



A Tradition of Stewardship  
A Commitment to Service

Agenda Date: 5/10/2011  
Agenda Placement: 9C  
Set Time: 10:15 AM PUBLIC HEARING  
Estimated Report Time: 30 minutes

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** Minh Tran for Westmeyer, Robert - County Counsel  
County Counsel  
**REPORT BY:** Laura Anderson, Deputy County Counsel - 259-8252  
**SUBJECT:** Helene de Pins Trust / Helene de Pins Estate LLC Certificate of Legal Nonconformity Appeal

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### **RECOMMENDATION**

County Counsel requests consideration and adoption of a Resolution of Findings of Fact and Decision on Appeal granting the first, second and third grounds of appeal, denying the fourth ground of appeal and modifying the Zoning Administrator's decision regarding an appeal filed by the Helene De Pins Estate Company LLC to a decision by the Zoning Administrator on January 13, 2011 to approve a Certificate of Legal Nonconformity P10-00065-CLN recognizing a commercial events venue located on a 130.16 acre parcel on the west side of St. Helena Highway northwest of Rutherford within the Agricultural Preserve (AP) Zoning District. (Assessor's Parcel No. 027-210-025) (1901 St. Helena Highway, St. Helena).

**ENVIRONMENTAL DETERMINATION:** General Rule. It can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)].

**(CONTINUED FROM MARCH 22, 2011)**

### **EXECUTIVE SUMMARY**

At the appeal hearing of March 22, 2011, Board heard and considered all evidence presented relating to the Appeal, including the administrative record, testimony and documentation of County staff, testimony and documentation submitted on behalf of Appellant and a neighbor representative and all oral and written testimony presented during the hearing. After considering all evidence presented, the Board continued the public hearing to May 10, 2011, for purposes of allowing the Appellant, neighbor representatives and staff to propose an acceptable resolution as to the use of amplified music at events. With respect to all other issues raised in the Appeal, the Board adopted a motion of intent to grant the first, second and third grounds of Appeal and deny the fourth ground of Appeal and modify the Zoning Administrator's decision accordingly.

### **PROCEDURAL REQUIREMENTS:**

1. Chair announces the agenda item.
2. Staff reports on the item.
3. Chair re-opens public hearing on the issue of amplified music at events.
4. Chair invites interested parties, if they would like, to comment on the issue of amplified music at events and/or the findings.
5. Questions by the Board.
6. Chair closes the public hearing
7. Member makes a motion.
8. Different member seconds the motion.
9. Board discussion and debate on the motion.
10. Chair calls for the vote.
11. If roll call vote requested by member, Clerk calls the roll.
12. Chair announces the result of the vote.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

### **ENVIRONMENTAL IMPACT**

General Rule. It can be seen with certainty that there is no possibility the proposed action may have a significant effect on the environment and therefore CEQA is not applicable. [See Guidelines For the Implementation of the California Environmental Quality Act, 14 CCR 15061(b)(3)]. This action recognizes existing activities and therefore has no potential to result in a significant change to the existing environmental setting.

### **BACKGROUND AND DISCUSSION**

On January 13, 2011, after considering all written and verbal evidence presented at the November 16, 2010 hearing, the Zoning Administrator rendered a written decision which determined the present extent of the legal nonconformity and issued certificate P10-0065-CLN (the "CLN") setting forth such determination pursuant to Napa County Code section 18.132.050.

On March 2, 2011, subsequent to the Zoning Administrator's final decision, and within the prescribed 10-day period for appeal, an appeal was filed by Theodore Kolb on behalf of Appellant to seek relief from certain limitations and requirements included as part of the Zoning Administrator's decision on the CLN.

At the appeal hearing of March 22, 2011, Board heard and considered all evidence presented relating to the Appeal, including the administrative record, testimony and documentation of County staff, testimony and documentation submitted on behalf of Appellant and a neighbor representative and all oral and written testimony presented during the hearing. After considering all evidence presented, the Board continued the public hearing to May 10, 2011, for purposes of allowing the Appellant, neighbor representatives and staff to propose an acceptable resolution as to the use of amplified music at events. With respect to all other issues raised in the Appeal, the Board adopted a motion of intent to grant the first, second and third grounds of Appeal and deny the fourth ground of Appeal and modify the Zoning Administrator's decision accordingly.

**Status of the four appeal grounds:**

- | On the first appeal ground, the Board expressed an intent to recognize 36 events per year with attendance of up to 400 guests for 18 of the events, and up to 200 guests for the remaining 18 events.
- | Appeal ground two involved the extent of amplified music, and the Board expressed an intent to allow limited amplified music and left to public hearing open on this topic to see if an acceptable resolution on frequency and extent of live music could be found.
- | Appeal ground three concerned the use of licensed caterer, which was largely resolved prior to the March 22nd hearing except that the venue will need to be upgraded to meet basic health and safety requirements.
- | The last appeal ground concerned the use of structures and the Board directed that a grace period be employed to allow events to continue in the near term while preparations are made to improve structures to meet basic health and safety standards.

The proposed resolution reflects the Board's intent as expressed on March 22, 2011. Because the hearing was continued to allow Appellant, the neighbor representative and staff an opportunity to propose an acceptable resolution to the use of amplified music, the parties may have reached a resolution after this staff report was prepared. Depending on the parties' agreement and/or the Board's final action on May 10th, the resolution of findings may need to be modified at the hearing.

**SUPPORTING DOCUMENTS**

## A . Resolution of Findings

CEO Recommendation: Approve

Reviewed By: Helene Franchi