

Riparian Ordinance & Encroachment Policy Discussion

October 18, 2016



Riparian Ordinance & Encroachment Policy

1. Overview of existing plans & policies in Santa Clara County
2. Alternatives for addressing unauthorized encroachments on District's property



Riparian Corridor Plans & Policies

All agencies in Santa Clara County have plans & policies re: riparian corridor

- ▶ County and Cities
 - ▶ General Plans
 - ▶ Ordinances & municipal codes
 - ▶ Guidelines and Standards for Land Use Near Streams
- ▶ Santa Clara Valley Habitat Plan
- ▶ District's Water Resources Protection Ordinance



City of San Jose adopts a new ordinance

City of San Jose Council Riparian Policy & Ordinance:

- ▶ Adopted on 8/23/16 & becomes effective in October 2016
- ▶ Establishes minimum setbacks based on land use
- ▶ Specifies 100-foot setback for new development



District's efforts

- ▶ Preserve water resources through District capital projects & operations
- ▶ Apply Water Resources Protection Ordinance to manage District's properties
- ▶ Provide recommendations on development proposals & general plans



District authority on encroachments

- ▶ District Act
- ▶ Board Governance Policies
 - ▶ E-4.1: Protect and restore creek, bay, and other aquatic ecosystems
 - ▶ EL-6.5.1: Proactively identify, preserve & protect District's property
 - ▶ EL-6.5.2: Resolve encroachments on District's property
- ▶ Water Resources Protection Ordinance



Program for addressing encroachments

Objectives:

- ▶ Be consistent with District mission & policies
- ▶ Be fair, effective, consistent and respectful of community
- ▶ Implement corrective measures
- ▶ Build community awareness



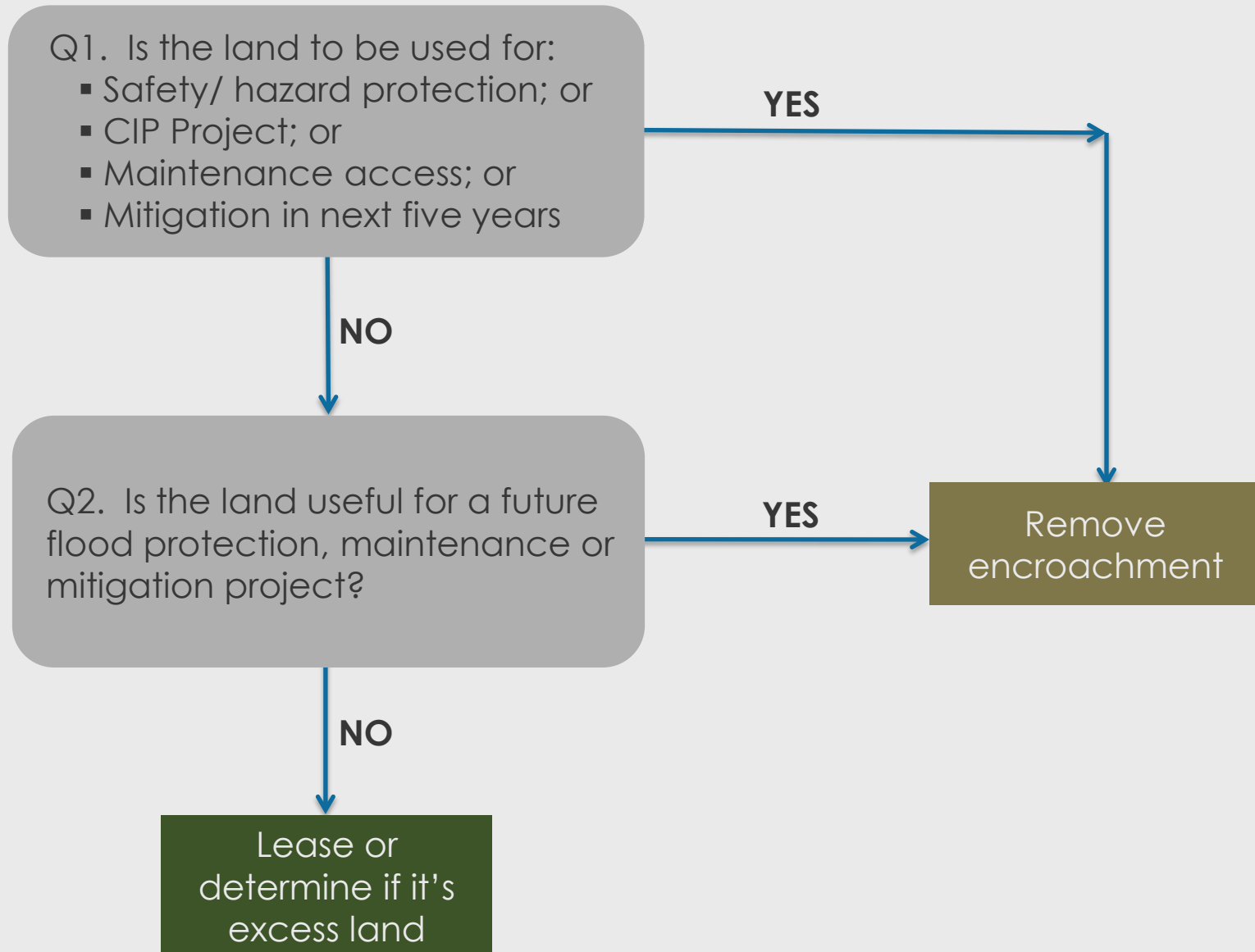
Current District practices

- ▶ Identify & prioritize encroachment
- ▶ Notify property owner(s)
- ▶ Confirm property lines with field survey
- ▶ Meet with property owner(s)
- ▶ Notify timeline for corrective measures
- ▶ Implement correction measures

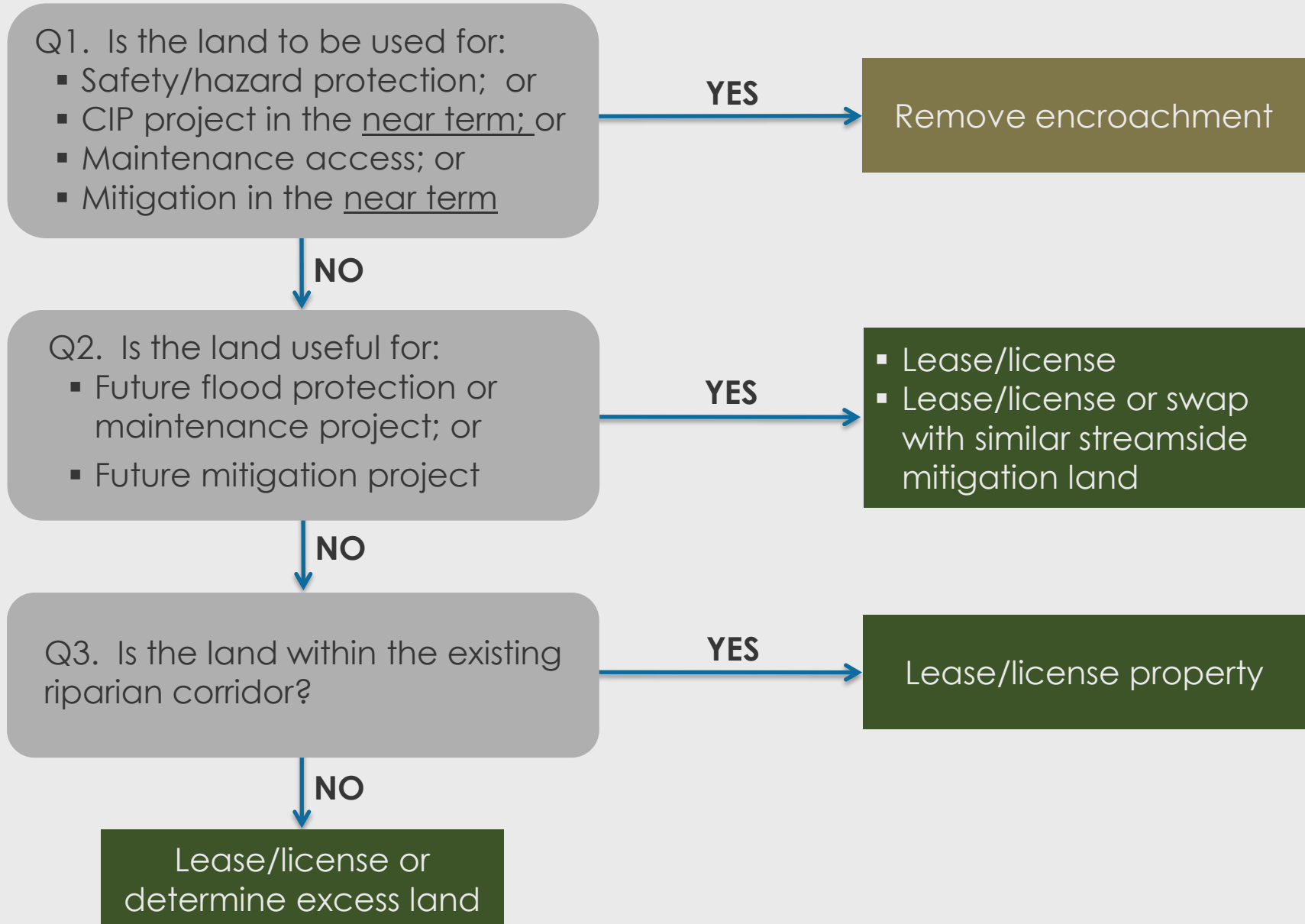
District practices similar to other agencies



Current process to address encroachments



Alternate process to address encroachments



Advantages of leasing/licensing

- ▶ Demonstrate goodwill
- ▶ No gift of public funds
- ▶ Reduce potential litigation

Disadvantages of leasing/licensing

- ▶ Encourage practice of using public lands for private purposes
- ▶ Inconsistent with District recommendation of protecting riparian corridors & setbacks
- ▶ Complaints about preferential treatment
- ▶ Lands unavailable for general public use
- ▶ Prevent habitat improvement for plant and animal species



Disadvantages of leasing/licensing (cont)

- ▶ Additional public funds to manage leases
- ▶ Additional resources to prevent new encroachments
- ▶ Unfair advantage to encroaching property owners with the funds available to lease property



Option of leasing/licensing

Need to define criteria for:

- ▶ Eligibility
- ▶ Limitation on size of potential lease
- ▶ Duration



Next steps

Upon direction from the Board, staff will resume proceeding with encroachment cases



Board Discussion & Direction