

RESOLUTION 2012-____

A RESOLUTION OF THE CITY COUNCIL, COUNTY OF NAPA, STATE OF CALIFORNIA ADOPTING A MITIGATED NEGATIVE DECLARATION BASED ON AN INITIAL STUDY PREPARED FOR ZONING TEXT AMENDMENT (ZO 2011-003), DEVELOPMENT AGREEMENT (DA 2011-12), PRELIMINARY AND FINAL DEVELOPMENT PLAN (PD 2011-02), CONDITIONAL USE PERMIT (U 2011-14), DESIGN REVIEW (DR 2011-12), AND TENTATIVE CONDOMINIUM SUBDIVISION MAP (TTM 2011-01) LOCATED AT 400 SILVERADO TRAIL WITHIN THE PLANNED DEVELOPMENT (PD 1997-1) ZONING DISTRICT. (APN #S: 011-050-035; 011-050-036; 011-050-037; 011-050-039; & 011-050-040)

1 **WHEREAS**, Silver Rose Venture LLC is proposing to Demolish the
2 existing 20 room resort and single family home and construct a new resort
3 consisting of 85 guest rooms within 16 Villas, 110 seat restaurant, bar/lounge,
4 spa, 10,000 case a year winery, and 21 single-family homes; and
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6 **WHEREAS**, Silver Rose Venture LLC filed an application with the City of
7 Calistoga for the purpose of planning and developing the Project;
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9 **WHEREAS**, An Initial Study/Mitigation Negative Declaration (IS/MND) was
10 completed in accordance with applicable CEQA Guidelines, and on February 27,
11 2012, the IS/MND was circulated for public and agency review and comment.
12 Copies of the IS/MND were made available to the public at the Department of
13 Planning and Building on February 27, 2012, and the IS/MND was distributed to
14 interested parties and agencies. On March 16, 2012, a notice of the Planning
15 Commission public hearing of March 28, 2012, to review the IS/MND was
16 published in the local newspaper; and
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18 **WHEREAS**, the applicant has agreed to incorporate the mitigation
19 measures; therefore, the proposed project as amended by mitigation measures
20 would not have a significant adverse impact on the environment; and
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22 **WHEREAS**, the Planning Commission has reviewed and considered the
23 Initial Study prepared for the Project at its regular meetings on March 28, 2012,
24 and April 18, 2012, and prior to taking action on the application, the Commission
25 received written and oral reports by the Staff, and received public testimony;
26 After considering the project, the Commission adopted Resolution 2012-09
27 recommending adoption of the draft Mitigated Negative Declaration based upon
28 findings presented in the Staff Report and subject to mitigation measures; and
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30 **WHEREAS**, the City Council has reviewed and considered the Draft Initial
31 Study/Mitigated Negative Declaration prepared for the Project at a special
32 meeting on May, 2012, and prior to taking action on the application, the Council
33 received written and oral reports by the Staff, and received public testimony; and
34

35 **WHEREAS**, this Project, as mitigated, will not result in any significant
36 adverse environmental impacts; and
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38 **WHEREAS**, that on the basis of the Initial Study prepared for the Project,
39 the construction and operation of the Project as requested by Silver Rose
40 Venture LLC will not have a significant effect on the environment and, therefore,
41 a mitigated negative declaration is adopted based on the following findings.
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- 43 1. An Initial Study was prepared pursuant to the California Environmental
44 Quality Act and has been considered as a result of this project and
45 although the project could have a significant effect on the environment,
46 there will not be a significant effect in this case because mitigation
47 measures to reduce all impacts to a level of insignificance or to avoid such
48 impacts have been identified and agreed to by the applicant. A Mitigated
49 Negative Declaration should therefore be prepared with the mitigation
50 measures as adopted as Conditions of Approval.
51
- 52 2. As mitigated this Project will not result in any significant adverse
53 environmental impacts. There is no evidence that this project will result in
54 any adverse impacts to fish and wildlife habitat.
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56 **NOW, THEREFORE, BE IT RESOLVED** by the Council of the City of
57 Calistoga that based on the above Findings, adopts a Mitigated Negative
58 Declaration, subject to the following Mitigation Measures:
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60 **Mitigation Measure AIR-1: Dust and Exhaust Control**
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62 Implementation of the measures recommended by BAAQMD and listed below
63 would reduce the air quality impacts associated with grading and new
64 construction to a less than significant. The contractor shall implement the
65 following Best Management Practices that are required of all projects:
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67 Mitigation Measures:
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- 69 1. Mitigation Measures AIR-1: Prior to building permit or grading permit issuance,
70 the Applicant shall prepare and submit an Erosion and Sedimentation Control
71 Plan that incorporates the following Best Management Practices with notes,
72 details and or/ specifications subject to the review and approval of the Public
73 Works and Planning and Building Departments.
74
- 75 a) Exposed soils shall be watered periodically during construction, a minimum
76 of twice daily. The frequency of watering shall be increased if wind speeds
77 exceed 15 mph. Only on-site well water, purchased city potable water (if
78 available and subject to the review and approval of the Director of Public

- 79 Works) or reclaimed water shall be used for this purpose. Responsibility for
80 watering shall include weekends and holidays when work is not in progress.
81
- 82 b) During excavation activities, haul trucks used to transport soil shall utilize
83 tarps or other similar covering devices to reduce dust emissions.
84
- 85 c) Grading and construction equipment operated during construction activities
86 shall be properly muffled and maintained to minimize emissions. Equipment
87 shall be turned off when not in use.
88
- 89 d) Construction sites involving earthwork shall provide for a gravel pad area
90 consisting of an impermeable liner and drain rock at the construction entrance
91 to clean mud and debris from construction vehicles prior to entering the public
92 roadways. Street surfaces in the vicinity of the project shall be routinely swept
93 and cleaned of mud and dust carried onto the street by construction
94 vehicles.
95
- 96 e) All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded
97 areas, and unpaved access roads) shall be watered two times per day.
98
- 99 f) Post-construction revegetation, repaving or soil stabilization of exposed soils
100 shall be completed in a timely manner according to the approved Erosion and
101 Sediment Control Plan and verified by City inspectors prior to acceptance of
102 improvements or issuance of certificates of occupancy.
103
- 104 g) The Developer shall designate a person with authority to require increased
105 watering to monitor the dust and erosion control program and provide name
106 and phone number to the City of Calistoga prior to issuance of grading
107 permits.
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- 109 h) All vehicle speeds on unpaved roads shall be limited to 15 mph.
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- 111 i) All roadways, driveways, and sidewalks to be paved shall be completed as
112 soon as possible. Building pads shall be laid as soon as possible after
113 grading unless seeding or soil binders are used.
114
- 115 j) Idling times shall be minimized either by shutting equipment off when not in
116 use or reducing the maximum idling time to 5 minutes. Clear signage shall be
117 provided for construction workers at all access points.
118
- 119 k) Staging construction equipment in close proximity to the existing residences
120 is prohibited.
121
- 122 l) The contractor shall install temporary electrical service to avoid the need for
123 independently powered equipment (e.g. compressors).

124
125 A publicly visible sign with the telephone number and person to contact at the
126 Lead Agency regarding dust complaints. This person shall respond a take
127 corrective action within 48 Air Quality:

128
129 m) hours. The Air District's phone number shall also be visible to ensure
130 compliance with applicable regulations.

131
132 With implementation of Mitigation Measure AIR-1 – Dust and Exhaust Control the
133 impact from construction related emissions would be less than significant.
134 Operational related emissions would be limited to motor vehicles traveling to and
135 from the project site for periodic inspection and maintenance. These emissions
136 would be negligible and are considered less than significant.

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138 Biological Resources:

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140 **Mitigation Measure BIO-1: Preconstruction Nest Surveys and Construction**
141 **Exclusion Zones.**

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143 Mitigation Measure BIO-1: If construction would take place outside of the nesting
144 season (August to February), then preconstruction nest surveys would not be
145 necessary. However, if construction would take place during the nesting season
146 (February-August), then preconstruction nest surveys shall be conducted as
147 follows in order to avoid any potential impacts to nesting birds.

148
149 The Property Owner shall retain a qualified biologist to conduct preconstruction
150 nesting surveys within two weeks prior to the start of construction. If raptors or
151 special-status birds are nesting within 200 feet of the project site, a minimum
152 200-foot non-disturbance buffer shall be established around the nest site. If a
153 non-special-status bird that is subject to the Migratory Bird Treaty is identified
154 nesting on the project site or within 50 feet of the project site, a non-disturbance
155 buffer of 50 feet shall be established around the nest site. The 200-foot nesting
156 buffer may be modified to a minimum of 100 foot if a qualified biologist
157 determines that the nesting birds are acclimated to human disturbance. Any
158 reduction in the buffer size would require routine monitoring by a qualified
159 biologist until such time that young fledge (leave the nest).

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161 **Mitigation Measure BIO-2: Tree Protection Plan**

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163 Mitigation Measure BIO--2: Prior to building permit issuance, a Tree Protection
164 and Replacement Plan consistent with Chapter 19.01 shall be reviewed and
165 approved by the Public Works Department. All requirements and restrictions
166 contained in Chapter 19.01 of the Calistoga Municipal Code (CMC) shall be
167 complied with, which shall incorporate replacement trees for those trees slated
168 for removal and shall include any recommendations of the Project Arborist.

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Cultural Resources:

Mitigation CR-1: Construction Monitoring

Mitigation Measure CR-1: During ground disturbing activities a qualified cultural resource consultant shall be present to monitor the site and activities. If archaeological, historical, paleontological resources or other human remains are encountered, all construction activity in the affected area shall cease and no materials shall be removed until the qualified professional surveys the site and mitigation measures can be proposed by the qualified professional to the satisfaction of the Planning Division for approval and subsequent implementation by the Applicant as provided in CR-2.

Mitigation CR-2: Treatment of Archaeological Resources Discovered During Construction

Mitigation Measure CR-2: If archaeological materials are encountered during construction activities, the Contractor shall stop all work within a fifteen foot radius of the discovery and notify the City Engineer of the discovery. The find shall be inspected by a qualified archaeologist. The City shall ensure that the construction contractor personnel are informed that collecting archaeological materials discovered during construction is prohibited by law.

If the archaeologist determines that the find is potentially significant (e.g., meets the definition of historic resource or unique archaeological resource), all work must be stopped in the immediate vicinity to allow the archaeologist to recommend appropriate treatment. Such treatment could include modifying the project to allow the materials to be left in place, or undertaking data recovery of the materials in accordance with standard archaeological methods if such data recovery would not result in further erosion or collapse of the slope as determined by the City Engineer.

Mitigation CR-3: Treatment of Human Remains, Associated Grave Goods, or Items of Cultural Patrimony

Mitigation Measure CR-3: If human remains are encountered during construction activities, there shall be no further excavation or disturbance of the remains, or nearby area until the Napa County Coroner has made the necessary findings as to origin, in accordance with Health and Safety Code 7050.5. In accordance with Public Resources Code 5097.98 if the coroner believes the human remains to be those of a Native American, he or she shall contact, by telephone within 24 hours the Native American Heritage Commission. The Native American Heritage Commission shall immediately notify the most likely descendent (MLD). The descendent shall inspect the site of the discovery and may recommend the

214 means for treating or disposing, with appropriate dignity, the human remains and
215 any associated grave goods. The descendants shall complete their inspection
216 and make their recommendation within 48 hours of their notification by the Native
217 American Heritage Commission. The remains shall not be damaged or disturbed
218 by further development until the City has discussed and conferred with the MLD
219 regarding their recommendations.

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222 Noise:

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224 Mitigation Measure N-1: The applicant shall develop a construction management
225 plan to reduce traffic congestion during project construction, including staging
226 areas on the project site and truck movements delivering and/or exporting fill
227 material. Approval of the plan shall be required from the City prior to issuance of
228 any grading permit.

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230 Mitigation Measure N-2: Construction travel shall be managed to minimize noise
231 levels consistent with the City's Construction Ordinance.

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233 Mitigation Measure N-3: Construction activities shall be limited to the hours of 7
234 AM and 7 PM Monday through Saturday consistent with the City's construction
235 ordinance.

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237 Mitigation Measure N-4: Construction restriction shall be posted on-site for the
238 duration of construction.

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240 **PASSED, APPROVED, AND ADOPTED** by the City Council of the City of
241 Calistoga at a special meeting held this on **8th day of May, 2012** by the following
242 vote:

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244 **AYES:**

245 **NOES:**

246 **ABSENT:**

247 **ABSTAIN:**

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JACK GINGLES, Mayor

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254 ATTEST: _____

255 **AMANDA DAVIS, Deputy City Clerk**