



## MEMORANDUM

**TO:** Planning Commission

**FROM:** Brian Pedrotti, Community Development Director

**SUBJECT:** Consideration of Amendments to Title 16 of the Arroyo Grande Municipal Code Regarding Public Art and Finding That This Action is Not Subject To The California Environmental Quality Act Pursuant to State Guidelines Section 15060(c)(2) and 15061(b)

**DATE:** April 16, 2024

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### **SUMMARY OF ACTION:**

A recommendation to City Council to adopt amendments to the Arroyo Grande Municipal Code as it relates to public art, including but not limited to, murals.

### **IMPACT ON FINANCIAL AND PERSONNEL RESOURCES:**

No financial impact is projected other than staff time to review the amendments, prepare staff reports, and present the changed regulations to Planning Commission and City Council.

### **RECOMMENDATION:**

- 1) Adopt a Resolution recommending the City Council adopt amendments to Title 16 of the Arroyo Grande Municipal Code regarding public art, including but not limited to, murals; and
- 2) Determine that the ordinance amendments is not subject to the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines sections 15060(c)(2) and 15061(b)(3).

### **BACKGROUND:**

In 2002, the City Council approved an Art in Public Places Program and process. The Program and process were prepared with the assistance of the San Luis Obispo County Arts Council, and an Art Donation Program was approved by the City Council in 2006. In 2011, the Art in Public Places Program was renamed to the Guidelines and was amended to apply to public art projects on private property. During this update, public art on private property was defined as art that is displayed in an open area that is freely available to the general public or where public accessibility is provided based upon the characteristics of the artwork or its placement on the site.

## **Planning Commission**

### **Consideration of Amendments to Title 16 of the Arroyo Grande Municipal Code Regarding Public Art and Finding That This Action is Not Subject To The California Environmental Quality Act Pursuant to State Guidelines Section 15060(c)(2) and 15061(b)**

**April 16, 2024**

**Page 2**

On [October 12, 2021](#), the Guidelines were again amended to narrow the application of the Guidelines to public art proposals on non-residentially zoned property. Public art on privately owned residential property was removed from the Guidelines to avoid any confusion regarding the fact that residential property was excluded. In addition, clerical changes were made to account for changes to the City's advisory bodies and those that provide consultation to the Council on public art projects. Updates to the Guidelines changed the body making advisory recommendations to the City Council from the San Luis Obispo County Arts Council to Arroyo Grande Public Art ("AGPA"). Lastly, the Guidelines established a seven (7) member Public Art Panel for the purpose of approving proposed art projects.

Arroyo Grande Municipal Code ([AGMC](#)) [Section 16.16.200](#) establishes a process for the review and approval of murals. As it currently exists, this Code Section authorizes the Community Development Director (Director) to approve mural applications, with a recommendation from the Architectural Review Committee (ARC), whereas the Guidelines require City Council to approve public art. Additionally, the review criteria in AGMC 16.16.200 differ from the criteria contained in the Guidelines, which creating another inconsistency between the two processes. This code amendment aims to resolve the inconsistencies.

#### City Council Study Session

Staff presented revised Guidelines to City Council at a study session on March 12, 2024 to discuss potential alterations to the Guidelines and AGMC that would resolve the existing inconsistencies. After the study session, staff updated the Guidelines to align with the direction from Council.

#### **ANALYSIS OF ISSUES:**

AGMC Section 16.16.040 requires amendments to Title 16 of the Municipal Code to be approved by City Council, after a recommendation from the Planning Commission is obtained. Staff amended AGMC Section 16.16.200 in accordance with the Council's direction so that it applies more generally to all forms of public art, rather than murals specifically. This code section also now refers to the Guidelines for information about application requirements and overall review and approval process. Exhibit A of the prepared resolution contains the proposed amendments to this code section in strikethrough and underline to highlight the changes to the text.

Although approval of amendments to the Guidelines are not technically within the purview of the Planning Commission, the proposed Guideline amendments are attached (Attachment 2) and summarized below to add context to the revisions to the Municipal Code. The most significant changes proposed are to the criteria for selection and approval

## **Planning Commission**

### **Consideration of Amendments to Title 16 of the Arroyo Grande Municipal Code Regarding Public Art and Finding That This Action is Not Subject To The California Environmental Quality Act Pursuant to State Guidelines Section 15060(c)(2) and 15061(b)**

**April 16, 2024**

**Page 3**

of public art, inclusion of standards specific to the Historic Character Overlay District (Village), and defining when the Guidelines apply.

The Guidelines are intended to facilitate and encourage outdoor public art on City property, in the public right of way, or on private property with non-residential uses that is visible from the public right-of-way. The purpose of proposing amendments to the Guidelines is to 1) resolve internal consistency within the Guidelines and resolve inconsistency between the Guidelines and the AGMC; and 2) provide more objective design criteria to guide those applying for a permit and reviewing bodies when evaluating applications for public art.

#### Proposed Selection Criteria

The existing criteria are recommended to be replaced with additional, more robust reviewing criteria shown below. The proposed criteria will provide additional guidance to those responsible for reviewing applications. The criteria are as follows:

1. Evaluation of artistic excellence, examining:
  - a. The artist's qualifications, including education, training, experience, body of work, recognition of the artist, and the consistency of the artist's qualifications with the stated goals of the project;
  - b. The artist's record of previous collaboration with other agencies, organizations, artists, fabricators, installers to achieve a successful result in implementing the proposed project;
  - c. The artist's experience working in the public realm;
  - d. To the extent applicable, the artist's previous proven successful experience in creating producing or otherwise implementing projects similar to the one proposed;
  - e. The original nature of the proposed concept;
  - f. The inherent artistic quality and aesthetic merit of the work.
2. Appropriateness of scale, form, material, content and design relative to the immediate neighborhood and environment; no mural shall be approved if the mural, as proposed, would create an objective risk to public health, safety, or welfare (e.g. a mural near a roadway would be rejected for the use of reflective materials, like mirrors, which could cause a distraction to drivers);
3. Appropriateness of proposed materials as regards to structural and surface integrity, considering the ability of the materials and design to protect against vandalism, withstand weathering, and maintain the intended design;
4. Ease of maintenance and longevity of the proposed materials;
5. Appropriateness of proposed method of installation and artwork and safety and structural factors involved in installation;
6. Location, considering the intended audience for the proposal, whether the public will be a captive audience or whether a person would need to take affirmative steps to view the project, consideration of whether the mural would be in an area typically

## Planning Commission

### Consideration of Amendments to Title 16 of the Arroyo Grande Municipal Code Regarding Public Art and Finding That This Action is Not Subject To The California Environmental Quality Act Pursuant to State Guidelines Section 15060(c)(2) and 15061(b)

April 16, 2024

Page 4

accessed or viewable by minors;

7. A mural shall not be approved if it includes:
  - a. Copyrighted work without permission of the holder of the copyright.
  - b. Obscene materials.
  - c. Defamatory content.
  - d. Fighting words or advocates imminent lawless action.
  - e. Content, including but not limited to, words, symbols, signs, trademarks, or references to products or services provided on the premises, which makes it a sign, as defined in AGMC Section 16.04.070, and regulated under AGMC Chapter 16.60.

The proposed criteria are designed to give additional clarity as to requirements for application approval.

#### Village-Specific Standards

The above proposed selection criteria are intended to be used for public art citywide. During the study session, the City Council directed staff to provide some Village-specific public art standards, where the concerns for maintaining the historic character of the area are more pronounced. Based on this direction, staff has included the following additional criteria in the Guidelines to apply to properties within the Village:

- a. An identified relationship to the social, cultural and historical identity of the area;
- b. An identified relationship to the site's existing architectural features;
- c. The nature of the site's surrounding neighborhood and potential impact of the public art project on residents, businesses, existing works of art or design elements within the site's vicinity.

#### Applicability of the Guidelines

The Guidelines currently apply to public art proposed on City property, in the public right of way, and on private property with a nonresidential land use that faces a public right-of-way or public property. The proposed updates clarify this applicability by stating that the Guidelines will apply to public art on private property with a nonresidential land use that is visible from a public right-of-way or public property.

#### Next Steps

A recommendation from the Planning Commission will allow for an introduction of the draft ordinance to Council at meeting in May. Adoption of the ordinance would occur at a subsequent meeting, then become effective 30 days after adoption by the City Council.

#### **ALTERNATIVES:**

The following alternatives are provided for the Commission's consideration:

**Planning Commission**

**Consideration of Amendments to Title 16 of the Arroyo Grande Municipal Code Regarding Public Art and Finding That This Action is Not Subject To The California Environmental Quality Act Pursuant to State Guidelines Section 15060(c)(2) and 15061(b)**

**April 16, 2024**

**Page 5**

1. Adopt a Resolution recommending City Council adopt amendments to AGMC Section 16.16.200;
2. Adopt a modified Resolution recommending City Council adopt amendments to AGMC Section 16.16.200;
3. Do not recommend adoption by City Council; or
4. Provide other direction to staff.

**ADVANTAGES:**

Amendments to the Arroyo Grande Municipal Code regarding public art, including but not limited to, murals, provides an opportunity to improve consistency with the Guidelines and spur additional public art in the city by improving the permitting process.

**DISADVANTAGES:**

None identified.

**ENVIRONMENTAL REVIEW:**

The ordinance amendment is not subject to the California Environmental Quality Act (“CEQA”) pursuant to State CEQA Guidelines sections 15060(c)(2) and 15061(b)(3). The activity is not subject to CEQA because it will not result in a direct or reasonably foreseeable physical change in the environment; and the activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Here, the Planning Commission makes a recommendation to City Council regarding a proposed change to the development code, and this action cannot cause a physical change to the environment on its own. Thus, it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA.

**PUBLIC NOTIFICATION AND COMMENTS:**

The Agenda was posted at City Hall and on the City’s website in accordance with Government Code Section 54954.2. A public hearing notice was published in the Tribune on Friday, April 5, 2024.

Attachments:

1. Resolution including proposed ordinance amendments
2. Proposed Public Art Guidelines and Public Art Donation Program