



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 6/26/2007

Agenda Placement: 9B

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors

FROM: Robert Westmeyer - County Counsel
County Counsel

REPORT BY: Sora O'Doherty, Paralegal - 251-1090

SUBJECT: Initiative Measure to allow Deli and Wine Tasting at Stanly Lane Marketplace: Receive staff report ordered prepared pursuant to Section 9111 of the Elections Code and take related actions.

RECOMMENDATION

County Counsel requests that the Board take the following actions:

1. Receive from staff the report the Board ordered prepared pursuant to Section 9111 of the Elections Code discussing the "Initiative Measure to Allow Deli and Wine Tasting At the Stanly Lane Marketplace".
2. Take one of the following actions:
 - a) Adopt the "Initiative Measure to Allow Deli and Wine Tasting At the Stanly Lane Marketplace" without alteration; or
 - b) After entering the appropriate letter designating the initiative measure as "J" or "K", adopt the proposed resolution ordering a special election and placing the "Initiative Measure to Allow Deli and Wine Tasting At the Stanly Lane Marketplace" on the ballot of the next statewide general election to be held on February 5, 2008, for the purpose of enabling the people of Napa County to approve or reject the initiative.

EXECUTIVE SUMMARY

At the meeting of June 5, 2007, the Board accepted the certification of the Registrar of Voters. That certification indicated that the initiative petition submitted by the proponents of that initiative measure entitled "Initiative Measure to Allow Deli and Wine Tasting At the Stanly Lane Marketplace" (hereafter the "Stanly Lane Deli Initiative") was signed by voters not less in number than 20 percent of the entire vote cast within Napa County for all candidates for Governor at the last gubernatorial election preceding the publication of the notice of intention to circulate the Stanly Lane Deli Initiative.

This certification required the Board to call an election, adopt the Stanly Lane Deli Initiative, or order the preparation of a report pursuant to Elections Code section 9111 to be returned to the Board within 30 days. On June 5, 2007, the Board voted to have staff prepare a report pursuant to Elections Code section 9111. Because there is no Board

meeting on July 5, 2007, the due date of the report is June 26, 2007.

Upon receipt of the report, the Board is required to take one of the following actions: (1) adopt the initiative ordinance without alteration on June 26, 2007 or at a special meeting to be called on or before July 6, 2007, or (2) place the matter on the February 2008 ballot, or (3) hold a special election in September or October of 2007 in lieu of waiting until the February 2008 presidential primary.

If placing the matter on the ballot the Board should adopt the attached resolution after receiving input from the Registrar of Voters and entering the appropriate letter designation the Registrar of Voters has determined should be utilized on page 3 of the resolution.

FISCAL IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No
What is the revenue source?	General Fund. If the Board orders that a special election be held and consolidates it with the Presidential Primary Election on February 5, 2008, the County may be required to pay as much as 85% of the total cost of the election. This 85% cost is estimated to be \$255,000. There is no guarantee, however, that the State will pay for the entire election if there are no local measures. If the Board orders that a special election be held not earlier than 88 days or later than 103 days following the date the Board makes the order, and therefore does not consolidate the special election with the Presidential Primary Election on February 5, 2008, the cost of the election will be approximately \$300,000.
Is it Mandatory or Discretionary?	Mandatory
Is the general fund affected?	Yes
Future fiscal impact:	There will be no future impact since this initiative is not expected to generate a later initiative. The costs of processing applications should this initiative pass are expected to be fully recovered by the application fees imposed.
Consequences if not approved:	The County will be exposed to costly litigation if it fails to comply with the mandatory requirements of Election Code section 9116. The county, more likely than not, will be required to pay the attorney fees of any successful plaintiff as well as conduct the election on a timetable established by the court.
Additional Information:	None.

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: None required regardless of the Board's decision. [Ordering that an election be held as a result of the gathering of sufficient signatures pursuant to Elections Code section 9116 is a ministerial act and therefore not subject to CEQA [*Friends of Sierra Madre v. City of Sierra Madre* (2001) 25 Cal.4th 165, 189]; Adopting an initiative ordinance in lieu of conducting an election is ministerial and therefore not

subject to CEQA [*Native American Sacred Site and Environmental Protection Association et al. v. City of San Juan Capistrano* (2004) 120 Cal.App.4th 961, 969]].

BACKGROUND AND DISCUSSION

At the meeting of June 5, 2007, the Board accepted the certification of the Registrar of Voters. That certification indicated that the initiative petition submitted by the proponents of that initiative measure entitled "Initiative Measure to Allow Deli and Wine Tasting At the Stanly Lane Marketplace" (hereafter the "Stanly Lane Deli Initiative") was signed by voters not less in number than 20 percent of the entire vote cast within Napa County for all candidates for Governor at the last gubernatorial election preceding the publication of the notice of intention to circulate the Stanly Lane Deli Initiative.

If an initiative petition achieves the 20 percent signature level the requirements found in Section 9116 are applicable. Section 9116 requires that the Board on June 26, 2007 take one of the following actions:

- (1) adopt the initiative ordinance without alteration or within 10 calendar days; or
- (2) order a special election in the manner required by Section 1405 of the Elections Code.

Elections Code Section 1405 provides that a special election must be held not less than 88 days and not more than 103 days following the order of election. However, there is an exception to this requirement which is applicable here. The special election may be consolidated with a previously scheduled regular election if the date on which the special election is required to be held is within 180 calendar days of that previously scheduled regular election. The two possible dates on which the special election would normally have to be held are September 25th or October 2nd. Both of those dates are within 180 calendar days of the Presidential Primary on February 5, 2008. Therefore the exception applies and the Board may either schedule a special election on September 25th or October 2nd or, alternatively, may consolidate the special election with the Presidential Primary if it decides to hold an election rather than adopt the proposed Stanly Lane Deli Initiative.

Alternative Actions One of Which Is Required

Alternative #1: Adopt the initiative ordinance a copy of which is attached. The initiative ordinance may be adopted immediately following its introduction as authorized by Elections Code section 9116 and Government Code sections 25123/25131.

Alternative #2: Order an election by adopting the attached Resolution after inserting an appropriate letter designation to identify the measure. The Registrar of Voters has the responsibility to determine the appropriate letter to be used pursuant to Elections Code section 13116.

The election at which the initiative must appear on the ballot is the February Presidential Primary election, which will be conducted on February 5, 2008, unless the Board orders a special election to be held on Tuesday September 25, 2007 or Tuesday October 2, 2007. During the last election cycle, the Board concluded that the entire text of initiatives should routinely be printed in the ballot materials, and the attached resolution so provides.

SUPPORTING DOCUMENTS

- A . Resolution Calling Election
- B . Stanly Lane Ordinance To Be Voted On
- C . Stanly Lane Deli Initiative 9111 Report
- D . Stanly Lane Pumpkin Patch Summary of Authorized Uses

CEO Recommendation: Approve

Reviewed By: Molly Rattigan

**Section 9111 Report Regarding the
“Stanly Lane Deli Ordinance”
Proposed for Napa County California**

June 19, 2007

Prepared by the Napa County Planning Department

Introduction

This report evaluates the potential impacts of the “Stanly Lane Deli Ordinance,” an initiative that has qualified for the ballot in Napa County, California. (The full text of the proposed initiative is included as Appendix A.)

If passed, the initiative would amend the Napa County General Plan and Title 18 of the Napa County Code (Zoning) to allow “delicatessens with outdoor barbeque” and “wine tastings” at lawfully existing produce stands within any zoning district with a Produce Stand (:PS) overlay zoning if a use permit is granted by the County. At present there is only one such produce stand in unincorporated Napa County -- the Stanly Lane Pumpkin Patch at 3100 Golden Gate Drive off of Highway 12/121, south of the City of Napa.

When an initiative is circulated and qualifies for the ballot, Section 9111 of the California Elections Code authorizes the Board of Supervisors, prior to deciding whether to adopt the initiative without change or to order an election, to request a report regarding the potential impacts of the initiative. (Section 9111 is reproduced in full in Appendix B.)

On June 5, 2007, the Napa County Board of Supervisors requested County staff to prepare an analysis of the proposed “Stanly Lane Deli Ordinance” and to address how the use permit requirement included in the proposed initiative would be implemented. Specifically: (1) whether a use permit could include penalties for non-compliance; (b) whether the proposed initiative would permit only the specified land uses, and how those uses would be defined; and (c) whether the use permit could impose conditions on lawfully pre-existing uses of the site. This report has been prepared under that direction and will be presented to the Board at its regularly scheduled meeting of June 26, 2007.¹

¹ An audio recording of the Board’s June 5, 2007 discussion is available from the Clerk of the Board of Supervisors, 1995 Third Street, Napa.

Background

The proposed initiative would amend Napa County's General Plan and Title 18 (Zoning) of the Napa County Code in a manner that requires voter approval due to the passage of Measure J (1990) and Measure Z (1996). Both of these past initiatives are described below, together with past and present operations at the Stanly Lane Pumpkin Patch.

A. Measure J (1990) & Measure Z (1996)

Napa County's Agricultural Lands Preservation Initiative, also known as Measure J, was approved by County voters on November 6, 1990. Measure J prevents the re-designation of parcels classified as Agricultural Resource or Agriculture, Watershed, and Open Space to another use through the year 2020 unless such designation is first approved by the voters. The text of Measure J is included in the Land Use Element of the Napa County General (p. 2-42), and further states "provisions governing the intent and maximum building intensity for lands designated 'Agriculture, Watershed and Open Space'... shall not be amended unless such amendment is approved by vote of the people."

Due to enactment of Measure J, the owner of a pre-existing pumpkin and Christmas tree lot on Stanly Lane was unable to seek rezoning of his property without a vote of the electorate. Thus, when the property owner wished to expand his business to include retail sales of other agricultural products, he proposed the Stanly Lane Pumpkin Patch Initiative, also known as Measure Z. Measure Z was approved by County voters on November 5, 1996 and established an Agricultural Produce Stand (:PS) Combination zoning district (Section 18.102 of the Zoning Ordinance). The initiative re-zoned the owner's parcel from Agriculture Watershed (AW) to AW:PS and permitted establishment of a store, known as the Stanly Lane Marketplace. There are no other parcels in the County currently zoned AW:PS, and no agricultural parcels could be zoned as such without a vote of the electorate pursuant to Measure J.

B. The Stanly Lane Pumpkin Patch

The Stanly Lane Pumpkin Patch is located at 3100 Golden Gate Drive south of the City of Napa (Assessor's Parcel Number 47-230-34) and originated as a seasonal pumpkin stand and Christmas tree lot. Following approval of Measure Z, the Stanly Lane Marketplace was legally established on site, and Section 18.102.020 of the Napa County Code explicitly permitted the following uses:

- All principally permitted uses (i.e. uses permitted without a use permit) within in the underlying (in this case the AW) zoning district;
- All uses allowed with a use permit within the underlying (in this case the AW) zoning district; and
- Sale of "agricultural produce, fruits, vegetables and Christmas trees, grown on or off premises, and items related thereof, and construction of buildings to accommodate such sales, as well as the recreational and educational use by children of animals, such as children's pony rides and petting zoos, and buildings necessary to house such animals."

In practice, the definition of “items related thereof,” and therefore the list of what products can be sold on site, has been a matter of some discussion between the County Planning Department and the property owner. In the course of one such discussion, the parties collaborated on an explicit list of authorized uses intended to clarify the applicable code section. This list is attached as Appendix C.

According to the proposed initiative, the Stanly Lane Marketplace currently sells “agricultural produce, fruit, vegetables, coffee, beer, wine and other agriculture-related items.” It also has a “farmer’s market” four days per week and “cold storage for grape rootstock.”

In April 2006, the property owner submitted a sign permit application to legalize several on-site signs constructed without authorization. The owner has also recently been utilizing a trailer parked off-site in the public right-of-way as mobile billboard in conflict with County Code, and was informed that such signage is not permitted. The owner has a pending application (submitted in October 2006) to correct a grading violation (related to construction of a berm), and has not yet addressed comments from the County and the State (Caltrans) necessary to rectify the violation. The property owner is also required to submit a building permit application for a modular office building recently installed without permits, and may be selling items (i.e. furniture) that are not on the list of authorized uses referred to above.

The Proposed Initiative

The proposed initiative (reproduced in Appendix A) would permit the following as accessory uses after the property owner applied for and obtained a use permit from the County:

- Delicatessens with outdoor barbeque; and
- Wine tastings

None of these terms are explicitly defined in the County’s zoning ordinance, although the definition of “wine tasting” would also fall within the State’s purview.²

With no local definition of the term “delicatessen,” drafters of the initiative clearly intend it to encompass on-site preparation of salads and sandwiches for sale. (See proposed initiative Section 2(B).) This implies that the property owner will propose construction of a commercial kitchen, but leaves unanswered how the methods of food preparation and/or food service will

² Neither the Alcoholic Beverage Control Act (Division 9 of the CA Business and Professions Code) nor the California Code of Regulations specifically define how much wine constitutes a “taste,” however, ABC rules define “winetasting” as follows: “A winetasting is a presentation of samples of one or more wines, representing one or more wineries or industry labels, to a group of consumers for the purpose of acquainting the tasters with the characteristics of the wine or wines tasted.” The rule continues: “Licensees may engage in winetasting activities only as set forth in this rule. In addition to furnishing wines as provided herein, licensees may supply small amounts of bread, crackers, cheeses or nuts to clear the taste buds of the participants between successive samples of wine during a winetasting.”

differentiate the “delicatessen” from a conventional restaurant or café, or how food service will interact with the State’s definition of “winetasting” referenced above. (i.e. Will the property owner seek a license from the State for “winetasting” or for sale of wine and beer to delicatessen customers for use on- or off-site?)

According to the Merriam Websters on-line dictionary, the term “delicatessen” means “ready-to-eat food products (as cooked meats and prepared salads);” or “a store where delicatessen are sold.” There are several examples of “delicatessen” uses in Napa County, all of which are located on land with Commercial zoning. Examples include V. Satui and Dean and Deluca, both located on Highway 29 south of St. Helena, the Soda Canyon Store on Silverado Trail at Soda Canyon Road, and the Wagonwheel located on SR121 near Altas Peak Road.

Based on these examples and unanswered questions, the term “delicatessens” will clearly require some interpretation by County decision makers during consideration of the use permit called for in the proposed initiative. The term might also benefit from the addition of a definition to County Code (i.e. a text change to the zoning ordinance requiring Board of Supervisors approval following a Planning Commission recommendation). If a definition were added to County Code before the property owner applied for a use permit for a delicatessen under the proposed initiative, the new definition would apply to his use.

“Accessory use” is defined in County Code Section 18.08.020 as a “use subordinate to the main use [i.e. the produce stand and its authorized uses] and customarily a part thereof. An accessory use must be clearly incidental, related and subordinate to the main use, reasonably compatible with the other principal uses, etc.” Interestingly, “where the zoning regulations . . . specifically identify the accessory uses which are permitted in conjunction with a primary use in that zoning district, no other accessory uses in conjunction with the primary use will be permitted.” County decision maker will want to consider the terms “incidental” and “subordinate” when reviewing the use permit called for in the proposed initiative, and possibly develop conditions of approval to ensure that the wine tasting and “delicatessens with outdoor barbeque” do not predominate.

Procedures governing application for and processing of use permits are contained in County Code Chapter 18.124. In general, the property owner submits an application to the Planning Department (Section 18.124.020), the Planning Department then performs environmental review and prepares a staff recommendation, and the Planning Commission considers the materials at a noticed public hearing (Section 18.124.040). The Planning Commission typically applies conditions of approval (Section 18.124.060), and issues a use permit if required findings can be made (Section 18.124.070). The Planning Commission’s decision may be appealed to the Board of Supervisors (Napa County Code Section 2.88).

Questions Regarding Implementation of the Proposed Initiative

Consistent with Elections Code Section 9111(a)(8), the Napa County Board of Supervisors requested County staff to assess how the proposed “Stanly Lane Deli Ordinance” initiative would be implemented. Specifically, the Board questioned: (1) whether a use permit could include penalties for non-compliance; (b) whether the proposed initiative would permit only the specified land uses, and how those uses would be defined; and (c) whether the use permit could

impose conditions on lawfully pre-existing uses of the site. These questions are addressed sequentially, below.

A. Can Penalties be Imposed for Non-Compliance with a Use Permit?

Pursuant to Napa County Code Section 18.124.060, the County has the ability to impose conditions related to a wide variety of subjects on any use permit in order to protect public health, safety or welfare. Thus, if the proposed initiative is adopted by the voters and the property owner then applies for a use permit to allow a deli with outdoor barbeque and wine tasting, the County's decision makers (the Planning Commission or the Board of Supervisors on appeal) would have the ability to craft and impose project-specific conditions. Conditions must be reasonably related to the approval sought by the applicant.

Typical examples of conditions include hours of operation, landscaping, number of seats, lighting, traffic, handling of refuse, sanitation system design, parking and loading, noise compliance, mitigation of environmental impacts and/or screening from adjacent uses. For example, the County could attach conditions limiting the hours of operation of the deli to 9AM to 5PM or addressing other matters of concern, so long as any conditions bore a reasonable relationship to the use permit findings (e.g. that the project "will not adversely affect the public health, safety or welfare"). Please see Subsection C, below, for more discussion of the relationship between conditions of approval and the permit being requested.

In some instances involving persistent code violations, the Commission has also imposed reporting requirements and/or required a third party to monitor compliance with the imposed conditions. Third party monitors are typically approved by the County and compensated via a monitoring fund paid for by the applicant. Compliance reports are submitted to the Planning Department and Planning Commission for review.

Remedies provided in the County Code for non-compliance with use permit conditions are revocation, modification, or suspension of the permit following a noticed public hearing (Section 18.124.120) and due process before the Planning Commission. Alternatively, some use permit violations may be referred to the District Attorney's office for initiation of an unlawful business practices act case.

B. What Uses would be Permitted?

As discussed in the description of the proposed initiative above, the Stanly Lane Deli Ordinance, if adopted by the voters, would allow the property owner to supplement existing legally permitted uses on the site with two accessory uses if a use permit is granted by the County. The accessory or subordinate uses would be: (1) a delicatessen with outdoor barbeque; and (2) wine tasting. The definition and intensity of these uses would be a matter of interpretation for County decision makers.

Legally permitted uses on the site were established via Measure Z in 1996 and clarified via the summary of authorized uses developed by the Planning Department in collaboration with the

property owner in 2002. Appendix C lists those uses that were approved via Measure Z as later interpreted or clarified administratively, and that are allowed as a matter of right; they are not the subject of a use permit.

The new accessory uses that would be permitted under the proposed initiative would have to remain “subordinate” and “incidental” to other legally permitted uses on the site, but are not explicitly defined in the Zoning Ordinance. Areas that may require interpretation by County decision makers include the amount of food preparation space permitted, the extent of interior and exterior seating areas, and other characteristics that might contribute to the “delicatessen” and/or possibly distinguish it from a café or restaurant. As long as the County’s interpretation of the accessory uses allowed are reasonable and consistent with the text of the initiative, a court would defer to the County’s interpretation and the County’s interpretation would likely be upheld.

C. Can a Use Permit Impose Conditions on Pre-Existing Uses?

In general, use permit conditions must bear a reasonable relationship to the permit being granted. Thus, in considering a use permit for accessory uses (deli and wine tasting) under the proposed ordinance, County decision makers would be able to attach conditions to these new uses; existing activities at the Stanly Lane Marketplace would be required to comply with existing regulations.

In practice, some use permit conditions that apply to the newly proposed use could affect existing permitted uses or the site as a whole since it might be difficult to implement them otherwise. For example, if County decision makers imposed a condition requiring provision of ample trash receptacles, that condition would logically apply to the entire site because the trash receptacles would likely serve existing uses.

Also, it is common for County decision makers to request, and for project applicants to agree, to conditions that apply to existing operations on a project site. For example, a property owner that is requesting a use permit for a winery may agree to screen pre-existing legal uses from adjacent neighbors. The property owner’s agreement to modify a pre-existing legal use is voluntary, however, and only becomes binding once the use permit is approved with that condition (unless the use permit is subsequently modified to eliminate the condition).

Appendix A: Text of the Proposed Initiative



DICKENSON, PEATMAN & FOGARTY
A Professional Law Corporation

THOMAS F. CAREY
tfc@dpfna.com

September 22, 2006

401 Coombs Street
Napa, CA 94559-2937
Tel: 707 253 7123
Fax: 707 253 6836
www.dpfna.com

Napa County Elections Department
900 Coombs Street, Room 256
Napa, CA 94559

Re: Notice of Intent To Circulate Petition

To Whom It May Concern:

This office represents Billy Wilcoxson, the proponent of an initiative measure to be submitted to a vote of the people of Napa County. Pursuant to Elections Code section 9103, we are filing the Notice of Intent to Circulate Petition with the full written text of the proposed initiative and check in the amount of \$200.00.

Pursuant to Elections Code section 9105 please forward the notice and text immediately to County Counsel for preparation of the ballot title and summary within 15 days of this filing. Thank you for your courtesy and cooperation.

Sincerely,

DICKENSON, PEATMAN & FOGARTY

Thomas F. Carey

David W. Meyers
Francis J. Collins, Jr.
Charles H. Dickerson
Paul G. Carey
Richard P. Mendelson
Cathy A. Roche
James W. Terry
Stan D. Bayth
Thomas F. Carey
Markus J. Eberberg
Kathy W. Torgue
Michael J. Holman
David A. Diamond
J. Scott Goren
Jill Karamia Albino
Kerla D. DeBened
David Baker
Michael P. Maher
Megan Farigan Hady
J. Robert Anglin, Jr.

Of Counsel
C. Richard Lenoir

Retired
Howard G. Dickinson
Joseph G. Portman
Walter J. Fogarty, Jr.

TFC:bab
Enc.

FILED

SEP 22 2006

JOHN TUTTLE
Napa County Recorder-Clerk
By _____
DEPUTY RECORDER - CLERK

Notice of Intention to Circulate Petition

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the petition within the County of Napa for the purpose of enacting an ordinance that will amend the Agricultural Produce Stand (PS) combination zoning district to allow the Stanly Lane Pumpkin Patch and Marketplace to apply for a conditional use permit for a deli, outdoor barbeque, and winetastings on the property.


A statement of the reasons of the proposed action as contemplated in the petition is as follows:

In 1996 the voters of Napa County approved Measure Z, which rezoned the Stanly Lane Pumpkin Patch at 3100 Golden Gate Drive, Napa, to a new "Agricultural Produce Stand" (PS) combination zoning district. This vote enabled the patch to continue to operate its popular Halloween pumpkin and Christmas tree lots and to open a small store, the Stanly Lane Marketplace, selling agricultural produce, fruit, vegetables, coffee, beer, wine and other agriculture-related items. The property also has a farmer's market four days a week and cold storage for grape rootstock.

Many of the customers of the Stanly Lane Marketplace live or work in the southern Napa and Carneros areas. The Stanly Lane Marketplace is the only place near their homes and workplaces to get lunch, but the existing store is limited to salads and sandwiches prepared off-site. This Initiative would allow the Marketplace to request a County use permit to open a deli on the property. This will allow sandwiches to be made-to-order on-site and foods to be grilled on an outdoor barbeque. The Initiative also will allow customers to taste the many local wines sold at the store, helping to promote Napa County's primary agricultural product.

A vote yes on this Initiative will help keep a local tradition alive for future generations of locals, visitors and anyone who enjoys a true "country store" experience.

The proponents of the Initiative request that a ballot title and summary be prepared.



William Wilcoxson
3100 Golden Gate Drive
Napa, California 94558

The written text of the initiative is as follows:

**INITIATIVE MEASURE TO ALLOW DELI AND WINE TASTING
AT THE STANLY LANE MARKETPLACE**

TO THE BOARD OF SUPERVISORS OF NAPA COUNTY:

We, the undersigned, registered and qualified voters of the County of Napa, hereby present this petition and request that you immediately submit the following Initiative to a vote of the people at a special election pursuant to California Elections Code section 9116 or its successor section.

The text of the Initiative is as follows:

The people of the County of Napa do hereby ordain as follows:

Section 1. Title. This ordinance shall be known and may be cited as the "Stanly Lane Deli Ordinance" (hereinafter "Ordinance").

Section 2. Purpose and Intent. The people of the County of Napa find and declare all of the following:

A. In 1996, the voters of Napa County approved Measure Z, which rezoned the Stanly Lane Pumpkin Patch at 3100 Golden Gate Drive, Napa, to a new "Agricultural Produce Stand" (:PS) combination zoning district. This vote enabled the patch to continue to operate its popular Halloween pumpkin and Christmas tree lots and to open a small store, the Stanly Lane Marketplace, selling agricultural products, fruit, vegetables, coffee, beer, wine and other agriculture-related items. The property also is home to a farmer's market four days a week and cold storage for grape rootstock.

B. Many of the customers of the Stanly Lane Marketplace live or work in the southern Napa and Carneros areas. The Stanly Lane Marketplace is the only place near their homes and workplaces to get lunch. Unfortunately, their choices are limited as the existing store can only sell salads and sandwiches prepared off-site.

C. This Ordinance would allow the owner to request a County use permit to open a deli on the property. This will allow salads and sandwiches to be made-to-order on-site and foods to be barbecued on an outdoor grill. The Ordinance also will allow customers to taste the many local wines sold at the store, helping to promote Napa County's primary agricultural product.

D. This Ordinance only applies to parcels with :PS zoning. The Stanly Lane Pumpkin Patch parcel is the only property in the County with this zoning.

Section 3. Zoning District Regulations.

Chapter 18.102 of the Napa County Code shall be amended to add a new Section 18.102.040 as follows:

18.102.040 Uses Allowed Upon Grant of a Use Permit.

The following uses may be permitted on a parcel within a PS zoning district, when accessory to an agricultural produce stand lawfully existing thereon, upon grant of a use permit pursuant to Section 18.124.010.

1. Delicatessens with outdoor barbeque;
2. Wine tastings.

Section 4. General Plan Amendment. Commercial Policy 5.4 of the Land Use Element of the Napa County General Plan is hereby amended to add a new subsection to read in full as follows:

A parcel which is zoned as an agricultural produce stand combination district and which is the location of an existing agricultural produce stand may be allowed to establish accessory delicatessen, outdoor barbeque and wine tasting uses.

Section 5. Complementary Measures or Ordinances. The provisions of this Ordinance are not intended to, and shall not supplant or negate, the application of any other County ordinances and regulations, now existing or adopted in the future, that are not inconsistent herewith. The provisions of this Ordinance and those of any other County ordinances, regulations, and initiatives shall, whenever reasonably possible, be construed to be compatible.

Section 6. Amendment.

- A. Except as provided in subsections (B) and (C) below, this Ordinance may be amended only by a vote of the people.
- B. By majority vote the Napa County Board of Supervisors may amend this Ordinance to renumber or consolidate any of its provisions where logical or desirable so as to integrate them with other consistent provisions of the Napa County Code, or may enact non-substantive changes to this Ordinance for the purpose of ensuring that this Ordinance is consistent with the Napa County General Plan and that the General Plan is internally consistent and correlated.
- C. To the extent that any definition or other provision set forth herein needs to be modified or amended to comply with any applicable State or Federal law, definition or regulation, it shall be deemed so amended without any further action being necessary, to the greatest extent permitted by law.

Section 7. Effective Date. The effective date of this Ordinance shall be as provided in California Elections Code section 9122.

Appendix B: Text of Elections Code Section 9111

§ 9111. Report from county agencies on effect of proposed initiative measure

(a) During the circulation of the petition or before taking either action described in subdivisions (a) and (b) of Section 9116, or Section 9118, the board of supervisors may refer the proposed initiative measure to any county agency or agencies for a report on any or all of the following:

- (1) Its fiscal impact.
 - (2) Its effect on the internal consistency of the county's general and specific plans, including the housing element, the consistency between planning and zoning, and the limitations on county actions under Section 65008 of the Government Code and Chapters 4.2 (commencing with Section 65913) and 4.3 (commencing with Section 65915) of Division 1 of Title 7 of the Government Code.
 - (3) Its effect on the use of land, the impact on the availability and location of housing, and the ability of the county to meet its regional housing needs.
 - (4) Its impact on funding for infrastructure of all types, including, but not limited to, transportation, schools, parks, and open space. The report may also discuss whether the measure would be likely to result in increased infrastructure costs or savings, including the costs of infrastructure maintenance, to current residents and businesses.
 - (5) Its impact on the community's ability to attract and retain business and employment.
 - (6) Its impact on the uses of vacant parcels of land.
 - (7) Its impact on agricultural lands, open space, traffic congestion, existing business districts, and developed areas designated for revitalization.
 - (8) Any other matters the board of supervisors request to be in the report.
- (b) The report shall be presented to the board of supervisors within the time prescribed by the board of supervisors, but no later than 30 days after the county elections official certifies to the board of supervisors the sufficiency of the petition.

***Appendix C: Stanly Lane Pumpkin Patch: Summary of Authorized
Uses (10-31-02)***

[included as a separate attachment]

STANLY LANE PUMPKIN PATCH
Summary of Authorized Uses*
(10-31-02)

Category 1	Category 2	Category 3	Category 4	Category 5	Category 6
Agricultural Produce	Agriculture-Related Food Products	Agriculture-Related Non-food Items	Seasonal Items related to Halloween, Thanksgiving, Christmas and Other Holiday Traditions	Refreshments for Agricultural Produce Stand and Christmas Tree Lot Patrons	Not Permitted
Fruits, Nuts & Vegetables	Canned or Dried Fruits, Nuts & Vegetables; Prepared Foods, including repacking of fruits, vegetables, nuts.	Agriculture-related Decorative Items, Grapestick bundles, Wreaths, Gourds, Dried Indian Corn, Baskets, Candles	Items will vary by season	Fruit Juice, Soda & Water, Coffee & Tea, Cider, Wine & Beer	Tourist Information facilities
	Olive Oils, Grape Seed Oil, Vinegars, Relishes, Spreads, Tapenades	Vegetable-based Soaps, Lotions & Bath Products			Restaurant, Deli, Wine Tasting and Bars & Taverns
Flowers & Potted Herbs	Dried Herbs, Mustards & Condiments	Lavender bundles, dried flowers, garden supplies			Indoor seating for food or drink
Grains	Pastas & Breads, Cookies & Chips	Wheat bundles			
	Coffee & Tea	Agriculture-related utensils, bowls & kitchen accessories, picnic supplies			
	Sauces, Marinades & Rubs	Books related to growing & cooking agricultural products			Books not related to agriculture, cooking, or eating

	Honey Sticks and Candies	Agriculture-related minerals, salts and mineral water			
	Jams, Jellies, Honey, Syrup				
Products of following local suppliers (partial list):	Amaz'n Graz'n Napa Valley (Canned Vegetables) B-Boys Napa Valley (Honey Products) Harms Vineyards Napa Valley Napa Nuts (Nuts) Napa Valley Lavender Company (Lavender Soaps & Bath Products) Hurley Farms, Napa St. Helena Olive Oil Company (Olive Oils, Grapeseed Oils & Vinegars) Tulocay's Napa Valley (Sauces, Condiments) Wine Country Kitchens (Sauces, Condiments)				
10/31/02					

* Summary of Authorized Uses reflect uses associated and within 1,750 sq. ft. portion of an existing agricultural building. Additional uses or future expansion of real property improvements will be evaluated for consistency with Measure Z – Stanley Lane Pumpkin Patch Initiative enacting Napa County Ordinance No. 96-3