

City of Hesperia STAFF REPORT



DATE: March 8, 2018
TO: Planning Commission
FROM: Jeff Codega, Principal Planner
BY: Daniel Alcayaga, Senior Planner
SUBJECT: Consideration of Revocation of Conditional Use Permit CUP14-00013 that permits live entertainment for a hookah lounge at 15923 Bear Valley Road, Unit A120 (Applicant: Spacy Smoke Lounge; APN: 0414-021-20)

RECOMMENDED ACTION

It is recommended that the Planning Commission adopt Resolution No. 2018-03 revoking CUP14-00013 that allows live entertainment for a hookah lounge at 15923 Bear Valley Road.

BACKGROUND

The Planning Commission approved the original conditional use permit to allow live entertainment for a hookah lounge on February 12, 2015. The hookah lounge under the name Rippin Hookah Lounge first established at 15923 Bear Valley Road, Unit A120 in 2011. In permitting the business, staff understood the business to be similar to a restaurant, and was allowed to establish as a permitted use in the General Commercial (C2) designation. In 2014, there were reports of a high number of calls for service due to shootings, serving alcohol to minors, drunk in public arrests, assaults, fights, and loud music. The City discovered that live entertainment was occurring at the facility. Pursuant to Section 16.16.325 (Interpretation of land uses), staff determined that a hookah lounge with live entertainment warranted approval of a conditional use permit. While the City was investigating the business, there was a change in management of the hookah lounge. New management applied for a CUP and told the City that the business would work to reduce law enforcement incidents.

In 2017, the City imposed a city-wide moratorium on smoking lounges, including hookah lounges citing health hazards and a threat to health, safety and welfare of the residents of Hesperia. The City then adopted the Commercial Community Enhancement Ordinance (CCEO) imposing a prohibition on smoking lounges. This prohibition was prompted by a murder that occurred at a different hookah lounge in the City.

ISSUES/ANALYSIS

Pursuant to Section 16.12.130(C), the Planning Commission can revoke a Conditional Use Permit (CUP) after considering the evidence as presented in a staff report. Upon conclusion of a public hearing, the Commission shall render a decision finding: 1) that the "Conditional Use" is being conducted in an appropriate manner and that no action to modify or revoke is necessary; or 2) that the "Conditional Use" is not being conducted in an appropriate manner and that modifications to conditions are necessary; or 3) that the "Conditional Use" is not being conducted in an appropriate manner and that modifications are not available to mitigate the impacts. Upon revocation, the use shall cease and desist in the time allotted by the Commission.

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. A condition of approval states that: "any documented law enforcement issues created by the proposed use shall cause this CUP to be reviewed by the Planning Commission for possible revocation." The Historical Summary of Incidents shows that law enforcement issues have been created by operation of the hookah lounge.

Law enforcement issues include 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 staff believes the business is attracting an unsafe crowd. 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. 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.

Historical Summary of Incidents

Date	Case #	Summary (quoted from case file)
1/21/2018	191800559	The above date and time, I responded to the above location reference gunshot Jahshay Shepherd, Darelle Laydelle Burton, and Cecil Cooper at the incident location. Shepherd sustained a gunshot wound to his right trap. Burton sustained a gunshot wound to the right of his chest and cooper sustained a gunshot wound to his lower abdomen. All subjects were treated at Desert Valley Hospital. Burton and Cooper were air lifted to Arrowhead Regional Medical Center. At the scene several fired cartridge casing and blood splatters were located, photographed and collected for evidence. There are currently no suspect leads at this time.
1/12/2018	1918000298	The suspect Michael Richardson came into the Rippin Hookah Lounge and began telling the owner Jacob Abutaleb, he is going to rob him and everyone in the business. Abutaleb told Richardson to leave the business multiple times. Richardson walked behind the counter and struck Abutaleb in his face then attempted to attack another employee. Abutaleb told Richardson he was armed and if he did not leave he would shoot him. Richardson tried to run back behind the counter and Abutaleb fired several rounds from his handgun striking Richardson.
9/21/2017	191707485	On 09/20/2017, between the hours of 0200 and 1200, an unknown suspect scratched three of the passenger windows on Jacob's vehicle and removed the front passenger mirror. Jacob valued the damage at approximately \$1,000.00 to replace. Jacob's vehicle was parked in the parking lot at the above location and there were no video cameras in the area. No show or tire track able to be located due to hard concrete surface. Photographs were taken of the damage to vehicle, burned onto a disk, sealed in a manila envelope and paced in a secure evidence locker at the Hesperia

		Police Station. Jacob advised he called at the time of incident but cancelled due to the time it would take law enforcement to respond. Jacob advised incident happened while he was asleep inside of his business.
7/28/2017	191705784	The unknown suspect was upset with the victim about a recent purchase he made. The suspect began yelling at the victim about wanting to return the accessory. The suspect threatened the victim he was going to shoot him with his gun and kill him. The victim was nervous and started to shake. The suspect went to the vehicle and the victim followed. The suspect took off his shirt, got in his face, and told him while tapping him on his shoulder, : you don't want to ... (expletive here) with me , I just got out of jail." The suspect then got into a vehicle and fled the scene.

Staff notified the applicant and owners of the subject property in question. Such notices were sent by certified mail and stated that the Commission will be reviewing the CUP for possible revocation. It stated the date, time and place of the hearing. Public Hearing Notices were mailed to surrounding properties consistent with City code. Staff requests that revocation of CUP14-00013 should be effective immediately.

FISCAL IMPACT

There is no fiscal impact associated with approval of the recommended action.

ALTERNATIVE(S)

1. Provide alternative direction to staff

ATTACHMENT(S)

1. Conditions of Approval for CUP14-00013
2. Resolution No. 2018-03