CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Erik L. Soliván
Chris Burton
John Ristow

SUBJECT: **See Below**

DATE: July 23, 2026

Approved

Date: 7/23/26

COUNCIL DISTRICT: 4

SUBJECT: Multifamily Housing Incentive Program Residential Tax and Fee Waiver for the Development Project Located at 210 Baypointe Parkway

RECOMMENDATION

(a) Conduct a public hearing to approve an economic development tax and fee waiver in connection with a reduction in construction taxes and a reduction of the Inclusionary Housing Ordinance in-lieu fee for the residential development located at 210 Baypointe Parkway, which meets the requirements of the Multifamily Housing Incentive Program enacted by the City Council on December 10, 2024, and extended on May 13, 2025 and January 27, 2026, in an amount up to $5,130,775 pursuant to California Government Code Section 53083 and Open Government Resolution No. RES2024-99 Section 2.3.2.6.C.

(b) Adopt a resolution approving the tax and fee waiver in an amount up to $5,130,775 for the 210 Baypointe Parkway residential development and authorizing the Housing Director, or their designee, to negotiate and execute documents and document amendments related to implementing the Multifamily Housing Incentive Program, such as construction progress agreements.

SUMMARY AND OUTCOME

In compliance with the Multifamily Housing Incentive Program (MHIP), the City Council's approval of the staff recommendation will provide a total tax and fee reduction in the amount of $5,130,775 for the 210 Baypointe Parkway development.

BACKGROUND

On December 10, 2024, the City Council adopted the MHIP,[1] which allows a reduction of the Inclusionary Housing Ordinance (IHO) in-lieu fee and certain construction taxes. Specifically, MHIP allows a 50% reduction in the Building and Structure (B&S) tax and the Commercial, Residential, Mobile Home Park (CRMP) tax for the first 1,500 units that obtain a building permit by December 31, 2025, and a 25% reduction in the B&S to subsequent projects that obtain a City building permit after the first 1,500 units, on or after January 1, 2026. MHIP also extends the duration of the $0 IHO in-lieu fee reduction and expands eligibility to include mixed compliance projects outside of downtown high-rise developments. Previously, this IHO in-lieu fee applied only to high-rise developments located downtown.

On May 13, 2025,[2] the MHIP ordinance was amended to increase the number of units that obtain a building permit by December 31, 2025, that are eligible for the 50% reduction to B&S and CRMP taxes from 1,500 to 1,800 units. The amended MHIP ordinance became effective on June 20, 2025.

The most recent amendment to the MHIP approved by the City Council on January 27, 2026, included an increase in unit capacity to 3,600 units and extended the Phase I benefit application deadline to February 28, 2027. These changes became effective March 5, 2026. To date, under the Phase I provisions, the MHIP has been extended to 2,724 units.

ANALYSIS

210 Baypointe Parkway Description

The 210 Baypointe Parkway development consists of 292 units within a single seven-story building located at 210 Baypointe Parkway. The project contains 449,456 gross square feet of residential space (243,228 square feet, net) and 122,471 square feet of parking area. Figure 1 - 210 Baypointe Parkway Development Site Plan below illustrates the layout of the midrise apartments and adjacent for-sale townhomes.

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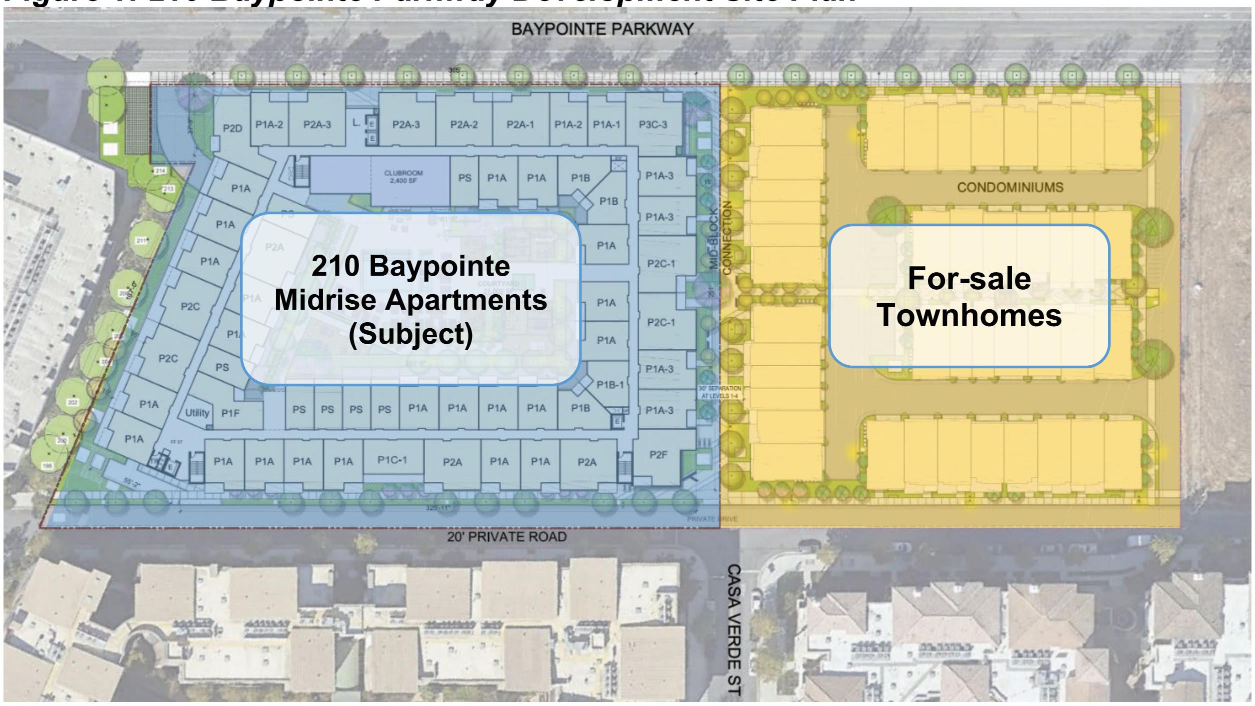
[1] File: 24-2305, Item #: 8.2, Meeting Date: December 10, 2024, Item Title: Multifamily Housing Incentive Program and North San José Park Fee Realignment, Web Link: https://sanjose.legistar.com/View.ashx?M=F&ID=13583575&GUID=F101D3D4-D65C-407D-9B6C-234BDE8EB26A

[2] File: 25-503, Item #: 8.3, Meeting Date: May 13, 2025, Item Title: Public Hearing for Amendments to the Multifamily Housing Incentive Program, Web Link: https://sanjose.legistar.com/View.ashx?M=F&ID=14145280&GUID=AA00F98A-07E5-4ACA-BC41-C3B11D307CB4

Figure 1: 210 Baypointe Parkway Development Site Plan



Inclusionary Housing Ordinance

In 2010, the City Council adopted the IHO, which requires all residential developers constructing new or modified rental or for-sale residential units to comply with a base requirement of 15% on-site affordable housing units within the development. Other compliance options are also allowed under the IHO, at the developer’s election. The existing IHO Mixed Compliance option allows developers to pay a reduced in-lieu fee and provide 5% of their total units as new restricted affordable housing.

The IHO in-lieu fee methodology is based on a development’s net residential square footage calculation. The Fiscal Year 2026-2027 fee for Mixed Compliance properties providing 5% of units with restricted rents affordable to households at or below 110% area median income is $13.73 per net residential square foot for developments located in moderate market areas[3]. Table 1 provides a summary of the projected total IHO in-lieu fee waived for the 210 Baypointe Parkway development.

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[3] "Moderate market area" means a market area or other geographical area designated by or pursuant to a City Council resolution or policy based on findings, including findings regarding residential building activity levels for market-rate housing.

Table 1 – Estimated IHO In-Lieu Fees

Development	Market Area	Fiscal Year 2026-2027 IHO In-Lieu Fee Rate for Mixed Compliance	Net Residential Square Footage	IHO In-Lieu Fee Estimate
210 Baypointe Parkway	Moderate	$13.73	243,228	$3,339,520.44

Construction Taxes

The City construction taxes include the B&S and the CRMP, both of which are based on the construction valuation derived from the most current building valuation data table published by the International Code Council for the residential portion of developments. The B&S tax rate on residential building construction valuation is 1.54%, and the CRMP tax rate on residential building construction valuation is 2.42%, for a combined tax of 3.96%. Proceeds from these taxes are used to fund transportation capital improvement projects, which may include repairs and redevelopment of existing transportation-related projects and improvements, such as pavement maintenance, complete streets, pedestrian safety, and traffic calming projects. Table 2 provides an overview of the construction taxes for the subject development.

Table 2 – Construction Tax Overview

Development	Standard B&S and CRMP Construction Taxes	50% Tax Reduction[4]	B&S and CRMP Taxes to be Received
210 Baypointe Parkway	$3,582,509	$1,791,254.50	$1,791,254.50

Table 3 provides a summary of the total proposed tax and fee waiver for the 210 Baypointe Development.

Table 3 – Proposed Tax and Fee Waiver

IHO In-Lieu Fee Waiver	$3,339,520.44
50% Reduction of B&S and CRMP Construction Taxes on Development's Residential Portion	$1,791,254.50
Total Tax Reduction and Fee Waiver	$5,130,774.94

[4] Under the MHIP, the 50% reduction to the B&S construction tax and the 50% reduction to the CRMP construction tax is only applicable to the residential portion of B&S and CRMP construction taxes.

Multifamily Housing Incentive Program Implementation Progress

Since the program's inception, eight projects totaling 2,724 units have begun construction, and approval of 210 Baypointe Parkway will bring the total to 3,016 units (see Table 4).

Beyond the direct housing production, 210 Baypointe Parkway is generating substantial community benefits for San José. The construction phase alone is creating over 305 full-time construction jobs, providing critical employment opportunities in the building trades. Once completed, this project will generate increased annual property tax revenue, supporting essential City services. Additionally, by focusing development on urban infill locations near transit and existing infrastructure, the project will advance the City's Climate Smart San José goals by reducing vehicle miles traveled and minimizing sprawl.

Table 4 – MHIP Implementation Progress

Development	Market-Rate	Affordable	Total
905 North Capitol Avenue	328	17	345
The Aquino at 498 West San Carlos Street	264	14	278
Santana Row Lot 12 at 358 Hatton Street	245	13	258
0 Seely Building A	377	20	397
Martha Gardens*	2	164	166
El Paseo de Saratoga	733	39	772
0 Seely Avenue Building B	353	19	372
0 Seely Affordable Building*	1	135	136
210 Baypointe Parkway**	277	15	292
Total Units	**2,580**	**436**	**3,016**

** These units will not count toward the IHO MHIP allocation, as the project is 100% affordable.*
*** Development discussed in this memorandum.*

EVALUATION AND FOLLOW-UP

Staff will monitor project construction to ensure the MHIP requirements are fulfilled. The development must still comply with IHO requirements, including its Affordable Housing Compliance Plans and recordation of an Inclusionary Housing Agreement against the site prior to building permit issuance.

FISCAL IMPACTS

The project aligns with the City's Economic Development Strategy to spur the development of multifamily residential in identified growth areas within the City. It is important to note that the 2026-2027 Adopted Operating Budget does not assume the receipt of any IHO in-lieu fees and the lower construction tax level has already been incorporated into the 2027-2031 Adopted Capital Improvement Program; there are no budgetary impacts resulting from these incentives. Further, without these incentives, it is unlikely that the project will move forward at this time.

Table 5 addresses the requirements set forth in the City's Resolution No. RES2024-99 for the publication of information related to an economic development waiver of more than $1,000,000.

Table 5 – City of San José Cost/Benefit Evaluation

a) Accountability	The MHIP suspends 50% of construction taxes for eligible developments and allows for payment of taxes to be delayed until the issuance of the first Certificate of Occupancy, and an IHO in-lieu fee reduction to $0 for projects meeting certain conditions.
b) Net fiscal impact	The IHO in-lieu fee waived is $3,339,520.44 for the 210 Baypointe Parkway development. However, the project is estimated to generate one-time revenue of $1,791,254.50 in construction taxes. The construction tax forgone revenue is $1,791,254.50.
c) Net job impact	The 210 Baypointe Parkway development will create 305 full-time jobs. 77% of these construction jobs will generate an annual salary above $80,000, 13% will generate an annual salary between $60,000 and $80,000, and 10% of jobs will generate an annual salary between $40,000 and $60,000. The recipient will provide health insurance to all employees.
d) Housing impact	The 210 Baypointe Parkway development will deliver 277 new market-rate housing units, and 5% or 15 moderate-income units with a maximum price at or below 110% area median income. Based on the reported net job impact above, up to 31 extremely low-income housing units may be required for employees hired to implement the project.
e) Source of funds	The program does not provide funds directly to the developments. It is a suspension of 50% construction taxes. The developments are estimated to generate one-time revenue of $1,791,254.50 in construction tax revenue.
f) Neighborhood impacts	No significant impacts are anticipated on traffic or public infrastructure.

Table 6 addresses the requirements set forth in the State of California Assembly Bill 562 (Government Code 53083) for publication of information related to an economic development subsidy and a public hearing. As the state only requires the evaluation of tax revenue, the IHO fee is not discussed below.

Table 6 – State of California Cost/Benefit Evaluation

a) Name/address of benefiting business entity	SummerHill Apartment Communities 777 S. California Ave. Palo Alto, CA 94304
b) Start and end dates for the subsidy	Projects are eligible for the MHIP subsidy after the issuance of building permits prior to February 28, 2027. The subsidy will become finalized upon payment of taxes prior to the issuance of the first Certificate of Occupancy, subject to conditions therein.
c) Description of the subsidy, estimated total amount of expenditure of public funds or revenue lost	The City shall suspend 50% of construction taxes on the development constructed and shall allow payment of the taxes to be delayed until the issuance of the Certificate of Occupancy. The estimated economic development subsidy is $1,791,254.50.
d) Statement of public purpose	To encourage the development of multifamily residential developments, spurring increased retail amenities, attracting more employers, increasing transit use, and improving public life in San José. The aggregation of these factors will increase the economic vitality of the City and will translate to increased property tax and sales tax revenue for the City.
e) Projected tax revenue	The development is estimated to generate one-time revenue of $1,791,254.50 in construction taxes.
f) Estimated number of jobs created, broken down by full-time, part-time, and temporary positions	Based on the developer's estimates, the 210 Baypointe development will create approximately 305 full-time jobs.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

PUBLIC OUTREACH

This memorandum will be posted on the City Council Agenda website for the August 25, 2026, City Council meeting.

BOARD, COMMISSION, COMMITTEE RECOMMENDATION AND INPUT

No board, commission, or committee recommendation or input is associated with this action.

CEQA

Environmental Impact Report for 210 Baypointe Parkway Residential Development Project, adopted by the Director of Planning, Building and Code Enforcement on October 9, 2024 (Resolution No. 24-031), File No. H22-037.

PUBLIC SUBSIDY REPORTING

This item includes a public subsidy as defined in the City's Open Government Resolution section 2.2.10 and is in the amount of $1,000,000 or more. An informational memorandum, as described in Open Government Resolution section 2.3.2.6.C, will be released at least 28 calendar days prior to the City Council meeting at which the subsidy will be considered. The Director of the City Manager's Office of Economic Development and Cultural Affairs has been informed of this subsidy to ensure that it is tracked appropriately.

/s/
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/s/
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