



Agenda Item No. \_\_\_\_\_

File Code No. 640.04

# CITY OF SANTA BARBARA

## COUNCIL AGENDA REPORT

**AGENDA DATE:** March 6, 2012

**TO:** Mayor and Councilmembers

**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 Council Introduce and subsequently adopt, by reading of title only, An Ordinance of the City Council of the City of Santa Barbara Amending Chapter 22.90 of Title 22 of the Santa Barbara Municipal Code in Order to Define "New Construction" to Allow Those Homes Which Existed on November 12, 2008, to be Rebuilt When They Have Been Destroyed by Fire or Other Casualty.

### **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 have succumbed to landslide movement while many other homes continue to experience foundation settlement, the collapse and twisting of sewers laterals, exterior stucco cracking, the movement of electric and gas utility lines and cracking or collapse of retaining walls and driveways. In addition, many of the public and private streets in this area have seen substantial cracking and uplifting. For example, the Ealand Place cul-de-sac, located at the top of the Conejo Road Landslide, continues to actively slide (especially in recent years) and is severely sloped, rendering the end of cul-de-sac portion of the street inaccessible to motor vehicles.

At the same time, however, a few of the homes well within the Slide Mass C area have remained habitable and essentially un-impacted by the geologic instability of the area. Some of these un-impacted homes were only destroyed by the November 2008 Tea Fire.

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Consequently, the attached draft ordinance to amend the Conejo Slide Area ordinance (SBMC Chapter 22.90) has been prepared in order to address concerns that the property owners in the Conejo Road "Slide Mass C area" whose homes were destroyed by the November 2008 Tea Fire are prohibited by SBMC Chapter 22.90 from rebuilding. The consequence of this prohibition to these particular homeowners is, they believe, a potential future loss of a significant amount of the value of their properties. This possible loss of property value has been the subject of on-going Santa Barbara Superior Court litigation between three of the Tea Fire impacted property owners and the City over the extent to which the City's ordinance needs to prohibit re-construction within Slide Mass C area after a catastrophic fire in order to protect the safety of the homeowners and the public. In an effort to resolve this litigation, the City Attorney's office is recommending City Council consideration of the proposed ordinance; as drafted, this amendment would allow homes within Slide Mass C to be re-built under 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 or an equivalent expert report supporting reconstruction.

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.

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

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Finally, special construction conditions will still be applicable through the City building permit process to any Conejo Road area parcels identified for possible re-construction in the Grover Hollingsworth and Associates geotechnical report dated May 29, 2009. Some of these conditions are likely to include the following: 1. that, upon the initiation and completion of the construction of the home foundation, foundation inspections to be performed by a California Registered Engineering Geologist (or similarly licensed individual) in order to confirm that the earth materials encountered in construction are as described in the required soils 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 architectural consultant sign a statement that they read and understood all geologic and soils engineering design and interpretations in the Grover Hollingsworth report dated May 29, 2009 and subsequent studies as may be applicable to the new construction.

**ATTACHMENT:** Introduction Draft Ordinance Amending Chapter 22.90

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

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