From: JEAN DRESDEN
Sent: Monday, November 04, 2019 1:01 PM
To: City Clerk; The Office of Mayor Sam Liccardo; District1 <district1@sanjoseca.gov>; District2 <District2@sanjoseca.gov>; District3 <district3@sanjoseca.gov>; District4 <District4@sanjoseca.gov>; District5 <District5@sanjoseca.gov>; District 6 <district6@sanjoseca.gov>; District7 <District7@sanjoseca.gov>; District8 <district8@sanjoseca.gov>; District9 <district9@sanjoseca.gov>; District 10 <District10@sanjoseca.gov>
Subject: Item 4.3 Development Fee Framework and Item 4.4 IHO

Honorable Mayor and Councilmembers:

Staff has gone far beyond the scope of Council Priority setting where they were asked to development a more transparent method of fee charging using square footage and a single time of collection. Specifically, Council directed that the "Framework shall not be intended to reduce fees." This framework goes far beyond that scope and proposes to make multiple changes to fee structures based on a single consultant's report on cost of development rather than based on the actual impact fee needs of the community as required by the language of AB1600 Fee Mitigation Act. Staff should return with a strategy that is parallel to current fees and in a subsequent item, council could consider whatever discounts/incentives are needed. This is a wholesale change to the fee structure buried in a single item—all designed without community input. Further, many of the changes are likely to increase the divide between have and have not neighborhoods.

Today I am writing you as an individual. Normally, I write on behalf of San Jose Parks Advocates. However, I am traveling internationally making collaboration difficult.

Scope beyond priority setting direction
Staff was directed to come back with a square footage and timing framework. This framework goes far beyond and makes wholesale changes to the fee structure.

No community outreach
The structural changes have the potential for substantial impacts to the community by reducing the amount collected. Where's the outreach to let people know of the plans? Fees are mitigations for the impacts of development. They are designed to allow current resident to maintain their level of service. People should be allowed to give their views PRIOR to adoption of a framework that completely turns the fee structure upside down.

LInkage to existing nexus studies. Plans for new studies?
Fees are collected based on nexus studies and this framework does not discuss nexus studies current or planned updates other than parks. Wholesale changes require updated nexus studies.

Geography changes are absurd and not rooted in need and will perpetuate inequity.
The proposed combining of various geographic areas based on housing type will perpetuate inequity. For example, combining North San Jose and downtown will not address the very different problems each neighborhood faces. While both will attract highrises, the baseline infrastructure and the types of infrastructure needed are different. For example, Downtown has a "Central Park" and a community center. North San Jose does not have either. Putting neighborhoods together based on today's market conditions does not take into account that communities evolve. Equity demands that each neighborhood be considered separately. The historic planning areas do need to be divided. But they should not be combined.

Process, process, process! It takes time!
The only city in California to use square footage in a unified fee is Sacramento. Prior to implementing, they spent 5 years in development—conducting Nexus studies and extensive community outreach. It is notable that Sacramento's process concluded that commercial development should contribute to parks in order to mitigate the impacts of lunchtime and evening usage of parks by employees.

Time of collection. Is it risky?
Only Sacramento offers to collect fees at the time of certificate of occupancy. They implemented in 2017 for new projects. Have they collected anything? Why do other cities choose to collect at time of building permit? In the past, multiple modifications have been made to development agreements. Does this set up a situation where a change in ownership or a bankruptcy could cancel out fee collection? Once an occupancy permit is issued, could a developer LLC simply walk away and the fees become uncollectable? There must be a reason even the most developer friendly communities do not charge fees at the time of certificate of occupancy. What do they know?

Inclusionary Housing (item 4.4 too) Park Discounts
Item 4.4 proposes declaring 100% AMI as "affordable" housing with a 50% reduction in park fees. This essentially means that half the city's population would be qualified for "affordable" housing. The Feds and State do not use this standard. People earning in this category (about $120,000 for a family) are not rent-burdened, that is paying more than 30% of their income. Their challenge is purchasing a home. They expect parkland nearby. Further reducing park fees will perpetuate the inequities and park deficiencies found in large swaths of San Jose and continue to make parts of San Jose less desirable. People will not receive the health benefits of green open space near their homes. Impacts to parks from increased population will not be mitigated causing resistance from existing population to future growth.

Please direct staff to come back with a framework for square footage, multiple independent geographic areas. Have them develop a compare and contrast chart using already entitled project to show what fees would be collected. They should provide you with a comprehensive outreach plan and a schedule of when they will complete Nexus studies in order to be compliant with the provisions of AB1600.

Sincerely,

Jean Dresden

Starcity
1020 Kearny Street
San Francisco, CA 94133

November 4, 2019

City of San Jose
200 East Santa Clara Street
San Jose, CA 95113

Honorable Mayor Liccardo and San Jose City Council:

On behalf of Starcity, I wish to express our support for the full adoption of the **Downtown High Rise Residential Incentive and AHIF Downtown High-Rise Exemption programs** agendized for November 5th. As our team attested to in great detail during the City Council Meeting on September 24th, our 803-unit Coliving project on Bassett Street is significantly impacted by the fate of these programs. Building this new and relatively unprecedented type of middle income housing is not easy, and as one of the first builders in the country to embark on a project of this scale, the institutional lenders and investors we are engaging require financial returns that justify the perceived risk of such a venture. Extending the incentive and exemption programs has proven to be imperative to the capitalization of our San Jose project.

With respect to the **Development Fee Framework**, Starcity also supports the work of OED and Housing staff to propose a fee system that is based on the square footage of a building. A square footage based fee system is an equitable way to assign fees to the broad variety of housing typologies that San Jose currently permits. Moreover, the proposals to defer the timing of payment of major impact fees such as Construction Taxes and Parks Fees to the near completion of construction is a positive step that should alleviate some of the burdensome upfront financing costs that developers face during the building process.

Starcity also supports staff's efforts on the **Inclusionary Housing Ordinance Proposed Revisions**. Specifically, the optionality to "mix and match" on-site affordable units with an in-lieu fee affords developers much needed flexibility, as does the optionality to cluster affordable units on-site.

The proposal to qualify income for restricted affordable Co-living rooms at 90% of the relevant income limit for a given household size is a reasonable approach to incorporating this use into the City's Housing policy. Co-living is naturally priced to be a more affordable option than Studio and 1-Bedroom apartments. Allowing deed restricted Co-living units to charge 90% of a corresponding rent limit for Studio is largely in-line with the market realities of this housing type, and we encourage the City to adopt this proposal.

Finally, we urge staff and City leadership to thoughtfully consider how new inclusionary fees are phased into different regions of the city. With construction costs already at an all time high and continuing to increase, we cannot assume that the economy will be any more favorable for development 3 years from now, when for example certain inclusionary fees are proposed to be phased into the Downtown area. The City has stated ambitious goals for housing production and the creation of affordable housing, which so far are not on track to be met. We recommend that staff consider an introduction or increase in fees that is commensurate with the achievement of specific production goals, rather than the expiration of an arbitrary timeline that may ultimately prove to be ignorant of market realities.

We wish to thank city staff for their very strong effort in introducing a more dynamic and fair series of housing policies this fall that take into consideration a real variety of approaches to solving the housing affordability crisis, and we look forward to the adoption of these measures in the coming days.

Best Regards,

Eli Sokol
Senior Development Manager
Starcity

[redacted]

Honorable Mayor Sam Liccardo
and Members of the City of San José Council
via email, sent Nov. 4, 2019

re: Agenda item 4.2: Report on the Cost of Residential Development;
Agenda item 4.3: Development Fee Framework Update;
Agenda item 4.4: Inclusionary Housing Ordinance Proposed Revisions.

Dear Mayor Liccardo and Councilmembers,

I write once again as an individual in support of San José City Parks, and to urge you also to support them as you consider changes and consolidation of fees to encourage development of affordable housing. I also that urge you to take the necessary time to work with the public prior to finalizing any changes.

I appreciate that San José and environs have a housing crisis, and I am proud that, even as San José itself has done more than its fair share to provide housing for our dynamic and growing workforce, it is aspiring to provide even more housing – and especially affordable housing – in a fiscally- and environmentally-sustainable manner. I also applaud your work now to consider streamlining the permitting process and simplifying the fee structure. But I am worried that the proposed fee simplification may run counter to the affordable housing effort. And, as I said in my letter dated Aug. 5, 2019, “Parks are critical to the future growth of San José,” and it is critical that they not be shortchanged in the streamlining and simplifying process, or sacrificed in the effort to provide more housing.

I have a number of specific concerns:

- Collect adequate park fees. I understand the desire to reduce fees in an attempt to make housing more affordable, but additional park facilities are part of the needed infrastructure for new housing. The residents of the highly affordable housing are the least likely to have private backyards and the least able to afford to travel to recreational facilities. If nearby parks are not provided for new developments, the new residents will either be denied their healthful access to the outdoors or else they may overwhelm existing parks and thereby engender resentment from current residents who may then oppose any future development.
- I am especially concerned by proposals in the 4.4 memo, such as “Consider Extending Park Impact In-Lieu Fee Credit to 100% of AMI Rental Units,” which “would result in 50% - 75% reductions in the level of park fees collected.” “Up to 100% of the median” is equivalent to including half of the entire city, and, as our wealthier residents are more likely to be home-owners than renters, this proposal would likely mean foregoing park fees for the ***majority*** of the new rental development. The residents of these new units would likely be paying near market-rate rents and accordingly would be expecting high-quality parks as well as other amenities and infrastructures.
- I worry about the geographic implications of using an average fee for a region. The Quimby Act for collecting park fees – 3 acres of parkland per 1,000 new residents – involves a “nexus”: the park is to be within about 3/4ths of a mile of the project. Land costs in San José vary greatly with location, and the land-cost near a project might be more or less than the area’s overall

average. If the local cost is more than the average, the city doesn't collect enough money to buy the needed nearby parkland; if less, the developer likely would sue over the higher fee.

- The "phasing" of fee collection is important. While it may be appropriate to collect some fees upon the completion of a project, park fees should be collected up-front at the issuance of the building permit. We in the community have been burnt in the past with promises of parks once an entire complex is completed, only to be left park-less for years as the project remained unfinished with only one of the two planned towers ever completed. Also, what would happen if a consortium of developers began a project but then declared bankruptcy, reorganized, and then as a new legal entity completed the project: if the park fee were to be collected upon completion, would the city lose out as a result of the bankruptcy filing?

The assessing of fees and issuing of permits is a complicated process, especially for large projects in a city the size of San José. It is important that efforts to simplify and consolidate the process be thoroughly reviewed by many people, both within the city and by the general public, to assure that there are no unintended consequences. I understand that the city of Sacramento has recently implemented a unified development fee schedule, but they took five years in the process, did a comprehensive analysis of community needs, did new nexus studies for all categories, and held extensive community outreach. We here in San José have only had access to the supporting analyses for a week or so, and there have been few if any public meetings on the topic.

I support Councilmember Jimenez's memo on item 4.3 ("Development Fee Framework Update"), and fully endorse his three key points:

A. The development related fees within the Framework must continue to mitigate the impacts of new development on the demand for parks, affordable housing, transportation infrastructure, and other amenities and services, as intended at the adoption of each fee.
B. The outcome of this work, including adoption of any Development Fee Framework, must be revenue neutral for each fee and tax within the Framework.
C. Any fee and tax reductions (or increases) should be evaluated and considered separately from this work.

And I request, before the City takes any final action, that the Parks and Recreation Commission be briefed on the proposal and given time to comment, and that the city hold outreach meetings to collect public input.

The review and possible simplification of the city's fee and permit structure is a worthwhile endeavor, but it is complicated and may possibly result in unintended consequences. It is worth taking the time to do it right!

We don't want a city where people have to live in the parks, but also: people don't want to live in a city that does not have good parks.

Thank you,

~Larry Ames,
longtime park advocate.

cc: City Clerk; City Manager; PRNS Dir. & Deputy; SJ Parks Advocates; SJ Parks & Rec Commission; Green Foothills Exec. Dir. and Advocate; SV at Home; District 6 Neighborhood Leaders Group

2001 Gateway Place, Suite 101E
San Jose, California 95110
(408)501-7864 svlg.org

November 5, 2019

The Honorable Mayor Sam Liccardo and Council
City of San Jose
200 E. Santa Clara Street
San Jose, CA 95113

RE: Items 2.10 and 4.3, Downtown Residential High-Rise Fees and Citywide Development Fee Framework

Dear Mayor Liccardo, Vice Mayor Jones, and Honorable Councilmembers Arenas, Carrasco, Davis, Diep, Esparza, Foley, Jimenez, Khamis, and Peralez,

On behalf of the Silicon Valley Leadership Group, I am writing to express our support for the staff recommendation of Item 2.10 to maintain the downtown residential high-rise fee reduction through June 30, 2023 and then graduate the fee to citywide levels by June 30, 2025. We also support the staff recommendation of Item 4.3 to create a development fee framework that would provide housing developers and the public a transparent view as to how fees are calculated which would promote investment in housing creation.

The Silicon Valley Leadership Group, founded in 1978 by David Packard of Hewlett-Packard, represents more than 340 of Silicon Valley's most respected employers on issues, programs and campaigns that affect the economic health and quality of life in Silicon Valley, including energy, transportation, education, housing, health care, tax policies, economic vitality and the environment. Leadership Group members collectively provide nearly one of every three private sector jobs in Silicon Valley.

On an annual basis, the Silicon Valley Leadership Group surveys its member companies at the CEO level to find out which issues are most important to a healthy economy in Silicon Valley. Each year, housing affordability and attainability is selected as the top impediment to economic growth. The cause of our housing crunch is clear: supply has not kept pace with demand.

We agree with staff on Item 4.3 when they state that this policy will, "make the City's Development process more efficient to attract investment and spur [housing] development." These policies do not reduce investment in our affordable housing stock and parks; instead they make the creation of needed housing feasible so we can both increase the quality of life and tax base here in San Jose and Silicon Valley.

When emerging industries and high growth employers look for new locations, we know that they are looking for complete communities where employees and families can enjoy parks, retail, and transportation choices. By streamlining our housing development process, we are ensuring that San Jose continues to shape its city as one that welcomes everyone.

We look forward to working with the City to enact policies that promote housing for all incomes.

Sincerely,

[redacted]

Sr. Director of Housing & Community Development
Silicon Valley Leadership Group

WORKING PARTNERSHIPS USA

November 5, 2019

San José City Council
200 East Santa Clara Street
San Jose, CA 95113

Honorable Mayor Liccardo and San José City Councilmembers:

The proposed "Development Fee Framework" (Item 4.3 on the Nov. 5, 2019 City Council agenda) would create an unprecedented new system governing how fees are set. It would create "typologies" based not on development impacts nor on neighborhood needs, but based on developers' and investors' profit margins. It sets up a framework for lowering fees for certain favored types of development, without an evaluation of whether it is in the public interest to incentivize those particular types of development, nor what will be the impacts on City services, resources, and potential disparate impacts by neighborhood, race, ethnicity, or income level. (A second action by the Council would be required to actually set fee amounts, but the DFF creates the mechanism for changing fees according to its typologies, rather than starting from the nexus.)

This radical change is being pushed forward without input from the public or from the City's own commissions on whether this is the model that the City should pursue, and with no alternative models or approaches being presented for Council consideration.

This raises substantial issues of process and good government. There has been no public input around the development fee framework or the cost of development studies. Repeated requests by stakeholders to review and provide input on drafts, or to have a public community discussion about how best to pursue the goals of the Priority Setting item, were refused by City staff.

Community outreach after the fact, constrained within the framework that has already been developed, is not a substitute. The community needs a chance to vet these reports and proposals, provide input, and have a dialogue that brings in diverse analysis, proposals and viewpoints.

Substantively, this approach is highly concerning because it appears to set aside the City's obligations to ensure it can provide needed services to residents in a fiscally responsible way. Development fees are not arbitrary – they are set, in most cases, by nexus studies examining what are the needs and impacts generated by new development, and what is the cost imposed on the City to meet those needs. We set the fees by first looking at what it will cost the City to meet the needs generated by each type of new development. <u>After</u>

2102 ALMADEN ROAD, SUITE 112, SAN JOSE, CA 95125
WWW.WPUSA.ORG
P 408 809.2120
F 408 269.0183

understanding that baseline, if the City believes it is in the public interest to incentivize certain types of development, we may reduce fees for those development types and identify other funds to cover the costs.

This framework turns that process on its head. It does not start with community needs and their nexus to development. It starts with major developers' needs, as determined by data provided by the developers themselves.

This represents a fundamental shift. If our policy now states *a priori* that large-scale development should not be expected to cover the costs it imposes, then who is going to pay for those costs? If developers will not pay for the needs that their projects generate, will taxpayers be left holding the bag?

On behalf of Working Partnerships USA, I urge the City Council to broaden its scope beyond fees, carry out a substantive public input and feedback process, and evaluate all options to pursue the underlying issue: how to reduce the cost impacts of the development process in San Jose for developers of all sizes and in all areas of the city, in a way that meets neighborhood and community needs, and puts equity at the center.

Sincerely, [redacted]

Louise Auerhahn
Director of Economic and Workforce Policy

District 6 Neighborhood Leaders Group

Mayor Sam Liccardo, City of San José and Members of the San José City Council
via email, sent Nov. 4, 2019

re: Agenda item 4.2: Report on the Cost of Residential Development;
Agenda item 4.3: Development Fee Framework Update;
Agenda item 4.4: Inclusionary Housing Ordinance Proposed Revisions.

Dear Mayor Liccardo and Councilmembers,

The District 6 Neighborhood Leaders Group (D6NLG), an association established over a decade ago, is comprised of officers, boardmembers and involved community representatives from the multitude of neighborhood associations across District 6 in San José. After discussion at tonight's monthly meeting, the members attending voted to approve the writing of this letter.

As we stated in our letter dated August 5th of this year, we in District 6 are aware of the housing issue, but are also concerned that efforts to simplify the permitting and fee structure to encourage housing may have a negative impact to the city's park system.

Once again we write to reaffirm our support for parks. As we said before, this is not an "either-or" choice: the city can support both housing and parks. Parks are critical for everyone so that they can have the benefit of sunlight, fresh air, exercise, and interpersonal interaction.

We agree with the memo on 4.3 by Councilmember Jimenez. We agree that "the development related fees within the Framework must continue to mitigate the impacts of new development on the demand for parks, affordable housing, transportation infrastructure, and other amenities and services, as intended at the adoption of each fee"; that the result "be revenue neutral for each fee and tax"; and that "any fee and tax reductions (or increases) should be evaluated and considered separately from this work."

This is not a process that can be rushed! We recognize that permits and fee structures for large projects in a city as large as ours can be complicated and may well warrant simplification, but we are worried that the simplification process may result in unintended consequences. We have only recently had access to the nearly 300 pages of consultant reports and staff analyses; we have not had time to thoroughly analyze them; and we are unaware of any public workshops or presentations to help us in the public become more informed on the matter. We've heard that fee simplification has been done elsewhere, but have also heard that the process involved years of public outreach. We offer to host a public outreach at one of our D6NLG meetings.

Parks are important to us! Please take the time to work with the public to properly review this all!

Thank you.

James Rincon, Chair, D6NLG

cc: City Clerk; City Manager; PRNS Dir.; SJ Parks Advocates; SJ Parks & Rec Commission

Silicon Valley MEPS

Honorable Mayor and City Council
San Jose City Hall
200 East Santa Clara Street
San Jose, CA 95113

RE: Agenda Item 4.3

Dear Mayor and Council,

OED's proposed Development Fee Framework would create an unprecedented, untested and unfair new system governing how fees are set. The creation of this recommended framework was done behind closed doors, without meaningful input from the Parks Commission, the Neighborhoods Commission, nor any Council policy setting committee. It was created without a robust community feedback and vetting process. It is the epitome of a backroom deal and should be voted down.

The adoption of OED's proposed Development Fee Framework would be a dishonest betrayal to the residents of San Jose who voted to tax themselves for better city services but are now paying more for every gallon of milk, every loaf of bread and virtually every transaction they make so that those dollars can go to developers. It is shameful.

This untested, risky scheme would create "typologies" driven not by community needs, but by developers' and investors' profit margins. It sets up a framework for lowering fees for certain favored types of development, without an evaluation of whether it is in the public interest to incentivize those particular types of development, nor what will be the impacts on City services, resources, and potential disparate impacts by neighborhood, race, ethnicity, or income level. This is the latest sham developer giveaway that flies in the face of logic.

These fees are not arbitrary – they are set, in most cases, by nexus studies examining what are the needs and impacts generated by new development, and what does it cost the City to meet those needs? Fees are set by first looking at what it will cost the City to provide those needs. And then, if it's decide it's in the public interest to incentivize certain developments, fees might be reduced.

This framework does not start with community needs and their nexus to development. It starts with major developers' needs, as determined by data provided by the developers themselves. This represents a fundamental shift. If our policy now states *a priori* that large-scale development should not be expected to cover the costs it imposes, then who is going to pay for those costs? If developers will not pay for the needs that their projects generate, will taxpayers be left holding the bag?

This scam should be voted down and staff should be directed to put the community's best interests before those of developers and land speculators. This betrayal of the public trust should be voted down.

Sincerely,

Steve Flores