October 31, 2022

Honorable Mayor and Councilmembers:

RE: Cost of Development Study Session November 1, 2022

While the Century / Urban cost of development study documents financing feasibility during the pandemic, it does not address more complex factors as we move out of the pandemic. The staff memo will serve as a historic document for a point-in-time but returns to failed fee discount policies and ignores post-COVID trends, the impact of the looming crisis from the late Housing Element crisis and does not analyze the interplay of recent and pending State Legislation and the State's "Pro-housing Designation Program." Staff does not report research and modeling of a more sophisticated program that might actually achieve a significant increase in housing units.

By way of background, I lead San Jose Parks Advocates, serve on the District 6 Leadership Group, and participated in a variety of city working groups best summarized by my 2020 Lifetime Achievement award from the Silicon Valley League of Conservation Voters.

Failed fee discount policies

The staff report hints that fee cuts will be back on the table at a Council meeting later in November—even though prior fee cuts failed to produce significant units. Locking in the cuts for a decade is imprudent given the dynamic nature of the economy, the state legislative environment and the fact fee cuts don't work. Notably, the Council previously discussed and acknowledged the cuts were renamed from "fee discounts" in order to avoid the stigma of a public subsidy and its accompanying requirements for labor, perpetuating wage theft and other abusive practices.

Staff's current report acknowledges on page 9 fee cuts don't change anything:

> "Reduction of these taxes and fees to zero dollars would improve feasibility, but **would not fundamentally change the outcome** of the analysis. Importantly, such **elimination would also significantly reduce City resources** necessary to support transportation infrastructure and related grant matching requirements, renovate and create new park infrastructure, and support affordable housing."

This analysis reiterates the results from the 2019 September staff report on the Kayser-Marsten study (page 6):

> "Extending the [fee or tax reduction] incentives improve the financial picture slightly but is **not sufficient** for the development **to reach feasibility."**

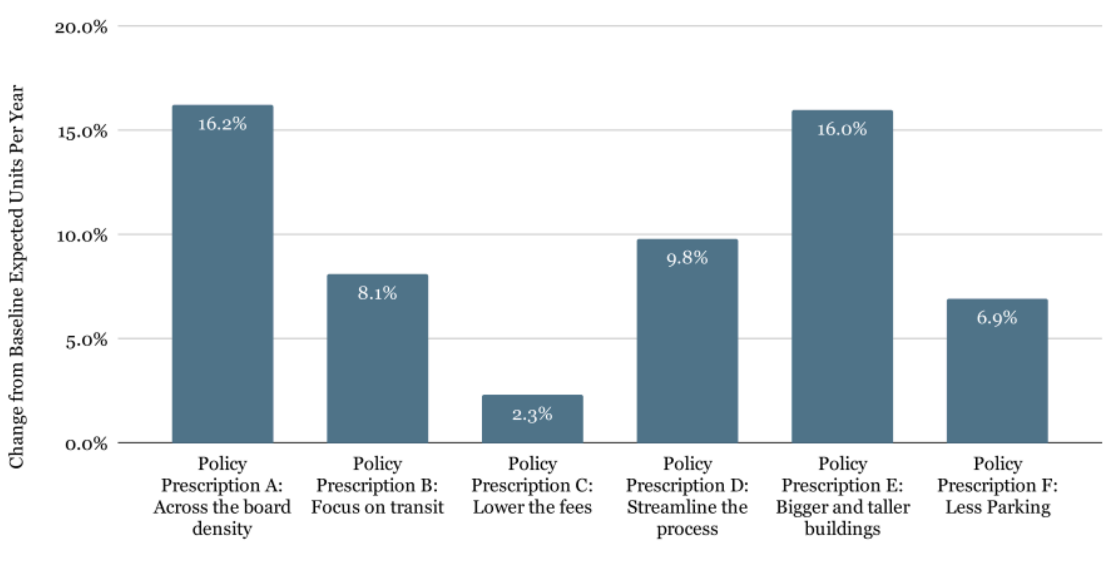
Recently, the Terner Center at UC Berkeley has released their gis-based model of multiple housing positive policies using Los Angeles. Their model forecasts, at best, a 2% increase in units from a fee reduction, further evidence fee reductions will not make projects feasible.

The evidence is clear, fee cuts is doing nothing and results in nothing changing—projects are still infeasible and locking in fee cuts harms the public far into the future.

<u>California State Pro-Housing Designation Program and Terner Analysis</u>

The State's Pro-Housing Designation Program provides incentives to cities and counties in the form of additional points or other preference in the scoring of competitive housing, community development, and infrastructure programs if the City implements pro-housing policies. The Terner Center at UC Berkeley used Los Angeles and a gis-based model to evaluate the impact of pro-housing policies for multi-family housing on every LA parcel. Their dashboard allows policy makers to tweak changes in policies to see impacts. Fees cuts generated only 2% more units above baseline while taller/bigger (FAR) and greater density policies each generated 16% additional units. Their results suggest that a significant increase in units would occur if the City could adequately staff its Planning department and reduce the time lag from application to permit. Not surprisingly, combinations of programs generated more but Terner cautioned:

> "each has different impacts on where new units are likely to be located with important implications for equity and environmental sustainability."



Incremental percent growth over baseline for each strategy.

Where is the City staff's analysis of the interplay of these pro-housing policies and other recent state legislation and how they may affect feasibility? Why consider fee cuts that are known to be ineffective until this policy work is done?

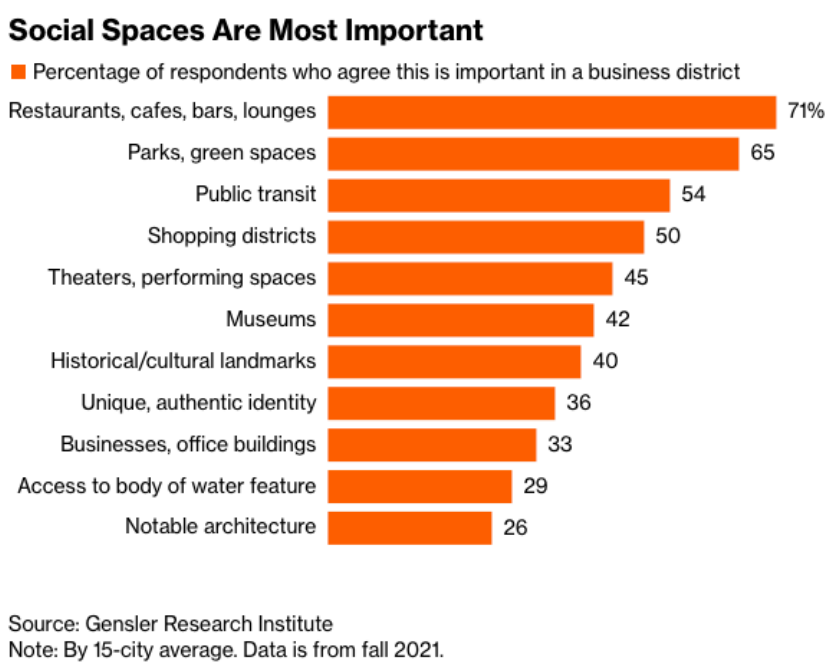
Post-COVID and Downtown Housing

The staff memo touches very lightly on post-COVID impacts beyond mentioning increase in costs and delays to their report. What about Downtown and its viability as a market? To what extent are doubts about San Jose's Downtown intruding into the availability of financing? The Century/Urban report highlights a concern—some projects are finding it hard to rent:

> "As an example, at the time of this writing, asking rents at one Class A Type I project were among the highest in the market but the project was also offering eight weeks of free rent. As a result, **the project's effective rents are substantially lower than the project's asking rents** and lower than the asking rents of other projects."

San Jose and San Francisco are among the slowest cities for people to return to the office according to recent published reports. The Gensler City Pulse survey reported in fall 2021,

> "work will not be the primary driver in bringing people back to their business districts; people want their business district to be a lifestyle hub."



San Jose's downtown businesses have been slow to recover. New businesses complain of permit delays. The major parks—Guadalupe River Park, Guadalupe Gardens, and St James remain overrun with homeless. Decades old plans to solve these problems and build out these parks languish. Why would a bank or equity firm finance a project in a Downtown that cannot offer lifestyle amenities?

During the original Envision 2040 General Plan task force meetings, then Futurist Kim Wallech offered that the future of Downtown depended on attracting the knowledge workers who could live anywhere in the world and who would leave if their needs are not met. Since then the City focused on the towers to house them but has deeply neglected the amenities that will keep them.

> "More than a half century ago, a then-young urbanist named Jane Jacobs wrote a seminal essay on the sterile skyscraper canyons of the mid-20th century — titled simply "Downtown is for People" — arguing that the future of urban centers lies in their becoming more balanced neighborhoods."

The Housing Element—a ticking time bomb

Staff has acknowledged that the Housing Element will be late—risking State and Federal money. New analytic requirements are complex and staffing is an issue. Staff has identified parcels that violate significant General Plan policies for which key findings cannot be made. Other jurisdictions have received reviews from the State that suggest San Jose's recently submitted draft will underwhelm the State. Importantly, going out of compliance will trigger the "Builder's Remedy" where anything goes. Like the Wild West any sort of housing project can be built anywhere. Santa Monica has received 16 "builder's remedy" highrise applications and they are suing to stop 15 of them. More importantly, if the city's Housing Element stays out of compliance long enough, the City will lose access to State and Federal money for housing. Then financing any affordable project will become totally infeasible.

With the Housing Element so understaffed that Planning refused to produce a study session or an outreach calendar, why is council considering any other project requiring Planning or OED policy work?

Summary

This financial analysis provides an interesting point in time. It re-affirms that fee cuts don't work. Complex solutions are needed including the Pro-Housing Designation elements and probably some city initiated General Plan amendments from NCC to Mixed Use. The City Council must focus its Planning and Office of Economic Development staff on completing the Housing Element so that public financing does not implode and the fewest number "Builders Remedy" projects are submitted. The City must look at Downtown beyond fee cuts and hopes for more towers; it must provide the staffing needed to help businesses rebuild and fully fund the reinvigoration of its public parks and plazas in order to attract and retain the knowledge workers who will pay full market rent and not contribute to financial infeasibility by demanding and receiving rental concessions that frighten away investors.

Locking in fee reductions for a decade or more in a time of great fluidity and change without thoughtful consideration to the unintended or predictable consequences Is reckless.

Sincerely,
Jean Dresden