July 19, 2018

TO:   David W. Louie, Chair  
      Elvin W. Moon, Vice Chair  
      Doug Smith, Commissioner  
      Laura Shell, Commissioner  
      Pat Modugno, Commissioner

FROM: Bruce Durbin, Supervising Regional Planner  
      Ordinance Studies Section  
      Grace Ramirez-Gaston, Director of Civic Art  
      Los Angeles County Arts Commission

SUBJECT: PROJECT NO. 2017-000213  
         ADVANCE PLANNING CASE NO. RPPL2017008325  
         AMENDMENT TO TITLE 22 TO ESTABLISH THE PERCENT FOR ART  
         IN PRIVATE DEVELOPMENT ORDINANCE  
         AGENDA OF August 1, 2018 – AGENDA ITEM #7

BACKGROUND/INTRODUCTION

In a motion approved on March 14, 2017, the Board of Supervisors directed the Chief  
Executive Officer (CEO) and the Los Angeles County Arts Commission to draft an  
ordinance amending Title 22 (Planning and Zoning) of the County Code to establish  
requirements for civic art in private development. The Board directed the CEO and Arts  
Commission to consult with the Departments of Public Works and Regional Planning and  
County Counsel in drafting the ordinance, and consult with these Departments and the  
Department of Consumer and Business Affairs, to solicit input from community  
stakeholders including comments and recommendations on appropriate exceptions and  
thresholds.

The County has already established a Civic Art Policy, adopted by the Board in December  
2004 and enacted in 2006, which includes a requirement of one percent of the building  
valuation on County-funded public building projects to fund civic art programs  
Countywide. However, there currently is no funding source through private development  
to provide civic arts in the unincorporated communities.
At least thirty-one municipalities within Los Angeles County have enacted both civic art policies and percent-for-art ordinances where private developers are required to provide artwork or cultural services on site or pay in-lieu fees to be used towards providing the civic art benefit within that municipality. The County is the only local jurisdiction that has a civic art policy but no percent-for-art requirement for private development. The art and cultural services provided by the proposed ordinance will create additional public access to the arts, contribute toward realizing cultural equity and inclusion, and create opportunities for artists in underserved communities in the unincorporated areas of the County.

PREVIOUS EFFORTS

In 1999, the Department of Regional Planning and the Arts Commission took similar efforts in drafting an ordinance to fund civic art through private development. It was presented to the Regional Planning Commission three times on February 23, March 22, and April 26, 2000, and the Commission recommended the ordinance to the Board for consideration. However, during continued outreach with stakeholders, concerns over the ordinance continued to grow and it was never ultimately considered by the Board. This ordinance is based on and modified from the draft that was presented and recommended in 2000 and based on similar private development civic art initiatives that were adopted by multiple municipalities within the County.

PROPOSED ORDINANCE

The Percent for Art in Private Development Ordinance (Ordinance) proposes the following:

1. Define new terms in Title 22 relating to civic art;
2. Applies only to commercial and industrial projects — new construction with a building valuation of at least $500,000 and repair/renovation of existing buildings with cumulative building valuation of at least $500,000;
3. Exempt certain commercial and industrial projects and certain renovations from this requirement, as specified;
4. Authorize the Arts Commission to administer the Percent for Art program, including reviewing applications, working with developers to develop project-specific civic art programs, collecting in-lieu fees and expending the collected fees specifically for civic art;
5. Allocate one percent of the building valuation or design and construction costs to go towards providing the civic art on site or as an in-lieu fee to the County Arts Commission to fund civic art; and
6. Require that civic art comply with all zoning requirements in Title 22.

Definitions

The Ordinance will add twelve new definitions to Title 22 relating to art and development to provide clarity and specificity on how these terms will be used within the Ordinance.
Such terms include “artist,” “building valuation,” “civic art,” and “commercial and industrial,” to name a few.

Project Applicability
Development projects to be subject to the Ordinance are limited to new commercial and industrial development on private property, or additions or modifications to existing commercial and industrial buildings on private property, with a cumulative building valuation of at least $500,000. Commercial components in a mixed-use residential-commercial development project are subject to the Ordinance; residential components are exempt. Exemptions are provided for certain commercial and industrial projects from the requirements of the Ordinance, such as religious facilities, facilities run by non-profit organizations solely for the non-profit’s purpose; facilities that are fully designed or dedicated to the performing arts or museum spaces; renovations or rehabilitation required for seismic safety or for compliance with American with Disabilities Act; and replacement, repair, renovation, or rehabilitation to an existing building partially or completely destroyed by a fire or natural disaster up to the original building valuation.

Administration
The Ordinance will authorize the Arts Commission to administer the Percent for Art in Private Development program. When an application for a commercial or industrial development project goes through the entitlement process with Regional Planning, Regional Planning may advise the developer that the project may potentially be subject to the Percent for Art requirement. Before a building permit is issued, the Department of Public Works will provide a valuation of the construction of all buildings for the project, and if the valuation exceeds $500,000, Regional Planning will refer the application to the Arts Commission.

Civic Art Requirement
The Ordinance provides two avenues in which a developer of a commercial or industrial development project that meets the valuation threshold may choose to comply with the Percent for Art requirement:

1. **Provide Civic Art.** Include a publicly accessible civic artwork valued at one percent of the building valuation, either on site or in the vicinity of the site. The civic art may be comprised of, but not limited to:
   a. Newly commissioned original work of art;
   b. New cultural facility;
   c. Conservation or restoration of existing artwork, historic or architectural landmark, or cultural facility within a five-mile radius; or
   d. Artistic and cultural services – such as theatrical performances, arts education, or festivals – within a five-mile radius.

2. **In-Lieu Fee.** Pay an in-lieu fee to the County Civic Art Fund that is valued at one percent of the building valuation.

Compliance with Zoning Requirements
If a civic art installment is to be provided to satisfy the Percent for Art requirement, compliance with the requirement does not exempt the civic art project from all applicable Title 22 regulations. A cultural facility as a civic art installment, such as a museum or performing arts theater, must comply with Title 22 requirements, such as zoning for the chosen land use, required parking spaces, sign regulations, and required planning entitlements (i.e. conditional use permit), if applicable, prior to issuance of a building permit for the development project. An arts-related special event, such as an arts festival, used to satisfy the Percent for Art requirement must obtain a special events permit from Regional Planning prior to commencing the event.

Civic Art Standards
If the developer chooses to provide a civic art installation on-site or in the vicinity of the project site, the civic art must meet the following standards:

1. The civic art is to be privately owned and maintained by all future owners or occupants of the development, through a covenant or other written provision depending on the type of civic art chosen.
2. The civic art must be openly and freely accessible by the general public for at least eight hours a day, five days a week.
3. The civic art must comply with the County Public Art Policy.
4. The civic art satisfies the artistic and cultural needs of the development and the community where the development is located.
5. The civic art must be original artwork; not mass-produced or of standard design.

The following cannot be considered as part of civic art or factor into the one percent valuation threshold:

1. The costs involved in maintaining the civic art.
2. Services or utilities required to operate or maintain the civic art.
3. Supergraphics, signage, or coloring code.
4. Reproductions of original artwork (with the exception of media arts).
5. Building architecture or ornamentation, except if specially commissioned by an artist, however, considerations will be made for restoration of architectural landmarks.
6. Landscape architecture and gardening, except if specially commissioned by an artist.

Civic Art Fund
If the developer chooses to pay an in-lieu fee into the County Civic Art Fund to satisfy the Percent for Art requirement, the developer is to contribute one percent of the total building valuation of the entire development project, if new, or the added-on valuation of the expansion to an existing development (i.e. adding a new story to a building, of which the valuation will be limited to construction of the new story). For example, if a new building or an expansion on an existing building is valued at $500,000, the developer will pay a minimum of $5,000 to the Civic Art Fund.
The Civic Art Fund will comprise of five separate accounts, one for each Supervisoral District, which will be managed by the County Treasurer and Tax Collector. A developer that elects to pay an in-lieu fee will pay into the account for the Supervisoral District where the development project is located, and all funds collected in that account will be distributed for civic art projects within that Supervisoral District. Civic art projects using money from the Civic Art Fund will belong to the County and will be managed and maintained by the Arts Commission. Expenditures made from the Civic Art Fund is subject to approval by the Board of Supervisors, and must be used in accordance with the County Civic Art Policy. The Arts Commission will report annually on the use of the Civic Art Fund to the Board.

Alternative Method
If the developer of a project is subject to the Percent for Art requirement and is unable to provide an on-site civic art project or pay an in-lieu fee, or prefers another means to satisfy the requirement, the Arts Commission is authorized to negotiate with the developer on alternative methods that will satisfy the objectives of the Percent for Art requirement.

GENERAL PLAN CONSISTENCY

The following goals/policies of the Los Angeles County General Plan are applicable to the proposed ordinance:

- Policy LU 2.6: Consider the role of arts and culture in community-based planning efforts to celebrate and enhance community character.
- Policy LU 10.5: Encourage the use of distinctive landscaping, signage and other features to define the unique character of districts, neighborhoods or communities, and engender community identity, pride and community interaction.
- Policy LU 10.8: Promote public art and cultural amenities that support community values and enhance community context.

COUNTY DEPARTMENT COMMENTS AND RECOMMENDATIONS

Department of Public Works
Public Works reviewed the draft through the eReview consultation process, and was in general agreement with the ordinance.

Beaches and Harbors
Beaches and Harbors reviewed the draft ordinance and received feedback from the Marina Del Rey Lessees Association, and both suggested that any development project that includes “hard art” onsite or in the immediate vicinity should be referred to Marina Del Rey Design Control Board during the beginning stages of a civic art plan to ensure compatibility with the goals and policies of the Marina Del Rey Specific Plan. Both had concerns about subjecting private recreational facilities, such as yacht anchorages, docks, and yacht clubs to the Percent for Art requirements, and suggested to exempt those facilities. The Association also suggested that all in-lieu fees contributed by
development projects within Marina Del Rey to remain within that area to support programs to enhance the Marina as a premiere visitor-serving area, rather than to distribute civic funds Countywide. Their concerns have been addressed and clarified in the draft ordinance.

LEGAL NOTIFICATION AND PUBLIC ENGAGEMENT

Legal Notification
An one page legal advertisement was published in a newspaper of general circulation, the Los Angeles Times, on July 1, 2018. Case related materials were sent on June 21, 2018 to at least one County Library in each Supervisorial District, as follows: East Los Angeles in the First District, A.C. Bilbrew in the Second District, Topanga in the Third District, Hacienda Heights in the Fourth District, Lancaster Regional in the Fifth District-northern portion, and La Crescenta in the Fifth District-southern portion.

Staff posted case information on the Department of Regional Planning’s website (http://planning.lacounty.gov/art).

Public Engagement
The Arts Commission consulted with numerous stakeholders in the form of one-on-one conversations, roundtable discussions, presentations and written correspondence. The companies, groups and associations include NBC Universal Studios, Valley Industry and Commerce Association, Majestic Realty, the Empowerment Congress, City of Los Angeles Chamber of Commerce, Association of Rural Town Councils, Hacienda Heights Improvement Association, Biz-Fed, Marina del Rey Lessees Association, Florence Firestone, Las Virgenes Homeowners Federation, and Building Industry Association – Los Angeles Chapter. The Arts Commission also consulted with the Department of Beaches and Harbor regarding private development in the Marina Del Rey community, the Department of Business and Consumer Affairs and the Development Advisory Group as well as independent artists, architects, developers, lawyers, art consultants, realtors and policy managers.

PUBLIC COMMENTS

A letter was submitted by the Marina Del Rey Lessees Association with comments on the ordinance, which is included as an attachment to this letter.

ENVIRONMENTAL DETERMINATION

County Staff recommends that Project No. 2017-000213 is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it can be seen with certainty that there is no possibility that the Project will have a significant effect on the environment and therefore not subject to CEQA, and pursuant to Section 15183 (“Projects Consistent with a General Plan,
Community Plan, or Zoning”) as this Project is consistent with the policies of the County General Plan to include art in community planning.

STAFF RECOMMENDATION

The following recommendation is made prior to the public hearing and is subject to change based upon testimony and/or evidence presented at the public hearing. Staff recommends that your Commission close the public hearing, find that the Project is exempt pursuant to State and local CEQA guidelines, and adopt the attached resolution recommending APPROVAL to the County Board of Supervisors for Project No. 2017-000213, Advance Planning Case No. RPPL2013008325 – Percent for Art in Private Development Ordinance.

SUGGESTED MOTION

“I move that the Regional Planning Commission close the public hearing, find that the project is exempt from CEQA pursuant to State and local CEQA Guidelines, and adopt a resolution recommending approval to the Board of Supervisors of the Percent for Art in Private Development Ordinance, Project No. 2017-000213, Advance Planning Case No. RPPL2017008325.”

If you have any questions, you may contact Grace Ramirez-Gaston at gramirezgaston@arts.lacounty.gov or (213) 202-5865, or Bruce Durbin at bdurbin@planning.lacounty.gov or (213) 974-6432 Monday through Thursday.

Attachments:
Draft Ordinance
Draft Resolution
Board Motion
Public Hearing Notice

BD:GRG:as