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ZBA-21-21

To: City of Pueblo Zoning Board of Appeals
From: Bart Mikitowicz, Planner
Through: Scott Hobson, Land Use Administrative Official
Date: 7/27/2021
Request: **A Limited Use Permit to allow a Home based (Clinical Psychology) Business with onsite clients and signage in an Single Family Residential (R-1) Zone District.**
Site Location: 34 Macnaughton Rd, Pueblo, CO 81001
Legal Description: LOT 29 EXC S 28 FT BLK 123 BELMONT 15TH AMEND
Year Built: 1958
Applicant: Julie Ann Allender
Property Owner: Julie Ann Allender
Zone District: Single-Family Residential (R-1) Zone District

BACKGROUND AND ANALYSIS

34 MacNaughton Rd is a 1650-sf. single-family residence built in 1958. The building is located in the Belmont Subdivision, across the street from Belmont Elementary School main entrance. The applicant is requesting a Limited Use Permit to allow a Home-based Business with onsite clients and a free standing signa in a Single Family Residential (R-1) Zone District. In accordance with 17-4-51(e)(23) o. of the Pueblo Municipal Code (PMC), the applicant is required to obtain a Limited Use Permit, because they cannot comply with all the conditions needed to obtain Conditional Use Permit for a home-based business specifically having clients on the premises and allowing commercial signage in a single Family Residential (R-1) Zone District.

The property has ingress and egress from MacNaughton, off-street parking located south of the principle structure. Utilities are established and there are limited hours of operation between 1:00 – 9:00. Signage will be limited to one twenty-seven by twenty-three (27" x 23") inch sign placed in the front yard of the house, set back approximately five (5') feet from the sidewalk. The applicant has indicated that a vast majority of her business (90%) is done remotely, and clients that do visit where seen on the rear covered patio. Overall, this use should not pose a nuisance to any of the surrounding properties.

ZONING DISTRICT AND LAND USE

Zone:		Developed with:
North	Single Family Residential (R-1) Zone District	Single Family Residence
East	Single Family Residential (R-1) Zone District	Single Family Residence
South	Single Family Residential (R-1) Zone District	Single Family Residence
West	Government Use (S-1) Zone District	MacNaughton Rd, Belmont Elementary School

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	From Mike Colucci via email: “Due to the limited stated use of the home business, we would only require permits for any modification of the home. However, the owner should not deny access to a restroom for her patients.”
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 has direct access to MacNaughton road by driveway.

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 adequate off-street parking for three of more vehicles to the south of the principle structure.

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

Comments: Affirmative finding. Trash disposal handled through the use of a residential tote.

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

Comments: Affirmative finding. Sewer, electrical, and water service are available to the property.

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

Comments: Affirmative finding. The rear of the property is surrounded by a six (6') foot opaque wooden fence, that starts approximately twenty-five (25') feet back on the along the northern property line and approximately fifty (50') back 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. Signage will be limited to one free-standing wooden twenty-seven by twenty-three (27" x 23") inch sign.

7. Required yards and other open space.

Comments: Affirmative finding. There is no encroachment into the adjoining set back areas.

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

Comments: Neutral finding. This is a residential district are designed to retain and provide areas of low-medium density development characteristically and exclusively for single-family dwelling units. However, as there is an elementary school directly across the street from the subject property which in turn generates higher traffic volumes than are typical residential road, this area has a much more commercial-like traffic compared to other residential streets in the area. Therefore, it is difficult proving that this home-based business would have a compounding negative impact on the residential character of the neighborhood.

PLANNING AND COMMUNITY DEVELOPMENT STAFF RECOMMENDATION

If the Board chooses to approve this Special Use Permit staff recommends Standard Permit Conditions 1 through 13 as well as:

- A. The Free-Standing sign advertising the Pet and People Therapy business may not exceed indicated: twenty-seven by twenty-three (27" x 23") inches and must be placed on the property.
- B. The business must maintain appropriate hours of operation for a residential district. Applicant states normal business hours are 1:00 p.m. – 9: 00 p.m. The applicant states however 90% of her business is done virtually. (The ZBA Board may determine what appropriate hours are)
- C. Parking is limited to the driveway area only.

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

Standard Permit Conditions Date of Issuance of Permit: 7/27/2021	
1.	Time Limits Zoning permit shall become invalid unless work or action authorized by permit is fully executed by ZBA-21-21
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.

Exhibit B. Site Map

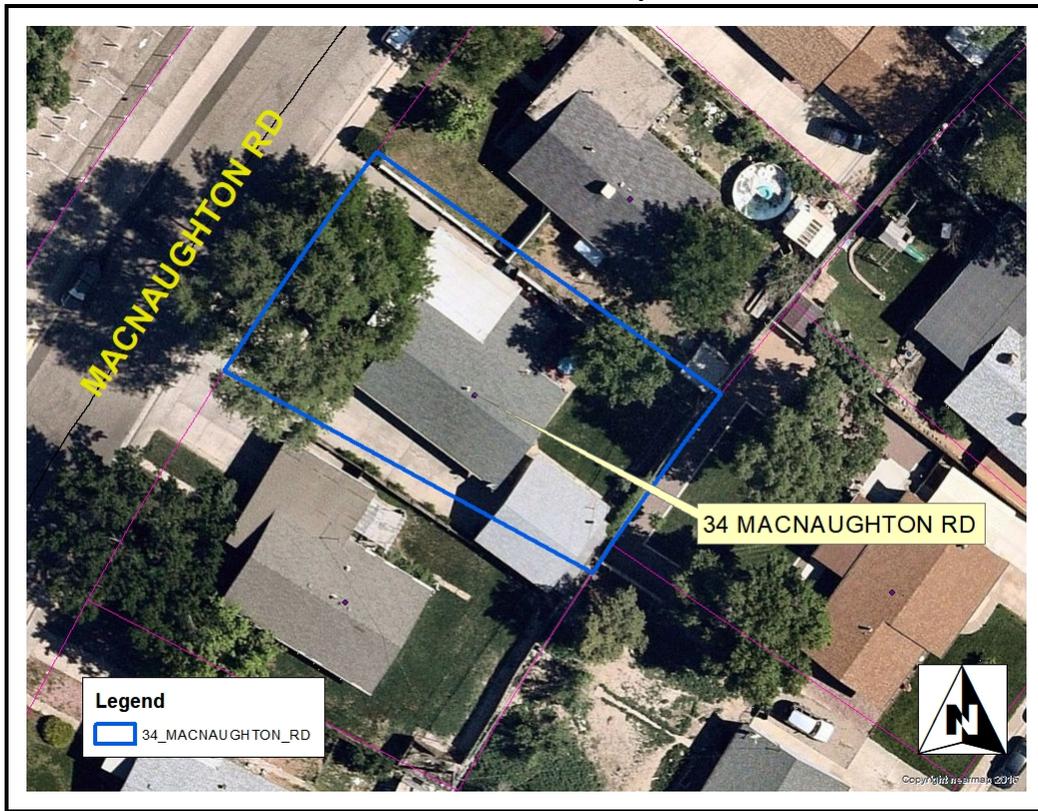


Exhibit C. Aerial Map



Exhibit D. Zoning Map (Zoning Map Amendments Recommended)

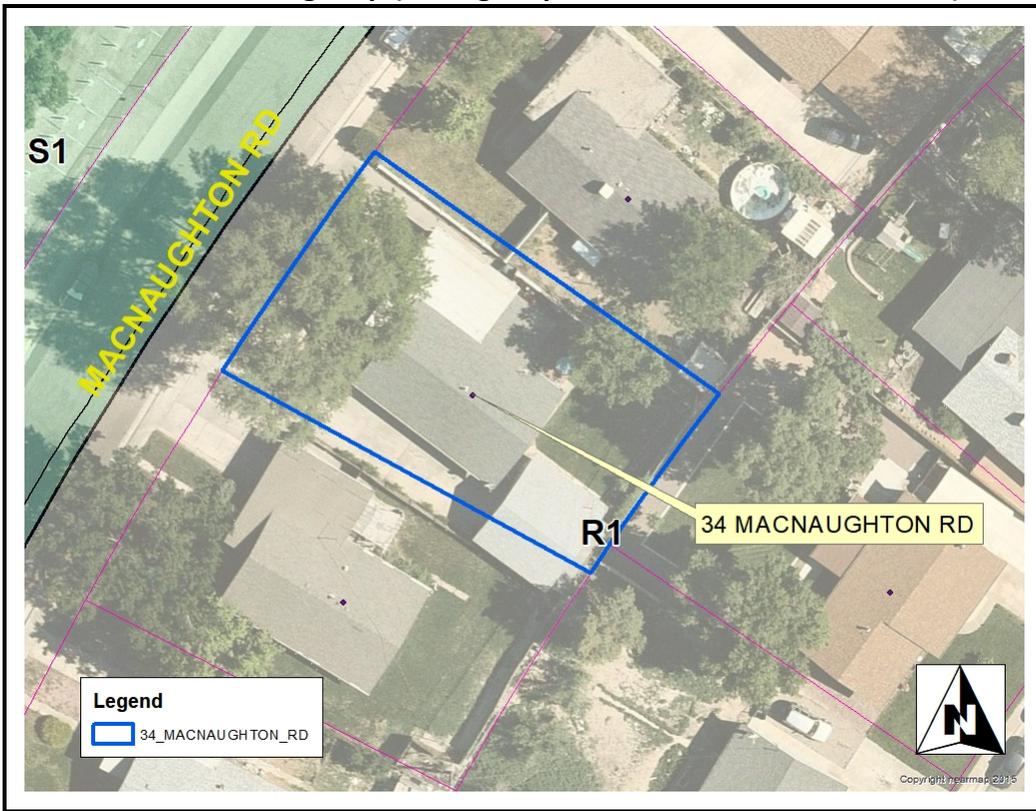


Exhibit E. Comprehensive Plan Map

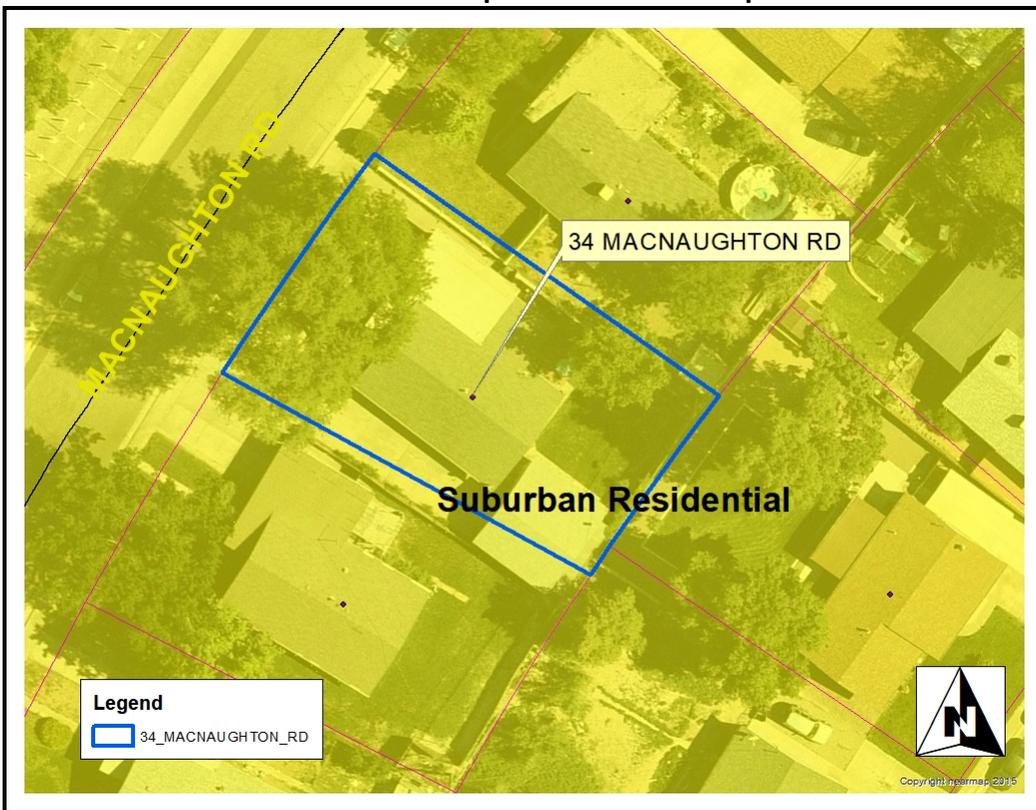


Exhibit F. Public Notice



All photos taken from MacNaughton

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: Julie Ann Allender EdD		Name: SAME	
	Address: 34 Macnaughton Road		Company:	
	City, State & Zip: Pueblo CO. 81001		Address:	
	Phone: (719) 544-0018 *Call after 10:30 am*		City, State & Zip:	
Property Info	Email: drjaallender@gmail.com		Phone: ()	Cell: ()
	Email:			
	<i>The applicant will be the primary contact unless otherwise noted.</i>			
	Project Location: 34 Macnaughton Road			
	Legal Description: See County Assessor for exact Legal Description			
Project Information	Parcel No: 420209023		Existing Zone: R-1	
	Property Size:			
	General Information			
	Provide a short description of the proposed request: Requesting a Limited Use Permit to allow customers to come to my home for the purpose of counselling and to be able to keep the current sign located in the front yard (see photos)			
	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 checked="" type="checkbox"/> Home Occupation (Total # of children: _____) <input type="checkbox"/> Other: Professional Counselling Office in R1 /residence (on patio) & Retain sign currently located on post in front yard (see pictures) <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)

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 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 type="checkbox"/> F. Additional information that you believe justifies the request. <input 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	<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"> 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. 2. There are no known hazards or vicious animals present on the subject property. 3. All requisite fees have been paid to the City of Pueblo. 4. All information in this application, and all attachments, are true and accurate to the best of my knowledge. 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. 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. 	
	<p>Property Owner</p> <p>Print Name: X <u>JULIE ANN ALLENDER</u></p> <p>Signature: X <u>Julie Allender</u> Date: X <u>6-30-21</u></p>	
Signatures	<p>Applicant, if different from Property Owner</p> <p>Print Name: X <u>N/A</u></p> <p>Signature: X <u>N/A</u> Date: X</p>	

Office Use Only	Zoning Compliance (Completed by City Staff)	
	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

JULIE ANN ALLENDER EDD

Licensed Psychologist

34 MacNaughton Rd

Pueblo CO 81001

719-544-0018, C: 215-806-8338

drjaallender@gmail.com www.pettherapyparadisepark.com

To Whom It May Concern:

June 30, 2021

Zoning Board Required Business Plan

First let me say that in 40 years of running my psychology practice out of my home in 5 different communities and 3 states I have never had to go through this ridiculous process for running a practice out of my home. Your forms don't fit what you are demanding and having to pay \$550 is outrageous.

I have checked with Denver Psych Assoc. DAP and Colorado Psych Assoc. CPA. All I received was gasps and apologies for my experience of moving to Colorado being so unpleasant. I do understand why you have almost no psychologists in Pueblo.

Also, Dustin Eckley and Janice Parker, both of Keller Williams helped me to find a house I could run my practice. It is my understanding from Karen Wilson and Karen Elgin that they should have known the codes before selling me this house. Maybe you ought to go after them for misinformation.

My business plan is quite simple. I live in the house with 2 dogs, one dying of cancer. I have closed in the patio so with COVID complications I will no longer allow anyone into my home, use the bathroom or have a reception area. Anyone accompanying the patient will have to wait in their cars.

I will have one or two persons in the patio on a Monday or Tuesday. My hours are 1-8 pm. 90% of those hours are seeing Pennsylvania patients virtually. I only plan to have 2-3 patient slots for Colorado patients.

I have two driveways. I would love to use the space in front of my house; however it is usually used by Belmont Elementary staff and parents who choose not to use their two lots even in the summer. Their parents usually also block my driveways. The principal, superintendent and police are all aware of the problems it causes and do nothing except file a complaint against my having an office here.

That is the plan which you are making a nightmare and have made me really unhappy I moved to Pueblo. If I could afford to buy a house further North I would. Sadly, I spent 30k to move here to what I call a lawless community except for my wanting to see patients in my patio. It has been a rude awakening.