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Agenda Date: 1/27/2021

Agenda Placement: 2A

## Zoning Administrator Board Agenda Letter

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**TO:** Zoning Administrator  
**FROM:** Charlene Gallina for David Morrison - Director  
Planning, Building and Environmental Services  
**REPORT BY:** Suzanne Gardner-Gambill, PLANNER I - 299-1334  
**SUBJECT:** Tamangi Second Dwelling Certificate Of Legal Non-Conformity

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### **RECOMMENDATION**

#### **Tamagni Second Dwelling Unit / Theodore & Judith Tamagni / Certificate of the Extent of a Legal Nonconformity #P20-00195-CLN**

**CEQA Status:** 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)).

**Request:** Approval of a Certificate of the Extent of a Legal Nonconformity to recognize an existing 800 sq. ft. second dwelling unit with an attached 144 covered porch and carport located within the (AP) Agricultural Preserve Zoning District where one would not be permissible today. The project is located on a 21.91 acre property on the south side of Silverado Trail, approximately 1/2 mile west of Dutch Henry Canyon Road within the Agricultural Preserve (AP) zoning district and with a general plan designation of Agricultural Resource (AR) and Agriculture Watershed & Open Space (AWOS). 4397 Silverado Trail, Napa. APN: 020-370-038.

**Staff Recommendation:** Find that the project is not subject to CEQA and issue a Certificate of Legal Nonconformity.

**Staff Contact:** Suzanne Gambill, (707) 299-1334, or [suzie.gambill@countyofnapa.org](mailto:suzie.gambill@countyofnapa.org)

**Applicant Contact:** Theodore & Judith Tamagni, (707) 494-4324, or [trailsibe@aol.com](mailto:trailsibe@aol.com)

### **EXECUTIVE SUMMARY**

**Proposed Actions:**

That the Zoning Administrator:

1. Finds that the project is not subject to CEQA based on Findings 1-3 in Attachment A; and
2. Issue a Certificate of Legal Non-Conformity No. P20-00195-CLN based on recommended Findings 4-7 in Attachment A.

**Discussion:**

The applicant is requesting the recognition of an approximately 800 sq. ft. second dwelling unit with an attached 144 sq. ft. covered porch and carport based on building permit history, affidavits, and Assessor's records. The original structure was constructed prior to the requirement for building permits. The property also includes an existing single-family home, barn, outbuildings, vineyards and horse pastures. Subsequent to the original construction of the second dwelling, an attached carport was enclosed without the issuance of a building permit, where one was required, increasing the floor area to approximately 1,000 sq. ft. of enclosed living area. If the CLN is approved staff recommends that the second dwelling be restored to its original size of a maximum of 800 sq. ft. of enclosed floor area.

**FISCAL & STRATEGIC PLAN IMPACT**

Is there a Fiscal Impact? No

County Strategic Plan pillar addressed:

**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 pursuant to the General Rule contained in the Guidelines for the Implementation of the California Environmental Quality Act, Title 14 CCR §15061(b)(3).

**BACKGROUND AND DISCUSSION**

**Owner/Applicant:** Theodore & Judith Tamagni

**Zoning:** Agricultural Preserve (AP)

**General Plan Designation:** Agricultural Watershed Open Space (AWOS) and Agricultural Resource (AR)

**Parcel size:** 21.91 Acres

**Code Compliance History:**

None. There are no open or pending code violations for the subject site.

**Parcel History/Background:**

In 1955, all properties within the unincorporated area of the County were brought under zoning regulations with the

adoption of Ordinance #186. At that time, the property was zoned A-1 (Agricultural District).

In 1968, the Napa Valley Precise Zone Plan (Ordinance #274) was adopted and the parcel was rezoned to the AP (Agricultural Preserve) zoning district. The AP regulations permitted one single family dwelling per lot (Section P.02.k) and required a use permit for farm labor housing (Section P.03.c). Additional residential uses not governed by Sections P.02.k or P.03.c provided that all such additional residential uses were to be occupied by farm owners or employees thereof.

In 1974, when the AP regulations were changed to require use permits for agricultural processing facilities (Ordinance #458), no changes were made to the permitted residential uses.

In 1976, with the adoption of Ordinance #511, the AP district regulations were substantially modified which in part included a change to the permitted residential uses. One single-family dwelling unit per legal lot remained a permitted use; however, additional residential uses were eliminated leaving farm labor housing as the only other housing allowed by use permit.

Subsequent modifications to the AP regulations have been adopted but those changes have not affected the status of the structure.

The property was developed some time in the early 1940's prior to 1955, the year zoning and building permit regulations were first adopted in Napa County. The property was designated for agricultural lands use, which is consistent with the established dairy and associated accessory uses. Along with the dairy, the site was further developed with three dwelling units, multiple barns, and other accessory out buildings associated with the dairy and residences. While the original date of construction of the structures are unknown, the structures based on limited evidence were clearly built prior to 1955 when the issuance of building permits began. All of the structures remain standing on site with the exception of one of the dwellings which was demolished sometime in the late 1950's.

The Napa County Assessor's Office first assessed the site in 1961, establishing the estimated date of construction approximately 1956 and identifying the second unit to be approximately 800 square feet with an attached 144 sq. ft. of covered porch and an attached carport.

The site today is predominately used for agricultural uses with vineyards and livestock. It remains in compliance with Zoning and the General Plan designation with the exception of the second dwelling unit.

#### **Discussion Points:**

1. The Tamagni Family purchased the property on Silverado Trail in approximately 1922 having moved from the property they owned in Knights Valley. The family built all three homes on site along with all the barns and accessory buildings. In the late 1950's, one of the homes was demolished leaving only two occupied homes. The family's desire, if approved, is to apply for a building permit for a much needed remodel or replacement of the second dwelling in the same location.
2. The point at which the second dwelling became a non-conforming use is likely 1955, with evidence in the record that residential and agricultural uses occurred on the property as early as 1940, as identified in the 1940 aerials. Additionally, the applicant submitted affidavits, primarily the June 30, 2020, letter from Mr. Joe Tamagni, who lived on site from 1956 until 1975, and the July 8, 2020, letter from Mr. Ted Tamagni, who indicates he lived on the site from the day he was born in 1958 to present. The letters set an adequate timeline of the construction/occupancy of the structures. (Attachment B)
3. The typical documentation sources for non-conformities include aerial photographs (included -1940, 1993 and

2018), site photographs (barns and both residences), Assessor records, affidavits submitted by various people (family, friends, neighbors and a contractor) all of which the applicant has included in the record (Attachment B.) Although, the evidence is quite limited, in this case largely as a result of the passage of time, it would be unreasonable to expect the applicant to produce more conclusive records that occurred at least six decades ago.

4. The Applicant has provided evidence in the form of affidavits submitted by various people establishing the continued use without interruption of the structure. Occupied by family since date of construction in the 1950's through 2020. (Attachment B)

5. Based on the current floor plan, photos, and the Napa County Assessor Records, the carport was enclosed sometime in the early 1960's increasing the floor area of the second dwelling from 800 sq. ft. to 1000 sq. ft. Although the exact date is unknown it is evident that a building permit would have been required. As the improvements were constructed without the issuance of a building permit, staff is recommending that the second dwelling contain a maximum of 800 sq. ft. of enclosed floor area.

**Consistency with Standards:**

All reviewing departments/agencies have reviewed and commented on the project as necessary for the project to comply and be consistent with their respective requirements and regulations.

**SUPPORTING DOCUMENTS**

- A . Findings
- B . Certificate
- C . Application
- D . Graphics

Zoning Administrator: Approve

Reviewed By: Charlene Gallina