



Memorandum

TO: CITY COUNCIL

FROM: Mayor Chuck Reed
Councilmember Sam Liccardo

SUBJECT: DOWNTOWN HIGH RISE
INCENTIVES

DATE: May 9, 2012

APPROVED:

Chuck Reed ^{5/9/12}
[Signature]

RECOMMENDATIONS

1. Accept the recommendations outlined in the April 23, 2012 staff report.
2. Approve the following additional incentives for new construction of residential buildings of at least 12 stories in height for the next 1,000 residential units in the Downtown as defined by the Planned Growth Areas Diagram in the Envision San Jose 2040 General Plan (map attached):
 - a. **Permit Expeditor and Streamlined Planning:** The City Manager will identify a single point of contact to facilitate and coordinate permitting and resolve all issues that may arise in the permitting process. Upon filing of a completed application, and with the applicant's full compliance of regulations relating to public outreach and architectural review, a decision will be reached at a Director's Hearing within 120 days.
 - b. **50% Reduction of Building and Structure Construction Tax**
 - c. **50% Reduction of Commercial-Residential-Mobilehome Park Building Tax**
 - d. **Park Fees:** Consistent with Section 2.B of Resolution 73587, as amended by Council action on May 8, 2012, all park fees for multifamily units will remain at 50% of the revised 2012 rates for Downtown development (\$7650/unit) for the remainder of the duration of the operation of this high-rise incentive proposal.
 - e. **Deferral of Fees:** Fees will be paid at the time of issuance of the Certificate of Occupancy.
 - f. **Inclusionary Requirements:** None of the incentives included in this action are intended to constitute an "agree[ment] by contract with a public entity in consideration for a direct financial contribution or any other forms of assistance" for purposes of the Costa-Hawkins Rental Housing Act, Cal. Civ. Code, § 1954.52 (b). Accordingly, the City's inclusionary ordinance shall remain suspended for high rise rental residential development under *Palmer/Sixth Street Properties v. City of Los Angeles*, (2009) 175 Cal.App.4th 1396.
 - g. **Waiver of Parking Minimum Requirements:** In consideration of a long-term commitment by the developer to offer free participation in EcoPass, car-sharing services and enhanced bike parking facilities to residential tenants, the City shall waive minimum parking requirements.

h. Occupancy of Lower Floors: Where staff deems it safe, the City shall allow occupancy of lower floors (for lease-up or marketing of “model units”) pending interior construction and furnishing of higher floors.

3. Incentive 2b will be provided to any building constructed within the Downtown of an employment-serving use (e.g. office, research & development, or retail), regardless of height, until the deadline described below.

4. To qualify for any of these incentives, the project must break ground by the end of 2013. The 1,000 residential units shall be counted against the 2,500 units under the pre-existing “Downtown High Rise Incentive Program” enacted in 2006, to enable fees to return to normal upon any resurgence in the market.

BACKGROUND

On January 31, 2012, the City Council unanimously approved a series of fee and tax waivers to spur development of research and development and office buildings in San Jose. The Council further directed that staff return to Council immediately with a fee incentive program for Downtown high rise residential development for a limited time period.

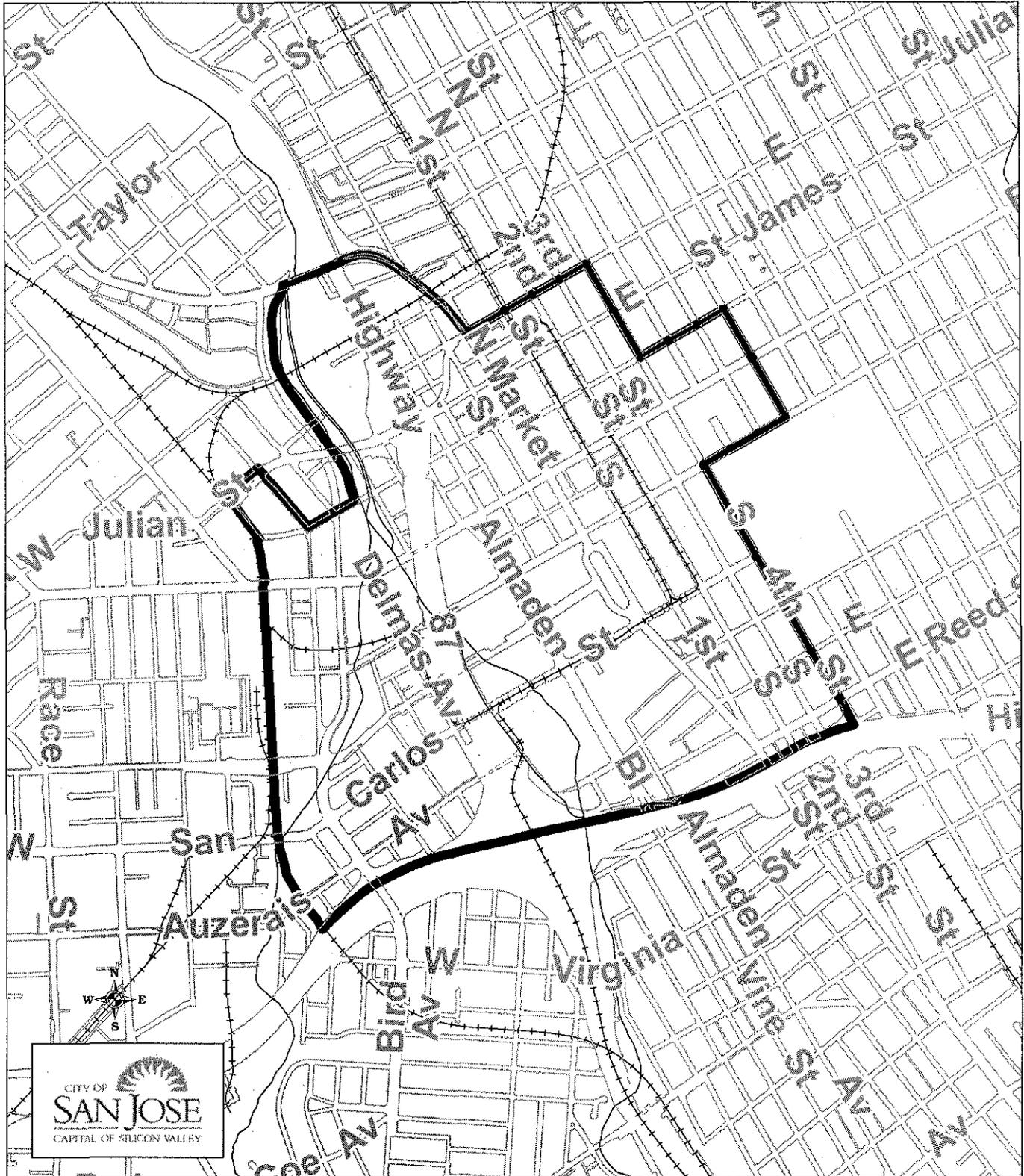
Several meetings with developers indicate that a window of opportunity exists to get one or two high rise residential towers under construction in the Downtown. Rents have risen substantially in the last eighteen months in the San Jose metropolitan area, yet according to developers, financing new high rise development remains a big challenge as we emerge from an uncertain economic environment. A reduction in City fees and taxes could sufficiently improve development pro formas to secure critical financing.

Overcoming the inertia of the last recession depends on getting a couple of towers built that can again “prove the market” to other lenders and developers. Preliminary evidence of the Downtown rental market—the Mesa 360 residential tower has leased quickly at very high rents, and has over 97% occupancy—suggests that a significant nudge could generate substantial momentum for private development Downtown.

The construction of high rise towers in the Downtown constitutes the most environmentally friendly, fiscally sensible, and economically equitable means of building housing. Downtown dwellers have the smallest carbon footprints due to their reduced use of the automobile. Far more than suburban-scale development, high rise towers score highly under any green building standard. Fiscally, high rise housing may be the only form of residential development that puts more revenue into City coffers than it absorbs, as the higher densities boost property taxes and other revenues while vastly reducing the per-resident costs of providing such services as police, fire, and parks. Park fees per acre of Downtown high rise development far exceed those of any other part of the city, in part because of the higher-density development there. High rise housing also allows dwellers to drastically reduce their transportation costs—costs that typically exceed 20% of a household budget in many suburban communities--making such housing far more affordable to residents than even less-expensive single-family dwellings.

Only time will tell whether the current window for high-density development appears wide or narrow, but one thing is certain: nothing will attract other development and business like the sight of a construction crane. We cannot merely hope to wait for the opportunity to present itself when we can help make the opportunity happen.

City of San Jose Envision 2040 General Plan Downtown Growth Area



Map Prepared by: City of San Jose, Planning Division, May 2012