

EMERGENCY PERMIT

24EMP-00003



Montecito:

Subject to the requirements of Section 35.472.080 of the Santa Barbara County Montecito Land Use & Development Code

Case Name: Wolf Trust Slope Repair and Retaining Walls
Case Number: 24EMP-00003
Site Address: 337 Hot Springs Road, Santa Barbara, CA
APN: 009-070-039
Applicant/Agent Name: Mark Lloyd, Agent
Owner Name: Wolf, Richard 2003 Trust 9/17/03

PERMIT APPROVAL:

This is to inform you that an Emergency Permit has been approved for:

The proposed project is for construction of an upper and lower soldier pile retaining wall totaling 160-ft.-long and varying from 6-ft. to 8-ft. in height. The proposed retaining walls will repair and stabilize slope failure and erosion resulting from the 2023 and 2024 winter rainstorms adjacent to the existing single-family dwelling and outdoor HVAC equipment area. The 2023 and 2024 winter rainstorms damaged the slope at the south and eastern property line resulting in failure of the steep slopes and erosion of the existing retaining wall and slope face. The slopes are at risk of further failure, jeopardizing the existing development on the parcel, including the existing single-family dwelling, equipment, and 24-in. diameter-at-breast-height Oak tree (Quercus agrifolia) at the top of the steep slope. The proposed retaining walls will be partly located within the required 10-ft. interior lot setback and will be a maximum of 6-ft.-tall, and portions located outside the required interior lot setback areas will be a maximum of 8-ft.-tall. The retaining walls will be a total of 160-linear-ft. in length and will include (19) 24-in.-diameter cast-in-place caissons to support the retaining walls and will extend approximately 17.5-ft. to 26-ft. below grade. The project includes removal of one 4-in. diameter-at-breast-height Oak tree (Quercus agrifolia), which is not considered a protected specimen due to its small size. Proposed grading is approximately 60-cubic yards of cut for installation of the (19) caissons, 200-cubic-yards of fill, and no export. The parcel will continue to be served by the Montecito Water District, Montecito Sanitary District, and Montecito Fire Department. Access will continue to be provided off Hot Springs Road, a public street. The property is a 1.02-acre parcel zoned One-Family Residential (2-E-1) and shown as Assessor's Parcel Number 009-070-039, located at 337 Hot Springs Road in the Montecito Area, First Supervisorial District.

Therefore, this situation constitutes an emergency in accordance with the applicable Development Code 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. The project is exempt from environmental review pursuant to CEQA Guidelines Section 15269(c), which exempts “specific actions necessary to prevent or mitigate an emergency” (see Attachment B). This permit is not valid until signed by the owner/applicant and subsequently issued by the Department upon verification that all conditions of approval requiring action prior to permit issuance are satisfied.



Lisa Plowman, Director

5/7/24

Date

BACKGROUND:

The proposed project is located at 337 Hot Springs Road in the Montecito Community Plan Area, and shown as Assessor's Parcel Number 009-070-039. The following permitted structures currently exist on the parcel: 4,382-sq.-ft. two-story single family dwelling, 1,880-sq.-ft. basement, 515-sq.-ft. attached garage, 253-sq.-ft. attached garage, two detached 675-sq.-ft. garages, a 1,000-sq.-ft. attached residential second unit, and pool permitted by 10LUP-00000-00310 and subsequent revision permits 12RVP-00000-00075 and 13RVP-00000-00076. In addition, 11LUP-00000-00248 permitted a 570-sq.-ft. storage room addition.

The subject property is located partially within the mapped flood hazard area from Montecito Creek. The flood hazard area reaches approximately 10 to 20-ft. from the eastern property line, near the area where slope failure occurred. Three houses adjacent to the eastern property line and several others in the immediate area were destroyed in the 2018 Montecito debris flow disaster. The Preliminary Geologic Investigation Report prepared by Coastal Geology & Geotechnical Services, Inc. (CGGS Inc.) on February 20, 2024, notes that the 2018 debris flow disaster undercut and eroded the slope along the eastern property line and contributed to the current destabilized condition. As described in the aforementioned Preliminary Geologic Investigation Report, the subject property has steep, nearly vertical slopes at the eastern property line. The 2023 and 2024 winter rainstorms caused flooding and damage to the Montecito area and to the steep slope on the property. The existing stone and riprap retaining walls along the top of the slope on the property were eroded near the single-family dwelling and outdoor HVAC equipment. Considering the steeply inclined slope and saturated soil condition, the Preliminary Geologic Investigation Report concludes the slopes are at risk for potential catastrophic failure that would damage the existing single-family dwelling and HVAC equipment and merits an emergency permit for immediate repair.

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.

The approval of this Emergency Permit will not permit or approve any violation of any provision of any County Ordinance or State Law. Per Montecito Land Use and Development Code (MLUDC) Section 35.430.070, Fences and Walls, and Section 35.423.030 Table 2-4, Residential Zones Allowable Land Uses, walls are a permitted use in residential zone districts and walls over 6-ft.-tall are allowed with a Land Use Permit or Conditional Use Permit subject to applicable provisions of the MLUDC. The proposed project is conditioned to require an application for the required permits necessary to validate the emergency work as permanent to be submitted by the applicant no later than 30 days following the issuance of the Emergency Permit. Processing of the subsequent planning permit required by the MLUDC will ensure that the project is reviewed for and completed in compliance with applicable County and State regulations.

2. In compliance with Subsection 35.472.090.E.2 of the Montecito Land Use and Development Code, prior to the approval or conditional approval of an application for an Emergency Permit, the Director shall first make all of the following findings:

a. An emergency exists and requires action more quickly than provided for by the customary procedures for permit processing.

The Director finds that an emergency exists because the 2023 and 2024 winter rainstorms led to slope failure and erosion on the subject property's steep slope near the single-family dwelling and outdoor HVAC equipment area. Existing retaining walls at the top of the slope were also damaged as a result of erosion caused by the rainstorms. The Preliminary Geologic Investigation Report prepared by CGGS Inc., dated February 20, 2024, concluded that the slope adjacent to southeastern property line is at risk of further slope failure and threatens damage to the existing single-family dwelling and HVAC equipment on the property and therefore requires immediate action to repair the retaining walls and stabilize the steep slope.

b. The action proposed is consistent with the policies of the Comprehensive Plan, including the Montecito Community Plan and the requirements of this Development Code.

The Director finds that the proposed project is consistent with the policies of the Comprehensive Plan, including the Montecito Community Plan and the requirements of this Development Code. The project consistency with applicable policies and requirements is discussed in detail below.

Land Use Element Visual Resource Policy 2: *In areas designated as urban on the land use plan maps and in designated rural neighborhoods, new structures shall be in conformance with the scale and character of the existing community. Clustered development, varied circulation patterns, and diverse housing types shall be encouraged.*

Consistent. The proposed project is consistent with the policy requirement to be in conformance with the scale and character of the existing community. The property is located within a designated urban area zoned One-Family Residential (2-E-1), where the existing community is developed with single-family dwellings, fences, and walls. Three homes adjacent to the subject property and several other homes in the neighborhood were destroyed in the 2018 Montecito debris flow disaster and some have not yet been reconstructed as of the date on this permit. The proposed retaining walls are in conformance with the residential character of the surrounding neighborhood, because such retaining walls are commonly used along steep sloped areas in residential neighborhoods for safety and slope stability purposes.

MCP Policy VIS-M-1.1: *Development shall be subordinate to the natural open space characteristics of the mountains.*

MCP Policy VIS-M-1.3: *Development of property should minimize impacts to open space views as seen from public roads and viewpoints.*

Consistent. The proposed project is consistent with the policy requirements to be subordinate to the natural open space characteristics of the mountains and minimize impacts to open space views as seen from public roads and viewpoints. The proposed retaining walls do not impede public viewpoints of the mountains and will be subordinate to existing structures on the property. The subject property is an interior lot with no street frontage and contains existing development including a single-family dwelling and accessory structures. The proposed retaining walls will be a maximum of 6 to 8-ft.-tall and are approximately 200 to 265-ft. away from the edge of the nearest public road, Hot Springs Road. Therefore, they will not be highly visible from public viewpoints.

MCP Development Standard BIO-M-1.15.1: All existing specimen trees shall be protected from damage or removal by development to the maximum extent feasible.

Consistent. The proposed project is consistent with the policy requirement for tree protection from damage or removal to the maximum extent feasible. The proposed project requires removal of one native Oak tree (*Quercus agrifolia*), which is not considered a specimen due to being only 4-in. diameter-at-breast-height. It is not feasible to preserve the Oak tree (*Quercus agrifolia*) because it is located on the compromised slope where construction of the retaining walls will require its removal. A 24-in. diameter-at-breast-height Oak tree (*Quercus agrifolia*) at the top of the slope will be protected in place during construction. In addition, the project proposes to plant a new 24-in. box Oak tree (*Quercus agrifolia*) to replace the one Oak tree proposed for removal for construction of the retaining walls.

Land Use Element Hillside and Watershed Protection Policy 2: All developments 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. Areas of the site, which are not suited to development because of known soil, geologic, flood, erosion or other hazards shall remain in open space.

Consistent. The proposed project is consistent with the policy requirement for development to fit the site topography, soils, geology, hydrology and existing site conditions and to preserve natural landforms and native vegetation to the maximum extent feasible. The proposed project is for construction of new retaining walls to repair slope failure on the property. Historically, the 2018 Montecito debris flow disaster undercut the slope and altered the natural topography of the project site and surrounding area. Subsequent rainstorms including the 2023 and 2024 winter rainstorms have resulted in further slope failure and erosion. The proposed project will repair the site condition and stabilize the steep slope. Minimal site disturbance or alteration of the natural topography is proposed. The proposed project grading will be limited to 60-cubic-yards of cut for the installation of (19) caissons to support the retaining walls, 200-cubic-yards of fill, and no export. Trees located in the eroded area are not feasible to be preserved, and the project proposes removal of one 4-in. diameter-at-breast-height Oak tree (*Quercus agrifolia*) for construction of the proposed retaining walls for slope repair.

MLUDC Section 35.423.020, Purposes of the Residential Zones: 1/E-1 (One-Family Residential) zone.

The R-1 and E-1 zones are applied to areas appropriately located for family living at a reasonable range of population densities, consistent with sound standards of public health, safety, and welfare. This zone is intended to protect the residential characteristics of an area and to promote a suitable environment for family life.

Consistent. The proposed project is consistent with the purpose and intent of the 2-E-1 (One-Family Residential) Zone District. The proposed project is for new retaining walls intended for slope stability and safety, and are common and necessary structures in residential neighborhoods located on or near steep slopes.

MLUDC Section 35.430.150 Setback Requirements

Interior lot. The setback requirements of the applicable zone shall not apply, and any structure located on an interior lot shall have a setback of at least 10 feet from all property lines, and the total setback area shall equal the total area of all setbacks required by in the applicable zone. See Figure 3-7 (Interior Lot)

MLUDC Section 35.430.070.C Height Limits and Permit Requirements.

Each fence shall comply with the height limits and permit requirements in Table 3-2 (Fence Height and Permit Requirements) as follows:

Outside of a required setback: Fence more than 6 ft. high- Land Use Permit required

Within interior lot setback area or 20 ft. or less from a street right-of-way: Fence 6 ft. or less in height; gatepost 8 ft. or less in height- Exempt from planning permit

Within interior lot setback area or 20 ft. or less from a street right-of-way: Fence more than 6 ft. high; gatepost more than 8 ft. high- Conditional Use Permit required

Consistent: The proposed project is consistent with the setback and height requirements of the 2-E-1 (One-Family Residential) Zone District. The project site is an interior lot with minimum 10-ft. setbacks from each property line. Retaining walls are allowed within interior lot setback area up to 6-ft. in height, and outside of setbacks, up to 8-ft. in height with a Land Use Permit, as proposed, pursuant to Section 35.430.70. The proposed project is located partially within interior lot setbacks, approximately 0.5-ft. to 12-ft. from the nearest property lines. The proposed project will be a maximum of 8-ft.-tall and does not exceed the height limits allowed for fences and walls.

c. *Public comment on the proposed emergency action has been reviewed.*

The Director finds that mailed notice was sent to neighbors within 300 feet of the property on March 7, 2024. Three notice placards for the proposed development have been posted on site. No public comment on the proposed emergency action has been received to date.

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 may revoke this permit and all authorization for development. The decision of the Director to revoke the Emergency Permit may be appealed to the Montecito Commission.

The project description is as follows:

The proposed project is for construction of an upper and lower soldier pile retaining wall totaling 160-ft.-long and varying from 6-ft. to 8-ft. in height. The proposed retaining walls will repair and stabilize slope failure and erosion resulting from the 2023 and 2024 winter rainstorms adjacent to the existing single-family dwelling and outdoor HVAC equipment area. The 2023 and 2024 winter rainstorms damaged the slope at the south and eastern property line resulting in failure of the steep slopes and erosion of the existing retaining wall and slope face. The slopes are at risk of further failure, jeopardizing the existing development on the parcel, including the existing single-family dwelling, equipment, and 24-in. diameter-at-breast-height Oak tree (Quercus agrifolia) at the top of the steep slope. The proposed retaining walls will be located partly within the required 10-ft. interior lot setback and will be a maximum of 6-ft.-tall, and portions located outside the required interior lot setback areas will be a maximum of 8-ft.-tall. The retaining walls will be a total of 160-linear-ft. in length and will include (19) 24-in.-diameter cast-in-place caissons to support the retaining walls and will extend approximately 17.5-ft. to 26-ft. below grade. The project includes removal of one 4-in. diameter-at-breast-height Oak tree (Quercus agrifolia), which is not considered a protected specimen due to its small size. Proposed grading is approximately 60-cubic-yards of cut for installation of the (19) caissons, 200-cubic-yards of fill, and no export. Retaining wall construction is proposed pursuant to structural engineering plans prepared by Doyle-Morgan Structural Engineering Inc., dated March 8, 2024. The parcel will continue to be served by the Montecito Water District, the Montecito Sanitary District and the Montecito Fire Department. Access will continue to be provided off Hot Springs Road. The property is a 1.02-acre parcel zoned 2-E-1 and shown as Assessor's Parcel Number 009-070-039, located at 337 Hot Springs Road in the Montecito Community Plan Area, First Supervisorial District.

2. An application(s) for the required permits necessary to validate the emergency work as permanent shall be submitted by the applicant to the Department no later than 30 days following the issuance of this Emergency Permit. The permits required for the proposed emergency work include Land Use Permit pursuant to Section 35.472.110 of the Montecito Land Use Development Code.

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.

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. The work authorized by this permit must be commenced within 30 days of the date of issuance of the emergency permit.

5. This permit does not preclude the necessity to obtain authorization and/or permits from other Departments or agencies.

6. The Director 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. Air-01 Dust Control. The Owner/Applicant shall comply with the following dust control components at all times including weekends and holidays:

a. Dust generated by the development activities shall be kept to a minimum with a goal of retaining dust on the site.

b. During clearing, grading, earth moving, excavation, or transportation of cut or fill materials, use water trucks or sprinkler systems to prevent dust from leaving the site and to create a crust after each day's activities cease.

c. During construction, use water trucks or sprinkler systems to keep all areas of vehicle movement damp enough to prevent dust from leaving the site.

d. Wet down the construction area after work is completed for the day and whenever wind exceeds 15 mph.

e. When wind exceeds 15 mph, have site watered at least once each day including weekends and/or holidays.

f. Order increased watering as necessary to prevent transport of dust off-site.

g. Cover soil stockpiled for more than two days or treat with soil binders to prevent dust generation. Reapply as needed.

h. If the site is graded and left undeveloped for over four weeks, the Owner/Applicant shall immediately: (i) Seed and water to re-vegetate graded areas; and/or (ii) Spread soil binders; and; (iii) Employ any other method(s) deemed appropriate by P&D or APCD.

TIMING: The dust control components shall apply from the beginning of any grading and construction throughout all development activities until Final Building Inspection Clearance is issued. APCD inspectors shall respond to nuisance complaints.

8. Bio-01 Tree Protection Plan. Owner/Applicant shall submit an Arborist Report prepared by a P&D-approved arborist/biologist designed to evaluate construction impacts to existing mature Oak trees and propose measures for mitigation and/or replacement of damaged or removed Oak trees. The Arborist Report shall include the following:
Owner/Applicant shall comply with and depict the following on the Planning and Grading and Building Plans.

- a. All Oak trees shall be preserved unless noted on the plans to be removed. No grading for buildings, access ways, easements, subsurface grading sewage disposal, and well placement shall be within 6 ft. of the dripline of these trees.
- b. One 4-in. Oak tree on the slopes adjacent to the proposed new retaining walls will be removed per plans. Depict tree locations.
- c. One 24-in. Oak tree adjacent to the single-family dwelling and outdoor HVAC equipment area shall be protected in place. Depict tree locations.
- d. Equipment storage (construction materials, equipment, fill soil, rocks, etc.) and construction staging and parking areas shall be located outside of the Oak tree protection area.
- e. Protective fencing or other barriers shall be used to protect Oak trees in protection areas during construction. Fencing of all protected trees to be at least 6 ft. outside the dripline with chain-link (or other material satisfactory to P&D) fencing at least 3 ft. high, staked to prevent collapse, and with signs identifying the protection area in 15-ft. intervals on the fencing. Fence/stakes/signs shall be maintained throughout grading and construction activities.
- f. Grading shall be designed to avoid ponding and ensure proper drainage within driplines of oak trees.

PLAN REQUIREMENTS: The Owner/Applicant shall submit the above arborist report prepared by a County-approved Arborist/Biologist to P&D for review and approval.

TIMING: The Owner/Applicant shall submit a contract or letter of commitment, consisting of a project description and scope of work, between the Owner/Applicant and the biologist prior to permit issuance. The Owner/Applicant shall submit the arborist report as a part of their application for the permits necessary to validate the emergency work as permanent. Recommendations in the arborist report shall be incorporated into the project as required by P&D. The Owner/Applicant shall install tree protection measures prior to construction within the critical root zone of the existing 24-in. Oak tree near the work area, and provide contractors with a notice of this requirement.

9. Bio-20 Equipment Storage-Construction. The Owner/Applicant shall designate one or more construction equipment filling and storage areas to contain spills, facilitate clean up and proper disposal and prevent contamination from discharging to the storm drains, street, drainage ditches, creeks, or wetlands. The areas shall be no larger than 50 x 50 foot unless otherwise approved by P&D and shall be located at least 100 feet from any storm drain, waterbody or sensitive biological resources.

PLAN REQUIREMENTS: The Owner/Applicant shall designate the filling and storage locations on-site in accordance with this condition and provide contractors with a notice of this requirement.

TIMING: The Owner/Applicant shall install the area prior to commencement of construction.

10. Bio-20a Equipment Washout-Construction. The Owner/Applicant shall designate one or more washout areas for the washing of concrete trucks, paint, equipment, or similar activities to prevent wash water from discharging to the storm drains, street, drainage ditches, creeks, or wetlands. Note that polluted water and materials shall be contained in these areas and removed from the site as needed to prevent spill and at least 24-hours prior to any predicted rain event. The areas shall be located at least 100 feet from any storm drain, waterbody or sensitive biological resources.

PLAN REQUIREMENTS: The Owner/Applicant shall designate the washout areas on-site in accordance with this condition and provide contractors with a notice of this requirement.

TIMING: The Owner/Applicant shall install the area prior to commencement of construction.

11. **CulRes-09 Stop Work at Encounter.** The Owner/Applicant and/or their agents, representatives or contractors shall stop or redirect work immediately in the event archaeological remains are encountered during grading, construction, landscaping or other construction-related activity. The Owner/Applicant shall immediately contact P&D staff, and retain a P&D approved archaeologist and Native American representative to evaluate the significance of the find in compliance with the provisions of the County Archaeological Guidelines and conduct appropriate mitigation funded by the Owner/Applicant.

12. **Geo-01b Soils Engineering Study.** The Owner/Applicant shall submit a soils engineering study addressing structure sites to determine structural design criteria.

PLAN REQUIREMENTS: The Owner/Applicant shall submit the study for P&D and Building for review and approval. Elements of the approved study shall be reflected on grading and building plans as required.

TIMING: The Owner/Applicant shall submit a contract or letter of commitment, consisting of a project description and scope of work, between the Owner/Applicant and the Soils Engineer prior to permit issuance. The Owner/Applicant shall submit the above report as a part of their application for the permits necessary to validate the emergency work as permanent. Recommendations in the report shall be incorporated into the project as required by P&D.

MONITORING: Grading and building inspectors shall review the study. The Owner/Applicant shall demonstrate that the submitted plans conform to required study components prior to Final Building clearance.

13. **Noise-02 Construction Hours.** The Owner /Applicant, including all contractors and subcontractors shall limit construction activity, including equipment maintenance and site preparation, to the hours between 7:00 a.m. and 4:30 p.m. Monday through Friday.

No construction shall occur on weekends or State holidays. Non-noise generating interior construction activities such as plumbing, electrical, drywall and painting (which does not include the use of compressors, tile saws, or other noise-generating equipment) are not subject to these restrictions. Any subsequent amendment to the Comprehensive General Plan, applicable Community or Specific Plan, or Zoning Code noise standard upon which these construction hours are based shall supersede the hours stated herein.

PLAN REQUIREMENTS: The Owner/Applicant shall provide and post a sign stating these restrictions at all construction site entries.

TIMING: Signs shall be posted prior to commencement of construction and maintained throughout construction.

15. **Rules-05 Acceptance of Conditions.** The Owner/Applicant's acceptance of this permit and/or commencement of use, construction and/or operations under this permit shall be deemed acceptance of all conditions of this permit by the Owner/Applicant

14. **Rules-33 Indemnity and Separation.** The Owner/Applicant shall defend, indemnify and hold harmless the County or its agents or officers and employees from any claim, action or proceeding

against the County or its agents, officers or employees, to attack, set aside, void, or annul, in whole or in part, the County's approval of this project.

Attachments:

- A. Site Plan
- B. CEQA Exemption
- C. Preliminary Geologic Investigation Report

cc: Supervisor, First District
Travis Seawards, P&D Deputy Director
Gwen Beyeler, Supervising Planner, P&D