



**TOWN OF LOS GATOS
COUNCIL AGENDA REPORT**

MEETING DATE: 09/03/2019

ITEM NO: 8

DATE: September 3, 2019
TO: Mayor and Town Council
FROM: Laurel Prevetti, Town Manager
SUBJECT: Receive the Private Sector Arts Contribution Program Report and Direct the Preparation of an Ordinance Designating One Percent of Building Valuation Costs of New Development for Funding Public Arts

RECOMMENDATION:

Receive the Private Sector Arts Contribution Program Report and direct the preparation of an ordinance designating one percent of building valuation costs of new development for funding public arts.

BACKGROUND:

A private and/or public sector arts contribution program can be designed as a requirement on development projects to encourage the construction of on-site public art or fund public arts through in-lieu contributions. Typically referred to as a “Percent for the Arts” program, it is a common and increasingly popular requirement in California cities.

In January of 2016, Town Council approved the Arts and Culture Commission’s strategic plan which identified public art, funding, and community engagement as its three major goals. At the April 18, 2017 Town Council meeting, the Commission presented the possibility of investigating a development contribution requirement for arts funding in alignment with the strategic plan. The Commission returned to Town Council on June 19, 2018 with a report produced by the Commission and a recommendation to pursue an ordinance designating one-half-of-one percent of building valuation for all private development projects to fund public arts programs. At that meeting, Council directed staff to obtain further information including clarifying any legal concerns, required nexus studies, and financial analysis. Council also directed that single family residential projects, accessory dwelling units, and affordable housing be excluded from consideration in such an ordinance.

PREPARED BY: Ryan Baker
Library Director

Reviewed by: Town Manager, Assistant Town Manager, Town Attorney, and Finance Director

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SUBJECT: Receive Arts Contribution Report and Direct the Preparation of an Ordinance for Public Arts

DATE: September 3, 2019

DISCUSSION:

Subsequent to this direction, staff released a request for proposals for an independent consultant to investigate arts funding and provide recommendations. Staff retained Keyser Marston Associates to produce the requested Private Sector Arts Contribution Program report (Attachment 1).

Key findings and recommendations of the consultant's report include:

- An arts requirement on development, as supported by legal precedent, is not an impact fee and does not require nexus analysis support.
- The Arts and Culture Commission's June 18, 2018 original recommendation to establish a one-half-of-one percent requirement on development projects would not be fiscally viable. The consultant analysis found viability with a one percent requirement with no threshold or cap.
- An arts requirement in Los Gatos would generate little revenue on an annual basis due to the built-out nature of the Town but would allow the Town to benefit if significant projects occurred at any point in the future.
- The requirement could allow applicants to choose either providing on-site public art or making an in-lieu payment to a Town fund to be used for public arts.
- The report recommends enacting an arts contribution requirement for public projects along with private developments, excluding street overlays or infrastructure.

The Arts and Culture Commission reviewed the consultant's report at a special meeting on August 8, 2019 and offered the following for consideration: The Arts and Culture Commission wishes to express their appreciation to the Council for pursuing the independent consultant's report and recommends that Council move to prepare an ordinance based on the findings of the report given with one exception. The Commission asks that Council consider setting the amount of building valuation at one and one-half percent for both on-site and in-lieu contributions rather than the consultant's recommendation of one percent.

The Commission also wishes to express that even with adoption of an ordinance establishing a Development Arts Requirement Program, additional means of funding will be needed to create a robust arts program in Los Gatos. The Arts Commission will be working to identify additional funding streams to compliment this ordinance and will return to Council with their suggestions at a future date.

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DISCUSSION (Continued):

Staff has carefully considered the value of adopting an ordinance in light of the low projections contained in the financial illustration section of the consultant's report. Despite these assumptions, staff recommends moving forward with the preparation of an ordinance noting that having the ordinance in place would capture any large projects that might surface in the future and that the model for sustainable funding for arts in Los Gatos will likely be the sum of multiple small revenue vehicles.

Specifically, staff recommends adopting the consultant's recommendations as the framework, noting the following clarifications for the purpose of the ordinance: multi-family residential be defined as three or more units, and exemptions for single family residential, two-unit projects, accessory dwelling units, and affordable housing projects.

Staff defers to Council on the Arts and Cultures Commission's suggestion to consider a higher percentage of building valuation be applied.

CONCLUSION AND NEXT STEPS:

If Town Council directs the preparation of an ordinance, it will be placed on a future Council agenda. Should the ordinance be adopted, staff will then work with the Arts and Culture Commission to develop guidelines addressing criteria for expenditure of in-lieu funds, qualifying public art expenses, and other program issues as mentioned in the consultant's report.

FISCAL IMPACT:

Administrative costs required to establish the program may exceed contributions at the outset. However, once established, staff is confident that even at low levels contributions would outpace costs.

ENVIRONMENTAL ASSESSMENT:

This is not a project defined under CEQA, and no further action is required.

Attachment:

1. Private Sector Arts Contribution Program Report