

**REGIONAL PLANNING COMMISSION
SUMMARY OF PUBLIC HEARING PROCEEDINGS**

**PROPOSED AMNEDMENT TO TITLE 22 (PLANNING AND
ZONING) OF THE COUNTY CODE TO ESTABLISH THE PERCENT FOR ART IN
PRIVATE DEVELOPMENT ORDINANCE**

RPC Public Hearing August 1, 2018

The Regional Planning Commission (Commission) conducted a duly-noticed public hearing to consider the proposed ordinance establishing a Percent for Art in Private Development program in Title 22 of the County Code on August 1, 2018.

During the hearing, staff from Regional Planning provided an overview of the ordinance, and introduced staff from the Arts Commission to present on the ordinance. As proposed at this hearing, the ordinance was to have developers of commercial and industrial development projects, with a valuation of \$500,000 on buildings, that are new, expanded, or renovated, contribute one percent of the valuation to civic art in at least one of five ways. The developer may choose to: 1) commission a new art installation on-site or in the immediate vicinity; 2) build a cultural facility on-site or in the immediate vicinity; 3) contribute towards conservation or restoration of existing artwork, historic or architectural landmark, or cultural facility within a five-mile radius; 4) provide artistic and cultural services within a five-mile radius; or 5) pay an in-lieu fee equal to that one percent. Exempt from the ordinance would be all residential projects, religious facilities, facilities run by non-profit organizations used solely for that non-profit's purpose, facilities fully dedicated to the arts, rehabilitation to improve seismic safety or to comply with American with Disabilities Act, and replacement, repair, renovation, or rehabilitation of an existing building partially or completely destroyed by a natural disaster up to the original building valuation. Any project that meets the criteria to comply with the requirement would be referred to the Arts Commission at the time building permits are applied, and Regional Planning would advise the project applicants of this program at case in-take. Staff also explained how Arts Commission will administer the program and the use of funds, and what elements of art do not count towards the one percent requirement.

Three letters were submitted to the Commission in opposition to the ordinance, and eight letters were submitted in support. At the hearing, four members of the public testified, all in opposition to the ordinance, citing concerns with additional fees businesses must pay on top of other mandated fees required under Titles 21 and 22, and impacts on small businesses.

After questions and discussion, the Commission moved to continue the public hearing to October 31, 2018 and then to November 28, 2018, directing staff to research: 1) inclusion of a residential component; 2) whether the proposed \$500,000 building valuation threshold may impact small businesses; 3) how the funds would be administered; and 4) details on the administrative costs of the program.

RPC Continued Hearing November 28, 2018

At the November 28, 2018 public hearing, staff presented their findings from research of 46 jurisdictions in California with similar percent-for-art ordinances regarding the applicability of residential developments to the requirement, minimum valuation thresholds, contribution percentages, and ordinance administration. Staff found that of the 46 jurisdictions surveyed in California, 39 included residential projects in their percent-for-art requirements, and 11 excluded affordable housing projects. 25 jurisdictions started their building valuation thresholds at \$500,000 or lower, but did not factor the Consumer Price Index (CPI) in their thresholds. 35 jurisdictions did not specify a cap on administrative costs from the fees collected for their percent-for-art programs. Staff also noted that most jurisdictions had one or two staff members administering their programs

Seven letters of opposition were submitted to the Commission, and one letter of support was submitted. Seven members of the public testified, all in opposition in one way or another, including concerns of impacts on small businesses, housing, and private recreation. Two of them had more narrow concerns, such as the applicability to private recreation facilities and affordable housing.

The Commission moved to continue the hearing to February 13, 2019, and then to April 24, 2019, directing staff to bring back proposed ordinance language to include market-rate residential development and to work with affordable housing developers to define how art can be part of the project to meet the requirement and to incentivize design upgrades that can qualify for art rather than applying a fee.

RPC Continued Hearing April 24, 2019

At the April 24, 2019 hearing, staff introduced amended language to the ordinance, explained the changes, and summarized outreach efforts through several roundtables with building and housing industry stakeholders. Staff also expressed support of public art as a matter of equity for the County.

Five letters of opposition were submitted to the Commission in opposition, and 49 letters of support were submitted, however two were qualified in that 100% affordable housing must be exempt from the ordinance. Five members of the public testified in opposition with the same concerns as at the previous hearing, and one testified in support. Another testified with qualified support in that 100% affordable housing be exempt.

The Commission asked about the change in threshold amount and administrative costs of the program. After discussion, the Commission closed the public hearing and voted unanimously to recommend that the Board of Supervisors approve the ordinance with additional language to change “shall” to “may” for the developer to hire an art consultant, adjust the threshold value based on the CPI, and require that 100% of all one-percent proceeds be used specifically for art with no additional fees or a cut of fees to be used for administration, and adopt the proposed amendment to Title 22.

VOTE:

Concurring: Commissioners Louie, Shell, Smith, Moon, and Modugno.

Dissenting: None

Abstaining: None

Absent: None

Action Date: April 24, 2019