



APPEAL FOR REVOCATION OF A LEGAL NON-CONFORMING STATUS OF A TOBACCO RETAILING BUSINESS

County File #CDSE22-00009

COUNTY PLANNING COMMISSION

October 22, 2025

EVERETT LOUIE, PROJECT PLANNER

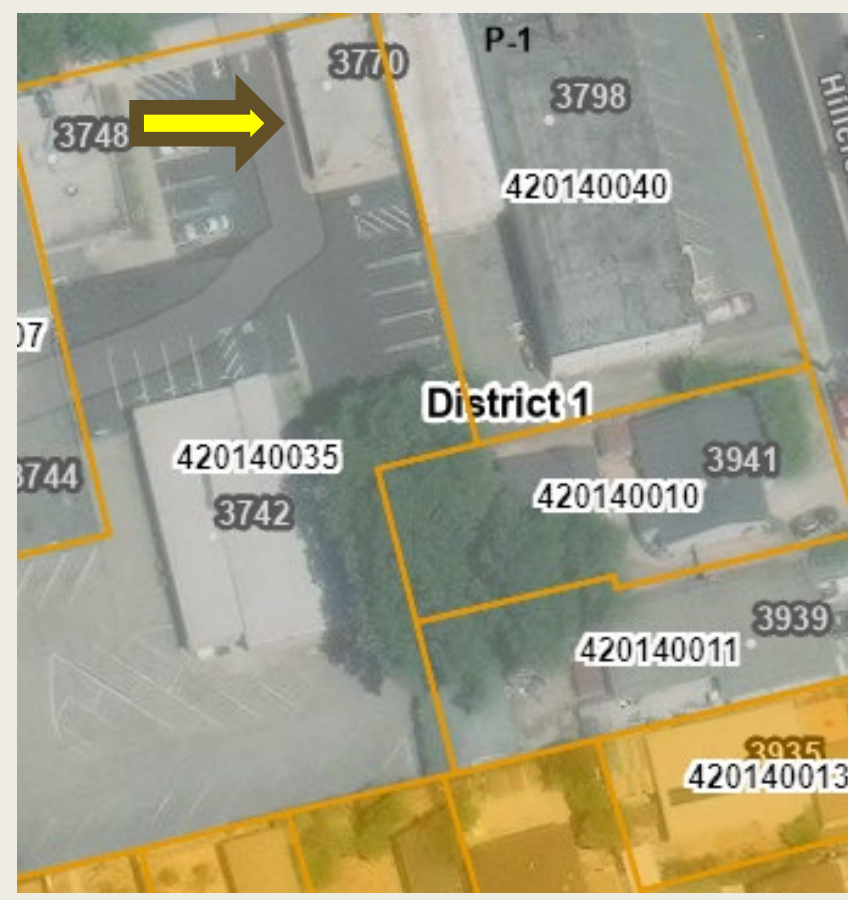
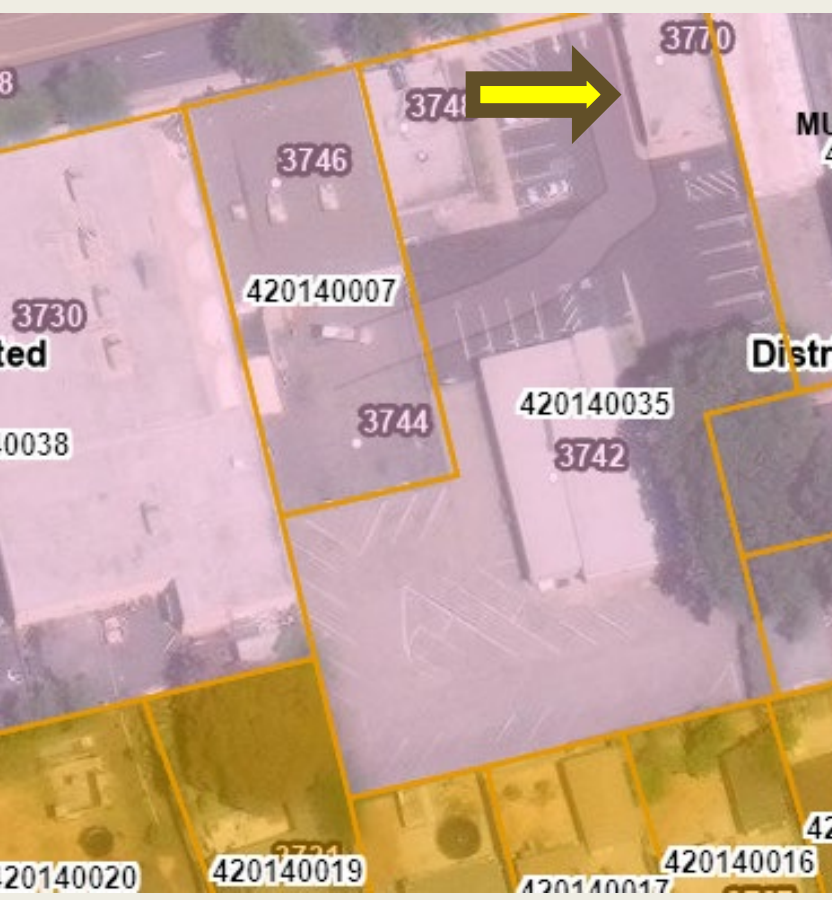
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Background

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- December 9, 2022 – #CDSE22-00009 was submitted to DCD
- January 25, 2023 – Determination Letter, Legal nonconforming use
- January 27, 2023 – County Health Issued Administrative Penalty Notice of Fine
- June 11, 2024 – County Health had suspension hearing
- June 26, 2024 – County health issued a Notice of Decision prohibiting the sale of tobacco products
- July 7, 2025 – County Zoning Administrator revoked legal nonconforming status
- August 6, 2025 – Statement of decision from County Zoning Administrator



PROJECT LOCATION

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Zoning: P-1
GP: MUL

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Project Summary

This is a hearing on an appeal of the Zoning Administrator's decision to revoke the legal non-conforming status for a tobacco retailing use at 3770 San Pablo Dam Road, El Sobrante

■ Cause for revocation are as follows:

- A. A failure to comply with the terms, limitations and condition of the permit;
- B. The property is being used or maintained in violation of the zoning code;
- C. The use for which the permit was granted has been so exercised as to be detrimental to the public health or safety or as to constitute a nuisance; and
- D. A license required for the conduct of the business on the premises covered by the permit has been suspended or revoked.

California Environmental Quality Act (CEQA)

CEQA Guidelines Section 15321 – Class 21

- **Project is exempt as the actions by regulatory agencies to revoke a use are exempt under 15321.**

Appeal Points (summary)

As the basis for their appeal, the appellants mentioned various concerns such as:

- *Misapplied the Zoning Code*
- *Corrective measures were completed*
- *Decision is unfair and negatively impacts community and economic value*

Appeal Points

Misapplied Zoning Code

Corrective Measures Were Completed

Decision is unfair and negatively impacts community and economic value

- Zoning Code Section 26-6.2022 allows the Zoning Administrator to revoke a permit if any of the revocation findings can be supported. Four findings are found to apply.
- Smoke Depot does not currently maintain a valid tobacco retailer's license; therefore, they did not provide the corrective measure.
- Revocation is supported by the four findings. Revocation allows the County to revoke certain uses that are detrimental to the public health and safety to the community.

Staff Conclusion

- The use as exercised is determined to be detrimental to the public health, safety, and welfare, and the manner of operation is creating a public nuisance.
- Smoke Depot has been operating as a tobacco retailer without a valid tobacco retailer's license.
- Evidence provided by Health Services and the Department of Conservation and Development support the revocation findings in 26-2.2022.

Staff Recommendation

Staff recommends that the County Planning Commission:

- DENY the appeal by Ahmed Dubaih
- REVOKE the legal non-conforming tobacco retailing use established under County File CDSE22-00009



QUESTIONS?