

# Exhibit E

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EVIDENCE: The subject site is designated by the Greater Monterey Peninsula Area Plan (General Plan) as Public/Quasi Public. This category is applied to a wide variety of uses, which are either operated by a public agency or which serve a large segment of the public. The existing and future campus of the UC MBEST Center developed in accordance with the adopted UC MBEST Center Master Plan is consistent with this designation.

The Fort Ord Reuse Plan incorporates by reference and designates the site, along with other portions of the UC MBEST Center, as Planned Mixed Use. The Fort Ord Reuse Plan incorporates the UC MBEST Master Plan by reference in order to establish mechanism by which policies of the Fort Ord Reuse Plan for this area of the former military reservation will be implemented. The UC MBEST Center Master Plan categorizes the subject site within area 9b "Lands for Development". Policy 5.2 of the UC MBEST Master Plan permits interim uses within such areas, provided uses are compatible with and do not conflict with the UC MBEST Center Master Plan, activities do not pose a negative visual image, and activities do not pose any negative environmental effects. Further, the UC MBEST Center Master Plan designates the area for a mix of research and development Uses. The purpose of proposal envisioned by the UC is to demonstrate the feasibility of recycling of material previously considered waste for disposal.

Conditions of approval require the developer to mitigate adverse environmental impacts of development, including adverse visual impacts, and The UC MBEST Center has verified that the proposed interim use will not conflict with scheduled development of the UC MBEST Center uses.

2. FINDING: That the site is suitable for the use proposed.

EVIDENCE: There has been no testimony received either written or oral, during the course of public hearings to indicate that the site is not suitable for the project. The project has been reviewed by the Monterey County Planning and Building Inspection Department, Water Resources Agency, Public works Department, Fort Ord Reuse Authority.. There has been no indication from those agencies that the site is not suitable. There are no environmentally sensitive habitats, or similar areas that would indicate the site is not suitable for the use proposed. Conditions of approval require that development of the site avoid any indirect potential impacts on nearby habitats associated with undeveloped lands in the UC NRS.

3. FINDING: That the subject property is in compliance with all rules and regulations pertaining to the use of the property, that no violations exist on the property and that all zoning abatement costs, if any, have been paid.

EVIDENCE: Information contained in file 970390PC.

4. FINDING: The proposed project is not likely to cause substantial environmental damage or substantially or unavoidably injure fish or wildlife or their habitat.

EVIDENCE: A Negative Declaration has been filed for the project and comments have been received from the California State University Monterey Bay and the City of Marina. Such comments concern traffic, noise, visual impacts of development. Comments were addressed and mitigation measures required as conditions of approval referenced herein.

EVIDENCE: Administrative Record on file in the office of the Planning and Building Inspection Department for 970390PC.

5. FINDING: The project will not have a significant adverse impact on the environment and a Negative Declaration has been adopted by the Planning Commission. An initial study was prepared for the project and it was determined that the project would have no potentially significant environmental impact. A Negative Declaration was filed with the County Clerk and State Clearinghouse (SCH # 97091076) on September 25, 1997, noticed for public review, and circulated to all affected agencies and jurisdictions. The Planning Commission has considered public testimony and the initial study.

FINDING: The Planning Commission considered public testimony and the initial study with mitigation measures. The Negative Declaration reflects the independent judgment of the County based on upon consideration of testimony and information received and scientific and factual data presented. All comments received on the Negative Declaration have been considered as well as all evidence in the record which include studies, data, and reports considered in the Initial Study; information presented or discussed during public hearings; staff reports which include the County's independent judgment regarding the above referenced studies, data, and reports; application and materials; and expert testimony.

EVIDENCE: The location and custodian of the documents and materials which constitute the record of proceedings upon which the adoption of the Negative Declaration is based is the Monterey County Planning and Building Inspection Department. No facts reasonable assumptions predicated on facts, testimony supported by adequate factual foundation, or expert opinion supported by facts have been submitted which refute the conclusions reached by these studies, data, and reports or which alter the environmental determinations based on investigation and the independent assessment of those studies, data, and reports by staff from various County departments including Planning and Building Inspection, Public Works, Environmental Health, and the Water Resources Agency. Potential environmental effects have been studied and there is no substantial evidence in the record as a whole which supports a fair argument that the project as designed and conditioned may cause a significant effect on the environment. No comments were received from any agency regarding the adequacy of information or the need for additional information in the Negative Declaration. Conditions of approval require mitigation measures referenced therein.

6. FINDING: The establishment, maintenance, or operation of the use applied for will not under the circumstances of the particular case, be detrimental to the 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 improvements in the neighborhood, or to the general welfare of the County.

EVIDENCE: The project as described in the application and accompanying materials, including the Negative Declaration and attachments thereto appended to the Planning Commission staff report dated October 23, 1997 as Exhibit D, was reviewed by the Department of Planning and Building Inspection Department, Sheriff's Department, Health Department, Public Works Department, the Marina Coast Water District, the Air Pollution Control District, and the City of Marina. These departments, agencies and jurisdictions 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.

- a. The Monterey Bay Air Pollution Control District has issued Draft Authority to Construct 8731. Conditions of approval listed therein are required as conditions of approval, as amended pursuant to final approval issued by the APCD. The access road to the site is required to be maintained in a dust free condition. The APCD has also determined that that excess PM 10 emissions would be mitigated by the requirement that roadways be paved, and that the project would generate .26 lb per day of ROG and 1.6 lb per day of NOx emissions, well within the 150 lb per day thresholds established by the district for these pollutants. (October 21, 1997 correspondence from MB APCD.)
- b. Services and utilities to the site will be provided under the auspices of the UC MBEST Center.
- c. The Public Works Department has reviewed the Traffic Analysis prepared by Keith Higgins and Associates, July 30, 1997. Conditions of approval require that the applicant access to the site and interior site circulation to the extent deemed necessary by the Director of Public Works during the life of the project.
- d. The Monterey County Health Department has reviewed the Noise Analysis prepared by Brown Buntin Associates, August 4, 1997 and September 9, 1997. Conditions of approval require that the applicant maintain noise levels not to exceed those specified by the General Plan at the nearest residential receivers. This condition will establish consistency with standards established by

the Monterey County General Plan Noise Element. Plant equipment is to be located furthest from these uses and topographically shielded to the maximum extent feasible. Berms placed to interrupt line of site will also create a noise shadow between proposed uses and sensitive receivers. Conditions of approval restrict hours of operation, including truck traffic to and from the site.

7. FINDING: The subject parcel is in a Design Control or "D" District requiring Design Approval pursuant to Chapter 21.44 of the Monterey County Zoning Ordinance. The Greater Monterey Peninsula Advisory Committee has suggested and the Planning Commission has required any changes in the plans of the proposed facility deemed necessary to accomplish the purposes of the above Chapter. To this end, the applicant has demonstrated that visual impacts of development can be mitigated, as required by conditions of approval. The applicant will be required to complete installation of berms and landscaping and to stake and flag the location and height of equipment to provide the highest feasible level of mitigation of any visual impact of development on surrounding land uses and transportation corridors.

EVIDENCE: Information contained in file 970390PC on file in the Planning and Building Inspection Department. Greater Monterey Peninsula Advisory Committee recommendation attached to the staff report dated October 23, 1997.

EVIDENCE: The Director of Planning and Building Inspection has reviewed the design and placement of equipment and materials as part of the Design and Site Plan Approval, which are included in this application. Conditions of approval require the appearance of plant and equipment be mitigated from Reservation Rd. Conditions require that the location of equipment and the construction of berms be adjusted as necessary in consultation with the City of Marina to ensure that aesthetic impacts on adjacent residential views are mitigated. Staking and flagging techniques required to ensure the maintenance of visual quality are required prior to the commencement of any activity. Existing oak tree canopy located along the access road and at the south and west perimeter of the site is required to be maintained and will also serve to mitigate visual impacts.

EVIDENCE: The Administrative Record on file in the office of Planning and Building Inspection Department for file 970390PC.

8. FINDING: By reason of its location, the proposed development as designed and conditioned will not adversely affect or be adversely affected by natural resources or site constraints.

EVIDENCE: Information contained in File 970390PC located in the Planning and Building Inspection Department

DECISION

THEREFORE, it is the decision of said Planning Commission that said application be granted as shown on the attached sketch, subject to the following conditions:

1. This Use Permit and Design Approval allows the establishment and operation of a temporary asphalt recycling facility on a five acre site located adjacent and directly east of the U.S. Army Reserve Center that is located at the southeast corner of Imjin and Reservation Roads (APN 031-121-002). The approval consists of: 1) stockpiles of material transported by truck to the site to be processed by a two step process of crushing and screening 2) portable, self contained crushing and screening equipment and machinery, 3) material processed by crushing and screening to be stockpiled on site and then removed from the site by truck to be further processed and mixed for use off site as paving material throughout the County, related site improvements consisting of a paved access road and internal driveway, water recycling and retention basin, and berms to be constructed along the north property boundary and the Reservation Road frontage.

Project use commences 6/3/98

The subject permit is valid for a period not to exceed 5 years from the date ~~XXXXXX~~ and shall expire on March 31, 2003. Neither the uses 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)

3. The placement of materials and equipment shall conform to the Development Standards - Site Planning and Building Design of the UC MBEST Center Master Plan to the satisfaction of the Director of Planning and Building Inspection Department in consultation with the Director of Physical and Environmental Planning of the UC MBEST Center.
4. That the applicant shall obtain all necessary building and grading permits prior to the commencement of any recycling activity on the site. (Planning and Building Inspection Department)
5. All equipment and stockpiles of material shall be completely removed from the site upon cessation of uses for any period longer than 90 days. All material and equipment shall be removed from the site within 90 days after the expiration of the subject permit. (Planning and Building Inspection Department)



6. Mitigation - Water Quality: All runoff from developed areas of the site shall be directed to the retention pond proposed and located on the site. Asphalt storage and processing areas shall be surfaced to prevent the migration of surface water. Grading Plans shall demonstrate that all surface water will be kept on site. (Environmental Health and Planning and Building Inspection)
7. Mitigation - Visual Quality: - Prior to the delivery of material and equipment and following site grading, applicant shall stake and flag the location and height of stockpiles and equipment to be placed on the site. Staking and flagging shall be sufficient to demonstrate that equipment or material will not be visible from Reservation Road. Applicant shall adjust the location of stockpiles, equipment and the orientation and height of landscape berms if necessary to avoid visual impacts to the satisfaction of the Director of Planning and Building Inspection in consultation with the City of Marina. (Mitigation - Planning and Building Inspection )
8. Mitigation - Air Quality: Prior to and during the operation of the proposed use, applicant shall comply with terms and conditions of the Authority to Construct issued by the Monterey Bay Unified Air Pollution Control District for the operation of the proposed use. Applicant shall control dust in the manner specified by the APCD and the Department of Public Works during all phases of the operation, including construction of the use, installation of equipment, transport, deposition, stockpiling, processing, loading and removal of material. (Planning and Building Inspection Department)
9. Mitigation - Soils: Perimeter berms shall be constructed taking into account the anticipated life of the project and the susceptibility of soils to wind and water erosion. Embankment soils shall be stabilized upon construction prior to inspection in accordance with conditions of the grading permit. Following final inspection to address visual quality impacts, embankments shall be stabilized for the life of the use. A detailed landscape and irrigation plan for the site shall be submitted to and determined adequate in writing by the Director of Planning and Building Inspection prior to the issuance of a grading permit. Landscaping shall be drought tolerant and designed to be compatible with goals and objectives of the Habitat Management Plan and the UC NRS. Said landscaping and irrigation shall be installed prior to the commencement of the use and shall not be bonded.
- A \$115 landscape plan review fee is required for this project. Fees shall be paid at the time of landscape plan submittal. The landscaping plan shall be in sufficient detail to identify the location, specie, and size of the proposed landscaping materials and shall be accompanied by a nursery or contractor's estimate of the cost of installation of the plan. (Planning and Building Inspection)
10. Mitigation - Biological Resources : The following measures shall be taken and monitoring reports shall be submitted by a qualified biologist

prior to the import of any material or the placement of equipment verifying the following:

- a. Placement of the berm along Reservation Rd. shall be performed under the guidance, in the field during construction, of a qualified botanist to avoid disturbance of a reported small colony of sand gilia located at the northeast corner of the property. Salvage of material such as horkelia root crowns, sandmat manzanita, and spineflower seeds shall be undertaken as necessary prior to, during or following soil disturbance.
- b. The access road shall be constructed outside the drip line of any protected oak tree. Modification of tree canopy shall be undertaken under the guidance of a qualified forester subject to the review and approval by the Director of Planning and Building Inspection in accordance with Monterey County regulations for tree removal.

Native trees which are located close to the construction site shall be protected from inadvertent damage from construction equipment by wrapping trunks with protective materials, avoiding fill of any type against the base of the trunks and avoiding an increase in soil depth at the feeding zone or drip line of the retained trees. Said protection shall be demonstrated prior to issuance of grading permits subject to the approval of the Director of Planning and Building Inspection. (Planning and Building Inspection)

- c. Plans submitted with the grading permit shall demonstrate that runoff from the access road and other developed areas of the site will not indirectly adversely affect resources within adjacent habitat reserve areas within the UC NRS.
- d. Monitoring of initial grading by a qualified wildlife biologist to ensure that impacts to any found black legless lizard will be avoided by relocating any such animals found during construction. A protocol shall be developed prior to commencement of construction and made available to on site construction personnel. (Planning and Building Inspection Department)
- e. Pursuant to the State Public Resources Code, State Fish and Game Code, and California Code of Regulations, the applicant shall pay a fee to be collected by the County of Monterey in the amount of \$1,275. This fee shall be paid on or before the filing of the Notice of Determination. Proof of payment shall be furnished by the applicant to the Director of Planning and Building Inspection prior to the recordation of the tentative map, the commencement of the use, or the issuance of building and/or grading permits, whichever occurs first. The project shall not be operative, vested or final until the filing fees are paid. (Planning and Building Inspection)

12. Mitigation Noise: The project shall comply with the following specific improvements:

- a. Combined noise exposure from the plant machinery and additional heavy truck traffic due to the recycling operation shall not exceed the appropriate General Plan standard at the nearest residential receiver;
- b. The plant shall be oriented such that the loudest machines are as far from and topographically shielded from the residential receivers as possible;
- c. Hours of operation of on site recycling equipment shall be Monday - Friday, 8 A.M. to 5 P.M. Hours of truck operation to and from the site shall be restricted to Monday - Saturday 7:00 A.M. to 5:00 P.M. (Environmental Health)

13. Mitigation - Traffic:

- a. The access road shall be maintained in a dust free condition.
- b. The intersection of Imjin Rd and the project site entrance shall be designed to accommodate truck turning movements.

14. Mitigation - Utilities and Services:

- a) Septic System - Prior to the commencement of recycling activities, applicant shall connect the project to a Sanitary Disposal system approved by the Director of Environmental Health. Prior to the issuance of grading permits, applicant shall submit revised plans for review and approval by the Director of Environmental Health showing the location and design of the proposed septic system meeting the standards found in Chapter 15.2 MCC (Septic Ordinance) and "Prohibitions" Central Coast Basin Plan, RWQCB. (Environmental Health)
- b) Water Service - Prior to the issuance of a grading permit applicant shall submit a plan for the provision of water to the site to the satisfaction of the Director of Environmental Health and the agency designated by the UC MBEST Center for fire protection Service. Said service shall be installed prior to the commencement of recycling activities. (Environmental Health and Planning and Building Inspection)
- c) Water Use - Prior to the issuance of a grading permit, the applicant shall provide to the Water Resources Agency a water balance analysis describing the pre-development and post development water use on the property. Any proposed increase in

water use shall require the identification and implementation of mitigation measures, if feasible. (Water Resources Agency)

- d) Fire Protection Services - Prior to the commencement of the use authorized herein, applicant shall document the requirements for fire prevention and suppression from a fire prevention agency with jurisdiction over the site under agreement with the UC MBEST Center. Applicant shall comply with all such requirements to the satisfaction of said agency. (Planning and Building Inspection).

15. Mitigation - Cultural Resources: If, during the course of construction, cultural, archaeological, historical or paleontological resources are uncovered at the site (surface or subsurface resources) work shall be halted immediately within 50 meters (150 feet) of the find until it can be evaluated by a qualified professional archaeologist. The Monterey County Planning and Building Inspection Department and a qualified archaeologist (i.e., an archaeologist registered with the Society of Professional Archaeologists) shall be immediately contacted by the responsible individual present on-site. When contacted, the project planner and the archaeologist shall immediately visit the site to determine the extent of the resources and to develop proper mitigation measures required for the discovery. (Planning and Building Inspection)
16. The property owner agrees as a condition of the approval of this permit to defend at his sole expense any action brought against the County because of the approval of this permit. The property owner will reimburse the County for any court costs and attorneys' fees which the County may be required by a court to pay as a result of such action. County may, at its sole discretion, participate in the defense of any such action; but such participation shall not relieve applicant of his obligations under this condition. Said indemnification agreement shall be recorded upon demand of County Counsel or prior to the issuance of building permits or use of the property, whichever occurs first. (Planning and Building Inspection)
17. The applicant shall record a notice which states: "A permit (Resolution 97076) was approved by the Planning Commission for Assessor's Parcel Number 031-121-002 on October 29, 1997. The permit was granted subject to 17 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)

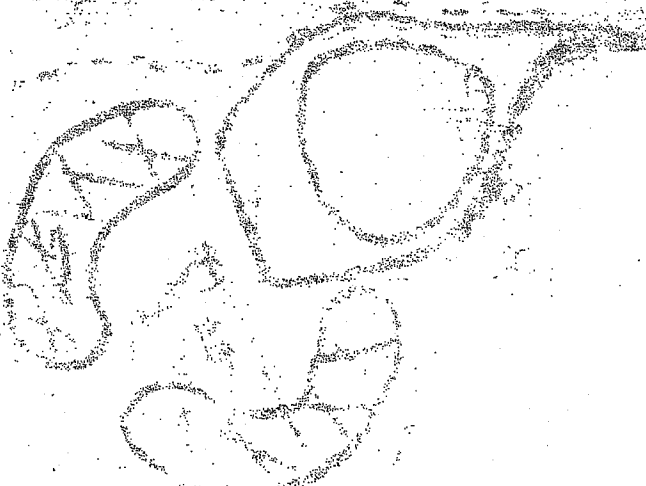
PASSED AND ADOPTED this 29th day of October, 1997, by the following vote:

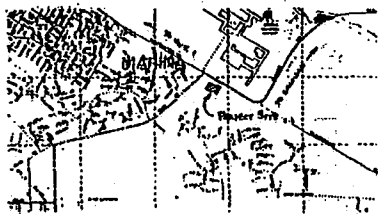
AYES: Calcagno, Crane-Franks, Diaz-Infante, Errea, Hawkins, Hernandez,  
Lacy, Reaves  
NOES: None  
ABSENT: Hennessy, Pitt-Derdivanis

  
William L. Phillips, SECRETARY

Copy of this decision mailed to applicant on **NOV - 3 1997**

IF ANYONE WISHES TO APPEAL THIS DECISION, AN APPEAL FORM MUST BE COMPLETED AND SUBMITTED TO THE CLERK OF THE BOARD OF SUPERVISORS ALONG WITH THE APPROPRIATE FILING FEE ON OR BEFORE **NOV 13 1997**





VICINITY MAP  
1 IN = 10 MILES

### GENERAL NOTES:

- 1) ELEVATIONS ARE BASED ON AN ASSUMED DATUM. BENCH MARK USED IS A WOODPILE, APPROXIMATE ELEVATION 200.00, AS SHOWN ON THE PLAN.
- 2) BENCHMARKS ARE BASED ON AN ASSUMED NORTH ARROW.
- 3) THIS MAP REPRESENTS CONDITIONS AS FOUND BY FIELD SURVEY PERFORMED ON 04/09/94, 05/30/94, AND 10/17/94. THIS MAP DOES NOT REPRESENT A BOUNDARY SURVEY.

### GRADING/EROSION CONTROL NOTES:

- 1) PROJECT GRADING WILL INCLUDE THE ACCESS ROAD, RECYCLE PLANT SITE, RETURN POND, AND LANDFILL POND. SITE GRADING WILL REQUIRE APPROXIMATELY 100,000 CUBIC YARDS OF EXCAVATION. ALL EXCAVATION WILL BE UTILIZED ON SITE FOR ENVIRONMENTAL CONSTRUCTION.
- 2) EMBANKMENTS SHALL BE COMPACTED TO 99% MIN. REL. COMPACTION.
- 3) ALL GRADING SHALL CONFORM TO MONTEREY COUNTY GRADING ORDINANCE #2458 AND EROSION CONTROL ORDINANCE #2006.
- 4) THE BERM ALONG RESERVATION ROAD SHALL BE LANDSCAPED FOR EROSION PROTECTION WITH A NON-EROSIVE EROSION CONTROL BED MATERIAL BY THE BUREAU OF LAND MANAGEMENT ON ITS FORECLOSURE LOTS. EROSION FENCE SHALL BE REMOVED AND REPLACED WITH A FOUR-STRAND BARBED WIRE FENCE LOCATED ON TOP OF THE BERM. ALL OTHER GRADIENTS ADJACENT TO THE ACCESS ROAD AND RECYCLE PLANT SHALL ALSO BE LANDSCAPED FOR EROSION PROTECTION WITH THE SAME BED MATERIAL.

RESERVE CENTER

RESERVATION ROAD

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### LEGEND

- EXISTING CONTOUR
- ONE TREE, SIZE AS SHOWN
- EXISTING FENCE
- BOUNDARY, 9 ACRES LEASE PARCEL
- LOTS OF GRADING
- LANDSCAPE/EROSION CONTROL AREAS
- PLAN, 1/2" = 1', L.S. 1990
- SEE WOODPILE CONTROL POINT

GRADING AND EROSION CONTROL

SITE PLAN - RECYCLING FACILITY  
PORTION OF APN 031-121-002  
UC/BIEST PROPERTY, FORT ORD  
MONTEREY COUNTY, CALIFORNIA

SCALE: 1" = 30'  
DATE: JULY 1997  
SHEET 1  
OF 2 SHEETS



ENGINEERING DIVISION  
CLAS  
CHARLES E. POTTER  
STATE NO. 21785

THE  
CON  
COMPANY, INC.