

1 **BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA**

2
3 In the Matter of Legendary Farms LLC, United Investment
4 Ventures LLC, Melissa Smith, and Justin Smith

**FINDINGS OF FACT AND
DECISION**

5 These proceedings were commenced by virtue of an appeal of the Planning Commission’s
6 September 28, 2023 revocation of the Major User Permit (UP 19-15) for high severity violations , as
7 well as the determination of Legendary Farms LLC, United Investment Ventures LLC, Melissa
8 Smith, and Justin Smith as a responsible persons for high severity violations, located at 2290 Soda
9 Bay Road, Lakeport in Lake County California.

10 A duly noticed public hearing on the appeal scheduled before this Board was heard on September
11 17, 2024, at which time, evidence, both oral and documentary, was presented. Based upon the
12 evidence and applicable law, we find the following:

- 13 1. On September 1, 2023, Appellant United Investment Ventures LLC submitted a notice of
14 appeal, appealing the Notice of Violation and Order to Abate under Case # ENF23-01124
15 served pursuant to the high severity violation procedures of Chapter 13 of the Lake County
16 Code (hereinafter, the “September 1, 2023 appeal”).
- 17 2. That the Lake County Planning Commission held a noticed public hearing on September 28,
18 2023, to consider the revocation of Major Use Permit (UP 19-15) located at 2290 Soda Bay
19 Road, Lakeport in Lake County, California.
- 20 3. On October 4, 2023, Appellants Legendary Farms LLC, United Investment Ventures LLC,
21 Melissa Smith, and Justin Smith filed a notice of appeal AB 23-03 to this Board described as
22 an “Appeal to Board of Supervisors regarding revocation of Major Use Permit UP 19-15”
23 (hereinafter, the “October 4, 2023” appeal).
- 24 4. The reasons Appellants provided for both September 1, 2023 appeal and the October 4, 2023
25 appeal include, but are not limited to, the following:
 - 26 a. The Planning Director violated Appelants’ due process rights.
 - 27 b. The Community Development Department conflated the Apellants with each other
28 and with third parties.

- 1 c. The Planning Commission improperly attributed the conduct of Mr. Robert Tirado to
2 the Appellants.
- 3 d. It was an error for the Planning Commission to determine there was a failure of
4 anyone to take responsibility for high severity violations when Mr. Tirado provided
5 the Community Development Department with a notarized declaration, under penalty
6 of perjury, accepting sole responsibility for the violations.
- 7 e. Community Development Department improperly included new allegations in its
8 memorandum in support of the revocation of UP 19-15.
- 9 f. The Planning Commission disregarded exculpatory evidence and relied on
10 misrepresentations made by Community Development Director Turner in its decision
11 to revoke UP 19-15.
- 12 g. It was an error for the Planning Commission to selectively utilize Mr. Tirado's
13 declaration as the basis for attributing fault to all of the Appellants.
- 14 h. The Planning Commission erred in revoking UP 19-15 for violations that were
15 promptly corrected one-year prior to the hearing without any subsequent violations;
- 16 i. The Planning Commission erred in revoking UP 19-15 for violations that no longer
17 continue to impact the environment.
- 18 j. The Planning Commission erred in revoking UP 19-15 based on a separate alleged
19 violation that has not been fully adjudicated, attributed to United Investment Ventures
20 LLC, and currently in the process of being abated.
- 21 k. The Planning Director's unreasonable delay in seeking revocation of UP 19-15
22 severely prejudiced Appellants' ability to address the accusations in Community
23 Development Department's Staff Memorandum.
- 24 l. There are no high severity violations by the Appellants because no considerable
25 environmental impact would continue to occur, the two steel structures on the subject
26 property meet the agriculture structure exemption permit standard, and said structures
27 are not a public nuisance.
- 28

- m. The Planning Commission was without authority to conduct a hearing on an alleged high severity violation and its decision must be voided and set aside.
 - n. There was no proper notice of the September 17, 2024 hearing to address the remainder of Appeal AB 23-03, the revocation of UP 19-15.
 - o. If the County of Lake is no longer pursuing a high severity violation determination, the Appeal of AB 23-03, the permit revocation, must be granted in its entirety.
 - p. The Notice of Nuisance and Order to Abate in this matter was not proper because it was issued to Untied Investment Ventures, Inc. and not to Legendary Farms, LLC.
5. That the Board of Supervisors has conducted a hearing in this matter on September 17, 2024 as required by Sections 13-56.2 and 13-56.3 of the Lake County Code, and a de novo revocation hearing as required by Articles 58 and 60 of the Lake County Zoning Ordinance.
6. That the Appellants presented evidence both documentary and testimonial in support of their appeal.
7. That the Community Development Department presented testimony and documentary evidence relevant to these proceedings including, but not limited to, a staff report dated September 28, 2023, attachments 1 through 8 thereto, and a power point presentation.
8. That the Community Development Department stated that due to procedural defects in satisfying the notice requirements under Lake County Code Section 13-50, et. seq., it is now recommending that this Appellant United Investment Ventures LLC's September 1, 2023 appeal of the nuisance and responsible person violation be granted.
9. That this Board finds, based on the evidence and facts presented in this matter, as follows:
 - a. Sufficient information exists in the record of this matter that Appellants Legendary Farms LLC, United Investment Ventures LLC, Melissa Smith, and Justin Smith are not "Responsible Persons" as defined in Lake County Code Section 13-47.1q. for the high severity violations on property located at 2290 Soda Bay Road, Lakeport in Lake County, California, and that there are no high severity violations under Lake County Code Chapter 13 as to Appellants.

1 b. That permit UP 19-15 is revoked based on the findings 1, 2, 3, and 5 stated on page 13
2 of Community Development Department's September 18, 2023 Memorandum to the
3 Planning Commission.

4 10. That this Board has considered and incorporates by reference the Community Development
5 staff memorandum and attachments thereto submitted to this Board for the hearing, as well as
6 other documentation submitted to this Board.

7 11. Based upon all the foregoing and for the reasons set forth hereinabove, this Board grants the
8 September 1, 2023 appeal of United Investment Ventures LLC.

9 12. Based upon all the foregoing and for the reasons set forth hereinabove, this Board grants in
10 part and denies in part the October 4, 2023 appeal of the Appellants, Legendary Farms LLC,
11 United Investment Ventures LLC, Melissa Smith, and Justin Smith. The October 4, 2023
12 appeal is granted in part based on the finding that Appellants Legendary Farms LLC, United
13 Investment Ventures LLC, Melissa Smith, and Justin Smith are not "Responsible Persons" as
14 defined in Lake County Code Section 13-47.1q. for the high severity violations on located at
15 2290 Soda Bay Road, Lakeport in Lake County, California, and that there are no high severity
16 violations under Lake County Code Chapter 13 as to Appellants. The October 4, 2023 appeal
17 is denied in part for the revocation of permit UP 19-15 based on the findings 1, 2, 3, and 5
18 stated on page 13 of Community Development Department's September 18, 2023
19 Memorandum to the Planning Commission.


20 **13. NOTICE TO APPELLANTS:** You are hereby given notice that the time within which any
21 judicial review of the decision herein may be sought is governed by the provisions of the
22 Code of Civil Procedure Section 1094.5.

23 Dated: _____

CHAIR, Board of Supervisors

24 ATTEST: SUSAN PARKER
 Clerk to the Board of Supervisors

APPROVED AS TO FORM:



LLOYD C. GUINTIVANO
County Counsel

25 By: _____