

Mike Castellucci  
Chair

Steve Anselmo  
Vice Chair



Lisa Bailey  
Secretary

Yvonne Lujan-Slak

Georgia Way

## ZBA-22-28

Hearing Date: July 26, 2022

**TO:** City of Pueblo Zoning Board of Appeals  
**FROM:** Wade Broadhead, Sr. Planner  
**THROUGH:** Scott Hobson, Land Use Administrative Official  
**LOCATION:** 1221 E. Abriendo Ave, Pueblo, CO 81004  
**APPLICANT:** Donald Etherton, Prairie Fire Properties LLC  
**PROPERTY OWNER:** Donald Etherton, Prairie Fire Properties LLC  
**YEAR BUILT:** 1900  
**LEGAL DESCRIPTION:** N ½ of Lot 42 and all of Lot 43, Block 49, City Hall Place  
**ZONE DISTRICT:** (B-4 Zone) District being rezoned to Commercial Charter Neighborhood (CCN)  
**PARCEL ID:** 535407001  
**LOT SIZE:** 4,575 sq ft

**REQUEST:** Variance to reduce off street parking requirements (paving material) according to Section 17-4-42 (a) in a Commercial Charter Neighborhood (CCN) Zone District.

### SYNOPSIS OF REQUEST

The applicant is requesting a variance from Pueblo Municipal Code section 17-4-42(a) relating to two-family residential structures, which requires one paved off-street parking for each dwelling unit. The subject property is located in the Bessemer neighborhood a block north of the Northern Avenue commercial district. The applicant is in the process of rezoning the property from B-4 to Commercial Charter Neighborhood CCN to allow a duplex. The Planning and Zoning Commission recommended approval of the rezoning with the condition that the parking area and driveway be paved or obtain a variance to allow the parking space to remain gravel. The applicant is requesting a variance to allow the rear parking lot to remain gravel instead of being paved as required by code. The rezoning was conditioned that the applicant pave the parking spaces or apply for a variance. The parking area measures 42' x 37.5' (1575 sq ft).

### ANALYSIS OF REQUEST

The subject property is a 4,575 square foot lot with a 1,683 square foot duplex constructed on the property prior to 1900. According to Section 17-4-42 (a) "The parking space shall be permanent in character, shall be provided with a permanent driveway to a public roadway, and both the parking space and the driveway shall be paved with asphalt, concrete, Portland cement concrete pavers, or equivalent material". The applicant states that the requirement would be a substantial burden and that he has adequate parking on a good gravel surface with alley access. The property requires two parking spaces, and the owner has provided four gravel parking spaces, which exceeds the number of parking spaces required. The CCN was implemented to provide flexibility in older neighborhoods in relation to parking requirements to facilitate redevelopment in older portions of the City with smaller lots and preexisting site constraints.

The applicant has provided the parking at the rear of the lot which is recommended by the CCN performance standards and he has provided more parking than is required by the Pueblo Municipal Code. The gravel is in good condition and does not detract from the surrounding area.

### ZONING DISTRICT AND LAND USE

Zone:	Developed with:	
North	Central Business (B-4) Zone District	Single family and two family residential

East	Central Business (B-4) Zone District	Single family and two family residential
South	Central Business (B-4) Zone District	Single-family Residential
West	Central Business (B-4) Zone District	Various commercial storefronts

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

### CONDITIONS REQUIRED FOR VARIANCE

1. The variance will not: reduce the required light and air to adjacent properties; constitute a nuisance to the properties within one hundred (100) feet of the property for which the variance is requested; or substantially reduce the monetary value of properties within one hundred (100) feet of the property for which the variance is requested.

**Comments: Affirmative finding. The proposed variance will not reduce light and air to adjacent properties.**

2. The variance will not affect general planning of the city with respect to land use and the location of streets and highways will not be jeopardized.

**Comments: Affirmative finding. This variance will not negatively affect land use planning or the location of streets and highways.**

3. Strict adherence to this Title would not secure appropriate development of the property for which the variance is requested.

**Comments: Neutral finding. The property could be developed with strict adherence to this title, there are no site constraints that prevent the driveway and parking spaces from being paved**

4. The property for which the variance is requested suffers a unique or singular disadvantage, not common to other property in the district, through the operation of this Title.

**Comments: Neutral finding. The existing home was built prior to 1900 pre automobile and doesn't have a driveway but the owner has complied with parking requirements without degrading the pedestrian nature of the neighborhood.**

### PLANNING AND COMMUNITY DEVELOPMENT STAFF RECOMMENDATION

If the Board chooses to approve this Variance staff recommends Standard Permit Conditions 1 through 13.

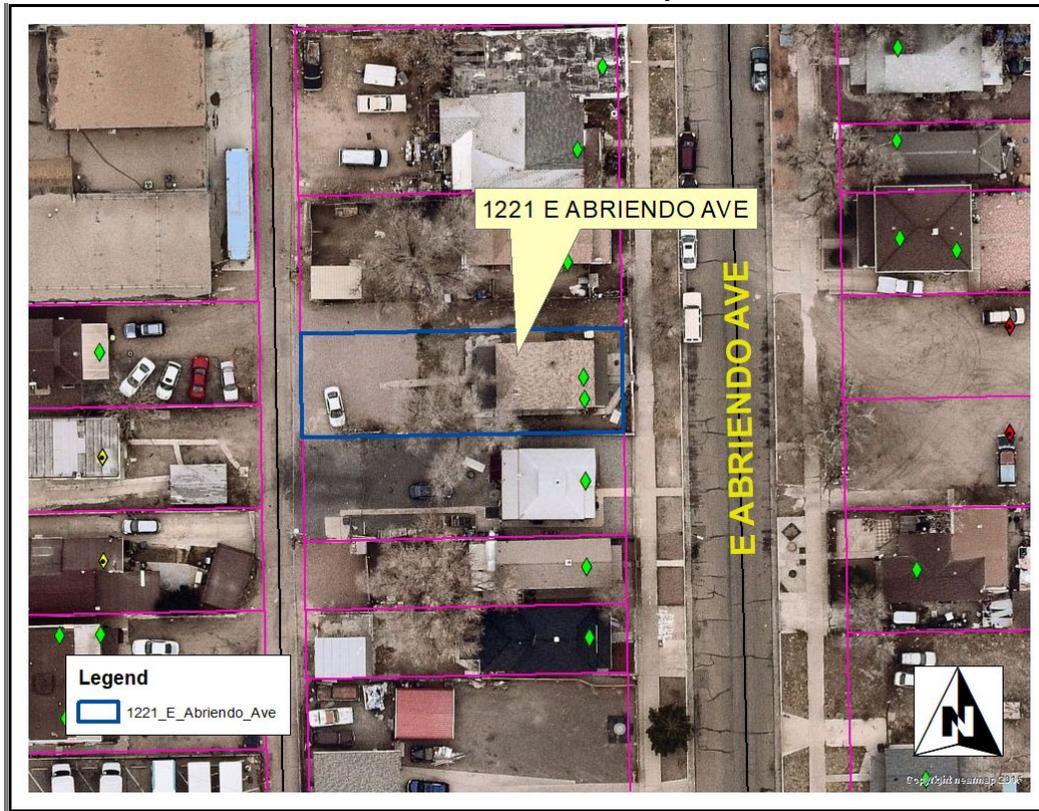
**ATTACHMENTS**

- A. Standard Permit Conditions
- B. Location Map
- C. Site 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>7/26/2022</b>	
1.	<b>Time Limits</b> Zoning permit shall become invalid unless work or action authorized by permit is fully executed by <b>7/26/2023</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. Location Map**



**Exhibit C. Site Map**

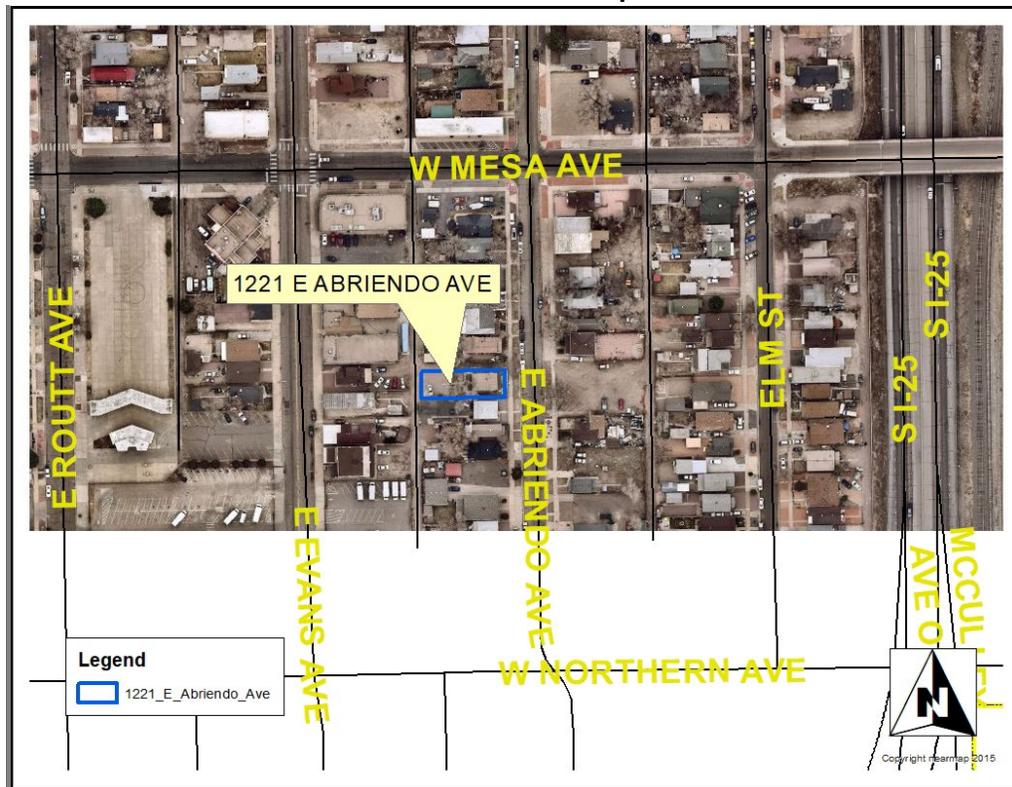


Exhibit D. Zoning Map

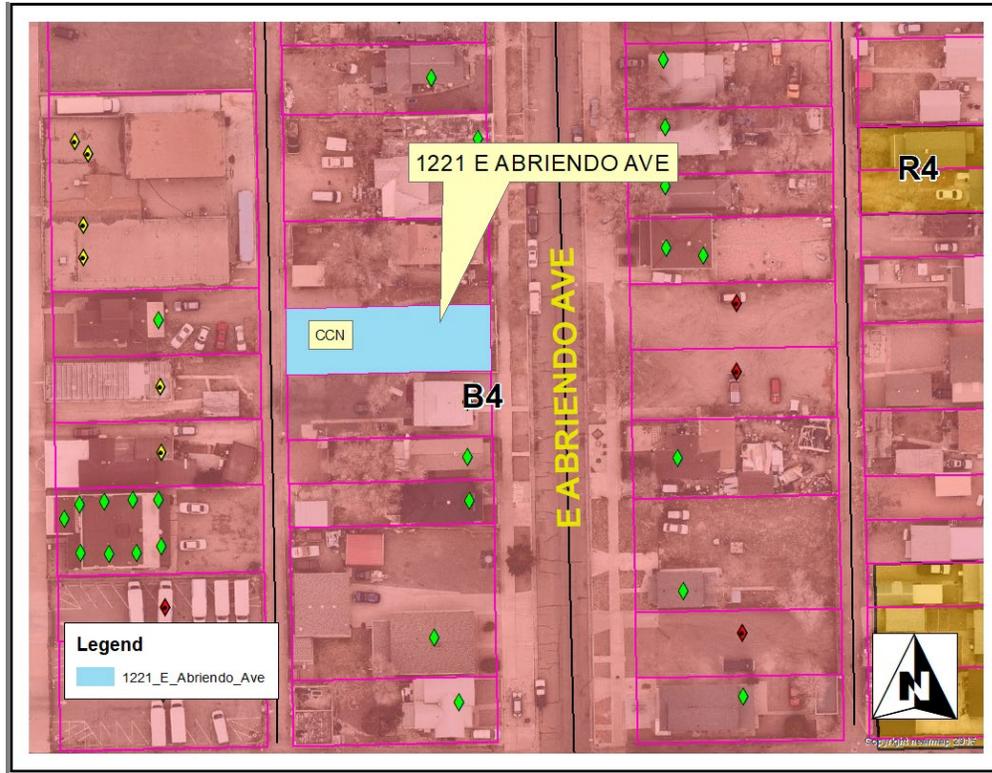
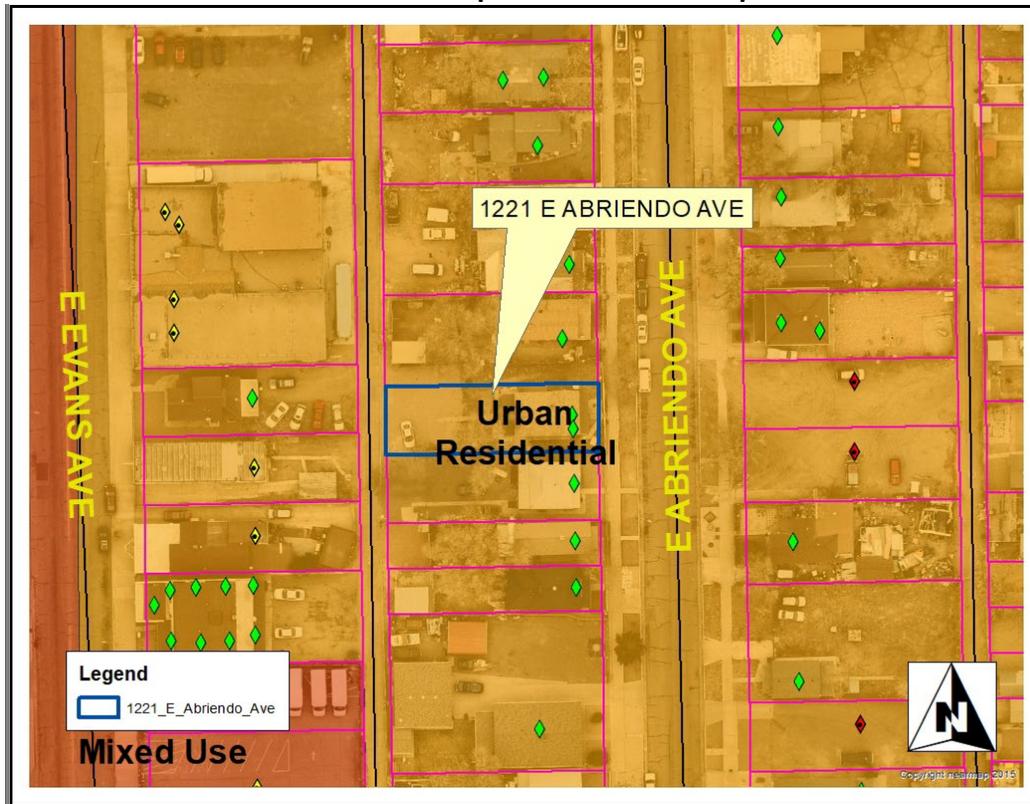


Exhibit E. Comprehensive Plan Map



**Exhibit F. Public Notice**



Taken from Abriendo facing west

**G. Site Pictures**



Taken from the alley looking east



Interface of the alley and the parking area

### Exhibit H. Application

6/16/22, 11:50 AM

OpenGov



06/16/2022

#### 22-105

Zoning Board of Appeals - Special Use Permit & Variances

**Status:** Active

**Date Created:** Jun 14, 2022

**Applicant**

Donald Etherton  
detherton@outlook.com  
85 N Grant St  
Wickenburg, Arizona 85390  
7202108339

**Location**

1221 E ABRIENDO AVE Unit UNIT A  
Unit UNIT A  
PUEBLO, CO 81004

**Owner:**

PRAIRIE FIRE PROPERTIES LLC  
85 N GRANT ST WICKENBURG , AZ 85390-1330

**Internal**

**ZBA Case Number**  
ZBA-22-28

**Planner Assigned**  
--

**ZBA**

**Hearing Date**  
07/26/2022

**Hearing Results**  
--

**Board Conditions**  
--

**Appeal Term End Date**  
--

**Permit Completion Date**  
--

**Specially Requested Hearing**

**Public Notice**

**Number of Posters**  
1

**Number of Postcards Sent**  
19

**Cost of Newspaper Notice**  
--

**Public Notice Costs**  
20

**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**  
Variance

**Variance Type**  
Parking

<https://puebloco.viewpointcloud.io/#/explore/records/32296/printable?act=true&app=true&att=true&emp=true&int=true&loc=true&sec=1011981%2C10...> 1/3

6/16/22, 11:50 AM

OpenGov

**Provide a short description of the proposed request:**

I am requesting a variance from the requirement of paving the parking area in the rear of the building.

**What is the general use of the property**

Multi-Family

**Detailed explanation of the request as listed above.**

The rear parking area is large enough to accommodate four (4) vehicles. The zoning of CCN requires asphalt parking for one (1) space. I am asking for a variance to this requirement due to the fact it is compacted gravel off of an alley that is NOT paved and is hard packed like the parking area behind said building.

**Justification of facts required for the request. Be specific.**

There are no other buildings with parking off of the alley that are paved.

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\\_\(Greenwich\\_Mean\\_Time\).pdf\)](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_Time).pdf)

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\\_\(Greenwich\\_Mean\\_Time\).pdf\)](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_Time).pdf)  
[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\\_\(Greenwich\\_Mean\\_Time\).pdf\)](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_Time).pdf)

**Are there any concurrent zoning requests?**

Yes

**Provide information on the concurrent request**

The zoning board approved the zoning change to CCN from B-4.

**Variance Justification of Facts**

**Describe how the granting of a variance will not: reduce the required light and air to adjacent properties; constitute a nuisance to the properties within one hundred (100) feet of the property for which the variance is requested; or substantially reduce the monetary value of properties within one hundred (100) feet of the property for which the variance is requested.**

All of the properties have gravel parking areas. If we are required to comply with CCN we would be the only property with asphalt parking in the back of the property.

**Describe how the general planning of the City with respect to land use, density of use and the location of streets and highways will not be jeopardized.**

This variance would have no effect on the city.

**Describe how strict adherence to this Title would not secure appropriate development of the property for which the variance is requested.**

The land is already been developed with improvements

**Describe how the property for which the variance is requested suffers a unique or singular disadvantage, not common to other property in the district, through the operation of this Title.**

As previously stated we would be the only property with asphalt parking in the rear of the building

**Terms**

**Is the applicant and property owner the same?**

Yes

**Applicant/Property Owner Signature**

Donald L Etherton Manager for Prairie Fire Properties LLC  
06/14/2022

**Attachments**



Site plan 1221.jpg

Uploaded by Donald Etherton on Jun 14, 2022 at 11:24 am

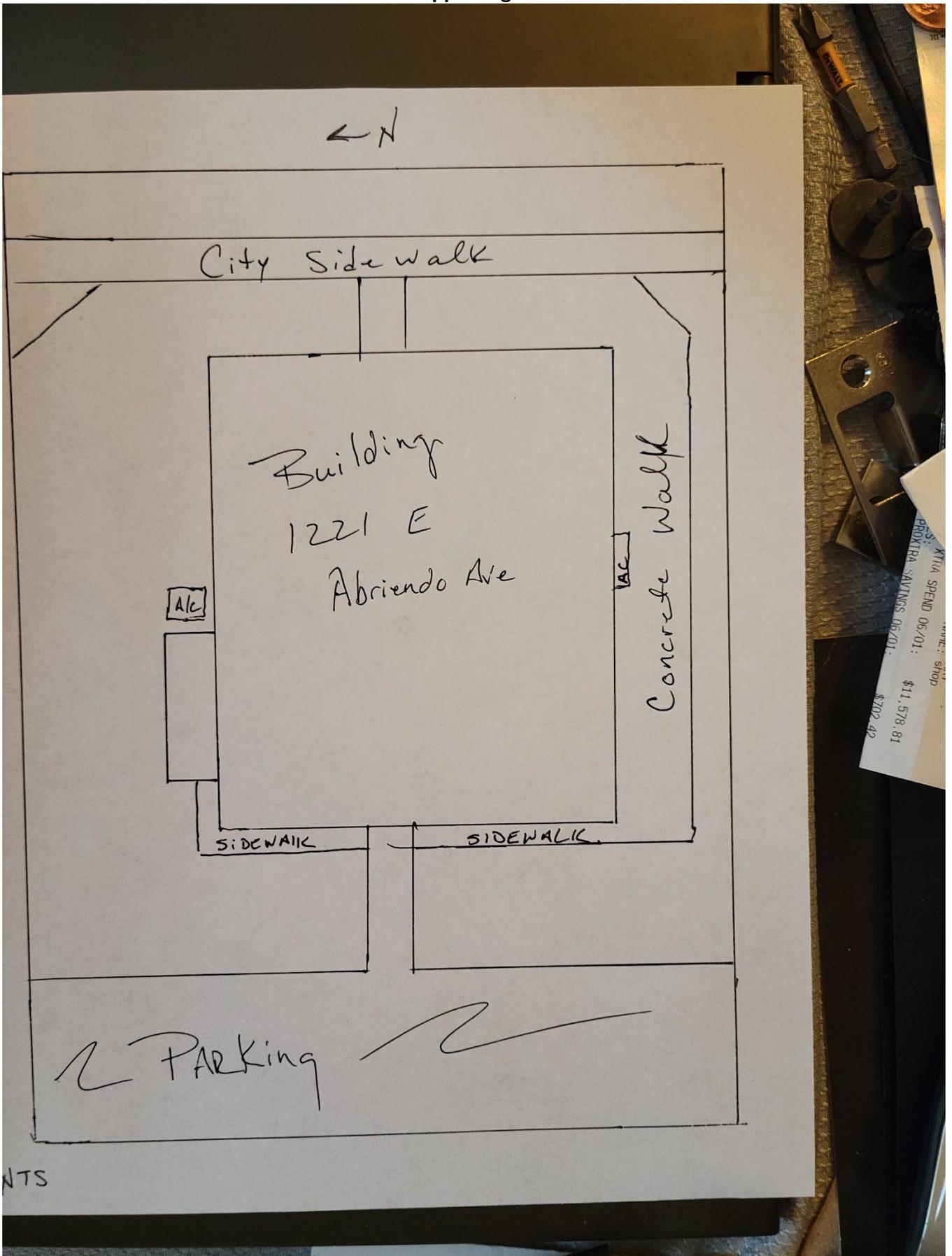
**History**

Date	Activity
Jun 13, 2022 at 7:59 am	Donald Etherton started a draft of Record 22-105
Jun 13, 2022 at 8:03 am	Donald Etherton altered Record 22-105, changed ownerEmail from "" to "detherton@outlook.com"
Jun 13, 2022 at 8:03 am	Donald Etherton altered Record 22-105, changed ownerPhoneNo from "" to "7202108339"
Jun 14, 2022 at 11:30 am	Donald Etherton submitted Record 22-105
Jun 14, 2022 at 11:30 am	changed the deadline to Jun 16, 2022 on approval step Fee Review on Record 22-105
Jun 14, 2022 at 11:30 am	approval step Fee Review was assigned to Planning Front Counter on Record 22-105
Jun 14, 2022 at 11:30 am	changed the deadline to Jun 16, 2022 on approval step Fee Review on Record 22-105
Jun 14, 2022 at 11:36 am	Karen Elgin changed ZBA Case Number from "" to "ZBA-22-28" on Record 22-105
Jun 14, 2022 at 11:36 am	Karen Elgin changed Hearing Date from "" to "07/26/2022" on Record 22-105
Jun 14, 2022 at 11:58 am	Carol Martinez assigned approval step Fee Review to Carol Martinez on Record 22-105
Jun 14, 2022 at 11:59 am	Carol Martinez approved approval step Fee Review on Record 22-105
Jun 16, 2022 at 11:30 am	Karen Elgin changed Number of Posters from "" to "19" on Record 22-105
Jun 16, 2022 at 11:30 am	Karen Elgin changed Public Notice Costs from "0" to "19" on Record 22-105
Jun 16, 2022 at 11:31 am	Karen Elgin changed Public Notice Costs from "19" to "1" on Record 22-105
Jun 16, 2022 at 11:31 am	Karen Elgin changed Number of Posters from "19" to "1" on Record 22-105
Jun 16, 2022 at 11:31 am	Karen Elgin changed Public Notice Costs from "1" to "20" on Record 22-105
Jun 16, 2022 at 11:31 am	Karen Elgin changed Number of Postcards Sent from "" to "19" on Record 22-105

**Timeline**

Label	Status	Activated	Completed	Assignee	Due Date
Fee Review	Complete	Jun 14, 2022 at 11:30 am	Jun 14, 2022 at 11:59 am	Carol Martinez	06/15/2022
Application Fee	Active	Jun 14, 2022 at 11:59 am	-	-	-
Intake Review	Inactive	-	-	-	-
Land Use Tech Review	Inactive	-	-	-	-
Case Assignment	Inactive	-	-	-	-
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	-	-	-	-
Permit Issuance	Inactive	-	-	-	-
Final Inspection	Inactive	-	-	-	-

Exhibit I. Supporting Documents



PROXIMA SAVINGS 06/01 : \$11,578.81  
\$702.42

NTS