

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

2
3 In the Matter of the Appeal)
4 of Lake County Local)
5 [AB 19-07]) FINDINGS OF FACT AND DECISION
6 _____)

7
8 These proceedings were commenced by virtue of an appeal of the Planning
9 Commission's determination on October 24, 2019, to approve a major use permit (UP
10 19-09) and an Addendum to the Environmental Impact Report (hereinafter, the "EIR") to
11 allow Valley Oaks Development to construct a retail store for Grocery Outlet (hereinafter,
12 for purposes of this appeal, the "Project") .

13 A duly noticed public hearing on the appeal scheduled before this Board was heard
14 on March 3, 2020, at which time, evidence, both oral and documentary, was presented.
15 Based upon the evidence and applicable law, we find the following:

- 16 1. That the Lake County Planning Commission held a noticed public hearing on
17 October 24, 2019, to consider the approval of Use Permit No. 19-09 and an
18 Addendum to the existing EIR to allow an 18,000 square-foot retail store for Grocery
19 Outlet.
- 20 2. That on October 24, 2019, the Planning Commission adopted the Addendum to the
21 EIR and approved Use Permit No. 19-09.
- 22 3. That the Project applicant is Valley Oaks Land Development and KIMCO
23 Development (hereinafter, the "Applicant" or "Owner"). That the Project site is
24 located at the intersection of Highway 29 and Hartmann Road, with a new access
25 road to be constructed named Oak Meadow Drive. The Project site is currently
26 zoned Planned Development Commercial and was previously analyzed by Specific
27 Plan of Development Use Permit No. 07-05, which included 120,000 square feet of
28

1 retail commercial. Use Permit No. 19-09, which is the subject of this appeal, is the
2 first Specific Subplan of Development for the Valley Oaks project. Although the
3 site may accommodate future additional commercial development, Use Permit No.
4 19-09 is for the Grocery Outlet store and the new access road.

5 4. That the Appellant is Lake County Local. The Appellant offers numerous bases for
6 this appeal: (1) Proper hearing notice was not provided to the local community; (2)
7 The grocery store usage presents an unreasonable fire hazard; (3) The project has
8 substantially changed from the project certified with the original EIR; (4) The project
9 is inconsistent with the Middletown Area Plan; (5) The project was put on hold by
10 the Hidden Valley Lake Community Services District; (6) The approval of Use
11 Permit 19-09 is not compliant with CEQA requirements until a revised EIR is drafted
12 and circulated for public comment; and (7) The approval of the amendments to the
13 EIR and Use Permit 19-09 each fails to implement all feasible operational mitigation
14 measures.

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

17 6. That no member of Lake County Local, the Appellant, offered testimony at this
18 hearing. This Board was not informed that any member of Lake County Local was
19 present for this hearing. Legal counsel for the Appellant, Robert Bone in association
20 with Tal C. Finney of the law firm Finney Arnold, LLP., did appear and offered oral
21 argument in addition to the written arguments submitted with the appeal and the
22 supplemental argument submitted to this Board on March 2, 2020.

23 7. That the Community Development Department presented testimony and
24 documentary evidence relevant to these proceedings including, but not limited to, a
25 power point and a staff report dated March 3, 2020, and Exhibits A1 through A12
26 thereto.

27 8. That legal counsel for Valley Oaks Land & Development, Inc. and KIMCO
28

Development, was present. George MacDonald of the firm Katzoff & Riggs, presented oral argument in addition to written argument submitted on or about December 5, 2019 and February 21, 2020, in support of the denial of this appeal. Additionally, Fletcher Thomson appeared in association with KIMCO Development.

10. Several members of the public testified to offer their support for this Project. No members of the public testified in opposition to this Project.

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

- a. That all the findings required for the issuance of a major use permit as described in Section 51.4 of the Lake County Zoning Ordinance are hereby made by this Board. This Board adopts the analysis and factual determinations of the Community Development Department as provided on pages 6 through 8 of the staff report dated March 3, 2020 regarding the findings required for the issuance of this major use permit.
- b. That this Board finds that sufficient information exists in the record of this matter to support the adoption of Addendum to the EIR for this Project. This Board hereby certifies that the Addendum to the EIR prepared by the Planning Division of the Community Development Department for the Valley Oaks Project, Phase One has been completed in compliance with CEQA requirements and Section 15164 of State CEQA Guidelines.
- c. That the Appellant has provided insufficient evidence to support any of its grounds for this appeal. As to each and every ground for appeal, this Board hereby adopts the responses presented by County staff on pages 2 through 5 of the March 3, 2020 staff report.

12. 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 other documentation submitted to this Board by the Appellant and

1 by the Project Applicant/Owner.

2 13. Based upon all the foregoing and for the reasons set forth hereinabove, this Board
3 denies the appeal of the Appellant Lake County Local.

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

7
8
9
10 Dated: _____

CHAIR, Board of Supervisors

11
12
13
14 ATTEST: CAROL J. HUCHINGSON
15 Clerk to the Board
16 of Supervisors

APPROVED AS TO FORM:

17 By: _____
18 Deputy

ANITA L. GRANT
County Counsel