

**RESOLUTION NO.**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF PACIFICA UPHOLDING THE APPEAL AND APPROVING HOME OCCUPATION PERMIT A-004-18 (FILE NO. 2018-043), SUBJECT TO MODIFIED CONDITIONS, TO ALLOW OUTDOOR AGILITY TRAINING AND THE KENNELING OF UP TO ONE (1) DOG OVERNIGHT AT 295 PINEHAVEN WAY (APN 018-021-090), AND FINDING THE PROJECT NOT SUBJECT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).**

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Initiated by: Tyler Brennan (“Applicant”)

**WHEREAS**, an application for a Home Occupation was submitted requesting to allow outdoor dog agility training, as well as administrative operations in the existing residence, and to kennel up to one (1) dog for a fee overnight at 295 Pinehaven Way (APN 018-021-090); and

**WHEREAS**, on July 23, 2018, the Zoning Administrator made the decision to approve the Home Occupation Permit to allow for administrative operations of the dog business, with conditions to deny the outdoor agility training and the kenneling of up to one (1) dog per night; and

**WHEREAS**, on July 30, 2018, the applicant filed an appeal to appeal the Zoning Administrator’s decision to deny the outdoor agility training and the kenneling of up to one (1) dog per night; and

**WHEREAS**, the Pacifica Municipal Code Section 9-4.3106 states that the Planning Commission will hear appeals of Zoning Administrator decisions; and

**WHEREAS**, the Planning Commission of the City of Pacifica did hold a duly noticed public hearing on September 4, 2018, at which time it considered all oral and documentary evidence presented, and incorporated all testimony and documents into the record by reference.

**NOW, THEREFORE BE IT RESOLVED** by the Planning Commission of the City of Pacifica as follows:

- A. The above recitals are true and correct and material to this Resolution.
- B. In making its findings, the Planning Commission relied upon and hereby incorporates by reference all correspondence, staff reports, and other related materials.

**BE IT FURTHER RESOLVED** that the Planning Commission of the City of Pacifica does hereby make the finding that the project is not subject to the California Environmental Quality Act (CEQA) so long as the activity will not result in a direct or

reasonably foreseeable indirect physical change in the environment, as provided in CEQA Guidelines Section 15060(c)(2).

**BE IT FURTHER RESOLVED** that the Planning Commission of the City of Pacifica does make the following findings pertaining to Home Occupation Permit A-004-18, pursuant to PMC Section Sec. 9-4.3101. All required findings can be found in PMC Section 9-4.3101. The findings relevant to this home occupation application are:

*(I) It shall not unreasonably generate pedestrian or vehicular traffic beyond that normal to the zone in which it is located. No more than three (3) people per day, including customers and sales persons shall come to and from the dwelling in conjunction with the home occupation. Music teachers and other teachers may be permitted additional commercial clientele upon approval by the Planning Administrator and conformance with conditions limiting the number of hours of commercial activity. In such case, adjacent owners and resident shall be notified prior to approval of the home occupation.*

Discussion:

According to the applicant, the training will occur primarily off-site, however agility training in the backyard as well as boarding for a single dog is proposed at the property. The owner of the property does not anticipate having more than three (3) clients visiting the residence per day.

*(iv) It shall not involve more than two hundred (200') square feet of the dwelling unit floor area, whether the home occupation use is conducted within the dwelling, or in an accessory building, or a combination of both.*

Discussion:

Management of the dog training business will take place in the smallest bedroom, which is the designated office space and is approximately 85.5 square feet. Storage of dog related equipment (collars, leashes, harnesses, food, bedding, etc.) will be in cabinets or storage bins, approximately 12 square feet, while the agility obstacles will remain outdoors.

*(vi) In no way shall the appearance of the structure or premises be so altered, or the conduct of the occupation within the structure or premises be such, that the structure or the premises may be reasonably recognized as serving a nonresidential use (either by color, materials, construction, lighting, noise, vibration, or the like). In particular, a home occupation shall not cause any adverse impacts such as offensive odors or excessive noise, lighting, or traffic which are incompatible with the residential area, or in violation of the provisions of any applicable laws or regulations.*

Discussion:

There is currently no development or alterations to the existing structure being

proposed. Therefore, the appearance of the structure or premises will not be recognized as serving a nonresidential use. The Planning Commission has determined that the home occupation will not result in adverse impacts to the neighborhood.

*(viii) A home occupation may be conducted only within an enclosed building, whether the building constitutes part of the main building or is an accessory building. A home occupation may not be conducted within an accessory building which is located within a required setback area, unless storage is the only proposed use. The Zoning Administrator, after a notice to adjoining landowners located within two hundred (200') feet of the subject property, may authorize a home occupation in other than an enclosed building upon the determination that the home occupation will not damage neighboring properties.*

Discussion:

Although the home occupation permit was denied to allow outdoor agility training and kenneling of up to one (1) dog at a time overnight, the Zoning Administrator did approve the home office for administrative operations of the dog training business. It was found that the administrative operations taking place inside the main building would adhere to the parameters of the home occupation requirements. Public notice of the home occupation permit was sent to adjoining landowners located within two hundred (200') feet of the subject property. The home occupation would not damage neighboring properties.

*(x) A home occupation shall not involve the employment of help other than resident members of the family within the residence. No provisions of this article shall be deemed to prohibit service occupations carried on off the premises, nor to prohibit the employment of persons off the premises. Where special conditions exist and are disclosed on the application, the Zoning Administrator may modify this requirement.*

Discussion:

The home occupation will not involve the employment of help other than the resident members of the family within the residence.

**BE IT FURTHER RESOLVED** that the Planning Commission of the City of Pacifica upholds the appeal and approves Home Occupation Permit A-004-18, subject to conditions of approval attached as Exhibit A.

\* \* \* \* \*

**PASSED AND ADOPTED** at a regular meeting of the Planning Commission of the City of Pacifica, California, held on the 4th day of September, 2018.

**AYES**, Commissioners:

**NOES**, Commissioners:

**ABSENT**, Commissioners:

**ABSTAIN**, Commissioners:

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Richard Campbell, Chair

ATTEST:

APPROVED AS TO FORM:

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Tina Wehrmeister, Planning Director

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Michelle Kenyon, City Attorney

## **Exhibit A**

### **Conditions of Approval: Home Occupation Permit A-004-18 (File No. 2018-043), to allow outdoor agility training and the kenneling of up to one (1) dog overnight at 295 Pinehaven Way (APN 018-021-090).**

#### **Planning Commission Meeting of September 4, 2018**

#### **Planning Division**

1. Operation shall be substantially in accord with the written description received by staff on June 26, 2018, and revised on July 30, 2018 except as modified by the following conditions.
2. Operating hours for outdoor agility training are to occur between the hours of 10 am and 4 pm in the residences fenced backyard.
3. The kenneling of up to one (1) dog per night is to be conducted inside the residence.
4. Should the applicant have more than five (5) animals present at any given time on the property, the applicant shall apply for an Animal Permit pursuant to Administrative Policy 35.
5. This permit shall not be transferred or assigned, nor shall the permit authorize any person, other than the person named therein, to commence or carry on the home occupation for which the permit was issued.
6. As stated in PMC Section 9-4.3108, the owner shall obtain a business license. If the business license is not renewed annually, the home occupation permit shall automatically expire.
7. Applicant shall maintain its site in a fashion that does not constitute a public nuisance and that does not violate any provision of the Pacifica Municipal Code.
8. All outstanding and applicable fees associated with the processing of this project shall be paid prior to the issuance of a building permit.
9. The applicant shall indemnify, defend and hold harmless the City, its Council, Planning Commission, advisory boards, officers, employees, consultants and agents (hereinafter "City") from any claim, action or proceeding (hereinafter "Proceeding") brought against the City to attack, set aside, void or annul the City's actions regarding any development or land use permit, application, license, denial, approval or authorization, including, but not limited to, variances, use permits, developments plans, specific plans, general plan

amendments, zoning amendments, approvals and certifications pursuant to the California Environmental Quality Act, and/or any mitigation monitoring program, or brought against the City due to actions or omissions in any way connected to the applicant's project, but excluding any approvals governed by California Government Code Section 66474.9. This indemnification shall include, but not be limited to, damages, fees and/or costs awarded against the City, if any, and costs of suit, attorney fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the applicant, City, and/or parties initiating or bringing such Proceeding. If the applicant is required to defend the City as set forth above, the City shall retain the right to select the counsel who shall defend the City.

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