CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Erik L. Soliván

SUBJECT: **See Below**

DATE: April 7, 2025

Approved

Date: 4/10/2025

INFORMATION

SUBJECT: Public Notice of the Proposed Multifamily Housing Incentive Program Tax and Fee Waiver for The Aquino located at 498 West San Carlos Street at the May 13, 2025, City Council Meeting

This information memorandum provides notice of an upcoming City Council action related to a waiver request for The Aquino development located at 498 West San Carlos Street.

The attached memorandum to the City Council provides a staff recommendation to approve a Multifamily Housing Incentive Program waiver for The Aquino residential development located at 498 West San Carlos Street, pursuant to San José City Council adopted Resolution No. 77135. Resolution No. 77135 requires that a public hearing be conducted for any waiver over $1,000,000 and that notice of the public hearing be posted on the City's website 28 calendar days in advance of the City Council meeting at which a waiver is to be considered. This waiver is scheduled to be considered at the May 13, 2025, San José City Council meeting.

Please see the **Attachment** – May 13, 2025 City Council memorandum, which provides additional information regarding the waiver request.

/s/
Erik L. Soliván
Housing Director

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

Attachment: May 13, 2025 City Council Memorandum

COUNCIL AGENDA: 5/13/25
FILE:
ITEM:

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: April 7, 2025

Approved Date: 4/10/2025

COUNCIL DISTRICT: 6

SUBJECT: Approval of a Multifamily Housing Incentive Program Residential Tax and Fee Waiver for The Aquino at 498 West San Carlos Street

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 Aquino at 498 W. San Carlos Street, which meets the requirements of the Multifamily Housing Incentive Program enacted by the City Council on December 10, 2024, in an amount of up to $4,071,272.74 pursuant to California Government Code Section 53083 and Open Government Resolution No. 77135 Section 2.3.2.6.C.

(b) Adopt a resolution approving the tax and fee waiver 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), City Council approval of the staff recommendation will provide a total fee tax reduction and Inclusionary Housing Ordinance (IHO) fee waiver in the amount of $4,071,272.74 for The Aquino development. City Council approval will also allow the Housing Director, or his designee, to negotiate and execute construction progress agreements with the developer, Urban Catalyst of The Aquino.

BACKGROUND

On December 10, 2024, City Council adopted the MHIP[1], which allows a reduction of the IHO in-lieu fee and certain construction taxes. Specifically, MHIP allows a 50% reduction to the Building and Structure (B&S) tax and 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 City building permit after the 1,500 units, or on, or after, January 1, 2026. MHIP also extends and expands the IHO $0 in-lieu fee reduction, which was previously granted only for downtown high-rises.

ANALYSIS

The Aquino development project located at 498 W. San Carlos Street must comply with its amended IHO Affordable Housing Compliance Plan and record an Inclusionary Housing Agreement against the site, memorializing the requirements under the MHIP's IHO in-lieu fee reduction prior to building permit issuance. Staff will also execute an agreement with the developer to ensure the additional requirements of the tax reduction are met.

The Aquino Development Description

The Aquino development is located on a 0.83 gross acre site. The development will consist of an eight-story mixed-use building, one level of underground parking with 364 parking spaces, and up to 278 units with 14 restricted affordable units at 100% Area Median Income with a mix of studios, one-bedroom, and two-bedroom units. A rendering of the development can be viewed in the **Attachment.**

Construction Taxes

The City's construction taxes include the B&S and the CRMP, both of which are based on the valuation of construction derived from the most current building valuation data table published by the International Code Council for the residential portion. 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 are used to fund transportation capital improvement projects. These may include repairs and redevelopment of existing transportation-related projects and improvements, such as pavement maintenance, complete streets, pedestrian safety,

[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

and traffic calming projects. **Table 1** provides an overview of the construction taxes for The Aquino development.

Table 1 – Construction Tax Overview

	The Aquino Development
Standard B&S and CRMP Construction Taxes	$1,260,705.00
50% Tax Reduction[2]	$630,352.50
B&S and CRMP Taxes to be Received	$630,353.50

Inclusionary Housing Ordinance

In 2010, 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. The existing IHO mixed compliance option allows developers to pay a reduced in-lieu fee and provide 5% of their total units to construct 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 is $21.74 per net residential square foot for developments located in strong market areas[3] that provide 5% of units with restricted rents affordable to households at or below 100% of Area Median Income. **Table 2** provides a summary of the projected total IHO in-lieu fee waived for The Aquino development.

[2] 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.
[3] "Strong 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 2 – Waived IHO In-Lieu Fees

Development	Market Area	FY 24-25 IHO In-Lieu Fee Rate for Mixed Compliance	Net Residential Square Footage	Waived IHO In-Lieu Fee
The Aquino	Strong Market	$21.74	158,276	$3,440,920.24

Table 3 provides a summary of the total proposed tax and fee waiver for The Aquino development.

Table 3 – Proposed Tax and Fee Waiver

IHO In-Lieu Fee Waiver	$3,440,920.24
50% Reduction of B&S and CRMP Construction Taxes on the Residential Portion of the Building	$630,352.50
Total Tax Reduction and Fee Waiver	$4,071,272.74

Multifamily Housing Incentive Program Implementation Progress

In December 2024, City Council approved the MHIP and directed staff to provide an update on the progress of implementing this program. Under the MHIP, the first 1,500 units of a development that obtain building permits before December 31, 2025, can receive a 50% reduction of the B&S tax and a 50% reduction of the CRMP tax. **Table 4** provides a summary of units that City Council has authorized under the MHIP to date, including the development that is proposed for the MHIP residential tax and fee waiver in this memorandum.

Table 4 – MHIP Implementation Progress

Development	Market-Rate Units	Affordable Units	Total Units
905 North Capitol Avenue	328	17	345
***The Aquino* at 498 West San Carlos Street**	264	14	278
Total	**592**	**31**	**623**

EVALUATION AND FOLLOW-UP

Staff will execute agreements with the developer of The Aquino as required under the San José Municipal Code Sections 4.46.039.11 4.47.089 and will monitor project construction to ensure the MHIP requirements are fulfilled. The development must still comply with IHO requirements including its Affordable Housing Compliance Plan and recordation of an Inclusionary Housing Agreement on the site prior to building permit issuance.

COST SUMMARY/IMPLICATIONS

The project aligns with the City's Economic Development Strategy to spur the development of multifamily residential in identified growth areas within the City of San José.

Table 5 addresses the requirements set forth in the City's Resolution No. 77135 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 to the IHO in-lieu fee for projects meeting certain conditions.
b) Net fiscal impact	The projects are estimated to generate one-time revenue of $630,352.50 in Construction Taxes. The construction tax revenue forgone is $630,352.50. The IHO in-lieu fee revenue forgone is $3,440,920.24.
c) Net job impact	Based on estimates from the Developer, The Aquino will create approximately 210 jobs. 50% of these construction jobs will generate an annual salary above $80,000, 40% will generate an annual salary between $60,000-$80,000, and the remaining 10% of jobs earning between $40,000 - $60,000. The recipient will provide health insurance to all employees.
d) Housing impact	The Aquino project will deliver 264 new market-rate (above 120% of Area Median Income) housing units and 5% or 14 moderate-income units with maximum price at or below 100% of Area Median Income. Based on the reported net job impact above, up to 21 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 projects. It is a suspension of 50% of construction taxes and a reduction to $0 of the IHO in-lieu fee. The project is estimated to generate one-time revenue of $630,352.50 across multiple funds.
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.

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	UC Madera Owner LLC 99 S. Almaden Blvd. San José, CA 95113
b) Start and end dates for the subsidy	Projects are eligible for the subsidy under the MHIP after the issuance of building permits prior to December 31, 2025. 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 developments constructed at The Aquino and shall allow payment of the taxes to be delayed until the issuance of the Certificate of Occupancy. The City shall also provide a reduction to $0 for the IHO in-lieu fee. The estimated economic development subsidy is $4,071,272.74.
d) Statement of public purpose	To encourage the development multifamily residential development, 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 project is estimated to generate one-time revenue of $630,352.50 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 Aquino will create approximately 210 jobs. 50% of these construction jobs will generate an annual salary above $80,000, 40% will generate an annual salary between $60,000 and $80,000, and the remaining 10% of jobs will pay between $40,000 and $60,000. The recipient will provide health insurance to all employees.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office, the City Manager's Budget Office, and the City Manager's Office of Economic Development and Cultural Affairs.

PUBLIC OUTREACH

The memorandum will be posted on the City's website for the May 13, 2025, City Council agenda.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation is associated with this action.

CEQA

498 West San Carlos Street: Addendum to the Downtown Strategy 2040 Final Environmental Impact Report (Resolution No. 78942) for the Madera Residential Project, File Nos. SP20-019-01 and SP20-019-02.

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 Acting 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
Housing Director

/s/
Chris Burton
Planning, Building and
Code Enforcement Director

/s/
John Ristow
Transportation Director

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

Attachment: The Aquino at 498 West San Carlos Street Project Rendering

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The Aquino at 498 West San Carlos Street Project Rendering