

**DAVID C. NOREN**  
**Attorney at Law**  
P.O. Box 586, Hillsboro, Oregon 97123-0586  
330 NE Lincoln Street, Suite 200, Hillsboro, Oregon 97124  
Telephone: (503) 640-2661 Fax: (503) 648-0760  
e-mail: david@norenlaw.com

October 28, 2016

SUBMITTED ELECTRONICALLY

Planning and Sustainability Commission  
1900 SW Fourth Ave., Suite 7100  
Portland OR, 97201

RE: Inclusionary Housing Code Fee-in-Lieu for Non-Residential FAR

Dear Commissioners:

On behalf of Service Employees International Union Local 49, I am following up on my oral testimony at your hearing on October 24, 2016. You heard testimony from the development community that the proposed inclusionary housing program was too ambitious, with the implicit argument that the proposed fee-in-lieu should be much lower. For taller non-residential structures with higher FARs, the proposed code would allow access to FAR transfers once the project met the initial 3:1 "voluntary" inclusionary housing bonus by paying the fee-in-lieu established as an alternative to mandatory on-site affordable units. There appears to be no analysis of whether such a fee would be the appropriate threshold for the 3:1 bonus in non-residential development, which of course has different market rents and development costs than multi-family housing. Moreover, there will be pressure to reduce the proposed fee-in-lieu, so that fee may be even lower.

We urge you to further analyze the residual value of additional FAR in the non-residential setting and to establish a fee-in-lieu for the non-residential bonus that reflects the residual value of FAR in that context. In addition, especially in the light of Mark Edlen's comments that there is an abundance of FAR available for transfer, we urge you to include a requirement that transfers of FAR contribute a further public benefit after meeting the threshold 3:1 bonus FAR. The details of such additional public benefit for transferred FAR should be addressed in the Central City Plan at your work session in January and should include analysis of our proposal that non-residential development that benefits from FAR transfers should pay sufficient compensation to the workers who maintain the development that they can afford housing.

Very truly yours,



David C. Noren