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Chair

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Lisa Bailey
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Georgia Way

ZBA-24-54

To: City of Pueblo Zoning Board of Appeals
From: Beritt Odom, Principal Planner
Through: Scott Hobson, Administrative Official
Date: September 24, 2024
Request: An Appeal of an Administrative Determination regarding the definition of a sign, Section, 17-10-04, (c), (9) of the Pueblo Municipal Code.
Location: 131 Spring St.
Applicant: Jeff Madeen
Property Owner: Jeff and Sofia Madeen
Legal Description: Lots 31-32, Block 110, South Pueblo Subdivision
Zone District: B-4, Central Business District
Parcel ID: 536401006
Lot Size: .1607 acres

BACKGROUND:

The building addressed at 131 Spring Street is a commercial structure, in the Grove Neighborhood, located in a B-4, Central Business District. The Blo Back Gallery commercial business operates within the building. . In 2022 City Councilor Sarah Martinez sent an email to Chief of Staff, Laura Solano, stating that she was approached by the owner of Blo Back Art Gallery about reinstalling his "ART" sign that was on top of his building, which "could be seen when driving on I-25." Councilor Martinez's email states that Mr. Madeen, property owner, was "told by the city to remove his orange 'ART' sign that was on top of his building." Chief of Staff, Solano, forwarded Councilor Martinez's email to Scott Hobson, Acting Director of Planning and Community Development, requesting that the Planning Department review Mr. Madeen's request to reinstall the "ART" sign on the roof of 131 Spring Street. Mr. Hobson responded to the email request, by citing that Section 17-10-07 of the Pueblo Municipal Code prohibits signs placed on the roof surface of a structure. Mr. Hobson's email details the purpose and intent of the sign code and stated further that the sign code would not prohibit an artistic structure, which does not contain a commercial message, from being mounted on the roof of 131 Spring Street. The Planning and Community Development Department does not have any permitting requests for the "ART" sign on file. The City of Pueblo Code Enforcement Division does not have any code violations on file regarding the "ART" sign.

ANALYSIS OF APPLICANT'S REQUEST:

Mr. Madeen's administrative determination appeal application states that he is requesting to "allow sign that says ART to be re-installed on roof ob building." The application includes the following message, "Who decides what is considered art?" "Artist decides it, including which type, it belongs to. The judge, who is the beholder, decides to accept artist's premise or not, including the type, and standard of the art. That's the beauty of it. And that's why it is art and not science or math. Sep 4, 2016." The application also includes a "Structural Plan" for a "Roof Sign-Blo Back Gallery," prepared by Darlene Horn, DK Horn Engineering. The engineered sign plan details the sign support structure and shows that the total height of the "ART" sign is 10-feet.

An email was sent to Mr. Madeen on September 6, 2024, by Beritt Odom, Principal Planner, requesting clarification on the appeal request. The email inquired whether Mr. Madeen was appealing "the Administrative Official's

determination that the proposed “ART” sign is not a sign, but a piece of art mounted on the roof?” or if Mr. Madeen was appealing the “Administrative Official’s determination that signs placed on a roof structure are prohibited?” Mr. Madeen replied by stating, “I’m appealing that the construction on the roof is art because I as the designer, artist and fabricator says so. The roof construction has been used by more than a few artists in their work” (September 6, 2024, email from Jeff Madeen, blobackgallery@gmail.com).

It is the Planning and Community Development Department’s interpretation that Mr. Madeen is appealing the Administrative Official’s determination that the “ART” sign, which was previously attached to the roof of 131 Spring Street, is a commercial sign.

ANALYSIS OF THE PUEBLO MUNICIPAL CODE:

Section 17-10-04, (e), (9) of the Pueblo Municipal Code defines a sign as “any device designed to inform or attract the attention of persons not on the premises on which the sign is located and including any words, lettering, figures, numerals, phrases, sentences, devices, designs, pictures, symbols, or trademarks by which anything is made known, whether placed on natural objects or on a building, fence or other man-made structure, which are visible from any public street or public street or public road right-of-way.”

Section 17-10-04, (e), (28) of the Pueblo Municipal Code defines a “Sign, roof” as a “sign, or any portion thereof, erected, constructed or projecting upon or over the roof or parapet wall of any building, whether the principal support for the sign is on the roof, wall or any other structural element of the building.”

Section 17-10-07, (1), of the Pueblo Municipal Code, lists “roof signs placed on the roof surface” as prohibited.

Scott Hobson, Acting Director of Planning and Community Development, determined that the “ART” sign meets the definition of a sign because it is a device intended to inform and or attract the attention of persons not on the premises to the premises. As stated in the 2022 email from Councilor Martinez, the “ART” structure is visible from I-25. The “ART” sign consists of the word art and it is intended to be erected on the roof of Blo Back Gallery; therefore advertising the art gallery use, located within the structure at 131 Spring Street. The Planning and Community Development Department does not have the authority to permit a roof sign according to Section 17-10-07, (1) of the Pueblo Municipal Code, which specifically prohibits roof signs.

ZONING DISTRICT AND LAND USE

Zone:		Developed with:
North	Watertower Place PUD	Historic Watertower industrial complex
East	B-4, Central Business District	Single family residence
South	R-4, Mixed Residential District, and B-4, Central Business District.	B-4, apartments that may be vacant and Fox’s Garden Supply yard. R-4, single family residence
West	R-4, Mixed Residential District	Unimproved lot, owned by the applicant

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 D). These notices occurred at least 10 days prior to the hearing.

ATTACHMENTS

- A. Site/Aerial Map
- B. Zoning Map

C. Public Notice Photo

D. Site Photographs

E. Application

F. Applicant Attachments

1. Structural Plan, Roof Sign-Blo Back Gallery
2. "Who decides what is considered art?"
3. Photograph of 131 Spring Street with "ART" affixed to the roof
4. Sarah Martinez, City Council, email, dated July 11, 2022

G. Email from Jeff Madeen, September 6, 2024

Exhibit A. Site/Aerial Map

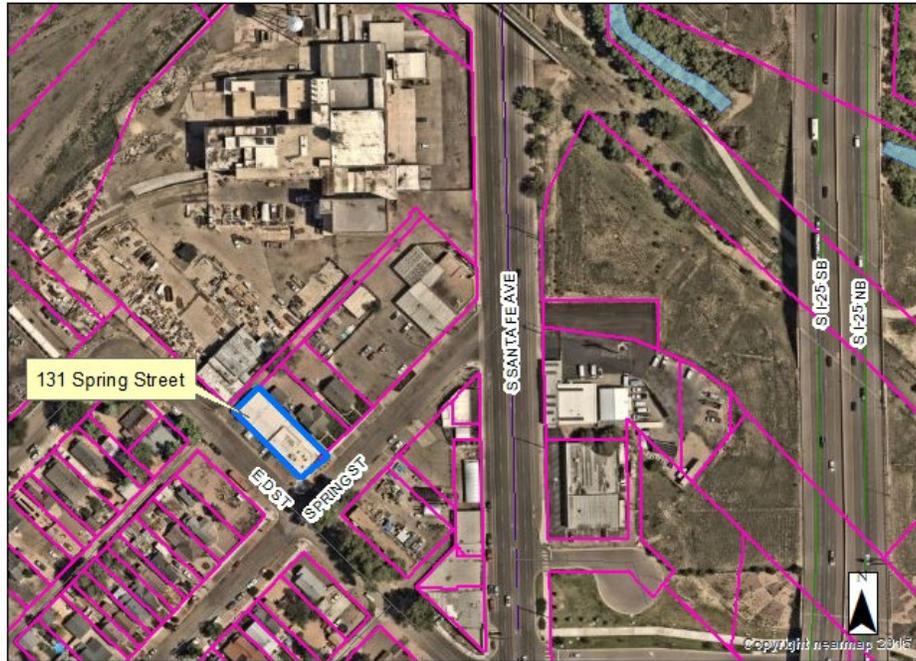


Exhibit B. Zoning Map

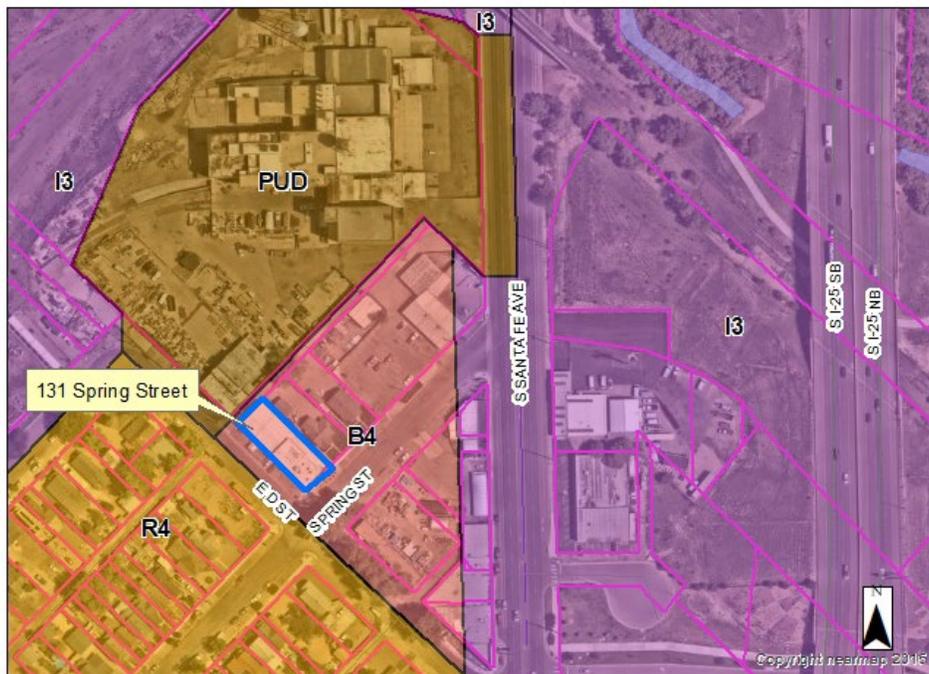




Exhibit C. Public Notice



Exhibit D. Site Photos
Looking west from Spring Street



Exhibit D. Site Photos
Looking northwest from Spring Street

24-170

Zoning Board of Appeals
- Special Use Permit &
Variances

Status: Active
Submitted On: 8/29/2024

Primary Location

131 SPRING ST
PUEBLO, CO 81003

Owner

MADEEN JEFFREY/MADEEN
SOFIA
618 E D ST PUEBLO , CO 81003

Applicant


@ madeen.jeff@gmail.com

Internal

 ZBA Case Number

ZBA-24-54

 Planner Assigned

Planner 4

 Address Validation by GIS?

ZBA

 Hearing Date

09/24/2024

 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:

—

🔒 Is a 1-year inspection required?

—

Scope of Work

Type of Request*

Appeal

Provide a short description of the proposed request:*

To allow sign that says ART to be re-installed on roof of building

What is the general use of the property*

Commercial

Detailed explanation of the request as listed above. *

Appeal

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

Appeal Administration Decision

Are there any concurrent zoning requests?*

No

Terms

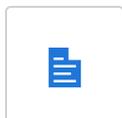
Is the applicant and property owner the same?*

Yes

Applicant/Property Owner Signature*

 Jeff Madeen
Aug 29, 2024

Attachments



Site_Plan_.pdf

Site_Plan_.pdf

Uploaded by Cindy Capritta on Aug 30, 2024 at 8:41 AM

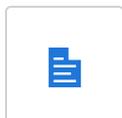


Photo.pdf

Photo.pdf

Uploaded by Cindy Capritta on Aug 30, 2024 at 8:43 AM



ZBA APPLICATION SIGNED.pdf

ZBA APPLICATION SIGNED.pdf

Uploaded by Cindy Capritta on Aug 30, 2024 at 8:45 AM



Scott email.pdf

Scott email.pdf

Uploaded by Cindy Capritta on Aug 30, 2024 at 8:46 AM



Laura Solano email.pdf

Laura Solano email.pdf

Uploaded by Cindy Capritta on Aug 30, 2024 at 8:48 AM

History

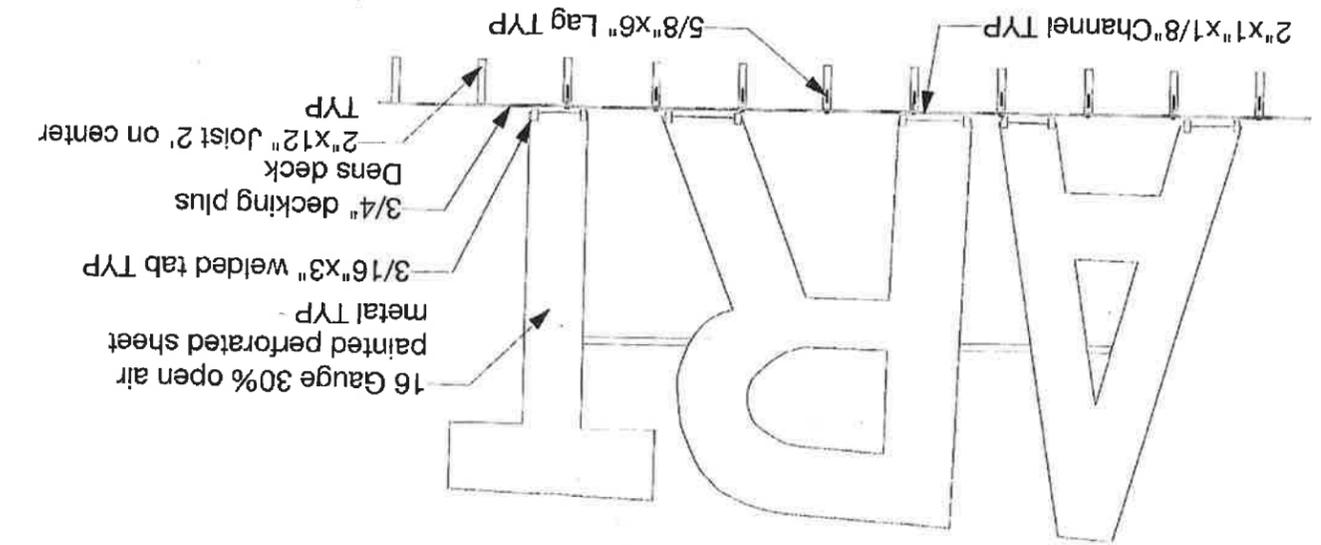
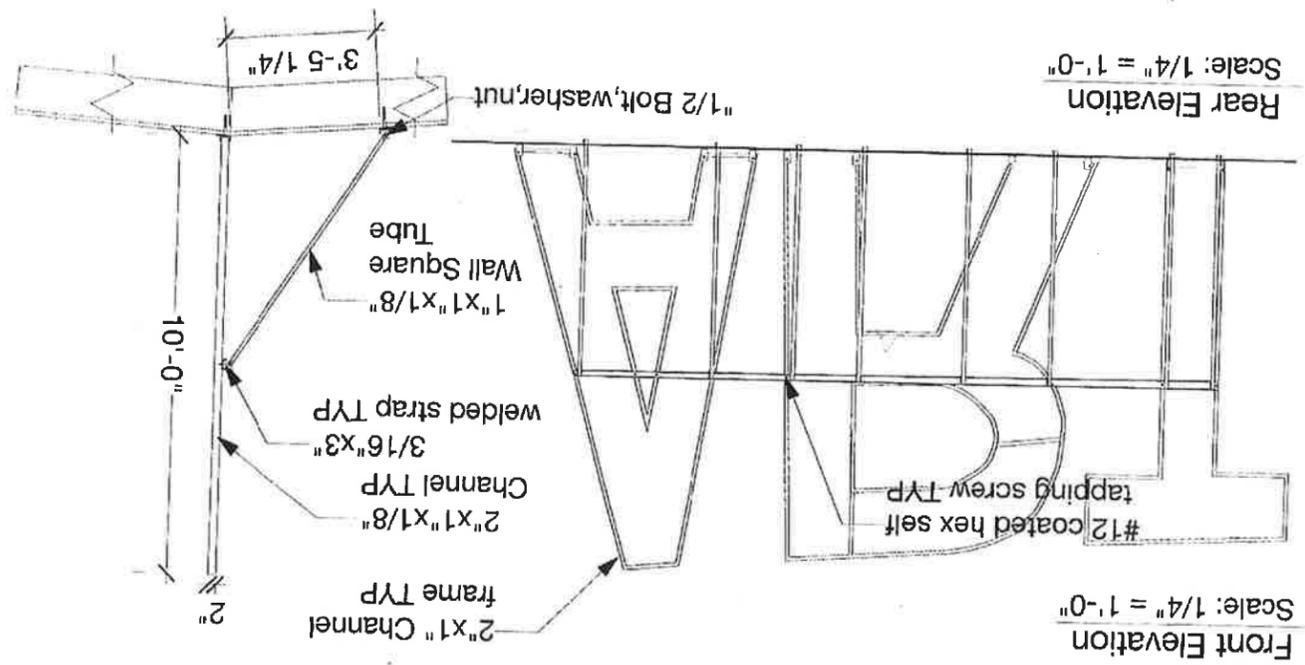
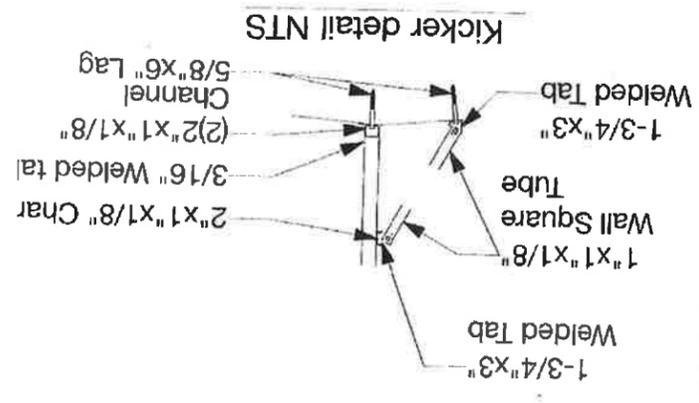
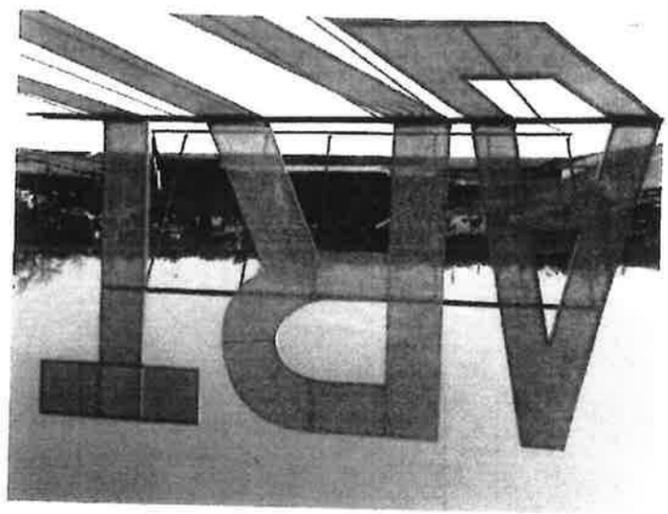
Date	Activity
8/30/2024, 8:49:55 AM	Cindy Capritta altered Record 24-170, changed applicantUserID from "Cindy Capritta" to "madeen.jeff@gmail.com"
8/30/2024, 8:27:36 AM	approval step Planning (Zoning) Initial Review of Submittal was assigned to Beritt Odom on Record 24-170
8/30/2024, 8:27:36 AM	Cindy Capritta approved approval step Land Use Tech Review on Record 24-170
8/30/2024, 8:27:30 AM	Cindy Capritta approved approval step Intake Review on Record 24-170
8/30/2024, 8:27:14 AM	Cindy Capritta changed ZBA Case Number from "" to "ZBA-24-54" on Record 24-170
8/30/2024, 8:27:14 AM	Cindy Capritta changed Hearing Date from "" to "09/24/2024" on Record 24-170
8/29/2024, 4:04:44 PM	Carol Martinez assigned approval step Intake Review to Cindy Capritta on Record 24-170
8/29/2024, 3:58:43 PM	Beritt Odom approved approval step Case Assignment on Record 24-170
8/29/2024, 3:58:17 PM	Beritt Odom changed Planner Assigned from "" to "Planner 4" on Record 24-170
8/29/2024, 2:29:45 PM	changed the deadline to Aug 30, 2024 on approval step Case Assignment on Record 24-170
8/29/2024, 2:29:45 PM	approval step Case Assignment was assigned to Beritt Odom on Record 24-170

Date	Activity
8/29/2024, 2:29:45 PM	approval step Land Use Tech Review was assigned to Cindy Capritta on Record 24-170
8/29/2024, 2:29:45 PM	approval step Intake Review was assigned to Planning Front Counter on Record 24-170
8/29/2024, 2:29:44 PM	completed payment step Application Fee on Record 24-170
8/29/2024, 1:57:21 PM	Cindy Capritta approved approval step Fee Review on Record 24-170
8/29/2024, 1:57:10 PM	Cindy Capritta altered approval step Fee Review, changed sequence from "1" to "0" on Record 24-170
8/29/2024, 1:57:10 PM	Cindy Capritta assigned approval step Fee Review to Cindy Capritta on Record 24-170
8/29/2024, 1:55:41 PM	changed the deadline to Aug 31, 2024 on approval step Fee Review on Record 24-170
8/29/2024, 1:55:41 PM	approval step Fee Review was assigned to Planning Front Counter on Record 24-170
8/29/2024, 1:55:41 PM	Cindy Capritta submitted Record 24-170
8/29/2024, 1:51:23 PM	Cindy Capritta started a draft of Record 24-170

Timeline

Label	Activated	Completed	Assignee	Due Date	Status
✓ Fee Review	8/29/2024, 1:55:41 PM	8/29/2024, 1:57:21 PM	Cindy Capritta	8/30/2024	Completed
💰 Application Fee	8/29/2024, 1:57:23 PM	8/29/2024, 2:29:44 PM	null null	-	Completed
✓ Intake Review	8/29/2024, 2:29:45 PM	8/30/2024, 8:27:29 AM	Cindy Capritta	-	Completed
✓ Land Use Tech Review	8/29/2024, 2:29:45 PM	8/30/2024, 8:27:36 AM	Cindy Capritta	-	Completed
✓ Case Assignment	8/29/2024, 2:29:45 PM	8/29/2024, 3:58:43 PM	Beritt Odom	8/29/2024	Completed

Label	Activated	Completed	Assignee	Due Date	Status
✓ Planning (Zoning) Initial Review of Submittal	8/30/2024, 8:27:36 AM	-	Beritt Odom	-	Active
✓ Public Notice	-	-	-	-	Inactive
📄 Public Notice Memo	-	-	-	-	Inactive
💰 Public Notice Fee	-	-	null null	-	Inactive
✓ Staff Report and Agenda Distribution	-	-	-	-	Inactive
✓ ZBA Hearing Outcome	-	-	-	-	Inactive
✓ Permit Issuance	-	-	-	-	Inactive
📋 Final Inspection	-	-	-	-	Inactive



STRUCTURAL
PLAN
S1

PROJ. NUM.: 2020-D190
DRAWN BY: DKH
REVIEW BY: DKH
DATE: 12-16-2020
ISSUE RECORD:

ROOF SIGN - BLO BACK GALLERY

616-620 EAST D STREET
PUEBLO, COLORADO 81003

2441 SOUTH PRAIRIE AVENUE
PUEBLO, CO 81005
TEL 719.696.0274



Who decides what is considered art?

Artist decides it, including which type, it belongs to. The judge, who is the beholder, decides to accept artist's premise or not, including the type, and standard of the art. That's the beauty of it. And that's why it is art and not science or math. Sep 4, 2016



From: Sarah Martinez smartinez@pueblo.us
Subject: FW: Request from Councilor Martinez regarding a sign posted by Bio Back Gallery
Date: July 11, 2022 at 1:17 PM
To: blobackgallery@gmail.com

Hi Jeff,

I'm so sorry this took so long but I think we finally have an answer regarding your ART sign above your gallery. See the planning director's email below — he also said you can call him and walk through the question as well. If I'm reading it correctly, it sounds like there's no problems with art on a roof.

If I can help further, please let me know.

Sarah

Sent with BlackBerry Work
(www.blackberry.com)

From: Laura Solano <LSolano@pueblo.us>
Date: Sunday, Jul 10, 2022, 2:50 PM
To: Nick Gradisar <NGradisar@pueblo.us>, Sarah Martinez <SMartinez@pueblo.us>, Scott Hobson <shobson@pueblo.us>, Beritt Odom <bodom@pueblo.us>
Subject: FW: Request from Councilor Martinez regarding a sign posted by Bio Back Gallery

Councilor Martinez,
Scott Hobson and Beritt Odom reviewed the gentleman's concern from Blo Back Gallery regarding the signage posted on a roof top. Please see Scott's email message below for a detailed explanation of the City codes.

If the Gallery Owner has follow-up questions, Scott or Beritt can assist him. Would you connect him with the City Planning Office? Scott's contact number is in the email message below.

Thanks much,
Laura

Laura Solano
Chief of Staff
1 City Hall Place
Pueblo, CO 81003
lsolano@pueblo.us
Office (719) 553-2609
Cell (719) 225-0933



From: Scott Hobson <shobson@pueblo.us>
Sent: Wednesday, July 6, 2022 8:54 AM
To: Laura Solano <LSolano@pueblo.us>; Nick Gradisar <ngradisar@gmail.com>

Cc: Beritt Odom <bodom@pueblo.us>

Subject: RE: Request from Councilor Martinez regarding a sign posted by Bio Back Gallery

Laura,

I'm getting back with you on the request from Councilor Martinez on the possibility of permitting a roof mounted large "ART" sign at Bio Back Gallery. I have reviewed the municipal code regarding roof mounted advertising signs. Below the section of the municipal code pertaining to roof mounted signs, along with the purpose and intent of the Sign Code:

Signs placed on the roof surface of a structure are prohibited by the Zoning Code, 17-10-07.

The purpose and intent of the Sign Code includes the following which relate to roof signs (17-10-01)

- Enhance and protect the physical appearance of the City.
- Promote and maintain visually attractive, high value residential, retail, commercial and industrial districts.
- Ensure that signs are located and designed to:
 - Provide an effective means of wayfinding in the community.
 - Promote the efficient communication of messages.
 - Promote safety of persons and property by regulating signs so as not to confuse or distract motorists or impair drivers' ability to see pedestrians, obstacles, other vehicles, or traffic directional signs.
 - Minimize the disruption of scenic views which , when maintained, protect important community values.
 - Afford businesses, individuals, and institutions a reasonable opportunity to use signs as an effective means of communication.
- Curb the proliferation of signs.

Many municipalities prohibit roof signs in Colorado. The planning staff did a quick google search and found that Arvada, Colorado Springs, Fruita, Canon City all prohibit roof mounted commercial signs. Roof signs are generally associated with visual clutter, obstacles to view corridors, potential safety hazards to adjacent properties and pedestrians.

The sign code does not prohibit artist roof mounted structures that do not have a commercial message from being installed on a roof in the appropriate zone district, The Bio Back Gallery is in a B-4 zone district which would not prohibit an artist piece from being mounted on the roof of the building. The "ART" wording depicts a commercial message and would not be permitted, but, an artist piece without a commercial message is not prohibited. The artist piece would need to be engineered and permitted through the Regional Building Department to make sure it complies with building codes.

If you have any other questions, please contact me.

Scott

Scott Hobson

Acting Director of Planning & Community Development
City of Pueblo
Planning and Community Development Department
211 E. D Street
Pueblo, CO 81003
Main (719) 553-2259
Direct (719) 553-2244



From: Laura Solano <LSolano@pueblo.us>

Sent: Tuesday, June 28, 2022 3:08 PM

To: Scott Hobson <shobson@pueblo.us>; Nick Gradisar <NGradisar@pueblo.us>; Sarah Martinez <SMartinez@pueblo.us>

Subject: Request from Councilor Martinez regarding a sign posted by Bio Back Gallery

Scott,

Councilor Martinez circled back for an update on her previous request for planning to review the Bio Back Gallery Art sign posted on the property. Could you investigate and send an update reply for her and the gallery owner?

Thank you,
Laura

Laura Solano
Chief of Staff
1 City Hall Place
Pueblo, CO 81003
lsolano@pueblo.us
Office (719) 553-2609
Cell (719) 225-0933



From: Sarah Martinez <SMartinez@pueblo.us>

Sent: Wednesday, June 15, 2022 5:42 PM
To: Laura Solano <LSolano@pueblo.us>
Subject: Re: Question for Planning (probably)

Hi Laura,
Just following up on this request. I was approached -again- by the Blo Back gallery owner about restoring the large orange ART sign on his property. I'm really hoping we can work with him to restore the sign given it was secure and it's not impeding air space.
Thanks,

Sarah Martinez
City Council, District 3
City of Pueblo
(Cell) 719-568-8033



[Choose Pueblo](#)

From: Laura Solano <LSolano@pueblo.us>
Sent: Wednesday, April 27, 2022 10:55 AM
To: Nick Gradisar <NGradisar@pueblo.us>; Scott Hobson <shobson@pueblo.us>; Sarah Martinez <SMartinez@pueblo.us>
Subject: FW: Question for Planning (probably)

Hi,
Would you read Councilor Martinez's email below with a question about zoning restrictions?
Scott, could you reach out by email or phone call?
Thank you,
Laura

From: Sarah Martinez <SMartinez@pueblo.us>
Sent: Tuesday, April 26, 2022 7:00 PM
To: Laura Solano <LSolano@pueblo.us>
Subject: Question for Planning (probably)

Hi Laura,
I was approached by the guy that owns the Blo Back Art gallery in the Grove neighborhood about zoning restrictions. Specifically, he was told by the City to remove his orange "ART" sign that was on top of his building and could be seen when driving on i25 because it violated code. I'm wondering if we can provide more clarity to the owner or even work on a solution to reinstate the letters.
Thank you for your help

Beritt Odom

From: Jeff Madeen <blobackgallery@gmail.com>
Sent: Friday, September 6, 2024 11:12 AM
To: Beritt Odom
Subject: [External] Re: ZBA-24-54 131 Spring St.

External email. Please use caution.

I'm appealing that the construction on the roof is art because I as the designer, artist and fabricator says so. The roof construction has been used by more than a few artists in their work.

Beritt I'm not sure how to to reply to this in the portal.

Jeff Madeen
131 Spring Street • Pueblo, CO 81003
970-749-1211
www.blobackgallery.com

BLO BACK
GALLERY

On Sep 5, 2024, at 9:50 AM, Beritt Odom <bodom@pueblo.us> wrote:

Good morning Mr. Madeen,

We met with our ZBA Board Attorney this morning to review your Appeal request to the Zoning Board of Appeals. Please provide clarification on your appeal request:

- Are you appealing the Administrative Official's determination that the proposed "ART" sign is not a sign, but a piece of art mounted on the roof? Applicable Pueblo Municipal Code Section, 17-10-04, (c), (9), sign definition: https://library.municode.com/co/pueblo/codes/code_of_ordinances?nodeId=TI TXVIIZO_CH10SI_S17-10-04COMERUDE
- Are you appealing the Administrative Official's determination that signs placed on a roof structure are prohibited? Applicable Pueblo Municipal Section, 17-10-07, (1):https://library.municode.com/co/pueblo/codes/code_of_ordinances?nodeId=TI TXVIIZO_CH10SI_S17-10-07PRSI
- Or are you appealing an Administrative Official determination not listed above?

Please provide clarification on your request by 4:00 p.m. on Monday September 9th. We will be preparing the public notices for the ZBA Hearing next week; therefore, we need to know the exact reason for appeal. Please provide any additional information you believe supports your appeal, the information will be included in the staff report presented to the Zoning Board of Appeals.

Feel free to contact me with any questions you may have,