

FINDINGS FOR REVOCATION

Special Use Permit S78-0016/Tunnel Electric Planning Commission/August 13, 2015

The Special Use Permit is revoked based on the following findings:

I. Findings for Revocation when there is lack of substantial compliance with conditions of approval (130.22.260.B)

1.0 CEQA FINDINGS

- 1.1 Pursuant to Section 15321 of the CEQA Guidelines, enforcement actions by regulatory agencies are statutorily exempt from the provisions of CEQA and no further environmental review is required.

2.0 REVOCATION FINDINGS

- 2.1 It has been found that the uses at the site are not in substantial conformance with conditions of approval 1, 2, and 4 of S78-0016.
- 2.2 S78-0016 was approved with a site plan showing the structure that was to be used as the shop located 40 feet from both the south and west property lines. Condition of approval Number 1 required that development be consistent with that site plan. Building permit and tax records show that the structure was 2,400 square feet when constructed. Currently the site plan submitted with the revision shows that the structure has been expanded to approximately 5,000 square feet and is located within the 30 foot setback at 20 feet from the south property line and is completely within the setback on the west property line as measured from the edge of the road easement. No building permits have been approved for the expansion of the structure and there is currently an open code enforcement case as a result. Failure to revise the special use permit prior to expanding the shop structure demonstrates a lack of substantial compliance with Condition 1.
- 2.3 Condition Number 2 states that operational hours are to be from 7:00 A.M. to 5:00 P.M. Comments received from an adjacent property owner states that on multiple occasions employees have arrived and deliveries have been made prior to and after the allowed hours of operation. There is a lack of substantial compliance with Condition 2.
- 2.4 Condition of approval Number 4 states that the use is exclusively for the applicant and is not to include employees. The applicant acknowledges that the business employs at least three people at the site and that multiple subcontractors work at the site at various times. The approval of S78-0016 was clear in that it was a home occupation that was to be performed by only the applicant that resided at the site. There is a lack of substantial compliance with Condition 4
- 2.5 The permit revocation complies with the Zoning Ordinance revocation provisions under Section 130.22.260.B.

II. Findings for Revocation when authorized use has ceased for a year (130.22.260.A.2)

3.0 CEQA FINDINGS

- 3.1 Pursuant to Section 15321 of the CEQA Guidelines, enforcement actions by regulatory agencies are statutorily exempt from the provisions of CEQA and no further environmental review is required.

4.0 REVOCATION FINDINGS

- 4.1 As evidence has been submitted that the uses approved by S78-0016 ceased for approximately 17 years, it can be found that consistent with County Code Section 130.22.260.A.2 the permit has expired.
- 4.2 Mr. and Mrs. Mirande owned the project parcel for approximately 17 years. Evidence has been received that the Mirande's did not operate a business consistent with the conditions of approval of S78-0016. The email from Mrs. Mirande states that the structure associated with the special use permit was used for storage only and not as a stainless steel fabrication shop. Business license information for John H. Mirande shows that he owned a photography studio in Diamond Springs. Zoning Ordinance Section 130.22.260.A.2 states that when a use authorized by the permit ceases for a period of one year or more for any reason the permit shall automatically expire by operation of law.
- 4.3 S78-0016 shall be considered revoked and of no effect as of the expiration of the required 10 day appeal period following this Planning Commission action.
- 4.4 The permit revocation complies with the Zoning Ordinance revocation provisions under Section 130.22.260.A.2