

**CITY OF CALISTOGA
PLANNING COMMISSION
RESOLUTION PC 2016-14**

**RECOMMENDING THAT THE CITY COUNCIL AMEND ARTICLE II, PD 2002-2
WITHIN CHAPTER 17.24 OF THE ZONING CODE**

WHEREAS, the subject property was rezoned on November 6, 2002 from a general Planned Development District to a unique Planned Development District, PD 2002-2; and

WHEREAS, PD 2002-2 allows a winery as a conditionally-permitted use, provided that the use is subordinate to a primary agricultural use on the parcel; and

WHEREAS, on June 7, 2016, Mark Aubert submitted applications requesting an amendment to the PD 2002-2 District to remove the requirement for a winery to be subordinate to a primary agricultural use on APN 011-050-031 within the PD 2002-2 District and a use permit and design review to allow expansion of the winery; and

WHEREAS, the Planning Commission considered the request at a public hearing on September 28, 2016. Prior to taking action on the application, the Planning Commission received written and oral reports by the staff, and received public testimony; and

WHEREAS, the Planning Commission has determined that this action is not subject to the California Environmental Quality Act (CEQA) under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that there is no possibility that the action in question will have a significant effect on the environment.

WHEREAS, the Planning Commission finds that the requirement for a primary agricultural use on the property addresses former General Plan policy and that the current General Plan policy refers to maintaining agricultural uses in the surrounding area instead of parcel specific.

NOW, THEREFORE, BE IT RESOLVED by the City of Calistoga Planning Commission that, based on the above findings, it is recommended that the City Council amend Article II, PD 2002-2 of Chapter 17.24 of the Calistoga Municipal Code as shown in Exhibit A attached hereto.

APPROVED AND ADOPTED on September 28, 2016 by the following vote of the Calistoga Planning Commission:

| | |
|-----------------|-----------------------------------|
| AYES: | COATES, COOPER, MCNAIR, ABERNATHY |
| NOES: | NONE |
| ABSENT: | WILKES |
| ABSTAIN: | NONE |



Paul Coates, Chair

ATTEST: 
Lynn Goldberg, Secretary

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EXHIBIT A

Article II.
PD 2002-2, Maxfield
Planned Development District

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17.24.120 Purpose

This Planned Development District regulates development of a two-acre parcel of land located at 333 Silverado Trail approximately 2,000 feet southeast of the intersection of Silverado Trail and Rosedale Road (APN 011-050-031), and a 7.37 acre parcel of land located at 345 Silverado Trail approximately 1,500 feet southeast of the intersection of Silverado Trail and Rosedale Road (APN 011-050-032), as shown on the Zoning Map of the City of Calistoga, California dated November 18, 2003 February 5, 1991, as amended. Planned Development District The "PD 2002-2 Maxfield Planned Development District" is important to the community, as it contains two large parcels located at a key entrance to town in an area of outstanding natural beauty and surrounded by open space and Mt. Washington as a unique backdrop. Therefore, development of this Planned Development District shall be visually sensitive to the rural scale of the parcel and its surroundings. Unless otherwise provided below, all proposed uses in this Planned Development District shall require a use permit. Development shall be in conformance with the following regulations.

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17.24.130 Uses Allowed

A. Uses allowed without a use permit:

1. Home occupations in accordance with Chapter 17.21;
2. In APN 011-050-031, light agricultural uses including, but not limited to, horticulture, floriculture, viticulture, apiaries, and related uses, not to include stockyards or commercial feeding of animals.
3. Uses determined by the Planning Commission to be similar in nature, as provided in the procedures in Chapter 17.02;

B. Uses allowed with a use permit:

1. One single-family dwelling;
2. One second dwelling unit in accordance with Chapter 17.37;
3. In APN 011-050-031, wineries and bottling operations, provided that the use is subordinate to a primary agricultural use on the parcel;
4. Uses determined by the Planning Commission to be similar in nature as provided in the procedures in Chapter 17.02;

C. Allowed accessory uses: accessory buildings and uses that are clearly incidental and subordinate to the main use, such as a detached garage, storage shed, workshop, or similar building, provided that no accessory use shall be established or accessory building constructed prior to the construction of a main building, or on a lot separate from the main building. Minimum setbacks for accessory buildings and

75 **17.24.160 Design Review Requirements**

76 Design review shall be required for all buildings or structures requiring a use
77 permit in this section. Allowed accessory buildings shall also require design review for
78 structures or buildings 120 square feet or larger in size.

MINUTES EXCERPT**CALISTOGA PLANNING COMMISSION****July 27, 2016****A. ROLL CALL**

Commissioners present: Vice Chair Tim Wilkes, Alissa McNair, Scott Cooper, Walter Abernathy. Absent: Chair Paul Coates (excused). Staff present: Planning and Building Director Lynn Goldberg, Senior Planner Erik Lundquist.

G. PUBLIC HEARINGS

2. **Aubert Winery Expansion UP 2016-3 & Design Review DR 2016-11:**
Consideration of use permit and design review applications allowing an increase in production up to 30,000 gallons annually and an addition of 10,080 square feet for new tank rooms, office space and covered crush pad at 333 Silverado Trail

Senior Planner Lundquist presented the staff report for the applications. He corrected the requested number of cases and the amount of additional floor area, which differ from the agenda summary and staff report's figures. The project site is located in a two-parcel planned development zoning district, which was created in 2002 and at the time reflected a very conservative approach to agriculture protection by requiring that agriculture be the predominant use on the two-acre property. Since the district's creation, the 2003 General Plan was adopted and addresses the preservation of agriculture more broadly and not on a site-specific basis. Therefore, the property's zoning provisions appear to be inconsistent with the General Plan. In order for the project to proceed, the language requiring that agriculture be the predominant use on the property needs to be removed from the district's regulations through a Zoning Code amendment. Removing the agriculture requirement would also allow more parking to be provided, which would minimize the current practice of employees parking along the access easement from Silverado Trail. This planned development zoning district does not have an associated grape-sourcing requirement; however, the applicant would be willing to comply with the standard. Staff is seeking direction from staff regarding the potential Zoning Code amendment.

In response to a question from **Commissioner Cooper** regarding why the vineyard had been removed from the property if agriculture was required on-site, Mr. Lundquist replied that staff only became aware of it when this application was filed.

In response to a question from **Vice Chair Wilkes**, Mr. Lundquist confirmed that the applicants propose to apply the grape-sourcing requirement only to the increased production and not to retroactively apply it to current production.

Vice Chair Wilkes opened the public hearing.

Donna Oldford, representing Aubert Winery, reiterated that no increase in employees or visitors is requested. The applications would allow only for increased production and storage, and safety improvements. Additional parking would allow the separation of employee and visitor parking. The applicant understands the need and basis for revising the zoning district's language to remove the agricultural predominance requirement. The proposed project would then be consistent with the General Plan. Having to enforce the 51% requirement for on-site agriculture would jeopardize a large number of oak trees. She reiterated that the parcel is not located in the General Plan's Entry Corridor overlay.

Commissioner McNair asked about the proposal to replace the former grapevines with olive trees.

Paul Bartelt, Bartelt Engineering, responded that olives are a more-feasible use of on-site treated wastewater disposal. Grapes would be lower-quality because of the amount of wastewater that would be applied to them. Olives could be sold or olive oil could be produced.

Vice Chair Wilkes asked that if the zoning district is revised to remove the agriculture requirement, is it still the intention of the applicants to plant olive trees. He is concerned about intermingling them with the property's oak woodland and feels that the priority should be protecting the woodland while accommodating wastewater disposal.

Mr. Bartelt responded that irrigation is only one of many wastewater disposal options, such as disposal into the municipal sewer or a subsurface disposal system. He believes that whatever wastewater disposal option is pursued, it can be done in a manner that avoids removing any oak trees. In response to a question from Mr. Lundquist about the potential effect on the number and size of the proposed irrigation water storage tanks if the agriculture requirement is removed, Mr. Bartelt responded that it is likely that the tanks would be reduced since the irrigation need would be lowered.

Ms. Oldford indicated that the applicants want to maintain the option of a hold-and-haul approach to the winery's wastewater, especially since it's a very small operation and there are good traffic conditions on Silverado Trail.

Vice Chair Wilkes expressed concerns about fire suppression and whether the Fire Department would have sufficient access to the back of the enlarged building. In response to questions from **Vice Chair Wilkes**, Ms. Oldford explained that the applicants want a more-efficient means of handling fermentation and storage, and there is a need for additional space even if they weren't planning on increasing production.

Joshua Lowell, Aubert Winery, advised that they have come close to producing 10,000 cases, which is 400 barrels. It's not a comfortable situation in the existing facility.

Mr. Lundquist noted that the crush operations that are currently occurring outside could be moved inside if the building is enlarged.

Mr. Bartelt reported that with additional parking at the rear of building, a fire equipment turnaround area could be provided. Three irrigation storage tanks could be removed if the agriculture requirement is removed. Crushing activities would be inside or under a covered area, in compliance with state regulations.

In response to questions from **Commissioner McNair**, Mr. Bartelt clarified that the resulting lot coverage with the proposed building expansion would be 19.8%, which is below the maximum 25% allowed by the Zoning Code.

Vice Chair Wilkes closed the public hearing and asked for commissioner comments.

Commissioner Abernathy supports the elimination of the agriculture requirement for the zoning district.

Commissioner Cooper wants the 75% Napa Valley grape-sourcing requirement applied to the winery's increased production. He likes the preservation of the property's oak woodland rather than the planting of olive trees.

Commissioner McNair supports removal of the agriculture requirement because it applies only to this parcel and there would be no problem with lot coverage. Most of the site will remain in open space.

Vice Chair Wilkes supports removal of the agriculture requirement; it appears to be a bit of a dinosaur. The amendment would bring the City more into conformance with the County's approach to a similar project. He favors making woodland preservation a primary goal for the project; any subsequent agriculture should be subservient. The applicant should work with staff to provide adequate fire equipment access to address potential perimeter fires, since the property backs up to a large open space. He views the project as completion of the building rather than an expansion of it.

It was the consensus of the Commission to support a Zoning Code amendment to eliminate the zoning district's agriculture requirement.

MINUTES EXCERPT

CALISTOGA PLANNING COMMISSION

September 28, 2016

A. ROLL CALL

Commissioners present: Chair Paul Coates, Alissa McNair, Scott Cooper, Walter Abernathy. Absent: Vice Chair Tim Wilkes (excused). Staff present: Planning and Building Director Lynn Goldberg, Senior Planner Erik Lundquist

G. PUBLIC HEARINGS

1. **Aubert Winery Expansion ZOA 2016-1, UP 2016-3 & Design Review DR 2016-11:** Consideration of 1) a zoning ordinance text amendment deleting the requirement for a primary agricultural use on the property in order to operate a winery, and 2) use permit and design review applications allowing an increase in production up to 15,000 cases annually and an addition of approximately 10,080 square feet for new tank rooms, office space and covered crush pad at 333 Silverado Trail

Senior Planner Lundquist presented the staff report for the application. The PD zoning district in question, which requires a primary agricultural use with the winery, was based on the 1990 General Plan and is not consistent with the 2003 General Plan update. Therefore, a Zoning Ordinance text amendment is requested deleting the agriculture requirement. The Commission expressed support for the amendment at its July 27, 2016 meeting. He reviewed the proposed improvements to the property, which had been preliminarily reviewed by the Commission at the July 27 meeting, and proposed conditions of approval. Staff recommends approval of all the applications.

In response to a question from **Commissioner McNair**, Mr. Lundquist confirmed that a landscaping plan will be required for the project and reviewed by staff, and noted the condition of approval requiring any tanks to be screened.

Chair Coates opened the public hearing.

Donna Oldford, representing the applicants, reiterated the need for the General Plan and Zoning Ordinance to be in conformance; the proposed amendment happened to coincide with the winery's need to expand. If the preferred wastewater treatment plan is implemented, the tanks will not be needed.

Commissioner Cooper expressed support for the project and thanked the applicant for working through the various issues with staff.

Chair Coates asked why the vineyard had been removed from the property, in violation of a condition of approval for the winery's original use permit.

Mark Aubert, applicant, explained that the previous winery owner had planted petite syrah, which Aubert Winery could not use because they only produce chardonnay and pinot noir. Furthermore, the vines were afflicted with red leafroll virus and needed to be removed. They considered planting olive trees in their

stead, but determined that the area was needed to accommodate the proposed winery expansion.

Chair Coates noted that the use permit violation caused by removal of the vineyard could have resulted in the winery's use permit being revoked. He doesn't have a problem with the project, but he is concerned that the Planning Commission's actions, which include conditions of approval, are routinely being ignored. The Commission's duty is to act in the interests of the community, which doesn't happen when rules are violated. The requested applications take care of the violation while rewarding the applicants by approving improvements to the property. In order to deny the applications, certain findings would have to be made and he doesn't really have any issues with the project. However, he is very concerned about violations of use permit conditions throughout the community, which make the Commission's job very difficult, especially when applicants who are in violation make further requests of the Commission. The City operates on the honor system, since staff cannot monitor every use permit.

Chair Coates closed the public hearing.

Commissioner Cooper thanked **Chair Coates** for his remarks regarding the need for compliance with conditions of approval, which is needed to validate the Commission's work.

A motion by **Commissioner McNair** and seconded by **Commissioner Abernathy** to adopt a resolution recommending to the City Council a zoning ordinance text amendment deleting the requirement for a primary agricultural use in order to operate a winery within the PD 2002-2 Planned Development District was approved unanimously.

A motion by **Commissioner Abernathy** and seconded by **Commissioner Cooper** approving Use Permit UP 2016-3 and Design Review DR 2016-11 allowing a winery expansion at 333 Silverado Trail was approved unanimously.



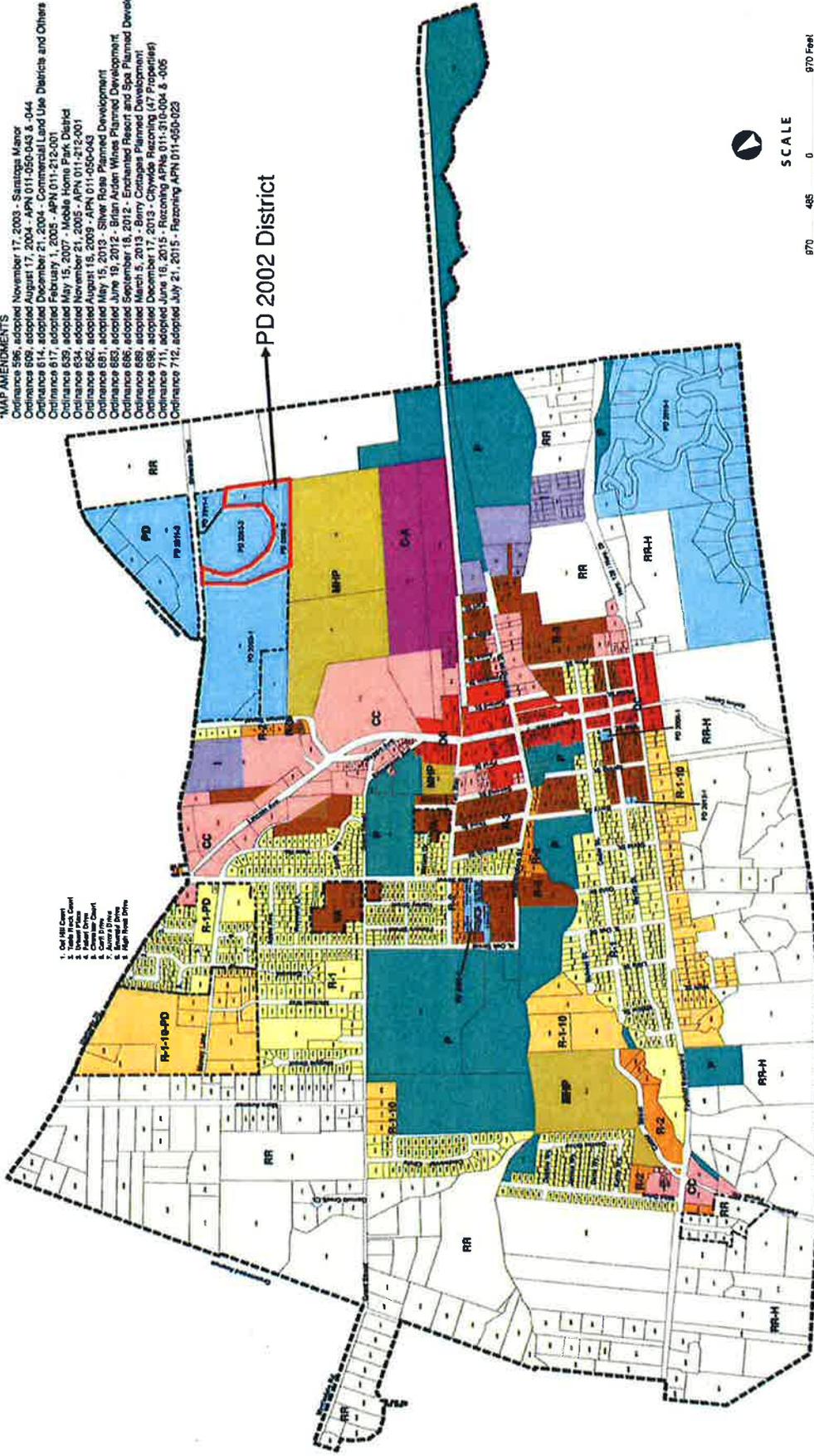
CITY OF CALISTOGA - ZONING MA

ZONING DISTRICT MAP ORIGINALLY ADOPTED FEBRUARY 5, 1991

*MAP AMENDMENTS

- Ordinance 596, adopted November 17, 2003 - Santiago Manor
- Ordinance 604, adopted August 17, 2004 - APN 011-050-043 & -044
- Ordinance 609, adopted December 21, 2004 - Commercial Land Use Districts and Others
- Ordinance 614, adopted February 1, 2005 - APN 011-215-001
- Ordinance 629, adopted May 15, 2007 - Mobile Home Park District
- Ordinance 652, adopted November 15, 2009 - APN 011-050-043
- Ordinance 652, adopted November 15, 2009 - APN 011-050-043
- Ordinance 681, adopted May 15, 2013 - Silver Ridge Planned Development
- Ordinance 686, adopted June 19, 2012 - Brian Ardan Wise Planned Development
- Ordinance 686, adopted September 18, 2012 - Enchanted Resort and Spa Planned Development
- Ordinance 689, adopted March 5, 2013 - Barry Calistoga Planned Development
- Ordinance 698, adopted December 17, 2013 - Citywide Rezoning (47 Properties)
- Ordinance 711, adopted June 18, 2015 - Rezoning APNs 011-310-004 & -005
- Ordinance 712, adopted July 21, 2015 - Rezoning APN 011-050-029

1. Oak Hill Court
2. Santa Rosa Court
3. Santa Rosa Drive
4. Santa Rosa Court
5. Santa Rosa Drive
6. Santa Rosa Court
7. Santa Rosa Drive
8. Santa Rosa Court
9. Santa Rosa Drive



PD 2002 District



SCALE

970 485 0 970 Feet

- city parcels
- RR: Rural Residential
- RR-H: Rural Residential - Hillside
- R-1: One-Family Residential
- R-1-PD: One-Family Residential Planned Development
- R-1-10: One-Family Residential
- R-1-10-PD: One-Family Residential Planned Development
- R-2: Two-Family Residential
- R-3: Multi-Family Residential/ Office
- R-3-VA: Multi-Family Residential/ Office - Visitor Accommodation
- DC: Downtown Commercial
- CC: Community Commercial
- I: Light Industrial
- MHP: Mobile Home Park
- P: Public/Quasi-Public
- PD: Planned Development
- C-A: Commercial Airport