



# CITY OF SANTA BARBARA

## ORDINANCE COMMITTEE AGENDA REPORT

**AGENDA DATE:** February 28, 2012

**TO:** Ordinance Committee Members

**FROM:** City Attorney's Office  
Building Division, Community Development Department

**SUBJECT:** Ordinance Amendments Related To Construction Prohibited In The Vicinity Of The Conejo Landslide And Homes Destroyed In The Tea Fire

### **RECOMMENDATION:**

That the Ordinance Committee review and consider referring to the full Council the amendments to Municipal Code Chapter 22.90, "Construction Prohibited in the Vicinity of the Conejo Landslide."

### **DISCUSSION:**

In 1984, the City Council adopted Municipal Code Chapter 22.90 (at that time as an uncodified ordinance), as a City ordinance provision entitled "Construction Prohibited in the Vicinity of the Conejo Road Landslide." This ordinance was due to active slide movement in the Conejo area apparently related to the very wet "El Nino" rain season of 1982-83. Since that time, approximately eight homes and structures have succumbed to landslide movement while many other homes continue to experience foundation settlement, collapse and twisting of sewers laterals and mains, exterior stucco cracking, movement of electric and gas utility lines and severe cracking or collapse of block walls fences, and driveways, including other detrimental affects upon private property. For example, the Ealand Place cul-de-sac, located at the top of the Conejo Road Landslide, in particular, continues to actively slide (especially in recent years) and is severely sloped, rendering the cul-de-sac inaccessible, at this time, to motor vehicles. At the same time, several of the homes well within the Slide Mass C area have remained habitable and essentially un-impacted by the geologic instability of the area and were only destroyed by the November 2008 Tea Fire.

Consequently, the attached draft ordinance amending Municipal Code Chapter 22.90 has been prepared in order to address concerns that certain property owners in the Conejo Road "Slide Mass C area" who lost their homes in the November 2008 Tea Fire have been prohibited by SBMC Chapter 22.90 from rebuilding those homes and, as a result, have lost a significant amount of the value of their real properties. This loss of property value has been the subject of on-going Santa Barbara Superior Court litigation between three of the impacted property owners and the City over the extent to which

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the City's ordinance allows a Slide Mass C area home to be rebuilt after a catastrophic fire or other similar destruction caused by a casualty. In an effort to resolve this dispute, the City Attorney's office is recommending City Council consideration of the proposed ordinance to amend the City's existing "Conejo Slide Area" building restrictions as they apply to fire and other casualty rebuilds; as drafted, this amendment would allow homes within Slide Mass C to be re-built under the limited circumstances so long as they do so in a manner consistent with the recommendations contained in the Grover Hollingsworth and Associates, Inc. geotechnical report dated May 29, 2009. The Grover-Hollingsworth report was commissioned by several of the area property owners impacted by the Tea Fire and was intended, in part, to explain, from a geotechnical standpoint, how, in the opinion of the report's author (engineering-geologist, Robert Hollingsworth), the Slide Mass C area homes could be safely and cost-effectively rebuilt after the Tea Fire so long as a specific engineered approach was used in designing and building the new home foundations and the utility connections for these homes.

The City Building and Safety staff reviewed the Grover-Hollingsworth May 2009 report and asked for certain follow-up information. The City's Chief Building Official also commissioned peer review of the report by Frank J. Kenton, an experienced geologist very familiar with the history of the Conejo Slide area and its underlying geological conditions. Mr. Kenton has acted as consultant for the City on the Conejo Slide area for more than 20 years.

Thus, the proposed Code amendment draft attached to this report would allow the re-construction of any home within the Conejo Road Slide Mass C area which was lost in the November 2008 Tea Fire or which is lost thereafter as a result of any casualty which destroys the home. In the opinion of the City Attorney's office, this ordinance amendment would definitively resolve the pending litigation claim that the City's Conejo Road Slide Mass C ordinance (SBMC Chapter 22.90) constitutes a permanent taking of the property rights of the three Slide Mass C area property owners who have lost their homes in the Tea Fire on any similar "takings" claim which might be made in the future.

However, special construction conditions will still be applicable to the Tea Fire parcels identified for possible re-construction in the Grover Hollingsworth and Associates geotechnical report dated May 29, 2009 (as reviewed by Mr. Kenton's geological review dated December 17, 2009.) Some of these conditions are likely to include the following: 1. That, upon the initiation and completion of the home foundation, foundation inspections to be performed by a California Registered Engineering Geologist in order to confirm that the earth materials encountered in construction are as described in the Preliminary Geologic and Soils Engineering Reports submitted by the property owner; and, 2. that, should there be a change in the consultant record occur, the new geological or engineering or architect consultant sign a statement that they accept all geologic and soils engineering design and interpretations in the Grover Hollingsworth report dated May 29, 2009 and subsequent documents as may be applicable to the new construction.

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**ATTACHMENT:** Draft Ordinance Amending Chapter 22.90

**PREPARED/SUBMITTED BY:** Stephen P. Wiley, City Attorney

**APPROVED BY:** City Administrator's Office