

City of Calistoga

Staff Report

TO Honorable Mayor and City Council
FROM Lynn Goldberg, Planning and Building Director
DATE January 17, 2017
SUBJECT Annual Review of Resort at Indian Springs Development Agreement

APPROVAL FOR FORWARDING:



Dylan Feik, City Manager

1 **ISSUE:** Consideration of the annual report on the Resort at Indian Springs LLC
2 development agreement

3 **RECOMMENDATION:** Approve the attached resolution finding that Resort at Indian
4 Springs LLC is in good faith compliance with the terms and conditions of its
5 development agreement.

6 **BACKGROUND:** The City of Calistoga entered into a development agreement with
7 Resort at Indian Springs, LLC, on February 23, 2013 (Ordinance No. 688). The
8 Agreement provided the developer with certain assurances that they could proceed with
9 a development project that included a resort expansion of 75 guest rooms, a restaurant,
10 conference facility, gym, yoga studio, and. It also required certain public amenities,
11 infrastructure and improvements, as well as the payment of development impact fees,
12 among other obligations. All of the project's improvements were completed in 2015 and
13 all required fees have been paid.

14 The initial term of the Agreement is five years. It provides that each January 1, the City
15 review the developer's good faith compliance with the Agreement and that the
16 developer work with the City in good faith in connection with any such review.

17 **DISCUSSION:** As required in the Agreement and by Government Code Section
18 65865.1, the City Council must determine whether the Developer has, in good faith,
19 substantially complied with the terms of the Agreement up to and including the date of

20 the review. The developer has submitted the attached Annual Compliance Evaluation
21 Form that demonstrates compliance with its obligations under the Agreement. Based on
22 this submittal and the project status described above, this finding can be made.

23 Although the project's construction is complete, the Agreement must remain in effect
24 because it requires that the project's groundwater discharge baselines be calculated,
25 and its average annual demand on water supplies and wastewater be determined
26 following three years of actual measurement. According to the Public Works
27 Department, the project appears to be within its anticipated baselines.

28 **ENVIRONMENTAL REVIEW:** The annual review of the Agreement is not subject to the
29 California Environmental Quality Act (CEQA) under CEQA Guidelines Section
30 15061(b)(3) because it can be seen with certainty that there is no possibility it could
31 have a significant effect on the environment.

32 **FISCAL IMPACT:** There are no fiscal impacts associated with preparation of the
33 annual report. However, the City's economy has benefited from the project by its
34 promotion of tourism, payment of transient occupancy tax and job creation.

35 **ALTERNATIVES TO RECOMMENDATION:** Pursuant to Government Code Section
36 65865.1, "If, as a result of such periodic review, the local agency finds and determines,
37 on the basis of substantial evidence, that the applicant or successor in interest thereto
38 has not complied in good faith with the terms or conditions of the agreement, the local
39 agency may terminate or modify the Agreement." There is no evidence that this has
40 occurred.

ATTACHMENTS

1. Draft resolution
2. Annual Compliance Evaluation Form for Resort at Indian Springs Development Agreement

RESOLUTION NO. 2017-XXX

1 **RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA FINDING**
2 **THAT RESORT AT INDIAN SPRINGS, LLC IS IN GOOD FAITH COMPLIANCE WITH**
3 **THE TERMS AND CONDITIONS OF THE DEVELOPMENT AGREEMENT FOR THE**
4 **RESORT AT INDIAN SPRINGS PROJECT**

5
6
7 **WHEREAS**, on February 23, 2013, the City of Calistoga (City) entered into a
8 Development Agreement (Agreement) with Resort at Indian Springs, LLC (Developer),
9 (Ordinance No. 688); and

10 **WHEREAS**, the Agreement provided the Developer with certain assurances that
11 it could proceed with a development project on property located at 1712 Lincoln
12 Avenue; and

13 **WHEREAS**, the term of the Agreement is for a period of five years commencing
14 on February 23, 2013; and

15 **WHEREAS**, as required by Government Code Section 65865.1 and by the
16 Agreement, each January 1, the City shall determine whether the Developer has, in
17 good faith, substantially complied with the terms of the Agreement up to and including
18 the date of the review; and

19 **WHEREAS**, at its meeting of January 17, 2017, 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 the
22 facts as described in the staff report that the Developer has completed all of the
23 improvements required of the project and paid all required fees; and

24 **WHEREAS**, the annual review of the Agreement is not subject to the California
25 Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3)
26 because it can be seen with certainty that there is no possibility it could have a
27 significant effect on the environment.

28 **NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of
29 Calistoga hereby finds that:

- 30 1. The Developer is in good faith substantial compliance with the terms and
31 conditions of the Development Agreement between the City of Calistoga and
32 Resort at Indian Springs, LLC.
- 33 2. This review satisfies the annual review of development agreement as provided in
34 Government Code §65865.1.

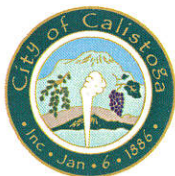
36 **PASSED AND APPROVED** by the City Council of the City of Calistoga at its
37 meeting held the 17th day of January, 2017 by the following vote:

AYES:
NOES:
ABSTAIN:
ABSENT:

CHRIS CANNING, Mayor

ATTEST:

MELISSA VELASQUEZ, Deputy City Clerk



**ANNUAL DEVELOPMENT AGREEMENT
COMPLIANCE EVALUATION FORM**
Annual Review Period: 2016

This Annual Compliance Evaluation Form is submitted to the City of Calistoga ("City") by Resort at Indian Springs ("Developer") pursuant to the requirements of California Government Code Section 65856.1 and Chapter 17.39 of the City Municipal Code regarding Developer's good faith compliance with its obligations under the Development Agreement between the City and Developer by Ordinance No. 688 ("Development Agreement").

Please attach description and/or documentation in support of any "Yes" answers

- A. Development activities during this annual review period: Yes: ___ No: X
- B. Development impact fees, processing fees, architectural review fees and/or other fees paid during this annual review period: Yes: ___ No: X
- C. On- and/or off-site infrastructure improvements completed or paid for during this annual review period: Yes: ___ No: X
- D. Other Development Agreement obligations completed during this annual review period: Yes: ___ No: X
- E. Transfers, assignments, or dedications from or by Developer during this annual review period: Yes: ___ No: X
- F. Awareness of any facts or circumstances that may be construed as a default by Developer during this annual review period: Yes: ___ No: X

The undersigned representative of Developer confirms that Developer is:

X In compliance with its obligations under the Development Agreement for this annual review period.

___ Not in compliance with its obligations under the Development Agreement for this annual review period, in response to which Developer is taking the actions set forth in the attachment hereto.

IN WITNESS WHEREOF, Developer has executed this Annual Compliance Evaluation Form as of this 27 day of December, 2016.

By: Patricia Merchant

Its: mng member