

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

2  
3 In the Matter of the Appeal )  
4 of La Monica Outdoor Advertising )  
5 [La Monica Outdoor Advertising - ) FINDINGS OF FACT AND DECISION  
6 AB 16-06] )  
7 \_\_\_\_\_ )

8 This proceeding was commenced by virtue of an appeal by La Monica  
9 Outdoor Advertising (the “Appellant”) of the Planning Commission’s determination  
10 on October 27, 2012 to approve the Appellant’s request for a Use Permit (UP 16-01)  
11 subject to certain specified conditions, allowing a five-year extension of time for an  
12 existing off-site advertising sign located at 131 Soda Bay Road in Lakeport,  
13 California.

14 A duly noticed public hearing on the appeal was held before this Board on  
15 February 28, 2017, and evidence, both oral and documentary, was presented. Based  
16 upon the evidence and applicable law, we find the following:

- 17 1. That on October 27, 2016 the Appellant requested that the Planning  
18 Commission approve a renewal of a previously-approved Use Permit for off-  
19 site advertising located at 131 Soda Bay Road. This was the third renewal  
20 since the billboard was originally approved in 1995. Community Development  
21 Department staff recommended and the Planning Commission approved  
22 certain conditions in addition to those conditions included in previous use  
23 permit renewals.
- 24 2. That the Appellant is La Monica Outdoor Advertising and the Appellant has  
25 appealed the above-described decision of Planning Commission on the basis  
26 that Use Permit 16-01 as renewed now incorporates new annual fees and  
27 conditions of use not supported by facts or law. Appellant was represented in  
28 this matter by legal counsel, Andre M. Ross.

3. Staff of the Community Development Department (hereinafter, “staff”) presented evidence both documentary and testimonial. Staff submitted a staff report dated February 14, 2017, which included Exhibits “A” through “F”. Testimony offered by staff included the following:
- a. Michalyn DelValle, the Principal Planner of the Community Development Department, testified the use permit under consideration was a renewal of an existing billboard. This was the third renewal since the use permit was originally approved in 1995. As a consequence of the renewal process, staff made a site visit and determined that the sign had not been maintained as required by the then-existing conditions of the use permit. The sign itself was rusty and required paint. As a result of the lack of required maintenance, staff had recommended to the Planning Commission that the use permit renewal impose additional conditions: A sign maintenance plan agreement, the identification of ingress and egress to the parcel and the travel path to the sign, and payment of a mitigation monitoring fee to reimburse staff for the cost of conducting an annual inspection to verify that the conditions of the use permit approval are met. The monitoring fee is listed under the CEQA section of the Community Development fee ordinance, but is listed as applicable to Other Current Planning Projects and the fee is imposed for staff to conduct site visits and verify that use permit conditions are being met. Ms. DelValle testified that there had been an initial study completed in 1995 when the use permit was originally applied for and a negative declaration had been approved in response to that initial study. Since that time, that previously-approved negative declaration had been reviewed at the time of each renewal of this use permit.
- b. Robert Massarelli, Director of the Community Development Department, testified that his department reviews a use permit application, which review includes a review based upon the California Environmental Quality Act

1 (hereinafter, "CEQA"). The initial study consider aesthetics such as visual  
2 impacts to the public view. The initial study showed insignificant impacts,  
3 but review consequent to this renewal indicated additional conditions should  
4 be imposed. When staff determined the subject billboard was not being  
5 adequately maintained, that became a problem of aesthetics and the mitigation,  
6 shown as additional conditions for the use permit renewal, was designed to  
7 address the maintenance issue. That is part of the CEQA process, but also part  
8 of the process staff uses to evaluate the conditions of a use permit. Ultimately,  
9 staff is trying to ensure compliance with necessary use permit conditions.

10 4. Appellant presented testimonial and documentary evidence in support of the  
11 appeal. Andre M. Ross, counsel for Appellant, submitted a letter brief dated  
12 February 2, 2017, with Exhibits "H" through "R" attached thereto, in support  
13 of the appeal. Mr. Ross stated that the monitoring fee is being applied  
14 incorrectly because is a CEQA-related fee and a permittee is essentially  
15 penalized without notice in the renewal of a use permit. There is no legal  
16 authority for the County to charge this annual mitigation monitoring fee for  
17 billboard advertising. Mr. Ross further stated that the burdens to be imposed  
18 by the additional use permit conditions approved by the Planning Commission  
19 will likely be substantial, while the actual public benefit remains uncertain.  
20 Mr. Ross' objections and concerns are more particularly described in his  
21 submittal to this Board.

22 5. That this Board finds, based on the evidence and facts presented in this matter as  
23 follows:

- 24 a. That the compliance monitoring fee to be charged for "Other Current  
25 Planning Projects" as provided in County ordinance is not intended to be a  
26 perpetual annual charge. By its plain language, said fee is to be charged per  
27 project per year only until mitigations are complete.  
28 b. That the previously approved mitigated negative declaration, with the further

conditions imposed in the use permit as shown in paragraphs 4, 5, and 6 of said use permit, meets the requirements of Section 15162, subdivision (a) of the State CEQA Guidelines and no additional environmental review need be prepared.

c. That, with the above-described additional conditions included in this renewal of Use Permit 16-01, the requirements of Section 51.4 of the Lake County Zoning Ordinance are met such that the renewal of said use permit may be, and is hereby approved, by this Board subject to the following clarification as to paragraph 6 of the use permit conditions which paragraph shall be amended to read as follows: "Within ninety days of the approval of a sign maintenance plan, the permit holder shall submit a mitigation monitoring fee of \$157. The applicant shall notify staff when the site is ready for inspection and the applicant shall be notified when the mitigations are complete."

6. That this Board has considered and incorporates by reference the Community Development staff memorandum and exhibits thereto submitted to this Board for the hearing, as well as the letter brief and exhibits thereto submitted by the Appellant.

7. Based upon all the foregoing and for the reasons set forth hereinabove, this Board denies the appeal of the Appellant La Monica Outdoor Advertising subject to the clarification of the compliance monitoring fee as described hereinabove.

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

Dated: \_\_\_\_\_

\_\_\_\_\_  
CHAIR, Board of Supervisors

ATTEST: CAROL J. HUCHINGSON  
Clerk to the Board  
of Supervisors

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Deputy

\_\_\_\_\_  
ANITA L. GRANT  
County Counsel