

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

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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 16-07] )  
7 \_\_\_\_\_ )

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9 This proceeding was commenced by virtue of an appeal by La Monica  
10 Outdoor Advertising (the “Appellant”) of the Planning Commission’s determination  
11 on October 27, 2012 to approve the Appellant’s request for a Use Permit (UP 16-06)  
12 subject to certain specified conditions, allowing a five-year extension of time for an  
13 existing off-site advertising sign located at 255 Soda Bay Road in Lakeport,  
14 California.

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

- 18 1. That on October 27, 2016 the Appellant requested that the Planning  
19 Commission approve a renewal of a previously-approved Use Permit for off-  
20 site advertising located at 255 Soda Bay Road. This was the fourth renewal  
21 since the billboard was originally approved in 1996. Community Development  
22 Department staff recommended and the Planning Commission approved  
23 certain conditions in addition to those conditions included in previous use  
24 permit renewals.
- 25 2. That the Appellant is La Monica Outdoor Advertising and the Appellant has  
26 appealed the above-described decision of Planning Commission on the basis  
27 that Use Permit 16-06 as renewed now incorporates new annual fees and  
28 conditions of use not supported by facts or law. Appellant was represented in

this matter by legal counsel, Andre M. Ross.

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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 includes 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 fourth renewal since the use permit was originally approved in 1996. As a consequence of the renewal process, staff made a site visit and determined that the site had not been maintained as required by the then-existing conditions of the use permit. As a result of the lack of required maintenance, staff 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, the 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, and a sign removal plan.
  - b. Robert Massarelli, Director of the Community Development Department, testified that the conditions here are almost identical to those discussed in regard to the Appellant’s billboard in AB 16-06. With regard to the issue of protection of the wetlands, the only access to the site of which staff is aware is by use of an easement. If the Appellant has an alternate right of access, the Appellant needs only to show staff they have the right to that access.
4. Appellant presented testimonial and documentary evidence in support of the appeal. Andre M. Ross, counsel for Appellant, submitted a letter brief dated February 2, 2017, with Exhibits “S” through “X” attached thereto, in support of the appeal. Mr. Ross stated that the monitoring fee is being applied incorrectly because is a CEQA-related fee and a permittee is essentially

1 penalized without notice in the renewal of a use permit. There is no legal  
2 authority for the County to charge this annual mitigation monitoring fee for  
3 billboard advertising. This appeal also includes a challenge to the use permit  
4 condition which requires a sign removal plan which avoids disturbance to any  
5 wetlands or riparian habitat. Mr. Ross's objections and concerns are more  
6 particularly described in his submittal to this Board.

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

- 9 a. That the compliance monitoring fee to be charged for "Other Current  
10 Planning Projects" as provided in County ordinance is not intended to  
11 be a perpetual annual charge. By its plain language, said fee is to be  
12 charged per project per year only until mitigations are complete.
- 13 b. That compliance with the condition requiring a sign removal plan that  
14 avoids disturbance of wetlands and riparian habitat may be shown by a  
15 submittal from the Appellant showing that alternate access has been  
16 afforded the Appellant which avoids such areas.
- 17 c. That the previously approved mitigated negative declaration, with the  
18 further conditions imposed in the use permit as shown in paragraphs 4,  
19 5, and 6, 7 and 10 of said use permit, meets the requirements of Section  
20 15162, subdivision (a) of the State CEQA Guidelines and no additional  
21 environmental review need be prepared.
- 22 d. That, with the above-described additional conditions included in this  
23 renewal of Use Permit 16-06,f the requirements of Section 51.4 of the  
24 Lake County Zoning Ordinance are met such that the renewal of said  
25 use permit may be, and is hereby approved, by this Board subject to the  
26 following clarification as to paragraph 6 of the use permit conditions  
27 which paragraph shall be amended to read as follows: "Within ninety  
28 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.”

e. 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

6. 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      APPROVED AS TO FORM:  
Clerk to the Board  
of Supervisors

By: \_\_\_\_\_  
Deputy      ANITA L. GRANT  
County Counsel