

RESOLUTION 2020-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF POMONA, CALIFORNIA, APPROVING MURAL PERMIT (MURAL 12295-2019) TO ALLOW THE INSTALLATION OF A COMMUNITY-EXECUTED PAINTED MURAL AT A PROPERTY LOCATED AT 450 WEST GRAND AVENUE, ALSO KNOWN AS TONY CERDA PARK (APN: 8343-004-902, 8343-004-900).

WHEREAS, the applicant, Catalina Goytia, has submitted an application for a Mural Permit (MURAL 12295-2019) to allow the installation of a community-executed painted mural at a property located at 450 West Grand Avenue, also known as Tony Cerda Park, Assessor's Parcel Numbers 8343-004-902 & 8343-004-900;

WHEREAS, pursuant to Section .5809-25 of the Pomona Zoning Ordinance, the Citizen's Advisory Committee of the Cultural Arts Commission (CACCAC) shall review the application and make a recommendation to the Cultural Arts Commission (CAC) on whether to approve or deny the application;

WHEREAS, on December 9, 2019, the CACCAC considered Mural Permit (MURAL 12295-2019) and recommended that the CAC review the project;

WHEREAS, the subject property is designated "Open Space" in the Pomona General Plan;

WHEREAS, the subject property is located in the Open Space Zoning District in the Pomona Zoning Ordinance;

WHEREAS, the CAC made findings as described in Section .5809-25 of the Pomona Zoning Ordinance approving a Mural Permit to allow the installation of a community-executed painted mural at a property located at 450 West Grand Avenue, also known as Tony Cerda Park;

WHEREAS, the CAC of the City of Pomona, has, after giving notice thereof as required by law, held a public hearing on December 9, 2019 concerning the requested Mural Permit (MURAL 12295-2019) and carefully considered all pertinent testimony and the staff report offered in the case presented at the public hearing and approved Mural Permit (MURAL 12295-2019), subject to conditions of approval, on a 6-0-0-1 vote;

WHEREAS, the CAC discussed all pertinent testimony and motioned to create an ad-hoc committee to discuss the future replacement of the subject mural; and

WHEREAS, the City Council of the City of Pomona has, after giving notice thereof as required by law, held a public hearing on January 6, 2020, concerning the appeal of approved Mural Permit (MURAL 12295-2019);

NOW THEREFORE, BE IT HEREBY RESOLVED by the City Council of the City of Pomona as follows:

SECTION 1. The City Council hereby determines that, pursuant to the Guidelines for Implementation of the Environmental Quality Act (CEQA), the proposed project meets the criteria of a Class 1 (Existing Facilities), Section 15301 Categorical Exemption in that the project involves minor alterations of an existing structure.

SECTION 2. The City Council hereby finds that the proposed project meets the requirements for Mural Permits as described in Section .5809-25 of the Pomona Zoning Ordinance.

SECTION 3. Based upon the above findings, the City Council of the City of Pomona hereby approves the Mural Permit (MURAL 12295-2019) to allow the installation of a community-executed mural with the following conditions:

1. The subject property shall be developed and/or used in a manner consistent with the project plans reviewed and approved by the City Council on January 6, 2020. Any major modifications to the approved project plans shall be reviewed and approved by the Cultural Arts Commission as part of a modification to the approved plans. Any minor modifications that do not affect the overall intent of the approved project, may be reviewed and approved by the Planning Manager.
2. This approval shall lapse and become void if the privilege authorized is not utilized within one year from the date of this approval (January 6, 2021). The Planning Manager may extend this period for one year upon receipt of an application for a Time Extension request submitted by the applicant at least thirty days before the expiration date of this approval.
3. The applicant shall indemnify, protect, defend, and hold harmless, the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the any action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the project, whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivisions Map Act, Code of Civil Procedure Section 1085 or 1094.5, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve, which approval will not be unreasonably withheld, the legal counsel providing the City's defense, and that applicant shall reimburse City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the applicant of any Action brought and City shall cooperate with applicant in the defense of the Action.
4. In case of a violation of any of the conditions of approval and/or City law, the applicant will be issued a Notice of Correction. If said violation is not remedied within a reasonable

period of time and/or a subsequent violations of the conditions of approval and/or City law occurs within ninety (90) days of any Notice of Correction, the applicant shall be held responsible to reimburse the City for all staff time directly attributable to enforcement of the conditions of approval and/or City law.

5. The mural shall remain in place without alteration for a minimum of 12 months from the date the mural was installed (August 9, 2019). The applicant shall certify in the permit application that the applicant agrees to maintain the mural in place for a minimum period of 12 months without alterations.
6. After the term of 12 months from the date of installation, the Original Artwork Mural is required to be removed by the applicant. The building wall surface must be fully restored to its original pre-mural condition to the satisfaction of the Parks & Recreation Department.
7. The mural shall not extend more than six inches from the plane of the wall to which it is attached.
8. The applicant is responsible for ensuring that a permitted Original Artwork Mural is maintained in good condition and fully repaired in the case of vandalism or accidental destruction.
9. Failure to maintain or remove the mural following the 12 month term the Original Artwork Mural is declared to be a public nuisance, and may be summarily abated or repaired by the City. In the event the applicant fails to maintain or remove the mural following the 12 month term, upon reasonable notice, the City may perform all necessary repairs, maintenance, or removal of the mural or secure insurance, and all costs incurred by the City shall be the responsibility of the applicant.
10. Any future substantial changes in the approved plans, except as allowed for by the following conditions, shall require a modification to the Mural Permit (MURAL 12295-2019).

SECTION 4. The City Clerk shall certify to the passage and adoption of this resolution, and it shall thereupon be in full force and effect.

APPROVED AND PASSED THIS 6th DAY OF JANUARY, 2020.

ATTEST: CITY OF POMONA:

Rosalia A. Butler, MMC, City Clerk

Tim Sandoval, Mayor

APPROVED AS TO FORM:

Sonia Carvalho, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF POMONA)

I, Rosalia A. Butler, MMC, City Clerk of the City of Pomona do hereby certify that the foregoing Resolution was adopted at a regular meeting of the City Council of the City of Pomona held on the 6th day of January, 2020 by the following vote::

AYES:

NOES:

ABSENT:

ABSTAIN:

Rosalia A. Butler, MMC, City Clerk