

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, APPROVING CASE NO. 15-001 MUR FOR AN ART MURAL ON THE COMMERCIAL BUILDING AT 810 N. FARRELL DRIVE, ZONE M-1-P.

THE CITY COUNCIL FINDS AND DETERMINES AS FOLLOWS:

A. Nathan and Gina Otto, ("Applicants") have 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 810 N. Farrell Drive, Zone M-1-P, APN: 507-350-008.

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 denial of the application to the City Council, finding the artwork inconsistent with the mural definition contained in PSMC Section 93.20.03(19).

D. On April 9, 2015, the Public Arts Commission met and reviewed the mural application, and after reviewing the application materials and the decision of the Planning Commission, voted to recommend denial of the application to the City Council, also finding the mural to be inconsistent with the definition contained in PSMC Section 93.20.03(19).

E. However, the City Council carefully reviewed and considered all of the evidence presented in connection with the hearing on the application on May 20, 2015, including, but not limited to, the staff report, the recommendations of City boards and commissions, and all written and oral testimony presented, and found that the mural is consistent with the requirements of PSMC Chapter 5.81.

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 Categorically 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 an architectural projection in the building façade, which serves as the frame or boundaries for the art piece. 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 light industrial 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. 15-001 MUR, subject to the conditions of approval attached herein as Exhibit A.

ADOPTED this 3rd day of June, 2015.

David H. Ready, City Manager

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, hereby certify that Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on _____, by the following vote:

- AYES:
- NOES:
- ABSENT:
- ABSTAIN:

James Thompson, City Clerk
City of Palm Springs, California

RESOLUTION NO. _____

EXHIBIT A

Case 15-001 MUR

An Art Mural for a commercial building located at 810 N. Farrell Drive

June 3, 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 15-001 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 February 2, 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 15-001 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