

**COUNTY OF LAKE  
USE PERMIT, UP 19-09  
KIMCO DEVELOPMENT**

**CONDITIONS OF APPROVAL**

**EXPIRES IF NOT USED BY: March 3, 2022**

Pursuant to the approval of the Board of Supervisors on **March 3, 2020**, there is hereby granted to **KIMCO DEVELOPMENT, a Major Use Permit, UP 19-09** with the following conditions of approval to allow the development of a grocery store (Grocery Outlet) on property located at **18765 Hartmann Road, and 18196 and 18426 Hwy 29, Middletown, CA**; and further described as **APN: 014-260-51, 014-260-24 and 014-260-36** subject to the following terms and added or amended conditions.

**A: Condition #26 of Use Permit UP 07-05 is hereby amended as follows:**

Within Valley Oaks Village II, there shall be a ~~fifty (50)~~ ten (10) foot wide landscape/open space easement along the property line adjacent to Hartmann Road from Valley Oaks Boulevard to Parcel G. Landscaping will be required to significantly shield the rear of the structure and loading zone from view. A landscaping plan is required to be reviewed and approved by Community Development prior to issuance of a building permit.

**B: Condition #33 of Use Permit UP 07-05 is hereby amended as follows:**

~~“All billboards and commercial freestanding or commercial wall signs are prohibited. All signs and billboards shall comply with Lake County Code Chapter 21-45 or its successor ordinance. In addition to complying with Lake County Code Chapter 21-45, there shall be a common theme to the signing of the development. The theme should include some identifiable common element or elements such as: dimension, construction material, color scheme, lighting or lettering style. All signs in the development shall be integral components to the common theme.”~~

**C: The following conditions are hereby added as follows:**

1. Pursuant to the Traffic Analysis prepared by W-Trans, a left-turn lane **on Hartmann** is required for any further development beyond what is authorized with this permit **for new commercial or residential development. The access onto Hartmann is sufficient for the new Grocery Outlet.**

2. As this project exceeds 5000 sq. ft in new impervious surface it is a Regulated Project as defined by State Water Boards MS4 permit. Section E-10 states that Projects that disturb one acre or more of soil or disturb less than one acre but are part of a larger common plan or development or sale are subject to the Construction General Permit (CGP) in addition to the construction site storm water runoff ordinance. Regulated projects require a Post Construction Storm Water Management Program that include but are not limited to the following:

E12.b Site Design Measures, E12.d Source Control Measures, E12.e Low Impact Development (LID) Design Standards, E12.f Hydromodification Measures

The above are listed in the Phase II Small MS4 General Permit 2013-001-DWQ

Manuals available to assist the preparer are BASMAA Post Construction Manual, Design Guidance for Stormwater Treatment and Control for Projects in Marin, Sonoma, Napa, and Solono Counties and the Lake County Clean Water Program, Low Impact Development Standards Manual, both available from the Lake County Community Development Department as downloads.

3. The use hereby permitted shall substantially conform to the **Site Plan(s), Project Description** and any conditions of approval imposed by the Design Review Permit and Review Authority. The Community Development Director may approve, in writing, minor modifications that do not result in increased environmental impacts. Applicant shall be in substantial conformance with the following:

- **Site plan approved 10/24/19**

- ***Parking and circulation plan approved 10/24/19***
- ***Building Elevations approved 10/24/19***

***except as modified herein***, and any conditions of approval imposed by the Planning Commission. The Community Development Director may approve, in writing, minor modifications that do not result in increased environmental impacts.

4. This permit does not abridge or supersede the regulatory powers or permit requirements of any federal, state, local agency, special district or department which may retain a regulatory or advisory function as specified by statute or ordinance. The applicant shall obtain permits as may be required from each agency.
5. All necessary permits shall be obtained from applicable State and County agencies having jurisdiction over this **project prior to commencement of any construction** activities including but not limited to, all building, plumbing, mechanical and electrical modifications.
6. The permit holder is responsible for insuring that all project workers are informed of, understand, and agree to abide by the approved plans and project conditions.
7. **Prior to building permit final**, the permit holder shall adhere to all requirements of Chapter 13 of the Lake County Code, including but not limited to adherence with the Hazardous Vegetation requirements.
8. **Connections to Highway 29, Hartmann Road roundabout, is prohibited until a new / relocated access opening is approved by the CTC and an encroachment permit from CalTrans is approved.**
9. **Connections to Arabian Lane / Highway 29 intersection are not authorized for use by this development until CalTrans authorizes such access.**

#### **D. LAND USE AND AESTHETICS:**

1. **Prior to the issuance of building permits**, a Landscaping and Irrigation Plan shall be submitted to the Community Development Department for review and approval. Said landscaping shall be maintained for life of the project.
  - *All Landscaping shall be consistent with the regulations and standards of Section 41.9 of the Lake County Zoning Ordinance and the Model Water Efficient Landscaping Ordinance (Government Code Section 65591 Et. Seq) and maintained for life of the project.*
  - *All Trash and Utility Receptacles shall be screen from public view to the greatest extent possible. Applicant shall submit Trash and Utility Receptacle Plan to the Community Development Department for review and approval prior to issuance of any building permits. Prior to occupancy, a Trash Enclosure area shall be provided, consistent with Ordinance 2650 of the Lake County Code.*
2. Prior to improvement plan approval, a landscape plan shall be submitted and approved by Lake County that includes details regarding screening of the project site from vehicles traveling on SR 29, as well as detailed plans for the commercial parking areas. Landscaping should consist of native vegetation and features characteristic of the area. (MM4.1.2a)
3. All project hardscape features, such as parking lots and new non-native softscape features, shall be designed to blend with existing landscape characteristics to the maximum extent feasible. Such features shall be screened as much as possible from off-site views through the use of native vegetation, landscaping, natural features, and other appropriate screening measures. (MM4.1.2b)
4. Design standards for the project shall prohibit the use of reflective or glare-producing materials in structures, facilities, and infrastructure associated with development of the project and shall encourage the use of landscaping and other design features to minimize the potential for glare. (MM4.1.4)

5. The County shall require that an acoustical assessment be performed prior to construction of the commercial sites. Where the acoustical analyses determine that stationary source noise levels would exceed applicable County noise standards of 45 dBA L<sub>dn</sub> for interior noise, the County shall require the implementation of noise attenuation measures sufficient to achieve compliance with County noise standards at nearby noise-sensitive land uses. These measures include, but are not limited to, construction of sound barriers around delivery areas, limiting the scheduled hours for deliveries, and/or construction of sound barriers around HVAC equipment. (MM4.10.3b)
6. **Prior to the issuance of building permits**, a Lighting Plan shall be submitted to the Community Development Department for review and approval.
  - *All exterior elements, lighting, and trash storage areas shall be installed in accordance to the conditions of approval and approved plans and maintained for the life of the project unless modified herein by the Development Review Committee. The Community Development Director or authorized representative may approve in writing, minor modifications that do not result in increased environmental impacts.*
  - *All lighting shall be directed downwards onto the project site and not onto adjacent roads or properties. Lighting equipment shall be consistent with that which is recommended on the website: [www.darkskyorg](http://www.darkskyorg) and provisions of section 21.41.8 of the Zoning Ordinance.*
7. **Prior to the issuance of building permits**, a Signage Plan shall be submitted to the Community Development Department for review and approval. All signage must be in accordance with Section 21-45.11 of the Zoning Ordinance.

#### **E. CULTURAL RESOURCES AND BIOLOGICAL:**

If archaeological or cultural resources are uncovered during construction, work at the place of discovery should be halted immediately until a qualified archaeologist can evaluate the finds [CEQA Guidelines §15064.5(f)]. Should any archaeological, paleontological, or cultural materials be discovered during development, all activity shall be halted in the vicinity of the find(s), and a qualified archaeologist retained to evaluate the find(s) and recommend mitigation procedures, if necessary, subject to the approval of the Community Development Director.

Should any human remains be encountered, they shall be treated in accordance with Public Resources Code Section 5097.98. Procedures from this point are prescribed by law. If the remains are deemed to be Native American and prehistoric, the Native American Heritage Commission should be contacted by the Coroner so that a “Most Likely Descendant” can be designated.

#### **F. TRAFFIC:**

1. **Prior to occupancy**, all accessible compliant parking areas, routes of travel (pedestrian paths, walkways and sidewalks), building access and/or bathrooms shall meet all California Building Code and Accessibility Requirements.
2. **Prior to the issuance of building permits**, the applicant shall submit a Parking and Circulation Plan to the Community Development Department for review and approval. Said plan shall be in accordance with Article 46 of the Lake County Zoning Ordinance, show all ingress and egress and be maintained for life of the project. Seventeen spaces or one space per 400 square feet of floor area for structures exceeding 5,000 square feet of floor area whichever is greater is required (45 spaces).
3. Prior to occupancy, the driveway and parking areas shall be surfaced with asphalt or other appropriate pavement material with the exception of the access which shall be constructed to the Caltrans Commercial Road Approach Standards or County Roads Standards. All necessary **access opening approvals and commercial encroachment permits, where necessary**, shall be obtained from the California Department of Transportation or Department of Public Works.

4. An encroachment permit shall be obtained from the California Department of Transportation (Caltrans) or Department of Public Works for all sidewalks and or pedestrians routes and landscaping located within the State or County right of way.
5. The project shall comply with Section 41.7 of the Lake County Zoning Ordinance, which specifies that all uses involving the use or storage of combustible, explosive, caustic or otherwise hazardous materials shall comply with all applicable local, state and federal safety standards and shall be provided with adequate safety devices against the hazard of fire and explosion, and adequate firefighting and fire suppression equipment.
6. Construction, circulation, access and pedestrian improvements including sidewalks to the site shall be provided. Minor modifications not resulting in increased environmental impact may be approved in writing by the Community Development Director.
7. No driveway entering onto a right-of-way shall exceed a width of thirty (30) feet.
8. **Prior to building permit final**, all Accessible Compliant Parking Areas, routes of travel, building access and/or bathrooms shall meet all California Building Code Requirements.
9. **At such time that an access connection is constructed onto the Highway 29/Hartmann Road roundabout, a sidewalk shall be extended from the property to connect with the existing sidewalk at the northeast portion of the roundabout.**

**G. AIR QUALITY AND NOISE:**

1. Vehicular and fugitive dust shall be minimized by use of water or acceptable dust palliatives to maintain two inches of visibly-moist soil in the project area and to ensure that dust does not leave the property.
2. Vegetation that is removed for development must be properly disposed. The applicant shall chip vegetation and spread the material for erosion control as an alternative to vegetation burning. Due to close proximity to sensitive receptors, chipping and/or mastication is recommended for the majority of the brush removal..
3. All construction activities including engine warm-up shall be limited to weekdays and Saturday, between the hours of 7:00am and 7:00pm to minimize noise impacts to nearby residents and school.
4. Mobile diesel equipment used for construction and or maintenance must be compliance with State registration requirements. Portable and stationary diesel powered equipment must meet the requirements of the State Air toxic Control Measures for CI engines.
5. Maximum non-construction related sounds levels shall not exceed the noise standards of 57 dBA between (7am-10pm) and 50 DBA between (10pm-7am) at the property line, pursuant to the Lake County Zoning Ordinance.

**G. GEOLOGY & SOILS, HYDROLOGY & WATER QUALITY & PUBLIC HEALTH:**

1. All proposed development shall be a minimum of thirty (30) feet from the top of bank from all known waterways. Therefore, **prior to building permit submittal to the Community Development Department**, please clearly label the top of bank of all waterways and indicate with dimension that the proposed development will be a minimum of thirty (30) feet from the top of bank
2. **Prior to building permit submittal**, Engineered Drainage Plans and Calculations, including an Operation and Maintenance Plan shall be submitted to the Lake County Water Resources Department for review and approval. Said plans shall include a detention basin and detention basin shall be maintained for the life of the project.
  - *All new construction shall incorporate Best Management Practices (BMPs) to the maximum extent practicable to prevent or reduce discharge of all construction or post construction pollutants into the County storm drainage system and Clear Lake. Typical BMPs include scheduling of activities, temporary erosion and sediment control, operation and*

*maintenance procedures and other measures in accordance with Chapter 29 and 30 of the Lake County Code. The applicant shall contact the Water Resource Department at (707) 263-2344 for further details*

3. Prior to the issuance of building permit, the applicant shall submit Erosion and Sediment Control Plans to the Community Development Department **for review and approval**. *Said plans shall incorporate Best Management Practices (BMPs) to the maximum extent practicable to prevent and/or reduce discharge of all construction or post construction pollutants into the County Storm Drainage System and/or nearby waterways. Typical BMPs include scheduling of activities, erosion and sediment control, operation and maintenance procedures and other measures in accordance with Chapter 29 and 30 of the Lake County Code.* The post construction BMP's shall be maintained for the life of the project.
4. Prior to occupancy, a method of financing and performing the long term maintenance of the post construction BMP's in accordance with the approved operation and maintenance plan shall be established through a maintenance agreement or other means acceptable to the Department of Public Works.
5. Prior to issuance of the building permit, a grading permit must be applied for and obtained.
6. Prior to issuance of building permit, the permit holder shall comply with all of the requirements of the Southlake County Fire Protection District.
7. Prior issuance of a building permit, a food facility plan check must be approved by the Environmental Health Division.
8. Prior to occupancy, a food facility permit to operate must be obtained and an opening inspection completed by the Environmental Health Division.
9. If required, a General Construction Permit shall be obtained from the Central Valley Regional Water Quality Control Board. A copy of the Storm Water Pollution Prevention Plan (SWPPP) shall be submitted to the Lake County Community Development Department.

## **H. HAZARDS & HAZARDOUS MATERIALS**

1. The project shall comply with Section 41.7 of the Lake County Zoning Ordinance that specifies that all uses involving the use or storage of combustible, explosive, caustic or otherwise hazardous materials shall comply with all applicable local, state and federal safety standards and shall be provided with adequate safety devices against the hazard of fire and explosion, and adequate firefighting and fire suppression equipment.
2. All equipment shall be maintained and operated in a manner that minimizes any spill or leak of hazardous materials. Hazardous materials and contaminated soil shall be stored, transported, and disposed of consistent with applicable local, state and federal regulations.
3. The storage of hazardous materials equal to or greater than fifty-five (55) gallons of a liquid, 500 pounds of a solid, or 200 cubic feet of compressed gas, then a Hazardous Materials Inventory Disclosure Statement/Business Plan shall be submitted and maintained in compliance with requirements of Lake County Environmental Health Division. Industrial waste shall not be disposed of on site without review or permit from Lake County Environmental Health Division or the California Regional Water Quality Control Board. The permit holder shall comply with petroleum fuel storage tank regulations if fuel is to be stored on site. If the applicant increases hazardous materials storage, the applicant shall coordinate with Lake County Environmental Health Division to update their Hazardous Material Business Plan within sixty (30) of change and provided written verification to the Community Development Department.
4. The storage of any potentially hazardous materials, shall not be within 100 feet of any springs, top of bank of any creek or seasonal stream, edge of lake, delineated wetland or vernal pool. These materials shall not be allowed to leak onto the ground and/or contaminate any surface water.

5. Hazardous waste (including industrial waste) must be handled according to all Hazardous Waste Control and Generator regulations. Waste shall not be disposed of on site without review or permits from EHD, the California Regional Water Control Board, and/or the Air Quality Board. Collected hazardous or toxic waste materials shall be recycled or disposed of through a registered waste hauler to an approved site legally authorized to accept such material.

**I. TIMING & MITIGATION MONITORING:**

1. The permit holder shall permit the County of Lake or representative(s) or designee(s) to make periodic inspections at any reasonable time deemed necessary in order to assure that the activity being performed under authority of this permit is in accordance with the terms and conditions prescribed herein.
2. Prior to issuance of development permits, the applicant shall pay an annual compliance monitoring fee until all conditions are met.
3. This permit shall be null and void if not used within a two year period, or if the use is abandoned for a period of two (2) years.
4. This permit shall be valid for an indefinite period of time unless it expires or is revoked pursuant to the terms of this permit and/or Chapter 21 of the Lake County Code.
5. This permit may be revoked if the use for which the permit was granted is conducted as to be detrimental to the public health, safety, or welfare or as to be a nuisance. This permit shall be valid until it expires or is revoked pursuant to the terms of this permit and/or Chapter 21 of the Lake County Code.
6. **Prior to building permit final**, the applicant shall submit a summary response in writing establishing compliance with the approved conditions of approval, including dates of compliance and referencing documents and/or other evidence of compliance to the Community Development Department for review and approval, including scheduling an inspection with the Community Development Department to ensure all conditions of approval have been met.

Scott DeLeon, Interim Director  
COMMUNITY DEVELOPMENT DEPARTMENT

Prepared by: BT  
Modified by: EJP

By: \_\_\_\_\_  
Danae LoDolce, Office Assistant III

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ACCEPTANCE

I have read and understand the foregoing Minor Use Permit and agree to each and every terms and condition thereof.

Date: \_\_\_\_\_

\_\_\_\_\_  
Applicant or Authorized Agent Signature

\_\_\_\_\_  
Printed Name of Authorized Agent