

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

2  
3 In the Matter of the Appeal )  
4 of Judson Hodges )  
5 [AB 19-06] ) FINDINGS OF FACT AND DECISION  
6 \_\_\_\_\_)

7 These proceedings were commenced by virtue of an appeal of the Planning  
8 Commission's determination on June 27, 2019, to adopt a mitigated negative  
9 declaration and to approve a major use permit (UP 18-43), (hereinafter, the "Project").

10 A duly noticed public hearing on the appeal scheduled before this Board was  
11 heard on January 14, 2020, at which time, evidence, both oral and documentary, was  
12 presented. Based upon the evidence and applicable law, we find the following:

- 13 1. That the Lake County Planning Commission held a noticed public hearing on  
14 June 27, 2019, to consider the adoption of a mitigated negative declaration and  
15 a major use permit (UP 18-43) which, if approved, would allow an A-type 3B  
16 (medium mixed light) commercial cannabis cultivation site at 19424 Butts  
17 Canyon Road in Middletown, California.
- 18 2. That on June 27, 2019, the Planning Commission adopted Initial Study 18-58  
19 and mitigated negative declaration and approved Major Use Permit 18-43.
- 20 3. That the Project applicant and property owner is Shannon Sanders.
- 21 4. That the Appellant is Judson Hodges. The basis of Mr. Hodges' appeal is that:  
22 (1) The Project does not meet the requirements of Lake County Zoning  
23 Ordinance Section 51.4 (1); (2) That the Applicant and the County staff did not  
24 adequately address public safety; and (3) That the Applicant and the County staff  
25 were inaccurate in presenting the impact of the water use from this Project.
- 26 5. That Section 51.4 (1) of the Lake County Zoning Ordinance provides:

1 “1. That the establishment, maintenance, or operation of the use applied for will  
2 not under the circumstances of the particular case, be detrimental to the health,  
3 safety, morals, comfort and general welfare of the persons residing or working  
4 in the neighborhood of such proposed use, or be detrimental to property and  
5 improvements in the neighborhood or the general welfare of the County.”

6 6. That the Board of Supervisors has conducted a de novo hearing in this matter as  
7 required by Section 58.34 of the Lake County Zoning Ordinance.

8 7. That the Appellant presented evidence both documentary and testimonial in  
9 support of his appeal. In addition to the concerns raised by the Appellant in  
10 regard to health, safety, welfare, and the negative impacts resulting from the  
11 Applicant’s water usage, the Appellant also raised concerns about the former  
12 Pacific Gas & Electric (PG&E) geothermal extraction site. The Appellant  
13 voiced concerns that the cannabis activity at the Project site may create water  
14 migration that would cause toxic waste from the PG&E site to migrate into the  
15 aquifer used by neighboring lots.

16 8. That the Appellant’s position was supported by several neighboring property  
17 owners.

18 9. That the Community Development Department presented testimony and  
19 documentary evidence relevant to these proceedings including, but not limited  
20 to, a staff report dated January 14, 2020, and Exhibits A through E thereto.

21 10. That the evidence presented by the Community Development Department  
22 included the following:

23 a. In response to the Appellant’s assertion that the Project does not meet the  
24 requirements of Lake County Zoning Ordinance Section 51.4 (1), the  
25 Community Development Department noted that all significant impacts with  
26 regard to aesthetics, air quality (odor), and noise have been adequately  
27

1 addressed. The cannabis plants are to be grown in greenhouses with odor to be  
2 addressed through various odor control devices. The Community Development  
3 Department further noted that the Appellant had offered no evidentiary support  
4 to establish any adverse effects in regard to the remaining factors to be  
5 considered in Section 51.4(1).

6 b. In response to the Appellant's assertion that public safety had not been  
7 adequately addressed, the Community Development Department noted that the  
8 Appellant had offered no data to support a claim of the risk of increased crime  
9 and corresponding safety concerns. Moreover, all cannabis employees working  
10 at the Project site must undergo successful live scan background checks through  
11 the Sheriff's Office.

12 c. In response to Appellant's assertion that water impacts had not been  
13 accurately presented, the Community Development Department stated that the  
14 Applicant had provided that Department with a comprehensive Water  
15 Availability Analysis (Exhibit "E" to the January 14, 2020 staff report) which  
16 confirmed that the water table is strong in that area and has a rapid recharge rate.

17 In regard to the prior PG&E geothermal extraction site, the Community  
18 Development Department noted that, in checking with the California  
19 Department of Toxic Substances Control, they had been assured that  
20 groundwater migration and human health exposure at this facility are both under  
21 control.

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

24 a. That all the findings required for the issuance of a major use permit as  
25 described in Section 51.4 of the Lake County Zoning Ordinance are  
26 hereby made by this Board, including the findings of Section 51.4 (1).

1 This Board adopts the analysis and factual determinations of the  
2 Community Development Department as provided on pages 2 through 8  
3 of the staff report dated January 14, 2020 regarding the findings required  
4 for the issuance of this major use permit.

5 b. That this Board finds that sufficient information exists in the record of  
6 this matter to support the adoption of the mitigated negative declaration.  
7 This Board adopts those CEQA findings enumerated in the staff report  
8 dated January 14, 2020. This Board hereby adopts the mitigated negative  
9 declaration for this Project and grants Major Use Permit 18-43 based  
10 upon the findings enumerated on pages 9 and 10 in the staff report dated  
11 January 14, 2020.

12 c. That the Appellant has provided insufficient evidence to support the  
13 grounds for his appeal.

14 d. That notwithstanding the insufficiency of the evidence offered by  
15 Appellant, this Board finds and determines that an additional condition  
16 should, and hereby is, added to the Project Conditions of Approval:  
17 Annual water quality testing for constituents of concerns must be  
18 conducted by the Project Applicant at the location known as the Pacific,  
19 Gas, and Electric site and said testing must meet all applicable local,  
20 state, and federal standards.

21 e. That this Board has considered and incorporates by reference the  
22 Community Development staff memorandum and exhibits thereto  
23 submitted to this Board for the hearing, as well as other documentation  
24 submitted to this Board.

25 8. Based upon all the foregoing and for the reasons set forth hereinabove,  
26 this Board denies the appeal of the Appellant Judson Hodges.

1 //

2 //

3 //

4 //

5 //

6 //

7 //

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

11  
12 Dated: \_\_\_\_\_  
13 \_\_\_\_\_  
14 CHAIR, Board of Supervisors

15 ATTEST: CAROL J. HUCHINGSON APPROVED AS TO FORM:  
16 Clerk to the Board  
17 of Supervisors

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