



**TO:** Mayor and Councilmembers

**FROM:** Peter Imhof, Planning and Environmental Review Director

**CONTACT:** Lisa Prasse, Current Planning Manager  
Darryl Mimick, Senior Planner  
Teresa Lopes, Senior Project Manager

**SUBJECT:** Report on Issuance of Emergency Permit (EMP) for Ellwood Beach Drive Drain Repair; Case No. 23-0002-EMP

**RECOMMENDATION:**

Receive and file this report.

**BACKGROUND:**

During the rain event beginning on January 8, 2023, and the series of rain events in February and March, high storm water runoff volumes led to increased erosion at the entrance of an 18-inch corrugated metal pipe (CMP) storm drain that collects storm water runoff from the southern terminus of Ellwood Beach Drive. As a result, storm water bypassed and continues to bypass the CMP pipe inlet and flowed down the adjacent slope. This flow has resulted in erosion and slope failure of the adjacent asphalt embankment, which is threatening to undermine the adjacent sidewalk and the apartment building foundation to the north. Accordingly, emergency repair is considered a high priority and will be performed under the direction of the City's consulting Biologist/Arborist.

**DISCUSSION:**

The location of the work area is at the south end of Ellwood Beach Drive, directly north and west of an entrance to the Ellwood Mesa Coastal Trail. The nearest addresses are 447 Ellwood Beach Drive and 450 Ellwood Beach Drive. The project will include removal of downed vegetation, including a fallen blue gum eucalyptus (*Eucalyptus globulus*) tree, regrading and repair of an existing asphalt storm drain swale, excavation of the failed slope to reach subgrade using an excavator or backhoe, repair of the slope, and reconnection of the bottom portion of the existing CMP down drain, which became separated during the storm event. Slope repair will include placement of approximately 40 cubic yards of soil and concrete slope protection as well as installation of jute netting. The new CMP will be placed on the surface of the repaired slope and will transmit storm

water to the southwest. All removed materials will be hauled off-site in a dump truck staged within paved areas.

Planning and Environmental Review (PER) staff reviewed the EMP request and determined that the findings of Section 17.64.030(D) of the Goleta Municipal Code could be made. As such, the EMP was issued on May 22, 2023. This report to the City Council at its first scheduled meeting after issuance of the EMP satisfies the requirements of Section 17.64.030(G). The California Fish and Wildlife Department (CA DFW) staff, the U.S Army Corps of Engineers (US ACOE), and the California Coastal Commission were also notified of the nature of the emergency and the work involved.

Public notice of the emergency work was mailed to property owners and tenants within 500' of the site on May 16, 2023, and the site was posted in three locations specified in Section 17.64.030(C). The work began on May 23, 2023 and is expected to take approximately 5 days. A copy of the EMP is provided as Attachment 1.

Following the emergency work, Public Works staff will develop plans for the long-term replacement of the CMP and submit for City Land Use Permit review and CCC Coastal Development Permit review (if necessary).

#### **GOLETA STRATEGIC PLAN:**

The work performed under the Emergency Permit furthers the City's Strategic Plan as follows:

**City-Wide Strategy:** Maintain a Safe Community

#### **FISCAL IMPACTS:**

Receiving this report has no fiscal impact. However, the storm drainpipe and slope repair will cost an estimated \$100,000 and is funded by the Public Works Department with anticipated FEMA reimbursement.

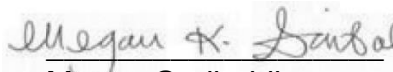
#### **ALTERNATIVES:**

There are no alternatives as this action is a receive and file report. Failure to complete this repair work could lead to additional damage to public and private property.

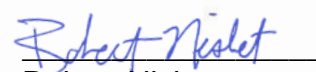
**Reviewed By:**

  
Kristine Schmidt  
Assistant City Manager

**Legal Review By:**

  
Megan Garibaldi  
City Attorney

**Approved By:**

  
Robert Nisbet  
City Manager

**ATTACHMENT:**

1. Emergency Permit Approved by the Planning and Environmental Review Department, dated May 22, 2023

## **Attachment 1**

Issued Emergency Permit  
Case No. 23-0002-EMP  
Ellwood Beach Drive Drain Repair



## EMERGENCY PERMIT

Planning & Environmental Review  
130 Cremona Drive, Suite B, Goleta, CA 93117  
Phone: (805) 961-7500 Fax: (805) 685-2635  
[www.cityofgoleta.org](http://www.cityofgoleta.org)

<b>Case No.:</b> 23-0002-EMP	<b>Planner:</b> Darryl Mimick
<b>Project Name:</b> Ellwood Beach Drive Drain Repair Project	
<b>Project Address:</b> Southern Terminus of Ellwood Beach Drive	
<b>A.P.N.:</b> 079-553-019 and 079-551-024	
<b>Zone District:</b> OSPR – Open Space/Passive Recreation	

The City of Goleta issues this Emergency Permit for the replacement of a corrugated metal pipe (CMP) and associated improvements at the southern terminus at Ellwood Beach Drive, as described below, based upon the required findings and subject to the attached terms and conditions. If you have any questions regarding this Emergency Permit, please contact Teresa Lopes, Senior Project Manager, at (805) 961-7563 or Darryl Mimick, Senior Planner, at (805) 961-7572.

**PERMIT APPROVAL/ISSUANCE DATE:** May 22, 2023

**PERMIT EXPIRATION DATE:** May 31, 2023

### PROJECT DESCRIPTION SUMMARY:

During the rain events of January-March 2023, high storm water runoff volumes led to increased erosion at the entrance of an 18-inch CMP storm drain that collects storm water runoff from the southern terminus of Ellwood Beach Drive. As a result, storm water is bypassing the CMP pipe inlet and flowing down the adjacent slope. This has resulted in erosion and slope failure of the adjacent asphalt embankment, which is threatening to undermine the adjacent sidewalk and the apartment building foundation to the north. Accordingly, emergency repair is considered a high priority.

The project will include removal of downed vegetation including a fallen blue gum eucalyptus (*Eucalyptus globulus*) tree, regrading and repair of an existing asphalt storm drain swale, excavation of the failed slope to reach subgrade using an excavator or backhoe, repair of the slope, and reconnection of the bottom portion of the existing CMP down drain which became separated during the storm event. Slope repair will include placement of approximately 40 cubic yards of soil and concrete slope protection, as well as installation of jute netting. The new CMP will be placed on the surface of the repaired slope and will transmit storm water to the southwest. All removed materials will be hauled off-site in a dump truck staged within paved areas.

The project is expected to be completed in five working days. Equipment used will include an excavator/backhoe, excavator sheepsfoot roller, vacuum truck, vibratory plate compactor, and dump truck. The onsite crew will consist of six employees with additional staff onsite to assist with mobilization, demobilization, and removal of debris.

The emergency permit request was filed by the City of Goleta's Senior Project Manager, Teresa Lopes.

**PROJECT SPECIFIC CONDITIONS:** See attached.

**TERMS OF PERMIT ISSUANCE:**

1. **Posting Notice.** A weather-proofed copy of this Emergency Permit, with Attachments, shall be posted by the Applicant in three (3) conspicuous places along the perimeter of the subject property. At least one copy of the permit shall be visible from the nearest street. This Permit shall be posted within 24 hours of the receipt of the issued permit and shall remain posted until the emergency work has been completed.
2. **Date of Permit Approval/Issuance.** This Permit shall be deemed effective on the Date of Permit Issuance as identified above.
3. **Time Limit.** This Emergency Permit shall expire on May 31, 2023. In addition, the applicant must apply for the permits that would otherwise be required within 30 days of the issuance of this emergency permit.

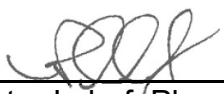
**NOTE: This emergency permit does not allow construction or use outside of the project description, or terms or conditions; nor shall it be construed to be an approval of a violation of any provision of any City Policy, Ordinance, or other governmental regulation.**

**OWNER/APPLICANT ACKNOWLEDGMENT:** Undersigned permittee acknowledges receipt of this approval and agrees to abide by all terms and conditions thereof.

Teresa Lopes  
Senior Project Manager

Print Name	Signature	Date
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**EMERGENCY PERMIT ISSUANCE BY:**

 Peter Imhof, Planning & Environmental Review Director	May 22, 2023 Date
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## **Attachment A FINDINGS OF APPROVAL Emergency Permit 23-0002-EMP**

The Director of Planning & Environmental Review may grant an Emergency Permit upon reasonable terms and conditions, including an expiration date and a requirement for subsequent discretionary and ministerial permits, as required by GMC Title 17, Chapter 17.64 (Emergency Permits), if the Director finds that:

- 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.*

Processing of a normally required permit through the local review process would significantly and adversely delay a prompt response to the current hazardous situation. Local review of a project takes approximately four (4) to six (6) weeks, but immediate action is required to address the public safety threat posed by water bypassing the CMP pipe inlet and flowing down the adjacent slope, which in turn could cause erosion slope failure to adjacent sidewalks and the foundation of the adjacent apartment building causing significant damage to private properties and public infrastructure. Notification of the work will be made to the California Department of Fish and Wildlife, and the U.S. Army Corps of Engineers.

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

Emergency permits may be issued immediately, without public notice and comment, in the event of a significant safety hazard to members of the public, private property owners, and public infrastructure. In this instance, no public comment has been solicited given the need to do the work. However, in accordance with Section 17.64.030(C), notice will be posted on site in three locations in addition to mailed notices to property owners and tenants within 500 feet of project site as soon as possible, during the effective period of this emergency permit. Public comment will be taken and responded to, as appropriate.

- C. *The work proposed would be consistent with the requirements of the General Plan and Title 17.*

The purpose of the work is to alleviate the current public and private safety hazards posed by the dislodged portion of the storm drain and to repair the existing asphalt storm drain swale, and reconnect the existing CMP drain which has become separated during the storm event. Slope repair will include placement of approximately 40 cubic yards of soil and concrete slope protection, as well as installation of jute netting. Due to the size and weight of the debris, heavy equipment will need to be deployed to lift the dislodged storm drainpipe

and correction of the slope. The need to maintain public safety and access to open space areas is consistent with applicable policies of the GP/CLUP, primarily Safety Element SE 1.7 (abatement of public safety hazards).

In addition, the project will be consistent with the City's Zoning Ordinance, Title 17 of Goleta Municipal Code. For example, all the wood from the removed or trimmed tree/vegetation will be chipped and spread onsite. The issuance of this Emergency Permit is in accordance with the procedures for granting Emergency Permits pursuant to Title 17.64. The emergency action taken by the City is permitted under Title 17.64.020, which recognizes that certain actions warrant immediate, special consideration to lessen or remediate an emergency. The emergency action is expected to require approximately 5 business days to complete. Follow-up permits pursuant to Title 17.64 will be required to validate the emergency work. This Emergency Permit, as well as all follow-up permits, will be noticed according to the permit procedures outlined in the Title 17.64.030 C., thus allowing opportunity for public comment.

In addition, the Emergency Permit will be posted at three conspicuous locations along the perimeter of the property. Title 17 does not require public noticing before emergency actions can begin. The project will be reviewed in greater detail during any required City review and additional conditions may be imposed as necessary or appropriate. Impacts to on-site environmental resources from emergency work will be mitigated by the imposition of Emergency Permit conditions.



## **Attachment B**

### **CONDITIONS OF APPROVAL**

### **Emergency Permit 23-0002-EMP**

#### Standard Conditions

1. The Emergency Permit shall expire on May 31, 2023. In addition, the applicant shall apply for approval of a regular permit within 30 days of issuance of this emergency permit, if needed. All information required for a complete application shall be provided within 30 days of this Emergency Permit.
2. This Emergency Permit is based upon and limited to compliance with the Project Description, as described in this Emergency Permit, and the conditions of approval. City staff and contract crews conducting the storm drainpipe and fallen tree removal shall not deviate from the project description or conditions unless such deviation is reviewed and approved by the Director of Planning & Environmental Review and determined to be in conformity with this permit. Deviations may require approved changes to the permit and/or further environmental review. Deviations without the above-described approval will constitute a violation of the permit.
3. The Director of Planning & Environmental Review may order an immediate suspension of all, or part of the work authorized under this permit, if the Director determines that such action is necessary to avoid or mitigate significant impacts to health and safety or the environment. Violation of any of the conditions of this permit constitutes a violation of the GMC Title 17, the Zoning Ordinance. Appropriate measures include revocation of the permit, stop work order and other corrective measures as determined by the City.

#### Special Conditions

4. The emergency action is expected to require approximately 5 business days to complete. Follow-up permits pursuant to Title 17.64 are required to validate the emergency work.
5. Immediately prior to and during activities, the project area must be surveyed to verify no sensitive terrestrial or aquatic species have entered the project area. Terrestrial species observed within the project area will be encouraged to leave on their own and/or relocated outside the project area.
6. Worker environmental awareness training must be given by the project biologists to all the contractors and personnel onsite. The biologist must describe the common and special-status biological resources associated with the project site (including monarch butterflies) and the required avoidance and mitigation measures.

Case No: 23-0002-EMP  
Project Name: Ellwood Beach Drive Drain Repair Project  
Project Address: Southern Terminus of Ellwood Beach  
Drive APN: 079-553-019 & -024

7. The clean-up of any accidental spill must begin immediately pursuant to all relevant hazardous materials regulations. If the spill affects downstream water quality or impacts special-status resources, the biologist must contact the appropriate regulatory agencies to determine the appropriate course of action.
8. All trash must be properly contained and removed from the work site daily. When operations are completed, any excess materials or debris must be removed from the project area.
9. Project activities occurring between March 1 and August 1 require a qualified biologist to survey the project site within five days of project commencement for nesting birds. Should any protected breeding/nesting birds be observed, the biologist must flag the area and implement appropriate avoidance measures to preclude impacts.
10. Any material/spoils generated from project activities must be located away from jurisdictional areas and protected from storm water run-off using temporary perimeter sediment barriers such as berms, silt fences, fiber rolls, covers, sand/gravel bags, and straw bale barriers, as appropriate. Materials must be stored at least 100 feet from the top of bank or to the extent feasible. If materials are stored within 100 feet from the top of bank, secondary containment will be used.
11. All work, either to address the current emergency and/or complete processing and removal of all debris must be limited to the hours of 8:00 AM to 5:00 PM, Monday through Friday, not including holidays.

- End of Conditions -