



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Erik L. Soliván
Chris Burton
John Ristow

SUBJECT: See Below

DATE: May 26, 2026

Approved

Date:

5/26/26

COUNCIL DISTRICT: 4

SUBJECT: Multifamily Housing Incentive Program Residential Tax and Fee Waiver for the 0 Seely Mixed-Use Development Building B Development Project Located at 681 East Trimble Road

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 681 East Trimble Road, 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 of up to \$6,253,458 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 \$6,253,458 and authorizing the Housing Director, or his 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 approval of the staff recommendation will provide a total fee reduction in the amount of \$6,253,458 for the 0 Seely Avenue Mixed-Use Development Building B.

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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 to 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 tax to subsequent projects that obtain a City building permit after the first 1,500 units, or 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.

ANALYSIS

0 Seely Avenue Mixed-Use Development Building B Description

The master plan phased development is located on a 22.88-acre site at the northeast corner of Montague Expressway and Seely Avenue. The development will deliver 1,430 residential units and approximately 18,965 square feet of commercial space at buildout.

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>

The development consists of multiple phases:

- **Phase 1:** 154 market-rate townhomes.
- **Phase 2:** Three market-rate multifamily apartment buildings (A, B, and C) with a total of 1,130 apartments.
- **Phase 3:** One 136-unit restricted affordable apartment building.

All components of Phase 2 and Phase 3 are eligible multifamily buildings under MHIP. A recommendation to approve the IHO fee and construction tax reductions for Phase 2's Building A was presented and approved at the City Council hearing on May 15, 2025.

This memorandum includes a recommendation to approve the IHO and construction tax reductions for Phase 2's Building B, seeking to start construction in July 2026. Building C's application may be submitted for future consideration as construction progresses, if the allocations under the MHIP program remain available.

Building B is a seven-story structure that will include up to 372 multifamily residential units and approximately 5,342 square feet of retail space. The 19 restricted affordable apartment units will include a mix of studios, one-bedroom, two-bedroom, and three-bedroom apartment units.

Every phase of the 0 Seely Avenue Mixed-Use Development must comply with the Inclusionary Housing Agreement recorded against the site, as amended.

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 1 provides an overview of the construction taxes for the subject development.

Table 1 – Construction Tax Overview

Development	Standard B&S and CRMP Construction Taxes	50% Tax Reduction³	B&S and CRMP Taxes to be Received
0 Seely Avenue Mixed-Use Development Building B	\$3,546,911	\$1,773,456	\$1,773,456

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 current fiscal year fee for Mixed Compliance properties providing 5% of units with restricted rents affordable to households at or below 110% area median income is \$13.78 per net residential square foot for developments located in moderate market areas.⁴ Table 2 provides a summary of the projected total IHO in-lieu fee waived for the 0 Seely Avenue Mixed-Use Development Building B.

Table 2 – Estimated IHO In-Lieu Fees

Development	Market Area	FY 2025-2026 IHO In-Lieu Fee Rate for Mixed Compliance	Net Residential Square Footage	IHO In-Lieu Fee Estimate
0 Seely Avenue Mixed-Use Building B	Moderate	\$13.78	325,109	\$4,480,002

³ 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.

⁴ "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 3 provides a summary of the total proposed tax and fee waiver for the 0 Seely Avenue Mixed-Use Development Building B.

Table 3 – Proposed Tax and Fee Waiver

IHO In-Lieu Fee Waiver	\$4,480,002
50% Reduction of B&S and CRMP Construction Taxes on Development’s Residential Portion	\$1,773,456
Total Tax Reduction and Fee Waiver	\$6,253,458

Multifamily Housing Incentive Program Implementation Progress

Since the program's inception, six projects totaling 2,216 units have begun construction (see Table 4).

Beyond the direct housing production, this project is generating substantial community benefits for San José. The construction phase alone is creating over 270 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.

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
Total Units	1,975	404	2,379

*Development discussed in this memorandum.

** These units will not count toward the IHO MHIP allocation, as the project is 100% affordable.

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.

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 0 Seely Building B development is estimated to generate one-time revenue of \$1,773,456 in construction taxes. The construction tax forgone revenue is \$1,773,456. The IHO in-lieu fee waived is \$4,480,002.
c) Net job impact	0 Seely Building B development will create 270 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, 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 0 Seely Avenue development will deliver 353 new market-rate housing units, and 5% or 19 moderate-income units with a maximum price at or below 110% area median income.
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 \$1,773,456 in construction tax revenue.

f) Neighborhood impacts	No significant impacts are anticipated on traffic or public infrastructure, given that funding is being transferred to the traffic capital fund to mitigate the one-time revenue reduction.
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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.

Table 6 – State of California Cost/Benefit Evaluation

a) Name/address of benefiting business entity	The Hanover Company 156 Diablo Road, Suite 220 Danville, CA 94526
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 \$1,773,456.
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 \$1,773,456 in construction taxes.
f) Estimated number of jobs created, broken down by full time, part-time and temporary positions	Based on estimates from the developer, the 0 Seely Building B development will create approximately 270 full-time jobs.

COORDINATION

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

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PUBLIC OUTREACH

The memorandum will be posted on the City Council Agenda website for the June 23, 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 the Seely Avenue Mixed-Use Project adopted August 13, 2024 (Resolution No. RES2024-297), File Nos. PDC21-035, PD22-002, ER21-284.

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/

Erik L. Soliván
Director, Housing Department

/s/

Chris Burton
Director, Planning, Building and
Code Enforcement Department

/s/

John Ristow
Director, Transportation Department

For questions, please contact Banu San, Deputy Director, Housing Department, at Banu.San@sanjoseca.gov.