



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: P&D
Department No.: 053
For Agenda Of: 9/15/15
Placement: Departmental
Estimated Time: 30 minutes
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Glenn Russell, Ph.D, Director
Director Planning & Development, (805) 568-2085
Contact Info: Dianne Black, Assistant Director
Planning & Development, (805) 568-2086
SUBJECT: Follow-up from Abedi Emergency Permit – Bluff Erosion, Isla Vista,
Third Supervisorial District

County Counsel Concurrence

As to form:

Auditor-Controller Concurrence

As to form: NA

Other Concurrence:

As to form: NA

Recommended Actions:

- a. Receive and file this follow up report addressing the Abedi Emergency Permit Report discussion at the Board on July 7, 2015.
- b. Determine that receiving and filing this report is not a project pursuant to CEQA Guideline section 15378(b)(5), as it is an administrative government activity that will not result in direct or indirect physical changes in the environment.

Summary Text/Background:

On July 7, 2015, your Board received and filed a report regarding the Planning and Development Department's issuance of an Emergency Permit for the Abedi property in Isla Vista which authorized the partial demolition of an apartment building in response to bluff top erosion. Your Board requested a report back on a number of issues, including 1) the geology of Isla Vista related to bluff erosion; 2) Building and Safety Division's inspection program to ensure public safety; 3) applicability of tenant protection and relocation provisions in Chapter 44; and; 4) the relevant provisions of the Coastal Zoning Ordinance regarding nonconforming uses subject to bluff erosion, the method to modify them, and the number of properties that are affected by those provisions.

Geology and Erosion of the Del Playa bluffs in Isla Vista

Isla Vista is located on an elevated marine terrace composed of a block of Tertiary and Quaternary sediments uplifted along the active More Ranch Fault. The “Isla Vista block” has been undergoing uplift for tens of thousands of years as a result of repeated earthquake activity on this fault. This uplifted block is composed of relatively soft sedimentary rock.

The 35 to 40-foot high coastal sea cliff located south of Del Playa Drive exists due to a combination of geologic factors. Rapid uplift of the “Isla Vista block” along the More Ranch Fault, and the presence of soft sedimentary rocks within this block have resulted in the formation of a near-vertical sea cliff that is rapidly eroding and retreating landward.

Rates of sea cliff retreat were measured during preparation of a County environmental impact report in 1994 for 39 residential structures located from 6521 to 6697 Del Playa Drive, utilizing building records from County archives. The rates of sea cliff retreat calculated for the various sites range from about 0.2 feet per year to as much as 1.2 feet per year. A more recent geologic report from 2005 (Sylvester) documents erosion rates for the Del Playa bluffs between 0.3 to 1.3 feet per year.

Bluff Erosion Monitoring Program

The county has been monitoring the bluff erosion along Del Playa Drive for the last 25 or more years. In October 2005, Santa Barbara County Building and Safety Division developed a formal program to address erosion of the coastal bluff in Isla Vista and the threat it poses to bluff top buildings. This program consists of erosion monitoring and action planning for properties on the ocean side of Del Playa Drive in Isla Vista. The program does not address earthquake risks.

Staff conducts an annual survey of the bluff, and also surveys after each major storm event. Each developed property is evaluated for bluff setback changes from the prior survey. Under the program, there are three trigger points where action is required. These trigger points are when a building is 15, 10 and 5 feet from the bluff edge. When the survey indicates that the bluff has eroded to within 15 feet of a building foundation, property owners are notified that they must hire a licensed civil/structural engineer or licensed architect to develop a monitoring and repair plan. The plan is reviewed and approved by Building and Safety, and monitored to ensure the plan is implemented. If the owner takes no action and the bluff retreats to within 10 feet of any part of the building, then code enforcement action begins. The property owner is issued a Notice of Violation, and if the property owner is cooperative, an abatement schedule, including time frames and deadlines for the work to be accomplished, is established. If the property owner does not act to address the encroachment of the bluff, a Notice of Determination of Fine will be issued. If the bluff retreats to a point where the bluff face is within five feet from the building's foundation, a Notice and Order to Vacate Building and Abate may be issued on the property.

Property owners have several options to address bluff encroachment depending on the type of foundation construction. Buildings with a conventional shallow foundation generally have no option but to cut the building back. When buildings must be cutback, a setback of 30 feet from the face of bluff is required. Buildings that are constructed on a deep foundation (caissons or deep piers) may, with a report from a licensed civil/structural engineer or licensed architect and geotechnical engineer, maintain a structure within 10 feet of the bluff. A structural evaluation report of piers and caissons and soil

properties, may substantiate that the building can remain stable even with lesser threshold to the bluff. In some cases, an engineering and soil study has justified that the foundation can support the structure even when the bluff is eroded to a point where part of the caisson supporting the foundation is exposed. Buildings with deep foundations may have cantilevered concrete balconies that are supported by the foundation and project over the bluff. These balconies are not supported by bluff top and are permitted when a licensed engineer verifies structural stability of the balcony.

Currently there are two buildings that require engineering monitoring, and the submittal of an annual report documenting the status of the bluff and building stability. Since the bluff-top policy was established in 2005, 11 buildings have been cut back to achieve the required setback. Prior to 2005, numerous additional structures were reinforced with caissons, cut back, or demolished entirely.

Tenant Protection and Relocation

The tenants of the apartment building were not required to be relocated since the owner conducted the work when the apartments were vacant. If the tenants had to be relocated, Chapter 44 of the County Code would have applied. Chapter 44 of the County Code, "Residential Property-Landlords and Tenants Rights and Duties" is implemented by the County Community Services Department, Division of Housing and Community Development. The purpose of Chapter 44 is to supplement the provisions of state law governing the rights and duties of landlords and tenants of residential property in the County of Santa Barbara, and to partially mitigate the financial hardships faced by resident households through payment of relocation benefits. Chapter 44 specifies requirements for tenant relocation when buildings are deemed uninhabitable.

"Relocated" or "relocation" is defined in Chapter 44 as "the required vacating of a resident household as a result of the following: 1) repairs required to bring a rental unit or room into health and safety code compliance as determined by the building official..."

"Residential household" is defined in Chapter 44 as, "all of the persons who are entitled to occupy one rental unit primarily for living or dwelling purposes under a rental agreement (written or oral), and includes those persons who are considered to be residents under the California Civil Code, but there shall only be one "resident household" per rental unit."

Chapter 44, Section 44-2.(4) states, "Any resident household that is relocated or subject to relocation as defined [...] shall be entitled to receive relocation benefits from the property owner. A property owner shall not be required to pay more than one set of relocation benefits per rental unit. There shall be a rebuttable presumption that this chapter applies when relocation occurs within 90 days of the property owner obtaining permits for demolition of any rental unit on the lot; the alteration or substantial rehabilitation of any structure on a lot that requires a permit from the county; or the change of use of real property from a residential use to a nonresidential use."

"Relocation benefits" are defined in Chapter 44 as, a sum equal to three months of the fair market rent for the area as determined by the Department of Housing and Urban Development pursuant to Section 1437f(c)(1) of Title 42 of the United States Code or seven thousand dollars, whichever is greater."

When Chapter 44 requires property owners to pay relocation benefits, payment of the relocation benefits shall be made as follows:

“(a) In the event the owner does not provide alternative housing pursuant to this section, the relocation benefits required by this chapter shall be paid to the resident household either: 1) within ten days after the date that the building official's order to vacate is first mailed to the owner or agent and posted on the premises, or at least twenty days prior to the vacation date set forth in the order to vacate, whichever occurs later; or, within twenty days of the property owner giving a resident household a notice to terminate lease under Civil Code section 1946 or notice to quit under Code of Civil Procedure section 1162.

(b) In the case of an order to vacate by the building official, if there are fewer than ten days between the first posting and mailing of the order to vacate and the vacation date, the relocation benefits shall be paid by the property owner or designated agent to the resident household within twenty-four hours after the notice is posted and mailed.

(c) In the case of an order to vacate by the building official, if a resident household is entitled to relocation benefits due to an order to vacate, the building and safety division of the planning and development department shall provide either telephonic or written notice to the resident household of his or her entitlement to the relocation benefits. Written notice may be satisfied by posting a written notice on the premises stating that resident households may be entitled to relocation benefits.

(d) The relocation benefits shall be made available by the property owner or designated agent to the resident household in each rental unit or room. The relocation benefits shall be paid by the property owner or designated agent in addition to the return, as required by law, of any security deposit held by the property owner. The relocation benefits shall be payable on a per residential unit basis.

(e) Any property owner who does not make timely payment as specified herein shall be liable to the resident household for an amount equal to one and one-half times the relocation benefits payable pursuant to this chapter.

(f) Subsection (e) shall not apply when the property owner makes the payment of relocation benefits no later than ten days after the order is first mailed and posted.

Ordinance Provisions Relevant to Non-Conforming Uses and Structures

The Coastal Zoning Ordinance includes a provision that existing nonconforming uses and structures on properties zoned for student housing (specifically SR-M and SR-H) are exempt from the normal prohibition on being enlarged, extended, reconstructed, moved, and/or structurally altered if the structure has been determined to be threatened due to coastal erosion by the County Building Official. The relevant portion of the text of this provision is as follows:

Section 35-161. Nonconforming Use of Land, Buildings and Structures.

A nonconforming use may be continued subject to the following regulations, so long as such use remains otherwise lawful.

1. Structural Change. Except as otherwise provided in this Article, including seismic retrofitting as defined in Section 35-58 and in accordance with Section 35-169.2.1.m, no existing building or structure devoted to a nonconforming use under this Article shall be enlarged, extended, reconstructed, moved, or structurally altered unless such use is changed to a use permitted in the district in which it is located. No building or structure accessory to a nonconforming use under this Article shall be erected, enlarged, or extended unless such building or structure is also accessory to a conforming use.

a. Exceptions: Existing structures devoted to a nonconforming use may be enlarged, extended, reconstructed, moved, and/or structurally altered, subject to the following criteria: [...]

2) The structure is threatened due to coastal erosion, as determined by the County Building Official, and is located on property zoned either SR-M or SR-H. Any structural alteration or relocation (1) shall comply with all setback and height requirements of the zone district in which such structure is located, (2) shall not result in the removal of required parking spaces, and (3) shall not result in an increase in the number of bedrooms within the building unless such increase is consistent with the provisions of the SR-M or SR-H zoning district.

This exception from the regulations of the nonconforming ordinance is specific to the Del Playa Drive properties as they are zoned SR-M and are located on the top of the eroding Isla Vista bluff. The exemption provides that properties subject to required building cutbacks due to coastal erosion may maintain their nonconforming use (more bedrooms than allowed under current ordinance provisions) provided that they comply with current setback and height requirements of the zone district and provided they do not reduce onsite parking. This provision has the effect of maintaining current densities along Del Playa Drive.

If the Board of Supervisors chose to reconsider these exceptions for bluff top properties in Isla Vista, the Board could initiate a review and revision of the provisions. This would require processing of an Ordinance Amendment to Article II, the County's Coastal Zoning Ordinance, which includes drafting the ordinance changes, conducting environmental review, a hearing and recommendation by the Planning Commission, and a hearing and action by the Board of Supervisors. Since Article II is part of the County's Local Coastal Program, the ordinance amendment would also require review and certification by the California Coastal Commission.

Fiscal and Facilities Impacts:

Funding to prepare this report is budgeted in the Planning and Development 2015-17 adopted budget on page D-280 in the Administration, Permitting and Code Enforcement budget programs. Any costs associated with the permitting of structures are funded through permit fees. There no staffing or facilities impacts.

Special Instructions: NA

Authored by: Dianne M. Black