

**CITY OF CALISTOGA
PLANNING COMMISSION
RESOLUTION PC 2021-XX**

**PARTIALLY APPROVING AND PARTIALLY DENYING USE PERMIT
AMENDMENT UP 2021-9 AND DESIGN REVIEW DR 2021-2 FOR 345
SILVERADO TRAIL (APN 011-050-032) WITHIN THE PD 2002-2 ZONING
DISTRICT, AND REVIEWING FOR COMPLIANCE WITH THE ORIGINAL
CONDITIONS OF APPROVAL OF THE HELMER CONDITIONAL USE
PERMIT U 2003-12**

1
2 **WHEREAS**, the property at 345 Silverado Trail (APN 011-050-032) is within the
3 PD 2002-2 Zoning District where most uses and development require a use permit and
4 design review; and

5 **WHEREAS**, on February 25, 2004, the Calistoga Planning Commission approved
6 a mitigated negative declaration, and design and conditions use permit application to
7 establish a residential development under U 2003-12, located at the subject property at
8 345 Silverado Trail; and

9 **WHEREAS**, in July 2021, after complaints by neighboring residents and visual
10 inspections, City staff became aware of unpermitted construction and uses on the
11 property and determined that there were likely violations of the original use permit U 2003-
12 12, and issued two Notice of Violation letters; and

13 **WHEREAS**, on September 24, 2021, the property owner and applicant Syed Ali
14 (Rick) submitted a request for a use permit amendment and design review application in
15 order to review the property's compliance with the original conditions of approval under
16 U 2003-12 and amend the permitted uses and seek approval for the design of new and
17 proposed structures; and

18 **WHEREAS**, the Planning Commission considered this request at its regular
19 meeting of October 13, 2021. Prior to taking action on the application, the Planning
20 Commission received written and oral reports by the staff, and received public testimony;
21 and

22 **WHEREAS**, this action has been reviewed for compliance with the California
23 Environmental Quality Act (CEQA) and is exempt from the requirements of CEQA
24 pursuant to Section 15301 of the CEQA Guidelines; and

25 **WHEREAS**, the Planning Commission pursuant to Chapter 17.40.030.D has made
26 the following use permit findings for the project:

- 27 1. Finding: Aspects of the application are in accord with the General Plan and any
28 applicable planned development.

29 Supporting Evidence: The portions of the development to be approved is
30 consistent with the goals and policies of the Calistoga General Plan in that it
31 represents allowable uses on an existing residential property and is screened from
32 public view via Mt. Washington. However, some of the uses, specifically the
33 aviaries are not in accord with the General Plan nor the Planned Development.

34 2. Finding: Aspects of the application are in accord with all provisions of this title.

35 Supporting Evidence: The site is physically suitable for the type and intensity of
36 development recommended for approval by staff in that it occupies an existing rural
37 residential space appropriate for residential uses and ancillary/accessory uses.
38 The portions of the unpermitted development to be approved is allowed with a use
39 permit in this district by the zoning code. Once plans and photo documentation are
40 submitted to staff, staff will confirm that the project is in compliance with all PD
41 2002-2 District development standards. As noted, certain portions of this
42 application are not in accord with this finding in that they are not suitable for this
43 location, and staff has therefore recommended those aspects of the application for
44 denial.

45 3. Finding: Will not substantially impair or interfere with the development, use or
46 enjoyment of other property in the vicinity.

47 Supporting Evidence: The unpermitted development is situated on an existing rural
48 residential space. The portions of the development to be approved will not
49 generate any excessive noise or lighting, or any other operational characteristics
50 associated with the use that will interfere with surrounding properties. However
51 certain requested elements of the project, like the aviaries would interfere with the
52 use and enjoyment of surrounding properties as is demonstrated by the record.

53 4. Finding: Is consistent with and enhances Calistoga's history of independently
54 owned businesses, thus contributing to the uniqueness of the town, which is
55 necessary to maintain a viable visitor industry and promote its economy.

56 Supporting Evidence: Not applicable.

57 **WHEREAS**, the Planning Commission pursuant to Chapter 17.40.050 has made
58 the following design review findings for the project:

59 1. Finding: Is in accord with the General Plan

60 Supporting Evidence: The portions of the development to be approved is
61 consistent with the goals and policies of the Calistoga General Plan in that it
62 represents allowable uses on an existing residential property and is screened from
63 public view via Mt. Washington. However, some of the uses, specifically the
64 aviaries are not in accord with the General Plan nor the Planned Development.

65 2. Finding: Is in accord with all applicable provisions of the Zoning Code.

66 Supporting Evidence: The site is physically suitable for the type and intensity of
67 the portions of the development to be approved in that it occupies an existing rural
68 residential space appropriate for residential uses and ancillary/accessory uses.
69 The portions of the development to be approved are allowed with a use permit in
70 this district by the zoning code. Once plans and photo documentation are
71 submitted to staff, staff will confirm that the project is in compliance with all PD
72 2002-2 District development standards. As noted, certain portions of this

73 application are not in accord with this finding in that they are not suitable for this
74 location, and staff has therefore recommended those aspects of the application for
75 denial.

76 3. Finding: Is consistent with any adopted design review guidelines to the extent
77 possible.

78 Supporting Evidence: The aspects of the project to be approved are designed in
79 accordance with the adopted design guidelines, are designed and landscaped in
80 an architecturally tasteful and sensitive manner and are adequately screened to
81 the extent possible from neighboring properties.

82 4. Finding: Will not impair or interfere with the development, use or enjoyment of other
83 property in the vicinity or the area.

84 Supporting Evidence: The unpermitted development is situated on an existing rural
85 residential space. The portions of the development to be approved will not
86 generate any excessive noise or lighting, or any other operational characteristics
87 associated with the use that will interfere with surrounding properties. However
88 certain requested elements of the project, like the aviaries would interfere with the
89 use and enjoyment of surrounding properties as is demonstrated by the record.

90 **NOW, THEREFORE, BE IT RESOLVED** by the City of Calistoga Planning
91 Commission that based on the above findings, the Planning Commission approves
92 aspects of the proposed use and design and denies aspect of the proposed use and
93 design, subject to the following conditions of approval:

94 1. The use hereby permitted shall substantially conform to the project descriptions and
95 supporting plans from the original use permit U 2003-12, except as noted in the
96 permit conditions listed below and those dated February 25, 2004.

97 2. Specifically, the portions of the application approved by this permit are:

98 a. Tree Removal and Grading Along Hillside. Previous brush removal along the
99 slope that leads to the city's access road to Mt. Washington is approved per
100 the terms of Condition 11 and 12.

101 b. Entry Gate. The entry gate is approved per the terms of Condition 8 and 13.

102 c. Helicopter "sculpture". The non-operational helicopter "sculpture" is approved
103 per the terms of Condition 14.

104 d. Unpermitted Metal Building. The unpermitted metal building is approved per
105 the terms of Condition 8 and 13 and subject to the relocation of the building
106 outside of the 10-foot side setback and 20-foot rear setback.

107 e. Storage Building and Propane Tank. The storage building and propane tank
108 are approved per the terms of Condition 8 and 13.

109 f. Lighting Along Access Road. The existing lighting along the property's access
110 road is approved per the terms of Condition 8 and 15.

- 111 3. Specifically, the portions of the application denied and disapproved by this permit
112 are:
- 113 a. Aviaries. The request for approval of the two aviaries is denied. The property
114 owner must remove the birds within the aviaries and fully deconstruct them
115 within thirty days of the effective date of this resolution. As noted in Condition
116 15, peacocks and other non-native bird species are not allowed to be kept
117 outdoors on the subject property.
- 118 b. Unpermitted Garage Pads. The request for approval of the unpermitted
119 garage pads in the existing location is denied. Once the biologist has
120 determined the associated impacts, the applicant shall contact the Region 2
121 Water Quality Control Board to report the impact to the previously mapped
122 wetlands and seek guidance from the Board as to what steps to take to
123 mitigate the impact. The applicant shall implement all mitigation measure
124 found to be required and to restore the location of the existing unpermitted
125 garage pads back to its previous condition, including their demolition, subject
126 to Condition 8. Restoration and mitigation activities shall be completed within
127 a reasonable time frame subject to the review and approval if Planning and
128 Building Department staff.
- 129 c. Proposed RV port and Garage/Office Space Building. The request for
130 approval of the proposed RV port and garage/office space building behind the
131 existing garage, along the 20-foot utility easement is denied per the U 2003-
132 12 staff report discussion.
- 133 4. Any expansion or change of use shall require a use permit and design review
134 amendment subject to review by the Planning Commission. Minor modifications
135 may be approved in writing by the Planning and Building Director.
- 136 5. This permit shall be null and void if not used within a year, or if the uses are
137 abandoned for a period of one hundred and eighty (180) days. Once the uses are
138 initiated, this permit shall be valid until it expires or is revoked pursuant to the terms
139 of this permit and/or Chapter 17.40 of the Calistoga Municipal Code.
- 140 6. This use permit does not abridge or supersede the regulatory powers or permit
141 requirements of any federal, state or local agency, special district or department
142 which may retain regulatory or advisory function as specified by statute or
143 ordinance. The applicant shall obtain permits as may be required from each
144 agency.
- 145 7. This project is subject to additional review and approvals by the Calistoga Building
146 Division and the Calistoga Fire Department.
- 147 8. A building permit shall be obtained for any construction occurring on the site not
148 otherwise exempt by the California Building Code or any state or local amendment
149 adopted thereto, and all fees associated with plan check and building inspections,
150 and associated development impact fees established by City Ordinance or

- 151 Resolution shall be paid. Building permit application for all approved portions of
152 this development shall be submitted to the City within thirty (30) days of the
153 effective date of this resolution. For any aspects of the development not approved
154 and that requires demolition, the owner applicant shall apply for demolition permits
155 for those structures within 30 days of the effective date of this resolution.
- 156 9. Prior to operation/occupancy, an inspection shall be conducted by the Fire
157 Department to ensure compliance with health and safety regulations in the existing
158 metal building.
- 159 10. No construction shall be allowed within the existing 20-foot utility easement.
- 160 11. Prior to the issuance of a building permit, an Erosion and Control Plan for all
161 disturbed areas on the property shall be submitted for staff review.
- 162 12. Tree permits may be required. Please consult with Public Works and an arborist.
- 163 13. Prior to the issuance of a building permit, plans shall be submitted for staff level
164 conformance review. Submitted plans shall show all existing easements.
- 165 14. The non-operational helicopter "sculpture" shall be conditioned to be placed on a
166 gravel or concerted pad in order to prevent any potential leakage of petroleum
167 unless photographs are provided that the gas tank has been removed.
- 168 15. Aviaries are not permitted on the subject property, and peacocks and other non-
169 native bird species shall not be allowed to be kept outdoors on the subject property.
- 170 16. The applicant shall submit an example of the shade covers ordered for the existing
171 lighting along the property's access road for staff level review of its compliance
172 with the International Dark Sky Standards, and shall utilize LED lights.
- 173 17. If is discovered that the property is being utilized as a short-term rental, the
174 underlying use permit shall be revoked.

ADOPTED on October 13, 2021, by the following vote of the Calistoga Planning
Commission:

AYES:
NOES:
ABSENT:
ABSTAIN:

Scott Cooper, Chair

ATTEST: _____
Claudia Aceves, Secretary