

2012 Council Study Issue

LCS 12-02 Review Effectiveness of Existing Art in Private Development Policies and Practices

Lead Department Library and Community Services

History 1 year ago None 2 years ago None

1. What are the key elements of the issue? What precipitated it?

Since the adoption of the Art in Private Development regulation in 1990 and a Council Policy requiring art in public construction projects in 2002, there has been periodic interest in revisiting specific aspects of the regulation. This study will review the City's current Council Policies 6.4.3 and 6.4.4 (Art in Public Construction and Art in Private Development), as well as Municipal Code Chapter 19.52. - Required Artwork in Private Developments. Council proposed the study on November 15, 2011 following a discussion that occurred during City Council interviews with prospective Arts Commission candidates on November 1, 2011.

In-lieu fees were initially considered when the art in private development regulation was adopted into the City's municipal code. However, at that time an emphasis was placed on requiring developers to incorporate public art into their non-residential projects as a means of mitigating the sense of uniformity and loss of human scale that often accompanies commercial and industrial development projects. Public art can be an effective way to enhance the visual landscape of a community. Currently, developers may apply to the Director of Community Development for a waiver that allows them to pay a fee equal to 1% of the construction valuation of a development, including building and tenant improvements, and excluding the cost of land and site improvements.

This study will re-evaluate the City's current emphasis on requiring developers to provide public art at the development site rather than permitting payment of in-lieu fees to the City's Public Art Fund. The Public Art Fund supplements the City's art in public places program. The existing regulation allows developers to pay an in-lieu fee as a means of satisfying the public art requirement, but only under limited circumstances. Qualifying projects may include, but are not limited to the following conditions:

- Properties that have an obstructed view corridor from the public right-of-way due to existing landscaping, utility poles or existing buildings on adjacent property.
- Properties that do not have an artwork location near the main entrance or street, either due to lack of space, existing trees and landscaping, required public easements, or existing utility pipes and electrical boxes.
- Properties that lack a publicly visible location for art due to security restrictions.
- Properties that do not have adequate space to incorporate public art.

Very few developments meet this limited criterion. Re-evaluating the City's intent behind the art in private development regulation could result in changes that provide developers additional flexibility, as well as to enhance the City's public art program in municipal facilities and parks by expanding the funding base.

2. How does this relate to the General Plan or existing City Policy?

General Plan Policy CC1.1 Identify the boundaries of the City with attractive and distinctive

features.

General Plan Policy CC-1.8 Provide and encourage the incorporation of art – both functional and decorative – in public and private development.

General Plan CC-1.8e Continue to acquire public artworks which contribute to the public identity of outdoor places and provide pleasure and enrichment for Sunnyvale residents.

General Plan Goal CC-4.a Provide public facilities which are accessible, attractive and add to the enjoyment of the physical environment.

3. Origin of issue

Council Member(s) Councilmembers Griffith and Moylan

4. Staff effort required to conduct study Minor

Briefly explain the level of staff effort required

Approximately 65 hours of staff time would be required to conduct the study. This includes time spent updating research and analysis from 2002 public art policy study. This would require input from three City departments (Library and Community Services, Community Development, and Office of the City Attorney. Staff work will include preparation of a Report to Council, and public hearings before the Arts Commission and Planning Commission.

5. Multiple Year Project? No **Planned Completion Year** 2012

6. Expected participation involved in the study issue process?

Does Council need to approve a work plan? No
Does this issue require review by a Board/Commission? Yes
If so, which? Arts Commission, Planning Commission
Is a Council Study Session anticipated? Yes

7. Briefly explain if a budget modification will be required to study this issue

Amount of budget modification required

Explanation

No budget modification will be required because staff time to conduct the study can be absorbed within the City's operation budget.

8. Briefly explain potential costs of implementing study results, note estimated capital and operating costs, as well as estimated revenue/savings, include dollar amounts

Are there costs of implementation? Yes

Explanation

No additional costs are anticipated to implement potential study results. Staff time used to work with developers in the past will be repositioned to coordinate the creation and installation of art in public facilities and parks. Staff would be responsible for developing public art projects, selecting or recruiting artists and artwork, and installation of the artwork. Staff has reviewed the art in private development projects over the past four years. If the existing in-lieu fee policy was modified to provide more flexibility to developers, an average of \$160,000 could be deposited to

the City's Public Art Fund if every developer chose to pay the in-lieu fee, rather than include art in their developments.

9. Staff Recommendation

Staff Recommendation Support

If 'Support', 'Drop' or 'Defer', explain

Staff recommends study of this issue in 2012. The art in private regulation and the Council Policies related to public art in private development and public construction projects were most recently visited in 2001 and 2002. City Council established an in-lieu fee option for developers in 2002; however, it was determined that the art in private development regulation would focus on the provision of art within actual private development projects. Since that time, the in-lieu fee option has permitted developers to pay a fee to the City only under limited conditions, and the fees have been used to acquire art for parks and municipal facilities. Use of the in-lieu fee option requires a waiver from the Director of Community Development and is the exception, rather than the rule. This study would potentially provide more flexibility to developers and additional funding for the creation and installation of art in public places.

Reviewed by

Approved by

Lisa D. Moser 12/7/11
Department Director Date

[Signature] 12-8-11
City Manager Date