TO: HONORABLE CITY COUNCIL

FROM: CITY MANAGER DEPARTMENT: PUBLIC WORKS

DATE: JANUARY 22, 2007 CMR: 114:07

SUBJECT: APPROVAL AND ADOPTION OF ORDINANCE WITH CHANGES TO PALO ALTO MUNICIPAL CODE CHAPTER 16.28 (GRADING AND EROSION AND SEDIMENT CONTROL) OF TITLE 16 (BUILDING REGULATIONS) TO REGULATE IN-STREAM GRADING AND CONSTRUCTION

RECOMMENDATION
Staff recommends that Council approve and adopt the attached ordinance (Attachment A) revising the City’s Grading and Erosion and Sediment Control Regulations (Palo Alto Municipal Code [PAMC] Chapter 16.28). The ordinance contains requirements that provide increased protection from the impacts of grading and construction activity between the banks of a stream. The ordinance is consistent with the Guidelines and Standards for Land Uses Near Streams developed by the Santa Clara Valley Water Resources Protection Collaborative and supplements the water resources protection provisions being added to the Zoning Ordinance as PAMC Section 18.40.140.

BACKGROUND
The Santa Clara Valley Water Resources Protection Collaborative (Collaborative) was convened in February 2003 as an ad hoc working group to address issues related to land use near streams. The Collaborative consists of representatives from 15 municipalities (including the City of Palo Alto), the County of Santa Clara, the Santa Clara Valley Water District (District) and other community and environmental group stakeholders. The Collaborative was formed as a consensus-based forum in which the stakeholders could jointly develop 1) a set of guidelines and standards (G&S) for land uses near streams consistent with their mutual stream protection goals, and 2) an implementation program which clearly delineates the roles of the District and the local agencies in land use permitting and regulation for properties near streams. In September 2003, Council approved a resolution in support of the Collaborative’s mission to develop and implement watershed resource protection G&S (CMR:431:03). In July 2005, Council approved a resolution supporting the G&S and the Collaborative’s implementation program for revised regulation of land uses in and near streams (CMR:321:05).

Many of the proposed G&S address the potential impacts of land development activity adjacent to streams. As a result, staff has recommended incorporating many of the G&S through changes to the Zoning Ordinance (Chapter 18 of the Municipal Code). Planning and Public Works staff have submitted the land use-related G&S to the Planning and Transportation Commission for review and comment, and a recommendation for approval of several zoning regulation changes are being concurrently submitted to Council in a companion staff report (CMR113:07). This
report transmits recommended ordinance changes based upon the G&S that address the potential impacts of grading and construction activity directly within streams.

**DISCUSSION**
Construction of storm drain outfalls, bridges, culverts, and stream bank erosion repair projects can adversely affect streams and the riparian corridor. Flooding, bank erosion, and sedimentation can be exacerbated by construction of these in-stream features unless they are carefully planned and executed. The Collaborative identified several G&S that can minimize the negative impacts of these activities (see Attachment B). Staff has incorporated the Collaborative’s recommendations into several changes to the City’s Grading and Erosion and Sediment Control Regulations (PAMC Chapter 16.28). Recommended changes to the regulations also streamline the permitting of in-stream work by differentiating the permitting authorities of the City and the District in order to eliminate duplicative permitting processes.

The recommended changes to the Grading and Erosion and Sediment Control Regulations can be summarized as follows:

- Grading or construction within a Santa Clara Valley Water District (District) right-of-way or easement will require a District encroachment permit, but will no longer require a City grading permit. Grading or construction outside a Water District right-of-way or easement will be regulated through a City grading permit, and will no longer require a Water District permit.
- Bridges, culverts, and storm drain outfalls shall be constructed in a manner consistent with the current version of the Santa Clara Valley Water Resources Protection Collaborative User Manual: Guidelines and Standards for Land Uses Near Streams.
- Stream bank erosion repair shall use the softest possible method appropriate for the stream characteristics. Use of hardscape materials or retaining walls within the banks of a stream shall be avoided. Stream bank erosion repairs shall be constructed in a manner consistent with the current version of the Santa Clara Valley Water Resources Protection Collaborative User Manual: Guidelines and Standards for Land Uses Near Streams.
- Streams shall not be filled or placed in culverts to accommodate grading and construction for land development projects, except for road crossings.
- Exception provisions to the stream protection requirements are provided, subject to the discretionary review of the Director of Public Works.

**RESOURCE IMPACT**
The proposed regulation changes can be enforced by existing staff as part of the current grading permit review process.

**POLICY IMPLICATIONS**
Council adoption of the attached ordinance is consistent with the following Comprehensive Plan policies and programs:

- *Policy N-10*: Work with the Santa Clara Valley Water District and other relevant regional agencies to enhance riparian corridors and provide adequate flood control by use of low impact restoration strategies.
- *Policy N-11*: Preserve the integrity of riparian corridors.
ENVIRONMENTAL REVIEW
Adoption of the attached ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA) as a measure taken to implement an action to assure the maintenance, restoration, enhancement, or protection of the environment.

ATTACHMENTS
Attachment A: Ordinance
Attachment B: Excerpts from the Santa Clara Valley Water Resources Protection Collaborative’s Guidelines and Standards for Land Uses Near Streams

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cc: Stan Williams, Santa Clara Valley Water District
John Gamman, CONCUR