

EMERGENCY PERMIT

17EMP-00000-00001



- Coastal Zone:**
Subject to the requirements of Section 35-171.2 of the Article II Coastal Zoning Ordinance and the policies of the Coastal Land Use Plan.

Case Name: El Capitan Canyon Grading
Case Number: 17EMP-00000-00001
Site Address: 11560 Calle Real, Gaviota
APN: 081-230-036 et al.
Applicant/Agent Name: Cima Del Mundo/Roger Himovitz
Owner Name: Roger Himovitz

South County Office
123 E. Anapamu Street
Santa Barbara, CA 93101
(805) 568-2000

Energy Division
123 E. Anapamu Street
Santa Barbara, CA 93101
(805) 568-2040

North County Office
624 W. Foster Road
Santa Maria, CA 93454
(805) 934-6250

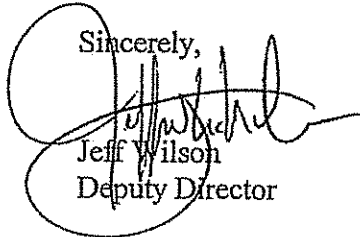
PERMIT APPROVAL:

This is to inform you that an Emergency Permit pursuant to Article II, Section 35-171, has been approved for:

The project involves adequate excavation to create positive flow in the El Capitan Creek which has been obstructed by debris and boulders from the storm of January 20, 2017. The emergency work is required to avoid damage from any additional flooding, and includes removal of debris and boulders from the lower creek area depicted on the attached map, (Exhibit 1), in an area approximately from the existing El Capitan Creek culvert at Highway 101 to the coastal zone boundary. Boulders removed from the creek will be placed and temporarily stored in the general area of the maintenance, shop, and lower parking area west of the creek. No structural development or deposition of any material is proposed within the creek bed or banks.

The structures at immediate risk of future damage include the Canyon Market, check-in facility, kiosk and group sales, and restaurant, which are essential to the restoration and operation of the business. The event of January 20 resulted in substantial mud, boulders and debris in these facilities.

Therefore, this situation constitutes an emergency in accordance with the applicable zoning ordinance indicated above and immediate action is warranted. As the required findings (listed below) can be made, the emergency work is hereby approved, subject to compliance with the attached conditions of approval. This permit is not valid until signed by the owner/applicant and subsequently issued by the Planning and Development Department upon verification that all conditions of approval requiring action prior to permit issuance are satisfied.

Sincerely,

Jeff Wilson
Deputy Director

APPROVAL DATE: FEB 2, 2017

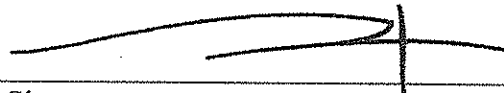
OWNER/APPLICANT AGREEMENT:

The undersigned permittee acknowledges receipt of this permit and agrees to abide by all terms and conditions of approval incorporated herein. The undersigned also acknowledges and agrees that:

- This Emergency Permit provides only temporary authorization for the proposed action and other applicable permits (such as a Conditional Use Permit, Coastal Development Permit, Land Use Permit, Building Permit) are required by law to validate the emergency work as permanent.
- Any evidence or findings contained herein, or upon which this permit relies, shall not constitute any limitation on the authority of the County of Santa Barbara to issue, grant, deny, rescind, or revoke this permit or any future permit(s) required for the activities described herein, or on the authority of the County of Santa Barbara to analyze, mitigate, or condition any future permit(s) required for the activities described herein.
- This permit does not authorize any work or construction activities outside of the scope of the project as indicated in the project description, conditions of approval and approved plans.
- This permit shall not be construed to authorize any violation of County ordinance or policy, or the violation of any State or Federal regulation.

Roger Himovitz

Print Name



Signature

2-2-17

Date

PERMIT ISSUANCE:

Anne Army

Print Name



Signature

2-3-17

Date

BACKGROUND:

The subject property is zoned AG-II-100 and shown as Assessor's Parcel Number 081-230-036 et al., located at 11560 Calle Real on the Gaviota Coast, Third Supervisorial District.

The project involves adequate excavation to create positive flow in the El Capitan Creek which has been obstructed by debris and boulders from the storm of January 20, 2017. The emergency work is required to avoid damage from any additional flooding, and includes removal of debris and boulders from the lower creek area depicted on the attached map, (Exhibit 1), in an area approximately from the existing El Capitan Creek culvert at Highway 101 to the coastal zone boundary. Boulders removed from the creek will be placed and temporarily stored in the general area of the maintenance, shop, and lower parking area west of the creek. No structural development or deposition of any material is proposed within the creek bed or banks.

The structures at immediate risk of future damage include the Canyon Market, check-in facility, kiosk and group sales, and restaurant, which are essential to the restoration and operation of the business. The event of January 20 resulted in substantial mud, boulders and debris in these facilities.

FINDINGS OF APPROVAL:

1. **The approval of this project shall not be held to permit or to be an approval of a violation of any provision of any County Ordinance or State Law.**

As discussed in finding 2a, below, the proposed work is to reestablish positive flow in El Capitan Creek to allow for storm waters to flow through the creek to the ocean. The creek was obstructed with debris and boulders as a result of a flash flood in the winter storm of January 20, 2017, resulting in an emergency condition. As discussed in finding 2c, below, the action proposed is consistent with the requirements of the Coastal Land Use Plan and Coastal Zoning Ordinance. Pursuant to condition of Approval No. 2, below, the applicant is required to apply for a Zoning Clearance no later than 30 days following the February 2, 2017 email authorization for work. Therefore, the approval of this project would not permit or approve a violation of any provision of any County Ordinance or State Law, and this finding can be made.

2. **In compliance with Section 35-171.5.2 of the Article II Zoning Ordinance, prior to the approval or conditional approval of an application for an Emergency Permit the Director shall first make all of the following findings, as applicable:**
 - a. *An emergency exists and requires action more quickly than provided for by the procedures for permit processing, and the action will be completed within 30 days unless otherwise specified by the terms of the permit.*

The winter storm of January 20, 2017, resulted in nearly complete siltation of the El Capitan Creek where it formerly flowed through the El Capitan Canyon Campground, resulting in flooding and destruction of Campground facilities. Recreating positive flow in the creek is

necessary to prevent further flooding and facility damage from future storms during the winter of 2017. Therefore, this situation constitutes an emergency in accordance with Section 35-171.5 of the Article II Zoning Ordinance and immediate action is warranted. The proposed action is expected to be completed within 30 days of commencement. Therefore, this finding can be made.

b. Public comment on the proposed emergency action has been reviewed.

Time does not allow for public comment on the proposed actions since immediate action is required to prevent additional damage to the campground and to provide for positive flow in El Capitan Canyon Creek. Notice of this permit will be mailed to surrounding property owners. Processing of the Zoning Clearance required to validate the proposed creek grading will provide opportunity for public review and appeal. Therefore, this finding can be made.

c. The action proposed is consistent with the requirements of the Coastal Land Use Plan and Coastal Zoning Ordinance.

Coastal Act Policy 30253 requires new development to “*minimize risks to life and property in areas of high geologic [and] flood . . . hazard*” and “*assure stability and structural integrity. . .*” The proposed project would alleviate public and private safety hazards associated with blocked flood waters in and around existing El Capitan campground development and upstream of Highway 101 and the El Capitan State Beach Campground, consistent with this policy. Coastal Act Policy 30236 allows “*channelization, dams or other substantial alterations of rivers and streams...where no other method for protecting existing structures in the flood plain is feasible and where such protection is necessary for public safety or to protect existing development.*” The proposed project is for grading to recreate positive flow in the El Capitan Canyon Creek through the El Capitan canyon, upstream of Highway 101, and to the ocean. The emergency grading is necessary for public safety and in order to protect existing development, consistent with Coastal Act Policy 30236.

Coastal Plan Policy 3-12 states that “*permitted development shall not cause or contribute to flood hazards or lead to expenditure of public funds for flood control works...*” The proposed project is to recreate positive flow in a the El Capitan Canyon Creek to ensure that the new, unstable deposited debris and boulders resulting from the flash flood of January 20, 2017, will not cause or contribute to further flood hazards or lead to expenditure of public funds. In addition, Coastal Policy 3-14 states that “*all development shall be designed to fit the site topography, soils, geology, hydrology, and any other existing conditions and be oriented so that grading and other site preparation is kept to an absolute minimum. Natural features, landforms, and native vegetation, such as trees, shall be preserved to the maximum extent feasible...*”. Grading associated with the creation of positive flow will follow the alignment of the existing El Capitan Canyon Creek through remnant riparian vegetation, and until permits are obtained for a permanent solution, only the minimum grading necessary to create positive flow will occur.

Therefore, the proposed project is consistent with the requirements of the Coastal Land Use Plan and the Article II Coastal Zoning Ordinance and this finding can be made.

3. This action is not subject to the provisions of the California Environmental Quality Act, pursuant to State CEQA Guidelines Section 15269, statutory exemption for emergency projects.

EMERGENCY PERMIT CONDITIONS OF APPROVAL

1. This Emergency Permit is based upon and limited to compliance with the project description, and the conditions of approval set forth below. Any deviations from the project description or conditions must be reviewed and approved by the County for conformity with this approval. Deviations without the above-described approval will constitute a violation of permit approval. If it is determined that project activity is occurring in violation of any or all of the following conditions, the Director of Planning and Development may revoke this permit and all authorization for development. The decision of the Director to revoke the Emergency Permit may be appealed to the Planning Commission.

The project description is as follows:

The project involves adequate excavation necessary to create positive flow in the El Capitan Creek which has been obstructed by debris and boulders from the storm of January 20, 2017. The emergency work is required to avoid damage from any additional flooding, and includes removal of debris and boulders from the lower creek area depicted on the attached map, (Exhibit 1), in an area approximately from the existing El Capitan Creek culvert at Highway 101 to the coastal zone boundary. Boulders removed from the creek will be placed and temporarily stored in the general area of the maintenance, shop, and lower parking area west of the creek. No structural development or deposition of any material is proposed within the creek bed or banks.

2. An application(s) for the required permits necessary to validate the emergency work as permanent shall be submitted by the applicant to the Planning and Development Department no later than 30 days following the February 2, 2017 email authorization for work. The permit required for the proposed emergency work is a Coastal Development Permit pursuant to Section 35-171.5.3 of the Article II, Coastal Zoning Ordinance.
3. Any materials required for a completed application, as identified in the initial review of the original application required pursuant to Condition #2 above, shall be submitted within 90 days after written notification of the application deficiencies is provided to the applicant. This time period may be extended by the Director of Planning and Development.
4. Only that emergency work specifically requested and deemed an emergency for the specific property mentioned is authorized. Any additional emergency work requires separate authorization from the Director of Planning and Development. The work authorized by this permit must be commenced within 30 days of the February 2, 2017 email authorization for work and must be completed within 30 days after the beginning of construction or within a longer timeframe if deemed necessary. If construction activities are proposed by the applicant to commence after 30 days, separate authorization by the Director of P&D is required.
5. This permit does not preclude the necessity to obtain authorization and/or permits from other County Departments or other agencies.

6. The Director of Planning and Development may order the work authorized under this emergency permit to stop immediately if it is determined that unanticipated and substantial adverse environmental effects may occur with continued construction.
7. A biologist, a geologist and a civil engineer shall be on site daily to direct grading efforts.

Attachments:

- A. Site Plan
- B. Site Photos

cc: Supervisor Hartmann, Third District
Jeff Wilson, P&D Deputy Director
Anne Almy, Supervising Planner, P&D
Nicole Lieu, P&D Planner
Coastal Program Analyst, Calif. Coastal Comm., 89 S. California Street, Ventura CA 93001

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ATTACHMENT A

ATTACHMENT B





