

Attachment to Appeal of Planning Commission Decision of Minor Use Permit (PMPC 20130156) Microtechnics, Inc., August 22, 2013

7. Reason for appeal

We are appealing the Planning Commission decision approving the Minor Use Permit (PMPC 20130156) Microtechnics, Inc. The first argument concerns an error in judgment regarding Placer County Zoning Ordinance, Chapter 17, Placer County Code Article 17.56.120; the second argument concerns the application of Placer County Zoning Ordinance, Chapter 17, Placer County Code Article 17.56.050.

Argument 1:

We believe that the Planning Commission did not apply the requisite judgment in determining that this proposal met the intent of **Article 17.56.120 Home occupations. A. Purpose and Intent** (states in part):

The purpose of this section is to allow for limited or occasional, commercial-type activities to be conducted. . .as home occupations. The intent of this section is to insure the compatibility of home occupations with the surrounding neighborhood.

Please note that this section **allows** home occupations. Clearly, without this section home occupations would not be allowed on the subject property. According to the existing zoning ordinances, only residential use is allowed. In other words, the County has restricted the land used in this zone (RS) to residential purposes only. However, although home occupations are allowed, it is paramount that they be **compatible with the surrounding neighborhood**.

To comply with the intent of Article 17.56.120, there are Subsections which provide examples and criteria that help make the determination regarding compatibility or mitigate specific concerns. These Subsections are: **B. Limitations on Use, C. Performance Standards, D. Parking, and E. Signs**. However, ultimately a judgment must be made as to whether or not the use is compatible with the surrounding neighborhood. This judgment must be based upon all factors, including the nature of the business, its potential impact on the neighborhood, and the desires of the community.

While the Planning Commission, through the work performed by the Planning Division, focused on the mitigation requirements imposed by **B. through E.**, they did not properly consider the opinion of the surrounding neighborhood. As evidenced by letters, e-mails, and petitions received from the community, the overwhelming view is opposition to this permit. Over 100 expressions of opposition have been registered to date, while fewer than ten have expressed support. The opposition has been based on a variety of reasons, including traffic, safety, fear of increased crime, loss of property value, all of which show that the community does not believe

that this home occupation is compatible with the surrounding neighborhood. Many of our neighbors have expressed shock that a home occupation of this nature would even be considered.

To our knowledge, and according to Roy Schaefer of the Planning Division, there has been one other approval of a home occupation for the sale and repair of firearms in recent memory, Minor Use Permit (PMPC 20120039). This approval occurred in 2012, but it was not on a property zoned RS. That property was zoned F-B-X and consisted of 9.5 acres in Clipper Gap—a remote, rural parcel next to a railroad track—a vastly different neighborhood from Twin Rocks Road. The approval of the Clipper Gap firearms business was made by the Zoning Administrator and was never appealed. Therefore, this Board of Supervisors has not had the opportunity to pass judgment on this type of home occupation and its suitability in a neighborhood.

Unfortunately, some members of the Planning Commission avoided the intent of the home occupation article and focused instead on their view that this permit under review was a limitation of individual rights under the Second Amendment to the U.S. Constitution. This is **not** a Second Amendment issue. This is a **zoning** issue. Denial of the applicant's request in no way limits his personal right to keep arms and ammunition on his property. It does, however, limit his right to conduct a home occupation in a residential area that is clearly not compatible with the surrounding neighborhood. This is exactly the purpose of all zoning ordinances—*to define and preserve the character and desirability of a community*.

We request that this elected Board of Supervisors render sound judgment and recognize that this home occupation is not compatible with the surrounding neighborhood. We therefore request that the Planning Commission's ruling be overturned and that this Minor Use Permit (PMPC 20130156) be denied.

Argument 2:

We believe that the Planning Commission (based on incorrect guidance from the Planning Division) erred in determining that explosives manufacturing and storage was an allowable use under the home occupations section of the zoning ordinances (17.56.120). Article 17.56.120 states: "When allowed by Section 17.06.030 et seq., (Allowable land uses and permit requirements) in the zone applicable to the site, home occupations are subject to the requirements of this section." Section 17.06.030 is an introductory section that refers to tables presented in 17.06.050 which provide specific guidance on various uses that are allowed within each zone. If not included in the tables, the use is not allowed.

The use titled "Explosives manufacturing and storage" is included as an allowed use in the table included in 17.56.050, but only in Agricultural, Resource, Open Space zones AE, F, and FOR. For the RS Zone (which is the applicable zone for this permit request) the column is blank, meaning that the use is **not allowed** in zone RS. The table does not make exceptions for small quantities.

The Planning Division provided erroneous information by stating that explosives were not included because the definition of explosives specifically excludes ammunition. Therefore, they apparently concluded that only firearms sales and repair was the use being proposed in this permit. This is incorrect. The definition of "Explosives manufacturing and storage" explicitly includes ammunition. This definition is included in Article 17.04.030, Definition of land uses, specialized terms and phrases:

"Explosives manufacturing and storage" (land use) means the commercial manufacturing and storage of all types of explosives, including, but not limited to, blasting powder and blasting caps, dynamite, fireworks, gunpowder, high explosives, and the manufacture of conventional explosives for weapons use (including ammunition, bombs, missile warheads, etc.). See Section 17.56.110 for specific use requirements applicable to explosives manufacturing and storage. (SIC: Groups 2892, 3482, 3483)

The Planning Commission also discussed whether the custom loading of ammunition that the applicant intended to do was manufacturing. Statements were made that manufacturing was restricted to high volume activity and that the applicant was merely assembling the components of the ammunition rounds, which was not manufacturing. Actually, no definition of manufacturing is limited to high volume; it includes any volume that processes materials into a finished product. Assembly is a synonym of manufacture, often used interchangeably.

Because manufacturing and storage of explosives is an explicitly prohibited land use under Section 17.56.050 in the RS Zone, we request that the Planning Commission's ruling be overturned and that this Minor Use Permit (PMPC 20130156) be denied.