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## Planning & Transportation Commission Staff Report

**From: Planning and Development Services Director**  
**Lead Department: Planning and Development Services**

**Meeting Date: August 14, 2024**  
Report #: 2402-2651

### **TITLE**

Study Session to Discuss Updates to the Stream Corridor Protection Ordinance (Palo Alto Municipal Code (PAMC) Section 18.40.140)

### **RECOMMENDATION**

Staff recommends that the Planning and Transportation Commission (PTC) conduct a study session to review and provide feedback on the update of the Stream Corridor Protection Ordinance (PAMC Section 18.40.140).

### **EXECUTIVE SUMMARY**

The update to the Stream Corridor Protection Ordinance is a Council priority. Staff has worked with a consultant to analyze different approaches to the ordinance update. Staff has:

- Considered expansion of setbacks and riparian areas next to streams/creeks, and how to manage future development beyond the current code allowances in the riparian area
- Researched the state regulatory environment,
- Analyzed riparian protection approaches in other jurisdictions, and
- Confirmed best practices from issue area experts and other stakeholders including the San Francisquito Creek Joint Powers Authority and the Santa Clara Valley Water District.

Staff will use feedback provided at this study session to develop a draft ordinance for PTC and the City Council consideration. This study session is intended to relay how the ordinance could change, which properties the ordinance changes may impact, what the amendments would do to adjust current processes, and to present policy topics that could be controversial to enable the PTC to identify topics it believes are the most critical for discussion.

Staff requests the PTC consider five key policy topics:

1. Applicability/Types of Development
2. Exemptions
3. Setback Distances
4. Stream Conditions
5. Deviation Process

The presentation to the PTC will provide staff recommendations and further detail on these five topics, in addition to other criteria. These include key terms to be considered, provisions from other jurisdictions with stream protection standards, and the existing conditions report. Staff anticipates presenting the draft ordinance to the PTC on September 25, 2024, to request the PTC's recommendation to the City Council.

## **BACKGROUND**

### Council Priorities

On March 4, 2024, the City Council adopted 78 Council Priority Objectives. The update to the Stream Corridor Protection Ordinance is included as one of objectives under the category “Climate Change & Natural Environment: Protection & Adaptation.” Council directed staff to prepare zoning changes consistent with the Comprehensive Plan policies related to creek protection. This objective has remained a Council priority for the last three years. Staff anticipates bringing a draft ordinance to the City Council for adoption in October 2024.

### Comprehensive Plan

The Comprehensive Plan (Comp Plan), adopted in November 2017, includes several policies related to creek protection. The Comp Plan recognizes the City’s creeks and riparian areas as “valuable resources for natural habitat, connectivity, community design, and flood control” that require protection and enhancement. As part of this recognition, the City’s Stream Corridor Protection Ordinance was identified for an update to reflect the importance of these resources.<sup>1</sup>

Policy N3.3 of the Comprehensive Plan calls for the protection of the city’s creeks from the impacts of future buildings, structures, impervious surfaces and ornamental landscaping and preserve their function as habitat connectivity corridors by establishing a range of setback requirements that account for existing creek conditions, land use characteristics, property ownership and flood control potential. Policy N3.3 contains three programs that define the potential ordinance update:

- Program N3.3.1 calls for the exploration of an ordinance update that expands the current 50-foot setback along creeks to 150 feet for properties west of Foothill Expressway. The Program also references establishing design recommendations for development of sites within the setback, exemption opportunities for single-family properties, and appropriate setbacks and conservation measures for undeveloped parcels.
- Program N3.3.2 calls for similar consideration of expanded setbacks east of Foothill Expressway.

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<sup>1</sup> The Comprehensive Plan uses the term “creek” rather than “stream,” except when discussing the update of the Stream Corridor Protection Ordinance. However, given that the update of the Stream Corridor Protection Ordinance is the subject of this undertaking, the term “stream” will be used within the context of this report and the ordinance.

- Program N3.3.3 calls for the minimization of impacts in all creeks by limiting recreational trails to one side of natural riparian corridors, and by thoughtfully designing of lighting near riparian corridors.

Attachment A includes two Comprehensive Plan maps that show the creeks potentially affected by this ordinance update.

#### Existing Stream Corridor Protection Ordinance

The existing Stream Corridor Protection Ordinance is set forth in Palo Alto Municipal Code Section 18.40.140 (Attachment B). The code requires streamside review for properties abutting a stream or within 50 feet of the top of a stream bank. This applies to development within all zoning districts, with some exceptions and limitations for projects in residential zoning districts.

In addition to the streamside review area, the existing ordinance includes requirements for the “slope stability protection area,” which is measured 20 feet landward of top of bank or to a point measured at a 2:1 ratio landward from the toe of bank, whichever is greater. Within the slope stability protection area, all structures, including decks, swimming pools, spas, hot tubs, and parking lots are prohibited. The slope stability area is intended to maintain the structural integrity of the bank, and functions like a setback because it does not allow any structures. Conversely, the streamside review area is an area subject to discretionary design review, with requirements and guidelines for elements such as vegetation, lighting, and building materials.

#### Regulatory Framework

Numerous federal, state, and regional regulations govern the protection of streams and their corridors. These include the Clean Water Act, which requires permits for work impacting U.S. Waters, and the Porter-Cologne Act, regulating waste discharge. The California Department of Fish and Wildlife also regulates streambed alteration. These regulations provide a framework for the City of Palo Alto to manage stream-side property in accordance with community goals, while adhering to federal and state guidelines. The city has also endorsed the Santa Clara Valley Water District (Valley Water) Resources Protection Collaborative Guidelines, which may inform updates to local stream protection ordinances. More details on the regulatory framework can be found in the Existing Conditions report (Attachment B).

### **ANALYSIS**

This section provides an analysis of matters pertinent to the update of the Stream Corridor Protection Ordinance to facilitate discussion with the PTC. The section includes identification of key terms, analysis of stream protection standards in other jurisdictions, and selected findings from the Existing Conditions Report prepared for this project.

#### Key Terms

As noted above in the summary of the existing Streamside Corridor Protection Ordinance, the ordinance uses the term "streamside review area" which it defines as “all properties abutting a stream or located within 50 feet from the top of a stream bank, except those properties separated from the stream by a public street.” For purposes of discussion, other terms should

be defined, and ideally included in an update to the ordinance. Staff has assembled working definitions for key terms. The definitions have been derived from the Comp Plan, the Santa Clara Valley Water Resources Protection Collaborative User Manual *Guidelines and Standards for Land Uses Near Streams*, and other streamside corridor protection ordinances from other communities. The draft terms and definitions are included in Attachment D.

#### Other Jurisdictions

In considering the update to the Stream Corridor Protection Ordinance, staff conducted a comparative analysis of existing stream regulations in other jurisdictions.

Table 1 provides a comparison of stream setbacks and riparian buffers in other jurisdictions. Although many of the jurisdictions have setbacks in the range of 20 to 25 feet, some have broader setbacks, ranging from 100 to 200 feet.

**Table 1: Comparison of Stream Setbacks and Riparian Buffers in the San Francisco Bay Area**

|                      |  |
|----------------------|--|
| City of Berkeley     | 25 ft. minimum setback generally, measured from centerline of creek  |
| City of Fremont      | 200 ft. (hill area only); 30 ft from centerline or 20 ft. from top of a bank   |
| City of Oakland      | 20 ft.   |
| County of Marin      | 100 ft. minimum setback from top of bank and 50 ft from edge of riparian vegetation  |
| City of San Carlos   | 25 ft from top of bank   |
| City of San Jose     | 100 ft. minimum setback generally, measured from top of bank or outside dripline of riparian corridor vegetation   |
| County of Santa Cruz | 50 ft. (perennial) and 30 ft. (intermittent) minimum setback generally, measured from the mean rainy season bankfull flowline, plus all riparian woodlands |
| Town of Woodside     | 25 ft. from top of bank or 50 ft. from centerline  |

Some jurisdictions have different standards for differing site conditions. In Fremont, the setback for hilly areas (200 feet from centerline or 20 feet from top of bank) and the rest of the city (30 feet) varies. Santa Cruz distinguishes between perennial and intermittent streams. Riparian vegetation and buffers are also addressed in some of the regulations. Both the City of San Jose and County of Marin measure setbacks either from the top of bank or from the edge of riparian vegetation.

The basis for measurements varies but is typically either measured from the top of bank, or centerline of a stream. However, this does not provide confirmation on the location of the top of bank, which can change over time as part of stream dynamics. Top of bank and toe of bank are the bases for setbacks under Palo Alto's current ordinance. Measurement from the centerline could allow use of GIS data, assuming GIS data is available for the centerlines of the streams.

Measurement from the top of bank is likely to require an engineered survey with possible field verification by a qualified biologist or surveyor. For new construction projects in most cities, an engineered survey of the property is typically prepared regardless, so that requirement would not be particularly onerous. However, requiring a field verification by a qualified biologist for a relatively small modification to an existing property could be burdensome. But this would only be required where the applicant intends to expand the building footprint towards the top of bank within the setback area.

Determining the extent of riparian vegetation can be accomplished through a variety of means. The most thorough approach would involve a qualified biologist, but qualified surveyors are also able to document the extent of woody tree canopy and the locations of significant trees. More informally, the outline of the tree canopies can provide a more general guidance for determining the outward edge of riparian vegetation (tree canopy) where it extends to and over the top of bank. However, while a few jurisdictions include standards measured from the edge of woody riparian vegetation (i.e. tree canopy that extends beyond the top of bank), this could discourage property owners from preserving important riparian habitat beyond the top of bank areas.

#### Key Findings in the Existing Conditions Report

An Existing Conditions Report was prepared by Environmental Collaborative and Good City Company (Attachment C) and published in July 2024. The document:

- Provides a summary of the current regulatory framework protecting streams,
- Describes the existing network of creeks in Palo Alto and the City's Stream Corridor Protection Ordinance,
- Reviews development requirements and guidelines for streams protected under the ordinance,
- Identifies limitations in current mapping of protected streams,
- Summarizes riparian protections used by local agencies in the Bay Area as reported by the Regional Water Quality Control Board (RWQCB),
- Provides information on existing conditions along protected streams mapped by the City, and
- Makes recommendations for further review and refinement of the ordinance.

Current stream mapping in Palo Alto primarily focuses on major streams, but there are discrepancies with data from the Santa Clara Valley Water District, highlighting the need for verification. While setbacks are measured from the top of the stream bank, available data is plotted to the centerline, necessitating field verification.

Conditions along protected streams vary considerably, with more heavily modified channels downstream of El Camino Real and to Foothill Expressway. Analysis suggests a 150-foot setback west of Foothill Expressway would encompass mostly vegetation, while a 50-foot setback east of Foothill Expressway would include many smaller parcels and a significant amount of existing vegetative cover.

The Existing Conditions Report includes potential recommendations to consider, which include:

- Establishing a range of setback requirements,
- Exploring different setbacks based on location and habitat values,
- Providing clear definitions, and
- Clarifying stream identification processes.

These findings align with the Comp Plan's goals and policies for stream corridor protection.

## DISCUSSION

Discussion and input from the PTC on the following key topics will provide staff and the consultant team with clear guidance on how to update the existing Stream Corridor Protection Ordinance. Staff requests PTC input on key questions for the following topics:

1. Applicability/Types of Development
2. Exemptions
3. Setback Distances
4. Stream Conditions
5. Deviation Process

### 1. Applicability/Types of Development:

*Which types of development and land uses should be subject to the updated ordinance?*

The existing Stream Corridor Protection ordinance has broad applicability to development in all zones, except for more specific provisions to development in the R-1, R-2 or RMD zones. The existing ordinance makes no distinctions between various site contexts and conditions in the City (foothills west of Foothill Expressway, flat/urban area east of Foothill Expressway, and the area near the Baylands east of Highway 101) or types of development (single-family residential, multifamily/mixed-use and nonresidential).

Staff would like PTC input on whether the updated ordinance should make greater distinction between single-family residential, multifamily residential, and mixed use and nonresidential development as each relates to streams and riparian buffers.

**Staff recommendation: Apply regulations to all types of development, but with exceptions for *some* single-family home projects.** This approach would be consistent with the existing Streamside Protection Ordinance, which currently exempts development in R-1, R-2 or RMD zones that do not require discretionary review but does not exempt single-family projects that require discretionary review such as two-story single-family homes in the R-1 zones, or applications for variances or conditional use permits. Staff recommends that a 20-foot slope stability protection area be maintained for all development, including projects that do not require discretionary review, so that the integrity of stream bank can be maintained.

Alternatively, other options to consider for discussion include:

**Alternative A: Apply regulations to all types of development regardless of zoning district.** This would be the most comprehensive approach, with stream protection measures applicable to all new development, including single-family homes. However, depending on the size of the setback and the proportion of the site it covers, it may be onerous to owners of single-family homes, and could inhibit multifamily residential development. The impacts on single-family homes could be mitigated by exploring a way to exempt them (discussion #2 below), or by considering different criteria for exemptions to reduce the burden on some single-family homes.

**Alternative B: Apply regulations to multifamily residential and commercial development.** This would distinguish single-family residential development as being different in impacts to streams compared to multifamily and commercial development. The rationale would be that multifamily and commercial development would have a wider range of site planning options and would make more of an impact on riparian vegetation compared to individual single-family homes. However, this could be considered a constraint to multifamily residential development, which could be contrary to goals of increasing housing supply.

## 2. Exemptions

*Should single-family zoning districts be exempted from the regulations?*

The current ordinance exempts landscape projects involving less than three cubic yards of earthwork associated with landscaping with native riparian vegetation or with remedial creek bank stability work; interior construction; and replacement of utility service laterals. Staff recommend that exemptions also be allowed for building improvements or reconstruction that do not expand the building footprint further into the streamside setback, and for retaining walls less than three feet in height above grade. These exemptions would be intended to allow homeowners to make relatively modest improvements to their properties that would have little or no impact on the stream and riparian vegetation.

The Comp Plan Program N3.3.1 specifies that the update to the Stream Protection Ordinance should establish “conditions under which single-family property and existing development are exempt from the 150-foot setback.” The current ordinance exempts developments in the R-1, R-2 or RMD zoning districts that do not require discretionary review, such as duplexes, building permits, and first floor additions to existing R-1 zone homes. Program N3.3.1 also references the possibility of exploring exemption opportunities for single-family residential properties.

**Staff recommendation: Exempt properties in R-1, R-2, RMD zoning districts and existing development only along channelized/urban streams east of Foothill Expressway and west of Highway 101.** This approach would recognize the more urbanized pattern of the neighborhoods east of Foothill Expressway, and presumably the fewer opportunities for enhancing riparian vegetation along urban streams. It would focus specifically on channelized streams in which there are limited options for enhancing riparian vegetation. However, it would not exempt single-family residentially zoned properties east of Foothill Expressway and west of Highway

101 that are adjacent to natural streams, in recognition of the need to maintain the integrity of the stream bank and riparian vegetation along natural streams.

Alternatively, other options include:

**Alternative A: Exempt properties in R-1, R-2, RMD zoning districts and existing development only east of Foothill Expressway and west of Highway 101, including those along natural streams.** Similar to the staff recommendation, this approach would recognize the more urbanized pattern of the neighborhoods east of Foothill Expressway, and presumably the fewer opportunities for enhancing riparian vegetation along urban streams. However, it would also exempt properties located along natural streams. Instead, it would focus protection and enhancement of riparian areas along the natural streams in the areas west of Foothill Expressway and east of Highway 101.

**Alternative B: Exempt properties in R-1, R-2, RMD zoning districts and existing structures from the streamside setback.** This would focus stream corridor protection on new multi-family residential (three or more housing units) and commercial development but would not create a burden for new and existing single-family residential properties, duplexes, or existing multifamily and commercial development. This option would still apply to single-family homes and other uses in the Residential Estate (RE) and Open Space (OS) zoning districts.

### 3. Setback Distances

*Should properties west of Foothill Expressway follow the 150-foot setback distance from creeks suggested in the Comp Plan, and what setback should properties east of Foothill Expressway follow?*

The Comp Plan provides direction to explore a 150-foot setback and a native riparian vegetation border of 30 feet along the stream bank for areas west of the Foothill Expressway. This is also consistent with Santa Clara County General Plan policy for unincorporated rural areas.

The current Streamside Corridor Protection ordinance specifies a 20-foot *slope stability protection area* in which all structures, including decks, swimming pools, spas, hot tubs, and parking lots are prohibited. There is also a 50-foot *streamside review area* which presumably would allow some of the types of uses that are not allowed in the slope stability protection area, such as decks and swimming pools.

The Comp Plan suggests a 150-foot *setback from creeks*. The term “setback” is more stringent and implies a prohibition of structures. Should that be the preferred approach, the 20-foot slope stability setback area in the current ordinance would no longer be applicable.

For properties east of Foothill Expressway, the Santa Clara Valley Water Resources Protection Collaborative *Guidelines & Standards for Land Use Near Streams* suggests a setback of 40 feet from top of bank for urbanized areas. This would be consistent (if not larger than) other municipalities listed in Table 2 above, such as Fremont (20 feet), San Carlos (25 feet), County of

Santa Cruz (30-50 feet), and Woodside (25 feet), but less than County of Marin (100 feet) or San Jose (100 feet).

Staff seeks input on setback distances for properties east of Foothill Expressway, as well as confirmation or discussion of the Comprehensive Plan suggestion of imposing a 150-foot creek setback for properties west of Foothill Expressway and including streams in this discussion and input.

**Staff recommendation: Require a 150-foot setback for properties west of Foothill Expressway and east of Highway 101, and a 40-foot setback for properties east of Foothill Expressway and west of Highway 101.** This would be consistent with the Comprehensive Plan Policy that suggest exploring the 150-foot creek setback and include the same setback for areas east of Highway 101. It is also consistent with the recommendations of the Santa Clara Valley Water Resources Protection Collaborative *Guidelines* for the 40-foot setback.

Alternatively, other options include:

**Alternative A: Maintain the 20-foot slope stability protection area but allow greater flexibility within the rest of the setback.** This would ensure the slope stability protection area would be maintained to protect the integrity of the stream bank but allow some structures within the setback such as decks and swimming pools, provided they do not encroach into the slope stability protection area. It would allow greater flexibility for use of the 150-foot and 40-foot setback areas but could conflict with the objective to protect riparian vegetation.

**Alternative B: Enable variable setbacks for properties east of Foothill Expressway and west of Highway 101.** This option would allow a range of different setbacks for the urbanized area east of Foothill Expressway and west of Highway 101, with the setback determined by type of stream and/or a formula based on lot depth. This would have the advantage of “right-sizing” the urban stream setback to better match site conditions but could be a more complicated regulation to manage than applying a uniform urban stream setback. Depending on the methodology chosen, this approach could include additional technical studies to submit along with other application submittals which will increase time and cost for submittal preparation, increase the uncertainty of the project for the applicant, increase complexity to review submittal and determine the appropriate setback, and increase potential inconsistent decisions among different staff or across different projects.

In summary, the recommendation and alternatives are:

|                             | <b>Staff Recommendation</b> | <b>Alternative A</b>                                      | <b>Alternative B</b> |
|-----------------------------|-----------------------------|---|----------------------|
| West of Foothill Expressway | 150 feet                    | 20-foot slope stability protection area, 150 feet setback | 150 feet             |

|   |          |   |   |
|---|----------|---|---|
|   |          | with some structures allowed  |   |
| East of Foothill Expressway and west of Highway 101 | 40 feet  | 20-foot slope stability protection area, 40-foot setback with some structures allowed | Variable setback, based on stream type and/or lot depth |
| East of Highway 101                                 | 150 feet | 150 feet  | 150 feet  |

#### 4. Stream Conditions

*Should urban streams have riparian vegetation requirements?*

For most of the area west of Foothill Expressway, as well as Bayland areas east of Highway 101, streams are in a relatively natural state. There are some channelized or culverted portions, but those are mostly in the areas of roadway crossings.

In the more urbanized areas of the city east of Foothill Expressway and west of Highway 101, there are three typical conditions:

- *Natural Stream:* A stream that remains in a natural or mostly undisturbed state.
- *Channelized/Urban Stream:* A stream that has been straightened and/or enlarged for the purposes of storm runoff control or ease of navigation; may include lining of streambanks with a retaining material such as concrete; and has typically lost some or all natural features.
- *Culverted Stream:* A stream or portion of a stream located underground in a fully enclosed engineered structure such as a pipe or concrete box.

The existing ordinance focuses on natural streams, but it provides little direction for channelized or urban streams. Opportunities for riparian vegetation may be limited along channelized streams, particularly in instances where paved maintenance roads run alongside the stream and where back yard fences abut these roads. Attempting to reintroduce riparian vegetation into the stream channel could also create conflicts with flood control objectives.

Culverted streams are underground, so the opportunity to introduce streamside riparian vegetation is not immediately available. However, in terms of long-term planning, there could be consideration of setbacks above, and extending out from, culverted streams in order to allow future daylighting projects. A daylighting project would most likely be a capital project rather than implemented through the zoning code, but the zoning code could establish setbacks to facilitate such a project in the future. If no surface stream is visible but expanded setbacks are required due to the presence of an underground stream with an uncertain potential for daylighting, this approach may be burdensome for property owners.

**Staff recommendation: Require riparian vegetation to be maintained along natural creeks, but not along channelized streams.** This would continue to promote riparian vegetation along natural streams but recognize the limited opportunities for introducing riparian vegetation where the stream has been channelized for flood control purposes.

An alternative option is provided below:

**Alternative A: Require introduction of riparian vegetation within the streamside setback for new development along all types of streams.** This option would require riparian vegetation when a property is fully redeveloped but would not apply to existing development. Restrictions would apply to ensuring new vegetation would not conflict with flood control. It could slowly reintroduce riparian vegetation but would not be onerous to existing development.

#### 5. Deviation Process

*Should there be a new process modeled after the Standard Staff Review process (e.g. Conditional Use Permit (CUP)/Variance), Low Density Residential Review process (Individual Review (IR)/Home Improvement Exceptions (HIE) and ‘other’ permits), or Architectural Review (AR, including the Design Enhancement Exception (DEE))? Or should specific creek setback exception eligibility criteria and findings be added to those existing processes?*

The current Streamside Corridor Protection ordinance provides some exceptions and allows some deviations from its requirements. The distinction between an *exemption* and a *deviation* is that an *exemption* is objectively identified and not applicable by category or definition, whereas a *deviation* would represent a request to relax a standard or allow an exception based on particular site conditions such as the type of waterway (including whether it is a channelized or natural creek or intermittent or other type of stream).

The current ordinance includes a process to allow deviations from the slope stability protection area requirements. The ordinance does not identify what types of deviations would be acceptable; rather, it provides performance standards to ensure that the integrity of the stream bank is maintained. Requests are made to the Director of Public Works based on performance criteria provided in the ordinance.

PAMC Title 18 Zoning enables minor deviations from development standards. One example is the HIE (PAMC 18.12.120) process that allows for development standards flexibility for home improvements or minor additions to existing one or two-family residence in the R1, RE, R2, and RMD zones. There are limits to the exception or deviation, such as limitations on expansion of square footage or amount of encroachment into setbacks. Staff require the applicant to post the site and staff sends notices only to adjacent neighbors who then have 21 days to submit comments, after which a proposed Directors decision is mailed to them. A Director’s Hearing may occur if a timely request is received from the applicant or adjacent neighbors. A second Director’s decision is appealable to Council and the item is placed on Council’s Consent

Calendar. This framework could be adapted to allow minor encroachments into stream setbacks, such as for a retaining wall or a small building addition.

The DEE (PAMC 18.76.050) works in a similar fashion to the limits of HIE, in that it is for minor changes to setbacks, etc. DEEs are not used for low density residential projects, but are used for other project types, primarily those which require Architectural Review (AR) by the Architectural Review Board (ARB). The DEE process is the same as the AR process (PAMC 18.77.070), usually with an ARB hearing followed by the Director's decision, which can be appealed directly to the City Council.

The Variance process (PAMC 18.76.030) allows for larger deviations and approval findings are more difficult to make than findings for HIEs and DEEs. Variances follow the "Standard Staff Review" process that also applies to CUPs and Neighborhood Preservation Exceptions (PAMC 18.77.060). Unlike the HIE, notices of a proposed director's decision using the Standard Staff Review process are posted on site and mailed to owners within a 600-foot radius not less than 21 days following deemed complete application. Any hearing requests are presented to the PTC, followed by placement on the Council's consent calendar for final action. This framework could be adapted to allow for more significant encroachments into stream setbacks, such as a larger building addition, deck, or swimming pool where site conditions create an unusual constraint.

**Staff recommendation: Provide clear provisions in the ordinance update for allowing deviations from requirements, particularly if larger setbacks are adopted. Furthermore, allow for a tiered approach with both minor and major deviations from setback requirements, based on the Home Improvement Exception (HIE), Design Enhancement Exception (DEE), and Variance frameworks.** This would reduce non-conforming conflicts on developed lots. Should deviations be allowed, staff recommend a clear process for submitting requests, review procedures, and for these processes to be modeled on existing procedures. The HIE and DEE process would be the framework for processing minor deviations, such as fences and small additions, while the Variance process framework would be used for larger deviations such as larger building additions, swimming pools, etc.

Alternatively, another option could be:

**Alternative A: Allow for only minor deviations from setback requirements.** Only minor deviations would be allowed, similar to the limitations specified in the HIE and DEE.

## **NEXT STEPS**

Staff will consider revisions to the Stream Protection Corridor Ordinance based on comments from the PTC and community members. The draft ordinance is scheduled to be presented to the PTC in September 2024. Council consideration is tentatively scheduled for October 2024.

## **FISCAL/RESOURCE IMPACT**

There is no fiscal impact associated with this item.

### **STAKEHOLDER ENGAGEMENT**

Staff and consultant engaged with Palo Alto Neighborhood Associations, conducted a virtual Community Information Session, and conducted outreach to partnering agencies like San Francisquito Creek Joint Powers Authority and the Santa Clara Valley Water District (Valley Water) to understand some of the concerns from the community and standards and procedures from partnering agencies.

- *Neighborhood Associations.* Initial outreach to Palo Alto neighborhood associations regarding the stream corridor project revealed varying levels of interest and concerns. Some leaders expressed support and desired to stay informed, while others offered contacts for additional stakeholders. One person supported a 150-foot setback west of Foothill but emphasized the need for flood control measures east of Foothill due to denser development. At least four of the neighborhood association representatives attended the community information session.
- *Community Information Session.* A community information session on March 5, 2024, saw diverse opinions on the proposed stream corridor ordinance update. While most attendees supported the update and increased setbacks, concerns were raised about balancing private property development with riparian improvements. Varying setback distances were suggested for different areas, with a 150-foot setback favored west of Foothill Expressway. Additionally, flood risk mitigation, "dark sky" measures, and bird safety were advocated for. However, opinions on dog parks within the setback area were divided.
- *Valley Water.* Meetings with Valley Water revealed a significant shift in 2006 where regulatory authority for areas beyond the stream bank in Palo Alto transitioned from Valley Water to the City. This led to the development of guidelines for land use near streams, emphasizing the importance of protecting riparian corridors. Notably, Valley Water frequently receives inquiries from Palo Alto residents seeking clarity on streamside property regulations.

At the time of staff report preparation, three comment letters were received (Attachment E). The Santa Clara Valley Audubon Society and the Sierra Club Loma Prieta Chapter submitted a comment letter dated February 1, 2024; they recommended allowing some recreational uses but not inappropriate activities like lighted ball fields or dog parks within the proposed stream corridor setback. A February 26th letter from the Midpeninsula Regional Open Space District commented on the existing ordinance, focusing on protecting wildlife and riparian species. John Guislin, a virtual information session attendee, submitted comments on March 8, 2024, suggesting that mitigating the flooding risk on San Francisquito Creek and restoring channelized creeks to a natural environment to support wildlife should be higher priorities, and pointing out that changing the creek setback in highly developed area would not have a significant impact on wildlife or residents.

**ENVIRONMENTAL REVIEW**

This item is a study session to inform and receive comments from the public, and receive PTC feedback; therefore, the California Environmental Quality Act (CEQA) does not apply. The City anticipates the ordinance will be in accordance CEQA criteria and exempt per CEQA Guidelines Section 15308, which includes actions by regulatory agencies for the protection of the environment.

**ALTERNATIVE ACTIONS**

This is a study session, and no alternative actions are required.

**ATTACHMENTS**

Attachment A: Creek Maps from the Palo Alto Comprehensive Plan

Attachment B: Existing Stream Protection Corridor Ordinance (PAMC 18.40.140)

Attachment C: Existing Conditions Report

Attachment D: Draft Terms and Definitions

Attachment E: Public Comments Received as of July 3, 2024

**AUTHOR/TITLE:**

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