September 14, 2016

To: City of Madison
Park Commission Members

From: Matt Brink – Executive Director, Smart Growth Greater Madison

Re: Park Impact Fee Ordinance Amendment

Dear Commissioners,

I am writing regarding the Park Impact Fee Ordinance amendment that is on tonight's agenda.

Smart Growth represents the Madison development community including both developers and companies providing services to developers such as architecture, land-use planning, engineering, and construction financing among other services.

Smart Growth is requesting that action at tonight's meeting on this ordinance be referred for 30 days so our concerns can be voiced outside of tonight's public hearing process at which comments are limited.

Our membership and the development community as a whole have not had sufficient time to discuss key impacts of the proposed ordinance amendment with policy makers. We appreciated parks staff holding an initial public informational meeting on 6-28-16; however, that meeting focused solely on a power point explaining the Needs Assessment study that justified the proposed increased impact fee. The actual report was not available at the 6-28 meeting so detailed questions could not be asked. We were able to have one meeting on August 1 with Parks staff to present some of our concerns and that meeting ended with an understanding on our part that staff would consider our concerns and we would meet again. Instead, the ordinance amendment was introduced to the Common Council on September 6 after the Labor Day weekend. **To reiterate, the development community has had one sit down meeting to discuss this complicated ordinance amendment between 6-28-16 and 9-6-16.**

The development community is a key partner with the City and its residents, providing millions of dollars toward city parks that are important to all area residents. To continue to provide that funding, it is important that policy makers hear about some of the negative impacts of this ordinance amendment.

A few of our concerns include the following:

1. **Implementation Date:** The current proposal has implementation set to occur on 1-1-17. This start date represents a significant financing problem for developers who have already started the public approval process and/or have completed that process and will commence construction in 2017. Current impact fees are costs already factored into these project's pro formas and financing agreements with lenders. The new fee structure will require developers to change pro formas and lenders to reconsider new terms, if any, for financing a project. This puts the project's financing and start date in jeopardy due to the lead-time required for loan committees and underwriting to complete a review of the new fees and render a new opinion on project viability. Any additional unexpected cost has to be found or the project will not happen. If the project doesn't happen, there are no fees at all to the city, **not even today's fees.**

In most cases, developers are already at the maximum allowable loan-to-cost ratio and it may be impossible to obtain additional financing or investor funds to finance the project. Should the developer be successful in finding these funds, the original start and completion date of the project will be delayed. It is likely that the project schedule could affect when lots are for sale or apartments come on line for rental. If this schedule is not when rents and buyers are in the marketplace, this further impacts the financial health of the project. Developers are very careful about when they bring a project into the market so they can quickly sell or rent up. The timing of when purchase funds or rents are available to pay back financing and operating cost also impacts the financial feasibility of project. **Smart Growth requests that the city not apply these increased fees to any project already in the city approval process and/or those that have been approved, but will not commence until 2017.**

2. **Rent Affordability Impact:** Increased fees and annual escalators, which, although phased, are significant in this proposal and will impact lot prices for homes and rent affordability. Developers are as concerned as policy makers about housing affordability. Many who are not eligible for Section 42 rents are also challenged by market rent costs. New home construction is also very costly even with some homebuilders trying to minimize their costs to provide affordability. Costs for land, construction, property taxes, utilities, maintenance, etc. continue to rise. These are not costs developers have control over. Park fees are also a cost. While the increased fees are good for parks, they are not good for home affordability. By adopting such significant increases and escalators, policy makers will be increasing lot prices and rents. More concerning is the potential that new projects may not be able to generate the prices needed to support higher costs thereby not being financeable. We are already close to that happening in the marketplace with stagnant wages and today's costs of new construction. **Smart Growth asks policy makers to consider the size of these fee increases and how it impacts lot prices and rents. Note the unfairness of using land prices in the fee calculation when the fee is a factor in increased lot costs.**

3. **Impact on Existing Rents:** We also have concern that existing project rents might also rise due to rising rents in new construction. **This is something that should be studied to understand.**

4. **Phase in Schedule of Fees:** The proposed phase in schedule: 80% cap in 2017, 90% cap in 2018 and full phase in on 1-1-19 are helpful but do not solve the issues addressed above. These cost impacts will still increase rents and affect financing. Any increase affects financing for projects already in the pipeline. Parks Staff's feeling that giving developers additional time to adjust project financing is not true for these projects as there is still an increase in fees. The instances where there might be lower costs in 2017 are not clear to us or if it exists and we need to better understand these conclusions. **The fee formula is very complicated and we would like to see the Park's analysis on this point. We also again request that projects in the pipeline or approved but not constructed until 2017 be exempt from these new fees.**

5. Benefit District Reduction: The proposal reduces 11 benefit districts to four and adds a fifth overlay district that takes 20% of the fees collected in the newly formed four districts to be freed up to spend anywhere in the city.

   The positive to this approach is that it allows the city to spend current funds over a broader area and provide greater assistance to areas devoid of new development and thereby deficient in impact fee generation.

The negative is that spending impact fees (specifically Park Infrastructure Impact Fees) a very far distance from the area where the fee was generated is counter to the original objective of the Park Infrastructure Impact Fees. That objective is to provide the ability to absorb increased density and demand on parks served by new developments. Developers are understandably concerned about paying new increased fees without benefit to their residents who are counted in the Park Analysis as new park users. **This district change requires more discussion to assure fairness.**

6. **Timing of Impact Fees Payment**: This fee is currently paid at the time the building permit is issued. No one is living in the building and "impacting" the park system during construction. Construction can take 12 to 18 months. During this time, developers are paying interest on the amount borrowed to pay the impact fee which further increases the cost of that fee to the project and impact on rents. **Smart Growth asks the city to consider allowing developers to show proof of available funds to provide assurance that the fee would be paid once construction commences and delay its payment until completion of the building and the occupancy permit is issued. This is one way to minimize the impact of the fee on renters.**

Smart Growth members are proud of Madison's parks and recognize that this amenity is important to its residents. We are significant financial contributors to the existence of parks along with city taxpayers. This financial contribution through Park Impact Fees and other city fees also impact the cost of single family and multi family housing for these same taxpayers. One need cannot be considered separate from the other. The affordability of housing has become a significant concern of public officials and those wishing to buy or rent a home.

Smart Growth's primary goal is to work collaboratively with city staff, commissions and the Common Council towards a satisfactory conclusion for all parties involved. Granting additional time for discussion of the issues above is respectfully requested.

Sincerely,

Matthew C Brink
Executive Director – Smart Growth Greater Madison

Cc: Mayor Paul Soglin
Madison Common Council Members