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Office of Planning

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County Administrator

Solomon Caviness
Department Head

Douglas J. Greenfeld, AICP/PP
Planning Director

**RESOLUTION OF THE
MIDDLESEX COUNTY AGRICULTURE DEVELOPMENT BOARD
REGARDING A RIGHT TO FARM DETERMINATION
FOR THE PROPERTY KNOWN AND DESIGNATED AS
LOT 3.7 IN BLOCK 17 IN THE TOWNSHIP OF MONROE**

WHEREAS, Brothers Investments, LLC (“Brothers”) submitted an Application (the “Brothers Application”) to the MCADB seeking commercial farm determination for the property known and designated as Lot 3.7 in Block 17 on the Tax Map of the Township of Monroe (the “Brothers Property”); and

WHEREAS, at its May 16, 2018 MCADB meeting, the MCADB memorialized its findings that based on the submissions and presentation at the meeting, there was reasonable, sufficient and credible evidence to make a determination that the Brothers Property was a “commercial farm” as defined by the Right to Farm Act, N.J.S.A. 4:1C-3; and

WHEREAS, by MCADB correspondence dated June 27, 2018, Brothers was provided with a Site Specific Agricultural Management (SSAMP) Application and was directed to submit the completed application and all requested information to the MCADB within thirty (30) days of receipt of the application in order to advance on to the next step of the Right to Farm process for a site specific management practice determination of the operation(s) in question on the Brothers Property to be made by the MCADB; and

WHEREAS, by MCADB counsel correspondence dated March 26, 2018, Brothers’ counsel was notified that the MCADB would be making a determination concerning whether the Brothers Property is a “commercial farm,” and if granted, such determination does not provide Right to Farm Protection for any specific activity on the Brothers Property and further advised that unless and until the MCADB received and made a determination on the second step of the Right to Farm process, an SSAMP determination about the activities on the farm, the Brothers Property does not have protection under the Right to Farm Act for those activities; and

WHEREAS, MCADB counsel provided a letter to Brothers counsel dated November 6, 2018 indicating that the MCADB had not received information with respect to the continuing process for Right to Farm protection for the Brothers property; and per the resolution adopted by the MCADB, the property does not currently have Right to Farm protection with respect to any specific activity on the property; and the MCADB is unable to make a determination on the merits without this information and it is likely that the matter will be dismissed without prejudice by the MCADB at its next meeting due to failure to submit the information; and

WHEREAS, Brothers counsel provided a letter to CADB counsel dated November 9, 2018 requesting a two-month extension; and

WHEREAS, Brothers subsequently submitted an SSAMP application dated January 16, 2019; and

WHEREAS, MCADB counsel provided a detailed letter to Brothers counsel dated March 27, 2019 and a letter on May 7, 2019 concerning the application; and

WHEREAS, MCADB counsel provided letters to Brothers counsel dated September 24, 2019 and October 29, 2019 requesting status and further information, respectively; and

WHEREAS, a conference was held on March 12, 2020 attended by, among others, MCABD staff and counsel and counsel for Brothers reviewing the application; and

WHEREAS, MCADB counsel provided a letter dated July 1, 2020 to counsel for Brothers reiterating the outstanding information and requesting that the MCADB be advised if Brothers intends to proceed, or the matter may be dismissed without prejudice at an upcoming MCADB meeting; and



WHEREAS, Brothers' counsel provided a letter to MCADB staff and counsel dated July 9, 2020 stating that Brothers would like to amend its present application and discontinue mulching materials from offsite and selling to third parties, and that Brothers would confine its activities to only mulch materials from the site which will also be used onsite, and requested information regarding amending the submitted application; and

WHEREAS, MCADB counsel provided a letter to Brothers' counsel dated August 6, 2020 acknowledging Brothers request to follow a different mulching process than set forth in the original application and requesting an amended application be filed which sets forth the process within (30) days unless an extension is requested; and

WHEREAS, MCADB staff provided a copy of the SSAMP application to Brothers' counsel on August 21, 2020; and

WHEREAS, the outstanding information was not received; and

WHEREAS, by correspondence dated April 1, 2021 from Counsel for Brothers, MCADB was informed that the matter between Brothers and the Township of Monroe has been settled and that Brothers would no longer be pursuing a Right to Farm Determination;

NOW, THEREFORE, BE IT RESOLVED, that the MCADB did not receive any of the aforementioned requested information since providing the second SSAMP Application, and therefore the requested information has not been submitted in order for the MCADB to make a determination on the merits, and Brothers having indicated that the matter between Brothers and the Township of Monroe has been resolved, therefore the MCADB cannot make a determination that the Brothers Property is operating in accordance with an SSAMP and is not currently eligible for Right to Farm protection pursuant to N.J.S.A. 4:1C-9; and

BE IT FURTHER RESOLVED, that because the MCADB cannot make a determination on the merits and the applicant indicating that it will not pursue the application, the matter is hereby dismissed by the MCADB without prejudice and the disputed activities alleged in the complaint shall be under the jurisdiction of all other appropriate local, state and/or federal authorities; and

BE IT FURTHER RESOLVED, that the MCADB shall forward a copy of this resolution to the applicant Brothers Investments, LLC and their counsel , Otto Kostbar, Esq., the Monroe Township Planning Board, the Monroe Township Municipal Court, the Superior Court of Middlesex County, the SADC and any other individuals deemed appropriate by the Board within 30 days of this Resolution; and

BE IT FURTHER RESOLVED, that any person aggrieved by this Resolution may appeal to the SADC within 10 days of that person's receipt of this Resolution.

<u>Recorded Vote:</u>	<u>Aye</u> 4	<u>No</u>	<u>Abstain</u>	<u>Absent</u> 1
James Giamarese	X			
Thomas Mancuso	X			
Robert Von Thun	X			
Rodger Jany	X			
Samuel Landy				X

DocuSigned by:
Jim Giamarese
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James Giamarese, Chairman

I hereby certify the above is a true copy of a Resolution duly adopted by the Middlesex County Agriculture Development Board at a meeting held on April 14, 2021 at which a quorum was present and acting throughout.

Attest: Thomas Mancuso
54887AE18920487
Thomas Mancuso, Secretary

