



County of Monterey

Item No.

Board Report

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Legistar File Number: RES 25-045

March 18, 2025

Introduced: 3/10/2025

Current Status: Agenda Ready

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Matter Type: BoS Resolution

PLN160851-AMD2 - MORGENRATH (BLAZE ENGINEERING)

Public hearing to:

- 1) Consider the previously adopted Mitigated Negative Declaration as revised by a supplemental Mitigated Negative Declaration (SCH No. 2018091005), pursuant to CEQA Guidelines section 15164; and
- 2) Approve a second Amendment to a previously approved Combined Development Permit and General Development Plan (PLN160851), as amended by PLN160851-AMD1, that allowed 1) the relocation/establishment of a commercial operation for a contractor's equipment storage and office facility; 2) construction of a 760-square-foot office with a second story employee housing unit, 600 square foot workshop, an 800 square foot storage building and associated site improvements including grading, retaining walls, and formalizing six public parking spots on Highway 1 (two of which have electrical vehicle charging stations); 3) removal of 10 protected trees; 4) development on slopes in excess of 30 percent; and 5) development within Environmentally Sensitive Habitat Areas. This second Amendment would amend the General Development Plan and omit the employee housing unit, remove two hazardous Cypress trees, install vegetative screening, construct a 48-foot-long retaining wall, and install a 160-square-foot temporary construction trailer.

Project Location: 46821 Highway 1, Big Sur

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

RECOMMENDATION:

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

- 1) Considering the previously adopted Mitigated Negative Declaration as revised by a supplemental Mitigated Negative Declaration (SCH No. 2018091005), pursuant to CEQA Guidelines section 15164; and
- 2) Approving a Second Amendment to a previously approved Combined Development Permit and General Development Plan (PLN160851), as amended by PLN160851-AMD1, that allowed 1) the relocation/establishment of a commercial operation for a contractor's equipment storage and office facility; 2) construction of a 760-square-foot office with a second story employee housing unit, 600 square foot workshop, an 800 square foot storage building and associated site improvements including grading, retaining walls, and formalizing six public parking spots on Highway 1 (two of which have electrical vehicle charging stations); 3) removal of 10 protected trees; 4) development on slopes in excess of 30 percent; and 5) development within Environmentally Sensitive Habitat Areas. This second Amendment would amend the General Development Plan and omit the employee housing unit, remove two hazardous Cypress trees, install vegetative screening, construct a 48-foot-long retaining

wall, and install a 160-square-foot temporary construction trailer.

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

PROJECT INFORMATION:

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

SUMMARY:

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

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, the Applicant/Owner/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 subject property (APN 419-201-007-000). Since 2017, the Applicant/Owner has sought necessary approvals to relocate their business which have involved appeals and an on-going lawsuit.

If approved, the proposed project (PLN160851-AMD2) would be the second amendment to Combined Development Permit, PLN160851, originally considered by the Board of Supervisors on August 27, 2019 (Resolution No. 19-285; **Attachment E**). The first amendment, resolving an appeal at the California Coastal Commission, was approved by the Board of Supervisors on September 19, 2023 (Resolution No. 19-285; **Attachment F**). This second amendment is proposed to execute a settlement agreement addressing an ongoing lawsuit. This amendment (“Project”) would modify the previous approvals to omit an employee housing unit, allow a 48 foot long and 4-foot-high retaining wall, include planting of vegetative for screening the site along the northern property line, allow a temporary office during construction, and permit the removal of 2 additional cypress trees.

DISCUSSION:

On August 27, 2019, the Board of Supervisors denied an appeal of the Planning Commission’s decision to adopt a Mitigated Negative Declaration (SCH No. 2020029094), and approved a Combined Development Permit to allow the relocation/establishment of Blaze Engineering, construction of a 760 square-foot office, 600 square foot workshop with a 300 square foot canopy, 800 square foot storage building, development within 100 feet of Environmentally Sensitive Habitat Area, removal of 10 protected trees, and site improvements including installation of an on-site wastewater treatment system, conversion of a test well to a permanent domestic well, and placement

of a 40-watt generator, 4,000 square foot diesel storage tank, and two 5,000 gallon water tanks.

Following the Board of Supervisors' decision, the neighbors, Mr. and Mrs. Donaldson (the "Donaldsons"), filed an action in the Monterey County Superior Court (Case No. 19CV004224) against the County of Monterey and the Applicant/Owner, challenging the Board of Supervisors' approval of PLN160851. Additionally, the Board of Supervisors' decision on the Combined Development Permit (PLN160851) was appealed to the Coastal Commission. Prior to the Coastal Commission acting on the appeal, the applicant notified Coastal Commission staff that revisions PLN160851 were being made to address the appeal contentions.

The applicant applied for an amendment to the original project (PLN160851-AMD1) which revised the previous scope of work to include the construction of a second-story 760-square-foot employee housing unit over the office, reduction in public parking along Highway 1 by one stall (6 total, with two public universal electric vehicle charging stations), re-routing of the pedestrian trail along Apple Pie Ridge Road, and elimination of the on-site sale of products (concrete, rock, sand, plumbing, and landscape supplies) from the business operation plan. Associated tree removal and grading remained the same as previously approved: 10 protected trees, 293 cubic yards of cut, and 478 cubic yards of fill. This first amendment was approved by the Planning Commission on June 14, 2023, and then appealed to the Board of Supervisors by Matt & Carol Donaldson and the Sierra Club, Ventana Chapter. On September 19, 2024, the Board of Supervisors denied the appeals, considered the previously adopted Mitigated Negative Declaration, revised by a Supplemental Mitigated Negative Declaration, and approved the amended project scope (Resolution No. 23-369). Approval of Resolution No. 23-369, PLN160851-AMD1 became the operative permit.

On October 18 and 19, 2023, the California Coastal Commission received two appeals (A-3-MCO-23-0043 and A-3-MCO-23-1060) of the Board of Supervisors' decision on the first amendment application (PLN160851-AMD1). On November 2, 2023, the Donaldsons filed a second action in the Monterey County Superior Court (Case No. 23CV003599). On December 15, 2020, the California Coastal Commission found that the Board of Supervisors' September 2024 approval of PLN160851-AMD1 raised "no substantial issue" with the County's Local Coastal Program, and declined to take jurisdiction over the project.

Although the County's approvals were upheld, the lawsuits filed against the County remained active. After years of negotiation, the Applicant/Owner and the Donaldsons have come to a draft resolution and have entered into a Conditional Settlement Agreement and Mutual Release of Claims ("Conditional Settlement Agreement"; **Attachment C**). The draft Conditional Settlement Agreement, signed by the Applicant/Owner and the Donaldsons, stipulates that the raised lawsuits will be dismissed within 30 days of implementation of the agreement. Elements of the Conditional Settlement Agreement include amending the previous permits for Blaze Engineering (PLN160851 and PLN160951-AMD) by:

1. Omitting the 720-square-foot employee housing unit;
2. Allowing construction and maintenance of an additional 48-foot-long, 4-foot-high retaining wall along the northeastern property line/driveway;
3. Planting vegetative screening along the northeastern property line;
4. Allowing the construction of a temporary construction office, and

5. Removing two additional Cypress trees (for a total of 12 trees to be removed).

To implement the Conditional Settlement Agreement, the Applicant/Owner is seeking approval of a second Amendment (PLN160851-AMD2) to PLN160851, as previously amended by PLN160851-ADM1. Because it is a party to the lawsuits, (Case No. 23CV003599 and 19CV004224), the County of Monterey must also sign the Conditional Settlement Agreement, should the Board of Supervisors find the Agreement and second Amendment (PLN160851-AMD2) acceptable. The rest of the project scope considered under PLN160851, as amended by PLN160851-ADM1, would be unchanged: relocation/establishment of a commercial operation for a contractor's equipment storage and office facility, construction of a 760 square-foot office, 600 square foot workshop with a 300 square foot canopy, 800 square foot storage building, development within 100 feet of Environmentally Sensitive Habitat Area, and site improvements including installation of an on-site wastewater treatment system, conversion of a test well to a permanent domestic well, and placement of a 40-watt generator, 4,000 square foot diesel storage tank, and two 5,000 gallon water tanks.

The Conditional Settlement Agreement also calls for the recordation of a deed restriction over the "upper pad" area to prohibit structural development. Though the execution of the upper pad's deed restriction is a private matter and not subject to consideration by the Board of Supervisors, recordation of this document is contingent on approval of the proposed second Amendment.

The operation of Blaze Engineering will also remain the same with implementation of this second Amendment. Primary activities on the site will be for administrative support, storage, and maintenance.

Employee Housing

Big Sur Coast LUP Policies 5.4.3.C(7) and (9) require that new and expanded recreation and visitor-serving facilities provide employee housing for a "substantial" number of the facility's employees, provided there is adequate sewage disposal and parking, and otherwise, satisfy the policies of the Big Sur Coast LUP. These policies require employee housing for new and expanded facilities to offset the increase in the facility's employees and associated impacts on Big Sur (traffic, water use, sewage disposal, etc.). In this case, Blaze Engineering has existed in Big Sur since 1985. Between 1989 and 2017, Blaze Engineering's operations were conducted out of the adjacent property (Assessor's Parcel Number 419-201-006-000). The Applicant/Owner was notified that the lease of the adjacent property would no longer be available and therefore subsequently applied for a Coastal Development Permit to allow relocation of the business to the subject property. Blaze Engineering has historically provided contracting services to the community and visitor service facilities in Big Sur, especially on an on-call/emergency basis. While conducting business out of the adjacent property, Blaze Engineering operated at a more intensive scale (e.g. on-site sale of aggregate material, 60% more employees [20 employees], and an on-site cement batch facility). However, the Applicant/Owner proposed to reduce Blaze Engineering's scale of business by eliminating the on-site sale and storage of aggregate materials and removal of the cement silo/batch facility. Accordingly, the number of employees was reduced to 12. This reduced scale of business was reflected in PLN160851 (original project) and PLN160851-ADM1 (first amendment). Although employee housing is desired throughout Big Sur, here, the relocation of Blaze Engineering's reduced business operations, as authorized by PLN160851 and PLN160851-AMD1

to the subject property did not require additional employees or expand or intensify the commercial business operation. PLN160851-AMD2 does not modify the business operations approved under PLN160851 and PLN160851-AMD1. Therefore, the removal of the previously approved employee housing unit does not conflict with the Big Sur Coast LUP and associated Coastal Implementation Plan.

Tree Removal

The project arborist and biologist identified Coast redwoods on the property to be in fair to good condition and California bay laurels in various stages of decline due to structural defects, fungal infestations by Ganoderma and Sudden Oak Death disease. The first Amendment (PLN160851-AMD1) authorized the removal of 10 protected trees (7 Bay laurels, 2 oaks, and 1 cypress). The proposed second Amendment increases the required tree removal from 10 to 12 as two additional Cypress trees were identified to be in a hazardous condition (potential failure and significant leaning). Removal of these two additional trees is necessary to reduce their potential threat to the proposed structures and does not require the granting of a discretionary permit pursuant to Big Sur Coastal Implementation Plan section 20.145.060.A.1.

Environmentally Sensitive Habitat Area

The project Biologist found that the subject property lies entirely within a Redwood Forest natural community dominated by coast redwood (*Sequoia sempervirens*) and co-dominated by California bay laurels (*Umbellularia California*). This Redwood Forest natural community is considered ESHA under the Big Sur Coast LUP. The project site also has the potential to provide habitat for the Coast range newt, Foothill yellow-legged frogs, and Western bumble bees.

Big Sur Coast Land Use Plan (LUP) and Coastal Implementation Plan (CIP) Environmentally Sensitive Habitat Area (ESHA) policies and regulations consider development proposals on property's containing ESHA to be compatible with the long-term maintenance of the resource if: 1) site improvements and vegetation removal reduce ESHA impacts to the greatest extent feasible and 2) the proposal incorporates necessary site planning and design features which protect the habitat. The proposed second amendment maintains the reduced grading quantities approved under PLN160851-AMD1 by limiting grading to only that needed for the structural improvements (including a temporary construction trailer) and utilizing existing disturbed areas such as roadways, building pads, and an existing parking area. Additionally, the removal of two hazardous trees will not have a significant impact on the environment. As proposed and conditioned, the project minimizes impacts to ESHA and maximizes restoration efforts to ensure the long-term maintenance of the site. Biological measures identified in the 2019 Mitigated Negative Declaration, as revised by a supplemental Mitigated Negative Declaration, are applied to this amendment as conditions of approval to ensure less than significant impacts occur.

CEQA:

On August 27, 2019, the Monterey County Board of Supervisors adopted a Mitigated Negative Declaration ("2019 IS/MND") for the Blaze Engineering operation and associated development (SCH No. 2018091005), pursuant to Board of Supervisors Resolution No. 19-285 (**Attachment D**). The adopted Mitigated Negative Declaration (SCH No. 2018091005; **Attachment C**) contemplated the original scope of work: relocation of a commercial business, removal of 16 protected trees, the

conversion of a test well into a permanent well, development on slopes, installation of an on-site wastewater treatment system, and approximately 440 cubic yards of cut and 620 cubic yards of fill.

Adoption of the 2019 IS/MND included five mitigation measures to reduce impacts to a less-than-significant level: Mitigation Measure Nos. 1 through 4 required biological monitoring, tree protection, and County approval of a final Construction Management Plan and Restoration and Fuel Management Plan, and Mitigation Measure No. 5 required an approved tribal monitor to observe excavation for a portion of the driveway and septic tank.

When processing the first Amendment, PLN160851-AMD1, the County as Lead Agency, prepared a Supplemental Initial Study pursuant to CEQA Guidelines sections 15162 and 15163 (**Attachment C**). The Supplemental IS/MND reflected the minor project changes made during the 2019 Board of Supervisors hearings for PLN160851 (which did not trigger recirculation) and the modifications proposed under PLN160851-AMD1. In comparison to the analysis contained in the 2019 IS/MND, the Supplemental IS/MND disclosed and analyzed the reduction of over 2,000 square feet of ground disturbance, a reduction in grading of approximately 300 cubic yards, a reduction in the number of trees required for removal by 6, and the construction of a 2-bedroom employee housing unit over a 760 square foot office, an 800 square foot storage building rather than 800 square feet of shipping containers, and the installation of two electric vehicle charging stations. The rest of the 2019 IS/MND analyzed parts of the project unaffected by the first amendment: relocation of the commercial business to the subject property, construction of a 600-square-foot workshop, conversion of a test well into a permanent well, development on slopes, development within environmentally sensitive habitat, and installation of an on-site wastewater treatment system. The Supplemental IS/MND found minor clarification and amplifications to the previously adopted Mitigation Measure Nos. 1 through 5 were needed to address modifications in the project scope. Additionally, the Supplemental IS/MND found that new biological mitigation measures were needed to address new circumstances. New Biological Mitigation Measure Nos. 5 and 6 required pre-construction surveys for the Coast range newt, Santa Lucia slender salamander, Foothill yellow-legged frogs, and Western bumble bee. On September 19, 2024, the Board of Supervisors considered the previously adopted Mitigated Negative Declaration, revised by a Supplemental Mitigated Negative Declaration, and found it adequate to analyze the potential environmental impacts of PLN160851-AMD1's amended project scope (Resolution No. 23-369; **Attachment E**).

The scope of work analyzed under the Supplemental IS/MND remains stable with the modifications proposed under this second Amendment. However, the proposed second amendment removes the second-story employee housing unit and adds retaining walls, vegetative screening, and a temporary construction trailer to the scope analyzed in the Supplemental IS/MND. The change in scope does not require major revisions of the 2019 IS/MND, as supplemented, which would result in the involvement of new significant environmental effects. The technical reports prepared for the first amendment (PLN160851-AMD1) remain valid and accurate as no changes in circumstances under which the project is being taken have occurred. Finally, there is no new information that the proposed project will have one or more significant effects not discussed in the adopted MND, and all previously approved mitigation measures, as revised by the 2019 Supplemental IS/MND remain adequate and appropriate. Accordingly, the proposed changes to the project have been reviewed and the changes do not constitute new information that would require major revisions to the adopted 2019 IS/MND,

as revised by a Supplemental IS/MND. Therefore, no further environmental review is warranted and none of the conditions described in Section 15162 calling for preparation of a subsequent EIR or negative declaration have occurred.

OTHER AGENCY INVOLVEMENT

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

- Environmental Health Bureau
- Office of the County Counsel

LAND USE ADVISORY COMMITTEE

The original project and first Amendment were the Big Sur Land Use Advisory Committee (LUAC) for review. On January 26, 2018, the LUAC, reviewed the originally proposed project and recommended support with changes. The LUAC suggested changes to incorporate landscape screening along Highway 1 and an erosion control plan. On January 10, 2023, the LUAC reviewed the first Amendment (PLN1608510-AMD1) and unanimously recommended approval of the project as proposed. This second Amendment did not warrant referral to the Big Sur LUAC as the scope of work remains stable with LUAC’s review of PLN160851 and PLN160851-AMD1.

FINANCING:

Funding for staff time associated with this project is included in the FY2024-25 Adopted Budget within Community Development General Fund 001, Appropriation Unit HCD002, Unit 8543.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

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

Check the related Board of Supervisors Strategic Initiatives:

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

Prepared by: Fionna Jensen, Principal Planner (WOC), x6407

Reviewed by: Lori Woodle, Finance Manager I

Reviewed and Approved by: Craig Spencer, HCD-Director

The following attachments are on file with the Clerk of the Board:

Attachment A - Draft Resolution, including:

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

Attachment B - Conditional Settlement Agreement

Attachment C - Adopted Mitigated Negative Declaration & Supplemental Mitigated Negative Declaration

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

Attachment E - Board of Supervisors Resolution No. 23-369 for PLN160851-AMD1

cc: Front Counter Copy; Clerk of the Board, California Coastal Commission; Fionna Jensen, Project Planner; Craig Spencer, HCD Director; Aengus L Jeffers, Agent; Morgenrath Martha J TR ET AL, Applicant/Owner; Interested Parties; LandWatch (Executive Director); Lozeau Drury LLP (Laborers International Union of North America); Christina McGinnis, Keep Big Sur Wild; Project File PLN160851-AMD2.