

RESOLUTION NO. 23-

RESOLUTION OF THE MENDOCINO COUNTY BOARD OF SUPERVISORS DENYING THE APPEAL AND AFFIRMING THE ADOPTION BY THE PLANNING COMMISSION OF RESOLUTION NO. PC_2022-0018 WHICH CLARIFIED INTERPRETATION OF MENDOCINO COUNTY CODE AS IT RELATES TO OCCUPANCY OF AN ENTIRE DWELLING UNIT AS TRANSIENT HABITATION AND FINDING THAT THE INTERPRETATION IS EXEMPT FROM CEQA UNDER THE COMMON SENSE EXEMPTION

WHEREAS, Division I of Title 20 of Mendocino County Code ("Inland Zoning Code") does not offer specific regulations for occupancy of an entire dwelling unit as transient habitation ("Vacation Rental"); and

WHEREAS, "transient habitation" is defined in section 20.024.135 as "establishments primarily engaged in the provision of lodging services on a less than monthly basis with incidental food, drink and other sales and services intended for the convenience of guests"; and

WHEREAS, section 20.164.010 of the Inland Zoning Code provides that the Director of the Department of Planning and Building Services ("Director") may make determinations as to whether a proposed accessory use is necessarily and customarily associated with, and is appropriate, incidental, and subordinate to a principal use; and

WHEREAS, section 20.164.015 contains a list of accessory buildings and uses that shall be permitted in zones where residential and agricultural use types are permitted, and includes the following use of "Room and Board":

(L) Room and Board: "The renting of not more than two (2) rooms for occupancy by transient guests for compensation or profit, provided the parcel has frontage on a publicly maintained road. A Major Use Permit is required if the parcel does not have frontage on a publicly maintained road."; and

WHEREAS, the Director has previously interpreted section 20.164.015(L) to apply to a Vacation Rental as defined herein, finding that such use is an accessory use that is necessarily and customarily associated with and is appropriate, incidental and subordinate to the principally permitted residential use of the property; and

WHEREAS, Chair Pernell of the Planning Commission created an ad hoc commission on December 2, 2021, to review the interpretation of the Planning and Building Services Director regarding Section 20.164.015(L) and Vacation Rentals ("Ad Hoc"); and

WHEREAS, the Ad Hoc presented their recommendations for discussion and possible action with the Planning Commission on May 5, 2022, June 16, 2022, September 15, 2022, November 3, 2022 and November 17, 2022; and

WHEREAS, additional public comment was submitted to the Planning Commission on May 19, 2022 on this subject when the item was not on the posted agenda; and

WHEREAS, in accordance with applicable provisions of law, the Planning Commission, on November 17, 2022, discussed the recommendations of the Ad Hoc of the Planning Commission and considered adoption of an associated resolution providing interpretation of Mendocino County Code, at which time the Planning Commission heard and received all relevant testimony and evidence presented orally or in writing regarding the draft resolution. All interested persons were given an opportunity to hear and be heard regarding the resolution; and

WHEREAS, on November 17, 2022, the Planning Commission adopted Resolution No. PC_2022-0018 providing clarification regarding interpretation of the applicability of Mendocino

County Code section 20.164.015(L) and 20.024.135 as they relate to occupancy of an entire dwelling unit as transient habitation; and

WHEREAS, the Planning Commission found that the resolution was categorically exempt from the California Environmental Quality Act under (a) Section 15060(c)(2) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment; and (b) Section 15060(c)(3) of the State CEQA Guidelines because it is not a project within the meaning of CEQA since it has no potential for resulting in physical changes in the environment; and

WHEREAS, on November 23, 2022, the Friends of Coastal Access and Paul Clark filed an appeal based upon numerous grounds (the "Appeal"); and

WHEREAS, the Mendocino County Board of Supervisors held a Public Hearing on April 25, 2023, to hear all relevant testimony and evidence presented orally or in writing regarding the Appeal. All interested persons were given an opportunity to hear and be heard regarding the Appeal.

NOW, THEREFORE, BE IT RESOLVED that on the basis of the whole of the record before it, the Mendocino County Board of Supervisors denies the Appeal and makes the following findings and determinations:

1. The Board of Supervisors hereby affirms the findings and determinations of the Planning Commission.
2. The Board of Supervisors hereby further finds that the change in Code interpretation made by Resolution No. PC_2022-0018 is exempt from CEQA pursuant to the "common sense" exemption provided for in CEQA Guidelines Section 15061(b)(3). Section 15061(b)(3) provides that a project is exempt from CEQA where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.
3. The Board of Supervisors hereby denies the Appeal and affirms the Code interpretation of the Planning Commission made in Resolution No. PC_2022-0018.

BE IT FURTHER RESOLVED that the Board of Supervisors designates the Clerk of the Board of Supervisors as the custodian of the documents and other materials, which constitutes the record of proceedings upon which the Board of Supervisors' decision herein is based. These documents may be found at the office of the Office of the Clerk of the Board of Supervisors, 501 Low Gap Road, Room 1010, Ukiah, CA 95482.

The foregoing Resolution introduced by Supervisor _____, seconded by Supervisor _____, and carried this 25th day of April, 2023, by the following vote:

AYES:
NOES:
ABSENT:

WHEREUPON, the Chair declared said Resolution adopted and SO ORDERED.

ATTEST: DARCIE ANTLE
Clerk of the Board

GLENN MCGOURTY, Chair
Mendocino County Board of Supervisors

I hereby certify that according to the
provisions of Government Code Section

Deputy

25103, delivery of this document has been made.

APPROVED AS TO FORM:
CHRISTIAN M. CURTIS
County Counsel

BY: DARCIE ANTLE
Clerk of the Board

Deputy