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## ZBA-21-05

**To:** City of Pueblo Zoning Board of Appeals  
**From:** Bart Mikitowicz, Planner  
**Through:** Scott Hobson, Land Use Administrative Official  
**Date:** 4/27/2021  
**Request:** **A Special Use Permit to allow for a Residence, one-family in a Subregional Business (B-2) Zone District.**  
**Site Location:** 1301 Berkley Ave, Pueblo, CO 81004  
**Legal Description:** THE N 147 FT OF THE W 123 FT OF THE E 156 FT OF LOT 1 BLK 37 UPLANDS PARK FORMERLY #15111-03-009  
**Year Built:** 1920  
**Applicant:** Richard Sabb  
**Property Owner:** Richard Sabb  
**Zone District:** Subregional Business (B-2) Zone District.

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### BACKGROUND

1301 Berkley was built in 1920 and was formerly a bar/restaurant located in the Uplands Park Subdivision, located southeast of the Colorado State Fairgrounds. The applicant is requesting a Special Use Permit to convert a commercial structure located on the corner of Berkley Ave and Northern Ave into a single-family residential structure. In accordance with Section 17-4-51 (3)(c) (3.1) of the Pueblo Municipal Code (PMC), The applicant, Richard Sabb, is required to obtain a Special Use Permit to allow for a Residence, one-family in a Subregional Business (B-2) Zone District.

The plans for the residential conversion include bedrooms, bathrooms, and general living spaces on the second floor. The first floor will be used as general living space which includes, a hobby room, general living room, an office work area, and a small kitchen area. According to the plans the boarded-up windows at the street level will be replaced with new windows featuring a reflective tint. The bathrooms will be updated however they will remain to commercial code.

**ZONING DISTRICT AND LAND USE**

Zone:		Developed with:
North	Subregional Business (B-2) Zone District.	Retail Store
East	Subregional Business (B-2) Zone District.	Vacant two-unit commercial structure
South	Central Business (B-4) Zone District	Retail Tire Store
West	One and Two-Family Residential (R-3) Zone District	Single Family Residential

**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**

Pueblo City/County Health	No comment
City Transportation	No comment
Pueblo Regional Building Department	No comment
Fire Department	No comment
City Public Works Department	No comment
City Stormwater Department	No comment
City Code Enforcement	No comment
Pueblo Board of Water Works	No comment
City Wastewater Department	No comment
City Parks and Recreation Department	No comment

**CONDITIONS REQUIRED FOR LIMITED USE PERMIT**

1. Ingress and egress to property and proposed structures thereon with 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 Berkley Ave.

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. There is sufficient off-street parking on the southside of the property. Noise and glare will be insignificant, with the use changing to single-family residential.

3. Refuse and service areas, with reference to the items above.

**Comments:** Affirmative finding. Refuse will be located in an enclosure connected to the southeast corner of the principal structure.

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. A residential buffer is not needed. There is a privacy located along the western property line. It is the applicant's discretion to construct a buffer along the southern property line.

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, B-2 Zone District Sign Regulations

7. Required yards and other open space.

**Comments:** Affirmative finding. The property does not comply with the district standards but was constructed prior to the current regulations.

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

**Comments:** Neutral finding. The subject property historically operated as a commercial business and is in a business district. However, this entire area is surrounded by residential use including the properties immediately to the west.

#### **PLANNING AND COMMUNITY DEVELOPMENT STAFF RECOMMENDATION**

If the Board choose APPROVAL of this Special Use Permit staff only recommends Standard Permit Conditions 1 through 13.

#### **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

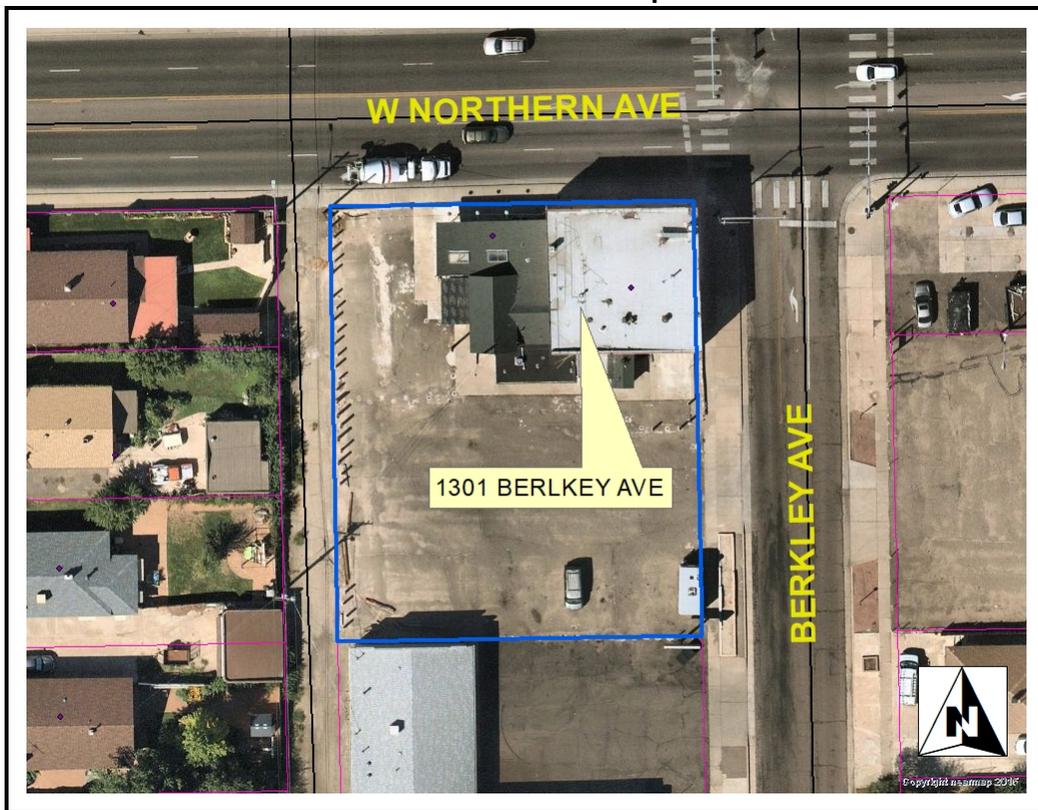
**Exhibit A. Standard Permit Conditions**

<b>Standard Permit Conditions</b> Date of Issuance of Permit: <b>4/27/2021</b>	
1.	<b>Time Limits</b> Zoning permit shall become invalid unless work or action authorized by permit is fully executed by <b>4/27/2022</b>
2.	<b>Required Revisions</b> 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.	<b>Changes</b> 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.	<b>Property Inspection</b> 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.	<b>Certificate of Occupancy</b> 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.	<b>Completion and Maintenance of Improvements and Landscaping</b> 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.	<b>Building Permit; Other Permits</b> Permit holder is solely responsible for obtaining <u>BUILDING PERMIT</u> and all other applicable local, state and federal permits.
8.	<b>Off-Site Drainage</b> 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.	<b>Appeals</b> 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.	<b>Errors</b> 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.	<b>Transfer of Ownership</b> 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.	<b>Violations/Penalties</b> 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.	<b>Incorporation and Reference of All Plans Presented to the Zoning Board of Appeals.</b> 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.

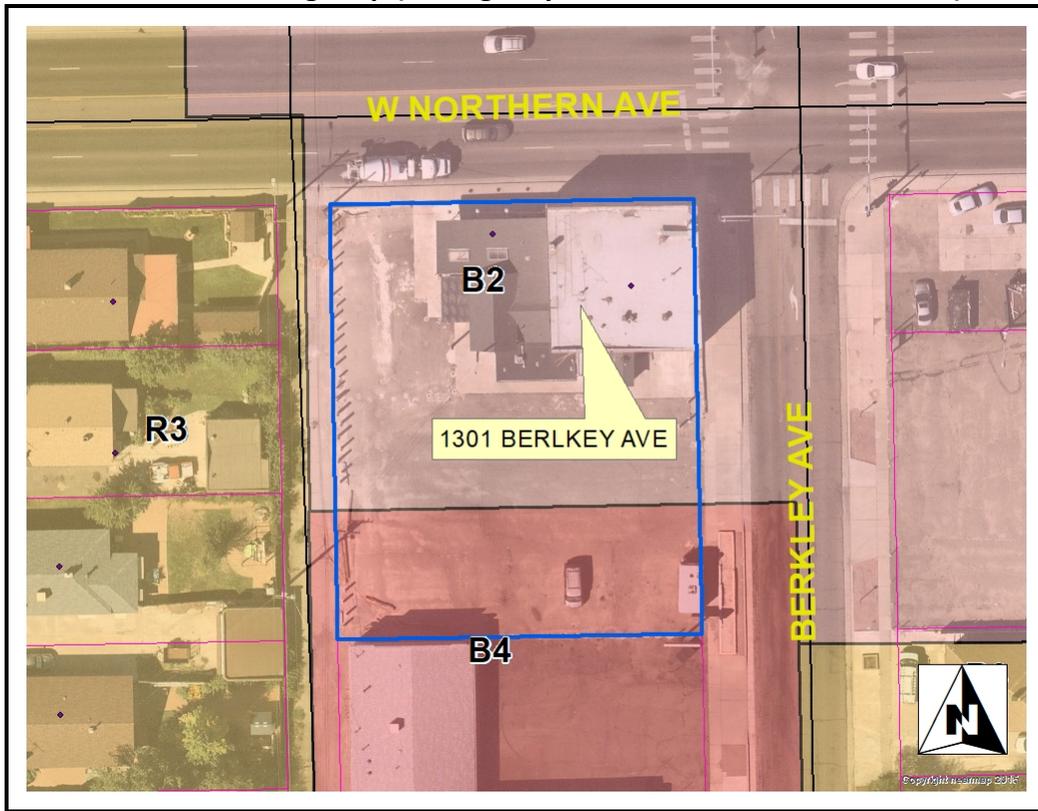
**Exhibit B. Site Map**



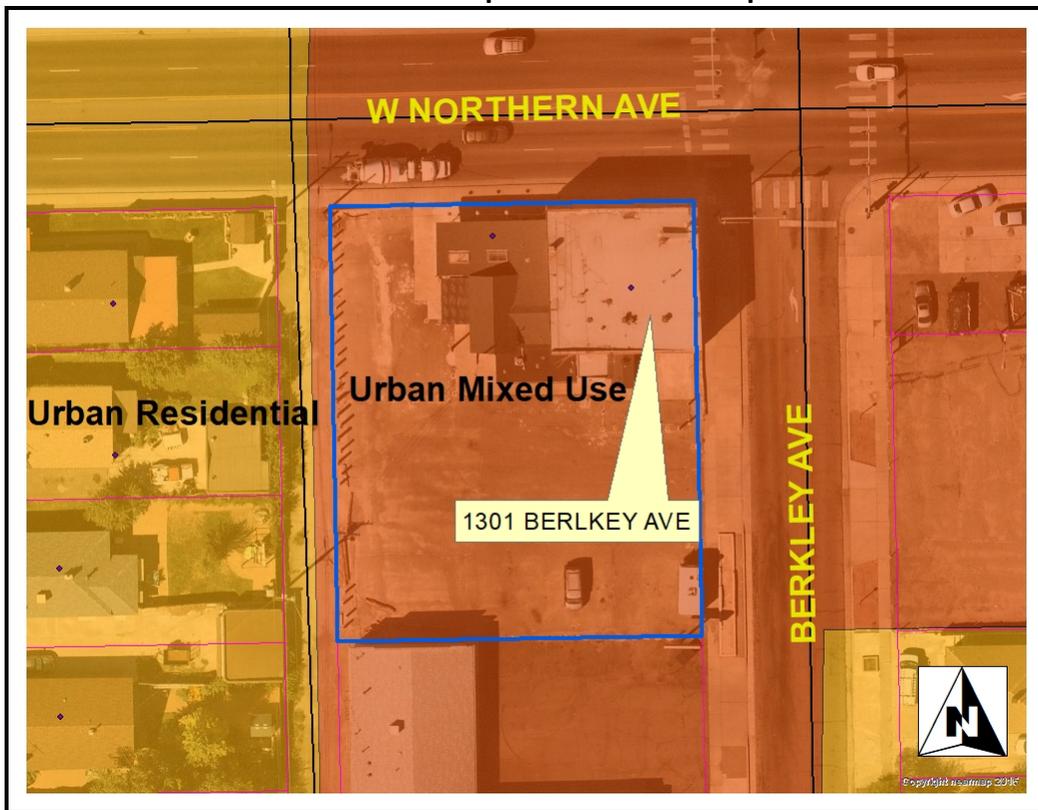
**Exhibit C. Aerial Map**



**Exhibit D. Zoning Map (Zoning Map Amendments Recommended)**



**Exhibit E. Comprehensive Plan Map**



**Exhibit F. Public Notice**



Taken from Berkley Ave facing west.

**Exhibit G. Site Photos**



Taken from Northern Ave facing west.



Taken from parking lot facing north.



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 #: \_\_\_\_\_

<b>Contact Info</b>	<b>Property Owner:</b>		<b>Applicant (If different from property owner):</b>	
	Name: Richard Sabb/True Story Network Foundation		Name:	
	Address: 1301 Berkley Ave / P.O.Box 3472		Company:	
	City: Pueblo, State: CO, & Zip: 81005		Address:	
	Phone: (719) 252-0909		City, State & Zip:	
	Email: rmsabb@gmail.com		Phone: ( )	Cell: ( )
		Email:		
<i>The applicant will be the primary contact unless otherwise noted.</i>				
<b>Property Info</b>	<b>Project Location:</b>			
	Legal Description: THE N 147 FT OF THE W 123 FT OF THE E 156 FT OF LOT 1 BLK 37 UPLANDS PARK FORMERLY #15111-03-009			
	Parcel No: 1511103015		Existing Zone: B2-Residential	
Property Size: Lot Size:18,081 Sq. Ft. / Home Size: 6,127 Sq. Ft.				
<b>Project Information</b>	<b>General Information</b>			
	Provide a short description of the proposed request: Property is residential on 2nd floor, Commercial on 1st floor and a former resturant. I want to use the entire building as my home and home office. Plans show current use Note: This property was formerly 2 resedents and re-zoned. Home office is for internet work known as: www.NoTimeToDie.com (my book) and www.AspenCanyonChildrensRanch.com)			
	my private 501-C-3 / I also have a very large antique toy collection for the first floor.			
	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 type="checkbox"/> Use by Review <input type="checkbox"/> Home Daycare <input type="checkbox"/> Home Occupation (Total # of children: _____) <input checked="" type="checkbox"/> Other: Use entire building for my home & home internet office_			
	<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 Next Page)(Continued from Page 1)

<b>Attachments</b>	<b>Attachment Checklist:</b>	
	<p>The following list of attachments are required to accompany all applications:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> A. Detailed explanation of the request as listed above. Be specific.</li> <li><input type="checkbox"/> B. Justification of facts required for the request. Be specific</li> <li><input type="checkbox"/> C. Site plan, if variance. Must depict requested variance on plan.</li> <li><input type="checkbox"/> D. Applicable application (i.e. business license, Home Occupation Questionnaire).</li> <li><input type="checkbox"/> E. Photographs.</li> <li><input type="checkbox"/> F. Additional information that you believe justifies the request.</li> <li><input type="checkbox"/> G. Copy of determination letter, if appealing Administrative Official Determination.</li> <li><input type="checkbox"/> H. Pueblo County Assessor's Property Information print out <a href="http://www.co.pueblo.co.us">www.co.pueblo.co.us</a></li> </ul>	
<b>Terms</b>	<p>By signing below, the Property Owner and Applicant are representing that each understands and agrees to the following terms:</p> <ol style="list-style-type: none"> <li>1. Authorized personnel from the City of Pueblo, are hereby granted the right to enter the subject property for the purposes of reviewing and processing the application.</li> <li>2. There are no known hazards or vicious animals present on the subject property.</li> <li>3. All requisite fees have been paid to the City of Pueblo.</li> <li>4. All information in this application, and all attachments, are true and accurate to the best of my knowledge.</li> <li>5. The City of Pueblo is under no obligation to approve the request contained in this application. No promises of approval are conveyed with the acceptance of this application.</li> <li>6. It is highly recommended that a licensed surveyor complete a property survey before any construction takes place. The property owner is responsible for any construction that takes place within the boundaries of their property. The city may require any construction built outside of the property legal boundaries or within any setbacks (by intent or error), to be removed at the owners' expense.</li> </ol>	
	<b>Property Owner</b>	
<b>Signatures</b>	Print Name:	Richard Sabb
	Signature:	<i>Richard Sabb</i> Date: March 09, 2021 Tues
	<b>Applicant, if different from Property Owner</b>	
	Print Name:	Date:
	Signature:	Date:

<b>Office Use Only</b>	<b>Zoning Compliance (Completed by City Staff)</b>	
	Application received by:	Date:
	Application checked for completeness by:	Date:
	Case Manager:	Fee Paid:
	Hearing date:	<input type="checkbox"/> Approved <input type="checkbox"/> Denied <input type="checkbox"/> Approved w/conditions
	Case #:	

**Exhibit I. Supporting Documents**

**Richard M. Sabb, Founder**  
 Cell: 719-252-0909  
 E: [RMSabb@gmail.com](mailto:RMSabb@gmail.com)



*"A Foundation Built On Hope"*

**True Story Network Foundation**  
 1301 Berkley Ave. P.O. Box 3472  
 Pueblo CO. 81005  
 DBA: Aspen Canyon Children's Ranch  
[www.AspenCanyonChildrensRanch.com](http://www.AspenCanyonChildrensRanch.com)

March 09, 2021 Tuesday

**Special Use Permit**

Ref: 1301 Berkley Ave. Pueblo CO, 81004 / Lot #: 1511103015 / Zone: B2 as 1<sup>st</sup> floor commercial, 2<sup>nd</sup> floor residential. Special use to Residential.

Pueblo Zoning Board,

With regard to the above matter, I will address the application check list as I believe warranted and as discussed with Bart Mikitowicz of the Zoning Planning Comity and David Vaughn, Director of Pueblo Regional. (It has been over 18 months since David and I communicated.)

**Detailed explanation of the request.:**

I am requesting that I be granted the Special Use Permit for 1301 Berkley Ave to be used as my home and home office which will have no public traffic.

This location has been 2 residents and currently has 2 apartments on the 2<sup>nd</sup> floor. The 1<sup>st</sup>. floor was used commercially to my knowledge as Hogan's Tavern.

In granting me my Special Use Permit the 2<sup>nd</sup> floor will remain as my resident with sleeping rooms, bathrooms and general living spaces. The 1<sup>st</sup> floor will be used as general living space which includes, a hobby room for my antique trains and toys, a general living room, an office work area and a small kitchen area (which is downsized from the restaurant). The bathrooms will be updated however they will remain to commercial code as demonstrated in my attached plan and as represented to David Vaughn by my architect Gene Mares, Engineer: Ben Parsaye and myself.

My home office work is online, online research and online authorship. My publications are sold as electronic print (under redevelopment) and or hard and soft back books.

There will be no public access to the building, all products are electronic or distributed via US Postal, UPS and FedEx services.

**Justification of facts for the request. And additional information:**

1. B-2 Zoning: Right by use, item 11 on attached zoning outline Permitted Uses 17-4-51(c) #11: office-general
2. 1301 Berkley Ave. was formerly known as:
  - 2.1. 1301 Berkley Ave – a resident
  - 2.2. 1303 Berkley Ave – residential now used as a parking lot.
  - 2.3. 1404 Northern Ave – a resident, which primary home structure has not been altered.
  - 2.4. These properties were rezoned to B2 with the ground floors as commercial and the 2<sup>nd</sup> floor as residential.
3. Utilities:
  - 3.1. Gas Company:
 

There are 4 meters: one for the primary restaurant – 1<sup>st</sup> floor (now closed), one for 1301 Berkley

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- 1<sup>st</sup> floor, 1 for 1303 Berkley now known as 1301 Berkley Ave. Apt. A, and lastly one for 1404 Northern Ave now known as 1301 Berkley Ave. Apt. B. Please note the gas company did replace the lines, check for gas leaks and replaced the main meter and meter tree. There are 3 HVAC systems, two on the first floor one on the 2<sup>nd</sup> floor. One 1<sup>st</sup> floor system underwent an emergency replacement with work being completed by Smith Plumbing. Inspection date is Tuesday, March 30<sup>th</sup> 2021. System works perfectly.
- 3.2. Electric Co.: There are currently 3 electric meters. One is for the 1301 Berkley Ave. 1<sup>st</sup> floor or commercial area. The other 2 are for the 2<sup>nd</sup> floor Apts. A & B. Each has its own electrical boxes and wiring is to commercial code using metal encased wire and operational boxes.
- 3.3. Water: There is one water line entering the building at 1 inch in diameter size. This size can be used commercially (light) or residentially.
4. Neighbors: I do not have any residential neighbors not separated by a street, main road or town thoroughfare. I will note those within sight are ecstatic to have me move in and improve upon one of the many vacated buildings in the area. The neighbors aid me in reducing the numerous break-ins I suffered, including however not limited one occasion whereby my 24 ft cargo trailer was stolen, which had items stored inside, auto tires stolen – all 4 and a building break in whereby tools and personal items were stolen, just to mention a few.
5. Personal Justification: (Additional Information)
- 5.1. R. Sabb is a 100% disabled Cancer survivor who has a respected past history in research, engineering, advanced life sciences and law. All of these aforesaid topics represent my past authorships and upcoming authorships thus "justifying my home office".
- 5.2. Past accreditations:
- Personal authorship: "No Time To Die – Surviving Cancer and America's Failing Justice System",
- Engineering: developed an impeller "volute" design whereby within fluid dynamics, cavitation is removed from pumping and or vacuumed of a fluid.
- Medicine: Philosophical Doctorial research and thesis: "Clinical, Experimental and Biological Sciences," a thesis solely authored by Sabb with specific research of the surgical success of removing my CT-CL type Lymphatic Cancer. Researcher and participant: "Hematology and Oncology Clinics of North America" as directed by Professor W. Clark Lambert MD, PhD. and Professor Pedro Gascon MD, PhD. Researcher and co-authored sections found in: "Basic Mechanisms of Physiologic & Aberrant Lymphoproliferation of the Skin." It is this research and authorships that stemmed from Sabb meeting with former President Clinton (as arranged by W. Clark Lambert MD, Ph.D. (12 in total), former director of NATO's Advanced Life Sciences), whereby President Clinton signed off on the experimental treatments and methodologies used to keep me alive. This also led to the signing of an executive order changing the rights of patients entering into experimental treatment within the Life Sciences genera.
- Law: As mentored by the late Judge Donald Smith, Colorado State Court of Appeals Judge, I organized a legal investigation project that led to the FBI arresting and prosecuting representing authorities in the legal, law enforcement, and political community. (Also reviewed by Congressman Tipton)

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**Microbiology:** Arch-Microbes™; a bioremediation product for restoring contaminated materials to their natural, non-evasive, environmentally friendly mineral state. As the owner of Arch-Microbes™ I continue to develop products within microbial/CBD formulations binding proteins. My formulations have been base line tested and used in the beverage industry, Nutraceutical industry, Virgin Galactic, NASA Ames Physics Center and University Peking.

If you have any questions, please do not hesitate to contact me directly.

Kind regards,  
Rich

Richard M. Sabb  
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C: 719-252-0909 E: [msabb@gmail.com](mailto:msabb@gmail.com) / [www.NoTimeToDie.com](http://www.NoTimeToDie.com) / [www.AspenCanyonChildrensRanch.com](http://www.AspenCanyonChildrensRanch.com)

