

Attachment A

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ATTACHMENT A

DISCUSSION

PROJECT BACKGROUND

Between 1989 and 2017, Blaze Engineering conducted operations out of the adjacent property that borders the eastern property line of the subject property (Assessor's Parcel Number 419-201-006-000). In 2017, Morgenrath, owner and operator of Blaze Engineering, was notified that the lease of that property would no longer be available, which resulted in the need to relocate existing operations to the adjacent property (APN 419-201-007-000). As such, the applicant applied to the County for a Combined Development Permit (PLN160851).

At a November 14, 2018 hearing, the Planning Commission certified and adopted a Mitigated Negative Declaration and approved the Combined Development Permit consisting of: 1) a Coastal Development Permit, Design Approval, and General Development Plan to allow the establishment of a commercial business operation including a 760 square foot office, a 600 square foot workshop, 800 square feet of storage containers, storage of construction equipment such as generators, cement silo, and diesel storage tanks, and associated site improvements, 2) a Coastal Development Permit to allow development on slopes in excess of 30%, 3) a Coastal Development Permit to allow removal of 16 protected trees, 4) a Coastal Development Permit to allow development within an Environmentally Sensitive Habitat Area, and 5) a Coastal Administrative Permit to convert a test well into a permanent well.

The Planning Commission's November 14, 2018 decision was subsequently appealed by Matt and Carol Donaldson (Christine Kemp, representing the Donaldson's) and Paul Smith to the Monterey County Board of Supervisors. The two appeals contained identical contentions in most respects; that the findings, decision, or conditions were not supported by the evidence, and that the decision was contrary to law. The appellants alleged that the County violated CEQA and that the project was inconsistent with Big Sur Coast Land Use Plan Policies governing the property's Visitor Serving Commercial (VSC) zoning designation, tree removal, visual impacts in the Critical Viewshed, and development within environmentally sensitive habitat areas. Staff reviewed the contentions and determined that the project was adequately designed and mitigated to minimize potential impacts to resources at the site. On February 14, 2019, the Board of Supervisors considered the appeals and the proposed project, and continued the hearing to April 23, 2019, to allow time for interested parties to pursue a mediation. On April 23, 2019, at staff's request, the Board continued the hearing to May 21, 2019, to allow the applicant and the appellants to continue mediating.

On May 21, 2019, the applicant and appellants informed the Board that they were unable to reach a compromise. However, the applicant presented several options to modify the project and reduce the scope of work, including: removal of the bypass road from Highway 1 to reduce ground disturbance and related environmental impacts, removal of the cement silo, switching locations of the shop and storage to address noise concerns, replacing the storage containers with an 800 square foot storage building, reducing tree removal to 10, formalizing seven public parking spaces along Highway 1 to address zoning consistency concerns, and providing a pedestrian walking trail to access Highway 1 to address safety concerns. On May 21, 2019, the

Board accepted the proposed changes and therefore adopted a resolution of intent to deny the appeals and approve the Combined Development Permit with the modified scope of work. On August 27, 2019, after consideration of the revised project, the Board of Supervisors voted 3-2 to deny the appeals of Matt & Carol Donaldson and Paul Smith, adopt a Mitigated Negative Declaration (SCH No. 2018091005), approve the Combined Development Permit, as revised, and adopt a Mitigated Negative Declaration (Board of Supervisors Resolution No. 19-285; **Attachment H**).

APPEAL/DISCUSSION:

Staff has concluded that the project amendment, as proposed, is consistent with the applicable provisions of the 1982 Monterey County General Plan, Big Sur Coast Land Use Plan, Carmel Coastal Implementation Plan (Part 4), and Zoning Ordinance (Title 20).

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

- 1) “Inaccurate and misleading” project description and improper processing of an Amendment to previously approved project that has been appealed to the California Coastal Commission;
- 2) The project is not an allowed use in the Visitor Serving Commercial Zoning District, and is inconsistent with the applicable Big Sur Coast Land Use Plan, Coastal Implementation Plan, and Monterey County Code policies and regulations;
- 3) This project will cause a substantial disruption to the peace and tranquility of the neighbors, including the Donaldsons;
- 4) The project was not adequately staked and will create a significant visual impact to Highway 1;
- 5) The proposed development on slopes in excess of 30% and tree removal is in violation of the Big Sur Coast Land Use Plan and Coastal Implementation Plan;
- 6) The site is not suitable for the proposed project, will eliminate existing visitor serving parking, and create a fire hazard;
- 7) The project will be detrimental to the health, safety, peace, morals, comfort, and general welfare of the persons residing or working in the neighborhood, as well as the general visitor-serving public;
- 8) The project applicant has engaged in unpermitted grading on the site, including roads and pads, causing damage to the site, and compromising the lateral support of the adjacent Donaldson property. No remediation has been done for this unpermitted grading;
- 9) The project will have a significant impact on environmentally sensitive habitat areas;
- 10) The project violates the California Environmental Quality Act (CEQA) and that an Environmental Impact Report is required for this project because there is substantial evidence, in light of the whole record before the County, that the project may have a significant effect on the environment [CEQA Guidelines section 15064 (a)(1)]; and

11) The Planning Commission's decision (Planning Commission Resolution No. 23-020) violates the Coastal Act, the Big Sur Land Use Plan, Title 20, and CEQA.

Processing

Following the Board of Supervisor's approval, the County sent a Final Local Action Notice (FLAN) to the California Coastal Commission (CCC) on October 9, 2019. Matt & Carol Donaldson and the Ventana Chapter Sierra Club appealed the Board of Supervisor's decision to the CCC on October 25, 2019 (Commission Appeal No. A-3-MCO-19-0205). Prior to the appeals being scheduled before the Coastal Commission, the Applicant notified the County and Coastal Commission staff of their desire to modify certain portions of the project contested during the appeal. County staff requested withdrawal of the Final Local Action Notice on October 21, 2022. The Coastal Commission accepted the County's request and notified the appellants. Staff then began processing an amendment to the previously approved project to reflect the proposed changes.

Withdrawal of the FLAN only affects the Coastal Commission appeal; it does not alter either the County's prior decision or the associated CEQA determination. Withdraw of the FLAN simply means that the County is not requesting the Coastal Commission consider the local action "final" at this time (as consideration of modifications are pending). Should the County approve the revised project, it will send a new FLAN to the CCC reflecting the entire revised design. This is a standard practice for the County and is encouraged by the Coastal Commission. Therefore, the Board of Supervisors' action to adopt the Mitigated Negative Declaration on August 27, 2019, is final. As detailed below, revisions to the adopted Mitigated Negative Declaration have been made in a Supplemental Mitigated Negative Declaration to disclose new potentially significant environmental effects that are the result of changes to the circumstances under which the project is proposed. The draft Resolution (**Attachment B**) complements the resolution approved by the Board of Supervisors in 2019 (Resolution No. 19-285; **Attachment H**). However, the proposed Amendment modifies the original Coastal Development Permit (PLN160851) approval and represents a modified Coastal Development Permit for the project.

Big Sur Land Use Plan Consistency

The subject property is zoned Visitor Serving Commercial, Coastal Zone or "VSC(CZ)". Per Title 20, the VSC zoning district allows uses such as hotels and motels, restaurants, service stations, assemblages of people, zoos, and other public and quasi-public uses. The project would have similar density and noise intensity as other allowed uses in the VSC zoning district. However, traffic, water use, and wastewater generated would be less intensive than if a hotel, motel, restaurant, or service station, etc. was established on the project site. Blaze Engineering has had a long history of serving both residents and visitor-serving commercial facilities of Big Sur by maintaining and repairing infrastructure during emergencies, such as fires and landslides, as well as normal "wear and tear". Although the proposed use is a not a "typical" VSC use, Blaze Engineering provides necessary services to residents, visitor serving businesses, and the Big Sur area, which allows the travelling public to visit Big Sur and patronize the area's various amenities and visitor accommodations. The proposed use is consistent with the zoning district's purpose, which is to service the "*needs of the traveling public, [and] recreational and visitor-serving facilities*" in the Big Sur area (Big Sur Coast LUP Policy 5.3.1.5 excerpt). The Amendment would also support nearby VSC uses, as it would result in additional parking spaces

available for Big Sur River Inn employees, visitors to the Big Sur River Inn and surrounding businesses, and the public. The project includes 12 parking spaces for Big Sur River Inn employees during weekends and holidays, and 6 public parking spaces adjacent to Highway 1 for everyday use. Two of the 6 public parking spaces will include universal electrical vehicle (EV) charging stations. These two charging stations will be the only publicly available EV charging stations between Carmel and Cambria that are not exclusive to Tesla vehicles.

This zoning district allow other visitor-serving uses of a similar character, density, and intensity as those listed, provided the Planning Commission determines that the proposed use is consistent and compatible with the intent of the VSC Chapter and the BSC LUP. Based on the existing conditions of the area, the benefit the operation provides to the surrounding area, and consistent with the Big Sur Valley Rural Community Center (RCC) land use designation of the site (see discussion below), the Planning Commission found that the proposed project is allowed within the RCC designation and VSC zoning district (Resolution No. 23-020; **Attachment G**).

The subject property is in the Big Sur Valley RCC. BSC LUP Policy 5.3.2 states that RCC areas are intended to allow new and existing developments that provide a spectrum of functions for both the visiting public and residents of the adjoining rural areas. Policy 5.4.3.E(1) and (6) requires new commercial visitor serving uses both to be in RCCs and “aimed at serving both local residents and the visiting public.” Consistent with the BSC LUP “Commercial” land use policies, the proposed development is within an RCC, rustic, aimed at serving both residents and the visiting public, involves relocation of a use from an adjacent property, and would not affect the peace and tranquility of existing neighbors. Additionally, the project is designed to include safety improvements and would enhance recreational use of nearby lands by providing additional parking for employees, visitors, and the public.

In accordance with applicable BSC LUP policies, the proposed Amendment includes a 760 square foot two-bedroom one-bath employee housing unit. The proposed business operation has 12 full-time employees. Currently, 25% of these employees live in the Big Sur area. Implementation of the proposed employee housing unit will allow at least two employees to reside on-site, increasing the business’s percentage of employees who live in Big Sur to 41.6%.

Critical Viewshed

BSC LUP Key Policy 3.2.1 of the BSC LUP prohibits development visible from the “Critical Viewshed”, which is defined as: “*everything within sight of Highway 1 and major public viewing areas including turnouts, beaches and the following specific locations Soberanes Point, Garrapata Beach, Abalone Cove Vista Point, Bixby Creek Turnout, Hurricane Point Overlook, upper Sycamore Canyon Road (Highway 1 to Pais Road), Pfeiffer Beach/Cooper Beach, and specific views from Old Coast Road as defined by policy 3.8.4.4.*” However, BSCLUP Policy 3.2.5.A and CIP section 20.145.030.B1 provides an exception to the Critical Viewshed requirements for development located within a Rural Community Center that provide essential services to the community and visiting public. Accordingly, the subject property is subject to the Critical Viewshed policies exceptions. Although the project is exempt from Critical Viewshed policies, BSCLUP Policy 3.2.5.A states that development in RCCs shall be permitted only under careful design and siting controls. On January 6, 2023, staff conducted a site visit to observe the project staking and determine consistency with the visual resource policies and regulations.

Staking of the office, storage containers, and workshop could not be seen from Highway 1. The proposed tree removal will expose these structures to views from Highway 1. The existing parking area on the lower portion of the subject property is currently being utilized for parking by both Blaze Engineering and the River Inn Motel and will be further screened with fencing and vegetation.

Development within ESHA

The site is entirely within a Redwood Forest natural community dominated by Coast redwood and co-dominated by California bay laurel. Tan oaks and Coast live oaks are present but limited. Native understory plants are also limited due to the invasive English ivy and French broom that dominates the understory vegetation and is found climbing up the trunks of many on-site trees. The BSC LUP states that development, including vegetation removal, shall not be permitted in ESHA if it would result in any potential disruption of habitat value. To approve development within any of these habitats, the County must find that disruption of a habitat caused by the development is not significant. The project proposes to utilize existing disturbed areas such as roadways, building pads, and an existing parking area. Therefore, the proposed development would minimize disturbance to biological resources to the maximum extent feasible. However, complete avoidance is not feasible; the project includes the removal of 10 trees.

No additional removal of protected trees is proposed under this Amendment than previously approved by the Board in 2019 (10 trees). The previously approved project included four mitigation measures to reduce potentially significant impacts to the property's ESHA, which at the time was limited to forest resources. These mitigation measures required biological monitoring, tree protection, and approval of a final Construction Management Plan and Restoration and Fuel Management Plan. Restoration activities include restoring all impacted understory and construction related disturbed soils with native understory species. Thorough eradication of the property's invasive plants and restoration of the identified environmentally sensitive habitat area will allow the proposed development to be compatible with the site and will reduce further habitat degradation. Implementation of these mitigation measures would reduce potential impacts to biological resources to a less than significant level, and consequently, they have been carried forward to this Amendment.

Pursuant to CIP section 20.145.040.B(4), the proposed Amendment modifies the previously approved project's grading requirements and minimizes disturbance to biological resources to the maximum extent feasible by limiting grading to only that needed for the structural improvements and utilizing existing disturbed areas such as roadways, building pads, and an existing parking area. However, complete avoidance of ESHA is not feasible. Additionally, the second supplemental Biologist report and consultation with California Department of Fish and Wildlife (CDFW) determined that the subject property has potential to provide habitat for sensitive species including the Coast range newt, Santa Lucia slender salamander, and Western bumble bees. These species were not previously identified during processing of the previously approved project. Therefore, additional avoidance and minimization measures have therefore been incorporated into the Amendment. The proposed biological mitigation measures are consistent with BSC LUP Policy 3.3.2.7 and 3.3.2.8, which require minimization of ground disturbance and restoration measures to enhance ESHA and provide for long-term land management and exotic species control. Implementing the restoration plan will also be consistent

with BSC LUP Policy 3.3.3.A.10 regarding restoring natural environments by removing exotic plants. Restoration activities will apply to all impacted understory and construction related disturbed soils with native understory species. Thorough eradication of the property's invasive plants and restoration of the identified ESHA will render the proposed development compatible with the site and reduce further habitat degradation. Implementation of the project's mitigation measures would mitigate potential impacts on special natural communities to a level of less than significant.

In summary, staff has concluded that the proposed project would be both reasonable development of the site and consistent with the area's existing conditions. The proposed site improvements have been sited and designed to minimize impact to the resources as much as possible, consistent with BSC LUP policies.