



Kate Harrison
Councilmember District 4

CONSENT CALENDAR
May 30, 2017

To: Honorable Mayor and Members of the City Council
From: Councilmember Harrison and Hanh
Subject: Amending the One-Percent for Public Art on Private Projects Ordinance, Chapter 23C.23 of the Berkeley Municipal Code

RECOMMENDATION

Adopt first reading of an Ordinance amending the One-Percent for Public Art on Private Projects Ordinance, Berkeley Municipal Code Chapter 23C.23, to eliminate the exemption in Section 23C.23.030 for Commercial Mixed Use District (C-MDU) projects exceeding 75 feet.

FISCAL IMPACTS OF RECOMMENDATION

The proposed amendment has the potential to increase city revenues by expanding the One-Percent Art fee to include C-MUD projects over 75 feet. The total increase in revenue is uncertain, as it is contingent on whether said projects choose to comply with the art requirement or pay the in-lieu fee. Any additional revenues collected due to this amendment would be, per the initial ordinance, set aside for art and cultural services. Had the development at Harold Way been subject to this fee, it would have produced \$1,262,300 in on site art or \$1,009,840 through the mitigation fee on a construction cost of \$126,230,000. Instead, the project paid \$750,000 into the arts fund as part of its required significant community benefits package. \$250,000 of that total went to helping relocate the Habitot Children's Museum, which was displaced by the construction, leaving only \$500,000 for public art. Both the initial \$750,000 and the reduced \$500,000 were less than the amount the project would have been required to pay under the ordinance. It also replaced other possible community benefits, including the separate funding of the Museum relocation, which the development could have provided.

BACKGROUND

The One-Percent for Public Art on Private Projects Ordinance was initially passed to require newly constructed apartment, industrial, and commercial buildings, as well as buildings exceeding 10,000 square feet, to spend 1% of the cost of construction on publicly accessible art or pay a .8% in lieu fee. The bill intended to preserve Berkeley's artistic character while supporting the economic wellbeing of local artist and art organizations. However, the exception for large C-MDU buildings undermines the intent of the ordinance by eliminating a significant potential source for badly needed arts funding.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental effects associated with this amendment.

CONTACT PERSON

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Attachments:

1: Ordinance with proposed changes.

ORDINANCE NO. -N.S.

AMENDING THE ONE-PERCENT FOR PUBLIC ART ON PRIVATE PROJECTS ORDINANCE, BERKELEY MUNICIPAL CODE CHAPTER 23C.23, TO ELIMINATE THE EXEMPTION IN SECTION 23C.23.030 FOR COMMERCIAL MIXED USE DISTRICT PROJECTS EXCEEDING 75 FEET.

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code Section 23C.23.030 is amended to read as follows:

23C.23.030 Exceptions

This Chapter does not apply to the following project types:

~~A. Commercial Mixed Use District (C-DMU) projects described in Section 23E.68.070.B.~~

~~BA.~~ Multifamily housing that has a regulatory agreement with a government agency restricting the rent and limiting tenancy to qualifying households not exceeding specified incomes for at least 60% of the units.

~~CB.~~ Buildings with Religious Assembly Uses as defined in Section 23F.04.010 and Buildings with Arts and Cultural Uses. For purposes of this section, "Arts and Cultural Use" means buildings that have as their primary purpose the presentation of one or more cultural resources, and that are operated by public entities or nonprofit organizations dedicated to cultural activities available to a broad public.

~~DC.~~ Transitional Housing