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Recommended Findings

ZONING ADMINISTRATOR HEARING – JANUARY 27, 2021

**RECOMMENDED FINDINGS
Tamagni Second Dwelling Unit**

**Certificate of the Extent of a Legal Nonconformity #P20-00195-CLN
4397 Silverado Trail, Calistoga
(APN: 020-370-038)**

ENVIRONMENTAL DETERMINATION:

The Zoning Administrator has received and reviewed the proposed Categorical Exemptions pursuant to the provisions of the California Environmental Quality Act (CEQA) and Napa County's Local Procedures for Implementing CEQA, and finds that:

1. 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 pursuant to the General Rule contained in the Guidelines for the Implementation of the California Environmental Quality Act, Title 14 CCR §15061(b)(3).
2. The site of this proposed project is not on any of the lists of hazardous waste sites enumerated under Government Code Section 65962.5 and is not within the boundaries of any airport land use plan.
3. The Secretary of the Zoning Administrator is the custodian of the records of the proceedings on which this decision is based. The records are located at the Napa County Planning, Building & Environmental Services Department, 1195 Third Street, Second Floor, Napa, California.

PLANNING AND ZONING ANALYSIS:

The Zoning Administrator has reviewed the request for a Certificate of the Extent of a Legal Nonconformity (CLN) in accordance with the requirements of the Napa County Code §18.132.030 and makes the following findings:

4. The repair, maintenance, restoration, rebuilding, rehabilitation, remodeling, redesign or arrangement does not enlarge or extend the area of land occupied by the legal nonconformity or cubic content of any structures involved or the square footage of any structure other than a primary residence; does not relocate the legal non-conformity from the location it occupied on the date it first became a legal nonconformity; does not result in the construction of any additional structures, other than those otherwise permitted by the code, on the parcel or parcels occupied by the legal nonconformity; and does not increase the degree of the nonconformity as to the volume of business or production, hours of operation, volume of traffic generated, or volume of waste produced or natural resources consumed.

Analysis: The property owner or his representative has presented sufficient data regarding the CLN that would allow the approval of this request in accordance with Chapter 18.132

of the Napa County Zoning Ordinance. The applicant has provided sufficient evidence in the form of affidavits submitted by various people and the Napa County Assessor Records. It is noted however that the existing structures on the property has been repaired and/or restored to varying degrees over the years without benefit of required building permits. Therefore, although the structures and uses were legally established, the property owner is obligated to obtain building permits for all repair and restoration work that has occurred.

5. The legal nonconformity has not been determined by the director, the board of supervisors, the district attorney, or any other governmental official authorized by law to do so, to be conducted in such a manner as to constitute a public nuisance as defined by Penal Code Section 370 or any future amendment thereof.

Analysis: The property owner or his representatives has presented sufficient evidence/information regarding the CLN along with a search of County Records indicating no history of violations, which allows the Zoning Administrator to reasonably conclude that the requested CLN does not constitute a nuisance.

6. A certificate of the present extent of the legal nonconformity is obtained in accordance with section 18.132.050 prior to application for any building or other permits required in connection with the legal nonconformity.

Analysis: Overall improvements and structures contained within the site are well documented as being in existence prior to the creation of County zoning and building regulations, and were not subject to any permitting requirements. Evidence also indicates that minor upgrades and alterations of the structure has occurred without the benefit of a building permit and this unpermitted work must be rectified, i.e. reducing the current 1,000 sq. ft. second dwelling to its original size of a maximum of 800 sq. ft.

7. The legal nonconformity has not lost its legal nonconforming status through abandonment as defined in Section 18.132.040.

Analysis: The applicant has provided significant written documentation indicating the full extent of use and accessory uses that have historically occurred on site. There is substantial evidence of continuous use in the form of affidavits for occupancy of the unit.