

MIKE NOVO  
ZONING ADMINISTRATOR

STATE OF CALIFORNIA  
COUNTY OF MONTEREY

RESOLUTION NO. 010153

A.P. # 421-131-017-000

In the matter of the application of  
**Breien Eade Compost Venture (PLN010153)**

**FINDINGS & DECISION**

for a Use Permit in accordance with Title 21 (Zoning) Chapter 21.74 (Use Permits) of the Monterey County Code, to allow a 30 acre thermophilic aerated windrow composting facility (agricultural processing plant) for Breien Eade Compost Venture, located southeasterly of the intersection of Highway 198 and Freeman Flat Road, San Lucas, located in the northwest quarter of Section 3 and 10, Township 21 south, Range east MDM, came on regularly for hearing before the Zoning Administrator on July 31, 2003.

Said Zoning Administrator, having considered the application and the evidence presented relating thereto,

**FINDINGS OF FACT**

**1. FINDING:** The subject Use Permit, (PLN010153), as described in condition #1 and as conditioned, conforms with the plans, policies, requirements and standards of the Monterey County General Plan, South County Area Plan and the Monterey County Zoning Ordinance (Title 21). The project is located southeasterly of the intersection of Highway 198 and Freeman Flat Road, San Lucas area (Northwest quarter of section 3 and 10, Township 21 south, Range 9 east MDM. The parcel is zoned "PG/40" (Permanent Grazing, 40 Acres Minimum Building Site). The site is physically suitable for the use proposed. The subject property is in compliance with all rules and regulations pertaining to zoning uses, subdivision, and any other applicable provisions of Title 21, and any zoning violation abatement costs have been paid.

**EVIDENCE:** The Planning and Building Inspection staff reviewed the project, as contained in the application and accompanying materials, for conformity with:

- a) The Monterey County General Plan
- b) The South County Area Plan
- c) Chapter 21.34 of Monterey County Zoning Ordinance regulations for the "PG" Zoning District

**EVIDENCE:** The proposed development has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public Works Department, Environmental Health Department, and California Department of Forestry (Fire) – South County. There has been no indication from these agencies that the site is not suitable for the proposed use. Necessary public facilities are available to the project site. Staff verification of the Monterey County Planning and Building Inspection Department records indicated that no violations exist on subject property, as conditioned. Each agency has reviewed the application and some have recommended conditions of approval.

**EVIDENCE:** Written and verbal public testimony submitted at public hearings before the Zoning Administrator.

**EVIDENCE:** The application, plans, and support materials submitted by the project applicant to the Monterey County Planning and Building Inspection Department for the proposed development,

found in the project file, and in project file PLN010153.

**EVIDENCE:** The on-site inspections by the project planner in July, 2002 and March 2003 to verify that the proposed project complies with the South County Area Plan.

**EVIDENCE:** Chapter 21.34 of Title 21 permits agricultural processing plants, which by definition include composting operations (Section 21.06.020), in the PG (Permanent Grazing) zoning district with a Use Permit.

2. **FINDING:** County staff directed the preparation of an Initial Study for the project in compliance with the California Environmental Quality Act (CEQA) and its Guidelines. The Initial Study provided substantial evidence that the project would not have significant environmental impacts. A Negative Declaration was filed with the County Clerk on June 4, 2003. The following evidence has been received and considered: All comments on the Initial Study; evidence in the record that includes studies, data and reports supporting the Initial Study; additional documentation requested by staff in support of the Initial Study findings; information presented during public hearings; staff reports that reflect the County's independent judgment and analysis regarding the above referenced studies, data and reports; application materials, and expert testimony. Among the studies, data and reports analyzed as part of the environmental determination are the following:

1. Project Application/Plans/Interdepartmental Review Forms/Personal Communication
2. Monterey County General Plan, 1983 and as amended
3. South County Area Plan
4. Hazardous Waste and Substances Site List, State of California, 1998
5. [Consultant] Personal Communication with project applicant, 7/30/2002

**EVIDENCE:** No facts, reasonable assumptions predicated on facts, testimony supported by adequate factual foundation, or expert opinion supported by facts, have been submitted that refute the conclusions reached by these studies, data and reports. Nothing in the record alters the environmental determination, as presented by staff, based on investigation and the independent assessment of those studies, data and reports.

**EVIDENCE:** Studies, data and reports prepared by staff from various County departments including Planning and Building Inspection, Public Works, Environmental Health and Monterey County Water Resources Agency support the adoption of the Mitigation Negative Declaration for the project.

3. **FINDING:** That adequate sewage disposal and water supply facilities exist or are readily available to the site, as approved by the Director of Environmental Health.

**EVIDENCE:** Materials in file PLN010153.

4. **FINDING:** Adequate road and transportation facilities exist for the use.

**EVIDENCE:** The property is served by a dirt road off Freeman Flat Road, which is the main access road to the site.

**EVIDENCE:** The Public Works Department reviewed the proposed project, and has indicated no adverse traffic impacts will occur

**EVIDENCE:** Materials in file PLN010153.

5. **FINDING:** The proposed composting operation is compatible with the area.

**EVIDENCE:** The project is located in a rural setting adjacent within a larger farming and grazing use. The project has been conditioned to ensure compliance with the regulations for the Permanent Grazing District set forth in Chapter 21.34 in Title 21.

6. **FINDING:** The establishment, maintenance, or operation of the use or structure applied for will not, under the circumstances of the particular case, be detrimental to health, safety, peace, morals, comfort, and general welfare of persons residing or working in the neighborhood of such proposed use, or be detrimental or injurious to property and improvement in the neighborhood, or to the general welfare of the County.

**EVIDENCE:** The project as described in the application and accompanying materials was reviewed by the Department of Planning and Building Inspection, Environmental Health Division, Public Works Department, and the Water Resources Agency. The respective departments have recommended conditions, where appropriate, to ensure that the project will not have an adverse effect on the health, safety, and welfare of persons either residing or working in the neighborhood; or the County in general.

**EVIDENCE:** Access to the project site is gained via Highway 198 from Highway 101 for approximately one mile to an unimproved section of Main Street; a dirt road then proceeds for two miles to the project site. The project site is in a rural area of Monterey County characterized by farmland and grazing land. Traffic volumes on Highway 198 in the vicinity of the project site are very low. A maximum increase of 10 trips per day does not represent a substantial increase in traffic in either the number of vehicle trips or the volume-to-capacity ratio.

**EVIDENCE:** The composting method to be used at the facility is the thermophilic aerated windrow. High temperatures achieved using this method ensure pathogen destruction and weed inactivation. High temperatures and aeration minimize odor and control vector propagation.

**EVIDENCE:** Construction and operation of the project will occur in a rural area of the county and will not violate any County noise standards. The nearest “sensitive receptors” to noise are approximately 3 miles northwest of the project site in the community of San Lucas. Operation of equipment, including trucks and compost turners, is noise producing but will not significantly impact ambient noise levels or neighboring properties due to the remote location.

**EVIDENCE:** Materials in file PLN010153

**EVIDENCE:** Preceding findings and supporting evidence.

7. **FINDING:** The project is appealable to the Planning Commission.

**EVIDENCE:** Section 21.80.040.B of the Monterey County Zoning Ordinance (Title 21)

### DECISION

THEREFORE, it is the decision of said Zoning Administrator that said Mitigated Negative Declaration be adopted and that said application for a Use Permit be granted as shown on the attached sketch, and subject to the following conditions:

1. The subject Use Permit (PLN010153) is to allow a 30-acre thermophilic aerated windrow composting facility (agricultural processing plant). The project is located southeasterly of the intersection of Highway 198 and Freeman Flat Road, San Lucas area (Northwest quarter of section 3 and 10, Township 21 south, Range 9 east MDM, Assessor's Parcel Number 421-131-017), South County. The proposed project is in accordance with

County ordinances and land use regulations, subject to the following terms and conditions. Neither the use nor the construction allowed by this permit shall commence unless and until all of the conditions of this permit are met to the satisfaction of the Director of Planning and Building Inspection. Any use or construction not in substantial conformance with the terms and conditions of this permit is a violation of County regulations and may result in modification or revocation of this permit and subsequent legal action. No use or construction other than that specified by this permit is allowed unless additional permits are approved by the appropriate authorities. **(Planning and Building Inspection)**

2. Within 10 days of Use Permit approval the applicant shall record a notice which states: "A permit (Resolution 010153) was approved by the Zoning Administrator for Assessor's Parcel Number 421-131-017 on July 31, 2003. The permit was granted subject to 15 conditions of approval, which run with the land. A copy of the permit is on file with the Monterey County Planning and Building Inspection Department." Proof of recordation of this notice shall be furnished to the Director of Planning and Building Inspection prior to issuance of building permits or commencement of the use. **(Planning and Building Inspection)**
3. Within 5 days of permit approval, the applicant shall submit a Notice of Determination posting fee of \$25. **(Planning and Building Inspection)**
4. Within 30 days of Use Permit approval the former composting site shall be restored and all potentially hazardous materials removed and disposed of in accordance with all state and local regulations. The site shall be restored in accordance with any permit conditions as specified by the LEA. The applicant shall submit a site closure / restoration plan for former composting site to be abandoned and proposed site **(Planning and Building Inspection, Environmental Health)**
5. The applicant shall enter into an agreement with the County to implement a Mitigation Monitoring Plan, including payment of the \$840 fee for the County of Monterey to monitor compliance with mitigation measures. **(Planning and Building Inspection)**
6. Within 3 months of Use Permit approval an all-weather road capable of supporting 80,000-pound fire equipment shall be maintained around the perimeter of the composting area. **(CDF-Fire)**
7. Within 3 months of Use Permit approval a 30-foot clear area around the composting operation to bare mineral soil shall be maintained at all times. **(CDF-Fire)**
8. Within 3 months of Use Permit approval a fire plan shall be prepared for review and approval by CDF. Employees shall be trained to implement the fire plan annually. **(CDF-Fire)**
9. Within 3 months of Use Permit approval the project location shall be posted to the satisfaction of CDF. **(CDF-Fire)**
10. If, required, the operator shall obtain an encroachment permit from CalTrans and pave the driveway connection to Highway 198 subject to the approval of CalTrans and the Department of Public Works. **(Public Works)**
11. Within one month of Use Permit approval the operator shall record a notice stating that the property is located within or partially within a floodplain, and may be subject to building and/or land use restrictions. A copy of the recorded notice shall be provided to the Water Resources Agency. **(Water Resources Agency)**

**Continuous Permit Conditions:**

12. An adequate number of portable toilets shall be provided and maintained so as not to create a public health nuisance and shall be maintained by a permitted liquid waste hauler. Portable units shall provide hand washing

capacity. A copy of the service contract shall be submitted to the Division of Environmental Health. **(Environmental Health)**

13. Active compost shall be maintained under aerobic conditions at a minimum temperature of 55 degrees C (131 degrees F) or higher for a pathogen reduction period of 15 days or longer. During this temperature period, the windrows shall be turned at least five times. **(Environmental Health)**
14. The applicant and/or operator shall comply with all applicable provisions as found in Title 14, Division 7, Chapter 3.1 and 5 of the California Code of Regulations and as approved by the Director of Environmental Health. **(Environmental Health)**
15. Any non-compostable, non-hazardous material as sorted from the compost loads shall be collected in a metal can or dumpster to be located within the equipment area. The can/dumpster shall be disposed of as needed at a (permitted) solid waste facility. Any potentially hazardous materials sorted from the waste stream or used on site (such as batteries, electronics, pesticides, motor oils or containers of unknown fluids) shall be collected in a separate container. Any such material will be disposed of monthly at an approved solid waste facility that accepts those materials, in accordance with all state and local regulations. **(Planning and Building Inspection)**

**PASSED AND ADOPTED** this 31st day of July, 2003.

Original Signed By:

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MIKE NOVO  
ZONING ADMINISTRATOR

COPY OF THIS DECISION WAS MAILED TO THE APPLICANT ON

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE SECRETARY TO THE PLANNING COMMISSION ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE

This decision, if this is the final administrative decision, is subject to judicial review pursuant to California Code of Civil Procedure Sections 1094.5 and 1094.6. Any Petition for Writ of Mandate must be filed with the Court no later than the 90<sup>th</sup> day following the date on which this decision becomes final.

#### NOTES

1. You will need a building permit and must comply with the Monterey County Building Ordinance in every respect.

Additionally, the Zoning Ordinance provides that no building permit shall be issued, nor any use conducted, otherwise than in accordance with the conditions and terms of the permit granted or until ten days after the mailing of notice of the granting of the permit by the appropriate authority, or after granting of the permit by the Board of Supervisors in the event of appeal.

Do not start any construction or occupy any building until you have obtained the necessary permits and use clearances from the Monterey County Planning and Building Inspection Department office in Salinas.

2. This permit expires two years after the above date of granting thereof unless construction or use is started within this period.