



City of Portland  
Historic Landmarks Commission

Council has  
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June 15, 2009

Mayor Sam Adams  
Commissioner Nick Fish  
Commissioner Amanda Fritz  
Commissioner Randy Leonard  
Commissioner Dan Saltzman  
City of Portland  
1221 SW 4<sup>th</sup> Avenue  
Portland, OR 97204

BY

GARY BLACKMER, AUDITOR  
CITY OF PORTLAND, OR

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RECEIVED

Re: Original Art Murals, Regulatory/Permit Process Improvement

Dear Mayor and City Commissioners:

The Historic Landmarks Commission was recently briefed by BPS staff regarding proposed policy changes for regulation of murals in the City of Portland. Of primary concern to us were regulations related to installation of new murals on individually listed buildings on the National Register of Historic Places as well as on all buildings within National Register districts.

The Landmarks Commission strongly advises against allowing such murals to impact either of the above. Obviously, a mural on a National Register property would be a significant alteration to an original historic design. Equally clear is that a mural in a protected historic district could be a visual intrusion and would likely violate historic design review guidelines regulating that district. Review of new construction within a designated district is within the jurisdiction of the Landmarks Commission because such new elements require oversight to ensure compatibility of design, scale and other visual traits. New murals could present a threat to such compatibility as well.

However, the Original Art Murals Regulatory Improvements, as well as US and Oregon Constitutions, do not allow the Landmarks Commission purview over content and therefore, inhibit its ability, in some cases, to determine the appropriateness of such public art. Even though BPS suggested allowing murals on non-contributing buildings within the historic district, the visual impact of the mural has as much to do with the image it projects outward as its character-defining impact on its host building.

To help you imagine the significance of the impact resulting from mural content, imagine a mural depicting a turn-of-the-century street scene displayed in Skidmore/Old Town. In our opinion, that could be quite fitting. Now imagine a Star Trek scene facing NW Couch or NW Ankeny in Skidmore/Old Town. It is fair to say this later image would be visually disruptive to the surrounding historic area.

Despite our unanimous recommendation to the Planning Commission to reject murals within historic districts, it voted to support murals in these sensitive neighborhoods. The Landmarks Commission asks the City Council to reject this authorization.

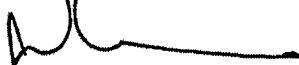
Finally, there are already provisions in the Zoning Code to allow murals in Historic Districts through the Regional Arts and Culture Council process. This process affords the opportunity to carefully review and approve the content of original art murals in these sensitive districts. We are already pursuing additional coordination with RACC to refine this existing process, continuing the expansion of mural prospects.

In closing, we certainly regret coming before City Council for the second time within eight months with a recommendation in conflict with that of the Planning Commission. As such, we see value in exploring ways to instill improved communication between our two valuable bodies. It simply makes sense for matters that impact both the Planning Commission and the Historic Landmarks Commission should be coordinated so that every attempt is made to reach consensus before a final recommendation is tendered to City Council. For that matter, the Design Review Commission may wish that same opportunity.

We believe this conflict potential was anticipated in City code; City regulations actually allow for a member of the Planning Commission to serve on the Landmarks Commission. That seat has not been filled for many years. If such an opportunity is not practical, it seems that an alternative should be explored whereby Landmarks Commission recommendations might have a greater chance of support from the Planning Commission.

We would cooperate fully with an effort to bring the views of our two commissions into greater alignment and look forward to your direction as to best achieve that goal.

Sincerely,



Art DeMuro  
Chairman

cc: Portland Historic Landmarks Commission  
Don Hanson, Planning Commission Chair  
Susan Anderson, Bureau of Planning and Sustainability  
Paul Scarlett, Bureau of Development Services  
Tim Heron, Bureau of Development Services



182962

City of Portland  
Bureau of  
**Planning and  
Sustainability**

Sam Adams, Mayor  
Susan Anderson, Director

June 1, 2009

**Portland Planning  
Commission**

Don Hanson, President  
Amy Cortese, Vice President  
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Lai-Lani Ovalles  
Howard Shapiro  
Jill Sherman  
Irma Valdez

Mayor Sam Adams and Members of Portland City Council  
Portland City Hall  
1221 SW Fourth Avenue  
Portland, OR 97204

**Re: Original Art Murals Project: Regulatory & Permit Process Improvement**

Dear Mayor Adams and City Commissioners:

On behalf of the Portland Planning Commission, I am forwarding our recommendation on the Original Art Murals Project. This project includes amendments to the city's land use regulations (Titles 32 and 33) and creates a new set of regulations (Title 4) and procedures that will apply to the permitting of murals.

While the Planning Commission only has jurisdiction over the city's land use codes, we have reviewed all the components of the program including the new Murals Title and the Administrative Rules in order to reach our recommendation. We feel that the program will encourage mural artists to propose murals in many areas of the city, as an alternative to the existing city sign code. It will also provide an avenue to allow the creation of privately owned murals which will complement the publicly funded, publicly owned murals created through the existing Public Art Murals Program. We understand that the city cannot regulate the content of the murals and that commercial advertising could be permitted through this program. However, we feel that the criteria for such murals – limits on materials that may be used and requirement for 5-year minimum for display – together with the opportunity for neighborhood discussion will encourage community-based murals, without limiting the free speech rights of the applicant. On May 12, 2009, the Planning Commission voted unanimously to recommend adoption of this program.

Most of the testimony at our hearing was on the mural permitting program's applicability in areas of historic significance. Planning staff's proposal was to prohibit the use of the program in historic or conservation districts or on any individual historic or conservation landmarks. This matched the direction given by the Landmarks Commission. While we recognize the concerns of staff and the Landmarks Commission, convincing testimony was provided by the mural artists in support of a different compromise to address these concerns. Their request was to allow an applicant to place murals on "non-contributing" structures within historic and conservation districts through this new program. These murals would be subject to the same Administrative Rules that apply to murals in design overlay zones. In this case, we agreed that this expansion would allow murals to be placed in certain historic areas without necessarily damaging the features that make up the district. We directed staff to make these amendments in order to gain our recommendation.

At the conclusion of our hearing, we also asked the staff to continue to work with the Bureau of Development Services and the Landmarks Commission to ensure that the existing RACC public Art Murals Program can be used in areas of historic significance. This was the original intent of the RACC Public Art Mural program adopted in 2005, but the establishment of the program in historic areas was subject to the stakeholders coming to a mutually agreed upon process. It is now time to establish that process so that the RACC program can be used in these areas as well.

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## Recommendations

The Portland Planning Commission recommends that City Council take the following actions:

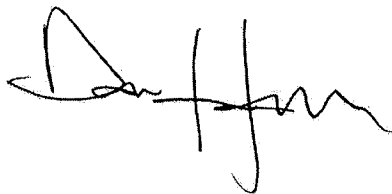
1. Adopt the *Original Art Murals Project Regulatory & Permit Process Improvement: Recommended Draft*;
2. Amend the Zoning Code (Title 33) and Sign Code (Title 32) as shown in the *Original Art Murals Project Regulatory & Permit Process Improvement: Recommended Draft*;

Although we do not have an official advisory role in the review of non-land use actions, the Portland Planning Commission also strongly suggests that City Council:

1. Amend the Administration Title, and adopt Title 4, "Original Art Murals" as shown in the *Original Art Murals Project Regulatory & Permit Process Improvement: Recommended Draft*;
2. Provide any recommendations to the Bureau of Development Services to facilitate adoption of the Draft Administrative Rules for the permitting of Original Art Murals; and
3. Direct staff from the Bureaus of Planning & Sustainability and Development Services to work with the City Landmarks Commission and the Regional Arts and Culture Council (RACC) to establish the procedure for reviewing Public Art Murals in historic and conservation districts and on landmarks.

Thank you for considering the recommendations of the Portland Planning Commission on this project.

Sincerely,



Don Hanson, President  
Portland Planning Commission

