

OPTION 1- REPEAL ORD. No. 681

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, REPEALING AND RESCINDING IN ITS ENTIRETY ORDINANCE 681, AMENDING TITLE 17 (ZONING ORDINANCE) OF THE CALISTOGA MUNICIPAL CODE REZONING THE PROPERTY LOCATED AT 400 SILVERADO TRAIL (APN #S: 011-050-035; 011-050-036; 011-050-037, 011-050-039 & 011-050-040) FROM A "PD", PLANNED DEVELOPMENT DISTRICT TO A "PD 2011-02", SILVER ROSE RESORT PLANNED DEVELOPMENT DISTRICT

The City Council of the City of Calistoga does hereby ordain as follows:

SECTION ONE:

WHEREAS, on May 15, 2012, the City Council adopted Ordinance 681, An Ordinance of the City Council of the City of Calistoga, County of Napa, State of California Adopting an Ordinance Amending Title 17 (Zoning Ordinance) of the Calistoga Municipal Code Rezoning the Property Located at 400 Silverado Trail (APN #S: 011-050-035; 011-050-036; 011-050-037, 011-050-039 & 011-050-040) from a "PD", Planned Development District to a "PD 2011-02", Silver Rose Resort Planned Development District; and

WHEREAS, on June 12, 2012, community members delivered a referendum petition against Ordinance 681 to the City Clerk; and

WHEREAS, on June 18, 2012, the County Elections Division verified that over 217 Calistoga registered voters signed the petition, which has the effect of suspending Ordinance 681 and qualifying the referendum petition; and

WHEREAS, the City Council desires to rescind Ordinance 681.

SECTION TWO:

Ordinance 681 is hereby rescinded and repealed in its entirety. Title 17 shall read as it existed immediately prior to the adoption of Ordinance No. 681.

SECTION THREE:

Pursuant to California Elections Code Section 9241, Ordinance 681 may not be enacted by the City Council for a period of one year from the effective date of this Ordinance.

SECTION FOUR:

The City Council finds pursuant to Title 14 of the California Code of Regulations, Section 15061(b)(3), that this ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) in that it is not a project which has the potential for causing a significant effect on the environment.

SECTION FIVE:

If any section of portion of this Ordinance is for any reason held to be invalid and/or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Ordinance.

SECTION SIX:

THIS ORDINANCE shall take effect thirty days after its passage and before expiration of fifteen days after its passage, shall be published in accordance with law in a newspaper of general circulation published and circulated in the City of Calistoga.

The foregoing Ordinance was introduced at a regular meeting of the City Council of the City of Calistoga held on _____ and was adopted and ordered published at a regular meeting of the City Council on _____ by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

JACK GINGLES, Mayor

ATTEST:

AMANDA DAVIS, Deputy City Clerk

EXHIBIT A

ORDINANCE NO. 681

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA ADOPTING AN ORDINANCE AMENDING TITLE 17 (ZONING ORDINANCE) OF THE CALISTOGA MUNICIPAL CODE REZONING THE PROPERTY LOCATED AT 400 SILVERADO TRAIL (APN #S: 011-050-035; 011-050-036; 011-050-037; 011-050-039; & 011-050-040) FROM A "PD", PLANNED DEVELOPMENT DISTRICT TO A "PD 2011-02", SILVER ROSE RESORT PLANNED DEVELOPMENT DISTRICT

The City Council of the City of Calistoga does hereby ordain as follows:

SECTION ONE:

WHEREAS, an application was submitted by Silver Rose Venture, LLC on December 22, 2011 requesting an amendment to Planned Development (PD 2007-1, as amended) Zoning District to allow the integrated resort development and operations as proposed for the Silver Rose Resort to be constructed on a 22.5-acre parcel of land located at 400 Silverado Trail (APNs: 011-050-035; 011-050-036; 011-050-037; 011-050-039; & 011-050-040); and

WHEREAS, An Initial Study/Mitigation Negative Declaration (IS/MND) was completed in accordance with applicable CEQA Guidelines, and on February 27, 2012, the IS/MND was circulated for public and agency review and comment. Copies of the IS/MND were made available to the public at the Department of Planning and Building and the IS/MND was distributed to interested parties and agencies. On March 16, 2012 a notice of the Planning Commission public hearing of March 28, 2012, to review the IS/MND was published in the local newspaper; and

WHEREAS, the Planning Commission has recommended adoption of a Mitigated Negative Declaration (Resolution PC 2012-09) based upon the initial study prepared for this project finding that the proposed project, as amended by mitigation measures agreed to by the applicant, would not have a significant adverse impact on the environment; and

WHEREAS, the City Council adopted Resolution 2012-032 adopting a Mitigated Negative Declaration based upon the initial study prepared for this project finding that the proposed project, as amended by mitigation measures agreed to by the applicant, would not have a significant adverse impact on the environment; and

WHEREAS, a public notice of the City Council public hearing of May 8, 2012 on the Draft Initial Study/Mitigated Negative Declaration, Zoning Ordinance Text Amendment and the proposed project planning actions was published in the local newspaper and made available on the City's website; and

WHEREAS, the City Council has reviewed and considered the application for the Project at a special meeting on May 8, 2012 considered as one of its items of business, this Ordinance to be adopted in accordance with Government Code Section 65090, this Ordinance to be adopted in accordance with Government Code Section 65850, to include the written and oral staff report, proposed findings and comments received from the general public and interested agencies and parties; and

WHEREAS, the City Council adopted the following findings with the introduction of an Ordinance:

1. The proposed text amendment will continue to provide flexibility in the development while allowing for unique circumstances, and perpetual maintenance of a winery development without adversely impacting the quality that make the community unique.
2. The proposed text amendment is consistent with the City's General Plan Rural Residential land use designation, Planned Development and Entry Corridor 2 – Downvalley Silverado Trail Overlay, Visitor Accommodation and Resort Character Overlay designations and related policies. Provisions for uses and proposed revised development standards will preserve a significant portion of the property for vineyard and protect existing trees to the extent feasible consistent with the rural character of the area. Moreover, a conditional use permit and design review is required for development of the site, other than for small accessory structures, which will help to ensure that the use of the site retains the sensitive elements of the parcel.
3. The proposed text amendment promotes and enhances the rural traditions of the community and is necessary and proper to balance the natural and built environment of this site at one of Calistoga's important gateways to the community.
4. The proposed text amendment is necessary and proper to ensure that the small town character of the community is preserved and enhanced consistent with the General Plan, while providing reasonable opportunity to establish a high quality resort development project.

SECTION TWO:

Section 17.24 of Title 17 (Zoning Ordinance) is hereby amended by replacing subsection 17.24.170 through 17.24.220 as follows:

Article III. PD 2011-02 (Silver Rose Resort)

17.24.170 Purpose.

Planned Development District PD 2011-02 regulates development of approximately 22.5 acres of land (APN #s: 011-050-035; 011-050-036; 011-050-037; 011-050-039; and 011-050-040) located at the northeast intersection of Rosedale Road and Silverado Trail, as shown on the Zoning Map of the City of Calistoga, California, dated February 2003, and as legally described on Exhibit One to this article, which legal description is on file with the City of Calistoga Planning Department. Planned Development District PD 2011-02 is important to the community, as it regulates the coordinated development of approximately 22.5 contiguous acres of land located at a key entrance to the community in an area of outstanding natural beauty, which is surrounded by open space, with a view of Mt.

Washington located to the south across Silverado Trail. Therefore, development of PD 2011-02 shall be visually sensitive to the rural scale of the subject parcels and their surroundings. Unless otherwise provided below, all proposed uses in PD 2011-02 shall require a use permit. For the purposes of this section, a use permit shall be used interchangeably to also mean a planned development permit. Development shall be in conformance with the regulations in this article.

17.24.180 Uses allowed.

Uses allowed in PD 2011-02 are shown as follows:

A. Uses Allowed Without a Use Permit.

1. Light agricultural uses including, but not limited to, horticulture, floriculture, viticulture, apiaries, and related uses, not to include stockyards or commercial feeding of animals;
2. Detached Single-family dwellings on individual lots;
3. Home occupations in accordance with Chapter 17.21 CMC;
4. Uses determined by the Planning Commission to be similar in nature, as provided in the procedures in Chapter 17.02CMC.

B. Uses Requiring a Use Permit.

1. Visitor accommodations and similar related ancillary services which are subordinate to the visitor accommodations use of the lands covered by PD 2011-02. Related ancillary services include, but is not limited to, recreational uses, including private recreational clubs, and conference facilities;
2. Spa and fitness facilities to include mineral baths, massage, and similar related services for guests of visitor accommodations on the lands covered by PD 2011-02 and for the general public;
3. Wineries; provided, that 75% of the wine produced at the winery is made with fruit grown within the County of Napa;
4. Retail that is subordinate to the visitor accommodation, residential winery and spa facilities on the lands covered by PD 2011-02;
5. Restaurant, including a bar, provided the sale of alcoholic beverages is subordinate to food service on the lands covered by PD 2011-2;
6. Geothermal activity (exploration, development and use);

7. Private and public events.

8. Short-term rental of single-family homes when rented through the hotel/resort operator, or HOA, or entity hired and approved by the HOA.

9. Uses determined by the Planning Commission to be similar in nature as provided in the procedures in Chapter 17.02CMC.

C. Allowed Accessory Buildings and Uses.

1. Accessory buildings, such as a detached garage and storage shed, workshop, or similar buildings, which are clearly incidental and subordinate to buildings which are allowed with or without a use permit, are allowed without a use permit.

2. Uses which are clearly incidental and subordinate to uses allowed with or without a use permit are allowed without a use permit.

3. Minimum setbacks for accessory buildings and structures shall comply with the standards provided in Chapter 17.38 CMC, except that no accessory building or structure shall be located within 30 feet from Silverado Trail right of way.

D. Prohibited Uses. Uses not specified in subsections (A) through (C) of this section are prohibited. (Ord. 648 § 2, 2008).

17.24.190 Height limits.

Height limit of buildings and structures in PD 2011-02 shall be 35 feet, unless otherwise provided in Chapter 17.38 CMC.

17.24.200 Development regulations.

Development standards in PD 2011-02 are as follows:

A. Minimum Lot Area Requirements.

1. Single-family residential Lots 6,500 square feet;
2. Resort Lot 13 acres;

B. Minimum Lot Width Requirement.

1. Single-family residential Lot Width 60 feet;
2. Resort lot 1,000 feet;

C. Minimum setbacks shall be as follows, unless otherwise provided in this section:

1. Front yard:

- a. Single-family residential lots 8 feet. In no case shall be less than 30 feet from the Silverado Trail right of way and 20 feet from Rosedale Road right of way;**
- b. Resort lot 30 feet from the Silverado Trail right of way right of way, except on-site parking may project into the required Silverado Trail setback, but in no case shall be less than 20 feet from the Silverado Trail right of way. All parking shall be sufficiently screened from Silverado Trail.**

2. Side yard:

- a. Single-family residential lots 5 feet, except that structures exceeding 15 feet in height shall not have a side yard setback less than one-half the height of the building. In no case shall a side yard be less than 5 feet or required to be more than 20 feet; and in no case shall be less than 30 feet from the Silverado Trail right of way and 20 feet from Rosedale Road right of way.**
- b. Resort lot 5 feet, except that structures exceeding 15 feet in height shall not have a side yard setback less than one-half the height of the building. In no case shall a side yard be less than 5 feet or required to be more than 20 feet;**

3. Rear yard:

- a. Single-family residential lots 10 feet with a minimum of 20 feet from the Rosedale Road right of way and 30 feet from the Silverado Trail right of way.**
- b. Resort lot 20 feet from Rosedale Road right of way.**

D. Lot Coverage. Maximum coverage of by all buildings or structures, including accessory structures.

- 1. Single-family residential lots 50 percent;**
- 2. Resort lot 25 percent.**

E. Parking Requirements. Unless otherwise provided in an approved use permit or planned development permit, on-site parking, loading and circulation shall comply with the standards in Chapter 17.36 CMC.

17.24.210 Design review requirements.

Design review shall be required for all buildings or structures requiring a use permit in this section. Administrative design review shall be required for all single-family dwellings. Allowed accessory buildings shall also require design review for structures or buildings 220

square feet or larger in size. Buildings and structures must be harmoniously integrated with development of the parcels to minimize their impacts on adjacent property, including the design and location of buildings, lighting, equipment to enhance the comfort of customers dining outdoors, and landscaping. (Ord. 648 § 2, 2008).

17.24.220 Minor Modifications of PD 2011-02

A. The Planning and Building Department shall have the authority to administratively interpret, modify and approve minor construction, remodels or renovations and modifications generally consistent with the stated purpose and objectives as specified in PD 2011-02.

SECTION THREE:

If any section or portion of this ordinance is for any reason held to be invalid and/or unconstitutional by a court or competent jurisdiction, such decision shall not affect the validity of the remaining portions of this ordinance.

SECTION FOUR:

THIS ORDINANCE shall take effect thirty (30) days after its passage and before expiration of fifteen (15) days after its passage, shall be published in accordance with law in a newspaper of general circulation published and circulated in the City of Calistoga.

THIS ORDINANCE was introduced with the first reading waived at the City of Calistoga City Council meeting on the 8th day of May 2012, and was passed and adopted at a regular meeting of the Calistoga City Council on the 15th day of May 2012, by the following vote:

AYES: Mayor Gingles, Vice Mayor Dunsford, Councilmembers Canning and Kraus.
NOES: Councilmember Slusser
ABSENT: None.
ABSTAIN: None.



JACK GINGLES, Mayor

ATTEST:



AMANDA DAVIS, Deputy City Clerk

EXHIBIT ONE

LEGAL DESCRIPTION

The land referred to in this report is situated in the City of Calistoga, County of Napa, State of California, and is described as follows:

TRACT ONE:

PARCEL ONE:

Parcel 1, as shown on the map entitled, "Parcel Map of the Lands of DuMont Enterprises, a general partnership", filed June 9, 1995 in Book 21 of Parcel Maps at page(s) 46-47 in the office of the County Recorder of said Napa County.

APN 011-050-039

PARCEL TWO:

A non-exclusive, appurtenant easement on and across Parcel 2 as shown on Parcel Map No. 4812 filed June 9, 1995 in Book 21 of Parcel Maps at page(s) 46-47 in the office of the County Recorder of said Napa County (system parcel), to install, operate and maintain a sewage disposal system for winery purposes, and one or more accompanying sewer pipe lines as granted to Dumont Family Limited Partnership by deed recorded May 27, 1998 as Series Number 1998-0014302 of Official Records of Napa County.

Said easement to be located substantially as set forth in Exhibit "A" of that certain "Agreement for Grant of Sewage Easements" recorded June 9, 1995 under Series Number 1995-0012359 of Official Records of Napa County.

The easement as granted hereby shall be appurtenant to lands described as Parcel 1 as shown on Parcel Map No. 4812 filed June 9, 1995 in Book 21 of Parcel Maps at page(s) 46-47 in the office of the Recorder of Napa County.

TRACT TWO:

PARCEL ONE:

Parcel 2, as shown on Parcel Map of the Lands of DuMont Enterprises, a General Partnership, filed June 9, 1995, in Book 21 of Parcel Maps, at pages 46 and 47, in the office of the County Recorder of said Napa County, excepting therefrom all buildings and improvements thereon as granted in the deed recorded January 10, 2000 as Series Number 2000-0000517 of Official Records.

APN 011-050-040

PARCEL TWO:

An easement for ingress and egress for vehicular traffic over and through the existing driveway and roadway, as described in the easement agreement recorded January 20, 1999 as Instrument No. 1999-0001939 of Official Records of Napa County.

TRACT THREE:

All buildings and improvements situated on Parcel 2 as shown on Parcel Map of the Lands of DuMont Enterprises, a General Partnership, filed June 9, 1995 in Book 21 of Parcel Maps at pages 46 and 47 in the office

of the County Recorder of said Napa County, as granted in the deed recorded January 10, 2000 as Series Number 2000-0000517 of Official Records of Napa County.

TRACT FOUR:

Parcel 2 as shown on the Parcel Map of the Lands of Dumont Enterprises filed November 23, 1993 in Book 20 of Parcel Maps at pages 1 and 2, in the office of the County Recorder of said Napa County.

APN 011-050-036

TRACT FIVE:

Parcel 3, as shown on the map entitled, "Parcel Map of the Lands of Dumont Enterprises, a General Partnership", filed November 23, 1993 in Book 20 of Parcel Maps at page(s) 1-2, in the office of the County Recorder of said Napa County.

APN 011-050-037

TRACT SIX:

Parcel 1 as shown on the Parcel Map of the Lands of Dumont Enterprises filed November 23, 1993 in Book 20 of Parcel Maps at pages 1 and 2, in the office of the County Recorder of said Napa County.

APN 011-050-035