

development projects in a way that protects streams and streamside resources; (3) clarify and streamline the permitting process for streamside property owners throughout the County; and (4) develop Guidelines and Standards for streamside developments that focus on local control of the permitting process for these lands. In 2005, the Collaborative produced its Guidelines and Standards for Land Use Near Streams (Guidelines). The Guidelines were revised in 2006. The revised Guidelines are attached as Attachment C.

As a result of the collaborative process, the District withdrew its permitting program with the understanding that cities and the County would assume the responsibility for implementing stream protection programs. The District has adopted a resolution relinquishing its permitting authority as of March 1, 2007. In 2005, the City adopted a resolution committing to “make best efforts to incorporate the Guidelines and Standards and associated implementation tools into appropriate land use review processes by February of 2007.” Resolution No. 05-074 (see copy in Attachment D).

Proposed Guidelines and Standards for Land Use Near Streams

Staff has reviewed the Guidelines to determine how best to incorporate them into the City’s development review processes. The Guidelines were developed by the Collaborative to protect watershed resources in a consistent manner throughout the county, and were designed so that they could be easily incorporated into local agency land use planning and permitting processes. The measures and policies contained in the Guidelines are consistent with and in some cases build upon what the City currently requires of project applicants who request permits for development near streams. For proposed new construction and additions to existing structures, staff regularly works with property owners and their architects in applying existing General Plan policies, Residential Design Guidelines standards, and zoning ordinance requirements to protect the City’s water resources.

Based on current City practices and existing code requirements, staff is not recommending that the City’s current ordinance be amended to make any of the Guidelines’ practices mandatory. Instead, staff recommends that the City adopt the Guidelines as a reference tool to be used by staff when reviewing applications for discretionary development approvals on property adjacent to protected streams and creeks. This is the approach being used by Los Altos to implement the Collaborative’s recommendations. The District has offered to provide ongoing technical assistance should the City desire it. Therefore, the City may route some applications to the District for comment. The District will not, however, issue permits for the activities proposed in these applications.

Environmental Determination

The proposed amendments and addition to the Code are Categorical Exempt from the Environmental Quality Act (“CEQA”) pursuant California Code of Regulations, Title 14, Sections 15061(b)(3) and 15308. CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is

no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Moreover, actions taken by agencies to assure the maintenance, restoration, enhancement, or protection of the environment are exempt from the requirements of CEQA, as long as these actions do not relax standards and thereby allow environmental degradation. Because the adoption of the Guidelines would help the City to ensure that development projects in or near streams do not degrade water quality or otherwise cause any significant impacts on the environment, and because the adoption of the Guidelines does not relax any preexisting standards, this project is exempt from the requirements of CEQA.

ALTERNATIVE ACTIONS:

As an alternative, the City could elect not to adopt the Guidelines. This alternative would be contrary to the commitment made by the City in Resolution No. 05-074. Alternatively, the City could amend the City Code to require application of the Guidelines to require a specific streamside development permit comparable to that previously required by the District or to otherwise require compliance with all or specific portions of the Guidelines.

FISCAL IMPACTS:

The implementation of the Guidelines will have minimal staff impact.

FOLLOW UP ACTIONS:

As directed.

ADVERTISING, NOTICING AND PUBLIC CONTACT:

The agenda was properly posted for this meeting.

ATTACHMENTS:

Attachment A: Proposed Resolution for adoption by City Council.

Attachment B: List of Collaborative Members.

Attachment C: Guidelines and Standards for Land Use Near Streams.

Attachment D: Staff Report from Community Development and Public Works, John F. Livingstone, AICP, Re: Santa Clara Valley Water Resources Protection Collaborative, December 7, 2005.

Attachment A

Resolution

Resolution No.

City of Saratoga City Council

State of California

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SARATOGA ADOPTING THE
GUIDELINES AND STANDARDS FOR LAND USE NEAR STREAMS OF THE WATER
RESOURCES PROTECTION COLLABORATIVE FOR THE PROTECTION OF WATER
RESOURCES**

WHEREAS, the City of Saratoga participates in the Santa Clara Valley Water Resources Protection Collaborative (“Collaborative”) along with the Santa Clara Valley Water District (“District”), the County of Santa Clara, the cities of Santa Clara County, and others; and

WHEREAS, the City joins the other members of the Collaborative in endorsing the water and watershed resource protection goals of flood management, maintaining drinking water quality and quantity, maintaining surface and groundwater quality and quantity, and protecting and enhancing riparian habitat; and

WHEREAS, the City is committed to furthering these goals through the development and implementation of a consistent, County-wide approach to streamside preservation; and

WHEREAS, the Guidelines and Standards for Land Use Near Streams, which was developed by the Collaborative, is such a consistent, County-wide approach to streamside preservation; and

WHEREAS, the District, the County, the City of Saratoga, and other Cities in the County through implementation of their National Pollutant Discharge Elimination System Permit, best management practices, and other means, have continuously acted to protect the watersheds and water quality in Santa Clara County; and

WHEREAS, a key to resource protection is the consideration of resource protection goals in local land use planning, regulation, and permitting processes; and

WHEREAS, land use planning, regulation, and permitting is primarily the responsibility of the cities and the County; and

WHEREAS, the City of Saratoga understands that, as of March 1, 2007, the District will no longer review and issue permits for development of streamside properties other than development encroaching on lands held in fee or easement by the District; and

WHEREAS, the City of Saratoga understands that the District will continue to provide technical assistance to the City in relation to the City's efforts to implement the Guidelines and Standards for Land Use Near Streams;

NOW THEREFORE BE IT RESOLVED that the City Council of the City of Saratoga does hereby:

1. Adopt the "Guidelines and Standards for Land Use Near Streams" of the Santa Clara Valley Water Resources Protection Collaborative; and
2. Direct that the "Guidelines and Standards for Land Use Near Streams" be applied to streamside developments in the City of Saratoga to the extent feasible and appropriate, and to the extent that the Guidelines and Standards are consistent with Saratoga's General Plan, Specific Plans, Design Guidelines and Zoning Ordinance; and
3. Continue to participate in the Santa Clara Valley Water Resources Protection Collaborative on matters pertaining to water resources protection.

The foregoing resolution was adopted by the following vote on the 2nd day of May, 2007.

AYES:

NOES:

ABSENT:

ABSTAIN:

Aileen Kao, Mayor

ATTEST:

Cathleen Boyer, City Clerk

Attachment B

List of Collaborative Members

Attachment C

Guidelines and Standards for Land Use Near Streams

Attachment D

Staff Report from Community Development and Public Works, John F. Livingstone, AICP, Re:
Santa Clara Valley Water Resources Protection Collaborative, December 7, 2005.