

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

2
3 In the Matter of the Appeal of Maria Kann
4 and Associates

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6 **FINDINGS OF FACT AND DECISION**

7 [PL-25-198]

8 These proceedings were commenced by virtue of an appeal of the Planning Commission's
9 determination on May 22, 2025, to adopt a mitigated negative declaration and to approve a Major
10 Use Permit (PL-25-68) for (UP 23-09) request for commercial cannabis cultivation of 247,800 square
11 feet (sf) (5.69 Acres) outdoor canopy and a Type 13 Distribution, Self-transport license on a property
12 located at 10535 High Valley Road, Clearlake Oaks (APN: 006-004-22) (hereinafter, the "Project").

13 A duly noticed public hearing on the appeal scheduled before this Board was heard on
14 October 21, 2025 and continued for further hearing on December 9, 2025, at which times,
15 evidence, both oral and documentary, was presented. Based upon the evidence and applicable
16 law, we find the following:

- 17 1. That the Lake County Planning Commission held a noticed public hearing on May 22,
18 2025, to consider the adoption of a mitigated negative declaration and approval of a major
19 use permit (PL-25-68) for (UP 23-09), which, if approved, would allow commercial
20 cannabis cultivation of 247,800 square feet (sf) (5.69 Acres) outdoor canopy and a Type
21 13 Distribution, Self-transport license. The Project location is 10535 High Valley Road,
22 Clearlake Oaks (APN: 006-004-22).
- 23 2. That on May 22, 2025, the Planning Commission adopted Initial Study 23-20 and
24 mitigated negative declaration and approved Major Use Permit (PL-25-68) for (UP 23-
25 09).
- 26 3. That the Project applicant is Poverty Flats Ranch (Kurt Barthel and Robert Barthel) and
27 the property owner is Kurt Barthel.
- 28 4. That the Appellant is Maria Kann and Associates. The grounds provided as the basis for
 the appeal are summarized as follows:

- a. There were numerous legal violations, procedural errors, and public safety concerns, including, but not limited to:
 - i. Illegal grading and unpermitted land disturbance
 - ii. Multiple violations of PRC § 4290 and Title 14 Fire Safe Regulations (e.g., substandard access, insufficient turnarounds, improper road widths, lack of emergency egress)
 - iii. Failure to adequately assess environmental impacts pursuant to CEQA
 - iv. Inadequate or absent biological, hydrological, or archaeological studies
 - v. Cumulative traffic and safety impacts on substandard road networks
 - vi. Potential inconsistencies with General Plan land use and zoning policies
5. That the Board of Supervisors has conducted a de novo hearing in this matter as required by Section 58.34 of the Lake County Zoning Ordinance.
6. That the Appellant presented evidence and arguments both documentary and testimonial in support of this appeal. Additionally, prior to the first Board hearing on October 21, 2025, Appellant provided over forty (40) documents and exhibits as evidence in relation to the following concerns: access through federal lands, road safety, fire safety, grading non-compliance, procedural violations and irregularities under CEQA, biological resources, hydrology and water supply, cultural resources and tribal consultation, slopes and surveying, an undefined solar / electrical component in the Project, septic system, and Project wells.
7. That persons testifying in support of the appeal included Maria Kann and Thomas Lajick.
8. That the Community Development Department presented testimony and documentary evidence relevant to these proceedings including, but not limited to, the staff report dated May 22, 2025, and Exhibits A through E thereto. Mireya Turner, the Director of Community Development presented the Department's case. Community Development Associate Planner Max Stockton also testified.
9. That the evidence presented by the Community Development Department included the following:

- 1 a. In response to Appellant’s assertion of illegal grading and unpermitted land
2 disturbance, the Community Development Department presented evidence of the
3 following:
- 4 i. In 2022, following the Mendocino Complex Fire, the applicant submitted a
5 grading permit to facilitate the clearing and maintenance of the existing fire
6 break, along with improvements to the access road to meet Public Resource
7 Code (PRC) 4290, et seq. standards. Permit number (GR2212) was issued
8 on April 18, 2022, and was subsequently inspected by a grading inspector
9 in June of 2024. The inspection confirmed that the grading was completed
10 in compliance, with minor trenching conducted in accordance with the well
11 permit approved by Environmental Health on May 22, 2022.
- 12 b. In response to Appellant’s assertion of multiple violations of Public Resource
13 Code 4290 and Title 14 Fire Safe Regulations (e.g. substandard access, insufficient
14 turnarounds, improper road widths, lack of emergency egress), the Community
15 Development Department presented evidence of the following:
- 16 i. High Valley Road is a county-maintained road and a prescriptive right of
17 way; therefore, the road is open to all the public who wish to access the
18 road. Under PRC 4290, 4291 requirements must be met on interior
19 roadways of the project parcel, with County-maintained roads not requiring
20 alterations by the applicant. Staff conducted a site visit on June 3, 2025, to
21 High Valley Road to address concerns brought forth by the Appellant. A
22 sign located on High Valley Road reads, “Tractors-Semis Over 25 Feet
23 Kingpin to Rear Axle Not Advised.” The road is paved for approximately
24 3.7 miles to the Brassfield delivery and pickup driveway, where the road
25 pavement ends and the dirt road begins. Staff measured across portions of
26 the road around an S curve, from the shadow line to the edge of the road.
27 Portions of the corner are twenty feet and greater with a posted warning
28 sign of a 10 miles per hour advisory for this portion of the roadway. The

1 remainder of the dirt portion measured conservatively at eighteen to twenty
2 feet with a variety of turnouts and portions of the road measuring in excess
3 of thirty feet wide. The applicant has proposed interior roadway
4 improvements on the project parcel, as required by PRC 4290 and 4291
5 and has proposed the use of box trucks for delivery services rather than the
6 use of semi-trucks for the proposed cultivation operation.

7 c. In response to Appellant's assertion of failure to adequately assess environmental
8 impacts pursuant to CEQA, the Community Development Department presented
9 evidence of the following:

10 i. In compliance with CEQA, a Draft Initial Study/ Mitigated Negative
11 Declaration was prepared and circulated from January 9, 2025, to February
12 7, 2025. Mitigation measures were identified for Aesthetics, Air Quality,
13 Biological Resources, Geology/Soils, Hazards & Hazardous Materials,
14 Hydrology/ Water Quality, Noise, Transportation, Tribal Cultural
15 Resources, Utilities, Wildfire, and Mandatory Findings of Significance. All
16 impacts were determined to be reduced to less than significant with
17 mitigation measures implemented. Staff has followed CEQA regulations,
18 and the Draft Initial Study was adopted by the Planning Commission on
19 May 22, 2025.

20 d. In response to Appellant's assertion of inadequate or absent biological,
21 hydrological or archeological studies, the Community Development Department
22 presented evidence of the following:

23 i. Biological, hydrological, and archeological studies were prepared for the
24 project. While the botanical survey dated May 8, 2024, by Graening and
25 Associates, LLC, was not attached to the Planning Commission staff
26 report, it was included, reviewed, and referenced in the Draft Initial Study.
27 Staff also clarified this at the Planning Commission hearing.
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1 e. In response to Appellant's assertion of potential inconsistencies with General Plan
2 land use and zoning policies, the Community Development Department presented
3 evidence of the following:

4 i. A detailed analysis of the Project's consistency with the General Plan, Shoreline
5 Communities Area Plan, and Zoning was provided in the May 22, 2025, Planning
6 Commission Staff Report. In summary, pursuant to Article 27, Sec. 21-27.10, Sec.
7 27.11 Table B of the Lake County Zoning Ordinance, the cultivation of cannabis is
8 an allowable use within the "RL" Rural Lands upon securing a Minor/Major Use
9 Permit. In reference to the Lake County Zoning Ordinance Article 27, (at), 1.i. the
10 County requires a minimum 100-foot setback from all property lines of the subject
11 property, and minimum of 200-foot setback from all residences. There are
12 currently no off-site residences within 2,300 feet from the property lines, and
13 3,000 feet from the cultivation area. Additionally, Article 27, Sec. 21-27.10, (at),
14 3.iii.v. prohibits Commercial Cannabis Cultivation within 1,000 feet of
15 Community Growth Boundaries, licensed childcare facilities, churches, or youth-
16 oriented facilities. The closest community growth boundary is approximately 2.5
17 miles away, separated by rugged, mountainous terrain. The project meets these
18 setbacks. Consistent with the General Plan, the approval of the use permit would
19 allow both the agricultural industry and the cannabis industry to strengthen and
20 revitalize the overall community through promoting economic development.
21 Lastly, existing major use permits for cannabis have been approved in the area.
22 Therefore, the proposed project would not be an intrusion of a new incompatible
23 land use within the existing zoning and general pan designation of this area as it is
24 an allowable use.

24 10. That the Project Applicant's representatives presented testimony and documentary
25 evidence and specifically responded to the grounds offered for this appeal.

26 11. That this Board finds, based on the evidence and facts presented in this matter as follows:
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- 1 a. That all the findings required for the issuance of a major use permit as described in
2 Section 51.4 of the Lake County Zoning Ordinance are hereby made by this Board.
3 This Board adopts the analysis and factual determinations of the Community
4 Development Department staff report dated May 22, 2025, on pages 17 through 21
5 regarding the findings required for the issuance of this major use permit.
- 6 b. That this Board finds that sufficient information exists in the record of this matter
7 to support the adoption of the mitigated negative declaration. This Board adopts
8 those CEQA finding enumerated in the May 22, 2025 staff report at pages 19
9 through 20.
- 10 c. This Board hereby adopts the mitigated negative declaration for this Project and
11 grants Major Use Permit (PL-25-68) for (UP 23-09) based upon the findings
12 enumerated on pages 17 through 21 of the staff report dated May 22, 2025.
- 13 d. That the Appellant has provided insufficient evidence to support the grounds for
14 the appeal.
- 15 e. That this Board finds there is no substantial evidence in the record as a whole to
16 support a fair argument that the Project as revised and mitigated may have a
17 significant effect on the environment.
- 18 f. That this Board has considered and incorporates by reference the Community
19 Development staff memoranda and exhibits thereto submitted to this Board for the
20 hearing, as well as other documentation, evidence, and comments submitted to this
21 Board.

22 12. Based upon all the foregoing and for the reasons set forth hereinabove, this Board denies
23 the appeal of the Appellant Maria Kann and Associates.

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

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5 Dated: _____

CHAIR, Board of Supervisors

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7 ATTEST: SUSAN PARKER
8 Clerk to the Board of Supervisors

APPROVED AS TO FORM:

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10 By: _____

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LLOYD C. GUINTIVANO
County Counsel