



# CITY OF CALISTOGA

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## STAFF REPORT

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**TO:** Honorable Mayor and City Council  
**FROM:** Lynn Goldberg, Planning & Building Director  
**DATE:** May 21, 2019  
**SUBJECT:** Annual Review of Silver Rose Development Agreement

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**SIGNATURE:**

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**MICHAEL KIRN, Acting City  
Manager**

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**DESCRIPTION:** Consideration of an annual report on the status of the Silver Rose Development Agreement.

**RECOMMENDATION:** Consider adopting a resolution finding that the developer is in good faith compliance with the terms and conditions of the Silver Rose Development Agreement.

**SUMMARY:** The terms of the Silver Rose Development Agreement require an annual review by the City Council to determine whether the developer is in good faith compliance with its terms and conditions.

**BACKGROUND:** The City of Calistoga entered into a development agreement (Agreement) with Silver Rose Venture, LP (Developer), on June 14, 2012 (effective date of Ordinance No. 682). The Agreement provided the Developer with certain assurances that they could proceed with the Silver Rose Resort Project that includes a resort hotel with 85 guestrooms, 20 single-family homes, a spa, a restaurant, a winery, recreational amenities and support facilities. The project is required to make certain public improvements, such as to Silverado Trail and Rosedale Road, and pay development impact fees, among other obligations.

The initial term of the Agreement is five years, with the possibility of term extensions. The City Manager approved one-year term extensions on April 11, 2017, March 2, 2018 and May 7, 2019 to accommodate the project's construction. The Developer anticipates that no additional term extensions will be necessary.

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

The Developer has completed an Annual Compliance Evaluation Form that provides evidence of its good faith compliance with its obligations under the Agreement (Attachment 2). Between April 1, 2018 and April 1, 2019, the Developer undertook the following project activities:

- Completed major site grading and utilities
- Obtained building permits for the construction of the lodge complex, guest villas, pool buildings and residences
- Substantially completed the hotel core and winery core concrete work
- Framed, roofed and dried-in 4 of the 20 residences; and framed and roofed 6 of the 18 villa buildings
- Paid development impact, school impact, and Solage sewer and water reimbursement fees totaling more than \$4 million

The Developer is targeting the second quarter of 2019 for substantial completion of the project, and a third quarter grand opening. Hiring of the hotel staff has begun. Eighteen of the 20 residences are under binding contract.

Additional activities are detailed in the Addendum to the Evaluation Form.

**FINANCIAL IMPACT:** A determination that the Developer is acting in good faith to fulfill the terms of the Agreement will allow completion of the project, which will contribute significant revenues to the City in the form of transient occupancy taxes, property taxes and sales taxes.

**CEQA REVIEW:** The annual review of the Agreement is not subject to the California Environmental Quality Act (CEQA) because it does not constitute a "project" as defined by Public Resources Code Section 21065.

**CONSISTENCY WITH CITY COUNCIL GOALS AND OBJECTIVES:**

Completion of the Silver Rose project will further the following City Council goals and objectives:

- Goal 1: Maintain and enhance the economic vitality of the community and the financial stability of the City.

Objective 1: Manage and evaluate key private development and renovation projects to maintain economic vitality in balance with the needs of the community.

**ALTERNATIVES:**

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

**ATTACHMENTS:**

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

**RESOLUTION NO. 2019-XXX****RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA, FINDING THAT THE DEVELOPER OF THE SILVER ROSE RESORT PROJECT IS IN GOOD FAITH COMPLIANCE WITH THE TERMS AND CONDITIONS OF THE PROJECT'S DEVELOPMENT AGREEMENT**

**WHEREAS**, on June 14, 2012, the City of Calistoga (City) entered into a Development Agreement (Agreement) with Silver Rose Venture, LP (Developer) through its approval of Ordinance No. 682; and

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

**WHEREAS**, the term of the Agreement is for a period of five years and the City Manager has extended that term to June 14, 2020, as allowed by the terms of the Agreement; and

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

**WHEREAS**, the annual review of the Agreement is not subject to the California Environmental Quality Act (CEQA) because it does not constitute a "project" as defined by Public Resources Code Section 21065; and

**WHEREAS**, at its meeting of May 21, 2019, the City Council considered the Annual Compliance Evaluation Form and Addendum for the period of April 1, 2018 to April 1, 2019, submitted by the Developer, which provides evidence of its good faith compliance with its obligations under the Agreement and other information provided by staff; and

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

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

1. The Developer is in good faith substantial compliance with the terms and conditions of the Development Agreement between the City of Calistoga and Silver Rose Venture, LP for the Silver Rose Resort project.

2. This review satisfies the annual review of development agreement requirements as provided in Government Code §65865.1.

**PASSED, APPROVED, AND ADOPTED** by the City Council of the City of Calistoga at its meeting held the **21st day of May 2019**, by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

**ABSENT:**

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

**ATTEST:**

\_\_\_\_\_  
**IRENE CAMACHO-WERBY, City Clerk**

Silver Rose Property Owner LP  
Silver Rose Residential Owner LP  
1334-B Lincoln Avenue  
Calistoga, CA 94515  
(707) 709-2180

April 26, 2019

Mr. Mike Kirn  
Acting City Manager  
City of Calistoga  
1232 Washington St.  
Calistoga, CA 94515

RE: Annual Review of Silver Rose Resort  
Project Development Agreement

Dear Mike:

Enclosed is the Development Agreement Annual Compliance Evaluation with Addendum for the period April 1, 2018 to April 1, 2019. Under separate letter, we are requesting a one-year extension of the expiration date for the Development Agreement to June 14, 2020. Our check in the amount of \$260 is enclosed, covering both the \$130 processing fee for the Annual Compliance Evaluation and the \$130 processing fee for the extension request.

As you can see from the photos included herein, significant progress has been achieved during the reporting period in spite of construction delays resulting from a heavier than normal rainy season. We are targeting Fall 2019 for substantial completion and grand opening. Only one home remains available, with 19 of the 20 homes under binding contract. The hotel operator has filled most of the key executive positions, and hotel sales & marketing efforts are well underway.

Please let us know if you have any questions or need additional information.

Best regards,



Kelly Foster

KF/nj

Cc: Lynn Goldberg, Director  
Planning & Building

**ANNUAL COMPLIANCE EVALUATION FORM**

This Annual Compliance Evaluation Form is submitted to the City of Calistoga ("City") by Silver Rose Venture LP ("Developer") pursuant to the requirements of California Government Code Section 65865.1 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. 682 ("Development Agreement").

**Annual Review Period: April 1, 2018 to April 1, 2019**

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

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

The undersigned representative of Developer confirms that Developer is:

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 26<sup>th</sup> day of April, 2020.

By:   
Kelly Foster  
Principal  
Silver Rose Venture, LP

**ANNUAL COMPLIANCE EVALUATION FORM ADDENDUM**

**Annual Review Period: April 1, 2018 to April 1, 2019**

- A. *Development activities during this review period*
- A. *Continued implementation of Storm Water Prevention Plan*
  - B. *Extended Encroachment Permit #3762 (Offsite Improvements) to October 1, 2019*
  - C. *Permit #18-113: tenant improvements at 1334-A Lincoln Avenue offices*
  - D. *Permit #PR18-6: gray water system at residences*
  - E. *Permit #PR18-8: revisions to main electrical room*
  - F. *Permit #PR18-13: upgrades & customizations to Residence #1*
  - G. *Permit #PR18-11: upgrades & customizations to Residence #14*
  - H. *Permit #PR18-12: upgrades & customizations to Residence #8*
  - I. *Permit #PR18-7: redesign of foundation, structure & MEP for Residence #19*
  - J. *Permit #PR18-17: upgrades & customizations to Residence #13*
  - K. *Permit #PR18-10: revised stairs for Villas 1-6, 8, 9, 10, 13, 14, & 15*
  - L. *Permit #FS18-2: fire sprinklers for Villas types 1-6 and RSB's types 1 and 2*
  - M. *Permit #PR18-18: installation of two winery fermentation tanks*
  - N. *Permit #B17-287C: winery catwalks*
  - O. *Permit #PR18-16: modifications to Residence #20 pool*
  - P. *Permit #FS18-3: fire sprinklers for lodge/winery/restaurant/spa*
  - Q. *Permit #PR18-21: lodge fire barrier*
  - R. *Permit #PR18-22: villa type 2 roof trusses*
  - S. *Permit #PR18-23: villa type 5 roof trusses*
  - T. *Permit #18-24: roof trusses for pool building and kids' club*
  - U. *Permit #18-25: roof trusses for villa type 6, RSB 1-3 and residence type 2*
  - V. *Permit #B18-249: event barn*
  - W. *Permit #PR18-15: cold formed metal framing calcs & drawings review*
  - X. *Permit #PR19-2: fire sprinklers for pool bar and restrooms*
- B. *Development impact fees, processing fees, architectural review fees and/or other fees paid during this period*
- A. *There were no development impact fees paid during this period*
  - B. *Permit processing fees paid*
    - i. *April 11, 2019: \$1,125.93 fee for tenant improvements at development offices located at 1334-B Lincoln Avenue, Calistoga*
    - ii. *May 11, 2018: \$420 fee for gray water system at residences, #PR18-6*
    - iii. *May 17, 2018: \$415.43 fee for revisions to main electrical room, #PR18-8*
    - iv. *May 25, 2018: \$1,957.05 fee for upgrades to Residence #1, #PR18-13*
    - v. *May 31, 2018: \$649.70 fee for upgrades to Residence #14, #PR18-11*
    - vi. *May 31, 2018: \$596.59 fee for upgrades to Residence #8, #PR18-12*
    - vii. *May 31, 2018: \$2,080.55 fee for redesign of foundation, structure & MEP for Residence #19, #PR18-7*
    - viii. *August 3, 2018: \$389.47 fee for upgrades to Residence #13, #PR18-17*
    - ix. *Sept. 29, 2018: \$500 fee for revised stairs for Villas 1-6, 8, 9, 10, 13, 14, & 15, #PR18-10*
    - x. *Sept. 26, 2018: \$3,295.35 fee for fire sprinklers for Villas types 1-6 and RSB's types 1 and 2, #FS18-2*



- xi. Oct. 3, 2018: \$1,148.25 fee for installation of 2 winery fermentation tanks, #PR18-18
- xii. Oct. 11, 2018: \$1,179.50 fee for winery catwalks, #B17-287C
- xiii. Oct. 12, 2018: \$358.30 fee for modifications to R20 pool, #PR18-6
- xiv. Oct. 22, 2018: \$2,241.15 fee for fire sprinklers for lodge/winery/restaurant/spa, #FS18-3
- xv. Nov. 2, 2018: \$301.43 fee for lodge fire barrier, #PR18-21
- xvi. Nov. 19, 2018: \$94.00 fee for villa type 2 roof trusses, #PR18-22
- xvii. Nov. 19, 2018: \$94.00 fee for villa type 5 roof trusses, #PR18-23
- xviii. Nov. 19, 2018: \$94.00 fee for roof trusses for pool building, #PR18-24
- xix. Nov. 19, 2018: \$65.00 fee for roof trusses for villa type 6, RSB 1-3 and residence type 2, #PR18-25
- xx. Nov. 28, 2018: \$3,059.72 fee for Event Barn, #B18-249
- xxi. Dec. 14, 2018: \$803.93 fee for cold formed metal framing calcs & drawings review, #PR18-15
- xxii. March 4, 2019: \$776.42 fee for fire sprinklers for pool bar & restrooms, #PR19-2

C. Developer Deposit Account ("DDA")

- i. May 8, 2018: Paid \$3,120 to DDA #42-2220-0226 "Inspections"
- ii. June 8, 2018: Paid \$2,652.50 to DDA #42-2220-0226 "Inspections"
- iii. August 10, 2018: Paid \$4,077.75 to DDA #42-2220-0226 "Inspections"
- iv. Sept. 17, 2018: Paid \$1,520 to DDA #42-2220-0226 "Inspections"
- v. Nov. 9, 2018: Paid \$2,654.50 to DDA #42-2220-0226 "Inspections"
- vi. Dec. 17, 2018: Paid \$4,954 to DDA #42-2220-0226 "Inspections"
- vii. Jan. 17, 2019: Paid \$2,725 to DDA #42-2220-0226 "Inspections"

D. On- and/or off-site infrastructure improvements completed or paid for during this annual review period:

- i. Undergrounding of power poles on Rosedale Road complete
- ii. Offsite sanitary system approved by City of Calistoga
- iii. Onsite gas and electric service complete and approved by City of Calistoga
- iv. Offsite gas and electric service complete and approved by City of Calistoga







