



CITY COUNCIL STAFF REPORT

DATE: May 20, 2015

CONSENT CALENDAR

SUBJECT: A REQUEST BY FUNKEY BAR, INC. FOR APPROVAL OF AN ART MURAL APPLICATION FOR AN EXISTING MURAL ON THE COMMERCIAL BUILDING AT 340 N. PALM CANYON DRIVE, ZONE C-B-D, AND APPROVAL OF A CEQA NOTICE OF EXEMPTION (CASE 15-002 MUR).

FROM: David H. Ready, City Manager

BY: Department of Planning Services

PROJECT DESCRIPTION

This is a request for approval of an Art Mural application for an existing mural on the commercial building at 340 N. Palm Canyon Drive.

ISSUES

- The mural was completed in October 2013 prior to the adoption of the City's mural ordinance.
- The applicant received approval from the Architectural Advisory Committee (AAC) in January 2013 to repaint the building to its current color.

RECOMMENDATION

1. Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING CASE NO. 15-002 MUR FOR AN ART MURAL ON THE COMMERCIAL BUILDING AT 340 N. PALM CANYON DRIVE, ZONE C-D-B."

BACKGROUND INFORMATION

<i>Related Relevant Actions by Planning, Building, Fire, etc.</i>	
01/07/13	The AAC recommended approval of a building repaint (Case No. 3.3527 MAA).

ITEM NO. 2.Q.

06/04/14	The City Council approved Ordinance #1853, establishing the regulations and approval process for art murals.
03/23/15	The AAC reviewed the application (15-002 MUR) and recommended approval to the Planning Commission, subject to conditions.
04/08/15	The Planning Commission reviewed the application and recommended approval of the request to City Council.
04/09/15	The Public Arts Commission reviewed the application and recommended approval of the request.

Most Recent Change of Ownership	
05/05/06	Project 92

Field Check	
03/17/15	Staff visited the site to observe existing conditions.

Notification	
03/09/15	Notice sent to all property owners within 500 feet of the mural site. Please note that PSMC Chapter 5.81 does not require additional notification for City Council consideration of the application.

DETAILS OF APPLICATION REQUEST

Site Area	
Net Acres	0.17 Acres

Surrounding Property	Existing Land Use Per Chapter 92	Existing General Plan Designation	Existing Zoning Designation
Subject Property	Cocktail Lounge Use	CBD (Central Business District)	CBD (Central Business District)
North	Liquor Store Use	CBD (Central Business District)	CBD (Central Business District); CU (Civic Uses)
South	Restaurant Use	CBD (Central Business District)	CBD (Central Business District)
East	Restaurant/Retail Use	CBD (Central Business District)	CBD (Central Business District)
West	Office/Retail Use	CBD (Central Business District)	CBD (Central Business District)

ANALYSIS

The applicant has requested approval of an existing mural that is located on the west façade of the commercial building at 340 N. Palm Canyon Drive. The mural is entitled "The Mountain Charmers," and depicts two females holding a California kingsnake. The

mural was created by artists Angelina Christina and FinDAC in October 2013. The mural was developed and installed prior to the adoption of mural regulations by the City, and no permits were issued at the time it was installed. Approval of this application will bring the existing mural into conformance with the review process and permit requirements listed in the municipal code.

The criteria for the approval of murals are listed in PSMC Section 5.81.050, and are discussed in the “Findings” section of this report. The criteria include requirements that limit the height of the mural and maximum projection from the wall plane, illumination/animation restrictions, zoning restrictions, safety requirements, and a minimum time period for the mural to remain in place. In addition, the code requires the submittal of a maintenance plan; the submitted maintenance plan indicates that a UV-refracting clear coat has been applied to the mural to reduce fading, the façade is gently pressure washed on a regular basis to remove dust and grime, and that the artists would be engaged to repair the mural should it be defaced. Finally, the property owner is required to submit a covenant to the City for recordation, providing that the mural will be maintained at all times in full compliance with code requirements. The covenant shall be required as a condition of approval.

The approval process for murals is identified in Section 5.81.030 of the Palm Springs Municipal Code (PSMC); the application must be reviewed by the Architectural Advisory Committee (AAC), the Planning Commission, the Public Arts Commission, and is then forwarded to City Council for action. The application has been reviewed by all three boards and commissions; the AAC recommended approval of the mural and found it to be consistent with the aesthetic requirements of the code. The Planning Commission and Public Arts Commission also found the mural to be consistent with code requirements, and have recommended approval to the City Council.

FINDINGS – ART MURAL REGULATIONS AND REQUIREMENTS

PSMC Section 5.81.050 requires that the following conditions be met in order to approve an Art Mural application:

- 1. The mural shall remain in place, without alteration, for a minimum period of two years.**

If approved, the mural shall be required to remain in place for two years from the date of City Council approval. The two-year requirement will be included as a condition of approval.

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

The mural occupies the majority of the front façade of the building facing Palm Canyon Drive. The mural does not exceed the height of the structure.

- 3. 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.**

The mural is painted directly on the building surface, and does not project from the wall plane.

- 4. 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.)**

The mural does not consist of or contain any electrical or mechanical components.

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

The mural is painted on a commercial building, and is located within a commercial zoning district.

- 6. 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.**

A condition of approval will be included to limit the intensity of light in accordance with code requirements.

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

The mural is directly painted on the building façade, and does not use any digitally printed images. No approval shall be required from the Fire Department or the Department of Building and Safety.

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

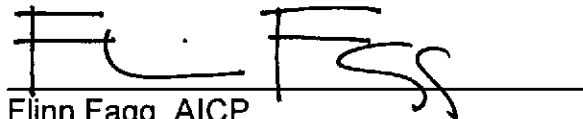
The mural was established in 2013 prior to the adoption of the City's regulations for murals. However, approval of this application will bring the mural into conformance to the City's approval process requirements. Should the City Council deny this application, the mural will need to be removed and the building repainted.

ENVIRONMENTAL ANALYSIS

Section 21084 of the California Public Resources Code requires Guidelines for Implementation of the California Environmental Quality Act ("CEQA"). The Guidelines are required to include a list of classes of projects which have been determined not to have a significant effect on the environment and which are exempt from the provisions of CEQA. In response to that mandate, the Secretary for Resources identified classes of projects that do not have a significant effect on the environment, and are declared to be categorically exempt from the requirement for the preparation of environmental documents. In accordance with Section 15301 "Existing Facilities," Class 1 projects consist of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public structures, facilities, mechanical equipment or topographical features involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. Therefore, in accordance with Section 15301(a), staff has determined that the mural application (15-002 MUR) is considered categorically exempt from CEQA and a Notice of Exemption has been prepared and filed with the Riverside County Clerk. A copy of the Notice of Exemption is included as an attachment to this report.

CONCLUSION

Staff finds that the mural is generally in conformance with the requirements of PSMC Chapter 5.81 and recommends approval of the request, subject to the conditions included as Exhibit A.



Flinn Fagg, AICP
Director of Planning Services



Marcus L. Fuller, MPA, P.E., P.L.S.
Assistant City Manager/City Engineer



David H. Ready, Esq., Ph.D.
City Manager

Attachments:

1. Location Map, Zoning Map
2. Draft Resolution
3. Conditions of Approval
4. AAC Minutes – March 23, 2015

5. Planning Commission Minutes – April 8, 2015
6. Public Arts Commission Minutes – April 9, 2015
7. Mural Photograph
8. Justification Letter and Maintenance Plan
9. CEQA Notice of Exemption

Notice of Exemption

Appendix E

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044
County Clerk
County of: Riverside
P.O. Box 751
Riverside, CA 92502-0751

From: (Public Agency): City of Palm Springs
3200 E. Tahquitz Canyon Way
Palm Springs, CA 92262
(Address)

Project Title: Mural - BAR

Project Applicant: City of Palm Springs

Project Location - Specific:
340 N. Palm Canyon Drive (APN #513-081-016)

Project Location - City: Palm Springs Project Location - County: Riverside

Description of Nature, Purpose and Beneficiaries of Project:
Art mural on the exterior of an existing building.

Name of Public Agency Approving Project: City of Palm Springs

Name of Person or Agency Carrying Out Project: Funkey BAR, Inc.

Exempt Status: (check one):

- Ministerial (Sec. 21080(b)(1); 15268);
Declared Emergency (Sec. 21080(b)(3); 15269(a));
Emergency Project (Sec. 21080(b)(4); 15269(b)(c));
Categorical Exemption. State type and section number: 15301 (a) Existing building
Statutory Exemptions. State code number:

Reasons why project is exempt:
The mural is located on an existing building and does not involve any construction or expansion of use.

Lead Agency
Contact Person: Flinn Fagg Area Code/Telephone/Extension: (760) 323-8245

If filed by applicant:

- 1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: Date: 5/13/15 Title: Asst. City Manager

Signed by Lead Agency Signed by Applicant

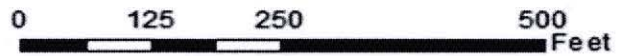
Authority cited: Sections 21083 and 21110, Public Resources Code. Date Received for filing at OPR:
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Location Map

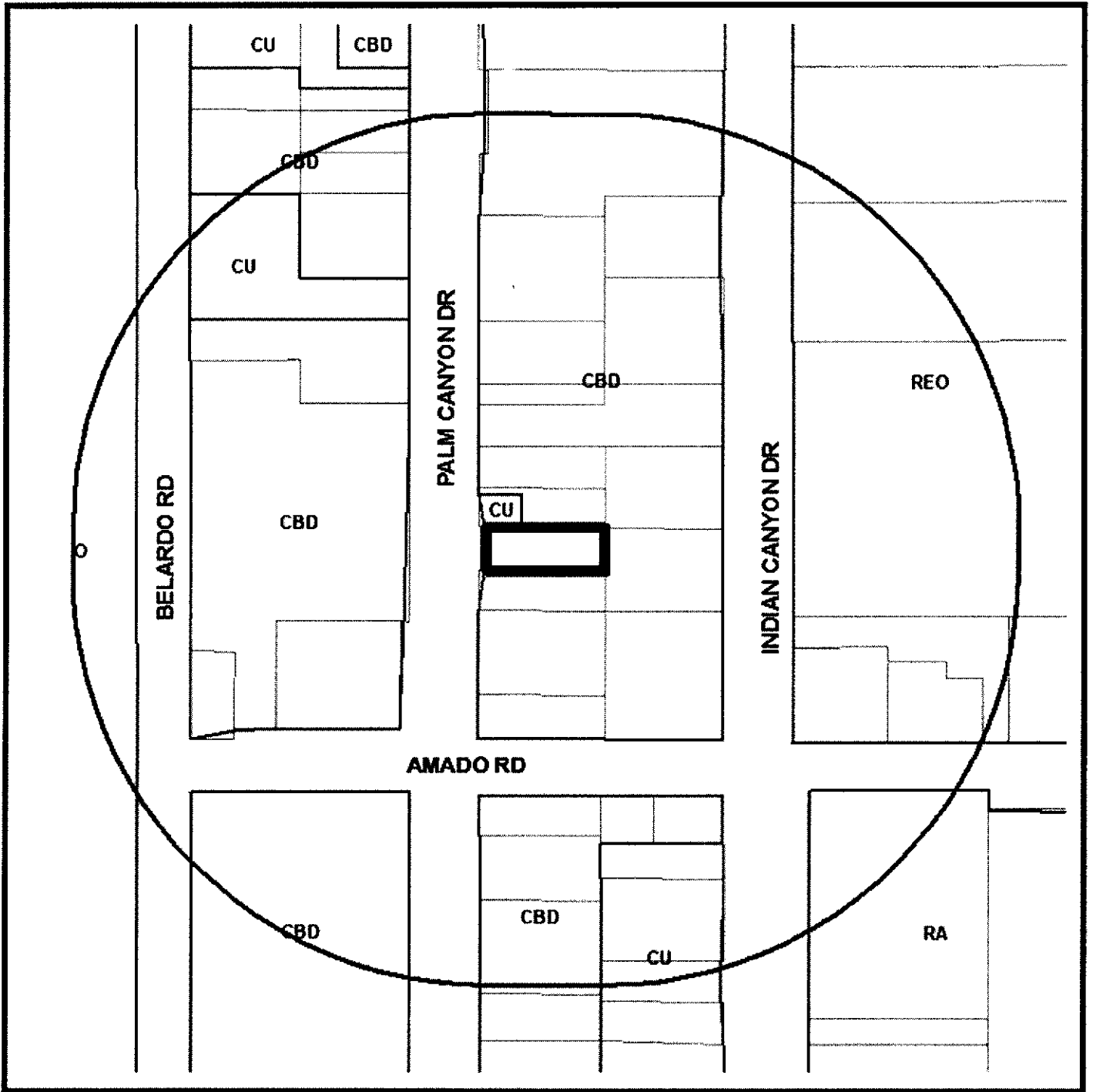


CASE: MUR 15-002

RADIUS: 500 FEET



Zoning Map



CASE: MUR 15-002

RADIUS: 500 FEET

ZONING OF SUBJECT PROPERTY: CBD (CENTRAL BUSINESS DISTRICT)



U

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING CASE NO. 15-002 MUR FOR AN ART MURAL ON THE COMMERCIAL BUILDING AT 340 N. PALM CANYON DRIVE, ZONE C-B-D.

THE CITY COUNCIL FINDS AND DETERMINES AS FOLLOWS:

- A. Funkey BAR, Inc. ("Applicant") has filed an application with the City pursuant to Chapter 5.81 of the Palm Springs Municipal Code (PSMC) for the approval of an existing art mural on the commercial building at 340 N. Palm Canyon Drive, Zone C-B-D, APN: 513-081-016.
- B. On March 23, 2015, the Architectural Advisory Committee met and voted to recommend approval of the application to the Planning Commission, subject to conditions.
- C. On April 8, 2015, the Planning Commission held a public meeting in accordance with the requirements of PSMC Section 5.81.030(a), after notifying all property owners within 500 feet of the location prior to the meeting, and voted to recommend approval of the application to the City Council upon making a finding that the request is in conformance with the requirements of PSMC Chapter 5.81.
- D. On April 9, 2015, the Public Arts Commission met and reviewed the mural application, and after reviewing the application materials, voted to recommend approval of the application to the City Council.
- E. The City Council has carefully reviewed and considered all of the evidence presented in connection with the hearing on the application, including, but not limited to, the staff report, the recommendations of City boards and commissions, and all written and oral testimony presented.

THE CITY COUNCIL DOES HEREBY FIND AS FOLLOWS:

SECTION 1. The application is considered a project pursuant to the terms of the California Environmental Quality Act ("CEQA"), as the application requires discretionary action. However, the mural is a minor alteration to an existing building, and staff has determined that the project is Categorical Exempt as a Class 1 exemption pursuant to Section 15301 of the CEQA Guidelines (Existing Facilities).

SECTION 2. Pursuant to PSMC Section 5.81.050, "Regulations," the City Council finds:

1. *The mural shall remain in place, without alternation, for a minimum period of two years.*

If approved, the mural shall be required to remain in place for two years from the date of City Council approval. The two-year requirement will be included as a standard condition of approval.

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

The mural occupies the majority of the front façade of the building facing Palm Canyon Drive. The mural does not exceed the height of the structure.

3. *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.*

The mural is painted directly on the building surface, and does not project from the wall plane.

4. *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).*

The mural does not consist of or contain any electrical or mechanical components.

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

The mural is painted on a commercial building, and is located within a commercial zoning district.

6. *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.*

A condition of approval will be included to limit the intensity of light in accordance with code requirements.

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

The mural is directly painted on the building façade, and does not use any digitally printed images. No approval shall be required from the Fire Department or the Department of Building and Safety.

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

The mural was established in 2013 prior to the adoption of the City's regulations for murals. However, approval of this application will bring the mural into conformance to the City's approval process requirements.

NOW, THEREFORE, BE IT RESOLVED that based upon the foregoing, the City Council hereby recommends approval of Case No. 15-002 MUR, subject to the conditions of approval attached herein as Exhibit A.

ADOPTED this 20th day of May, 2015.

David H. Ready, City Manager

ATTEST: CITY OF PALM SPRINGS, CALIFORNIA

James Thompson, City Clerk

RESOLUTION NO. _____

EXHIBIT A

Case 15-002 MUR

An Art Mural for a commercial building located at 340 N. Palm Canyon Drive

May 20, 2015

CONDITIONS OF APPROVAL

Before final acceptance of the project, all conditions listed below shall be completed to the satisfaction of the Director of Planning Services, the Director of Building and Safety, or the Director of Community and Economic Development, depending on which department recommended the condition.

Any agreements, easements or covenants required to be entered into shall be in a form approved by the City Attorney.

ADMINISTRATIVE CONDITIONS

- ADM 1. Project Description. This approval is for the project described per Case 15-002 MUR, except as modified by the conditions below.
- ADM 2. Reference Documents. The site shall be developed and maintained in accordance with the approved plans, date stamped March 11, 2015, on file in the Planning Division, except as modified by the conditions below.
- ADM 3. Conform to all Codes and Regulations. The project shall conform to the conditions contained herein, all applicable regulations of the Palm Springs Zoning Ordinance, Municipal Code, and any other City, County, State and Federal Codes, ordinances, resolutions and laws that may apply.
- ADM 4. Minor Deviations. The Director of Planning or designee may approve minor deviations to the project description and approved plans in accordance with the provisions of the Palm Springs Zoning Code.
- ADM 5. Indemnification. The owner shall defend, indemnify, and hold harmless the City of Palm Springs, its agents, officers, and employees from any claim, action, or proceeding against the City of Palm Springs or its agents, officers or employees to attach, set aside, void or annul, an approval of the City of Palm Springs, its legislative body, advisory agencies, or administrative officers concerning Case 15-002 MUR. The City of Palm Springs will promptly notify the applicant of any such claim, action, or proceeding against the City of Palm Springs and the applicant will either undertake defense of the

matter and pay the City's associated legal costs or will advance funds to pay for defense of the matter by the City Attorney. If the City of Palm Springs fails to promptly notify the applicant of any such claim, action or proceeding or fails to cooperate fully in the defense, the applicant shall not, thereafter, be responsible to defend, indemnify, or hold harmless the City of Palm Springs. Notwithstanding the foregoing, the City retains the right to settle or abandon the matter without the applicant's consent but should it do so, the City shall waive the indemnification herein, except, the City's decision to settle or abandon a matter following an adverse judgment or failure to appeal, shall not cause a waiver of the indemnification rights herein.

- ADM 6. Covenant. The owner of the property on which the 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.
- ADM 7. Maintenance Plan. The property owner(s) and successors and assignees in interest shall maintain and repair the mural in accordance with the maintenance plan approved in conjunction with this application. This condition shall be included in the recorded covenant agreement for the property as required by the City.
- ADM 8. Minimum Time Period. The mural shall remain in place, without alteration, for a minimum period of two (2) years; the two (2) year time period shall commence upon the effective date of the approval. An "alteration" includes any change to the 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 the result of vandalism.

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

- The property on which the mural is located is sold; or
- The structure or property is substantially remodeled or altered in a way that precludes continuance of the mural; or
- The property undergoes a change of use authorized by the Department of Building and Safety;

- The owner of a mural may request permission from the City Manager to remove a mural prior to the expiration of the two (2) 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.

ADM 9. Right to Appeal. Decisions of an administrative officer or agency of the City of Palm Springs may be appealed in accordance with Municipal Code Chapter 2.05.00. Permits will not be issued until the appeal period has concluded.

ADM 10. Grounds for Revocation. Non-compliance with any of the conditions of this approval or with City codes and ordinances may result in proceedings to revoke the approval. In addition, violations of the City Codes and Ordinances will result in enforcement actions which may include citations, arrest, temporary business closure, or revocation of this permit in accordance with law.

PLANNING DEPARTMENT CONDITIONS

PLN 1. Lighting. Illumination of the mural shall be limited in accordance with the requirements of Section 5.81.050(G) of the Palm Springs Municipal Code.

PLN 2. Removal of Mural. Should the mural be removed or the building be repainted in the future, the property owner shall submit a Minor Architectural Review application for approval prior to repainting the building.

END OF CONDITIONS

Member Song asked about the maintenance plan for the mural.

NATHAN OTTO, applicant, provided background information on the mural.

Member Song said she likes that it fits the building and it will be maintained.

Member Secoy-Jensen said she supports the project with the conditions.

M/S/C (Fredricks/Cassady, 6-1 absent Fauber) Approve, as submitted with staff's recommendations.

9. FUNKEY BAR, INC. REQUESTING APPROVAL OF AN ART MURAL APPLICATION FOR AN EXISTING MURAL ON THE COMMERCIAL BUILDING AT 340 N. PALM CANYON (CASE 15-002 MUR). (FF)

Director Fagg provided an overview of the existing mural.

Member Secoy-Jensen asked if there have been complaints. (There have been informal complaints.)

Member Song asked if there is any specific limitation on the size of the murals.

Member Cassady said this one is more of a clear-cut mural and fits the building well and supports it.

M/S/C (Secoy-Jensen/Fredricks, 6-1 absent Fauber) Approve, as submitted with staff's recommendations.

COMMITTEE MEMBER COMMENTS:


No comments.

STAFF MEMBER COMMENTS:

No comments.

ADJOURNMENT:

The Architectural Advisory Committee adjourned at 5:02 pm to the next regular meeting at 3:00 pm on April 6, 2015, Council Chamber, City Hall, 3200 East Tahquitz Canyon Way, Palm Springs.


Flinn Fagg, AICP
Director of Planning Services

The consensus of the Commission is that this application should come back for review to the Commission as a sign variance and not a mural application.

ACTION: Deny.

Motion: Commissioner Weremiuk, seconded by Commissioner Roberts and unanimously carried on a roll call vote.

AYES: Commissioner Calerdine, Commissioner Lowe, Commissioner Middleton, Commissioner Roberts, Commissioner Weremiuk, Vice-Chair Klatchko, Chair Hudson

3C. FUNKEY BAR, INC. REQUESTING APPROVAL OF AN ART MURAL APPLICATION FOR AN EXISTING MURAL ON THE COMMERCIAL BUILDING AT 340 N. PALM CANYON (CASE 15-002 MUR). (FF)

Director Fagg provided background information on the proposed mural as noted in the staff report.

Commissioner Roberts noted that the mural is professional and spoke in favor of the mural.

Commissioner Calerdine said he does not like where the mural is located but will support the Commission on this.

ACTION: Approve, subject to Conditions.

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

AYES: Commissioner Calerdine, Commissioner Middleton, Commissioner Roberts, Commissioner Weremiuk, Vice-Chair Klatchko, Chair Hudson

NOES: Commissioner Lowe

4. DISCUSSION ITEM:

4A. THE ALTUM GROUP REQUESTS A PRE-APPLICATION FOR A PLANNED 50-UNIT SINGLE-FAMILY RESIDENTIAL DEVELOPMENT ON APPROXIMATELY 6.3 ACRES OF VACANT LAND LOCATED AT THE WEST END OF MESQUITE DRIVE, ZONE R-3, SECTION 30 (CASE PA15-001). (FR)

Principal Planner Roberts presented the proposed pre-application project. He noted that no action is required, only general comments on how the project could be improved. site plan layout, density and development standards.

Chair Rowe – For this item we will defer any comment; because it was considered a sign at the Planning Commission level; the Public Arts Commission is not challenging that decision. The Arts Commission is only to provide input and comment on the appropriateness of the proposed art.

MOTION: by Commissioner Sheffey, second by Commissioner Sand, the Public Arts Commission feels that because this application has been reclassified as a sign rather than a mural that it's not necessary appropriate for us to comment on it as art, because it's not anymore; unanimously carried

5. **MAKE A RECOMMENDATION TO THE CITY COUNCIL REGARDING A REQUEST FOR APPROVAL OF AN ART MURAL APPLICATION BY FUNKEY BAR, INC. FOR AN EXISTING MURAL ON THE COMMERCIAL BUILDING AT 340 NORTH PALM CANYON DRIVE IN ACCORDANCE WITH THE GUIDELINES SET FORTH BY SECTION 5.81 OF THE MUNICIPAL CODE AND SECTIONS 93.20.00 & 93.20.03 OF THE PALM SPRINGS ZONING CODE.**

RECOMMENDATION: Review Art Mural Application #15-002 and Adopt a Resolution of the Public Arts Commission Making a Recommendation to City Council for Consideration.

Chair Rowe – The Funkey Bar, Inc. mural has gone before the Architectural Advisory Committee; approval was granted to move forward to Planning Commission under the mural ordinance; Planning Commission also approved as a mural.

Chair Rowe – The Public Arts Commission has a very small role in this process. In other cities the mural art programs are attended to by Public Arts Commissions. In this case, the commission that will decide on the murals existence (or not) will be the Planning Commission; the only thing they are seeking from the arts commission is input and comment on the appropriateness of the proposed art.

Chair Rowe spoke on the topic of artwork and copyright law in regards to artist and owner.

Chair Rowe – Input to the Planning Department/Commission would be to consider the really strong language we use on the Public Arts Commission for all the other artwork in the City. On the appropriateness of the mural; when the language is strong in any kind of mural ordinance it provides protections for the length of the mural as well. We've all been living with this mural for two years; there are people that love it and people that find it offensive, but that is what happens in art. My personal feeling is that it is up, it is with us, it is part of us right now; It's a controversial piece; do not have a problem with the appropriateness of the art.

Commissioner Edmundson – Agrees with Chair Rowe; would add that pursuant to completing the project application and its acceptance by the City that we would recommend accepting the mural; Commissioner Edmundson considers this art; will reference the City's municipal code 5.81.010(A) – states that the municipal code is specifically to encourage artistic expression and fostering a sense of community pride; feels this piece does that; so I would say yes, I approve.

Commissioner Ruttan – Agrees; it is a polarizing piece; have heard strong comments on both sides; probably the most concerning [to me] is the depiction of Native Americans, but it states it's referencing them, however, thinks it is more of a cautionary tale of how we go forward with murals. Would like the arts commission to have more input in terms of narrative about the murals, what the artist is representing, how it speaks to the City, but that's for the future, this piece exists. Commissioner Ruttan thinks the commission needs to deal better with things as we move forward; does not see how they can do much retroactively in this situation, were it different, the outcome might be different.

Commissioner Sheffer – should probably concentrate on what can be done better in the future. The word “appropriateness” of the proposed art should be a broad definition that has to do with the materials and artist protection; especially the idea that it might be altered which is such an issue on public art (this piece is on private property) but in the process of applying the owners need to show they have thought of those things. Something could be the most appropriate image but inappropriately done, i.e., language in the ordinance regarding lighting, how far it can stick out, etc. We should suggest that that’s where our expertise is, more than just the image itself. Perhaps our recommendation to the Planning Commission could be that the word “appropriate”, include materials, protections; that it is appropriate for public art.

Commissioner Sand – Agrees with what fellow commissioners have stated so far; agrees with Chair Rowe very strongly that hopefully moving forward that more detailed language can be flushed out. This is a brand new ordinance, and as has been pointed out, we’re processing two items retroactively, so it’s new, so as with anything new you start with what you start with and then you grow as your needs show themselves. These are all very good ideas and thoughts and hopefully these suggestions will go back to Planning and they will take them into consideration. Since we are retroactively making comments, Commissioner Sand spoke briefly regarding maintenance; the maintenance plan that has been submitted is very brief, would suggest that they ask for a more detailed plan with many of the items that have been suggested (the mural is sealed with UV refracting clear coat protection so the mural will not fade due to sun and is power washed every month or so); at some point if it comes down to the City maintaining the artwork, if it is not maintained by the owner, we would be at a loss if we had to get our own conservator; need a detailed plan that will protect the City.

It fulfills our requirements per the Public Arts Ordinance 1479, quoted *“in addition to beautifying, the arts can sensitize and humanize, can provide social involvement, and can assist in education, personality development, and community well-being”* ... it has certainly provided social involvement.

Chair Rowe recapped: All commissioners provided input and comments for the Planning Department; some of those comments were regarding aesthetics; it is a polarizing piece, etc.; some comments were encouraging the planning department to look at the language before they go into an agreement with the mural, perhaps insert some sort of language that we have for the other art in the City. Commissioner Sheffer whatever the process is, perhaps an expansion of the language of the mural ordinance is needed.

MOTION: by Commissioner Edmundson, second by Commissioner Sheffer, makes this motion that speaks for the Arts Commission stating that we pass onto the City Council our recommendation that the Planning Department accept the Mountain Charmers mural application; unanimously carried

MOTION: by Commissioner Sand, second by Commissioner Ruttan, that the Public Arts Commission makes comments back to the Planning Department as recorded in the Minutes of the Thursday, April 9, 2015 Public Arts Commission meeting on Item No. D5; unanimously carried

E. SUBCOMMITTEE REPORTS

6. Bridge Projects
Discuss South Palm Canyon and East Palm Canyon Bridge Projects and Recommendations for Consideration.

Subcommittee and Staff have been working to provide a short list of artists to be approached by the consultants to see if they are interested in doing the aesthetics for the East Palm Canyon bridge

Justification Letter

To Whom It May Concern,

We believe the mural at 340 N. Palm Canyon should be allowed to stay because it is a work of art, and by already being in the city's downtown fabric for almost two years it has made a statement to and been accepted by the city of Palm Springs. The two artists Angelina Christina aka Starfighter and FinDac are world renowned street artists and have been not only recognized countless times for their work but also are generally paid a significant amount of money to do so. Major cities such as New York, Denver, Minneapolis, Vancouver, etc have embraced their work together in their cities and Palm Springs should do the same. Both artists have been invited to paint murals at Art Basel and Angelina has painted murals for the Coachella Music Festival as well. There have been no major issues that we are aware of in the last year and a half of it being painted and I don't see any to come.

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Maintenance Plan

The mural at 340 N. Palm Canyon has been covered with a UV refracting clear coat paint so the colors will not fade in the sun. The mural has already been in place 16 months and looks good as new. We also pressure wash any dust and grime off the walls every other month or so to keep it clean. If there were the unfortunate scenario where the mural was defaced or altered the artists live in LA and visit frequently so we should be able to resolve any issues if they were to arise. But as mentioned previously the mural has been in place quite some time and has not been defaced or altered and still looks the same as day one.

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