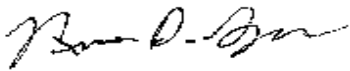


# City of Calistoga

## Staff Report

**TO** Honorable Mayor and City Council  
**FROM** Lynn Goldberg, Planning and Building Director  
**DATE** June 2, 2015  
**SUBJECT** Annual Review of Silver Rose Development Agreement

APPROVAL FOR FORWARDING



Richard D. Spittler, City Manager

1 **ISSUE:** Consideration of the annual report on the status of the development agreement  
 2 for the Silver Rose project

3 **RECOMMENDATION:** Approve the attached resolution finding that the developer is in  
 4 good faith compliance with the terms and conditions of the development agreement.

5 **BACKGROUND:** The City of Calistoga entered into a development agreement  
 6 (Agreement) with Silver Rose Venture, LP (Developer), on May 15, 2012 (Ordinance  
 7 No. 682). The Agreement provided the Developer with certain assurances that they  
 8 could proceed with the Silver Rose Resort Project that includes a resort hotel consisting  
 9 of 85 guestrooms, 21 single-family homes, a spa, a restaurant, a winery, recreational  
 10 amenities and support facilities. The project is required to make certain public  
 11 improvements, such as the improvements to Silverado Trail and Rosedale Road, and  
 12 pay development impact fees, among other obligations. The initial term of the  
 13 Agreement is five years, with the possibility of term extensions.

14 The Agreement requires the City to annually review the Developer's good faith  
 15 compliance with the Agreement and that the Developer work with City in good faith in  
 16 connection with any such review.

17 The Developer has completed an Annual Compliance Evaluation Form that provides  
 18 evidence of its good faith compliance with its obligations under the Agreement  
 19 (Attachment 2). During 2014, the Developer undertook the following activities in  
 20 preparation for project development:

- 21 • Demolished all of the property's structures and removed vineyards and vineyard  
 22 equipment
- 23 • Removed 13 underground septic tanks
- 24 • Deconstructed two cold water wells

- 25 • Relocated 27 trees and instituted tree protection measures for trees that will
- 26 remain on the property
- 27 • Conducted exploratory excavation for Building A
- 28 • Instituted a storm water pollution prevention plan
- 29 • Obtained City permits for Phase One of the project (i.e., site grading, mass
- 30 excavation, construction of a retaining wall)
- 31 • Obtained City permits for tree removal and construction of a model hotel room
- 32 • Paid City permit fees of \$15,503.49.

33 As required by the Agreement, the Developer paid \$2 million to the City in 2012, which  
34 was applied to the project's Quality of Life, Public Safety and Wastewater Connection  
35 development impact fees.

36 **DISCUSSION:** As required in the Agreement and by Government Code Section  
37 65865.1, the City Council must determine whether the Developer has, in good faith,  
38 substantially complied with the terms of the Agreement up to and including the date of  
39 the review. Based on the project status described above, this finding can be made.

40 **ENVIRONMENTAL REVIEW:** The annual review of the Agreement is not subject to the  
41 California Environmental Quality Act (CEQA) under CEQA Guidelines Section  
42 15061(b)(3) because it can be seen with certainty that there is no possibility it could  
43 have a significant effect on the environment.

44 **FISCAL IMPACT:** There are no fiscal impacts associated with the preparation of the  
45 annual report. However, the City's economy will benefit from the project by its promotion  
46 of tourism, payment of transient occupancy and property taxes, and job creation.

47 **ALTERNATIVES TO RECOMMENDATION:** Pursuant to Government Code Section  
48 65865.1, "If, as a result of such periodic review, the local agency finds and determines,  
49 on the basis of substantial evidence, that the applicant or successor in interest thereto  
50 has not complied in good faith with the terms or conditions of the agreement, the local  
51 agency may terminate or modify the Agreement." There is no evidence that this has  
52 occurred.

## **ATTACHMENTS**

1. Draft resolution
2. Annual Compliance Evaluation Form for Silver Rose Venture, LP Development Agreement

RESOLUTION NO. 2015-XXX

1 RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF  
2 NAPA, STATE OF CALIFORNIA FINDING THAT THE DEVELOPER OF THE SILVER  
3 ROSE RESORT PROJECT IS IN GOOD FAITH COMPLIANCE WITH THE TERMS  
4 AND CONDITIONS OF THE PROJECT'S DEVELOPMENT AGREEMENT  
5

6 WHEREAS, on May 15, 2012, the City of Calistoga (City) entered into a  
7 Development Agreement (Agreement) with Silver Rose Venture, LP (Developer)  
8 through its approval of Ordinance No. 682; and

9 WHEREAS, the Agreement provided the Developer with certain assurances that  
10 they could proceed with a development project known as the Silver Rose Resort on  
11 property located on Silverado Trail involving a resort hotel, spa, restaurant, winery and  
12 single-family residences; and

13 WHEREAS, the term of the Agreement is for a period of five years commencing  
14 on June 15, 2012; and

15 WHEREAS, as required by Government Code Section 65865.1 and by the  
16 Agreement the City shall annually determine whether the Developer has, in good faith,  
17 substantially complied with the terms of the Agreement up to and including the date of  
18 the review; and

19 WHEREAS, at its meeting of June 2, 2015, the City Council considered the  
20 Annual Compliance Evaluation Form completed by the Developer that provides  
21 evidence of its good faith compliance with its obligations under the Agreement and other  
22 information provided by staff; and

23 WHEREAS, the Developer and members of the public were provided an  
24 opportunity to be heard regarding the Agreement's status before the City Council  
25 conducted its review.

26 NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of  
27 Calistoga hereby finds that:

- 28 1. The Developer is in good faith substantial compliance with the terms and  
29 conditions of the Development Agreement between the City of Calistoga and  
30 Silver Rose Venture, LP for the Silver Rose Resort project.
- 31 2. This review satisfies the annual review of development agreement as  
32 provided in Government Code §65865.1.

33 PASSED, APPROVED, AND ADOPTED by the City Council of the City of  
34 Calistoga at its meeting held the 2<sup>nd</sup> day of June, 2015 by the following vote:

- AYES:
- NOES:
- ABSTAIN:
- ABSENT:

\_\_\_\_\_  
CHRIS CANNING, Mayor

ATTEST:

\_\_\_\_\_  
KATHY FLAMSON, City Clerk