



## Board Report

**File #:** PC 18-127, **Version:** 1

### **PLN160851 - MORGENRATH (BLAZE ENGINEERING)**

Public hearing, continued from October 31, 2018, to consider establishment of a commercial operation and the construction of an office, workshop, storage area, and formal parking area with associated site improvements and tree removal within environmentally sensitive habitat areas (Total of 16 trees, consisting of Bay laurel (14), cypress (1), and Coast Redwood (1), ranging in size from 13 to 60 inches).

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

**Proposed CEQA action:** Adopt a Mitigated Negative Declaration

#### **RECOMMENDATION:**

It is recommended that the Planning Commission adopt a resolution to:

- 1) Adopt the Mitigated Negative Declaration; and
- 2) Approve a Combined Development Permit consisting of:
  - 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;
  - b. Coastal Development Permit to allow development on slopes in excess of 30%;
  - c. Coastal Development Permit to allow removal of 16 protected trees [14 Bay laurel trees (two at 13-inches; two at 30-inches and ten, each at 14, 18, 23, 25, 26, 35, 36.5, 40, 50, and 60-inches respectively), 1 cypress tree at 48-inches, and 1 Coast Redwood at 20-inches] in an environmentally sensitive area; and
  - d. Coastal Administrative Permit to convert a test well into a permanent well.
- 3) Adopt a Mitigation Monitoring and Reporting Program.

The attached draft resolution includes findings and evidence for consideration (**Exhibit C**). Staff recommends approval subject to 28 conditions of approval and 5 mitigation measures.

#### **PROJECT INFORMATION:**

**Agent:** Aengus L Jeffers, Law Offices of Aengus L Jeffers

**Property Owner:** Morgenrath Martha J TR ET AL (Blaze Engineering)

**APN:** 419-201-007-000

**Parcel Size:** 2.55 acres

**Zoning:** Visitor Serving Commercial, Design Control, Coastal Zone or "VSC(CZ)"

**Plan Area:** Big Sur Coast Land Use Plan

**Flagged and Staked:** Yes

#### **PROJECT SUMMARY:**

On October 31, 2018, the Planning Commission received and approved a request from the project applicant to continue the hearing to November 14, 2018 in order to allow the applicant to resolve issues brought up by California Coastal Commission staff.

The Morgenrath property is an oddly-shaped, 2.55 acre vacant parcel located on the eastern side of State Route 1 (SR1). Topography of the site consists of slight to moderate slopes at elevations ranging between 180 to 280

feet above mean sea level. The lower elevation of the property is nearest SR1, while the higher elevation of the property is generally to the northeast. Access to the site is provided by an existing driveway off SR1 and a right of way, Apple Pie Ridge Road, that traverses the property and provides access to nearby parcels. The site is considered to be 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 in numbers. Native understory plants are also limited due to invasive English ivy that dominates the understory vegetation.

Between 1989 and 2017, Blaze Engineering conducted their 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 their existing operations to the adjacent property (APN 419-201-007-000).

The applicant requests a Combined Development Permit to allow establishment of a commercial business operation for Blaze Engineering. The proposed facilities consist of: a 760 square foot office, a 600 square foot workshop, an 800 square foot storage unit, and equipment such as generators, a cement silo, and above ground diesel storage tanks. An onsite wastewater treatment system is proposed to provide wastewater service and potable water would be provided by a test well converted into a permanent well. Site improvements require the removal of 16 protected trees (14 Bay laurel trees that range in size from 13 to 60-inches; 1 cypress 48-inches in size; and 1 Coast Redwood 20-inches in size), grading of 444 cubic yards of cut and 619 cubic yards of fill, and development on slopes in excess of 30%. The proposed General Development Plan, if approved, would address the operational component of the project.

#### BRIEF DISCUSSION OF PRIMARY ISSUES:

Development of the property is subject to the policies and regulations contained in the 1982 General Plan, the Big Sur Coast Land Use Plan (BSC LUP) and Coastal Implementation Plan (CIP), the Monterey County Zoning Ordinance (Title 20), as well as required by the California Environmental Quality Act. The following issues for the project were identified during review of the application:

- Compatible use in the Visitor Serving Commercial zoning designation
- Compatible use in the area
- Development within ESHA
- Development on slopes in excess of 30%
- Potential impacts to views
- Potential impacts to tribal cultural resources

These potential impacts and their resolutions are discussed in detail throughout the report and attached discussion. Below is a brief summary of the major project issues and their resolutions and a more detailed discussion of these items can be found in **Exhibit B**. In summary, staff finds that the proposed project would be reasonable development of the site and consistent with the existing conditions of the area. The proposed site improvements have been sited and designed to minimize impact to the resources as much as possible, consistent with BSC LUP policies. Structures, including perimeter fencing, have been designed to retain critical views and view corridors.

#### Compatible Use in VSC and Surrounding Area:

The Blaze Engineering operations have had a long established history of providing both residents and visitor serving commercial facilities of Big Sur with maintenance and repair of infrastructure during emergencies, such

as fires and landslides, as well as normal “wear and tear”. Relocation of the operation as proposed would: allow for utilization of the site consistent with the LUP, keep these services in close proximity to the residents that are served, place activities with higher noise intensity to the lower portions of the site 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.

The North Section Map and Detail A of the BSC LUP indicates that the subject property is within an area defined as Rural Community Center or “RCC” of the Big Sur Valley. This land use classification for areas where a variety of land use activities (inns, restaurants, service stations, and commercial uses) exist. The goal of the RCC is to support the continuation of providing a spectrum of functions for both the visiting public and residents of the adjoining rural areas within areas with those uses already established uses. In general, any use allowed in any zoning district is appropriate for RCC. Commercial uses are especially directed to existing RCCs.

Zoning of the subject property is Visitor Serving Commercial, Coastal Zone or “VSC(CZ)”. The purpose of this district is to establish areas necessary to service the needs of visitors and the traveling public to Monterey County. This district allows the establishment of other non-specific visitor-serving uses, of a similar character, density and intensity as those listed, provided the use is determined to be consistent and compatible with the intent of this VSC Chapter and the BSC LUP by the Planning Commission. Based on the existing conditions of the area, the benefit the operation provides to the surrounding area, and consistent with the RCC land use designation of the site, staff recommends the Planning Commission consider that the proposed project is allowed within the RCC designation and VSC zoning district.

#### 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. 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; 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, 7 due to both their hazardous condition and construction impacts, and 4 due solely to their hazardous condition. One out of the 16 trees proposed for removal is a Coast Redwood (tree #33). 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. The report 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. The Coast Redwood was found to be of poor health and structure, meaning; the tree displays greater than 30% foliar dieback, dead branches greater than 2-inches in diameter, and/or areas of decay, disease or insect activity. Removal of this tree is not for the purpose of harvesting timber, but due to the health, structure, and development impacts. Staff has independently reviewed the arborist report and 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.

*Development on Slopes:*

The BSC LUP and CIP prohibits development on slopes in excess of 30% unless a Coastal Development Permit is obtained and the appropriate hearing body finds 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 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 proposed Hilfiker wall, and proposed driveway off State Route 1. The shape, existing vegetation, and topography of the site does not provide for alternative areas for relocation that would not result in additional resource impacts. 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, development on 30% for the construction of the soldier pile and Hilfiker walls better achieves resource protection objectives as they would reduce hazard risks on the site. Development on 30% slopes for the creation of 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.

*Aesthetics - Visual/Design:*

The BSC LUP prohibits public or private developments visible from State Route 1 (SR1) and major public viewing areas (the Critical Viewshed), except for developments within Rural Community Centers. As discussed above, the subject property is within the RCC and the proposed development would be permitted under siting and design controls provided in Title 20 (coastal zone regulations). Commercial developments shall carry out the rustic character of Big Sur, provide an adequate physical area to meet parking requirements and natural resource concerns, and 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. Staking and flagging of the proposed office, shop, storage areas, and cement silo were observed during a site visit to determine potential impacts. The existing topography, combined with the vegetation 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.

*Tribal Cultural Resources:*

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. 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 and Pheneger Creek are in proximity of the development area. Therefore, OCEN considers the subject property to potentially contain cultural tribal resources. To reduce potential impacts to tribal cultural resources to a less than significant level, a mitigation measure recommended by OCEN has been incorporated. This mitigation requires an OCEN approved tribal monitor to observe excavation for only the new driveway and septic tank areas.

*CEQA:*

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 potential impacts to biological resources and tribal cultural resources caused by site disturbance and the establishment of new structures have been identified. Mitigation measures have been recommended to reduce impacts to a less than significant level. Therefore, the project as proposed, conditioned, and mitigated, has been found to have a less than significant impact on the environment. Public comment on the IS/MND has been received by County staff. Consistent with the requirements set forth in Section 15074(b) of the CEQA Guidelines, the IS/MND (**Exhibit D**) and comments from the Department of Transportation (Caltrans), California Coastal Commission (CCC) staff, the project applicant, and from a member of the public (**Exhibit E**) have been provided for the Commission's consideration. Additional discussion and detail regarding environmental review are provided in **Exhibit B** and the draft resolution (**Exhibit C**).

Comments from Caltrans:

Caltrans requests review of drainage plans and reports to ensure they mitigate runoff to the State right of way and will require the applicant to obtain an encroachment permit from Caltrans. These concerns have been accommodated through the incorporation of non-standard conditions of approval.

Comments from Coastal Commission Staff:

It is the opinion of CCC staff that the proposed project is not consistent with the RCC designation and the VSC zoning district of the property as it is their belief that these areas should be reserved for "higher priority" uses such as restaurants, grocery stores, arts and crafts galleries, inns, hostels, service stations, and campgrounds. In addition, it is CCC staff's belief that the proposed project is subject to the policies for development within the Critical viewshed. The earlier discussion on compatible uses as well as the detailed discussion in **Exhibit B** and the findings and evidence contained in **Exhibit C** clearly document the need for the operation and how it would provide a greater asset to the community than a high priority visitor serving use.

Furthermore, On October 26, 2018, CCC staff met with the project applicant and the applicant's agent onsite to determine if the issues could be resolved. CCC staff suggested that screening around State Route 1 can be achieved with native vegetation instead of fencing. The applicant has incorporated this recommendation and has revised their preliminary landscape plan accordingly. The applicant provided CCC staff with numerous correspondence from members of the Big Sur Community establishing Blaze Engineering's role in the community. The applicant has notified staff that CCC staff has a better understanding that "Blaze Engineering 'provides essential services to the community and visiting public' consistent with the objectives of the RCC."

Comments from the Applicant:

The project applicant does not agree with the mitigation measure requiring a tribal monitor to observe excavation of the driveway and septic tank in order to reduce impacts to tribal cultural resources. Reasons for this disagreement are based on the negative archaeological report submitted with the application and that there are no previously recorded sites in the immediate vicinity. Although this is correct, archaeological resources are not the same as tribal cultural resources. The purpose of Section 21080.3.1 of the Public Resources Code is to allow subject matter experts, in this case OCEN, to identify whether or not a project would have the potential to impact a tribal cultural resource. Therefore, the County, as the lead agency, cannot assume conclusions of an archaeologist are appropriate for tribal cultural resources.

Comments from the Public:

The letter received after completion of the public review period included concerns relative to consistency with the VSC zoning district, consistency with the surrounding neighborhood, equipment storage within a right-of-way, noise, aesthetics, impacts to Apple Pie Ridge Road, and employee parking. Staff discussed the concerns of

potential project impacts to neighboring property owners. In order to address visual and noise impacts, a condition of approval requiring submittal of a landscape and maintenance plan has been modified requiring vegetative screening between the proposed shop area and the single family dwelling next door. In addition, a non-standard condition of approval has been incorporated ensuring debris such as scrap metals and materials, machinery, and similar items be stored within the approved storage containers and not visible onsite (uncovered) resulting in a visual nuisance. The discussions above, detailed discussion in **Exhibit B**, and the findings and evidence contained in **Exhibit C** address the concerns of this letter. No other issues remain.

#### OTHER AGENCY INVOLVEMENT:

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

Environmental Health Bureau  
RMA-Public Works  
RMA-Environmental Services  
Water Resources Agency  
Cal Fire - Coastal  
Big Sur Land Use Advisory Committee  
California Coastal Commission  
California Department of Transportation (Caltrans)

The proposed project was reviewed by the Big Sur Land Use Advisory Committee (LUAC) on January 26, 2018. The LUAC recommended approval of the project by a vote of 4 to 0 (**Exhibit F**), with changes requiring the applicant to prepare a landscape plan incorporating screening and an erosion control plan. These suggestions have been incorporated and no issues remain.

#### FINANCING:

Funding for staff time associated with this project is included in the FY16-17/17-18 Adopted Budgets for RMA-Planning.

Prepared by: Anna V. Quenga, Senior Planner, x5175

Reviewed by: Brandon Swanson, RMA Planning Services Manager

Approved by: John M. Dugan, FAICP, Deputy Director of Land Use and Community Development

The following attachments are on file with the RMA:

Exhibit A - Project Data Sheet  
Exhibit B - Discussion  
Exhibit C - Draft Resolution including:

- Conditions of approval
- General Development Plan
- Project Plans

Exhibit D - Initial Study/Negative Declaration  
Exhibit E - CEQA Comments  
Exhibit F - LUAC Minutes  
Exhibit G - Vicinity Map

cc: Front Counter Copy; Planning Commission, California Coastal Commission; Brandon Swanson, RMA Services Manager; Anna V. Quenga, Project Planner; Aengus L Jeffers, Agent; Morgenrath Martha J TR ET AL, Applicant/Owner; Christopher Bjornstad, Caltrans; John Olejnik, Caltrans; Paul Smith, Interested Party; Joel Panzer, Interested Party; Matthew Donaldson, Interested Party; The Open Monterey Project (Molly Erickson); LandWatch (Executive Director); Project File PLN160851.