

**CALISTOGA PLANNING COMMISSION
STAFF REPORT**

To: Calistoga Planning Commission
From: Samantha Thomas, Associate Planner
Meeting Date: October 13, 2021
Subject: **Helmer Conditional Use Permit U 2003-12
Review Compliance with Conditions of Approval, Use Permit
Amendment UP 2021-9, and Design Review DR 2021-2**

ITEM

Consideration of a use permit amendment and design review to address the property’s alleged code violations, ensuring compliance with original conditions of approval and modifying as appropriate. The project consists of relocating an existing unpermitted metal barn behind the 20-foot side yard setback, reviewing the design of an existing entrance gate and proposed shade covers for access road lighting, reviewing an existing unpermitted duck and aviary enclosures for non-native bird species in connection with an issued noise nuisance notice of violation, reviewing the abandonment of existing unpermitted garage pads within a potentially sensitive area of the property and relocating the footprint behind the existing main garage, and considering an Erosion Control Plan for trees removed for defensible space be required as a condition of approval prior to obtaining building permits for the subject property.

KEY ISSUES

- Unpermitted construction and uses have occurred and been initiated on the property.
- Complaints from surrounding property owners associated with certain new uses and construction, particularly the peacocks in the unpermitted aviaries have been received by City staff.
- Applicant has submitted a use permit and design review application that would approve and legalize all the new uses and planned, under-construction, or already built structures.
- Upon review of the application, input from other City Departments, and public input, staff recommends the limited approval of some of the requested items, and the denial and disapproval of other the requested items, particularly the unpermitted aviaries.

BACKGROUND

City Approvals

On February 25, 2004, the Calistoga Planning Commission approved a mitigated negative declaration, and design and conditional use permit application to establish a

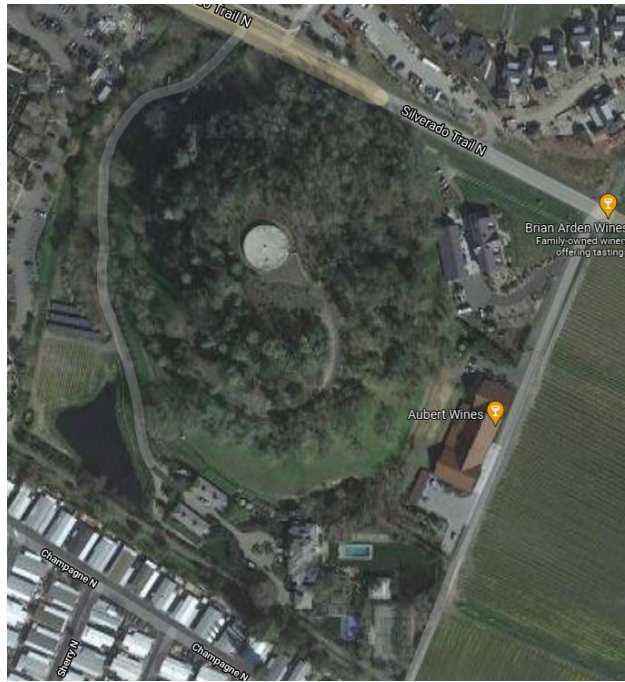
30 residential development within Planned
31 District PD 2002-2 located 1,500 feet
32 southeast of the intersection of Silverado
33 Trail and Rosedale Road at 345 Silverado
34 Trail (see Attachment 2).

35 The property has a General Plan
36 designation of Rural Residential with a
37 Planned Development Overlay (Silverado
38 Trail Planned Development Overlay (PD-
39 1)) and a zoning designation under the
40 Calistoga Municipal Code (CMC) of
41 Planned Development PD 2002-2,
42 Maxfield Planned Development District.

43 Construction of the residence was
44 completed in 2008, followed by solar
45 installation in 2012. Minor additional
46 improvements have continued to occur on-
47 site since the original construction.

48 Various conditions of approval for the
49 Helmer Residence Use Permit (U 2003-
50 12) pertinent and directly related to the project's review in regard to compliance are
51 provided as follows:

- 52 1. *This permit authorizes the development of a residence on the site*
53 *consistent with all City Ordinances, rules, regulations, and policies. The*
54 *conditions listed below are particularly pertinent to this permit and shall not*
55 *be construed to permit violation of other laws and policies not so listed.*
- 56 2. *Approval of this permit is limited to conformance with the land use*
57 *provision contained in the City's Zoning Ordinance. Use of the property*
58 *shall be limited to those uses identified in the Findings above and the Staff*
59 *Report dated February 25, 2004. Any changes to the approved use are*
60 *subject to the provisions of the Zoning Ordinance, as it exists now or may*
61 *be amended in the future.*
- 62 3. *Development of the proposed single-family residence shall conform to all*
63 *required conditions established herein plus all mitigation measures*
64 *specified in the Negative Declaration, as approved by the Planning*
65 *Commission on February 25, 2004. Failure to comply with these*
66 *conditions may result in amendment by the Planning Commission or*
67 *possible revocation to protect the public health, safety, and general*
68 *welfare of the community, as set forth in the City's Zoning Ordinance.*



Subject property

- 69 7. *Prior to occupancy of any structures on the parcel, the applicant shall*
70 *obtain approval of a Knox Box or similar approved alternative for access to*
71 *the site in the event of an emergency, as approved by the City of*
72 *Calistoga Fire Chief.*
- 73 9. *Any future exterior alterations, expansion or other new construction shall*
74 *be subject to Design Review approval. The property owner agrees to*
75 *submit an application for Building Permit for all construction of buildings or*
76 *structures located on the site, not otherwise exempt by the Uniform*
77 *Building Code or any State or local amendment adopted thereto. Prior to*
78 *issuance of all building permits, the property owner agrees to pay all fees*
79 *associated with plan check and building inspections, and associated*
80 *development fees Ordinance or Resolution.*
- 81 10. *Approval of this Conditional Use Permit is based on the presentation of*
82 *materials kept on file by the Planning and Building Department. These*
83 *materials shall be applied to the building as approved and may only be*
84 *changed with the approval of a Design Review application approved by*
85 *the Planning Commission, through the process established in the City of*
86 *Calistoga Zoning Ordinance.*
- 87 12. *Given the location of this parcel at an important gateway to the*
88 *community, the property owner agrees to submit for Design Review*
89 *consideration and approval all future exterior alterations, additions and site*
90 *modifications, such as exterior color changes, awnings, signs, materials,*
91 *and lighting, not to include repainting a structure to match the existing*
92 *color(s) and repair or maintenance where the work solely involves the*
93 *replacement of materials in kind or in a location that is not visible from the*
94 *public right-of-way.*
- 95 17. *Exterior lighting shall be directed towards the ground to avoid light and*
96 *glare upon adjacent parcels and containing the lowest illumination*
97 *necessary for safety.*
- 98 19. *The driveway connecting the subject property to Silverado Trail shall be*
99 *coordinated with future development on the adjacent vacant parcel to the*
100 *east...[and] any entry driveway gate approved by the City in this permit*
101 *shall be set back from the property line a minimum of 23 feet to provide*
102 *shared access to the Mount Washington parcel and to provide safe*
103 *queuing on the property for emergency vehicles and other vehicles to park*
104 *while the gate is opening inward toward the property. The design of this*
105 *gate shall be approved by the City prior to issuance of the Building Permit.*

106 *20. All landscaping shall comply with the plan prepared by Quadriga*
107 *Landscape Architecture and Planning, Inc. received by the City on*
108 *January 31, 2003...[and] all requirements and restrictions contained in*
109 *Chapter 19.01 of the Calistoga Municipal Code (CMC) shall be complied*
110 *with.*

111 *22. Site work including, but not limited to, proposed berms shall not impact*
112 *existing protected trees, and views for adjacent property owners.*

113 *27. Prior to commencing with grading activities on the site, the applicant shall*
114 *be required to contact the Planning and Building Director to confirm the*
115 *location of cuts to ensure that the disturbed area is consistent with the*
116 *project approvals.*

117 The complete list of Findings and Conditions under U 2003-12 is provided in Attachment
118 3. The property is currently not in compliance with U 2003-12 conditions of approval and
119 the following paragraphs detail staff's discovery and investigation into the various
120 violations on the property.

121 Notice of Violations and Applicant's Response

122 On July 20, 2021, city staff
123 observed concrete being
124 poured for large
125 foundation/slabs while on a
126 site visit at the adjacent
127 Solage property. A red tag
128 (stop work notice) was
129 posted on the front gate and
130 the individuals on-site were
131 notified to stop all work. A
132 preliminary inspection of the
133 property was performed from
134 the adjacent city owned
135 property on Mt. Washington,
136 followed by an on-site site
137 visit on July 29, 2021. See
138 Attachment 4 for a photo
139 exhibit. At that time, staff
140 reminded the owner that the
141 property was subject to conditions of a use permit and as such, most improvements on
142 the property would require review by the Planning Commission. A Notice of Violation
143 (NOV) was issued to the owner during the July 29, 2021, site visit with an addendum
144 NOV issued on August 3, 2021, following the discovering of additional activities and
145 violations. All activities discussed below are in violation of the property's use permit (U
146 2003-12) and the Calistoga Municipal Code (CMC).



140 *Unpermitted Garage Pads*

147 The following provides a list of violations, required actions as communicated in staff's
148 NOV letters, and the applicant's response from their Notice of Violation Response Letter
149 and Abatement Schedule dated September 22, 2021 (see Attachment 5). The
150 applicant's associated exhibits are provided in Attachment 6.

151 *Aviaries*

152 The City first became aware of
153 potential noise nuisances at the
154 property in July 2021 via complaints
155 from neighbors at the Chateau
156 Calistoga Mobile Home Park. Six of
157 the eight complaints were
158 documented by the City's Police
159 Department (Police) related to
160 peacocks on-site (see Attachment 7).
161 Numerous other complaints were
162 received informally by the Planning &
163 Building Department. One of the
164 complaints to the Police Department
165 was logged as *possible peacocks*
166 *being extremely loud*. During the
167 subsequent site visit, staff discussed
168 with the owner the complaints the City
169 had received regarding noise from
170 birds on the property, specifically
171 peacocks and that it is a violation of
172 the City's Municipal Code per CMC 8.20.010. Staff observed approximately 12
173 peacocks in addition to other non-native bird species. The applicant (who is also the
174 property owner) during the site visit expressed that they would try to mitigate the noise.
175 The applicant's response letter indicated that the species kept in the aviaries are non-
176 native and that it is not an inherent city violation to have animals in this nature, but that
177 the bird enclosures have introduced potential noise nuisance violations. The applicant
178 stated that peacocks are not by nature loud in the evening and that they requested a list
179 of all noise violations from the Police. The applicant contends that the report they were
180 given showed that no noise nuisance was discovered when officers were sent to
181 investigate and therefore, no nuisance noise was documented. The owner stated they
182 are willing to provide their own noise recordings of the property if the city desires.



169 *Unpermitted Aviary*
170 *Peacocks and Other Non-Native Bird Species*

183 Staff observed existing bird netting during the site visit, utilized as aviaries to house
184 peacocks, ducks, and other various non-native bird species. As labeled on the Exhibits
185 (see Attachment 6) the aviary net enclosure is approximately 7,500 square feet and 20
186 feet high, and the duck enclosure is approximately 2,500 square feet and 20 feet high.
187 This is not listed as an allowed use in the PD 2002-2 zoning district, with or without the
188 issuance of a use permit. Even if the case was made that the use could be determined

189 by the Planning Commission to be similar in nature to permitted uses in that district, it
190 has not received approval via a use permit. It was also further communicated to the
191 owner during the site visit that the enclosures would require a building permit. However,
192 the applicant indicated in their response letter they would like to come to an agreement
193 with the City on how the birds can be managed on-site prior to submitting a formal use
194 permit application.

195 Conditions under U 2003-12 potentially not in conformance: 1, 2, 9, 10, 12

196 *Tree Removal and Grading Along Hillside*

197 Staff observed the aftermath of
198 potentially unpermitted tree removal and
199 grading along the slope that leads to the
200 city's access road to Mt. Washington,
201 where the owner planted a few rows of
202 grapes. Neither a tree permit nor a
203 grading permit was issued for this work.
204 As noted in the NOV letter, per CMC
205 19.01.050.C, *any unauthorized*
206 *disturbance, damage or destruction, or*
207 *removal of protected trees shall be*
208 *mitigated either via*
209 *replacement/restoration, monetary*
210 *reimbursement equal to the cost of repair*
211 *or replacement, suspension, or*



212 *Hillside along City's Access Road*

213 *revocation of permits, and/or criminal penalties.* It was communicated in the NOV letter
214 and during the site visit that Public Works is requesting a topographic survey of the
215 entire property as well as an Erosion Control Plan for all disturbed areas. Staff has since
216 received a topographic survey of the entire property from the applicant (see Attachment
217 8). In the applicant's response letter, applicant states that no protected trees were
218 removed during the grading and planting of vines on this portion of the property as
219 almost all growth was brush similar to that on Mt. Washington. The applicant contends
220 that this brush removal was done for the purposes of creating defensible space in the
221 event of a potential wildfire event. The applicant stated that an Erosion Control Plan has
222 been initiated and mitigation measures will be provided to the city for approval.

222 Conditions under U 2003-12 potentially not in conformance: 1, 2, 20, 22, 27

223 *Entry Gate*

224 During the site visit, staff noticed the entry gate was newly constructed and contained
225 decorative metal fence toppers on either side (i.e., metal circular open fire pits with
226 outlines of phoenix's) that ignite and display open flames utilizing the propane tank
227 situated adjacent to Mt. Washington. After reviewing the property's approved plans
228 under U 2003-12, staff discovered that the entry gate was not designed per the plans,
229 nor were revised plans and a building permit submitted to the City for review. The

230 applicant's response letter indicated that the torches on either side of the entry gate
231 have been temporarily shut off and the owner has installed spark arrestor screen mesh
232 inside the area of flame and awaits inspection from Fire for approval.

233 Conditions under U 2003-12 potentially not in conformance: 1, 2, 9, 10, 12, 19

234 *Helicopter "Sculpture"*

235 The City received calls in July 2021 from
236 neighbors that a helicopter was taking off
237 and landing on the subject property. Prior
238 to the site visit, staff indicated in the NOV
239 letter that storage of petroleum gas is
240 prohibited in all areas of the city unless a
241 permit is issued by the fire code official.
242 During staff's site visit, it was observed
243 that the helicopter parked on the lawn
244 behind the pool appeared to be non-
245 operational. The applicant indicated in
246 their response letter that there is no
247 liquified petroleum on-site to serve the



248 *Non-operational Helicopter "Sculpture"*

249 solely as a "sculpture" that sits in the
250 center of the property. It was further explained that the helicopter was delivered to the
251 site on a flatbed truck and is neither certified nor capable of flying as the engine is
252 missing parts and there is no gas tank. The applicant averred that the neighbors'
253 complaints were false and that they've separately seen helicopters fly directly over their
254 property at heights lower than 100 feet – none of which were associated with their
255 property.

256 Conditions under U 2003-12 potentially not in conformance: 1, 2, 9, 12

257 *Unpermitted Garage Pads*

258 Staff observed from adjacent properties the act of and aftermath of large
259 foundation/slabs being poured in which a red tag was issued by staff. Prior to staff's site
260 visit, a review of the property's use permit was completed, in which it was found that the
261 location of the new large foundation/slabs may be located within a mapped wetland.
262 The NOV letter requested that the applicant hire a biologist to determine what, if any
263 impact had occurred to existing mapped wetlands on-site and if impacts had occurred,
264 to contact the Region 2 Water Quality Control Board to report the impact to the wetlands
265 and seek guidance from the Board as to what steps to take to mitigate the impact.

266 During the site visit, the applicant explained that the smaller slab would be utilized as an
267 RV port and would not contain any walls, while the larger slab would be used as a
268 garage for storage as well as an office space. Staff explained that the proposed
269 garage/office space building, approximately 2,200 square feet in size, would require

270 some level of design review and possibly a use permit amendment, and would be
271 classified as a 'U occupancy' under the Building Code, therefore requiring fire
272 sprinklers. Staff provided information that the new slabs may have potential impacts to
273 wetlands and requested a wetland delineation be performed to assess the potential
274 presence on-site, referring to in the NOV letter.

275 The applicant's response letter indicated that they have hired a biologist to re-map the
276 potential wetland areas as the Army Corps of Engineers would not consider the
277 previous study valid due to the heavy development of adjacent properties and impacts
278 on those wetlands, as well as the age of the study. If the garage pads are too great an
279 impact on the wetlands, and mitigation actions are too costly or time consuming, the
280 owner has proposed an alternative location behind the existing garage, along the
281 existing 20-foot- utility easement if the wetland mitigation measures at the current
282 location are not feasible. The applicant indicated they will provide an overlay of
283 wetlands and protected areas that are deemed protected for water and watershed
284 conservation and will be used by the applicant to show areas of permissible work.

285 Conditions under U 2003-12 potentially not in conformance: 1, 2, 3, 9, 12, 22

286 *Additional Noise Complaints*

287 As previously stated, the City first became aware of potential noise nuisances at the
288 property in July 2021 via neighbor complaints – another violation of the City's Municipal
289 Code per CMC 8.20.010. Two of the eight complaints were documented by the Police
290 related to parties on-site, where one of the complaints was logged as *party noise* (see
291 Attachment 7). One was determined not to be excessive, and the other noise complaint
292 resulted in the music being turned off immediately when asked. The applicant stated in
293 their response letter that there was exactly one 'party' noise disturbance listed in the
294 Police noise report and the applicant apologizes. The applicant further indicated they
295 will follow noise abatement guidelines and that *they will make the city aware of constant*
296 *noise disturbances that emanate from adjacent properties.*

297 Conditions under U 2003-12 potentially not in conformance: 1

298 *Unpermitted Metal Building*

299 Staff observed an unpermitted metal building located on the other side of the existing
300 pond along the property's western boundary line adjacent to Solage and within the
301 setback. The applicant indicated during the site visit that the building was constructed in
302 April 2021. Staff responded that the owner applicant would need to submit a building
303 permit for the structure. The applicant's response letter indicated their request to move
304 the structure currently constructed inside the side yard setback and place it outside of
305 the 10-foot side setback and 20-foot rear setback. The applicant indicated they hope
306 that moving the barn is determined to be allowed during the planning commission
307 meeting, after which point the applicant indicated they would provide all necessary
308 drawings for a building permit.

309 Conditions under U 2003-12 potentially not in conformance: 1, 2, 9, 10, 12

310 *Storage Building and Propane Tank*

311 Staff observed a separate ‘storage building’ that in appearance resembles a guard
312 shack on an approved concrete pad near the entrance of the property as well as an
313 adjacent propane tank, both of which are not included on the approved plans under U
314 2003-12 nor are building permits or approval from Fire on file. The applicant’s response
315 letter indicated that the tank was permitted in the initial use permit U 2003-12 and is on
316 all approved documents and drawings related to the initial construction of the property in
317 the previous decade. The applicant further elaborated that it has been in place and have
318 not moved or been altered since 2005.

319 Conditions under U 2003-12 potentially not in conformance: 1, 2, 9, 10, 12

320 *Lighting Along Access Road*

321 Staff observed lighting along either side of the access road on the property that did not
322 appear to meet International Dark Sky Standards as required by the City’s General
323 Plan. Staff indicated a building permit for electrical would be required and dark sky
324 standards would need to be met, utilizing LED lights and shielding. The applicant’s
325 response letter indicates they have ordered shade covers to direct light to the ground
326 but that they are currently on back order due to worldwide material shortages. The
327 current fixtures are 6w per lamp, and per the applicant, the site is very dark.

328 Conditions under U 2003-12 potentially not in conformance: 9, 10, 12, 17

329 *Transient Commercial Occupancies*

330 The City received a neighbor complaint alleging that the property was being utilized as a
331 short-term rental or event space. During staff’s site visit, the owner indicated that they
332 lived on the property and do not rent it out, for short- or long-term periods. Staff
333 explained to the owner that short-term rentals, which rentals listed for less than 30 days,
334 are prohibited uses within city limits. Staff has not found any listings online for the
335 property.

336 Conditions under U 2003-12 potentially not in conformance: 1

337 **ANALYSIS**

338 General Plan

339 The project site is designated in the City’s General Plan Land Use Element (as updated
340 in 2015) as Rural Residential with a Planned Development Overlay (Silverado Trail
341 Planned Development Overlay (PD-1)). This designation is applied to large land
342 holdings with unique features, parcels that are located in sensitive environmental and
343 transitional areas, and in areas where innovative design standards are to be applied to
344 achieve a superior design. Development on these large parcels along Silverado Trail
345 shall be designed to be visually suitable for its entry corridor location on the edge of
346 town and should contribute to the economic and/or community vitality of Calistoga. They
347 are also subject to design review.

348 The existing residential development was determined to be in substantial conformance
349 with the goals and policies of the City's 2003 General Plan as conditioned under U
350 2003-12. The Planning Commission had determined that although the project was quite
351 large, the proposed structure (i.e., a one-story single-family residence) was
352 proportionate to the large size of the project site and, more importantly, Mt. Washington
353 effectively screened the project from public view.

354 In addition, the architectural style of the proposed residential development was
355 accepted by the Planning Commission under U 2003-12. Although expressing some
356 concern about the scale of the structure, the Commission generally accepted the design
357 since Mt. Washington effectively screened the structures from public view on Silverado
358 Trail (see Attachment 9). It was determined that setting the structures further back from
359 Chateau Calistoga would also help to reduce its scale. Furthermore, the proposed
360 architectural style, detailing and use of colors had been determined to reflect the
361 eclectic mix of architectural styles in Calistoga and did not conflict with the character of
362 its surroundings.

363 Zoning Ordinance

364 The project site is zoned Planned Development PD 2002-2, Maxfield Planned
365 Development District. PD 2002-2 is important to the community, as it contains two large
366 parcels located at a key entrance to town in an area of outstanding natural beauty and
367 surrounded by open space with Mt. Washington as a unique backdrop. Therefore, any
368 development within this PD district should be visually sensitive to the rural scale of the
369 particular parcel and its surroundings, including the residents at the neighboring Mobile
370 Home Park. Per Article II, PD 2002-2, Maxfield Planned Development District of the
371 Calistoga Municipal Code (CMC), the following uses are allowed without a use permit:

- 372 • Home occupations;
- 373 • One accessory dwelling unit; and
- 374 • Uses determined by the Planning Commission to be similar in nature.

375 The following uses are allowed with a use permit:

- 376 • One single-family dwelling; and
- 377 • Uses determined by the Planning Commission to be similar in nature.

378 Allowed accessory uses include accessory buildings and uses that are clearly incidental
379 and subordinate to the main use. Within this PD district, the height of buildings and
380 structures shall be no greater than 28 feet unless otherwise provided in Chapter 17.38
381 General Provisions and Exceptions of the CMC.

382 **DISCUSSION**

383 Staff recommends the following actions in order to bring the property back into
384 compliance with PD 2002-2 and use permit U 2003-12.

385 *Aviaries*

386 As previously stated, the existing use is not an allowed use in the PD 2002-2 zoning
387 district, with or without the issuance of a use permit. Even if the case was made that the
388 use is determined by the Planning Commission to be similar in nature to allowed uses,
389 no plans have been submitted by the owner to permit this use on the subject property.
390 Staff recommends that based on the use's potential violation under CMC 8.20.010,
391 numerous complaints and comment letters from neighbors, and its non-conformance
392 under the property's use permit that the aviaries be removed from the property, and that
393 peacocks and other non-native bird species not be allowed to be kept outdoors. Staff
394 recommends that the Planning Commission deny aviaries, and not allow peacocks and
395 other non-native bird species to be kept outdoors on the subject property.

396 *Tree Removal and Grading Along Hillside*

397 Staff has received a topographic survey of the entire property, as requested. As a
398 condition of approval, staff recommends that applicant submit an Erosion and Control
399 Plan for staff review and upon approval, implement the Plan for all disturbed areas prior
400 to the issuance of any building permits for the subject property.

401 *Knox Box*

402 Since the noticing of the subject project, COA #7 under U 2003-12 has been met.
403 Shortly after referring the project to Fire, conditions of approval were received. The
404 applicant's response letter indicated that they have since met with the Fire Department
405 (Fire) and installed an approved Knox Box. Staff emailed the applicant on September
406 28, 2021, to inform them that the installed Knox Box would need to be inspected by
407 Fire. A response email from the owner dated September 28, 2021, indicated that the
408 Knox Box finally arrived, and they are waiting for their gate vendor to install it. The Knox
409 Box was installed shortly after. Fire inspected the Knox Box on October 1, 2021, in
410 which it passed inspection. No action is required from the Planning Commission at this
411 time.

412 *Entry Gate*

413 Staff discovered during their site visit that
414 the entry gate was not designed per the
415 property's approved use permit. The
416 existing gate contains decorative metal
417 fence toppers on either side that ignite
418 and display open flames rather than
419 lantern pyramid toppers, and that the
420 automatic gate is made of wood rather
421 than steel as approved under U 2003-12.
422 However, the stone wall on either side of
423 the automatic gate is consistent with the
424 approved use permit. On October 1,



Storage Shed – Entry Gate – Propane Tank

425 2021, Fire inspected and passed the spark arresters and propane tank associated with
426 the entry gate. Although not consistent with approved plans under U 2003-12, staff
427 believes that the design of the entry gate is consistent with the City's Residential Design
428 Guidelines for walls and fences. In addition, the entry gate is well screened from public
429 view off Silverado Trail. As of the writing of this staff report, plans have not been
430 submitted by the owner illustrating the dimensions of the existing entry gate in order to
431 determine its conformance with the property's planned development standards and
432 approved plans under U 2003-12. As a condition of approval, the applicant shall submit
433 plans of the existing entry gate for staff level conformance review prior to the issuance
434 of any building permits for the subject property. Staff recommends that the Planning
435 Commission review and approve the preliminary design of the existing entry gate
436 subject to the above noted conditions of approval.

437 *Helicopter "Sculpture"*

438 The non-operational helicopter is located behind the pool and is screened from public
439 view by the existing buildings on-site as well as Mt. Washington. It appeared to be non-
440 operational and as the applicant indicated, is missing parts of its engine and does not
441 contain a gas tank. Staff has requested photographs verifying these statements. As of
442 the writing of this staff report, photographs have not been obtained. As the non-
443 operational helicopter is situated on the property's lawn, if approved, in order to prevent
444 any potential leakage of petroleum, it would be conditioned to be placed on a gravel or
445 concrete pad unless photographs documenting the applicant's statements are provided.
446 Staff recommends that the Planning Commission review and consider approving the
447 non-operational helicopter, subject to the noted conditions of approval.

448 *Unpermitted Garage Pads*

449 As of the writing of this staff report, staff has not received a wetland delineation nor an
450 overlay of the wetlands and protected areas where the garage pads are currently
451 located. Based on the findings under U 2003-12, staff finds that the garage pads for the
452 proposed 'RV port' and garage/office space building are located in an area once
453 mapped for wetlands. Traditionally, staff would require the requested wetland
454 delineation be submitted prior to bringing the project to the Planning Commission for
455 consideration, but because of the unique nature and time sensitivity of the alleged
456 violations, staff felt it pertinent to move the project forward and potentially condition any
457 actions and/or approvals accordingly. Therefore, following the biologists' determination,
458 if impacts have occurred, the applicant shall contact the Region 2 Water Quality Control
459 Board to report the impact to the wetlands and seek guidance from the Board as to what
460 steps to take to mitigate the impact.

461 Staff does not believe that the location of the existing garage pads to be in conformance
462 with U 2003-12. The applicant proposed an alternative location for the proposed RV port
463 and garage/office space building, to be located behind the existing garage, along the
464 20-foot utility easement. Upon review of the proposed project, the Public Works
465 Department provided the following conditions that no construction shall be allowed

466 within the existing 20-foot utility easement and that all existing easements shall be
467 shown on the site plan. After reviewing the staff report for U 2003-12, staff does not
468 believe that this location is appropriate for the structure(s) due to the following:

469 “...as a result of the drainage study, the garage and the carriage houses have
470 moved farther from the property line shared by the adjacent mobile home park.
471 ...previously the garage was located 20 feet from this property line and the
472 proposed garage is now located 40 feet from this property line. The carriage
473 houses have also shifted 3 feet further away from this property line. Staff
474 believes that these changes improve the project, as the structure(s) are set back
475 further from the rear property line abutting Chateau Calistoga Mobile Home
476 Park.”

477 Staff recommends that the Planning Commission deny the existing and alternative
478 location of the proposed ‘RV port’ and garage/office space building, and require the
479 applicant to implement all mitigation measures found to be required and to restore the
480 location of the existing unpermitted garage pads back to its previous condition, including
481 their demolition.

482 *Noise Complaints*

483 This matter is currently being handled by Police. No action is required from the Planning
484 Commission at this time.

485 *Unpermitted Metal Building*

486 As previously indicated, staff observed an unpermitted metal building located on the
487 other side of the existing pond along the property’s western boundary line. Staff
488 believes that the metal building is in conformance with the *Development and Design*
489 *Considerations* for Silverado Trail as indicated in the City’s 2015 General Plan Land
490 Use Element Update as it is simple in design and rural in nature. As conditions of
491 approval, the applicant shall move the metal building outside of the 10-foot side setback
492 and 20-foot rear setback, submit building plans for staff review to confirm its
493 conformance with the property’s planned development standards, obtain a building
494 permit. Staff recommends that the Planning Commission approve the unpermitted metal
495 building subject to the noted conditions of approval.

496 *Storage Building and Propane Tank*

497 Staff discovered the storage building and propane tank were not included in the
498 approved plans under U 2003-12. That being said, staff believes that the storage
499 building and propane tank is consistent with the existing architecture on the property.
500 Both are screened from public view, the storage building via the entry gate and the
501 propane tank via a large hedge. As of the writing of this staff report, staff has not
502 received plans for the storage building to determine its exact dimensions. As previously
503 noted, Fire inspected and passed the propane tank. Staff recommends Planning
504 Commission approve the storage building and propane tank subject to the submittal of

505 plans showing its conformance with the property's planned development standards and
506 a building permit is obtained, if found to be applicable.

507 *Lighting Along Access Road*

508 Staff requested examples of the shade covers that had been ordered for the lighting
509 along the property's access road. As of the writing of this staff report, staff has not
510 received the requested examples. Conditions of approval shall include the applicant
511 submitting examples of the shade covers ordered for staff level review to confirm they
512 meet International Dark Sky Standards, and utilize LED lights, satisfy conditions under
513 U 2003-12, as well as obtain a building permit for electrical. Staff recommends that the
514 Planning Commission approve the lighting along the property's access road, subject to
515 the noted conditions of approval.

516 *Transient Commercial Occupancies*

517 As previously stated, staff has not found the property listed as a short-term rental. Staff
518 recommends that Planning Commission include a condition of approval for the
519 property's use permit that if it is discovered that the property is being utilized as a short-
520 term rental, that the underlying use permit be revoked.

521 **RECOMMENDATIONS**

522 Staff recommends that the Planning Commission take the actions as detailed above
523 and in the draft resolution, following a staff presentation, public hearing and any
524 comments by the public and applicant.

525 By confirming the above, the Commission will provide clear direction to staff that can be
526 used as the basis for guiding future code enforcement actions on this property, including
527 the issuance of notices of violation.

528 Additionally, should further violations occur, the Commission may consider an
529 amendment to the use permit's conditions or possible revocation of the permit to protect
530 the public health, safety and general welfare of the community, as provided by the City's
531 Zoning Code.

ATTACHMENTS

- 532 1. Draft Resolution
- 533 2. Vicinity Map
- 534 3. U 2003-12 Findings and Conditions
- 535 4. Notice of Violation Response Letter and Abatement Schedule
- 536 5. Photo Exhibit
- 537 6. Exhibits
- 538 7. Incident Pages
- 539 8. Topographic Map
- 540 9. 02-25-04 PC Minutes



RECEIVED
DEC 8 2021
City of Calistoga

benjamin hertz architects

Attention: Samantha Thomas, City of Calistoga Associate Planner
Re: Violation abatements at 345 Silverado Trail, dated July 29, 2021,
Rick Ali Residence.

Dear Samantha,

The following letter addresses the violations and abatement solutions currently being employed at Mr. Ali's residence. Several items are still being rectified, due to a lack of professional staffing for consultants, complexities with getting skilled labor to commit to physically dismantling or altering structures, and the difficulty in finding safe homes for wildlife in areas away from the property. The easiest way to address the issues is to begin from the entry at the street, and to proceed to the southeast end of the property.

1. Entry gate: Drawings have been provided showing height and width of the entry gate, and visitors to the site know it is a handsome entry feature, occurring 147 feet from Silverado Trail. It has almost no presence on the street, and there is no interference with Mt Washington access other than overflow parking from Solage that often occurs on the south side of Silverado Trail. The Knox box has been installed and approved by the fire department. The "Phoenix Rising" fire globes have been fitted with anti-spark mesh, and also approved by the fire department. The gas lines serving the features are in shutoff mode. It should be noted that the feature is not unlike any fire pit found around the city of Calistoga, with the exception of it having the anti-spark mesh. The fire never leaves the confines of the globes- gas burning no higher than 6" inside the shell- it is meant to be seen as a backdrop for the metal in front of it.
2. The design work for the erosion control plan has not been completed, but was initiated back in September. The Consultant felt that there were no real issues with the slope or the manner in which the work was done, and that the actual size of the vineyard is much smaller than they usually do. There are some mitigating measures for erosion for Rick to complete along the edge of the roadway, as well as a bit of grading to get surface water to the culvert to the south. It should be noted that no water or any problems occurred last month when the site received over 14" of rain in 36 hours. We would ask that the erosion control plan and the implementation of that work be considered as a condition of approval.

3. A biologist's report (LSA Consultants) confirms that the area where Mr. Ali built a pad for a future garage is indeed in a jurisdictional wetland. LSA will work with the Corp to determine their desired course of action. The expectation is that full removal of both concrete pads as well as repair of the damaged areas will be desired by the corp. As the report states, the construction of the four seasons hotel has completely wiped out the drainage area that served the wetlands throughout the property and is in rapid decline. All water has been diverted away from the wetland. We will be in contact with the corp to see how they will classify the wetlands after seeing its charge area destroyed and alert the city and four seasons to any actions that the corp will require off site. Mr. Ali agrees to remove the concrete and has no interest in building this garage anywhere else on site.
4. The barn at the southwest corner of the property can be lifted, turned around 180 degrees, and set within the property setbacks. Mr Ali has been in contact with the manufacturer for providing hold down details and proper setting on the foundation so that it can be inspected and approved by the building department.
5. The lighting that serves the drive from the gate to the residence is low voltage LED with a 100% downlight component. The fittings that cover the spaces between each fixture have been discontinued. Unlike the globe lights that can be found in downtown Calistoga (where 50 percent of the light bleeds to the sky), these lights are only on transitionally as a car drives along the path. They are not dusk to dawn lights and are almost always off. The pond is a hazard that requires this type of lighting. Mr. Ali has asked the electrician who installed the fixtures to gain proper approvals and permits and inspections for the low voltage wiring that runs from the transformer to these lights. At Mr. Ali's request, you are invited any evening to see the utter darkness of the site, except that which pours in from the heavily lit complex of the Solage adjacent.
6. Mr. Ali agrees to remove all Peacocks from the property. It has been difficult to find an entity that is interested in taking the animals, but Mr. Ali has secured a location that he will ultimately be able to house the birds safely. He has started the process of working with the county in a rural area west of Angwin to build this sanctuary. In the meantime, all ideas are welcome, and a wonderful peacock can be yours if you live outside of city limits.
7. The enclosures and netting pose two different problems. Over the pond, Mr. Ali installed netting to protect his pet white ducks from coyotes, racoons, foxes, and other night predators. His desire is to keep the netting over the water, but to reduce the maximum post height to eight feet from the current twenty. This will ensure their continued safety and does meet the city's requirements for a maximum eight foot height enclosure. Without it, the birds will not survive an evening.
8. Mr. Ali also requests that the enclosure closest to Mt Washington also be lowered to eight feet. This currently houses pheasants (with a cockatoo and the peacocks) and he would like to keep the pheasants. The cockatoo was attacked and now is almost entirely an "inside" bird, and keeping the netting in place at eight feet high ensures that there is a home for the peacocks in the short term. Mr Ali has not been made aware of any noise complaints in the past several months.

9. Photos were provided of the helicopter and its current nonfunctioning state. The helicopter arrived by flatbed truck and sits on the property in an area completely out of view from adjacent properties. There is no oil, AV gas, or any petroleum product that is in the helicopter, it lacks a battery, operating parts, and shows no usage or wear. Mr Ali is not a pilot and the helicopter is not certified by the FAA. Mr. Ali requests that this evidence suffices for the helicopter to remain in place as a sculptural element.

We appreciate the extensions of time that the city has provided, especially in regards to the time lags for consultants to do their work. It has been frustrating at every level, and is frustrating for my practice in Palm Springs, too. Civil engineers, Structural engineers, builders, suppliers, and component manufacturers are suffering on a global scale, and I have seen lead times for window glazing, specialty features, cabinets, etc., that would normally take two months still not be in place after six.

Mr. Ali would love for anyone involved to come to the site and see that these items comprehensively will be rectified, to share ideas, and more importantly, he wants to be a good neighbor so that issues such as sound never again become an issue.

Benjamin Hertz Architect
Agent to Mr. Ali

**Chateau Calistoga Mobile Home Park
223 Champagne West
Calistoga, CA 94515
(707) 942-5101**

September 30, 2021

Senior Planner, Zack Tusinger
Planning & Building Department,
City Manager, Mayor Chris Canning,
City Council Members

Calistoga City Hall
1232 Washington St.
Calistoga, CA 94515

To all this concerns:

We are writing this with concern for our senior resident's mental health and physical well being.

We have been made aware of and have experienced the horrific screaming coming from peacocks that are now living on the property adjacent to the north side of our 55yrs and older Mobile Home Community.

The screams from these beautiful birds are so obnoxious and loud that we, the managers, can hear them at our home over on the south side of the park!

Please help us to ensure that our senior members of our community can have the peaceful and quiet enjoyment while they a living in their own homes.

Thank you,



Mike and Cebreena Oliver, Managers
Chateau Calistoga

Oct. 7, 2021

Re: Public Hearing Item: 345 Silverado Trail

Dear Planning Commission,

I am writing as President of the Chateau Calistoga Mobile Home Owners Organization in regards to the Review Compliance and Use Permit Amendment for the former Helmer property.

The noise from the peacocks especially, as well as the non-native bird species trapped in the aviary, has been a disturbance to many of our residents here for some time. The birds'

loud cries have been heard on the opposite side of the Park on Champagne S. Residents have made complaints to the City, met with the Police Chief and other City officials.

Hopefully, this Oct. 13th meeting will be a further step in solving this situation. It is our understanding that as a result of the continuing complaints, a site visit by City officials occurred, code violations were found, and citations were issued. Many cities forbid having peacocks and roosters within city limits- this would be good for Calistoga to adopt. The unpermitted duck and aviary enclosures for non-native bird species also contributes greatly to the noise our residents must deal with daily, most especially at feeding times. Chateau Calistoga is a 55+ community – people move here to have peace and quiet. The peacocks and aviary birds are not conducive to peace or quiet.

On behalf of the residents who must listen to the screeches of the peacocks and the barrage of sounds from the trapped non-native birds and ducks in the aviary day in and day out, I implore you to deny this absentee owner's Use Permit Amendment and see that he is held accountable to remedy each and every citation.

Sincerely,

Rose LeClerc

President, Chateau Calistoga Home Owners Organization.

707-494-6422

210 Champagne W, Calistoga

LAW OFFICES OF

PAUL J. DOHRING

1220 WASHINGTON STREET
CALISTOGA, CALIFORNIA 94515
TELEPHONE (707) 942-1298

October 9, 2021

Samantha Thomas, Associate Planner
Planning & Building Department
City of Calistoga
1232 Washington Street
Calistoga, California 94515
sthomas@ci.calistoga.ca.us

Re: My Client: Rick Ali
Subject Property: 345 Silverado Trail (APN 011-050-032)
**Subject Application: Helmer Conditional use Permit U2003-12 Review
Compliance of Conditions of Approval, Use Permit
Amendment request UP-2021-9 and Design Review DR
2021-2**

Dear Ms. Thomas:

Introduction

My client Syed (“Rick”) Ali has just recently shared with me the Staff Report for Use Permit Application UP-2021-9 and Design Review DR 2021-2 and retained me to assist him with the resolution of remaining issues of concern arising from his use of the above-referenced property. To date, Staff from several city departments (fire, police, public works, building and planning) have demonstrated a high degree of professionalism and a sincere effort to work with Mr. Ali in a cooperative manner and with a focus on solutions. As a result, Mr. Ali and his architect Mr. Benjamin Hertz are very pleased to be working with you and the Planning Commission. Much progress has been made over the past several weeks to resolve many of the issues detailed in the Staff Report, even though the exhaustive list of unsubstantiated claims presents an unfair portrayal of Mr. Ali which likely prejudices his rights to due process.

While Mr. Ali wishes to fully cooperate in this important process and fully acknowledges that some mistakes have been made, he cannot acquiesce to several of the Staff Report’s conclusions and recommendations because they are inconsistent with the evidentiary record and are likely

precluded under longstanding California law. Mr. Ali is particularly troubled by the apparent conclusion that bird sounds are somehow offensive or disruptive in nature. He would hope that there would be a reconsideration of this basic premise, and a paradigm shift as to what actually constitutes offensive noise, since many in the community find the sound of birds pleasing, peaceful and comforting. Additionally, Mr. Ali is saddened by the recommendation against his bird enclosures because it is undisputed that this alleged “issue” arises from unsubstantiated noise violation claims under Calistoga Municipal Code § 8.20.010. He is deeply troubled that false accusations asserted by neighbors (whose veracity is now subject to serious doubt) are apparently being relied upon as the basis for the city’s exercise of its police power.

Likewise, the Staff Report’s recommendation against proposed accessory buildings appears to be based on an outdated drainage study from 2002-2003 and drainage conditions from the early 2000s. We all know that Climate Change conditions likely have substantially changed or reduced water flow patterns over the past 18 years. Moreover, the general restriction on accessory buildings is contrary to the zoning code allowance for accessory buildings by right.

Finally, Mr. Ali has concerns about the precise language of proposed additional conditions of approval in the Resolution related to transient occupancy restrictions, utility easement restrictions and the inoperable helicopter sculpture because there is no supporting nexus in the record to support these conditions: They are based on unfounded allegations and will interfere with Mr. Ali’s due process, equal protection and property rights.

Despite these serious concerns, Mr. Ali and his team remain focused on a reasonable resolution of disputed issues, and we intend to reciprocate with the same cooperative spirit and professionalism shown by Staff. We appreciate the balanced nature of the Staff Report and the apparent recognition that many of the “alleged” violations do not appear to be supported by the required substantial evidence: The repeated use of words such as “alleged,” “may,” “could,” “potentially,” or “might” (or other similar adjectives) in numerous Staff Report statements align with our belief that the statements do not constitute the “substantial evidence” necessary to support many conclusions drawn in the Staff Report.

Current Status of the Property

It is my understanding that the parcel in question is approximately 7.37 acres and located approximately 1,500 feet southeast of the intersection of Silverado Trail and Rosedale Road. The parcel is located within the General Plan’s Silverado Trail Planned Development Overlay. It presently has a zoning designation of Planned Development PD 2002-2 Maxfield Planned Development District.

This planned development district regulates development on the 7.37-acre parcel. The PD 2002-2 Maxfield Planned Development District has been important to the community, as it contains two large parcels located at a key entrance to town in an area of outstanding natural beauty and surrounded by open space and Mt. Washington as a unique backdrop.

However, it is extremely important to place Mr. Ali's property and uses in context. The property is relatively secluded behind Mt. Washington and does not pose a threat to the aesthetics of the Silverado Trail corridor. Since the creation of the planned development corridor, much has happened in the area which has changed it forever: Solage, Four Seasons Hotel and residential development, Aubert Winery and Brian Arden Winery to name a few developments.) Under these circumstances, the need for the planned development overlay governing Mr. Ali's parcel and its uses has substantially eroded over the years, and the need for strict adherence to policies protecting a "key entrance," as reflected in the Staff Report analysis, appears to already have been defeated by changed circumstances, including other more intensive and intrusive surrounding development.

The City's Exercise of Its Police Power Is Not Unlimited

A city has the police power to protect the public health, safety and welfare of its residents. This right is set forth in the California Constitution, which states "A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." Cal. Const. at. XI, section 7. However, the police power conferred by the Constitution is not unlimited. The extent of the power may vary based on the subject matter over which it is exercised. If a police power regulation goes too far, it may be challenged as unlawful. The means employed to effect its exercise may be neither arbitrary nor oppressive but must bear a real and substantial relation to an end that is public, specifically, the public health, safety, or morals, or some other aspect of the general welfare.

From a due process perspective, California courts prohibit governmental action that arbitrarily or unreasonably deprives a person of life, liberty, or property. From an equal protection perspective, the courts also require that similarly situated persons be treated in an equal manner. These rights are fundamental.

Here, Mr. Ali is quite disappointed that many unfounded and unproven allegations have been made against him which have generated undue scrutiny over otherwise lawful activities. As you know these allegations have created the need for a costly and time-consuming response, including the subject use permit amendment application and the hiring of many expert consultants. Although some permitting and design review application mistakes have been made and they are being rectified, the litany of concerns set forth in the record appear to have arisen more out of spite than legitimate concern. Due process cannot be assured when actions taken by the government are based on false accusations. Equal protection cannot be assured if the government requires a property owner to take actions not required of others in the community.

Upon closer scrutiny of the record—particularly the police response logs-- you and the Planning Commission will conclude that concerns raised about noise, parties, transient occupancy, helicopters and public safety are completely without merit. And yet here we are having to defend against these allegations through this daunting use permit amendment process.

Unsupported Noise, Helicopter and Transient Occupancy Complaints

An adjudicative or quasi-judicial administrative decision may be challenged by Administrative Mandamus when a hearing in the underlying administrative proceeding is required by law, evidence is taken and the decision maker is vested with the discretion to determine contested factual issues. (Code of Civil Procedure § 1094.5.) The standard of review for Administrative Mandamus is usually the substantial evidence test, however, when the underlying decision substantially affects a fundamental vested right, the independent judgment test applies. (Code of Civil Procedure § §1094.5(b)-(c)); *Goat Hill Tavern v City of Costa Mesa* (1992) 6 CA4th 1519, 1525.) Under the substantial evidence test, a court determines if there is substantial evidence to support the findings and if the findings support the decision. Substantial evidence is not argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous.

Here, there is no substantial evidence to support claims that Mr. Ali has violated Calistoga Municipal Code § 8.20.010 which provides in pertinent part:

The persistent maintenance and emission of any noise or sound produced by human, animal, electrical, radio or mechanical means between the hours of 10:00 p.m., and 7:00 a.m., next ensuing, which by reason of its raucous or nerve-racking nature, disturbs the peace, quiet or comfort, or is injurious to the health of any person, constitutes a public nuisance.

Rather than substantial evidence of any violations, the Calistoga Police Logs establish that the noise complaints from a resident at the adjacent mobile home park frequently fall outside the restricted time period of 10:00 pm to 7:00 am, But more importantly, these complaints are completely without merit. As such, they should not be relied upon to support a recommendation to remove the bird enclosures. Upon closer review, you will find the following findings in the police logs:

6-05-2021 21:58:57

Music. Homeowner turned off music (No finding of persistent raucous or nerve-racking nature music)

Warning

7-21-2021 11:25:57

Peacock "Noises". (No finding of persistent raucous or nerve-racking noise)

Case Closed

7-22-2021 9:00:17

Loud Peacock. (No finding of any noise)

Case Closed

8-09-2021 5:01:34
Extremely loud Peacocks (Finding: "Quiet on Arrival")
Case Closed

8-10-2021 6:30:53
Peacock for last hour (Owner contacted but no finding of any noise)
Case Closed

8-17-2021 20:06:03
Loud Peacocks (Finding: "Quiet on Arrival")
Case Closed

8-17-2021 20:11:09
Loud Peacocks (Finding: "Peacocks Quiet on Arrival")
Case Closed

8-19-2021 22:45:49
Noise Complaint; Alleged "party" (Finding: Only Four Individuals Talking; No finding of persistent raucous or nerve-racking noise)
Case Closed

Given these unsubstantiated noise complaints, it would be unfair, unjust and inappropriate for Mr. Ali to remove the protective netting enclosures for a few birds. Under Mr. Ali's religious beliefs, feeding birds is an act of grace and kindness. He does this purely out of charity and love for animal life, not to offend neighbors or operate a commercial venture. He provides a very modest netted sanctuary – in an extremely rural and isolated setting-- merely to protect a few birds against predators. Without this protection, the raccoons and hawks would kill and eat these precious and delightful birds. And Mr. Ali finds this prospect painfully heartbreaking.

Under these circumstances, we would propose to work on other solutions short of removing the bird enclosures, including potentially using sound barrier infrastructure or technology. We do not believe these actions are needed but we are willing to explore all reasonable, cost-effective options.

In addition to the lack of substantial evidence to support alleged noise violations, there is absolutely no evidence whatsoever to support alleged helicopter takeoffs and landings or short-term rental activity on the subject parcel. The neighbors who reported these alleged violations should be admonished about the legality and propriety of making false claims to the police. Their claims are highly inappropriate and should not be the basis of any Planning Commission findings or additional unjustified conditions of approval.

General Plan Inconsistency

As you know, Government Code § 65860 requires a city's zoning ordinance to be consistent with its general plan. When a zoning ordinance becomes inconsistent due to a general plan update or amendment, the city is required to enact a consistent zoning ordinance within a "reasonable time." (Government Code § 65860(c).)

Here, Mr. Ali's property is designated in the Calistoga General Plan Land Use Element as Rural Residential with a Planned Development Overlay (Silverado Trail Planned Development Overlay (PD-1)). It is important to note that this portion of the General Plan was updated in 2015. However, the 2002 zoning designation of Planned Development PD 2002-2 Maxfield Planned Development District in the zoning code was never updated to make it consistent with the General Plan Update in 2015.

As it stands today, the zoning code applicable to Mr. Ali's property is inconsistent with the 2015 Update to the General Plan. This has both legal and practical consequences for the city and Mr. Ali.

A general plan must not only be internally consistent but vertically consistent with other land use and development approvals such as specific plans and the agency's zoning and development regulations. (*Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal. 3d, 553, 570.) Thus, a zoning ordinance that is inconsistent with the city's general plan is invalid when passed and one that was originally consistent but has become inconsistent must be brought into conformity with the general plan. To date, the city has failed to bring its zoning regulations applicable to Mr. Ali's parcel into conformity with its 2015 General Plan Update.

The 2015 General Plan designation provides in pertinent part:

Land uses shall be limited to agriculture, residences and visitor accommodations, including hotels, motels, and destination resorts. Agriculture uses may include, but are not limited to, horticulture, floriculture, viticulture, apiaries, and similar uses (excluding stockyards or commercial feeding of animals), and related uses such as wineries and retail wine sales, provided that these uses are clearly subordinate to the primary agricultural use. Residential uses may include single-family homes, mixed density development and senior retirement center....

Unfortunately, the agricultural uses expressly allowed under the city's General Plan (as updated in 2015) do not carry over to current zoning code regulations applicable to Mr. Ali's parcel. Under the applicable Calistoga Municipal Code (17.24.130) the following uses are expressly allowed on Mr. Ali's property:

A. Uses Allowed without a Use Permit.

1. Home occupations in accordance with Chapter 17.43 CMC.
2.
3. Uses determined by the Planning Commission to be similar in nature, as provided in the procedures in Chapter 17.03 CMC.
4. One accessory dwelling unit in accordance with Chapter 17.37 CMC.

B. Uses Allowed with a Use Permit.

1. One single-family dwelling.
2.
3. Uses determined by the Planning Commission to be similar in nature as provided in the procedures in Chapter 17.03 CMC.

C. Allowed Accessory Uses. Accessory buildings and uses that are clearly incidental and subordinate to the main use, such as a detached garage, storage shed, workshop, or similar building; provided, that no accessory use shall be established or accessory building constructed prior to the construction of a main building, or on a lot separate from the main building. 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 in the required front setback. (Emphasis added)

As you can see, agricultural and visitor accommodation uses provided under the General Plan are not even listed in the applicable zoning code. Therefore, Section 17.24.130 of the zoning code is inconsistent with the General Plan and legally invalid.

Not only is this legally problematic for the city but also practically challenging for Mr. Ali. His bird enclosures, for example, could easily be considered agricultural uses under the General Plan's broad definition: "Agriculture uses may include, but are not limited to, horticulture, floriculture, viticulture, apiaries, and similar uses...." (Emphasis added.) At the very least the allowance of birds on the property is certainly "similar in use" to other agricultural uses. (See similar in nature comparison to other agricultural uses below)

"Similar In Nature" Determination

In other relevant areas of the Municipal Code, examples of "agricultural uses" and "accessory buildings" are provided. For example, Calistoga Zoning Code section 17.14.020 B 4. provides that the following uses are allowed with a use permit in Rural Residential (RR) zoning districts:

"Light agricultural uses including farms on a commercial scale devoted to the hatching, raising, fattening, or marketing of animals such as, but not limited to, poultry, rabbits, goats, sheep, pigs; aviaries and kennels; the grazing and

experimental or selective breeding or training of cattle or horses; provided, that such use is not a part of, nor conducted as, stock feed or livestock sales yards, or a commercial riding academy located on the same premises.”

Thus, it would be reasonable to conclude that the uses contemplated Mr. Ali are similar in nature to the agricultural uses that should be allowed to be consistent with the city’s current General Plan. They are uses that can be determined by the Planning Commission to be similar in nature, as provided in the procedures in Chapter 17.03 CMC. Likewise, the accessory buildings contemplated Mr. Ali can easily be determined to be similar in nature to the accessory buildings allowed for in the zoning code if they are not already determined to be allowed by right.

The Proposed Garages Are Allowed By Right as Accessory Buildings

With regard to accessory buildings and uses, Calistoga Municipal Code §17.24.130 C provides in pertinent part:

Allowed Accessory Uses. Accessory buildings and uses that are clearly incidental and subordinate to the main use, such as a detached garage, storage shed, workshop, or similar building; provided, that no accessory use shall be established or accessory building constructed prior to the construction of a main building, or on a lot separate from the main building. 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 in the required front setback. (Emphasis added)

Mr. Ali now understands the concern about locating accessory buildings and structures within the setbacks, and the need for advanced design review, and through this process he is fully prepared to address these issues of concern. However, if the wetlands issue is resolved, under Section 17.24.130 C Mr. Ali is allowed to locate accessory buildings elsewhere on his property by right. Therefore, the recommendation against allowing accessory structures on the existing pads is premature and unlawful until the report from the biologist working on the wetlands issue is complete. Preliminary findings from the biologist indicate that there is no current wetlands issue. If that is the case, it would be unwarranted and unlawful to preclude Mr. Ali from proceeding with his accessory building plans given that he is permitted to do so by right under Section 17.24.130 C. Moreover, it would appear that any oversight over potential wetlands issues would fall to the Regional Water Quality Control Board, not the city.

Additional Proposed Conditions of Approval in The Resolution Are Excessive

In California, property development is considered a privilege and not a right. (*Associated Home Builders, Inc. v. City of Walnut Creek* (1971) 4 Cal. 3d 633, 638.) However, the *Nollan* and *Dolan* cases have limited the extent in which public agencies may condition development. Specifically, cities may impose conditions on development so long as the conditions are

reasonable and there exists a sufficient nexus between the conditions imposed and the projected burden of the proposed development. (*Nollan v. California Coastal Commission* (1987) 483 U.S. 825 at 834-835.) Further, cities must prove that such conditions have a “rough proportionality” to the development’s impact. (*Dolan v. City of Tigard* (1994) 512 U.S. 374at 391.)

Here, Mr. Ali takes exception to proposed Conditions of Approval #s 10, 14, 15 and 17 because the conditions as currently drafted are unreasonable and there is an insufficient nexus between the conditions imposed and the projected burden of proposed development.

As stated earlier, and seemingly confirmed by the Staff Report the construction limitation in the 20-foot utility easement was suggested by Public Works as a condition of allowing the proposed RV and garage pads. However, the language of Condition of Approval #10 is overbroad, inappropriate and violative of Mr. Ali’s property rights as fee title owner of the land upon which the easement lies. In particular, the proposed condition assumes without proof that all construction activities within this easement (located on Mr. Ali’s parcel) would necessarily interfere with the use of the utility easement. That assumption is incorrect, and it is contrary to longstanding California real property law governing easements and a property owners’ inherent right to reasonable use of their own land. In the spirit of compromise, Mr. Ali would agree to the following language: “10. No actions or activities shall be taken that unreasonably interfere with the use of the existing 20-foot utility easement.”

With regard to Condition of Approval #14, again it is undisputed that the alleged need for this condition is not based on substantial evidence in the record and therefore there is an insufficient nexus between the condition requiring the helicopter to be placed on gravel or a pad to prevent “potential” petroleum leakage and the projected burden of this development. Additionally, this condition would not treat Mr. Ali the same as others in the community who are not necessarily required to place farm equipment, boats, RVs, lawn mowers, leaf blowers, vehicles or other similar gas-powered vehicles or equipment on gravel or pads. We believe it sufficient to simply establish that the helicopter sculpture is non-operational without the need for a condition indisputably stemming from a false accusation.

With regard to Condition of Approval #15, as stated above, the current ordinance ostensibly prohibiting “aviaries” (which Mr. Ali does not believe he maintains on the property) is legally problematic because it is inconsistent with the 2015 General Plan Update allowing agricultural uses and activities and precludes Mr. Ali or a future owner from exercising his right to have a “similar in nature” determination. Moreover, it is undisputed that the need for this condition is not based on substantial evidence in the record and therefore there is an insufficient nexus between the condition precluding “aviaries” and the projected burden of this activity.

With regard to Condition of Approval #17, again it is undisputed that the alleged need for this condition is not based on substantial evidence in the record and therefore there is an insufficient nexus between the condition prohibiting short-term rentals and the projected burden of this development. Moreover, a condition forever precluding visitor accommodations is legally

Samantha Thomas
October 9, 2021
10 of 10

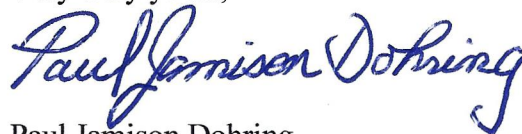
problematic (if Mr. Ali or a future owner wished to apply for a short-term rental permit in the future) because it is inconsistent with the 2015 General Plan Update allowing visitor accommodations and precludes Mr. Ali from exercising his right to have a “similar in nature” determination. Given the lack of any evidence whatsoever of any past short-term rental violations, we propose that Condition of Approval #17 be eliminated because it would unfairly prejudice any future request by Mr. Ali or a subsequent owner of the property.

Conclusion

My client has submitted his requests for use permit amendments and design review in good faith to accommodate proposed uses which are consistent with the small-town rural character of the surrounding area and complementary to current and future development. Because the 2015 General Plan Update regulating development on the property unquestionably allows for Mr. Ali’s requested uses or uses deemed similar in nature, and because the current zoning regulations are unquestionably inconsistent with the 2015 General Plan Update, Mr. Ali believes it is in the best interests of all concerned to grant all of his amendment and design review requests. In the alternative, Mr. Ali would encourage the Planning Commission to approve all of the uncontested requests as recommended by Staff and allow Staff and Mr. Ali to work through the remaining issues of concern to create a mutually satisfactory resolution that would avoid the need for further legal intervention.

Should you wish to discuss my client’s positions and requests further, please do not hesitate to contact me. Thank you for your continuing professional courtesy and cooperation.

Very truly yours,



Paul Jamison Dohring

PJD:ak

cc Client; Zach Tusinger, Planning & Building Director (ztusinger@ci.calistoga.ca.us) and
Planning Commissioners: Chair Scott Cooper, Vice Chair Tim Wilkes, Commissioner Alissa
McNair, Commissioner Doug Allan, Commissioner Jack Berquist (plans@ci.calistoga.ca.us)

October 13, 2021

Zach Tusinger,
Planning & Building Director
Calistoga Planning Commission

Re: Use Permit Amendment: UP 2021-9
Design Review DR 2021-2

Dear Commissioners:

I am asking the commissioners to reject any conditional use permit requests submitted by the property owner of 345 Silverado Trail, Calistoga and direct the owner of this property remove the peafowl, relocating them to a property more in keeping and appropriate for their conduct.

These are beautiful but extremely loud birds and their habitual calling is most unsettling. I live in Chateau Calistoga. When first heard, it sounded like a woman screaming in pain or an animal being tortured. I almost called the police. I do not think them appropriate in an area that is as close as 50 feet from residential properties located in Chateau Calistoga or any other property in relatively close proximity.

These birds can be heard blocks and blocks away from the property where they live. Their call is ungodly. Every time it starts it raises the hackles on the back of my neck! It is nerve-racking and during mating can be heard as early as 5:30 a.m. and as late as midnight. Their mating season lasts for many months.

There is a wealth of information on the internet supporting proper location of these birds and 345 Silverado Trail is not what I consider one of them. It has disturbed the serenity and peace of mind of anyone living in the area.

Respectfully, I am asking that the owner of this property not be granted ANY permit amendments. I am hoping he will be asked to find new accommodations for these birds.

Thank you.

Sincerely,

Jeri Hansen

October 11, 2021

OBJECTION TO REQUESTED USE PERMIT AMENDMENT UP 2021-9, and Design Review DR 2021-2 for 345 Silverado Trail, Calistoga (APN 01-050-032)

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Dear Planning Commission Members,

I am writing to object to some of the above requested use permit amendments, specifically the aviaries and numerous birds on this property. I have lived at Chateau Calistoga for 21 years. Twenty-one peaceful, quiet years. That is, up until the property was sold in July of 2020 to the current owner. Soon after the owner's acquisition of the property, we at Chateau Calistoga have experienced noise, noise and more noise. Noise from construction (much without permits), noise from large late-night parties, noise from loud motorized vehicles and noise from the extensive "bird farm", which the current owner has installed.

Chateau Calistoga has been here as a Senior Mobile Home Park for approximately 50 years. It is inconceivable that in a short 1 ½ years, our lives have been so thoroughly up-ended by this one ABSENTEE person (the new owner of the property). Our "right to quiet enjoyment" of our homes has been destroyed. Please note that seniors live here and in mobile home parks primarily for three reasons: 1) affordable housing in their later years, 2) peace and 3) quiet. We no longer have the peace and quiet we once enjoyed and to which we are entitled, all because of this ONE, NEW property owner. Pretty astonishing that one person can be so destructive! We respectfully request that this torture and unfair situation come to an end immediately.

AVIARIES:

City officials have described the non-conforming aviaries as:

"As labeled on the Exhibits 185 (see Attachment 6) the aviary net enclosure is approximately 7,500 square feet and 20 feet high, and the duck enclosure is approximately 2,500 square feet and 20 feet high." The City has also informed us that there are currently 12 peafowl (originally there were 19), 20-25 ducks as well as other various birds.

The owner's installation of this very high and elaborate netting system to protect his birds has obstructed what used to be lovely, pristine, idyllic and valuable views of Mt. Washington. The netting is supported by high, ugly posts. Here in full display is the lack of concern the owner demonstrates for his neighbors' properties.

Tantamount is the affect this netting system and "bird farm" have on the natural biology of this area, which factually is situated along the "Pacific Flyway", the avian "freeway" for migrating birds, which extends from Mexico to Canada. There are approximately 326 bird species found in Napa County, several of which are recognized as rare, threatened, or endangered. The pond, watershed and wetlands on the owner's property have probably been there for generations, and visited annually by migrating birds. The result of the owner's alteration of this natural habitat is that the many native bird species can no

(1 of 4)

longer fully utilize the pond, wetlands and watershed. The non-native habitat excludes native waterfowl and wildlife. Has the Environmental Protection Agency or the Audubon Society (for example) been contacted?

My comments on the birds, themselves, is noted below.

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My rebuttal to the owner's answers to the City:

1. His statement that peacocks are not notoriously loud is false. Look at any "Google" page about peacocks, and the first thing noted is that peacocks are notoriously loud, and are impossible to quiet unless their vocal cords are removed (not a conscionable remedy to consider). The sounds peacocks make is often compared to "a woman being murdered" or a large cat or cats yowling as if in distress. It far surpasses the noise of a rooster or the constant barking of a dog, which our City Ordinances address. In addition to the screeching, screaming and yowling quality of these birds, their loudness compounds this whole disturbance. And, this screaming quality travels for long distances. In fact, there are many peacock law-suits on the books that attest to the FACTS of these hideous noise disturbances. Many U.S. states and even some countries have laws against housing peacocks!
2. The owner states that he has recordings of his birds to confirm his statements that they are not loud and disturbing. We have our own recordings from our properties that prove the opposite. Recordings taken from early morning, and from all hours of the day and night. We invite anyone to listen to these recordings.
3. The owner states that the police log of noise disturbances from our Park are not many, and therefore there is no problem. My letter of August 20, 2021 to City Council Members, Planning Commission members, etc., explains why. We homeowners at Chateau Calistoga are OLD, and are of a mind-set NOT to phone the police without an immediate, life-or-death matter. This FACT is extremely important to this conversation. Additionally, City Officials have recently told us that we no longer need to phone the police because they are now aware of this serious disturbance.
4. The owner's statement that he has only had ONE loud party is laughable. Upon signing the petition of October 2021 from Chateau Calistoga Mobile Home Park owners, many homeowners asked about "all the loud parties", stating they can recall at least 5 or 6.
5. The FACT that the owner states that he "would like to come to an agreement with the City on how the birds can be managed on-site prior to submitting a formal use permit application" is concerning and questionable. Unless the owner keeps these peafowl in a sound proof building (which would certainly be inhumane), there is no way other than their vocal cord extraction (again, unthinkable) to mitigate their ear-piercing sounds. There is simply not enough square footage on this property to provide the adequate open-space area for these birds. That's a fact.

(2 of 4)

Additionally, what could the owner be suggesting regarding establishing "an agreement with the City on how the birds can be managed on-site..."? I dislike having to suggest this, but the owner certainly appears to be very wealthy, and perhaps he may be thinking about a nice donation to fatten the City coffers in exchange for letting him be "special" and not having to abide our City Ordinances? It appears due to his lack of compliance regarding City Ordinances, and his obvious desire to fight our laws instead of complying and doing the right things, i.e., respect City Ordinances, be a good neighbor, and be considerate of the health and well-being of his neighbors. Instead, unfortunately, he demonstrates privilege, arrogance and determination to get his own way, regardless of how it impacts others. He has truly and seriously negatively impacted the fabric of our lives.

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I submit that the shrieking, screaming peacock noise is a health issue for neighboring Seniors. It is causing us stress, disruption of sleep (both day and night) and unnecessary aggravation, which can negatively impact health. This is a Senior issue, a health issue, is a human issue.

I wonder why the owner insists on housing these birds. Does he plan on breeding them and selling them? (Peafowl are prolific breeders, and are an expensive product to buy). If so, would a bird farm BUSINESS be an acceptable addition to a property WITHIN THE CITY LIMITS of Calistoga? If the owner simply wants them here because he wants them here, and he's rich and is used to getting his own way, well then that's another unacceptable story.

Important to note that relocating the peacocks (especially) needs to be done immediately because their breeding / mating season is 6 (six) months long, usually beginning in the very early spring. However, due to our global warming crisis, their mating season may very well begin earlier than the spring, perhaps even as early as February. Additionally, peafowl are especially noisy during mating season. I can imagine the owner resisting and stalling the relocation of the birds to co-inside with their breeding season, using this delicate time as an excuse to not move them. Again, the sooner the birds are removed, the better we will all be.

DEPRESSING OUR PROPERTY VALUES:

Homeowners on the perimeter of the Chateau Calistoga Mobile Home Park pay a premium for their location. Between the horrific sounds of the peacocks, geese and other fowl, plus the ugly huge netting aviaries, our properties have been devalued significantly. Who would purchase a property that experiences this horrendous bird noise? Who would purchase a property with a view of ugly, looming netting, unnecessarily hiding one of the most beautiful views in Calistoga? Simple solution: if

(3 of 4)

the birds were not there, there would be no need for the netting, and our property values would be healthy and competitive once again.

In replying to the owners' requested use permit amendment, the City has specifically cited the appropriate Zoning Ordinances, CMC Ordinances and other violations to conclude the following recommendations:

"... under the property's use permit that the aviaries be removed from the property, and that 393 peacocks and other non-native bird species not be allowed to be kept outdoors. Staff 394 recommends that the Planning Commission deny aviaries, and not allow peacocks and 395 other non-native bird species to be kept outdoors on the subject property."

The owner's obnoxious additions to and usage of his property have had a monumental impact on his Calistoga neighbors, to which he appears oblivious. His illegal and unnecessary property usage is unacceptable and needs to be rectified by City government immediately. We implore the City Planning Commission to please follow the recommendations of City Staff and help us regain our "right to quiet enjoyment" of our homes.

The "David and Goliath" story rears its ugly head frequently. The ultra-rich, out-of-towners often are inconsiderate of long-time, not-so-rich local homeowners. Hopefully, in this case David will prevail again!

CONCLUSION:

We seniors depend on and need the might of the City to protect us.

We are counting on the sound judgement and authority of our City officials to protect us and our town.

Thank you for your kind attention to this serious matter.

Sincerely,



Lorry Hood
924 Champagne North
Calistoga, CA 94515
lhood3000@comcast.net

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OCT 13 2021

City of Calistoga

(4 of 4)

PETITION TO OBJECT TO REQUESTED USE PERMIT AMENDMENT UP 2021-9, and Design Review DR 2021-2 for 345 Silverado Trail, Calistoga (APN 01-050-032)

We, the undersigned, are home owners at the Chateau Calistoga Mobile Home Park. We respectfully object to the request by the owner of our neighboring property at 345 Silverado Trail, to continue many of the illegal and unpermitted activities happening there, including: (I) the incessant loud, shrieking noises from the 12+ peacocks (7 days a week), (II) loud sounds from 20-25 ducks, numerous geese, and other non-native species, (III) the loud music and voices emanating from frequent parties, (IV) the frequent noise from loud motorized vehicles (including motorcycles and quad bikes), and (V) the installation of a very high, 20' looming fence netting, which protects the birds and obstructs our views. This is all going on less than 50' from senior homes.

The subject property is WITHIN THE CITY LIMITS, for which there are many City Ordinances regarding (1) "Activities objectionable by reason of noise..." and (2) rules about the number and types of animals allowed and 3) a restriction regarding fence position and height (6 ft height allowed).

The current owner of this property is violating many of the above, which are adversely affecting our health and our right to the quiet enjoyment of our homes. This is a human issue, a senior issue, it is a health issue.

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We respectfully request that the City:

City of Calistoga

- (A) Deny the request of the owner of 345 Silverado Trail to change or amend or be exempt from the current City Ordinances, which he is currently in violation of,
- (B) Have the owner immediately remove all peafowl, geese, and other noisy animals / birds,
- (C) Have the owner reduce the number of ducks (now 20-25) to no more than 5, to be in conformity with the number of chickens per property, currently permitted by City Ordinance,
- (D) Amend the existing City ordinances to prohibit the housing of peafowl and other noisy animals / birds within the City Limits,
- (E) Amend the existing City ordinances to prohibit the use of loud motorized vehicles such as motorcycles and quad bikes within the City Limits.

Many of us in the Chateau Calistoga Mobile Home Park have lived here for many years and we have a right to continue to live the peaceful quiet life we have enjoyed here in Calistoga.

PETITION TO OBJECT TO REQUESTED USE PERMIT AMENDMENT UP 2021-9,
 AND DESIGN REVIEW DR 2021-2 for 345 Silverado Trail, Calistoga (APN 01-050-032)

DATE	NAME (printed)	SIGNATURE	ADDRESS
10-9-21	Cebreena Oliver	Cebreena Oliver	301 Chablis South
10-9-21	Michael Oliver	Michael Oliver	" " "
10-9-21	Joe Soudan	Joe Soudan	" " "
10-9-21	Olga Quintana	Olga Quintana	307 Chablis South
10/9/21	Jeanne Lavarta	Jeanne Lavarta	311 Chablis South
10/9/21	Jerome Lavarta	Jerome Lavarta	311 Chablis South
10/9/21	Lowell White-Alwell	Lowell White-Alwell	315 Chablis South
10/9/21	Valerie A. Randall Alwell	Valerie A. Randall Alwell	315 CHABLIS S.
10/9/21	LEE HODGES	Lee R. Hodges	
10-9-21	Mark Obachec	Mark Obachec	401 BOGARDY S
10-09-2021	Maryl's Gilmore	Maryl's Gilmore	923 Champagne South
10-9	Janie Toohy	Janie Toohy	927 CHAMPAGNE S.
10-9	Anna Paula	Anna Paula	" " "
10/9	Joan Albright	Joan Albright	601 Port South
10-9	Jeremiah Holland	Jeremiah Holland	214 CHAMPAGNE WEST
10/9	MaryAnn Salinger	MaryAnn Salinger	814 Champagne Cor E.
10/9	Jessica Marshall	Jessica Marshall	800 Champagne E
10/9	Kim McCouet	Kim McCouet	944 Champagne N.
10-9	Margarita Ramirez	Margarita Ramirez	700 Chablis
10-9	Silvia Ramirez	Silvia Ramirez	700 Chablis
10-9	FIDEL BUENO	Fidel Bueno	303 Champagne E

PETITION TO OBJECT TO REQUESTED USE PERMIT AMENDMENT UP 2021-9,
 AND DESIGN REVIEW DR 2021-2 for 345 Silverado Trail, Calistoga (APN 01-050-032)

DATE	NAME (printed)	SIGNATURE	ADDRESS
10/10/21	BROCE Johnson		710 CHAREST W
10/10/21	Patricia Carey	Patricia Carey	938 Champagne N
10/10/21	Richard Andrew		" "
10/10/21	Janel Watkins	Janal Watton	942 Champagne N CA
OCTOBER 10, 2021	ROBIN BORDOW	R B Borden	942 CHAMPAGNE NORTH
10/10/21	Diana Kukustkin	Diana	934 Champagne North
10/10/21	Lydia Crowell	Lydia	935 Champagne North
10/10/21	Margaret	Margaret	600 Park North
10/10/21	Wm + Patsy Hahn	Wm + Patsy Hahn	614 LORT W. PATSY HAHN
"	"	"	"
10/10/21	Sandra Sue Harper		937 Champagne So Sandra Sue Harper
10/10	Ann Hathcock	" "	" "
10/11	Cynthia Jung		208 Champagne West
10/11	Sue Bradford		204 Champagne West
10/11	SUE KUHN	Sue Kuhn	224 CHAMPAGNE WEST
10/11	BOB KUHN	Bob Kuhn	224 CHAMPAGNE WEST
10/11	TERRAN BOYD	Terran Boyd	205 CHAMPAGNE WEST
10/11	Dick Kuykendall	Dick Kuykendall	905 Champagne South
10/11	DIANE KUYKENDALL	Diane Kuykendall	905 CHAMPAGNE S
10/11	ANDEE Beresini	Andee Beresini	507 Sherry So
10/11	ROBERT MICHALK	Robert Michalk	

PETITION TO OBJECT TO REQUESTED USE PERMIT AMENDMENT UP 2021-9,
AND DESIGN REVIEW DR 2021-2 for 345 Silverado Trail, Calistoga (APN 01-050-032)

DATE	NAME (printed)	SIGNATURE	ADDRESS
10/10	Regina Penna	Regina Penna	520 Sherry North
10/10	Patricia Jane Vossler	PATRICIA JANE VOSSLER	418 Burgundy N
10/10	Jeri Hansen	Jeri Hansen	418 Burgundy N.
10/10	Mike Jamison	Mike Jamison	410 Burgundy N
10/10	David Lomax	David Lomax	410 Burgundy N
10/10	CHARLES d'ONORAIN	Charles d'Onorain	605 Port South
10/10	Neli Rodica	Neli R. Rodica	605 Port South
10/11	Mary Ann Durcan	Mary Ann Durcan	406 Burgundy N 94515
10/11	Susan Channess	Susan Channess	405 Burgundy So. Calistoga CA
10/10	Lois Fanzone	Lois Fanzone	318 Charlis N. Calistoga Ca.
10/10	CAROL CLAIR	Carol Clair	408 Burgundy N CALISTOGA
10/10	Jerome Clair	Jerome Clair	408 Burgundy N. CALISTOGA
10/10	ERIKA PUSEY	Erika Pusey	306 CHARLIS N. CALISTOGA CA 94515
10/13	Sarah Pusey	Sarah Pusey	306 Charlis N
10/13	Arin Barrios	Arin Barrios	312 Charlis N. Calistoga Calif 94515
10-13	John A. Barrios	John A. Barrios	312 CHARLIS N CALISTOGA 94515
10-13	Pamela S. McCullagh	Pamela S. McCullagh	202 Champagne W. Calistoga 94515
10/13/21	Rose Keller	Rose Keller	210 Champagne W Calistoga 94515
10/13/21	Paul Johnston	Paul Johnston	210 Champagne W 94515
10/13	Margaret Joan Bruno	Margaret Joan Bruno	212 Champagne W. 94515
10/13	FRANK L. BRUNO	Frank L. Bruno	212 CHAMPAGNE W 94515

PETITION TO OBJECT TO REQUESTED USE PERMIT AMENDMENT UP 2021-9,
AND DESIGN REVIEW DR 2021-2 for 345 Silverado Trail, Calistoga (APN 01-050-032)

DATE	NAME (printed)	SIGNATURE	ADDRESS
10/9/21	SUSAN KEITER	[Signature]	702 Claret N.
10/9/21	WILLIAM GRAY	[Signature]	710 CLARET NORTH
10/9/21	BARBARA LE MIEN	[Signature]	708 Claret N.
10/9/21	Lynette Price	[Signature]	704 claret N.
10/9/21	GEORGE L. SULLIVAN	[Signature]	936 CHAMPAGNE N.
10-9-21	KAYANN	[Signature]	936 Champagne N.
10/9/21	Cynthia Cooper	[Signature]	932 Claypage N.
10/9/21	Suzanne Baker	[Signature]	926 Champagne N
10/9/21	LORRAINE HOOD	[Signature]	924 Claypage N
10/10/21	ARK ETIN	[Signature]	502 Sherry N.
10/10/21	TRINA Etina	[Signature]	502 Sherry n
10/10/21	John Gauant	[Signature]	518 Sherry north
10/10/21	Deb Dawson	[Signature]	518 Sherry north
10/10/21	Robin Richardson	[Signature]	716 Claret No.
10/10/21	Susan Scurto	[Signature]	721 Claret S.
10/10/21	Teresa Knoblich	[Signature]	823 Champagne E
10/10/21	STEVE Greenfield	[Signature]	823 CHAMPAGNE EAST
10/10/21	[Signature]	[Signature]	821 Champagne E
10/10/21	Jon Salinger	[Signature]	814 Champagne E Calistoga CA 94515
10/10/21	Eugene Fedyaashov	[Signature]	806 Champagne E Calistoga CA
10/10/21	Erika Fedyaashov	[Signature]	806 Champagne E Calistoga CA

PETITION TO OBJECT TO REQUESTED USE PERMIT AMENDMENT UP 2021-9,
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DATE	NAME (printed)	SIGNATURE	ADDRESS
10/10/21	LANA YELVIN	<i>Lana Yelvin</i>	922 CHAMPAGNE NORTH
10/10/21	ALEX YELVIN	<i>Alex Yelvin</i>	922 CHAMPAGNE N
10/10/21	RICK TAYLOR	<i>Rick Taylor</i>	504 SHERRY ROAD
10/11/21	ADAM LMS	<i>Adam Lms</i>	918 CHAMPAGNE N., CALISTOGA CA 94515
10/11/21	Debbie Fischer	<i>Debbie Fischer</i>	514 Sherry N Calistoga, CA
10/11/21	CIVIC RICHARDSON	<i>Civic Richardson</i>	718 CLARET ROAD
10-11-21	BILL BROCK	<i>Bill Brock</i>	520 SHERRY CAL
10-11-21	JENELE SAUNDERS	<i>Jenele Saunders</i>	506 Sherry North cal.
10-12-21	JAMES T GUYDER	<i>James T. Guyder</i>	Box 85 ^{601 Port S.} _{Port S.}
10-13-21	Shellie Stevens	<i>Shellie Stevens</i>	508 Champagne E
10-13-21	STEW JOHNSTON	<i>Stew Johnston</i>	508 champagne east

October 21, 2021

Calistoga Planning Commissions

As I listen to the planning commission meeting from two weeks ago, several things come to mind.

Of course, I am concerned about all violations resulting from a property owner failing to comply with city, county and state requirements, be it the building of structures to possible destruction or alteration of the environment.

My main, personal issue is the bird noise but also of their living conditions?. All of them. Non native, captive birds, some migratory, unable to follow their natural inclinations, being contained. As they procreate, how does the owner guarantees a continued, healthy environment for them with no overcrowding?

Then the noise. I would be happy to greet and sit with anybody from the police department when they come out to 'observe'. I say this because I heard said that on the occasion the officers have come by, no noise was witnessed. They did not 'sit' long enough.

During the day: if there was a dog barking all day long, an owner would be advised that there exists a noise nuisance and would need to resolved the situation.

There certainly is a noise issue at night. Unless the city expects that, during nice weather, residents need to keep their windows closed there is no way to escape the vocalization of these birds. Again, be advised, this 'calling' is particular to the peafowl breeding season... six months out of the year, during the most pleasant weather. I walk at night during hot weather. The birds are not aware of our 'clocks.' They screech, regardless of the hour.

I am astonished that the owner of these birds claim they are quiet at night. It makes me wonder how he avoids hearing them.

Having been on the back deck of Lorry Hood's home when planning commissioners have agreed to come out to meet, seeing that she has outfitted her deck to entertain or relax and knowing exactly how noisy these birds are, and given her proximity to the source of that noise, I cannot imagine how she or others along the Champagne North corridor and the adjacent houses across the street deal with it. I live two blocks away. I can't escape the noise.

For the sake of the residents of Chateau Calistoga and for the good health of the birds, please consider asking Mr. Ali to remove and relocate his precious wildlife to a more suitable property.

Thank you.

Sincerely,

Jeri Hansen
Chateau Calistoga