

**San Lorenzo Creek Watershed Task Force Recommendations**

| Task Force Recommendation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | County Response                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                                        |
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|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              | Recommended Watercourse Ordinance Proposal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         | How recommendations are/can be addressed by other means                                                                                                                |
| 1. P.5, 1 <sup>st</sup> Bullet; the TF recommended that the WPO be applied more broadly than could be inferred by the "blue line" map identification guidelines in the old definition of "watercourse."                                                                                                                                                                                                                                                                                                                      | In the draft WPO Rev, the ordinance will be applied to all watercourses (as redefined in the new Section 13.12.040) – and Watercourse Permits will be required for those activities described in the new Section 13.12.130, except for the exemptions listed in 13.12.140.                                                                                                                                                                                                                                                                         |                                                                                                                                                                        |
| 2. P.5, 2 <sup>nd</sup> Bullet; the TF recommended that the terms and provisions referring to riparian areas be defined.                                                                                                                                                                                                                                                                                                                                                                                                     | The WPO Rev includes the definition of riparian area and habitat in the new 13.12.040 – and includes provisions describing a related biological setback and the rules for implementation in 13.12.110;                                                                                                                                                                                                                                                                                                                                             | The County has implemented a policy that watercourse setbacks be determined and that all new development within a setback be approved during the tentative map process |
| 3. P.5, 3 <sup>rd</sup> Bullet; the TF recommended that the WPO be revised to: <ul style="list-style-type: none"> <li>a. Clarify when permits would not be issued; and</li> <li>b. Require a public notification prior to any permit issuance; and</li> <li>c. Identify a minimum 20' setback for development; and</li> <li>d. Establish that other factors, including riparian vegetation, be considered in the determination of a setback; and</li> <li>e. Indicate strict enforcement of setback requirements.</li> </ul> | <ul style="list-style-type: none"> <li>a) Section 13.12.140 of the WPO Rev provides a listing of circumstances when a permit would not be issued.</li> <li>b) Section 13.12.200 establishes a requirement for notification.</li> <li>c) Section 13.12.110 describes eight different types of possible setbacks and how they interrelate.</li> <li>d) Section 13.12.120 provides the guidelines for development and discharge within each setback.</li> <li>e) Section 13.12.370 provides for penalties for violation of this ordinance.</li> </ul> |                                                                                                                                                                        |
| 4. P.6, 1 <sup>st</sup> Bullet; the TF recommended that the County staff be trained with regard to the WPO and the relevant                                                                                                                                                                                                                                                                                                                                                                                                  | Out of scope for the WPO Rev.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | Section 13.12.120 provides for setback determination and the requirement for a study                                                                                   |

| General and Specific Plan requirements.                                                                                                                                                                       |                                                                                                                                                                                              | performed by a qualified wildlife biologist or other qualified person(s) for the purpose of determination the necessary biological setback.                                                                                                                                                                   |
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| 5. P.6, 2 <sup>nd</sup> Bullet; the TF recommended that staff implement a process to determine the applicability of the WPO requirements immediately upon application to Planning.                            | Out of scope for WPO Rev.                                                                                                                                                                    | The County has implemented a policy that watercourse setbacks be determined and that all new development within a setback be approved during the tentative map process                                                                                                                                        |
| 6. P.6, 3 <sup>rd</sup> Bullet; the TF recommended that the County determine riparian boundaries.                                                                                                             | Section 13.12.110 of the WPO Rev establishes the guidelines for a riparian setback                                                                                                           |                                                                                                                                                                                                                                                                                                               |
| 7. P.6, 4 <sup>th</sup> Bullet; the TF recommended that the County determine areas where riparian habitat could be restored.                                                                                  | Out of scope of WPO                                                                                                                                                                          | The Flood Control District has performed creek restoration projects throughout the County including the Chabot Creek that discharges into the San Lorenzo Creek that is currently under construction. The District also performs Watershed Planning to determine appropriate areas where this can take place. |
| 8. P.6, 5 <sup>th</sup> Bullet; the TF recommended that grading permits not be issued for creekside projects pending approval by Planning and an assurance that adequate erosion protection will be provided. | Section 13.12.180 requires submission of proposed erosion and sediment control plans and no Watercourse Permit will be issued without adequate provisions for erosion protection of a creek. | The County has implemented a policy that watercourse setbacks be determined and that all new development within a setback be approved during the tentative map process.                                                                                                                                       |
| 9. P.7, last paragraph; the TF recommended that the watercourse setback restrictions be applied to "engineered flood control channels,"                                                                       | The WPO Rev establishes the setback at the current property or easement line.                                                                                                                |                                                                                                                                                                                                                                                                                                               |

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| <p>with a goal of naturalizing such channels.</p>                                                                                                                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <p>10. P.8, 2<sup>nd</sup> &amp; 3<sup>rd</sup> paragraphs; the TF recommended that the watercourse regulations be applied to ephemeral streams.</p>                                                      | <p>A definition has been provided for ephemeral streams. Biological setbacks for ephemeral streams would only apply as determined by the Director.</p>                                                                                                                                                                                                                                                                                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <p>11. P.8, last paragraph; the TF recommended that the definition of a structural setback be clarified – and that it be further defined for engineered channels.</p>                                     | <p>The definition of a structural setback has been revised in the WPO Rev by breaking it into two separate categories: 1) a sediment control setback intended to limit erosion, and 2) a stability setback intended to control overall bank collapse; see Section 13.12.110A. A properly designed concrete-walled flood control channel should not be subject to either bank erosion or bank collapse, and therefore structural setbacks are not applied to such channels in the WPO Rev.</p> |                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <p>12. P.9, 1<sup>st</sup> Bullet; the TF recommended that the watercourse ordinance be applied “to all types of watercourses defined in the ordinance, including engineered flood control channels.”</p> | <p>The definition of watercourse has been changed in the WPO Rev to exclude those facilities such as water pipes that are clearly outside of the County jurisdiction. Flood control channels are included in the new definition, but are subject to their own specific regulations.</p>                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <p>13. P.9, 2<sup>nd</sup> Bullet; the TF recommended that the County restore improved channels to a “natural state” wherever possible.</p>                                                               | <p>Out of scope for the WPO Rev</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                           | <p>The Flood Control District has performed creek restoration projects throughout the County including the Chabot Creek that discharges into the San Lorenzo Creek that is currently under construction. Other projects include the restoration to the channel adjacent to the Castro Valley Library. The District also performs Watershed Planning to determine appropriate areas where this can take place.</p> |

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| 14. P.9, 3 <sup>rd</sup> Bullet; the TF recommended that the County include ephemeral streams in the WPO.                                                                                                                                               | Ephemeral streams are defined by the WPO Rev.                                                                                                                                                                                                             |                                                                                                                                                                                                                         |
| 15. P.9, 4 <sup>th</sup> Bullet; the TF recommended revised or added definitions for "watercourse," "ephemeral stream," "intermittent stream," "perennial stream," "sheet flow," and "swale."                                                           | The draft WPO Rev includes revised or added definitions for the first terms however sheet flow and swales were not included. These were not included since the recommendation by the Task Force was that the Ordinance did not apply to these features.   |                                                                                                                                                                                                                         |
| 16. P.11, 1 <sup>st</sup> Bullet; the TF recommended establishing a 2:1 + 20' minimum setback for all man-made and natural perennial and intermittent watercourses for new development.                                                                 | Section 13.12.120 includes the establishments of setbacks for privately owned perennial and intermittent watercourses. District owned facilities are set at the District right of way.                                                                    |                                                                                                                                                                                                                         |
| 17. Ditto; the TF recommended that existing legal development within the 2:1 + 20' setback be allowed to be "rebuilt" within the current footprint if damaged, provided that the cost does not exceed 75% of the total replacement cost.                | Outside the scope of the WPO.                                                                                                                                                                                                                             | Other ordinances/guidelines need to be taken into account when approving reconstruction of a damaged structure. Land Use issues need to be determined prior to consideration of any watercourse permitting requirements |
| 18. P.11, 2 <sup>nd</sup> Bullet; the TF recommended that the 2:1 + 20' be regarded as a minimum and that there should be a process for determining a possible larger setback.                                                                          | Section 13.12.120 includes the establishments of setbacks for privately owned perennial and intermittent watercourses.                                                                                                                                    |                                                                                                                                                                                                                         |
| 19. P.11, 3 <sup>rd</sup> Bullet and P.12, 1 <sup>st</sup> Bullet; the TF recommended criteria that should be used in the determination of a larger-than-minimum setback – and evaluation points that could be used in judging the applicability of the | Section 13.12.120 includes the establishments of setbacks for privately owned perennial and intermittent watercourses. These include Erosion and sediment control, Bank stability, Flood way, Floodplain and Biological setbacks that must be determined. |                                                                                                                                                                                                                         |

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| suggested criteria.                                                                                                                                                                                                                                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |                                                                                                                                                    |  |
| 20. P.12, 2 <sup>nd</sup> & 3 <sup>rd</sup> Bullets and P. 13, 1 <sup>st</sup> & 2 <sup>nd</sup> Bullets; the TF recommended that the same setback rules be applied to both perennial and intermittent streams, but that different rules be applied to ephemeral streams. | Section 13.12.120 includes the establishments of setbacks for privately owned perennial and intermittent watercourses.                                                                                                                                                                                                                                                                                                                                             | See No. 21                                                                                                                                         |  |
| 21. P.13, 3 <sup>rd</sup> Bullet; the TF recommended that the County establish a program to encourage property owners outside of the Urban Growth Boundary to adopt BMP's for creek protection and to engage with the Resource Conservation District.                     | Out of scope for the WPO Rev.                                                                                                                                                                                                                                                                                                                                                                                                                                      | The Alameda County Clean Water Program has creek care and protection guidance on-line available to creekside property owners at ACF&WCD's website. |  |
| 22. P.14, 1 <sup>st</sup> Bullet; the TF recommended that decisions relating to development in creekside areas be made jointly by PWA and CDA.                                                                                                                            | The County has implemented a policy that watercourse setbacks be determined and that all new development within a setback be approved during the tentative map process. The tentative map process is approved by the Community Development Agency establishing conditions on a proposed development. The Public Works Agency provides input on conditions and is required to implement these conditions during the final map recordation and construction process. |                                                                                                                                                    |  |
| 23. P.14, 2 <sup>nd</sup> Bullet; the TF recommended that public notification be required for all watercourse permits.                                                                                                                                                    | Section 13.12.200 requires notice to adjacent owners. Notification should be per the Zoning Ordinance.                                                                                                                                                                                                                                                                                                                                                             |                                                                                                                                                    |  |
| 24. P.14, 3 <sup>rd</sup> Bullet; the TF recommended a series of findings that should be imposed for both public and private creekside improvements.                                                                                                                      | Section 13.12.120 includes the establishments of setbacks for privately owned perennial and intermittent watercourses. These include Erosion and sediment control, Bank stability, Flood way, Floodplain and Biological setbacks that must be determined.                                                                                                                                                                                                          |                                                                                                                                                    |  |
| 25. P.16, 1 <sup>st</sup> and 2 <sup>nd</sup> Bullets; the TF recommended various changes to the                                                                                                                                                                          | Out of scope for the WPO Rev.                                                                                                                                                                                                                                                                                                                                                                                                                                      | This recommendation can be addressed either by granting                                                                                            |  |

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| Zoning Ordinance.                                                                                                                                                                        |                               | variances for the applicable zoning setbacks or by amending the zoning ordinance to allow flexible setbacks.                                                                                                                 |
| 26. P.17, 1 <sup>st</sup> Bullet; the TF recommended that the County increase the budget for creek maintenance.                                                                          | Out of scope for the WPO Rev  | The District is not responsible for maintenance of privately owned creeks and watercourses.                                                                                                                                  |
| 27. P.17, 2 <sup>nd</sup> Bullet; the TF recommended that the County consider adopting a separate ordinance that would identify owner and County responsibilities for creek maintenance. | Out of Scope of WPO           | The Alameda County Clean Water Program has creek care and protection guidance on-line available to creekside property owners at ACF&WCD's website.                                                                           |
| 28. P.18, 1 <sup>st</sup> Bullet; the TF recommended that the County revise the San Lorenzo Creek care guideline and distribute it to property owners.                                   | Out of scope for the WPO Rev. | The Alameda County Clean Water Program has creek care and protection guidance on-line available to creekside property owners at ACF&WCD's website.                                                                           |
| 29. P.18, 1 <sup>st</sup> Bullet; the TF recommended that the County Grading Ordinance be updated.                                                                                       | Out of Scope of WPO           | The Grading Ordinance was updated in 2010.                                                                                                                                                                                   |
| 30. P.18, 2 <sup>nd</sup> Bullet; the TF recommended that the Grading Ordinance provide for control of erosion into creeks and stormdrains.                                              | Out of scope for the WPO Rev. | The Grading Ordinance does provide for the control of erosion; it requires the submittal of detailed erosion control plans – and in particular does not allow grading during the rainy season without weather-related plans. |
| 31. P.18, 3 <sup>rd</sup> Bullet; the TF recommended that the County enforce compliance with erosion control measures for                                                                | Out of scope for the WPO Rev. | The Grading Ordinance does provide for control of erosion and the permit should remain                                                                                                                                       |

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| projects that are delayed after grading is completed.                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                    | open until completion of all operations associated with the permit are complete                                                                                                                                       |
| 32. P.18, 4 <sup>th</sup> Bullet; the TF recommended that a County Grading Permit not be issued pending the issuance of a County Stormwater Permit, in those cases where both permits are required.                                              | Out of scope for the WPO Rev.                                                                                                                                                                                                                                                                                                                                                                      | A County Grading Permit is typically issued prior to a Stormwater Permit, since the former authorizes rough grading, while the latter covers the detailed construction of stormwater treatment facilities.            |
| 33. P.19, 1 <sup>st</sup> Bullet; the TF recommended that the County ensure that existing stormwater treatment facilities remain functional.                                                                                                     | Out of scope for the WPO Rev.                                                                                                                                                                                                                                                                                                                                                                      | The responsibility for maintenance and repair of formal stormwater treatment facilities is passed on to the property owners. The County will be responsible for periodic inspection under Provision C.3.h of the MRP. |
| 34. P.19, 2 <sup>nd</sup> Bullet; the TF recommended that the County provide the appropriate level of inspection services to ensure the functionality of stormwater treatment facilities, and that the County secure the needed revenue support. | Out of scope for the WPO Rev.                                                                                                                                                                                                                                                                                                                                                                      | PWA is in the process of proposing an amendment to the Stormwater Discharge Ordinance that will identify and implement the revenue stream necessary to support C.3.h.                                                 |
| 35. P.19, 3 <sup>rd</sup> Bullet; the TF recommended that the County enforce stormwater regulations for grading projects that are permitted and should be permitted and develop new or modify existing ordinance to allow for this enforcement.  | Construction related Best Management Practices are required on grading projects are verified by both the required inspections under the Grading Permit and the overview inspections under Provision C.6 of the MRP. The County also revised the Grading ordinance in 2010 to improve enforcement abilities. This enforcement section has also been included in the revised Water Course Ordinance. |                                                                                                                                                                                                                       |