

4. [20-0844](#) Arts Commission Recommendation that the City Council (1) Approve the Master Plan for Public Art; and (2) Introduce an Ordinance Amending Municipal Code Chapter 19.52 (Art in Private Development) to Increase the Percent for Art Requirement from 1% to 1.5%, Implementing Option 2A of the Public Art Master Plan.

Planning Commission Recommendation that the City Council Introduce an Ordinance Amending Municipal Code Chapter 19.52 (Art in Private Development) to Increase the Percent for Art Requirement from 1% to 1.5%, Implementing Option 2A of the Public Art Master Plan.

Damon Sparacino, Superintendent of Community Services, presented the staff report with a slide presentation.

Commissioner Olevson asked why staff recommends increasing the requirement by half a percentage point considering there has been a rise in developer costs. Superintendent Sparacino answered that the ordinance aligns with the spending trends on art in private development between 2013 and 2019 and that the cost and scale of art and developments have contributed to the increase in spending. He stated that the increase would also incentivize developers to choose the in-lieu fee option which could help finance the Public Art Fund. Commissioner Olevson asked staff to confirm if during 2013 to 2019 most developers that required public art spent less than 1.5 percent on it. Kristin Dance, Community Services Coordinator, and Superintendent Sparacino clarified that 18 of the 26 projects requiring public art opted to place it on-site and 10 of the 18 projects spent above 1.5 percent. Trenton Hill, Community Services Manager, added that 8 of the 26 projects that did not place art on-site chose the 1.1 percent in-lieu option and paid into the Public Art Fund.

Chair Howard asked if staff considered an in-lieu fee of one percent and an on-site requirement of 1.1 percent or slightly higher to incentivize developers to contribute to the Public Art Fund. Superintendent Sparacino stated that both the Arts Commission and the City Council chose Option 2A in the Master Plan for Public Art which would increase the on-site art requirement percentage to 1.5 percent while maintaining the current in-lieu fee option of 1.1 percent, instead of Option 2B. Chair Howard confirmed with Community Services Coordinator Dance that non-residential projects over two acres are subject to art requirements and that a smaller percentage would be required of mixed-use residential and retail projects.

Vice Chair Simons asked if staff discussed modifying the two acre threshold considering that there is less land available and development is denser.

Superintendent Sparacino responded that staff and the consultant did not discuss or make any recommendations on the two acre threshold and added that staff will review the Master Plan for Public Art annually and consider changes to it every ten years. Vice Chair Simons shared two images of building murals as examples of unconventional ways to provide art in private development. He emphasized that architecture and landscaping can be focal points themselves and that there are different forms of art to explore which is important considering that there are not many projects that require art and choose the on-site public art option. Community Services Coordinator Dance stated that every project is different and she and her team constantly work with developers for unique art but acknowledged that there are limitations. She added that the smaller in-lieu fee percentage compared to the art requirement percentage would enable the City to provide art to the community in a different way than what could be done in private development. Superintendent Sparacino further remarked that developers that wanted to provide art on-site could pay into the Public Art Fund whatever portion of the 1.5 percent they could not meet. Assistant Director Andrew Miner shared the idea that the trigger for the art in private development requirement for denser projects could be reduced to one acre if the in-lieu fee is paid.

Chair Howard asked if art in private development is required for mixed-use developments where housing is above retail. Community Services Coordinator Dance stated that the ordinance would only apply to the retail portion and excludes housing developments or the portion of housing in a mixed-use development, unless the City Council directs otherwise.

Chair Howard opened the Public Hearing.

There were no public speakers for this agenda item.

Chair Howard closed the Public Hearing.

MOTION: Commissioner Olevson moved and Commissioner Rheaume seconded the motion for Alternative 1 - Recommend to Introduce an ordinance amending Sunnyvale Municipal Code Chapter 19.52 (Art in Private Development) to increase the percent for art requirement from 1% to 1.5%, implementing Option 2A of the Master Plan.

Commissioner Olevson stated that the ordinance accurately captures the Arts Commission's recommendation making it easy for him to support staff's

recommendation.

Chair Howard stated that he will support the motion, that he initially had concerns about the percentage increases, and that he appreciates Commissioner Olevson's efforts to fully understand the objective.

Vice Chair Simons stated that he will support the motion and that the two acre threshold should be explored sooner to incorporate denser projects that are being developed on smaller pieces of land. He added that he is fine with the percentage increases. He commented on his concern that during an Arts Commission meeting staff needed to discuss his ability to comment as a member of the public and that the Arts Commission is able to effectively run its meetings as he experienced more staff than Commissioners present at an Arts Commission meeting.

The motion carried by the following vote:

**Yes:** 5 - Chair Howard  
Vice Chair Simons  
Commissioner Howe  
Commissioner Olevson  
Commissioner Rheume

**No:** 0

**Absent:** 2 - Commissioner Harrison  
Commissioner Weiss

Superintendent Sparacino stated that this recommendation will be forwarded to the City Council for consideration at the Tuesday, October 27, 2020 meeting.

#### **STANDING ITEM: CONSIDERATION OF POTENTIAL STUDY ISSUES**

Chair Howard stated that he submitted a potential study issue for staff to review.

#### **NON-AGENDA ITEMS AND COMMENTS**

##### **-Commissioner Comments**

Vice Chair Simons asked how he can discuss forming a potential study issue with other Commissioners. Assistant Director Andrew Miner stated that staff can agendaize the topic for a future meeting. Senior Assistant City Attorney Rebecca Moon stated that Vice Chair Simons can discuss the topic with other Commissioners

if it is not a serial meeting and no more than three Commissioners participate in the discussion.

**-Staff Comments**

Assistant Director Andrew Miner stated that on September 15, 2020 the City Council denied the General Plan Amendment Initiation for 1313 S. Wolfe Road that the Commission recommended denial of on August 10, 2020, with the applicant able to re-apply in two years. On September 15, 2020 the City Council also adopted a resolution extending temporary outdoor business activities to more uses. He further remarked that City Council will hold a Study Session on September 29, 2020 that will outline the path forward for the Moffett Park Specific Plan Update.

**ADJOURNMENT**

Chair Howard adjourned the meeting at 9:43 PM.