



Agenda Date: 5/9/2006  
Agenda Placement: 8B  
Set Time: 10:30 AM PUBLIC HEARING  
Estimated Report Time: 1 Hour

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

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**TO:** Board of Supervisors  
**FROM:** Cathy Gruenhagen for Hillary Gitelman - Director  
Conservation, Development & Planning  
**REPORT BY:** Steven Lederer, Deputy Planning Director, 253-4417  
**SUBJECT:** Public Hearing - Stanley Lane Pumpkin Patch/William Wilcoxson Appeal

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### **RECOMMENDATION**

Consideration and possible action regarding an appeal filed by attorney Tom Carey on behalf of his client, William Wilcoxson, owner of the Stanley Lane Pumpkin Patch of an administrative determination by the Director of the Conservation, Development and Planning Department on February 11, 2006, to deny Mr. Wilcoxson's request to operate a deli and wine tasting operation on a 4.2 acre parcel located between Highway 12/121 and Golden Gate Drive, Assessor's Parcel No. 047-230-034. The project is located within an Agricultural Watershed: Agricultural Produce Stand Combination (AW:PS) zoning district and is designated in the General Plan as Agriculture, Watershed and Open Space (AWOS).

**ENVIRONMENTAL DETERMINATION:** The Ordinance in question was adopted by voter initiative in 1996. The Board is interpreting portions of the Ordinance in order to determine whether to grant or deny the Appeal. Pursuant to State CEQA Guidelines Section 15378(b)(3), CEQA does not apply to initiatives placed on the ballot by voters. The Board's action does not change the ordinance, and therefore CEQA does not apply to the Board's decision on this matter.

### **EXECUTIVE SUMMARY**

The hearing before the Board is to consider an appeal filed by attorney Tom Care on behalf of William Wilcoxson, owner of the Stanley Lane Pumpkin Patch of an administrative determination by the Conservation, Development and Planning Commission on February 11, 2006, to deny Mr. Wilcoxson's request to operate a deli and wine tasting operation. The appeal is based on the contention that the language contained in the zoning ordinance for this property, specifically the language allowing sale of "items related to" agriculture, authorize a deli and wine tasting operation on the subject parcel.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      Yes

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Is it currently budgeted?	Yes
Where is it budgeted?	Because the County does not recover the full cost of processing appeals, general fund impacts to the budgets of Conservation, Development & Planning and the Clerk of the Board occur during the processing of appeals.
Is it Mandatory or Discretionary?	Mandatory
Is the general fund affected?	Yes
Future fiscal impact:	None
Consequences if not approved:	The County is legally obligated to process appeals.
Additional Information:	None

### **ENVIRONMENTAL IMPACT**

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### **BACKGROUND AND DISCUSSION**

In 1996 it was established that the Stanley Lane Pumpkin Patch was operating illegally in that it was conducting activities (such as sale of produce grown off-site and conduct of commercial activities such as pony rides) which were not in accordance with the property's Agricultural Watershed (AW) zoning. In an attempt to legalize these activities, the property owner placed an initiative on the ballot to establish an "Agricultural Produce Stand Combination District" for the subject parcel. The initiative was passed by the voters of Napa County. A copy of the initiative, and the resulting zoning amendment, is included as Supporting Document A.

Since 1996, the property owner has continued to develop the property, adding various structures to support the businesses on the property, and most recently adding a home to the site. Because the initiative and adopted zoning ordinance were vague in terms of allowed uses, and did not provide a clear process for establishing these uses, in 2002 the applicant's representative met with the then Planning Director and created an informal list of approved uses. This list was attached to the Department's administrative determination and is included here as Supporting Document B. The list was based on wording in the ordinance and those things that were perceived to be normally accessory to a farm stand. For instance, the Director considered that an espresso stand would be acceptable because a farm stand might be expected to provide coffee to their customers. The Board should note that the list was never officially adopted, and they may direct changes as they see fit to more appropriately match the wording approved by the voters.

A tour of the facility on March 24, 2006, found that facility has expanded from 2,500 to 3,800 square feet and now sells a wide range of finished agricultural products, including wine, jellies, lavender soaps, olive oils, nuts, etc. These items appear to be within the meaning of the adopted zoning. Other items, such as antique furniture, ceramic pigs, place mats, and similar items are more in question. The facility also sells pre-made sandwiches and salads (i.e. they are purchased elsewhere and sold out of a refrigerated shelf container). The property owner has now requested to establish a full on-site deli, which would presumably use the existing indoor and outdoor seating already provided for Pumpkin Patch guests. Current Planning staff was unable to find sufficient wording or

intent in the initiative or the zoning code to allow establishment of a deli (or restaurant), which is a use that is solely allowed in commercial zones, and therefore denied the request. In addition, staff is in doubt as to whether the sale of prepared sandwiches and salads is in conformance with that code. The property owner has appealed staff's denial of his request (see Supporting Document C), and the matter is now before the Board for their determination. The appeal is based on the contention that deli products such as salads and sandwiches are "items related to agriculture" and are therefore acceptable to be sold in this zoning district (and presumably any other district which allows agriculture). Staff believes this interpretation to be beyond any reasonable interpretation of the intent of zoning ordinance or the will of the voters, which was essentially to allow a farm produce stand and pony rides.

Staff notes that, should the Board determine that a deli is consistent with the parcel's zoning, the property owner will be required to submit plans to the County demonstrating the ability to comply with all County Codes (i.e. Building, Health, Fire, Septic, Water, etc.). These ministerial actions will follow only when plans are submitted and if the Board determines the proposed use is in conformance with the existing zoning.

Staff requests that the Board of Supervisors take the following actions:

1. Review and provide any comments they may have as to whether the informal list of "allowable uses" is consistent with the voter approved zoning ordinance;
2. Determine specifically whether a deli is an approved use based on the approved zoning; and
3. Continue the item to a date to be determined by the Clerk of the Board to allow County Counsel to prepare findings reflecting the Board's decision.

### **SUPPORTING DOCUMENTS**

A . Initiative

B . Conservation, Development and Planning Department Administrative Determination

C . Appeal

CEO Recommendation: Approve

Reviewed By: Andrew Carey