



# Memorandum

**TO:** CITY COUNCIL

**FROM:** Mayor Matt Mahan  
Vice Mayor Rosemary Kamei  
Councilmember Omar Torres  
Councilmember Dev Davis  
Councilmember Domingo Candelas

**SUBJECT:** SEE BELOW

**DATE:** 06/14/2024

APPROVED

Date: 06/14/2024

**SUBJECT: DOWNTOWN RESIDENTIAL HIGH-RISE FEE WAIVER PROGRAM**

**RECOMMENDATION**

Accept staff's recommendation with the following modifications:

1. Remove fixed timelines from the program's phasing and extend the Downtown High-Rise Fee Waiver program to the next 10,000 units that receive building permits and pass first inspection within 12 months of obtaining a building permit within the following framework (as outlined in **Attachment A** below):
  - a. Phase 1: Provide a 100% reduction of construction taxes and a 50% reduction in parks fees for the first 2,000 units.
  - b. Phase 2: Provide a 50% reduction of construction taxes and a 30% reduction in parks fees for the next 2,000 units.
  - c. Phase 3: Provide a 50% reduction of construction taxes for the final 6,000 units.
  - d. Study the potential inclusion of a local hire plan with a good faith effort of hiring 25% local workers within the Greater Bay Area for future phases of the Downtown High-Rise Fee Waiver Program and return to CED with findings.
2. Continue to identify and implement additional administrative and environmental measures to streamline the approval and construction processes for high-rise residential projects downtown

and bring forth policy recommendations to CED (e.g., streamlining the Local Transportation Analysis).

3. If fewer than 1,000 high-rise residential units receive building permits by December 2025, return to Council with additional recommendations to incentivize the construction of downtown high-rise residential projects.
4. Provide annual updates on downtown high-rise residential construction to Council within the Housing Catalyst Work Plan report.
5. Study additional strategies for promoting citywide housing construction aimed at densifying Envision San Jose General Plan Growth Areas, and:
  - a. Return to Council in the first meeting in September 2024 with recommendations to unblock multi-family housing projects within Growth Areas outside of downtown. Exclusively scope this potential incentive program to project applications that were deemed complete by the Planning Department by the end of June 2022.
    - i. Present a report to Council analyzing potential projects and revenue trade-offs, including upfront taxes/fees versus San José's share of increased property taxes from the site when developed and other social and economic benefits.
    - ii. Structure the incentive program similarly to Phase 3 of the proposed downtown high-rise fee waiver program in **Attachment A**. Mandate that builders receiving the incentive include the committed amount of on-site affordable or moderate-income housing to project applications deemed complete.
  - b. Study and return to Council for consideration by the end of 2024 with additional recommendations to incentivize future multi-family housing production within Planned Growth Areas in the Envision San Jose 2040 General Plan.
  - c. Ensure all fee waiver programs staff bring forward to Council exclude Builders Remedy projects.

## **BACKGROUND**

After years of hard work, we have entitled multiple downtown projects comprising thousands of homes. Yet most of these projects can't secure financing — let alone begin construction — because the cost to construct high-rise projects continues to climb, while the anticipated returns remain stagnant. Investors see better returns from the S&P 500 than from investing in one of San José's high-rise developments. Today, only 336 homes are under construction downtown, while 4,078 entitled homes sit on a shelf and await financing.

For San José to thrive in the years ahead, maintain our competitive edge, grow our tax base, and create greater opportunity for all our residents, we must incent greater levels of high-density downtown housing construction. Whether we are concerned with our children's ability to afford the cost of housing, workers' access to good jobs, or the city's ability to properly staff and deliver core services, our long-term health as a city depends upon a dynamic economy and a flourishing urban core that creates jobs, builds housing, and supports commerce.

However, we cannot make downtown San José the true urban center of Silicon Valley without spurring the development of high-rise buildings that add many more city-center residents. Urban planners expect 2.5 people to move into each newly built home. That means by adding 10,000 new homes, we can grow our downtown by 25,000 residents — doubling the current population. But financing the next 10,000 new homes will not be easy. High-rise home builders compete for capital against other projects in other cities across the globe. With few all-cash developers in Silicon Valley, almost every local developer pitches their projects to lenders and bankers to cover their construction costs. Fees dissuade

development by imposing both soft and hard costs on a pro forma, potentially making a project's financial goals more difficult to attain.

To accelerate residential development in San José, the high-rise incentive program reduces one-time fees in exchange for perpetual property, utility, and sales tax revenue generated by new projects. Our proposed program extension will provide a serious boost for downtown and a signal to the market that the City of San José encourages more housing downtown.

We ask our council colleagues to transition the fee waiver program to a unit and goal-oriented structure due to the significant challenges of developing high-rise projects. Because the city traditionally based the fee waiver program on scheduled deadlines, this conversation returns to council far too often without achieving our stated goals. Fear of the incentive program expiring created more uncertainty for builders than clarity, yet we've extended the program every time. Therefore, we propose a 10,000 high-rise home goal across 3 phases and request staff to explore other policy tools that can be implemented to encourage more dense development. Our proposal to remove timelines and extend the fee waiver program to the next 10,000 units remains consistent with staff's analysis on SJMC 14.10 as explained in this memorandum.

Extending and expanding the high-rise incentive program also benefits our general fund by adding ongoing revenue. Staff estimates each new high-rise should generate \$600,000 in annual taxes to the city, totaling \$6 million each over a 10-year time horizon. Our parks benefit too, because a robust general fund flush with ongoing revenues ensures the success of our parks system. For too long, the parks system has been at the mercy of the development cycle and faced the first cuts during times of austerity. Ongoing revenues protect against this historical trend. If this program succeeds, our parks system can be revitalized with an influx of general fund tax dollars and thousands of new residents. In contrast, no new development means no new parks funding, no additional general fund revenues, and no new residents. Although reducing park fees may seem like a loss, it ultimately leads to parks department gains if buildings are constructed. Capturing even 50%, 70%, or more of the park fees is far better than receiving nothing at all.

Further, new construction makes housing markets more affordable. [The economist Evan Mast finds building 100 new market-rate homes opens up the equivalent of 70 new homes for renters in neighborhoods earning below the area median income](#). We need more housing at all income levels. Without adding market rate homes, we allow higher-income workers to compete for apartments at the same rate as lower-income workers.

Accelerating development also offers opportunities to generate more dollars for affordable housing. The two most recent high-rise residential projects to welcome residents, Miro and The Grad, both used the fee waiver program to reduce overall costs and begin construction. Collectively, the two projects brought 2,100 new residents to our urban core and now The Grad is up for sale. Once sold, The Grad will yield substantial Measure E funds for San José to address our housing and homelessness challenges. This is a great example of how we can grow our city's resources by expanding our economy.

We recognize the downtown high-rise fee waiver program isn't the silver bullet that unlocks financing for every downtown high-rise project, nor will it fix all of downtown's ills. However, it's an important step in the right direction, and positions the city as part of the solution by helping projects attract investment faster and pencil sooner. With this extension, the downtown's 4,078 entitled homes move closer to securing financing and breaking ground. We humbly request our colleagues help us build 10,000 high-rise homes downtown by supporting this memorandum.

## Attachment A

|                        | CURRENT PROGRAM   | STAFF'S PROPOSED PROGRAM   |  | MAYOR/COUNCIL RECOMMENDED PROGRAM  |   |  |
|------------------------|---|--|--|--|---|--|
| HEIGHT / BUILDING TYPE | 150 Feet / 10 Stories   | 150 Feet / 10 Stories  |  | 150 Feet / 10 Stories  |   |  |
| GEOGRAPHY              | Downtown Growth Area  | Downtown Growth Area   |  | Downtown Growth Area   |   |  |
| INCLUSIONARY HOUSING   | \$0 in-lieu fee   | Phase 1: \$0 in-lieu fee   | Phase 2: \$0 in-lieu fee   | Phase 1: \$0 in-lieu fee   | Phase 2: \$0 in-lieu fee  | Phase 3: \$0 in-lieu fee   |
| CONSTRUCTION TAXES     | 50% reduction of CRMP and B&S   | Phase 1: 100% reduction of CRMP and B&S  | Phase 2: 50% reduction of CRMP and B&S   | Phase 1: 100% reduction of CRMP and B&S  | Phase 2: 50% reduction of CRMP and B&S  | Phase 3: 50% reduction of CRMP and B&S   |
| PARKS FEES             | Not included - special category for high-rise is \$14,600/unit (able to reduce up to 50% with private recreation credits) | Phase 1: 50% reduction - \$7,300/unit (private recreation credits up to 50% against the reduced fee allowed, result in a reduction to \$3,650)   | Phase 2: 30% reduction 0 \$10,220/unit (private recreation credits up to 50% against the reduced fee allowed resulting in a reduction to \$5,150)  | Phase 1: 50% reduction - \$7,300/unit (private recreation credits up to 50% against the reduced fee allowed, result in a reduction to \$3,650) | Phase 2: 30% reduction 0 \$10,220/unit (private recreation credits up to 50% against the reduced fee allowed resulting in a reduction to \$5,150) | Phase 3: Not included - special category for high-rise is \$14,600/unit (able to reduce up to 50% with private recreation credits) |
| PROGRAM HORIZON        | Building permit by June 2025. Certificat of Occupancy by June 2029  | Phase 1: 1,000 units with building permit issued by December 31, 2025, and first inspection passed within 12 months of building permit issuance. | Phase 2: Up to 3,078 units with building permits issued in the 12 months following Phas 1, and the first inspection passed within 12 months of building permit issuance (January 1, 2026 to December 31, 2026) | Phase 1: 2,000 units upon building permits issued and first inspection passed.   | Phase 2: Up to 2,078 units upon building permits issued and first inspection passed.  | Phase 3: Up to 5,922 units upon building permits issued and first inspection passed.   |
| TIMING OF PAYMENT      | Taxes at Certiciate of Occupancy. Parks Fees at Permit Issuance   | Taxes and Parks Fees at Certificate of Occupancy or 5 years from the date the Building permit is issued, which ever is sooner.                   |  | Taxes and Parks Fees at Certificate of Occupancy or 5 years from the date the foundation permit is issued, which ever is sooner.               |   |  |

*The signers of this memorandum have not had, and will not have, any private conversation with any other member of the City Council, or that member's staff, concerning any action discussed in the memorandum, and that each signer's staff members have not had, and have been instructed not to have, any such conversation with any other member of the City Council or that member's staff.*