



## City Planning & Development Department

### Development Management Division

15th Floor, City Hall  
414 East 12th Street  
Kansas City, Missouri 64106-2795

816 513-2846  
Fax 816 513-2838

#### **STAFF REPORT**

**May 19, 2015**

**(8)**

**Re:** **Case No. 254-S-307**

**Request:** Amending Chapter 88, Zoning and Development Code, to add Section 88-318 Arts, ~~creating standards for Murals and~~ allowing for Artboards to be approved through a Special Use Permit in the Greater Downtown Area, and other revisions as necessary.

**Sponsor:** City Planning and Development

#### **ART PROVISIONS OF CHAPTER 88, ZONING AND DEVELOPMENT CODE:**

Currently, the code does not have any provisions regulating art. The proposed addition of the code would create a section regarding regulations for art and would define artboards and create a method for their approval.

#### **BACKGROUND:**

This new section of the code will provide regulations for artboards. The provisions for artboards will only apply within the area defined as the Greater Downtown Area.

#### **Artboards**

On September 26, 2013 Israel Garcia was sent a notice of violation for owning a legal-nonconforming outdoor advertising sign that remained blank and abandoned as defined by 88-445-14-B. Section 88-445-14-B "Legal Nonconforming Outdoor Advertising Signs" states "If a legal nonconforming outdoor advertising sign remains blank for a continuous period of 90 days, that outdoor advertising sign is deemed abandoned and no longer be deemed a legal nonconforming sign." Once a sign is determined to be nonconforming the city planning and development director must provide written notice to the signs record owner of the signs deficiencies and the owner must be given 30 days from the date of the notice to remove the sign.

Mr. Garcia had been using the outdoor advertising sign to display his art until that artwork was stolen. Because the structure had been permitted and registered as an outdoor advertising sign Mr. Garcia was required to maintain the structure as defined by 88-445-14. Since the sign remained blank for a period of 90 days it was no longer deemed to be a legal nonconforming sign. The sign could not be reestablished as an outdoor advertising sign due to:

- Location: Outdoor advertising signs are not allowed within 500 feet of a public park, playground, school, boulevard or parkway, or any residentially zoned district. The subject site is within 500 feet of Primitivo Garcia Elementary, Alta Vista Charter School, Jarboe Park, West Pennway, and residentially zoned properties.

- Zoning: Outdoor advertising signs are only allowed on property zoned M1-5 or M3-5. The property is zoned R-6.

Mr. Garcia appealed the decision to the Board of Zoning Adjustment. It has been determined that the only way the sign may remain is if regulations are added to the Zoning and Development Code to allow for the reuse of outdoor advertising signs as artboards regardless as to whether the existing structure is legally nonconforming or out of compliance.

The Mayor's Task Force for the Arts makes the following recommendation:

"Artists can often activate and enliven spaces in the urban landscape that would otherwise be vacant or undersigned. These un-tended spaces, public and private, are both a missed opportunity and can contribute to blight. The City can facilitate artists' temporary and opportunistic use of such spaces and venues as vacant walls, store-fronts, empty buildings, open spaces, unused billboards, etc." Additionally, the Greater Downtown Area Plan promotes public art but recommends "existing billboards should be removed whenever possible."

The most notable artboards in the city can be found at the Missouri Bank at 125 Southwest Boulevard. These artboards were approved through the approval of the Crossroads Art PIEA. These artboards are maintained by a program of Missouri Bank.

The addition of regulations for artboards in the zoning and development code would create standards for which existing outdoor advertising signs (whether currently in or out of compliance) to be converted to an artboard. The provisions include standards for maintenance and removal, size limitations, and the approval process.

Property owners wishing to convert an existing outdoor advertising sign to an artboard would be required to receive a special use permit. The special use permit process, which involves two public hearings before the City Plan Commission and Board of Zoning Adjustment, with decision by the latter, will allow each sign proposal to be evaluated based upon the provisions of 88-525-09:

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#### **88-525-09 APPROVAL CRITERIA**

No special use application may be approved unless the board of zoning adjustment finds that the proposed use in its proposed location:

**88-525-09-A.** complies with all applicable standards of this zoning and development code;

**88-525-09-B.** is in the interest of the public convenience and will not have a significant adverse impact on the general welfare of the neighborhood or community;

**88-525-09-C.** is compatible with the character of the surrounding area in terms of site planning and building scale and project design;

**88-525-09-D.** is compatible with the character of the surrounding area in terms of operating characteristics, such as hours of operation, outdoor lighting, noise, and traffic generation; and

**88-525-09-E.** will not have a significant adverse impact on pedestrian safety or comfort.

The proposed addition to the Zoning and Development Code is as follows:

## **88-318 ART**

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### **88-318-01 Artboards**

**88-318-01-A. INTENT** The purpose of this section is to allow and encourage the reuse of outdoor advertising signs within the Greater Downtown Area as artboards under certain terms and conditions.

**88-318-01-B. STANDARDS** The reuse of an existing or former outdoor advertising sign as an artboard may be allowed as either an accessory or principal use by special use permit subject to the following provisions:

- A. No part of the artboard may exceed 20 feet in height as measured from grade.
- B. An artboard shall be a freestanding structure, and may not be attached to a building.
- C. The structure of the artboard must be sound, and must not contain major indicia of disrepair, including rust, holes, or bending of the pole.
- D. The content shall not contain any obscene images or language.
- E. No more than 3% of the content shall be comprised of text.
- F. An artboard may not contain a commercial message or logo.
- G. An artboard may not use any moving images, electrical or mechanical components, or changing images.
- H. The content may not extend past the established boundary of the artboard.
- I. An artboard may include a plaque displaying the ownership or sponsorship of the artboard with an area no larger than one (1) square foot.
- J. Issuance of a Special Use Permit for an artboard will remove any nonconforming right to use the sign structure as an Outdoor Advertising Sign.
- K. Other than the above restrictions, the content of the artboard will not be a factor in the determination of whether it should be allowed.
- L. An artboard may only be allowed on a site within the Greater Downtown area.
- M. The Board of Zoning Adjustment may impose conditions of approval, including requiring landscaping or other improvement of the property on which the artboard will be located.

**88-318-01-C. REVOCATION OF SPECIAL USE PERMIT** In addition to provisions in 88-525-13 Revocation, the Special Use Permit is subject to revocation and the artboard will be ordered to be removed by the Director for any of the following conditions:

- A. If an artboard remains blank for a continuous period of 90 days, that artboard is deemed abandoned and the Special Use Permit is revoked and the entire structure must be removed. For purposes of this section, an artboard is "blank" if:
  - i. There is no content on the face of the artboard; or
  - ii. The content has become faded or otherwise deteriorated from its original condition in whole or substantial part.
- B. If lighting and/or electronic or digital displays are added to the artboard.
- C. If more than 50 percent of the structure's area be damaged or destroyed by any means
- D. If an artboard is enlarged or extended, or the height increased.
- E. If the faces, poles, supports, and braces of the artboard are not kept in good repair and free from tears, rust, and other indicia of deterioration.

Additionally, a definition of an artboard the Greater Downtown Area will need to be added as follows:

**88-810-105 – Artboard** – An artboard is an outdoor advertising sign used for the display of original paintings, illustrations and photographs.

**88-810-683 – Greater Downtown Area** – The area generally bounded by the city limits of North Kansas City on the north, the state line on the west, 31<sup>st</sup> Street on the south and Woodland Avenue on the east.

**Recommendation:**

In order to allow for the creative reuse of outdoor advertising signs within the downtown area staff recommends approval of the addition of the text revisions to the Zoning and Development Code as outlined above.

Respectfully Submitted,



Ashley Winchell  
Planner