

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

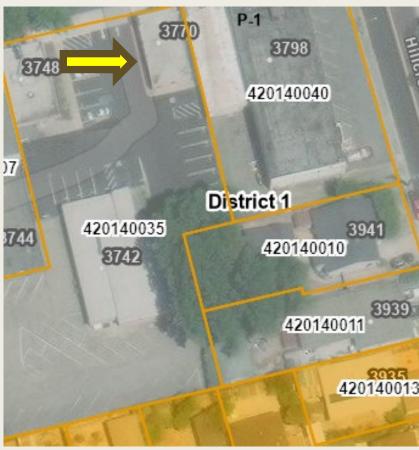


Background

- 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

Zoning: P-1

GP: MUL

3

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 appealants 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

<u>Corrective Measures</u> <u>Were Completed</u>

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.

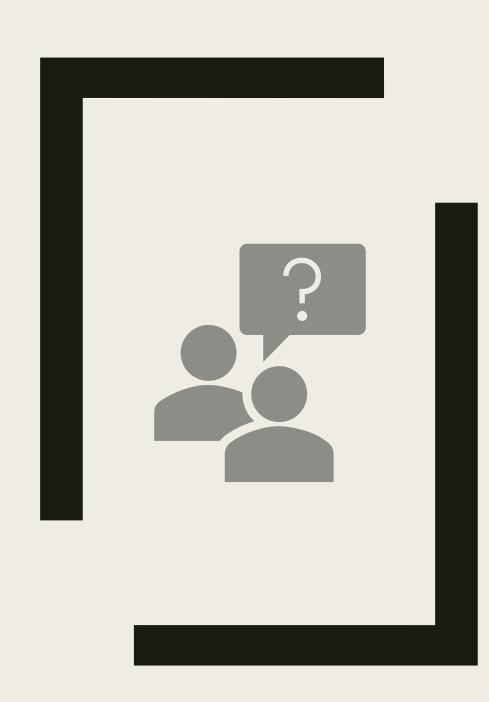
Staff Conclusion

- 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?