



Archuleta County
Development Services—Planning Department
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MEMORANDUM

TO: Archuleta County Planning Commission
FROM: John C. Shepard, AICP; Planning Manager
DATE: June 26, 2019
RE: VR18-068 Doan 78 Tejas Vacation Rental Permit Referral

Property Owner Colleen Doan completed a Pre-Application Conference on 9/05/2018, early in the new short-term rental permit process, and applied for Vacation Rental Permit VR18-068, accepted 11/18/18, for 4 bedrooms at her home at 78 Tejas Pl in San Juan River Village. The Assessor's record shows 2 bedrooms. During the application process, staff determined the original building permit for the Detached Garage had expired without inspections, so the completed garage structure could not be legally occupied without a new permit.

After over 6 months, Applicant has not yet applied for a building permit. A Building Safety Inspection was scheduled for the Dwelling on 5/29/19, with the Local Owner's Representative Harvey Burch. The Inspector found 3 bedrooms in the home, meeting the current requirements for a bedroom. This property is zoned county Residential (R), in which short-term rentals were illegal prior to 10/1/18, so no non-conforming "grandfathered" rights apply.

Staff is referring this permit to the Planning Commission for a determination if the VR18 permit can be approved—or that short-term rentals must cease—until a building permit is approved for the detached garage. At this time, the question of occupancy of the garage for short-term rental is not on the table.

Section 2.1.1 of the *Archuleta County Land Use Regulations* states that "Any development, re-development or change in land use shall be completed in conformance with these Regulations...building and construction permits pursuant to the uniform codes adopted by the County, and must comply with all other applicable County requirements." As a general principle under this requirement, no new permit can be approved on a parcel with an open violation of any other permit or regulation. Section 5.5.6.3(1) for Vacation Rentals states:

- a. Any dwellings offered as Vacation Rentals, in whole or in part, shall be in conformance with all applicable building codes.

However, staff does acknowledge it is the detached garage, not the principal dwelling, that is not in conformance with building code.

While the property owners did submit a Vacation Rental application before December 31, 2018, as required by Section 5.5.6, it is not clear that staff can approve the current permit or accept a renewal until the existing code violations are corrected.

1. One option is that, since continued operations have been at risk to the property owner, short-term rental is are subject to enforcement action by the County attorney with potential fees and fines due.
2. Another option would be to approve VR18-068 and suspend operations under the renewal until a building permit is issued, under 5.5.6.2(6):
 - b. Where rental property has not been in compliance with the Land Use Regulations (including the Performance Standards in Sec. 5.5.6.3) or County ordinances, then the Director shall refer the application for renewal to the Planning Commission for review at a Public Meeting.
3. Applicants propose a third option, that the Planning Commission approve Vacation Rental permit VR18-068 as presented and allow renewal for VR19 to continue short-term rental operations with a condition that the property owners “proceed in good faith” to obtain the after-the-fact building permit.

ATTACHMENTS.

Attachment 1: Site Map

Attachment 2: Accela Permit Summary & Building Safety Inspection Sheet

Attachment 3: Applicant Narrative to Planning Commission