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## ZBA-21-24

**To:** City of Pueblo Zoning Board of Appeals  
**From:** Danielle Persinger, Planner  
**Through:** Scott Hobson, Land Use Administrative Official  
**Date:** 8/24/2021  
**Request:** **A Special Use Permit to allow a theater (general) in a Multiple-Residential and Office (R-5) Zone District.**  
**Site Location:** 1201 N. Main St, Pueblo, CO 81003  
**Legal Description:** S 75 FT OF LOTS 15 + 16 + OF E 38 FT OF LOT 14 BLK 11 COUNTY ADD  
**Year Built:** 1919  
**Applicant:** Heather Sandoval  
**Property Owner:** Impossible Players Inc  
**Zone District:** Multiple-Residential and Office (R-5) Zone District

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### BACKGROUND AND ANALYSIS

1201 N. Main St is a 9,450-sf lot located in the County Addition, north of the Pueblo County Courthouse. The applicant is requesting a Special Use Permit to allow a theater (general) in a Multiple-Residential and Office (R-5) Zone District. As defined in Sect 17-2-2(144)(b) a theater (general) means a structure for presentation of films, plays or other dramatic performances on two (2) or fewer stages or screens. A theater does not include an adult theater. In accordance with 17-4-51(c)(144)(b) of the Pueblo Municipal Code (PMC), the applicant is required to obtain a Special Use Permit in order to complete this project.

The 7,285-sf building was originally constructed as a church in 1919 and served in that capacity until 1990. The building was then purchased by Pueblo County to serve as a storage building until 2000 when it was then leased to Impossible Players, Inc. In 2018 Impossible Players, Inc purchased the property from the county. During their time of occupancy, the Impossible Players have invested over half a million dollars in renovations and maintenance, they are also currently under contract to invest another \$50,000 for a new furnace and air conditioning unit. Impossible Players, Inc is funded through membership fees, ticket sales, donations, grants, and foundations.

The proposed use is compatible with current surrounding businesses and professional buildings as well as future land use. Current surrounding land uses include Pueblo County administrative building, School District 60 administrative building, small business offices, and multi-family housing. Future land use indicated Urban Mixed Use, which emphasizes preserving unique design features and encourage pedestrian-oriented development. The site plan indicates all necessary easements for pedestrian ingress/egress and all utilities are available on the property. Planning Department staff has worked with the applicant on this submission, and they are aware of the additional requirements if they are granted a Special Use Permit.

**ZONING DISTRICT AND LAND USE**

Zone:		Developed with:
North	Multiple-Residential and Office (R-5) Zone District	Multi-family dwelling unit
East	Central Business (B-4) Zone District	Insurance Agency
South	Central Business (B-4) Zone District	Pueblo County Government Building
West	Multiple-Residential and Office (R-5) Zone District	Parking Lot, Pueblo County Planning Dept

**COMPREHENSIVE PLAN**

The comprehensive plan depicts Urban Mixed Use for the parcel. The City’s traditional downtown is identified as Urban Mixed Use. The land use consists of office, retail, higher-density residential and public uses. Within the Urban Mixed Use, retail uses are emphasized on the first floor of all buildings to maintain a high activity level. Office and residential apartments are encouraged on the upper floors in multi-story buildings. Some higher-density, freestanding residential may also exist in this land use category. In addition, all efforts will be made to maintain the unique character of buildings throughout the area and any new development will be built in a style compatible with the surrounding area. The grid pattern street network and building setbacks created by existing buildings will be maintained. Floor area ratios, the relationship of building square footage to the size of the lot, of non-residential development will be encouraged to maintain a ratio of 1.5. These suggested densities encourage pedestrian-oriented development patterns reflective of more historic development within the urban area. Within the Multiple-Residential and Office (R-5) Zone District other uses by right include art gallery, civic club, museum, and religious institution. The proposed use of theater (general) is in line with future land use because it is a pedestrian-oriented establishment and is line with other uses by right, which encourage a cultural and artistic presence. Also, the Impossible Players have been operational at this location in this capacity for twenty years.

**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 site plan indicates pedestrian access off North Main St and West 12<sup>th</sup> St. The site is built out and does not permit off-street parking. However, on-street parking is available on West 12<sup>th</sup> St and North Main St.**

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: Neutral finding. The site plan indicates there is no off-street parking available on the property but there is on-street parking available on West 12<sup>th</sup> and North Main St. The applicant provided a parking site plan where they designate other parking lots in the area that are available to patrons. There is no written parking agreement in place with the adjacent businesses for afterhours parking use for Impossible Players patrons. Impossible Players have been operational at this location since 2000 with no known parking issues.**

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

**Comments: Neutral finding. The on-site dumpster is located on the southwest corner of the property along West 12<sup>th</sup> St and is not screened. The Planning Dept is requesting the dumpster be relocated within the required setbacks, which is at least five feet from the west property line and at least five feet north from the sidewalk. Also, the dumpster needs to be screened by a six-foot opaque fence due to its location immediately adjacent to West 12<sup>th</sup> Street and the public sidewalk.**

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: Neutral finding. There is an opaque fence along the west side of the building toward the Pueblo County Planning Department parking lot. However, the fence is in a state of disrepair. Staff recommends the board condition the fence be replaced to its current length to ensure the sight distance triangle for vehicle ingress/egress to the adjacent parking lot. There are ten residences built to the north property line. The residences were built in 1928 and appear to be built on the property line, which makes it difficult to provide an opaque fence buffer. The theater has been operational at this location for twenty years and appears to be compatible with the residential use.**

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, R-5 Zone District Sign Regulations. The location has a single, non-illuminated, sign on the property, which is four feet (4') tall by eight feet (8') long, this meets the requirements of a freestanding sign for a nonresidential commercial use.**

7. Required yards and other open space.

**Comments: Neutral finding. The R-5 Zone District requires a front yard setback of twenty-five feet (25'), rear yard setback of fifteen feet (15'), as well as side yard setbacks of five feet (5'). All setbacks are met except for the north side setback, which is approximately three and a half feet (3.5') between the building and the multi-family residential structures to the north, making this a legal, non-conforming structure, because it was built in 1919 before the current zoning code was established in 1968. Also, the Planning Department requires the applicant reestablish the tree lawn to the south side of the building based on Sect 17-4-7(3)(a)(4) "Tree-lawns**

**with detached sidewalks in the right-of-way are encouraged and should be used or restored whenever possible.”**

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

**Comments: Affirmative finding. The proposed use is compatible with the surrounding residential and office buildings. The Impossible Players have been operating within this building for over twenty years.**

#### **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:

1. Moving the trash receptacle outside of the required setbacks and away from the sidewalk along West 12<sup>th</sup> Street (five feet from 12<sup>th</sup> St and five feet from western property line), in addition to screening and enclosing the dumpster with an approved opaque material (not chain link with slats). Per Sect 17-4-7(b)(3)(e)(1), “Trash containers shall be completely screened from public view of adjacent nonindustrial property and public streets. Containers shall be screened by a building, an approved opaque fence or wall, or an evergreen planting creating a continuous screen at least five (5) feet in height at the time of installation. Metal or plastic chain link fence slats shall be permitted only in conjunction with evergreen planting.”
2. Replace existing six foot (6’) tall opaque fence, which has fallen into disrepair, to the west of the building separating the Pueblo County Planning Department parking lot. The fence needs to be reestablished at its current length to not interfere with the site distance triangle for vehicle ingress/egress from the parking lot.
3. Reestablish tree lawn on the south side of property. The tree lawn on the south side of the property is approximately 120 feet in length. The Planning Dept understands that surrounding tree lawns have installed non-living, gravel ground covering so we are proposing installing two shade trees, spaced evenly apart, with a gravel ground covering. The installed trees must be selected from the City of Pueblo Recommended Plant list, which includes many native, drought resistant trees.

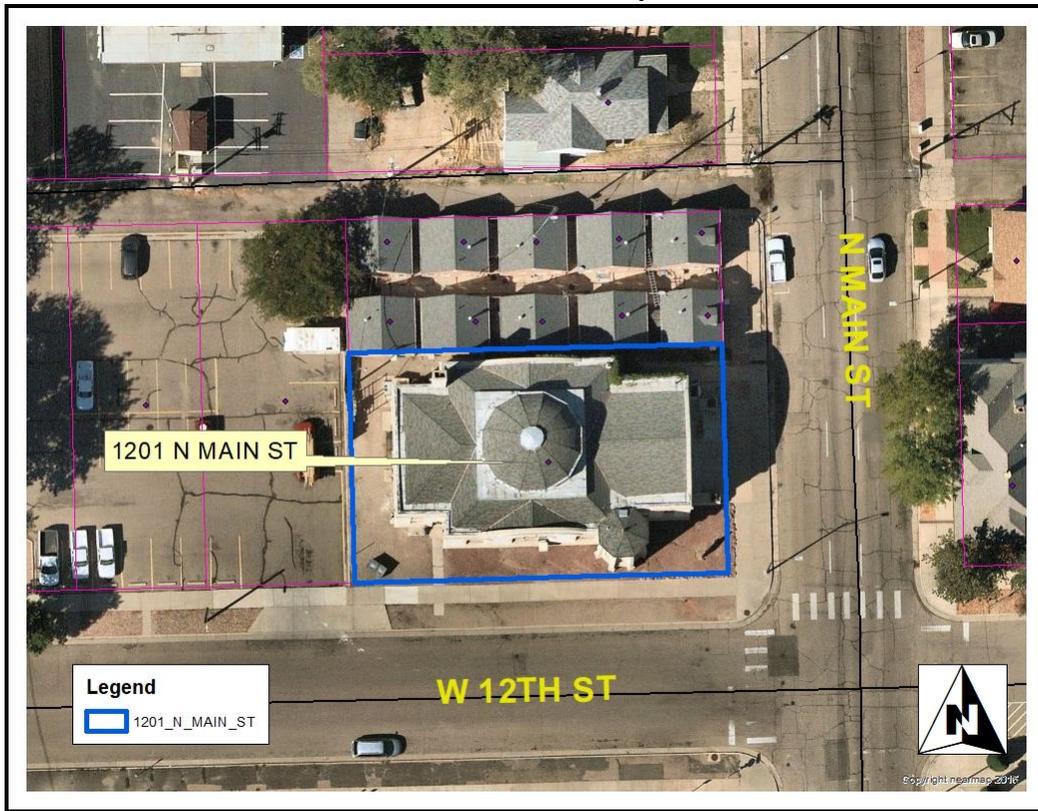
#### **ATTACHMENTS**

- 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>8/24/2021</b>	
1.	<b>Time Limits</b> Zoning permit shall become invalid unless work or action authorized by permit is fully executed by <b>08/24/2022</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.

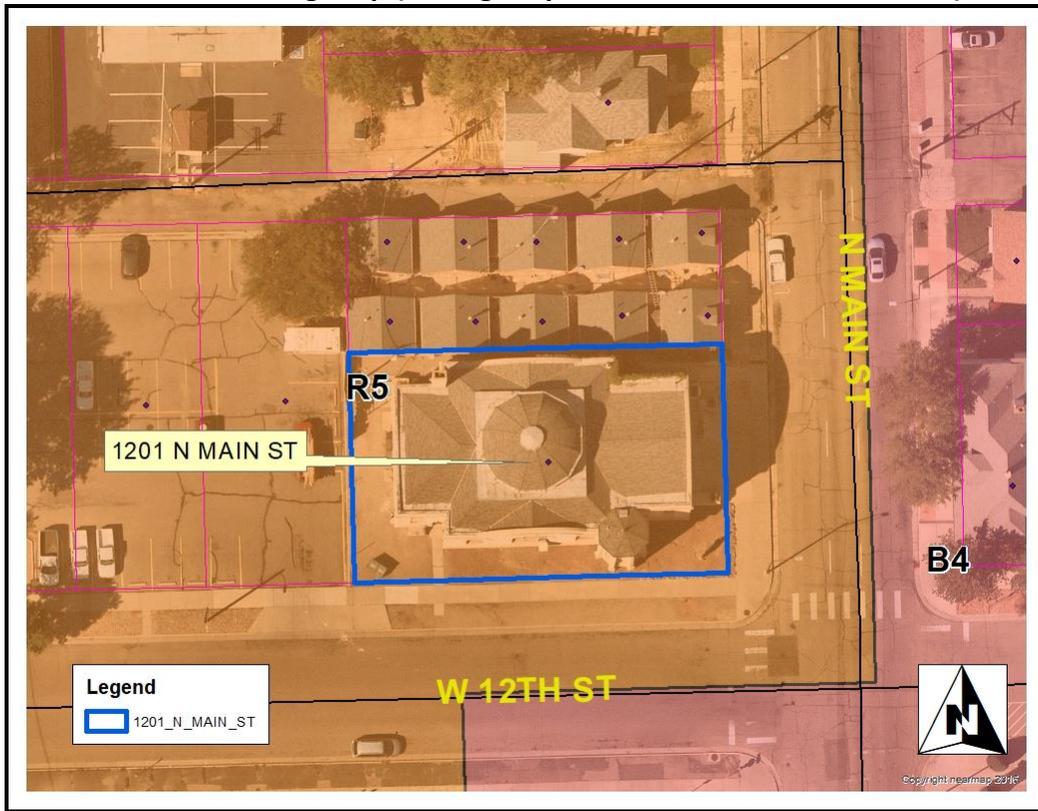
**Exhibit B. Site Map**



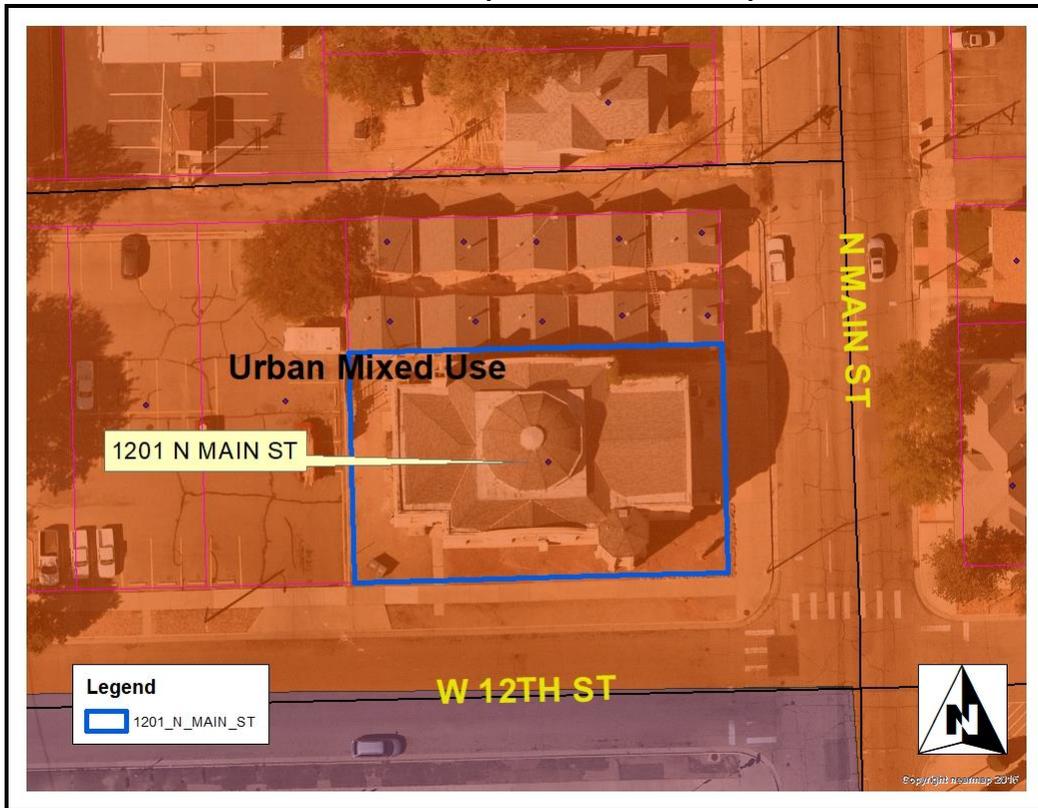
**Exhibit C. Aerial Map**



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



**Exhibit E. Comprehensive Plan Map**



**Exhibit F. Public Notice**



Photo taken from Main St

**Exhibit G. Site Photos**



Photo taken from W 12<sup>th</sup> St facing north



Photo taken from W 12<sup>th</sup> St facing northwest



Photo taken from N Main St facing west



Photo taken from 12<sup>th</sup> St facing north

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 #:

<b>Contact Info</b>	<b>Property Owner:</b>		<b>Applicant (If different from property owner):</b>	
	Name: IMPOSSIBLE PLAYERS		Name:	
	Address: 1201 N. MAIN ST.		Company:	
	City, State & Zip: Pueblo, CO 81003		Address:	
	Phone: (719) 542-6969		City, State & Zip:	
	Email: impossibleplayers@gmail.com		Phone: ( )	Cell: ( )
<i>The applicant will be the primary contact unless otherwise noted.</i>				
<b>Property Info</b>	<b>Project Location:</b> 1201 N. MAIN ST			
	Legal Description: S 75' of Lots 15 & 16 and E 38 Lot 14 Block 11			
	Parcel No: 525416008		Existing Zone: R-5	
	Property Size: 9,450 SQ.FT.			
<b>Project Information</b>	<b>General Information</b>			
	Provide a short description of the proposed request: SUP for Theater, General AND VARIANCE for off-street parking			
	What is the general use of the property: <input type="checkbox"/> Residential <input type="checkbox"/> Commercial <input type="checkbox"/> Industrial <input type="checkbox"/> Multi-Family <input checked="" type="checkbox"/> Other Theater			
	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 type="checkbox"/> Other: _____			
	<input checked="" 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: _____				

County Addition

06/2020

(Continue Next Page)(Continued from Page 1)

<b>Attachments</b>	<p><b>Attachment Checklist:</b></p> <p>The following list of attachments are required to accompany all applications:</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> A. Detailed explanation of the request as listed above. Be specific.</li> <li><input checked="" type="checkbox"/> B. Justification of facts required for the request. Be specific</li> <li><input checked="" type="checkbox"/> C. Site plan, if variance. Must depict requested variance on plan.</li> <li><input checked="" type="checkbox"/> D. Applicable application (i.e. business license, Home Occupation Questionnaire).</li> <li><input checked="" type="checkbox"/> E. Photographs.</li> <li><input checked="" type="checkbox"/> F. Additional information that you believe justifies the request.</li> <li><input checked="" type="checkbox"/> G. Copy of determination letter, if appealing Administrative Official Determination.</li> <li><input checked="" type="checkbox"/> H. Pueblo County Assessor's Property Information print out</li> </ul>	
	<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>Signatures</b>	Property Owner	
	Print Name:	Impossible Players INC.
	Signature:	N/A
	Date: 8-1-21	
<b>Signatures</b>	Applicant, if different from Property Owner	
	Print Name:	Heather Sandoval, President of the Board of Directors
	Signature:	Heather Sandoval
	Date: 8-1-21	

<b>Office Use Only</b>	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
	Case #:	<input type="checkbox"/> Denied
		<input type="checkbox"/> Approved w/conditions

**Exhibit I. Supporting Documents****A**

**A:** We are the Impossible Players, a community theater organization that is 100% volunteer and we are requesting a Special Use Permit for a General Theater in an R-5 Zone District at 1201 North Main Street. We were founded in 1966 and are currently in our 55<sup>th</sup> Season. We leased the building 21 years ago from the County of Pueblo and purchased it from the County in 2018.

Our funding is provided by membership fees, membership donations, ticket sales and a small amount from grants and foundations.

**B.** Our building at 1201 North Main was built in 1919 as a church and served as a church until 1990, when it was purchased by the County of Pueblo for use as storage. The Impossible Players leased it as a theater in 2000 and purchased it in 2018. During this time, we have invested over half a million dollars in improvements and maintenance of the facility, and we are currently under contract with Larry's Electric and Refrigeration for \$50,000 for a new furnace and A/C unit.

The neighborhood is mixed use, with public use being the most dominate (e.g., County, SD No. 60 Administration), offices – both newer construction and conversion, residential – single family and apartment, and limited retail.

We are also requesting an off-street parking waiver, noting that the City of Pueblo Code of Ordinances, Title XVII, Chapter 4, Article IV, Section 17-4-43 does not require us to provide off-street parking because we are neither new construction nor expanding the building size.

From 2016 to 2019, the 4 seasons prior to Covid-19, we put on 17 different plays totaling 94 performances with an average of 48 patrons per performance, the high being 89 and the lowest at 8 in attendance. The actors and running crew averages 12 persons per performance.

Within the immediate area there are 312 PUBLIC off street parking spaces and 162 on street public parking spaces available to our patrons. Because our performances are in the evening and on weekends, we do not compete with any of the public buildings for parking.

**A**

**C. Attached**

**D. Attached**

**E. Attached**

**F. The Impossible Playhouse utilities are provided by Pueblo Water, Black Hill Energy, Xcel Energy, and Waste Connections.**

Our public safety includes interior emergency lighting, fire extinguishers, and panic bars on all the exits. Exterior we have 6 fire hydrants within the immediate area with closest being across the street. Fire station No. 1, the biggest in Pueblo, is also only 6 blocks away.

Our advertising is done by mailings, and online social media like Facebook. We have one 4' by 8' sign in front of the building that is not lighted.

**G. Not Applicable**

**H. Attached**

