

**From:** [Alex Tellez](#)  
**To:** [Smokey Charms](#)  
**Cc:** [Nimisha Agrawal](#); [Business License](#)  
**Subject:** RE: To: Business License Appeal – Certificate No. 315243 (Smoke Charms LLC, 770 Kiely Blvd #125)  
**Date:** Thursday, September 25, 2025 4:01:00 PM  
**Attachments:** [Chapter 18.126 Zoning Clearance.pdf](#)  
[Tablr 2-11 Mixed Use Zones Allowed Uses.pdf](#)  
[18.160.190 - S Definitions.pdf](#)  
[Permitting Online Portal User Guide - Planning.pdf](#)  
[Application Checklist Bus.pdf](#)  
[image001.png](#)

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Good afternoon Xiangqiong,

The Santa Clara Planning Division has received your email.

“Vested Rights” under California State Land Use law only pertains to people that have submitted a land use application.

A Business Tax Certificate application is not a land use application but a tax requirement to operate in the City of Santa Clara therefore unfortunately you do not have any vested rights to the prior City Land Use Regulations.

You have not submitted a zoning clearance application and there was none pending prior to July 1<sup>st</sup> therefore you are require to follow current City Land Use regulations which is that a smoke shop is not allow to operate in the Mixed Use – Neighborhood Commercial (“MU-NC”) zoning district.

You may changed your business model to be a convenience store that sells tobacco products as ancillary and be able to operate in that location to meet the following exemption.

“Any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, cigarettes or tobacco as an ancillary sale shall not be defined as a “smoke shop””

and is not subject to the restrictions in this chapter.”

A zoning clearance application will need to be submitted if your use will follow the following definition above and Planning will require a floor plan showing how the store will be a convenience store.

See attached Santa Clara City Codes for your reference.

**Alex Tellez** | Assistant Planner  
Community Development Department | Planning Division  
1500 Warburton Avenue | Santa Clara, CA 95050  
D: 408.615.2459 | Email: [atellez@santaclaraca.gov](mailto:atellez@santaclaraca.gov)

[www.SantaClaraCA.gov](http://www.SantaClaraCA.gov)



Out of Office: December 1<sup>st</sup> to December 2<sup>nd</sup>

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**From:** Smokey Charms <smokecharms59@gmail.com>

**Sent:** Wednesday, September 24, 2025 12:47 AM

**To:** Planning <Planning@santaclaraca.gov>

**Subject:** To: Business License Appeal – Certificate No. 315243 (Smoke Charms LLC, 770 Kiely Blvd #125)

You don't often get email from [smokecharms59@gmail.com](mailto:smokecharms59@gmail.com). [Learn why this is important](#)

Dear City of Santa Clara Planning Division and City Clerk's Office,

I am writing regarding my business license application for Smoke Charms LLC, located at 770 Kiely Blvd #125, Santa Clara, CA, Certificate No. 315243.

In April 2025, I emailed your office twice but did not receive any reply. I then visited City Hall in person two times to confirm the application requirements. At that time, City staff clearly informed me that I could apply and that I only needed to first obtain a tobacco retail license and then return to apply for the business license. Based on this official information, I proceeded in good faith with my application.

On May 8, 2025, I received confirmation from the City's Business Tax Unit that my application had been processed, the required fees had been paid, and Certificate No. 315243 was assigned. The notice also stated that the only remaining requirement was to submit my Seller's Permit. However, the notice never specified any deadline or expiration date for submitting this document. Therefore, I reasonably understood that my application remained valid while I worked to obtain and provide the Seller's Permit. I have since submitted the requested documentation.

Recently, I was informed that the zoning regulations have changed. This inconsistency has caused me serious confusion and financial hardship. I respectfully request that the City honor the information previously provided by staff and the regulations that were in effect at the time I filed my application.

Under California's vested rights principles, once an application has been accepted and the applicant has made substantial reliance in good faith, subsequent changes in ordinances cannot be applied retroactively (*Avco Community Developers v. South Coast Regional Commission*, 1976; ILG Planning Handbook). My application was substantially complete and accepted under the prior regulations, and I have already signed a lease and invested significantly in reliance on City approval.

If this matter cannot be resolved administratively, I will have no choice but to exercise my appeal rights, including seeking legal counsel if necessary.

Please confirm receipt of this email and advise me of the next steps. I have attached supporting documents, including City correspondence dated May 8, 2025, payment confirmation, lease agreement, and proof of investment.

Thank you for your prompt attention to this matter.

Sincerely,

Xiangqiong Wu

Phone: 612-456-4357

Email: [smokecharms59@gmail.com](mailto:smokecharms59@gmail.com)

## Tracy Tam

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**From:** Smokey Charms <smokecharms59@gmail.com>  
**Sent:** Friday, October 31, 2025 4:12 PM  
**To:** Tracy Tam  
**Subject:** Re: PLN25-00432: 770 Kiely Blvd

Dear Tracy,

Thank you very much for your time and detailed feedback.

After careful consideration, I would like to clarify that my intention is to continue operating as a smoke shop, as originally applied. I understand that the City's current zoning regulation may not allow new smoke shops in this district. However, I believe my previous business application and approvals were submitted and accepted before the new zoning rule took effect.

If the City cannot approve my original application under these circumstances, I will consult with my attorney to review the case and determine the appropriate legal process.

Thank you for your understanding and for all your assistance so far.

Best regards,

Xiangqiong Wu

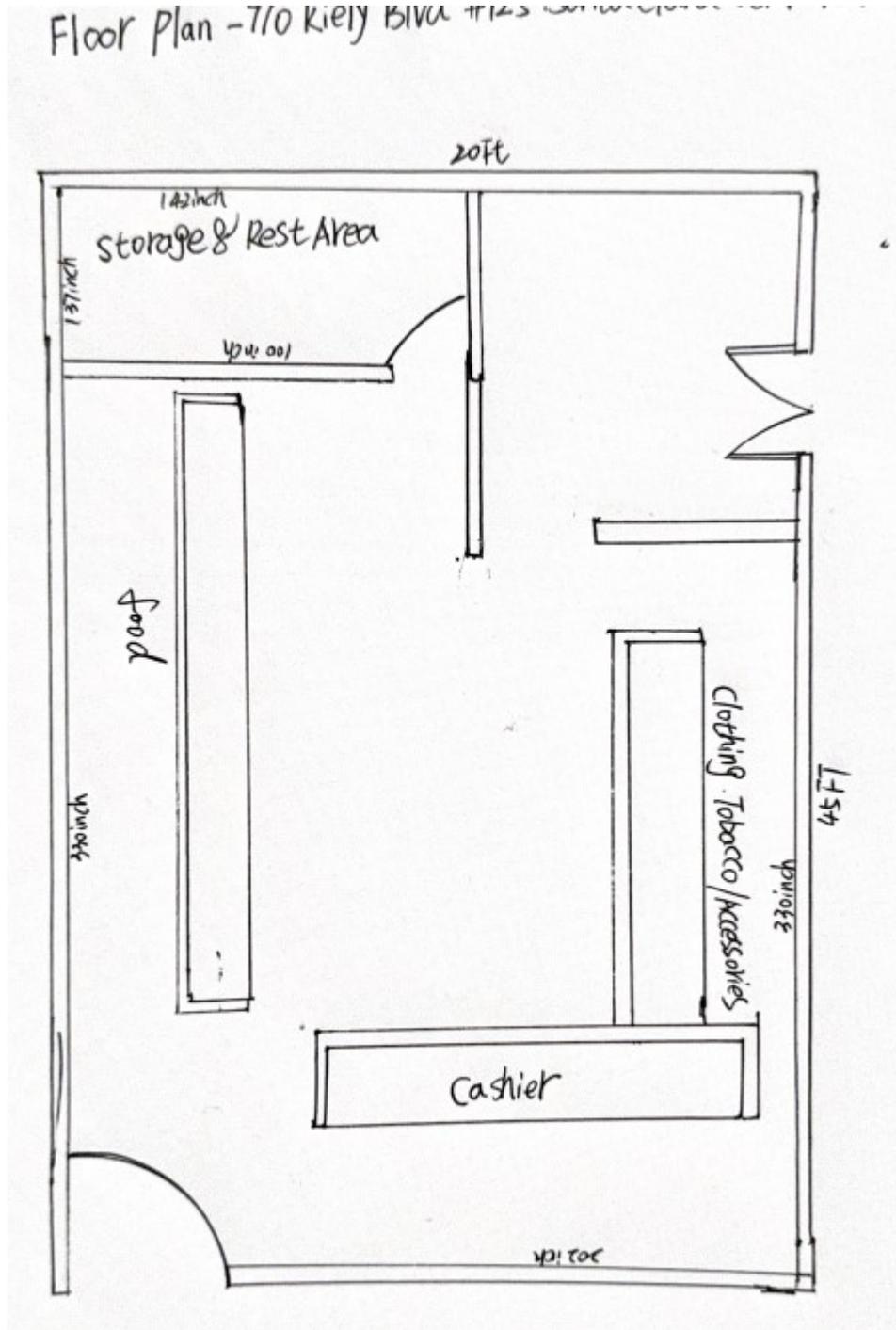
Tracy Tam <[TTam@santaclaraca.gov](mailto:TTam@santaclaraca.gov)>于2025年10月31日 周五14:58写道 :

Hello Xiangqiong,

Thank you for the floor plan. I've had a chance to take a look and I do have a few simple questions. For the area designated as clothing, tobacco/accessories, does this mean you'll be selling clothing, tobacco, and accessories or will you be selling clothing, tobacco, and tobacco accessories?

Will the food products be prepackaged goods or will the food be prepared at this establishment?

Lastly, what is the area to the top right used for (served by the double doors).



Given that the business appears to be a convenience store with ancillary tobacco sales, and the name of the business is currently Smokey Charms Smoke and Vape, we'll expect the business name to change to reflect the business. Can you please let me know what the new business name will be?

Lastly, I will need to convert the permit from a "PLN25" to a "PZC25" as the "PZC25" is for the zoning clearance, not the "PLN25". I'll do so on my end and let you know the new reference number that you'll need to use from now on, once I am able to convert the permit.

I look forward to hearing from you.

Best,

**Tracy Tam** | Associate Planner

Community Development Department | Planning Division  
[1500 Warburton Avenue](#) | [Santa Clara, CA 95050](#)

O: 408.615.2450 | D: 408.615.2432



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**From:** Smokey Charms <[smokecharms59@gmail.com](mailto:smokecharms59@gmail.com)>  
**Sent:** Friday, October 10, 2025 12:08 PM  
**To:** Tracy Tam <[TTam@SantaClara.ca.gov](mailto:TTam@SantaClara.ca.gov)>  
**Subject:** Re: PLN25-00432: [770 Kiely Blvd](#)

Dear Tracy,

Thank you very much for your email and for taking over my application.

I just uploaded the **floor plan** for my CUP application through the permit portal (under "Plans"). Could you please kindly check if it meets the requirements? If there is anything missing or if you need any additional information, please let me know — I will provide it right away.

Thank you again for your time and support.  
I also wish you a wonderful and relaxing weekend!

Best regards,  
Xiangqiong Wu  
Phone: 612-456-4357

On Fri, Oct 10, 2025 at 11:47 AM Tracy Tam <[TTam@santaclaraca.gov](mailto:TTam@santaclaraca.gov)> wrote:

Hello,

I have been assigned this application. I understand you have had prior communication with Alex, where he had noted that Planning will need to see a floor plan showing how the store will be a convenience store. Please upload the floor plan as soon as you are able. I will not be able to invoice the zoning clearance, or review/move the zoning clearance forward until this is submitted.

Instructions for how to upload the floor plan to the permit portal can be found here:  
<https://www.santaclaraca.gov/home/showpublisheddocument/84010/638665064506070000> (PDF page 11).

Best,

**Tracy Tam** | Associate Planner

Community Development Department | Planning Division  
[1500 Warburton Avenue | Santa Clara, CA 95050](https://www.santaclaraca.gov/home/showpublisheddocument/84010/638665064506070000)

O: 408.615.2450 | D: 408.615.2432



## Tracy Tam

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**From:** Tracy Tam  
**Sent:** Monday, December 15, 2025 4:05 PM  
**To:** Smokey Charms  
**Cc:** Alex Tellez; Nimisha Agrawal  
**Subject:** Re: Request for Approval of Smoke Shop License Based on Original Regulations  
**Attachments:** PZC25-00381 Letter of Denial.pdf

Hi Xiangqiong Wu,

Attached you will find the letter of denial for the zoning clearance application. Unfortunately, staff cannot approve a smoke shop at this location as it is not permitted. Please do reach out if you would like to reconsider the convenience store option.

Best,

**Tracy Tam** | Associate Planner  
Community Development Department | Planning Division  
1500 Warburton Avenue | Santa Clara, CA 95050  
O: 408.615.2450 | D: 408.615.2432



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**From:** Tracy Tam <TTam@SantaClaraca.gov>  
**Sent:** Friday, December 12, 2025 4:23 PM  
**To:** Smokey Charms <smokecharms59@gmail.com>  
**Cc:** Alex Tellez <atellez@Santaclaraca.gov>; Nimisha Agrawal <NAgrawal@SantaClaraCA.gov>  
**Subject:** RE: Request for Approval of Smoke Shop License Based on Original Regulations

Hello, thank you for your follow-up. I am working on this request and will reach out to you once I have something to share.

Thank you for your patience.

Happy holidays,

**Tracy Tam** | Associate Planner  
Community Development Department | Planning Division  
1500 Warburton Avenue | Santa Clara, CA 95050  
O: 408.615.2450 | D: 408.615.2432



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**From:** Smokey Charms <smokecharms59@gmail.com>  
**Sent:** Friday, December 12, 2025 11:55 AM  
**To:** Tracy Tam <TTam@SantaClaraca.gov>  
**Cc:** Alex Tellez <ATellez@Santaclaraca.gov>; Nimisha Agrawal <NAgrawal@SantaClaraCA.gov>  
**Subject:** Re: Request for Approval of Smoke Shop License Based on Original Regulations

Dear Tracy, Alex, and Nimisha,

I am following up again regarding my prior request for a formal written decision on my business license application.

As of today, I have not received any written response. While I understand the holiday season may affect scheduling, a written determination is necessary for me to understand the City's official position and proceed accordingly.

If a written decision cannot be issued, please confirm that in writing.

Absent a response, I will need to escalate this matter to the Department Director and seek legal guidance to preserve my procedural rights.

Thank you for your attention.

Sincerely,  
Xiangqiong Wu

On Fri, Nov 21, 2025 at 1:43 PM Smokey Charms <[smokecharms59@gmail.com](mailto:smokecharms59@gmail.com)> wrote:

Dear Tracy and Alex, and Nlmisha Agrawal

I hope you are doing well.

Last week, I emailed to request a **written decision** regarding my business license application, including the reasons for the City's determination.

Since I have not yet received a response, I would like to kindly follow up.

As you know, a written decision is necessary for me to understand the City's position and determine my next steps. I would be grateful if you could let me know when I can expect to receive the written notice.

Thank you very much for your time, and I appreciate your assistance on this matter.

Sincerely,  
**Xiangqiong Wu**

On Thu, Nov 13, 2025 at 3:55 PM Smokey Charms <[smokecharms59@gmail.com](mailto:smokecharms59@gmail.com)> wrote:

Dear Tracy,

Thank you for your response.

However, I must make it absolutely clear that I strongly dispute the City's conclusion and the way my case has been handled.

The current situation did not happen because of any failure on my part.

It happened entirely because your staff provided incorrect information, failed to tell me about required permits, and did not respond to my written inquiries.

I acted in full good faith based on the guidance provided by the City.

Because of the City's mistakes, I have suffered significant financial damage.

I am a single mother supporting my child, and every dollar I invested came from loans.

The City's misinformation put me in this extremely difficult position.

At this point, I will be taking the following actions:

**✓ 1. Filing a  
formal administrative appeal**

**✓ 2. Submitting a  
Government Estoppel / Vested Rights  
claim**

**✓ 3. Requesting full review by senior City officials, including the Planning Manager,  
Community Development Director, and City Manager**

**✓ 4. Preparing for  
legal action  
if necessary, including a potential Writ of Mandate**

## ✓ 5. Preserving all communication as evidence for any future proceedings

I am not afraid to pursue every available legal remedy.

I will not accept being forced to suffer the consequences of the City's mistakes.

**Please provide the formal written denial letter for my original application immediately so that I can proceed with the next steps in the appeal and legal process.**

Thank you.

I expect your prompt response.

Sincerely,

Xiangqiong Wu

Tracy Tam <[TTam@santaclaraca.gov](mailto:TTam@santaclaraca.gov)>于2025年11月13日 周四14:47写道 :

Good afternoon Xiangqiong, I have had a chance to review your information below with my supervisor. Thank you for your patience on this matter and for coming to city hall to discuss your concerns and providing a timeline of what occurred with Alex and I.

After careful discussion and thought, I am sorry to say that the smoke shop business will not be able to be approved as a smoke shop at the current location. As the business license applied for in May 2025 was not issued, the current zoning code would need to be followed. Although a smoke shop is not allowed at the current location, the zoning code does note the following: "Any grocery store, supermarket, convenience store or similar retail use that only sells conventional cigars, cigarettes or tobacco as an ancillary sale shall not be defined as a "smoke shop"" and is not subject to the restrictions in this chapter."

Therefore, if the primary business is a grocery store, supermarket, convenience store, or similar retail use, then the selling of conventional cigars, cigarettes, or tobacco as an ancillary use may be allowed. If you would like to remain at the current address, the primary business would need to be a grocery store, supermarket, convenience store, or similar retail use and the project description and floor plans would need to reflect this business model. If you are open to other properties in Santa Clara, I am happy to assist you in checking whether the smoke shop business would be allowed at those properties.

I sincerely apologize for what you have encountered, and I understand how frustrating it must be. I am sorry for any inconvenience this has caused.

Best,

**Tracy Tam** | Associate Planner

Community Development Department | Planning Division

[1500 Warburton Avenue | Santa Clara, CA 95050](#)

O: 408.615.2450 | D: 408.615.2432



**From:** Tracy Tam  
**Sent:** Friday, November 7, 2025 8:25 AM  
**To:** 'Smokey Charms' <[smokecharms59@gmail.com](mailto:smokecharms59@gmail.com)>; Alex Tellez <[atellez@santaclaraca.gov](mailto:atellez@santaclaraca.gov)>  
**Subject:** RE: Request for Approval of Smoke Shop License Based on Original Regulations

Thank you for emailing me this information. I will discuss this further with my supervisor and will be in touch next week.

Best,  
**Tracy Tam** | Associate Planner  
Community Development Department | Planning Division  
[1500 Warburton Avenue | Santa Clara, CA 95050](https://www.santaclaraca.gov/1500-Warburton-Avenue)  
O: 408.615.2450 | D: 408.615.2432



**From:** Smokey Charms <[smokecharms59@gmail.com](mailto:smokecharms59@gmail.com)>  
**Sent:** Thursday, November 6, 2025 3:46 PM  
**To:** Tracy Tam <[TTam@SantaClaraca.gov](mailto:TTam@SantaClaraca.gov)>; Alex Tellez <[ATellez@Santaclaraca.gov](mailto:ATellez@Santaclaraca.gov)>  
**Subject:** Request for Approval of Smoke Shop License Based on Original Regulations

On March 10 at 10:00 a.m., I visited your Planning Department to consult with your staff about the required procedures and qualifications for opening a smoke shop. The staff informed me that my location was permitted to operate a smoke shop and advised me to simply complete the form at the Business Department or apply online.

On March 13, I visited your office again with a friend to confirm the same question, and I received the same answer. On the same day, I also sent an email to follow up, but I did not receive any response.

On April 8, I submitted my online application for the business license and made the payment. This was before your department modified the zoning or relevant regulations.

Therefore, I request that my application be approved according to the original regulations in effect at the time of my submission. Otherwise, I will be forced to pursue legal action to resolve this matter