



Interoffice Memo

DATE: April 19, 2018

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FROM: **CHRISTNEY BARILLA, SENIOR PLANNER**
Land Use Services Department

TO: **HONORABLE PLANNING COMMISSION**

SUBJECT: **AGENDA ITEM 2: CONTINUANCE OF REASONABLE ACCOMMODATION
PROJECT NO. P201700616 - BOONE**

On April 5, 2018, the Planning Commission considered the subject application and continued the matter to April 19, 2018. The Planning Commission directed staff to modify the conditions of approval to address concerns discussed in the hearing on April 5. Staff attempted to engage the applicant and the neighboring property owner in discussions of potential amendments to the conditions of approval that might be mutually acceptable. We were unable to find such a solution.

The following revised conditions are recommended to minimize the number of dogs on the site and to provide a buffer between the applicant's dogs and the neighbor who objects to the reasonable accommodation. Language shown in red is new.

2. Grant of Reasonable Accommodation. A Reasonable Accommodation is granted to the two disabled applicants; hereinafter referred to the "Applicants", to exceed the number of allowed dogs on the parcel located at 826 Leonard Lane, Sugarloaf, CA which would allow 4 (four) additional dogs (all under 10 lbs.) as emotional support animals for the two disabled persons in a single family residential structure. The reasonable accommodation to exceed the number of allowed dogs on the parcel to allow 4 additional dogs (all dogs are under 10 lbs. or less) to the allowed 2 (two) dogs, are comprised of the following breeds: a Chihuahua, a Chihuahua Mix, a Dachshund Mix and a small Stray. These animals deemed appropriate by a mental health professional as emotional support animals, meeting the Fair Housing Act (FHA) requirements for the two disabled persons to be a reasonable accommodation. **The reasonable accommodation is granted only for the 4 (four) emotional support dogs. As a condition of approval of the reasonable accommodation, the two large non-emotional support dogs on the property may remain for the rest of their lives, but shall not be replaced.**

11. Fencing. Applicants shall maintain in good condition the existing wood fencing placed on the side and rear, and all chain link fencing in order for animal containment. **All dogs shall be confined to an area of the property at least 20 feet away from the adjoining property to the north (APN 2350-563-22), currently owned and/or occupied by Denise Vieth and Matthew Polich. The confinement may be achieved by additional fencing, a portable kennel, or an equivalent method to be approved by the Planning and Code Enforcement Division staff.**

The complete April 5, 2018, Planning Commission Agenda packet, which includes the staff report and findings, can be viewed online at <http://cms.sbcounty.gov/lus/Planning/PlanningCommission/PastAgendas.aspx>.

EXHIBIT A

Conditions of Approval

ON-GOING CONDITIONS OF APPROVAL

Norma Jean Boone and Madeleine Boone, Major Reasonable Accommodation to Allow Four (4) Additional Dogs that are Emotional Support Animals (all under 10 Lbs.) to Exceed the Number of Allowed Dogs for Two Disabled Persons
826 Leonard Lane; Sugarloaf, CA
APN: 2350-563-23-0000

1. Project Description. This Reasonable Accommodation authorizes Norma Jean Boone and Madeleine Boone (referred to herein as “Applicants”), to exceed the number of allowed dogs on the parcel located at 826 Leonard Lane, Sugarloaf, CA; to allow 4 (four) additional dogs (all under 10 lbs.) as emotional support animals for two disabled persons in a single family residential structure which is subject to compliance with the San Bernardino County Code (SBCC), the following conditions of approval, and the regulations and permit requirements of other agencies, including the San Bernardino County Department of Public Health Veterinarian Services. Currently the parcel has 2 (two) allowed dogs. This reasonable accommodation request relieves the applicant from the requirements of applying for the Special Use Permit requirement for a Private Kennel for Animal Keeping Allowed as an Accessory Use to a single-family dwelling unit. The single-family dwelling unit is located in the Land Use Zoning Designation of Bear Valley Community Plan/Single Residential (BV/RS).
 - a. Physical Site: The Land Use Zoning Designation of the property is Bear Valley Community Plan/Single Residential (BV/RS) APN: 2350-563-23-0000.

There is a single family residential structure located on the subject 0.1 acre parcel. The single family residential structure contains two bedrooms.
 - b. Surrounding Area: The single family residential structure is located on a block bordered by Mahogany Lane to the south, Leonard Avenue to the east, Wabash Avenue to the west and Clark Lane to the north in a neighborhood which contains a number of parcels which exceed the minimum lot size of 7,200 sq. ft. The mountain region of Sugarloaf, where the parcel is located, is at an elevation of approximately 6,998 feet above sea level. The proposal to accommodate four (4) additional emotional support dogs (all under 10 lbs.) which are not housed outdoors, will have a noise standard and a manure management plan. The subject property will not require a fundamental alteration of the zoning or conditions of the site or surrounding area.
2. Grant of Reasonable Accommodation. A Reasonable Accommodation is granted to the two disabled applicants; hereinafter referred to the “Applicants”, to exceed the number of allowed dogs on the parcel located at 826 Leonard Lane, Sugarloaf,

CA which would allow 4 (four) additional dogs (all under 10 lbs.) as emotional support animals for the two disabled persons in a single family residential structure. The reasonable accommodation to exceed the number of allowed dogs on the parcel to allow 4 additional dogs (all dogs are under 10 lbs. or less) to the allowed 2 (two) dogs, are comprised of the following breeds: a Chihuahua, a Chihuahua Mix, a Dachshund Mix and a small Stray. These animals deemed appropriate by a mental health professional as emotional support animals, meeting the Fair Housing Act (FHA) requirements for the two disabled persons to be a reasonable accommodation. **The reasonable accommodation is granted only for the 4 (four) emotional support dogs. As a condition of approval of the reasonable accommodation, the two large non-emotional support dogs on the property may remain for the rest of their lives, but shall not be replaced.**

3. Automatic Termination. This Reasonable Accommodation shall automatically terminate when the above described allowance of the additional 4 (four) dogs all under 10 lbs. changes or if either applicant is no longer a permanent resident of the single family residence. Also, if a change occurs of the four (4) dogs approved; the Chihuahua, Chihuahua Mix, Dachshund Mix and a small Stray defined in the Reasonable Accommodation. Applicants shall immediately notify the County when there is a change. Said notice shall be provided in writing to: the Director of Land Use Services. In the event of automatic termination, Applicants can use the property as one (1) single family residence allowing 2 (two) dogs or apply for a new reasonable accommodation to accommodate replacement of emotional support dogs that are all under 10 lbs. for one or both of the disabled person that are the applicants.
4. Verification of Resident Disability. Both Applicants will be disabled persons protected under federal and state Fair Housing laws. The Applicants have been professionally determined by a licensed Doctor of Psychology in the State of California to meet the definition of disability under the Americans with Disability Act, the Fair Housing Act, and the Rehabilitation Act of 1973. Residents will be provided with the emotional support animals to mitigate the symptoms of their disability.
5. Occupancy Limit. Applicants shall limit occupancy of the single family residential structures to four (4) additional dogs all under 10 lbs. to the two (2) allowed dogs for the emotional support of the two disabled applicants.
6. Contact Information. Applicants shall provide the County with at least two contact names and accessible way to communicate.

7. License. Applicants shall provide the Land Use Services Department with the two (2) allowed dogs and all four (4) additional dogs (all under 10 lbs.) emotional support animals for the two disabled applicants with a current copy of all the dog licenses from the County of San Bernardino.
8. Animal Housing. County of San Bernardino Development Code Section 84.04.060 - Private Kennel regulations would require all dogs be kept inside the single family residential structure from 9 p.m. to 7 a.m. These requirements will be a condition of housing for the four (4) additional emotional support dogs.
9. Manure Management Plan. Proper manure management shall be carried out in compliance with Title 3 (Health and Sanitation and Animal Regulations) of the County Code. An adequate waste and manure disposal plan shall be provided for the total of all six dogs on the parcel to the Land Use Services Planning Division. Manure waste must be retrieved from the yards and disposed of on a daily basis from the six dogs.
10. Noise. Noise level shall be maintained at or below County Standards as detailed in the County of San Bernardino Development Code Section 84.04.060 (Private Kennels and/or Catteries) the noise level will be attenuated to 55 Db(A) from the property line.
11. Fencing. Applicants shall maintain in good condition the existing wood fencing placed on the side and rear, and all chain link fencing in order for animal containment. **All dogs shall be confined to an area of the property at least 20 feet away from the adjoining property to the north (APN 2350-563-22), currently owned and/or occupied by Denise Vieth and Matthew Polich. The confinement may be achieved by additional fencing, a portable kennel, or an equivalent method to be approved by the Planning and Code Enforcement Division staff.**
12. Zoning Regulations/Standards. The project site is located in the Bear Valley Community Plan/Single Residential (BV/RS) Land Use Zoning Designation in the Mountain Region. Required yard/setback areas shall be maintained in good condition and clear of obstructions. The following development standards apply to the subject site:
 - Minimum Yards, Building Setbacks are:
 - Front – (Lot less than 14,000 s.f.) - 15 ft.;
 - Side Interior (each) – 20% of lot width, need not exceed 15 ft.⁽²⁾;
 - Rear – 15 ft.
 - Maximum building height shall be 35 ft.

- Maximum lot coverage (impervious) shall be 40%⁽³⁾ Maximum percentage of the total lot area that may be covered by structures and impervious surfaces.

⁽²⁾ The side yard setback standards in the Fire Safety Overlay (Chapter 82.13) shall prevail. The setback provisions of the small lot development standards (Chapter 84.22) shall not apply.

⁽³⁾ The maximum lot coverage allowed in Chapter 82.06, Table 82-21 B will prevail for allowed institutional land uses.

13. Performance Standards. The site is subject to all performance standards stated in the Chapter 83.01 of the San Bernardino County Development Code, including vibration, fire hazard abatement and waste disposal, as well as requirements related to light and glare in Chapter 83.07. The Development Code is available on line at: <http://www.sbcounty.gov/uploads/lus/developmentcode/DCWebsite.pdf>
14. Trash Containers. All trash shall be promptly and properly contained within closed containers, pending weekly trash collection. Applicants shall ensure that adequate containers are provided for the property, including the manure management plan for disposal.
15. Continuous Maintenance. All landscaping, fuel modification measures, fencing and structures shall be maintained regularly by the property owner, so that all facets of the site are kept in continual good repair, including but not limited to paint, roofing, windows, the removal of graffiti and continued provision of healthy thriving mountain region landscaping. The property shall be maintained so that it is visually attractive and not dangerous to the health and welfare of the surrounding neighbors.
16. Continuous Effect/Modification/Revocation. All of the conditions of this approval are continuously in effect throughout the applicant's residency on the parcel. The request for the overconcentration of dogs to be increased by four (4) (all under 10 lbs.) making a total of six dogs is with an approved reasonable accommodation for the parcel. Failure of the property owner or Applicants to comply with any and all of the conditions at any time may result in public hearing and possible modification of the conditions of approval or revocation of the reasonable accommodation, provided adequate notice, time and opportunity is provided to property owner, Applicants or other interested party to correct the non-compliance, pursuant to section 86.09.170 of the County of San Bernardino Development Code.
17. Operator Requests for Modification or Revision. Any Applicants request for changes to the conditions of approval shall be treated as a new request for reasonable accommodation, unless the request is minor and does not involve a substantial alteration to the use or the approval, as determined by the Director. Any proposed change to the approved use/activity on the site or any increase in developed area of the site or an expansion or modification to the approved use or

any proposed change to the conditions of approval, including use restrictions shall require an additional application for reasonable accommodation. Any changes in use characteristics, including but not limited to the following, shall require an amendment to this reasonable accommodation or issuance of a new reasonable accommodation:

- a. Increase in the number, size or breed type of the emotional support animals.
- b. Requests for amendments to the conditions of approval, including:
 - Modifications to the manure management plan.
 - Modifications to the noise attenuation requirements.
 - Modifications to the overnight inside housing requirement.

18. Expiration. This approval shall expire and become void if it is not “exercised” within three (3) years of the effective date of this approval, unless an extension of time is approved. Approval of the reasonable accommodation is deemed “exercised” when the Applicants provide primarily indoor housing, and overnight indoor housing, noise level attenuation and a manure management plan for four (4) emotional support dogs all under 10 lbs. that are the following breeds; Chihuahua, Chihuahua Mix, Dachshund Mix and a small Stray. Upon operation of the exercised reasonable accommodation, the approval shall remain valid continuously for the life of the use, unless one of the following occurs:
- a. The land use is determined by the County to be abandoned;
 - b. The use is determined by the County to be not operating in compliance with these conditions of approval, the County Code, or other applicable laws, ordinances or regulations. In these cases, the use may be subject to a revocation hearing and possible termination.

PLEASE NOTE: This will be the ONLY notice given of approval expiration date. Operator is responsible to initiate and Extension of Time application.

19. Extension of Time. Extensions of time to the expiration date (listed above or as otherwise extended) may be granted in increments of one to three years beyond the current expiration date. An application to request consideration of an extension of time may be filed with the appropriate fees no less than thirty days before the expiration date. Extensions of time may be granted based on a review of that application, which includes a justification of the delay in implementation and a plan of action for completion. The granting of such an extension request is a discretionary action that may be subject to additional or revised conditions of approval to site plan modification. (County of San Bernardino Development Code 86.06.060)

20. Indemnification. In compliance with SBCC §81.01.070, Applicants shall defend, indemnify, and hold harmless the County, its agents, officers, and employees from any claim, action, or proceeding against the County or its agents, officers, or employees to attack, set aside, void, or annul the County's approval of the application for reasonable accommodation, except where such indemnification is prohibited by law.
21. Compliance with Laws. The property owner and Applicants are responsible to ascertain and comply with all laws, ordinances, regulations and any other requirements of Federal, State, County and Local agencies as are applicable to the development and operation of the approve land use and project site. Compliance with all rules and regulations may be verified by an inspection conducted by a code enforcement officer, building inspector, and/or fire inspector, prior to the issuance of final occupancy.
22. Enforcement Activities. Should any enforcement activities be required to ensure compliance with the conditions of approval, the applicants or property owner shall be charged for such activities in accordance with the San Bernardino County Code Schedule of Fees.
23. Applicants to Update Information: The applicants shall be responsible for updating any information relating to the requirements of this reasonable accommodation, as soon as practical, including: the contact information required in Condition 4, and the notification required in Condition 3.

END OF CONDITIONS