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ITEM: 4.3

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Kim Walesh
Jacky Morales-Ferrand

SUBJECT: **DEVELOPMENT FEE FRAMEWORK**

DATE: October 24, 2019

Approved D. DSyL　　Date 10/25/19

RECOMMENDATION

Accept staff's report on the Development Fee Framework to address Council Priorities #12 (Universal Development Fee) and #21 (Impact Fee Deferred Payment Program for Housing).

OUTCOME

Following direction and feedback from the City Council, staff will continue to develop a framework that aligns significant existing, and potential future development fees, creates a uniformed approach, and a timeline to support the development of high density housing throughout the City.

BACKGROUND

On October 17, 2017, City Council voted on items that were considered "yellow" light relating to the Mayor's memorandum entitled "Responding to the Housing Crisis" as a part of the Council Priority Setting Session. Of the seven "yellow" light items, two moved forward to prioritization and five did not receive sufficient votes to move forward. One of the items moved forward to the Council Priority List was Priority #21 - Impact Fee Deferred Payment Program for Housing. This priority directed staff to consider allowing deferral of payment of impact fees on housing construction to better align with project revenues. The priority also directed staff to explore financing mechanisms that could allow for-sale housing projects to pay fees over time, at higher aggregate amounts than currently, but reduce the up-front burden. This item is currently ranked #21 on the priority list.

At the March 5, 2019 Council Priority Setting Session, the City Council added Priority # 12 – Universal Development Fee to the priority list. This priority directed staff to explore creating a universal development fee and structure for residential development that contains all current development tax and impacts fees. The goal is to provide developers and the public with a transparent view as to how fees are calculated so it is easier to estimate and understand fees. An additional possibility may be to create a single point of contact within the organization where builders can go to obtain fee estimates from various departments.

On June 24, 2019, staff provided an update on progress to date on City Council Priority #21 - Impact Fee Deferred Payment Program for Housing to the Community and Economic Development Committee.

ANALYSIS

The Housing Crisis Workplan, adopted by Council on June 12, 2018, sets a goal of developing 15,000 market rate units and an additional 10,000 affordable units by 2023. To meet these goals, staff is working to find opportunities to make the City's development process more efficient to attract investment and spur development. As outlined in the Multifamily Land Price Analysis (David Paul Rosen and Associates, October 14, 2019) which was completed for and attached to the most recent Cost of Development report, the City has implemented significant changes to development related fees and taxes since adopting the General Plan in 2011. As demonstrated by the accompanying Conceptual Pro Forma Analysis of High-Density Apartment Development (Keyser Marston Associates, October 11, 2019), the favorable development conditions in San José are counteracted by high development costs and the layering of requirements placed on projects. These additional costs can have significant impacts on the projected financial return on a project (calculated by the developer in their preliminary pro forma).

A community, even one with the significant housing shortfall San José is experiencing, needs more than just housing development. An attractive, balanced, and equitable community requires investment in quality infrastructure such as transportation, the environment, open spaces, public amenities, and a variety of housing and employment types. In the absence of other funding mechanisms, private development and investment represents the City's best opportunity to achieve its goals around housing and community infrastructure. However, private development is primarily driven by market economics, balancing costs against potential future returns. In these terms, developers generally consider community investment (while providing many benefits that result in the long term success of development) to be a cost that impacts the project's financial feasibility.

Developers analyze financial feasibility at multiple points through the course of a project and the earlier that fees and costs can be realized in a transparent and consistent process the easier it is for a developer to account for these costs in a pro forma and make definitive decisions on whether to proceed with a project. As the development process progresses, these financial analyses become more thorough and complex as the different costs are understood, analyzed, and refined. By the time a project begins construction, maintaining control of costs becomes the basis for managing and maintaining the projects financial performance. The later in the process that fees are added or increased the more detrimental to the financial health of the project.
This memorandum outlines the Administration's work to create a framework for analyzing options for addressing Council Priorities #12 and #21. The goal is encourage additional housing

development by creating an environment for private development that is transparent and predictable while still meeting needs for investing in civic infrastructure.

To that end, staff analyzed the following and discusses each below:

- Current Development Related Fees, including the Inclusionary Housing Ordinance, Parkland Dedication Ordinance and Park Impact Ordinance, various Construction-Related Taxes;
- Universal Development Fee;
- Universal Development Geography;
- Financial Feasibility; and
- Timing of Payment.

Additionally, the State Legislature has looked at ways development fees are impacting housing development statewide. Staff has reviewed state bills that could impact the City and its work related to development fees.

Development Related Fees

The City's ability to leverage private development to help pay for infrastructure is limited in California. Primarily, development-related fees can be leveraged under the Subdivision Map Act, the Quimby Act (parks specific), the Mitigation Fee Act (Traffic Impact Fees or other nexus-based fees including housing impact fees), voter approved taxes, or under the City's Police Powers (service fees and inclusionary in-lieu fees). A variety of these types of fees exist across San José, including site or regionally specific mitigation fees such as the North San José Traffic Impact Fee or the Diridon Infrastructure Fee. The major cost burden for most residential development comes from the Inclusionary Housing Ordinance (SJMC 5.08), the Park Impact and Parkland Dedication Ordinances (SJMC 14.25 and 19.38), and a combination of the Building and Structures and Commercial, Residential and Mobilehome Park construction taxes (SJMC 4.46 and 4.47). As evidenced in the Conceptual Pro Forma Analysis of High-Density Apartment Development (Keyser Marston Associates, October 11, 2019), these fees and taxes collectively comprise 60 percent to 80 percent of the City's cost to residential development.

It is important to note that both the Parkland Dedication and Inclusionary Housing Ordinances create a requirement for new development to provide land, facilities, or deed-restricted units, or alternatively to satisfy these requirements in a combination of ways (which include the option to pay an in-lieu fee). The flexibility built into both ordinances can be a benefit to the developer as they explore the potential of on-site amenities or partnerships with non-profit developers; however, when assessing the financial performance of a potential development early in their process, developers will always assume the cost of the fee as part of the initial pro forma. Developers ability to understand the fee component first is complicated by the layering of the different requirements based on how each fee has been established and how it is subsequently calculated.

- The City's **Inclusionary Housing Ordinance** (IHO) was adopted on January 12, 2010 (and became operative on June 30, 2016). The IHO requires all residential developers who create new, additional, or modified For-Sale or Rental units to provide 15 percent of housing on-site that is affordable to income-qualified buyers/renters. If the developer chooses the in-lieu fee alternative, the fee is based on a 20 percent obligation, which currently totals $192,946 per inclusionary unit in for-sale developments, and $125,000 per inclusionary unit in rental development. IHO in-lieu fees are collected prior to issuance of Certificate of Occupancy. (Staff is recommending changes to the in-lieu fee methodology for the City Council to Consider on November 5, 2019.)

- The **Parkland Dedication and Park Impact Ordinances** (PDO/ PIO) were adopted in 1988 and 1992 to help meet the need to provide new recreational facilities, such as parks, trails, community centers, or to improve existing recreational facilities. The PDO/PIO requires new residential projects to:

    - Provide at least three acres of parkland for each 1,000 new residents added by the housing development
    - Make a payment of a park impact in-lieu fee equal to the value of the required land dedication
    - Complete improvements to existing recreational facilities or construct new facilities; or
    - Provide a combination of these options through a negotiated agreement with the City.

  The park impact in-lieu fee is established in the Schedule of Parkland Fees to reflect the land values identified in a 2012 Residential Land Value Study and trended to reflect 2016 market conditions. The fee is calculated based on an assumed ratio of persons per unit based on the 2010 Census Data and ACS Survey, and is derived from land values from 16 different geographies on the City derived from the Multiple Listing Service (MLS).

  Opportunities exist for residential developers to receive credit to reduce parkland fees when they provide on-site recreational amenities such as community gathering spaces, fitness rooms or pools. A 50% reduction in the fee is provided for deed restricted affordable housing units.

- The City San José has four **Construction-Related Taxes**; however, the memorandum focuses on the two most significant ones, the Building and Structures Construction Tax (SJMC 4.46), and the Commercial-Residential-Mobilehome Park Building Tax (SJMC 4.47, also known as the CRMP Tax or the Construction Excise Tax). Both taxes are based on construction valuation derived from the most current building valuation data table published by the International Code Council (ICC).

The Building and Structures Tax is a special tax, the revenues from which must be used for the construction and enhancement of major collectors and arterial streets in the City. The Commercial-Residential-Mobilehome Park Building Tax is a general tax with no restrictions on expenditure, but has historically been used for transportation purposes to fund pedestrian and traffic safety, pavement maintenance, and grant project required local matches. The tax rate for the Building and Structures Tax is 1.75percent, and the rate for the CRMP Tax is 2.75percent. Unlike industrial and commercial projects which are taxed at 100 percent of project valuation, residential taxes are assessed based on 88 percent of the project valuation. The effective combined tax rate for residential projects is 3.96 percent based on 100 percent project valuation.

Universal Development Fee

Over the past 30 years, these fees and taxes have funded parks and transportation infrastructure, and supported the creation of new affordable housing. Council Policy Priority #12 directed the Administration to consider combining these existing taxes and fees into one Universal Development Fee, which would be easier for developers to calculate at the front end of their projects and all be due at the same time.

While it is possible that the City could undertake the work to replace them with a single nexus-based Universal Development Fee, this would be both time and resources intensive and present potential legal challenges. Staff is instead recommending creating a Development Fee Framework (Framework). The Framework would be developed with three key goals in mind:

- Provide developers and the public with a transparent view into how fees are calculated
- Provide developers with clear understanding of fee timing, and align fee payments with the project's future revenue streams to impact developer and investor decision-making and increase likelihood of residential development being completed.
- Create a uniform approach that reflects the complexity and urbanizing nature of contemporary San José.

The Framework is intended to be a guide for implementing planned changes to existing fees and taxes – primarily focused on the three described above (IHO, PDO/PIO, and Construction Taxes), as well as ensuring that any future consideration of new development-related fees, exactions, or taxes would also be created in alignment. By doing so, the Framework would provide a transparent and predictable understanding of City-based costs to developers, as well as providing the City Council with the ability to understand the impact of decisions related to fees and taxes in their entirety rather than on a case by case basis.

The proposed approach is for the Framework to establish a common baseline for development related fees, by:

- Using a universal metric to calculate fees (per square foot),
- Establishing common definitions including development typology as applicable, and
- Creating a universal standard for market-based geographies within the City.

In addition, the Framework would implement a process for analyzing and updating fees in the future, which would maximize efficiency in assessing and updating fees. By more closely monitoring the local real estate market, in particular the characteristics and location of projects that are actually being built within San José, staff can make recommendations to Council regarding the influence and impact of fees on development.

The vast majority of residential development envisioned under the current General Plan is multifamily (much of which is intended to be mixed use). Based on this predominant building typology, and the current market preference to build rental housing versus for-sale condominiums, staff proposes to pilot the approach on mid to high density, multifamily rental residential development. Based on the experience and insight gained from the pilot, staff would subsequently explore scaling the proposed framework to other types of development.

Current Approach	Proposed Approach
Mixed Fee Methodology: • Inclusionary Housing In-Lieu – per unit • Parkland In-Lieu Fee – per unit/typology • Construction Taxes – % of building valuation • Improvement Plan/Offsite – site-specific • CEQA – site-specific	*Universal Metric of Calculation:* • Per square foot
Development Typology: • Inclusionary Housing In-Lieu – n/a outside of incentives – e.g., AHIF high-rise exemption • Parkland In-Lieu – mixed typology, including single family, multi-family, SRO, Co-Living, high-rise • Construction Taxes – ICC tables	*Universal Development Typology:* • Low-rise (5-story/4 over 1/ Type V) • Mid-rise (7-story/5 over 2/Type III) • High-rise (12+ stories/high-rise/Type I)

Development Geography:	Universal Development Geography:
• Inclusionary Housing In-Lieu – applied citywide other than targeted incentives – e.g., AHIF high-rise • Parkland In-Lieu – based on MLS districts • Construction Taxes – applied citywide other than targeted incentives – e.g., AHIF high-rise	• *Tier 1 – High density, high rent, high cost in primary growth areas* (Downtown, NSJ) • *Tier 2 – Mid-density, high rent, high cost in primary growth areas (*Downtown, NSJ, WSJ) • *Tier 3 – Mid-density, high cost, Horizon 1 urban villages or Transit Oriented Development (Central San José)* • *Tier 4 – Mid-density, in lower cost/lower return urban villages (South and East San José)* • *Tier 5 – Mid to lower density in non-primary development markets*

As work continues on the update and implementation of the individual development fees and they come into alignment with the proposed Framework, these fees will align into a Universal Fee Stack so that developers and the public will have a clear understanding of the City fee burden on development within particular geographies throughout the City.

Universal Metric of Calculation

Of the three major development fee's, only the Construction Taxes have an existing basis in a per square foot fee. The International Code Council Building Valuation Data from which the project valuation is derived is based on the per square foot value of residential development based on typology and construction type. Alignment with the Framework would require minor process changes but would not require any changes to the underlying tax structure that would require voter approval.

Both the IHO and PDO/PIO in-lieu fees are currently based on a per unit calculation. Currently, most major cities on the West Coast use a per square foot fee structure for affordable housing in-lieu and impact fees, including San Francisco, Los Angeles, Seattle, Portland, Denver and San Diego. A per-square-foot based fee has the benefit of not penalizing higher density developments with smaller units, or larger developments with a different mix of unit sizes. To ensure that the common metric is effective, it must also be accompanied by a common definition of what square footage is applicable to the fee. The update to the IHO includes a recommendation to change the in-lieu fee to a per square foot fee.

Staff will explore what definition should be used for the common standard in the Framework. Staff is continuing to complete additional analysis on different approaches and definitions that may be contained in the development review process.

Parkland in-lieu fees, which are governed by the Quimby Act, are currently charged on a per unit basis, with distinctions made between different development typologies (single-family attached, single family-detached, multi-family 2-4 units, multi-family 5+ units, High-rise etc.). Different cities have implemented different methodologies to assess parks fees including per unit, per bedroom, and per square foot. Additional work is required to understand the implications of transitioning the current Parkland Ordinances to this methodology.

Universal Development Typology

As noted above, the only fee's that have utilized development typology (the classification of characteristics commonly found in buildings such as physical characteristics, intensity of development, or construction typology) are the PDO/PIO and the Affordable Housing Impact Fee in the case of the Downtown incentive for high-rise development. While it may have limited applicability at this time, staff believes that it is important to establish a common definition to ensure that future considerations can be aligned between different departments and fee programs.

Universal Development Geography

The Envision 2040 General Plan plans for 120,000 residential units to be built in San José over the next 20 years. The land area of the city that will accommodate these units is relatively focused. The majority of housing built will be in either major growth areas (Downtown, North San José), legacy Specific Plan areas (Communications Hill), or in Urban Villages. These focused areas comprise less than 10 percent of the City's land area. The General Plan references 80 distinct market areas. However the Conceptual Pro Forma Analysis of High-Density Apartment Development (Keyser Marston Associates, October 11, 2019), demonstrates that many of these can be grouped by market characteristics, particularly when considering land cost and average monthly rents.

Aligning the Framework with defined geographies that reflect market economics and provide a consistent baseline analysis for the various fee methodologies may streamline City processes and increase transparency and predictability for the development community. Staff is continuing to explore this approach and would need to consider how this applies within the context of the individual development fee methodologies. In addition to the consultant studies included in staff's 2019 Cost of Development report, the Office of Economic Development in coordination with the Department of Parks, Recreation and Neighborhood Services has released a Request For Qualifications to complete a Land Valuation Study to update the PDO/PIO in-lieu fees. This and the subsequent fee study, as well as the work by the Housing Department represent an opportunity to focus on defining common geographical standards. As part of the update to the IHO, the Housing Department is proposing to return with geographical standards for the City Council to consider and that could be applied under the Framework.

Other Alternatives

Through the development of the Framework concept, staff is also evaluating other alternatives to provide more transparency and consistency to the major development related fees and taxes. In its report titled *It All Adds Up: The Cost of Housing Development Fees in Seven California Cities* (March 2018), the Terner Center for Housing Innovation at UC Berkley notes the difficulty in estimating Impact Fees:

> *Even where fee schedules are available, estimating project fees in advance can still be difficult. It is often unclear which fees will apply to a certain project, as many fees depend on the project's specific location within the city based on local infrastructure requirements or impact zones. Maps of these zones are not always available. In one of the cities we studied, a large fee listed in the master fee schedule did not exist in practice: it had never been applied to a single eligible development project.*

Staff is exploring the use of online mapping and calculator tools, as well as allocating a staff member to assist developers on understanding the fees and options applicable to their projects. Some of these practices and others are already employed by other cities; however, staff believes that making these tools efficient and scalable across a larger city like San José would be best achieved by creating more alignment in the underlying fee structures. In addition, part of the intent of aligning the fees is to provide information early to developers as they are making preliminary financial performance assumptions. At that point in the process, for every developer that reaches out to City staff to get help understanding their fee obligations, a number of other developers may have made a decision and moved on without making contact. Providing a clear and understandable fee framework will help make those decisions more accurate and potentially attract more housing development.

Financial Feasibility

Alignment of the fees within the Framework provides more clarity on the impacts of individual City requirements and their cumulative layering effects on private development. The ability to attract capital from investors is implicitly tied to financial performance and feasibility. Due to the time involved to complete a real estate project and the unpredictable nature of real estate development (such as changing costs, requirements, fees, and construction delays) investors require higher returns than they do from other investment vehicles. In addition, while development is traditionally a very local business with developers and contractors operating within the region, private capital is fluid and is looking for the highest returns possible from development projects from a much broader or even national market. As a result, development projects must provide either higher rates of return or other means of averting risk to compete in the marketplace. A recent report by the Terner Center for Housing Innovation at UC Berkley titled *Making It Pencil: The Math Behind Housing Development (August 2019)* details the importance of financial feasibility and the challenges of attracting investors.

Equity investors in residential real estate come in various forms, and are not exclusively private equity groups. Depending on the size and experience of a developer, private equity is obtained from insurance companies, foreign capital, and the pension funds of public sector employees and union members that utilize real estate development investments as "high return" options to round out their overall portfolios. This means developers are beholden to equity returns in the market, which are set as much by Wall Street as by local conditions, and often do not relate to how much profit a developer makes from a project.

The alignment of the major development fees and taxes within the Framework is intended to provide more transparency and certainty to the City's cost of development. In addition, managing the timing of payments to the City could potentially make these investments more attractive to investors by reducing the risk of changes in the project's cost basis.

Timing of Payment

In analyzing Council Priority #21 which directed staff to consider allowing deferral of payment of impact fees to certificate of occupancy to better align with project revenues, staff's intent is to enhance development feasibility by offsetting potential costs, but also to provide transparency and predictability by aligning the requirements that residential developers must meet. In aligning the payment of these major fee categories, staff is currently exploring the following adjustments.

Currently, the City assesses and collects different fees and taxes at different milestones in the development process. Some types of fees such as development review fees or service fees, need to be paid at the time that department staff will be conducting the work. Some fees need to be collected prior to construction of the project (for example some infrastructure fees based on if work is needed to be completed prior to the completion of the development project). However, other substantial fees, such as impact fees and construction taxes, do not need to be paid up front, though delaying payment would require changes to some City revenue forecasting models. For example, impact fees are highly variable year-to-year and are not incorporated into City budgets prior to being paid, but the forecasting of construction tax revenue – a key component of the Traffic Capital Program – are forecasted using valuation data associated with building permits. Changing the submittal date for construction taxes to certification of occupancy would likely lessen the accuracy of budget projections upon which capital improvement programs are based.

The chart below shows when different fees are due during the development process and the potential changes that staff is exploring.

Fee	Regulating Ordinance	Currently Due	Potential Change
Inclusionary Housing Fee	Ch 5.08	Post-Construction, at Certificate of Occupancy	No change
Affordable Housing Impact Fee	Resolution 77218 as amended	Issuance of Building Permits	No change

Parks Fee	Ch. 14.25 & Ch. 19.38	Issuance of Building Permits	Defer to Certificate of Occupancy
Traffic Impact Fee	Ch 14.29, Ch. 14.30, & Ch14.33	Issuance of Building Permits	Defer to Certificate of Occupancy
Construction Taxes	Ch. 4.46, Ch. 4.47, Ch. 4.54, & Ch. 4.64	Issuance of Building Permits	Defer to Certificate of Occupancy
Permitting Fees		At time of City-staff work perform the work	No change

The timing of paying fees does make a difference to the financial pro forma of the project: development projects are typically financed with equity which requires a return to equity investors. When the developer has to pay a substantial cost earlier in the project, they have to finance those costs and pay more interest, and the cost-per-unit of the development increases. Fees and taxes that are paid towards the end of the project are recouped more quickly through sales or rentals and do not have the same carrying cost as if they were paid earlier in the development process.

Realignment of the City's impact fee collection process and timing could reduce financing costs to the developer, and support efficient cash flow as the project moves from conceptual financial feasibility to required financial performance through the construction phase. Analysis completed by KMA in its report on Downtown High-Rise Residential Development (September 27, 2018) states:

> *In addition to the partial suspension of construction taxes, the City may consider deferral of the timing for the payment of development fees for high-rise projects in the downtown. By deferring the fee payment, there can be significant savings to the developer, since fees are typically financed with equity, which requires a return once it is funded.*
>
> *The carrying cost with equity during the construction period effectively increases the cost of development fees by nearly 25% over two years, based on a 12% rate of return. The effect is that City fees of $21,400 per unit (net of the construction tax incentive) become $26,500 per unit when the cost of capital is included.*
>
> *As illustrated in the table below, if fees were paid at, say, the certificate of occupancy, which might be two or more years after when the fee would normally be paid, then the developer does not have to fund the return on equity for the fee payment during the construction period. The cost savings to the developer would be approximately $5,100 per unit.*

				Financing Cost Savings Over 2 Years	
Units	*Fees/ Unit*	*Total Fee*	*Annual*	*2 Years*	*Per Unit*
300	*$21,400*	*$6,420,000*	*$770,000*	*$1,550,000*	*$5,100*

Deferral of fees enhances the return over time to the developer and investors. To the extent dollars can be invested on a deferred basis, then the return over time is higher when compared to investing the same dollars up front, say two years earlier at issuance of permits.

Currently, fees are assessed and paid at different times in the development review and construction process and as fees are updated or modified, or as new fees are introduced, the development is subject to those changes in the cost assumptions. In most cases developers are accounting for some amount of variation or escalation, but when significant changes occur (such as incentive programs or pilot programs ending) development projects end up racing a deadline to meet performance requirements. If the project is delayed for reasons outside of the developers control this could have serious implications on the financial performance of the project.
Staff is currently exploring process changes that in addition to aligning fee payment, could also align fee assessment and vesting of the fee over the construction of the project, subject to predetermined escalation and performance. Staff is also exploring efficiencies related to aligning the timing and review of the different agreements required to implement these different City requirements.

It is important to note that deferring fee payment to the end of the construction period poses a potential risk to the City. Moving the payment of fees to this point reduces the number of development milestone opportunities that the City has to ensure that fees are paid. In the case of for-sale projects, units are sold incrementally shifting the fee responsibility to the new owner. In exploring alignment of the various development-related agreements the City enters in to, staff will consider increased focus on performance and collection, and the potential for limits on sale or transfer until fee obligations have been met.

State Bills Impacting Fee Related Work

In the 2018-2019 legislative session, Governor Gavin Newsom signed into law two bills that will impact the City's work on fees on residential development.

The Housing Crisis Act of 2019 (SB330), declares a statewide housing emergency until January 1, 2025. SB330 states that projects may only be subject to fees, policies, and standards in place when the preliminary application was filed (square footage or units added after the preliminary application can be subject to new fees, policies, standards, etc.). A completed application must follow within 180 days.

The legislation does not prohibit a project being subject to a fee, charge, or other monetary exaction, as a result of an increase from an automatic annual adjustment based on an independently published cost index that is referenced in the ordinance or resolution establishing it. As part of the update to the IHO, the Housing Department is proposing to return with an automatic annual adjustment for the in-lieu fee for the City Council to consider that could be applied across all fees.

In addition, the Housing Accountability Act, (AB 3194) was adopted to address the State's housing shortage crisis due to lack of supply and increasing unaffordability. The law states that if a housing project, regardless of affordability, is proposed on a site where the project is consistent with the objective standards and criteria of the General Plan, the local agency cannot require the property to be rezoned to accommodate the project, even if the zoning of the site is not consistent with the General Plan.

Staff is currently analyzing how this will impact various development requirements. The primary challenge that has been created is that rezoning can no longer be used to facilitate building additional public improvements and amenities as was envisioned by the Council-adopted Urban Village Implementation and Amenities Framework. As such, the City must find alternative ways to facilitate the construction of amenities and further implement the Envision San José 2040 General Plan Urban Village Major Strategy. This may have future bearing on the development of the Development Fee Framework.

Examples of Other Cities

The need to balance city fees and infrastructure needs with the fiscal realities of the local real estate market is not unique to San José. Staff reviewed other California cities and found similar constraints to what San José is experiencing, as well as some evolving practices to improve transparency and consistency, and implement early identification of fees. Several cities have instituted online fee calculators, although these are primarily used to calculate permit application fees, and do not appear to be used to calculate impact fees.

Other cities have revised their fee schedules for simplicity. The cities that have integrated all city impact fees into a single fee schedule are primarily geographically smaller cities where the building typology and market characteristics are less diverse and where the consolidation of fees does not have the same complications as a larger city with more diverse types of development.

Only a single city (Chula Vista) was found to have instituted a comprehensive project completion agreement to defer the payment of multiple department impact fees to the end of construction. In addition, the City of Chula Vista offers some high-density residential (for-rent) development projects located in limited geographic areas, the ability to defer certain Development Impact Fees beyond the Certificate of Occupancy by annexing into a Community Facilities. The program allows the fees to be deferred for ten years, with repayment in years eleven through thirty. Deferred fees under this program accrue interest at two percent (2%) per annum. Several other cities have taken a more communications-based approach by providing comprehensive overviews of fees either citywide (such as done by San Francisco) or by specific area with demographic and market information (such as by Sacramento for their downtown area). Staff will continue to research concepts being applied in other cities, as well as broader programs such as the Statewide Community Infrastructure Program, as work on the Development Fee Framework continues.

Conclusion

The proposed Development Fee Framework has the potential to align the City's interests in delivering infrastructure, services, and amenities to residents, while creating a transparent and predictable process for developers, the purpose of which is to make San José residential development more attractive to investors and ultimately deliver on the City's goal of building 15,000 market rate and 10,000 affordable homes.

EVALUATION AND FOLLOW-UP

Staff will bring back a final recommendation on the Development Fee Framework to the City Council in Spring 2020. In addition, the Office of Economic Development will continue to coordinate closely with the Housing Department on implementation of the Inclusionary Housing In-Lieu Fee, and with the Department of Parks, Recreation, and Neighborhood Services on the upcoming Land Valuation Study. In addition, staff will conduct further outreach with developers, stakeholders and the public prior to bringing back a recommendation to the Council.

PUBLIC OUTREACH

Staff has hosted two outreach meetings to members of the development community and other stakeholders to discuss the potential development fee framework, totaling 43 attendees.

Summary of Public Meetings

Meeting Date and Audience	Attendees
October 18 – Developers & Stakeholders	36
October 22 – Developers	7
TOTAL	**43**

This report will be made available to the public on October 25, 2019 on the City of San José website and in hard copy in the City Clerk's office, prior to the City Council meeting scheduled for November 5, 2019.

COORDINATION

This memorandum was coordinated with the City Attorney's Office, the Department of Planning, Building and Code Enforcement, the Department of Parks, Recreation and Neighborhood Services, the Public Works Department, the Department of Transportation, and the City Manager's Budget Office.

COMMISSION RECOMMENDATION/INPUT

No commission recommendation or input is associated with this action.

CEQA

Not a Project, PP17-005, Adjustment to Fees, Rates & Fares without changes to or expansion of services.

/s/
KIM WALESH
Deputy City Manager
Director of Economic Development

/s/
JACKY MORALES-FERRAND
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For questions, please contact Chris Burton, Deputy Director, at (408) 535-8114