



MINUTES

PLANNING COMMISSION MEETING

May 19, 2015

The meeting of the El Cajon Planning Commission was called to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE & MOMENT OF SILENCE

COMMISSIONERS PRESENT: Darrin MROZ, Chairman
 Paul CIRCO, Vice Chairman
 Anthony SOTTILE
 Jerry TURCHIN

COMMISSIONERS ABSENT: Luis HERNANDEZ

STAFF PRESENT: Anthony SHUTE, Planning Manager / Planning Commission Secretary
 Barbara LUCK, Assistant City Attorney
 Melissa DEVINE, Senior Planner
 Patricia HAMILTON, Secretary

Mroz explained the mission of the Planning Commission.

CONSENT CALENDAR

Planning Commission Minutes

Motion was made by SOTTILE, seconded by CIRCO, to adopt the minutes of the Planning Commission meeting of May 5, 2015; carried 4-0.

PUBLIC HEARING ITEMS

Agenda Item:	2
Project Name:	Auto Body Repair
Request:	Auto body shop in an existing building
CEQA Recommendation:	Exempt
STAFF RECOMMENDATION:	APPROVE
Project Number(s):	Amendment to Conditional Use Permit (CUP) No. 1852
Location:	1144 and 1150 North Second Street
Applicant:	California Collision Center (Rami Maroki)
Project Planner:	Melissa Devine; 619.441.1773; mdevine@cityofelcajon.us
City Council Hearing Required?	No
Recommended Actions:	<ol style="list-style-type: none"> 1. Conduct the public hearing; and 2. MOVE to adopt the next resolution in order granting proposed Amendment to Conditional Use Permit No. 1852, with conditions

DEVINE summarized the agenda report in a PowerPoint presentation.

MROZ opened the public hearing and invited any speakers to the podium.

Shelly TOMER, representing CRE Spray Booths, approached the podium. She passed out additional information for the Commissioner's review and made herself available for any questions.

Rami MAROKI, applicant, read a comprehensive description of the business and provided copies for the Commissioners.

Victor DANIEL, property owner, spoke next in support of the project.

Motion was made by CIRCO, seconded by SOTTILE, to close the public hearing; carried 4-0.

Motion was made by SOTTILE, seconded by MROZ, to adopt the next resolution in order approving proposed Amendment of Conditional Use Permit No. 1852, with conditions; carried 4-0.

The appeal period for this item ends on Friday, May 29, 2015 at 5:00 p.m.

Agenda Item:	3
Project Name:	Tyke's Liquor - Deemed Approved Administrative Hearing - Review
Request:	Determine if the off-sale establishment has violated deemed approved performance standards
CEQA Recommendation:	Exempt
STAFF RECOMMENDATION:	REVOKE DEEMED APPROVED STATUS
Project Number(s):	N/A
Location:	807 Jamacha Road
Applicant:	Planning Commission – Administrative hearing; 619.441.1742
Project Planner:	Melissa Devine; 619.441.1773; mdevine@cityofelcajon.us
City Council Hearing Required?	No
Recommended Actions:	1. Conduct the administrative hearing; and 2. MOVE to adopt the next resolution in order REVOKING Tyke's Liquor Deemed Approved Status

LUCK introduced the administrative hearing procedures and rules of order.

LUCK then commenced the hearing in the matter of **Tyke's Liquor**.

LUCK then swore in all persons who planned to speak in this matter and asked SHUTE to present the evidence for the City.

DAVIS explained the Police Department Minor Decoy Program and then proceeded to explain the details of minor decoy operations throughout the City and at Tyke's Liquor. He added the Police Department inspected 79 off-sale alcohol retailers whereby 21 of the stores had sold to a minor. Three of the 21 sold to a minor twice. Tyke's Liquor was one of those stores.

SOTTILE clarified that in June, 2014 when the decoy attempted to purchase liquor, he was turned down. This took place between the two dates where the decoy was successful.

TURCHIN asked if all cashiers received RBS training.

SHUTE answered that one was certified and one was not. He also noted that all businesses were notified in October, 2013 of the training requirement.

Halil HASIC, attorney representing Tyke's Liquor, cross-examined the City's witnesses. He asked DAVIS why the City's decoy program deviates from the State's program in that the City does not require the decoy to give their age.

DAVIS responded that the minor decoy program addresses the land use ability to sell alcohol and is criminal. The State program is administrative, whereby the ABC minor decoy is required to state their age, however, most minors who wish to purchase alcohol would not give their true age.

SHUTE added that the Planning Commission will make the determination if Tyke's Liquor has violated the deemed approved standards, and if so, to either modify, suspend or revoke the right to sell alcohol. If their right is revoked, then they could no longer sell alcohol without a new conditional use permit.

HASIC said both clerks have taken the RBS training, as well as the owner.

SHUTE answered that the City was only aware of one for SHAMMAS.

DEVINE added she did see evidence of the owner's training.

HASIC then called up Yaser SHAMMAS, store manager and clerk to speak. SHAMMAS stated he had completed the LEAD training before the two violations took place and that one clerk took the training after. Since that time they have completed several conditions, including:

- Placed the "Do not sell" list next to the cash register
- Provided more lighting
- Reduced the window and door signs to 15%
- Posted "no panhandling" sign as provided by Neighborhood Market Association on entrance doors
- All signs advertising beer and wine removed from front windows
- Removed recycle container
- Removed all signs advertising cigarettes
- Posted required signage in Arabic, English and Spanish
- Installed "ID required" sign to right after alcohol ordinance came into effect
- Age verification systems installed

He added that they were open to any new requirements the City may impose in order to comply with all rules and regulations and welcomed any inspections to verify they are in compliance.

The City declined to cross-examine the witnesses.

SOTTILE asked SHAMMAS that when he saw on the ID the highlighted area showing age why he sold to the decoy.

SHAMMAS said he did sell to the decoy, asked his age, however, did not remember the details of the sale.

TURCHIN asked if the other clerk was still employed.

SHAMMAS answered affirmative.

Dr. Sami JIHAD approached the podium next and said the State has jurisdiction over the sale of alcohol since the license is issued by the ABC. The City's decoy program is in conflict with the State's since the age of the decoy is not asked by the clerk. The revocation of the license would cause the business to close down.

Suzanne MARTIKAS, property owner, spoke next and advised the property has been in the family for years and her father built the building. Rental income from the building supports the care of her mother.

HASIC then presented his closing remarks by asking for leniency by taking into account all the measures the store owner has put in place to ensure these incidents will not happen again, especially with the installation of the age verification systems. All training has been taken. A revocation would not only impact the business owner, but also the employees and property owner.

TURCHIN mentioned that the two clerks that sold to the decoys were still employed.

Najeb ABDULNOOR, business owner, spoke next. He said he was sorry that these incidents happened and said with all the checks in place now hoped there would not be a repeat violation.

SHUTE then gave the closing argument. He said that even with Tyke's admirable efforts to add improvements the City does take selling to minors very seriously and its impact on the community. Currently there is no entitlement on the property to solidify these improvements (conditions). Therefore, staff recommends that Tyke's Liquor "deemed approved status" be revoked.

TURCHIN added the Commission has three options in front of them; suspend, modify or revoke. He asked if all sales were to be suspended, would there is a requirement for a CUP.

LUCK answered that there would need to be findings to suspend the right. The only findings before the Commission at this hearing were to revoke.

Motion was made by MROZ, seconded by TURCHIN, to close the hearing; carried 4-0.

Discussion then commenced by the Planning Commissioners.

SOTTILE said justice needed to be upheld, that the victim is not ALBOHNOOR, but those who purchase alcohol. The best policy is to uphold the City code.

CIRCO summarized that the violations did occur and the owner did make great efforts to install corrective measures. But the Manager, after taking classes, still sold to the decoy. Since then, there has been no decoy action within the last few months. The Commission must make sure all laws are followed. Tyke's did not follow the rules on two occasions and a CUP would bring them into compliance.

MROZ added the “deemed approved” ordinance was worked on by both the City and members of the community. After it came into effect, the number of drunken arrests, and other alcohol related arrests have reduced significantly. The ordinance is doing exactly what the public had asked the City to do. He was in favor of bringing Tyke’s Liquor into compliance.

TURCHIN agreed that all must abide by the rules.

Motion was made by MROZ, seconded by TURCHIN, to adopt the next resolution in order REVOKING Tyke’s Liquor Deemed Approved Status; carried 3-1.

The appeal period for this item ends on Friday, May 29, 2015 at 5:00 p.m.

Agenda Item:	4
Project Name:	Tyke’s Liquor – Conditional Use Permit No. 2222
Request:	Establish Off-Sale Alcohol Sales Outlet
CEQA Recommendation:	Exempt
STAFF RECOMMENDATION:	APPROVE CONDITIONAL USE PERMIT NO. 2222
Project Number(s):	CUP No. 2222
Location:	807 Jamacha Road
Applicant:	Tyke’s Liquor; Najeb Abdulnoor; 619.579.0511
Project Planner:	Melissa Devine; 619.441.1773; mdevine@cityofelcajon.us
City Council Hearing Required?	No
Recommended Actions:	<ol style="list-style-type: none"> 1. Conduct the public hearing; and 2. MOVE to adopt the next resolution in order APPROVING Conditional Use Permit No. 2222

DEVINE summarized the agenda report in a PowerPoint presentation.

TURCHIN asked if the applicant was aware of all the conditions of approval.

DEVINE answered the full agenda was both mailed and hand delivered to the applicant.

MROZ opened the public hearing and invited any speakers to the podium.

J. GRAVES, Marcel BECKER, Lawrence MURPHY, Michelle CHAVEZ, Earl MARTINEZ, Gus ESPINOZA, and Dr. Sami JIHAD spoke in support of how the new ownership at Tyke’s Liquor has made a positive difference in the community. The store is well kept up and run efficiently. All were in support of having Tyke’s retain the right to sell alcohol.

SHAMMAS told about how Tyke’s Liquor is a large contributor to the community and submitted information outlining their support of churches, schools and sports teams.

MROZ asked if the owner was fully aware of the conditions of approval.

SHAMMAS answered they were not 100% sure.

The conditions of approval were then projected on the screen for discussion and review.

HASIC asked the Commission to reconsider the conditions identified under f. iii & iv as follows:

- iii. No distilled spirits shall be displayed, sold or given away in containers of less than 375 milliliters, except pre-mixed cocktails.
- iv. The display, sale or distribution of 50 milliliters “airline bottles” and 375 milliliters “hip flask” containers is prohibited.

Warren MCKENNA, representing the Beacon Street Homeowner’s Association, spoke next. There are 110 condos in this complex directly across from the store. Several times in the past, after people buy alcohol from the store, they congregate in the grassy area by the complex. Small bottles of liquor are then thrown down the street. They have also had drunks fall into their yards, parking lots and planters.

SHAMMAS said Tyke’s Liquor is not the only store which sells alcohol. The others are CVS, 7-Eleven and USA Gas. All are within walking distance.

Richard CHAVEZ, neighbor, said he has not noticed anyone laying in the landscaping, however, the landscaped area is by the Junction, where people do drink since it is a bar. The blame should not be directly only to Tyke’s Liquor.

Motion was made by MROZ, seconded by TURCHIN, to close the public hearing; carried 4-0.

MROZ stated the conditions outlined in the resolution are not out of line with other establishments in the City.

SOTTILE stated that selling alcohol to anyone under 21 years of age is a crime and he was not inclined to make any changes in the conditions.

SHUTE added the conditions, if adopted, include the suspension of the sale of all alcohol. Once all conditions have been completed, and after inspections by the City, then the sale of alcohol could be resumed.

CIRCO said he was inclined to approve the CUP with the limitations proposed by the Police and the types of alcohol being restricted for sale. He realized there is tremendous work ahead for the applicant to bring the store into compliance, however, he knows they can accomplish and be back in business soon.

TURCHIN agreed with the other Commissioners and stated this was an opportunity to upgrade the business.

Motion was made by CIRCO, seconded by SOTTILE, to adopt the next resolution in order APPROVING Conditional Use Permit No. 2222, subject to conditions; carried 4-0.

The appeal period for this item ends on Friday, May 29, 2015 at 5:00 p.m.

ADJOURNMENT

Motion was made by MROZ, seconded by TURCHIN, to adjourn the meeting of the El Cajon Planning Commission at 9:45 p.m. this 19th day of May until June 2, 2015, at 7:00 p.m.; carried 4-0.

Darrin J MROZ, Chairman

ATTEST:

Anthony SHUTE, AICP, Secretary