



Archuleta County
Development Services
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STAFF REPORT

TO: Archuleta County Planning Commission

FROM: Pamela Flowers, Development Director

DATE: September 20, 2021

STAFF

REPORT: Appeal of Un-Permitted Vacation Rental Fines, 10600 County Rd 326 (003902)

EXECUTIVE SUMMARY

Pawprint Properties LLC, represented by Pylar Pinkston, has appealed fines for operating an **Un-Permitted Vacation Rental at 10600 County Rd 326, Pagosa Springs (VR003902)**. The short-term rental has been operating since at least February 1, 2021 without a Vacation Rental Permit (VRP). This owner also has two additional Un-Permitted Vacation Rentals at 300 USFS Rd 668 (VR024644) and 13921 County Rd 326 (VR030658). The Appellant received the first Notice of Violation/Order for Abatement (NOV) on July 31, 2020 to request compliance, to no avail. As indicated in that NOV, effective August 21, 2020 fines of \$100 per day began accumulating on the property. As of the date of this report, those fines have been calculated at \$39,500 and continue to grow as the advertising for this rental has yet to be taken down and rentals continue on all three properties. The Appellant first contacted the Staff a few days after separate STOP USE ORDERS were posted on each of the properties on August 12, 2021.

LAND USE REVIEW

Per **Sec 1.4.3.1(1) of the Archuleta County Land Use Regulations (ACLUR)**, the County may **“deny or withhold all approvals, certificates or other forms of authorization on any land or structure, or improvements thereon, upon which there is an uncorrected violation of a provision of these Regulations ... until the violation is corrected.”** One of the properties owned by the Appellant is an Improperly Divided Parcel, which must be corrected.

Section 3.2.7 states that it is unlawful to rent or offer to rent any Dwelling Unit as a Vacation Rental unless and until a VRP has been approved. Only one of the three properties (VR024644) ever received the approved VRP, which expired April 23, 2021 and was never renewed.

Sec 3.2.7.1(1)c allows any Applicant who disagrees with a determination or condition of approval of the Development Director regarding VRPs to appeal for a public hearing before the Planning Commission. The Property Owner in this case has appealed calculated fines applied by the Development Director for VR003902.

Sec 4.10.2.1 defines parcels of less than thirty-five (35) acres in size that were not created through a documented process which complies with CRS 30-28-101 et. seq. and were created after September 1, 1972, as Improperly Divided Parcels.

DISCUSSION

Prior Notice

Prior communications with the owner regarding all three (3) properties is summarized here.

Account VR024644:

- **April 22, 2020 - Notification** was sent via email to the Appellant regarding the need to complete the Vacation Rental Permitting Process in the LodgingREVS system. The required documentation was quickly submitted on April 23, 2020 and the VRP for that property was issued.
- **April 8, 2021 – System Notification** was sent via email to the Appellant regarding the need to complete the VRP Renewal application in the LodgingREVS system. This email was not opened by the Appellant for 133 days.
- **August 12, 2021 – STOP USE ORDER** posted on the property.

Account VR003902:

- **June 25, 2020 thru April 8, 2021 – Twelve (12) system notifications** were sent via email to the Appellant indicating that there were tasks waiting in LodgingREVS to complete the permitting process. Of these three (3) were opened the same day sent, and the rest were never opened by the Appellant.
- **July 31, 2020 – Notice of Violations/Order for Abatement** was sent via email to the Appellant informing her of the requirement to apply for a VRP for this property and warning of the \$100 per day fines starting on August 21, 2020.
- **April/May 2021 – Courtesy Notice** of Un-Permitted Vacation Rental and possible Improperly Divided Parcel (IDP) sent via email to the Appellant.
- **June 4, 2021 – Notice of Violations and Order for Abatement** was again sent via email to the Appellant notifying of the requirement to apply for a VRP and identifying property as a possible IDP.
- **August 12, 2021 – STOP USE ORDER** posted on the property.

Account VR030658:

- **September 1, 2020 thru April 8, 2021 – Nine (9) system notifications** were sent via email to the Appellant indicating that there were tasks waiting in LodgingREVS to complete the permitting process. Of these two (2) were opened the same day sent, and the rest were never opened by the Appellant.
- **August 12, 2021 – STOP USE ORDER** posted on the property.

Fines

Though it was within the right of the Staff to begin calculating the \$100 per day fine on each of the properties, it was felt that accumulating fines on only one property should be adequate to get the Appellant to move toward compliance. Disappointingly, this has not been the case.

With the level of communication shown, it is clear that the Appellant was aware of the requirement to apply for a VRP for each of these three properties. Another fact that is clear if you review the Courtesy Notice, the NOV's, and the STOP USE ORDERS is that the requirement to remove advertisements and cancel bookings was also made clear. However, these violations all continue on these properties to the date of this report.

Permit Application Review

Normally, as a part of this discussion, Staff would be asking the Planning Commission to also consider whether or not to approve the Vacation Rental Permit for these properties. Unfortunately, as of the date of this report, the Appellant has not fully completed the requirements for any of the three VRPs. To avoid the need for a future hearing on that matter, the Staff is requesting a discussion of the potential approval, disapproval, or approval with conditions for VRPs for each of the three properties.

Despite a vast quantity of communication regarding Vacation Rental permitting requirements, the Appellant in this matter has shown either an unwillingness or an inability to comply. Regardless of the reasons, permitting of these properties may set a precedent for future cases in which the property owner has knowingly remained un-permitted for an extended period of time.

RECOMMENDATIONS AND FINDINGS

1. Regarding the Appeal and based on a preponderance of the evidence provided, Staff recommends the Planning Commission find that:

- a. The decision of the Development Director to Apply Fines for the Un-Permitted Vacation Rental at 10600 County Rd 326 (VR003902) is allowed by the Archuleta County Land Use Regulations; and

That the **Planning Commission DENY** the Appeal and **UPHOLD the decisions of the Development Director**, regarding **Un-Permitted Vacation Rental Fines** as presented, with no changes.

FIRST PROPOSED MOTION

I move to DENY the APPEAL and UPHOLD the decisions of the Development Director regarding Un-Permitted Vacation Rental Fines for 10600 County Rd 326, Pagosa Springs, as presented with no changes.

2. Regarding the upcoming Vacation Rental Permit Applications, Staff recommends the Planning Commission find that:

- a. The applications for Vacation Rental Permits for all three properties do meet the approval criteria in Sec 3.2.7.4 of the *ACLUR*, and

That the Planning Commission Approve Pawprint Properties LLC applications for Vacation Rental Permits for 300 USFS Rd 668 (VR024644), 10600 County Rd 326 (VR003902), and 13921 County Rd 326 (VR030658) once submitted, with the following conditions:

1. The \$100 per day fines will continue to accumulate until all advertisements in all media are removed and all bookings are cancelled for all three (3) properties; and
2. All fines must be paid in full before any Vacation Rental Permits will be approved for any of the three (3) properties; and
3. The After-the-Fact permitting fees of 200% must be paid for all three (3) VRPs; and
4. A Legal Lot Certificate must be obtained for the property at 13921 County Rd 326 before any of the three (3) VRPs will be approved; and
5. All three (3) VRPs will be SUSPENDED for nine (9) months from the date of approval, and no short-term rental can be advertised or may occur during the suspension period.

SECOND PROPOSED MOTION

I move to APPROVE the Vacation Rental Permits 300 USFS Rd 668 (VR024644), 10600 County Rd 326 (VR003902), and 13921 County Rd 326 (VR030658) once submitted, with conditions 1-5 of the Staff Report.