

Attachment I

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MINUTES
Big Sur Land Use Advisory Committee
Tuesday, January 10, 2023



1. Meeting called to order by Mary Trotter at 9:00 am

2. **Roll Call**

Members Present:

Mary Trotter, Steve Beck, Dave Smiley, Marcus Foster, Dick Ravich (5)

Members Absent:

None

3. **Approval of Minutes:**

A. December 13, 2022 minutes

Motion: Dick Ravich (LUAC Member's Name)

Second: Steve Beck (LUAC Member's Name)

Ayes: Mary Trotter, Steve Beck, Dave Smiley, Marcus Foster, Dick Ravich (5)

Noes: 0

Absent: 0

Abstain: 0

4. **Public Comments:** The Committee will receive public comment on non-agenda items that are within the purview of the Committee at this time. The length of individual presentations may be limited by the Chair.

None

5. **Scheduled Item(s)**

6. Other Items:

A) LUAC member nominated for Chairperson: Mary Trotter

Motion: Dick Ravich (LUAC Member's Name)

Second: Steve Beck (LUAC Member's Name)

Ayes: Mary Trotter, Steve Beck, Dave Smiley, Marcus Foster, Dick Ravich (5)

Noes: 0

Absent: 0

Abstain: 0

B) LUAC member nominated for ~~Chairperson~~ Secretary: Dick Ravich

Motion: Dave Smiley (LUAC Member's Name)

Second: Steve Beck (LUAC Member's Name)

Ayes: Mary Trotter, Steve Beck, Dave Smiley, Marcus Foster, Dick Ravich (5)

Noes: 0

Absent: 0

Abstain: 0

C) Preliminary Courtesy Presentations by Applicants Regarding Potential Projects

None

D) Announcements

None

7. Meeting Adjourned: 11:15 am

Minutes taken by: Dick Ravich



Action by Land Use Advisory Committee Project Referral Sheet

Monterey County Housing & Community Development
1441 Schilling Place 2nd Floor
Salinas CA 93901
(831) 755-5025



Advisory Committee: Big Sur

1. **Item Title:** AB 361 FINDING
Description: On September 16, 2021, Governor Newsom signed AB 361. This legislation amends the Brown Act to allow meeting bodies subject to the Brown Act to meet via teleconference during a proclaimed state of emergency in accordance with teleconference procedures established by AB 361. For the January 24, 2023 remote meeting, the LUAC must make the findings.

Staff recommends, pursuant to AB 361 and in order for the LUAC to continue to meet remotely via teleconference, the LUAC find: 1) that the COVID-19 pandemic state of emergency declared by Governor Newsom is still in effect; 2) that the Planning Commission has reconsidered the circumstances of the state of emergency; and 3) that the Monterey County Health Officer continues to recommend social distancing measures for meetings of legislative bodies of local agencies.

RECOMMENDATION:

Motion by: Dick Ravich (LUAC Member's Name)

Second by: Steve Beck (LUAC Member's Name)

Acceptance of the Finding

Rejection of the Finding

Ayes: Mary Trotter, Steve Beck, Dave Smiley, Marcus Foster, Dick Ravich (5)

Noes: 0

Absent: 0

Abstain: 0

Action by Land Use Advisory Committee Project Referral Sheet

Monterey County Housing & Community Development
1441 Schilling Place 2nd Floor
Salinas CA 93901
(831) 755-5025

Advisory Committee: Big Sur



2. **Project Name:** MORGENRATH MARTHA J TR ET AL (BLAZE ENGINEERING)
File Number: PLN160851-AMD1
Project Location: 46821 HWY 1 BIG SUR
Assessor's Parcel Number(s): 419-201-007-000
Project Planner: FIONNA JENSEN
Area Plan: BIG SUR COAST LAND USE PLAN
Project Description: Minor and Trivial Amendment to a previously approved Combined Development Permit (PLN160851; Board Resolution 19-285) consisting of: 1) General Development Plan Amendment to allow the establishment of a commercial business operation, 2) Coastal Administrative Permit to convert a test well into a permanent well, 3) Coastal Administrative Permit and Design Approval to allow construction of a 700 square foot office with a two (2) bedroom second story employee housing unit, a 600 square foot workshop, 800 square foot storage building and associated site improvements including seven (7) public parking spots; and 4) Coastal Development Permits to allow development on slopes in excess of 30%, within 100 feet of ESHA and removal of 11 native trees.

Was the Owner/Applicant/Representative present at meeting? YES X NO _____

(Please include the names of those present)

- Marty Morgenrath, Owner

- Aengus Jeffers, Attorney

- Matt Donaldson

- Anthony Crane

- Christine Kemp, Attorney

Was a County Staff/Representative present at meeting? Fionna Jensen & Mary Isarel (Name)

PUBLIC COMMENT:

Name	Site Neighbor?		Issues / Concerns (suggested changes)
	YES	NO	
Amanda Rideout	X		Supports project
Christine Kemp & Matt Donaldson	X		Object to project. Submitted letters
Patrick Orosco	X		Supports project, but is concerned about future ownership conforming to conditions of approval

LUAC AREAS OF CONCERN

Concerns / Issues (e.g. site layout, neighborhood compatibility; visual impact, etc)	Policy/Ordinance Reference (If Known)	Suggested Changes - to address concerns (e.g. relocate; reduce height; move road access, etc)
(Marcus Foster) Concerned with location of charging stations and public parking		Charging stations should not be dominant in the viewshed

ADDITIONAL LUAC COMMENTS

None

RECOMMENDATION:

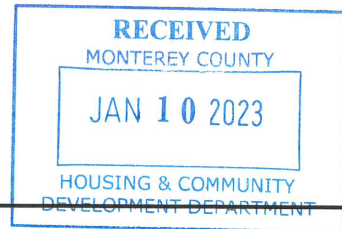
Motion by: Steve Beck (LUAC Member's Name)

Second by: Dave Smiley (LUAC Member's Name)

- Support Project as proposed
- Support Project with changes
- Continue the Item

Reason for Continuance: _____

Continue to what date: _____



Ayes: Mary Trotter, Steve Beck, Dave Smiley, Marcus Foster, Dick Ravich (5)

Noes: 0

Absent: 0

Abstain: 0

Action by Land Use Advisory Committee

Project Referral Sheet

Monterey County Housing & Community Development
 1441 Schilling Place 2nd Floor
 Salinas CA 93901
 (831) 755-5025



Advisory Committee: Big Sur

3. **Project Name:** CELLARIUS LIMITED
 File Number: PLN210240
 Project Location: 48720 HWY 1 BIG SUR
 Assessor's Parcel Number(s): 420-171-042-000
 Project Planner: FIONNA JENSEN
 Area Plan: BIG SUR COAST LAND USE PLAN
 Project Description: Combined Development Permit consisting of: 1) Coastal Administrative Permit and Design Approval to allow the demolition of an existing retaining wall, construction of two (2) retaining walls totaling 161 linear feet and decks totaling 1,500 square feet & associated site improvements including the replacement of two 500 gallon water tanks; 2) Coastal Administrative Permit to allow development within 750 feet of a known archaeological resource; 3) Coastal Development Permit to allow development within 50 feet of a Coastal bluff; and 4) Coastal Development Permit to allow development on slopes exceeding 30%.

Was the Owner/Applicant/Representative present at meeting? YES X NO

(Please include the names of those present)

Michael Linder, Attorney
Eliot Sutro, Architect
Forrest Casey, Contractor
Christine Kemp
1650***378 & 1831***662

Was a County Staff/Representative present at meeting? Fionna Jensen & Mary Israel (Name)

PUBLIC COMMENT:

Name	Site Neighbor?		Issues / Concerns (suggested changes)
	YES	NO	
None			

LUAC AREAS OF CONCERN

Concerns / Issues (e.g. site layout, neighborhood compatibility; visual impact, etc)	Policy/Ordinance Reference (If Known)	Suggested Changes - to address concerns (e.g. relocate; reduce height; move road access, etc)
(Marcus Foster) Lighting should not be visible from neighbors and Highway 1		Remove existing outdoor lighting, only use down facing lighting

ADDITIONAL LUAC COMMENTS

None

RECOMMENDATION:

Motion by: Steve Beck (LUAC Member's Name)

Second by: Dave Smiley (LUAC Member's Name)

Support Project as proposed

Support Project with changes

Continue the Item

Reason for Continuance: _____

Continue to what date: _____



Ayes: Mary Trotter, Steve Beck, Dave Smiley, Marcus Foster, Dick Ravich (5)

Noes: 0

Absent: 0

Abstain: 0

Action by Land Use Advisory Committee

Project Referral Sheet

Monterey County Housing & Community Development
 1441 Schilling Place 2nd Floor
 Salinas CA 93901
 (831) 755-5025



Advisory Committee: Big Sur

- 4. Project Name:** BIG SUR CG OWNER LLC
File Number: PLN220106
Project Location: 47000 HWY 1 BIG SUR
Assessor's Parcel Number(s): 419-201-023-000
Project Planner: FIONNA JENSEN
Area Plan: BIG SUR COAST LAND USE PLAN
Project Description: Combined Development Permit consisting of: 1) Coastal Development Permit and Design Approval to allow campground improvements including a replacement septic system and relocation of camp sites, demolition of approximately 12,840 square feet of existing campground common spaces and construction of a 200 square foot gatehouse, 800 square foot campground retail store, 3,000 square foot general store, 2,500 square foot education and history center, 3,00 square foot lodge, and 705 square foot guest services building; 2) a Coastal Development Permit to allow development within 100 feet of Environmentally Sensitive Habitat Areas; 3) Coastal Development Permit to allow development on slopes exceeding 30 percent; and 4) Coastal Development Permit to allow development within 750 feet of a known archaeological resource.

Was the Owner/Applicant/Representative present at meeting? YES _____ NO X

(Please include the names of those present)

Was a County Staff/Representative present at meeting? Fionna Jensen & Mary Israel (Name)

PUBLIC COMMENT:

Name	Site Neighbor?		Issues / Concerns (suggested changes)
	YES	NO	
None			

LUAC AREAS OF CONCERN

Concerns / Issues (e.g. site layout, neighborhood compatibility; visual impact, etc)	Policy/Ordinance Reference (If Known)	Suggested Changes - to address concerns (e.g. relocate; reduce height; move road access, etc)
LUAC site visit requested		
LUAC requests clear definitions from Planning of camp sites, glamping sites, cabins, etc. prior to meeting		

ADDITIONAL LUAC COMMENTS

None

RECOMMENDATION:

Motion by: Steve Beck (LUAC Member's Name)

Second by: Dave Smiley (LUAC Member's Name)

Support Project as proposed

Support Project with changes

Continue the Item

Reason for Continuance: Requested by applicant

Continue to what date: February 14, 2023



Ayes: Mary Trotter, Steve Beck, Dave Smiley, Marcus Foster, Dick Ravich (5)

Noes: 0

Absent: 0

Abstain: 0

From: [Kemp, Christine](#)
To: [Jensen, Fiona](#)
Cc: [Perez, Kimberly](#)
Subject: Blaze Application PLN160851-AMD1 - Kemp letter
Date: Tuesday, January 3, 2023 12:06:39 PM
Attachments: [PLN160851-AMD1 - Kemp Letter to Planning Dept Big Sur LUAC 1-3-23 \(017....pdf](#)



[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe.]

Dear Ms. Jensen,

Attached please find my letter written on behalf of Matt and Carol Donaldson in opposition to the Blaze Application PLN160851-AMD1. Please pass this letter on to the Big Sur LUAC for their consideration as part of their January 10, 2023 review of this project. Please confirm receipt and that you will transmit the letter to the LUAC.

Please let me know if you have any questions.

Sincerely,

Christine

Christine G. Kemp

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January 3, 2023

Stephen W. Pearson

Anne K. Secker

Randy Meyenberg

Michael Masuda

Christine G. Kemp

Timothy J. Baldwin

* Charles Des Roches

* Robert D. Simpson

Ana C. Toledo

* Leslie E. Finnegan

Lindsey Berg-James

Anne Frassetto Olsen

Heidi A. Quinn

Sharilyn Payne

Daniel J. Little

William H. Shearer

Geraldine A. Villa

Harry L. Noland
(1904-1991)

Paul M. Hamerly
(1920-2000)

Myron E. Etienne, Jr.
(1924-2016)

Peter T. Hoss
(1934-2018)

* CERTIFIED SPECIALIST IN
PROBATE, ESTATE PLANNING,
AND TRUST LAW BY
THE CALIFORNIA BOARD OF
LEGAL SPECIALIZATION
STATE BAR OF CALIFORNIA

VIA E-MAIL JENSENF1@CO.MONTEREY.CA.US

Monterey County Planning and Big Sur LUAC
c/o Fionna Jensen, Associate Planner
Monterey County Housing and Community Development (HCD)
1441 Schilling Place, 2nd Floor
Salinas CA 93901

Re: Blaze Construction Application - PLN160851-AMD1

Dear Members of the LUAC:

I am writing on behalf of Matt and Carol Donaldson (“Donaldson”) in opposition to the Blaze Construction Application - PLN160851-AMD1 (the “Project”).

This Project is a “contractors yard”, plain and simple, with major construction equipment, semi-trucks and trailers, office, workshop, and storage facilities on a highly constrained environmentally sensitive site, with the only access being a narrow one lane dirt road, Apple Pie Ridge Road, which narrow road also provides the sole means of access to the residents on Apple Pie Ridge.

The Donaldsons, along with other neighbors, and the Sierra Club opposed this Project in 2019, filing appeals to the Board of Supervisors and the California Coastal Commission. These objections remain, as the revised Project only exacerbates the significant environmental impacts to the land and Redwood Forest ESHA; continues to violate the County zoning and the Coastal Act; and, intensifies, rather than lessens, the on-site land uses. Moreover, the County has improperly characterized the new Application as a “minor and trivial amendment” to an approved project, when there was no final prior approved project.

A. Improper Procedural Issue

The County now claims that the current Amendment to the initial Application is a “Minor and Trivial Amendment to a previously approved Combined Development Permit” (PLN160851; Board Resolution 19-285). This is not correct.

The Board of Supervisors August 27, 2019 action did not result in a “previously approved Combined Development Permit” as the Supervisors’ action was appealed to

the California Coastal Commission by Donaldson and the Sierra Club, which appeals stayed the County action (see attached appeals, Exhibit A).

Once the Donaldson and Sierra Club appeals were filed with the Coastal Commission, we understand Coastal Commission staff informed the Applicant that that Coastal staff would recommend a finding of “Substantial Issue” on appeal, placing the previous Project before the Coastal Commission for a final decision. At that point, the previous Project and County CEQA determination sat in abeyance with the Coastal Commission staff until October 2022, when the County sent Coastal Commission an e-mail withdrawing the County’s Final Local Action Notice (“FLAN”) (see attached County e-mail withdrawal, Exhibit B).

Following the August 27, 2019 Board of Supervisors action, Donaldson also filed suit in the Monterey County Superior Court of California (Case No. 19CV004224) to challenge the previous Project and CEQA determination, if the Coastal Commission failed to take jurisdiction of the matter (see attached Petition for Writ of Mandate, Exhibit C). This action was timely filed challenging the previous Project and CEQA determination, and has been stayed, by stipulation, pending the Coastal Commission’s action.

The County cannot unilaterally withdraw its FLAN to the Coastal Commission, thereby mooting the Donaldson and Sierra Club appeals and removing the previous Project and CEQA determination from the Coastal Commission jurisdiction (which it appears, by all accounts, would have been denied by the Commission) and then claim, as they are doing now, that it is an approved Project with an approved CEQA determination.

If the County and Applicant are unwilling to stipulate that: the August 27, 2019 Board of Supervisors action on the previous Project and accompanying CEQA determination are not final actions; that the Amended Application is not a “minor and trivial amendment of a previously approved” project; that a new independent full CEQA review and determination is required; and, the County continues to assert the Board of Supervisors August 27, 2019 action and CEQA determination are final; Donaldson will notify the Court and proceed forward with the pending litigation challenging the County’s August 27, 2019 action and CEQA determination.

B. Project Violates the Coastal Act

1. The Project Violates Zoning and Coastal Land Use Policies

This Project is a “contractors yard”, plain and simple, with major construction equipment, semi-trucks and trailers, office, workshop, and storage facilities on a highly constrained environmentally sensitive site off the narrow dirt road, Apple Pie Ridge Road. While some of the businesses Blaze serves in Big Sur are visitor serving, Blaze is not a visitor serving business.

As stated in the Coastal Commission's October 1, 2018 letter to the County (see attached Coastal Commission letter, Exhibit D), the Project does not comport with the Rural Community Center (RCC) designation, as a corporation yard is not a principal or conditional use allowed under the Visitor Serving Commercial (VSC) zoning district, and is inconsistent with the Big Sur Coast Land Use Plan (LUP) which gives priority to visitor serving uses. As the Coastal Commission letter correctly points out, contractor yards and storage facilities, which this Project clearly is, are only allowed as a conditional use in limited Coastal Zoning districts.

Zoning matters. It is there for a reason. It needs to be followed.

The Project site is zoned Visitor Serving Commercial (VSC). A corporation yard is not a permitted use, nor a conditionally permitted use, in the VSC zoning district (Monterey County Code Title 20 Section 20.22).

The only zoning districts in the Coastal Zone, Title 20, in which a contractor yard is allowed with a Coastal Permit are: the Coastal General Commercial (CGC) zoning district (Section 20.18.060); the Ag Industrial (AI) zoning district (Section 20.24.060); the Light Industrial (LI) zoning district (Section 20.26.050 and 060); and, the Heavy Industrial (HI) zoning district (20.28.060). If a contractor's yard were allowed in the VSC zoning district, it would have been expressly listed as an allowed use, with a Coastal permit, as was done in the other zoning districts. It was not.

Even if the Project were allowed under the VSC zoning district, Big Sur Coast LUP policy 5.4.3.E.8 requires permits for commercial uses to adhere to a "good neighbor" policy, ensuring that noise or visual impacts do not affect the peace and tranquility of existing neighbors. This Project will cause a substantial disruption to the peace and tranquility of the neighbors.

Big Sur Coast LUP policy 5.4.3.E.5 also requires an adequate physical area be available to meet parking requirements and natural resource concerns. The size of this site is insufficient to address substantial natural resource concerns created by this Project.

The Applicant claims the Project is consistent with Big Sur Coastal LUP policy 5.4.3.E.6, yet this policy requires: "*Businesses intended to serve solely local residents are discouraged. No minimum site standards are established for commercial uses but adequate physical area to meet parking requirements and natural resource concerns must be available before existing businesses can be expanded or new facilities can be approved.*" The Project is not consistent with this Policy.

This Project is a contractor's yard, plain and simple, and is aimed at serving local residents and businesses. While some of the businesses Blaze serves are visitor serving,

Blaze is not. Moreover, the site does not have adequate area to meet parking or natural resource concerns as described herein.

We understand that when this property was rezoned from Watershed Conservation (WSC) to VSC, the intended use of the site was a small art gallery or a small gift shop. This visitor serving use made sense. A large commercial contractors yard does not.

2. The Project Violates Coastal Environmentally Sensitive Habitat Area (ESHA) Policies

The Biological Assessment for the proposed Project, prepared by Fred Ballerini (October 23, 2017), states the Project site is a Redwood Forest classified as ESHA.

The Redwood Forest ESHA designation is further confirmed in the Tree and Resource Impact Assessment report dated April 17, 2019, prepared for the site by Rob Thompson with Thompson Wildland Management (see Thompson April 17, 2019 report attached, Exhibit E).

The Coastal Act provides heightened protection for areas designated as “environmentally sensitive habitat areas” and establishes strict preferences and priorities that guide development in these sensitive habitat areas. (*McAllister v. California Coastal Commission*, 169 Cal. App. 4th 912, at 923).

Coastal Act, section 30240, provides, “(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas and shall be compatible with the continuance of those habitat and recreation areas.” (Public Resources Code section 30240(a) and (b); *McAllister v. California Coastal Commission*, 169 Cal. App. 4th 912, at 923).

These Coastal Act regulations have also been adopted in the Big Sur Land Use Plan (see Section 3.3) and the Big Sur Coastal Implementation Plan (Title 20) (see section 20.145.040).

Together, these Coastal Act, Big Sur Land Use Plan, and Coastal Implementation Plan regulations provide strict protection for this redwood forest, environmentally sensitive habitat area.

Mr. Thompson’s report states:

“In summary, the proposed construction and development project involves significant environmental impacts to large and majestic redwood trees and

environmentally sensitive redwood habitat from proposed grading and construction associate with road improvements and the construction of a new office building, workshop, storage unit, cement silo and other supporting infrastructure. Additionally, there will be significant environmental concerns from the long-term impacts to trees and habitat from frequent and regular daily traffic of heavy trucks and equipment through this sensitive redwood habitat area. These impacts to the critical root zone of nearby redwood trees and ESHA habitat, as well as concerns associate with storm water runoff, erosion & sedimentation control, hazardous materials, containment & disposal, and wildland fire safety have not been adequately addressed and evaluated.”

While the cement silo has been removed from the Project, the findings of Mr. Thompson’s report remain valid as the grading and damage to ESHA remains. It is clear from the evidence presented, including the Tree and Resource Impact Assessment report prepared by Rob Thompson, that this Project will have a negative impact on this environmentally sensitive habitat area.

Moreover, as discussed in the *McAllister* case, pursuant to these Coastal regulations, only resource dependent uses are permitted in ESHA. (*McAllister v. California Coastal Commission*, 169 Cal. App. 4th 912, at 928-934).

This Project is a contractors yard, plain and simple, with attendant uses, including buildings, construction trucks, construction equipment, diesel tanks, material stockpiling, etc. It is not a resource dependent use.

Nor is the Project the least possible impact to ESHA. It is a large commercial contractors yard, with many components, spread throughout the site.

The Project will have a significant negative impact on the redwood forest environmentally sensitive habitat, and violates the Coastal Act and Big Sur Coastal policies for development within environmentally sensitive habitat areas.

C. Project Inadequate CEQA Review

This Project is a “contractors yard”, plain and simple, with major construction equipment, semi-trucks and trailers, office, workshop, and storage facilities on a highly constrained environmentally sensitive site, with the only access being the narrow one lane dirt road, Apple Pie Ridge Road, which narrow road also provides the sole means of access to the residents on Apple Pie Ridge.

The Initial Study/ Mitigated Negative Declaration prepared for the prior Project has been challenged by Donaldson in the pending (currently stayed) Monterey County Superior Court case, as set forth above. If the County intends to rely on this prior determination and is unwilling to retract the prior CEQA determination and proceed with a new independent CEQA determination for the Project, Donaldson will proceed

with their lawsuit against the County, as the Project requires the preparation of an Environmental Impact Report (EIR).

Mr. Thompson's Tree and Resource Impact Assessment report provides further substantial evidence that significant environmental impacts to the redwood forest and environmentally sensitive habitat will occur with this Project, which potential significant impacts have not been addressed or mitigated.

There is also substantial evidence the Project is inconsistent with County Zoning and the Coastal Act.

"If there is substantial evidence, in light of the whole record before a lead agency, that the project may have significant effect on the environment, the agency **shall** prepare a draft EIR". (CEQA Guideline 15064(a)(1), emphasis added).

If it is unclear whether there is substantial evidence in the record that a project may have a significant effect on the environment, then, "If there is disagreement among expert opinion supported by facts over the significance of an effect on the environment, the Lead Agency **shall** treat the effect as significant and **shall** prepare an EIR". (CEQA Guideline 15064(g)(1), emphasis added).

Further CEQA review is required and, based on the substantial evidence in the record, an Environmental Impact Report is required for this Project.

D. Blaze's Track Record Next Door Does Not Support Permit Approval

Blaze should not be given credit for operating on the adjacent Donaldson property five (5) years ago by stating they are simply "relocating" their business. Their track record on the Donaldson property was fraught with problems; and when Donaldson was finally able to get Blaze off their property, Blaze left the property in a complete mess. What started as a request by Helmuth Morgenrath to store some equipment on the Donaldson site grew exponentially. While Blaze was assuring Donaldson that they had required permits, and/or would stop their expansion, Blaze did not. When Blaze's lease term ended in 2016, Donaldson was finally able to get Blaze off their land, yet Blaze left behind a mess, for which Blaze has yet to assume responsibility.

Blaze was a terrible steward of the land when they occupied the Donaldson property. Blaze should not be given credit for what they did next door, and if anything, their track record shows what will occur, and what has already illegally occurred, on the proposed Project site.

E. Project Plan Conflicts

There is so much happening on this very constrained environmentally sensitive site that it is hard to fully understand what is actually occurring on the site when

reviewing the individual site plan pages. Nor has the Project been staked to show the revised buildings, nor is on-site grading, fencing, access roads and parking clearing staked.

For example, the 30% slope map shows a host of areas where there will be building or grading on slopes in excess of 30%, yet, septic tanks, leach fields, buildings, access ways, and parking are all located in these same areas, as shown on the Parking Plan (see 2022 30% slope map sheet C-22 and 2022 Parking Plan sheet A1.2, Exhibit F).

The sole means of access to the proposed office/ADU, workshop, and storage facilities is the narrow dirt one-lane Apple Pie Ridge Road, which also serves residents on Apple Pie Ridge. How are these large trucks and construction equipment going to traverse this narrow one-lane dirt road, turn around, etc., on this highly constrained road and site to access the workshop and storage facilities? This increased traffic creates its own environmental damage as set forth in the Thompson report, as well as, significantly conflicts with the existing residential use of this narrow dirt road.

The small parking area along Scenic Highway 1, where Blaze intends to place a host of uses, already provides overflow parking for the public, as well as, a loop road to the Big Sur River Inn units on the east side of Highway 1 (see attached Google earth map and area site photos, Exhibit G). Blaze proposes to use this small area for storing major construction equipment and semi-truck and trailer parking, a 4,000 gallon above ground diesel tank, trash enclosures, seven (7) public parking spaces, fencing, and an EV charging station, all adjacent to existing visitor serving hotel rooms. This small area cannot accommodate all the uses Blaze proposes, nor are these host of uses clearly delineated on the ground to assess the impacts.

The Project continues to show the 6 ft. high redwood fence along the property line at the Highway, as well as, what appears to be two separate gated entrances to both the Blaze parking area and River Inn parking area. The proposed fencing appears to close off the southern access to the River Inn units from Highway 1. The Parking Plan does not show how or where the semi-truck and trailer parking will be located or function with all of the other proposed uses of this small area. Adding the EV station to this area only exacerbates and creates additional safety issues, particularly given the close proximity to the 4,000 gallon above ground diesel tank located in the same area.

In addition, the parking area has been pushed into the hillside with slopes over 30%, where the original plan showed a soldier pile wall which now appears to have been removed.

What is the circulation plan for this small area? How do visitors get in to the River Inn units? How do the huge semi-trucks and trailers get past the visitor parking or turn around in this small area? How are large trucks and construction equipment to get

up the narrow one-land dirt Apple Pie Ridge road and turnaround in the tightly constrained areas?

The proposed plan creates major conflicts and safety concerns with all of the proposed uses in this very small area. There is no traffic study or plan to show how all of this can work in this limited space.

Attempting to cram all of these uses, including new fences, new gates, large construction trucks, diesel tank, trash enclosures, despite a token EV charging station, in to the small area along Highway 1, further illustrates why this Project remains inconsistent with the Visitor Serving Commercial land use designation for this site, and in violation of the Coastal Act.

The General Development Plan shows 12 on-site parking spaces up the hill adjacent to the workshop, storage, and office/ADU to be used for River Inn employees on weekends and holidays. It is highly unlikely that (1) Blazes' own vehicles will not be parked there on the weekends, and (2) that any River Inn employees will want to walk down the long narrow Apple Pie Ridge dirt road to get to their work.

The Site Plan shows some buildings on the adjacent Donaldson site, but fails to show the location of the Donaldson home, which is just a few feet away from the proposed Project. Also, the "existing upper flat" and "dirt driveway" were graded without grading permits and should be restored.

The General Development Plan "Sign Program", gives Blaze an open-ended approval for signs, if proposed in the future.

Where are all the Blaze employee parking to occur, including, construction trucks, construction equipment, 12 spaces for River Inn employees, parking for Blaze's 20 employees, etc.? This still remains a significant issue as outlined above.

It is unclear if the Applicant is going to sell raw materials on site, as their initial General Development Plan listed all the types of the materials they sell - concrete mix, cement, redi-mix concrete, drain rock, base rock, sand, pea gravel, asphalt, landscaping and soil amendments, plumbing supplies, electrical supplies. If that is the case, where is this material being stored?

F. Blaze Illegally Graded the Project Site

Blaze claims they are building on pre-graded pads. These existing pads were illegally created by Blaze illegally grading the site. The Donaldsons were told the grading violation case was closed. How can a grading violation case be closed when graded pads, roads, scares in the hillside, exposed tree roots, etc. remain unrestored? Rather than get credit for this illegal work, the site should be red-tagged for illegal grading and Blaze should be held accountable.

G. Popularity Does Not Override Coastal Land Use and Resource Protection Policies and Regulations

The only justification Blaze has for the County approving this Project, at this site, is that many residents and businesses in Big Sur support Blaze because they want them nearby.

Appellants recognize that Blaze previously submitted over 67 letters from influential people in Big Sur, all saying they want Blaze in Big Sur, but none of them addressed the actual land use and Coastal Act constraints at this site.

Given the number of prominent people and businesses in Big Sur who previously signed letters of support for Blaze, there should be a strong political-will and ability to locate Blaze in an appropriate location, out of the steep environmentally sensitive redwood forest, out of sight of Highway 1, and out of a residential /visitor serving area.

This might require a Coastal Plan Amendment, but there appears to be enough political horsepower involved to accomplish that. Lease area from CalTrans, lease BLM land, lease space on the El Sur Ranch, Rancho Rico, etc. Those who want Blaze to be there for them control thousands of acres of land in Big Sur. There is a better solution than what is proposed. Hopefully, if the community wants them in Big Sur, the community will work together to find a solution.

The proposed Project on this steep, highly constrained, heavily redwood forested site accessed by a narrow dirt road continues to violate the Big Sur Coast Land Use Plan/Local Coastal Program, the Coastal Implementation Plan for Big Sur, the County's Title 20, and the State Coastal Act, as well as, CEQA, which inconsistencies and violations cannot be overcome with a Project of this type and magnitude on this site.

Despite the anticipated political pressure to approve this Project, for the reasons set forth above, the Project is simply not allowed on this site under the law.

Sincerely,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation

Christine Kemp

Christine G. Kemp

CGK:kp

Enclosures (Exhibits A-G)

EXHIBIT A

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form

RECEIVED

OCT 25 2019

CALIFORNIA COASTAL COMMISSION CENTRAL COAST AREA

SECTION I. Appellant(s)

Name: Matt Donaldson and Carol Donaldson

Mailing Address: c/o Christine Kemp, Noland Hamerly, P. O. Box 2510

City: Salinas, CA

Zip Code: 93902

Phone: 831-424-1414

SECTION II. Decision Being Appealed

1. Name of local/port government:

Monterey County (CCC assigned No. 3-MCO-19-1969)

2. Brief description of development being appealed:

Combined Development Permit establishing commercial construction business, office, workshop, storage area, employee, truck, and equipment parking, diesel tanks, tree removal, grading, within environmentally sensitive habitat area and Visitor Serving Commercial zoning district.

3. Development's location (street address, assessor's parcel no., cross street, etc.):

46821 Highway 1, Big Sur, Monterey County, CA; Big Sur Coast Land Use Plan Area; APN 419-201-007-000; Cross street Apple Pie Ridge Road.

4. Description of decision being appealed (check one.):

- Approval; no special conditions
Approval with special conditions:
Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 2)

5. Decision being appealed was made by (check one):

- Planning Director/Zoning Administrator
- City Council/Board of Supervisors
- Planning Commission
- Other

6. Date of local government's decision: 08/27/19 (FLAN rec'd 10/11/19)

7. Local government's file number (if any): PLN160851 (Res. No. 19-289)

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant:

Martha Morgenrath, Blaze Engineering
c/o Law Offices of Aengus L. Jeffers
215 West Franklin Street, 5th Floor
Monterey, CA 93940

Martha Morgenrath, TR ET AL
HC67 Box 1201
Big Sur, CA 93920

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Please see Attachment A

(2)

(3)

(4)

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 3)

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

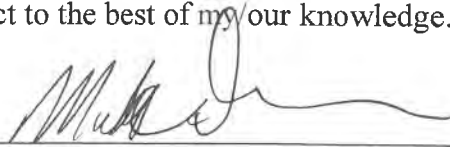
- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

Please see Attachment B

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT (Page 4)

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.



Signature of Appellant(s) or Authorized Agent

Date: 10-18-2019

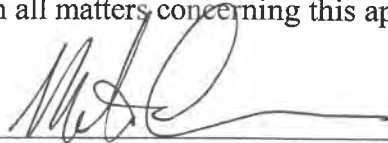
Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize

Christine Kemp, attorney (Noland Hamerly)

to act as my/our representative and to bind me/us in all matters concerning this appeal.



Signature of Appellant(s)

Date: 10-18-2019

ATTACHMENT A

Attachment A

Grounds for Donaldson Appeal

Martha Morgenrath
C/O Blaze Engineering
HC67 Box 1201
Big Sur, CA 93920

Martha J Morgenrath Tr Et Al (Owner)
46451 Pfeiffer Ridge Rd.
Big Sur, CA 93920

Aengus Jeffers, Atty.
Law Offices of Aengus L. Jeffers
215 W. Franklin St. # 5
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Stevenson Ranch, CA 91381

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Virginia Beach, VA 23454

Cecily and Bannus Hudson
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Richard & Susan Keeton & Don A Mc Queen
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Big Sur, CA 93920-0249

Rector Wardens & Vestrymen Of All Saint Parish
C/O McWhinn
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Carmel, CA 93921-1296

Kenneth & LaVerne McLeod
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Big Sur, CA 93920

Bruce Christiansen
Big Sur, CA 93920

John, Robin and Mara Bush
Address Unknown

Jessica Koring
Address Unknown

ATTACHMENT B

ATTACHMENT B

Grounds for Donaldson Appeal

CCC No. 3-MCO-19-1969

Monterey County Board of Supervisors Resolution No. 19-285
Morgenrath (Blaze Engineering) County PLN160851

Pursuant to Public Resources Code section 30603(a), Appellants hereby appeal the Monterey County Board of Supervisors' ("County") narrow (3-2) decision reluctantly approving Resolution No. 19-285 granting Martha Morgenrath, et al (Blaze Engineering) a Combined Development Permit (PLN160851) for coastal development permits, design approval, and general development plan, to establish a commercial construction business operation at 46821 Highway 1, in Big Sur, Monterey County ("The Project").

The Project

The Project proposes a commercial construction company/corporation yard, on a steep, redwood forested, 2.55 acre site, adjacent to Highway 1 and Apple Pie Ridge Road, (across from, and next to, the River Inn), including a 760 square foot office building, 798 square foot storage building, 600 square foot workshop with 300 square foot canopy, the storage of construction equipment such as generators and above ground diesel tanks, along with both employee parking and construction vehicle/equipment parking along Highway 1. The Project requires the removal of 10 trees, as well as construction on slopes in excess of 30% slope, grading, and conversion of a test well to a permanent well, all within an environmentally sensitive habitat area and Visitor Serving Commercial ("VSC") zoning district in Big Sur (the "Project"). The Project site is zoned for visitor serving uses (Visitor Serving Commercial "VSC"), which does not allow a construction company/contractor yard.

Standing to Appeal

The Donaldsons appeared at the County hearings on the project and objected to the Project approval.

Appealable Project

Pursuant to Public Resources Code section 30603(a), the Project is appealable to your Commission on at least two grounds.

1. The Project is not a principal- permitted use in the County's Coastal VSC zoning

district (Monterey County Code Title 20.22 et. seq.), the County's Certified Local Coastal Program (LCP), or the Big Sur Coastal Implementation Plan (Chapter 20.145), and, as such, is appealable to your Commission. (PRC sec. 30603(4)); and

2. The Project is located in an environmentally sensitive coastal resource area. (PRC sec. 30603(3)).

Substantial Issue Raised

This Appeal raises a substantial issue, as the Project, proposed on this Visitor Serving Commercial, steep, highly constrained, heavily redwood forested environmentally sensitive coastal resource site, and in the critical viewshed of Highway 1, conflicts with the Big Sur Coast Land Use Plan/Local Coastal Program, the Coastal Implementation Plan for Big Sur, the County's Title 20, and the State Coastal Act.

Project Violates the Coastal Act and Coastal Resource Protection Policies

1. The Project Violates Zoning and Coastal Land Use Policies

As stated in the Coastal Commission's October 1, 2018 letter to the County, the Project does not comport with the Rural Community Center (RCC) designation, is not a principal or conditional use allowed under the Visitor Serving Commercial (VSC) zoning district, and is inconsistent with the Big Sur Coast Land Use Plan (LUP) which gives priority to visitor serving uses. The Coastal Commission letter goes on to state that, "*Contractor yards and storage facilities are not authorized as either a principally permitted or conditional use in the VSC zone.*" And further states, "*The project further involves development within the critical viewshed, which also cannot be supported under the LUP.*"

The Project site is zoned Visitor Serving Commercial (VSC). A corporation yard is not a permitted use, nor a conditionally permitted use, in the VSC zoning district (Monterey County Code Title 20 Section 20.22).

The only zoning district in the Coastal Zone, Title 20, in which a corporation yard is allowed, is the Coastal General Commercial zoning district (Title 20 Section 20.18.060(N)).

If a construction yard were allowed in the VSC zoning district, it would have been expressly listed as an allowed use with a use permit. It was not.

Even if the Project were allowed under the VSC zoning district, Big Sur Coast LUP policy 5.4.3.E.8 requires permits for commercial uses to adhere to a “good neighbor” policy, ensuring that noise or visual impacts do not affect the peace and tranquility of existing neighbors. This Project will cause a substantial disruption to the peace and tranquility of the neighbors.

Big Sur Coast LUP policy 5.4.3.E.5 also requires an adequate physical area be available to meet parking requirements and natural resource concerns. The size of this site is insufficient to address substantial natural resource concerns created by this Project.

2. The Project Violates Coastal Act Environmentally Sensitive Habitat Area (ESHA) Policies

The Biological Assessment for the proposed Project, prepared by Fred Ballerini (October 23, 2017), states the Project site is a Redwood Forest classified as ESHA.

The Redwood Forest ESHA designation is further confirmed in the Tree and Resource Impact Assessment report prepared by Rob Thompson, Thompson Wildland Management (April 17, 2019) for the site, a copy of which was submitted to the County on May 8, 2019.

The Coastal Act provides heightened protection for areas designated as “environmentally sensitive habitat areas” and establishes strict preferences and priorities that guide development in these sensitive habitat areas (*McAllister v. California Coastal Commission*, 169 Cal. App. 4th 912, at 923).

Coastal Act, section 30240, provides, “(a) Environmentally sensitive habitat areas shall be protected against any significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas. (b) Development in areas adjacent to environmentally sensitive habitat areas and parks and recreation areas shall be sited and designed to prevent impacts which would significantly degrade those areas and shall be compatible with the continuance of those habitat and recreation areas.” (Public Resources Code section 30240(a) and (b); *McAllister v. California Coastal Commission*, 169 Cal. App. 4th 912, at 923).

These Coastal Act regulations have also been adopted in the Big Sur Land Use Plan (see Section 3.3) and the Big Sur Coastal Implementation Plan (see Section 20.145.040).

Together, these Coastal Act, Big Sur Land Use Plan, and Coastal Implementation Plan regulations provide strict protection for this redwood forest, environmentally sensitive habitat

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area.

Mr. Thompson's report states: *"In summary, the proposed construction and development project involves significant environmental impacts to large and majestic redwood trees and environmentally sensitive redwood habitat from proposed grading and construction associated with road improvements and the construction of a new office building, workshop, storage unit, cement silo and other supporting infrastructure. Additionally, there will be significant environmental concerns from the long-term impacts to trees and habitat from frequent and regular daily traffic of heavy trucks and equipment through this sensitive redwood habitat area. These impacts to the critical root zone of nearby redwood trees and ESHA habitat, as well as concerns associated with storm water runoff, erosion & sedimentation control, hazardous materials, containment & disposal, and wildland fire safety have not been adequately addressed and evaluated."*

It is clear from the evidence presented, including the Tree and Resource Impact Assessment report prepared by Rob Thompson, that this Project will have a significant negative impact on this environmentally sensitive habitat area.

Moreover, as discussed in the McAllister case, pursuant to these Coastal regulations, only resource dependent uses are permitted in ESHA. (McAllister v. California Coastal Commission, 169 Cal. App. 4th 912, at 928-934).

This Project, with its construction/contractors yard, office, workshop, storage buildings, and attendant uses, including, generators, large construction trucks, large construction equipment, diesel tanks, truck and equipment parking, employee parking, construction materials, etc. is not a resource dependent use.

Nor is the Project the least possible impact to ESHA. It is large commercial project, with many components, spread throughout the site.

The Project will have a significant negative impact on the redwood forest environmentally sensitive habitat and violates the Coastal Act and Big Sur Coastal policies for development within environmentally sensitive habitat areas.

3. The Project Violates Coastal Plan Critical Viewshed Policies

The Big Sur Coastal Implementation Plan section 20.145.031 provides the standards

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which allow preservation of Big Sur's scenic resources and promotes the restoration of the natural beauty of visually degraded areas. To this end, all future public or private development which would be visible within the Critical Viewshed of Highway 1 is prohibited.

Development within the VSC zoning district may be permitted within the Critical Viewshed, under careful design. This Project does not qualify for a VSC exception to the Critical Viewshed policies because it is not an allowed use in the VSC zoning district. Clearly hotels, restaurants, gift shops, gas stations and other visitor serving uses would be visible to the traveling public, but a construction company/contractor storage yard is not one of these types of visitor serving uses.

The Project will be clearly visible from Highway 1. The Project proposes to park its large construction equipment and large trucks along Highway 1 in a constrained parking area across the street from the River Inn and adjacent to the River Inn units on the east side of Highway 1.

The Project's Parking Plan (Sheet A1.3) describes the proposed parking of large trucks and large construction equipment, along with employee parking, along Scenic Highway 1, but is difficult to decipher, nor does it make sense.

The Project continues to show a 6 ft. high redwood fence along the property line at the Highway, as well as, what appears to be two separate gated entrances to both the Blaze parking area and River Inn parking area (Sheet A1.3 and colored gate photo).

The small Blaze parking area behind the 6 ft. fence is shown as accommodating the 4000 gallon diesel tank, trash enclosures, semi-truck and trailer parking, as well as public parking, all adjacent to existing visitor serving hotel rooms. Parking is also proposed outside, and along, the new 6 ft. high fence on what appears to be the River Inn property or the west side of the Blaze property. In addition, the parking area has been pushed into the hillside with a new soldier pile wall, as well as, the diesel tank, in area of 30% or greater slope.

All of this will be highly visible from scenic Highway 1, and is inconsistent with the surrounding Visitor Serving Commercial uses and the critical viewshed protection required under the County's Coastal Implementation Plan.

This parking area is a small constrained area (General Development Plan Figure 5.3 Aerial), in which the Project proposes new fences, entrance gates, 4000 gal. diesel tank, trash enclosures, semi-truck/trailer parking, and public parking.

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Attempting to cram all of these uses, including new fences, new gates, large construction trucks and equipment, diesel tank, trash enclosures, etc., in this small visitor serving parking area, further illustrates why this Project remains inconsistent with the Visitor Serving Commercial land use designation for this site, and in violation of the Coastal Act.

The Project Removes, Rather than Enhances, Visitor Serving Parking

Moreover, this area along Highway 1 is currently used for overflow parking for the popular River Inn guests and employees.

The Project's General Development Plan "Parking", page 6, states that 12 on-site parking spaces up the steep hill narrow dirt road on Apple Pie Ridge adjacent to the workshop, storage, and office will be used for River Inn employees on weekends and holidays. It is highly unlikely that (1) Blazes' own vehicles will not be parked in these spaces on the weekends, and (2) that any River Inn employees will want to walk down the long steep narrow dirt road to get to their work.

Where is all the parking to occur with all of the stated parking needed for construction trucks, construction equipment, 12 spaces for River Inn employees, parking for Blaze 20 employees, etc.?

The flat area at the base of Apple Pie Ridge, if not too small already, cannot accommodate all of the Blaze's large construction trucks, equipment, diesel tank, trash enclosures, etc., let alone attempt to provide additional River Inn parking on the Blaze site

In addition to being a blight on the critical viewshed along Highway 1, the Project eliminates much needed Visitor Serving public and employee parking, not enhances it.

5. Popularity Does Not Override Coastal Land Use and Coastal Resource Protection Policies and Regulations

The only justification Blaze Engineering has for the County narrowly approving this Project in a Visitor Serving Commercial district, on this fragile environmentally sensitive coastal resource site, is that many residents and businesses in Big Sur support Blaze Engineering because they want them nearby.

Appellants recognize that Blaze Engineering submitted over 67 letters from influential people in Big Sur, all saying they want Blaze Engineering in Big Sur, but none of these letters

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addressed the actual land use and Coastal Act inconsistencies and environmental constraints which prohibit this type of use at this site.

Appellants' Request

Despite the County's political pressure to narrowly approve this Project, for the reasons set forth above, Appellants urge your Commission to hear this Appeal and deny the Project.

STATE OF CALIFORNIA -- THE RESOURCES AGENCY
CALIFORNIA COASTAL COMMISSION
CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060-4508
VOICE (831) 427-4863 FAX (831) 427-4877

COPY

RECEIVED

OCT 25 2019

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

**APPEAL FROM COASTAL PERMIT DECISION OF LOCAL
GOVERNMENT**

**Please Review Attached Appeal Information Sheet Prior To Completing This
Form.**

SECTION I. Appellant(s)

Name: Ventana Chapter Sierra Club
Mailing Address: PO Box 5667
City: Carmel Zip code: 93921-5667 Phone: 831-659-7046

SECTION II.

Decision Being Appealed

1. Name of local/port government: Monterey County
2. Brief description of development being appealed:

Commercial construction business relocating office, workshop, storage area, employee parking, equipment parking, diesel tanks. Tree removal, grading in ESHA Visitor Serving Commercial zone
3. Development's location (street address, assessor's parcel no., cross street, etc.): 46821 Highway 1; APN 419-201-007-000. Cross Street: Apple Pie Ridge Road
4. Description of decision being appealed (check one.):

Approval; no special conditions

 Approval with special conditions:

Denial

Note: For jurisdictions with a total LCP, denial decisions by a local government cannot be appealed unless the development is a major energy or public works project. Denial decisions by port governments are not appealable.

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

5. Decision being appealed was made by (check one):

Planning Director/Zoning Administrator

X City Council/Board of Supervisors

Planning Commission

Other

6. Date of local government's decision: 8/27/19 (FLAN rec'd 10/11/19)

7. Local government's file number (if any): PLN 160851 (Res. No. 19-289)

SECTION III. Identification of Other Interested Persons

Give the names and addresses of the following parties. (Use additional paper as necessary.)

a. Name and mailing address of permit applicant

Martha Morgenrath, Blaze Engineering c/o Aengus Jeffers, 215 W. Franklin Street, 5th Floor, Monterey CA 93940

b. Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearings(s). Include other parties which you

know to be interested and should receive notice of this appeal. (2) Matt and Carol Donaldson, c/o Attorney Christine Kemp, PO Box 2510, Salinas Ca. 93902

Names and mailing addresses as available of those who testified (either verbally or in writing) at the city/county/port hearing(s). Include other parties which you know to be interested and should receive notice of this appeal.

(1) Ventana Chapter Sierra Club (PO Box 5667, Carmel, CA, 93921-5667) Two letters were submitted by Sierra Club Ventana Chapter Attorney Larry Silver. These letters dated April 16, 2019 and August 22, 2019 are attached as exhibits and are incorporated by reference herein.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local Coastal Program, Land Use Plan, or Port Master Plan policies and requirements in which you believe the project is inconsistent and the reasons the decision warrants a new hearing. (Use additional paper as necessary.)
- This need not be a complete or exhaustive statement of your reasons of appeal; however, there must be sufficient discussion for staff to determine that the appeal is allowed by law. The appellant, subsequent to filing the appeal, may submit additional information to the staff and/or Commission to support the appeal request.

As set forth in the two referenced letters, Sierra Club contends the Project is not consistent with the RCC zoning classification, especially in consideration of the limited availability of land designated RCC in the Big Sur area. The Project is a General Commercial Use that could be located in a less sensitive area, not designated in part ESHA. It is not a visitor serving facility within the meaning of the zoning classification. The Project is not consistent with the County Big Sur Land Use Plan, which states that uses such as contractor yards and equipment storage are not authorized in Visitor Serving Commercial Zones. The project is not consistent with the County's policies in the BSLUP relating to visual screening.

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION V. Certification

The information and facts stated above are correct to the best of my/our knowledge.

Rita Palacios
Signature of Appellant(s) or Authorized Agent
Ventana Chapter Conservators
Chair

Date: 10/24/2019

Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby authorize Larry Silver, Esq., on behalf of the Ventana Chapter of the Sierra Club (CELP) to act as my/our representative and to bind me/us in all matters concerning this appeal.

Rita Palacios
Signature of Appellant(s)

Date: 10/24/2019

CALIFORNIA ENVIRONMENTAL LAW PROJECT
PO BOX 667, MILL VALLEY CA.
94942
LAURENS H. SILVER ESQ.
April 16, 2019

Supervisor John Phillips
Chairman
Monterey County Board of Supervisors
Fax: 831 796 3022
E-mail district2@co.monterey.ca.us

RE: Morgenrath (Blaze Engineering) PLN 160851----Appeal Before
Board of Supervisors

Dear Supervisor Phillips:

On behalf of the Ventana Chapter of the Sierra Club, with 8000 members in Santa Cruz and Monterey Counties, I am writing this letter in opposition to this project, and urge that the Board **grant the appeals pending before it that pertain to the approval of this project** by the Planning Commission in 2018. This project involves the establishment on an undeveloped parcel of a commercial business operation (including a new office building, workshop, storage unit, and onsite storage of equipment, trucks, diesel fuel, cement, and related development on a 2.55-acre parcel in Big Sur Valley. According to its website, Blaze Engineering has the following products available: concrete mix, cement, drain rock, base rock, sand, pea gravel, asphalt, landscaping soils, as well as electrical and plumbing supplies. Blaze has for sale freshly mixed concrete on site produced by its batch plant and provides other services, including grading, paving, water systems, electrical services, septic systems, retaining walls, excavation, plumbing services, hauling and loading, concrete delivery and pumping, house site grading and excavation, utilities trenching and installation, construction materials delivery, and entry gate installation (with telephone entry systems).

The site on which it wishes to build this commercial operation (which is moving from an adjacent site where its lease has been terminated by the owners of that site because of non compliance with certain lease terms that are pertinent to environmental protection at its former site), has a RCC land use designation under the Big Sur Land Use Plan, which specifies that uses in that designation are intended to serve the needs of residents and visitors to the Big Sur Coast. The Big Sur Land Use Plan identifies the activities appropriate in RCC parcels. These uses include Outdoor Recreation, Recreational, Visitor Serving Commercial and Public and Quasi Public classifications, which include visitor serving uses such as restaurants, grocery stores, arts and craft galleries, inns, hostels, service stations and campgrounds.

Sierra Club agrees with Coastal Commission staff (see staff letter dated October 1, 2018) that “given the limited availability of land designated RCC in the Big Sur Area and the increasing number of visitors to Big Sur, we believe that RCC land designated land ideally should be reserved for essential/ priority visitor serving uses.” While the Sierra Club appreciates that Blaze has provided assistance to the area in some emergencies, the Chapter does not believe it is a visiting serving entity as its prime objective is not a visitor serving use within the meaning of the BSLUP. It primarily provides commercial services to existing residents and not to visitors—as is indicated on its website. Thus, it is not serving visitors as a priority commercial use within the meaning of BSLUP 3.2.5A. In considering whether this project constitutes a priority use in this zone, it is pertinent as well to note that the project involves the removal of a number of trees, including a protected redwood, and that the project borders on an area designated in the LUP maps as an Environmentally Sensitive Habitat Area. The Blaze Project would be an anomaly in this special designation under the BSLUP, and would stand out like a “sore thumb” relative to the hostels, restaurants, and small service facilities presently in the area.

The Chapter agrees with CCC staff that this project is more properly considered a General Commercial Use that can be sited elsewhere, and not be built on RCC designated land simply because it is convenient for the applicant to move to a parcel adjacent to where it previously conducted its operations. LUP Policy 5.4.3E directs new visiting serving commercial uses to RCC designated lands in Big Sur Valley. If this commercial enterprise, which is predominantly non-visitor serving, is permitted in the RCC designated land, other visitor serving uses will likely be precluded.

The Chapter further agrees with the CCC staff analysis of the County’s Implementation Plan, which states that uses such as contractor yards and storage facilities are not authorized as either a principal or conditional use in Visitor Serving Commercial zones. The CCC letter notes: “These uses are, however, explicitly identified as conditional uses in the County’s General Commercial Zone districts.”

Finally, the Chapter is concerned that this project will have significant impact on views from Highway One. This project involves the parking and staging of construction vehicles, trucks, and bulldozers within an existing parking area that is located within the critical view shed. The Chapter is not convinced that the construction of a perimeter fence along Highway One would constitute sufficient “screening”, especially in light of the policies of the BSLUP, which provides for vegetative screening where it is possible to soften the impact on the view shed.

For the above reasons, the Ventana Chapter urges the Board to **deny** approval of this Project and to **grant the appeal pending** before it next week.

Laurens H. Silver, Esq.
On behalf of the Ventana Chapter, Sierra Club

CALIFORNIA ENVIRONMENTAL LAW PROJECT
PO Box 667, Mill Valley, CA. 94942
LAURENS H. SILVER, ESQ

Dear Supervisor Phillips:
Monterey County Board of Supervisors
District2@co.monterey.ca.us
August 26, 2019

RE: Morgenrath (Blaze Engineering) PLN 160851
August 27, 2019 Appeal Before BO

On behalf of the Ventana Chapter of the Sierra Club, with 8000 members in Santa Cruz and Monterey Counties, I am writing this letter to reiterate its opposition to this project (please refer to our more detailed letter of April 16, 2019). We appreciate the time and effort made by the applicant and the County to resolve some of the environmental concerns, but the revisions do not satisfy the Club that this project will have anything but a damaging effect on the rare redwood forest ecosystem and the Environmentally Sensitive Habitat Area (ESHA) present on the site. We urge that the Board **grant the appeals pending before it that pertain to the approval of this project** by the Planning Commission in 2018.

Additionally, Sierra Club agrees with Coastal Commission staff (see staff letter dated October 1, 2018) that "given the limited availability of land designated RCC in the Big Sur Area and the increasing number of visitors to Big Sur, we believe that RCC land designated land ideally should be reserved for essential/ priority visitor serving uses."

The Chapter further agrees with the CCC staff analysis of the County's Implementation Plan, which states that uses such as contractor yards and storage facilities are not authorized as either a principal or conditional use in Visitor Serving Commercial zones.

We believe there are other parcels in the Big Sur area that could accommodate this business that would not adversely affect the unique Coastal Zone natural resources that the Coastal Act was specifically enacted to protect from harm.

For the above reasons, the Ventana Chapter urges the Board to **deny** approval of this Project and to **grant the pending appeal**.

Laurens H. Silver, Esq.
On behalf of the Ventana Chapter, Sierra Club
larrysilver@earthlink.net 415 515 5688

cc. [all supervisors]
cc. Clerk of the Board

EXHIBIT B

From: [Jensen, Fiona](#)
To: [Ammen, Breylen@Coastal](mailto:Ammen.Breylen@Coastal)
Cc: [Katie Butler](#)
Subject: Withdrawal FLAN No. 3-MCO-19-1969 (PLN160851/Morgenrath [Blaze Engineering])
Date: Friday, October 21, 2022 10:37:00 AM
Attachments: [image001.png](#)

Breylen,

Sorry for the multiple emails. The County would also like to formally request the withdrawal of FLAN No. 3-MCO-19-1969 (PLN160851/Morgenrath [Blaze Engineering]). Planning staff is processing an amendment to address the associated appeal (A-3-MCO-19-0205).

Please let me know if you have any questions.

Thank you,

Fionna Jensen

Associate Planner

Monterey County Housing and Community Development (HCD)

1441 Schilling Place, 2nd Floor, Salinas CA 93901

Main Line: [\(831\) 755-5025](tel:8317555025)

Direct Line: [\(831\) 796-6407](tel:8317966407)



EXHIBIT C

ELECTRONICALLY FILED BY
Superior Court of California,
County of Monterey
On 10/17/2019 7:12 PM
By: Christina Flores, Deputy

1 Christine G. Kemp (State Bar No. 138624)
2 NOLAND, HAMERLY, ETIENNE & HOSS
3 A Professional Corporation
4 333 Salinas Street
5 Post Office Box 2510
6 Salinas, California 93902-2510
7 Telephone: (831) 424-1414
8 Facsimile: (831) 424-1975
9 ckemp@nheh.com

6 Attorneys for Petitioner Matthew Donaldson and
7 Carol Donaldson

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY

10 MATTHEW DONALDSON and CAROL
11 DONALDSON,

11 Petitioners,

12 vs.

13 COUNTY OF MONTEREY; COUNTY
14 OF MONTEREY BOARD OF
15 SUPERVISORS, AND DOES 1-50
inclusive ,

16 Respondents.

Case No.19CV004224

**PETITION FOR WRIT OF
ADMINISTRATIVE MANDAMUS**

[Code Civ. Proc. § 1094.5; Pub. Resources
Code §§ 21000, et seq.]

17 MARTHA J. MORGENRATH, Trustee of
18 the Helmuth Morgenrath Bypass Trust
19 Under the Morgenrath Family Trust dated
20 March 7, 2001; MARTHA J.
21 MORGENRATH, Trustee of the
22 HELMUTH MORGENRATH MARTIAL
23 DEDUCTION TRUST UNDER THE
24 MORGENRATH FAMILY TRUST dated
25 March 7, 2001; BLAZE ENGINEERING,
26 INC., a California corporation; and DOES
27 1 through 50, inclusive.

28 Real Parties in Interest.

26 Petitioners Matthew Donaldson and Carol Donaldson (“Donaldson” or “Petitioners”)

27 respectfully allege:

28 ///

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INTRODUCTION

1
2 1. This action challenges the decision of the COUNTY OF MONTEREY and the
3 MONTEREY COUNTY BOARD OF SUPERVISORS (“Board”) (collectively the “County” or
4 “Respondents”) to approve Resolution No. 19-285 granting a Combined Development Permit
5 (PLN160851) for coastal development permits, design approval, and general development plan,
6 to establish a commercial construction business operation at 46821 Highway 1, including the
7 construction of an office, workshop, storage area, parking, and associated improvements,
8 development on slopes in excess of 30% slope, tree removal, and the conversion of a test well to a
9 permanent well, within an environmentally sensitive habitat area and Visitor Serving Commercial
10 zoning area of the Big Sur (the “Project”).

11 2. Specifically, the Donaldsons allege that the County’s actions in approving the
12 Project violate the California Environmental Quality Act (Public Resources Code sec. 21000 et.
13 seq.) (“CEQA”) and the CEQA Guidelines (California Code of Regulations, Title 14 sec. 15000
14 et. seq.) by adopting a Mitigated Negative Declaration for the Project, rather than requiring the
15 preparation of an Environmental Impact Report, when the County was presented with a fair
16 argument that the Project may have a significant effect on the environment, and there was
17 substantial evidence, in light of in the record as whole, that the Project may have a significant
18 effect on the environment.

19 3. The Project proposes a commercial construction company facility/corporation
20 yard, on a steep, redwood forested, 2.55 acre, site, located at 46821, Big Sur, adjacent to Highway
21 1 and Apple Pie Ridge Road, (across from, and next to, the River Inn), including a 760 square
22 foot office building, 798 square foot storage building, 600 square foot workshop with 300 square
23 foot canopy, the storage of construction equipment such as generators and above ground diesel
24 tanks, along with both employee parking and construction vehicle/equipment parking along
25 Highway 1. The Project requires the removal of 10 trees, as well as construction on slopes in
26 excess of 30% slope, grading, and conversion of a test well to a permanent well. The Project site
27 is zoned for visitor serving uses (Visitor Serving Commercial) which does not allow a
28 construction company/contractor yard.

1 doing business in Monterey County. Petitioners are informed and believe that Martha
2 Morgenrath is the sole, or principal owner, of Blaze Engineering, Inc.

3 12. Petitioners are ignorant of the true names of Respondents and/or Real Parties in
4 Interest herein sued as DOES 1 through 50, inclusive. Petitioners will amend this petition to state
5 their true names when the same have been ascertained.

6 13. Petitioners are informed and believe and on that ground allege that at all times
7 mentioned, each of the Respondents and/or Real Parties in Interest was the agent of all other
8 Respondents and/or Real Parties in Interest, and was, in doing the things here complained of,
9 acting within the scope and authority of this agency, and was responsible in some manner for the
10 occurrences herein alleged and liable to the petition for the relief prayed for herein.

11 **JURISDICTION, VENUE, AND NOTICE**

12 14. Petitioners bring this action as a Petition for Writ of Administrative Mandamus
13 pursuant to California Code of Civil Procedure section 1094.5.

14 15. Personal jurisdiction in this court is proper under California Code of Civil
15 Procedure sections 410.10, *et seq.*

16 16. Venue in this court is proper under California Code of Civil Procedure sections
17 392 and 393(1)(b).

18 17. Petitioners have given notice to Respondents, County of Monterey and Monterey
19 County Board of Supervisors of their intent to commence this action against Respondents,
20 pursuant to Public Resources Code section 21167.5. A copy of this notice is attached hereto as

21 **Exhibit A.**

22 18. Petitioners have complied with Public Resources Code section 21167.6 by filing
23 and serving a request concerning preparation of the record of the administrative proceedings
24 related to this action concurrently with the filing of its petition on October 17, 2019.

25 19. Petitioners will comply with Public Resources Code section 21167.7 and
26 California Code of Civil Procedure section 388 by providing the California Attorney General with
27 a copy of their Petition for Writ of Administrative Mandamus within 10 days of filing.

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STATUTE OF LIMITATIONS AND
EXHAUSTION OF ADMINISTRATIVE REMEDIES

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20. Petitioners have exhausted applicable administrative remedies with respect to the County's CEQA determination.

21. Petitioners are appealing the County Project approval to the California Coastal Commission ("Commission") claiming the Project is inconsistent with the Coastal Act.

22. However, pursuant to Public Resources Code section 21167(b), Petitioners must file their CEQA challenge to the County's CEQA decision to adopt a Mitigated Negative Declaration for the Project within 30 days of the County filing the CEQA Notice of Determination (NOD), which NOD was filed and posted with the County Clerk on September 19, 2019. Accordingly, the CEQA 30-day statutory filing period in which to challenge the County's CEQA determination will run on October 19, 2019, before the Coastal Commission makes a determination as to whether it will take jurisdiction over the Project, hence Petitioners are required to file their challenge to the County's CEQA determination on or before October 19, 2019.

23. Should the Coastal Commission decline to hear the Coastal Appeal, the Commission will not have taken jurisdiction over the Project, and the County's August 27, 2019 adoption of the Mitigated Negative Declaration and Project approval will stand as a final decision, to which this Writ will apply.

24. Should the Coastal Commission decide to hear the Coastal Appeal, Petitioners will dismiss this action, as the Commission will have then taken jurisdiction over the Project permit approval.

25. Petitioners file this action to comply with the applicable CEQA statute of limitations and preserve their claim to challenge the County's August 27, 2019 final action adopting a Mitigated Negative Declaration and approving the Project, should the California Coastal Commission decline to assume jurisdiction over the Project.

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STANDING

26. Petitioners appeared before the County and raised objections to the Project approval, including the grounds of non-compliance with CEQA.

FACTUAL BACKGROUND

27. The Project proposes the construction of a commercial construction company facility/corporation yard, on a steep, redwood forested, 2.55 acre, site, located at 46821, Big Sur, adjacent to Highway 1 and Apple Pie Ridge Road, (across from, and next to, the River Inn). The Project involves the construction of a 760 square foot office building, 798 square foot storage building, 600 square foot workshop with 300 square foot canopy, the storage of construction equipment such as generators and above ground diesel tanks, along with both employee parking and construction vehicle/equipment parking along Highway 1. The Project requires the removal of 10 trees, as well as, construction on slopes in excess of 30% slope, grading, and conversion of a test well to a permanent well. The Project site is zoned for visitor serving uses (Visitor Serving Commercial or “VSC” zoning district) which does not allow for a construction company/contractor yard.

28. On or about August 31, 2018, the County issued a Notice of Intent to Adopt a Mitigated Negative Declaration for the Project. At that time the Project included permits for a General Development Plan for the commercial construction business, a 760 square foot office, 600 square foot workshop, 800 square foot storage unit, storage of equipment, such as generators, a cement silo, diesel storage tanks, a septic system, development on slopes in excess of 30% slope, removal of 26 protected trees, and the conversion of a test well into a permanent well.

29. On October 1, 2018, the California Coastal Commission staff wrote a letter to the County stating the Project was inconsistent with the Visitor-Serving Commercial (VSC) land use designation and zoning, stating, “*Contractor yards and storage facilities are not authorized as either a principally permitted or conditional use in the VSC zone.*” And further stating, “*The project further involves development within the critical viewshed, which also cannot be supported under the LUP.*”

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1 30. On November 14, 2018, the Project was set for hearing before the Monterey
2 County Planning Commission. Given that Blaze Engineering had become a fixture in Big Sur, at
3 a prior location, the community came out en-mass in support of the Project, with letters of
4 support, from many residents and influential people, including Congressman Sam Farr.

5 31. Petitioners, along with other residents, wrote letters in opposition and appeared at
6 the Planning Commission hearing objecting to the Project on many grounds, including the
7 inadequate CEQA analysis, inconsistency with the surrounding residential uses, inconsistency
8 with the Visitor Serving Commercial zoning district, tree removal, impacts to the lush and
9 forested hillside, visual impacts, grading impacts, noise from air compressors, pneumatic tools,
10 welders, grinders, gasoline and diesel engines, toxic fuels and fluids associated with them, noise
11 from large trucks and heavy equipment operations and maintenance, air quality and dust, and
12 traffic on Apple Pie Ridge Road and Highway 1.

13 32. Despite these valid objections, in an apparent effort to appease the community, the
14 Planning Commission approved the Project creating “out of the box” findings to allow a private
15 construction company, not otherwise permitted in the Visitor Serving Commercial zoning district,
16 to be permitted as a public quasi-public use.

17 33. The Planning Commission findings minimized inconsistency with the Land Use
18 Plan, the impact to onsite environmentally sensitive habitat, tree removal, the visual impact to
19 scenic Highway 1 of having large construction trucks and equipment parked in an area clearly
20 visible from the Highway, among other impacts.

21 34. On November 30, 2018, Petitioners, and another neighbor, appealed the Planning
22 Commission decision to the Board of Supervisors claiming, among other allegations, that:

23 (a) The Project was not consistent with the applicable plans and policies which
24 apply to the site.

25 (b) The Project was not suitable for the site.

26 (i) The Project would split by the existing Apple Pie Ridge road
27 causing residents to have to drive through a commercial corporation yard and attendant
28 equipment and structures.

1 (ii) Development was proposed to occur on slopes of 30% and over.
2 (iii) Construction vehicle parking at the base of Apple Pie Ridge would
3 eliminate existing visitor serving parking, as well as be unsightly.

4 (c) The Project would have a visual impact on the scenic Highway 1 and
5 adjacent properties. Among other visual impacts,

6 (d) The Project would have a significant impact on environmentally sensitive
7 habitat areas.

8 (i) The Project required the removal of 16 protected trees, including
9 trees as large as 35", 48" and 60" in diameter.

10 (ii) The tree removal areas on the applicant's submitted materials were
11 inconsistent. The location of the trees to be removed on the site was not well marked and difficult
12 to assess which trees are actually being removed.

13 (iii) The Project Applicant had already engaged in unpermitted grading
14 on the site, including roads and pads, causing damage to the site, and compromising the lateral
15 support of the adjacent Donaldson property.

16 (e) The Project did not conform to the Big Sur LUP or Coastal Implementation
17 Plan.

18 (f) The Project violated the California Environmental Quality Act (CEQA).

19 (i) An Environmental Impact Report (EIR) was required for the
20 Project, as there was substantial evidence, in light of the whole record before the County, that the
21 project may have a significant effect on the environment(CEQA Guideline 15064 (a)(1)).

22 (ii) The Project was in rural area, where an activity that might not be
23 significant in an urban area, may be significant in a rural area (CEQA Guideline 15064 (b)).

24 (iii) Further, in evaluating significance of the environmental effect of a
25 project, the County must consider direct physical changes which will be caused by the Project,
26 including such physical impacts as dust, noise, heavy equipment traffic, etc. (CEQA Guideline
27 15064 (d)).

28 ///

1 (iv) The above CEQA Guidelines heightened the CEQA review for the
2 Project located in a rural, visitor serving commercial area of Big Sur, where this type of
3 construction yard commercial construction business is not permitted.

4 (v) The evidence presented to the County showed that, contrary to the
5 Initial Study, the Project would create potentially significant environmental impacts to:

- 6 • **Land Use and Planning** – the project conflicts with the polices of the Big
7 Sur Land Use Plan, Big Sur Coastal Implementation Plan, the County
8 Visitor Serving Commercial Zoning, as well as other land use policies and
9 regulations, as set forth here.
- 10 • **Aesthetics** – the project will be visible from Highway 1, a protected critical
11 viewshed, including the 35 ft. high silo, the new private driveway being
12 created to access the property off Highway, the storing of large
13 construction trucks and equipment, along with the stockpiling of sand,
14 gravel and other construction materials, the on the lower portion of the
15 property, as set forth herein.
- 16 • **Noise** - The commercial work shop, with its' attendant commercial
17 workshop noise, will be located just 60 feet from the existing Donaldson's
18 residence. Large constructions trucks and equipment operating on and
19 entering and exiting the property will create unmitigated commercial traffic
20 noise, as set forth herein.
- 21 • **Geology and Soils** – The project involves the development on slopes of
22 30% or greater, in violation of County's land use and development policies
23 for Big Sur (Coastal Implementation Plan Policy 20.145.140.A.4 et. seq.)
- 24 • **Transportation/Traffic** - The project involves the creation of a new
25 private road in the critical viewshed to access the property from Highway
26 1, in violation of County's viewshed and transportation policies for Big Sur
27 (Coastal Implementation Plan Policies 20.145.030. A.2.e &
28 20.145.130.D.1 et. seq.). The project will use an existing road serving 23
residential homes, as well as, share a driveway entrance with another
residence, increasing the driving and pedestrian hazards and created
significant safety risks.
- **Biological Resources** - The project involves the removal of eight (8)
landmark trees over 24 inches in diameter, and as large as 60 inches in
diameter, in violation of County's forest resources polices for Big Sur. The
project approval does not provide for a scenic easement on the areas
containing environmentally sensitive habitat, in violation of County's
environmentally sensitive habitat polices for Big Sur.

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- **Hazards and Hazardous Materials** – The project is in the middle of a residential neighborhood. The project involves the storage of diesel, propane, and other hazardous materials, as well as, the transportation of said materials. The project will use an existing road serving 23 residential homes, as well as, share a driveway entrance with another residence, increasing the driving and pedestrian hazards and created significant safety risks.

35. The Project was then set for hearing before the Monterey County Board of Supervisors on February 26, 2019.

36. At that hearing, after taking testimony from Petitioners, and others, the Board deferred its difficult decision on the Project, asking Petitioners and the Project Applicant to attempt to mediate a resolution.

37. Petitioners and the Project Applicant were unable to reach a resolution, as the Project’s potential damage and impacts to the environment, the neighborhood, and the public in general, were simply too great to acquiesce in the Project going forward.

38. On April 16, 2019, the Ventana Chapter of the Sierra Club sent a letter to the Board urging the Board to grant the Donaldson’s appeal and deny the Project.

39. On May 8, 2019, Petitioners provided the County with additional expert evidence of potential significant impacts to the Environmentally Sensitive Habitat Area (ESHA) on the site, in the form of an arborist report from Rob Thompson of Thompson Wildland Management, which report reiterated lack of an adequate environmental impact analyses and the potential significant environmental damage that would occur to the environmentally sensitive redwood forest habitat as a result of the Project.

40. Mr. Thompson’s report states. *“In summary, the proposed construction and development project involves significant environmental impacts to large and majestic redwood trees and environmentally sensitive redwood habitat from proposed grading and construction associate with road improvements and the construction of a new office building, workshop, storage unit, cement silo and other supporting infrastructure. Additionally, there will be significant environmental concerns from the long-term impacts to trees and habitat from frequent*

1 *and regular daily traffic of heavy trucks and equipment through this sensitive redwood habitat*
2 *area. These impacts to the critical root zone of nearby redwood trees and ESHA habitat, as well*
3 *as concerns associate with storm water runoff, erosion & sedimentation control, hazardous*
4 *materials, containment & disposal, and wildland fire safety have not been adequately addressed*
5 *and evaluated.”*

6 41. Mr. Thompson’s Tree and Resource Impact Assessment report and expert opinion
7 provided further substantial evidence that significant environmental impacts to the redwood forest
8 and environmentally sensitive habitat would occur with this Project, which potential significant
9 impacts had not been addressed or mitigated.

10 42. There was also substantial evidence in the record of a host of other Project plan
11 deficiencies, inconsistencies, and missing information, set forth in materials presented by
12 Petitioners, which also invalidated the County’s initial CEQA review.

13 43. The Project was heard again by the Board on May 21, 2019. At the hearing,
14 Petitioners again reiterated that the Initial Study/ Mitigated Negative Declaration prepared for the
15 Project was based on incomplete and inaccurate information and the CEQA analysis was
16 inadequate. Petitioners again objected to the Project approval and use of a Mitigated Negative
17 Declaration based on the substantial evidence in the record, stating an Environmental Impact
18 Report was required for this Project.

19 44. At the Board hearing, the Project Applicant stated they were amenable to making
20 some modifications to the Project, including removing the 35 foot tall cement silo, the second
21 access road, as well as swapping the location of the shop and storage area. The Board hearing
22 was then continued to a date uncertain pending the receipt of Project Applicant's revised plans for
23 the Project.

24 45. On or about June 2019 the Project Applicant submitted revised plans for the
25 Project that eliminated the 35 foot tall cement silo and second access road, and swapped the
26 storage building and shop building locations, but left unresolved the significant environmental
27 impacts to the ESHA arising from the Project and its ongoing operations, the land use
28 incompatibility with the Visitor Serving Commercial zoning district, the visual impacts to scenic

1 Highway 1 as a result of parking large construction equipment and large construction trucks along
2 the Highway, as well as the land use incompatibility and environmental damage caused by
3 placing a construction company/contractor yard, with its associated buildings, large construction
4 trucks and large equipment, diesel tanks, and associated noise, dust, and visual impacts, along the
5 narrow steep dirt Apple Pie Ridge Road, serving 23 residences in the rustic redwood forested
6 hills of Big Sur.

7 46. The Project was then sent for further hearing before the Board on August 27, 2019.

8 47. On August 20, 2019 and August 22, 2019 Petitioners sent letters to the County
9 pointing out that, despite Project revisions, the overarching issues with incompatible use,
10 significant environmental impacts, visual impacts to scenic Highway 1, and inconsistency with
11 the Coastal Act remained.

12 48. On August 22, 2019, the Sierra Club also sent another letter urging the County to
13 deny the Project.

14 49. Following testimony at the August 27, 2019 hearing, the Board, with stated
15 reservations and a narrow 3-2 vote, voted to adopt the Mitigated Negative Declaration and
16 approve the Project, with no further CEQA review.

17 50. The County filed and posted the CEQA Notice of Determination on September 19,
18 2019.

19 **FIRST CAUSE OF ACTION**

20 (Writ of Administrative Mandate - Code Civ. Proc. § 1094.5)

21 (Violation of CEQA, Pub. Resources Code §§ 21000, et seq)

22 51. Petitioners reallege and incorporate by reference each and every allegation
23 contained in Paragraphs 1 through 50 inclusive, as set forth above.

24 52. Under CEQA and the CEQA Guidelines, a public agency must conduct
25 environmental review whenever it undertakes to approve a project that may cause either a direct
26 physical change in the environment or a reasonably foreseeable indirect physical change in the
27 environment, such as the Project reviewed and approved in this case, which has the potential to
28 directly impact, and reasonably foreseeably impact, environmental resources and aesthetics,

1 located in an environmentally sensitive habitat, redwood forested, steep, visually sensitive,
2 visitor serving area of Big Sur (Public Resources Code section 21065).

3 53. “If there is substantial evidence, in light of the whole record before a lead agency,
4 that the project may have significant effect on the environment, the agency **shall** prepare a draft
5 EIR”. (CEQA Guideline 15064(a)(1), emphasis added). In this case, the County was presented
6 with substantial evidence, and a fair argument made, that the Project may have a significant effect
7 on the environment.

8 54. If it is unclear whether there is substantial evidence in the record that a project may
9 have a significant effect on the environment, then, “If there is disagreement among expert opinion
10 supported by facts over the significance of an effect on the environment, the Lead Agency **shall**
11 treat the effect as significant and **shall** prepare an EIR”. (CEQA Guideline 15064(g)(1), emphasis
12 added). In this case there is a disagreement among experts as to the potential significant impacts
13 to the Environmentally Sensitive Habitat.

14 55. The Project is in rural area, where an activity that might not be significant in an
15 urban area, but may be significant in a rural area (CEQA Guideline 15064 (b)). In this case the
16 Project is located in scenic Big Sur, on a redwood forested parcel and along scenic Highway 1 in
17 one of the County’s most treasured rural expanses.

18 56. Further, in evaluating the significance of the environmental effect of a project, the
19 County must consider direct physical changes which will be caused by the Project, including such
20 physical impacts as dust, noise, heavy equipment traffic, etc. (CEQA Guideline 15064 (d)). This
21 Project involves a construction company with large construction trucks and equipment, on a
22 narrow dirt road, as well as the storage of generators, above-ground diesel tanks, all of which will
23 create noise, dust and heavy equipment traffic.

24 57. The above CEQA code sections and guidelines, heighten the CEQA review
25 required for this Project proposed in an environmentally sensitive, visually sensitive, and
26 incompatible land use in the rural, visitor serving commercial area of Big Sur, where this type of
27 construction yard/commercial business is not permitted.

28 ///

1 58. The evidence presented to the County showed that, contrary to the Initial Study,
2 the Project would create potentially significant environmental impacts, requiring the preparation
3 of an Environmental Impact Report.

4 59. The County abused its discretion when it failed to adequately evaluate the
5 environmental impacts of the Project , as required by CEQA, and improperly determined the
6 Project could be approved with Mitigated Negative Declaration.

7 60. The County’s actions in approving the Project violate the California
8 Environmental Quality Act (Public Resources Code sec. 21000 et. seq.) (“CEQA”) and the
9 CEQA Guidelines (California Code of Regulations, Title 14 sec. 15000 et. seq.) by adopting a
10 Mitigated Negative Declaration for the Project, rather than requiring the preparation of an
11 Environmental Impact Report, when the County was presented with a fair argument that the
12 Project may have a significant effect on the environment, and there was substantial evidence, in
13 light of in the record as whole, that the Project may have a significant effect on the environment.

14 61. In approving the Project, the County, as the responsible agency, prejudicially
15 abused its discretion and failed to proceed in a manner required by CEQA by failing to require the
16 preparation of a full Environmental Impact Report as required by CEQA, thereby depriving the
17 public and other agencies with opportunity to fully explore alternatives and mitigations that could
18 have addressed the Project’s significant environmental impacts.

RELIEF REQUESTED

19
20 1. For a writ of administrative mandate directing Respondent Monterey County to set
21 aside and vacate its August 27, 2019 decision Resolution No. 19-285, adopting a Mitigated
22 Negative Declaration and approving the Project;

23 2. For a writ of administrative mandate directing Respondent Monterey County to
24 prepare a full Environmental Impact Report (EIR) for the Project, so public and other agencies
25 have an opportunity to fully explore alternatives and mitigations that could have addressed the
26 Project’s significant environmental impacts;

27 3. For attorney's fees pursuant to Code of Civil Procedure section 1021.5;

28 4. For costs of suit incurred herein; and


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5. For such other relief as the court considers proper.

Dated: October 17, 2019

Respectfully submitted,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation

By 
Christine G. Kemp
Attorneys for Petitioner Matthew Donaldson
and Carol Donaldson

NOLAND, HAMERLY, ETIENNE & HOSS
ATTORNEYS AT LAW
SALINAS

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VERIFICATION

STATE OF CALIFORNIA, COUNTY OF MONTEREY

I am one of the Petitioners in the above-captioned matter. I am familiar with the contents of the foregoing **PETITION FOR ADMINISTRATIVE MANDAMUS**. The information supplied therein is based on my own personal knowledge and/or has been supplied by my attorneys or other agents and is therefore provided as required by law. The information contained in the foregoing document is true, except as to the matters which were provided by my attorneys or other agents, and, as to those matter, I am informed and believe that they are true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 17, 2019, at SANTA CLARITA, California.



Matthew Donaldson

EXHIBIT A

NOLAND
HAMERLY
ETIENNE
HOSS

Attorneys at Law

A PROFESSIONAL CORPORATION

RECEIVED
MONTEREY COUNTY

2019 OCT 17 AM 10:14

CLERK OF THE BOARD

Racema
DEPUTY

WWW.NHEH.COM
E-MAIL CKEMP@NHEH.COM
831-424-1414 EXT. 271
OUR FILE NO. 22560.000

October 16, 2019 *OK*

Stephen W. Pearson

Anne K. Secker

Randy Meyenberg

Michael Masuda

Christine G. Kemp

Terrence R. O'Connor

Timothy J. Baldwin

* *Charles Des Roches*

* *Leslie E. Finnegan*

Ana C. Toledo

* *Robert D. Simpson*

Lindsey Berg-James

Nicholas W. Smith

Danny J. Little

By HAND DELIVERY AND E-MAIL

County of Monterey
c/o Clerk of Monterey County
168 West Alisal Street, 1st Floor
Salinas, CA 93901
countyclerk@co.monterey.ca.us

Monterey County Board of Supervisors
c/o Clerk of the Board
168 West Alisal Street, 1st Floor
Salinas, CA 93901
COB@co.monterey.ca.us

Re: Notice of Commencement of CEQA Action for Combined Development Permit (PLN160851)

Dear Members of the Board, Clerk to the Board, and County Clerk:

Please take notice that Matthew Donaldson and Carol Donaldson ("Donaldson") intend to file a petition for Writ of Administrative Mandamus challenging the County of Monterey Board of Supervisors decision to approve Resolution No. 19-285, granting a Combined Development Permit (PLN160851) for coastal development permits, design approval and general development plan, to establish a commercial business operation at 46821 Highway 1, under the California Environmental Quality Act ("CEQA"; Pub. Resources Code § 21000, et seq.) and the CEQA Guidelines (Cal. Code Regs., titl. 14 § 15000, et seq.). This letter provides the required notice under Public Resources Code § 21167.5.

Sincerely,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation

Christine G. Kemp
Christine G. Kemp

cc: Les Girard, Acting County Counsel (via email only)

PHONE 831-424-1414

FROM MONTEREY 831-372-7525

FAX 831-424-1975

333 SALINAS STREET POST OFFICE BOX 2510 SALINAS, CA 93902-2510

22560\000\1036844.1:101619

* CERTIFIED SPECIALIST IN
PROBATE, ESTATE PLANNING,
AND TRUST LAW BY
THE CALIFORNIA BOARD OF
LEGAL SPECIALIZATION
STATE BAR OF CALIFORNIA

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PROOF OF SERVICE
(Code Civ. Proc. §§ 1013(a), 2015.5)

STATE OF CALIFORNIA)
)
COUNTY OF MONTEREY)

I am a citizen of the United States and a resident of Monterey County. I am over the age of 18 years and not a party to the within entitled action; my business address is: 333 Salinas Street, Post Office Box 2510, Salinas, CA 93902-2510.


On the date below, I served the attached document(s) entitled: **NOTICE OF COMMENCEMENT OF CEQUA ACTION FOR COMBINED DEVELOPMENT PERMIT (PLN160851)**, on the following named person(s) in said action at:

County of Monterey
c/o Clerk of Monterey County
168 West Alisal Street, 1st Floor
Salinas, CA 93901
countyclerk@co.monterey.ca.us

Monterey County Board of
Supervisors
c/o Clerk of the Board
168 West Alisal Street, 1st Floor
Salinas, CA 93901
COB@co.monterey.ca.us

- by causing to be personally served on the above-named persons at the above stated addresses.
- by placing said copy(ies) in a sealed envelope(s), postage thereon fully prepaid, and placed for collection and processing for mailing following the business's ordinary practice with which I am readily familiar. On the same day correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service at Salinas, California, addressed as stated above.
- by overnight delivery on the above named party(ies) in said action, by placing a true and correct copy thereof enclosed in a sealed envelope in a designated area for outgoing, same-day pickup by _____ at the offices of Noland, Hamerly, Etienne & Hoss for overnight delivery, billed to Noland, Hamerly, Etienne & Hoss, and addressed as set forth above.
- by causing to be transmitted a true copy thereof to the above-named recipient via the following facsimile transmission telephone number ("Fax"): _____, and no interruption of transmission was reported.
- by causing to be transmitted a true copy thereof to the above-named recipients via the electronic mail address (canossett@nheh.com), and no failure to deliver message was received.

I declare, under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on October 17, 2019, at Salinas, California.



Charlena A. Nossett

EXHIBIT D

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
725 FRONT STREET, SUITE 300
SANTA CRUZ, CA 95060
PHONE: (831) 427-4863
FAX: (831) 427-4877
WEB: WWW.COASTAL.CA.GOV



October 1, 2018

Anna Quenga
Monterey County Resource Management Agency
141 Schilling Place, 2nd Floor
Salinas, CA 93901

**Subject: Mitigated Negative Declaration (PLN 160851); SCH 2018091005 46821
Highway 1, Big Sur (Morgenrath)**

Dear Ms. Quenga:

Thank you for the opportunity to comment on the Mitigated Negative Declaration (MND) for the proposed use of the property at 46821 Highway 1 in Big Sur. As we understand it, the proposed development includes the establishment of a commercial business operation including a new office building, workshop, storage unit, and onsite storage of equipment, trucks, fuel, cement, and related development on a 2.55-acre parcel in Big Sur Valley. The site has a Rural Community Center (RCC) land use designation and is zoned for Visitor-Serving Commercial (VSC).

As you are aware, lands designated RCC are very limited and are intended to serve the needs of residents and visitors to the Big Sur coast. More specifically, the Big Sur Land Use Plan (LUP) identifies the appropriate land use activities for RCC-designated parcels as those found in the Outdoor Recreation, Recreational, Visitor-Serving Commercial, and Public and Quasi-Public classifications, which include a host of typical visitor-serving uses (e.g., restaurants, grocery stores, arts and crafts galleries, inns, hostels, service stations, campgrounds, etc.) as principally permitted uses. The LUP further identifies conditional uses that may also be permitted (e.g., administrative, management, and maintenance facilities for public agencies, fire stations, clinics, community halls, churches, post office, libraries, and schools). Residential use may also occur in this land use designation under limited circumstances. However, given the limited availability of land that is designated RCC in the Big Sur area and the increasing numbers of visitors to Big Sur, we believe that RCC-designated land ideally should be reserved for essential/priority visitor-serving uses.

Based on the LUP description of the priority uses, the proposed use for the site and related development does not appear to comport with the requirements of the underlying RCC designation, but rather appears to be more aligned with General Commercial uses, as defined in the Local Coastal Program (LCP). While we can appreciate the need for engineering and construction-related services provided by the prospective tenant, there may be other more suitable locations for such operations that are not located on RCC-designated land.

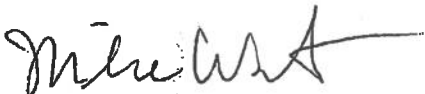
Anna Quenga
Morgenrath (PLN 160581; SCH 2018091005)
October 1, 2018
Page 2

Additionally, we disagree with the MNDs interpretation of LUP Policy 5.3.2 (i.e., “any use allowed in any zone is appropriate for rural community centers”) as allowing general commercial and/or any other uses within RCC designated lands. Clearly, the LUP does not stand for the allowance of a military or agricultural use, or other similarly inappropriate (i.e., not visitor-serving, public, quasi-public, or recreation) uses at this site. Likewise, LUP Policy 5.4.3 E.1 directs new visitor-serving commercial development to RCC-designated lands in Big Sur Valley. Furthermore, Monterey County’s Implementation Plan (i.e. coastal zoning) is explicit with regard to principal and conditional uses allowed under the Visitor Serving Commercial zone district (Title 20, Chapter 20.22, VSC). Contractor yards and storage facilities are *not* authorized as either a principally permitted or conditional use in the VSC zone. These uses are, however, explicitly identified as conditional uses in the County’s General Commercial zone districts.

The project further involves development within the critical viewshed, which also cannot be supported under the LUP. Specifically, the LUP allows exceptions for development on RCC-designated land that would be located in the critical viewshed if such development uses vegetative screening where possible to soften the impact on the viewshed. In this case, the proposal includes the parking and staging of construction vehicles, trucks, and bulldozers, etc., within an existing parking area that is located within the critical viewshed. The additional traffic and vehicles associated with the development likely would result in significant visual impacts. As proposed, the project includes construction of six-foot high solid wood fencing along the Highway 1 frontage to “screen” vehicles and facilities on site. Staff notes that solid wood fences are themselves development with their own visual impacts. Thus, the proposal does not actually screen development from public viewing, but rather trades one visual impact for another. The proliferation of fences along the Big Sur coast is concerning and we would not be supportive of any project that includes solid fencing within the critical viewshed.

Thank you again for the opportunity to comment on the MND for the proposed use and development of the Morgenrath property in Big Sur Valley. We hope that these comments prove useful as the County evaluates the project for consistency with the LCP. If you have any questions or would like to further discuss this matter, please don’t hesitate to contact me at (831) 427-4898.

Regards,



Mike Watson
Coastal Planner
Central Coast District Office

EXHIBIT E

THOMPSON
WILDLAND MANAGEMENT

Environmental Management & Conservation Services
International Society of Arboriculture Certified Arborist # WE-7468A
Department of Pesticide Regulation Qualified Applicator Lic. #QL50949 B
Arborist & Environmental Assessments, Protection, Restoration, Monitoring & Reporting
Wildland Fire Property Protection, Fuel Reduction & Vegetation Management
Invasive Weed Control, and Habitat Restoration & Management
Soil Erosion & Sedimentation Control
Resource Ecologist

April 17, 2019

Mr. & Mrs. Donaldson
46875 Highway One
Big Sur, CA. 93923

Subject: Tree & resource impact assessment for proposed Blaze Engineering
development project (PLN: 160851)

I have performed an assessment to evaluate impacts to coast redwood trees and habitat related to a proposed development project located on the property at 46821 Highway One in Big Sur (APN: 419-201-007). This project is currently in the planning stages of development with significant concerns being raised as to the potential impacts to coast redwood (*Sequoia sempervirens*) trees, redwood habitat and other nearby sensitive resources.

The proposed project site is located in coast redwood forest habitat (refer to attached photos, *Figures 1-11*), which is designated as an *Environmentally Sensitive Habitat Area* (ESHA) by the *Monterey County Resource Management Agency (RMA) & Planning Department*. For more information and details regarding the proposed project refer to the *Blaze Engineering, Inc.* project plans dated October 27, 2017 and corresponding reports (i.e., Maureen Hamb arborist reports and Fred Ballerini biological report). In reviewing these plans and reports, it is my professional opinion that these plans and corresponding reports do not adequately evaluate and address the short- and long-term significant environmental impacts (e.g., impacts to redwood trees, habitat and storm water runoff, among others) associated with the planned construction and development of the subject property.

The proposed project site is located in a 2.55 acre coast redwood forest habitat area that is dominated by large and mature upper-canopy coast redwood (*Sequoia sempervirens*) trees, as well as several native mid- to upper-canopy California bay laurel (*Umbellularia californica*) trees. Mid-canopy coast live oak (*Quercus agrifolia*), as well as introduced Leyland cypress (*Cupressus leylandii*) are also occurring in the proposed project area,

however, these species are less common and abundant compared to the more pervasive and conspicuous native redwood and bay laurel trees that dominate the proposed project site.

The project site is located in the coastal zone area of Big Sur and, as previously stated, is dominated by coast redwood habitat that falls under the elevated protection status classification of ESHA. The *Coastal Act* and *Monterey County RMA & Planning Department* ordinances mandate that ESHA resources and habitat communities, such as the proposed project site, require more attention, review and scrutiny regarding the evaluation of environmental impacts associated with proposed construction and development activities that will permanently alter and affect the site.

The project site is also located adjacent to a seasonal drainage that runs directly into the Big Sur River that is located a short distance to the west on the other side of Highway One. This environmentally sensitive and protected riparian habitat supports protected special status species, such as steelhead trout (*Oncorhynchus mykiss*) and California red-legged frog (*Rana draytonii*).

My assessment involved reviewing arborist reports prepared by Ms. Maureen Hamb, the biological report that was prepared by Mr. Fred Ballerini, and the project plans. Based on the site assessment and review of the above mentioned project plans and reports, I find there are several deficiencies and inadequacies regarding the evaluation and study of the significant environmental impacts to trees and habitat associated with proposed property development and construction activities.

Additionally, not only are there inadequacies and deficiencies in the evaluation of significant environmental impacts from proposed property development, such as impacts to the critical root zones of nearby trees from grading operations, construction activities and sediment runoff, there are also legitimate environmental concerns associated with the significant environmental short- and long-term impacts of everyday business operations on the property that have not been adequately addressed or evaluated. For example, significant impacts to the critical root zone of protected redwood trees from a consistent and steady ingress and egress of heavy trucks and equipment, storm water runoff, as well as equipment wash down, containment and disposal of construction materials and spoils (e.g., a cement washout station) are additional environmental impacts that have not been adequately addressed and evaluated.

Deficiencies, flaws and inadequacies in the pre-construction assessments, reports and project plans that *Blaze Engineering* has provided are as follows. Also, refer to attached corresponding photos, *Figures 1-11*:

- 1) The arborist report prepared by Ms. Maureen Hamb does not adequately address or evaluate the significant environmental impacts from proposed construction activities (both short and long-term impacts), nor does it provide sufficient tree protection and replacement recommendations. Sixteen (16) native specie trees (e.g., bay laurel, oak and redwood) are proposed for removal and County tree removal permits require a plan to plant replacement plantings, which is currently absent from the arborist report prepared by Ms. Hamb. Additionally, the trees that Ms. Hamb identified with tag #s 10 & 24 were improperly identified. She identified tree#10 as a bay laurel, but it is a redwood, and tree#24 was also identified as a bay laurel, but it is a oak. Also, some of the tree locations do not appear to be accurately represented on the site plans.
- 2) There are potential significant impacts to the critical root zone of large and majestic redwood trees from proposed grading operations, which have not been adequately addressed. For example, the new lower section of road that will be constructed off of Highway One will involve grading through the critical root zone of several protected redwood trees, particularly two large redwoods identified with tag#s 13 & 14, that will be within a few feet of proposed grading. This potential significant impact has not been adequately addressed in the arborist report and project plans. Per the project plans, it is inevitable that there will be significant impacts to the critical root zone of some nearby trees. Trees affected and impacted by construction and grading activities include several large and mature coast redwoods and bay laurel trees. Redwood trees adversely affected by project operations will have a negative and damaging impact to redwood habitat, which has ESHA protection status.
- 3) Some redwood trees will need to be limbed up to approximately 20 feet to provide adequate clearance for large construction trucks. There has been no assessment or discussion of how much pruning and limb removal will be involved and what potential significant impacts this could have on tree health.
- 4) There has been no assessment or evaluation of what the new and existing roads will be constructed with. Are they to remain as an earthen dirt road, or be paved, or base rocked? Also, will the new office and maintenance building locations and cement silo area be paved, base rocked or remain as an earthen dirt surface?
- 5) In my professional opinion, Ms. Hamb's report did not accurately assess the condition of some of the existing trees. According to Ms. Hamb's assessment, 16 trees are proposed for removal due to construction impacts and/or health deficiencies. Per my tree assessment, there are at least 6 trees I disagree with her on regarding needing to be removed due to health or structural deficiencies. In my professional opinion, these 6 trees do not need to be removed due to physiological or structural disorders. These trees appear to be in fair health and condition, do not

appear to pose an imminent threat or hazard to life and property, and some structural deficiencies (such as poor balance, symmetry or excessive canopy weight) may be effectively mitigated through properly implemented weight and hazard reduction pruning.

- 6) Ms. Hamb's report does not provide any replacement recommendations for the trees that are proposed for removal, which is normally required by County permit conditions.
- 7) Following construction operations there will be a significant increase in heavy truck and equipment traffic between Highway One and the office and maintenance buildings of *Blaze Engineering*. The impacts of this heavy traffic, in addition to the existing light car and truck traffic that currently uses this unpaved dirt road, is presently unknown and has not been sufficiently assessed and evaluated.
- 8) The project plans propose the installation of a cement silo, which will involve an equipment wash down and concrete washout area. These type of operations have the potential of compacting soil surfaces and degrading soil quality, which can adversely affect the health and condition of nearby trees and habitat. The impacts from this activity have not been adequately assessed.
- 9) The potentially significant environmental impacts on ESHA have not been properly and thoroughly evaluated, such as impacts to protected redwood trees, redwood habitat and nearby riparian habitat (i.e., the Big Sur River).
- 10) There is inadequate information provided regarding a tree and resource protection plan, as well as an erosion and sedimentation control plan that provides installation, maintenance and monitoring recommendations and best management practices (BMP's). Additionally, there is no discussion or information provided regarding what type of agency oversight or monitoring there will be, and what type of reporting procedures will be required to make certain that tree and resource protection measures are properly implemented, maintained and monitored for the duration of the project.
- 11) There has been no recent nesting bird and raptor assessment, nor has a another nesting assessment been proposed if tree removal and construction activities begin during the nesting season, which in Monterey County is from February through August.
- 12) There is no evaluation as to whether an *Erosion & Sedimentation Control Plan* or *Storm Water Pollution Prevention Plan* (SWPPP) needs to be prepared to address the potential impacts of storm water runoff, sediment deposition, dust control, and hazardous materials containment and disposal (e.g., concrete waste and spoils containment and disposal, equipment maintenance and refueling areas). Problems associated with storm water runoff and conveyance, erosion and sedimentation control, and hazardous materials containment and disposal have the potential of adversely affecting tree health, as well as the health and quality of the nearby Big Sur River, which is protected riparian habitat.
- 13) The *Fuel Management Plan* is incomplete and inadequate to address fire concerns. Equipment and vehicle maintenance operations will increase potential ignition

sources, which will increase fire hazard concerns to this high wildland fire risk community.


- 14) There has been no *Invasive Weed Management Plan* prepared that will provide recommendations and guidelines on how to most effectively manage, contain and reduce the abundance of non-native invasive weeds that are degrading ESHA protected redwood habitat. English ivy (*Hedera helix*) appears to be the most pervasive and problematic noxious weed occurring on the property, which needs to be managed, controlled and gradually reduced and eradicated.

In summary, the proposed construction and development project involves significant environmental impacts to large and majestic redwood trees and environmentally sensitive redwood habitat from proposed grading and construction associated with road improvements and the construction of a new office building, workshop, storage unit, cement silo and other supporting infrastructure. Additionally, there will be significant environmental concerns from the long-term impacts to trees and habitat from frequent and regular daily traffic of heavy trucks and equipment through this sensitive redwood habitat area. These impacts to the critical root zone of nearby redwood trees and ESHA habitat, as well as concerns associated with storm water runoff, erosion & sedimentation control, hazardous materials containment & disposal, and wildland fire safety have not been adequately addressed and evaluated.

The proposed project site is in the middle of an environmentally sensitive redwood forest habitat area. Considering the nature of *Blaze Engineering's* commercial construction operation that is being planned in ESHA it is reasonable, appropriate and necessary to perform a more thorough environmental analysis and evaluation of potential significant environmental impacts to protected trees and sensitive habitat associated with this project application.

Thank you and please let me know if you have any questions or need additional information.

Best regards,



Rob Thompson
Resource Ecologist
ISA Certified Arborist

4-17-19
Date

Thompson Wildland Management (TWM)
57 Via Del Rey
Monterey, CA. 93940
Office (831) 372-3796; Cell (831) 277-1419
Email: thompsonwrm@gmail.com ; Website: www.wildlandmanagement.com



Figure 1. Large coast redwood trees will potentially be adversely impacted by grading activities and frequent heavy truck and equipment traffic.



Figure 2. This redwood habitat area has already been altered and disturbed by the existing dirt road and other nearby activities, and will experience significant additional disturbance from proposed construction activities and frequent traffic from large and heavy trucks and equipment.



Figure 3. Another view of previously impacted redwood habitat where additional grading and construction activities will likely result in further impacts and disturbance to this ESHA.

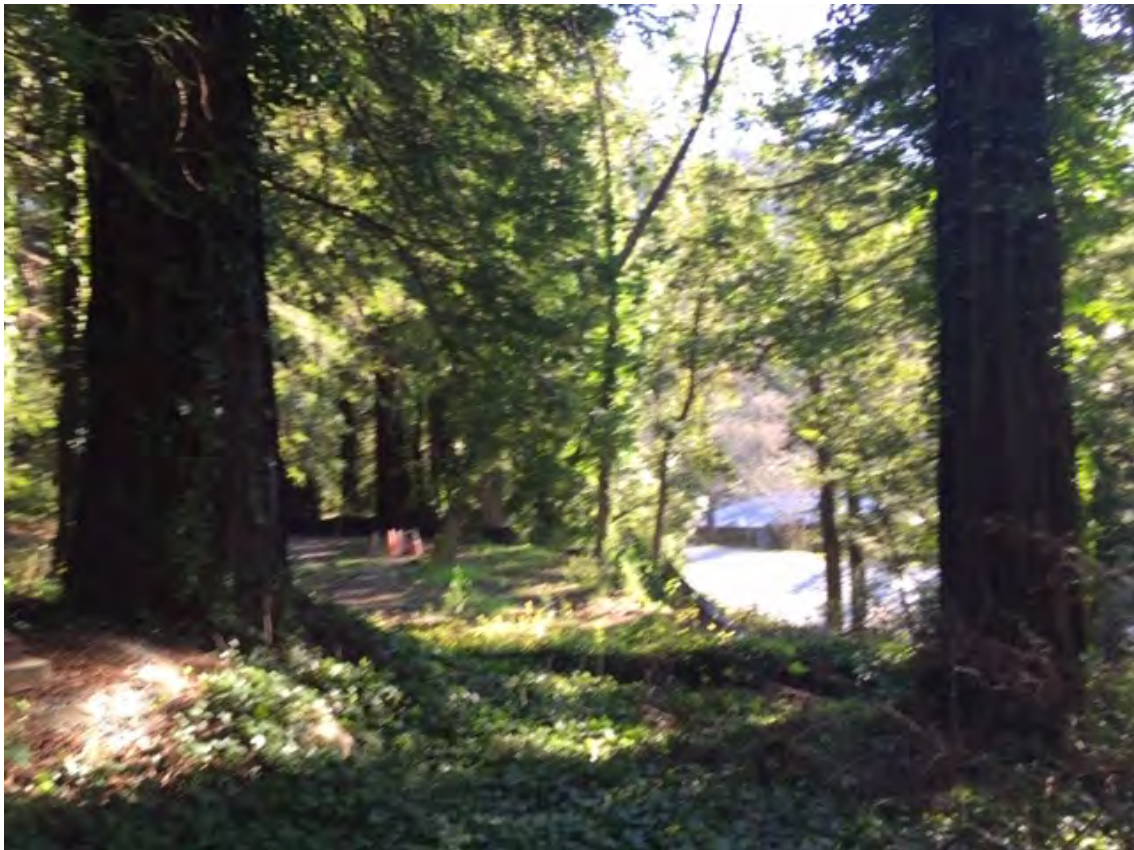


Figure 4. New access road off of Highway One turnout is proposed to squeeze through these 2 large redwood trees, which will significantly impact critical roots and likely compromise tree health.



Figure 5. Another view of ESHA redwood habitat that will be further disturbed and impacted by proposed property development activities.



Figure 6. View up existing dirt road towards proposed office building and equipment maintenance building/workshop, as well as a few other support buildings.



Figure 7. Looking down road from area where office and maintenance buildings are planned to be constructed.



Figure 8. Location of proposed office building will require the removal of a few trees.



Figure 9. Blaze Engineering apparently cut in this non-permitted road just below the Donaldson's cabin, which resulted in several large roots being cut and damaged on the upper cut slope. This area is located just above the proposed office building.



Figure 10. Steep and narrow road leading to location of proposed storage building. Adjacent trees have and will continue be adversely affected by grading activities and site disturbance.



Figure 11. One of a few examples where fill material is smothering the lower trunk and root crown of roadside trees.

EXHIBIT F

PLAN AREAS OF DEVELOPMENT ON SLOPES OF 30% OR STEEPER.

SOLDIER PILE WALL ABOVE OFFICE		
CUT AREA	96.95 SQ. FT.	
FILL AREA	0.00 SQ. FT.	
TOTAL AREA	96.95 SQ. FT.	
OFFICE & ADJACENT SLOPE		
CUT AREA	79.98 SQ. FT.	
FILL AREA	500.77 SQ. FT.	
TOTAL AREA	580.75 SQ. FT.	
HILFIKER BELOW PARKING - ABOVE SHOP		
CUT AREA	0.00 SQ. FT.	
FILL AREA	106.84 SQ. FT.	
TOTAL AREA	106.84 SQ. FT.	
STORAGE PAD		
CUT AREA	0.00 SQ. FT.	
FILL AREA	1.08 SQ. FT.	
TOTAL AREA	1.08 SQ. FT.	
SHOP PAD AND DRIVEWAY		
CUT AREA	521.95 SQ. FT.	
FILL AREA	52.46 SQ. FT.	
TOTAL AREA	574.41 SQ. FT.	
TOTAL CUT AREA	698.88 SQ. FT.	51.39%
TOTAL FILL AREA	661.15 SQ. FT.	48.61%
TOTAL AREA	1360.03 SQ. FT.	100.00%



LEGEND

- EXISTING AREA OF GREATER THAN 30 PERCENT INCLINATION
- PROPOSED AREA OF FILL
- PROPOSED AREA OF CUT

130.43'

EXISTING UPPER FLAT

FIRE SUPPRESSION TANKS

EXISTING CHEST TREES

30" INCH TREE

20' FIRE SUPPRESSION TANKS

290.00' N32°45'20" W

89.59' N74°31'30" E

FOUND 3/4" PIPE TAGGED RCE 1215

PROJECT BENCHMARK
N = 3837.1185
E = 3695.7938
EL=173.40

Scale: 1" = 20'

REVISION DATES	
PUBLISH	06/01/2017
REV	08/19/2022

GRICE ENGINEERING INC

ENGINEERING • GEOTECHNICS • HYDROLOGY • SOILS • FOUNDATIONS • EARTH STRUCTURES

561A Brunken Avenue Salinas, California Salinas: (831) 422-9619 Monterey: (831) 375-1198 FAX: (831) 422-1896

NOT VALID WITHOUT STAMP AND SIGNATURE

LAWRENCE E. GRICE, P.E.; R.C.E. 66857

PREPARED FOR:
MARTHA MORGENRATH
46451 PFEIFFER RIDGE ROAD
BIG SUR, CALIFORNIA 93920
(831) 667-2967

NEW BLAZE ENGINEERING COMPOUND;
46821 HIGHWAY ONE, BIG SUR, CALIFORNIA; A.P.N. 419-201-007-000

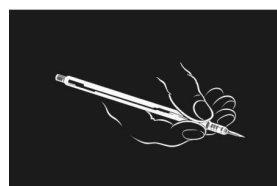
GRADING AND DRAINAGE PLAN
DEVELOPMENT ON SLOPES GREATER THAN 30%

C-2.2
Date Plotted: Aug 19, 2022

BLAZE COMPOUND
FILE NO. 6737-17.01

FOUND 3" X 3" POST, RCE 1215

MARK THOMPSON DESIGN
P.O. BOX 2171, MONTEREY, CA 93942
(831) 889 7881 PH (831) 889 7900 FAX
markthompsondesign@sbglobal.net

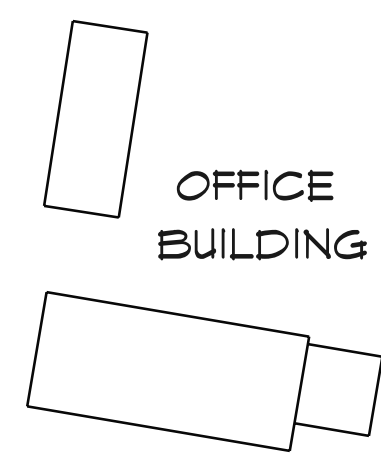


DRAWN BY:
M. THOMPSON
CHECKED BY:
M. T.
DATE:
31 AUGUST 2022

BLAZE ENGINEERING
46821 HIGHWAY ONE
BIG SUR, CALIFORNIA 93920
APN: 419-201-007-000

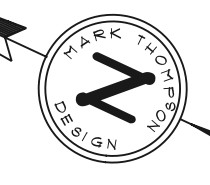
ESTATE OF
GOLDIE E. PFEIFFER
APN 419-201-006-000

FORMER SITE OF
BLAZE ENGINEERING
CORPORATION YARD
ON NEIGHBORING
PROPERTY



PARKING PLAN

SCALE..... 1" = 20'-0"



ESTATE OF
MARTHA MORGENRATH
APN 419-201-007-000
2.55 AC. +/-
111,078.0 SQ.FT. +/-

RIVER INN
VOL. 8, SURVEYS, PAGE 89
APN: 419-201-011
2.31 AC. +/-

CALIFORNIA STATE HIGHWAY NO. 1

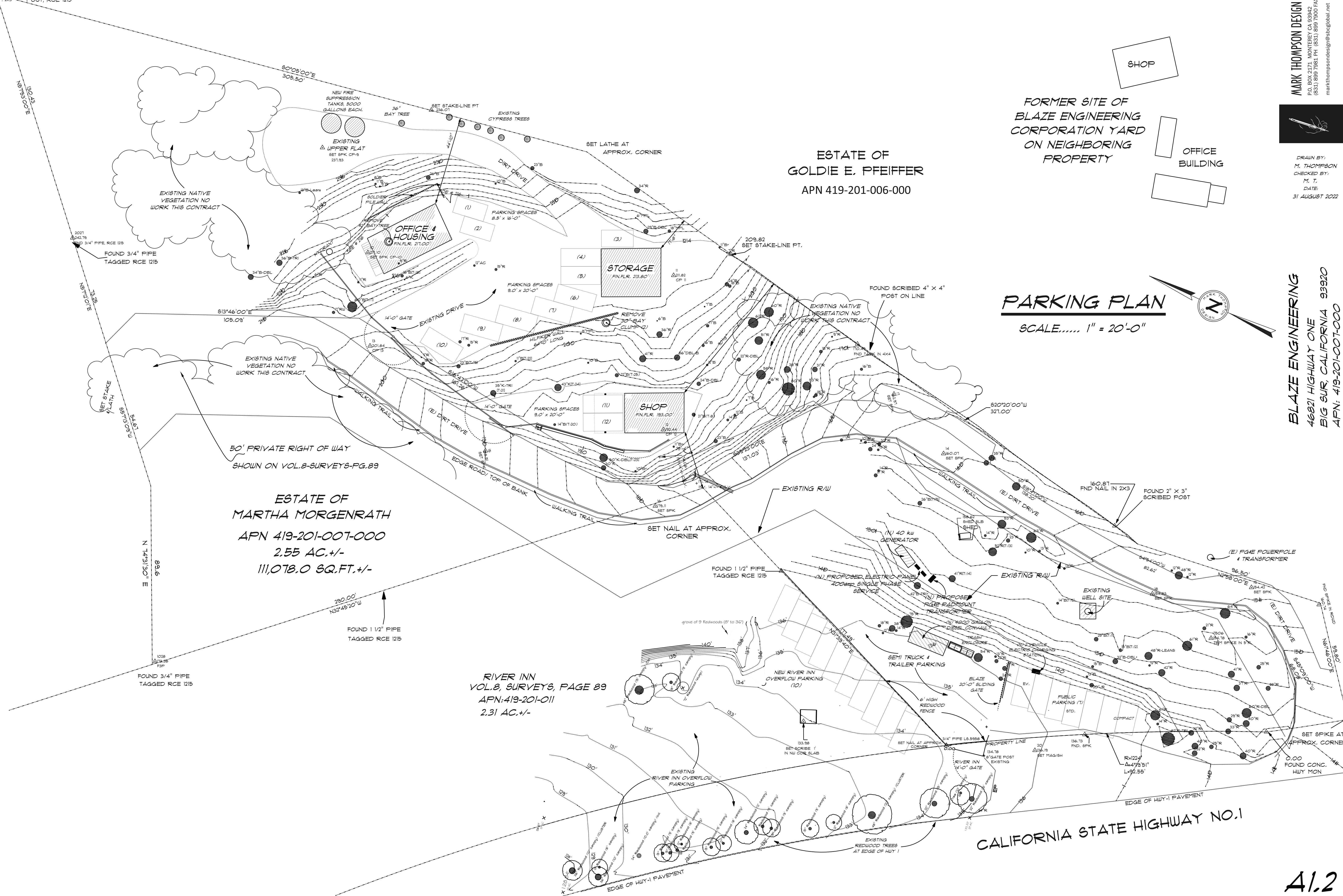


EXHIBIT G



BLAZE PARKING AREA

Big Sur River Inn

Big Sur River Inn

Geary Whiting's Equine Massage School

Big Sur River Inn General Store

The Village, Big Sur

Studio Two Twenty Two

Apple Pie Rdg

Apple Pie Rdg

er Creek



Source: Monterey County GIS Imagery

FIGURE 4.3 – AERIAL



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**BLAZE
PARKING AREA**

46840 CA-1



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**BLAZE
PARKING AREA**

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**BLAZE
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PARKING AREA**

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**BLAZE
PARKING AREA**

46840 CA-1



Figure 14. Aerial of Parking Lot (Left), View of Parking Lot from the South (Top Right), and View of Parking Lot from the North (Bottom Right)

The existing vegetation and topography of the site is such that staking and flagging of the office, shop, and storage areas could not be seen from SR1. Due to its proximity to SR1, the silo has potential to be seen from the roadway. However, views would be obscured from the existing vegetation. Trees proposed for removal would not expose the proposed structures to views from SR1. Therefore, impacts to scenic resources and the scenic character of the area have been identified to be less than significant based on the siting of the structures, vegetation, and topography.

Although the parking area is currently being utilized for parking of Blaze Engineering's equipment and overflow parking for the River Inn Motel, implementation of the project would result in more frequent use by Blaze. Unlike the operation on the former Blaze site, this project does not provide parking for large construction vehicles on the upper portion of the Morgenrath property. This increase in parking was a noted concern during the Big Sur Land Use Advisory Committee meeting (LUAC, Reference 18). A member of the public stated that they support the project but suggested equipment, trucks, and structures be shielded from view. The applicant has agreed to include additional screening and proposes to install a 6 foot high redwood fence on the western portion of the property along SR1. This fence has been incorporated into the project design as demonstrated on the Site Plan page A1.1 of Reference 1 and **Figure 1**. The proposed Redwood fence is consistent with the rural character of Big Sur and fencing guidelines contained in the CHMP; visual impacts from SR1 have been reduced to less than significant by project design.



Verizon

9:36 AM



© 2023 Google



**APPLE PIE RIDGE
ROAD ENTRANCE
OFF HIGHWAY 1**

46840 CA-1

CA-1

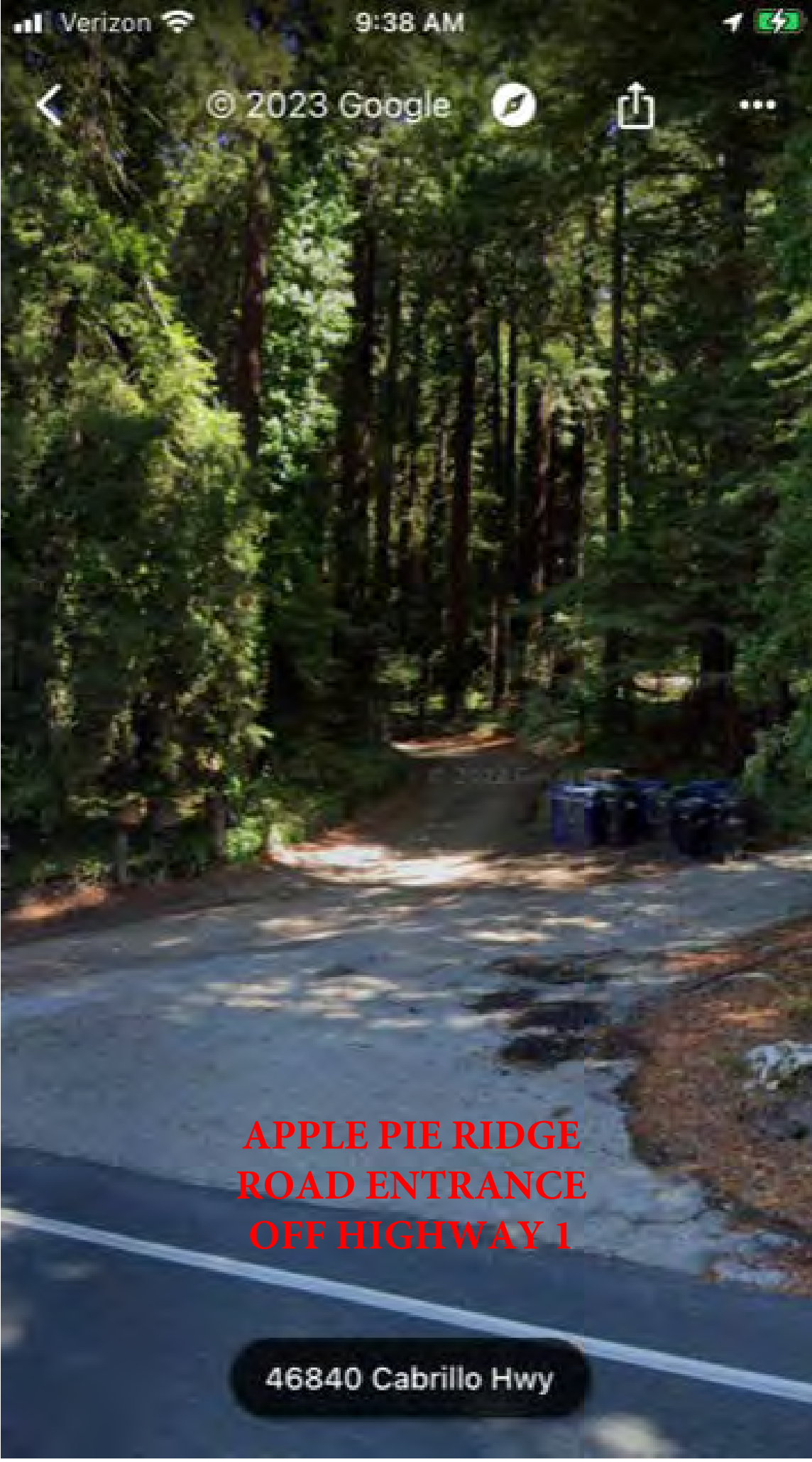


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**APPLE PIE RIDGE
ROAD ENTRANCE
OFF HIGHWAY 1**

46840 Cabrillo Hwy



**APPLE PIE RIDGE
ROAD ENTRANCE
OFF HIGHWAY 1**

46840 Cabrillo Hwy

From: [Larry Silver](#)
To: [Jensen, Fiona](#)
Cc: [Kemp, Christine](#)
Subject: Sierra Club letter In Opposition to Blaze Engineering Project
Date: Tuesday, January 3, 2023 1:37:29 PM
Attachments: [Sierra Club 1-3-23 Letter \(PLN160851\) \(01705390xE4B5B\).pdf](#)

[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe.]

Dear Ms Jensen: Please forward to the LUAC. Please acknowledge receipt of this letter



CALIFORNIA ENVIRONMENTAL LAW PROJECT

LAURENS H. SILVER ESQ.

JANUARY 2, 2023

RE: Morgenrath (Blaze Engineering) PLN 160851, 46821 Hwy1, Big Sur

Big Sur Land Use Advisory Commission and Monterey County Planning
c/o Fiona Jensen, Associate Planner, E Mail: Jensen F1@co.monterey.us
Monterey County Housing and Community Development
1441 Schilling Place, 2nd Floor
Salinas, California 93901

On behalf of the Ventana Chapter of the Sierra Club, with 8000 members in Santa Cruz and Monterey Counties, I am writing this letter in opposition to this project, and urge that the Big Sur LUAC recommend that the proposed project be denied. This project involves the establishment on an undeveloped parcel of a commercial business operation (including a new office building, workshop, storage unit, and onsite storage of equipment, trucks, diesel fuel, cement, and related development on a 2.55- acre parcel in Big Sur Valley). According to its website, Blaze Engineering has the following products available: concrete mix, cement, drain rock, base rock, sand, pea gravel, asphalt, landscaping soils, as well as electrical and plumbing supplies. Blaze has for sale freshly mixed concrete on site produced by its batch plant and provides other services, including grading, paving, water systems, electrical services, septic systems, retaining walls, excavation, plumbing services, hauling and loading, concrete delivery and pumping, house site grading and excavation, utilities trenching and installation, construction materials delivery, and entry gate installation (with telephone entry systems).

The site on which Blaze wishes to build this commercial contractor yard operation has a RCC land use designation under the Big Sur Land Use Plan, which specifies that uses in that designation are intended to serve the needs of residents and visitors to the Big Sur Coast. The Big Sur Land Use Plan identifies the activities appropriate in RCC parcels. These uses include Outdoor Recreation, Recreational, Visitor Serving Commercial and Public and Quasi Public classifications, which include visitor serving uses such as restaurants, grocery stores, arts and craft galleries, inns, hostels, service stations and campgrounds.

The Sierra Club agrees with Coastal Commission staff (see staff letter dated October 1, 2018) that "given the limited availability of land designated RCC in the Big Sur Area and the increasing number of visitors to Big Sur, we believe that RCC land designated land ideally should be reserved for essential/ priority visitor serving uses." While the Sierra Club appreciates that Blaze has provided assistance to the area in some emergencies, the Chapter does not believe it is a visiting serving entity, as its prime objective is not a visitor serving use within the meaning of the BSLUP. It primarily provides commercial services to existing residents and not to visitors. Thus, it is not serving visitors as a priority commercial use within the meaning of BSLUP 3.2.5.A.

In considering whether this project constitutes a priority use in this zone, it is pertinent as well to note that the Project involves the removal of a number (11) of native trees, including a protected redwood, and that the project borders on an area designated in the LUP maps as an Environmentally Sensitive Habitat Area. The Blaze Project would be an anomaly in this special designation under the BSLUP, and would stand out like a "sore thumb" relative to the hostels, restaurants, and small service facilities presently in the Big Sur area.

The Chapter agrees with CCC staff that this project is more properly considered a General Commercial Use that can be sited elsewhere, and not be built on RCC designated land simply because it is convenient for the applicant. LUP Policy 5.4.3.E directs new visiting serving commercial uses to RCC designated lands in Big Sur Valley. If this commercial contractor yard enterprise, which is predominantly non-visitor serving, is permitted in the RCC designated land, other visitor serving uses will likely be precluded.

The Chapter further agrees with the CCC staff analysis of the County's Implementation Plan, which states that uses such as contractor yards and storage facilities are not authorized as either a principal or conditional use in Visitor Serving Commercial zones. The CCC letter notes: "These uses are, however, explicitly identified as conditional uses in the County's General Commercial Zone districts."

The Sierra Club remains convinced that this project will have a damaging effect on the rare forest ecosystem and the Environmentally Sensitive Habitat Area present on the site. The California Coastal Act, section 30240, provides: "Environmentally Sensitive Habitat Areas shall be protected against any

significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas....Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade those areas and shall be compatible with those habitat and recreation areas.” Public Resources Code 30240(a) and (b). See *McAllister v California Coastal Commission*, 169 Cal. App. 4th 912, at 923. The Club believes it is blatantly inconsistent with the presence of ESHA on the site to allow removal of a substantial number of native trees (11), including an historic redwood, and to allow industrial and commercial uses that will significantly degrade the ESHA habitat on site. For this reason it is critical that this advisory body recommend denial of the Project permitting removal of the eleven native trees.

The Sierra Club is convinced there are other parcels in the Big Sur area that could accommodate this business that would not adversely affect the unique Coastal Zone natural resources that the Coastal Act was specifically enacted to protect from harm.

The Club is attaching to this letter two previous letters pertaining to Blaze Engineering submitted to the CCC with its Appeal in 2019.

Laurens H. Silver, Esq.

On behalf of the Ventana Chapter, Sierra Club

larrysilver@earthlink.net 415 515-5688

CALIFORNIA ENVIRONMENTAL LAW PROJECT
PO BOX 667, MILL VALLEY CA.
94942
LAURENS H. SILVER ESQ.
April 16, 2019

Supervisor John Phillips
Chairman
Monterey County Board of Supervisors
Fax: 831 796 3022
E-mail district2@co.monterey.ca.us

RE: Morgenrath (Blaze Engineering) PLN 160851----Appeal Before
Board of Supervisors

Dear Supervisor Phillips:

On behalf of the Ventana Chapter of the Sierra Club, with 8000 members in Santa Cruz and Monterey Counties, I am writing this letter in opposition to this project, and urge that the Board **grant the appeals pending before it that pertain to the approval of this project** by the Planning Commission in 2018. This project involves the establishment on an undeveloped parcel of a commercial business operation (including a new office building, workshop, storage unit, and onsite storage of equipment, trucks, diesel fuel, cement, and related development on a 2.55-acre parcel in Big Sur Valley. According to its website, Blaze Engineering has the following products available: concrete mix, cement, drain rock, base rock, sand, pea gravel, asphalt, landscaping soils, as well as electrical and plumbing supplies. Blaze has for sale freshly mixed concrete on site produced by its batch plant and provides other services, including grading, paving, water systems, electrical services, septic systems, retaining walls, excavation, plumbing services, hauling and loading, concrete delivery and pumping, house site grading and excavation, utilities trenching and installation, construction materials delivery, and entry gate installation (with telephone entry systems).

The site on which it wishes to build this commercial operation (which is moving from an adjacent site where its lease has been terminated by the owners of that site because of non compliance with certain lease terms that are pertinent to environmental protection at its former site), has a RCC land use designation under the Big Sur Land Use Plan, which specifies that uses in that designation are intended to serve the needs of residents and visitors to the Big Sur Coast. The Big Sur Land Use Plan identifies the activities appropriate in RCC parcels. These uses include Outdoor Recreation, Recreational, Visitor Serving Commercial and Public and Quasi Public classifications, which include visitor serving uses such as restaurants, grocery stores, arts and craft galleries, inns, hostels, service stations and campgrounds.

Sierra Club agrees with Coastal Commission staff (see staff letter dated October 1, 2018) that “given the limited availability of land designated RCC in the Big Sur Area and the increasing number of visitors to Big Sur, we believe that RCC land designated land ideally should be reserved for essential/ priority visitor serving uses.” While the Sierra Club appreciates that Blaze has provided assistance to the area in some emergencies, the Chapter does not believe it is a visiting serving entity as its prime objective is not a visitor serving use within the meaning of the BSLUP. It primarily provides commercial services to existing residents and not to visitors—as is indicated on its website. Thus, it is not serving visitors as a priority commercial use within the meaning of BSLUP 3.2.5A. In considering whether this project constitutes a priority use in this zone, it is pertinent as well to note that the project involves the removal of a number of trees, including a protected redwood, and that the project borders on an area designated in the LUP maps as an Environmentally Sensitive Habitat Area. The Blaze Project would be an anomaly in this special designation under the BSLUP, and would stand out like a “sore thumb” relative to the hostels, restaurants, and small service facilities presently in the area.

The Chapter agrees with CCC staff that this project is more properly considered a General Commercial Use that can be sited elsewhere, and not be built on RCC designated land simply because it is convenient for the applicant to move to a parcel adjacent to where it previously conducted its operations. LUP Policy 5.4.3E directs new visiting serving commercial uses to RCC designated lands in Big Sur Valley. If this commercial enterprise, which is predominantly non-visitor serving, is permitted in the RCC designated land, other visitor serving uses will likely be precluded.

The Chapter further agrees with the CCC staff analysis of the County’s Implementation Plan, which states that uses such as contractor yards and storage facilities are not authorized as either a principal or conditional use in Visitor Serving Commercial zones. The CCC letter notes: “These uses are, however, explicitly identified as conditional uses in the County’s General Commercial Zone districts.”

Finally, the Chapter is concerned that this project will have significant impact on views from Highway One. This project involves the parking and staging of construction vehicles, trucks, and bulldozers within an existing parking area that is located within the critical view shed. The Chapter is not convinced that the construction of a perimeter fence along Highway One would constitute sufficient “screening”, especially in light of the policies of the BSLUP, which provides for vegetative screening where it is possible to soften the impact on the view shed.

For the above reasons, the Ventana Chapter urges the Board to **deny** approval of this Project and to **grant the appeal pending** before it next week.

Laurens H. Silver, Esq.
On behalf of the Ventana Chapter, Sierra Club

CALIFORNIA ENVIRONMENTAL LAW PROJECT
PO Box 667, Mill Valley, CA. 94942
LAURENS H. SILVER, ESQ

Dear Supervisor Phillips:
Monterey County Board of Supervisors
District2@co.monterey.ca.us
August 26, 2019

RE: Morgenrath (Blaze Engineering) PLN 160851
August 27, 2019 Appeal Before BO

On behalf of the Ventana Chapter of the Sierra Club, with 8000 members in Santa Cruz and Monterey Counties, I am writing this letter to reiterate its opposition to this project (please refer to our more detailed letter of April 16, 2019). We appreciate the time and effort made by the applicant and the County to resolve some of the environmental concerns, but the revisions do not satisfy the Club that this project will have anything but a damaging effect on the rare redwood forest ecosystem and the Environmentally Sensitive Habitat Area (ESHA) present on the site. We urge that the Board **grant the appeals pending before it that pertain to the approval of this project** by the Planning Commission in 2018.

Additionally, Sierra Club agrees with Coastal Commission staff (see staff letter dated October 1, 2018) that "given the limited availability of land designated RCC in the Big Sur Area and the increasing number of visitors to Big Sur, we believe that RCC land designated land ideally should be reserved for essential/ priority visitor serving uses."

The Chapter further agrees with the CCC staff analysis of the County's Implementation Plan, which states that uses such as contractor yards and storage facilities are not authorized as either a principal or conditional use in Visitor Serving Commercial zones.

We believe there are other parcels in the Big Sur area that could accommodate this business that would not adversely affect the unique Coastal Zone natural resources that the Coastal Act was specifically enacted to protect from harm.

For the above reasons, the Ventana Chapter urges the Board to **deny** approval of this Project and to **grant the pending appeal**.

Laurens H. Silver, Esq.
On behalf of the Ventana Chapter, Sierra Club
larrysilver@earthlink.net 415 515 5688

cc. [all supervisors]
cc. Clerk of the Board

From: [Matt Donaldson](#)
To: [Jensen, Fiona](#)
Cc: [Kemp, Christine](#)
Subject: Blaze Application PLN160851-AMD1 - Donaldson letter
Date: Tuesday, January 3, 2023 1:41:46 PM
Attachments: [Donaldson Objection 2022 BSLUAC.pdf](#)



[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe.]

Dear Ms. Jensen,

I have attached a letter I've written in opposition to the Blaze Application PLN160851-AMD1. Will you please forward it to the Big Sur LUAC for their consideration as part of their January 10, 2023 review of this project. Please confirm receipt and that you will transmit the letter to the LUAC.

Thank You!

Matt Donaldson

661-294-8422

matt@craterindustries.com

Matthew G. Donaldson
46821 Highway 1
Big Sur California, 93920

Monterey County Planning and Big Sur LUAC
c/o Fiona Jensen, Associate Planner
Monterey County Housing and Community Development (HCD)
1441 Schilling Place, 2nd Floor
Salinas CA 93901

Sent via E-Mail to JensenF1@co.monterey.ca.us

Re: Blaze Construction PLN 160851- AMD1

TO: The Big Sur LUAC members and attendees

DATE: 29 December 2022

SUBJECT: PLANNING APPLICATION NO. PLN160851-AMD1 (Morgenrath)

Dear Members:

For the record, my family and I are decedents of John and Florence Pfeiffer. Our family, through the generations, has maintained its home at the foot Apple Pie Ridge since it was originally built 100 years ago. As a family with deep roots in Big Sur we love and respect the land of this valley and will forever defend its natural beauty as did our forefathers. As a family we stand united in strong opposition to the proposed development of a construction yard along Highway One and up historical ApplePie Ridge.

I have written this in response to Blaze Engineering's application to develop a parcel on ApplePie Road. The proposed project adjoins our property on Pheneger Creek and creates a nuisance in direct conflict with its RCC zoning designation and the objectives of the Big Sur Land Use Plan. A Final Local Action Notice (FLAN) was issued for the original application but was withdrawn when it became apparent the Coastal Commission would strike that decision on appeal. The amendment to that application is the equivalent of putting lipstick on a pig to make it more appealing. It is not more appealing; it is just more. More intrusive, more invasive and more destructive to the sensitive environment of Big Sur.

The original application, in brief, seeks a development permit to allow the establishment of a commercial construction operation in a “visitor-serving” zoned district. In the amendment the applicant boldly attempts to impose it’s will on the community by stating in the introduction of its General Development Plan that its purpose **“is to establish the uses allowed on the property located at 46821 Highway One, Big Sur”**. It is not the applicant’s role to establish what is and is not allowed where zoning regulations are concerned. It is the role of duly appointed officials to whom that responsibility falls. It is their duty to protect the community from such audacity by upholding and enforcing the regulations as they are written. It is those officials that we now turn to for that protection.

The County’s preface to the description of the amended application states it to be “minor and trivial”. That is a gross misrepresentation. The addition of a second story onto a proposed office building is not trivial. Especially when it is intended to be an occupied space looking directly into the neighbor’s bedroom window a mere fifty feet away. This could hardly be considered a development that “adheres to a “good neighbor” policy, ensuring that noise or visual impacts do not affect the peace and tranquility of existing neighbors” as required by the Big Sur Land Use Policy. Ref. para 5.4.3.E.5.

The application goes on to propose the addition of universal electric vehicle charging stations. This isn’t just a bad idea, it’s lunacy. Malfunctions are bound to occur in the transfer of high voltage electricity between charging stations and vehicles, that is a fact. These malfunctions can and do result in fires. Simply put; charging stations = malfunctions = fires! A fire in this location, with above ground fuel storage and hazardous waste, is a recipe for disaster. Why would we risk it? To entice the coastal commission? It’s lunacy!

There are just too many things wrong with this project and no amount of lipstick is going to hide them. Notwithstanding it’s environmental impact, it is hazardous, it’s an eyesore and it’s not beneficial to the visiting public as intended by the County and the State. I implore this committee and all concerned to look hard at this project. Look at the photographs of its former location. See for yourselves the devastation it has brought and will bring again if allowed. This project does more harm than good, benefiting a few at the expense of many. Please, do the right thing for Big Sur and vote against this unbecoming development.

Sincerely,
Matthew G. Donaldson













Friedrich, Michele

From: Israel, Mary
Sent: Monday, January 9, 2023 8:24 AM
To: Friedrich, Michele
Cc: Jensen, Fiona
Subject: FW: PLANNING APPLICATION NO. PLN160851-AMD1 (Morgenrath)
Attachments: BIG SUR LETTER.pdf



Hello Michele,
Please share the attached correspondence with the Big Sur LUAC – if it has not already gone to them? The date of the letter is Jan 1 but this is the first that I'm seeing it.

Thank you,
Mary

Mary Israel
Supervising Planner
County of Monterey - Housing and Community Development
1441 Schilling Place, South Building, 2nd Floor
Salinas, California 93901
Direct phone extension: (831) 755-5183
[Website & Accela Public Portal](#)

From: anthony crane <crane.anthony@gmail.com>
Sent: Friday, January 6, 2023 4:14 PM
To: Israel, Mary <IsraelM@co.monterey.ca.us>
Subject: PLANNING APPLICATION NO. PLN160851-AMD1 (Morgenrath)

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Please find attached my letter of objection to this matter.

Thanks.

--
anthony crane

Anthony J. Crane
46845 Highway 1
Big Sur California, 93920

Monterey County Planning and Big Sur LUAC
c/o Fionna Jensen, Associate Planner
Monterey County Housing and Community Development (HCD)
1441 Schilling Place, 2nd Floor
Salinas CA 93901

Re: Blaze Construction PLN 160851- AMD1

TO: The Big Sur LUAC members and attendees

DATE: 1 January 2023

SUBJECT: PLANNING APPLICATION NO. PLN160851-AMD1 (Morgenrath)

Dear Members:

My name is Anthony Crane and I have owned my house and property on “Apple Pie Ridge” since 1998. I am writing to protest against the proposed development at the base of our ridge.

I personally know and have known many of the owners/employees at Blaze Engineering; they’re fine people and they have done much work for me and for many of us on the ridge and obviously throughout Big Sur. I also know and appreciate their history in Big Sur. This being said, there is absolutely no place for that kind of development at the bottom of Apple Pie Ridge.

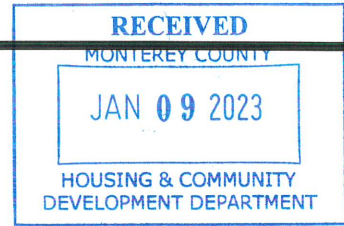
I’m certain I don’t have to tell the members what a uniquely beautiful and environmentally sensitive place Big Sur is, but this issue goes beyond those facts. Apple Pie Ridge is our home, a residential area. The development being proposed by Blaze completely goes against this and would greatly affect the quality of life for all Apple Pie residents, not to mention the entire area in and around The Village Shoppes and The River Inn. There has to be a better, alternative location more ideally suited for an industrial complex of this kind.

Thanks for your consideration of my objections regarding this matter.

Best Regards,

Anthony Crane

Friedrich, Michele



From: Perez, Kimberly <kperez@nheh.com>
Sent: Monday, January 9, 2023 2:43 PM
To: Jensen, Fionna
Cc: Kemp, Christine
Subject: Big Sur LUAC Meeting 1/10/23
Attachments: Donaldson Powerpoint - LUAC 1-10-23 Meeting (01708670-3xE4B5B).PPTX

[CAUTION: This email originated from outside of the County. Do not click links or open attachments unless you recognize the sender and know the content is safe.]

Good afternoon Ms. Jensen,

Attached please find a PowerPoint that will be presented by Christine Kemp on behalf of Matt Donaldson at tomorrow's Big Sur LUAC meeting in regards to agenda item #2. Please forward this PowerPoint to the LUAC members and upload with tomorrow's agenda.

Thank you, Ms. Jensen.

Sincerely,

Kimberly Perez
 Legal Assistant to Christine Kemp
NOLAND, HAMERLY, ETIENNE & HOSS
 A Professional Corporation
 333 Salinas Street
 P.O. Box 2510
 Salinas, CA 93902
 (831) 424-1414 ext. 223
 (831) 424-1975 (fax)
kperez@nheh.com
www.nheh.com

Serving the Central Coast Since 1928

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**BLAZE CONSTRUCTION
DONALDSON OPPOSITION**

January 10, 2023
Big Sur LUAC Meeting

The Project should be denied because:

- Initial application is under litigation
- Addition of ADU and EV charging station only exacerbates existing issues
- Contractors yard inconsistent with Big Sur Land Use Plan and Coastal Act
- Contractors yard inconsistent with County Zoning
- Contractors yard in the middle of a redwood forest/Environmentally Sensitive Habitat Area (ESHA)
- Parking Plan infeasible
- Terrible past record of property stewardship
- Illegal grading on current site
- Alternative location should be found if community wants Blaze in Big Sur



Figure 1. Large coast redwood trees will potentially be adversely impacted by grading activities and frequent heavy truck and equipment traffic.



Figure 2. This redwood habitat area has already been altered and disturbed by the existing dirt road and other nearby activities, and will experience significant additional disturbance from proposed construction activities and frequent traffic from large and heavy trucks and equipment.



Figure 5. Another view of ESHA redwood habitat that will be further disturbed and impacted by proposed property development activities.



Figure 6. View up existing dirt road towards proposed office building and equipment maintenance building/workshop, as well as a few other support buildings.



Figure 7. Looking down road from area where office and maintenance buildings are planned to be constructed.



Figure 8. Location of proposed office building will require the removal of a few trees.



Figure 9. Blaze Engineering apparently cut in this non-permitted road just below the Donaldson's cabin, which resulted in several large roots being cut and damaged on the upper cut slope. This area is located just above the proposed office building.



Figure 10. Steep and narrow road leading to location of proposed storage building. Adjacent trees have and will continue be adversely affected by grading activities and site disturbance.

Mr. Thompson's report states: *“In summary, the proposed construction and development project involves significant environmental impacts to large and majestic redwood trees and environmentally sensitive redwood habitat from proposed grading and construction associated with road improvements and the construction of a new office building, workshop, storage unit, cement silo and other supporting infrastructure. Additionally, there will be significant environmental concerns from the long-term impacts to trees and habitat from frequent and regular daily traffic of heavy trucks and equipment through this sensitive redwood habitat area. These impacts to the critical root zone of nearby redwood trees and ESHA habitat, as well as concerns associated with storm water runoff, erosion & sedimentation control, hazardous materials, containment & disposal, and wildland fire safety have not been adequately addressed and evaluated.”*

This parking area includes:

North of the Gate

- Semi-truck and trailer parking
- 4,000 gallon diesel tank
- Trash enclosures
- 54 inch redwood tree and smaller trees all north of the new fencing and gate

South of the Gate

- Parking, which is already used by the public and/or area employees
- EV charging station

New Redwood Fence

- Cuts off existing South entrance from Highway 1 to the East side River Inn units



River Inn Valero

Big Sur River Inn

Big Sur River Inn

Gaary Whiting's Equine Massage School

Big Sur River Inn General Store

BLAZE PARKING AREA

Apple Pie Rdg

The Village, Big Sur

Studio Two Twenty Two

Apple Pie Rdg

ar Creek



Source: Monterey County GIS Imagery

FIGURE 4.3 – AERIAL



**BLAZE
PARKING AREA**

46840 CA-1



**BLAZE
PARKING AREA**

46840 CA-1



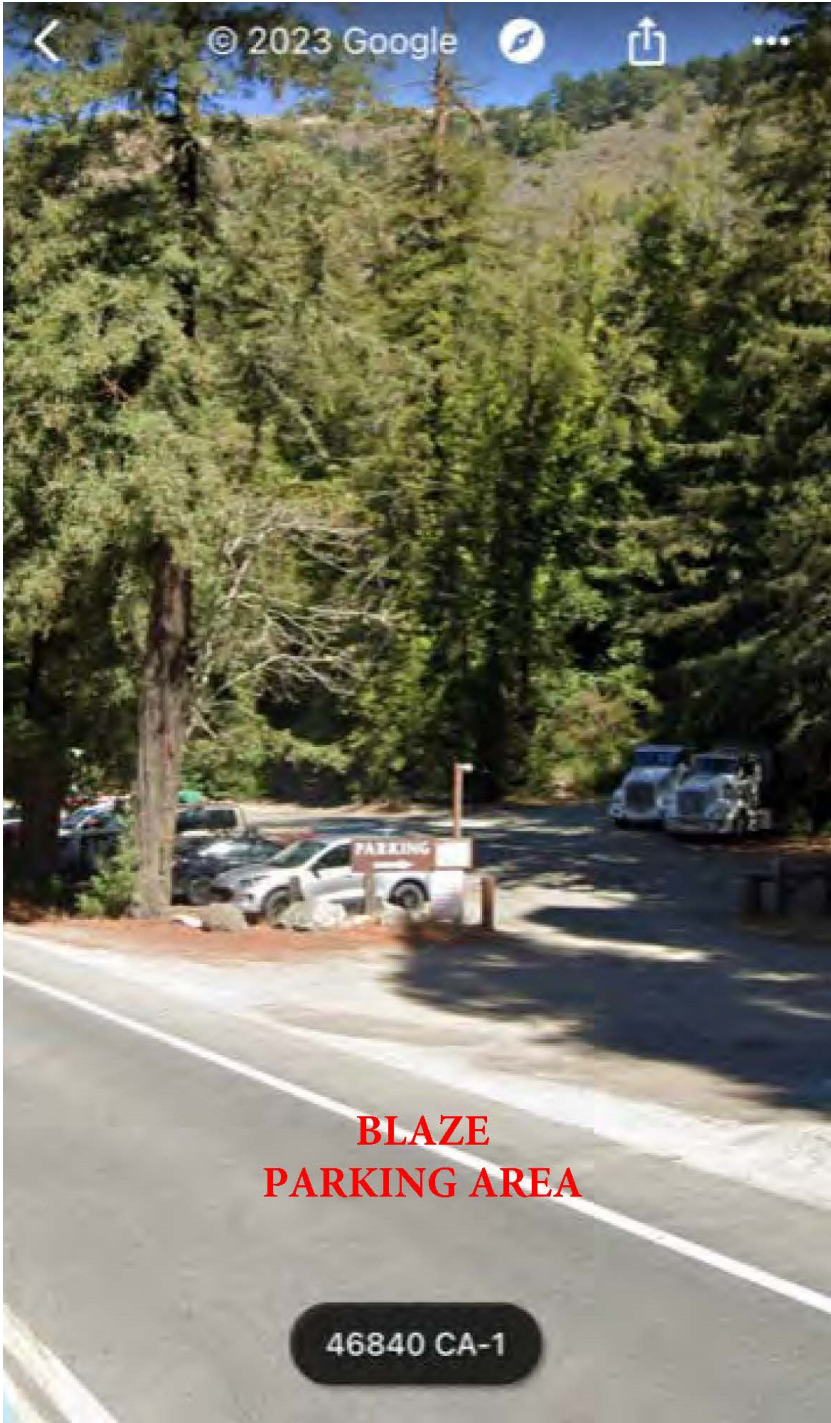
**BLAZE
PARKING AREA**

46840 CA-1



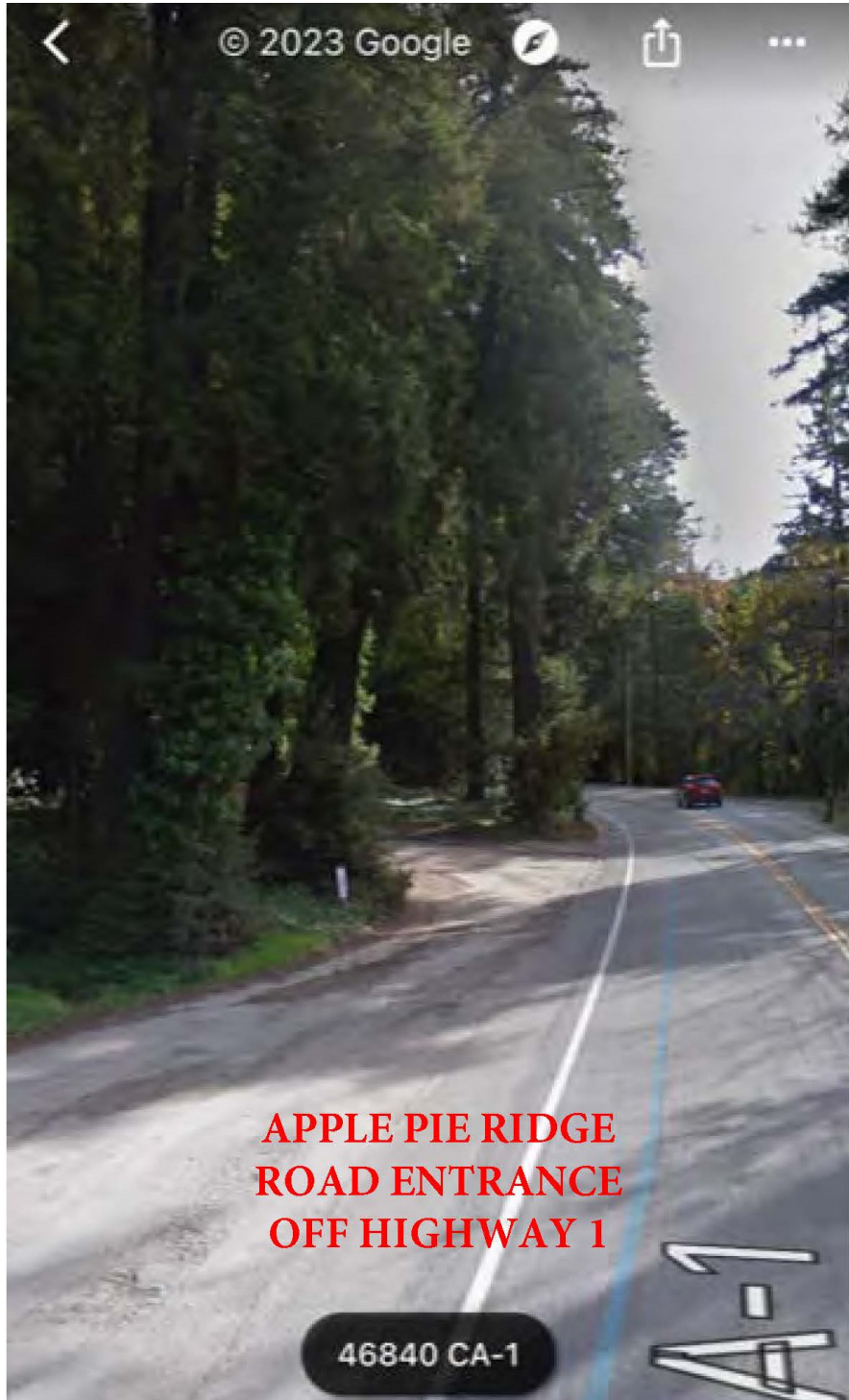
**BLAZE
PARKING AREA**

46840 CA-1



**BLAZE
PARKING AREA**

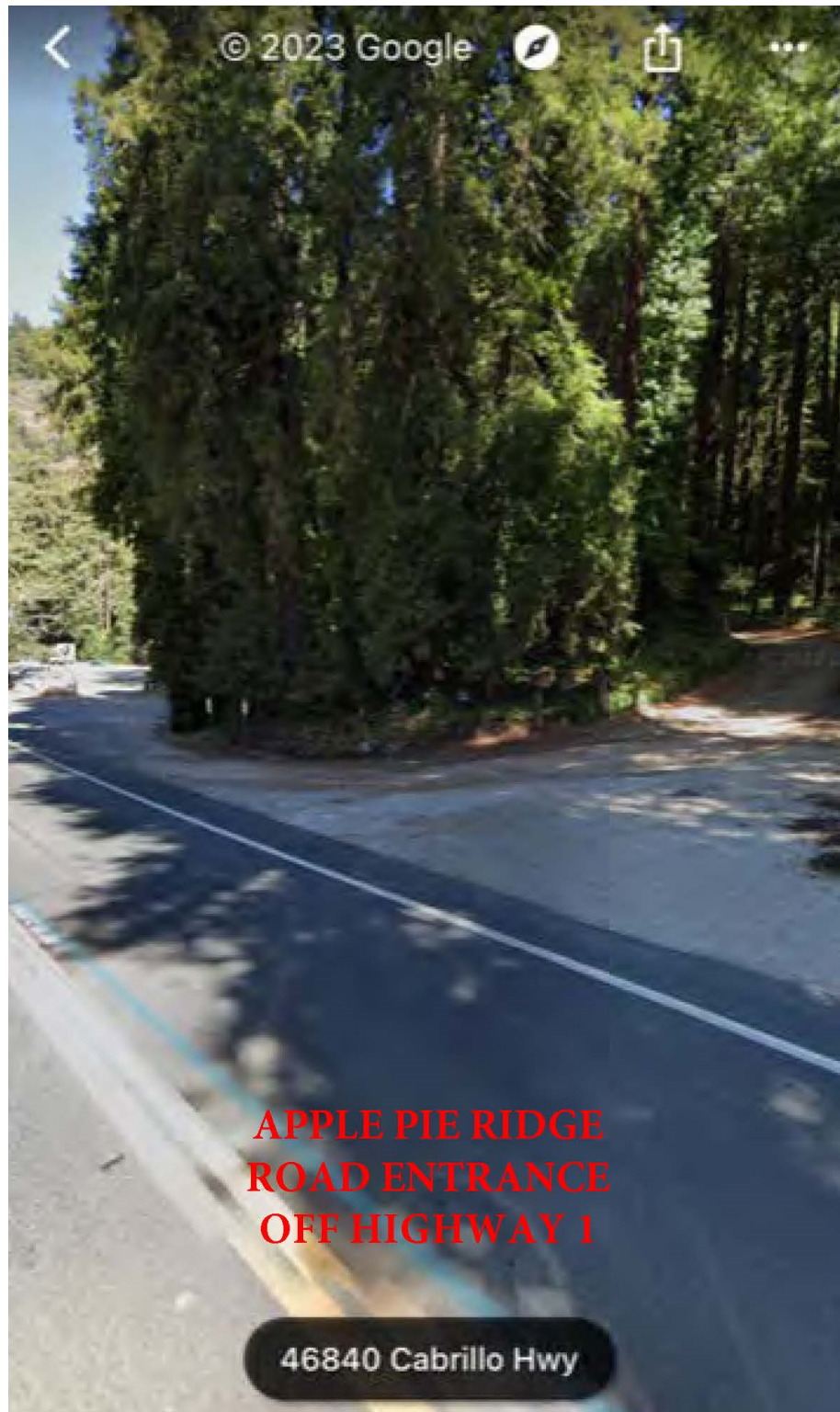
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**APPLE PIE RIDGE
ROAD ENTRANCE
OFF HIGHWAY 1**

46840 CA-1

A-1



**APPLE PIE RIDGE
ROAD ENTRANCE
OFF HIGHWAY 1**

46840 Cabrillo Hwy



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**APPLE PIE RIDGE
ROAD ENTRANCE
OFF HIGHWAY 1**

46840 Cabrillo Hwy



Figure 14. Aerial of Parking Lot (Left), View of Parking Lot from the South (Top Right), and View of Parking Lot from the North (Bottom Right)

The existing vegetation and topography of the site is such that staking and flagging of the office, shop, and storage areas could not be seen from SR1. Due to its proximity to SR1, the silo has potential to be seen from the roadway. However, views would be obscured from the existing vegetation. Trees proposed for removal would not expose the proposed structures to views from SR1. Therefore, impacts to scenic resources and the scenic character of the area have been identified to be less than significant based on the siting of the structures, vegetation, and topography.

Although the parking area is currently being utilized for parking of Blaze Engineering's equipment and overflow parking for the River Inn Motel, implementation of the project would result in more frequent use by Blaze. Unlike the operation on the former Blaze site, this project does not provide parking for large construction vehicles on the upper portion of the Morgenrath property. This increase in parking was a noted concern during the Big Sur Land Use Advisory Committee meeting (LUAC, Reference 18). A member of the public stated that they support the project but suggested equipment, trucks, and structures be shielded from view. The applicant has agreed to include additional screening and proposes to install a 6 foot high redwood fence on the western portion of the property along SR1. This fence has been incorporated into the project design as demonstrated on the Site Plan page A1.1 of Reference 1 and **Figure 1**. The proposed Redwood fence is consistent with the rural character of Big Sur and fencing guidelines contained in the CHMP; visual impacts from SR1 have been reduced to less than significant by project design.













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