

**Excerpt from draft minutes from the Planning & Zoning Board meeting held on October 3, 2017**

*ID 2017-599*

- 2D) **PZ-22-17** CONSIDERATION OF AN ORDINANCE AMENDING CHAPTER 31-PLATTING, SUBDIVISION AND OTHER LAND USE REGULATIONS, ARTICLE 1. – IN GENERAL, ADDING NEW SECTION SEC. 31-4 PUBLIC ART REQUIREMENT; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

Reddy Chitepu explained that the ordinance was a new Code provision requested by the City Commission, and it would be applicable to all non-residential zoning districts. He said the proposed ordinance would be applicable to all new developments, redevelopment, any remodeling that was more than 12,500 square feet, and new public constructions, with some exceptions such as utility work or public works projects. He said the value of the artwork that needed to be provided would depend on the type of development: \$.50 per square foot on the gross square footage for new development; \$.25 per square foot for remodeling.

Mr. Chitepu said the proposed artwork would need to be approved by the City Commission, and 75 percent of the value of the artwork would need to be displayed in publicly visible areas. He said there was a provision in the ordinance to allow for a contribution to the City in lieu of providing the artwork: \$.40 per square foot of the gross floor area for new development; and \$.20 per square foot of the gross floor area for remodeling. He said the funds would be placed in a newly established Public Art Fund and the funds would be restricted for public art and related expenses, i.e., installation and maintenance throughout its life. Expenditures from the Public Art Fund would require authorization by the City Manager or their designee he said.

Mr. Zucchini asked whether the City Commission would be responsible for voting on individual art projects. Mr. Chitepu responded, "Yes." Mr. Zucchini commented that it would be opening up a can of worms and that he would prefer to see a landscaping fund or something similar. He said there were two issues: first, the definition of art and the fact that art was very subjective; second, the value of art, noting that sometimes struggling artists that produced beautiful work might discount their prices or sell at retail. He said the idea was well-intentioned but it would be very difficult to administer. He said he found it hard to believe that petitioners would need to come before the City Commission to show their art work and then wait for approval. Mr. Chitepu responded that applications for a development project would come through City staff, the Development Review Committee, and then to the City Commission for approval. Mr. Zucchini commented that a development could be negatively affected if the majority of the Commissioners did not like someone's taste in art. Mr. Angier responded that there was an option to contribute to the fund instead. Mr. Zucchini commented that something like a landscaping fund could be used to beautify the City and would be less controversial.

Mr. Arserio commented that between this ordinance and the previous one, it seemed as though the City wanted the residents to pay for all of the beautification going on; he questioned why the City had the Community Redevelopment Agency (CRA). Mr. Chitepu responded that this ordinance was for non-residential; it was for property owners in the commercial areas.

Mr. Arserio asked if the commercial property owner that was paying for the artwork would be able to determine where the artwork was placed. He said the ordinance should contain verbiage that provided for placement of the artwork within a certain radius of the business establishment.

Mr. Zucchini commented how both the artwork and its value were totally subjective, noting that an artist could present an invoice for \$10,000 when they might be willing to sell the art for \$500.

Mr. Hylander stated that he also had some issues with the proposed ordinance. He said having the City Commission as the ultimate decision maker was a scary thought. He said the way the ordinance was worded was such that the public art fund was going to be used for selection, commissioning, acquisition, transportation, maintenance, promotion, administration, and insurance; therefore, a piece of artwork that cost \$5,000 could end up costing \$15,000-\$20,000 by the time it was in place. He said there were too many areas that were open for interpretation. Mr. Chitepu said there was language in the Code that allowed monies to be taken from the fund for all costs associated with the installation of the artwork, if it were being done by the City, including liability insurance and any maintenance needed in the future.

Mr. Hylander commented that if a developer decided it wanted to put its own piece of artwork at the development, the City would not be insuring it or maintaining since it would be on private property. He said there were two different types of artwork: privately owned; and City owned. He commented that the City did not have the best track record of accounting for its funds, specifically the Alzheimer's Center and CRA funds. He asked who would keep track of the Public Art Fund and who would pay the salary of that person.

Mr. Mangeney commented that he did not see the definition of remodeling and asked whether it would relate to anything that required a permit, regardless of the dollar value. Mr. Chitepu said it had no exemptions for size. He said if someone came in for a building permit on a non-residential property, they would be contributing to the fund. Mr. Mangeney asked whether the square footage was based on the size of the property, the unit or the size of the property being remodeled; for example, if one wall was being taken down in a building that was 12,500 square feet, would payment into the art fund or art purchase be based on the value of the entire property even though one wall was being taken down. Mr. Chitepu responded, "Yes." Mr. Mangeney also asked if there was a policy reason for providing a savings if someone chose to pay into the fund or if it was because the ordinance was modeled after another city's. Mr. Chitepu responded that the ordinance was modeled after that of a neighboring city. Mr. Mangeney said he did not read anything in the ordinance that encouraged any type of uniform or cohesive look for artwork in the City. Mr. Chitepu responded that the control would be with the City Commission.

Mr. Hylander asked, with regards to the square footage requirement, whether the public art requirement would apply in the case where one 1,500 square foot bay was remodeled in a shopping center that was 15,000 square feet. Mr. Chitepu responded, "Yes." Mr. Hylander asked if the public art requirement applied if a new ceiling and air conditioner were put in a

1,000 square foot bay in an old shopping center. Mr. Chitepu responded that it would apply based on the way the ordinance was written.

Mr. Angier asked the Board members for a motion. No motion was brought forth; the item died for the lack of a motion.

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