



CITY COUNCIL STAFF REPORT

DATE: MAY 7, 2014

PUBLIC HEARING

SUBJECT: PROPOSED AMENDMENT TO THE PALM SPRINGS MUNICIPAL CODE SECTION 93.20.00 AND 93.20.03 AND ADOPT CHAPTER 5.81 REGARDING THE REGULATION OF ORIGINAL ART MURALS (CASE 5.1335 ZTA).

FROM: David H. Ready, City Manager

BY: Department of Planning Services

SUMMARY

The Palm Springs Zoning Code does not differentiate murals from signage. The City Council will consider an ordinance defining a mural and a new Chapter in the Palm Springs Municipal Code to establish a procedure for approving and maintaining murals.

RECOMMENDATION:

1. Open the public hearing and receive public testimony.
2. Waive the reading of the ordinance text in its entirety and read by title only; and introduce on first reading Ordinance No. _____, "AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA, AMENDING SECTIONS 93.20.00 AND 93.20.03 OF, AND ADDING CHAPTER 5.81 TO, THE PALM SPRINGS MUNICIPAL CODE REGARDING THE REGULATION OF ORIGINAL ART MURALS."

STAFF ANALYSIS:

Significant review has been done to establish definitions and standards for murals to be considered within the City of Palm Springs.

The Code currently defines a sign is as follows:

". . . any identification, description, illustration or device . . . located on private property and exposed to the public and which directs attention to a product, place, person, institution, business or solicitation . . . Any emblem painting . . . designed to advertise, identify or convey information shall be considered a sign . . ."

ITEM NO. 16

Pursuant to the current Code a mural would be considered a sign and would be subject to the requirements of the sign ordinance. Staff recommends a new definition of the Code be added for mural in Section 93.20.03 as follows:

19. "Mural" means a painting or artwork temporarily or permanently affixed to a building wall, freestanding wall, or fence, distinguished from signage in that it does not advertise a business, commercial endeavor, or product sold or offered on the site or off-site.

Additionally, the following amendment is proposed to Code Section 93.20.00.27 to further clarify the definition of a sign does not include murals.

b. This definition shall not include murals as reviewed and approved by the City Council pursuant to Chapter 5.81 of this Code.

A new Chapter 5.81 is proposed to the Palm Springs Municipal Code to adopt a procedure for approving murals, and regulations ensuring their maintenance and lifespan.

The proposed procedure requires an application be submitted to the Planning Department for consideration by the Planning Commission, to make a recommendation to the City Council for final approval. Additionally the Planning Department shall submit the application to the Public Arts Commission solely for the purpose of providing input on the appropriateness of the proposed Art. The City Council shall have final approval of all murals.

Prior to the Planning Commission taking any action on a proposed mural, the applicant would be required to notify property owners within one-half mile of the site.

In addition to the procedural requirements, the proposed ordinance provides several regulations for murals as contained in Section 5.81.050 of the proposed Code.

At the April 23, 2014, Planning Commission meeting there was significant discussion regarding the proposed process. A majority of the Planning Commission members felt that it was important that the Planning Commission review the matter for locational compatibility and therefore this concept has been incorporated into the proposed ordinance for the City Council.

Additionally there was discussion regarding whether or not murals should be allowed to cover doors and windows and vents and the Planning Commission determined the option should be available for each individual application.

Lastly, the question was raised regarding whether or not upon change of ownership the building owner should be able to terminate the covenant without permission of the Public Arts Commission. This provision remains in the proposed ordinance as Section 5.81.040(b) for consideration by the City Council.

ENVIRONMENTAL ASSESSMENT:

The City of Palm Springs, in its capacity as the Lead Agency, under the California Environmental Quality Act (CEQA) has determined that the proposed zoning code text amendment is Categorically Exempt under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act since the proposed zone text amendment proposes only insignificant changes to the land use designation provisions.

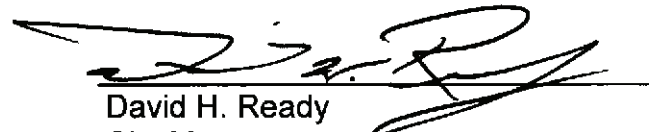
NOTIFICATION

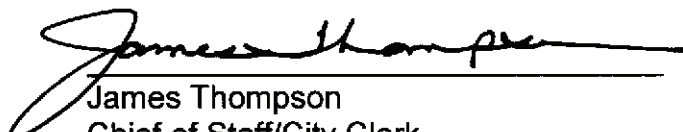
Notice was provided by advertisement in the Desert Sun. No written communications have been received at the writing of this report.

FISCAL IMPACT:

None. If the proposed ordinance is adopted by the City Council, staff will estimate the cost to process a mural application, and prepare an amendment to the comprehensive fee schedule, to add a mural application permit fee.


M. Margo Wheeler, AICP
Director of Planning Services


David H. Ready
City Manager


James Thompson
Chief of Staff/City Clerk

ORDINANCE APPROVED AS TO FORM:


Douglas C. Holland, City Attorney

Attachment:

1. Draft Ordinance
2. 4-23-14 Planning Commission Minutes

ORDINANCE NO. ____

**AN ORDINANCE OF THE CITY OF PALM SPRINGS, CALIFORNIA,
AMENDING SECTIONS 93.20.00 AND 93.20.03 OF, AND ADDING
CHAPTER 5.81 TO, THE PALM SPRINGS MUNICIPAL CODE
REGARDING THE REGULATION OF ORIGINAL ART MURALS.**

City Attorney Summary

Currently the Palm Springs Municipal Code does not differentiate murals from signage. This Ordinance establishes a definition for murals and establishes a process for approving original art murals on private property including their maintenance and lifespan.

The City Council of the City of Palm Springs finds:

A. Pursuant to CEQA, the City Council determines the proposed Zone Text Amendment (Case 5.1335 ZTA) is Categorically Exempt from the provisions of CEQA under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act, because the proposed Zone Text Amendment proposes only insignificant changes to the title and provides for new definitions of signs and murals.

B. The Zone Text Amendment is consistent with the intent of the Zoning Code, because, according to Section 91.00.00, the Zoning Code is adopted "for the purpose of promoting and protecting the public health, safety and welfare of the people of the city of Palm Springs and to provide for the social, physical and economic advantages resulting from comprehensive and orderly planned use of land resources . . .;" and the amendment proposes to add a definition for murals.

C. The Zone Text Amendment is consistent with the intent of the General Plan, because, the General Plan goals include:

1. Convey a positive image through the use of attractive and well-designed public and private informational signage.
2. Create active, vibrant and attractive gathering places.
3. Encourage a varied collection of public art murals that add to the charm and character of the City.

The City Council of the City of Palm Springs ordains:

SECTION 1. Paragraph 19 of Section 93.20.03 of the Palm Springs Municipal Code is amended by adding a definition of "mural" as follows:

19. "Mural" means a painting or artwork temporarily or permanently affixed to a building wall, freestanding wall, or fence, distinguished from signage in that it

does not advertise a business, commercial endeavor, or product sold or offered on the site or off-site.

SECTION 2. Existing Paragraphs 19 through 30 of Section 93.20.00 of the Palm Springs Municipal Code are renumbered as Paragraphs 20 through 31.

SECTION 3. Paragraph 27.b of Section 93.20.03 of the Palm Springs Municipal Code is added to read:

b. This definition shall not include murals as reviewed and approved by the City Council pursuant to Chapter 5.81 of this Code.

SECTION 4. Chapter 5.81 is added to the Palm Springs Municipal Code to read:

Chapter 5.81

ART MURALS ON PRIVATE PROPERTY

- 5.81.010 Purpose.**
- 5.81.020 Permit Required.**
- 5.81.030 Procedure.**
- 5.81.040 Requirements.**
- 5.81.050 Regulations.**

5.81.010 Purpose.

(a) This Chapter is intended to enact a process and procedures for the installation of original art murals on private property and further the public interest by: (i) encouraging artistic expression; (ii) fostering a sense of pride; (iii) preventing vandalism at mural sites through the installation of murals that vandals are reluctant to disturb; and (iv) preserving existing murals that are a valued part of the history of the City.

(b) The City wishes to encourage the installation of murals and, at the same time, prevent the proliferation of off-site commercial signs. Therefore, the City's mural regulations do not allow commercial advertising.

(c) Mural regulations also promote public safety and welfare by ensuring the following objectives are achieved:

1. The design, construction, installation, repair, and maintenance of such displays will not interfere with traffic safety or otherwise endanger public safety.
2. Regulation will provide reasonable protection to the visual environment by controlling the size, height, spacing, and locations of such displays.

3. The public will enjoy the aesthetic benefits of being able to view such displays in numbers and sizes that are reasonably and appropriately regulated.

4. To impose permit requirements and regulations for murals.

5.81.020 Permit required.

(a) It is unlawful for any person, firm, or corporation to authorize, erect, construct, maintain, move, alter, change, place, suspend, or attach any mural within the City without first obtaining the necessary permits.

(b) An application for a mural shall be submitted to the Planning Department to be assessed by City staff for compliance with this Code.

(c) An application for a mural shall be submitted with the Mural Application Permit Fee, as established by resolution of the City Council.

5.81.030 Procedure.

(a) Prior to any action by the Planning Commission, the Applicant shall send notice of such application to all property owners within one-half mile of the location of the mural at least 30-days prior to the Planning Commission consideration of the mural. No mural shall be permitted until the applicant has certified that notification has been completed.

(b) The Planning Department shall submit the application to the Planning Commission for review as to the compatibility of the proposed mural in the location and on the specific structure the mural is proposed, and all other applicable requirements of the Zoning Code.

(c) The Planning Commission may refer the application to the Architectural Advisory Committee or the Historic Site Preservation Board as necessary.

(d) The Planning Department shall submit the application to the Public Arts Commission who shall provide input and comment on the appropriateness of the proposed art.

(e) The Planning Department shall submit the application to the City Council for final approval.

5.81.040 Requirements.

(a) The owner of the property on which a mural is installed, shall execute and deliver to the Office of the City Clerk a covenant for recordation in a form approved by the City Attorney. The covenant shall provide that the mural will be installed and maintained at all times in full compliance with this Chapter. In addition, the covenant shall remain in force for as long as the mural exists.

(b) Upon a change of ownership of the property to which a Mural is installed, the new owner may, at the owner's election and without the need for permission from the City, terminate the covenant and remove the mural, subject to the provisions of this Chapter.

5.81.050 Regulations.

An approved mural shall comply with all of the provisions of this Section:

A. The mural shall remain in place, without alteration, for a minimum period of two years. An "alteration" includes any change to a permitted mural, including, but not limited to, any change to the image(s), materials, colors, or size of the permitted mural. "Alteration" does not include naturally occurring changes to the mural caused by exposure to the elements or the passage of time or that result from the maintenance or repair of the mural. Such minor changes may include slight and unintended deviations from the original image, colors, or materials that occur when the permitted mural is repaired due to the passage of time or as a result of vandalism.

B. A mural may be removed within the first two years of the date of registration under the following circumstances.

1. The property on which the mural is located is sold; or
2. The structure or property is substantially remodeled or altered in a way that precludes continuance of the mural; or
3. The property undergoes a change of use authorized by the Department of Building and Safety.
4. The owner of a mural may request permission from the City Manager to remove a mural prior to the expiration of the two year period, which the City Manager may grant upon making a finding that the continued maintenance of the mural is not feasible and that the early removal of the mural is not a furtherance of off-site commercial advertising.

C. No part of a mural shall exceed the height of the structure to which it is tiled, painted, or affixed.

D. No part of a mural shall extend more than six (6) inches from the plane of the wall upon which it is tiled, painted, or affixed.

E. No part of a mural shall exceed a height of 35 feet above grade.

F. No mural may consist of, or contain, electrical or mechanical components, or changing images (moving structural elements, flashing or sequential lights, lighting elements, or other automated methods that result in movement, the appearance of movement, or change of mural image or message, not including static illumination turned off and back on not more than once every 24 hours).

G. No mural shall be placed on a lot that is improved with only one single-family residential structure and accessory structures.

H. No mural shall be arranged and illuminated in a manner that will produce light intensity of greater than three foot candles above ambient lighting, as measured at the property line of the nearest residentially zoned property.

I. Digitally printed image murals shall receive approval of both the Fire Department and Department of Building and Safety.

J. A mural shall not be created without the final authorization of the Palm Springs City Council.

SECTION 5. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after passage.

PASSED, APPROVED, AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 21ST DAY OF MAY, 2014.

STEPHEN P. POUQUET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. _____ is a full, true, and correct copy, and introduced by the City Council at a regular meeting held May 7, 2014, and adopted at a regular meeting of the City Council held on the May 21, 2014, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California

Chair Donenfeld commented that due to the nature of the environment a variance is appropriate; however, a better design is needed.

Commissioner Roberts recapped the Commission's comments:

1. Establish a hierarchy of the product brands on the monument sign.
2. Eliminate the website and phone number from signage; focus more on the main business.
3. Temporary signs for grand opening will be allowed within the zoning code requirements.

ACTION: Table to allow the applicant the opportunity to incorporate the Planning Commission's concerns.

Motion: Commissioner Roberts, seconded by Chair Donenfeld and unanimously carried 6-0-1 on a roll call vote.

AYES: Commissioner Calerdine, Commissioner Klatchko, Commissioner Lowe, Commissioner Roberts, Vice-Chair Hudson and Chair Donenfeld,

ABSENT: Commissioner Weremiat

1B. CITY OF PALM SPRINGS TO CONSIDER AN AMENDMENT TO THE PALM SPRINGS ZONING CODE (PSZC) SECTION 93.20 SIGNS, TO CHANGE THE DEFINITION OF SIGNS AND ADD A DEFINITION AND ADOPT REQUIREMENTS FOR MURALS (CASE 5.1335 ZTA). (MW)

Director Wheeler presented the proposed zone text amendment as outlined in the staff report.

Director Wheeler clarified that the mural application would go to the AAC for review of location and impact to the neighborhood and then proceed to the Public Arts Commission for review of content.

Chair Donenfeld opened the public hearing and with no appearances coming forward the public hearing was closed.

Commissioner Klatchko commented that a mural attracts attention to the business in the building even if there is no name on it. He thinks the Planning Commission should be involved in the review process. He expressed concern with the change of ownership in de-registering and terminating the covenant. He prefers that it should run with the land and go through a process of termination.

Commissioner Roberts agreed that the Planning Commission should be included in the review process.

Chair Donenfeld noted that since the AAC's responsibility is to review projects for aesthetics this process could be eliminated and reviewed by the Planning Commission instead.

Vice-Chair Hudson did not agree with the following sections of the draft ordinance:

- Section 3.37.170 "Purposes"; - "City encouraging murals . . ." and
- (b)(6) ". . . not placing murals over windows, doors or vents".

Commissioner Calerdine said he does not have a problem with the definition, however, expressed concern with the process. Planning Commission should replace AAC.

ACTION: To recommend approval to the City Council with amendments to process.

Motion: Chair Donenfeld, seconded by Commissioner Klatchko and unanimously carried 6-0-1 on a roll call vote.

AYES: Commissioner Calerdine, Commissioner Klatchko, Commissioner Lowe, Commissioner Roberts, Vice-Chair Hudson and Chair Donenfeld

ABSENT: Commissioner Weremiuk

~~2. NEW BUSINESS:~~

~~2A. BEAZER HOMES FOR APPROVAL OF FINAL DEVELOPMENT PLANS FOR 72 SINGLE FAMILY HOMES WITHIN PLANNING AREAS 2A & 2B OF PD-231 (ESCENA) LOCATED AT 1000 NORTH GENE AUTRY TRAIL, ZONE W / M-1-P / PD-231 (CASE 5.0666 PD-231 FINAL PD). (DN)~~

~~Associate Planner Newell presented the proposed project as outlined in the staff report.~~

~~Vice-Chair Hudson commented on the similarity of 40 homes and would like to see more variations of the roof slopes especially on the street frontages.~~

~~Commissioner Roberts questioned the architectural guidelines for mid-century modern homes submitted in their packet. He struggled with this definition noting that sloped roof does not in itself identify a mid-century design and expressed concern with the design, placement and lack of emphasis on views.~~

~~Chair Donenfeld commented that although he is happy to see Escena is building out, he is concerned with the design of the homes. He spoke about the small windows and encouraged more openness to the outdoors.~~

NOTICE OF PUBLIC HEARING
CITY COUNCIL
CITY OF PALM SPRINGS

CASE 5.1335 ZTA
APPLICATION BY THE CITY OF PALM SPRINGS
FOR A ZONING TEXT AMENDMENT TO AMEND
PALM SPRINGS ZONING CODE (PSZC) 93.20 SIGNS AND
ADOPT REQUIREMENTS FOR MURALS

NOTICE IS HEREBY GIVEN that the City Council of the City of Palm Springs, California, will hold a public hearing at its meeting of May 7, 2014. The City Council meeting begins at 6:00 p.m. in the Council Chamber at City Hall, 3200 East Tahquitz Canyon Way, Palm Springs.

The purpose of the hearing is to consider Case 5.1335 ZTA, an application by the City of Palm Springs, to amend Palm Springs Zoning Code (PSZC) 93.20 Signs to change the definition of signs, to add a new section 3.37.170 Original Art Murals on Private Property and adopt requirements for murals.

ENVIRONMENTAL DETERMINATION: The City of Palm Springs, in its capacity as the Lead Agency, under the California Environmental Quality Act (CEQA) has determined that the proposed zoning code text amendment is Categorically Exempt under Section 15305 (Minor Alterations in Land Use Limitations) of the Guidelines for the California Environmental Quality Act since the proposed zone text amendment proposes only insignificant changes to the land use designations provisions.

REVIEW OF INFORMATION: The staff report and other supporting documents regarding this matter are available for public review at City Hall between the hours of 8:00 a.m. and 6:00 p.m., Monday through Thursday. Please contact the Office of the City Clerk at (760) 323-8204 if you would like to schedule an appointment to review these documents.

COMMENTS: Response to this notice may be made verbally at the Public Hearing and/or in writing before the hearing. Written comments may be made to the City Council by letter (for mail or hand delivery) to:

James Thompson, City Clerk
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262

Any challenge of the proposed project in court may be limited to raising only those issues raised at the public hearing described in this notice, or in written correspondence delivered to the City Clerk at, or prior to, the public hearing. (Government Code Section 65009[b][2]).

An opportunity will be given at said hearing for all interested persons to be heard. Questions regarding this case may be directed to M. Margo Wheeler, Director of Planning Services, at (760) 323-8245.

Si necesita ayuda con esta carta, por favor llame a la Ciudad de Palm Springs y puede hablar con Nadine Fieger telefono (760) 323-8245.


James Thompson, City Clerk

**CITY OF PALM SPRINGS
PUBLIC HEARING NOTIFICATION**

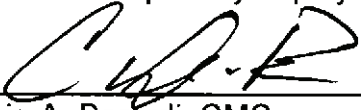


Date: May 7, 2014
Subject: Case 5.1335 ZTA

AFFIDAVIT OF PUBLICATION

I, Cynthia A. Berardi, Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was published in the Desert Sun on April 26, 2014.

I declare under penalty of perjury that the foregoing is true and correct.

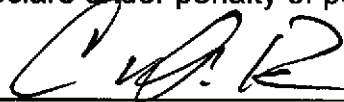


Cynthia A. Berardi, CMC
Deputy City Clerk

AFFIDAVIT OF POSTING

I, Cynthia A. Berardi, Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was posted at City Hall, 3200 E. Tahquitz Canyon Drive, on the exterior legal notice posting board, and in the Office of the City Clerk and on April 24, 2014.

I declare under penalty of perjury that the foregoing is true and correct.

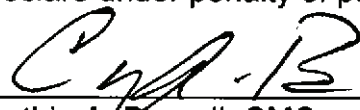


Cynthia A. Berardi, CMC
Deputy City Clerk

AFFIDAVIT OF MAILING

I, Cynthia A. Berardi, Deputy City Clerk, of the City of Palm Springs, California, do hereby certify that a copy of the attached Notice of Public Hearing was mailed to each and every person on the attached list on April 24, 2014, in a sealed envelope, with postage prepaid, and depositing same in the U.S. Mail at Palm Springs, California. (6 notices)

I declare under penalty of perjury that the foregoing is true and correct.



Cynthia A. Berardi, CMC
Deputy City Clerk

Cindy Berardi

From: Joanne Bruggemans
Sent: Thursday, April 24, 2014 7:35 AM
To: Andreas Hills; Araby Commons; Araby Cove; Baristo; Canyon Corridor; Chino Canyon; Deepwell Estates; Demuth Park; Desert Park Estates; El Mirador; El Rancho Vista Estates; Four Seasons; Historic Tennis Club; Indian Canyons; Los Compadres; Mountain Gate; Movie Colony East; Old Las Palmas; Parkview Mobile Estates; Racquet Club Estates; Racquet Club South; Racquet Club West; Sonora Sunrise; Sunmor; Sunrise Vista Chino; Tahquitz River Estates; The Mesa; The Movie Colony; Twin Palms; Vista Las Palmas; Vista Norte; Warm Sands
Cc: Cindy Berardi; Ken Lyon
Subject: Case 5.1335 ZTA - Amend Palm Springs Zonig Code 93.20 - Signs
Attachments: CC PHN case 5.1335 ZTA.pdf

Morning –

Please find the attached Public Hearing Notice of the City Council for May 7, 2014 of the proposed Citywide Zone Text Amendment.

Thank you,

Joanne

Joanne Bruggemans
City of Palm Springs
Planning Services Department
3200 E. Tahquitz Canyon Way, Palm Springs, CA 92262
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Email: joanne.bruggemans@palmspringsca.gov