

# WORKING PARTNERSHIPS USA

September 7, 2018

**Mayor Sam Liccardo and Member of the City Council**  
**City of San José**  
**200 East Santa Clara Street, 18th Floor**  
**San Jose, CA 95113**

Re: Item 4.1 Response to Santa Clara County Civil Grand Jury Report Entitled “Affordable Housing Crisis: Density Is Our Destiny.”

Dear Mayor and Council:

We are writing to express our concern over the findings of the Santa Clara County Grand Jury Report entitled “Affordable Housing Crisis: Density is Our Destiny.” In particular, we urge the Council to support the recommendations from the September 7<sup>th</sup> memo from Councilmembers Peralez, Rocha, and Jimenez and Vice Mayor Carrasco to reject the staff memo’s response to Finding 4b and to agendaize consideration of a Nexus Study for a City-wide Commercial Linkage Fee for the September 18<sup>th</sup> City Council meeting.

The staff memo in response to the Grand Jury findings does not address the need for dedicated sources of funding that shares the burden of addressing affordable housing across all stakeholders, specifically among commercial developers. The response does not address the fact that while the city is far ahead of its market-rate production goals, it is falling dramatically short of its below market rate housing needs. By continuing to delay the adoption of a commercial linkage fee, the city is also allowing mega-developers like Google to get away with building commercial projects that lead to further gentrification and displacement without paying their fair share to address our growing affordable housing needs.

In the city’s response to Finding 4a, staff acknowledges that commercial linkage fees can be an important tool to generate critical revenues to support below market-rate housing. As has been shown by the adoption of these critical funding tools by nearly every other significant city in Santa Clara County<sup>1</sup>, these fees ask developers and tech companies to pay for their impact on the increased need for affordable housing. Commercial linkage fees are based not on regional housing production, local tax bases, or the state of individual municipality finances. They are based on firm economic impact analysis that has been recognized by state legislative and judicial bodies the basis for measuring the *specific* impact of individual projects<sup>2</sup>.

In its reply to Finding 4b which found that the use of the commercial linkage fees is overdue and could be expected to substantially increase BMR units, the staff memo makes a number of claims that are diversions from the central issue of the Grand Jury’s findings. The city provides information about the current asking rents for commercial office space in the city and compares it to the cost of development of office space in the region to conclude that a commercial linkage fee may diminish the likelihood of new commercial development. No significant evidence exists to suggest that either the lack of a commercial impact fee for the past 15 years has

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<sup>1</sup> Commercial Linkage Fees in Santa Clara County: <https://siliconvalleyathome.org/resources/#commercial-linkage-fees>

<sup>2</sup> BIA vs. City of Patterson: <https://caselaw.findlaw.com/ca-court-of-appeal/1165068.html>

resulted in an increase in commercial development in San Jose nor would it suggest that creating a fee would forestall any future development.

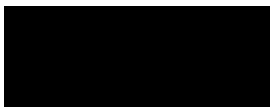
Nearby jurisdictions charge up to \$35 a square foot for projects<sup>3</sup> but still see developments move forward. Commercial development is much more likely to be driven by other development factors, and with companies like Google, Apple, and others planning to build millions of square feet of office space, and new stories nearly every day on rising demand of commercial office space in San Jose, there are a number of other factors the City Council should examine to consider the status of the commercial development market than the rent of existing office space, especially considering the different needs of tech companies not met by some of our city's older commercial stock.

It is a safe assumption based on the experience of our neighbors that a modest commercial linkage fee would not impede companies or developers that want to come build in San Jose from doing so just as the non-existence of this fee has not worked as an incentive for development. The City of San Jose's commercial development future is based on the overall attractiveness of the city: its workforce, its vibrancy, its transit accessibility rather than fees that are dwarfed by the overall cost of development.

The city's claim that a commercial linkage fee would lead to displacement of low and middle-income jobs is another distraction from the reality that low and middle income workers are facing in San Jose: diminishing affordable housing options leading to widespread displacement out of our city, region, and state. We are committed to increasing the number and quality of middle-wage and middle-skill jobs in the city, but we also know that the city has multiple land use and permitting tools to preserve industrial sites suitable for jobs. This does not preclude the city from raising the revenue necessary to fund affordable housing for working families.

We support the Grand Jury Report conclusion shared in the recommendations of Councilmembers Peralez, Rocha, and Jimenez and Vice Mayor Carrasco that council should vote to direct staff to initiate a Nexus Study for commercial development and move toward adopting a commercial linkage fee. San Jose City Council has the opportunity to leverage a highly effective tool to tackle the housing crisis and we need to take this necessary and urgent action.

Regards,



Jeffrey Buchanan  
Director of Public Policy, Working Partnerships USA

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<sup>3</sup> Palo Alto Impact Fees: <https://www.paloaltoonline.com/news/2017/03/28/palo-alto-changes-course-on-housing-fees>