

ATTACHMENT 2

RESOLUTION NO. 2018-03

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF HESPERIA, CALIFORNIA, REVOKING LIVE ENTERTAINMENT FOR AN EXISTING HOOKAH LOUNGE AT 15923 BEAR VALLEY ROAD, UNIT A120 (CUP14-00013)

WHEREAS, Hesperia Municipal Code Chapter 16.12, Article III authorizes the Planning Commission to grant conditional use permits for the purpose of allowing certain uses that contribute to the orderly growth and development of the City to be properly integrated into the surrounding in which they are to be located; and

WHEREAS, pursuant to California Constitution Article XI, § 7, the state Zoning and Planning Law (Government Code sections 65800-65909.5), and Chapter 16.12, Article III of the Hesperia Municipal Code, the City of Hesperia ("City"), through the City of Hesperia Planning Commission ("Planning Commission"), is authorized to hear, approve, deny, or revoke conditional use permits that the City has previously granted; and

WHEREAS, in connection with any proposed proceeding to revoke a conditional use permit, Hesperia Municipal Code section 16.12.130(C) requires that (i) the Planning Commission hold a public hearing and consider the evidence presented in the staff report; (ii) the Commission shall render a decision finding: 1) that the CUP is being conducted in an appropriate manner and that no action to modify or revoke is necessary; or 2) that the CUP is not being conducted in an appropriate manner and that modifications to conditions are necessary; or 3) that the CUP is not being conducted in an appropriate manner and that modifications are not available to mitigate the impacts; and (iii) the City mail written notice of the public hearing to the applicant and record owner of the property for which the conditional use permit was granted prior to such public hearing; and

WHEREAS, the Planning Commission approved the original conditional use permit to allow live entertainment for a hookah lounge on February 12, 2015; and

WHEREAS, Spacy Smoke Lounge (the Business) and Victorville Holdings, Inc. (the record owner of the property) were sent written notification of a public hearing to be held on March 8, 2018 to determine whether the Planning Commission should revoke the CUP; and

WHEREAS, on March 8, 2018, the Planning Commission conducted the public hearing to determine whether the Planning Commission should revoke the CUP, and Spacy Smoke Lounge and Victorville Holdings, Inc. along with other interested members of the public, were afforded the opportunity to provide verbal and written evidence during such hearing regarding the possible revocation of the CUP; and

WHEREAS, the CUP applies to a developed lot within the General Commercial (C2) designation located 15923 Bear Valley Road and consists of Assessor's Parcel Number 0414-021-20; and

WHEREAS, the CUP14-00013 allows live entertainment for an existing hookah lounge; and

WHEREAS, the subject site is developed with a multi-tenant commercial building. Commercial uses exist to the north and west, and the parcels to south and east are vacant; and

WHEREAS, the subject property and the properties to the east and west are designated C2. The land to the north is commercially zoned located outside City limits. The land to the south is within the Multi-Family Residential (R3) designation; and

WHEREAS, the project is categorically exempt from the requirements for the California Environmental Quality Act by Section 15301, Existing Facilities; and

WHEREAS, on March 8, 2018, the Planning Commission of the City of Hesperia conducted a hearing on the Conditional Use Permit Application and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW THEREFORE, BE IT RESOLVED BY THE CITY OF HESPERIA PLANNING COMMISSION AS FOLLOWS:

Section 1. The Planning Commission hereby specifically finds that all of the facts set forth in this Resolution are true and correct.

Section 2. Based upon substantial evidence presented to the Planning Commission during the above-referenced March 8, 2018 hearing, including public testimony and written and oral staff reports, this Commission specifically finds as follows:

(a) The subject Conditional Use is not being conducted in an appropriate manner because the business has violated their operating conditions of approval and significant law enforcement issues have been created by the hookah lounge at 15923 Bear Valley Road, Unit A120. The Historical Summary of Incidents found in the staff report shows that law enforcement issues have been created by operation of the hookah lounge. The business is in violation of their conditions of approval, which requires them to obtain and maintain an annual Operational Use Permit from San Bernardino County Fire Department for an Assembly Occupancy.

(b) In the last year, police reports show incidents of multiple shootings, possession of weapons, vandalism, assaults on employees, and threats of robbery. Two serious incidents occurred where four people were shot in the month of January 2018 in two separate incidents. In one incident, three people were shot, and in another incident, the owner of the business shot a person attempting to rob and assault two employees. Based on the evidence, the City determines that the business is attracting a unsafe crowd and crime to the City. The incidents are evidence that the business is not operating in safe manner and not providing adequate security. A pattern of crime has continued at the facility.

Section 2. Based on the entire record before the Planning Commission and all written and verbal evidence presented, and the determinations and findings, the Planning Commission hereby revokes CUP14-00013 effective immediately.

Section 4. That Secretary shall certify to the adoption of this resolution.

ADOPTED AND APPROVED this 8th day of March 2018.

Tom Murphy, Chair, Planning Commission

ATTEST:

Denise Bossard, Secretary, Planning Commission