Water Collaborative's efforts to develop more coordinated approaches to land use and development near streams for all the cities and County is partly intended to ensure that the standards and review functions that the District might have applied to projects under their jurisdictional review will be integrated, as appropriate, into the land use authority and permitting functions of the cities and County for those same streamside properties.

Future Participation in the Water Collaborative and Next Steps

The Water Collaborative has agreed to continue to meet quarterly through 2007 to share information and experiences regarding the adoption and implementation of the G&Ss. Because a primary focus for 2007 will be the application and integration of the G&Ss within existing policies, regulations, permitting procedures, and standards, discussions regarding how the G&Ss might be improved or adapted will begin towards the latter part of 2007.

With the conclusion of this phase of the Collaborative's activities, County agencies with a role in implementing the G&Ss may also benefit from periodic discussions and consultation regarding implementation, and assessment of the effectiveness of the G&Ss. These meetings or discussions may well include staff of the Water District to share observations and suggestions for improvements.

Lastly, based on the results of the Collaborative, County Planning Office staff will further its assessment of (a) existing County policies and permitting procedures regarding stream environments, (b) public outreach and information regarding best management practices, and (c) the appropriateness of policy revisions, changes in regulations, or environmental review, based on the Water Collaborative's work products. A work plan for beginning this work will be developed in early 2007, with the focus on first obtaining legislative approval for use and application of the G&Ss.

Cooperative, Consultative Model for Success: The Basis for Future Planning

Lastly, the Water Collaborative has succeeded, from somewhat challenging beginnings, because the process and structure has rested on mutual goals, information sharing, dispelling distrust, and cooperation. That model of cooperation and consultation not only includes the work of governmental agencies towards each other, but also with regard to the non-governmental organizations also. Included in the latter are property owner interest groups.

It is important to understand that all involved in the Collaborative recognize that cooperative efforts, perhaps more so than regulatory efforts, will in the long term be as important as other efforts in securing benefits for streamside property owners, regulatory agencies, the environment, and the general public. Without property owner involvement and cooperation, we not only miss significant opportunities for improvement, but the purposes of the Collaborative could be undercut. For example, there are thousands of parcels abutting streams in Santa Clara County, the majority of which may never be involved in a use or development proposal that would affect stream quality or involve local permitting functions. Where these are involved, public information programs, the availability of staff to help resolve issues with the applicable agencies, and cooperative efforts are the key.

The County promoted these same concepts through a voluntary program developed by the Planning Office in the 1990s called the RIVER program, for "Riparian Values Education Roundtable." It convened stakeholders and experts to spend time assessing issues, sharing information, and building a constituency for riparian stewardship efforts. Similarly, future County efforts to implement the G&Ss must promote stakeholder and property owner outreach, information sharing and cooperation. That approach can build trust rather than

suspicion of government motives and enables public and property owners to perceive government and planning services in a more positive light with the interests of all considered.

CONSEQUENCES OF NEGATIVE ACTION

If the Board of Supervisors does not approve the proposed resolution regarding use of the Guidelines & Standards and Design Guides, the County will discontinue efforts related to the implementation of the Water Collaborative's Guidelines and Standards. Instead, the County and its various agencies and departments will follow and/or develop whatever stream protection policies and standards are deemed appropriate to each agency, with the exception of those activities, projects, or discretionary land use approvals already subject to existing policies of the General Plan, CEQA review requirements, and standard mitigations and best management practices in place at this time. County staff representatives may or may not continue staff-level participation in the Water Collaborative, depending on direction and priorities of each agency director.

STEPS FOLLOWING APPROVAL

Clerk of the Board is to notify the Planning Office of the Board of Supervisors' actions for its records.

ATTACHMENTS

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- A. Guidelines & Standards for Land Use Near Streams
- B. GEvaluation Table
- C. Resolution Regarding Use of the Guidelines & Standards for Land Use Near Streams