

# CITY OF CALISTOGA

## STAFF REPORT

**TO:** CHAIRMAN MANFREDI AND MEMBERS OF THE  
PLANNING COMMISSION

**FROM:** ERIK V. LUNDQUIST, ASSOCIATE PLANNER

**MEETING DATE:** JULY 23, 2008

**SUBJECT:** APPEAL OF THE PLANNING AND BUILDING  
DIRECTOR'S DETERMINATION THAT SANTA FE WEST  
IS AN ALLOWED USE WITHIN THE DOWNTOWN  
COMMERCIAL ZONING DISTRICT

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1 **REQUEST:**

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3 Consideration of an Appeal (2008-01) of the Planning and Building Director's  
4 determination that the business, Santa Fe West, is an allowed use not requiring a  
5 conditional use permit at 1421 Lincoln Avenue (APN 011-205-008) within the  
6 "DC," Downtown Commercial, zoning district.

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8 **BACKGROUND:**

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10 On May 28, 2008 the Planning and Building Department received a business  
11 license application for Santa Fe West. Prior to receiving this business license the  
12 City staff spoke with the property owner and perspective tenant and/or proprietor  
13 of Santa Fe West, Mr. Sam Jabbar regarding the nature of his proposed retail  
14 business. During these conversations it was verbally disclosed by Mr. Jabbar  
15 that he owns and operates other businesses in the region (Sonoma, Sausalito,  
16 Healdsburg) that have similar merchandise to that proposed to be sold at the  
17 proposed business location in Calistoga. Based upon the information provided  
18 by Mr. Jabbar regarding his business, City Staff reviewed the City's "formula  
19 business" ordinance, relevant parts of which are found in CMC Section  
20 17.04.132, and determined that the proposed business did not fall within the  
21 definition of a formula business or meet the spirit and intent of the "formula  
22 business" ordinance. Accordingly, staff determined that the business was  
23 allowed in the "DC", Downtown Commercial Zoning District without a conditional  
24 use permit.

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26 Subsequently on June 6, 2008, Mr. Vince Pellerin filed an Appeal (A 2008-01) of  
27 the Planning and Building Director's determination that the business, Santa Fe

28 West is an allowed business in the “DC”, Downtown Commercial zoning district.  
29 The Appellant claims that the business is a formula business per Section  
30 17.04.132 of the Calistoga Municipal Code (CMC) and, therefore, should require  
31 a conditional use permit prior to operations per Section 17.22.040(B)(10) CMC.  
32 This Appeal was originally filed on June 6, 2008 and an amended appeal was  
33 filed on June 30, 2008 clarifying the nature of the appeal.

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35 **BASIS FOR ADMINISTRATIVE DECISION:**

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37 In September of 2000, the City Council adopted the revised Formula Businesses  
38 Ordinance. The Ordinance defines the various types of formula businesses as  
39 follows:

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41 *“Formula business” shall mean a business or use, which by*  
42 *contractual or other arrangement, established or recognized*  
43 *business practice, or membership affiliation, maintains any of the*  
44 *following:*

45 A. *Business name common to a similar business located*  
46 *elsewhere;*

47 B. *Standardized services or uniforms common to a similar*  
48 *business located elsewhere;*

49 C. *Interior decor common to a similar business located elsewhere;*

50 D. *Architecture, exterior design, or signs common to a similar*  
51 *business located elsewhere;*

52 E. *Use of a trademark or logo common to a similar business*  
53 *located elsewhere (but not including logos or trademarks used*  
54 *by chambers of commerce, better business bureaus, or*  
55 *indicating a rating organization including, but not limited to,*  
56 *AAA, Mobile or Michelin); or*

57 F. *A name, appearance, business presentation or other similar*  
58 *features, which make the business substantially identical to*  
59 *another business within or outside Calistoga. (Ord. 567 § 3,*  
60 *2000; Ord. 519 § 3, 1996).”*

61

62 This language was created in response to the City Council direction to regulate  
63 those businesses, which through franchise and other contractual obligations, are  
64 required to conduct their trade in a specified manner. Thus, the definition was  
65 created to clearly state that a formula business is “*a business or use, which by*  
66 *contractual or other arrangement, established or recognized business practice, or*  
67 *membership affiliation”* is found to maintain certain standards.

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69 Mr. Jabbar disclosed to Staff that he is an individual who operates his business  
70 as a corporation for reasons of personal liability and does not have any particular  
71 memberships, affiliations, or other contractual obligations that would require

72 certain and/or recognized business practices. Furthermore, Mr. Jabbar does not  
73 have any franchise agreements or other contractual arrangements with any  
74 wholesale distributor or other party that would control his business or portions  
75 thereof. As such, Section 17.04.132 was found not to be applicable to Mr.  
76 Jabbar's business, Santa Fe West.

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78 More specifically, staff found that Santa Fe West was found to be the only  
79 business with that name in California, as listed in the Yellow Pages. It was also  
80 found that Santa Fe West does not have standardized services or uniforms  
81 particular to its operations nor are there trademarks or logos associated with this  
82 business and furthermore, Santa Fe West will occupy an historic structure in the  
83 downtown along Lincoln Avenue, which will be modified slightly in the interior to  
84 accommodate retail sales, however, the architecture design and interior décor  
85 will be independently unique as compared to any other business in the downtown  
86 or in the region. Aside from potentially similar sales/mercantile practices and  
87 types of merchandise and/or inventory, staff determined that Santa Fe West is  
88 not "substantially identical" to any other business owned by Mr. Jabbar or others  
89 in regards to its name, appearance or business presentation. In short, staff has  
90 determined that Santa Fe West does not maintain a name, appearance, or  
91 business presentation that makes it substantially identical to any other business  
92 within or outside of the City.

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94 **ADDITIONAL DOCUMENTATION:**

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96 Both Mr. Jabbar and the Appellant, Mr. Vince Pellerin, timely submitted  
97 documentation for the Planning Commission's review. Such documentation is  
98 attached to this staff report as Exhibits 2, 3, 4 and 5.

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100 **RECOMMENDATION:**

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102 Adopt a Resolution denying Appeal 2008-01 and finding that Santa Fe West is an  
103 allowed use not requiring a conditional use permit at 1421 Lincoln Avenue (APN  
104 011-205-008) within the "DC," Downtown Commercial, zoning district.

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106 **SUGGESTED MOTION:**

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108 I move that the Planning Commission adopt Resolution PC 2008-27 denying  
109 Appeal 2008-01 and finding that Santa Fe West is an allowed use not requiring a  
110 conditional use permit at 1421 Lincoln Avenue (APN 011-205-008) within the  
111 "DC," Downtown Commercial, zoning district.

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113 **NOTE:** The applicant or any interested person is reminded that the Calistoga  
114 Municipal Code provides for a ten (10) calendar day appeal period. If there is a  
115 disagreement with the Planning Commission, an appeal to the City Council may be

116 filed. The appropriate forms and applicable fee must be submitted prior to 5:00  
117 p.m. on or before the tenth calendar day following the Commission's final  
118 determination.

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120 **EXHIBITS**

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- 122 1. Draft Resolution Denying Appeal (A 2008-01)  
123 2. Appeal received June 6, 2008 from Mr. Pellerin  
124 3. Amended Appeal received June 30, 2008 from Mr. Pellerin  
125 4. Letter received June 26, 2008 from Sam Jabbar of Santa Fe West  
126 5. Letter received on July 15, 2008 from Vince Pellerin  
127 6. Formula Business Ordinance No. 567.