

MONTEREY COUNTY

HOUSING AND COMMUNITY DEVELOPMENT

Erik V. Lundquist, AICP, Director



HOUSING, PLANNING, BUILDING, ENGINEERING, ENVIRONMENTAL SERVICES

1441 Schilling Place, South 2nd Floor
Salinas, California 93901-4527

(831)755-5025
www.co.monterey.ca.us

MEMORANDUM

Date: September 18, 2023

To: Monterey County Board of Supervisors

From: Fionna Jensen, Senior Planner
Ph.: (831) 796-6407; Email: JensenF1@co.monterey.ca.us

Subject: Morgenrath (Blaze Engineering) (PLN160851-AMD1) – Item No. 17
Corrected Board Report, Draft Resolution, and Conditions of Approval.

cc: cc: Front Counter Copy; Clerk of the Board, California Coastal Commission; Fionna Jensen, Project Planner; Craig Spencer, HCD Chief of Planning ; Aengus L Jeffers, Agent; Morgenrath Martha J TR ET AL, Applicant/Owner; Matt and Carol Donaldson, Appellants; Christine Kemp, Appellant representative; The Ventana Chapter - Sierra Club (c/o Larry Silver), Appellant; LandWatch (Executive Director); Lozeau Drury LLP (Laborers International Union of North America); Project File PLN160851-AMD1.

SUMMARY:

The attached Board Report, Draft Resolution, and Recommended Conditions of Approval for PLN160851-AMD1 (Morgenrath) have been updated to correct the project's agenda description, clarify the request before the Board, and reflect the September 12, 2023 Board of Supervisors' hearing. All other September 12, 2023 Board Report attachments (Attachments A and C through J) remain the same.

Additionally, the applicant submitted evidence that they waived their right to a hearing within 49 working days after the appeal of the local action (Board of Supervisors Resolution No. 19-285) was filed with the Coastal Commission. This document is now incorporated into the Board Report as Attachment K, and is attached below.

ATTACHMENTS:

- September 19, 2023 Board Report
- Attachment B: Draft Resolution and Recommended Conditions of Approval
- Attachment K: Waiver of the 49-Working-Day Rule for an Appeal of a Local Government's Final Action on a Coastal Development Permit

Board of Supervisors
September 19, 2023 - Scheduled

..Title

PLN160851-AMD1 – MORGENRATH (BLAZE ENGINEERING)

Public hearing, continued from September 12, 2023 to:

- a. Consider the appeals of Matt & Carol Donaldson and The Ventana Chapter, Sierra Club from the Planning Commission's approval of an Amendment to a previously approved Combined Development Permit;
- b. Consider a previously adopted Mitigated Negative Declaration as revised by a supplemental Mitigated Negative Declaration (SCH No. 2018091005), pursuant to CEQA Guidelines section 15163;
- c. Consider an Amendment to an approved Combined Development Permit (PLN160851) to allow establishment of a commercial operation for a contractor's equipment storage and office facility and the construction of a 760 square foot office with a 760 square foot two-bedroom second story employee housing unit, 600 square foot workshop, 800 square foot storage building, and associated site improvements including formalizing six public parking spots, installing two electrical vehicle charging stations, and removal of 10 protected trees, on slopes in excess of 30 percent and within Environmentally Sensitive Habitat Areas; and
- d. Adopt a Mitigation Monitoring and Reporting Plan.

Project Location: 46821 Highway 1, Big Sur, Big Sur Coast Land Use Plan area (APN: 419-201-007-000)

Proposed CEQA action: Consider a previously adopted Mitigated Negative Declaration as revised by a Supplemental Mitigated Negative Declaration (SCH No. 2018091005), pursuant to CEQA Guidelines section 15163.

..Report

RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a resolution:

- 1) Denying the appeals of Matt & Carol Donaldson and The Ventana Chapter, Sierra Club from the Planning Commission's approval of an Amendment to a previously approved Combined Development Permit
- 2) Considering a previously adopted Mitigated Negative Declaration as revised by a supplemental Mitigated Negative Declaration (SCH No. 2018091005), pursuant to CEQA Guidelines section 15163;
- 3) Approving an Amendment to a previously approved Combined Development Permit (PLN160851; Board Resolution 19-285) consisting of:
 - a. Coastal Development Permit and General Development Plan to allow the establishment of a commercial business operation for a contractor's equipment storage and office facility;
 - b. Coastal Administrative Permit to convert a test well into a permanent well;
 - c. Coastal Administrative Permit and Design Approval to allow construction of a 760 square foot office with a two bedroom second story employee housing unit, a 600 square foot workshop and 300 square foot canopy, 800 square foot storage building and associated site improvements including formalizing six public parking spots and installing two electrical vehicle charging stations;

- d. Coastal Development Permit to allow development on slopes in excess of 30%;
 - e. Coastal Development Permit to allow development within 100 feet of ESHA; and
 - f. Coastal Development Permit to allow removal of 10 native trees; and
- 4) Adopting a Mitigation Monitoring and Reporting Plan.

The attached draft resolution includes findings, evidence, and draft conditions of approval for consideration (**Attachment B**).

PROJECT INFORMATION:

Property Owner: Morgenrath Martha J TR ET AL (Blaze Engineering)
Agent: Aengus L. Jeffers, Law Offices of Aengus L. Jeffers
APN: 419-201-007-000
Parcel Size: 2.55 acres
Zoning: Visitor Serving Commercial, Design Control, Coastal Zone or “VSC(CZ)”
Plan Area: Big Sur Coast Land Use Plan
Flagged and Staked: Yes

PROJECT SUMMARY:

The Morgenrath property is a 2.55-acre vacant parcel on the eastern side of Highway 1. Access is through an existing driveway off Highway 1, Apple Pie Ridge Road, that traverses through the property and provides access to nearby parcels.

The proposed Amendment (PLN160851-AMD1) revises the scope of work (Combined Development Permit PLN160851) previously approved by the Monterey County Planning Commission on November 14, 2018, and the Board of Supervisors on August 27, 2019 (Board of Supervisors Resolution No. 19-285; **Attachment H**). On August 27, 2019, the Board of Supervisors denied the appeal and adopted a Mitigated Negative Declaration (SCH No. 2020029094) for the project at that time. The Board of Supervisors’ decision on the Combined Development Permit was appealed to the Coastal Commission. Prior to the Coastal Commission taking action on the appeal, the applicant notified Coastal Commission staff that revisions to the previously proposed project were being made to address the appeal contentions. To process the modifications, the applicant seeks the granting of an Amendment to the approved Combined Development Permit. More detailed background on the project is provided in the attached Discussion (**Attachment A**).

The proposed Amendment (PLN160851-AMD1) includes construction of a second-story 760 square foot employee housing unit over the office, installs two public universal electric vehicle charging stations, re-routes the pedestrian trail along Apple Pie Ridge Road, reduces public parking along Highway 1 by one stall, and eliminates the on-site sale of products (concrete, rock, sand, plumbing, and landscape supplies) from the business operation plan. All other project components remain the same: construction of a 760 square foot office, 600 square foot workshop with a 300 square foot canopy, 800 square foot storage building, development within 100 feet of Environmentally Sensitive Habitat Area, removal of 10 protected trees, and site improvements including installation of an on-site wastewater treatment system, conversion of a test well to a permanent domestic well, and placement of a 40-watt generator, 4,000 square foot diesel storage tank, and two 5,000 gallon water tanks. Associated grading consists of 293 cubic yards of cut

and 478 cubic yards of fill. Primary activities on the site will be for administrative support, storage, maintenance, and housing of at least two employees. Based on the services Blaze provides, intensive construction activities will continue to occur off-site on their various client's properties.

On June 14, 2023, the Planning Commission considered the previously adopted Mitigated Negative Declaration as revised to reflect the proposed project changes, found the proposed Amendment did not require subsequent environmental review pursuant to CEQA Guidelines section 15162, and adopted an Amendment to the previously approved Combined Development Permit (Planning Commission Resolution No. 23-020; **Attachment E**).

The appellants, Matt and Carol Donaldson (represented by Christine Kemp) and the Ventana Club, Sierra Club, timely appealed the Planning Commission's June 14, 2023, decision approving the Amendment (**Attachment C**). The Appellants contend that the Planning Commission's findings are not supported by the evidence, the decision is contrary to law, and that the hearing was unfair or impartial. The specific contentions raised by the Appellants, all of which staff have concluded lack merit, are identified below, and are addressed in more detail in the Draft Resolution (**Attachment B**).

On September 12, 2023, the Board of Supervisors voted 5-0 to continue the hearing to September 19, 2023, to allow time for staff to correct this project's agenda description and clarify the request before the Board, which is to consider the appeals, the previous environmental document as revised, and the proposed Amendment to a previously approved project. The appellants' submitted written correspondence agreeing to continue the hearing to September 19, 2023, and authorizing an extension of the requirement to consider and render a decision on the appeal within 60 days (Title 20 section 20.86.070.C).

This hearing is de novo. Staff recommends denial of the appeals and approval of the proposed permit Amendment. Staff has prepared a draft resolution to deny the appeals, certify that the previously adopted Mitigated Negative Declaration as revised by the Supplemental Mitigated Negative Declaration has been considered, and approve the Amendment to the Combined Development Permit.

APPEAL/DISCUSSION:

The appellants, Matt and Carol Donaldson (represented by Christine Kemp) and the Ventana Club, Sierra Club, filed separate appeals raising numerous contentions (**Attachment C**). Staff has summarized and grouped the contentions as follows:

- 1) "Inaccurate and misleading" project description and improper processing of an Amendment to previously approved project that has been appealed to the California Coastal Commission;
- 2) The project is not an allowed use in the Visitor Serving Commercial Zoning District, and is inconsistent with the applicable Big Sur Coast Land Use Plan, Coastal Implementation Plan, and Monterey County Code policies and regulations;
- 3) This project will cause a substantial disruption to the peace and tranquility of the neighbors, including the Donaldsons;

- 4) The project was not adequately staked and will create a significant visual impact to Highway 1;
- 5) The proposed development on slopes in excess of 30% and tree removal is in violation of the Big Sur Coast Land Use Plan and Coastal Implementation Plan;
- 6) The site is not suitable for the proposed project, will eliminate existing visitor serving parking, and create a fire hazard;
- 7) The project will be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood, as well as the general visitor-serving public;
- 8) The project applicant has engaged in unpermitted grading on the site, including roads and pads, causing damage to the site, and compromising the lateral support of the adjacent Donaldson property. No remediation has been done for this unpermitted grading;
- 9) The project will have a significant impact on environmentally sensitive habitat areas;
- 10) The project violates the California Environmental Quality Act (CEQA) and that an Environmental Impact Report is required for this project because there is substantial evidence, in light of the whole record before the County, that the project may have a significant effect on the environment [CEQA Guidelines section 15064 (a)(1)]; and
- 11) The Planning Commission's decision (Planning Commission Resolution No. 23-020) violates the Coastal Act, the Big Sur Land Use Plan, Title 20, and CEQA.

Staff's response is provided by relevant topic in more detail in **Attachment A**. Contention-specific responses are in Finding No. 12 of the draft Resolution (**Attachment B**). Almost identical contentions were made by Mrs. Kemp and considered and rejected by the Board of Supervisors in 2019 (Board of Supervisors Resolution No. 19-285; **Attachment H**).

In summary, staff has concluded that the project amendment, as proposed, is consistent with the applicable provisions of the 1982 Monterey County General Plan, Big Sur Coast Land Use Plan, Carmel Coastal Implementation Plan (Part 4), and Zoning Ordinance (Title 20). The Visitor Serving Commissioner zoning district allows other visitor-serving uses of a similar character, density, and intensity as those listed, provided the Planning Commission determines that the proposed use is consistent and compatible with the intent of the VSC Chapter and the BSC LUP. Based on the existing conditions of the area, the benefit the operation provides to the surrounding area, and consistent with the Big Sur Valley Rural Community Center (RCC) land use designation of the site (see discussion below), the Planning Commission found that the proposed project is allowed within the RCC designation and VSC zoning district (Resolution No. 23-020; **Attachment G**). The project minimizes development on slopes, ensure, long term habitat maintenance of environmentally sensitive habitat, and will not impact the Critical Viewshed. Finally, the Amendment has been processed in accordance with applicable Monterey County Code.

CEQA:

On August 27, 2019, the Monterey County Board of Supervisors adopted a Mitigated Negative Declaration ("2019 IS/MND") for the Blaze Engineering operation and associated development (SCH No. 2018091005), pursuant to Board of Supervisors Resolution No. 19-285 (**Attachment**

H). The adopted Mitigated Negative Declaration (SCH No. 2018091005; **Attachment D**) contemplated previously approved project's original scope of work ("Original Project"), which included the removal of 16 protected trees, the conversion of a test well into a permanent well, development on slopes, installation of an on-site wastewater treatment system, and approximately 440 cubic yards of cut and 620 cubic yards of fill. The 2019 IS/MND disclosed that the original project would have potential impacts to biological resources and tribal cultural resources caused by site disturbance and the establishment of new structures. Mitigation measures were recommended and adopted to reduce impacts to a less than significant level. Mitigation Measure Nos. 1 through 4 required biological monitoring, tree protection, and County approval of a final Construction Management Plan and Restoration and Fuel Management Plan. Implementation of these mitigations would reduce potential impacts to biological resources to a less than significant level. Mitigation Measure No. 5 required an approved tribal monitor to observe excavation for a portion of the driveway and septic tank.

The previously adopted mitigation measures are still feasible and adequate for the proposed Amendment. However, minor clarification and amplifications to the mitigation measures are needed to address new circumstances. The County as Lead Agency, through HCD-Planning, prepared a Supplemental Initial Study pursuant to CEQA Guidelines sections 15162 and 15163 (**Attachment E**). The Draft Supplemental Initial Study and Mitigated Negative Declaration (Supplemental IS/MND) was circulated for public review from April 17, 2023 through May 17, 2023 (SCH No. 2018091005). The Supplemental IS/MND reflects the minor project changes made during the 2019 Board of Supervisors hearings for PLN160851 (which did not trigger recirculation) and the proposed modifications to the previously approved project (PLN160851-AMD1). In comparison to analysis contained in the 2019 IS/MND, the Supplemental IS/MND disclosed and analyzed the reduction in ground disturbance and grading by over 2,000 square feet and 300 cubic yards and the number of trees required for removal by 6, and the construction of a 2-bedroom employee housing unit over a 760 square foot office, an 800 square foot storage building rather than 800 square feet of shipping containers, and the installation of two electric vehicle charging stations. The rest of the 2019 IS/MND analyzes parts of the project unaffected by the Amendment: relocation of the commercial business to the subject property, construction of a 600-square-foot workshop, conversion of a test well into a permanent well, development on slopes, development within environmentally sensitive habitat, and installation of an on-site wastewater treatment system.

The Supplemental IS/MND found that the proposed Amendment would result in less than significant new impacts to aesthetics and no new impacts to agricultural and forest resources, air quality, cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation and traffic, tribal cultural resources, and utilities and service systems. However, due to the presence of previously unidentified special status species, the Supplemental IS/MND found that the proposed amendment would result in less than significant new impacts to biological resources, provided new mitigation was incorporated.

Previously adopted Biological Mitigation Measure Nos. 1, 3 and 4 are still adequate for the project in its changed circumstance and have been applied to the project as Condition Nos. 16,

18, and 19. The language of Biological Mitigation Measure No. 2 was slightly revised and has been applied to the project as Condition No. 17. Tribal Cultural Recourse Mitigation Measure No. 5 is still adequate for the proposed project; however, minor revisions were made. This mitigation measure has been applied to the project as Condition No. 22. To reduce new potentially significant impacts to biological resources, the Supplemental IS/MND includes Biological Mitigation Measure Nos. 5 and 6, which require pre-construction surveys for the Coast range newt, Santa Lucia slender salamander, Foothill yellow-legged frogs, and Western bumble bee. These new mitigation measures have been applied as Condition Nos. 21 and 22, respectively. The applicant has agreed to adhere and implement the previously adopted mitigation measures (five), as revised, and the new mitigation measures (two), applied as Condition Nos. 16 through 22.

Staff received CEQA comment letters from the applicant's representative, Attorney Christine Kemp (representing the Donaldsons [neighbors]), and the Ventana Chapter of the Sierra Club (**Attachment F**). In response, the circulated Supplemental Initial Study/Mitigated Negative Declaration was revised on May 19, 2022 to reflect the accurate development square footage (2,458), employee count (12), and the 2019 IS/MND's traffic conclusion (no impact). The revisions do not create a new significant environmental impact; they merely clarify the IS/MND. Therefore, pursuant to CEQA Guidelines section 15073.5, recirculation of the revised supplemental initial study is not required. Ms. Kemp's letter raised concerns that the project would result in significant environmental impacts to the property's Redwood Forest and ESHA, violate County zoning law and the Coastal Act, intensify land use and environmental impacts including "night glare and height, bulk and mass," reduce the number of public parking spaces, and create a fire hazard through the EV charging station. Additionally, Ms. Kemp asserts that the project description is inaccurate and misleading, the baseline conditions are inaccurate, and that the project requires preparation of an Environmental Impact Report (EIR) to address its significant, adverse impacts. The Sierra Club contends that the proposed project is inconsistent with both the Big Sur Coast Land Use Plan and the purpose of the Rural Community Center and would significantly impact ESHA. The Sierra Club also requests that an EIR be prepared. In summary, no new substantial evidence has been submitted to the Lead Agency indicating either inaccuracies or that the proposed project may have a significant unavoidable effect on the environment. All disclosed potentially significant impacts have been mitigated to a less than significant level. Additionally, the Lead Agency has not been presented with a fair argument that the project may significantly impact the environment, and therefore an EIR is not warranted. A detailed response to Ms. Kemp's and the Sierra Club's contentions is provided in the Draft Resolution (**Attachment B**).

OTHER AGENCY INVOLVEMENT

The following agencies have reviewed the project, have comments, and have recommended conditions:

- Environmental Health Bureau
- Cal Fire – Coastal
- Office of the County Counsel

LAND USE ADVISORY COMMITTEE

Staff referred the Amendment to the Big Sur Land Use Advisory Committee (LUAC) for review on January 10, 2023. The LUAC reviewed the project and unanimously recommended approval

of the project as proposed (**Attachment I**). Two members of the public voiced support of the project, while one public member objected. The LUAC raised aesthetic concerns based on the visibility of the EV charging stations. As conditioned (Condition No. 4), the charging stations will blend in with the surrounding natural environment dominated by Redwood trees, be compatible with the rural community of the surrounding community center, and minimize and control illumination and visibility.

FINANCING:

Funding for staff time associated with this project is included in the FY2023-24 Adopted Budget within Community Development General Fund 001, Appropriation Unit HCD002, Unit 8543.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

This action represents effective and timely response to our HCD customers. Processing this application in accordance with all applicable policies and regulations also provides the County accountability for proper management of our land resources.

Check the related Board of Supervisors Strategic Initiatives:

- Administration
- Economic Development
- Health & Human Services
- Infrastructure
- Public Safety

Prepared by: Fionna Jensen, Senior Planner, x6407

Reviewed by: Lori Woodle, Finance Manager I

Reviewed and Approved by: Craig Spencer, Chief of Planning

Attachments:

Attachment A Discussion

Attachment B Draft Resolution, including:

- Conditions of Approval
- Draft General Development Plan
- Project Plans

Attachment C Appeals (Donaldson & Sierra Club)

Attachment D Adopted Mitigated Negative Declaration

Attachment E Draft Supplemental Mitigated Negative Declaration (Revised)

Attachment F CEQA Public Comment for Supplemental Environmental Document

Attachment G Planning Commission Resolution No. 23-020

Attachment H Board of Supervisors Resolution No. 19-285 for PLN160851

Attachment I Big Sur LUAC (January 10, 2023)

Attachment J Public Correspondence

Attachment K Coastal Commission Appeal Timeline Waiver

cc: Front Counter Copy; Clerk of the Board, California Coastal Commission; Fionna Jensen, Project Planner; Craig Spencer, HCD Chief of Planning ; Aengus L Jeffers, Agent; Morgenrath Martha J TR ET AL, Applicant/Owner; Matt and Carol Donaldson, Appellants; Christine Kemp, Appellant representative; The Ventana Chapter - Sierra Club (c/o Larry Silver), Appellant;

LandWatch (Executive Director); Lozeau Drury LLP (Laborers International Union of North America); Project File PLN160851-AMD1.

**ATTACHMENT B
DRAFT RESOLUTION**

**Before the Board of Supervisors in and for the
County of Monterey, State of California**

In the matter of the application of:

**Morgenrath Martha J TR ET AL (PLN160851-AMD1)
RESOLUTION NO. 23--**

Resolution by the County of Monterey Board of Supervisors:

- 1) Denying the appeals of Matt & Carol Donaldson and The Ventana Chapter, Sierra Club from the Planning Commission's approval of an Amendment to a previously approved Combined Development Permit;
- 2) Considering a previously adopted Mitigated Negative Declaration as revised by a Supplemental Mitigated Negative Declaration (SCH No. 2018091005), pursuant to CEQA Guidelines section 15163;
- 3) Approving an Amendment to a previously approved Combined Development Permit (PLN160851; Board Resolution No. 19-285) consisting of:
 - a. Coastal Development Permit and General Development Plan to allow the establishment of a commercial business operation for a contractor's equipment storage and office facility;
 - b. Coastal Administrative Permit to convert a test well into a permanent well;
 - c. Coastal Administrative Permit and Design Approval to allow construction of a 760 square foot office with a two-bedroom second story employee housing unit, a 600 square foot workshop and 300 square foot canopy, 800 square foot storage building and associated site improvements including formalizing six public parking spots and installing two electrical vehicle charging stations;
 - d. Coastal Development Permit to allow development on slopes in excess of 30%;
 - e. Coastal Development Permit to allow development within 100 feet of ESHA; and
 - f. Coastal Development Permit to allow removal of 10 native trees; and
- 4) Adopting a Mitigation Monitoring and Reporting Plan. [PLN160851, Morgenrath Martha J TR ET AL (Blaze Engineering), 46821 Highway 1, Big Sur, Big Sur Coast Land Use Plan (APN: 419-201-007-000)]

The Appeals by Matt & Carol Donaldson and The Ventana Chapter, Sierra Club from the decision by the County of Monterey Planning Commission approving the Morgenrath project (PLN160851-AMD1) came on for public hearing before the County of Monterey Board of Supervisors on September 12, 2023 and September 19, 2023. Having considered all the written and documentary evidence, the administrative record, the staff report, oral testimony, and other evidence presented, the Board of Supervisors finds and decides as follows:

FINDINGS

1. **FINDING:** **PROCESS** – The County has received and processed an amendment to PLN160851. The County has received and processed two appeals of the Planning Commission’s June 14, 2023 decision on PLN160851-AMD1.
- EVIDENCE:** a) On September 19, 2022, an application for an Amendment (PLN160851-AMD1) was submitted to HCD-Planning. This application was submitted in accordance with Monterey County Code (MCC) section 20.76.115.
- b) Background – Planning Commission. Prior to the application for an amendment on September 19, 2022, the original project was reviewed and considered by the Planning Commission and the Board of Supervisors. At the first hearing on October 31, 2018, staff recommended the Planning Commission continue a hearing to consider an application for a Combined Development Permit consisting of: 1) a Coastal Development Permit, Design Approval, and General Development Plan to allow the establishment of a commercial business operation including a 760 square foot office, a 600 square foot workshop, 800 square feet of storage containers, storage of construction equipment such as generators, cement silo, and diesel storage tanks, 2) a Coastal Development Permit to allow development on slopes in excess of 30%, 3) a Coastal Development Permit to allow removal of 16 protected trees, 4) a Coastal Development Permit to allow development within Environmentally Sensitive Habitat Area, and 5) a Coastal Administrative Permit to convert a test well into a permanent well. The continuance was requested on behalf of the applicant to allow time for staff and the applicant to resolve concerns raised by the California Coastal Commission. At the conclusion of the hearing, the Planning Commission continued the hearing to November 14, 2018.

On November 14, 2018, the Planning Commission considered the Combined Development Permit, as described above, and adoption of a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Plan. Public testimony included concerns that impacts from the operation of the business would negatively affect the environment, traffic, scenic views, and the tranquility of the surrounding neighborhood. After review of the application, all submitted documents, and public testimony, the Commission adopted a Mitigated Negative Declaration, approved a Combined Development Permit to allow the proposed development, and adopted a Mitigation Monitoring and

Reporting Plan (Monterey County Planning Commission Resolution No. 18-045).

- c) Background – Board of Supervisors Appeal. On November 30, 2018, Matt and Carol Donaldson (Christine Kemp, representing the Donaldsons) and Paul Smith, filed timely appeals of the November 14, 2018 decision of the Planning Commission, pursuant to Monterey County Code (“MCC”) section 20.86.030.A. The appeals contained identical contentions in most respects, primarily that the findings or decision or conditions were not supported by the evidence and that the decision was contrary to law. Appellants contend that the project would be inconsistent with Big Sur Coast Land Use Plan such as conflicts with the property’s Visitor Serving Commercial (VSC) zoning designation, inappropriate tree removal, visual impacts in the Critical Viewshed, development within environmentally sensitive habitat areas, and a CEQA violation.

During the May 21, 2019, Board of Supervisors hearing, the applicant presented potential project modifications. The Board accepted these changes and therefore adopted a resolution of intent to deny the appeals and approve the Combined Development Permit with the modified scope of work. Changes to the project included: removal of the bypass road from Highway 1 and cement silo, switching locations of the shop and storage, change from the use of storage containers to an 800 square foot storage building, a reduction in tree removal, striping/formalizing seven public parking spaces along Highway 1, and providing a pedestrian walking trail to access Highway 1.

On August 27, 2019, after considering the revised project, the Board of Supervisors voted 3-2 to deny the appeals of Matt & Carol Donaldson and Paul Smith, adopt a Mitigated Negative Declaration (SCH No. 2018091005), approve a Combined Development Permit consisting of: 1) a Coastal Development Permit, Design Approval, and General Development Plan to establish a commercial business operation including a 760 square foot office, a 600 square foot workshop with a 300 square foot canopy, 800 square foot storage building, storage of construction equipment such as generators and diesel storage tanks; 2) a Coastal Development Permit to allow development on slopes in excess of 30%; 3) a Coastal Development Permit to allow removal of 10 native trees; 4) a Coastal Development Permit to allow development within Environmentally Sensitive Habitat Areas; and 4) a Coastal Administrative Permit to convert a test well into a permanent well; and adopt a Mitigation Monitoring and Reporting Program (Board of Supervisors Resolution No. 19-285).

- d) Background – California Coastal Commission Appeal. On October 9, 2019, the County sent a Final Local Action Notice (FLAN) to the California Coastal Commission (CCC). Matt & Carol Donaldson and the Ventana Chapter Sierra Club appealed the Board of Supervisor’s decision to the California Coastal Commission on October 25, 2019 (Commission Appeal No. A-3-MCO-19-0205). Prior to the appeal being

scheduled, the Applicant notified the County and the Coastal Commission staff of their desire to modify certain portions of the project contested during the appeal. As a result, and in coordination with Coastal Commission staff, County staff withdrew the Final Local Action Notice on October 21, 2022. Withdrawal of the FLAN only affects the Coastal Commission appeal; it does not alter either the County's prior decision or the associated CEQA determination. Withdrawal of the FLAN simply means that the County is not requesting the Coastal Commission consider the local action "final" at this time (as consideration of modifications are pending). A new FLAN will be sent to the CCC reflecting the revised design if the County approves the revised project. Therefore, the Board of Supervisors' action to adopt the Mitigated Negative Declaration on August 27, 2019, remains final.

- e) Conditions of Approval. Resolution No. 19-285 (PLN160851) was subject to 32 conditions of approval (inclusive of 5 mitigation measures, applied as Condition Nos. 20-24). Two previously approved conditions of approval are in a "Met" or "On-Going" status (Condition No. 1 [Specific Uses Only] and Condition No. 30 [Fish & Game Neg. Dec. Fee]). Both conditions have been replaced in kind and applied to this Amendment as Condition Nos. 1 and 23. The remaining 30 previously approved conditions (Condition Nos. 2 – 29, 31 and 32) are in a "Not Met" status, however, only specific conditions that are still applicable have been carried forward to this Amendment. Condition Nos. 2 – 4 of the Original Permit have been incorporated into this Amendment as Condition Nos. 2 – 4 (Notice Permit Approval, Cultural Resources Negative Report, Tree Removal). Condition No. 5 (Landscape & Maintenance Plan) of the Original Project is no longer applicable, and therefore has not been carried forward. Condition Nos. 6 – 8 (Exterior Lighting, Migratory Bird Nesting, and Hazardous Materials) of the Original Project have been incorporated into this Amendment as Condition Nos. 6, 5, and 8, respectively. Condition Nos. 9 (Water System Deed Restriction/Declaration) is still applicable and has been incorporated as Condition No. 25. Condition Nos. 10 – 15, 18, and 19 (Erosion Control Plan, Geotechnical Certification, Grading Plan, Inspections by Environmental Services, Stormwater Management Plan and Stormwater Completion Certificate) are required by the Monterey County Code and therefore have not been carried forward. Condition Nos. 16 and 17 (Regional Development Impact Fee and Countywide Traffic Fee) of the Original Project have been applied to this Amendment as Condition Nos. 9 and 10. Condition Nos. 20 – 24 (Mitigation Measures Nos. 1 – 5) have been carried forward and incorporated into this Amendment as 16 – 19 and 22. Two new Mitigation Measures have been incorporated as Condition Nos. 20 and 21. Condition No. 25 (Caltrans Encroachment Permit) is no longer applicable, as no aspect of the Amendment is within the Caltrans Highway 1 right of way, however Condition No. 26 (Caltrans Review of Drainage Plan) is still applicable per Caltrans correspondence dated October 12, 2022 and has been incorporated into this Amendment as

Condition No. 24. Finally, Condition Nos. 27 – 29, 31, and 32 (Safety Barrier, Site Maintenance, Indemnification Agreement, Mitigation Monitoring Plan, and Conservation and Scenic Easement) are still applicable and have been carried forward and applied to this Amendment as Condition Nos. 11 – 15. All applied conditions of approval shall be satisfied under this Amendment.

- f) Land Use Advisory Committee. The previously proposed project (PLN160851) was referred to the Big Sur Coast Land Use Advisory Committee (LUAC) for review. The LUAC, at a duly-noticed public meeting at which all persons had the opportunity to be heard, reviewed the originally-proposed project on January 26, 2018, and recommended support of the project with changes. The LUAC suggested changes to incorporate landscape screening along Highway 1 and an erosion control plan. An erosion control plan will be required prior to issuance of the grading and/or building permits in accordance with MCC Chapter 16.12. Additionally, adequate screening of the proposed lower parking area currently exists, and the proposed property line fence and gate are consistent with Critical Viewshed design requirements set forth in the Big Sur Coast LUP and Big Sur Coast Highway Management Plan. Finally, although not recommended by the LUAC, the applicant also agreed to install a safety barrier along Apple Pie Ridge Road to address concerns from neighboring property owners.
- g) A revised application (PLN160851-AMD1) was submitted to modify the prior County approval (PLN160851), see Finding 2, Evidence “c”. The revisions are minor. However, site conditions have changed, and new impacts not addressed in the previous project may occur. Therefore, pursuant to MCC section 20.70.105, an Amendment is required to process the desired changes and the original hearing body (Planning Commission and Board on appeal) is the appropriate authority to consider the Amendment request.
- h) Land Use Advisory Committee. The Amendment was referred to the Big Sur Land Use Advisory Committee (LUAC) for review on January 10, 2023. Based on the LUAC Procedure guidelines adopted by the Monterey County Board of Supervisors, this application warranted referral to the LUAC because the project required additional environmental review. The LUAC reviewed the project and recommended approval of the project as proposed. Two members of the public voiced support of the project while one public member objected to the project. The LUAC raised concerns of visibility of the EV charging stations. Condition No. 7 requires the Applicant/Owner to install redwood siding around the metal bollard cover/exterior of the charging station, not impede its functionality, paint, or cover the logo/charging sign with an earth-toned color, and place a tinted film on the LCD screen. As conditioned, the charging stations would blend in with the surrounding natural environment dominated by Redwood trees, be compatible with the rural community of the surrounding community center, and minimize and control illumination and visibility.
- i) The Monterey County Planning Commission held a duly-noticed public hearing on the Morgenrath (Blaze Engineering) application amendment

on June 14, 2023, at which all persons had the opportunity to be heard. Notices for the Planning Commission public hearing were published in the *Monterey County Weekly* on June 1, 2023; posted on and near the project site on May 31, 2023; and mailed to vicinity property owners and interested parties on May 30, 2023.

- j) On June 14, 2023, after public testimony and staff presentation, the Planning Commission found the project consistent with the previously adopted Mitigated Negative Declaration, as revised by a supplemental Mitigated Negative Declaration, and approved an Amendment to a previously approved Combined Development Permit (Planning Commission Resolution No. 23-020).
- k) Matt and Carol Donaldson, represented by Christine Kemp, timely appealed the June 14, 2023 decision of the Planning Commission's environmental determination and approval of the Amendment. The appeal contends that there was an unfair or impartial hearing, the findings are not supported by the evidence, and that the decision is contrary to law. See Finding No. 12 for the text of Mrs. Kemps' contentions and the County response to the appeal.
- l) The Ventana Chapter, Sierra Club, also timely filed appealed the June 14, 2023 decision of the Planning Commission's environmental determination and approval of the Amendment to PLN160851. The appeal contends that there was an unfair or impartial hearing, the findings are not supported by the evidence, and that the decision is contrary to law. See Finding No. 12 for the text of the Sierra Clubs' contentions and the County response to the appeal.
- m) Pursuant to Monterey County Code (MCC) section 20.86.030.C and E, an appeal shall be filed with the Clerk of the Board of Supervisors within 10 days after written notice of the decision of the Appropriate Authority (i.e., Planning Commission Resolution No. 23-020) has been mailed to the Applicant, and no appeal shall be accepted until the notice of decision has been given (i.e., mailed). The County mailed the written notice of the decision on July 12, 2023, and the appeals were filed with the Clerk of the Board of Supervisors on July 24, 2023 and July 20, 2023, within the 10-day timeframe prescribed by MCC section 20.86.030.C. The 10th day of the appeal period ended on Saturday July 22, 2023, and therefore the last day to submit an appeal was Monday July 24, 2023. The appeal hearing is de novo. Complete copies of the appeals are on file with the Clerk of the Board, and are attached to the September 12 and 19, 2023 staff report to the Board of Supervisors as Attachment C.
- n) The appeals were timely brought to a duly-noticed public hearing before the Monterey County Board of Supervisors on September 12, 2023. Notice of the hearing was published on August 31, 2023, in the *Monterey County Weekly*; notices were mailed on August 29, 2023 to all property owners and occupants within 300 feet of the project site, and to persons who requested notice; and at least three (3) notices were posted at and near the project site on September 1, 2023. At the September 12, 2023 hearing, Board of Supervisors voted 5-0 to continue the item to September 19, 2023 to allow time for staff to correct the

project's agenda description and clarify for the record the request before the Board of Supervisor. The appellants and applicant agreed to extending the hearing to September 19, 2023.

- o) The findings and evidence from PLN160851 (Board of Supervisors Resolution No. 19-285) and PLN160851-AMD1 (Planning Commission Resolution No. 23-020) have been carried forward to this Resolution. Once approved, the proposed Amendment (PLN160851-AMD1) will be the operating entitlement for the subject property. Although this resolution complements Resolution No. 19-285, this Amendment modifies the original Coastal Development Permit (PLN160851) approval and represents a modified Coastal Development Permit for the project.
- p) The application, plans, and supporting materials submitted by the project applicant to County of Monterey HCD-Planning for the proposed development found in Project File Nos. PLN160851 and PLN160851-AMD1.

2. **FINDING:** **CONSISTENCY** – The Project, as conditioned, is consistent with the applicable plans and policies which designate this area as appropriate for development.

EVIDENCE: a) During review of this application, the project has been reviewed for consistency with the text, policies, and regulations in:

- the 1982 Monterey County General Plan;
- Big Sur Coast Land Use Plan (BSC LUP);
- Monterey County Coastal Implementation Plan, Part 3 (CIP);
- and
- Monterey County Zoning Ordinance (Title 20);

Staff received communications during its review of the project that argued that the project would be inconsistent with aspects of these documents. Comments were fully analyzed to ensure no issues remain and addressed where appropriate. The subject property is located within the Coastal Zone; therefore, the 2010 Monterey County General Plan does not apply.

- b) Project. The project involves establishment of a commercial business operation for Blaze Engineering, which previously operated out of an adjacent property (APN 419-201-006-000) between 1989 and 2017. As proposed, the Amendment includes the establishment of a commercial business operation, construction of a 760 square foot an office with a second story 2-bedroom on-site employee housing unit, a 600 square foot workshop for repair of equipment with a 300 square foot canopy, an 800 square foot storage building for storage of equipment and materials, establishment of 6 public parking spaces with two electrical vehicle charging stations, relocation of a generator and above ground diesel storage tanks, and placement of two 5,000-gallon water tanks. Blaze Engineering's operation provides services (grading, paving, installing water, septic, and electrical systems, and road building and repair) for local construction projects. Primary activities on the site will be for administrative support, storage, maintenance, and housing of at least two employees. Based on the services Blaze provides, intensive

construction activities will continue to occur off-site on their client's respective properties. No goods or products will be stored or sold onsite.

c) Allowed Uses. The 2.55-acre property is located at 46821 Highway 1, Big Sur, (APN: 419-201-007-000), Big Sur Coast Land Use Plan. The parcel is zoned Visitor Serving Commercial, Design Control, Coastal Zone or "VSC-D(CZ)". Accessory structures and conversion of test wells to domestic wells are principally allowed use in the VSC zoning district, subject to the granting of a Coastal Administrative Permit. As a conditional use, subject to the granting of a Coastal Development Permit, Monterey County Code (MCC) section 20.22.060.W, allows "Other visitor serving uses of a similar character, density, and intensity of those listed in this Section determined by the Planning Commission to be consistent and compatible with the intent of this Chapter and applicable land use plan." VSC zoning allows uses such as hotels and motels, restaurants, service stations, assemblages of people, zoos, and public and quasi-public uses. The project, as described in the preceding evidence, would have similar density and noise intensity as other uses allowed in the VSC zoning district. However, traffic, water use, and wastewater generated by the project would be less intensive than if a hotel, motel, restaurant, service station, etc. was established on the project. Blaze Engineering has historically provided contracting services to the community and visitor service facilities in Big Sur, especially on an on-call/emergency basis. Blaze Engineering provides a direct service to the visiting public through their capacity of providing service to visiting commercial services, facilities, and their patrons in the area. Although the proposed use is a not directly serving visitors, Blaze Engineering provides necessary services to residents, businesses, and the Big Sur area in general, including the repair and maintenance of roadways and Highway 1, which allows the travelling public to visit Big Sur and utilize the area's various amenities and visitor accommodations. The proposed use is consistent with the zoning district's purpose, which is to "service the needs of visitors and the traveling public to Monterey County" (also see Finding No. 2, Evidence "e"). The Amendment also supports nearby VSC uses, as it will result in additional parking spaces available for Big Sur River Inn employees, visitors of the Big Sur River Inn and surrounding businesses, and the public. The project includes providing 12 parking spaces for Blaze employees and Big Sur River Inn employees during weekends and holidays, and 6 public parking spaces adjacent to Highway 1. Two of the 6 public parking spaces will include universal electrical vehicle (EV) charging stations. These two charging stations will be the only publicly available EV charging stations between Carmel and Cambria that are not exclusive to a particular brand of vehicles. Based on the evidence contained in this, and subsequent findings, the Board of Supervisors finds that Blaze Engineering is a necessity to the Big Sur community and those who visit the coastline, the proposed use is consistent with the intent of the property's VSC zoning, and a compatible use for the subject property per the Big Sur Coast Land Use Plan.

- d) Amendment. The Amendment proposes construction of a second-story 760 square foot employee housing unit over the office, installation of two public universal electric vehicle charging stations, re-routing of the pedestrian trail along Apple Pie Ridge Road, reduced public parking along Highway 1 by one stall, and elimination of the on-site sale of products (concrete, rock, sand, plumbing, and landscape supplies) from the business operation plan. After further review of the previously approved seven public parking stalls adjacent to Highway 1, the biologist determined that an additional 20-inch Redwood would have to be removed to accommodate the seventh parking stall and associated grading for a retaining wall. Additionally, HCD-Engineering Services determined that the seventh parking stall did not meet County Parking Standards (9 feet by 19 feet) and therefore encouraged the applicant to reduce the proposed parking stalls to six. The seven-stall design was submitted to Caltrans for review. On October 12, 2022, Caltrans informed the County that they would not support the issuance of an encroachment permit to allow the seventh stall to be partially within Highway 1 Right-of-Way. Therefore, and as proposed, the 6 public parking stalls minimize tree removal, ground disturbance, and meet County and Caltrans standards. Additionally, this Amendment reduces the number of employees from 20 to 12. All other project components remain the same: construction of a 760 square foot office, 600 square foot workshop with a 300 square foot canopy, 800 square foot storage building, development within 100 feet of Environmentally Sensitive Habitat Area, removal of ten protected trees, and site improvements including installation of an on-site wastewater treatment system, conversion of a test well to a permanent domestic well, and placement of a 40-watt generator, 4,000 gallon diesel storage tank, and two 5,000 gallon water tanks.
- e) Rural Community Center. BSC LUP Chapter 5 establishes land use and development policies for the planning area. Pursuant to Policy 5.3.1.5, secondary conditional uses for recreational, visitor-serving commercial, and public quasi-public land uses include: administrative, management, and maintenance facilities for public agencies, and fire stations. The subject property is in the Big Sur Valley Rural Community Center (RCC) area. Policy 5.3.2 states that the RCC areas are intended to allow new and existing developments that provide a spectrum of functions for both the visiting public and for residents of the adjoining rural areas. Policy 5.4.3.E(1) and (6) require new commercial visitor serving uses to be in RCCs and “aimed at serving both local residents and the visiting public.” Consistent with BSC LUP “Commercial” land use policies, the proposed development is in an RCC, is rustic in nature, will serve both local residents and the visiting public, would relocate a use that operated on an adjacent property, would not affect the peace and tranquility of existing neighbors, parking would be screened from the public view and its design includes safety improvements, and would enhance recreational use of nearby lands by providing additional parking for employees, visitors, and the general public. In addition to the uses described in Finding 2, Evidence “b” (above), the establishment of the

operation on the subject property would allow Blaze Engineering to continue to provide heavy equipment, fuel, and labor to the Big Sur area on an emergency basis. Blaze Engineering has historically provided services to the Big Sur community during emergencies. For example, Blaze Engineering assisted in repairing and re-opening damaged public and private roads during the 1998 El Nino, 2008 Basin Complex Fire, 2013 Pfeiffer Ridge Fire, 2016 Soberanes Fire, and 2017 landslide events. The proposed project, as amended, is consistent with the Big Sur Coast Land Use Plan RCC policies, as it provides residents, visitors, and visitor-serving commercial facilities of Big Sur with maintenance and repair of infrastructure during emergencies.

- f) Site Development Standards. The project meets all required development standards. Pursuant to MCC section 20.22.070, the proposed General Development Plan shall establish the subject property's setback requirements. As proposed and detailed in the attached General Development Plan, the development will maintain a front setback of 46 feet, side setback of 70.75 feet and 17.7 feet (west and east, respectively), and a rear setback of 44.8 feet. The proposed development will not exceed the allowable height of 35 feet and is within the allowable site coverage (35%).
- g) Employee Housing. The proposed Amendment includes a 760 square foot two-bedroom one-bath employee housing unit. In accordance with BSC LUP Policy 5.4.3.C(9), the project's Employee Housing Plan (attached to the General Development Plan) meets the requirements of Big Sur CIP section 20.145.140.B(1). The proposed business operation, as amended through the granting of this Amendment, includes 12 full-time employees. Currently, only 25% of the existing employees live in the Big Sur area. Implementation of the proposed employee housing unit will allow at least two employees to reside on-site, increasing the business's percentage of employees who live in Big Sur to 41.6%.
- h) Visual Sensitivity and Design Control. The project allows development that will be visible from Highway 1. However, as demonstrated in Finding 6, the development is consistent with visual resource policies of the BSC LUP and CIP and design control regulations of Title 20.
- i) Tree Removal. The project allows for the removal of 10 protected trees. As demonstrated in Finding 8, the project is consistent with BSC LUP policies and CIP regulations for forest resources and no issues remain.
- j) Environmentally Sensitive Habitat Areas (ESHA). The project allows development within ESHA. As demonstrated in Findings 7, 8, and 10, the development, as sited, conditioned, and mitigated, is the least environmentally damaging alternative and is consistent with the ESHA protection policies of the BSC LUP and regulations of the CIP.
- k) Development on slopes in excess of 30%. The project includes grading and construction on slopes in excess of 30% which requires approval of a Coastal Development Permit pursuant to Big Sur Coastal Implementation Plan (CIP) section 20.145.140.A.4 and MCC section 20.64.230. As demonstrated in Finding 9 and supporting evidence, the Board of Supervisors approves the project consistent with the requirements in the CIP and Title 20.

- l) Public Access. As demonstrated in Finding 11, the development is consistent with public access policies of the BSC LUP. No issues remain.
- m) Public Comment. During review of this Amendment, staff received public comment letters from Matt and Carol Donaldson (neighbors), Christine Kemp of Noland Hamerly Etienne & Hoss (representing the Donaldsons), and the Ventana Chapter Sierra Club raising the following summarized concerns: 1) improper processing of the Amendment; 2) violation of County zoning law, the Big Sur Coast Land Use Plan, and the Coastal Act, including policies relating to the RCC, tree removal, and ESHA; 3) inadequate CEQA review; 4) insufficient public safety, including parking constraints, increased traffic, and the fire risk of electrical vehicle charging stations; 5) code violations; and 6) impacts to private and public viewsheds. The comments have been reviewed and responses to these comments are provided in this Resolution. Corresponding to the numbered items listed above, see responses contained in::

- 1. Finding No. 1, Evidence “d” and “g”.
- 2. Finding No. 2, Evidence “c” and “e”, and Finding Nos. 7 and 8, and supporting evidence.
- 3. Finding No. 10 and supporting evidence.
- 4. Finding No. 3, Evidence “d” and “e”, and Finding No. 4 and supporting evidence.
- 5. Finding No. 5 and supporting evidence.
- 6. Finding No. 3, Evidence “c”, and Finding No. 6 and supporting evidence.

All communications received during the review of this project have been considered, addressed, and resolved.

- n)
- o) Staff conducted a site inspection on January 6, 2023 to verify that the project on the subject property conforms to the plans listed above.
- p) The application, plans, and supporting materials submitted by the project applicant to County of Monterey HCD-Planning for the proposed development found in project file PLN160851 and PLN160851-AMD1.

- 3. **FINDING:** **SITE SUITABILITY** – The site is physically suitable for the use proposed.
- EVIDENCE:**
 - a) The project has been reviewed for site suitability by the following departments and agencies: HCD-Planning, Cal Fire – Coastal, HCD-Engineering Services, HCD-Environmental Services, and the Environmental Health Bureau. There has been no indication from these departments/agencies that the site is not suitable for the proposed development and recommended conditions have been incorporated.
 - b) Potential impacts to archaeological resources, tribal cultural resources, biological resources, soil/slope stability, and geological hazards were identified. The following reports have been prepared and submitted with the application:

- “Tree Resource Evaluation Project Impact Analysis”, dated October 6, 2017 and update dated June 19, 2019 (Monterey County Document No. LIB170437), prepared by Maureen Hamb-WCISA, Santa Cruz, CA.
- “Preliminary Archaeological Assessment”, dated February 17, 2018 (Monterey County Document No. LIB170438), prepared by Gary S. Breschini, Ph. D., Salinas, CA.
- “Biological Assessment”, dated October 23, 2017 (Monterey County Document No. LIB170439), prepared by Fred Ballerini, Pacific Grove, CA, and “Supplemental Biological Assessment” reports dated March 26, 2020 and September 6 2022.
- “Geotechnical Report”, dated February 2017, (Monterey County Document No. LIB170440), prepared by Grice Engineering, Inc., Salinas, CA.
- “Percolation Testing Results”, dated November 27, 2017 (Monterey County Document No. LIB170441), prepared by Haro, Kasunich and Associates, Inc., Watsonville, CA.
- “Geologic Report”, dated June 22, 1993 (Monterey County Document No. LIB170052), prepared by Karl Vonder Linden, Menlo Park, CA.
- “Traffic Memorandum (Trip Generation Estimation)”, dated November 21, 2022 (Monterey County Document No. LIB220362), prepared by Korinne Tarien and Joe Fernandez, Central Coast Transportation Consulting, Morro Bay, CA, as revised on April 6, 2023.

The above-mentioned technical reports prepared by outside consultants demonstrate that there are no physical or environmental constraints indicating the site is not suitable for the proposed use. County staff has independently reviewed these reports and concurs with their conclusions. See Finding No. 10 for further discussion of environmental impacts.

- c) Surrounding land uses consist of rural residential parcels to the north, northeast, and east of the subject property, which range in size between 2 and 60 acres. Nearby visitor serving commercial uses such as inns, campgrounds, service stations, and restaurants, are to the west and southwest of the subject property. BSC LUP Policy 5.4.3.E.1 prohibits large scale commercial facilities that are unlike the existing character and size of facilities in Big Sur and Policy 5.4.3.E.8 requires careful consideration of impacts resulting from newly established commercial uses on surrounding lands from a good neighbor point of view. Where commercial activities are in proximity to residences, care must be taken to ensure that noise or visual modification do not affect the peace and tranquility of existing neighbors. The proposed project is reduced in size and scope when compared to Blaze Engineering’s prior operations, which were conducted on the adjacent parcel (APN 419-201-006-000) between 1989 and 2017. As originally proposed, the property contains 2,458 square feet of development. The proposed Amendment would locate the higher noise intensity operations to the lower portions of the

site further away from nearby residences and sensitive receptors and result in providing a greater distance between the operations and existing residential structures than that of the former site.

- d) Traffic. The Project removes the ability for members of the public to purchase construction and landscaping aggregate such as concrete, rock, sand, and plumbing and landscape supplies. Additionally, this Amendment reduces the number of employees from 20 to 12, and consequently, the number of generated daily trips. Adequate employee parking will be provided in an area adjacent to the office and shop, while parking of Blaze's large construction equipment (trucks, trailers, dozers, etc.) would occur within the existing flat dirt parking area adjacent near Highway 1. No large construction equipment is anticipated to drive Apple Pie Ridge Road to access the proposed development, only employee vehicles and, infrequently, company fleet vehicles that need maintenance. Most larger equipment maintenance will be handled off-site.
- e) Trip Generation. The project specific Traffic Report (LIB220326), prepared by Central Coast Transportation Consulting dated November 21, 2022, and revised on April 6, 2023, analyzed an estimated trip generation from relocating a commercial business from an adjacent parcel, construction of a two-bedroom employee housing unit, and providing six public parking spaces, two of which contain EV charging stations. The office, workshop, and storage building (2,158 total square feet) will generate approximately 31 daily trips per day, with 4 being in the AM peak hour and 5 in the PM peak hour. However, the anticipated 31 daily trips are expected to already be worked into traffic volume of Highway 1, as the business operation already existed on the neighboring parcel. The proposed two-story employee housing unit will generate approximately 10 daily trips, with 1 trip in the AM peak hour and 1 trip in the PM peak hour. This is a conservative estimate, as it assumes the employee housing unit would be operating as a standard single-family dwelling. As employee housing, the occupants would reside and work on the Morgenrath property, thereby reducing most of the estimated 10 daily trips. Additionally, the International Transportation Engineer (ITE) land use category used to calculate daily trips to and from single family dwellings does not consider either location or proximity to goods and services. As such, given how rural and remote much of Big Sur is, the 10 daily trips assumed for the proposed employee housing is a conservative overestimate. The EV charging stations are assumed to generate 18 daily trips, with 4 trips in the AM and PM peak hours. ITE trip generation data for gas stations show that 42 percent of trips are 'pass-by' trips from vehicles already on the roadway network. Central Coast Transportation Consulting presumes that the pass-by trips for the proposed EV chargers would be higher than gas stations at this location given the relatively remote location and slow charge rates. A pass-by reduction was not applied to the estimated 18 daily trips of the EV chargers and is therefore assumed to be a conservative overestimate. In accordance with the Office of Planning and Research guidance, the proposed project will generate or attract fewer than 110 trips per day

and is therefore assumed to result in a less than significant transportation impact. Additionally, since the project involves relocation of an existing business from one property to the subject property and no expansion of business operations is proposed, the estimated 31 daily trips associated with the business are assumed to already exist on Highway 1 and local road networks. The proposed employee housing unit and EV chargers will be the only aspects of the Amendment that generate new daily trips.

- f) The Amendment would retain use of an existing road for ingress and egress to the property. The Department of Transportation (Caltrans) has reviewed the project for consistency with their roadway improvement regulations for safety, construction, and maintenance.
- g) Staff conducted site inspections on January 6, 2023 to verify that the site is suitable for this use.
- h) The application, plans, and supporting materials submitted by the project applicant to County of Monterey HCD-Planning for the proposed development found in project file PLN160851 and PLN160851-AMD1.

4. **FINDING:** **HEALTH AND SAFETY** – The establishment, maintenance, or operation of the use or structure applied for, will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use; or be detrimental or injurious to property and improvements in the neighborhood; or to the general welfare of the County.

- EVIDENCE:**
- a) The project was reviewed by HCD-Planning, Cal Fire – Coastal, HCD-Engineering Services, HCD-Environmental Services, and the Environmental Health Bureau. The respective agencies have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood.
 - b) Necessary public facilities will be provided. The Environmental Health Bureau found that domestic water service would be provided through the conversion of a test well (approved by Planning File No. PLN170051, Resolution No. 17-006) into a permanent well and wastewater service would be provided by an onsite wastewater treatment system. Environmental Health Bureau staff has reviewed the Onsite Wastewater Treatment System plans, prepared by Grice Engineering, and determined that they meet County Local Agency Management Program standards.
 - c) The project has been reviewed by HCD-Environmental Services for consistency with County health and safety codes for grading (Monterey County Code section 16.08) and erosion control (Monterey County Code section 16.12). No issues were identified, and no conditions of approval have been incorporated.
 - d) An existing road right of way, Apple Pie Ridge Road, traverses through the subject property and terminates on an adjacent property to the north (Assessor’s Parcel Number 419-201-010-000). During the Big Sur

LUAC meeting for the previously approved project, a member of the public identified concerns with the project's introduction of additional vehicular-pedestrian interface as school children in the area walk on the road to get to and from school. To address these concerns, the applicant modified their plans to include an informal walking path. The previously approved project included a walking path which paralleled a portion of Apple Pie Ridge Road and then traversed downslope near the river Inn parking area. The Amendment re-routes the walking path so that it terminates near the proposed six public parking stalls along Highway 1. The proposed walking path route minimizes slope and ESHA disturbance by taking advantage of the existing grade and route of Apple Pie Ridge Road.

- e) The project was reviewed by the Environmental Health Bureau (EHB) for consistency with Monterey County Code Chapters 10.65 (Hazardous Materials Registration) and 10.67 (Hazardous Materials Emergency Response). EHB identified that Blaze Engineering is currently permitted as a hazardous waste generator for their above-ground diesel storage tank (Facility ID No. FA0813374) and has conditioned the project requiring the applicant to obtain a Hazardous Materials Management Services update (Condition No. 8).
- f) Cal Fire – Coastal reviewed the proposed Amendment including the proposed electrical vehicle charging stations and raised no concerns. The proposed charging stations will be required to meet current building and fire codes and would not significantly increase the property's fire risk. As determined in the 2019 Mitigated Negative Declaration, implementation of the proposed Landscape and Fuel Management Plan and building the project in accordance with Monterey County Code would reduce the project's risk of loss, injury, or death relative to wildland fires to a less than significant level.
- g) Staff conducted site inspections on January 6, 2023 to verify that the site is suitable for this use.
- h) The application, plans, and supporting materials submitted by the project applicant to County of Monterey HCD-Planning for the proposed development found in project files PLN160851 and PLN160851-AMD1.

5. **FINDING:** **NO VIOLATIONS** – The subject property complies with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of the County's zoning ordinance. No violations exist on the property.

- EVIDENCE:**
- a) Staff reviewed County of Monterey HCD - Planning and Building Services Department records and violations existing on subject property have been abated and Code Enforcement cases have been closed.
 - b) Staff conducted site inspections on January 6, 2023. County records were researched to assess if any violation exists on the subject property. There are no known violations on the subject parcel.
 - c) The application, plans, and supporting materials submitted by the project applicant to County of Monterey HCD-Planning for the

proposed development found in project file PLN160851 and PLN160851-AMD1.

6. **FINDING:** **VISUAL SENSITIVITY** – The project, as proposed and conditioned, is compatible with the existing scenic and visual resources of Big Sur and is consistent with the applicable scenic and visual resource protection policies set forth in the Big Sur Coast Land Use Plan (BSC LUP), the Monterey County Coastal Implementation Plan, Part 3 (CIP), and Monterey County Code.
- EVIDENCE:**
- a) Visual Sensitivity Determination. Key Policy 3.2.1 of the BSC LUP prohibits development visible from the “Critical Viewshed”, which is defined in Section 3.2.2.1 as: “everything within sight of Highway 1 and major public viewing areas including turnouts, beaches and the following specific locations Soberanes Point, Garrapata Beach, Abalone Cove Vista Point, Bixby Creek Turnout, Hurricane Point Overlook, upper Sycamore Canyon Road (Highway 1 to Pais Road), Pfeiffer Beach/Cooper Beach, and specific views from Old Coast Road as defined by policy 3.8.4.4. ” However, BSCLUP Policy 3.2.5.A and CIP section 20.145.030.B1 provides an exception to the Critical Viewshed requirements for development located within a Rural Community Center which provide essential services to the community and visiting public. As demonstrated in Finding 2, Evidence “e”, the subject property is within the Big Sur Valley RCC and is therefore excepted from Critical Viewshed policies.
 - b) Design Development Standards. Although the project is exempt from Critical Viewshed policies, BSCLUP Policy 3.2.5.A states that development in RCCs shall be permitted under careful design and siting controls as provided for in specific policies listed in BSC LUP 5.4.3 and regulations contained in Title 20. BSCLUP Policy 5.4.3.L(1) – (8) provide specific development policies for the Big Sur Valley. Relative to aesthetics, Policy 5.4.3.L.4 requires developments to incorporate tasteful, rustic designs using natural materials and careful siting of structures to meet scenic protection objectives; rather than the criteria of non-visibility, as existing development is already visible. Pursuant to MCC section 20.44.010, the purpose of the Design Control or “D” district is to regulate the location, size, configuration, materials, and colors of structures where design review is appropriate to assure protection of the public viewshed and/or neighborhood character. On January 6, 2023, staff conducted a site visit to observe the project staking and determine consistency with the visual resource policies and regulations. Staking of the office, storage containers, and workshop could not be seen from Highway 1. The proposed tree removal will not result in exposing these structures to views from Highway 1. The existing parking area on the lower portion of the subject property is currently being utilized for parking by both Blaze Engineering and the River Inn Motel. Project implementation will result in this parking area being used more frequently by Blaze Engineering’s large construction vehicles (e.g. trucks, trailers, dozers). The Amendment retains the proposed Redwood fence and gate around the lower parking area. This

screening was recommended by the public and the Big Sur LUAC for the previously approved project to screen the construction vehicles from views from Highway 1. Section 3.2.5.C.2. of the BSC LUP and 20.145.030.B.3.b of the CIP requires design of private highway improvements, such as driveway entrances, gates, roadside fences, mailboxes, and signs, to be complementary to the rural setting and character of Big Sur, with preference for natural materials. The proposed fencing is consistent with the design guidelines for development adjacent to and along Highway 1, as detailed in the 2004 “Big Sur Coast Highway Management Plan”. Additionally, as illustrated in the attached General Development Plan, vegetation will be planted around the fence and gate to provide additional screening from Highway 1 views. Consistent with these standards, the structures and improvements to the lower parking area have been sited and designed to be subordinate to the existing character of the area.

- c) Exterior Lighting. The project includes establishment of new structures that require exterior lighting. Blaze Engineering’s approved General Development Plan states that lighting is limited to the entrances and exits of the employee housing unit/office and workshop and are proposed to have recessed lighting elements where the light source would not be visible from the Highway 1. Additionally, and as required by Condition No. 6, the exterior lights will be unobtrusive, down-lit, compatible with the local area, and constructed or located so that only the intended area is illuminated, and off-site glare is fully controlled.
- d) A non-standard condition of approval (Condition No. 12) has been incorporated ensuring construction material and associated debris (such as concrete mix, sand, supplies, scrap metals and materials, and similar items) are stored within the approved storage building and not visible onsite (uncovered) resulting in a visual nuisance.
- e) The application, plans, and supporting materials submitted by the project applicant to County of Monterey HCD-Planning for the proposed development found in project file PLN160851 and PLN160851-AMD1.

7. **FINDING:** **ENVIRONMENTALLY SENSITIVE HABITAT AREAS** – The project minimizes impacts on environmentally sensitive habitat areas (ESHA) in accordance with the applicable goals and policies of the 1982 Monterey County General Plan; Big Sur Coast Land Use Plan (BSC LUP); Monterey County Coastal Implementation Plan, Part 3 (CIP); and the Monterey County Zoning Ordinance (Title 20).

EVIDENCE: a) Monterey County Geographic Information System (GIS) and the Big Sur Coastal Implementation Plan Environmentally Sensitive Habitat Areas (ESHA) maps indicate that the Morgenrath property has the potential to contain rare, endangered, or sensitive plant habitats. Policy 3.3.1 of the Big Sur Land Use Plan (BSC LUP) and section 20.145.040 of the Coastal Implementation Plan (CIP) require the preservation of environmentally sensitive habitats through the implementation of development standards that maintain, restore, and if possible, enhance ESHA. In accordance with CIP section 20.145.040, a biological survey

was submitted with the previously approved project to identify ESHA on the property and determine if the project would have the potential to result in an impact to that ESHA. Two supplemental biologist assessments dated March 26, 2020 and September 6, 2022 have been prepared to address changes in conditions given the 7-year span in processing of the original application and the proposed Amendment.

- b) The project Biologist notes the Morgenrath property lies entirely within a Redwood Forest natural community dominated by coast redwood (*Sequoia sempervirens*) and co-dominated by California bay (*Umbellularia California*). Tanoak, Coast live oak, and Shreve oak were also found onsite, but in limited amounts. The property's California bay laurel and Coast live oak forest mid-story canopy likely meets the membership rules of the "California bay forest and woodland", which is also ranked by the State as a vulnerable habitat, and therefore is considered ESHA. Very little native understory plants, such as sword fern, thimbleberry, Douglas' iris, redwood sorrel, California hedgenettle, and poison oak, were found onsite as non-native invasive species including English ivy and French broom dominate the understory and are found climbing up the trunks of many on-site trees. English ivy is classified by the California Invasive Plant Council (Cal-IPC) as having high-level adverse impacts on native ecosystems. English ivy is also listed by the California Department of Fish & Wildlife as an invasive species that should be avoided and not planted as it is noted to outcompete and shade native understory vegetation, prevent sapling germination, displace wildlife, and kill overstory trees by dominating the canopy cover. Italian thistle, veldt grass, French broom and sticky eupatorium are all listed by the Cal-IPC as invasive species that adversely impact native plant communities and are also found throughout the site in disturbed soil locations.
- c) The second supplemental biology report noted that the project site has the potential to provide habitat for the Coast range newt, which is considered a species of Special Concern by the California Department of Fish & Wildlife (CDFW). The Pheneger Creek drainage corridor south of the parcel may provide favorable conditions for the species to persist and potential habitat exists on the site within the piles of wood debris and logs that are scattered along the parcel. Additionally, although the Santa Lucia slender salamander is listed in the California Natural Diversity Database as a species with no legal or regulatory status, the species also likely persists on site due to favorable moist habitat conditions. Consultation with CDFW occurred in March 2023. CDFW identified Foothill yellow-legged frogs (FYLF), Western bumble bees, and raptors, as being species of concern for the Proposed Project. Foothill yellow-legged frogs are listed as State threaten or endangered species under the California Environmental Species Act. Based on review of CDFW's Biogeographic Information and Observation System mapping system, FYLF have been documented at the Big Sur River which is roughly 0.2 miles from the Project site, and therefore have the potential to occur within the vicinity of the project and/or nearby Pheneger Creek. As of September 30, 2022, the Western

Bumble Bee (WBB) is a candidate species under the California Endangered Species Act and as such, receives the same legal protection afforded to an endangered or threatened species. The Project Biologist confirmed via phone on April 5, 2023, that the WBB has the potential to occupy the site given the project site's litter debris and dead logs. Implementation of 2019 IS/MND Mitigation Measures BIO-1, 3, and 4, and revised/new Mitigation Measures BIO-2, 5 and 6, the project would have a less than significant impact on sensitive natural communities and/or candidate, sensitive or special status species. See Finding No. 10, Evidence "n" and "o".

- d) BSC LUP and CIP ESHA policies and regulations consider development proposals on property's containing ESHA to be compatible with the long term maintenance of the resource if: 1) site improvements and vegetation removal were restricted to only the amount needed for reasonable development, thereby reducing ESHA impacts to the greatest extent feasible and 2) the proposal incorporates necessary site planning and design features which protect the habitat and do not set a precedent for continued land development with the potential to degrade the resource. As proposed, the Amendment reduces areas of disturbance, minimizes impacts to ESHA, and maximizes restoration efforts to ensure the long-term maintenance of the site.
- e) Pursuant to CIP section 20.145.040.B(4), the proposed Amendment modifies the previously approved project's grading requirements and minimizes disturbance to biological resources to the maximum extent feasible by limiting grading to only that needed for the structural improvements and utilizing existing disturbed areas such as roadways, building pads, and an existing parking area. However, complete avoidance of ESHA is not feasible. Hence, the project biologist recommended minimization actions that would mitigate potential impacts on special natural communities to a level of less than significant. Consistent with BSC LUP Policy 3.3.2.7, these actions also include protection and restoration measures to enhance ESHA and provide for long-term land management and exotic species control. The preliminary Construction Management Plan and Conceptual Restoration & Fuel Management Plan includes measures consistent with the recommended actions (exotic species control, best management practices, thinning of invasive plants, and site restoration). To ensure proper implementation, these recommendations have been incorporated as mitigation measures that require submittal of a final Construction Management Plan and Restoration & Fuel Management Plan to HCD-Planning for review and approval. Additionally, consistent with BSC LUP Policy 3.3.2.7, Condition No. 27 requires that the Applicant/Owner enter into a contract with a qualified biologist to establish long-term habitat maintenance goals, success criteria, and best management practices and monitor the restored site (see Condition No. 19) for 10 years. This condition also requires that the Applicant/Owner maintain and implement the restoration activities and control the property's invasive plant species population for the duration of the commercial operation. On-going activities include but are not limited to removal of

invasive species, tree pruning (limbing) which does not constitute major vegetation removal, debris removal, and thinning of non-native plant species. Clear cutting and removal of native or sensitive plant species and/or communities is prohibited. The project, as proposed, conditioned, and mitigated, will not significantly disrupt ESHA and will ensure long-term habitat maintenance.

- f) BSC LUP Policy 3.3.2.8 requires that “new development adjacent to environmentally sensitive habitat areas shall be allowed only at densities compatible with the protection and maintenance of the adjoining resources.” Accordingly, the proposed development minimizes the required ground disturbance and includes extensive restoration to enhance the surrounding ESHA. Implementing the restoration plan will also be consistent with BSC LUP Policy 3.3.3.A.10 regarding restoring natural environments by removing exotic plants. Restoration activities will apply to all impacted understory and construction related disturbed soils with native understory species. Thorough eradication of the property’s invasive plants and restoration of the identified ESHA will render the proposed development compatible with the site and reduce further habitat degradation. The Board of Supervisors recognizes that, because much of the Big Sur area contains ESHA, there is no perfect site for the proposed use and associated development. However, as described in Finding No. 2, Evidence “c” and “e”, it is also recognized that Blaze Engineering is a necessity to the Big Sur community and its visitor-serving businesses. Therefore, the Board of Supervisors finds that the proposed project is consistent with the applicable ESHA policies and will result in a public and ecological benefit because 1) the proposed use provides a needed public service, 2) the development, as mitigated, minimizes ESHA impacts, 3) the restoration activities will enhance ESHA, and 4) per the biologist, if the invasive species were to remain, they would eventually suffocate the property’s ESHA by shading the understory and dominating the overstory, and continue to harm adjoining resources.
- g) Tree Removal in ESHA. The project arborist concluded that the proposed tree removal (10) is the minimum necessary for development and to reduce the risk of tree failure that would be a hazard to people or structures. Removal would not result in the fragmenting of an intact forest system, create a new forest edge, or impact the existing quality of the system. See Finding 8 and supporting evidence.
- h) CIP section 20.145.040.B requires deed restrictions or conservation easement dedications over ESHA areas as a condition of approval for any development proposed on parcels containing ESHA, even in this case, where a property is already developed. The biologist did not recommend placing ESHA areas of the site within a conservation easement; instead, the focus was on restoration efforts. However, consistent with the CIP, the project has been conditioned to require the applicant to dedicate a conservation easement over portions of the property containing ESHA, pursuant to MCC section 20.64.080.
- i) Staff conducted site inspections on January 6, 2023 to verify that the site and proposed project meet the BSC LUP ESHA Policy requirements.

- j) The application, plans, and supporting materials submitted by the project applicant to County of Monterey HCD-Planning for the proposed development found in project file PLN160851 and PLN160851-AMD1.

8. **FINDING:** **TREE REMOVAL** – Tree removal conforms with Big Sur Coast Land Use Plan (BSC LUP) policies and Coastal Implementation Plan, Part 3 (CIP) standards regarding water and marine resources, environmentally sensitive habitat areas, and scenic visual resources. The development has been sited, designed, and conditioned to minimize tree removal.

- EVIDENCE:**
- a) The project arborist and biologist identified Coast redwoods on the property to be in fair to good condition and California bay laurels in various stages of decline due to structural defects, fungal infestations by Ganoderma and Sudden Oak Death disease. CIP section 20.145.060.D.6 requires the granting of a Coastal Development Permit to remove native trees over 12 inches in diameter, when measured at breast height. The project includes a Coastal Development Permit to remove 10 protected trees (7 Bay laurels, 2 oaks, and 1 cypress). Out of these 10 trees, three trees will be removed due to construction impacts (Tree Tag Nos. 1 [Bay laurel; 36.5 inches], 2 [cypress; 44.8 inches], and 31[oak; multi-stem, 35 inch at base]), and seven trees will be removed due to their hazardous condition and/or potential to spread Sudden Oak Death (Tree Tag Nos. 3 [Bay laurel; multi-stem, 52 inches at base], 4 [Bay laurel; multi-stem, 30 inch at base], 18 [Bay laurel; 18 inches], 20 [Bay laurel; 14 inches], 24 [oak; multi-stem, 30 inch at base], 35 [Bay laurel; multi-stem, 26 inches at base] and 36 [Bay laurel; multi-stem 24 inches at base]). The project also involves the removal of a 9-inch Redwood, which was identified in the previously approved project as a 6-inch Redwood needing removal. However, the 9-inch Redwood (Tree Tag No. 39) does not meet the minimum 12-inch diameter threshold and therefore removal does not require the granting of a Coastal Development Permit. The tree removal proposed under the Amendment (PLN160851-AMD1) remains the same as approved for the previous project (PLN160851). The project Biologist recommended that the project site be replanted with Redwoods rather than Oaks or Bay Laurels due to the fungal pathogens on site. Accordingly, Condition No. 26 requires the Applicant/Owner to replant 10 redwoods on-site.
 - b) CIP section 20.145.060.A.1.a provides an exception for the removal of planted trees, where removal would not expose structures in the Critical Viewshed and where the tree intended for removal is not considered landmark. The project arborist identified Tree Tag No. 2 as a planted Cypress tree; however, due to its size (44.8-inches), it is considered landmark. The biologist identifies that the tree is just outside of the office footprint and is in fair condition. However, the tree is showing decay at its base. Based on development impacts and future health of the tree, the biologist recommends removal.
 - c) As proposed, 8 of 10 trees being removed are considered landmark trees. CIP section 20.145.060.D.1 only allows removal of landmark trees if the decision-making body can find that there are no alternatives

to development where their removal can be avoided. Furthermore, CIP sections 20.145.060.D.3 & 4 require minimizing tree removal to that which is necessary for the proposed development and/or necessary to improve unhealthy forest conditions and/or for the long-term maintenance of the forest. As discussed above, 5 landmark trees are proposed for removal due to their hazardous condition and/or potential to spread Sudden Oak Death. To reduce the risk of failure and spread of the disease, these 5 landmark trees are proposed for removal. Tree Tag No. 31 is located within the proposed grading area of the office and is also in poor health and structure.

- d) The remaining 3 landmark trees are located within the proposed development footprint but are in a declining state. Avoidance of these trees would require shifting the proposed development footprints into areas which contain undisturbed soils, environmentally sensitive habitat areas, or slopes in excess of 30%. Additionally, failure of these trees would have the potential to fall onto Apple Pie Ridge Road or on the parking area as well as cause accelerated erosion downslope of the trees.
- e) A site visit was conducted on January 6, 2023. Staff confirmed that the trees proposed to be removed would not expose new or existing structures to views from Highway 1. Additionally, the proposed tree removal would neither expose the development nor detract from the area's scenic value.
- f) The project arborist concluded that the proposed tree removal is the minimum necessary, both for development and to reduce the risk of tree failure that would be a hazard to people or structures. Removal would not result in the fragmenting of an intact forest system, create a new forest edge, or impact the existing quality of the system. To ensure construction activities do not inadvertently harm trees to be retained, mitigation measures requiring monitoring by a qualified arborist/biologist during grading and construction and implementation of an approved tree protection plan have been incorporated. Due to site constraints and the need to balance policies to protect healthier trees, the tree removal is the minimum amount required in this case.
- g) The application, plans, and supporting materials submitted by the project applicant to County of Monterey HCD-Planning for the proposed development found in project file PLN160851 and PLN160851-AMD1.

9. **FINDING:** **DEVELOPMENT ON SLOPES OF 30% AND GREATER –**
There is no feasible alternative that would both allow development to occur on slopes of less than 30% and further the BSCLUP's objectives and policies for resource protection.

EVIDENCE: a) BSC LUP General Policy 5.4.2.5 states that existing lots of record are buildable and suitable for development provided all resource protection policies can be fully satisfied, there are adequate building areas less than 30% slope, and the lots have not been merged by provisions elsewhere in this plan. The project involves 1,360.03 square feet of development on slopes. Although the proposed structures will not be located on slopes in excess of 30%,

site improvements will. The retaining wall and soil disturbance adjacent to the office/housing unit will result in about 676 square feet of development on steep slopes, while the Hilfiker wall and workshop driveway will result in 680 square feet of development on slopes. In accordance with the applicable policies of the BSCLUP and regulations contained in CIP section 20.145.140.A.4 and Title 20 section 20.64.230.E, a Coastal Development Permit is required and the criteria to grant said permit have been met.

- b) Based on the geotechnical engineer recommendations, construction of the soldier pile and Hilfiker retaining walls is necessary to reduce potential seismic and erosion hazard risks. Reducing potential soils/erosion hazards better meets policy objectives of the BSC LUP.
- c) Relocating the office/housing unit to an area not adjacent to steep slopes thereby reducing the need for retaining walls, would result in additional impacts to environmentally sensitive habitat areas. As proposed, the workshop, storage, and office/housing unit are located on previously disturbed/graded pads. The proposed siting minimizes development on slopes and better meets ESHA policy objects of the BSC LUP.
- d) The application, plans, and supporting materials submitted by the project applicant to County of Monterey HCD-Planning for the proposed development found in project file PLN160851 and PLN160851-AMD1.

10. **FINDING:** **CEQA (Previous Mitigated Negative Declaration & Supplemental Mitigated Negative Declaration)** – A Mitigated Negative Declaration was previously adopted for the project and a supplemental Mitigated Negative Declaration was prepared to reflect changes to the proposed project in accordance with CEQA Guidelines sections 15162 and 15163. Based on the whole record before the Board of Supervisors, there is no substantial evidence that the proposed project as designed, conditioned, and mitigated, will have a significant effect on the environment. Further, the previously adopted Mitigated Negative Declaration, together with the Supplemental Mitigated Negative Declaration, reflect the independent judgment and analysis of the County.

EVIDENCE: a) Pursuant to California Environmental Quality Act (CEQA) Guidelines section 15162, when an EIR has been certified or a negative declaration has been adopted, no subsequent EIR or negative declaration shall be prepared for the project unless the agency determines that substantial changes are proposed to the project, substantial changes occur with respect to the circumstances under which the project is undertaken, or new information of substantial importance is found, which was not known and could not have been known if reasonable diligence was exercised when the EIR was certified or the negative declaration was adopted. As described below, conditions of Guidelines section 15162 calling for the preparation of a subsequent EIR or negative declaration have occurred: Guidelines section 15163 authorizes the Lead Agency to choose to prepare a supplemental EIR or negative declaration rather

than a subsequent EIR or negative declaration if both the conditions described in Section 15162 require preparation of a subsequent EIR or negative declaration and only minor additions or changes would be necessary to conform the prior environmental document to the changed situation. Those conditions were met here because the supplemental biological report identified new potentially significant impacts to special status species, which were not observed or identified in the previous biological report. Thus, the substantial changes with respect to the project circumstances and new information of substantial importance, which was not previously known, triggered the requirement for a subsequent or supplemental negative declaration to be prepared. Accordingly, as the Lead Agency, the County of Monterey chose to prepare a supplemental Initial Study/Mitigated Negative Declaration (“Supplemental IS/MND”) to disclose new potentially significant environmental effects that are the result of changes which have occurred in respect to circumstances under which the project is being taken. In accordance with CEQA Guidelines section 15163(A)(2), the revisions contained in the Supplemental IS/MND were needed to make the previously adopted IS/MND (SCH No. 2018091005) for PLN160851 adequately apply to the proposed Amendment and to reflect known information of the current conditions at the site.

- b) On August 27, 2019, the Monterey County Board of Supervisors adopted a Mitigated Negative Declaration (“2019 IS/MND”) for the Blaze Engineering operation and associated development (SCH No. 2018091005), pursuant to Board of Supervisors Resolution No. 19-285.
- c) The adopted Mitigated Negative Declaration (SCH No. 2018091005) contemplated the previously approved project’s original scope of work (“Original Project”), which included the removal of 16 protected trees, the conversion of a test well into a permanent well, development on slopes exceeding 30 percent, installation of an on-site wastewater treatment system, and approximately 440 cubic yards of cut and 620 cubic yards of fill. The 2019 IS/MND found that project implementation would result in no impacts to agricultural and state forest resources, land use/planning, population and housing, mineral resources, public services, recreation, or utilities and service systems, and less than significant impacts to aesthetics, air quality, cultural resources, geology/soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use/planning, noise, and transportation and traffic. The 2019 IS/MND disclosed that the original project would have potential impacts to biological resources and tribal cultural resources caused by site disturbance and the establishment of new structures. Mitigation measures were recommended and adopted to reduce impacts to a less than significant level. Therefore, the Original Project was found to have a less than significant impact on the environment
- d) The 2019 IS/MND included five mitigation measures to reduce potentially significant impacts to biological and tribal cultural resources to a level of less than significant. Mitigation Measures Nos. 1 through 4 required biological monitoring, tree protection, and approval of a final

Construction Management Plan and Restoration and Fuel Management Plan. Implementation of these mitigations would reduce potential impacts to biological resources to a less than significant level. Mitigation Measure No. 5 required an approved tribal monitor to observe excavation for a portion of the driveway and septic tank. Consistent with CEQA Guidelines section 15074.1, the Board of Supervisors amended Mitigation Measure No. 5 to remove monitoring of the new driveway as the applicant removed that component from the project. Implementation of this amended mitigation would reduce potential impacts to tribal cultural resources to a less than significant level. All mitigation measures were applied to PLN160851 as Conditions of Approval.

- e) The four biological mitigation measures and one tribal cultural mitigation measure are still feasible and adequate for the proposed Amendment. However, minor clarification and amplification changes to the mitigation measures are needed. The County as Lead Agency, through HCD-Planning, prepared a Supplemental Initial Study pursuant to CEQA. The Supplemental Initial Study is on file in the offices of HCD-Planning and is incorporated by reference (HCD-Planning File No. PLN160851-AMD1).
- f) The Draft Supplemental Initial Study and Mitigated Negative Declaration for HCD-Planning File No. PLN160851-AMD1 was prepared in accordance with the CEQA Guidelines; filed with the County Clerk on April 17, 2023; and circulated for public review from April 17, 2023 through May 17, 2023 (State Clearinghouse Number 2018091005).
- g) As amended during the 2019 Board of Supervisors hearing, PLN160851 no longer included the new driveway access from Highway 1 or the storage of equipment such as raw materials and cement silo, and tree removal was reduced to 10 native trees. Pursuant to CEQA Guidelines section 15073.5, the 2019 IS/MND was not recirculated to reflect these changes because the changes were in response to public comment, would result in a reduced project scope, thereby minimizing impacts, and would not cause new, potentially significant impacts.
- h) The Supplemental IS/MND analyzed the minor project changes made during the 2019 Board of Supervisors hearings for PLN160851 and the proposed modifications to the previously approved project (PLN160851-AMD1), described in Finding No. 2, Evidence “b” and “d”. Compared with the 2019 IS/MND’s analysis, the Supplemental IS/MND disclosed and analyzed the reduction in ground disturbance and grading by over 2,000 square feet and 300 cubic yards, reduction in the number of trees required for removal by 6 (from 16 to 10), the construction of a 2-bedroom employee housing unit over a 760 square foot office, an 800 square foot storage building rather than 800 square feet of shipping containers, and the installation of two electric vehicle charging stations. All other components of the 2019 IS/MND remain stable: relocation of the commercial business to the subject property, construction of a 600-square-foot workshop, conversion of a test well into a permanent well, development on slopes, development within

environmentally sensitive habitat, and installation of an on-site wastewater treatment system.

- i) All project changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval. A Condition Compliance and Mitigation Monitoring and/or Reporting Plan has been prepared in accordance with the County Code to ensure compliance during project implementation and is hereby incorporated herein by reference. As a condition of project approval, the applicant shall enter into an “Agreement to Implement a Mitigation Monitoring and/or Reporting Program” prior to construction and/or commencement of use.
- j) On May 19, 2023, the Supplemental Initial Study/Mitigated Negative Declaration was revised to reflect the accurate development square footage (2,458) and employee count (12) and to clarify that there is no conflict with the 2010 Regional Transportation Plan. The revisions were made in response to written comments from the applicant’s representative. The revisions do not create a new significant environmental impact and serve as clarification to the document. Therefore, pursuant to CEQA Guidelines section 15073.5, recirculation of the revised supplemental initial study is not required.
- k) The Supplemental IS/MND summarized the conclusions and analysis for all potentially impacted areas analyzed in the 2019 IS/MND, which include: aesthetics, agriculture and forest resources, air quality, biological resources, cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation, tribal cultural resources, and utilities/service systems. The Supplemental IS/MND examined the prior project analysis to determine whether the project changes discussed therein would affect the adequacy of the prior environmental document’s conclusions. The Supplemental IS/MND concluded that either the prior environmental document’s conclusions were accurate to the proposed Amendment and its changed situations or that modifications to the conclusions were needed to reflect the proposed Amendment and its changed situations.
- l) The Supplemental IS/MND found that the proposed two EV charging stations along Highway 1 would result in less than significant new impacts to aesthetics. The Supplemental IS/MND also found that the Amendment would have a less than significant impact on biological resources, provided new mitigation was implemented to address the presence of previously unidentified special status species. The Supplemental IS/MND found no new impacts to agricultural and forest resources, air quality, cultural resources, geology and soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use and planning, mineral resources, noise, population and housing, public services, recreation, transportation and traffic, tribal cultural resources, and utilities and service systems.
- m) The Supplemental Initial Study identified several new potentially significant effects, but the applicant has agreed to mitigation measures

- identified in subsequent Evidence “n” and “o” that will either avoid these effects or mitigate them to a less than significant level.
- n) 2019 IS/MND Mitigation Measures. Previously adopted Biological Mitigation Measure Nos. 1, 3 and 4 are still adequate for the project in its changed circumstance and have been applied to the project as Condition Nos. 16, 18 and 19. The language of Biological Mitigation Measure No. 2 was revised to reflect the updated tree removal plan, allow the project biologist to conduct the tree monitoring, and require the project arborist/biologist to review the infield locations of the proposed soldier pile wall, Hilfiker wall, and privacy fencing to ensure potential impacts to tree root are minimized or avoided. No revisions to the compliance actions were made. Revised Biological Mitigation Measure No. 2 has been applied to the project as Condition No. 17. Tribal Cultural Resource Mitigation Measure No. 5 is still adequate for the proposed project; however, revisions were made to allow tribal monitoring to be completed by any tribe traditionally and culturally affiliated with the vicinity of the subject parcel, or other appropriately NAHC-recognized representative, rather than referring specifically to the Ohlone-Costanoan, Esselen Nation (OCEN). Additionally, due to the addition of Biological Mitigation Measure Nos. 5 and 6 (see subsequent evidence), Tribal Cultural Resource Mitigation Measures No. 5 was renamed Mitigation Measure No. 7 and applied to the project as Condition No. 22.
 - o) New Mitigation Measures. The second supplemental Biologist report (LIB170439) determined that the parcel has the potential to provide habitat for the Coast range newt, which is considered a species of Special Concern by the California Department of Fish & Wildlife (CDFW). Additionally, although the Santa Lucia slender salamander has no legal or regulatory status, the species also likely persists on site due to favorable moist habitat conditions. Consultation with the California CDFW occurred in March 2023 and identified Foothill yellow-legged frogs, western bumble bees, and raptors, as being species of concern for the proposed project. The 2019 IS/MND did not disclose potential impacts to these species and therefore new mitigation measures (Biological Mitigation Measure Nos. 5 and 6) are proposed to reduce potential impacts to these species to a level of less than significant. Biological Mitigation Measure Nos. 5 and 6 require pre-construction surveys for the Coast range newt, Santa Lucia slender salamander, Foothill yellow-legged frogs, and Western bumble bee. These new mitigation measures have been applied as Condition Nos. 20 and 21.
 - p) Evidence that has been received and considered includes: the application, technical studies/reports, staff reports that reflect the County’s independent judgment, and information and testimony presented during public meetings and hearings. These documents are on file in HCD-Planning (HCD-Planning File Nos. PLN160851 and PLN160851-AMD1) and are hereby incorporated herein by reference.
 - q) All changes required to avoid significant effects on the environment have been incorporated into the project and/or are made conditions of approval. A Condition Compliance and Mitigation Monitoring and/or

Reporting Plan has been prepared in accordance with County Code, is designed to ensure compliance during project implementation, and is hereby incorporated herein by reference. The applicant shall enter into an “Agreement to Implement a Mitigation Monitoring and/or Reporting Plan as a condition of project approval (Condition No. 14).

- r) Based upon both analysis in the initial study and the record as a whole, the project could result in changes to the resources listed in section 753.5(d) of the California Department of Fish and Wildlife (CDFW) regulations. Applicants for land development projects subject to environmental review must pay a state filing fee plus the County recording fee, unless CDFW determines that the project will have no effect on fish and wildlife resources. Here, for purposes of the Fish and Game Code, the project may have a significant adverse impact on the fish and wildlife resources upon which the wildlife depends. The project is required to pay the state fee plus a fee payable to the Monterey County Clerk/Recorder for processing said fee and posting the Notice of Determination (Condition No. 23).
- s) During the public review period of the draft Supplemental Initial Study/Mitigation Negative Declaration, the County received three comment letters. Christine Kemp of Nolan Hamerly Etienne Hoss Attorneys at Law (on behalf of the adjacent property owners, the Donaldsons) argues that the project would result in significant environmental impacts to the property’s Redwood forest and ESHA, violates County zoning law and the Coastal Act, intensify land use and environmental impacts including “night glare; increase height, bulk and mass,” reduce the number of public parking spaces, and that the EV charging stations would be a fire hazard. Additionally, the comment letter asserts that the project description is inaccurate and misleading, the baseline conditions are inaccurate, and contends that the project requires preparation of an Environmental Impact Report (EIR) to address significant adverse impacts on aesthetics, air quality, biological resources, greenhouse gas emissions, hazards and hazardous materials, land use and planning, noise, and transportation. The Ventana Chapter of the Sierra Club also submitted a comment letter objecting to the project and requested an EIR be prepared. The Sierra Club letter maintains that the proposed project is inconsistent with the Big Sur Coast Land Use Plan and the purpose of the Rural Community Center, and will significantly impact ESHA. The applicant’s representative also submitted a comment letter, see Finding No. 10, Evidence “j”.
- t) Ms. Kemp’s CEQA comment letter included a Tree Impact Assessment prepared by Rob Thompson, dated April 17, 2019, which claims that the proposed project would have significant environmental impacts on the property’s Redwood Forest and ESHA. Ms. Kemp cites CEQA Guidelines sections 15064(a)1, 15064(f)(1), and 15064(g)(1) to support her contention that an Environmental Impact Report (EIR) is required due to substantial evidence of potential environmental impacts sufficient to meet the fair argument standard, such as disagreement among expert opinion. On June 14, 2023 and September 19, 2023, the Planning Commission and Board of Supervisors, respectively, considered the

CEQA comment letters and found that they do not contain substantive evidence supporting a fair argument that the project may cause a significant effect on the environment. The Planning Commission and Board of Supervisors found that the County of Monterey, as Lead Agency, has not been presented with a fair argument that the project may significantly impact the environment. Finally, Ms. Kemp's attempt to use Mr. Thompson's 2019 letter to assert that the record reflects a disagreement among expert opinions has already been considered and rejected by the Board of Supervisors. The project Arborist, Maureen Hamb, prepared a response letter to Mr. Thompson's 2019 letter that concluded that Mr. Thompson's letter was inaccurate in that it was based on the original scope of work (inclusive of the cement silo and bypass road from Highway 1), which had since been reduced and hence, the letter did not provide substantial evidence that the project would significantly impact the environment. On August 27, 2019, the Monterey County Board of Supervisors considered Ms. Kemp's appeal, public comment (including Mr. Thompson's tree assessment and the project arborist's response letter), and the administrative record. Through adoption of the IS/MND, and in accordance with CEQA Guidelines section 15064(f)(3), the Board of Supervisors found that the appeal (including Mr. Thompson's tree impact assessment) did not provide evidence that the project may result in a significant effect on the environment.

- u) Pursuant to CEQA Guidelines section 15064(f)(4), public controversy over the environmental effects of a project alone does not trigger an EIR. The Board of Supervisors has considered the application, public comment, technical studies/reports, the staff report that reflect the County's independent judgment, and information and testimony presented during public hearing and finds that 1) there is no new evidence submitted to the Lead Agency indicating that the proposed project may have a significant effect on the environmental and 2) that the previously adopted Mitigated Negative Declaration together with the Supplemental Mitigated Negative Declaration did properly analyze the project's potential impacts related to aesthetics, air quality, biological resources, greenhouse gas emissions, hazards and hazardous materials, land use and planning, noise, and transportation. See Finding Nos. 2, 3, 4, 7, and 8, and the supporting evidence referenced in each respective Finding.
- v) Pursuant to CEQA Guidelines section 15073(e), no public agencies submitted comments on the Supplemental Initial Study and Supplemental Mitigated Negative Declaration.
- w) County of Monterey HCD-Planning, located at 1441 Schilling Place, 2nd Floor, Salinas, California, 93901, is the custodian of documents and other materials that constitute the record of proceedings upon which the decisions to adopt the Mitigated Negative Declaration and Supplemental Mitigated Negative Declaration are based.
- x) The application, plans, and supporting materials submitted by the project applicant to County of Monterey HCD-Planning for the

proposed development found in project file PLN160851 and PLN160851-AMD1.

11. **FINDING:** **PUBLIC ACCESS** – The project conforms with the public access and recreation policies of the Coastal Act (specifically Chapter 3 of the Coastal Act of 1976, commencing with section 30200 of the Public Resources Code) and Local Coastal Program, and does not interfere with any form of historic public use or trust rights.
- EVIDENCE:**
- a) Figure 2 – Shoreline Access Plan, North Section, of the Big Sur Coast Land Use Plan (BSC LUP) indicates that the subject property is not described in an area where physical public access is required.
 - b) Figure 3 – Trails Plan, North Section, of the BSC LUP indicates that the subject property neither contains an inland trail corridor, a through coastal access corridor, public trail, private trail, access to Ventana Wilderness, nor is identified as an area for future public acquisition or a proposed trail.
 - c) Staff conducted site inspections on January 6, 2023. No evidence or documentation was found showing the existence of historic public use or trust rights over this property.
 - d) The application, plans, and supporting materials submitted by the project applicant to County of Monterey HCD-Planning for the proposed development found in project file PLN160851 and PLN160851-AMD1.
12. **FINDING:** **APPEAL** - The Appellants contends that the Planning Commission’s decision was not supported by the evidence and is contrary to law. Upon consideration of the documentary information in the files, the staff reports, the oral and written testimony, all other evidence presented before the Board of Supervisors, and the administrative record as a whole, the Board responds as follows to the Appellants' contentions:
- EVIDENCE:**
- a) Appellants (Donaldson’s and the Sierra Club), pursuant to Monterey County Code (MCC) section 20.86.030.C, filed timely separate appeals of the June 14, 2023, decision of the Planning Commission. The appeals challenge the Planning Commission’s determination that Amendment is consistent with previously adopted Mitigated Negative Declaration, as revised by the Supplemental Mitigated Negative Declaration, and the approval of the Amendment, on the contention that the hearing was unfair or impartial, the findings are not supported by the evidence, and that the decision is contrary to law. See also Finding No. 1, Evidences “k” and “l”. The text of the Appellant’s contentions and the County’s responses to those contentions are set forth in Evidences “b” through “f” below.
 - b) Appellant (Kemp) Contention No. 1: “Inaccurate and misleading” project description in the “Public Notice, Meeting Agendas, Staff Report, and Resolution” and the “inaccurate” project description mislead the “Planning Commission to believe that they could only review and act on the changes to the Project, not the entire project, as amended.”

County Response No. 1: As detailed in Finding No. 2, Evidence “d”, the proposed Amendment would include construction of a second-story 760 square foot employee housing unit over the office, installation of two public universal electric vehicle charging stations, re-routing of the pedestrian trail along Apple Pie Ridge Road, reduce public parking along Highway 1 by one stall, and eliminate the on-site sale of products (concrete, rock, sand, plumbing, and landscape supplies) from the business operation plan. All other project components remain the same: construction of a 760 square foot office, 600 square foot workshop with a 300 square foot canopy, 800 square foot storage building, development within 100 feet of Environmentally Sensitive Habitat Area, removal of 10 protected trees, and site improvements including installation of an on-site wastewater treatment system, conversion of a test well to a permanent domestic well, and placement of a 40-watt generator, 4,000 gallon diesel storage tank, and two 5,000 gallon water tanks. The Accela Citizen’s Access project description and LUAC agenda description was: a “*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 10 native trees.*” Further, the June 14, 2023 staff report and resolution included the following revised description: *An amendment to an approved permit (PLN160851) to allow establishment of a commercial operation for a contractor’s equipment storage and office facility and the construction of a 760 square foot office with a 760 square foot two-bedroom second story employee housing unit, 600 square foot workshop, 800 square foot storage building, and associated site improvements including formalizing six public parking spots and installing two electrical vehicle charging stations. The project also involves development on slopes in excess of 30 percent, within Environmentally Sensitive Habitat Areas, and removal of 10 native trees.* No aspect of either project description was misleading or inaccurate, as the description includes both previously considered project components and the components of the project that are proposed to be modified in the amendment application. Through adoption of Resolution No. 23-020, the Planning Commission approved the project in its entirety, as now revised by this Amendment. The Board of Supervisors has also considered the entire project with the revisions before taking action on this permit.

- c) Appellant (Kemp) Contention No. 2: “*The original Project has NOT been approved, nor has any Coastal Development Permit been issued for the original Project, as the Coastal Commission needed to take action on the original Project to approve or deny the Project “and “It is misstatement of law and fact for the Staff Report to state that*

"Withdrawal of the FLAN only affects the Coastal Commission appeal; it does not alter either the County's prior decision or the associated CEQA determination. Withdrawal of the FLAN simply means that the County is not requesting the Coastal Commission consider the local action "final" at this time (as consideration of modifications are pending). Mrs. Kemp also asserts that the previously approved project (PLN160851) was not "issued" and therefore an amendment could not be processed according to MCC section 20.60.105.

County Response No. 2: As detailed in a letter provided to Mrs. Kemp in February 2023, and as described in Finding 1, Evidence "d", withdrawal of the FLAN does not affect either the Board of Supervisors' decision on PLN160851 or the associated environmental document. Essentially, the original project (PLN160851) was approved by the Board of Supervisors subject to an appeal by/to the Coastal Commission. An appeal was filed and accepted by California Coastal Commission staff staying the prior decision of the Board of Supervisors. In response to contentions in the coastal commission appeal, the Applicant requested that the County process and approve an Amendment to the original project. County staff withdrew the Final Local Action Notice previously sent to the Coastal Commission in 2019 and began processing the Amendment; this mooted the appeal to the Coastal Commission and stopped the Coastal appeal process while the County reviews the project inclusive of the proposed amendments. Processing of the Amendment does not mean that only the revised components are appealable, but rather the whole project in its totality is appealable. A new FLAN will be sent to the CCC reflecting the revised design in totality. This is a standard practice for the County and is encouraged by the Coastal Commission. The Coastal Commission District Supervisor expressed her support of this practice and Amendment process in April 2023 via email: *"I wanted to provide our written support of continuing to utilize the LCP's CDP amendment process to resolve appeals to the Coastal Commission at the local level where feasible. This practice involves the County rescinding the final local action notice (FLAN) for a CDP that was appealed (thereby mooting the appeal) and processing an amendment that reflects project changes to address the appeal. Once the County approves the amendment, it sends a new appealable FLAN for the revised project to the Commission. In these cases where the amendment provides for a revised project, the findings need to specify that the amendment supersedes and replaces the original CDP approval, and that the amendment represents the CDP for the project. The amendment can build off of previous efforts (e.g., technical studies, CEQA determination, etc.), but the findings need to reflect that the entirety of the project is being approved, not just the project changes."* As detailed in Finding No.1, Evidence "o", this Resolution modifies the original Coastal Development Permit approval (PLN160851; Board of Supervisors Resolution No. 19-285) and represents a modified Coastal Development Permit for the project. Additionally, Finding Nos. 2 through 11 and supporting evidence, describes the project in its entirety.

- d) Appellant (Kemp) Contention No. 3: *“The Amended Project is not consistent with the applicable plans and policies which apply to this site. The site is not appropriate for the proposed development” because “As stated by the California Coastal Commission in their October 1, 2018 letter to County staff, copy attached, the project is more in line with a General Commercial use and is inconsistent with the Big Sur LUP which gives priority to visitor serving uses” and “A construction yard is not a permitted or conditionally permitted use in the VSC zoning district (Monterey County Code [MCC] Sec. 20.22).”*
- County Response. No. 3: The North Section Map and Detail A of the Big Sur Coast Land Use Plan (BSC LUP) indicates that the subject property is within an area defined as Rural Community Center or “RCC” of the Big Sur Valley, a land use classification for areas where a variety of land use activities (inns, restaurants, service stations, and commercial uses) exist. The purpose of the RCC is to provide a spectrum of functions for both the visiting public and residents of the adjoining rural areas within areas where those uses are already established. BSC LUP states “In general, any use allowed in any zoning district is appropriate for RCC” (page 81). BSC LUP Policy 5.4.3.E.1 directs development of new commercial uses serving the community and visitor needs to RCCs.

The Blaze Engineering operations provide residents and visitor-serving commercial facilities with necessary services for maintenance and repair of infrastructure, such as clearing and repairing roads, electricity, and water wells during fires and landslides, as well as normal “wear and tear” for almost 30 years. General contracting services are needed in Big Sur to support the visitor serving industry there. Consistent with the BSC LUP’s specific development policies for commercial uses in the RCC, Blaze Engineering would: maintain existing services in proximity to residents and visitors in the area; locate activities with higher noise intensity on lower portions of the site away from sensitive receptors; provide an overflow parking area for the Big Sur River Inn; provide safer ingress and egress to the site; and, result in providing a greater distance between the operations and existing residential structures than that of the former site.

Zoning of the subject property is Visitor Serving Commercial, Coastal Zone or “VSC(CZ)”. The purpose of this district is to establish areas necessary to service the needs of visitors and the traveling public to Monterey County. The VSC zoning district allows uses such as hotels and motels, restaurants, service stations, assemblages of people, zoos, public and quasi-public uses, and the establishment of other non-specific visitor-serving uses. Title 20, section 20.22.060.W, states that “other visitor serving uses of a similar character, density, and intensity of those listed in this Section determined by the Planning Commission to be consistent and compatible with the intent of this Chapter and applicable land use plan.” This proposed business operation would directly serve residents, visitor serving commercial businesses, and the

visiting public by providing needed general contracting services in the area. Approval would also support existing visitor serving accommodations, e.g., Big Sur River Inn, by increasing employee parking. As determined by the Planning Commission, Blaze Engineering proposes a use that is of similar character, density, and intensity of other allowed uses within the VSC(CZ) zoning that is consistent and compatible with the intent of the underlying zoning and the Big Sur Coast Land Use Plan. Also see Finding No. 2, Evidence “c” and “e”.

e) Appellant (Kemp) Contention No. 4: *“Big Sur 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, including the Donaldsons.*

- *The commercial buildings will be located just 60 feet from the existing Donaldson's residence.*
- *Adding a second story employee housing unit on top of the office next to the Donaldson home only exacerbates the disruption to the peace and tranquility of the neighborhood with additional night glare and bulk and mass of the buildings.*
- *The office, housing unit, storage unit, workshop and commercial vehicles, will be clearly visible from the Donaldson home and Apple Pie Ridge road.*
- *Large constructions trucks and equipment operating on and entering and exiting the property will create commercial traffic noise.*
- *Large commercial trucks using the joint entrance driveway will impact the Donaldson's property entrance.*
- *Substantial tree removal will impact the Donaldson's forest views.*
- *Increased parking at the entrance to, and base of Apple Pie Ridge, will impact the Donaldson's access to their property”*

County Response. No. 4: Pursuant to BSC LUP Policy 5.4.3.E.8, permits for renewal of existing commercial uses or establishment of new uses require careful consideration of the impact of the use on surrounding land from a good neighbor point of view. Particularly where commercial activities are in proximity to residences, consideration must be taken to ensure that noise or visual modification do not affect the peace and tranquility of existing neighbors. In accordance with implementing Big Sur Coast CIP section 20.145.140.B.2.g, development of new or expanded commercial or renewal permits for existing commercial uses shall not adversely impact surrounding land use, such as through additional light or glare. As such, proposals for commercial development shall be evaluated for the nature and extent of land use conflicts, and modifications shall be required as necessary to reduce potential adverse impacts. In this case, Blaze Engineering has been operating on the Donaldson property for many

years. The new location of the operation is adjacent to the former site and the proposed operations have been designed and scaled to be less intense than the historic use.

Disruption of Views – The BSCLUP provides minimal protection of private views. Instead, importance is placed on protecting the Critical Viewshed. As demonstrated in Finding No. 2, Evidence “e” and Finding No. 6 and supporting evidence, the subject property is within the Big Sur Valley RCC and is therefore excepted from Critical Viewshed policies. Therefore, the use shall be permitted under careful design and siting controls as provided for in the County Zoning Ordinance (Title 20 of the County Code) and by Policy 5.4.3 of this Plan. As demonstrated in Finding 6, Evidence “b” the project as proposed and conditioned, is consistent with BSCLUP Policy 5.4.3.L.4 and Title 20 Section 20.44.

Impact of Forest Views – BSCLUP Policies 5.4.2.13 and 3.5.2.2 address tree removal impacts to the Critical Viewshed. There are no policies or regulations that protect private views of the forest. As demonstrated in Finding Nos. 6 and 8 and supporting evidence, the proposed tree removal is consistent with the forest resource policies, as it would not expose proposed, or existing, structures in the critical viewshed, is limited to the minimum necessary in this case, and includes the removal of diseased trees, resulting in a healthier forest.

Disruption from Noise – The scale and size of the proposed operation is less than Blaze Engineering’s operations previously conducted on the adjacent parcel (see Finding No. 2, Evidence “c”). However, approval of the project would allow relocation of higher noise intensity operations, such as the 40-kilowatt generator and semi-truck and trailer parking, to the lower portions of the site, further away from sensitive receptors and closer to Highway 1 (an area with existing high noise levels). Additionally, during the May 21, 2019 Board of Supervisor’s hearing on the original project, the applicant proposed that the locations of the shop and storage building be swapped in an effort to locate noise generating sources further away from the Donaldson’s residence. The Board of Supervisors found this change acceptable in consistent with the intent of the “Good Neighbor” policy, BSC LUP Policy 5.4.3.E.8. The Amendment retains the previously approved locations of the shop and storage. The project as proposed and conditioned would not result in a significant increase beyond existing noise levels in the area.

Disruption Caused by Access/Traffic – The proposed operation’s large construction vehicles and equipment will be parked on the lower portion of the property adjacent to Highway 1. As detailed in Finding No. 3, Evidence “d”, access to the proposed development and operation would be limited to employee vehicles and, infrequently, company fleet vehicles that need maintenance. There are no proposed parking areas on or adjacent to the Donaldson’s existing access route.

- f) Appellant (Kemp) Contention No. 5: *“The Project was not accurately staked on the uphill site, and not staked at all on the lower parking area to assess visual impacts from both Apple Pie Ridge [or] the critical viewshed of scenic Highway 1”, “The project involves the creation of a new trail along the private Apple Pie Ridge road with no staking or assessment of how, or where, that trail will be built or located, or is visual or environmental impacts” and “The project adds commercial Electric Vehicle (EV) charging stations along a scenic Highway 1, causing a visual impact, removing general public parking, and creating a potential fire hazard.”*

County Response. No. 5: As detailed in Finding No. 6, Evidence “b”, on January 6, 2023, staff conducted a site visit to observe the project staking and determine consistency with the visual resource policies and regulations. Staking of the office, storage containers, and workshop could not be seen from Highway 1. The proposed tree removal will not expose these structures to views from Highway 1. The existing parking area on the lower portion of the subject property is currently being utilized for parking by both Blaze Engineering and the River Inn Motel. Staking and flagging the lower parking area and proposed Apple Pie Ridge Road trail was deemed unnecessary by HCD-Planning staff, as the parking is already being utilized and the proposed trail parallels the existing road. The attached plans adequately show the location of all proposed parking and the pedestrian trail. The proposed development and grading (including the pedestrian trail) will be required to obtain construction and grading permits from HCD-Building Services. As demonstrated in proceeding evidence, and Finding No. 2, Evidence “e” and Finding No. 6 and supporting evidence, the subject property is within the Big Sur Valley RCC and is therefore subject to Critical Viewshed policies exceptions. The proposed project includes the formalizing 6 public parking spaces and installing two electrical vehicle charging stations. The proposed project will not reduce the number of public parking spaces. As conditioned, the proposed electrical vehicle charging stations will be compatible with the surrounding natural environment. Further, Cal Fire – Coastal reviewed the proposed Amendment and made no indication that the proposed electrical vehicle charging stations would significantly increase the property’s fire risk (Finding No. 4, evidence “f”).

- g) Appellant (Kemp) Contention No. 6: *“The project involves the removal of three (3) landmark trees over 24 inches in diameter, in violation of County's forest resources polices for Big Sur (Coastal Implementation Plan Policy 20.145.060 (D) et. seq.).” and “The project involves the development on slopes of 30% or greater, in violation of County's land use and development policies for Big Sur (Coastal Implementation Plan Policy 20.145.140.A.4 et. seq.)”*

County Response. No. 6: As proposed, 8 of 10 trees being removed are considered landmark trees. Big Sur CIP section 20.145.060.D.1 only allows removal of landmark trees if the decision-making body can find that there are no alternatives to development where their removal can be avoided. Furthermore, CIP sections 20.145.060.D.3 & 4 requires

minimizing tree removal to that which is necessary for the proposed development and/or necessary to improve unhealthy forest conditions and/or for the long-term maintenance of the forest. Additionally, the project involves 1,360.03 square feet of development on slopes in excess of 30 percent. BSC LUP General Policy 5.4.2.5 states that existing lots of record are buildable and suitable for development provided all resource protection policies can be fully satisfied, there are adequate building areas less than 30% slope, and the lots have not been merged by provisions elsewhere in this plan. The Board has made the necessary findings to support Coastal Development Permits to allow tree removal and development on slopes can be made in this case. See Finding No. 8 and 9 and supporting evidence.

- h) Appellant (Kemp) Contention No. 7: Resolution No. 23-020's *"FINDING: SITE SUITABILITY... is not supported by evidence" because "The project is split by the existing Apple Pie Ridge Road causing residents to have to drive through a commercial corporation yard and attendant equipment and structures; Development is proposed to occur on slopes of 30% and over; The project requires the removal of 10 protected trees, including 3 landmark trees and a potential 44.8' diameter Cypress tree; [and] Construction vehicle parking at the base of Apple Pie Ridge, along with two additional EV charging stations will eliminate general existing visitor serving parking, as well as be unsightly."*

County Response. No. 7: The project has been reviewed for site suitability by the following departments and agencies: HCD-Planning, Cal Fire – Coastal, HCD-Engineering Services, HCD-Environmental Services, and the Environmental Health Bureau. There has been no indication from these departments/agencies that the site is not suitable for the proposed development and recommended conditions have been incorporated. See proceeding Evidence "f" and "g" and Finding No. 3 and supporting evidence.

- i) Appellant (Kemp) Contention No. 8: Resolution No. 23-020's *"FINDING: HEALTH AND SAFETY... is not supported by evidence" because "The project will be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood, as well as the general visitor serving public."*

County Response. No. 8: As demonstrated in the preceding findings, the project will not be detrimental to health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood, as well as the general visitor serving public.

- j) Appellant (Kemp) Contention No. 9: Resolution No. 23-020's *"FINDING: NO VIOLATIONS... is not supported by evidence" because "The project applicant has engaged in unpermitted grading on the site, including roads and pads, causing damage to the site, and compromising the lateral support of the adjacent Donaldson property. No remediation has been done for this unpermitted grading."*

County Response. No. 9: As demonstrated in Finding No. 5, there is no evidence of unresolved building or grading violations. During a site visit on January 6, 2023, staff observed naturally occurring erosion on

the hillside between the subject property and the Donaldson's. There is no evidence that the Applicant/Owner has engaged in activities which have damaged the site and compromised the support of the adjacent property.

- k) Appellant (Kemp) Contention No. 10: Resolution No. 23-020's *"FINDING: VISUAL SENSITIVITY... is not supported by evidence" because "The project will have a visual impact on scenic Highway 1 and adjacent properties; the Project staking was inadequate; Construction vehicle parking at the base of Apple Pie Ridge, as well as two EV parking spaces, will eliminate existing general visitor serving parking, as well as be unsightly; Adding a second story to the office exacerbates the mass and bulk and night glare from the building adjacent to Apple Pie Ridge and the Donaldson's home; The project is split by the existing Apple Pie Ridge road causing residents to have to drive through a commercial corporation yard and attendant equipment and structures; and The project requires the removal of 10 protected trees, including eight (3) landmark trees and the potential removal of a 44.8" Cypress screen the site from Highway 1 and Apple Pie Ridge, provide a forest view from the Donaldson property."*

County Response. No. 10: As demonstrated in Finding No. 6 and proceeding Evidence "f" and "h", the project will not have a visual impact to Highway 1 and adjacent properties, was adequately staked, and will not eliminate visitor serving parking. As required by Condition No. 6, the exterior lights will be unobtrusive, down-lit, compatible with the local area, and constructed or located so that only the intended area is illuminated, and off-site glare is fully controlled. A non-standard condition of approval (Condition No. 12) has been incorporated ensuring construction material and associated debris (such as concrete mix, sand, supplies, scrap metals and materials, and similar items) are stored within the approved storage building and not visible onsite. Further, consistent with applicable BSC LUP policies relating to the RCC, the proposed structures and improvements have been sited and designed to be subordinate to the existing character of the area. The County and the BSC LUP encourage the development of employee housing in connection with commercial uses as a means to provide housing near job sources and as a means to reduce vehicle miles traveled (BSC LUP Policy 5.4.3.C(9) and Big Sur CIP section 20.145.140.B(1)).

- l) Appellant (Kemp) Contention No. 11: Resolution No. 23-020's *"FINDING: ESHA... is not supported by evidence" because "project will have a significant impact on environmentally sensitive habitat areas; See Kemp 5/17/23 comment letter (attached w/o attachments) on the Mitigated Negative Declaration."*

County Response. No. 11: See Findings No. 7 and 10, and supporting evidence which includes biological reports, consultation with California Fish & Wildlife, and application of mitigation measures. As designed, conditioned, and mitigated, the proposed project will not have a significant impact on environmentally sensitive habitat area.

- m) Appellant (Kemp) Contention No. 12: Resolution No. 23-020's *"FINDING: TREE REMOVAL... is not supported by evidence" because "The project does not conform to the Big Sur LUP or Coastal Implementation Plan with regard to tree removal "and "The project involves the removal of three (3) landmark trees over 24 inches in diameter, and the possible removal of a 44.8: diameter Cypress, in violation of County's forest resources polices for Big Sur (Coastal Implementation Plan Policy 20.145.060 (D) et. seq.)."*
County Response. No. 12: See proceeding Evidence "g" and Finding No. 8 and supporting evidence.
- n) Appellant (Kemp) Contention No. 13: Resolution No. 23-020's *"FINDING: CEQA... is not supported by evidence" because "The evidence shows that the project violates the California Environmental Quality Act (CEQA) and that an Environmental Impact Report is required for this Project...as there is substantial evidence, in light of the whole record before the County, that the project may have a significant effect on the environment(CEQA guideline 15064 (a)(l)). [sic.]"*
County Response. No. 13: The Supplemental Mitigated Negative Declaration was prepared in accordance with California Environmental Quality Act (CEQA) Guidelines sections 15162 and 15163. As detailed in Finding No. 10 and supporting evidence, specifically Evidence "s", "t", and "u", no new substantial evidence supporting a fair argument has been submitted to the Lead Agency indicating the proposed project may have a significant effect on the environmental. All arguments presented calling for an EIR have been reviewed and responded to. Responses are based on substantial evidence in the record and reflect the County's independent judgement. Further, the previously adopted Mitigated Negative Declaration together with the Supplemental Mitigated Negative Declaration properly analyzed the project's potential impacts related to aesthetics, air quality, biological resources, greenhouse gas emissions, hazards and hazardous materials, land use and planning, noise, and transportation.
- o) Appellant (Kemp) Contention No. 14: Resolution No. 23-020 is *"Contrary to Law... For the reasons set forth herein, as well as the evidence in the record, including, but not limited, to correspondence from Christine Kemp with all attachments, as well as, correspondence and evidence submitted by Matt and Carol Donaldson, the Sierra Club, Anthony Crane, Laura Moran, Mike Watson (Coastal Commission), and Heather Donaldson, the decision violates the Coastal Act, the Big Sur Land Use Plan, Title 20, and CEQA."*
County Response. No. 14: The standard of review for this project is consistency with the County's certified Local Coastal Plan (LCP) including the Big Sur Coast Land Use Plan and the Coastal Implementation Plan (CIP) Parts 1 and 4, which have been certified as consistent with the Coastal Act, not the Coastal Act itself. As demonstrated in the preceding findings, the Planning Commission's decision to adopt a Mitigated Negative Declaration as revised by a Supplemental Mitigated Negative Declaration and approve an Amendment to a previously approved Combined Development Permit is

not contrary or in violation of the Big Sur Land Use Plan, the CIPs, or CEQA.

- p) Appeal (Sierra Club) Contention No. 15: “[Blaze Engineering] is not serving visitors as a priority use within the meaning of BSLUP policy 3.2.5.A”, “the property is more properly considered a General Commercial Use that can be sited elsewhere”, “contractor yards and storage facilities are not authorized as either a principal or conditional use in Visitor Serving Commercial zones,” and “this project will have significant impact on views from Highway One.”
County Response. No. 15: As demonstrated in the preceding findings, the proposed operation is an allowed use in the VSC(CZ) zoning, and will not have a significant impact on public views from Highway 1. The same concerns and contentions raised by the Ventana Chapter, Sierra Club were considered by the Planning Commission on June 14, 2023, as written public comment, and were adequately addressed in Finding No. 2, Evidence “n” of Resolution No. 23-020. These findings are incorporated this this resolution as Finding No. 2, Evidence “m”. In response to the Sierra Club’s letter, the applicant has agreed to extend the proposed pedestrian trail to the entire length of Apple Pie Ridge Road that runs through the subject property (Condition No. 11).

13. FINDING:

APPEALABILITY - This decision may be appealed to the California Coastal Commission and Board of Supervisors.

EVIDENCE:

- a) California Coastal Commission. Pursuant to MCC section 20.86.080, this approval is subject to appeal by/to the Coastal Commission because it involves a conditionally allowed use in the Visitor Serving Commercial zoning district and is within 100 feet of Environmentally Sensitive Habitat Area.

DECISION

NOW, THEREFORE BE IT RESOLVED, based on the above findings and evidence, and the administrative record as a whole, that the Board of Supervisors does hereby:

- 1) Deny the appeals of Matt & Carol Donaldson and The Ventana Chapter, Sierra Club from the Planning Commission’s approval of an Amendment to a previously approved Combined Development Permit;
- 2) Consider a previously adopted Mitigated Negative Declaration as revised by a Supplemental Mitigated Negative Declaration (SCH No. 2018091005), pursuant to CEQA Guidelines section 15163;
- 3) Approve an Amendment to a previously approved Combined Development Permit (PLN160851; Board Resolution No. 19-285) consisting of:
 - a. Coastal Development Permit and General Development Plan to allow the establishment of a commercial business operation for a contractor’s equipment storage and office facility;
 - b. Coastal Administrative Permit to convert a test well into a permanent well;

- c. Coastal Administrative Permit and Design Approval to allow construction of a 760 square foot office with a two-bedroom second story employee housing unit, a 600 square foot workshop and 300 square foot canopy, 800 square foot storage building and associated site improvements including formalizing six public parking spots and installing two electrical vehicle charging stations;
 - d. Coastal Development Permit to allow development on slopes in excess of 30%;
 - e. Coastal Development Permit to allow development within 100 feet of ESHA; and
 - f. Coastal Development Permit to allow removal of 10 native trees; and
- 4) Adopt a Mitigation Monitoring and Reporting Plan.

All in general conformance with the attached plans and subject to the attached conditions, all being attached hereto and incorporated herein by reference.

PASSED AND ADOPTED upon motion of Supervisor _____, seconded by Supervisor _____, and carried this 19th day of September, 2023, by the following vote to wit:

AYES:
 NOES:
 ABSENT:
 ABSTAIN:

I, Valerie Ralph, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof Minute Book _____ for the meeting on September 19, 2023.

Date:
 File Number: PLN160851-AMD1

Valerie Ralph, Clerk of the Board of Supervisors
 County of Monterey, State of California

By _____
 Deputy

County of Monterey HCD Planning

DRAFT Conditions of Approval/Implementation Plan/Mitigation Monitoring and Reporting Plan

PLN160851-AMD1

1. PD001 - SPECIFIC USES ONLY

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: Amendment to a previously approved Combined Development Permit (PLN160851; Board Resolution 19-285) consisting of: 1) Coastal Development Permit and General Development Plan to allow the establishment of a commercial business operation for a contractor's equipment storage and office facility, 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 760 square foot office with a two (2) bedroom second story employee housing unit, a 600 square foot workshop and 300 square foot canopy, 800 square foot storage building and associated site improvements including six public parking spots and installation of two electric vehicle charging stations; and 4) Coastal Development Permits to allow development on slopes in excess of 30%, within 100 feet of ESHA and removal of 10 native trees. The property is located at 46821 Highway 1, Big Sur (Assessor's Parcel Number 419-201-007-000), Big Sur Coast Land Use Plan, Coastal Zone. This permit was approved in accordance with County ordinances and land use regulations subject to the terms and conditions described in the project file. Neither the uses nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of HCD - Planning. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. To the extent that the County has delegated any condition compliance or mitigation monitoring to the Monterey County Water Resources Agency, the Water Resources Agency shall provide all information requested by the County and the County shall bear ultimate responsibility to ensure that conditions and mitigation measures are properly fulfilled. (HCD - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to conditions and uses specified in the permit on an ongoing basis unless otherwise stated.

2. PD002 - NOTICE PERMIT APPROVAL

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: The applicant shall record a Permit Approval Notice. This notice shall state:
"An Amendment to a previously approved Combined Development Permit (PLN160851)(Resolution Number 23-XXX) was approved by the Monterey County Board of Supervisors for Assessor's Parcel Number 419-201-007-000 on September 19, 2023. The permit was granted subject to 27 conditions of approval which run with the land. A copy of the permit is on file with Monterey County HCD - Planning."

Proof of recordation of this notice shall be furnished to the Director of HCD - Planning prior to issuance of grading and building permits, Certificates of Compliance, or commencement of use, whichever occurs first and as applicable. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of grading and building permits, certificates of compliance, or commencement of use, whichever occurs first and as applicable, the Owner/Applicant shall provide proof of recordation of this notice to the HCD - Planning.

3. PD003(A) - CULTURAL RESOURCES NEGATIVE ARCHAEOLOGICAL REPORT

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (165 feet) of the find until a qualified professional archaeologist can evaluate it. Monterey County HCD - Planning and a qualified archaeologist (i.e., an archaeologist registered with the Register of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for recovery.
(HCD - Planning)

Compliance or Monitoring Action to be Performed: The Owner/Applicant shall adhere to this condition on an on-going basis.
Prior to the issuance of grading or building permits and/or prior to the recordation of the final/parcel map, whichever occurs first, the Owner/Applicant shall include requirements of this condition as a note on all grading and building plans. The note shall state "Stop work within 50 meters (165 feet) of uncovered resource and contact Monterey County HCD - Planning and a qualified archaeologist immediately if cultural, archaeological, historical or paleontological resources are uncovered."

When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery.

4. PD011(A) - TREE REMOVAL

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: Tree removal shall not occur until a construction permit has been issued in conformance with the appropriate stage or phase of development in this permit. Only those trees approved for removal shall be removed. (HCD-Planning)

Compliance or Monitoring Action to be Performed: Prior to tree removal, the Owner/ Applicant/ Tree Removal Contractor shall demonstrate that a construction permit has been issued prior to commencement of tree removal.

5. PD050 - RAPTOR/MIGRATORY BIRD NESTING

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: Any tree removal activity that occurs during the typical bird nesting season (February 22-August 1), the County of Monterey shall require that the project applicant retain a County qualified biologist to perform a nest survey in order to determine if any active raptor or migratory bird nests occur within the project site or within 300 feet of proposed tree removal activity. During the typical nesting season, the survey shall be conducted no more than 30 days prior to ground disturbance or tree removal. If nesting birds are found on the project site, an appropriate buffer plan shall be established by the project biologist. (HCD - Planning)

Compliance or Monitoring Action to be Performed: No more than 30 days prior to ground disturbance or tree removal, the Owner/Applicant/Tree Removal Contractor shall submit to HCD -Planning a nest survey prepared by a County qualified biologist to determine if any active raptor or migratory bird nests occur within the project site or immediate vicinity.

6. PD014(C) - LIGHTING-EXTERIOR LIGHTING PLAN (BIG SUR)

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: All exterior lighting shall be unobtrusive, down-lit, compatible with the local area, and constructed or located so that only intended area is illuminated and off-site glare is fully controlled. Exterior lights shall have recessed lighting elements. Exterior light sources that would be directly visible from critical viewshed viewing areas as defined in Section 20.145.020.V, are prohibited. The applicant shall submit three (3) copies of an exterior lighting plan which shall indicate location, type, and wattage of all light fixtures and include catalog sheets for each fixture. The lighting shall comply with the requirements of the California Energy Code set forth in California Code of Regulations Title 24 Part 6. The exterior lighting plan shall be subject to approval by the Director of HCD - Planning, prior to the issuance of building permits. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of building permits, the Owner/Applicant shall submit three copies of the lighting plans to HCD - Planning for review and approval. Approved lighting plans shall be incorporated into final building plans.

Prior to final/occupancy, staff shall conduct a site visit to ensure that the lighting has been installed according to the approved plan.

On an on-going basis, the Owner/Applicant shall ensure that the lighting is installed and maintained in accordance with the approved plan.

7. PDSP001 - EV CHARGER MODIFICATIONS

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: Alterations to the EV charging stations are needed to make the charging station blend in with the surrounding natural environment dominated by Redwood trees, compatible with the rural community of the surrounding community center, minimize and control illumination and visibility. Modifications shall be made to the satisfaction of HCD-Planning.

Compliance or Monitoring Action to be Performed: Prior to final inspection, the Applicant/Owner shall submit evidence to HCD-Planning that the following modifications have been implemented: installation of redwood siding installed around the metal bollard cover/exterior, as to not impede the functionality of the charging station, painting or covering the orange sign with an earth-toned color, and placement of a tinted film placed on the LCD screen. Deviations to these modifications shall be to reviewed and approved by HCD-Planning.

8. EHSP01 – HAZARDOUS MATERIALS: ENVIRONMENTAL HEALTH BUREAU REGISTRATION

Responsible Department: Health Department

Condition/Mitigation Monitoring Measure: The proposed commercial business operation (Blaze Engineering) is currently registered with the Environmental Health Bureau (EHB). Prior to final inspection of construction permit, the applicant shall provide the following updated information to EHB's Hazardous Materials Management Services, relative to the new facility located on APN 419-201-007:

- Address update
- Site location
- Hazardous materials / waste inventory list
- California Environmental Reporting System (CERS) registration

Once approved, the commercial business operation shall maintain an annual permit from the EHB.

Compliance or Monitoring Action to be Performed: Prior to final inspection of construction permit, the applicant shall provide the specified information to the EHB for review and acceptance.

Once approved, the applicant shall maintain an annual permit with the EHB.

9. PW0043 - REGIONAL DEVELOPMENT IMPACT FEE

Responsible Department: Public Works

Condition/Mitigation Monitoring Measure: Prior to issuance of building permits, applicant shall pay the Regional Development Impact Fee (RDIF) pursuant to Monterey Code Chapter 12.90. The fee amount shall be determined based on the parameters adopted in the current fee schedule.

Compliance or Monitoring Action to be Performed: Prior to issuance of Building Permits Owner/Applicant shall pay Monterey County Building Services Department the traffic mitigation fee. Owner/Applicant shall submit proof of payment to the HCD-Engineering Services.

10. PW0045 – COUNTYWIDE TRAFFIC FEE

Responsible Department: Public Works

Condition/Mitigation Monitoring Measure: Prior to issuance of building permits, the Owner/Applicant shall pay the Countywide Traffic Fee or the ad hoc fee pursuant to General Plan Policy C-1.8. The fee amount shall be determined based on the parameters in the current fee schedule.

Compliance or Monitoring Action to be Performed: Prior to issuance of Building Permits, the Owner/Applicant shall pay Monterey County HCD-Building Services the traffic mitigation fee. The Owner/Applicant shall submit proof of payment to HCD-Engineering Services.

11. PDSP003 - SAFETY BARRIER (NON-STANDARD)

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: In order to create a separation between vehicle and pedestrian use along Apple Pie Ridge Road, the owner/applicant shall construct improvements, such as an informal walking path and or fencing along the roadway for the entirety of the property. The location and construction of the safety barrier improvements shall be included on the building plans for the associated construction permit. The barrier improvement and adjacent vegetation shall be maintained throughout the commercial use of the property. (RMA-Planning)

Compliance or Monitoring Action to be Performed: Prior to the issuance of construction permits, the owner/applicant shall submit construction plans incorporating safety barrier improvements along Apple Pie Ridge Road to RMA-Planning for review and approval.

Prior to final of construction permits, the owner/applicant shall submit evidence that the approved safety barrier improvements have been installed.

The owner/applicant shall maintain the installed safety barrier improvements throughout the commercial use of the property.

12. PDSP002 - SITE MAINTENANCE

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: As an on-going condition, the site shall be maintained and long-term outdoor storage of construction materials shall be prohibited. These materials shall include: concrete mix, cement, sand, asphalt, landscaping soils, plumbing supplies, electrical supplies, scrap metal, scrap material and similar items. The property shall be kept free from junk and debris that would cause a visual nuisance. (HCD-Planning)

Compliance or Monitoring Action to be Performed: This condition shall be adhered to on an on-going basis for the duration of use of the subject property by Blaze Engineering or a similar use.

13. CC01 INDEMNIFICATION AGREEMENT

Responsible Department: County Counsel-Risk Management

Condition/Mitigation Monitoring Measure: The property owner agrees as a condition and in consideration of approval of this discretionary development permit that it will, pursuant to agreement and/or statutory provisions as applicable, including but not limited to Government Code Section 66474.9, defend, indemnify and hold harmless the County of Monterey or its agents, officers and employees from any claim, action or proceeding against the County or its agents, officers or employees to attack, set aside, void or annul this approval, which action is brought within the time period provided for under law, including but not limited to, Government Code Section 66499.37, as applicable. The property owner will reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action. The County may, at its sole discretion, participate in the defense of such action; but such participation shall not relieve applicant of his/her/its obligations under this condition. An agreement to this effect shall be recorded upon demand of County Counsel or concurrent with the issuance of building permits, use of property, filing of the final map, recordation of the certificates of compliance whichever occurs first and as applicable. The County shall promptly notify the property owner of any such claim, action or proceeding and the County shall cooperate fully in the defense thereof. If the County fails to promptly notify the property owner of any such claim, action or proceeding or fails to cooperate fully in the defense thereof, the property owner shall not thereafter be responsible to defend, indemnify or hold the County harmless. (County Counsel-Risk Management)

Compliance or Monitoring Action to be Performed: Upon demand of County Counsel or concurrent with the issuance of building permits, use of the property, recording of the final/parcel map, or recordation of Certificates of Compliance, whichever occurs first and as applicable, the Owner/Applicant shall submit a signed and notarized Indemnification Agreement to the Office of County Counsel-Risk Management for review and signature by the County.

Proof of recordation of the Indemnification Agreement, as outlined, shall be submitted to the Office of County Counsel-Risk Management

14. PD006 - CONDITION OF APPROVAL / MITIGATION MONITORING PLAN

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: The applicant shall enter into an agreement with the County to implement a Condition of Approval/Mitigation Monitoring and/or Reporting Plan (Agreement) in accordance with Section 21081.6 of the California Public Resources Code and Section 15097 of Title 14, Chapter 3 of the California Code of Regulations. Compliance with the fee schedule adopted by the Board of Supervisors for mitigation monitoring shall be required and payment made to the County of Monterey at the time the property owner submits the signed Agreement. The agreement shall be recorded. (HCD- Planning)

Compliance or Monitoring Action to be Performed: Within sixty (60) days after project approval or prior to the issuance of building and grading permits, whichever occurs first, the Owner/Applicant shall:

- 1) Enter into an agreement with the County to implement a Condition of Approval/Mitigation Monitoring Plan.
- 2) Fees shall be submitted at the time the property owner submits the signed Agreement.
- 3) Proof of recordation of the Agreement shall be submitted to HCD-Planning.

15. PD022(C) - EASEMENT-CONSERVATION AND SCENIC (COASTAL)

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: A conservation and scenic easement shall be conveyed to the County over those portions of the property where Environmentally Sensitive Habitat exist(s) in accordance with the procedures in Monterey County Code § 20.64.280.A. A Subordination Agreement shall be required, where necessary. The easement shall be developed in consultation with certified professional. An easement deed shall be submitted to, reviewed and approved by the Director of HCD- Planning and/or the Executive Director of the California Coastal Commission, and accepted by the Board of Supervisors prior to final of grading and building permits. (HCD- Planning)

Compliance or Monitoring Action to be Performed: Prior to final inspection of grading and/or building permits, the Owner/Applicant shall submit the conservation and scenic easement deed and corresponding map to HCD-Planning for review and approval, showing the exact location of the easement on the property along with the metes and bound description. The easement boundaries shall be developed in coordination with the project arborist/biologist. The meets and bounds shall be developed in consultation with a certified professional. .

Prior to final of grading/or building permits, the Owner/Applicant shall submit a signed and notarized Subordination Agreement, if required, to RMA - Planning for review and approval.

Prior to final of grading and/or building, the Monterey County Board of Supervisors shall accept and record the approved conservation and scenic easement. Recordation fees shall be paid by the Applicant/Owner. Submit a copy of the recorded deed and map to HCD- Planning.

16. MM01 - ARBORIST MONITOR

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: For the protection of tree resources and to ensure grading and construction activities are conducted in accordance with the recommendations contained in the Tree Resource Evaluation Project Impact Analysis (Planning File LIB170437), the owner/applicant shall enter into a contract with a certified arborist (project arborist) and the contract shall include:

- Review the construction documents (Grading and/or Building plans, Tree Protection Fencing plan and Construction Management Plan) to verify consistency with the preliminary plans and the Tree Resource Evaluation Project Impact Analysis.
- Review and approval of the protective fencing plan in accordance with Mitigation Measure No. 2.
- Review and approval of grading, building, and construction management plans (including any future modified construction plans) for consistency with and incorporation of Mitigation Measure No. 3.
- The owner/applicant shall delegate responsibility and authority to the project arborist to stop construction in the event the work is found to be inconsistent with the approved plans, BMP's, or if tree resources are not adequately protected. The contractor and project arborist shall develop a plan to remediate and/or revise procedures and methods to accomplish the objective of Mitigation Measure Nos. 2 and 3.
- Prepare and submit a final report to RMA-Planning for review and approval indicating that the protection measures in place were successful.
(RMA-Planning)

Compliance or Monitoring Action to be Performed: Mitigation Measure Monitoring Action No. 1a: Prior to the issuance of construction permits for grading or building, the owner/applicant shall submit to RMA-Planning a copy of the contract between the owner/applicant and a certified arborist (referred to as the project arborist) for review and approval. Should RMA-Planning find the contract incomplete or unacceptable, the contract will be returned to the owner/applicant and a revised contract shall be re-submitted for review and approval.

Mitigation Measure Monitoring Action No. 1b: In the event work is stopped by the project arborist due to inconsistency with the approved plans, BMP's, or if tree resources are not adequately protected, the owner/applicant shall submit a remediation plan outlining revised procedures and/or methods, prepared by the contractor and project arborist, that accomplishes the objectives of Mitigation Measure Nos. 2 and 3. This plan, and evidence of successful implementation shall be submitted to RMA-Planning for review and approval.

Mitigation Measure Monitoring Action No. 1c: Prior to final inspection of construction permits for grading or building, the owner/applicant shall submit a final report prepared by the project arborist demonstrating monitoring of grading and construction activities occurred and met the requirements specified in Mitigation Measure Nos. 1, 2, and 3 to RMA-Planning for review and approval.

17. MM02 - TREE PROTECTION

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: In order to prevent construction activities from damaging trees within the tree protection zone, the owner/applicant shall develop a Tree Protection Fencing plan for all trees within 30-feet of the development area. The plan shall be developed in consultation with the project arborist and submitted to RMA-Planning for review and approval. The Tree Protection Fencing plan shall demonstrate how the following measures shall be implemented:

- Demarcate installation of protection fencing consistent with the recommended "TREE PRESERVATION SPECIFICATIONS" and "UPDATED TREE PLAN" found in the "Tree Resource Evaluation Project Impact Analysis", dated October 6, 2017 (Monterey County Document No. LIB170437), prepared by Maureen Hamb-WCISA, as amended on June 19, 2019 and August, 31, 2022.
- Provide protection fencing along the critical root zones of the coast redwood trees near the development area.
- Place straw bales, from end to end, inside of the protection fencing to act as a barricade to limit damage to the fencing, prevent grading spoils from encroaching into the critical root zone area, and prevent excess moisture from gathering under the retained trees.
- Maintain the natural grade around trees. Grading shall not be permitted to sever major roots of redwood or oak trees. No additional fill or excavation shall be permitted within the critical root zone of trees. If major tree roots that are 2-inches or greater are unearthed during the construction process, the project arborist/biologist shall be notified immediately. Work shall be halted and roots shall be covered with moistened burlap until a determination is made by the project arborist/biologist.
- Unauthorized pruning of any tree shall be prohibited. Any required pruning shall be done on the authority of the project arborist/biologist and to the International Society of Arboriculture (ISA) pruning guidelines and Approved American National Standard (ANSI) A300 pruning standards.
- All trenching onsite shall be approved by the project arborist/biologist.
- A qualified arborist/biologist shall review in the field the locations of the proposed boring holes prior to construction of the soldier pile wall, hilfiker wall, and privacy fencing. Holes should be manually dug with a hand auger to limit potential tree root impacts.

Compliance or Monitoring Action to be Performed: Mitigation Measure Monitoring Action No. 2a: Prior to approval of construction permits for grading and building, the owner/applicant shall develop and submit a Tree Protection Fencing plan, as described in Mitigation Measure No. 2, to RMA-Planning for review and approval. The approved Tree Protection Fencing plan shall be incorporated into the approved set of job-site and office-copy construction plans for grading and/or building.

Mitigation Monitoring Action No. 2b. Prior to issuance of construction permits for grading and building, the owner/applicant shall provide evidence to RMA-Planning documenting installation of the protective fencing and straw bale barriers for review and approval.

Mitigation Monitoring Action No. 2c. Prior to final of construction permits for grading and building, the owner/applicant shall submit documentation that implementation of the Tree Protection Fencing plan has been successful to RMA-Planning for review and approval.

18. MM03 - CONSTRUCTION MANAGEMENT PLAN

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: In order to ensure best management practices are followed during construction activities, the owner/applicant shall prepare a final Construction Management Plan. The plan shall be consistent with the preliminary drawing, developed in consultation with the project arborist, and submitted to RMA-Planning for review and approval. In addition to the notes contained in the preliminary plan, the final Construction Management Plan shall demonstrate how the following measures shall be implemented:

- Storage of construction materials, debris, or excess soil shall be prohibited within the tree protection zone.
- Solvents or liquids of any type shall be disposed of properly.
- Use of heavy equipment shall be restricted to areas within the construction envelope.
- Delineate approved areas for material storage and parking of vehicles/construction equipment.
- Any excavated material shall not be deposited beyond the edge of the driveway. Site erosion shall not be permitted to enter areas supporting natural communities beyond the impact perimeter of the development.
- Prior to final grading, all construction debris shall be removed from the site.

(RMA-Planning)

Compliance or Monitoring Action to be Performed: Mitigation Measure Monitoring Action No. 3a: Prior to approval of construction permits for grading and building, the owner/applicant shall develop and submit a final Construction Management Plan, as described in Mitigation Measure No. 3, to RMA-Planning for review and approval. The approved Construction Management Plan shall be incorporated into the approved set of job-site and office-copy construction plans for grading and/or building.

Mitigation Monitoring Action No. 3b. Prior to final of construction permits for grading and building, the owner/applicant shall submit documentation that implementation of the Construction Management Plan has been successful to RMA-Planning for review and approval.

19. MM04 - RESTORATION AND FUEL MANAGEMENT

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: In order to eradicate invasive plant species and enhance and maintain native habitats onsite, the owner/applicant shall prepare a final Restoration and Fuel Management Plan. The plan shall be consistent with the preliminary drawing and submitted to RMA-Planning for review and approval. In addition to the notes contained in the preliminary plan, the final Restoration and Fuel Management Plan shall demonstrate how the following measures shall be implemented:

- Prior to grading activities, invasive plant species, shall be eradicated within the development area, including English Ivy that envelops tree trunks and canopies, and compromises the health of established coast redwood and California bay trees. Removal of invasive plant species shall be done by hand to prevent spreading of seeds or rhizomes.
- All disturbed soil generated during any site grading shall be kept free of exotic plant species.
- During construction, disturbed soils shall be stabilized in accordance with approved erosion control measures.
- During construction, disturbed soils and areas where equipment and personnel are concentrated shall be mulched to reduce compaction, retain soil moisture, and stabilize soil temperature.
- After completion of soil disturbance activities, disturbed soils shall be stabilized with plant species identified on the "Restoration Seeding List" found on the Conceptual Restoration and Fuel Management Plan. Planting shall be installed in the fall months prior to, or in conjunction with, seasonal rains.

(RMA-Planning)

Compliance or Monitoring Action to be Performed: Mitigation Measure Monitoring Action No. 4a: Prior to approval of construction permits for grading and building, the owner/applicant shall develop and submit a Restoration and Fuel Management Plan, as described in Mitigation Measure No. 4, to RMA-Planning for review and approval. The approved Restoration and Fuel Management Plan shall be incorporated into the approved set of job-site and office-copy construction plans for grading and/or building.

Mitigation Monitoring Action No. 4b. Prior to issuance of construction permits for grading and building, the owner/applicant shall provide evidence to RMA-Planning documenting removal of invasive plant species for review and approval.

Mitigation Monitoring Action No. 4c. Prior to final of construction permits for grading and building, the owner/applicant shall submit documentation that implementation of the Restoration and Fuel Management Plan has been successful to RMA-Planning for review and approval.

20. MM05 - PRE CONSTRUCTION SURVEY

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: The project biologist shall conduct pre-construction surveys in suitable habitat for the Coast range newt (CRN), Santa Lucia slender salamander (SLSS), Foothill yellow-legged frogs (FYLF), where project-related grading is proposed. Surveys shall be conducted within seven days prior to construction. Dip-netting shall be a prohibited survey method for locating potential Foothill yellow-legged frogs. Should CRN, SLSS, or FYLF be identified, the project biologist shall consult with California Department of Fish and Wildlife to establish appropriate avoidance measures, including but not limited to exclusionary fencing or relocation, subject to the issuance of an Incidental Take Permit (ITP). Should an ITP be required, evidence of the CDFW issued ITP shall be submitted to HCD-Planning prior to commencement of relocation activities.

Compliance or Monitoring Action to be Performed: Mitigation Monitoring Action No. 5a: Prior to the issuance of permits from Building Services, the applicant/owner shall submit to HCD-Planning for review and approval a copy of a contract with a qualified biologist to conduct the required pre-construction surveys for CRN, SLSS, and FYLF.

Mitigation Monitoring Action No. 5b: Prior to final inspection from Building Services, applicant/owner shall submit to HCD-Planning a brief report prepared by the project biologist as to incidents regarding CRN and SLSS.

21. MM06 - WESTERN BUMBLE BEE PROTECTION

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: A pre-construction survey shall be prepared by the Project Biologist during typical flying season (March 1 through September 1) to determine the presence of Western bumble bee (WBB) or potential habitat. If no WBB and/or potential WBB habitat is identified, no further mitigation is required. If WBB and/or potential habitat are identified the following actions shall be adhered to:

- If project-related ground disturbance occurs during this species' nesting period, a minimum of a 50-foot buffer shall be established around mammal burrows and thatched/bunch grasses. If mammal burrows and thatched/bunch grasses are within project grading limits, the Project Biologist shall consult with CDFW to prepare a plan to protect bumble bee nests and individuals to ensure no take of WBB occurs.
- If project-related ground disturbance occurs during this species' overwintering period of October through February, the Project Biologist shall consult with CDFW to prepare a plan to protect bumble bee nests and individuals to ensure no take of WBB occurs.

Compliance or Monitoring Action to be Performed: Mitigation Monitoring Action No. 6a: Prior to the issuance of permits from Building Services, the applicant/owner shall submit to HCD-Planning for review and approval the results of the WBB survey. If WBB and/or potential habitat are identified, the Project Biologist shall adhere to the language of this condition.

22. MM07 - PROTECTION OF CULTURAL RESOURCES AND SACRED PLACES

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: In order to reduce potential impacts to cultural resources and sacred places, excavation for the the septic tank, as shown on the preliminary Site Plan (Sheet No. A1.1), shall be observed by the tribe traditionally and culturally affiliated with the vicinity of the subject parcel, or other appropriately NAHC recognized representative. This monitoring shall be limited to the areas specified above and to excavation of sterile soils. Placement of fill and/or compaction of soils shall not require a tribal monitor. If more than one earth moving equipment is deployed at different locations at the same time, more than one tribal monitor shall be present during those periods. If at any time, potentially significant cultural resources, sacred places, or intact features are discovered, the contractor shall temporarily halt work until the find can be evaluated by the tribal monitor and archaeological monitor. If the find is determined to be significant, work shall remain halted until mitigation measures have been formulated, with the concurrence of RMA-Planning, and implemented. Since any items that may be uncovered during excavation belong to the property owner, this mitigation shall serve as notice that the OCEN Tribal Council formally requests that any sacred burial items discovered be given to the tribe by the property owner. (RMA-Planning)

Compliance or Monitoring Action to be Performed: Mitigation Monitoring Action No. 7a: Prior to issuance of construction permits for grading or building, the owner/applicant shall include a note on the construction plans encompassing the language contained in Mitigation Measure No. 7. The owner/applicant shall submit said plans to RMA-Planning for review and approval.

Mitigation Monitoring Action No. 7b: Prior to issuance of construction permits for grading or building, the owner/applicant shall submit a contract with a monitor approved by the tribe traditionally and culturally affiliated with the vicinity of the subject parcel, or other appropriately NAHC-recognized representative to HCD-Planning for review and approval. The contract shall outline logistics for monitoring during earth disturbance activities specified in Mitigation Measure No. 7 as well as how uncovered cultural resources will be handled, in coordination with the project archaeologist.

Mitigation Monitoring Action No. 7c: An on-site preconstruction meeting shall be held between the applicant, the Native American Tribal Monitor, and contractor to discuss and assure understanding of Mitigation Measure No. 7 and scheduling of construction with regard to monitoring. Prior to issuance of any construction permits for grading or construction, the preconstruction meeting between the parties shall be conducted and a letter summarizing what was discussed shall be submitted to HCD-Planning.

Mitigation Monitoring Action No. 7d: During earth disturbance activities specified in Mitigation Measure No. 7, the Native American Tribal Monitor shall be onsite observing the work, consistent with the approved contract required by Mitigation Measure Action No. 7b. Prior to final of construction permits for grading or building, the owner/applicant shall submit a letter prepared by the Native American Tribal Monitor verifying all work was done consistent with the contract to HCD Planning.

23. PD005 - FISH & GAME FEE NEG DEC/EIR

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: Pursuant to the State Public Resources Code Section 753.5, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee, to be collected by the County, within five (5) working days of project approval. This fee shall be paid before the Notice of Determination is filed. If the fee is not paid within five (5) working days, the project shall not be operative, vested or final until the filing fees are paid. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Within five (5) working days of project approval, the Owner/Applicant shall submit a check, payable to the County of Monterey, to the Director of HCD - Planning.

If the fee is not paid within five (5) working days, the applicant shall submit a check, payable to the County of Monterey, to the Director of HCD - Planning prior to the recordation of the final/parcel map, the start of use, or the issuance of building permits or grading permits.

24. PDSP004 - CALTRANS REVIEW OF DRAINAGE PLANS (NON-STANDARD)

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: In order to ensure that drainage from new impervious surfaces do not flow towards Highway 1, the owner/applicant shall provide the Department of Transportation, Caltrans, the stormwater management plan and any associated reports, to confirm that the plans include components that reduce runoff onto the State right of way. (HCD-Planning)

Compliance or Monitoring Action to be Performed: Prior to issuance of any construction permit, the owner/applicant shall submit proof that the Department of Transportation has reviewed the final stormwater management plan associated with the construction permit application to HCD-Planning.

25. EHSP02 – DEED RESTRICTION AND DECLARATION FOR AN UNREGULATED, NON-PUBLIC WATER SYSTEM (Non-Standard)

Responsible Department: Health Department

Condition/Mitigation Monitoring Measure: The proposed project does not currently require a water system permit based on the definition of a public water system in California Health and Safety Code, section 116275(h). Prior issuance of construction permit, Owner/Applicant shall record a "Declaration for an Unregulated, Non-Public Water System" deed restriction on a form prepared by the Environmental Health Bureau (EHB) and approved by County Counsel. In the event that the Unregulated, Non-Public Water System facility begins to serve at least 25 individuals daily at least 60 days out of the year, Owner/Applicant must apply for and obtain a Public Water System permit from EHB. Owner/Applicant is responsible to reimburse EHB for costs associated with preparation of the Deed Restriction.

Compliance or Monitoring Action to be Performed: Prior to issuance of construction permits, the applicant shall provide a legal description for the parcel and a copy of the Grant Deed to the EHB. The EHB will prepare the deed restriction form.

Prior to final inspection of construction permits, the property owner shall sign and notarize the deed restriction form obtained from the EHB. Record the notarized deed restriction with the Monterey County Recorder. Proof of recordation shall be provided to the EHB.

26. PD048 - TREE REPLACEMENT/RELOCATION

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: Prior to final inspection, the applicant shall replace and or relocate each tree approved for removal as follows:
- Replacement ratio: 1:1 (10 total Redwoods)

Replacement tree(s) shall be located within the same general location as the tree being removed. (HCD - Planning)

Compliance or Monitoring Action to be Performed: Prior to final inspection, the Owner/Applicant shall submit evidence of tree replacement to HCD -Planning for review and approval. Evidence shall be a receipt for the purchase of the replacement tree(s) and photos of the replacement tree(s) being planted.

Six months after the planting of the replacement tree(s), the Owner/Applicant shall submit evidence demonstrating that the replacement tree(s) are in a healthy, growing condition.

One year after the planting of the replacement tree(s), the Owner/Applicant shall submit a letter prepared by a County-approved tree consultant reporting on the health of the replacement tree(s) and whether or not the tree replacement was successful or if follow-up remediation measures or additional permits are required.

27. PDSP0004 - LONG-TERM HABITAT MAINTENANCE

Responsible Department: Planning

Condition/Mitigation Monitoring Measure: In accordance with Big Sur LUP policy 3.3.2.7 and CIP section 20.145.040.B(4), the Applicant/Owner shall ensure that the restoration and exotic species control activities detailed in Mitigation Measure No. 4 (Condition No. 19) are adhered to on an ongoing basis for the lifetime of the commercial business operation. On-going activities include but are not limited to removal of invasive species, tree pruning (which does not constitute major vegetation removal), debris removal, and thinning of non-native plant species. On-going fuel management shall not include clear cutting of native or sensitive plant species. The Applicant/Owner shall enter into a 10-year contract with a qualified biologist to monitor the success of the on-going activities and report his/her findings to HCD-Planning. The contract shall be prepared and carried out in conjunction with Mitigation Measure No. 4 (Restoration and Fuel Management Plan) and shall establish long-term habitat maintenance goals, success criteria, and implementation measures. HCD-Planning and the California Coastal Commission shall review and approve the Restoration Plan and associated contract prior to issuance of building permits. Should the biologist have additional recommendations to further ensure the long maintenance of the property's habitat, the Applicant/Owner shall adhere accordingly. Monitoring and submittal of reports to HCD-Planning shall occur in the following intervals:

- Year 1: Quarterly monitoring
- Year 2 & 3: Semi Annual monitoring
- Year 5: Annual Monitoring
- Year 10: Annual Monitoring

Compliance or Monitoring Action to be Performed: Prior to issuance of building permits, the Applicant/Owner shall submit evidence to HCD-Planning for review and approval that the Applicant/Owner has entered into a 10 year monitoring contract with a qualified biologist.

Prior to issuance of building permits, the Applicant/Owner shall submit the Restoration and Fuel Management Plan (inclusive of details prescribing on-going habitat maintenance activities) to HCD-Planning and the California Coastal Commission for review and approval.

On and on-going basis for 10 years following initial implementation of the restoration plan, the project Biologist shall submit a report to HCD-Planning at the following intervals Year 1: Quarterly; Year 2 & 3: Semi Annually; Year 5: Annually; Year 10: Annually, that certifies that the on-site restoration is in conformance with the approved Plan, along with photographic documentation. The report shall also include evidence that the Applicant/Owner is adhering the the long term maintenance goals and criteria.

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

**Waiver of the 49-Working-Day Rule for an Appeal of a Local Government's Final Action on a Coastal Development Permit**

Local Government Application Number: PLN 160851 (Res 19-285)

Coastal Commission Appeal Number: A-3-MCO-19-0205

Applicant Name: Martha Morgenrath

Appeal Filing Date: October 25, 2019

I, the Applicant or Authorized Representative, hereby waive my or the Applicant's right to a hearing within 49 working days after the application or appeal has been filed with the Coastal Commission. (Public Resources Code Sections 30621(a), 30625(a).) I request that the referenced application be scheduled:

- for consideration at the next possible Commission meeting in Southern California.
- for consideration at the next possible Commission meeting in Northern California.

I understand that the application may need to be scheduled without regard to the Southern/Northern California preference.

- for consideration after staff and I have had additional time to discuss the project.

I also understand that while the Commission staff will attempt to schedule the appeal expeditiously, the waiver of the 49-working-day time limit does not result in the imposition of a new deadline for hearing of the application or the appeal.

THIS FORM SHALL NOT BE MODIFIED IN ANY MANNER

11/5/2019

Date

DocuSigned by:

Martha Morgenrath

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Signature of Applicant or Authorized Agent