



CITY OF SANTA BARBARA

COUNCIL AGENDA REPORT

AGENDA DATE: September 29, 2009

TO: Mayor and Councilmembers

FROM: Planning and Building & Safety Divisions
Community Development Department

SUBJECT: Amendments To Ordinance Concerning Undergrounding Utilities And Time Limits To Rebuild Nonconforming Properties Damaged Or Destroyed In Natural Disasters

RECOMMENDATION:

That Council introduce and subsequently adopt, by reading of title only, An Ordinance of the Council of the City of Santa Barbara Amending Section 22.38.050 of Santa Barbara Municipal Code Regarding Utility Undergrounding Requirements in Connection with Construction Projects and Amending Section 28.87.038 of the Municipal Code regarding the Reconstruction of Nonconforming Buildings Damaged or Destroyed by Natural Disasters.

DISCUSSION:

The Tea Fire that occurred in November 2008 destroyed 151 homes within the City's boundaries. The Jesusita Fire that burned in May 2009 damaged or destroyed 5 homes within the city. The City has taken several measures to mitigate the impacts of these disasters on property owners and residents attempting to rebuild their homes. These proposals are based on challenges experienced by some of the home owners affected by the Tea and Jesusita Fires as they have gone through the rebuild process.

RECONSTRUCTION OF DAMAGED, NONCONFORMING STRUCTURES

Under certain conditions, Municipal Code Section 28.87.038 authorizes the reconstruction of nonconforming buildings or structures that are damaged or destroyed as the result of a natural disaster. One of the ordinance conditions is that the reconstruction must commence within one year.

Property owners affected by the Tea and Jesusita Fires are in various stages of the review process. Most owners are not ready to begin construction. Some applicants began quickly and have been working out issues such as modifications, review by the Single Family Design Board, and new building codes. Other property owners have had to take time to deal with insurance issues, explore possible rebuilding options, or recover emotionally from the loss of their home before starting reconstruction.

While staff has made efforts to make the City process work as quickly and smoothly as possible, for the reasons stated above, a large number of qualifying rebuild projects will not meet the one-year deadline. Of the 168 Tea Fire area fire damaged homes, 78 properties have made application for SFDB review, with 57 approved to date. Based on review of applications received to date, planning staff estimates that approximately one-third of all projects involve the need to use Section 28.87.038 to allow non-conformances to continue.

As of the date of this report, 42 of the properties damaged or destroyed in the Tea Fire have submitted applications for a building permit. Even if all these 42 building permits are issued, the majority of Tea Fire homes would still not have obtained a building permit within the first year after the fire.

Based on experiences following the Tea Fire, staff believes an additional amount of time is necessary and appropriate to allow property owners a reasonable amount of time to assess the damage, work with their insurance company and other governmental agencies, develop their project, and complete the design review and building permit processes. Initially, staff had recommended adding one year to the time allowed to have a building permit issued to rebuild a destroyed, nonconforming structure. On September 15, 2009, the Ordinance Committee considered the proposed amendments and requested that the time allowed for reconstruction of nonconforming buildings be three years. The proposed ordinance amendments now allow three years to issue a building permit from the time a nonconforming structure was destroyed.

In addition, staff recommends deleting the requirement that the construction work be completed within two years. The California Building Code already contains provisions regarding the abandonment or expiration of building permits when construction work is not pursued in a diligent fashion. Therefore, a separate provision in this ordinance is probably not necessary and could lead to confusion.

UNDERGROUNDING OF UTILITIES

A second Staff proposal is to allow a property owner, at the discretion of the Community Development Director, to obtain relief from having to underground utilities to a structure that was destroyed in a natural disaster and that had overhead utilities prior to the event.

The Municipal Code as currently written requires property owners to underground their utilities when construction projects are proposed. The ordinance does provide a hardship waiver, but the waiver requires the payment of a substantial in-lieu fee. The ordinance does not provide for relief from the in-lieu fee in the case of reconstruction following a natural disaster.

Staff recommends an amendment to allow for relief from the in-lieu fee requirement in the case of rebuild projects following natural disasters where the affected utilities determine that undergrounding is infeasible. This amendment would allow this relief only if the residence being rebuilt does not exceed the square footage which existed before the disaster. If a property owner elects to increase the size of the residence as part of the rebuild project, the property owner would be required to underground the utilities or to pay the in-lieu fee as provided in the Ordinance.

ORDINANCE COMMITTEE

On September 15, 2009, the Ordinance Committee voted unanimously to recommend that the amendments be adopted, provided that the time allowed for reconstruction of nonconforming buildings be three years.

PREPARED BY: Chris Hansen, Bldg. Inspector/Plan Check Supervisor

SUBMITTED BY: Paul Casey, Community Development Director

APPROVED BY: City Administrator's Office