



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Erik L. Soliván
Chris Burton
John Ristow
Jim Shannon

SUBJECT: Multifamily Housing
Incentive Program Phase I
Extension

DATE: January 5, 2025

Approved

Date:

1/13/26

COUNCIL DISTRICT: Citywide

RECOMMENDATION

- (a) Adopt a resolution amending the Multifamily Housing Incentive Program to:
- (1) Extend the deadline to apply for Multifamily Housing Incentive Program benefits to February 28, 2027, maintaining current eligibility criteria and incentive levels;
 - (2) Add seven proposed housing projects to the list of eligible projects in the Multifamily Housing Incentive Program;
 - (3) Increase eligibility for a 50% reduction in the Building and Structure Construction Tax and Commercial, Residential, Mobile Home Park Tax from 1,800 units to 3,600 units that obtain a building permit before February 28, 2027, to accommodate robust developer interest and pipeline demand; and
 - (4) Create a tiered prioritization system for allocating limited capacity based on a development project's construction readiness, financing commitments, and first-come, first-served basis for building permit applications.
- (b) Approve an ordinance amending Section 4.46.039.13 of Chapter 4.46 and amending Section 4.47.098 of Chapter 4.47 of Title 4 of the San José Municipal Code to provide:
- (1) A 50% reduction of the Building and Structure Construction Tax and a 50% reduction of the Commercial, Residential, and Mobile Home Park Construction Tax to the first 3,600 units in projects eligible for the temporary Multifamily

Housing Incentive that also obtain a city building permit by February 28, 2027;
and

- (2) A 25% reduction of the Building and Structure Construction Tax for any additional units beyond the first 3,600 for eligible Multifamily Housing Incentive Program projects.
- (c) Adopt a resolution amending the 2025-2026 Schedule of Fees and Charges to revise the Rental Inclusionary In-Lieu Fee Schedule, reducing the fees to \$0 for projects eligible for the temporary Multifamily Housing Incentive Program that include at least 5% of units onsite at up to 110% area median income.

SUMMARY AND OUTCOME

The Multifamily Housing Incentive Program (MHIP) has driven a significant turnaround in housing production. Following a year of no new market-rate project construction in 2024, the extended program has generated renewed developer activity, with five projects (1,444 units) currently under construction and seven projects expressing interest in the extended program (2,156 units).

According to the City's 2025 Cost of Residential Development Study,¹ higher-density rental housing developments remain financially infeasible without incentives, showing negative residual land values. The study found that fee / tax waivers may "tip the scales" toward feasibility when combined with modest market improvements. With a total pipeline of eligible projects exceeding 8,189 units and the remaining capacity of 356 units, staff recommends extending Phase I benefits through February 2027 and expanding the total capacity from 1,800 to 3,600 units. Starting in March 2027, Phase II will offer the reduced Inclusionary Housing Ordinance In-Lieu fee and a 25% reduction of the Building and Structure Construction Tax for additional units in eligible projects under the temporary MHIP (see Attachment – Multifamily Housing Incentive Program Pipeline).

Approval of these recommendations will extend critical fee reductions and construction tax waivers to projects currently in the development pipeline, enabling the production of up to 3,600 housing units, including the previously approved allocation of 1,800 units, during a period of challenging market conditions. Including the underutilized capacity of 357 units from 2025, the total allocation for maximum program benefits will be 2,156 units through the proposed expiration date.

¹ <https://sanjose.legistar.com/View.ashx?M=F&ID=15007144&GUID=BA1D08BC-AD4D-4FE3-8740-F473655EA988>

BACKGROUND

Program Overview

The MHIP was established by the City Council as a strategic response to stalled housing production in December 2024. Capacity was expanded from 1,500 to 1,800 units in May 2025 to accommodate significant developer interest. The program targets high-density developments (50+ units per acre) in strategic growth areas that have been unable to secure financing and begin construction due to challenging economic conditions.

Phase I Benefits (First 1,800 units):

- **Reduced Inclusionary Requirement:** 5% of units at 100% area median income (AMI) (vs. standard 15% at varied income levels) - balancing affordability with project feasibility.
- **Inclusionary Housing Ordinance In-Lieu Fee Waiver:** \$0 per square foot for mixed compliance projects.
- **50% Building and Structure Construction Tax Reduction:** Reduces Building and Structures taxes from 1.54% to 0.77% of building valuation.
- **50% Commercial, Residential, Mobile Home Park Construction Tax Reduction:** Cuts Commercial, Residential, Mobile Home Park taxes from 2.42% to 1.21% of building valuation.
- **Extended Eligibility:** Benefits maintained through permit expiration plus approved extensions.

Phase II Benefits (After 1,800 units or January 1, 2026):

- **Continued Inclusionary Housing Ordinance Benefits:** Reduced inclusionary requirement and fee waiver remain for projects providing at least 5% of units at an affordable housing cost or affordable rent available to households earning no more than 100% AMI that are approved by the Housing Director consistent with the MHIP requirements including amending the Project's Inclusionary Housing Compliance Plan.
- **25% Building and Structure Construction Tax Reduction:** Building and Structures tax reduced to 1.16% (from 1.54%).
- **No Commercial, Residential, Mobile Home Park Construction Tax Reduction:** Returns to full 2.42% rate.

Market Context from Cost of Development Study

San José Municipal Code Section 14.10.310 allows the City to offer fee or tax reductions to private construction projects without those reductions being considered a "subsidy", provided City Council determines that construction is financially infeasible.

To make this determination, the City Council must hold a public hearing and rely on a study prepared by a qualified real estate consultant. The study must explain why construction is infeasible, how long those conditions are expected to last, the size of the financial gap, and what options exist to restore feasibility.

The City's 2025 Cost of Residential Development Study serves this purpose, providing the required analysis to support the MHIP. Key findings include:

- **Feasibility Challenges:** Higher-density housing types (podium, wrap, and tower) show negative residual land values without incentives.
- **Construction Costs:** The construction cost environment remains extremely challenging. While the rate of escalation has stabilized, the elevated baseline pricing continues to create significant feasibility barriers for multifamily development, with direct construction costs now accounting for approximately 69% of total development costs.
- **Impact of Fee / Tax Waivers:** Full fee / tax waivers improve project feasibility.
- **Regional Market Dynamics:** San José faces unique challenges with lower achievable rents and sale prices compared to other Bay Area jurisdictions, creating a more difficult development feasibility environment despite having relatively competitive fees.
- **Critical Development Thresholds:** The study confirms that without incentives, only lower-density for-sale townhomes and stacked flats show positive residual land values, while the higher-density projects essential to meeting housing goals remain financially infeasible.

These market dynamics underscore why targeted interventions like the MHIP are essential to bridging the feasibility gap for housing production. Without such incentives, the combination of high construction costs, elevated interest rates, and negative residual land values would continue to stall housing development at a time when San José needs to accelerate production to meet its Regional Housing Needs Allocation goals. The MHIP represents a strategic response to these challenging economic conditions, providing the necessary financial relief to help viable projects move from entitled status to actual construction.

Status Report

Since program inception, five projects totaling 1,444 units have begun construction (see Table 1: Program Projects Under Construction).

Table 1: Program Projects Under Construction

Project	Units	Below Market Rate Units	Fee / Tax Reductions	Approval Date
905 North Capitol	345	17	\$4,905,022	March 18, 2025
498 West San Carlos	278	14	\$4,071,272	May 13, 2025
358 Hatton Street	258	13	\$4,477,896	June 17, 2025
681 E. Trimble Building A	397	20	\$6,057,536	June 17, 2025
Martha Gardens 802 S. First Street	166	164	\$519,702	Not Applicable
Total	1,444	228	\$20.03 million (approx. \$13,872 per unit)	
<i>Over 16% of units are deed-restricted affordable.</i>				

Martha Gardens, a 100% affordable 166-unit housing development, received a construction tax reduction of \$519,702 under the MHIP but did not require City Council approval because the total reduction fell below the \$1,000,000 threshold, which exempts it from the fee / tax waiver public hearing requirement under City Council Resolution No. 77135. Additionally, two other 100% affordable projects eligible for MHIP benefits recently broke ground without formally requesting MHIP fee reductions, delivering a combined 356 units by utilizing other incentives available to 100% affordable housing developments.

Beyond the direct housing production, the four market-rate projects are generating substantial community benefits for San José. The construction phase alone is creating over 1,300 full-time construction jobs, providing critical employment opportunities in the building trades. Once completed, these projects will generate increased annual property tax revenue, supporting essential City services. Additionally, by focusing development on urban infill locations near transit and existing infrastructure, these projects advance the City's Climate Smart San José goals by reducing vehicle miles traveled and minimizing sprawl.

The mixed-income nature of these developments, with 5% of units affordable at 100% AMI, helps create inclusive communities while maintaining project feasibility, a balance that has proven essential to getting housing built in the current economic environment. The developments will provide 64 units at below-market rates, integrated throughout the projects, ensuring economic diversity in new housing.

Building on this initial success, developer interest in the program has resulted in seven additional applications for 2,225 units, beyond those already approved and included on the list of eligible projects.

ANALYSIS

Market Feasibility Assessment

The Cost of Residential Development Study's findings validate the critical role of MHIP incentives:

1. **Current Market Reality:** Without incentives, only lower-density townhomes and stacked flats show positive residual land values. Higher-density projects essential to meeting housing goals remain infeasible.
2. **Fee / Tax Waiver Impact:** Analysis shows fee / tax waivers can improve project economics by \$4 to 16 million per development, often sufficient to achieve positive returns when combined with modest rent growth.
3. **Regional Competitiveness:** The combination of lower achievable rents and sale prices compared to other Bay Area jurisdictions creates a more challenging development feasibility environment in San José. Average rents in San José are 10% to 15% below comparable Peninsula markets, making fee / tax relief essential to level the playing field.

Pipeline Analysis

Current demand far exceeds available capacity, with unprecedented developer interest:

- **Active Pipeline:** 8,324 units remain on MHIP-eligible projects list.
- **New Projects:** 2,225 units in seven projects are seeking to be considered for inclusion into the program (see Table 2: Proposed New Program Projects).

Table 2: Proposed New Program Projects

Project	Units	Below Market Rate Units	Developer
Skyline at Tamien Phase II 1325 Lick Ave	65	3	Swenson/Republic Urban
Gifford 313 Gifford Ave	276	14	Urban Catalyst
Echo 147 E Santa Clara	316	16	Urban Catalyst

Project	Units	Below Market Rate Units	Developer
Icon 147 E Santa Clara	310	16	Urban Catalyst
WSC Apartments 1470 W. San Carlos St	213	11	WSC Development
211 River Oaks 211 River Oaks Pkwy	505	25	Valley Oak Partners
3896 Stevens Creek 3896 Stevens Creek Blvd	540	27	Holland Partners
Total	2,225	112	

Before the inception of the program, there were zero new market-rate housing construction starts in 2024, underscoring the stagnation in development activity prior to implementation. With the remaining program capacity of 356 units (from the original 1,800), the 29:1 ratio of pipeline demand to remaining capacity clearly demonstrates that the MHIP has successfully unlocked a wave of development activity. Without a program extension and expansion, this momentum will likely halt abruptly, leaving thousands of entitled housing units stranded in the pre-construction phase.

The robust pipeline, combined with the Cost of Residential Development Study's feasibility findings, demonstrates that MHIP incentives are successfully bridging the gap between market conditions and project viability.

The current eligible project list includes developments that have been in the City's pipeline, many having experienced multiple stalled planning applications due to challenging market conditions. The proposed additions are also projects that have been in the pipeline for several years with multiple redesigns. As such, the current pipeline represents an up-to-date view of development activity. However, if a previously stalled project emerges that can demonstrate building-permit readiness within the Phase I extension period, staff will analyze its feasibility and whether incentives may help move it from stalled to under construction. Staff will return to the City Council with a formal request to consider adding such a project to the list of eligible projects, similar to the process used for Santana Row Lot 12 in May 2025.²

² <https://sanjose.legistar.com/LegislationDetail.aspx?ID=7424289&GUID=F86B6F1D-081E-4646-AB3F-F3FF833B6449>

EVALUATION AND FOLLOW-UP

Implementation Strategy

Upon approval, staff will:

- **Immediate Actions (February 2026):**
 - Update program guidelines with extended deadline
 - Notify all pending applicants of expanded capacity
 - Implement online tracking system for remaining capacity
- **Prioritization Framework:**

Given demand exceeding capacity, allocate based on:

 - Tier 1: Projects with building permits ready for issuance (first-come, first-served)
 - Tier 2: Projects with construction financing commitments
 - Tier 3: Projects with planning entitlements approved
- **Monitoring and Reporting:**
 - Incentive program's progress tracked in the annual housing element update reports
 - Real-time capacity tracking on City website
- **Phase II Planning (By December 2026):**
 - Evaluate market conditions and program performance
 - Consider modifications based on Cost of Development Study updates
 - Develop recommendations for post-February 2027 framework

COST SUMMARY/IMPLICATIONS

The full fiscal impact of the proposed MHIP extension will not be completely understood until developments submit formal fee reduction applications; however, it is likely to be similar to the 2025 results, where the approximate subsidy was roughly \$15,000 per unit, including both Inclusionary Housing Ordinance In-Lieu Fee and Construction Taxes reductions. Pursuant to California Government Code section 53083, the City must disclose information related to any fee waiver over \$100,000 through a public hearing, and pursuant to City Council Resolution no. 77135, must also disclose any fee waiver over \$1,000,000 for affordable housing projects through a public hearing. These disclosures must include detailed information on the estimated total amount of expenditure of public funds or revenue lost, and project tax revenue resulting from the project. Staff will bring back these disclosures for individual projects in conjunction with the required Project Completion Agreement.

The Inclusionary Housing Ordinance Fee for any residential developments adding 20 or more units is \$21.71 and up to \$13.78 per square foot per rental unit in Strong Market Areas and Moderate Market Areas, respectively, under mixed compliance. Housing Department analysis of the value of Inclusionary Housing Ordinance fee waivers in the approved and under-construction multifamily projects results in a higher per unit number of affordable units developed from the waiver than the total value of units supported by the collection and redistribution of the fee based on the recent historical per unit average subsidy from the City (\$275,000 per unit) to affordable unit development.

Construction taxes fund a significant portion of the Traffic Capital Improvement Program, which in turn funds transportation programs, staffing, and local match for grants. In 2025, approximately \$3.8 million in construction tax waivers were issued for the construction of 1,444 units. Following the proposed extension of Phase 1 benefits, the anticipated tax waiver is estimated at \$6.6 million, reflecting the newly approved capacity of 1,800 units and the remaining 2025 capacity of 356 units. The potential forgone revenue associated with Phase 1 totals approximately \$10.4 million, though this revenue is not currently assumed in the 2026-2030 Adopted Traffic Capital Program. A reduction in Building and Structure Construction Tax is recommended for the majority of units on the eligible projects list due to the restricted nature of Building and Structure funds versus the Commercial, Residential, Mobile Home Park Construction Tax funds. The Building and Structure Construction Tax is restricted in its use and is focused on funding infrastructure-related initiatives on major collector and arterial roadways.

COORDINATION

This memorandum was coordinated with the City Attorney's Office.

PUBLIC OUTREACH

This memorandum will be posted on the City's Council Agenda website for the January 27, 2026 City Council meeting. Multiple developers with active projects in the city were invited to consider applying for eligibility for incentives under the program. The Housing Department also promoted the upcoming MHIP extension consideration through its December 17, 2025, newsletter and virtual community meetings held on January 8 and January 22, 2026.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation or input is associated with this action.

HONORABLE MAYOR AND CITY COUNCIL

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CEQA

Not a Project, File No. PP17-008, General Procedure and Policy Making resulting in no changes to the physical environment.

PUBLIC SUBSIDY REPORTING

This item itself does not include a public subsidy as defined in section 53083 or 53083.1 of the California Government Code or the City's Open Government Resolution. Housing Department Staff will bring forward each eligible project for a required individual public hearing in accordance with City Council Resolution 77135 and California Government Code Section 53083.

/s/

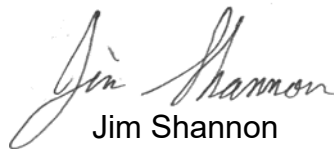
Erik L. Soliván
Housing Director

/s/

Chris Burton
Planning, Building, and Code
Enforcement Director

/s/

Jon Ristow
Transportation Director

A handwritten signature in black ink, appearing to read "Jim Shannon".

Jim Shannon
Budget Director

For questions, please contact Banu San, Deputy Director, Housing Department, at Banu.San@sanjoseca.gov or (408) 975-4489.

ATTACHMENT: Multifamily Housing Incentive Program Pipeline

ATTACHMENT

Multifamily Housing Incentive Program Pipeline

Project Address	Developer	Units
Under-Construction		
498 West San Carlos	Urban Catalyst	278
358 Hatton Street	Federal Realty	258
905 North Capitol	Hanover	345
681 E. Trimble Building A	Hannover Company	397
802 S. First	Maracor/Pacific West	166
1371 Kooser	Affirmed Housing Group	191
525 N. Capitol	Community Development Partners	160
Total		1,795

Market-Rate Pipeline (Eligible)		
4300-4360 Stevens Creek	Fortbay/Perry Hariri	407
14200 Union	Weingarten Investors	305
205 Dupont	Miramar Capital/ Perry Hariri	689
700 Saratoga	Avalon Bay Communities	247
1298 Tripp; 1325/1347 E. Julian	ROYGBIV	913
70 N 27th	HC Investment LLC	198
1530 W. San Carlos	Urban Villa LLC	237
1520 W. San Carlos	Vivji Mani	256
1050 Saint Elizabeth	Evershine XVII LP	206
West San Carlos and Sunol	Republic Urban	263
1065 S. Winchester	A&Z Development	70
1073 S. Winchester	A&Z Development	61
605 Blossom Hill	Republic Urban	239
1197 Lick/Tamian Station	Republic Urban	434
210 Baypointe	Summerhill Homes	292
681 E. Trimble Building B	Hannover Company	372
681 E. Trimble Building C	Hannover Company	371
1312 El Paseo de Saratoga/1177 Saratoga	Sand Hill Property	772
Total		6,332

Market-Rate Pipeline (Proposed Additions)		
1325 Lick Ave	Swenson/Republic Urban	65
313 Gifford Ave	Urban Catalyst	276
147 E Santa Clara (Echo)	Urban Catalyst	316
147 E Santa Clara (Icon)	Urban Catalyst	310
1470 W. San Carlos St	WSC Apartments LLC	213
211 River Oaks Pkwy	Valley Oaks Partners	505
3896 Stevens Creek Blvd	Holland Partners	540
Total		2,225

Affordable Housing Pipeline (Eligible)		
675 E. Santa Clara	Santa Clara Housing Authority	178
2315 Canoas Garden	Santa Clara Housing Authority	237
771-797 Almaden	Resources for Community Development	99
605 Blossom Hill	Green Republic Blossom Hill LLC	89
1135 E. Santa Clara	Allied Housing	91
501 Almaden	Satellite Housing	53
2920/2928 Alum Rock	Charities Housing	83
70 Kentucky Place	Charities Housing	55
934-948 E. Santa Clara	Milestone Housing Group	103
71 Vista Montana	Charities Housing	446
2080 Almaden	Affirmed Housing Group	80
995 E. Santa Clara	First Community Housing	74
178 E. Trimble	Pacific Companies	172
Total		1,760