

# Agenda Report

March 8, 2010

**TO:** Honorable Mayor and City Council

**FROM:** Planning and Development Department

**SUBJECT:** **Adopt Zoning Code Amendments to Establish a Public Art Requirement in Northwest Pasadena and Revise Private Development Public Art Guidelines to Establish New Applicability Thresholds for Northwest Pasadena.**

## **RECOMMENDATION:**

It is recommended that the City Council:

1. Find that the proposed amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines Section 15061(b)(3) - General Rule;
2. Approve the proposed Zoning Code Amendments that will remove the Public Art Requirement exemption for projects in the Enterprise Zone Business Development area (EZBDA), establish new applicability thresholds for the Northwest Community Plan Area and remove the exemptions for the redevelopment areas in the Northwest Community Plan Area;
3. Adopt the proposed changes to the Private Development Public Art Program Guidelines to establish new applicability threshold for Northwest Pasadena.
4. Direct the City Attorney to draft an ordinance to Title 17 (the Zoning Code) and return within 60 days consistent with the provisions set forth herein.

## **ARTS AND CULTURE COMMISSION RECOMMENDATION:**

On July 7, 2009, the Arts & Culture Commission recommended that the City Council remove the Northwest Enterprise Zone public art exemption from the Public Art Program's Guidelines for New Private Development. The Commission recommended approval of changes to the Private Development Public Art Program Guidelines at the special meeting of November 18, 2009. The revised guidelines would establish the applicability thresholds in Northwest Pasadena based on the application of the City's Public Art Requirement for Downtown and Old Pasadena Redevelopment Areas and the inclusion of Industrial projects.

**PLANNING COMMISSION RECOMMENDATION:**

On October 28, 2009, the Planning Commission unanimously recommended that the City Council approve the proposed Zoning Code amendments to remove the current public art exemption for private development in Northwest Pasadena and to establish new applicability thresholds that would apply to the Northwest Community Plan Area, including the redevelopment areas contained therein. The motion included an amendment to endorse the development of a new master public art plan to include policies that address the inequity of arts and culture projects in various Pasadena Neighborhoods particularly in the Northwest.

**NORTHWEST COMMISSION, FAIR OAKS AVENUE PROJECT AREA COMMITTEE  
AND LINCOLN AVENUE PROJECT AREA COMMITTEE (PACs)  
RECOMMENDATION:**

On January 27, 2010, the Fair Oaks Avenue and Lincoln Avenue PACs also recommended that Council approve the staff recommendation to remove the Public Art Program exemption for Northwest Pasadena. Their recommendation also included support for the proposed Public Art Master Plan to prioritize public art development in the Northwest Pasadena area. On February 11, 2010, The Northwest Commission took similar action.

**EXECUTIVE SUMMARY:**

Staff recommends removal of the public art exemptions from the EZBDA and the redevelopment areas in the Northwest Community Plan Area. The Northwest Enterprise Zone was exempted from the City's first public art program for Downtown and Old Pasadena Redevelopment areas when it was established by the Pasadena Community Development Committee (PCDC) in 1988. When the ordinance for the remainder of private development in the City was established in 1992, this exemption was also included. It was reasoned that the one percent for art levy would be considered an impediment to development in the Northwest at a time when development was actively encouraged.

Public art is considered an enhancement to the quality of life throughout the City and the removal of the exemption would allow the Northwest area of the City this same benefit. Staff estimates that over a period of 10 years approximately 13 developments in the Northwest Enterprise Zone Area would have contributed \$225,000 or 13 on-site public art projects had there been no exemption.

Implementation of this recommendation requires both a change to the Zoning Code and adoption of revised guidelines. The Planning Commission has the authority to initiate

changes to the Zoning Code, whereas changes to the Public Art Program are initiated through the Arts & Culture Commission.

### **BACKGROUND:**

#### **Private Development Public Art Requirement**

The City's first Public Art Program was adopted by the Downtown and Old Pasadena Redevelopment areas under the Pasadena Community Development Corporation in 1988 for projects as follows:

"One percent of the private and public development costs for new commercial, industrial and multi-family development within the boundaries of the redevelopment project shall be allocated by the developer to finance the provision of cultural and artistic facilities and features within the development of the site, and that 25 percent of that obligation would be deposited into a Downtown Cultural Trust Fund."

In 1992, Ordinance No. 6420 was adopted to expand the public art requirement citywide. The Northwest Enterprise Zone was exempted from the program to minimize the financial impact to development projects. The City's one percent for art requirement for City Construction Projects (CIP) was also instituted in 1992, however, without this exemption.

For eligible developments, the Public Art Requirement mandates that one percent of the building permit valuation be allocated towards public art. A deposit of 25 percent (Downtown and Old Pasadena) or 20 percent (elsewhere in the City) of this amount is required prior to issuance of the building permit. The remaining funds are to be designated for an onsite artwork, cultural programming and/or cultural space. The full amount can be paid to the Cultural Trust Fund as an in-lieu fee.

Based on the standards set forth for the one percent for art requirement for the Downtown and Old Pasadena Redevelopment areas, a review of City building permit activity over ten years reveals that approximately thirteen past developments in the Northwest Enterprise Zone Area would have contributed \$225,000 or thirteen on-site public art projects.

### **PROPOSED AMENDMENTS:**

#### **Threshold for Public Art in the Northwest**

Currently, the two private development Public Art programs are levied with different triggers. The Downtown and Old Pasadena Redevelopment Area program relies on dollar valuation (\$500,000) of new construction or renovation, whereas the requirement elsewhere in the City is 25,000 square feet of new construction. Staff recommends that

the new public art requirement for the Northwest Community Plan Area be consistent with that of the Downtown and Old Pasadena Redevelopment Area Public Art Program based on similar constraints of small parcels. However, because the Downtown and Old Pasadena Redevelopment areas do not include industrial zoning/projects that do exist in Northwest Pasadena, staff recommends extending the Public Art Requirement to include industrial projects in Northwest Pasadena. This recommendation will encompass the entire Northwest Community Plan Area, not just the redevelopment area, and will include multi-family projects where the dollar valuation is \$500,000 or more.

The following proposed program changes would establish the application of a new Public Art Requirement for Northwest Pasadena. The proposed revised guideline changes (attached) provide for the implementation of the new program requirements.

### **Proposed Thresholds**

In the Downtown and Old Pasadena Redevelopment areas and Northwest Pasadena, eligible projects subject to the Public Art Requirement shall meet all of the following thresholds:

- Building permit valuation of \$500,000 or more
- New construction or renovation
- Multi-family residential, commercial or mixed-use (or Industrial for the Northwest Pasadena only)
- Projects meeting these thresholds must dedicate at least one percent of the building valuation to public art. Of that amount, 25 percent is directed to the City's Cultural Trust fund in support of cultural resources in Pasadena; 75 percent is allocated to an on-site public art project.

### **Exemptions**

Redevelopment Areas in the Northwest will no longer be exempt from the Public Art Requirement for Private Development; however, the following exemptions will continue to apply:

1. Projects with a fully executed Owner Participation Agreement ("OPA") or Disposition and Development Agreement ("DDA") or Development Agreement or a Vesting Tentative Map approved prior to the effective date and use of the guidelines.
2. Projects within the boundaries of a master plan or planned development zone approved prior to the effective date and use of the guidelines.
3. Projects for which a building permit was issued prior to the effective date of applicable guidelines.

### **Relationship to Public Art Master Plan**

On May 14, 2009, a quorum of the Northwest Commission, with representatives from the PACs, recommended that the City Council remove the public art exemption for the EZBDA, and further recommended that designated public art fees from Northwest projects paying into the Cultural Trust Fund be directed to the Northwest Area. They had reasoned that percent-for-art funds contributed to the Cultural Trust Fund by Northwest area development should be dedicated solely to Northwest art and culture projects. From this perspective, the Northwest area would have limited its opportunities by proposing a smaller amount generated by projects in the local area.

An alternate proposal was presented to both the Northwest Commission and the PACs regarding a new Master Public Art Plan that is in the early planning stages. Staff clarified that a Master Public Art Plan could advocate that new projects be sited in under-developed locations such as the Northwest area, regardless of where the funds originate. Based on this clarification, the Northwest Commission and the PAC's recognized the opportunity to prioritize public art development in Northwest Pasadena via a Public Art Master Plan. These advisory bodies subsequently modified their original recommendation in order to allocate eligible private development fees from projects in Northwest Pasadena to the Cultural Trust Fund, consistent with eligible projects citywide.

### **COUNCIL POLICY CONSIDERATION:**

#### **Consistency with the General Plan**

The expansion of the City's public art requirement to Northwest Pasadena is consistent with the City's General Plan. The General Plan has Seven Guiding Principles. Principle number six states that Pasadena will be promoted as a cultural, scientific, corporate, entertainment and educational center for the region. The expansion of the City's public art requirement will provide increased cultural experiences in an area of the City that is currently deficient in public art.

Expansion of the public art requirement is also consistent with Policy 24.5 of the General Plan which states a commitment to diversity. "Pasadena's Diversity: Encourage Pasadena's cultural, scientific, corporate, entertainment and educational institutions to understand, respect, and enhance the City's social and cultural diversity." The expansion of the public art requirement provides an opportunity for public art to reflect the cultural diversity of the community.

### **ENVIRONMENTAL ANALYSIS:**

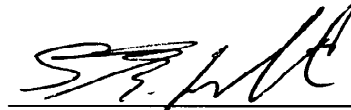
The Environmental Administrator has determined that the proposed amendment is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b) (3) - General Rule. The general rule states that CEQA applies only to projects

which have the potential for causing a significant effect on the environment. In this case, the clarification of Chapter 17.71 will not result in the intensification of the Zoning district and can be seen with certainty to have no significant effect on the environment.

**FISCAL IMPACT:**

There is no fiscal impact to the General Fund. The Cultural Trust Fund will receive Public Art Fees from eligible private development with approval of the ordinance and guideline changes.

Respectfully submitted,



---

STEVE MERMELL  
Assistant City Manager

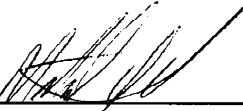
Prepared by:



---

ROCHELLE BRANCH  
Cultural Affairs Manager

Approved by:



---

MICHAEL J. BECK  
City Manager

Attachments:

- Attachment A – Letter to City Council from Northwest Commission and PACs dated 6/12/2009
- Attachment B – Letter to City Council from Arts & Culture Commission dated 8/10/2009
- Attachment C – Proposed Revisions to Public Art Program New Private Development Guidelines
- Attachment D – Letter to City Council from Northwest Commission and PACs dated 2/15/2010