

Attachment F

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May 9, 2023

VIA EMAIL DELIVERY

Fionna Jensen, Senior Planner
Monterey County HCD-Planning
1441 Schilling Place, South 2nd Floor
Salinas, California 93901

Re: PLN160851-AMD1 - Comments on the Supplemental Initial Study-Mitigated Negative Declaration for the Martha J. Morgenrath (Blaze Engineering) Combined Development Permit Application, 46821 Highway One, Big Sur (APN 419-201-007)

Dear Ms. Jensen:

On behalf of our client, Martha Morgenrath and Blaze Engineering (“Applicant”), we offer the following comments on the Supplemental Initial Study-Mitigated Negative Declaration (“IS/MND”) prepared for the Amended Combined Development Permit Application (“Project”).

In response to the appeal of the previously approved project to the California Coastal Commission, the Project proposed by the Applicant, and analyzed in the IS/MND, includes:

- adding a 760 square-foot, 2 bedroom employee housing unit;
- adding six (6) public parking spaces adjacent to Highway including two publically-available universal electric vehicle charging stations;
- reducing impacts to slopes by 60%;
- reducing grading impacts by over 300 cubic yards; and
- reducing tree removal to eleven (11) trees.

We offer the following comments on the IS/MND:

BIO-Mitigation Measure No. 6:

Impact Analysis (page 23): The Original Project involved the removal of 14 bay laurels ranging from fair to poor health and structure, one Cypress tree in fair health and structure, and one Redwood in good health and structure. No oaks were included for removal with the Original Project.

Section 16 Transportation/Traffic:

Prior Environmental Analysis (page 40): The first sentence should be corrected to state, “The 2019 IS/MND concluded that the Original Project would not conflict with the 2010 Regional Transportation Plan for Monterey County or an applicable plan...”

Fionna Jensen
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Project Analysis (paragraph 1 - page 41): There has been a reduction in the employee count for Blaze. The 2019 IS/MND analyzed the Original Project with a staff of 20 employees. The current employee count has been reduced by eight employees to 12 employees total (see page 4). The number of parking spaces remains the same.

Project Analysis (paragraph 2 - page 42): The County file number for the project specific Traffic Report is LIB220362, not LIB220326. The dated of the report is April 6, 2023, not November 21, 2022. The date of the report should also be corrected in Section IX.19 (page 51). The total square-footage of the Project is 2,458 square feet, not 2,158 square feet.

We agree with the analysis provided in this IS/MND that there is no substantial evidence, in light of the whole record, that the Project may have a significant effect on the environment. Thank you for your consideration of these comments. If you have any questions, please do not hesitate to contact me.

Sincerely,



for Aengus L. Jeffers

ALJ:lml

May 17, 2023

Stephen W. Pearson

Anne K. Secker

Randy Meyenberg

Christine G. Kemp

Timothy J. Baldwin

* *Charles Des Roches*

* *Robert D. Simpson*

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COPY TO - jensenfl@co.monterey.ca.us

CEQA Comments

Monterey County Housing and Community Development (HCD)

Attn: Fionna Jensen

1441 Schilling Place, 2nd Floor

Salinas CA 93901

Re: Comments on Initial Study/Supplemental Mitigated Negative Declaration - Morgenrath (Blaze Engineering) Application - PLN160851-AMD1

To Whom it May Concern:

I am writing on behalf of Matt and Carol Donaldson (“Donaldson”) regarding the Initial Study/Supplemental Mitigated Negative Declaration (IS/SMND) prepared for the Morgenrath/Blaze Engineering (“Blaze”) Application - PLN160851-AMD1 (“Proposed Project”).

Attached hereto are my January 3, 2023 letter to the County (Attachment 1) and the Donaldson’s December 29, 2022 letter to the County (Attachment 2), providing comments on the significant environmental impacts associated with the Proposed Project and the need for an Environmental Impact Report (EIR) to be prepared for the Proposed Project. These comments are incorporated herein as part of the Administrative Record for the environmental review of the Proposed Project.

All of these serious issues remain, as the Proposed Project only exacerbates the significant environmental impacts to the land and Redwood Forest ESHA; continues to violate the County zoning and the Coastal Act; and, intensifies, rather than lessens, the on-site land uses and environmental impacts, by adding night glare and height, bulk and mass of a new housing unit on top of the office; and adding two high-voltage electric vehicle (EV) charging stations, which reduce the general public parking spaces at the base of the hill, and create a potential fire hazard locating the high-voltage charging stations in the same area as the above-ground 4000 gallon diesel tank.

In addition, we provide the following comments on the IS/MND.

Improper IS/MND Project Description

The IS/SMND improperly describes the “Proposed Project” as minor amendment to a previously approved Project. The previously Project **was not approved and no Coastal Development Permit has been issued for this Project.**

Rather, the County’s August 27, 2019 action on the previous Project was appealed to the California Coastal Commission by the Donaldsons and the Sierra Club in 2019. Once the Donaldson and Sierra Club appeals were filed with the Coastal Commission, the Coastal Commission staff informed the Applicant that that Coastal staff would recommend a finding of “Substantial Issue” on appeal, placing the previous Project before the Coastal Commission for a final decision, at which point the Applicant decided to revise the original Project rather than proceed with a Coastal Commission hearing.

No Coastal Development Permit was ever issued by the County or the Coastal Commission for the original Project and the entire Proposed Project including all elements of the original Project, as amended, are before the County and the public for review.

It is misleading to the public for the IS/SMND to claim the original Project was previously approved and only minor and trivial amendments to the approved project are being considered. The entire Proposed Project, as amended, is under review.

The proper IS/MND Project Description for the Proposed Project should be:

“The **Proposed Project** consists of: 1) Combined Development Permit and General Development Plan to allow establishment of a commercial business operation on the subject property, 2) Coastal Administrative Permit to allow conversion of 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 bedroom second story employee housing unit, a 600 square foot workshop with 300 square feet of canopy, 800 square foot storage building and associated site improvements including formalizing six (6) public parking spots and installing two electrical 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 11 native trees.”

Improper Baseline Condition

The IS/SMND Proposed Project description states the Proposed Project is to allow for the “relocation/establishment” of a commercial business. Claiming a “relocation” of the business is not a proper baseline condition for the establishment of the Proposed Project on the Project site. Morgenrath/Blaze failed to obtain proper land use permitting for operation of their commercial business on an adjacent site, which

ultimately led to Blaze being removed from the site over five years ago. (See Donaldson May 8, 2019 letter to Monterey County Board of Supervisors, Attachment 3).

Moreover, there is substantial evidence in the record that there are significant differences between the prior site and the proposed site. The prior site was on a single isolated parcel without through traffic. The proposed site is on a narrow one lane dirt road serving numerous homes on Apple Pie Ridge who will share the narrow dirt road with the Blaze operations, as well as, view the contractor yard operations, from the road, which operations are entirely out of character with the rural Big Sur setting in the Redwood forest.

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

Aesthetics

There is substantial evidence in the record, and a fair argument can be made that, the Proposed Project has the potential to create significant impacts on the scenic vistas and the existing visual character and quality of the site and its surroundings. The IS/SMND does not adequately address the visual impacts from the Proposed Project.

Sadly, the only baseline information that Blaze’s former use of the adjacent site provides, is that Blaze was not a good steward of the land creating an unsightly junk yard on that site. (See Donaldson May 8, 2019 and December 29, 2022 letters, Attachments 2 and 3) Given the nature of Blaze’s business as a contractor yard, and as occurred on the adjacent parcel, use of the proposed site as a contractor’s yard has the potential to create a significant visual impact for the neighbors on Apple Pie Ridge road and adjacent properties, as well as, the travelling public on Highway 1 where the large construction trucks and equipment will be stored.

There is nothing rustic about a contractor’s yard on this site as required under the Big Sur Land Use Plan policy 5.4.3, nor the large construction trucks and equipment that will be parked in the critical viewshed along Highway 1.

Additionally there is substantial evidence in the record that the redwood fence that is to “screen” the construction equipment along Highway 1 creates its own visual impact in the critical viewshed as stated by the Coastal Commission staff in its October 1, 2018 letter to the County:

“The project further involves development within the critical viewshed, which also cannot be supported under the LUP. Specifically, the LUP allows exceptions for development on RCC- designated land that would be located in the critical viewshed if

such development uses vegetative screening where possible to soften the impact on the viewshed. In this case, the proposal includes the parking and staging of construction vehicles, trucks, and bulldozers, etc., within an existing parking area that is located within the critical viewshed. The additional traffic and vehicles associated with the development likely would result in significant visual impacts. As proposed, the project includes construction of six-foot high solid wood fencing along the Highway 1 frontage to "screen" vehicles and facilities on site. Staff notes that solid wood fences are themselves development with their own visual impacts. Thus, the proposal does not actually screen development from public viewing, but rather trades one visual impact for another. The proliferation of fences along the Big Sur coast is concerning and we would not be supportive of any project that includes solid fencing within the critical viewshed." (See Mike Watson 10/1/18 letter to County of Monterey, Attachment 4)

The Proposed Project also adds a potential significant visual impact with the addition of an employee housing unit (which size is not listed in the Proposed Project description) on top of the office, which unit brings additional night light and glare to the site, creating a potential significant visual impact to the night sky and surrounding neighbors that the original Project did not create. Down-lit lights will not mitigate the glare and light from a second story home that will be occupied at night.

The addition of the two EV charging stations also causes a visual impact to the critical viewshed along Highway 1. The introduction of the EV stations is an "urban" use. Proposed mitigations about painting them, lighting options, parking striping, are all unknown, with no assurance these urban structures will visually blend into the rural Big Sur surrounding environment.

The Aesthetics discussion also states the Proposed Project includes an 800 foot storage building, rather than 800 square feet of storage containers. Blaze has never had approval to place 800 square feet of storage containers on the site, so that cannot be considered a baseline visual impact.

Air Quality

There is substantial evidence in the record, and a fair argument can be made that, the Proposed Project has the potential to create significant impacts on air quality. The IS/SMND does not adequately address the air quality impacts from the Proposed Project.

The IS/MND states the original Project did not include residential development so the original Project would not result in a population increase not already accounted for in the AQMP. The Proposed Project includes a residential unit, yet this is not addressed.

There was no environmental assessment of the air quality impacts of Blaze's operations on the adjacent parcel, which use has ceased for over five years, nor any

quantification of those operations to use as a baseline for their proposed operations with regard to air quality, upon which to conclude “relocation would not make any changes to operations that would cause an increase in air pollutants...”.

There is no analysis of the impact to air quality resulting from the increased vehicle traffic (both car and truck) and resultant dust that will occur on the dirt road providing access to the office, employee housing, workshop, and storage units. There is far more than just construction dust that will occur with the Proposed Project. The Proposed Project will create on going dust on a daily basis.

The IS/SMND states operational emission would be minimal, but there is no evidence in the record to support this statement. There has been no information provided regarding the increased traffic levels and types of vehicles that will be going up the narrow Apple Pie Ridge Road as a result of the Proposed Project, including vehicles being brought to the workshop for maintenance and repair and vehicles accessing the storage units, in addition to vehicles accessing the office and housing unit.

There have been no CalEEMod calculations done to assess air pollutant emissions from Blaze’s Proposed Project operations, nor use of the Proposed Project site for their Proposed Project.

Biological Resources

There is substantial evidence in the record, and a fair argument can be made that, the Proposed Project will have a significant adverse effect on the Environmentally Sensitive Habitat Area (ESHA) on the Project site.

The Biological Assessment for the Proposed Project, prepared by Fred Ballerini (October 23, 2017, as amended in March 2020 and September 2022), confirms the Proposed Project site is within a Redwood Forest classified as ESHA.

The Redwood Forest ESHA designation is further confirmed in the Tree and Resource Impact Assessment report dated April 17, 2019 and letter dated May 21, 2019, prepared for the site by Rob Thompson, a Certified Arborist, with Thompson Wildland Management (see Thompson April 17, 2019 report and May 21, 2019 letter attached, Attachment 5).

Mr. Thompson’s April 17, 2019 report states:

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

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

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

Mr. Thompson’s May 21, 2019 letter also reiterates that:

“Potential erosion & sedimentation control impacts and storm water runoff concerns related to the nearby Big Sur River have not been adequately addressed and evaluated.”

There is no evaluation of the potential biological impact of the Proposed Project on the nearby Pheneger Creek and Big Sur River located 0.2 miles from the Proposed Project site to which the Proposed Project site drains.

The IS/SMND states potential impacts to a host of habitats of species of special concern have now been identified that were missed in the initial MND. This statement calls in to question: *“What else was missed in the environmental review of the Proposed Project?”*

There is also evidence in the record that the Proposed Project conflicts with local and state policies protecting biological resources.

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

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

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

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

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

This Proposed Project is a contractor's yard, plain and simple, with attendant uses, including buildings, construction trucks, construction equipment, diesel tanks, workshop, equipment and material storage, etc. It is not a resource dependent use.

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

There is substantial evidence in the record, a disagreement among experts, and a fair argument can be made that, the Proposed Project will have a significant negative impact on the redwood forest environmentally sensitive habitat, and violates the Coastal Act and Big Sur Coastal policies for development within environmentally sensitive habitat areas.

Greenhouse Gas Emissions

There is substantial evidence in the record that the impacts of greenhouse gas (GHG) emissions from the Proposed Project. The IS/SMND does not adequately address the GHG impacts from the Proposed Project.

Pursuant to CEQA Guidelines Sections 15064(h)(3) and 15130(d), if a project is consistent with the requirements of an adopted plan, such as a climate action plan, the lead agency can determine the greenhouse gas (GHG) impacts are less than significant. If the proposed project is not consistent with an adopted climate action plan or other plan for reducing GHG, then further analysis is required to analyze the potential for significant environmental impacts from the Proposed Project.

There was no GHG assessment of Blaze's operations on the adjacent site, which use ceased over five years ago, or any quantification of baseline greenhouse gas (GHG) emissions for their operations on the adjacent site, hence there is no evidence in the record upon which to conclude "relocation would not make any changes to operations that would cause an increase in air pollutants...".

There is no GHG analysis of the mobile source emissions from types of construction equipment and trucks that Blaze uses in its business operations, and the related GHG emissions from said operations.

Blaze now states under the Proposed Plan it will be storing construction equipment off site. Where is this equipment being stored? What travel is involved to get to the off- site equipment. There has been no assessment of the GHG impacts generated from their overall on-site and off-site operations, as planned, in the Proposed Project.

Hazards and Hazardous Materials

There is substantial evidence in the record that Proposed Project has the potential for significant impacts from Hazards and Hazardous Materials. The IS/SMND does not adequately address the Hazards and Hazardous Materials impacts from the Proposed Project.

The Blaze operation introduces a host of hazardous materials to the Proposed Project site, including oil, waste oil, oxygen and acetylene tanks, liquid petroleum gas, and diesel fuel, all of which have the potential to impact the public and the Proposed Project sites' sensitive habitat.

The IS/MND continues to rely on Blaze's operations on an adjacent property for which Blaze's lease was terminated for failing to obtain permits and not adhering to the terms of their lease, to set a baseline for their Proposed Project. This is not a reliable baseline from which to conclude Blaze's proposed operations will not create potential hazards to the public and sensitive forest habitat.

The photographs of Blaze's past operations on an adjacent property provide substantial evidence that Blaze's operations have the potential to create significant environmental impacts, including potential impacts from hazardous materials. (See Donaldson letters, Attachments 2 and 3). If anything, Blaze's past operations on an adjacent property reinforce the likelihood of potential impacts to the environment from their operations.

In addition, the Proposed Project places a 4000 gallon above ground diesel tank in the same lower parking area adjacent to Highway 1 where the public will be parking, creating a new risk to the public should a fire arise.

Moreover the Proposed Project now places two high energy EV charging stations, which stations themselves can lead to overheating and fire hazards, in close proximity the 4000 gallon above ground diesel tank creating an even great risk of harm to the public.

The site is also in a "Very High" State Responsibility Fire Hazard Zone requiring a Landscape and Fuel Management plan to create defensible space around all

structures. There is no discussion of how the required “defensible space” will be achieved given the dense tree cover and vegetation on the Proposed Project site, nor an assessment of the impacts to biological resources by creating the required defensible space.

Land Use and Planning

There is substantial evidence the record that the Proposed Project is inconsistent with County Zoning and the Coastal Act.

The Proposed Project conflicts with the Monterey County Zoning Code, the Big Sur Land Use Plan, and the Coastal Act, thereby creating a potential significant impact to land use and planning.

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

As stated in the Coastal Commission’s October 1, 2018 letter to the County (see attached Coastal Commission letter, Attachment 4), the Proposed Project does not comport with the Rural Community Center (RCC) designation, as a contractor’s yard is not a principal or conditional use allowed under the Visitor Serving Commercial (VSC) zoning district, and is inconsistent with the Big Sur Coast Land Use Plan (LUP) which gives priority to visitor serving uses. As the Coastal Commission letter correctly points out, contractor yards and storage facilities, which the Proposed Project clearly is, are only allowed as a conditional use in limited Coastal Zoning districts.

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

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

Even if the Proposed Project were allowed under the VSC zoning district, Big Sur Coast LUP policy 5.4.3.E.8 requires permits for commercial uses to adhere to a “good neighbor” policy, ensuring that noise or visual impacts do not affect the peace

and tranquility of existing neighbors. The Proposed Project will cause a substantial disruption to the peace and tranquility of the neighbors.

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

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

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

As discussed above under **Biological Resources**, the Proposed Project also violates the Coastal Act’s Environmentally Sensitive Habitat Area (ESHA) Policies

Noise

There is substantial evidence in the record that the Proposed Project will create noise impacts. The IS/SMND does not adequately address the noise impacts from the Proposed Project.

Big Sur is a unique place where residents and visitors strive to enjoy the natural beauty and associated peacefulness of the area. A contractor’s yard with its inherent large machinery, large trucks, workshop/maintenance shop, and storage facility in which construction materials coming and going, introduces new types of noise sources to the site which are inherently inconsistent with the area.

Homes are located in close proximity to the Proposed Project which will be impacted by this commercial operation next to them. The Proposed Project Site Plan shows some buildings on the adjacent Donaldson site, but fails to show the location of the Donaldson home, which is just a few feet away from the Proposed Project.

There is no noise assessment of the operational noise impact to adjacent homes, to substantiate a conclusion that the Proposed Project would have no impact relative to ambient noise levels and exposing people to excessive noise levels, or no change to existing noise in the area, given the on-site operations, including servicing and maintenance of Blaze’s equipment, trucks and vehicles at the workshop, as well as, the

onsite storage of materials and equipment in the storage unit which will involve trucks coming and going to the site, and the overall operations at the site.

This is a commercial operation with large trucks and equipment using an undeveloped site adjacent to a rural residential neighborhood creating an inherent conflict with the surrounding residential uses.

Transportation

There is substantial evidence in the record that the Proposed Project has the potential to create significant impacts on traffic. The IS/SMND does not adequately address the Traffic impacts from the Proposed Project.

The Proposed Project is to be located on an undeveloped vacant site. Changing the use from vacant land to a commercial contractor's yard with the on-site office, housing unit, workshop, on site storage building, and on-site and office truck and equipment storage, will generate additional traffic.

The IS/SMND again relies on the Proposed Project being "relocated" from an adjacent site to claim there is no impact on traffic from the Proposed Project. Blaze's lease on the adjacent site was terminated over five years ago for Blaze failing to obtain permits and not adhering to the terms of their lease.

There is no analysis of the scope of the former operation compared to the Proposed Project. The former location was on an isolated site, not on a narrow dirt road shared by residents on Apple Pie Ridge. The former location did not involve parking trucks and equipment along Highway 1 in an area historically used for public parking. The former location did not involve parking trucks and equipment in off-site locations.

Blaze now states the Proposed Project will be storing construction equipment off site. There is no description of where this equipment is being stored or what travel is involved to get to the off- site equipment storage.

The sole means of access to the proposed office/employee housing unit, workshop/maintenance shop, and storage facility is the narrow dirt one-lane Apple Pie Ridge Road, which also serves residents on Apple Pie Ridge. How are these large trucks and construction equipment going to traverse this narrow one-land dirt road, turn around, etc., on this highly constrained road and site to access the workshop/maintenance shop and storage facility?

This increased traffic creates its own environmental damage as set forth in the Thompson report, as well as, significantly conflicts with the existing residential use of this narrow dirt road.

Additionally, the former site did not involve cramming a multitude of uses, including public and private parking into the small area along Highway 1.

The Proposed Project 30% slope map shows a host of areas where there will be building or grading on slopes in excess of 30%, yet, septic tanks, leach fields, buildings, access ways, and parking are all located in these same areas, as shown on the Parking Plan (see 2022 30% slope map sheet C-22 and 2022 Parking Plan sheet A1.2, Attachment 6).

This small parking area along Scenic Highway 1, where Blaze intends to place a host of uses, already provides overflow parking for the public, as well as, a loop road to the Big Sur River Inn units on the east side of Highway 1 (see attached Google earth map and area site photos, Attachment 7). Blaze proposes to use this small area for storing major construction equipment and semi-truck and trailer parking, a 4,000 gallon above ground diesel tank, trash enclosures, six (6) public parking spaces, (two of which are EV charging spaces), fencing and gates, all adjacent to existing visitor serving hotel rooms. This small area cannot accommodate all the uses Blaze proposes, nor are these host of uses clearly delineated on the ground to assess the impacts.

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

There is no traffic analysis of or circulation plan for this small constrained area. How do visitors get in to the River Inn units? How do the huge semi-trucks and trailers get past the visitor parking or turn around in this small area? How are large trucks and construction equipment to get up the narrow one-land dirt Apple Pie Ridge road and turnaround in the tightly constrained areas?

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

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

of this can work in this limited space, as well as interface with access to and from Highway 1.

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

Additionally, there has been no transportation analysis of the Proposed Project's effects on vehicle miles traveled (VMT) for the associated office use.

Conclusion

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

“If the lead agency is presented with a fair argument that the project may have a significant effect on the environment, then the lead agency **shall** prepare an EIR even though it may be presented with other substantial evidence that the project will not have a significant effect.” (CEQA Guideline 15064(f)(1), emphasis added)

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

Based on substantial evidence in the record, the fact there is a fair argument that the Proposed Project may have a significant effect on the environment, and the conflicting expert opinions, an Environmental Impact Report is required for the Proposed Project.

Sincerely,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation

Christine Kemp

Christine G. Kemp

Encls.: Attachments 1 – 7

cc: Monterey County HCD Planning, c/o Fiona Jensen
Mr. and Mrs. Donaldson

ATTACHMENT 1

January 3, 2023

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Harry L. Noland
(1904-1991)

Paul M. Hamerly
(1920-2000)

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

Peter T. Hoss
(1934-2018)

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

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

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

Re: Blaze Construction Application - PLN160851-AMD1

Dear Members of the LUAC:

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

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

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

A. Improper Procedural Issue

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

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

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

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

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

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

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

B. Project Violates the Coastal Act

1. The Project Violates Zoning and Coastal Land Use Policies

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Thompson’s report states:

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

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

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

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

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

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

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

C. Project Inadequate CEQA Review

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

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

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

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

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

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

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

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

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

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

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

E. Project Plan Conflicts

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

F. Blaze Illegally Graded the Project Site

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

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

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

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

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

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

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

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

Sincerely,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation

Christine Kemp

Christine G. Kemp

CGK:kp

Enclosures (Exhibits A-G)

EXHIBIT A

CALIFORNIA COASTAL COMMISSION

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



APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

Please Review Attached Appeal Information Sheet Prior To Completing This Form

RECEIVED

OCT 25 2019

CALIFORNIA COASTAL COMMISSION CENTRAL COAST AREA

SECTION I. Appellant(s)

Name: Matt Donaldson and Carol Donaldson

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

City: Salinas, CA

Zip Code: 93902

Phone: 831-424-1414

SECTION II. Decision Being Appealed

1. Name of local/port government:

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

2. Brief description of development being appealed:

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

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

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

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

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

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO:

DATE FILED:

DISTRICT:

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

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

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

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

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

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant:

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

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

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

(1) Please see Attachment A

(2)

(3)

(4)

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

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

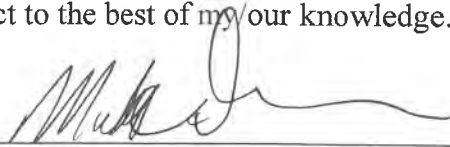
- Appeals of local government coastal permit decisions are limited by a variety of factors and requirements of the Coastal Act. Please review the appeal information sheet for assistance in completing this section.
- State briefly **your reasons for this appeal**. Include a summary description of Local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

Please see Attachment B

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

SECTION V. Certification

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



Signature of Appellant(s) or Authorized Agent

Date: 10-18-2019

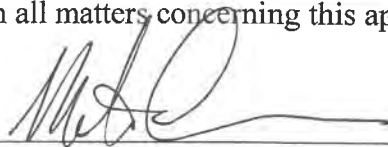
Note: If signed by agent, appellant(s) must also sign below.

Section VI. Agent Authorization

I/We hereby
authorize

Christine Kemp, attorney (Noland Hamerly)

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



Signature of Appellant(s)

Date: 10-18-2019

ATTACHMENT A

Attachment A

Grounds for Donaldson Appeal

Martha Morgenrath
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Alicia Hahn Peterson
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Bro. Michael Harrington
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Ross Curtis
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Ken Daughters & Barbara Ray
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Virginia Beach, VA 23454

Cecily and Bannus Hudson
46250 Pfeiffer Ridge Rd.
Big Sur, CA 93920

Anthony Crane
46845 HWY 1
Big Sur, CA 93920

Tim Templeton
P.O. Box 476
Big Sur, CA 93920

S. Richard Ravich
P.O. Box 428
Big Sur, CA 93920

Sheri Rushing
P.O. Box 623
Big Sur, CA 93920

Martin Hubback
P.O. Box 159
Big Sur, CA 93920

Richard & Susan Keeton & Don A Mc Queen
P.O. Box 249
Big Sur, CA 93920-0249

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

Kenneth & LaVerne McLeod
46100 Clear Ridge Rd.
Big Sur, CA 93920

Bruce Christiansen
Big Sur, CA 93920

John, Robin and Mara Bush
Address Unknown

Jessica Koring
Address Unknown

ATTACHMENT B

ATTACHMENT B

Grounds for Donaldson Appeal

CCC No. 3-MCO-19-1969

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

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

The Project

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

Standing to Appeal

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

Appealable Project

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

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

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

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

Substantial Issue Raised

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

Project Violates the Coastal Act and Coastal Resource Protection Policies

1. The Project Violates Zoning and Coastal Land Use Policies

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

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

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

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

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

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

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

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

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

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

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

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

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

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area.

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

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

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

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

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

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

3. The Project Violates Coastal Plan Critical Viewshed Policies

The Big Sur Coastal Implementation Plan section 20.145.031 provides the standards

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

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

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

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

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

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

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

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

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

The Project Removes, Rather than Enhances, Visitor Serving Parking

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

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

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

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

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

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

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

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

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

Appellants' Request

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

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

COPY

RECEIVED

OCT 25 2019

CALIFORNIA
COASTAL COMMISSION
CENTRAL COAST AREA

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

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

SECTION I. Appellant(s)

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

SECTION II.

Decision Being Appealed

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

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

Approval; no special conditions

 Approval with special conditions:

Denial

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

TO BE COMPLETED BY COMMISSION:

APPEAL NO: _____

DATE FILED: _____

DISTRICT: _____

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

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

Planning Director/Zoning Administrator

X City Council/Board of Supervisors

Planning Commission

Other

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

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

SECTION III. Identification of Other Interested Persons

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

a. Name and mailing address of permit applicant

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

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

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

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

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION IV. Reasons Supporting This Appeal

PLEASE NOTE:

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

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

APPEAL FROM COASTAL PERMIT DECISION OF LOCAL GOVERNMENT

SECTION V. Certification

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

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

Date: 10/24/2019

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

Section VI. Agent Authorization

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

Rita Palacios
Signature of Appellant(s)

Date: 10/24/2019

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

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

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

Dear Supervisor Phillips:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT B

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

Breylen,

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

Please let me know if you have any questions.

Thank you,

Fionna Jensen

Associate Planner

Monterey County Housing and Community Development (HCD)

1441 Schilling Place, 2nd Floor, Salinas CA 93901

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

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



EXHIBIT C

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

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

6 Attorneys for Petitioner Matthew Donaldson and
7 Carol Donaldson

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF MONTEREY

10 MATTHEW DONALDSON and CAROL
11 DONALDSON,

11 Petitioners,

12 vs.

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

16 Respondents.

Case No.19CV004224

**PETITION FOR WRIT OF
ADMINISTRATIVE MANDAMUS**

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

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

28 Real Parties in Interest.

26 Petitioners Matthew Donaldson and Carol Donaldson (“Donaldson” or “Petitioners”)
27 respectfully allege:

28 ///

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INTRODUCTION

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

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

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

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

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

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

11 **JURISDICTION, VENUE, AND NOTICE**

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

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

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

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

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

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

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STATUTE OF LIMITATIONS AND
EXHAUSTION OF ADMINISTRATIVE REMEDIES

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

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

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

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

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

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

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STANDING

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

FACTUAL BACKGROUND

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

19 **FIRST CAUSE OF ACTION**

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

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

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

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

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

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

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

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

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

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

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

Dated: October 17, 2019

Respectfully submitted,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation

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

NOLAND, HAMERLY, ETIENNE & HOSS
ATTORNEYS AT LAW
SALINAS

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VERIFICATION

STATE OF CALIFORNIA, COUNTY OF MONTEREY

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

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

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



Matthew Donaldson

EXHIBIT A

NOLAND
HAMERLY
ETIENNE
HOSS

Attorneys at Law A PROFESSIONAL CORPORATION

RECEIVED
MONTEREY COUNTY

2019 OCT 17 AM 10:14

CLERK OF THE BOARD

Racema
DEPUTY

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

October 16, 2019 *OK*

Stephen W. Pearson

Anne K. Secker

Randy Meyenberg

Michael Masuda

Christine G. Kemp

Terrence R. O'Connor

Timothy J. Baldwin

* *Charles Des Roches*

* *Leslie E. Finnegan*

Ana C. Toledo

* *Robert D. Simpson*

Lindsey Berg-James

Nicholas W. Smith

Danny J. Little

By HAND DELIVERY AND E-MAIL

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

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

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

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

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

Sincerely,

NOLAND, HAMERLY, ETIENNE & HOSS
A Professional Corporation

Christine G. Kemp
Christine G. Kemp

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

PHONE 831-424-1414

FROM MONTEREY 831-372-7525

FAX 831-424-1975

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

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

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

STATE OF CALIFORNIA)
)
COUNTY OF MONTEREY)

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


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

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

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

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

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



Charlena A. Nossett

EXHIBIT D

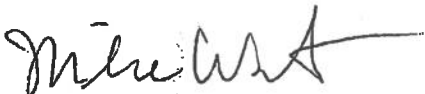
Anna Quenga
Morgenrath (PLN 160581; SCH 2018091005)
October 1, 2018
Page 2

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

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

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

Regards,



Mike Watson
Coastal Planner
Central Coast District Office

EXHIBIT E

THOMPSON
WILDLAND MANAGEMENT

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

April 17, 2019

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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


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

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

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

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

Best regards,



Rob Thompson
Resource Ecologist
ISA Certified Arborist

4-17-19
Date

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



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



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



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

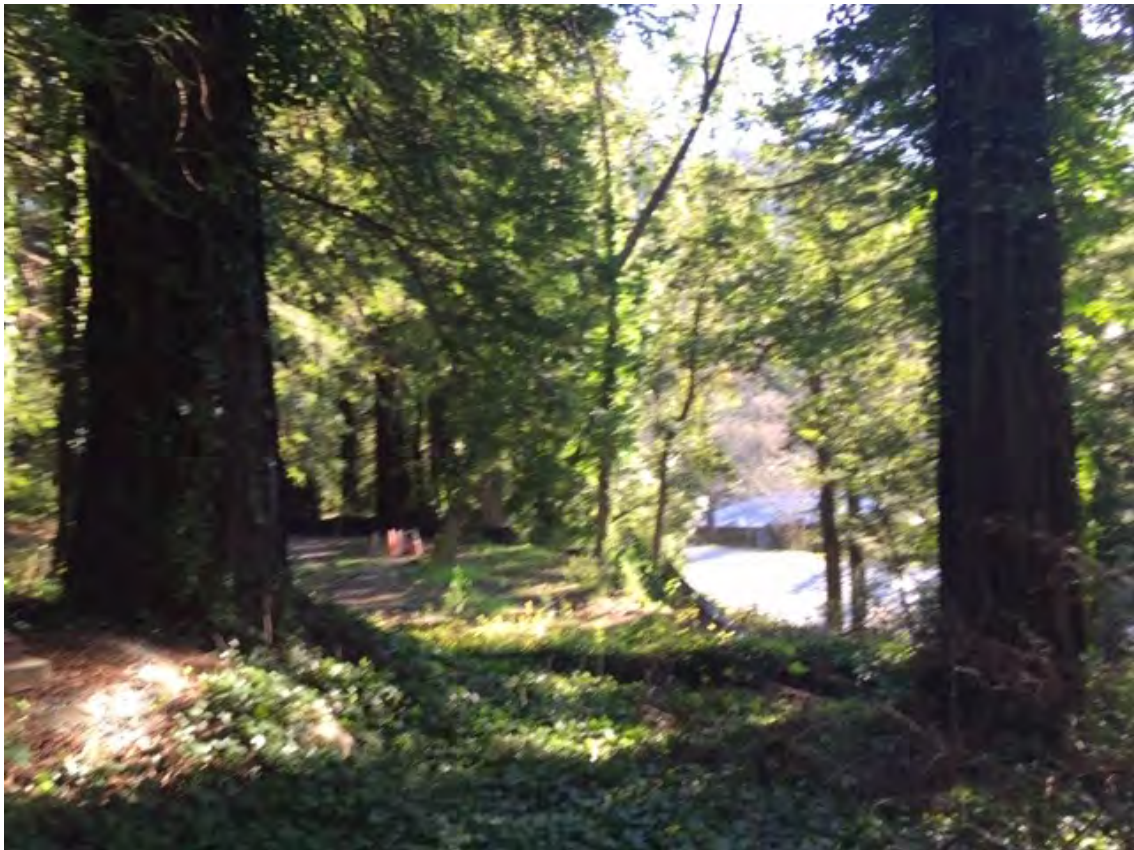


Figure 4. New access road off of Highway One turnout is proposed to squeeze through these 2 large redwood trees, which will significantly impact critical roots and likely compromise tree health.



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



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



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



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



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



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



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

EXHIBIT F

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

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



LEGEND

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

Scale: 1" = 20'

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

130.43'

EXISTING UPPER FLAT

FIRE SUPPRESSION TANKS

EXISTING CHEST TREES

30" INCH TREE

20'05'00"E
305.50'

EXISTING R/W 50 FT

PROPOSED WALKING TRAIL

EXISTING EDGE OF ROAD

EXISTING 18" FT WIDE PRIVATE DRIVEWAY

S20°20'00"W
392.00'

EXISTING EDGE OF EX ROAD

EXISTING 18" FT WIDE PRIVATE DRIVEWAY

S2°58'00"W
96.50'

59.80'

S61°46'00"W

17°49'

N31°39'40"E

290.00'
N32°45'20"W

89.59'

N74°31'30"E

FOUND 3/4" PIPE TAGGED RCE 1215

PROJECT BENCHMARK
N = 3837.1185
E = 3695.7938
EL=173.40

GRICE ENGINEERING INC

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

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

NOT VALID WITHOUT STAMP AND SIGNATURE

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

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

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

GRADING AND DRAINAGE PLAN
DEVELOPMENT ON SLOPES GREATER THAN 30%

C-2.2
Date Plotted: Aug 19, 2022

BLAZE COMPOUND
FILE NO. 6737-17.01

FOUND 3" X 3" POST, RCE 1215

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



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

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

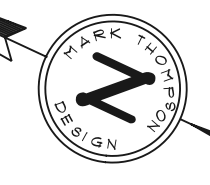
ESTATE OF
GOLDIE E. PFEIFFER
APN 419-201-006-000

FORMER SITE OF
BLAZE ENGINEERING
CORPORATION YARD
ON NEIGHBORING
PROPERTY

OFFICE
BUILDING

PARKING PLAN

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



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

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

CALIFORNIA STATE HIGHWAY NO. 1

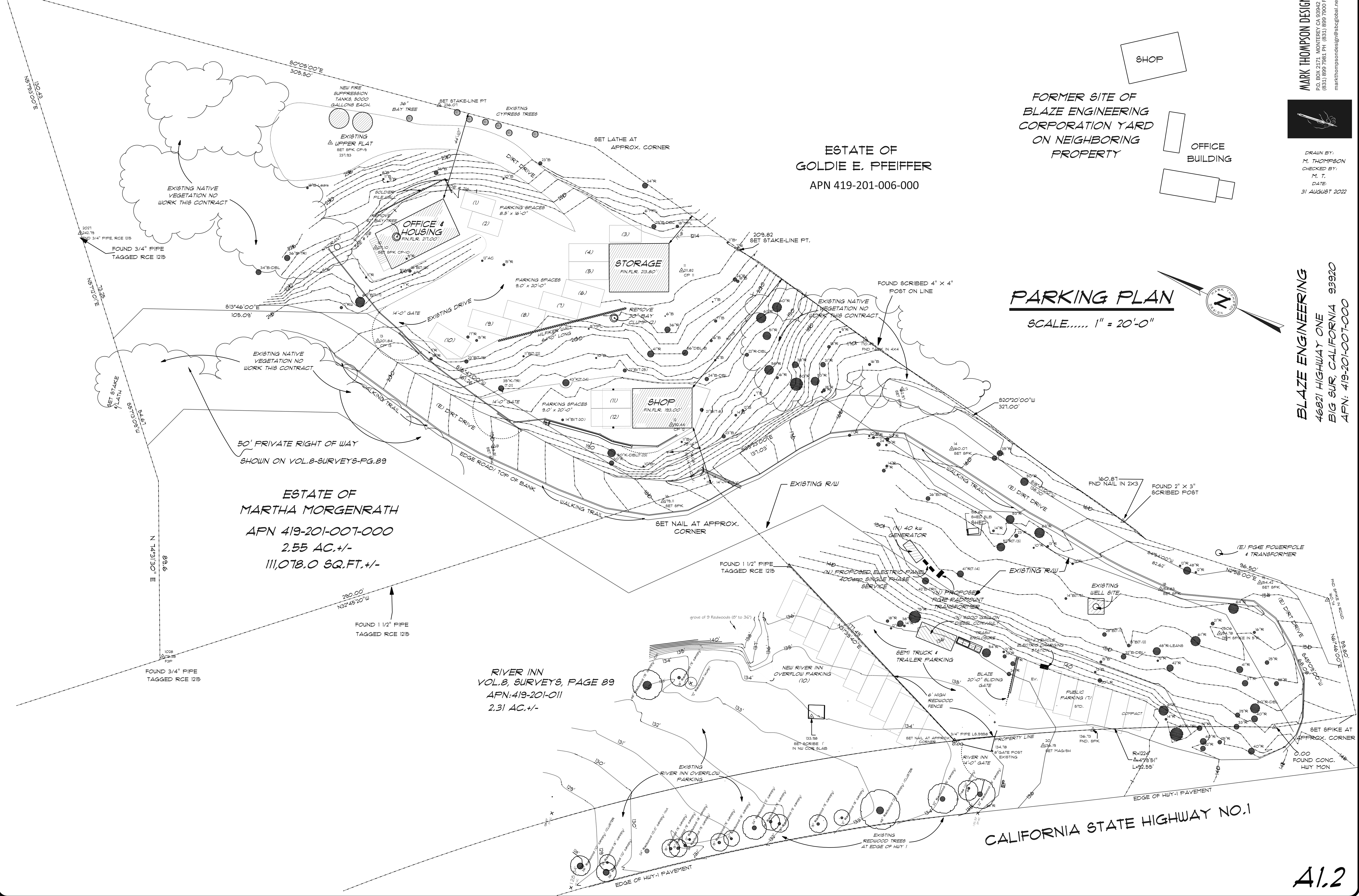


EXHIBIT G



BLAZE PARKING AREA

Big Sur River Inn

Big Sur River Inn

Geary Whiting's Equine Massage School

Big Sur River Inn General Store

The Village, Big Sur

Studio Two Twenty Two

Apple Pie Rdg

Apple Pie Rdg

er Creek



Source: Monterey County GIS Imagery

FIGURE 4.3 – AERIAL



© 2023 Google



**BLAZE
PARKING AREA**

46840 CA-1



© 2023 Google



**BLAZE
PARKING AREA**

46840 CA-1



**BLAZE
PARKING AREA**

46840 CA-1



**BLAZE
PARKING AREA**

46840 CA-1



Verizon

9:40 AM



© 2023 Google



**BLAZE
PARKING AREA**

46840 CA-1



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

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

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



© 2023 Google



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

46840 CA-1

CA-1



© 2023 Google



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

46840 Cabrillo Hwy



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

46840 Cabrillo Hwy

ATTACHMENT 2

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

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

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

Re: Blaze Construction PLN 160851- AMD1

TO: The Big Sur LUAC members and attendees

DATE: 29 December 2022

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

Dear Members:

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

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

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

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

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

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

Sincerely,
Matthew G. Donaldson













ATTACHMENT 3

Matthew G. and Carol L. Donaldson
Big Sur California, 93920

Mailing Address:
25515 Hardy Place
Stevenson Ranch, CA 91381

Sent by Email

May 8, 2019

Chairman Philips
Members of the Monterey County Board of Supervisors
168 West Alisal St.
Salinas, CA 93901

SUBJECT: Blaze Engineering PLN160851

Dear Chairman Philips and Board Members,

In an effort to find an appropriate solution for the applicant's base of operations, Paul Smith and I met with Blaze Engineering's management team on April 23rd. We discussed various compromises, but were not able to agree on any that would preclude the devastating impact of a construction company yard being located within the environmentally sensitive habitat of a redwood forest. The applicant of course feels there will be no significant impact and we, the appellants, obviously feel otherwise. Our talks touched on the efficacy of mitigating measures imposed by the county. Unfortunately those measures are incomplete and based on a defective permit application that led to a defective mitigated negative declaration being issued by the county planners. The numerous defects in the application are further explained in the attached documentation but summarized here for convenience.

- Legally required amount of parking spaces is not met.
- Insufficient space to support the legally required number of parking spaces.
- Ingress and egress capacity of the single lane private easement road not included in study.
- Road does not meet fire safety width requirements for mixed use commercial/residential road.
- Plans do not include provisions for gated fencing around equipment and ancillary facilities.
- Plans do not include proposed pedestrian walking trail or its ESHA encroachment.
- Plans do not include legally required tree replacement plan.
- Plans do not address additional ESHA encroachment of missing features.
- Tree removal inventory does not match actual trees found on site.
- M. Hamb tree survey is incomplete and erroneous.

In light of the fact that the draft resolution placed before the Board is so deeply flawed and fails to describe the scope of the project, it is inconceivable that the parties would reach an agreement. The M. Hamb tree report used as a factual basis for the initial study of the project lists a healthy Coast Redwood as a Bay Laurel in poor health. This is not a simple typographical error and calls into question the entire report. To address the questions raised by that report the appellants contracted a licensed independent ecologist, Thompson Wildland Management, to perform a comprehensive evaluation of the site. The report from that evaluation is attached and documents numerous inconsistencies found in the Hamb report.

Chairman Philips and

Throughout the planning department's staff report are numerous instances where planners have downplayed the impact of the project. For example, the report states "*The subject property **contains** Redwood Forest natural community and the proposed construction and tree removal would occur in **proximity** of areas identified as ESHA.*" This statement directly contradicts the biological assessment used as a factual basis for the initial study which states "*The Morganrath property lies **entirely** within a Redwood Forest natural community dominated by coast redwood and co-dominated by California bay. Tan oak, coast live oak and Shreve oak were also found onsite, but in limited amounts.*" The proposed construction and protected tree removal does not occur in proximity to areas identified as ESHA, it occurs within areas identified as ESHA.

In Big Sur the project may be popular with those outside Apple Pie Ridge, but with the visiting public, with environmental groups, and with the California Coastal Commission, it is not. Over 300 individuals have gone on record in support of our appeal (<http://chnng.it/sN8HHXtm>), the Ventana Chapter of the Sierra Club representing 8000 local members have written in opposition and the CCC has opposed the project from their initial review. These are people from all walks of life with at least one thing in common. They all know an environmentally sensitive redwood forest is no place for a construction yard.

As a final point I'd like to set the record straight on an issue that seems to hold sway over the Supervisors opinions in this matter; that the Donaldson's were perfectly happy renting to the Morganrath's for 28 years. Contrary to impressions sown by the applicant, the lessee / lessor relationship between us has not been entirely cordial or beneficial. What started out as a reasonably satisfactory arrangement between us began to devolve over time.

In 1988 the Morganrath's approached us with an offer to rent a portion of our property which included a tack barn for material storage and a small clearing in front of it for parking. We weren't using it for anything important and agreed. Their growth for the first several years was minimal and no cause for concern. Then they asked for a long term lease and we agreed to 5 years. Living 300 miles away made it difficult for us to monitor their operation but we took it on faith that they would observe the conditions of the lease and preserve the surroundings.

Slowly, over time, the nature and appearance of the site began to change. Without permission and as we've come to discover, without permits, trees were cut down, excavations were made, storage containers were moved in and buildings popped up. Our little tack barn was converted into a fabrication and repair shop. We complained and told them their lease would not be renewed if this were to continue. The Morganrath's promised they would stop expanding and clean up the site. We were skeptical and asked them to demonstrate their commitment to that promise. And they did. They cleaned up a lot of their accumulation and even did some planting along the driveway. They seemed sincere in their promise so when they asked us to renew their lease for an even longer term we agreed. Unfortunately, the founder of Blaze Engineering, Helmuth Morganrath, died and with him, so it seems did their promise. The day to day management of Blaze fell to a team of employees who were not party to the promises and who did not honor it, as you can see from the attached photos.

Chairman Philips and

Faced with this reality and feeling trapped by our own lease we sought the advice of an attorney. First our family attorney then on his advice a land use attorney in Monterey County, Philip J. Daunt. In summery his advice was to be patient, suck it up and wait for the lease to run out. And that is what we did. Still, after the lease ran out, we didn't put them out on the street, we gave them 18 months to move off the site. If you were to do a site visit you would see firsthand the appalling condition they left behind for us to deal with. So, as I've intimated, the relationship was not without a fair share of contention.

Regardless, the Donaldson Family and as far as I know Paul Smith and the other Apple Pie Ridge residents bear no ill will for Blaze. We just know that Apple Pie Ridge is not an appropriate or even a suitable location for a construction company yard. Everyone's desire is for Blaze to find an appropriate and suitable location. Presented in support of Blaze were many letters from members of the community. Represented in those letters are the means by which that desire can be accomplished. Those letters, penned by many of the wealthy and influential leaders of the community represent thousands of acres of land not situated in the middle of an environmentally sensitive redwood forest. If county planners would focus their efforts there, working with community leaders, we're sure a solution will present. Forcing Blaze on Apple Pie Ridge might be the easy thing to do, but finding an appropriate location is the right thing to do.

Respectfully,



Matthew G. Donaldson



Carol L. Donaldson

Attachment: 1. Thompson Wildland Management 04/17/19 Tree and Resource Impact Assessment.
2. Appellant's Comments 05/08/2019.
3. Sierra Club 04/16/2019 letter.

cc: Anna Quenga, Senior Planner, County Planning
Brandon Swanson, Acting County RMA Chief of Planning
John Dugan, Deputy Director of Land Use and Community Development Carl
Holm, Director County RMA
Susan Craig, California Coastal Commission, Santa Cruz Ryan
Moroney, California Coastal Commission, Santa Cruz Mike
Watson, California Coastal Commission, Santa Cruz Clerk to the
Board of Supervisors

Blaze Engineering's former site on the Donaldson property



Blaze Engineering's proposed future site on Apple Pie Ridge Road as it looks is today.



THOMPSON
WILDLAND MANAGEMENT

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

April 17, 2019

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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


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

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

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

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

Best regards,



Rob Thompson
Resource Ecologist
ISA Certified Arborist

4-17-19
Date

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



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



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



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



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



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



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



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



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



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



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

Re: Blaze Engineering PLN160851 | Appellant Comments

- **Myriad of Capacity Issues**

- **BUILDING PLANS OVER CAPACITY**

- **PARKING REQUIREMENTS OVER CAPACITY**

Number of parking spaces actually necessary should be 6 for customer parking, 9 for office staff, plus at least 3-4 spaces for field workers not involved in carpooling for a total of at least 18 or 19 spaces. Insufficient space to support the legally required parking.

- 1 parking space per each 250 sqft office space (3), and 1 per each 500 sqft workshop/storage space (3) for a total required of 6 required spaces for customer parking.
 - Per GDP there are 20 employees total: 9 office staff, 11 field workers, and no mention of the number of heavy equipment trucks (cement trucks, haulers, trailers, pick-up trucks).
 - Only 12 parking spaces are proposed for regular vehicles or pick-up trucks, which does not allow for proper setbacks from trees, proper single lane parking with proper turn around allowances. 3 proposed spaces require tandem parking, several proposed spaces are within 3 feet of existing protected trees critical root zones, most spaces do not account for proper turn around, no mention of the number of Blaze trucks/vehicles used by field workers for carpooling.
 - Heavy equipment, trailers, and cement trucks proposed to be parked in the existing Big Sur River Inn parking area off of HWY1: no mention as to how many of these vehicles will take spaces already required for public parking for visitors at the River Inn. Also not addressed is whether the amount of parking proposed in this area for Heavy Equipment would allow for public parking during weekends when Blaze is not using these vehicles. Most of these vehicles need parking spaces when not in use during the weekend.

- **CAPACITY IMPACT ON TRAFFIC UNACKNOWLEDGED**

A Traffic Survey should be required, completed by an unbiased Traffic Engineering firm, as the proposed current use, number of staff, customer service, and heavy equipment vehicles has greatly increased since Blaze originally operated within the vicinity of the proposed new site. Blaze contends it is merely the same operation, and it clearly is not.

Traffic Survey must take into account the following increases and changes to capacity:

- Additional traffic on a 12-foot-wide Private Easement Road used previously only by residents of Apple Pie Ridge Community.
 - Previous site was off of the main Road Easement and used a private driveway that exited directly onto HWY 1 without impact to the

- existing Apple Pie Residents or easement road.
 - Previous site did not have a GDP and Blaze had a much smaller capacity and staff 20 years ago.
 - Impact to ingress and egress 20 years ago with half of the current staffing/vehicles would have only generated 20 trips in and out, per day minimum, from the previous site location.
 - Current staff of 20, and now customers, plus heavy equipment vehicles, increases ingress and egress by up to 60 trips minimum per day, however Cal-trans negated a traffic survey.
 - Ingress and egress from HWY 1 to site is within 25 feet of a northbound blind turn on HWY 1, where speed limit is 45 mph. This is an unsafe ingress and egress for Blaze customers hauling trailers of sand, rock, etc. picked up at their site. Heavy equipment vehicles towing trailers filled with rock or cement have greatly reduced stopping time. This is very unsafe for all parties using HWY 1, and becomes more of a problem as visitor traffic increases and Blaze's capacity grows.
- **CAPACITY CANNOT BE SUPPORTED BY THE EXISTING WELL WATER**
 - Water Capacity has not yet been developed to add onto the exiting undeveloped test well: requirements for water for an office and workshop would be 4 GPM: nor does it account for future development of employee housing GPM capacity needs. The proposed future Employee Housing cannot be supported by the existing well's water capacity, plus an office and a workshop. Amount of GPM necessary would need to be at least 6-8 GPM. The applicant has used the possibility of much-desired Employee Housing as a false proposal in order to make the project seem more supportive of the Big Sur LUP, and based on assumptions water and septic requirements would be met. Proposed Employee Housing should be omitted from the GDP.
- **Unaddressed Impacts to the Public Easement Road**
 - Fire requirements for a mixed use, commercial and residential road would need to be at least 18 feet wide, which the existing road cannot support without many, many more protected trees removed. However, the reviewing Fire Agency was all too lenient with the existing roads at 12 feet wide to accommodate inbound and outbound commercial and residential traffic, in which a cement Silo has 12 foot wide 18 foot tall cement mixer trucks stopping in the middle of the existing 12 foot wide existing residential easement road, until the truck is full and then pulls out of the way.
 - The Silo location must be relocated off of the existing Private Road Easement to allow for residents, school children, and emergency vehicles to be able to pass at any given time, and without waiting for a cement mixer truck to get filled, then the attendant cleanup time for clearing any droppings from the road (to prevent wide spreading of contaminated runoff). Silo is setback from a cluster of mature redwood trees no more than 2 feet, as per approved site plan, and will cause a significant impact to these trees within the Silo area as well as along the existing narrow Easement Road.

- Silo Height would require additional tree-limbing of existing Redwood trees, that could potentially lead to a remaining Live Crown Ratio of less than 20%. There is no mention of this additional tree-limbing or health impacts within the M. Hamb Arbor report.
- Storage of hazardous materials, trash, and solid waste receptacles should be relocated outside of the easement road to allow for disposal service vehicles to not have to drive up the Easement Road to access waste: all waste is to be contained within (locked) enclosures, and that meet the Design Requirements per the Big Sur LUP.
- **Safety Concerns Unaddressed**
 - Gated fencing around the Engineering Products, Heavy Equipment, stockpile storage areas, Diesel Tank and Cement Silo for public safety and to prevent vandalism must also allow open access to the public during business hours and after hours for the touted shared parking arrangement with the River Inn.
 - Products available on site for customers to pick up will need to be fenced with a locked gate to prevent unauthorized access, and should be located in an area that will not require customers to drive up the existing Easement Road in order to “load up”: This additional traffic on the 12 foot wide easement road, will cause traffic delays, debris fall outs widespread throughout the public right of way and within the environmentally sensitive areas of this Redwood Forest.
 - There are concerns by residents of Apple Pie Ridge about the safety of their children who walk the easement road to the bus stop and down to the River Inn, and whether they will have to share the road with much more traffic, including large equipment vehicles. Blaze contends they would make another walking trail, but there has been no proposal, and a proposal would necessitate clearing more trees and encroach further on sensitive habitat. There is also concern for the children walking near an ungated construction yard, as it is a very dangerous place for curious children.
- **Impacts on Environment and Nearby River**
 - Other than restoration of excavated areas there is no proposed landscaping, nor is there any proposed tree replacement plan, which is required. Per M. Hamb Arbor Report, a total of 16 protected trees are set for removal (13 due to impact of development and 3 due to poor health). A Standard requirement for replanting protected trees removed due to development impacts would be a total of 26 trees (18 = 2:1 replanting ratio of trees over 24” in girth, 8 = 1:1 replanting ratio for trees less than 24” in girth). This amount of replanting would require a Landscape Plan showing where the replanting will occur. The Arbor report and Plan Set do not include a required Tree Replanting Plan. Further, there have been several trees removed already without permission.
 - There is no wash out of site crew vehicles, or heavy equipment proposed, which can lead to spread of sudden oak death, as well as spreading hazardous waste and invasive plant species throughout the site area and beyond Apple Pie Ridge and potentially to the nearby Big Sur River.

- **Plan Inconsistencies**

- Staff report, site visits, reviewing agencies, including the Coastal Commission, and all determining agencies made decisions based on inaccurate and inconsistent plans, an insufficient Arbor Report, surveys missing tree locations within 30 feet of ALL proposed grading and development impact as well as existing unpermitted graded roads near the storage containers and water tanks. “Story poles” did not reflect full site impacts of all proposed facilities, faculties, equipment, vehicles, grading, trenching, silo height and arm swing for filling and fencing of all areas of proposed development.
- Plans do not reflect appropriate parking or siting of proposed elements of the development. There is no traffic survey addressing the impact to the private easement road. The tree assessment is inaccurate and incomplete. It is missing the required removal/replanting plan along with accurate tree tagging and flagging of trees to be removed. The Tribal Nation review authority was not allowed an accurate representation of the project on which to base its opinions and decisions.
- **LIST OF INCONSISTENCIES:**
 - Site plan missing setbacks from proposed structures to existing neighboring structures.
 - Silo setback for loading and unloading cement to and from transport vehicles is 14 feet and 18 feet high, with at least a 6 foot setback from any protected trees. Current Plan shows Silo cannot meet the requirements for width and height necessary for the existing 12 foot wide road, the surrounding clusters of Redwood trees with limbs within the 18 foot height requirement, and the Silo is situated within 2 feet of the base of a triple truncated Redwood cluster. Silo will require footing and stabilization anchoring, which would greatly impact the critical root zone of the redwood tree cluster. No mention of how to mitigate this impact within the M. Hamb Arbor report.
 - Location of proposed Diesel Tank is shown inconsistently throughout the Plan Set: A1.1, A1.2, A1.3, CMP-1, Construction Restoration Plan, Fuel Management Plan, C-1, C2.2, C10, C-12.
 - Diesel Tank missing required 6-8 foot high, chain link fence with locked gate and traffic bollards. It does not specify State required “warning” signage : this will increase the visibility of the Diesel Tank from HWY.
 - Tree Removal Inventory within M. Hamb Arbor Report does not match the size, species currently on site: there are several trees that have already been illegally removed that were marked on the survey, and within the tree Inventory by M. Hamb: tree #10 marked as Bay when it is actually a Redwood. There are 3 trees missing on the site near the illegally graded temporary storage area, and tree removal is inconsistent as to Development Impact and tree health as removal indicators.
 - Survey is missing a large Redwood Grove within 30 feet of the proposed new driveway and must be added to the survey and Arbor Report for impact assessment.

- Tree report does not address numerous areas where parking, storage, stock piling, proposed grading, and retaining walls have direct impact on critical root zones as well as for trees leaning into the existing easement road. The report does not address the Redwood trees within 2 feet of the proposed Silo location that would need to be removed, critical root cutting (no mitigation recommended) or significantly limbed (leaving less than a 20% LCR), potentially killing numerous trees not mentioned within the Arbor report.
- Additional tree/trimming/root assessment of the areas of impact, proposed structures, parking, equipment, stockpiles, etc. are incomplete and do not include all trees within 30 feet and up to 20 feet in height.
- Proposed new driveway creates unacknowledged grading impacts on trees within the proposed 12-foot- wide driveway.
- Plans are missing grading and location of existing driveways (illegally graded) for storage containers (already in place) and that include parking ingress and egress for parking spaces 10, 11, 12.
- Site Plans missing for existing unpermitted graded dirt access road to existing water tanks and proposed fire tanks.
- Parking plan short by 6-7 spaces, and omits footprint of the number/size and type of “Semi-truck and trailer” proposed for the Big Sur River Inn parking lot. How many vehicles, at what length and width will be parking in the Big Sur River Inn parking lot at any given time is missing. Details missing as to whether these spaces will be reserved in a permanent manner to avoid public parking in these areas, whether signs be used, and whether there will be fencing or locked gates to reserve these spaces at all times. Other questions unaddressed: Where else would these trucks park if public parks in them while these trucks are in service? How will public parking in the designated spaces be enforced? How many spaces does this remove from required public parking for the Big Sur river Inn? Does the existing easement road allow for the width and height of the semi-trucks and trailers to not impact critical root zones, tree branches and allow for heading in and out without 3 point turns to access the new driveway to exit the site?
- Site plan missing consistent locations of storage of stock piles, waste/refuge containers and enclosures, as well as locations of customer self-service mulch, gravel, etc.
- Site Plan missing emergency vehicle turnaround at shop/office location. Another emergency vehicle turn-around should be located near/at the diesel tank location.
- Setback of proposed drain field falls within 10 feet of the Workshop foundation. **Violation.**

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

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

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

Dear Supervisor Phillips:

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

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

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

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

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

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

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

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

ATTACHMENT 4

CALIFORNIA COASTAL COMMISSION

CENTRAL COAST DISTRICT OFFICE
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SANTA CRUZ, CA 95060
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October 1, 2018

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

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

Dear Ms. Quenga:

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

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

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

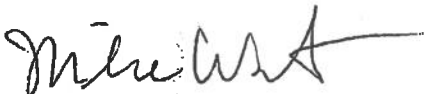
Anna Quenga
Morgenrath (PLN 160581; SCH 2018091005)
October 1, 2018
Page 2

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

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

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

Regards,



Mike Watson
Coastal Planner
Central Coast District Office

ATTACHMENT 5

THOMPSON

WILDLAND MANAGEMENT

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

May 21, 2019

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

Subject: Response to comments letter for proposed Blaze Engineering
development project (PLN: 160851)

The following is my response to comments from the Blaze Engineering letter dated May 17th:

- 1) The letter says that I described this coast redwood dominated vegetation community as “pristine habitat”, which I never said. It definitely is not pristine and has already been impacted. This mature redwood habitat area has for decades been significantly impacted and disturbed by human related activities and English ivy (an aggressive habitat degrading invasive weed) is widespread and pervasive in the area. The point is, the project is impacting ESHA, and these impacts have not been adequately addressed. ESHA requires greater protection and an effort to avoid additional impacts, not create more significant impacts to an already impacted sensitive habitat area (e.g., coast redwood habitat and nearby riparian habitat of the Big Sur River). Consequently, further impacts should be avoided and/or carefully planned and managed to minimize additional impacts to this sensitive redwood community.
- 2) I understand the project has been revised. An updated *Forest Management Plan*, with a tree impact assessment, evaluation of trees retained, and tree protection and tree perseveration recommendations needs to be done that accurately reflects all aspects of the actual project being proposed, including building locations with their foundations to assess damage to trees and their roots, building heights and size to assess tree removal and tree trimming, the types and numbers of vehicles and traffic on the road, along with the road surface, to assess damage to the tree roots, etc. These are all potential significant impacts to ESHA which have not been adequately addressed.
- 3) The following are responses to Ms. Hamb’s letter: Yes, it is true that I was not aware that the cement silo and bypass road were no longer planned for this project and that would have been good to know, but my understanding is that nobody on our side was aware of this development until a few days ago.
- 4) Comment #1 response: As indicated in my initial report, I simply disagree with some of the findings of Ms. Hamb’s tree inventory and health & hazard assessment.
- 5) Comment #2 response: The reason the coast redwood tree identified as tree#33 is in poor health and condition is largely due to improper practices (e.g., topping and compacted critical root zone) that have likely been harmful to the health of the tree. Topping and any altering of natural grade around this protection status tree should have required consultation by an arborist and a permit from the County.

- 6) Comment #3 response: No updated construction site plan has been made available for review. Until this happens it will be difficult to properly evaluate and assess impacts to trees from pruning and grading activities.
- 7) Comment #4 response: In addition to a *Forest Management Plan* that should be prepared to address the removal and replacement of several native specie trees, a tree impact assessment should be prepared to evaluate impacts to trees from proposed construction activities, as well as a tree protection plan to provide detailed tree protection measures and specifications that should be installed and maintained for the duration of the proposed project. Additionally, there is still no evaluation of the increased traffic levels, including numbers and types of vehicles, equipment, and trucks, etc. going up and down road as a result of the project. Parking heavy equipment on the road and bringing heavy trucks to the shop on a more frequent basis could inflict damage to critical tree roots and these potential impacts should be further assessed and evaluated.
- 8) Comment #5 response: I agree that some of the trees around the proposed construction site should be removed due to poor physiological health and/or structural condition, but there are other trees, in my opinion, that do not require removal and could be effectively pruned (e.g., canopy weight reduction pruning and/or pruning to improve canopy balance and symmetry) to reduce and mitigate hazard concerns,
- 9) Comment #6 response: A current and up-to-date *Forest Management Plan* should provide details and specifications regarding tree removal and tree replacement, as well as analysis addressing and mitigating impacts from proposed construction activities.
- 10) Potential erosion & sedimentation control impacts and storm water runoff concerns related to the nearby Big Sur River have not been adequately addressed and evaluated.

Best regards,

Rob Thompson
ISA Certified Arborist
Resource Ecologist

Thompson Wildland Management (TWM)
57 Via Del Rey
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THOMPSON
WILDLAND MANAGEMENT

Environmental Management & Conservation Services
International Society of Arboriculture Certified Arborist # WE-7468A
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Wildland Fire Property Protection, Fuel Reduction & Vegetation Management
Invasive Weed Control, and Habitat Restoration & Management
Soil Erosion & Sedimentation Control
Resource Ecologist

April 17, 2019

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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


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

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

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

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

Best regards,



Rob Thompson
Resource Ecologist
ISA Certified Arborist

4-17-19
Date

Thompson Wildland Management (TWM)
57 Via Del Rey
Monterey, CA. 93940
Office (831) 372-3796; Cell (831) 277-1419
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Figure 1. Large coast redwood trees will potentially be adversely impacted by grading activities and frequent heavy truck and equipment traffic.



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



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



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



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



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



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



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



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



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



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

ATTACHMENT 6

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

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



LEGEND

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

Scale: 1" = 20'

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

130.43'

EXISTING UPPER FLAT

FIRE SUPPRESSION TANKS

EXISTING CHEST TREES

30" INCH TREE

20'05'00"E
305.50'

EXISTING R/W 50 FT

PROPOSED WALKING TRAIL

EXISTING EDGE OF ROAD

EXISTING EDGE OF ROAD

EXISTING EDGE OF ROAD

EXISTING 18 FT WIDE PRIVATE DRIVEWAY

S20°20'00"W
392.00'

EXISTING 18 FT WIDE PRIVATE DRIVEWAY

EXISTING EDGE OF EX ROAD

EXISTING EDGE OF EX ROAD

EXISTING 18 FT WIDE PRIVATE DRIVEWAY

S2°58'00"W
96.50'

59.80'

S61°46'00"W

17°49'E

N31°39'40"E

290.00'
N32°45'20"W

89.59'

N74°31'30"E

FOUND 3/4" PIPE TAGGED RCE 1215

PROJECT BENCHMARK
N = 3837.1185
E = 3695.7938
EL=173.40

GRICE ENGINEERING INC

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

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

NOT VALID WITHOUT STAMP AND SIGNATURE

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

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

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

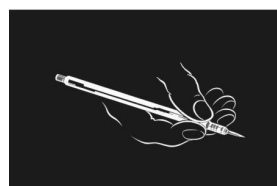
GRADING AND DRAINAGE PLAN
DEVELOPMENT ON SLOPES GREATER THAN 30%

C-2.2
Date Plotted: Aug 19, 2022

BLAZE COMPOUND
FILE NO. 6737-17.01

FOUND 3" X 3" POST, RCE 1215

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



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

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

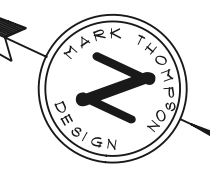
ESTATE OF
GOLDIE E. PFEIFFER
APN 419-201-006-000

FORMER SITE OF
BLAZE ENGINEERING
CORPORATION YARD
ON NEIGHBORING
PROPERTY

OFFICE
BUILDING

PARKING PLAN

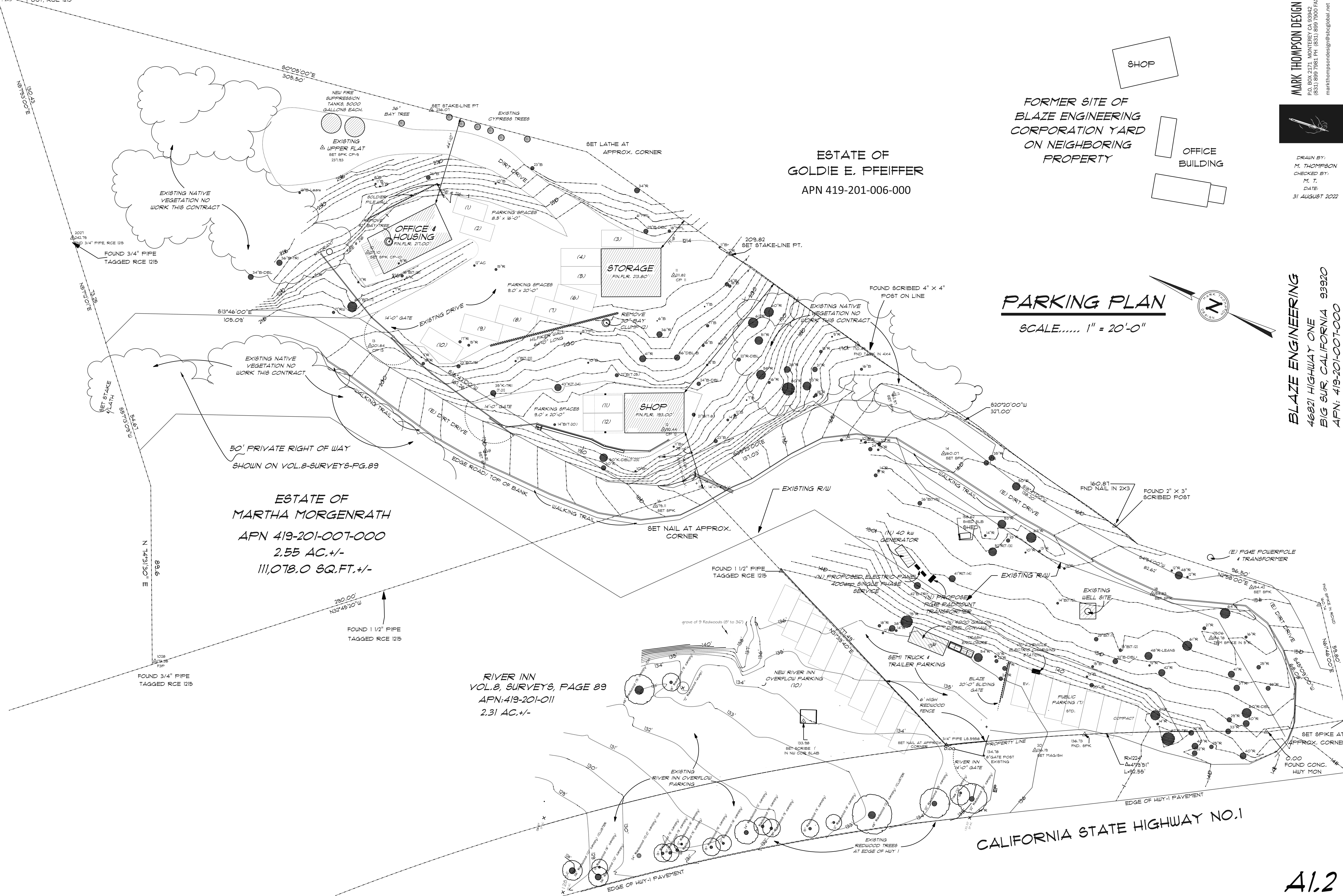
SCALE:..... 1" = 20'-0"



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

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

CALIFORNIA STATE HIGHWAY NO. 1



ATTACHMENT 7



BLAZE PARKING AREA





Source: Monterey County GIS Imagery

FIGURE 4.3 – AERIAL



**BLAZE
PARKING AREA**

46840 CA-1

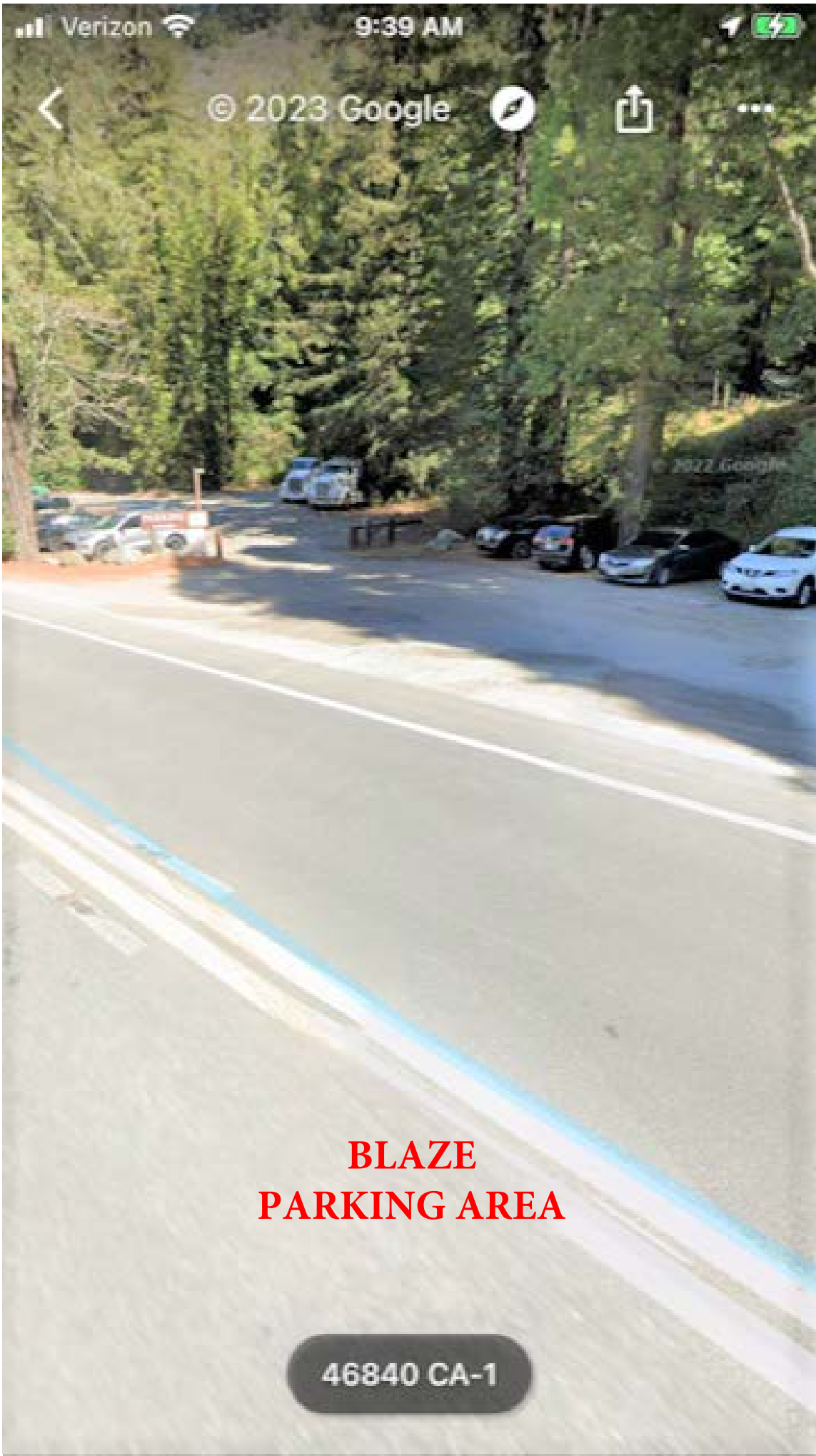


© 2023 Google



**BLAZE
PARKING AREA**

46840 CA-1



**BLAZE
PARKING AREA**

46840 CA-1



**BLAZE
PARKING AREA**

46840 CA-1



**BLAZE
PARKING AREA**

46840 CA-1



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

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

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



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

46840 CA-1

CA-1



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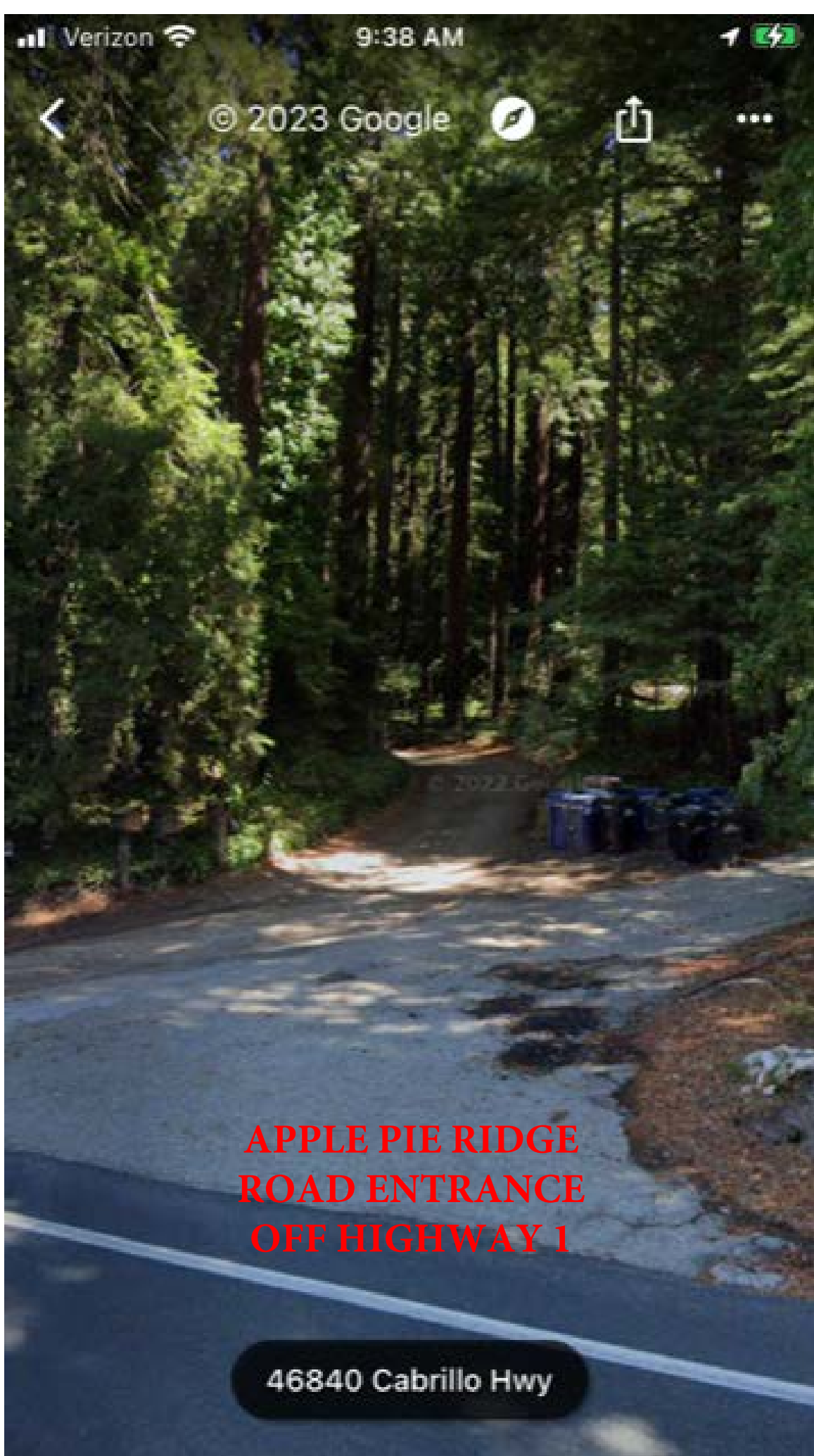


**APPLE PIE RIDGE
ROAD ENTRANCE
OFF HIGHWAY 1**

46840 Cabrillo Hwy



© 2023 Google



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

46840 Cabrillo Hwy

CALIFORNIA ENVIRONMENTAL LAW PROJECT

LAURENS H. SILVER ESQ.

MAY 17, 2023

RE: Morgenrath (Blaze Engineering) PLN 160851, 46821 Hwy1, Big Sur. Comments on Mitigated Negative Declaration.

Monterey County Planning

c/o Fionna Jensen, Associate Planner, E Mail: Jensen F1@co.monterey.us

Monterey County Housing and Community Development

1441 Schilling Place, 2nd Floor

Salinas, California 93901

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

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

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

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

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

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

significant disruption of habitat values, and only uses dependent on those resources shall be allowed within those areas....Development in areas adjacent to environmentally sensitive habitat areas shall be sited and designed to prevent impacts which would significantly degrade those areas and shall be compatible with those habitat and recreation areas.” Public Resources Code 30240(a) and (b). See *McAllister v California Coastal Commission*, 169 Cal. App. 4th 912, at 923. The Club believes it is blatantly inconsistent with the presence of ESHA on the site to allow removal of a substantial number of native trees (11), including an historic redwood, and to allow industrial and commercial uses that will significantly degrade the ESHA habitat on site. For this reason it is critical that there be an EIR for this project since it is likely to have environmental impacts not remediated through a MND.

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

The Club is hereby incorporating by reference comments dated May 17. submitted by Christine Kemp on behalf of Matt Donaldson.

Laurens H. Silver, Esq.

On behalf of the Ventana Chapter, Sierra Club

larrysilver@earthlink.net 415 515-5688

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

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

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

Dear Supervisor Phillips:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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