



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: Planning &
Development
Department No.: 053
For Agenda Of: March 8, 2016
Placement: Administrative
Estimated Time: N/A
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department: Planning & Development
Directors: Glenn Russell, Ph.D. Director, (805) 568-2085
Dianne Black, Assistant Director, (805) 568-2086
Alice McCurdy, Deputy Director, (805) 568-2519
SUBJECT: Emergency Permit for Myers Boulder Removal
Case No. 15EMP-00000-00012; First Supervisorial District

County Counsel Concurrence

As to form: Yes

Other Concurrence: N/A

As to form: No

Auditor-Controller Concurrence

As to form: N/A

Recommended Actions:

That the Board of Supervisors:

- a) Receive and file this report on Emergency Permit 15EMP-00000-00012, which authorized removal and relocation of large boulders and debris deposited without permits within Toro Canyon Creek to reduce flood risk and other associated damages. A copy of the Emergency Permit is included herein as Attachment A;
- b) Determine that issuance of the emergency permit is exempt from the California Environmental Quality Act (CEQA) pursuant CEQA Guidelines section 15269(c), as this action was necessary to prevent or mitigate an emergency as specified in Attachment B of this Board Letter; and
- c) Determine that receiving and filing this report is not a project pursuant to CEQA Guidelines section 15378(b)(5), as it is an administrative government activity that will not result in direct or indirect physical changes in the environment, as specified in Attachment C of this Board Letter.

Background:

The National Oceanic and Atmospheric Administration (NOAA) has observed atmospheric and oceanic anomalies indicating a strong El Niño through winter 2015-2016 in the Northern Hemisphere. Building and zoning violation cases were opened in June 2015 for an access road created by unpermitted grading

and habitat destruction on the subject property within and adjacent to Toro Canyon Creek. As a result of the unpermitted development, several large boulders and debris were deposited within the creek channel. If not removed prior to heavy rains expected this winter, the boulders and other debris could have potentially obstructed the natural flow of the creek, resulting in flooding and other associated damage that could have endangered people and property in the vicinity.

On September 23, 2015, the applicant submitted an application for a Land Use Permit to allow for removal of the boulders that were placed within the creek and to complete required restoration work to restore the creek to pre-violation conditions. However, due to the scope of the project and involvement from CA Department of Fish and Wildlife, staff determined the Land Use Permit would require more time to process than was available to address the potential flooding hazards posed by the boulders and debris. Further, the urgency to remove the boulders prior to the expected heavy rains was not initially known at the time of the Land Use Permit application submittal. Therefore, the situation constituted an emergency and immediate action was warranted.

Summary Text:

Section 35.82.090 of the County LUDC authorizes the Director of the Planning and Development Department (P&D) to temporarily defer standard permit requirements of the County Land Use and Development Code (LUDC) and issue an Emergency Permit when emergency action is warranted. Section 35.82.090.I.1 of the County LUDC requires the Director to submit a written report describing the nature of the emergency and the work involved to the Board of Supervisors after issuing an Emergency Permit. This notification fulfills the ordinance requirements.

Staff determined that blockage caused by boulders and debris that were previously placed within the creek channel by the applicant, combined with expected El Niño storm events this winter, posed a significant flood risk. P&D and CA Department of Fish and Wildlife staff subsequently encouraged the applicant to expedite removal of the blockage. Accordingly, on December 23, 2015 the applicant submitted an application for an Emergency Permit to allow removal of the boulders and debris. The Emergency Permit was issued on January 11, 2016 and removal work was completed on January 27, 2016 consistent with the Emergency Permit conditions of approval and a California Department of Fish and Wildlife Streambed Alteration Agreement.

Pursuant to Section 35.82.090.E.1 of the County LUDC, a notice was mailed to surrounding property owners and residents, and three (3) notices were posted at the subject property. The Land Use Permit application submitted on September 23, 2015 will serve as the required LUP application submittal following the granting of the Emergency Permit, consistent with Section 35-171.5.3 of the County LUDC.

Issuance of the Emergency Permit is consistent with the Comprehensive Plan, including the Land Use Element and the Toro Canyon Community Plan, and the County Land Use and Development Code, as the action provides an immediate response to an emergency situation in the interest of health, safety, and public welfare. P&D granted the Emergency Permit based on a statutory exemption (CEQA Guidelines Section 15269(c)) due to the need to prevent or mitigate potential flooding and associated damage due to El Niño storm events. A copy of the CEQA Exemption for issuance of the Emergency Permit is included herein as Attachment B. A copy of the CEQA Exemption for receiving and filing this report is included herein as Attachment C.

Fiscal and Facilities Impacts:

County costs for processing the Emergency Permit are reimbursed by the applicant in conformance with the current Board-approved fee resolution. Permit revenues are budgeted in the Permitting Budget Program on page D-289 of the adopted 2015-2017 fiscal year budget. The fixed fee for an Emergency Permit is \$2,623.31. Future permitting costs will be paid by the applicant.

Attachments:

Attachment A: Emergency Permit 15EMP-00000-00011 (with Site Plans)

Attachment B: CEQA Exemption [CEQA Guidelines section 15269(c)]

Attachment C: CEQA Exemption [CEQA Guidelines section 15378(b)(5)]

Authored by:

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