



City of Sunnyvale

Agenda Item

24-0129

Agenda Date: 2/15/2024

2024 COUNCIL STUDY ISSUE

NUMBER

CDD 23-04

TITLE Explore Expanding Sunnyvale Municipal Code Chapter 19.52 (Art in Private Development) to Include a Public Art Requirement for High Density Residential Developments (Including Affordable Housing)

BACKGROUND

Lead Department: Community Development

Support Departments: Office of the City Manager
Office of the City Attorney
Library & Recreation Services

Sponsor(s): Arts Commission

History: 1 year ago: Deferred by Council
2 years ago: N/A

SCOPE OF THE STUDY

What precipitated this Study?

The Arts Commission proposed exploring a new program that would bring high quality art to affordable housing. Sunnyvale Municipal Code (SMC) Chapter 19.52 (Art in Private Development) does not currently include a provision for residential projects, including affordable housing.

SMC Chapter 19.52 requires nonresidential developments to provide art when located on any lot of two acres or more (or at specified major intersections on El Camino Real, Central Expressway, Mathilda Avenue and Lawrence Expressway). Under the Art in Private Development (AIPD) program, developers must provide publicly visible art on-site that is equal in value to 2% of the project construction valuation. Developers can choose to incorporate art into their projects or contribute an in-lieu fee, 1.1% of the project construction valuation, to the Public Art Fund to support City-managed public art projects.

In addition to the AIPD program, the City adopted the Master Plan for Public Art in November of 2020. As part of the Master Plan for Public Art process, the community recognized that “the works installed under the AIPD program are largely unknown to residents and visitors of Sunnyvale because of their locations in predominantly industrial areas” and therefore the artworks are not successfully integrated into the “everyday lives of the community.” Outreach also identified several key outcomes residents and business communities were interested in:

- Creating vibrancy in the downtown area and neighborhoods.
- Establishing identity and community pride through art elements such as iconic gateways and

public art identifiers for neighborhoods.

- Developing temporary and interactive art projects to activate existing public spaces.
- Connecting places and creating gathering places with art.
- Artistic excellence maintained for community to enjoy.

What are the key elements of the Study?

As Sunnyvale continues planning for, and permitting, more high-density housing projects, a residential requirement for public art could help meet the key outcomes relative to public art listed above. In addition to creating public art, identity and placemaking, it can also provide a social, environmental, equity and inclusion platform for local artists that represent the Sunnyvale community.

The Arts Commission identified the following key elements for consideration as part of the proposed Study Issue:

- High-density residential developers, including affordable housing, could select artists that represent Sunnyvale's population to create visible public art for residential developments.
 - City can facilitate "Call for Artists" within the community to apply for, and/or participate in, the artist selection process.
- Require community participation in artist selection for high-density residential development projects.
- Require that an area (i.e., wall or other space) be identified and approved as part of the architectural design of high-density residential development projects.

The Study would:

- Include a benchmark study to identify what, if any, government agencies (local, regional, national) require art relative to private high-density residential developments. The study will include, but not be limited to, city population and area, percentage requirement, acreage or total unit requirement, affordable housing, program elements/parameters, etc.
- Identify what constitutes "high density" housing for the purposes of provision of artwork. Note that the General Plan/zoning districts define high density as development above 24 dwelling units per acre.
- Explore a minimum project size (acreage or number of units), similar to the art requirement for non-residential development.
- Determine what is an appropriate percentage for art in residential development.

As part of the preparation of the Housing Element of the General Plan, the City is required to remove governmental constraints that hinder it from meeting its share of the regional housing need. While the Housing Element may be completed before this Study, it would be prudent to also:

- Examine whether imposing an art requirement on high density residential development functions as a constraint on housing production, particularly for 100% affordable projects, through a fiscal analysis study.

The Study would also:

- Explore exempting artwork for affordable units (similar to the exemption for park dedication requirement for rental affordable units).

Most new higher density residential development in Sunnyvale will be constructed in mixed-use areas with primarily high-density housing such as Downtown, Lawrence Station, El Camino Real and

Moffett Park. These locations allow housing near existing non-residential developments with artwork already installed, and new non-residential developments, which require artwork or paying an in-lieu fee. The Study would also look at whether prioritizing use of in-lieu fees for artwork installation in residential areas is feasible and desirable. Note that the El Camino Real Specific Plan includes a small incentive for higher density for residential developments that include artwork or an in-lieu fee (both based on 1% of construction valuation).

Estimated years to complete study: 1 year

FISCAL IMPACT

Cost to Conduct Study

Level of staff effort required (opportunity cost):	Moderate
Funding Required for Non-Budgeted Costs:	\$50,000
Funding Source:	Will seek budget supplement

Funding would be used to hire a consultant to conduct a fiscal analysis of the impact of an art in private housing development requirement.

Cost to Implement Study Results

Currently, developers pay a permit fee, which is used to offset staff time required to coordinate the AIPD process. High-density residential development projects could require the same permit fee.

EXPECTED CITY COUNCIL, BOARD OR COMMISSION PARTICIPATION

Council-Approved Work Plan: No
Council Study Session: Yes
Reviewed by Boards/Commissions: Arts Commission and Planning Commission

STAFF RECOMMENDATION

Support. This policy issue merits discussion at the 2024 Study Issues Workshop.

SMC Chapter 19.52 (Art in Private Development) does not include a provision for required artwork in high-density residential projects. Since residential construction projects may be smaller in scope and valuation, an art requirement could provide an opportunity to showcase more local artists with smaller works of art leading to better representation of Sunnyvale's community. Finally, expanding the AIPD program to high-density residential projects could contribute to a more even distribution of art throughout the City, create placemaking and belonging, and facilitate a more equitable representation of, and access to, art in the community.

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