

**San Lorenzo Creek Task Force**  
**MEETING NOTES**  
**HARD Building, 1099 E Street, Hayward, CA 94541**  
**September 3, 2009, 7:00– 9:00pm**

**Welcome**

- Review Agenda
- Review Meeting Notes
- Announcements
  - 1) Community Climate Action Plan, two meetings for community input at Eden Church of Christ; Wednesdays, 9/16/09 & 12/2/09 from 6-8pm, survey and more at [acgov.org](http://acgov.org).
  - 2) Dedication at De Anza Park of creek trail from foothill & civic center drive to 2<sup>nd</sup> street on Monday, 9/21/09 at 3pm.
  - 3) City of Hayward received an application for a pre-school at the bank building along the creek.

*Follow-up or Action Items: None*

**7:10 Discussion of Task Force Process**

- Update on facilitator

Staff has met with the facilitator and anticipates the facilitator beginning work at the October 2009 meeting. Facilitator may speak individually with Task Force members prior to starting work.

*Follow-up or Action Items:*

*Staff will work through final logistical details with facilitator.*

**7:15 Creek Setback Discussion**

- Discuss draft outline of creek classification system.

Staff has categorized the creeks in the San Lorenzo Creek Watershed within the Urban Growth Boundary into three general types: Engineered Urban, Mixed Urban and Primarily Natural (see handout). The 'Natural' creeks category is being discussed at this meeting. The first step will be to identify whether the project being applied for is along a natural creek. If so, the applicant will need to identify the riparian boundary and also identify if the project would contribute to flooding, erosion, sedimentation, or inhibit watercourse maintenance. If so, the minimum setback would need to be expanded.

How does the riparian boundary get delineated and defined? This is unknown and needs to be determined. Group had discussion about intermittent and ephemeral streams. Staff provided some definitions of creek types. Perennial – creeks that flow throughout the year, indicated by a solid blue line on USGS topographic maps. Intermittent – streams that flow at certain times of the year, usually have water for at least 30 days after a storm, should have a defined stream channel, indicated by a dash & dot symbol on the USGS topographic maps. Ephemeral – streams that flow only in direct response to precipitation and that flow no longer than 30 days. The USGS and the County have data on the perennial creeks but not for intermittent or ephemeral creeks. This information could be captured at the time of project application.

Headwater creeks are not always identified on project plans. When the headwaters of a creek are turned into a storm drain, it creates more flow downstream. Also, parceling of land should consider the overall drainage to deal with creek preservation and/or restoration, particularly at the headwaters. This information is frequently missing from project application plans. Does the County and/or the developer have the responsibility to protect the citizens from problems that occur with water flow as a result of development projects? The County should require that project applications include water drainage patterns on development plans.

The group would like the minimum setback to be the same for Mixed Urban and for Natural. If there is a concrete-lined channel, chances are that there is no riparian corridor there. Consideration for potential restoration would require the expansion of the minimum setback. The County can't restore creeks one property at a time, there will need to be similar rules for whole sections of creek.

*Follow-up or Action Items:*

*Merge the "Recommendations" document with the "Process for determining setback beyond 2/1 plus 20'." Propose process for the other two creek categories: Engineered Urban and Mixed Urban.*

#### 7:55 **Development within Creek Setbacks Discussion**

- Discuss revised draft findings to determine appropriate exceptions to prohibition of development in creek setbacks inside the Urban Growth Boundary to include in Alameda County's watercourse ordinance.
- Discuss how draft findings would be applied to development proposals.
- Discuss when to allow replacement of existing structures within a creek setback.

Comments on the Findings from the July meeting were incorporated: List A and B. Added a note that whatever entity is the decision maker for granting a permit to allow development within a creek setback would be required to make these findings. Based on comments from the July meeting, "public good" was further defined as accessible to the general public. There was some discussion about the difference between the rules and how they are applied.

Some discussion about other applicable creek rules (for example Fish & Game, SWPPP). How do applicants know what other rules/laws apply to projects? Should the County alert applicants of other laws?

Howard thinks that the current definitions and wording regarding Development in the watercourse ordinance are sufficient and the problem lies in the interpretation and implementation of the ordinance.

Public hearing process for the decision about development around creeks instead of a single decision maker.

Bruce King suggested that a fourth finding be added to List A, which would state, "The proposed development will not significantly harm the overall health of the aquatic and riparian habitat and function in the creek system." Bruce clarified that development can occur if it doesn't harm the creek system, although there may be local damage for construction of a foot path, park, trail, etc. There was discussion of what constitutes the creek system. It was determined that the proposed finding #4 from List A and finding #7 from List B should be combined since they are similar.

The task force directed staff to combine the two findings into one and bring the proposed wording back to the next meeting.

The County's requirements should only regulate what it can control. Should the County alert applicants of other regulations? That could be part of the Task Force's recommendations for the overall process.

Discussion of "Grandfathering". Examples of how non-conforming uses are addressed in other ordinances, including the County's zoning ordinance, were provided. There was discussion of applying the same standards found in the County zoning ordinance to the watercourse ordinance to provide consistency.

Concern was expressed about the number of existing structures that may become non-conforming if the size of the creek setback is increased. Could the County conduct an inventory of properties along the creek to determine which properties would be affected by a change in the creek setback? How many are now non-conforming and how many would become non-conforming if the setback were increased?

If the creek setback is changed, there is the potential to turn existing lots into non-conforming structures. For example, would an owner be allowed to rebuild if their house burned down? Houses on small properties may not be allowed to be re-built under the new laws.

Front yard setback. If the front yard setback requirement wasn't as wide/long then properties that would not be allowed to rebuild a house with the same footprint may be allowed to do it if they could move the footprint of the structure forward. Allowing flexibility in the front yard setback would be one way to address this issue.

Topic needs more discussion before consensus is reached.

*Follow-up or Action Items:*  
Staff to update the Findings

9:00 **Property Owners' Rights and Responsibilities Associated with the County Watercourse Ordinance**

- Begin working group discussion.

Continued to next meeting.

*Follow-up or Action Items:* None

9:00 **Public Comment**

- Hear from interested members of the public

9:00 **Meeting Evaluation**

- Review action items and topics for next agenda
- Share ideas, concerns, suggestions on how to improve future meetings

*Follow-up or Action Items:*

9:00 **Adjourn**

