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MEMORANDUM

TO: Eileen M. Donoghue, City Manager *EJD*

FROM: Diane N. Tradd, Assistant City Manager/DPD Director

DATE: January 26, 2021

SUBJECT: COUNCIL MOTION OF 12/22/2020 BY COUNCILOR DRINKWATER REQUEST CITY MANAGER PROVIDE A REPORT ON THE PROCESS BY WHICH BOTH PUBLIC AND PRIVATE SECTOR SPACES MAY BE UTILIZED FOR PUBLIC-FACING MURAL PROJECTS, AS WELL AS ANY PUBLIC OR PRIVATE FUNDING SOURCES THAT ARE AVAILABLE TO FACILITATE SUCH PROJECTS IN THE CITY

Murals transform public spaces, create a welcoming environment for locals and visitors, and can be an important source of tourism promotion as public art shapes the perceptions of a place by creating cultural symbols and attractions. Currently, the City of Lowell does not have a formal mural policy or ordinance. That said, there have been a number of mural projects undertaken by the City and other organizations in the past couple of years. These projects have been primarily funded by the City’s Cultural Affairs and Special Events (CASE) Office, with the exception of the recent temporary mural “ghost” project in Downtown Lowell spearheaded by DIY Lowell.

In late 2019, a working group comprised of representatives from the artist community, City of Lowell, Lowell National Historical Park, private businesses, and nonprofit organizations convened to create a public mural policy, permitting process, and formal program to assist with financial resources. Attached to this motion is a proposed citywide public mural policy for the City Council’s consideration. The intention of the mural policy is to create clear mural guidelines and an application process for interested artists and/or commercial property owners. A number of local organizations and private foundations could potentially provide funding for public mural projects in the City. In addition to vetting the attached proposed ordinance, CASE and the Economic Development Office are looking to create a formal program and partnership with local artist organizations to seek opportunities and financial resources for public mural projects for artists and/or commercial property owners that do not have the financial means to undertake a mural project. We estimate that the average cost for murals is approximately \$10,000-\$15,000 for traditional murals, with larger murals costing upwards of \$60,000.

We intend for the mural ordinance to provide a clear, transparent process for artists and/or commercial property owners with the financial resources to undertake a mural project with streamlined review and permitting from the City. To that end, it is critical that we seek feedback from

the artist community and other interested stakeholders about the attached proposed citywide mural policy prior to its enactment. A key stakeholder that the City will continue to engage with is the Lowell National Historical Park. The National Park is an important cultural and economic driver for the City. In addition to attracting thousands of visitors to the City per year, the National Park has been a key partner on numerous City projects by leveraging federal funding. Our intention is to honor the theme and legacy of the Park, while also creating a clear and transparent process to encourage public art and minimize the Lowell Historic Board involvement in discussions about the definition of art and any first amendment issues that are likely to arise. The proposed ordinance respects and acknowledges the importance of our historic resources. Thoughtful investment in arts and cultural initiatives can generate significant economic benefits for cities and we will continue to explore opportunities to incorporate public art in all of our neighborhoods that reflect the community as well as incorporate murals into new development projects throughout the City.

The Economic Development and CASE Offices will engage in discussion with the community about the proposed ordinance as well as continue the work of the working group to create a public mural program that will match artists to commercial property owners, as well as financial resources to support public art projects throughout our neighborhoods. In the near term, representatives from our offices will attend Lowell Historic Board meetings to ensure that our proposed ordinance supports historic preservation and create a public map that highlights the historically significant areas that are not eligible for public art projects. The Lowell Historic Preservation Commission in their Details of the Preservation Plan¹ include maps of historically significant buildings and areas. We want to update those maps and make them interactive for the public to direct them to appropriate areas to consider for public art projects.

Lowell has a rich history and a vibrant arts community, our intention is to create a formal partnership with the Cultural Organization of Lowell (COOL) and/or other interested artist organizations to create an annual “call for walls” that would include provisions for review, finance, maintenance, and permitting for public right-of-way closures, if applicable. We will work collaboratively with community stakeholders to identify financial resources to fund this program.

The Department of Planning and Development will keep the Council apprised of our work and we will continue to look for funding opportunities to support public mural projects. We are committed to integrating artwork/murals into the design of new construction to ensure that installation is integral to, and integrated into, the design of the building.

CM/ns

Attachment

cc: Christine McCall, Director of Economic Development
Roberto Dei, Special Events Coordinator

¹ https://www.nps.gov/lowe/learn/management/upload/LOWE_475_D5_18-0612.pdf

**POLICY ON MURALS
LOWELL HISTORIC BOARD
DOWNTOWN LOWELL HISTORIC DISTRICT
Draft 1 11/20**

The Lowell Historic Board believes that the historic architecture found in the Downtown Lowell Historic District is art in and of itself and should be respected as such. The same can be said of the surrounding context including streetscape, parks, canalways, and other supporting features of the District. A cohesive whole has been created that supports economic development, tourism, and cultural activities.

Because the historic resources and any murals must share the same landscape, the addition of the new to the old must be harmonious. Siting of murals must respect the historic setting and have no tendency to overwhelm or be obtrusive. They also cannot cause physical damage to historic resources/buildings as well as other supporting features of the District.

The Board's mandate and priority is the protection of the historic resources and context throughout the District and National Park areas. With only 5% of the city within this jurisdiction, the Board encourages mural activity beyond the District into the remaining 95% of the city, including neighborhood areas, where there are greater opportunities. This helps ensure that the District's authenticity, where nearly \$1 billion in development has occurred since 1984, is not compromised or adversely affected.

Proposals to be located within the District are subject to the following standards and process:

Application

- The Lowell Historic District Act (Chapter 566 of the Acts of 1983) requires that before anyone undertakes any activity within the Downtown Lowell Historic District that an application first be submitted to the Board for review and approval prior to being undertaken. Proposals for murals within the District shall be considered in the same manner that other applications for development are reviewed by the Board.
- Applications for temporary installations shall be consistent with the Board's Temporary Public Art Policy which is incorporated herein by reference.

Approach

- The Board encourages temporary mural installations as it has since 2004 with the adoption of the Temporary Public Art Policy. Temporary installations allow for greater variation in presentations and participation by a wider range of artists that permanent installations do not provide. They also reduce long-term maintenance and costs due to their shorter duration.
- Evening illuminated projections, consistent with the community's Waterways Vitality Initiative and efforts to illuminate historic structures architecturally, are also encouraged. These would be reviewed under the Temporary Public Art Policy in terms of location, duration, and installation methods. This approach also allows for greater variation in presentations and participation by a wider range of artists that permanent installations do not provide.
- Any proposed permanent mural installation will be considered in limited circumstances based upon location, scale, method of installation, and materials. No permanent murals will be permitted on City right of ways (ie: sidewalks, road surfaces, etc.) although temporary installations consistent with the Board's Temporary Public Art Policy, and in consultation with the City's Engineer and Department of Public Works, will be considered.

Location

- Installations cannot obscure or detract from architectural features, nor detract from the existing historic, architectural, and design context of the site and surrounding area. The installation must respect the historic setting and have no tendency to overwhelm or be obtrusive.
- In order to protect nationally and locally significant historic structures from adverse impact as well as to safeguard prior investments in the District, the following locations are prohibited for permanent mural activity:
 - No structure that is rated “A” (nationally significant) or “B” (locally significant) on the Lowell Historic Preservation Commission (LHPC) index of historic resources in the District.
 - No structure located within the National Historic Landmark Locks & Canals Historic District.
 - No structure that has received federal or state historic rehabilitation tax credits as part of its rehabilitation.
 - No structure that has a LHPC/Interior Department preservation restriction on it and/or has received a prior grant or loan from the LHPC.
- Murals shall not be located on primary facades of buildings that are immediately adjacent to a street (ie: principal facades fronting sidewalks). A mural may be considered on the side or rear of a building if it does not fall under any of the prohibited locations noted above and does not obscure, overwhelm, or detract from the historic building, site, and surrounding area.
- Artwork/murals integrated into the design of new construction will be considered on a case by case basis where such installation is integral to, and integrated into, the design of the building.

Design and Installation Plan

- A graphic representation of the proposed format and installation is required. Acceptable forms might include photographic images of existing work to be installed, computer-generated simulations, line drawings, color renderings, or other means of graphic representation of the proposed installation that adequately conveys the nature of the artist’s proposal.
- Three dimensional murals are not allowed.
- Murals cannot damage existing surfaces. Murals shall not be permitted to be painted directly onto building surfaces as that potentially can lead to trapped moisture and deterioration. Murals can only be applied via panels applied to the façade with minimum spacing between the façade and rear of the mural panels to allow for ventilation. Method of installation and attachment must be non-intrusive, inserted only through mortar joints, and approved as part of the installation plan.
- A narrative description of the proposed format and installation, including discussion of materials to be used and methods of fabrication and installation must also accompany the graphic representation.

Materials and Signage

- The material to be used for fabrication of the mural shall be of a type appropriate to the theme or concept of the proposed mural and should respect the surrounding natural and building environments. The material shall require low maintenance and shall not include any dangerous surfaces.

- Accessories to the mural such as mounting hardware and lighting, shall not distract from the mural or the building, nor cause harm to the building. In the case of lighting, it must be non-flashing and non-moving and cannot create glare for passing drivers or pedestrians. All accessories shall be durable and require low maintenance.
- Interpretive signage must be preapproved and conform with the signage standards of the Board.

Safety and Security

- Murals must be secured in a manner so that they will not create potential hazards to the building, public, or surrounding property.

Maintenance

- The mural shall be kept in good repair. It shall use materials, coatings, or other protective techniques that will resist vandalism, weathering by sun, water, wind, and graffiti to the greatest degree feasible
- Any deterioration, vandalism, and other maintenance issues shall be addressed in a timely manner by the artist and/or sponsoring organization. Failure to properly maintain the mural will result in notification for removal.

Removal

- If the mural is proposed for removal, it must be completely removed from the building and all surfaces must be restored to their previous state upon removal.

Mural standards.

Mural means a hand produced or machined graphic applied or affixed to the exterior of a building wall through the application of paint, canvas, tile, metal panels, applied sheet graphic or other medium generally so that the wall becomes the background surface or platform for the graphic, generally for the purpose of decoration or artistic expression, including but not limited to, painting, fresco, or mosaic.

Mural placement.

Murals shall not be permitted on the primary façade. A primary façade is defined, for purposes of this section, as the building elevation that faces the adjacent street right-of-way and is the primary customer entrance. Buildings located on a block corner with the primary customer entrance located shall be reviewed by the Cultural Affairs & Special Affairs (CASE) Office.

Murals shall not be allowed in RESIDENTIAL zoning districts of the City [REF ZONING MAP & DISTRICTS).

Murals shall not contain commercial advertising or messages. Copyrighted images are not allowed. CASE shall review and take special consideration for proposed murals that reflect historic advertising signs.

Murals located in the Downtown Lowell Historic District shall require additional review to ensure compliance.

Prohibited mural types.

Murals or other representations which imitate or appear to imitate any official traffic sign or device which appears to regulate or direct the movement of traffic or which interferes with the proper operation of any traffic sign or signal, or which obstructs or physically interferes with a motor vehicle operator's view of approaching, merging, or intersecting traffic.

Murals that project from the wall surface, except for the minimum necessary protrusion to mount the mural to the wall or structure.

Murals which contain material that when taken as a whole (i) applying contemporary community standards, its predominant appeal is to prurient interest in sex; and (ii) the average person, applying contemporary community standards, would find the material depicts or describes sexual conduct in a patently offensive way; and (iii) a reasonable person would find the material lacks serious literary, artistic, political, or scientific value.

Murals that are directed to incite or produce imminent lawless action and are likely to incite or produce such action.

Murals that convey threats of violence that are directed at a person or group of persons that have the intent of placing the target at risk of bodily harm.

Murals where the intended audience is commercial or actual or potential consumers, and where the content of the message is commercial in character.

Murals where the structure is rated “A” (nationally significant) or “B” (locally significant) on the Lowell Historic Preservation Commission (LHPC) index of historic resources in the District.

Surface preparation.

Sand and high pressure water blasting are not permitted as a cleaning process for either surface preparation or for mural maintenance purposes in any historic district or any building eligible for inclusion on the State or National Register of Historic Buildings. Treatments that cause damage to historic materials shall not be used.

Maintenance.

The mural shall be kept in good condition for the life of the mural according to the maintenance schedule and responsibilities approved by Cultural Affairs & Special Events (CASE) and incorporated into the Mural Permit. A mural exhibit shall be deemed to be in a state of disrepair when twenty-five (25) percent or more of the display surface area contains peeling or flaking paint, or is otherwise not preserved in the manner in which it was originally created.

The display surface shall be kept clean and neatly painted and free from corrosion.

Any mural that is not maintained according to the maintenance schedule incorporated into the mural permit or that falls into a state of disrepair may be ordered removed or covered with opaque paint, similar to the primary building materials/colors or other appropriate material by CASE, or the City Manager, all in the manner provided for in the mural permit. Murals subject to removal shall be provided a time limit of thirty (30) days from the date of the written notice for such removal or covering. Additional time may be authorized by CASE and/or City Manager for good cause.

Design standards.

Explanatory wording relative to the graphic may be incorporated into the mural. Artist signatures shall be allowed and limited to maximum of two (2) square feet in size.

The proposed mural will not have an adverse impact on the safe and efficient movement of vehicular or pedestrian traffic.

The location and scale of the mural should be in keeping with and enhance the building or structure on which it is located.

The proposed mural is well integrated with the building's façade and other elements of the property and enhances the architecture or aesthetics of a building or wall.

The proposed mural, by its design, construction, and location, will not have a substantial adverse effect on abutting property or the permitted use thereof.

The proposed mural is not detrimental to the public health, safety, or welfare.

The mural will not have a detrimental effect on the structural integrity of the wall on which it is applied/affixed.

The maintenance schedule is reasonable for the mural and the building on which it is applied/affixed. Any deterioration, vandalism, and other maintenance issues shall be addressed in a timely manner by the artist and/or sponsoring organization. Failure to properly maintain the mural will result in notification for removal.

Installations cannot obscure or detract from architectural features, nor detract from the existing historic, architectural, and design context of the site and surrounding area. The installation must respect the community setting and have no tendency to overwhelm or be obtrusive.

Murals must be secured in a manner so that they will not create potential hazards to the building, public, or surrounding property.

Mural permit

No mural shall be installed unless written permission is first obtained by the owner of the building upon which the mural is to be placed, or the building owner's agent, and a mural permit is obtained from the City of Lowell's Cultural Affairs & Special Events (CASE) Office.

Application requirements.

Each permit application shall contain, but not be limited to, the following information:

- A brief proposal describing the scope of the project. Site plan showing the lot, building dimensions, and indicating the proposed location of the mural.
- Pictures of the building elevations.
- A scale drawing and color photo of the building elevation showing the proposed size and placement of the mural.
- A colored drawing of the proposed mural.

- A biography of the artist and/or the group installing the mural. The City of Lowell reserves the right to ask for a portfolio from the artwork demonstrating their prior experience undertaking a project of this scope.
- A description of the proposed maintenance schedule that includes the period for the life of the mural and method for removal, if applicable.
- Written confirmation by the mural provider/installer that no damage or negative impact will occur to the wall surface that the mural is to be applied or affixed to.
- Written permission from the owner of the building to which the mural is intended to be applied, if applicant is not the building owner.
- An acknowledgement that the mural must be removed or covered if so ordered by the City of Lowell for failure to maintain or for reaching a state of dilapidation.

Mural permit approval.

A complete application [[LINK ONLINE & PAPER APPLICATION](#)] shall be submitted to the Cultural Affairs & Special Events (CASE) Office for review. CASE reserves the right to consult with COOL and/or other artist organizations in the City of Lowell.

Applications for a mural permit in the Downtown Lowell Historic District shall be distributed to Lowell Historic Board for comment regarding consistency with their policy on murals and/or public art. CASE shall coordinate, within 30 days of receipt of a complete application, placing the application on an upcoming Lowell Historic Board Agenda for consideration of the proposed location.

Proposed murals where the structure is rated “A” (nationally significant) or “B” (locally significant) on the Lowell Historic Preservation Commission (LHPC) index of historic resources in the District is prohibited and the application will be denied by CASE upon receipt [[REF GIS MAP](#)].

Proposed murals located in the Downtown Lowell Historic District will require location approval from the Lowell Historic Board.

All other mural permit applications will be reviewed and approved by the City. No mural permit shall be approved unless CASE, or the City Managers designee, shall find that these requirements have been fulfilled.

Appeals.

Appeals of CASE’s decision to approve or not approve a mural application may be made in writing to the City Clerk within ten (10) days of CASE’s decision. Said appeal shall be placed on an upcoming City Council meeting for consideration and disposition.