



City of Calistoga Planning Commission Agenda Item Summary

MEETING DATE	June 27, 2018
ITEM	NextHome Realty Use Permit UP 2018-5
APPLICANT	Sandy Tucker
PROPERTY ADDRESS	1437 Lincoln Avenue
ASSESSOR'S PARCEL NO.	011-205-006
GENERAL PLAN DESIGNATION	Downtown Commercial Downtown Character Area Overlay (Historic District Sub-Area)
ZONING DISTRICT	Downtown Commercial (DC)
STAFF CONTACT	Lynn Goldberg, Planning & Building Director
POTENTIAL CONFLICTS OF INTEREST	Cooper, Abernathy (proximity)
RECOMMENDATION	Approve use permit application with conditions
SUGGESTED MOTION	"I move that the Planning Commission adopt a resolution approving Use Permit UP 2018-5"

CALISTOGA PLANNING COMMISSION

STAFF REPORT

To: Calistoga Planning Commission
From: Lynn Goldberg, Planning & Building Director
Meeting Date: June 27, 2018
Subject: NextHome Realty Use Permit (UP 2018-5), 1437 Lincoln Avenue

ITEM

Consideration of a use permit application for a formula realty business

PROJECT SETTING

1 The property at 1437 Lincoln Avenue is currently improved with a single-story,
2 approximately 4,000-square foot building. It has a building frontage of approximately 30
3 feet with two public entrances and two sets of three-paned windows. Last occupied by a
4 restaurant and bar, it has been vacant for several years.

5 Surrounding uses include a vacant, commercially-
6 zoned building to the south; retail businesses to the
7 north and east; and a duplex to the west.

PROJECT DESCRIPTION

8 The applicant desires to establish a realty office in
9 560 square feet of the building's southeast corner.
10 The business would offer residential and commercial
11 real estate services. It would occupy half of the
12 building frontage (i.e., 15 feet) and use the left-hand
13 building entrance for primary access. The other
14 entrance would provide access to the building's ADA
15 restroom.



16 Improvements to the office space include applying sheet rock to one wall, painting and
17 minor electrical work. A mural on the north interior wall depicting local points of historic
18 interest would be preserved. The office would be occupied by desks and a seating area.

19 Proposed exterior improvements include the installation of an awning and signage, the
20 exact size and design of which has not yet been determined.

CONSISTENCY ANALYSIS

21 The project's consistency with the City's applicable plans, policies and codes is
22 evaluated below.

Calistoga General Plan

- Land Use Element

25 The project site is designated by the General Plan's Land Use Map as *Downtown*
26 *Commercial*, which is primarily intended to provide commercial uses for visitors and

27 residents. Principal uses allowed include stores, offices, personal services, banks and
28 restaurants.

29 Land Use Element Policy P1.1.-1 generally prohibits formula businesses unless they
30 primarily meeting local residents' and business owners' needs.

31 *P1.1-1 Formula businesses within the city limits shall generally be*
32 *prohibited. Exceptions may be made for formula businesses*
33 *primarily meeting local residents' and business owners' needs.*

34 The proposed use would be consistent with the policy because it would meet local
35 residents' and business owners' real estate needs.

36 • Character area overlay

37 The project site is subject to the Historic District sub-area of the *Downtown Character*
38 *Area Overlay*. The sub-area's Land Use Considerations note that the range of land uses
39 allowed by the Downtown Commercial land use designation is appropriate for this area.

40 The proposed office use would fall within the range of allowable land uses and provide
41 real estate services to residents and businesses, consistent with the above-described
42 General Plan provisions.

43 Zoning Code

44 The project site is zoned Downtown Commercial (DC). The intent of the DC Zoning
45 District, in part, is to provide an area for a broad range of uses that generate high
46 pedestrian traffic. Business and professional offices are allowed as permitted uses and
47 do not normally require a use permit.

48 However, because the proposed office use would be a franchise business associated
49 with NextHome, a nationwide real estate company, it is considered a "formula business"
50 pursuant to the following Zoning Code definition:

51 *17.04.132 Business, formula.*

52 *"Formula business" shall mean a business or use, which by contractual or*
53 *other arrangement, established or recognized business practice, or*
54 *membership affiliation, maintains any of the following:*

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

56 *B. Standardized services or uniforms common to a similar business*
57 *located elsewhere;*

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

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

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

65 *F. A name, appearance, business presentation or other similar features,*
66 *which make the business substantially identical to another business*
67 *within or outside Calistoga.*

Permitted uses that are classified as formula businesses may be approved through a use permit (with the exception of formula restaurants and visitor accommodations, which are prohibited).

DISCUSSION

68 Formula businesses were first regulated by the City in 1996. In adopting Ordinance 519,
69 the then-City Council found it necessary to prohibit formula restaurants and visitor
70 accommodations to preserve the unique and historic character of Calistoga's downtown
71 commercial district. However, the ordinance provided for the approval of other types of
72 formula businesses through a use permit, which allows proposals to be considered on a
73 case-by-case basis. This provision remained when the Downtown Commercial District
74 was created in 2005.

75 A number of formula businesses established prior to 1996 operate in downtown
76 Calistoga. A notable example is ACE Hardware, located across the street from the
77 subject property. Other examples include RE/MAX, 76 Union, Westamerica Bank and
78 Bank of the West.

79 Since the adoption of Ordinance 519, the City has received one other application for a
80 formula business, as part of the proposed service station and convenience store at
81 Foothill Boulevard/Petrified Forest Road.

82 The proposed business would be independently owned and operated. It would have a
83 minimal physical presence on Lincoln Avenue by occupying only 15 feet of frontage at a
84 mid-block location, and by employing signage that would not exceed 32 square feet.
85 It would therefore not adversely affect the overall unique character of the downtown.

ENVIRONMENTAL REVIEW

86 The use permit application is Categorically Exempt from the requirements of the
87 California Environmental Quality Act (CEQA) pursuant to Section 15303 of the CEQA
88 Guidelines (New Construction or Conversion of Small Structures).

RECOMMENDATION

89 Based on the information and analysis contained in this report, staff recommends that
90 the Planning Commission, after conducting a public hearing on the matter, adopt the
91 attached resolution approving Use Permit UP 2018-5.
92

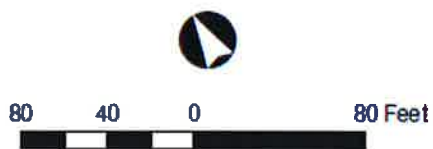
ATTACHMENTS

1. Draft resolution
2. Description of proposed business
3. Proposed signage
4. Letter from Law Offices of Tina Wallis dated June 18, 2018



Vicinity Map

1437 Lincoln
APN: 011-205-006



CITY OF CALISTOGA
PLANNING COMMISSION
RESOLUTION PC 2018-XX

APPROVING USE PERMIT UP 2018-5 FOR A FORMULA BUSINESS, NEXTHOME
REALTY, AT 1437 LINCOLN AVENUE

1 **WHEREAS**, the applicant wishes to establish a real estate office at 1437 Lincoln
2 Avenue in the Downtown Commercial (DC) Zoning District; and

3 **WHEREAS**, although offices are a permitted use in the DC Zoning District and
4 the proposed business would be independently owned and operated, it would be a
5 franchise of a nationwide company and thereby constitute a “formula business”
6 pursuant to Calistoga Municipal Code (CMC) Title 17, Zoning; and

7 **WHEREAS**, the applicant has therefore filed a use permit application with the
8 City of Calistoga pursuant to CMC 17.21.030(A)(14); and

9 **WHEREAS**, the Planning Commission considered the application at its meeting
10 of June 27, 2018, and prior to taking action on the application, the Planning Commission
11 received written and oral reports by the staff, and public testimony; and

12 **WHEREAS**, the Planning Commission has determined that this action is
13 Categorically Exempt from the requirements of the California Environmental Quality Act
14 (CEQA) pursuant to Section 15303 of the CEQA Guidelines (New Construction or
15 Conversion of Small Structures); and

16 **WHEREAS**, the Planning Commission, pursuant to Calistoga Municipal Code
17 Section 17.40.030(D), has made the following findings regarding the subject use permit
18 application:

19 1. The proposed use is in accord with the General Plan and any applicable planned
20 development.

21 Supporting Evidence: As detailed in the staff report, the proposed use would be
22 consistent with the applicable General Plan land use designation and character
23 area overlay because it falls within the range of allowable land uses and would
24 provide real estate services to residents and businesses. No planned
25 development applies to the property.

26 2. The proposed use is in accord with all applicable provisions of this title [Title 17,
27 Zoning].

28 Supporting Evidence: The proposed use is allowed through the approval of a
29 use permit.

30 3. The proposed use will not substantially impair or interfere with the development,
31 use or enjoyment of other property in the vicinity.

32 Supporting Evidence: The proposed use would occupy a portion of a vacant
33 building and operate during normal business hours. The proposed office uses
34 would have no adverse effects on nearby noise-sensitive uses.

35 4. The proposed use is consistent with and enhances Calistoga's history of
36 independently-owned businesses, thus contributing to the uniqueness of the
37 town, which is necessary to maintain a viable visitor industry in Calistoga and to
38 preserve its economy;

39 Supporting Evidence: The proposed use would be an independently-owned and
40 operated businesses that would contribute to the local economy by facilitating the
41 sale and purchase of properties, homes and businesses.

42 5. The proposed use is resident-serving, in the case of a formula business.

43 Supporting Evidence: The proposed business would provide real estate services
44 to local residents.

45 **NOW, THEREFORE, BE IT RESOLVED** by the City of Calistoga Planning
46 Commission that based on the above findings, the Planning Commission approves Use
47 Permit UP 2018-5, subject to the conditions of approval attached hereto as Exhibit A.

PASSED, APPROVED AND ADOPTED on June 27, 2018, by the following vote
of the Calistoga Planning Commission:

AYES:

NOES:

ABSTAIN: Cooper, Abernathy

ABSENT:

Paul Coates, Chairman

ATTEST: _____
Lynn Goldberg, Secretary

Exhibit A

Conditions of Approval – NextHome Realty Use Permit UP 2018-5

- 48 1. This approval allows the establishment of a real estate office at 1437 Lincoln
49 Avenue and its operation as a NextHome franchise.
- 50 2. This approval shall lapse and become void one year following the date on which it
51 becomes effective, unless prior to the expiration of one year, a building permit has
52 been issued and the developer, in good faith, has diligently commenced construction
53 and performed substantial work and incurred substantial liabilities in reliance thereon.
54 The Planning and Building Director may extend this time limit by up to 12 months
55 pursuant to Calistoga Municipal Code Sections 17.40.040(B) and 17.41.060(C).
- 56 3. Exterior signage and building alterations shall generally conform to the application
57 materials. Final design shall be subject to the approval of the Planning and
58 Building Department.
- 59 4. No flyers or video displays shall be posted in the business' windows.
- 60 5. This approval does not abridge or supercede the regulatory powers or permit
61 requirements of any federal, state or local agency, or department that may retain
62 regulatory or advisory function as specified by statute or ordinance. Permits shall
63 be obtained as may be required from each authority.
- 64 6. A business license shall be obtained prior to the initiation of business operations.

Dear Planning Department and Commissioners

I would like to ask that you approve my request to open a real estate office at 1437 Lincoln Avenue. My business partner and I (who is also the owner of the building in question) are from this area and graduated high school from CHS in 1983. Both he and I worked in this building in high school when his parents operated it under the name "Alex's". We both have close ties to the area and would like to operate a business in our home town. My brother is on the Calistoga Fire Dept and he and his wife own Fitness First here in town.

The business we are asking to open serves the local population as a needed service. We have a few long-time locals that would like to join us and we welcome the opportunity to grow a creative and dynamic team of individuals that would provide an exceptional real estate transaction experience.

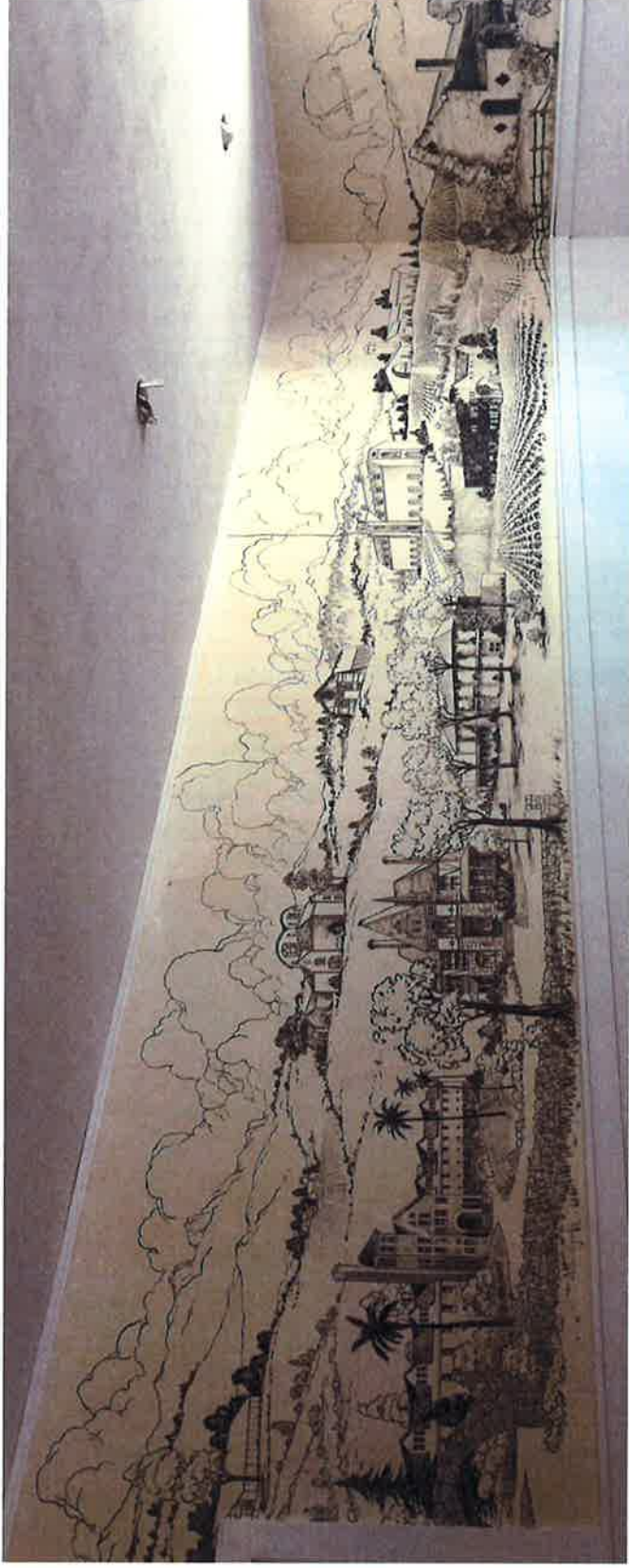
I feel we would be a positive addition to the main street and look forward to supporting downtown activities such as the 4th of July celebration and the tractor parade.

Below I have enclosed a picture of a mural that the Citaku's had painted in 1976 to commemorate the Bicentennial. I plan to restore and proudly display the depictions of key landmarks throughout the valley.

We ask that you consider and approve our request to open NextHome in the Valley.

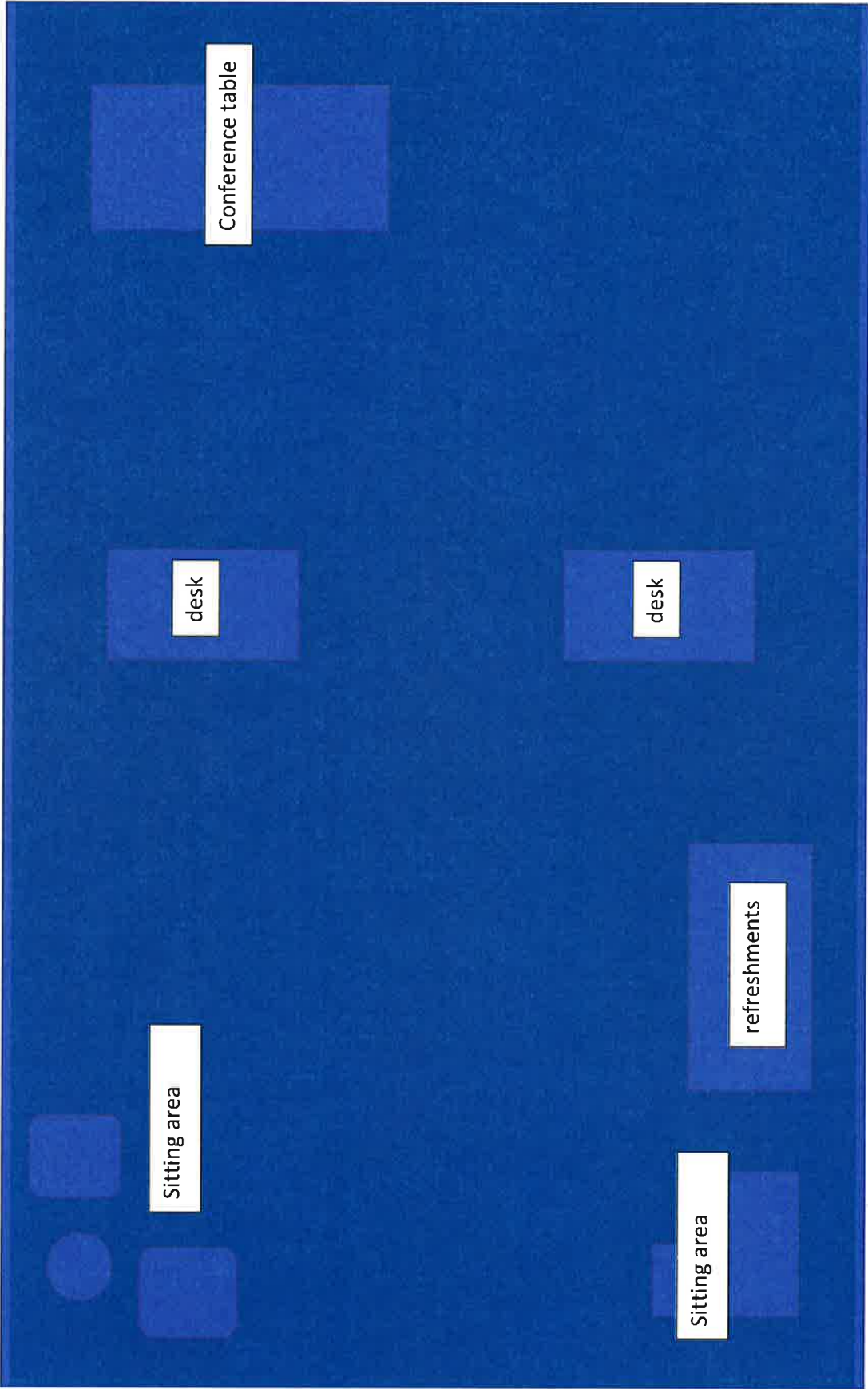
Thank you

Sandy Tucker
Kala Group



The owners had this mural painted in 1976 and it runs throughout the building. This is the section that is in my office. In keeping with the goal to preserve the history and the unique qualities of Calistoga, I am having this mural repaired and it will remain.

Office is approx.. 560 sq. ft



LINCOLN AVENUE



Signage on building and smaller version hanging from arm extended from the building toward the street, size of smaller sign to not exceed neighbors' similar signage



Possibly between the 2 entry
doors



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www.twallislaw.com

June 18, 2018

Lynn Goldberg, Director
City of Calistoga Planning & Building Department
1232 Washington Street
Calistoga, CA 94515

RE: 1437 Lincoln Avenue, Calistoga

Dear Ms. Goldberg:

The purpose of this letter is to show that a formula real estate office use is allowed in DC zoning with a conditional use permit. Therefore, the applicant, Kala Group, respectfully requests that the City approve all required zoning permits for this use and subsequently issue all ministerial building, fire, plumbing, and other necessary ministerial permits.

Formula businesses are allowed in the DC zoning with a conditional use permit. (Calistoga City Code § 17.21.030, subd. (A)(14).) A use permit may be approved if five findings are made; the City can easily make these five findings for the proposed real estate office. (See Calistoga City Code § 17.21.020, subd. (D).) First, the use must be consistent with the City's General Plan. The General Plan says: "[t]he majority of commercial uses in Calistoga are centered on Lincoln Avenue. Most retail properties are small businesses; few are franchise and formula operations. These qualities add to the economic and commercial diversity of downtown." (General Plan, page LU-6.) The Downtown Commercial Land Use designation allows:

“. . . stores, offices, personal services, banks and restaurants . . . [t]he following uses may also be permitted if they conform to all relevant General Plan policies: bars, visitor accommodations, tasting rooms, service stations and religious facilities. Since they are located in the central part of Calistoga, parcels in the Downtown Commercial areas shall be subject to a wider array of development and design requirements than are other parts of the City. These requirements are summarized in the Community Identity Element. (General Plan, page LU-14.)

The Community Identity Element of the General Plan goes on to require preservation of the community's unique identity, small-town character, and other features. (See, e.g.: Goal CI-1.1 [maintain and enhance small-town character] and Goal CI-1.2 [maintain and enhance the urban quality of the downtown].)

The property is currently vacant. Having an active business occupy the building would benefit the downtown area and the community. The proposed real estate office is consistent with General Plan

Lynn Goldberg
RE: 1437 Lincoln Avenue, Calistoga
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Policy P1.1-1 because the lack of significant exterior physical changes preserves surrounding architecture, character, and scale of existing buildings. The use is also consistent with Policy P.1.2-9, which allows formula businesses that reflect Calistoga's unique qualities and prohibits common design elements found in other communities.

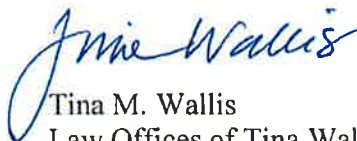
Moreover, the sale of local land is inherently local and each piece of land is unique. Thus, the fundamental nature of the real estate business not only preserves, but actually promotes and encourages all of Calistoga's unique characteristics related to land, the unique community of Calistoga, and its extraordinary quality of life. The proposed use is consistent with the General Plan.

Second, as is discussed above, the real estate office use is consistent with and allowed by the City's zoning ordinance. (Calistoga City Code, § 17.040.030, subd. (D)(2).) Third, the proposed use will not impair or interfere with the development, use, or enjoyment of other property in the vicinity. (Calistoga City Code, § 17.040.030, subd. (D)(3).) Fourth, the proposed real estate use is owned by the Kala Group. Ms. Tucker, a local resident, is the President of the Kala Group; the business is independently and locally owned. Selling local real property features and promotes the uniqueness of the town and nearby land. (Calistoga City Code, § 17.040.030, subd. (D)(4).) Finally, selling real property serves current and future residents who need homes. (Calistoga City Code, § 17.040.030, subd. (D)(5).) The proposed use easily meets all criteria for issuance of a use permit.

Finally, please provide copies of all rules, policies, procedures and other governing documents for the Planning Commission, particularly those addressing what constitutes a quorum and what happens if there is no quorum or a split (e.g.: 2:2) vote, and how a Planning Commission decision is appealed. Please also provide copies of any communication with anyone in the City about this application, including emails, voice mails, text messages, letters, etc.

Thank you for your help and please feel free to call me at (707) 595-8681 if you have any questions about this letter or need further information.

Very truly yours,



Tina M. Wallis
Law Offices of Tina Wallis, Inc.

C: client