



ROUTT COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA COMMUNICATION FORM

ITEM DATE: 9-18-2023	ITEM TIME: 10:35am

FROM:	David Pieknik
TODAY'S DATE:	9-12-2023
AGENDA TITLE:	Sommerville Code Enforcement CEZONE20230081

CHECK ONE THAT APPLIES TO YOUR ITEM:	
<input checked="" type="checkbox"/> ACTION ITEM	
DIRECTION	
<input type="checkbox"/> INFORMATION	

I. DESCRIBE THE REQUEST OR ISSUE:
Consideration to authorize the County Attorney's Office to pursue legal action against Michelle Sommerville (landowner) for violations involving horse riding lessons being performed in the MRE zone district. Sommerville Zoning Violation at 37740 COUNTY ROAD 179 regarding Administrative Uses Section 4.18.3 and 4.19
II. RECOMMENDED ACTION (motion):
I move to authorize the County Attorney to pursue legal action against Michelle Sommerville for the violation of performing equestrian lessons in the MRE zone district contained in the Routt County Zoning Regulations.

III. DESCRIBE FISCAL IMPACTS (VARIATION TO BUDGET):
PROPOSED REVENUE (if applicable): \$
CURRENT BUDGETED AMOUNT: \$
PROPOSED EXPENDITURE: \$
FUNDING SOURCE:
SUPPLEMENTAL BUDGET NEEDED: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
Explanation:

IV. IMPACTS OF A REGIONAL NATURE OR ON OTHER JURISDICTIONS (IDENTIFY ANY COMMUNICATIONS ON THIS ITEM):

V. BACKGROUND INFORMATION:

The current owner and resident of the property, Michelle Sommerville, owns and operates Routt County Horse Rescue on the property. After receiving a complaint regarding horse riding lessons, camps, environmental issues, and potential animal abuse, an investigation was initiated and a Code Enforcement case CEZONE20230081 was opened.



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After making contact with Ms. Sommerville, scheduling and performing a site visit, the Planning Department determined that a violation exists. The violation is horse riding lessons being performed on a property located in the MRE zone district. Notice of Violation was issued on May 25th, 2023. After consulting with additional agencies like the Routt County Sheriff Office, a plan for compliance was created that was delivered to Ms. Sommerville in writing and verbally, and agreed upon by Ms. Sommerville.

After the plan for compliance was agreed upon, Planning staff and Legal decided to keep the case open to facilitate any necessary future actions. Additional complaints of animal abuse and horse riding lessons were reported to the Planning office. A Cease and Desist order was issued and posted on August 23, 2023. Again Ms. Sommerville acknowledged the plan for compliance and stated in writing that lessons would not be performed on her property. Two more complaints were received again alleging that horse riding lessons were being performed on the property. Planning believes there is sufficient, credible evidence that the lessons continue despite Ms. Sommerville's statements. The provision of such lessons constitute a violation of the County's Zoning Regulations, Administrative Uses Section 4.18 and 4.19.

"Except as hereinafter provided no structure or land shall hereafter be used or occupied . . . unless in conformity with the Regulations herein specified for the Zone District in which it is located." Zoning Regulations 1.4. "It shall be unlawful to . . . use any land in violation of any provision of these Regulations or any amendment thereof. . . Violations of these Regulations may be prosecuted and punished as provided by law, including without limitation, C.R.S. 30-28-124 and 30-28-124.5, as amended. The County, in addition to other remedies provided by law may institute an action for injunction, abatement or any other appropriate action or proceeding to prevent, enjoin, abate, or remove such unlawful action, structure or use, including the revocation of any permit or approval issued hereunder." Zoning Regulations 1.6.



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VI. LEGAL ISSUES:

This case has been discussed with the Attorney Office.

VII. CONFLICTS OR ENVIRONMENTAL ISSUES:

N/A

VIII. SUMMARY AND OTHER OPTIONS:

1. Deny the request for legal action
2. Table for additional information

IX. LIST OF ATTACHMENTS: Detailed list of compliance actions



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April 20th, 2023 – Email complaint from Kyle Badertscher alleging animal abuse, animal density, potential environmental hazards, feral dogs causing property damage and possibly killing neighboring barn animals.

April 25th, 2023 – Discussed complaint with Planning, Todd H at CSU extension office, Scott C with RCEHD, and Dawn Smith with RCSO.

May 3rd, 2023 -Made attempts to contact property owner by phone and email (contact information from Routt County Horse Rescue website) with no response received. Email dated 5-3-2023 saved in documents.

May 9th, 2023 -First letter delivered via USPS and by email. Investigation of Potential Violation.

May 11th, 2023 – Received phone call from Michelle Sommerville regarding Investigation letter. Discussed specifics of Routt County Horse Rescue operation. Confirmed verbally that horse riding lessons were being advertised and performed on property located in the MRE zone. Informed Michelle that I would be continuing discussion with Planning to determine if violations were present.

May 17th, 2023 – Met with Planning staff to discuss case and continue investigation. Review of findings determined that violations may be present as horse riding lessons are not allowed to be performed on property in the MRE zone. Contacted Michelle. Scheduled site visit for 5-24-2023.

May 24th, 2023 – Alan and Dave performed site visit accompanied by the RCSO. Photos saved in documents. Comment saved in CE case dated (5-24-2023) from site visit is pasted below.

“Performed a site visit with Alan and the RCSO to inspect the property. I thanked Michelle for letting us on her property. I explained that the reason for the site visit was to attempt to assist her with compliance and solutions relating to her advertised business of horse riding lessons. I explained that horse riding lessons are not permitted in the MRE zone. I had previously spoken to Michelle and asked her if she had a potentially alternate location to perform the lessons. Michelle made no effort to seek alternate locations and instead pointed to an adjacent parcel, also zoned MRE. I explained that the only zone districts that lessons are permitted through administrative permits are the AC and AF.

Site photos were taken.”

May 25th, 2023 – Sent NOV to property owner by USPS and email.

June 2nd, 2023 – Received confirmation email from Michelle of receipt of NOV and intent to comply by not offering lessons. (Email saved in documents dated 6-2-23) Included in my email response was contact information for Todd H from CSU

June 8th, 2023 – Sent email (saved in documents dated 6-8-2023) to Michelle requesting modification of the Routt County Horse rescue website to reflect compliance plan by not advertising lessons or camps.

June 9th, 2023 – Email dated 6-9-2023 saved in documents. Response from Michelle regarding modifying website.

6-27-2023 – Email and response saved in documents dated 6-27-2023 confirming website modification.



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7-5-2023 – Consultation with Kristy regarding keeping the case open as monitoring and enforcing compliance plan was complex.

7-10-2023 – Phone complaint forwarded by Dawn Smith regarding animal abuse witnessed during a horse lesson.

7-18-2023 – Reached out to contact from phone complaint received from Dawn Smith on multiple occasions with no response.

8-22-2023 – Received message from Dawn Smith. A site visit for animal wellness was performed by RCSO and a State AG Veterinarian. Dawn reported horse lesson being performed during the time of inspection. Minors in the lessons had mixed responses when asked whether they were in lessons or riding with their friend Michelle.

8-23-2023 – Sent Cease and Desist order by USPS, email, and attempted hand delivery. Met RCSO on site to post order. Michelle was not present during the time of inspection/posting.

8-31-2023 – Follow up email with Michelle saved in Documents dated 8-31-2023 confirming updated compliance plan.

9-7-2023 – Drive by site visit performed after receiving two phone complaints from Kyle B (neighbor and complainant) Voicemails saved in documents.

9-11-2023 – Certified letter and email sent to Michelle informing her of BCC scheduling to authorize legal action.

9-11-2023 Email response from Michelle saved in documents dated 9-11-2023. Michelle has questions about how she can operate as people ride horses before adopting them or to exercise the horses.