

Exhibit B

This page intentionally left blank.

EXHIBIT B DISCUSSION

As mentioned in the cover report, this discussion will focus on providing details on project issues that were identified and analyzed during review of the application for the Planning Commission to consider. The primary issue identified is the proposed project's compatibility with the site and existing uses in the vicinity followed by development impacts. Also discussed herein are potential project impacts identified through the environmental review, recommended mitigation measures, and comments received during the public review period. This discussion will conclude with a recap of staff's recommendation, noted controversy, and options for the Commission to consider and decide upon.

COMPATIBILITY USES

The existing conditions of the area and subject property, the property's Rural Community Center (RCC) land use designation, and its Visitor Serving Commercial (VSC) zoning district were considered to determine if the project would result in establishing a use on the property that would not be compatible or consistent with uses allowed on the site.



Figure 1. Subject Property & Surrounding Area

As previously stated in the cover report, Blaze Engineering's operations were conducted out of an adjacent property to the east for approximately 28 years and the project includes the relocation of their operations from one property to another (see **Figure 1**). Therefore, as part of determining compatibility of uses within the immediate vicinity, analysis of impacts resulting from project implementation included effects to both the physical conditions of the subject property and the spatial and functional conditions of the surrounding area at the time the application for the Combined Development Permit was made. Comments from neighboring property owners received at the Big Sur Land Use Advisory Committee (LUAC) meeting (**Exhibit F**) and comments on the CEQA document from a member of the public and California Coastal Commission (CCC) staff were also considered (**Exhibit E**).

In summary, these comments questioned if the Blaze Engineering's operation:

- is an allowed use in the RCC land use designation;
- is an allowed use in the VSC zoning district; and
- is suitable for the site.

It is the position of CCC staff that although RCC designated parcels allow "administrative, management, and maintenance facilities for public agencies, fire stations, clinics, community halls, churches, post office, libraries, and schools" as a conditionally permitted use, land designated as RCC should be reserved for essential/priority visitor-serving uses (see Section 5.3.1.5 of the BSC LUP). This position is based on the limited availability of RCC lands and the growing numbers of visitors in Big Sur.

Section 5.3.2 – Land Use Map and Summary of Land Use Proposals of the BSC LUP provides greater context to the identification of RCC areas and what they were intended for, in their entirety; specifically, the 2nd sentence of Paragraph 1 and paragraph 2 below:

"A special land use classification, called Rural Community Center, is depicted by a dotted line circumscribing portions of the Big Sur Valley, Pacific Valley, Lucia, and Gorda. This is intended to illustrate the approximate areas within which a variety of land use activities are now carried on. The plan proposes that these areas continue to provide a spectrum of functions for both the visiting public and for residents of the adjoining rural areas. Major categories of land use activities appropriate are those found in the Outdoor Recreation; and Recreational, Visitor-Serving Commercial, Public and Quasi-Public classifications. Residential development can take place in this category in the Big Sur Valley at 1 dwelling unit per existing vacant parcel or as employee housing although the limited available developable land urges that other more essential uses should have preference. In the portions of the Lucia, Gorda, and Pacific Valley areas delineated as Rural Community Centers, residential development should be avoided altogether, again, because of limited available land.

The locations of any of these uses within the Rural Community Centers is not a major concern and can best be determined upon review of individual, specific proposals. In general any use allowed in any zone is appropriate for Rural Community Centers."

Policy 3.2.5.A of the BSC LUP includes language that identifies the importance of developments that provide essential services to the community and visiting public in RCCs¹ and Policy 5.4.3.E.1 – Specific Development Policies for Commercial Uses of the BSC LUP also states that the development of new commercial uses serving the community and visitor needs be directed to existing RCCs.

Section 20.22.060.W of Title 20 allows other visitor-serving uses of similar character, density and intensity as those listed in the VSC district, provided the Planning Commission find the use consistent and compatible with the intent of the Chapter. Section 20.22.010 of Title 20 states that the purpose of the VSC Chapter is to “provide a district to establish areas necessary to service the needs of visitors and the traveling public to Monterey County.” CCC staff states that the proposed use is not similar to those listed the VSC as contractor yards are allowed as a conditional use in the Coastal General Commercial zoning district. However, it is staff’s contention that the Planning Commission consider the operation consistent with the VSC purpose and of a similar use to the Public/Quasi-Public uses allowed. Merriam-Webster defines “quasi-public” as essentially public (as in service rendered) although under private ownership or control.

Emergency services in Big Sur are limited and Highway 1 serves as an essential transportation routed along the coast. Over the past 28 years, Blaze Engineering has historically provided emergency services to the Big Sur community. Recent examples include providing assistance in repairing and re-opening damaged public and private roads during the 1998 El Nino, 2008 Basin Complex Fire, 2013 Pfeiffer Ridge Fire, 2016 Soberanes Fire, and 2017 landslide events. In addition to their typical operation hours (Monday-Friday from 8:00am to 4:30pm), Blaze Engineering plans to continue to provide on-call staff available for emergency response. This is consistent with a commercial use that serves the community and visitor needs.

CCC staff opines that the subject property should be reserved to essential/priority visitor-serving uses. However, pursuant to Table 1: Land Use and Development Intensity and Buildout of the BSC LUP, visitor accommodations and campgrounds would not be allowed. In RCCs, inns, RV campgrounds, and rustic campgrounds require a minimum of 10 acres and hostels require a minimum of 5 acres. Hike-in and environmental campsites allow clustering of 5 spaces per acre but have an overall density of 1 space per 20 acres. The subject property contains approximately 2.55 acres, well below the minimum required for the above uses.

Restaurants, however, are allowed in the both the VSC and RCC designations with no minimum parcel size. 5.4.3.C.7 of the BSC LUP states that free-standing restaurants (meaning not associated with an inn) shall provide at least 1 parking space per 4 seats or per 100 square feet of both open and enclosed dining area, whichever is greater. New free-standing restaurants in an RCC may have a maximum size to accommodate a 120-seat enclosed dining room facility. The test well (PLN170051) to be converted into a permanent well has demonstrated capacity to serve the proposed project (compliance with Condition No. 5 of PLN170051). However, water use intensity of a 120-seat restaurant would be far greater than what is proposed. In addition, so would the additional vehicular trips and necessary onsite wastewater treatment system areas. Furthermore, proposal of a restaurant would not address the concerns by neighbors relative to noise, site improvements, and the potential to add to the pedestrian/vehicle interface along a rural road.

¹ These uses qualify for an exemption to BSC LUP Critical Viewshed policies, a very high priority of the plan.

Site suitability concerns from neighboring property owners include the project's potential to disrupt the peace and quiet of the neighborhood, negatively impact surrounding property values, allowing development within a right-of-way, and conflicting use of the right-of-way between easement holders and the property owner.

The proposed operations include placement of equipment and uses on the lower portion of the parcel closer to State Route 1, which currently experiences higher noise levels due to vehicular traffic. Uses proposed on the upper portion of the property consist of those with less intensive noise levels; such as an office, shop, and storage buildings. In addition, operations would occur Monday – Friday from 8:00am to 4:30am, except if/when emergency services are required. The Initial Study for the project analyzed potential noise impacts and found that impacts would be less than significant. The baseline noise conditions considered were existing uses. The subject property is located in an area with motels, restaurants, service stations, and retail uses to the south and residential uses to the north. The primary noise contributor was identified to be existing vehicular traffic on State Route 1 and secondary noise contributors are produced by entertainment activities associated with the visitor/commercial uses and Blaze Engineering operations that occurred on the adjacent property (Assessor's Parcel Number 419-201-006-000). Because the baseline noise conditions include the spatial and functional conditions of the area at the time the application for the project was made, the operational components of the project would result in no change to existing noise levels in the area. However, there would be noise impacts during construction. These impacts were determined to be less than significant as they would be temporary and construction would be required to meet the noise regulations contained in Chapter 10.60 of the Monterey County Code.

Although the right-of-way is existing, and the proposed use of the road by the property owner is consistent with its purpose, the project would result in a slight increase of vehicular traffic as parking spaces for employee vehicles are located near the office building and shop. The primary concern from the public is that school children walk on the road to get to and from school. To address these concerns of the neighbors, the applicant has agreed to modify their plans to either create an informal walking path along the roadway and/or incorporate fencing to act as a barrier. Because the preliminary plans do not include these improvements, a non-standard condition of approval has been incorporated to ensure the final construction plans reflect the change.

As shown in **Figure 2** below, a portion of the improved roadway area is outside of the right-of-way easement area. Staff has identified 3 deeds granting a non-exclusive right-of-way easement on and over the subject property². The proposed project includes the creation of a new driveway to allow for safer ingress and egress, but does not propose abandonment of the existing improved roadway. Language contained in the non-exclusive right-of-way easements does not include language that prohibits improvements within the easement area. More importantly, the placement of the of the diesel tank and cement silo within the 50-foot wide right-of-way easement area would not conflict with the existing and proposed vehicular access through the property.

² The 1952 Marshall Deed found in Book 1402, Page 480; the 1960 Ewoldsen to Curtis Deed found in Book 2058, Page 142; and the 1996 Curtis to Trotter Deed found in Reel 470, Page 408.

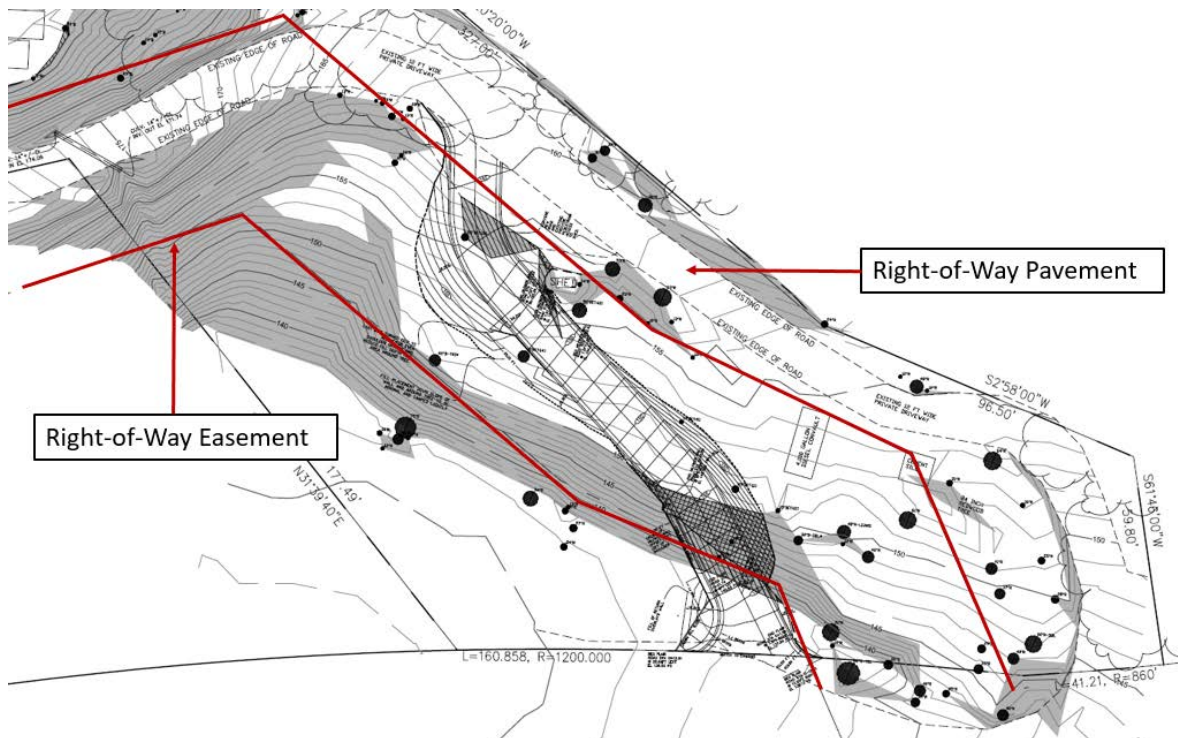


Figure 2. Existing Right-of-Way

DEVELOPMENT IMPACTS

The project includes development on slopes in excess of 30%, the removal of trees within an environmentally sensitive habitat area (ESHA), improvement of an existing road right of way, construction of a new driveway access point off State Route 1, and parking a portion of the property in proximity to State Route 1.

Development on Slopes:

BSC LUP Policy 5.4.2.5 considers existing lots of record buildable parcels and suitable for development provided all resource protection policies can be fully satisfied, there is adequate building areas of less than 30% cross slope, and they are not merged by provisions elsewhere in this plan. Section 20.145.140.A.4 of the CIP and Section 20.64.230.E of Title 20 prohibit development on slopes in excess of 30% unless a Coastal Development Permit is obtained and the appropriate hearing body can find that there is no alternative which would allow development to occur on slopes less than 30% or that the proposed development better achieves the resource protection objectives and policies of the BSC LUP. Approximately 48 square feet of the proposed development would occur on slopes excess of 30%; at the soldier pile walls adjacent to the office building and shop, the southwest corner of the shop, the proposed Hilfiker wall, and proposed driveway off State Route 1. The subject property is constrained by existing vegetation, an existing improved right-of-way, and topography. Shifting of the shop would require the structure to encroach into either the septic tank and secondary leachfield areas to the north or encroach closer into the root systems of two protected trees upslope to the east. Shifting of the proposed driveway area to areas with slopes less than 30% would require the removal of 10 additional protected trees that are in healthy condition. In addition, the subject property would have the potential to experience seismic ground shaking due to faults in the area and contains soils with moderate and high erosion potential. Therefore, construction of the soldier pile and Hilfiker walls would reduce hazard

risks on the site. Even if resiting of the shop and driveway could occur outside of the slope area, the project geotechnical engineer recommends installation of the walls. Therefore, the proposed development on 30% slopes cannot be avoided and better meets policy objects for the protection of trees and environmentally sensitive habitat areas. Furthermore, the new driveway would allow safer ingress and egress on and off State Route 1 by providing a greater line of sight distance for turning movements. Providing a safe path of travel and a less hazardous condition also better meets policy objectives.

Tree Removal in ESHA

The subject property contains Redwood Forest natural community and the proposed construction and tree removal would occur in proximity of areas identified as ESHA. BSC LUP Policy 3.3.2.1 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; resulting in siting development that minimizes disturbance to biological resources to the maximum extent feasible. However, complete avoidance is not feasible and the project includes the removal of 16 trees; 5 due to construction impacts (**Table 1**), 7 due to both their hazardous condition and construction impacts (**Table 2**), and 4 due solely to their hazardous condition (**Table 3**). As part of the evaluation, the project arborist reviewed the project plans (site plan, grading plan, conceptual landscape and fuel management, etc.), made an onsite visit, and inventoried trees identifying their species, size, and health and structural condition.

Table 1. Trees to be Removed due to Development Impacts		
<i>Number & Type</i>	<i>Size</i>	<i>Comment</i>
No. 2, Cypress	48-inch DBA	Located outside of office footprint in grading area. Tree is in fair condition. Some decay with cavity at base. Arborist identifies that this tree has been planted.
No. 10, Bay laurel	25-inch DBA	Located in roadway improvement area. Tree in poor condition with weak branch attachments, thin canopy, and appears to have Sudden Oak Death.
No. 12, Bay laurel	13-inch DBA	Located within roadway improvement area. Tree is standing dead.
No. 21, Bay laurel	35-inch DBA	Located in grading area. Tree condition is poor.
No. 31, Bay laurel	18-inch DBA	Located in grading area. Tree condition is poor.

Trees proposed for removal due to development impacts have been found to be the minimum required in this case and meet the standards for removal pursuant to Section 20.145.060 of the CIP. Section 20.145.060.A.1.a of the CIP provides an exception for the removal of planted trees. Such is the case with removal of Tree No. 2. Tree Nos. 10 and 21 have a DBA of over 24-inches and are considered landmark. Section 20.145.060.D.1 of the CIP prohibits the removal of landmark trees except if the decision making body can find that there are no alternatives to development where the removal can be avoided. Furthermore, Section 20.145.060.D.3 & 4 of the CIP requires limitation of tree removal to that which is necessary for the proposed development and/or necessary to improve unhealthy forest conditions and for the long-term maintenance of the forest. Tree Nos. 10 and 12 are located within the proposed driveway access. This location is within an area that would provide the best line of sight for vehicular ingress and egress safety. In addition, realigning the driveway would have the potential to

impact an 82-inch, 61-inch, and 14-inch Coast redwood and a 15-inch and 32-inch Bay laurel to the south and impact a 54-inch, 17-inch, 24-inch, 13-inch, and 12-inch Coast redwood to the north. Tree No. 21 is located within an area that would provide access to the storage structures and is in poor health and structure. Realignment of this access would potentially require additional grading and the removal of another 14-inch bay laurel that is in fair health. Tree No. 31 is located within the proposed grading area of the office and is also in poor health and structure. Avoidance of this tree would require shifting the office building to the east into areas with slopes in excess of 30%.

Table 2. Trees to be Removed due to Development Impacts and Potential Hazards

<i>Number & Type</i>	<i>Size</i>	<i>Comment</i>
No. 1, Bay laurel	36.5-inch DBA	Located within office footprint. Tree structure is in poor condition. Decay at base and branch attachments. Although it is 60-feet away, the tree is upslope from Apple Pie Ridge Road and failure could potentially cause erosion onto the roadway. In addition, the tree is in proximity of several younger healthier trees and its removal would attribute to the reduction of spreading decay.
No. 4, Bay laurel	30-inch DBA	Located adjacent to shop. Tree is in poor condition with weak stem attachments and decay. Risk of failure due to structural defects and hazard rating of 12. Tree is upslope (by approximately 28-feet) from Apple Pie Ridge Road and failure could potentially cause erosion onto the roadway. In addition, the tree is in proximity of several healthier trees and its removal would contribute to the reduction of spreading decay.
No. 9, Bay laurel	13-inch DBA	Located in roadway improvement area. Tree is in poor condition with a large area of decay at the main trunk and a hazard rating of 10. The tree is approximately upslope (by approximately 28-feet) and approximately 35-feet from the existing parking area. Failure could result in tree falling onto people or parked cars.
No. 11, Bay laurel	14-inch DBA	Located in roadway improvement area. Tree in poor condition with decay on main trunk and canopy indicates Sudden Oak Death. The tree is in proximity of several healthier trees to the south and its removal would contribute to the reduction of spreading Sudden Oak Death and improve the overall health of the forest.
No. 15, Bay laurel	26-inch DBA	Located in roadway improvement area. Tree in poor condition with decay, fungal fruiting bodies in the lower trunk, and a significant lean with a hazard rating of 12. The tree is in proximity and upslope of several healthier trees and its removal would improve the overall health of the forest.
No. 24, Bay laurel	40-inch DBA	Located in grading area. Tree condition is poor with areas of decay and hazard rating of 12. The tree is approximately 30-feet from and 11-feet upslope from Apple Pie Ridge

		Road. The weakly attached decayed limbs have the potential to fall onto the roadway.
No. 33, Coast Redwood	20-inch DBA	Located in roadway improvement area. Tree condition is poor, appears to have been previously topped, and foliage is thin and discolored. This tree is less than 15-feet from the SR1 right-of-way. Failure could potentially cause the tree to fall into the informal path of travel from the existing driveway and parking area.

Table 2 above identifies trees that are located within the proposed development area and are in declining health. Analysis of their removal takes into account whether or not their removal would be supported if no development was proposed. In order for trees to be considered hazardous, they would have to pose a threat to either persons or structures. The spread of disease and the overall health of the forest is also considered (Section 20.145.060.D.4 of the CIP). The comment section in Table 2 describes how removal of the tree is consistent with the CIP and how their removal can be supported.

Table 3 below identifies trees the project arborist recommends for removal whether or not the development occurs. Removal of tree No. 3 would reduce the spread Sudden Oak Death and improve the overall health of the forest. Tree Nos. 16, 17, and 18 are in proximity of Apple Pie Ridge Road and failure would pose a risk to those that travel along the roadway.

Table 3. Trees to be Removed due to Potential Hazards		
<i>Number & Type</i>	<i>Size</i>	<i>Comment</i>
No. 3, Bay laurel	50-inch DBA	Located between office and shop. Tree is in poor condition and appears to have symptoms of Sudden Oak Death. Risk of failure with hazard rating of 12.
No. 16, Bay laurel	30-inch DBA	Located outside of development area. Tree in poor condition with stem decay and structural roots exposed. Root system is unstable and hazard rating of 12.
No. 17, Bay laurel	23-inch DBA	Located outside of development area. Tree is in poor condition with exposed undermined roots and significant decay at stem. Risk of failure with hazard rating of 11.
No. 18, Bay laurel	60-inch DBA	Located outside of development area. Tree in poor condition with large area of decay and hazard rating of 12.

The project arborist concludes that the proposed tree removal is the minimum necessary for development and due to their condition, and would reduce the risk of tree failure hazards to people or structures. Removal would not result in the fragmenting of an intact forest system, create a new forest edge, or impact the existing quality of the system. Staff has independently reviewed the arborist report and based on the discussion above, concurs with its conclusion. Out of the 34 trees inventoried on the site, trees recommended for removal to only those that were within the development impact area and/or would pose a threat to people and/or structures on the site. Mitigation measures have been incorporated within the project requiring monitoring by a qualified arborist and the approval and implementation of protective fencing, construction management, and a restoration and fuel management plans. Implementation of these mitigations would ensure impacts to the Redwood Forest natural community are reduced to a less than significant level.

New Driveway of State Route 1

Specific Policy 4.1.3.A.4 of the BSC LUP requires limiting of access road entrances off State Route 1 unless it can be demonstrated that the use of existing public or private roads is not feasible. Section 20.145.130.B.6 of the CIP requires proposed developments that include the construction of a new entrance to State Route 1 to demonstrate an inability to use existing public roads to access State Route 1. Consistency with this policy and implementation of the regulation is intended to further the County's objective to maintain and enhance the highway's aesthetic beauty and to protect its primary function as a "recreational route". As shown in **Figure 3** below, access to the subject property is gained by an existing driveway. Approximately 60-feet north of this existing driveway, the applicant proposes to construct a new driveway access to provide safer ingress and egress by creating a greater line of sight distance from the blind curve along the highway.

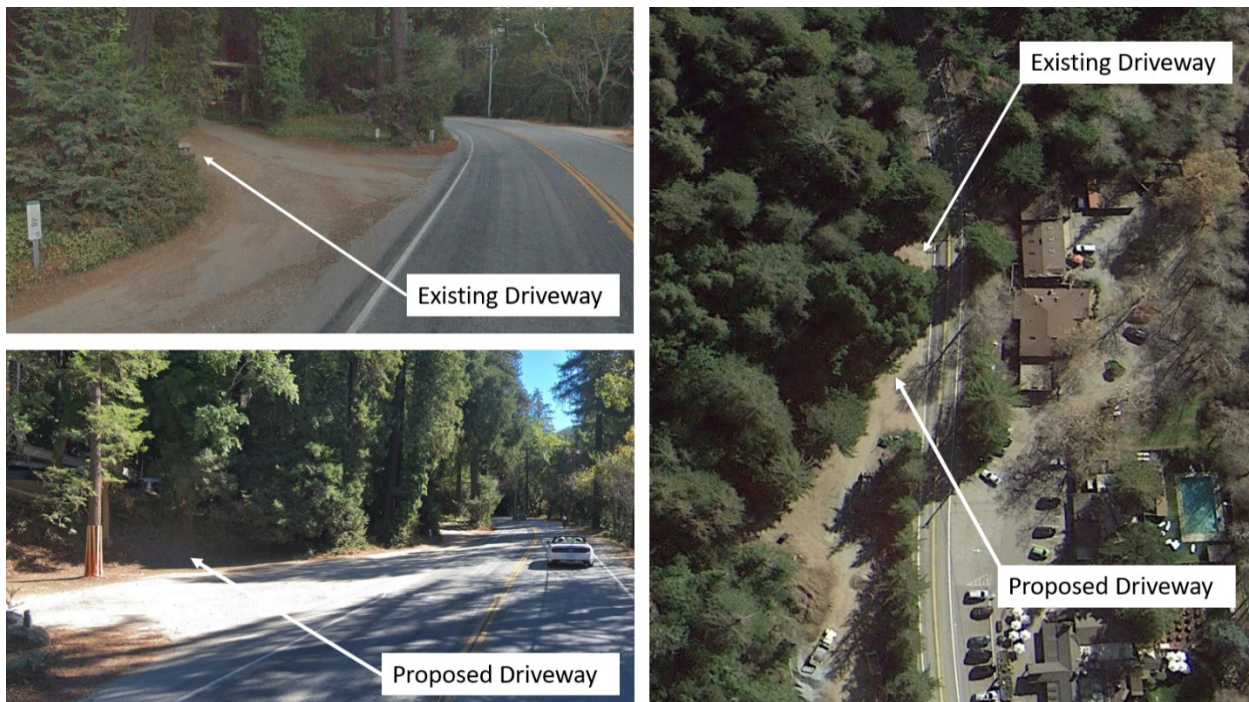


Figure 3. Existing and Proposed Driveway Entrance

Although use of the existing driveway is feasible, the new driveway entrance is located in an existing wider apron and is approximately 100-feet further from the curvature of the highway provides a greater line-of-sight distance resulting in safer turning movements on and off of State Route 1. This is consistent with the spirit of the policy and regulation above. Furthermore, the Department of Transportation (Caltrans) has reviewed the application and Initial Study. Caltrans is in support of the project provided non-standard conditions of approval are incorporated requiring their review of the final drainage plan and the applicant obtaining an encroachment permit from the department prior to working within the State's right-of-way.

Lower Parking Area

Blaze currently has 20 employees, including office staff and parking of employees personal vehicles is proposed adjacent to the office and shop. The lower portion of the property contains a flat dirt parking area (**Figure 4**). This parking area is currently used by both Blaze Engineering to park their construction

vehicles and parking for the River Inn Motel. The River Inn has motel units adjacent to the subject property and across State Route 1. There is an existing agreement between the applicant and owners of the River Inn Motel to share this portion of the applicant's property to provide off-street overflow parking for the motel. The project proposes to formally, and more frequently, utilize this area for parking of Blaze's large construction equipment (trucks, trailers, dozers, etc.) in order to place activities with higher noise intensity closer to the roadway away from sensitive receptors, provide a parking facility with safer ingress and egress, and result in providing a greater distance between the operations and existing residential structures than that of the former site.

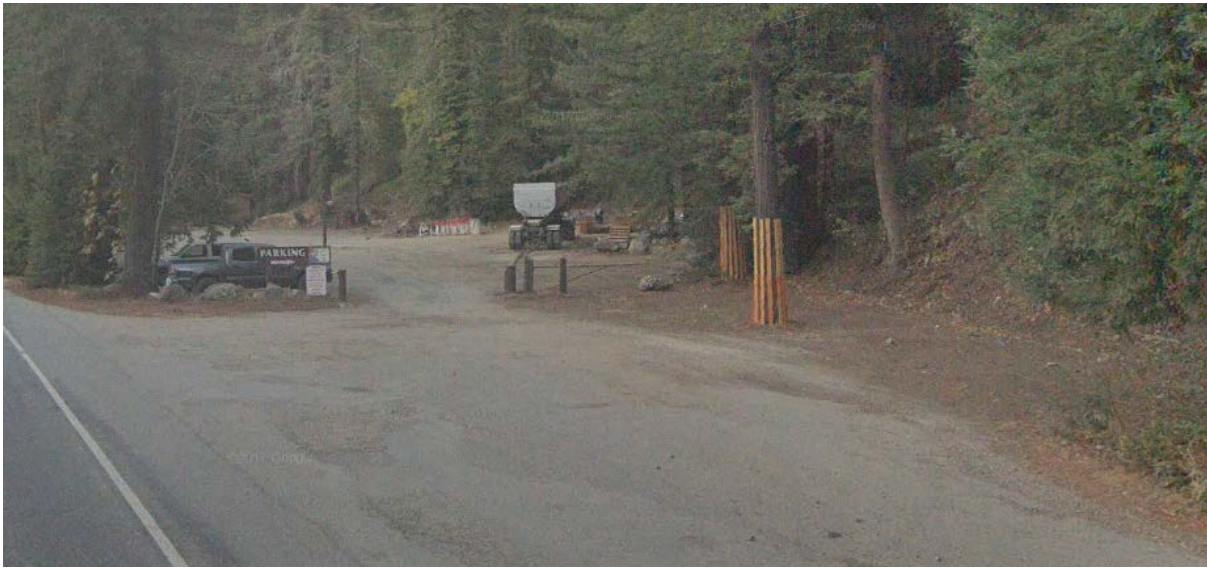


Figure 4. Lower Portion of Property

Subsection E of Policy 5.4.3 requires commercial development to carry out the rustic character of Big Sur, provide an adequate physical area to meet parking requirements and natural resource concerns, prohibits large scale commercial facilities that are unlike existing character and size of facilities in Big Sur. In addition, parking areas are required to be screened from public views from Highway 1 and should, in no event, create hazards for motorists or pedestrians. This increase in parking was a noted concern during the Big Sur Land Use Advisory Committee meeting (**Exhibit F**). 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 State Route 1. This fence has been incorporated into the project design.

CCC staff commented that parking and staging of construction vehicles, trucks, and bulldozers within an existing parking area would likely result in significant visual impacts to the Critical Viewshed and construction of the fence would also be development within the Critical Viewshed. It is their position that the fence would not act as screening, "but rather trades one visual impact for another." It is their position that neither the use of the existing parking area by Blaze Engineering's construction vehicles and the construction of the wooden fence cannot be supported.

3.2.5.C.2. of the BSC LUP and 20.145.030.B.3.b of the CIP states that private highway improvements, such as driveway entrances, gates, roadside fences, mailboxes, and signs, shall be of a design

complementary to the rural setting and character of Big Sur, with preference for natural materials. Specific Policy 4.1.3.B.4 provides regulation for aesthetic improvements along State Route 1. This objective of this policy is to ensure that all improvements are inconspicuous and are in harmony with the rustic natural setting of the Big Sur Coast. The overall design for improvements, such as roadway signs, fences and railings, access area improvements, etc., within the right-of-way shall be guided by the special report by local citizens entitled, Design Standards for the Big Sur Highway. The Big Sur Coast Highway Management Plan (CHMP) was driven by this report.

Siting and design of fencing is addressed in Section 3.4 of the CHMP. Design of new roadside fencing along Highway 1 should contribute to the highway's overall rural and historic character. Fence types should be those traditionally associated with highways passing through rural and agricultural landscapes. Depending on location and context, desirable fence types would include: wire (barbed or smooth) on timber or steel posts, stretched cable on timber posts, timber post and rail (single or multiple rails), timber post and split rail (applicable to forested settings), timber post and pickets, and hybrid designs combining a variety of these elements. Diversity in fencing is also valued and fence types should be compatible with the visual context and should not interfere with important views from the highway. The rustic image of older fencing is recognized as also having particular cultural value.

Staff has analyzed the project elements along State Route 1 and finds that parking to be consistent with the existing use of the property, and that the proposed Redwood fence, intended to screen the vehicles as requested during the LUAC, is consistent with the rural character of Big Sur, the BSC LUP and CIP, and fencing guidelines contained in the Big Sur Coast Highway Management Plan.

ENVIRONMENTAL REVIEW

An Initial Study/Mitigated Negative Declaration or "IS/MND" (SCH No. 2018091005) for the Morgenrath project was prepared and circulated from September 5, 2018 to October 5, 2018.

The IS/MND disclosed that the project would have no impact on agricultural and State forest resources, land use/planning, mineral resources, population and housing, public services, recreation, or utilities and service systems. Less than significant impacts have been identified for aesthetics, air quality, cultural resources, geology/soils, greenhouse gas emissions, hazards and hazardous materials, hydrology and water quality, land use/planning, noise, and transportation and traffic. Conditions of approval assuring compliance with County requirements, to the extent that they mitigate the identified potential impacts, have been incorporated and additional mitigation measures were not necessary for the project to have a less than significant impact on these resources. Potential impacts to biological resources and tribal cultural resources caused by site disturbance and the establishment of new structures have been identified.

Biological Resources:

Monterey County Geographic Information System (GIS) and the BSC LUP Environmentally Sensitive Habitat Areas (ESHA) map indicates that the subject property has the potential to contain rare, endangered, or sensitive plant habitats. Policy 3.3.1 of the BSC LUP and Section 20.145.040 of the CIP require the preservation of ESHA through implementation of development standards that maintain, restore, and if possible, enhance the resource. In accordance with these regulations, a biological survey was submitted to identify ESHA on the property and determine if the Project would have the potential to result in an impact to that ESHA.

The subject property lies entirely within a Redwood Forest natural community dominated by coast redwood (*Sequoia sempervirens*) and co-dominated by California bay (*Umbellularia California*). Tan-oak (*Notholithocarpus densiflorus*), coast live oak (*Quercus agrifolia*), and Shreve oak (*Quercus parvula* var. *shrevei*) were also found onsite, but in limited amounts. Very little native understory plants, such as sword fern (*Polystichum munitum*), thimbleberry (*Rubus parviflora*), Douglas' iris (*Iris douglasiana*), redwood sorrel (*Oxalis oregana*), California hedgenettle (*Stachys bullata*), and poison oak (*Toxicodendron diversilobum*), were found onsite as non-native invasive English ivy (*Hedera helix*) dominates the understory and is found climbing up the trunks of many onsite trees.

As discussed above, the project involves tree removal within ESHA. This development would have the greatest impact to the resources on site. There is substantial evidence that would support tree removal. However, to ensure construction impacts do not affect ESHA and trees to be retained, mitigation measures have been incorporated requiring monitoring of grading and construction activities, implement a tree protection plan, and submittal and implementation of a finalized and approved construction management plan and restoration and fuel management plan. Implementation of these mitigations would reduce the project impacts to biological resources to a less than significant level.

Tribal Cultural Resources:

In accordance with Section 21080.3.1 of the Public Resources Code (often referred to as Assembly Bill 52 – Native Americans: California Environmental Quality Act) non-exempt projects subject to environmental review shall request a Tribal Consultation to determine if potential impacts to tribal cultural resources exist. On June 19, 2018, RMA-Planning staff consulted with the Ohlone/Costanoan-Esselen Nation (OCEN). The priority of OCEN is to protect their ancestor's remains and sacred resources through avoiding disturbance. OCEN asks that sites be preserved and/or all cultural and sacred items be left with their ancestors where they were discovered. Through continuous discussions with Tribal representatives and background information contained in the archaeological report, locations such as the coast and/or areas containing, or used to contain, a water source, have been known to provide occupation, gathering, and processing sites for Native Americans. The Big Sur River is approximately 500-feet west of the site and Pheneger Creek, a tributary to the Big Sur River, is approximately 150-feet to the south. Because of this knowledge, the OCEN tribe considers the Morgenrath property to potentially contain cultural tribal resources. Therefore, a mitigation measure recommended by OCEN has been incorporated to reduce potential impacts to tribal cultural resources to a less than significant level. This mitigation requires an OCEN approved tribal monitor to observe excavation for only the new driveway and septic tank areas.

Comments Received:

Comments from the Department of Transportation (Caltrans), California Coastal Commission (CCC) staff, and the project applicant were received during the IS/MND public circulation period. One comment letter from a member of the public was received after the comment period was over, see **Exhibit E**. These comments have been addressed throughout this discussion within the relevant topic sections.

STAFF RECOMMENDATION

As discussed throughout, it is the position of California Coastal Commission staff and neighboring property owners that the project conflicts with the RCC designation, allowed uses in the VSC zoning district, and the BSC LUP and CIP policies for the protection of the Critical Viewshed. However,

through staff's analysis of the proposed project, in light of the applicable policies and regulations, by staff's observations of the site and surrounding area, and based on the environmental review conducted for the project, it is staff position that findings to approve the project can be made by the support of substantial evidence. Therefore, staff has provided the Planning Commission with a draft resolution (**Exhibit C**) for approval.

This page intentionally left blank