



DATE: September 8, 2014
TO: Chairperson and Members of the Planning Commission
FROM: Development Services Department/Planning Division
SUBJECT: **STATUS REPORT REGARDING MITIGATION OF UNREINFORCED MASONRY BUILDINGS**

RECOMMENDATION

Staff recommends that the Planning Commission receive the staff report, staff presentation, and hear public testimony regarding the future of the Unreinforced Masonry Building Mitigation Ordinance.

BACKGROUND

On March 1, 1995, the City Council adopted Ordinance No. 95-03 which established the mitigation requirements for unreinforced masonry buildings over a 10-year period. Ordinance No. 95-03 is based upon a statewide model ordinance that was prepared by the California State Seismic Safety Commission in the early 1990s and sent to all cities and counties in the state for adoption. On November 2, 2005, the City Council adopted Ordinance No. 05-OR0646 which provided an additional 10 years for building owners to comply with retrofitting requirements. Under the provisions of the current ordinance, building owners are required to have retrofit plans prepared and submitted by **December 2, 2015**; and to have the construction work completed by **December 2, 2016**.

In January 2014 staff sent information letters to the owners of 45 properties identified as unreinforced masonry buildings. The letter advised of the upcoming due dates for compliance and included copies of the specific engineering criteria to be used. The letter did generate a variety of responses from roughly half of those owners. Currently the list has been reduced by nine. Of the nine properties removed from the list, five are under an active permit or have completed the retrofit work, and four were removed based upon misidentification as an unreinforced masonry building.

On June 17, 2014 Development Services Staff held a stakeholder outreach meeting that was attended by approximately 20 owners of the affected properties. Those persons attending were unanimous in requesting more time for compliance. Some owners stated that they are in limbo as to approving future leases or lease extensions while they await decisions from the City Council regarding the future of the program.

ANALYSIS

Unreinforced masonry buildings have proven to be a potential life safety hazard during earthquakes due to their inability to sufficiently resist lateral and/or vertical loads induced by earthquake motion.

In many cases, these forces can result in a partial or total collapse of the building or the appurtenances attached, such as parapets and overhangs. Such failures can result in injury or loss of life to building occupants, pedestrians on sidewalks, and to responding public safety personnel.

The engineering criteria for the retrofitting of these unreinforced masonry buildings establishes much lower structural standards than apply to new buildings. The intent of these lesser structural requirements is to provide for a sufficient level of reinforcement to avoid catastrophic collapse and to provide opportunity for occupants or bystanders to exit the building and/or get clear of any falling hazards. The State Seismic Safety Commission's model ordinance determined this approach to retrofitting to be a reasonable balance between the economic concerns of businesses and property owners and the safety concerns of governments.

According to available data from the United States Geological Survey (USGS) and the California Department of Conservation, the largest earthquakes in or near to Oceanside over the past 50 years have 3.3 to 3.7 magnitudes. Forecasts or predictions from these same agencies indicate the potential for a magnitude 6.7 earthquake or larger at 99 percent for the Southern California Area over the next 30 years.

The City of Oceanside General Plan, Public Safety Element contains information regarding seismic safety and concludes there are no known faults in our city. The plan does recognize the potential for damage resulting from forces that may be transmitted from larger regional earthquakes.

Staff has identified the following alternatives for consideration by the City Council for action related to this topic:

- 1) Enforce existing ordinance as adopted.
- 2) Modify the existing ordinance to provide an additional time extension for compliance.

- 3) Modify the existing ordinance to require compliance only when there is a change in use or occupancy.
- 4) Modify the existing ordinance to require public notification signage be posted at these identified buildings as required by CA Government Code 8875.8.
- 5) Direct staff to record notices of substandard building conditions with the County Recorder.

CITY ATTORNEY ANALYSIS

California Government Code section 8875.2 requires that local building departments establish a mitigation program for potentially hazardous buildings. According to the statute, the mitigation program may include the adoption by ordinance of a hazardous buildings program to include, among other things, measures to strengthen buildings and/or measures to change the use of buildings to acceptable occupancy levels. The state statute also requires owners to make certain disclosures to the public and tenants of the buildings. The City Council adopted a mitigation program as required by state law in 1995. The City Code requires owners of an unreinforced masonry building to submit plans for parapet bracing and wall anchorage within 10 years of the effective date of the ordinance. The required work must be completed within 11 years of the effective date of the ordinance. The City ordinance was extended for an additional 10-year period in 2005. If an unreinforced masonry building is remodeled or renovated, the Code requires retrofitting provided the cost of the remodel or renovation exceeds 50 percent of the value of the building prior to remodeling or renovation.

The City Council retains the discretion to direct a further extension of the ordinance, however, it should be noted that compliance with the City Code will not necessarily protect property owners from tort liability in the event of an earthquake. In *Myrick v Mastigini* (2010) 195 Cal. App. 4th 1082, the survivors of two women killed in a 2003 earthquake sued the owners of the building for negligence in failing to perform seismic retrofitting of the building. A jury found the defendants were negligent even though the City ordinance did not mandate seismic retrofitting until 2018. The Court of Appeal affirmed the jury verdict and concluded that nothing in the City Code prevented or discourage earlier compliance. As stated by the Court, “to hold that as a matter of law a building owner has no duty until after the compliance date of a code provision would frustrate the very policy that the provision was designed to promote.” Therefore, even if the City Council further extends the ordinance deadlines, property owners could face tort liability if an occupant is injured in an unreinforced masonry building during an earthquake.

SUMMARY

Staff recommends that the Planning Commission receive the staff report, staff presentation, and hear public testimony regarding the future of the Unreinforced Masonry Building Mitigation Ordinance.

PREPARED BY:

Handwritten signature of Rick Brown in black ink, including the initials 'CBO' at the end.

Rick Brown, CBO, MCP, CASp
Chief Building Official

SUBMITTED BY:

Handwritten signature of Marisa Lundstedt in black ink.

Marisa Lundstedt
City Planner

ML/RB/fil

Attachments:

1. Current Unreinforced Masonry Building Inventory
2. Unreinforced Masonry Building Data, North San Diego County Area
3. Ordinance

UNREINFORCED MASONRY BUILDING DATA NORTH SAN DIEGO COUNTY AREA

Data based upon latest available progress report to the State Legislature from the Seismic Safety Commission dated 2006. SSC 2006-04.

Current status remains substantially unchanged based upon staff contacts with surrounding jurisdictions during June, 2014

Vista	2 URM Buildings Identified	
	Voluntary Strengthening Program	0% mitigation
Carlsbad	9 URM Buildings Identified	
	Mandatory Strengthening Program	100% mitigation
San Marcos	0 URM Buildings Identified	
	No Program	N. A.
Encinitas	20 URM Buildings	
	Voluntary with owner notification	0% mitigation
Escondido	57 URM Buildings Identified (1 building in process)	
	Retrofit required with change of occupancy	9% mitigation
S D County	35 URM Buildings Identified	
	Mandatory Strengthening Program	34% mitigation
Oceanside	78 URM Buildings Identified	
	Mandatory Strengthening Program	55% mitigation

Oceanside, California, Code of Ordinances >> Chapter 6 - BUILDING CONSTRUCTION REGULATIONS
>> ARTICLE XI. UNREINFORCED MASONRY BUILDING MITIGATION >>

ARTICLE XI. UNREINFORCED MASONRY BUILDING MITIGATION

Sec. 6.52. Adoption by reference.

Sec. 6.53. Issuance of order.

Sec. 6.54. Service of order.

Sec. 6.55. Appeal from order.

Sec. 6.56. Owner notification.

Sec. 6.57. General compliance requirements.

Sec. 6.58. Special compliance requirements.

Sec. 6.59. Enforcement.

Sec. 6.60. Owner responsibility.

Sec. 6.61. Historical buildings.

Sec. 6.62. Replacement of nonconforming URM buildings.

Secs. 6.63—6.69. Reserved.

Sec. 6.52. Adoption by reference.

- (a) The Unreinforced Masonry Code (URM Code) hereinafter referred to is the Uniform Code for Building Conservation, Appendix Chapter 1, 1997 Edition, published by the International Conference of Building Officials, hereinafter referred to as "the chapter". One copy of the URM Code shall be kept on file in the office of the city clerk.
- (b) All the provisions of the URM Code are hereby adopted by reference and shall constitute the URM Code of the City of Oceanside, establishing rules, regulations, technical guidelines and specifications for purposes of seismic strengthening of unreinforced masonry buildings. All seismic strengthening of unreinforced masonry buildings shall comply with requirements of the chapter.

(Ord. No. 95-03, § 3, 3-1-95; Ord. No. 96-16, § 1, 12-11-96; Ord. No. 05-OR0646-1, § 1, 11-2-05)

Sec. 6.53. Issuance of order.

The building official shall issue a written order to the owner of each building within the scope of the chapter. The order shall specify that the building has been determined by the building official to be within the scope of the chapter and, therefore, is required to meet the minimum seismic standards as designated in the chapter.

(Ord. No. 95-03, § 3, 3-1-95)

Sec. 6.54. Service of order.

The order shall be served either personally or by certified or registered mail upon the owner as shown on the last equalized assessment roll.

(Ord. No. 95-03, § 3, 3-1-95)

Sec. 6.55. Appeal from order.

The owner of the building may appeal the building official's initial determination that the building is within the scope of the chapter to the board of appeals as established in the Administrative Code. Such appeal shall be filed with the board of appeals within sixty (60) days from the date of service of the order.

(Ord. No. 95-03, § 3, 3-1-95; Ord. No. 96-16, § 1, 12-11-96)

Sec. 6.56. Owner notification.

Within thirty (30) days of the effective date of this article, the building official shall notify the owners of unreinforced masonry buildings that the requirements of this article do not relieve them of their responsibility for protecting the health and safety of employees, customers, and the general public, nor of their responsibility for disclosure obligations under state law.

(Ord. No. 95-03, § 3, 3-1-95)

Sec. 6.57. General compliance requirements.

The owner of each building within the scope of the chapter shall do the following:

- (1) Submit plans for parapet bracing per section A113.6 of the chapter and wall anchorage per section A113.1 of the chapter within ten (10) years from the effective date of this article; and
- (2) Complete the required work described in the plans within eleven (11) years of the effective date of this article.

(Ord. No. 95-03, § 3, 3-1-95; Ord. No. 05-OR0646-1, § 2, 11-2-05)

Sec. 6.58. Special compliance requirements.

If an unreinforced masonry building subject to the chapter is remodeled or renovated such that the cumulative value of remodeling or renovation during any twelve-month period, excluding the cost of parapet bracing and wall anchors, exceeds fifty (50) percent of the value of the building prior to the remodeling or renovation, the owner of the building shall submit plans for parapet bracing per section A113.6 of the chapter and wall anchorage per section A113.1 of the chapter, as part of the remodel or renovation project, and complete the required work within one year of permit issuance.

(Ord. No. 95-03, § 3, 3-1-95; Ord. No. 05-OR0646-1, § 3, 11-2-05)

Sec. 6.59. Enforcement.

If the owner of an unreinforced masonry building fails to comply with any order issued and served pursuant to this article, the building official may order that the entire building be vacated and that the building remain vacated until there is compliance with the order. If compliance with such order has not been accomplished within ninety (90) days after the date the building has been ordered vacated or such additional time as may have been granted, the building official may order its demolition in accordance with the provisions of Section 203 of the Uniform Administrative Code.

(Ord. No. 95-03, § 3, 3-1-95)

Sec. 6.60. Owner responsibility.

A building owner's failure to receive service of the order pursuant to section 6.54 shall not relieve the owner of the obligation to comply with the requirements of this article.

(Ord. No. 95-03, § 3, 3-1-95)

Sec. 6.61. Historical buildings.

Alterations or repairs to qualified historic buildings or structures pursuant to the State Historical Code shall not excuse or otherwise relieve the owner from complying with the requirements of this article.

(Ord. No. 95-03, § 3, 3-1-95)

Sec. 6.62. Replacement of nonconforming URM buildings.

- (a) Any unreinforced masonry buildings within the scope of the chapter determined to be a legal nonconforming building under the Oceanside Zoning Ordinance may be replaced without meeting the zoning requirements in existence at that time, provided that the building, as replaced, does not exceed the floor area, height, building footprint, and volume of the original building, nor shall a lesser amount of on-site parking be provided when compared to the building's condition at the time of demolition.
- (b) On replacement of any legal nonconforming building in the "Downtown In-Lieu Parking District," an in-lieu parking fee shall be paid as established for buildings located in that district.

(Ord. No. 95-03, § 3, 3-1-95)

Secs. 6.63—6-69. Reserved.

APN	Owner Name 1
1470881200	LEE FAMILY TRUST 05-03-06
1432430300	GRAHAM GARY J & DANA M
1432430300	DAVIDSON & HEROLD CORPORATION
1432430300	KEEMAN JAMES W & JUDY M
1432430300	OCEANSIDE LAND DEVELOPMENT INC
1432430300	SEABREEZE BEACH LLC
1432430300	WAND & SEA TOWN HOMES
1470871300	GATEWAY SEABREEZE LLC
1470970500	MISLEM BROTHERS LLC
1470970600	JOHNSON HOLDINGS LLC
1470970600	SOMERSET DEVELOPMENT CO
1470860300	JUBELA ERNEST J
1470860200	64 CATHEY BYPASS REVOCABLE TRUST 08-31-88
1430402200	64 CATHEY BYPASS REVOCABLE TRUST 08-31-88
1520110200	EDICK JUDITH TRUST 09-21-98
1472720300	13 HAJIAR 2006 TRUST
1472890500	12-FITLEY RICHARD A
1472720500	WESLEYH COAST HIGHWAY LLC
1500512000	PIEDMONT FAMILY TRUST
1500510900	232 SOUTH COAST HIGHWAY LLC
1500540200	BLUMENSHINE KARAN M
1502041400	GHOUSMANI SHOUAILAH & SAKSANA SMI
1501831200	J & J RENTALS LLC
1520110500	FULLERTON SQUARE
1521720200	SCHWARZ HARVEY W TRUST 08-14-97 JR
1531132300	RUS FINL INC
1532711700	ADAMS WILLIAM O
1532711500	CHUNG JAE JIN & KYUNG HEE
1532711500	KAUR SUKHWIR
1550311200	NUJUAL PARTNERS INC
1550311200	LEACH ALYCE J
1470960500	NAIJAR HARRY & DIANE FAMILY TRUST 10-12-06
1470960500	OCEANSIDE LODGE 1325 LOYAL ORDER MOOSE
1470960500	58 59969
1503761000	SULLIVAN MELISSA A
1470890600	RICHARDSON INVESTMENTS LLC
1470890300	KRISTIN K INVESTMENTS LLC
1472840200	MIKES LIQUOR PROPERTY LLC
1472840200	BARNETT LYNDIA
1470960400	LEE HEUNG KEY
1481603300	DOMINGUEZ FAMILY ATRUST 09-09-98
1451702400	J V HOLDINGS LLC
1451702400	ROSICRUICIAN FELLOWSHIP INC
1470880300	FERGUSON PHILIP G & ANNETTA LIVING TRUST 09-04-98
1470880300	LEE FAMILY TRUST 05-03-06
1470860400	PARCHAN WABREN & BARBARA
1503770800	DAVIES MARIE LIVING TRUST
1503721200	MEYER BRENDA L TRUST 12-05-94
1503770700	HALL LAND CO INC
14710901	SARKISIAN FAMILY 2000 TRUST 09-04-00
	City of Oceanside

Site Address Full
306 N CLEVELAND ST, OCEANSIDE, CA 92054-2529
623 N CLEVELAND ST, OCEANSIDE, CA 92054-2431
623 N CLEVELAND ST, OCEANSIDE, CA 92054-2431
623 N CLEVELAND ST, OCEANSIDE, CA 92054-2431
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623 N CLEVELAND ST, OCEANSIDE, CA 92054-2431
623 N CLEVELAND ST, OCEANSIDE, CA 92054-2431
203 N COAST HWY, OCEANSIDE, CA 92054-2821
202 N COAST HWY, OCEANSIDE, CA 92054-2822
206 N COAST HWY, OCEANSIDE, CA 92054-2822
208 S COAST HWY, OCEANSIDE, CA 92054-3109
301 N COAST HWY, OCEANSIDE, CA 92054-2823
307 N COAST HWY, OCEANSIDE, CA 92054-2823
1003 N COAST HWY, OCEANSIDE, CA 92054
1009 N COAST HWY, OCEANSIDE, CA 92054-5004
109-111 S COAST HWY, OCEANSIDE, CA 92054-3017
114 S COAST HWY, OCEANSIDE, CA 92054
117-119 S COAST HWY, OCEANSIDE, CA 92054-3017
232 S COAST HWY, OCEANSIDE, CA 92054-3109
234 S COAST HWY, OCEANSIDE, CA 92054-3109
308 S COAST HWY, OCEANSIDE, CA 92054-3111
404 S COAST HWY, OCEANSIDE, CA 92054-4007
417-43405 S COAST HWY, OCEANSIDE, CA 92054
405-409 S COAST HWY, OCEANSIDE, CA 92054
1017-1019 S COAST HWY, OCEANSIDE, CA 92054-5004
1307 S COAST HWY, OCEANSIDE, CA 92054-5121
1733 S COAST HWY, OCEANSIDE, CA 92054-5319
1815 S COAST HWY, OCEANSIDE, CA 92054-5321
1821 S COAST HWY, OCEANSIDE, CA 92054-5321
1829-1833 S COAST HWY, OCEANSIDE, CA 92054-5321
2007-2009 S COAST HWY, OCEANSIDE, CA 92054
2017-2019 S COAST HWY, OCEANSIDE, CA 92054-6534
206-208 N FREEMAN ST, OCEANSIDE, CA 92054-2819
122 S FREEMAN ST, OCEANSIDE, CA 92054-2914
602-612 S TREMONT ST, OCEANSIDE, CA 92054-4129
302-306 MISSION AVE, OCEANSIDE, CA 92054-2553
316 MISSION AVE, OCEANSIDE, CA 92054-2553
513-515 MISSION AVE, OCEANSIDE, CA 92054-2829
517-519 MISSION AVE, OCEANSIDE, CA 92054-2829
610-612 2ND ST, OCEANSIDE, CA
1708-1710 MISSION AVE, OCEANSIDE, CA 92058
2222 MISSION AVE, OCEANSIDE, CA 92058-2329
606 MORSE ST, OCEANSIDE, CA 92054-5935
302-308 PIER VIEW WAY, OCEANSIDE, CA 92054-2535
311 N TREMONT ST, OCEANSIDE, CA 92054-2823
408 PIER VIEW WAY, OCEANSIDE, CA 92054-2814
302-306 WISCONSIN AVE, OCEANSIDE, CA 92054-4136
305 WISCONSIN AVE, OCEANSIDE, CA 92054-4135
314 WISCONSIN AVE, OCEANSIDE, CA 92054-4157
714-716 Pier View Way, Oceanside, CA 92054

Mailing Address 1
13446 BLACK HILLS RD
722 SEA-COTTAGE WAY # 32-
8641 N MAGNOLIA AVE
PO BOX 1174
N/AVAHL
12250 EL CAMINO REAL
N/AVAHL
2006 PALOMAR AIRPORT RD STE 13
4154 RAYA WAY
630 ROCKLEDGE ST
10872 MEADS
PO BOX 461358
PO BOX 600
PO BOX 600
PO BOX 294
311 PACIFIC AVE
PO BOX 607
5335 PASSEO DEL NORTE
3631 SEAVIEW WAY
232 S COAST HWY
15 SAINT ANN DR
16569 CALLE PUERTO
404 S COAST HWY
501 MISSION AVE
509 LEONARD AVE
1017 S COAST HWY
614 GRANT ST
150 RYAN WAY
3677 JETTY PT
1821 S COAST HWY
303 S ARROYO DR
6911 WILDROSE TER
2017 S COAST HWY
PO BOX 574
122 S FREEMAN ST
6984 EMERALD SPRINGS LN
8354 BEVERLY DR
6615 NORMAN LN
7510 Jerex Ct
1030 STEES CT
4378 ADAMS ST
404 S COAST HWY
2222 MISSION AVE
2077 SEQUOIA CRT
13446 BLACK HILLS RD
1975 N BATAVIA ST
3095 MONROE ST
1365 HAWTHORNE AVE
740 LOMAS SANTA FE DR #204
PO BOX 1781
300 N Coast Hwy.

Mailing Address 2
SAN DIEGO CA 92129-2605 C010
OCEANSIDE CA 92054-2159 CA04
CA 92071-4514 C027
CARLSBAD CA 92018-1174 B012
SANTEE CA 92072
CA 92130-3001 C014
CARLSBAD CA 92008-4812 C031
SAN DIEGO CA 92112-3604 C018
OCEANSIDE CA 92054-4230 CA02
ORANGE CA 92869-1500 C087
ESCONDIDO CA 92046-1358 B012
OCEANSIDE CA 92049-0600 B004
OCEANSIDE CA 92049-0600 B004
OCEANSIDE CA 92049-0294 B002
SOLANA BEACH CA 92075-1147 C001
CORONA CA 92878-0607 B006
CARLSBAD CA 92008-4338 C009
CARLSBAD CA 92008-2767 C016
OCEANSIDE CA 92054-3109 CA03
SANTA BARBARA CA 93109-1238 C061
SAN DIEGO CA 92138
OCEANSIDE CA 92054-4007 CA03
OCEANSIDE CA 92064-2829 CA03
OCEANSIDE CA 92054-4106 CA02
OCEANSIDE CA 92054-5004 CA17
OCEANSIDE CA 92054-4216 CA02
OCEANSIDE CA 92054-6172 CA32
CARLSBAD CA 92010-5514 C019
OCEANSIDE CA 92054-5321 CA21
PANSON AZ 85541-4533 C001
CARLSBAD CA 92011-4008 C025
OCEANSIDE CA 92054-6534 CA21
RANCHO SANTA FE CA 92067-0574 B1
OCEANSIDE CA 92054-3014 CA85-
LAS VEGAS NV 89113-1376 C026
SAN GABRIEL CA 91775-2404 C005
SAN DIEGO CA 92120-3948 C006
Carlsbad, CA 92009
YUFTA CA 92082-3275 C002
CARLSBAD CA 92008-4203 C025
OCEANSIDE CA 92054-4007 CA03
OCEANSIDE CA 92058-2329 C818
YUFTA CA 92081-7333 B024
SAN DIEGO CA 92129-2605 C010
GRANGETE CA 92865-4407 C075-
CARLSBAD CA 92008-1133 C011
CHICO CA 95926-2971 C020
SOLANA BEACH CA 92075-1441 C008
CARLSBAD CA 92018-1781 B009
Oceanside, CA 92054