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**CITY OF CALISTOGA
PLANNING COMMISSION
RESOLUTION PC 2008-27**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF CALISTOGA DENYING APPEAL 2008-01 AND FINDING THAT THE BUSINESS, SANTA FE WEST, IS AN ALLOWED USE NOT REQUIRING A CONDITIONAL USE PERMIT AT 1421 LINCOLN AVENUE (APN 011-205-008) WITHIN THE "DC", DOWNTOWN COMMERCIAL ZONING DISTRICT

WHEREAS, on May 28, 2008 an application for a business license was submitted to replace an existing retail store at 1421 Lincoln Avenue with a new retail store to be called "Santa Fe West;"

WHEREAS, prior to May 28, 2008, City staff spoke with the property owner and prospective tenant and/or proprietor of Santa Fe West regarding the nature of his proposed retail business;

WHEREAS, based upon the information provided by the prospective tenant and/or proprietor, City Staff reviewed the City's "formula business" ordinance, relevant parts of which are found in Calistoga Municipal Code ("CMC") Section 17.04.132, and determined that the proposed business did not fall within the definition of a formula business or meet the spirit and intent of the "formula business" ordinance;

WHEREAS, on June 6, 2008, and as amended on June 30, 2008, the Appellant filed an Appeal (A 2008-01) of the Planning and Building Director's determination that the business, Santa Fe West is an allowed business in the "DC", Downtown Commercial zoning district not requiring a conditional use permit;

WHEREAS, the Appellant claims that the proposed business is a formula business per CMC Section 17.04.132 and, therefore, should require a conditional use permit prior to operations per CMC Section 17.22.040(B)(10);

WHEREAS, the Planning Commission held a public meeting on July 23, 2008 to consider the appeal and after considering both written and oral testimony from Staff, the Appellant, the prospective tenant and/or proprietor, and the public, the Planning Commission made its decision based upon the following findings:

1. The Planning Commission finds that the Formula Business Ordinance was established to regulate those businesses, which through franchise and other contractual obligations, are required to conduct their trade in a specified manner.
2. The Planning Commission finds that Santa Fe West is owned by an individual who operates his business as a corporation for reasons of personal liability and does not have any particular memberships, affiliations, or other contractual obligations that would require certain and/or recognized business practices.

