

Mike Castellucci
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Lisa Bailey
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Georgia Way

ZBA-21-35

To: City of Pueblo Zoning Board of Appeals
From: Danielle Baxter, Planner
Through: Scott Hobson, Land Use Administrative Official
Date: 12/28/2021
Request: **A Limited Use Permit to allow a Home Based (Massage Therapy) Business with onsite clients and signage in a Single Family Residential (R-2) Zone District.**
Site Location: 909 W. Pitkin Ave, Pueblo, CO 81004
Legal Description: LOT 20 EXC THE SE 45 FT THEREOF + ALL LOT 21 SHARMOOR SUB
Year Built: 1943
Applicant: Richard Reyes
Property Owner: Barbara Ferrero
Zone District: Single-Family Residential (R-2) Zone District

BACKGROUND AND ANALYSIS

909 W. Pitkin Ave is a 1,536-sf. two-family (duplex) residence built in 1943. The building is located in the Sharmoor Subdivision, across the street from Pueblo Community College. The applicant is requesting a Limited Use Permit to allow a Home-based Business (Massage Therapy) with onsite clients and commercial signage in a Single Family Residential (R-2) 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 a Conditional Use Permit for a home-based business; specifically, having clients on the premises and allowing commercial signage in a single Family Residential (R-2) Zone District.

The applicant, Mr. Reyes, has been renting 911 W. Pitkin Ave, the second residence of the duplex, for an extended period of time. When the prior tenant in 909 W. Pitkin Ave moved out the property owner, Barb Ferrero, offered Mr. Reyes the opportunity to rent the entire duplex as his residence, which would afford him the space to operate his massage therapy practice from home.

The property has ingress and egress from West Pitkin Avenue and off-street parking is located in the driveway along the northwest side of the principal structure. Utilities are established and there are limited hours of operation between 9:00 am – 8:00 pm. Signage will be limited to one 18" x 24" sign located on the back entry gate on the property where clients will enter the business. Mr. Reyes indicated that he sees approximately three to four clients a day, by appointment only, for an hour and a half to two-hour increments. Clients will access the property through the rear entry of the house. There is adequate lighting and six-foot tall cinderblock wall around the rear of the property to ensure safety and privacy to the clients and neighbors. The applicant noted there is also a private restroom available to clients for use during their appointment. 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-2) Zone District	Single Family Residence
East	Single Family Residential (R-2) Zone District	Single Family Residence, Women’s Recovery Center
South	Government Use (S-1) Zone District	W. Pitkin Avenue; Pueblo Community College Campus
West	Single Family Residential (R-2) Zone District	Two-Family (Duplex) Residence

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 dated 12/3/21, “Applicant will need to contact our chief commercial plan reviewer (Carlos Atilano catiilano@prbd.com 719-543-0002) at Regional Building in order to proceed. The issue is whether this is a home-based business in a single family residence or the second unit is a commercial use. There is not sufficient information to address this question and it is outside the scope of a preliminary review.” This message was relayed to Lisa (applicant’s wife) on 12/6/21 by Dani Baxter.
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 West Pitkin Ave 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 in the applicant’s driveway for two to three vehicles, as well as a two-car garage. There is also on-street parking located in front of the home.

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

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

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 entrance, where clients will enter, is enclosed by a six-foot tall cinderblock wall. All business will be conducted inside the building.

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 18" x 24" sign posted on the back gate where clients will enter. No signage will be permitted on the front of the dwelling visible from W. Pitkin Ave.

7. Required yards and other open space.

Comments: Neutral finding. The existing two-car garage accessory structure on the property is built with a zero-foot rear yard setback. A map provided by the Sanborn Map Company dated 1952, depicts this accessory structure was already constructed at the time of publication. Therefore, the accessory structure is a legal non-conforming structure, as it predates the current City of Pueblo Municipal Code, which was established in 1968. All other setbacks conform to current City of Pueblo Municipal Code requirements for a R-2 Zone District.

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

Comments: Neutral finding. This is a residential district, which is designed to retain and provide areas of medium density development characteristically and exclusively for single-family dwelling units. However, as there is a college campus 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 flow 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 characteristics 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. Parking is limited to the driveway area only.
- B. The business must maintain appropriate hours of operation for a residential district. Applicant states normal business hours are 9:00 am – 8:00 pm.
- C. One 18" x 24" sign for the proposed home-based business may be posted on the rear gate of the property, where customers enter. No signs are permitted on the front façade or windows of the dwelling where they can be visible from West Pitkin Ave.

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: 12/28/2021	
1.	Time Limits Zoning permit shall become invalid unless work or action authorized by permit is fully executed by 12/28/2022
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.

Exhibit B. Site Map



Exhibit C. Aerial Map

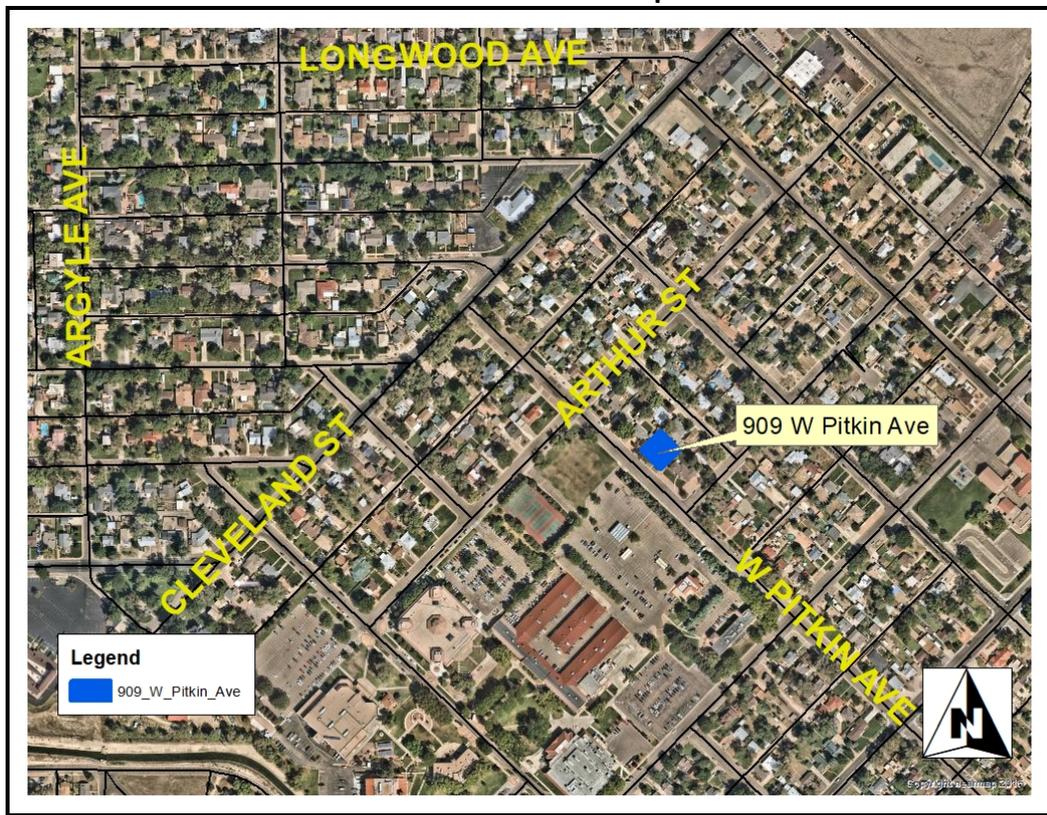


Exhibit D. Zoning Map (Zoning Map Amendments Recommended)

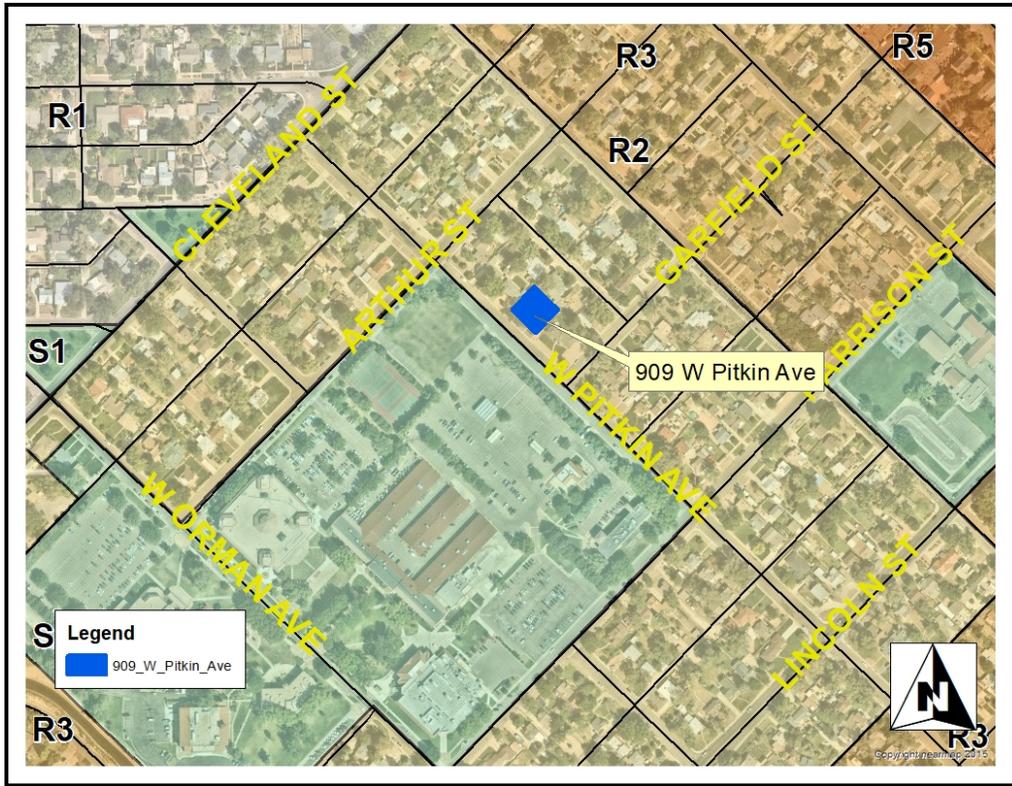


Exhibit E. Comprehensive Plan Map

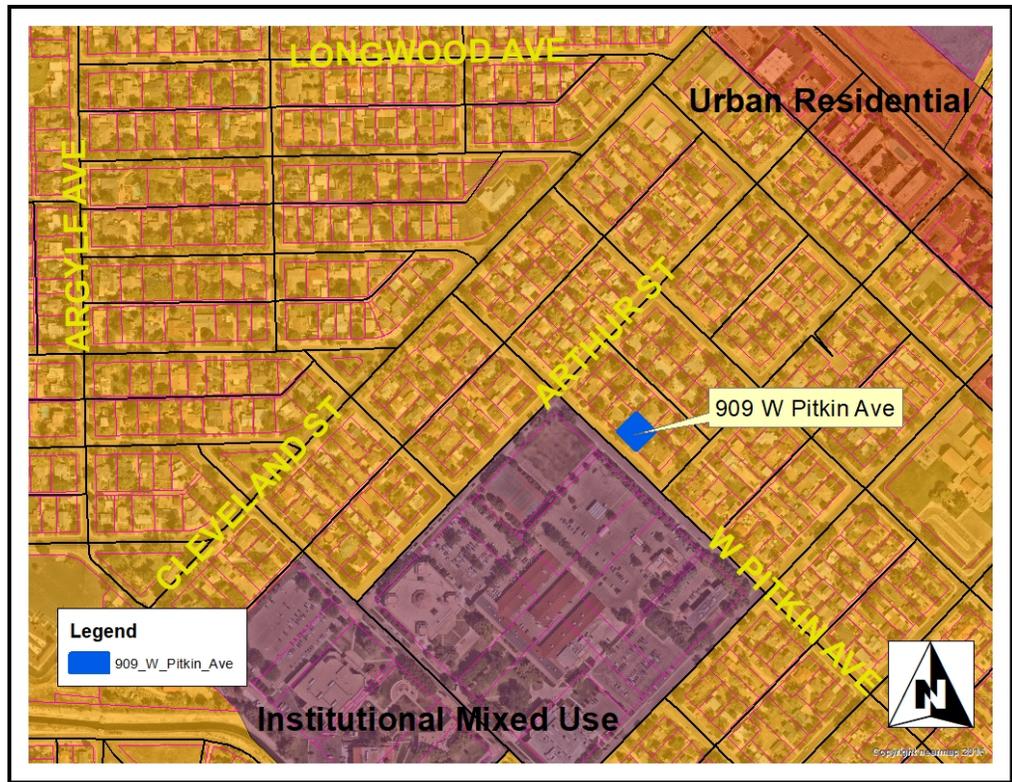


Exhibit F. Public Notice



Taken from Pitkin Ave

Exhibit G. Site Photos



H. Application



12/01/2021

21-62

Zoning Board of Appeals - Special Use Permit & Variances

Status: Active

Date Created: Dec 1, 2021

Applicant

Richard Reyes
richardreyes4995@gmail.com
911 W. Pitkin Ave.
Pueblo, CO 81004
719-778-3064

Location

909 W PITKIN AVE
PUEBLO, CO 81004

Owner:

FERRERO BARBARA
PO BOX 399 PUEBLO , CO 81002-0399

Internal

ZBA Case Number

--

Planner Assigned

--

ZBA

Hearing Date

--

Hearing Results

--

Board Conditions

--

Appeal Term End Date

--

Permit Completion Date

--

Specially Requested Hearing

Public Notice

Number of Posters

--

Number of Postcards Sent

--

Cost of Newspaper Notice

--

Public Notice Costs

0

Other Fees:

--

Public Notice costs must be paid by:

--

Public notice zoning poster must be displayed BY:

--

Public Notice zoning poster must be displayed UNTIL:

--

Scope of Work

Type of Request

Use by Review (Special/ Limited Use Permit)

Type of Use by Review

Limited Use Permit

Provide a short description of the proposed request:

I would like to use a portion of the residence as home based massage business.

What is the general use of the property

Residential

Detailed explanation of the request as listed above.

Requesting to operate home based massage business from residence. See attached letter.

Justification of facts required for the request. Be specific.

Landlord no longer wishes to rent property to two occupants and has offered to rent as one residence to me. This would afford me the ability to run my massage business from home and I would now have adequate space to do so and be able to meet all requirements to accommodate clients.

Please see the attached document for assistance with Justification of Facts:

[ZBA Use by Review Assistance
\(https://viewpointcloud.blob.core.windows.net/profile-pictures/ZBA_Use_by_Review_HANDOUT_06-2020_Thu_Jul_22_2021_15:43:00_GMT+0000_\(Greenwich_Mean_Tim](https://viewpointcloud.blob.core.windows.net/profile-pictures/ZBA_Use_by_Review_HANDOUT_06-2020_Thu_Jul_22_2021_15:43:00_GMT+0000_(Greenwich_Mean_Tim)

Please see the attached document for assistance with Justification of Facts:

[ZBA Non-Residential Variance Assistance
\(https://viewpointcloud.blob.core.windows.net/profile-pictures/ZBA_Non-Residential_Variance_HANDOUT_06-2020_Thu_Jul_22_2021_15:42:48_GMT+0000_\(Greenwich_Mean_Ti](https://viewpointcloud.blob.core.windows.net/profile-pictures/ZBA_Non-Residential_Variance_HANDOUT_06-2020_Thu_Jul_22_2021_15:42:48_GMT+0000_(Greenwich_Mean_Ti)

[ZBA Residential Variance Assistance
\(https://viewpointcloud.blob.core.windows.net/profile-pictures/ZBA_Residential_Variance_HANDOUT__06-2020_Thu_Jul_22_2021_15:42:55_GMT+0000_\(Greenwich_Mean_Tir](https://viewpointcloud.blob.core.windows.net/profile-pictures/ZBA_Residential_Variance_HANDOUT__06-2020_Thu_Jul_22_2021_15:42:55_GMT+0000_(Greenwich_Mean_Tir)

Are there any concurrent zoning requests?

No

Use by Review Justification of Facts

Describe the 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.

Property affords off street parking in driveway as well as sidewalk entry. I see only 3-4 clients daily so traffic flow would be very minimal.

Describe off-street parking and loading areas where required, with particular attention to the items in Subparagraph a above and the economic noise, glare or odor effects of the use by review on adjoining properties and properties generally in the district.

Off street parking is provided in driveway close to back door entrance within fully fenced backyard.

Describe refuse and service areas, with particular reference to the items in the two questions above.

No change - same as single family residence.

Describe utilities, with reference to the location's availability and compatibility.

Utilities are included with single family residence.

Describe screening and buffering with reference to type, dimensions and character.

Back entrance is within a fully enclosed 6 ft block wall. All business is done inside the dwelling.

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

Business entrance would be in back of property and any signage would be posted at back gate and not at front of property. Back entrance and driveway will have adequate lighting for client safety.

Describe how you will comply with the required yards and other open space.

No new plan construction.

Describe the general compatibility with adjacent properties and other property in the district.

Due to the low traffic flow and nature of the business there would be no conflict with neighbors.

Terms

Is the applicant and property owner the same?

No

Applicant Signature
 Richard Ronald Reyes
 12/01/2021

Attachments

-  pitkin.pdf
 Uploaded by Richard Reyes on Dec 1, 2021 at 2:53 pm
-  pitkin.pdf
 Uploaded by Richard Reyes on Dec 1, 2021 at 2:53 pm

History

Date	Activity
Dec 1, 2021 at 2:33 pm	Richard Reyes started a draft of Record 21-62
Dec 1, 2021 at 2:53 pm	Richard Reyes submitted Record 21-62
Dec 1, 2021 at 3:17 pm	completed payment step Application Fee on Record 21-62
Dec 1, 2021 at 3:17 pm	approval step Intake Review was assigned to Planning Front Counter on Record 21-62
Dec 1, 2021 at 3:17 pm	approval step Land Use Tech Review was assigned to Karen Elgin on Record 21-62
Dec 1, 2021 at 3:17 pm	approval step Case Assignment was assigned to Beritt Odom on Record 21-62
Dec 1, 2021 at 3:17 pm	changed the deadline to Dec 02, 2021 on approval step Case Assignment on Record 21-62

Timeline

Label	Status	Activated	Completed	Assignee	Due Date
 Application Fee	Paid	Dec 1, 2021 at 2:53 pm	Dec 1, 2021 at 3:17 pm	-	-
 Intake Review	Active	Dec 1, 2021 at 3:17 pm	-	Planning Front Counter	-
 Land Use Tech Review	Active	Dec 1, 2021 at 3:17 pm	-	Karen Elgin	-
 Case Assignment	Active	Dec 1, 2021 at 3:17 pm	-	Beritt Odom	12/01/2021
 Planning (Zoning) Initial Review of Submittal	Inactive	-	-	-	-
 Public Notice	Inactive	-	-	-	-
 Public Notice Memo	Inactive	-	-	-	-
 Public Notice Fee	Inactive	-	-	-	-
 Staff Report and Agenda Distribution	Inactive	-	-	-	-
 ZBA Hearing Outcome	Inactive	-	-	-	-
 Review Permit	Inactive	-	-	-	-
 Final Inspection	Inactive	-	-	-	-

Exhibit I. Supporting Documents

To Whom It May Concern,

The property up for review, 909 West Pitkin sits directly across from the parking lot and park lawn area of PCC. Adjacent to the right side on the corner is family residence that has been converted into a recovery center for women. To the left is a single family home. Richard Reyes has resided at 911 W. Pitkin, which up until now has been a duplex. Recently the elderly woman living in the 909 unit of the structure has gone to live with family. Barb Ferrero owns the property and has been pleased with Richard as a tenant and has decided at this point she does not wish to have another tenant and has offered Richard the opportunity to rent the entire duplex as his residence which would also afford him the space necessary to operate his massage therapy practice from home as well.

Richard sees 3-4 clients a day that last 1 ½ - 2 hours at a time during the hours of 9am to 8pm. Traffic flow would be very minimal and the property offers adequate off street parking in the driveway for clients which only come one at a time by appointment only. Clients would enter through the back entry of the house with sidewalk leading to the entrance. There is adequate lighting to ensure safety from driveway to entrance as well. Clients would also have a private restroom for use during their appointment. Signage would be modest in size and only be placed by the back entry gate. Entrance is also located within the fully enclosed by a 6 foot cinderblock wall so there would be no distraction to neighbors.

Due to the low key nature of the massage therapy practice the quiet setting of the surrounding neighborhood is ideal offering clients a relaxing and peaceful setting.



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

Property Owner Affidavit

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

Property Owner:			
Name: <u>BARBARA FERRERO</u>		Company: <u>REMAX OF PUEBLO</u>	
Address: <u>5514 VENTANA CT.</u>			
City: <u>PUEBLO</u>		State: <u>CO.</u>	Zip: <u>81005</u>
Phone: <u>719 250-6898</u>	Email: <u>BARBFERRERO.1@GMAIL.COM</u>		
Applicant:			
Name: <u>RICH REYES</u>		Company:	
Phone: <u>719 778-3064</u>	Email: <u>RICHARDREYES4995@YMAIL.COM</u>		
Property Address: <u>909 W. PITKIN, PUEBLO, CO. 81004</u>			

I, BARBARA FERRERO, hereby state that I am the owner of record of the property located at 909/911 W. PITKIN, Pueblo, Colorado, and further acknowledge that by signing this affidavit I authorize the submission of an application for a MASSAGE HOME BUSINESS at said location.
(application type)

Barbara Ferrero
 Signature of Property Owner

12/1/21
 Date

