November 4, 2019

Jacky Morales-Ferrand
Director
Housing Department, City of San Jose
200 East Santa Clara Street
San Jose, CA 95113

RE: Housing Policy Day November 5 City Council Meeting

Dear Jacky,

The suite of housing policy proposals at the November 5 City Council meeting threads a needle trying to encourage more affordable housing while ensuring that housing remains buildable in our city. These proposals represent progress towards San Jose grappling with the immense challenges of Bay Area affordability: establishing fee structures and balancing fairness that allows for us to create much-needed housing at all levels in our city.

First and foremost, we want to reiterate our support of the Downtown High-Rise Fee exemption. As we said at the September 24 City Council meeting when this proposal was approved, such a program will not only ensure the completion of several currently entitled housing developments, but it will also stimulate other residential projects to be built, helping to increase our overall downtown housing supply where greater densities are most desirable.

Altogether, these housing proposals caused us to revisit our principles on development. While SJDA counts developers as some of our biggest members, we have consistently endeavored to see the bigger picture and have a track record of opposing projects that do not fit our vision for downtown San Jose’s best possible future. Our current stance is that downtown needs more of everything to fulfill its potential: more residents, more jobs, more shops, more restaurants, more parks, more public art, more vitality.

There are an unprecedented number of downtown development proposals presently on file with the City. We need to be crafting policies that encourages these projects to actually be built. This is not the time to make the development process more complicated or to disincentivize the addition of housing units to our market.
Clearly, there is a severe need for more affordable housing. The downtown community has welcomed projects like the Plaza Hotel, Donner Lofts, and Villas on the Park that serve the needs of our most vulnerable residents. We fully embrace the proposed approach to provide greater emphasis on housing the “missing middle” income earners such as teachers, service providers, and (perhaps selfishly) non-profit employees that are leaving San Jose for other cities. We are trying to create a downtown community for all income levels, where people don’t need to be high earners in specialized fields to prosper here.

It is a paradox the city wants more housing supply yet is adding costs to make housing more expensive. Since we want to encourage more housing, especially affordable housing, the “fee stack” on housing must be carefully balanced upon the many factors outlined in the staff memos. As we continue to evaluate our housing production goals, we must adjust our housing policies accordingly.

The cost of development studies establish a baseline. Any return less than 5% is untenable, with 5.25% considered the least possible return to unlock financing and make projects move forward and begin construction. If we want a flourishing housing market with different product types we need to ensure our policies result in completed buildings, not just proposals. The staff recommendations recognize the difficulty of taking any one point-in-time for establishing cost models and builds flexibility into its process through an annual review.

We are encouraged by the staff recommendations to create greater transparency and certainty in fees through the proposed framework. We support the recommendation to move to a per square foot “universal fee” (rather than a per unit fee), but we recognize that more work must be done on this issue, including the definition of square foot. An approach that recognizes net rentable space will not unduly favor micro-units or the discounting of common area and amenity space in larger projects. We support keeping the city’s current definition of rental square foot.

We also support staff’s recommendations to lock in fees at issuance of building permit and charge for fees when 80% of the units have received final inspection.

Given the complexity of downtown high-rise projects, we recommend a 36-month construction period (rather than 30-month) before fee escalators kick in.

Most developers have expressed a preference for paying in-lieu fees rather than building affordable housing on-site. We support staff proposals that address this by introducing the idea of “clustering” affordable units on an adjacent parcel. For rental properties, in-lieu fees will be discounted for projects providing on-site affordable units.

As in-lieu fees are restructured from a per apartment fee to a square foot fee, they will initially be set at different levels by geographic areas citywide in recognition of different housing market dynamics in San Jose. While the staff proposal states the new in-lieu fee of $43/sq. ft.
will be applied across the city “once the market recovers,” we would ask this not be a foregone conclusion but instead be factored into the annual housing policy evaluation process.

This “transition approach” has potential and we would like to see a similar framework in place for any other fees that are introduced as a result of this work. Such an approach will give housing developers a chance to lock-in cost certainty on their fees if they are motivated to get their Site Development Permit now and move forward with construction.

Sincerely,

Scott Knies
Executive Director

Cc: Mayor Sam Liccardo
San Jose City Councilmembers
Kim Walesh
Michelle Azevedo
Michael Rewkiewicz