

RESOLUTION NO. 2018-083

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CALISTOGA, COUNTY OF NAPA, STATE OF CALIFORNIA UPHOLDING APPEAL AP 2018-2 AND APPROVING USE PERMIT UP 2018-5 FOR NEXTHOME REALTY AT 1437 LINCOLN AVENUE

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

WHEREAS, although offices are a permitted use in the DC Zoning District and the proposed business would be independently owned and operated, it would be a franchise of a nationwide company and thereby constitute a “formula business” pursuant to Calistoga Municipal Code (CMC) Title 17, Zoning and the applicant therefore filed a use permit application with the City of Calistoga pursuant to CMC 17.21.030(A)(14); and

WHEREAS, the Planning Commission denied the use permit application at a public hearing at its meeting of June 27, 2018, and prior to taking action on the application, received and considered written and oral reports by the staff, materials and testimony by the applicant, and other public testimony; and

WHEREAS, on June 28, 2018, the appellant filed an appeal in writing of the Planning Commission’s action to the City Council; and

WHEREAS, upon receipt of the appeal application, the City Clerk set the appeal for a public hearing on the agenda of the next available Council meeting and gave public notice of the appeal hearing in the manner required by Calistoga Municipal Code Section 1.20.020(D); and

WHEREAS, following a public hearing on July 17, 2018, the City Council directed staff to work with the appellant on potential conditions of approval for the use permit, and the appellant has agreed to accept a requirement that any exterior signage and signage prominently displayed in any street-facing windows(s) shall not include the NextHome name, logos, or standardized design elements.

NOW, THEREFORE, BE IT RESOLVED by the City of Calistoga City Council, that the City Council, having duly considered the grounds for the appeal, materials submitted by the appellant to the City Council, written and oral reports from staff, public correspondence and public testimony, makes the following findings regarding the subject use permit application:

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

Supporting Evidence: The proposed use would be consistent with the applicable General Plan land use designation and character area overlay because it falls within the range of allowable land uses and would provide real estate services to residents and businesses. A condition of approval that prohibits any exterior signage and signage prominently displayed in any street-facing windows(s) from including the NextHome name, logos, or standardized design elements would avoid conflicts with the Community Identity Element by regarding the use of common design elements found in other communities.

2. The proposed use is in accord with all applicable provisions of this title [Title 17, Zoning].
Supporting Evidence: The proposed use is allowed through the approval of a use permit.
3. The proposed use will not substantially impair or interfere with the development, use or enjoyment of other property in the vicinity.
Supporting Evidence: The proposed use would occupy a portion of a vacant building and operate during normal business hours. The proposed office use would have no adverse effects on nearby noise-sensitive uses.
4. The proposed use is consistent with and enhances Calistoga's history of independently-owned businesses, thus contributing to the uniqueness of the town, which is necessary to maintain a viable visitor industry in Calistoga and to preserve its economy;
Supporting Evidence: The proposed use would be an independently-owned and operated businesses that would contribute to the local economy by facilitating the sale and purchase of properties, homes and businesses.
5. The proposed use is resident-serving, in the case of a formula business.
Supporting Evidence: The proposed business would provide real estate services to local residents.

BE IT FURTHER RESOLVED by the City of Calistoga City Council that based on the above findings, the City Council hereby upholds Appeal 2018-2 and approves Use Permit UP 2018-5, subject to the conditions of approval attached hereto as Exhibit A.

BE IT FURTHER RESOLVED by the City of Calistoga City Council that it hereby determines that this action is not subject to the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15301 and 15061(b)(3).

ADOPTED AND APPROVED by the City Council of the City of Calistoga at a regular meeting held this 7th day of August 2018, by the following roll call vote:

AYES:	Vice Mayor Dunsford, Councilmembers Kraus, Barnes and Lopez-Ortega and Mayor Canning
NOES:	None
ABSTAIN:	None
ABSENT:	None



CHRIS CANNING, Mayor

ATTEST:



KATHY FLAMSON, City Clerk

Exhibit A

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

1. This approval allows the establishment of a real estate office at 1437 Lincoln Avenue and its operation as a NextHome franchise.
2. This approval shall lapse and become void one year following the date on which it becomes effective, unless prior to the expiration of one year, a building permit has been issued and the developer, in good faith, has diligently commenced construction and performed substantial work and incurred substantial liabilities in reliance thereon.

The Planning and Building Director may extend this time limit by up to 12 months pursuant to Calistoga Municipal Code Sections 17.40.040(B) and 17.41.060(C).

3. Signage requirements:
 - a. Exterior signage and signage prominently displayed in any street-facing windows(s) shall not include the NextHome name, logos, or standardized design elements. Exterior signage wording shall be limited to "Real Estate" or "Real Estate Office," or substantially similar generic language.
 - b. Applicant is permitted to use signage and/or décor in the office interior that includes the NextHome name, logos, or other standardized design elements, even if the signage may be visible to the public from the street or sidewalk, so long as the signage is not located on any street-facing window.
 - c. Final sign design shall be subject to the approval of the Planning and Building Department.
4. No flyers or video displays shall be posted in the business' windows.
5. This approval does not abridge or supercede the regulatory powers or permit requirements of any federal, state or local agency, or department that may retain regulatory or advisory function as specified by statute or ordinance. Permits shall be obtained as may be required from each authority.
6. A business license shall be obtained prior to the initiation of business operations.

