September 27, 2022

RE: Opposition to 220701 (Neighborhoods, Planning and Development Committee)

Dear Mayor Lucas and Members of the City Council:

On behalf of the UNI Promoting Equitable Neighborhoods (PEN) work group and KC Tenants, we write to express our concern and joint opposition to Ordinance 220701 for incentive reform.

As the City's DataKC presentation from Spring 2022 shows, **Kansas City has a shortage of over 15,000 units of affordable housing**. These are pre-COVID numbers. While Kansas City—and the rest of the country—continues to make significant strides from the economic fallout following the onset of the pandemic,[1] economic gains from declining unemployment and rising nominal wage growth are being undercut by levels of inflation[2] not seen since the 1980s.[3] As the Federal Reserve attempts to curb stubborn inflation by raising interest rates once again,[4] the cost of housing continues to grow—rents have increased 16.7%,[5] while mortgage rates have topped 6%[6]—rendering even more prospective homeowners priced-out and vulnerable renters increasingly housing cost-burdened and insecure. Growing housing costs will not only displace individuals, but also profoundly affect racial minorities, children's success rates in school, and family stability.

Economic development provides opportunity for investment and prosperity in our city; it also has the potential to harm our communities through gentrification and the awarding of incentives greater than their need. We must remember that tax incentives are public resources, belonging to the people of Kansas City, to be used to benefit the people of Kansas City. **Who are we building this City for? How do our policies and incentives align with creating a city where *everyone* can thrive?**

We applaud the effort to be consistent and streamline the allocation of incentives, the requirement of a community benefit agreement, and the requirement to produce an annual report included in this ordinance. However, we are concerned that the priority to utilize incentives to drive equitable development is being lost in this current ordinance and, therefore, **oppose Ordinance 220701, as it currently stands, for the following reasons.**

1. Shifts too much responsibility away from elected officials – Currently, incentives must be approved by EDC agency boards and City Council, which are accountable to the public. This ordinance would transfer all approval authority to a non-elected staff position, which we worry will decrease transparency, accountability, and erode public trust.

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[1] https://www.marc.org/news/economy/kansas-city-employment-surprises-upside
[2] https://www.bls.gov/news.release/cpi.nr0.htm
[3] https://www.usinflationcalculator.com/inflation/historical-inflation-rates/
[4] https://www.npr.org/2022/09/21/1124101447/another-big-interest-rate-hike-is-coming-as-the-fed-battles-stubborn-inflation
[5] https://www.apartmentlist.com/research/national-rent-data
[6] https://www.nytimes.com/2022/09/15/business/mortgage-rates.html

2. Minimizes the ability of taxing jurisdictions and the community to have an appropriate voice in the process – Our public school systems, libraries, and mental health institutions are critical to our communities, and decisions that impact their funding opportunities should be carefully and thoughtfully deliberated. Community members must also have the ability to weigh in regarding how public dollars and revenue will be allocated.

3. Does NOT target incentives to areas of need – The current AdvanceKC scorecard uses areas of distress (Non-Distressed, Distressed, Severely Distressed Census, or Continuously Distressed tract) as defined by the U.S. Census Bureau. It is unclear what the logic or metric is for defining Tier 1 areas – it is not aligned with neither the City's own Market Value Analysis (MVA) data nor Census data. Much of the current Tier 1 area is *not* located in distressed census tracts, but instead includes areas with MVA categories of A-D that are the strongest in terms of high property values and investment and lowest in blight and distress. Tier 1 areas include the central business district, Crossroads, River Market, Columbus Park, the Plaza, and South Plaza. Much of these areas have seen decades of incentives, despite the fact that public incentives are meant to be used for a limited time in a limited number of distressed areas.

Residential Tier 1 areas should be focused solely on Severely Distressed or Continuously Distressed tracts in areas with MVA category of G, H, and/or I.

4. Does NOT require financial analysis – The current ordinance removes the requirement for a third-party financial analysis of projects. We believe an equitable government process would include an independent, third-party financial analysis of projects to ensure that public incentives are being narrowly used and only when necessary. A financial analysis for projects in areas with severely distressed census tracts can be waived as part of the existing incentive process and we do not believe this should be extended to projects outside of areas with MVA category of G, H, and/or I.

5. Favors larger projects and developers – The current ordinance criteria calls for a minimum of 100 new units in the Central Business District or 50 units elsewhere; and minimum of 10 stories in the Central Business District or 4 Stories or 50 units/acre elsewhere for residential. This disproportionately favors large projects and developers. If we want to create an equitable playing field, infill development and rehab must be prioritized and projects by smaller and nonprofit developers should have the same access to city incentives.

6. 'Affordable' is not defined while luxury and market-rate residential will still be subsidized – KCMO has the largest need for affordable housing for residents that make under 50% AMI and below (HUD 2022 AMI for KCMO area is $97,700; 50% AMI is $48,850 for a family of four), and specifically for renters at 30% AMI (HUD 2022 30% AMI is $29,050 for a family of four). The City should include a specific definition of affordability in this ordinance that is based on the income of City residents, especially renters.

While we understand and support the City's need to incentivize some commercial and industrial projects, as they serve as job centers and have potential tax revenue benefits, it is less evident why we would continue to incentivize residential projects, unless they meet the specific affordable housing needs. The City should continue to stand by its commitment that the days of incentivizing luxury and market-rate residential units are over.

7. Community Benefit Agreement (CBA) requirement is missing key elements – The CBA requirement is an important addition to the ordinance but should include the following:

- The CBA's community engagement requirement should be defined and should include engagement with taxing jurisdictions like the public school systems, libraries, mental health institutions. This community engagement requirement should go further than what is the minimum required of projects seeking a special use permit, rezoning, preliminary plat, or development plan (described here)
- A contribution or other benefit to the taxing jurisdictions public school systems, libraries, mental health institutions
- Commitment to housing affordability that goes beyond the set aside requirements and that addresses the real shortage of units of almost 12,000 units for residents at or below 50% AMI

8. Clawback provisions in the CBA are missing – Clawback provisions must be added to ordinance language so that if/when a developer does not deliver on the expected community benefits, they must "pay back" a portion of their incentive.

9. Higher likelihood of over subsidizing projects – Incentive levels in Tier 1 areas are designated to be at a higher rate than the City's current parameters. Many projects will automatically qualify for this new incentive level, whether it is needed or not, and projects will undoubtedly be unnecessarily over-subsidized.

10. Vague language leaves too much room for (mis)interpretation – The ordinance refers to Attachment for more detail, but Attachment A is not detailed nor instructive enough. For instance, 'STECM' is not defined, 'affordable' is not defined, and it is not clear whether a project must meet all criteria listed for a category or just some.

In closing, we know that you are faced with a multitude of stakeholders, often with competing interests. PEN and KC Tenants stand in support with KC Public School District in their opposition to this important legislation.

Building on the conversation Ordinance 220701 has started, we look forward to continuing to work with City staff and the City Council to draft incentive policy which is both equitable and allows for the progress and prosperity all Kansas Citians deserve. We believe a fresh slate is needed and are eager to collaborate on such an endeavor.

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