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ZBA-20-49

To: City of Pueblo Zoning Board of Appeals
From: Bart Mikitowicz, Planner
Through: Scott Hobson, Land Use Administrative Official
Date: 1/26/2021
Request: **A Special Use Permit to allow for a Child Care, Center in a Single-Family Residential (R-2) Zone District.**
Site Location: 59 Ironweed Dr, Pueblo, CO 81001
Legal Description: LOT 14 BLK 25 UNIVERSITY PARK SUB 11TH
Year Built: 1987
Applicant: Whitney Keller
Property Owner: Whitney Keller
Zone District: Single-Family Residential (R-2) Zone District

BACKGROUND

The subject property (2,331 sqft.), built in 1987, is a single-family home in the University Park subdivision northwest of Colorado State University - Pueblo. According to Section 17-4-51 (3)(c) (3.1) of the Pueblo Municipal Code (PMC), The applicant, Whitney Keller, is seeking to use a portion of her residence for a child care center. A child care center is allowed with a special use permit in the Single-Family Residential (R-1) zone district.

A child care center is defined as a facility, by whatever name known, which is maintained for the whole or part of a day for the care of five (5) or more children under the age of eighteen (18) years who are not related to the owner, operator or manager.

While intuitively, this property would be classified as child care, home. Currently Title XVII limits the number of children permitted in this use to eight (8). The applicant (and only employee), wishes to care for as many as twelve (12) children daily, is thus required to apply for as a child care, center which is also a use by review in this zone district. The hours of operation would be from 7:00 a.m. to 6:00 p.m.

The applicant has previous experience as a child care, center propriety, and has submitted a thorough application including State of Colorado Home Child Care permit and Business license. The subject property is also in compliance with these conditions in Sec. 17-4-51(e)10.

ZONING DISTRICT AND LAND USE

Zone:		Developed with:
North	Single Family Residential (R-2) Zone District	Single Family Homes
East	Single Family Residential (R-2) Zone District	Single Family Homes
South	Single Family Residential (R-2) Zone District	Single Family Homes
West	Single Family Residential (R-2) Zone District	Single Family Homes

PUBLIC NOTICE

The property was publicly noticed in accordance with Title 17 Section 17-5-33(2) of the City of Pueblo Municipal Code. Specifically, the hearing was published in the Pueblo Chieftain, surrounding property owners within 100 feet of the property were notified by mail, and a sign was placed on the site (See Attachment E). These notices occurred at least 10 days prior to the hearing.

OTHER AGENCIES

Code Compliance	No comment
Law Enforcement	No comment
City Engineering	No comment
Fire Protection	No comment
Energy	No comment
Telecommunication	No comment
Parks and Recreation	No comment
Stormwater	No comment
Wastewater	No comment
Waterworks	No comment
Traffic	No comment

CONDITIONS REQUIRED FOR LIMITED USE PERMIT

1. Ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
Comments: Affirmative finding. The property is accessible via the Ironweed Dr.
2. Off-street parking and loading areas where required, with particular attention to the economic noise, glare or odor effects of the use by review on adjoining properties and properties generally in the district.
Comments: Affirmative finding. Child care centers shall be provided with one (1) parking space per employee on the largest shift, plus two (2) spaces for the first ten (10) children, plus one (1) space for every ten (10) additional children or fraction thereof. In this case, with five (5) off-street parking spaces (one in the garage), and one (1) on-street space if needed.
3. Refuse and service areas, with particular reference to the items above.

Comments: Affirmative finding. The applicant will use residential garbage totes for refuse. If this use creates excessive trash the applicant may need additional totes.

4. Utilities, with reference to the location's availability and compatibility.

Comments: Affirmative finding. Utilities are established.

5. Screening and buffering with reference to type, dimensions, and character.

Comments: Affirmative finding. There is a six (6) foot wooden fence along the south, east, and north property line securing the outdoor play area, with a self-latching gate.

6. Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect and compatibility and harmony with properties in the district.

Comments: Affirmative Finding. Any proposed signs must conform with Sec. 17-10-05 Sign Standards of the Pueblo Municipal Code.

7. Required yards and other open space.

Comments: Affirmative finding. Yards and open space are adequate.

8. General compatibility with adjacent properties and other property in the district.

Comments: Affirmative finding. The child care center will operate under the conditions for a child care home, under of Sec. 17-4-51(e)10. These conditions are designed to allow for this use in a residential area and will mitigating negative externalities.

PLANNING AND COMMUNITY DEVELOPMENT STAFF RECOMMENDATION

The use will conform to the zone district. Staff recommends APPROVAL with the following staff conditions and Standard Permit Conditions 1 through 13.

STAFF CONDITIONS

1. Hours of child care business must not exceed 7:00 a.m. to 6:00 p.m. Monday through Friday.
2. Applicant must comply with Sec. 17-4-51(e)10, a: The applicant must be granted and maintain a State of Colorado Home Child Care permit. The applicant is to provide proof of the State permit to the office of Land Use Administration within one hundred eighty (180) days of this hearing or this permit shall be null and void. 1/26/2022
3. Applicant must comply with Sec. 17-4-51(e)10, b: Applicant shall obtain a business license prior to initiating their child care center occupation.
4. The child care center capacity will not exceed twelve (12) children, who are not related to the licensed caregiver, at any given time.
5. Parking is limited to the indicated driveway space and one (1) on-street parking spot adjacent to the property.
6. For safety, pick-up and drop-off of children is limited specifically to drive-way area.

Exhibit A. Standard Permit Conditions

Standard Permit Conditions Date of Issuance of Permit: 1/26/2021	
1.	Time Limits Zoning permit shall become invalid unless work or action authorized by permit is fully executed by 1/26/2022
2.	Required Revisions Any revisions or additions to plans required as a result of approval must be submitted and stamped “approved” prior to the sign-off of the building permit routing slip or business license.
3.	Changes The project shall be completed as shown on the plans, which have been stamped “approved” and dated by the Department of Planning and Community Development. The project shall not deviate from the approved plans without prior written approval from the Department of Planning and Community Development.
4.	Property Inspection By acceptance of this permit, Permit holder authorizes City Officials and/or their authorized representatives, access to the subject property for purpose of observing work in progress, inspecting and/or measuring the property or improvements as long as the use authorized by this permit remains in effect.
5.	Certificate of Occupancy A certificate of occupancy must be issued by Regional Building <u>PRIOR</u> to use and/or occupancy of the subject premises. Prior to issuance, the Department of Planning and Community Development must certify that work has been completed in accordance with approved plans and that applicable conditions have been met. The Permit holder may be required to provide a Letter of Credit to obtain a Certificate of Occupancy prior to completion of all required improvements.
6.	Completion and Maintenance of Improvements and Landscaping Permit holder or successor in interest is responsible for completing all improvements shown on approved plans. By acceptance of this permit, Permit holder agrees to maintain all improvements in a satisfactory condition. Any landscaping installed according to the approved plan which becomes diseased or dies shall be replaced by similar species and size no later than the first available planting season.
7.	Building Permit; Other Permits Permit holder is solely responsible for obtaining <u>BUILDING PERMIT</u> and all other applicable local, state and federal permits.
8.	Off-Site Drainage Issuance of this permit does not authorize the discharge of stormwater runoff or other surface drainage from the subject premises onto adjoining property or properties.
9.	Appeals of a decision of the Land Use Administrator can occur up to thirty (30) days following such decision. Appeals of Zoning Board of Appeals decisions can occur up to thirty (30) days following final decision. Any work done in connection with this permit prior to the expiration of all applicable appeal periods is done <u>SOLELY</u> at the risk of the Permit holder.
10.	Errors Permit holder is solely responsible for the accuracy of all information contained in the Zoning Permit form and in accompanying documentation. Any errors contained therein may invalidate the Zoning Permit and may result in issuance of a code violation citation and prosecution.
11.	Transfer of Ownership In the event of a transfer of ownership, partial or whole, of the subject premises, the transferee shall become Permit holder and subject to compliance with the terms and conditions of this permit.
12.	Violations/Penalties A violation of any of the conditions of this permit or of any provision of the Pueblo Municipal Code may result in a penalty of up to three hundred dollars (\$300) per day.
13.	Incorporation and Reference of All Plans Presented to the Zoning Board of Appeals. This approval incorporates by reference all plans and drawings presented and all verbal representations by the applicant at Zoning Board of Appeals meetings and hearings on the subject application to the extent that they are not in conflict with other stated conditions or regulations.

ATTACHMENTS

- A. Standard Permit Conditions
- B. Site Map
- C. Aerial Map
- D. Zoning Map
- E. Comprehensive Plan Map
- F. Public Notice Photo
- G. Site Photographs
- H. Application
- I. Supporting documentation

Exhibit B. Site Map



Exhibit C. Aerial Map

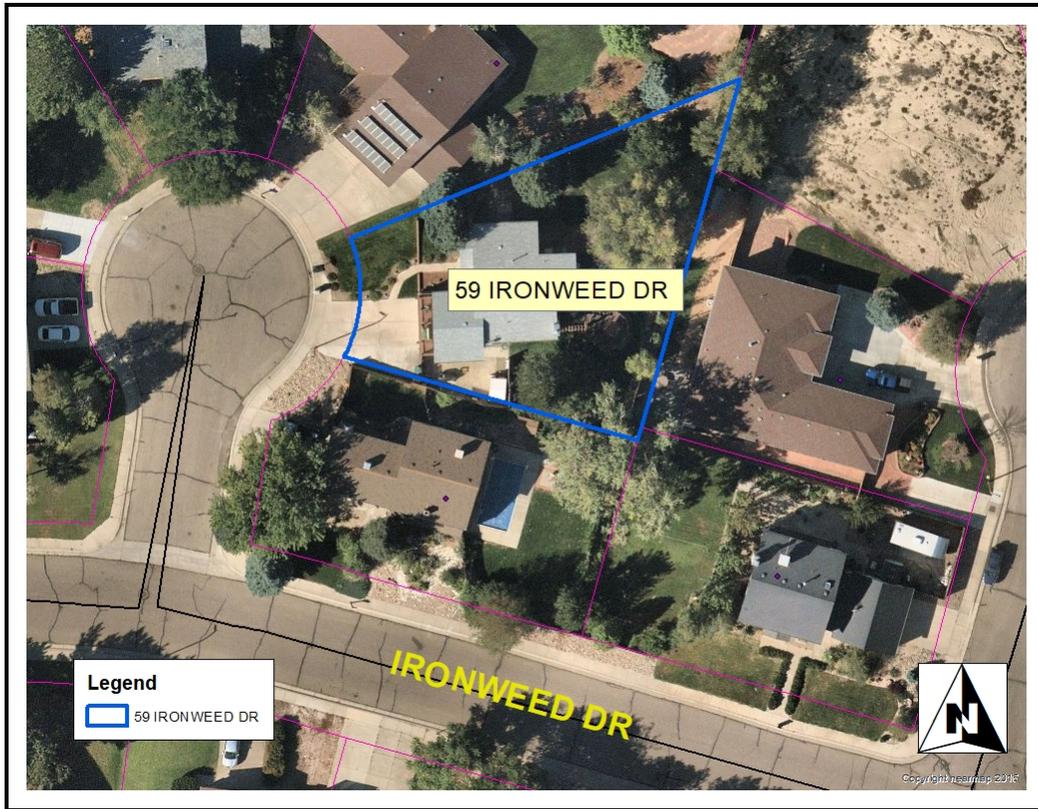


Exhibit D. Zoning Map (Zoning Map Amendments Recommended)

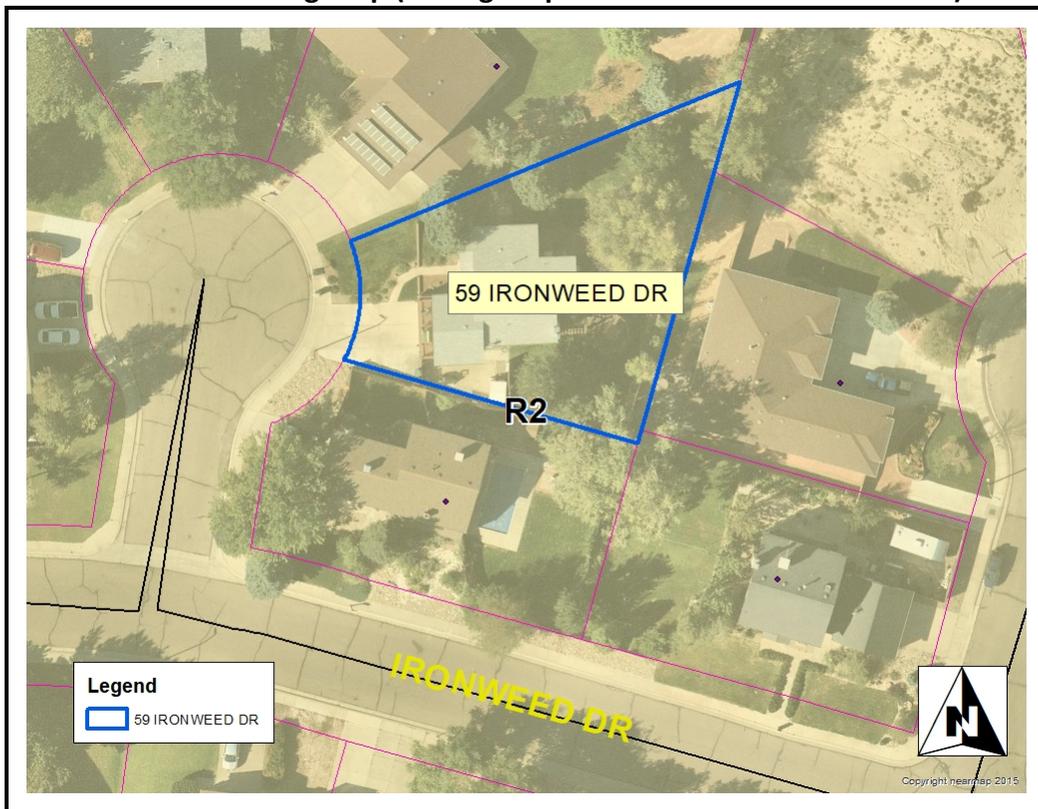


Exhibit E. Comprehensive Plan Map

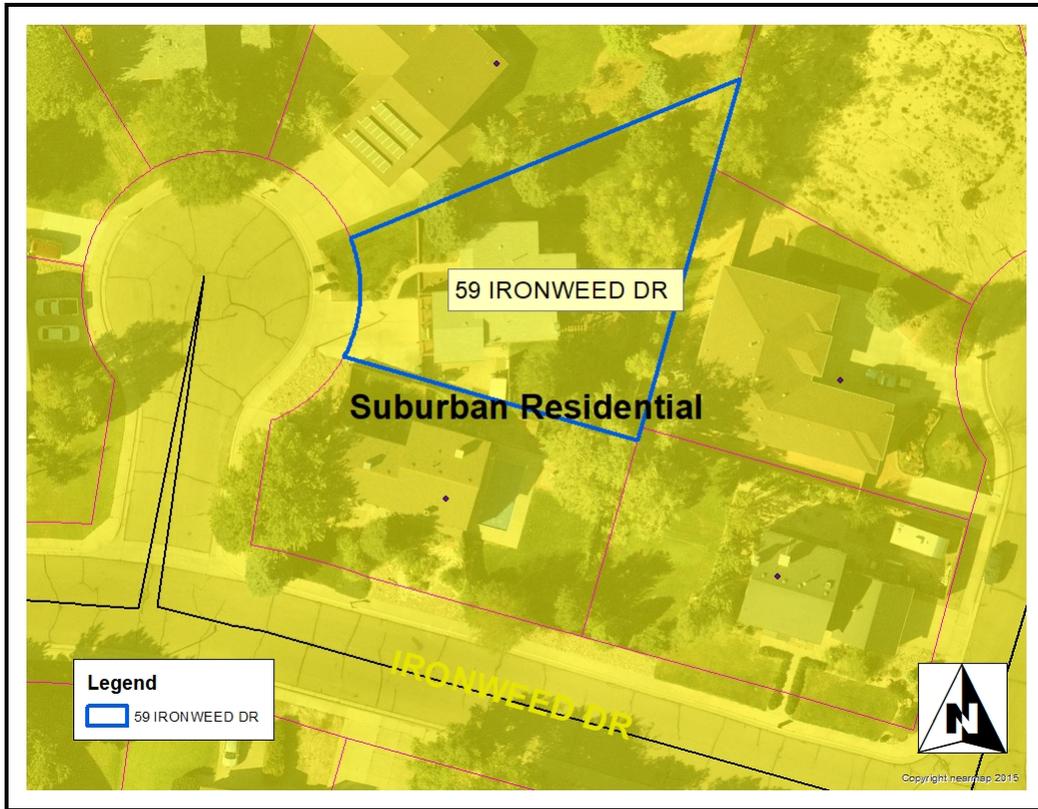


Exhibit F. Public Notice



Exhibit G. Site Photos





H. Application



Planning & Community Development

211 East D Street | Pueblo, Colorado 81003 | Tel 719-553-2259 | Fax 719-553-2359 | TTY 719-553-2611 | www.pueblo.us

Zoning Board of Appeals Application

Please type or print clearly. Illegible applications will not be accepted. Case #:

Contact Info	Property Owner:		Applicant (If different from property owner):	
	Name: Whitney Keller		Name:	
	Address: 59 Ironweed Dr		Company:	
	City, State & Zip: Pueblo CO 81001		Address:	
	Phone: (719) 821 6017		City, State & Zip:	
Property Info	Email: Whitneymanfredi@gmail.com		Phone: ()	Cell: ()
	Email:			
	<i>The applicant will be the primary contact unless otherwise noted.</i>			
	Project Location: 59 Ironweed Dr. Pueblo, CO 81001			
	Legal Description: Lot 14 Blk 25 University Park Sub 11th			
Project Information	Parcel No: 407417004		Existing Zone: R-2	
	Property Size: 10975 sq ft			
	General Information			
	Provide a short description of the proposed request: Large family home child care (up to 12 children) (per state) zoning requires sleep for more than 8.			
	What is the general use of the property: <input checked="" type="checkbox"/> Residential <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Multi-Family <input type="checkbox"/> Other			
Scope of work: <input checked="" type="checkbox"/> Special Use Permit (Limited Use Permit):				
<input checked="" type="checkbox"/> Use by Review <input checked="" type="checkbox"/> Home Daycare				
<input type="checkbox"/> Home Occupation (Total # of children: 12)				
<input type="checkbox"/> Other: _____				
<input type="checkbox"/> Variance:				
<input type="checkbox"/> Setback <input type="checkbox"/> Parking <input type="checkbox"/> Landscape				
<input type="checkbox"/> Lighting <input type="checkbox"/> Height <input type="checkbox"/> Signs				
<input type="checkbox"/> Other: _____				
<input type="checkbox"/> Appeal:				
<input type="checkbox"/> ZBA Decision (Case Number: ZBA-____-____)				
<input type="checkbox"/> Administrative Official Determination				
<input type="checkbox"/> Other: _____				
<input type="checkbox"/> Other: _____				

06/2020

(Continue Page)(Continued Page 1)

Attachments	Attachment Checklist:	
	<p>The following list of attachments are required to accompany all applications:</p> <ul style="list-style-type: none"> <input checked="" type="checkbox"/> A. Detailed explanation of the request as listed above. Be specific. <input checked="" type="checkbox"/> B. Justification of facts required for the request. Be specific <input checked="" type="checkbox"/> C. Site plan, if variance. Must depict requested variance on plan. <input checked="" type="checkbox"/> D. Applicable application (i.e. business license, Home Occupation Questionnaire). <input checked="" type="checkbox"/> E. Photographs. <input checked="" type="checkbox"/> F. Additional information that you believe justifies the request. <input checked="" type="checkbox"/> G. Copy of determination letter, if appealing Administrative Official Determination. <input checked="" type="checkbox"/> H. Pueblo County Assessor's Property Information print out www.co.pueblo.co.us 	
Terms	By signing below, the Property Owner and Applicant are representing that each understands and agrees to the following terms:	
	<p>1. _____ for</p> <p>2. _____</p> <p>(by _____ t or error), to _____ at _____ expense.</p>	
Signatures	Property Owner	
	:	Whitney Keller
	Signature:	Whitney Keller
	Applicant, if different from Property Owner:	NOV 16, 2020
	Signature:	

Office Use Only	Zoning Compliance (Completed by City Staff)	
	:	12
	:	
	:	
	:	pproved /

Exhibit I. Supporting Documents

Attachment A:

The Mantredi family Whitney, Corey and our two children own and live at the home located at 59 Ironweed Dr. Pueblo CO 81001. I am requesting a Special Use Permit for a home daycare with a maximum of 12 children as per state. Currently I have a son who attends full day elementary school, and my youngest son attends full day preschool. I currently have obtained a Bachelors Degree in Early Childhood Education. I have previously owned and operated a home daycare that was located at 97 Princeton street. Because my family bought a new home I would love to continue my business. I am eager to help more families in our community. The location of this property is easily accessible and in a safe neighborhood. This location allows myself, my business, and my clients to follow state Rules and Regulations. I have the space, adaguit materials, and knowledge and experience to run a large family child care with a Special Use Permit.

B:

Finding of Fact for Special use Permit

1. Ingress and egress property and proposed structures therein with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe.
 - Comments:
Affirmative finding. Front and rear door entry, egress escape windows; off street driveway access from Ironweed, located in a cul de sac.

2. Off street parking and loading areas where required, with particular attention to the economic noise, glare or odor effects of the use by review on adjoining properties and properties generally in the district.
 - Comments:
Affirmative finding. Child care centers shall be provided with (1) parking space per employee on the largest shift, plus two (2) spaces for the first ten (10) children, plus one (1) space for every ten (10) additional children or fraction thereof. In this case with six (6) off street parking spaces (two in the garage), and two on-street spaces, this meets the required parking by 150%.

3. Refuse and service areas, with particular reference to the items above.
 - Comments:
Affirmative findings. Trash service is weekly pickup using one(1) household bin.

4. Utilities, with reference to the locations availability and compatibility.
 - Comments:
Affirmative findings, utilities include xcel, blackhills, pueblo city water

5. Screening and buffering with reference type, dimensions, ad character.
 - Comments:
Affirmative finding. All fencing is six(6) feet in height, with wooden fence post along the property line and wood securing the daycare play yard. The west front fence is secured by the six (6) foot wooden fence with gates on each side. The rear yard is sufficiently screened by the house and driveway parking.

6. Signs, if any, and proposed exterior lighting with reference to glare, traffic, safety, economic effect, adn compatibility and harmony with properties in the district.
 - Comments:
Affirmative finding. Zoning sign standards permit nonresidential one(1) monument or free standing thirty three (33) square feet, six(6) feet in height, and one(1) wall sign i the front of the house, twenty (20) square feet area (linear feet *1/2 square feet) ⁴. Application for sign permit available upon request.

7. Required yards and other open space.
 - Comments:

Affirmative findings. House and setbacks conform with standards for residential yards. Rear large is large rough for outdoor recreation areas. Play yard is over nine hundred (900) square feet meeting licensing rules of seventy five (75) square feet per child of the outdoor area.

8. General Compatibility with adjacent properties and other property in the district.

- Comments:

Affirmative findings. Applicant stated the child care center will operate as defined by zoning:

- A) Intends to care for five (5) or more children under the age of eighteen (18) years who are not related to the owner, operator, or manager;
- B) Commonly known as a day care center, nursery, nursery school, kindergarten, preschool, playgroup, day camp, summer camp and/or center for developmentally disabled children, and/or a facility which gives twenty-four-hour care for dependent and neglected children;
- C) Will not be a kindergarten maintenance in conjunction with a public, private, or parochial elementary school system of at least six (6) graders or to any preschool established pursuant to the provisions of the Colorado Preschool Program Act;
- D) Will not operate as a children home or orphanage residence for not more than eight (8) persons having physical or mental disabilities, and;
- E) Will not operate as a foster home, a residence for at least three (3) but not more than four (4) minors who are unrelated to the caretaker.

Attachment B: add. info.

I, Whitney Keller, am currently in compliance with the Colorado Early Learning Centers Rules and Regulations. I have my home child care license issued: 1713419. I am relocating the physical property address and will need to be re-zoned at the new location. I also have my Use Tax Sales License: 23054. I have passed the Fire Department inspection and the Pueblo Waste Water Department inspection. I have owned and operated as a family home child care in the past years, and because of relocating I am wanting to open a large family child care home at my new property.

D

CHANGE OF ADDRESS ONLY
23054

SALES TAX DEPARTMENT
1 CITY HALL PLACE
PUEBLO, CO 81002



SALES TAX DIVISION
OFFICE: (719) 553-2659
FAX: (719) 553-2667
Email: salestax@pueblo.us

www.pueblo.us

SALES TAX ROUTING SHEET

STEPS 1 AND 2 ON THIS ROUTING SHEET ARE TO BE COMPLETED **BEFORE** YOU SUBMIT YOUR APPLICATION FOR BUSINESS LICENSE TO THE CITY SALES TAX / BUSINESS LICENSE OFFICE

STEP 1: Complete contact information in box below and submit to the City Sales Tax Office:

Sales Tax Division Reviewed	<input type="checkbox"/>	PLEASE PRINT
Business Name	<u>Wiggles 'N Wonders</u>	DBA: _____
Address	<u>59 Ironweed Dr. Pueblo CO 81001</u>	Contact Telephone No. <u>719-821-6017</u>
Contact E-mail:	<u>wigglesnwonders@gmail.com</u>	Contact Name: <u>Whitney Manfredi</u>
Contact Address:	<u>59 Ironweed Dr. Pueblo CO 81001</u>	
Description of Business (Be Specific):	<u>Home Child care</u>	
What is the general use proposed?	<input type="checkbox"/> Apartment <input type="checkbox"/> Auto Repair <input type="checkbox"/> Auto Body <input type="checkbox"/> Bar <input checked="" type="checkbox"/> Education <input type="checkbox"/> Home Based Business <input type="checkbox"/> Office <input type="checkbox"/> Lodging <input type="checkbox"/> Religious <input type="checkbox"/> Restaurant <input type="checkbox"/> Retail (general) <input type="checkbox"/> Retail (secondhand) <input type="checkbox"/> Retail (antiques) <input type="checkbox"/> Service <input type="checkbox"/> Storage <input type="checkbox"/> Other: _____	
Will this business involve marijuana consumption, dispensary, cultivation, or other associated use?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Signature	<u>Whitney Manfredi</u>	Title & Date <u>Council Nov. 16, 2020</u>

STEP 2: Obtain signatures from the agencies marked with an "A" below:

If neither agency is marked with an "A," skip this step.

<input type="checkbox"/> Environmental Health Department 101 W. 9 th Street, Pueblo, CO 81003 (719) 583-4323 (Pay applicable fee)	DATE _____	SIGNATURE _____
<input checked="" type="checkbox"/> Regional Bldg. Dept. 830 N. Main St #100, Pueblo, CO 81003 (719) 543-0002 (Pay applicable fee)	<u>11/19/20</u>	<u>McPeth</u>

STEP 3: After completing Step 1 and Step 2, and after notification from the Fire Department and/or Wastewater Department, submit this routing sheet and the license application to the City of Pueblo Sales Tax Office.

Internal Use Only:

<input checked="" type="checkbox"/> Planning & Community Development (719) 553-2259 (No fee)	DATE _____	SIGNATURE _____
<input checked="" type="checkbox"/> Pueblo Fire Department (719) 553-2830 (Pay applicable fee)	DATE _____	SIGNATURE _____
<input checked="" type="checkbox"/> Pueblo Wastewater Department (719) 553-2250 jgregorich@pueblo.us	DATE _____	SIGNATURE _____
<input type="checkbox"/> Pueblo Transportation (719) 553-2722 (Pay applicable fee) (street function, transport fixed route)	DATE _____	SIGNATURE _____
<input type="checkbox"/> Pueblo Public Works (719) 553-2295 (Pay applicable fee) (drainage issues, detail or car wash long term mobile food carts in right of way, parades)	DATE _____	SIGNATURE _____

Revised 2/20/20



Planning & Community Development

211 East D Street | Pueblo, Colorado 81003 | Tel 719-553-2259 | Fax 719-553-2359 | TTY 719-553-2611 | www.pueblo.us

Home Based Business Conditions of Approval

For instructions, please see instruction form for Home Based Business. If you do not understand any of the conditions listed below, or the instructions attached, please call Planning Department at (719) 553-2259 or visit us at 211 East D Street.

Business Address: 59 Ironweed Dr, Pueblo CO 81001

Will customers or clients come to your home? [X] Yes [] No

If yes, please stop and call the Planning and Community Development Department. You will need a Limited Use Permit to allow customers or clients at your home.

Conditions of Approval

Please initial each line below stating that you agree and understand each condition. If the proposed home based business does not or cannot comply with the conditions listed below, please call or visit the Planning Department.

- 1. WM Customers or clients are not allowed to do business at the home.
2. WM On-site sale of materials or supplies is not allowed.
3. WM Only members of the family that reside at the home may be involved in the business.
4. WM Business related changes to the outside appearance to the home are not allowed.
5. WM The use of a garage, shed, or other accessory structure cannot be used as your office, but may only be used for storage of items normally found at a home (i.e. a lawn mower, but not 2 lawn mowers; a ladder, but not scaffolding)
6. WM Outside storage, display or work associated with the business is not allowed.
7. WM There shall be no visual indication of a business being conducted on the premises.
8. WM Signs are only allowed on a vehicle, and must be no larger than 2' x 2'. Other signage at the home is not allowed.
9. WM Commercial vehicles cannot be stored or parked at the residence, unless loading or unloading.
10. WM Activity that disrupts the neighborhood not allowed (i.e. noise, vibration, glare, fumes, odors, electrical interference).
11. WM The primary use of the home must still be a place to live. The secondary use may be a business so long as not more than twenty-five percent (25%) of the net floor area of the home is used for the business.

12. Are you producing small, hobby-type craft items for sale off-site? Yes [] No [X]