CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Erik L. Soliván

SUBJECT: **See Below**

DATE: May 15, 2025

Approved Date: 5/15/2025

INFORMATION

SUBJECT: Public Notice of the Proposed Multifamily Housing Incentive Program Tax and Fee Waiver for the 0 Seely Building A Development Located at 0 Seely Avenue at the June 17, 2025, City Council Meeting

This information memorandum provides notice of an upcoming City Council action related to a waiver request for the 0 Seely Building A development located at 0 Seely Avenue.

The attached memorandum to the City Council provides a staff recommendation to approve a Multifamily Housing Incentive Program waiver for the 0 Seely Building A development located at 0 Seely Avenue pursuant to 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 June 17, 2025, City Council meeting.

Please see the Attachment – June 17, 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 Department, at Banu.San@sanjoseca.gov.

Attachment: June 17, 2025, City Council Memorandum

Attachment

COUNCIL AGENDA: 6/17/25
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: May 15, 2025

Approved Date: 5/15/2025

COUNCIL DISTRICT: 4

SUBJECT: **Approval of a Multifamily Housing Incentive Program Residential Tax and Fee Waiver for the 0 Seely Building A Development Located at 0 Seely Avenue**

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 0 Seely Building A, which meets the requirements of the Multifamily Housing Incentive Program enacted by the City Council on December 10, 2024 and amended by the City Council on May 13, 2025, in an amount of up to $6,057,536.80 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 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 recommendations in this memorandum would provide a total fee and tax reduction and Inclusionary Housing Ordinance (IHO) fee waivers in the amount of $6,057,536.80 for the 0 Seely Building A development located at 0 Seely Avenue. City Council approval will also allow the Housing Director, or his designee, to negotiate and

execute documents and document amendments related to implementing the MHIP, including construction progress agreements, with the developer, Hanover, of the 0 Seely Building A development.

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, the 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 City building permit after the 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 for 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 will become effective on June 20, 2025.

ANALYSIS

The 0 Seely Building A development located at 0 Seely Avenue 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.

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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

0 Seely Development Overview

The proposed 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 1,472 residential units and approximately 18,965 square feet of commercial space.

The development consists of two main phases:

- **Phase 1:** 154 market-rate townhomes, which are not eligible for the MHIP.
- **Phase 2:** Includes two components:
  - Three market-rate multifamily apartment buildings (Buildings A, B, and C) with a total of 1,140 apartments.
  - One 178-unit restricted affordable apartment building.

Phase 2: Restricted Affordable Units Under IHO Mixed Compliance

In Phase 2, the developer will comply with the IHO's mixed compliance option, summarized in **Table 1**, requiring 57 units (5%) of the 1,140 apartments among three multifamily buildings to be restricted affordable apartment units with rents at or below 100% of the area median income, distributed as follows.

Table 1 – IHO Compliance

Building	Market Rate Units	5% of Income-Restricted Units (≤100% AMI)	Total Units
A	377	20	397
B	353	19	372
C	353	18	371
Total	**1,083**	**57**	**1,140**

All components of Phase 2 are eligible for the MHIP; however, only Building A is currently being considered in this memorandum for a tax and fee waiver under the program. Buildings B and C may be submitted for future consideration as construction progresses.

Building A is a six-story structure that will include up to 397 multifamily residential units and approximately 6,427 square feet of commercial space. These restricted affordable apartment units will include a mix of studios, one-bedroom, two-bedroom, and three-bedroom apartment units.

Construction Taxes

The City's 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 0 Seely Building A development.

Table 2 – Construction Tax Overview

Development	Standard B&S and CRMP Construction Taxes	50% Tax Reduction[3]	B&S and CRMP Taxes to be Received
0 Seely Building A Development	$2,557,133	$1,257,124	$1,300,009

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, 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 100% of the area median income is $13.80 per net residential square foot for developments located in moderate market areas.[4] **Table 3** provides a summary of the projected total IHO in-lieu fee waived for the 0 Seely Building A development.

[3] Under the MHIP, the 50% reduction in the B&S construction tax and the 50% reduction in the CRMP construction tax are only applicable to the residential portion of the 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 – Waived IHO In-Lieu Fees

Development	Market Area	Fiscal Year 2024-2025 IHO In-Lieu Fee Rate for Mixed Compliance	Net Residential Square Footage	Waived IHO In-Lieu Fee
0 Seely Building A	Moderate Market	$13.80	347,856	$4,800,412.80

Table 4 provides a summary of the total proposed tax and fee waiver for the 0 Seely Building A development.

Table 4 – Proposed Tax and Fee Waiver

50% Reduction of B&S and CRMP Construction Taxes on Developments Residential Portion	$1,257,124.00
IHO In-Lieu Fee Waiver	$4,800,412.80
Total Tax Reduction and Fee Waiver	$6,057,536.80

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. On May 13, 2025, City Council approved an amendment to MHIP to change, 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, to the first 1,800 units. **Table 5** provides a summary of units that City Council has authorized under the MHIP to-date, including the developments that are proposed for the MHIP residential tax and fee waiver in this memorandum.

Table 5 – 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
Santana Row Lot 12 at 358 Hatton Street*	245	13	258
0 Seely Avenue Building A*	377	20	397
Total	**1,214**	**64**	**1,278**

**Scheduled as a separate City Council item on June 17, 2025.*
***Development discussed in this memorandum.*

EVALUATION AND FOLLOW-UP

Staff will execute agreements with the developer of the 0 Seely Avenue development as required under the San José Municipal Code Sections 4.46.039.11 and 4.47.089 and monitor development construction to ensure the MHIP requirements are fulfilled. The development must still comply with IHO requirements, including their Affordable Housing Compliance Plans and recordation of an Inclusionary Housing Agreement against the site prior to building permit issuance. Staff will not execute any agreements with the developer until the ordinance amendment takes effect on June 20, 2025.

COST SUMMARY/IMPLICATIONS

The development 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 6 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 6 – 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 project is estimated to generate one-time revenue of $1,300,009 in construction taxes. The construction tax forgone revenue is $1,257,124. The IHO in-lieu fee forgone revenue is $4,800,412.80.
c) Net job impact	Based on estimates from the developer, the 0 Seely Building A development will create approximately 288 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 the remaining 10% of jobs earning between $40,000 and $60,000. The recipient will provide health insurance to all employees.
d) Housing impact	0 Seely Building A will deliver 377 new market-rate (above 120% of the area median income) housing units, and 5% or 20 moderate-income units with a maximum price at or below 100% of the area median income.

	Based on the reported net job impact above, up to 29 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 $1,300,009 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 7 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 7 – State of California Cost/Benefit Evaluation

a) Name/address of benefiting business entity	Seely Development Partners LLC, 1780 S. Post Oak Lane Houston, TX 77056
b) Start and end dates for the subsidy	Projects are eligible for the MHIP subsidy 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 development constructed 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 $6,057,536.80.
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 $1,300,009.00 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, 0 Seely Building A development will create approximately 288 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 the remaining 10% of jobs earning 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 Council Agenda website for the June 17, 2025 City Council meeting.

COMMISSION RECOMMENDATION AND INPUT

No commission recommendation is associated with this action.

CEQA

0 Seely Avenue: Environmental Impact Report for 0 Seely Avenue Mixed-Use Project (Resolution No. RES2024-297), File Nos. PDC21-035, PD22-002, PT22-003, and 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 Acting Director of the City Manager's Office of Economic Development and Cultural Affairs has been informed of this subsidy to ensure it is tracked appropriately.

/s/
Erik L. Soliván
Housing Director

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

/s/
John Ristow
Transportation Director

The principal author of this memorandum is Shelsy Bass, Interim Housing Policy and Planning Administrator, Housing Department. For questions, please contact Banu San, Deputy Director, Housing Department, at Banu.San@sanjoseca.gov.