



A Tradition of Stewardship
A Commitment to Service

Agenda Date: 2/2/2010
Agenda Placement: 7L

NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Westmeyer, Robert - County Counsel
County Counsel
REPORT BY: Laura Anderson, Deputy County Counsel - 259-8252
SUBJECT: Compliance with Writ of Napa Superior Court Regarding Rehearing of Lake Luciana Appeal

RECOMMENDATION

County Counsel requests adoption of a Resolution which will (1) set aside the Board's October 27, 2009, decision to rescind Resolution No. 09-90 adopted on June 30, 2009, which had denied the Lake Luciana appeal and upheld the Planning Commission's decision denying the Lake Luciana use permit/project, (2) cancel the previously scheduled rehearing of the Lake Luciana appeal and (3) recognizing that due to these two actions the decision on the Lake Luciana use permit/project continues to be Resolution No. 09-90.

EXECUTIVE SUMMARY

The Court of Appeal denied the County's Extraordinary Writ and Stay request that would have overturned the decision of the Napa Superior Court that a rehearing the Lake Luciana appeal cannot occur. To comply with the Napa Superior Court's order, a resolution needs to be adopted rescinding the decision of the Board rescinding Resolution No. 09-90 and formally canceling the rehearing on the appeal. The proposed Resolution will rescind the Board's action on October 27, 2009, cancel the rehearing on the appeal, thereby resulting in Resolution No. 09-90 denying the Lake Luciana appeal and upholding the Planning Commission's denial of the Lake Luciana project continuing to be the controlling document.

FISCAL IMPACT

Is there a Fiscal Impact? No

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

On January 19, 2010, the Napa County Superior Court issued a Peremptory Writ commanding the Board of Supervisors to set aside its decision of October 27, 2009 which rescinded Resolution No. 09-90. Resolution No. 09-90 denied the Lake Luciana appeal and upheld the decision of the Conservation, Development and Planning Commission denying the Lake Luciana use permit/project.

On January 22, 2010, the County filed an Extraordinary Writ in the Court of Appeal seeking to overturn the Superior Court's decision. On January 26, 2010, the County was notified that the Court of Appeal had denied the Extraordinary Writ. The County will not be appealing the above referenced decision of the Napa Superior Court and thus complying with the Writ is now required.

The attached Resolution, when adopted, will comply with the directives contained in the Peremptory Writ. Adoption of the proposed Resolution will (1) set aside the Board's October 27, 2009, decision to rescind Resolution No. 09-90 adopted on June 30, 2009, which had denied the Lake Luciana appeal and upheld the Planning Commission's decision denying the Lake Luciana project, (2) cancel a rehearing on the Lake Luciana appeal, and (3) recognizing that due to these two actions the decision on the Lake Luciana use permit/project continues to be Resolution No. 09-90.

SUPPORTING DOCUMENTS

A . Resolution Complying With the Peremptory Writ

CEO Recommendation: Approve

Reviewed By: Lorenzo Zíalcita