



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 and
Development
Department No.: 053
For Agenda Of: March 10, 2020
Placement: Administrative
Estimated Time: N/A
Continued Item: No
If Yes, date from:
Vote Required: Majority

TO: Board of Supervisors
FROM: Department Lisa Plowman, Director (805) 568-2086
Director(s)
Contact Info: Travis Seawards, Deputy Director (805) 934-6559
SUBJECT: Report on Case No. 19EMP-00000-00003: Emergency Permit for Six Debris Nets
Montecito Debris Flow Protection Plan
Montecito Community Plan Area, First Supervisorial District

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: N/A

Other Concurrence: N/A

Recommended Actions:

That the Board of Supervisors:

- a) Receive and file this report on Emergency Permit Case No. 19EMP-00000-00003, approved by the Director of Planning and Development on December 19, 2019, which authorized an additional year of maintenance and the subsequent removal of six Geobruigg flexible debris control nets. A copy of the Emergency Permit is included herein as Attachment 1, the site plans associated with the Emergency Permit are included herein as Attachment 2, and the California Environmental Quality Act (CEQA) exemption is included herein as Attachment 3; and
- b) 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.

Background:

On December 19, 2019, the Planning and Development Department issued an Emergency Permit to The Partnership for Resilient Communities (TPRC) to allow for one year of maintenance, and the subsequent removal of 6 Geobruigg flexible debris control nets located in three canyons north of the community of

Montecito, including Cold Spring Canyon, San Ysidro Canyon, and Buena Vista Canyon. 19DVP-00000-00036 was submitted on October 29, 2019 to allow retention of the nets beyond the initial one-year period, which requires additional planning approvals.

Section 35-472.090(I) of the Montecito Land Use and Development Code (MLUDC) 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 Board Letter fulfills the ordinance requirements.

The Thomas Fire began on December 4, 2017 and burned 281,893 acres, including mountainous areas in south Santa Barbara County adjacent to the communities of Montecito, Summerland, and Carpinteria. According to the California Department of Forestry and Fire Protection (CAL FIRE), the Thomas Fire is the second largest wildfire in California history, and the ninth most destructive fire in California history. As a result, the hillsides above Montecito were severely burned. The Montecito area, including the creeks and canyons where debris nets have been installed, was the subject of the January 9, 2018 catastrophic debris flows, which resulted in the loss of 23 lives as well as damage and/or destruction of approximately 470 structures. An Emergency Proclamation is currently in effect for the Thomas Fire and the Montecito Debris Flow and is planned to be renewed by the Board of Supervisors in March 2020. Given the denuded hillside above the Montecito area, the area remains at risk of dangerous debris flow events during the upcoming winter rain seasons. An abundant supply of sediment remains, including loose sediment on the watershed slopes, loose sediment concentrated in watershed channels, and erodible sediment exposed in channel banks. Debris flow nets are meant to reduce the volume and intensity of debris flows in the canyons located above the community of Montecito by resisting the velocities and dynamic and static pressures unique to debris flows.

Summary Text:

Section 35.472.090 of the MLUDC authorizes the Director of the Planning and Development Department (P&D) to temporarily defer standard permit requirements of the MLUDC and issue an Emergency Permit when emergency action is warranted. Issuance of the Emergency Permit is consistent with the MLUDC, 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(a)) due to clear and imminent risk to life and property posed by the threat of debris flow events during the upcoming winter rain season. A copy of the CEQA Exemption is included herein as Attachment 3.

The nature of the emergency in this instance is that the lack of mature vegetation present to stabilize the hillsides above the Montecito area continues to pose an imminent risk of debris flows should there be a short duration, high intensity rainfall event. Specifically, the Public Works Department stated in a memorandum to P&D staff dated October 7, 2019 that:

“as we enter the third winter following the Thomas Fire, a serious condition still exists in Montecito relating to flooding and risk for debris flow. As evidenced by last winter, a significant amount of debris was transported down from the fire area after each storm. While this situation still exists, we also note that we are still a few years away for complete regrowth in the Thomas Fire area, and a few years from the construction of capital improvements facilities by the Flood Control District. As such, a continued state of emergency exists and as well as the need for all treatments”.

(Attachment 4).

On October 31, 2018, the Partnership for Resilient Communities (TPRC) submitted an application for an Emergency Permit to allow installation of, maintenance and removal of debris nets in Montecito canyons for one year. During this time, P&D staff worked closely with responsible state and federal agencies with jurisdiction over the project including the U.S. Army Corps of Engineers, California Department of Fish and Wildlife, and the Regional Water Quality Control Board, to ensure that any required permitting was closely coordinated. The Emergency Permit, 18EMP-00000-00007 was issued on December 21, 2018 to allow installation of 11 nets and one year of maintenance. 6 of the 11 proposed Geobrug flexible nets were subsequently installed. The nets consist of steel rings engineered to resist the velocities and dynamic and static pressures unique to debris flows and were installed at a minimum elevation ranging from three to five feet above the water surface of the low-flow channel to allow for natural stream processes and wildlife use. A Development Plan to effectuate the Emergency Permit, 19DVP-00000-00005 was approved and issued on July 24, 2019. Three Zoning Clearances, 19ZCI-00000-00021, 19ZCI-00000-00022 and 19ZCI-00000-00023 were approved on November 1, 2019 effectuating 19DVP-00000-00005.

P&D issued a subsequent Emergency Permit, 19EMP-00000-00003, on December 19, 2019. The Emergency Permit authorized the maintenance and subsequent removal of a total of six nets, which include two nets installed in Cold Spring Canyon (APNs 011-010-027, 011-010-028), two nets installed in San Ysidro Canyon (APNs 151-180-019, 007-020-003), and two nets installed in Buena Vista Canyon (APN 007-020-009).

Pursuant to the MLUDC, Section 35-496, a notice was mailed to surrounding property owners, and six notices were posted at the subject properties. In addition, a newspaper ad was placed in the Santa Barbara News Press on November 10, 2019 and in the Montecito Journal on November 13, 2019. Public comment by phone, email, and mail was accepted up until the date of a decision for the Emergency Permit project. The Planning and Development Department received no public comment letters.

Pursuant to the MLUDC Section 35-472.090(G), an Emergency Permit does not constitute an entitlement to erect permanent structures, and an application for the applicable planning permit shall be made within 30 days following the granting of the Emergency Permit. An application for a Development Plan was submitted on October 29, 2019 and was deemed complete on November 27, 2019. In this Development Plan, 19DVP-00000-00036, TPRC has requested that the nets remain in place for an additional three years beyond the two years permitted by the Emergency Permits.

The applicant posted a performance security on March 8, 2019 with the California Department of Fish and Wildlife (CDFW) to cover the full cost of maintenance for a minimum of one year and subsequent removal of the debris control nets. The performance security was approved by CDFW prior to the initial commencement of construction activities. On August 27, 2019 the County Board of Supervisors authorized a separate and distinct fund to segregate and restrict \$1,042,700 in Fund 2400 for purposes of providing performance security to the California Department of Fish and Wildlife for the Partnership for Resilient Communities' (Partnership) Debris Nets Project (Project). The performance security is a segregated and restricted District Fund Balance, payable to CDFW in the event of the Partnership's non-performance of its obligations under its Project permits.

Fiscal and Facilities Impacts:

The costs for processing the Emergency Permit were reimbursed by the applicant per the Planning and Development Department's adopted fee schedule. Processing of the application required a total of approximately 26 staff hours, which equates to \$6,282 in staff fees based on P&D's current fee schedule. This work is funded in the Planning and Development Department Permitting Budget Program, as shown on page D-269 of the Fiscal Year 2019-20 budget. Future permitting costs associated with the follow-on permit will be paid by the applicant.

On August 27, 2019 the County Board of Supervisors authorized a separate and distinct Flood Control District fund to segregate and restrict \$1,042,700 in Fund 2400 for purposes of providing performance security to the California Department of Fish and Wildlife for the Partnership for Resilient Communities' (Partnership) Debris Nets Project (Project). The District's provision of this performance security is subject to the express condition that the District and/or County themselves are not responsible for the completion of any of the Partnership's performance obligations under its permits, including the maintenance and removal of the nets. The Partnership is solely responsible for satisfying all Project conditions of approval, including maintenance and removal of the nets upon expiration of the Project term.

There are no fiscal impacts to the County other than the performance security approved by the Board of Supervisors on August 27, 2019.

Attachments:

Attachment 1: Emergency Permit 19EMP-00000-00003

Attachment 2: Emergency Permit Site Plans

Attachment 3: CEQA Exemption Supporting Emergency Permit

Attachment 4: Santa Barbara County Public Works Department Memorandum, dated October 7, 2019

Attachment 5: The Partnership for Resilient Communities – Montecito Emergency Debris Flow Mitigation Project Letter, dated October 28, 2019

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