



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Joseph Horwedel

SUBJECT: SEE BELOW

DATE: August 29, 2012

Approved

Date

9/4/12

COUNCIL DISTRICT: 3

SUBJECT: AN ORDINANCE AMENDING SECTION 4.46.036 OF CHAPTER 4.46 AND SECTION 4.47.089 OF CHAPTER 4.47 OF TITLE 4 OF THE CITY OF SAN JOSE MUNICIPAL CODE TO SUSPEND THE COLLECTION OF A PORTION OF CONSTRUCTION TAXES ON DOWNTOWN HIGH RISE DEVELOPMENTS FOR A SPECIFIED PERIOD

RECOMMENDATION

Adopt an ordinance amending Section 4.46.036 of Chapter 4.46 and Section 4.47.089 of Chapter 4.47 of Title 4 of the City of San Jose Municipal Code to suspend the collection of a portion of construction taxes on downtown high rise developments for a specified period.

OUTCOME

If the ordinance is adopted, then qualifying Downtown high rise developments would pay a reduced amount of construction taxes as part of an incentive package to facilitate new high rise construction.

BACKGROUND

On May 15, 2012, the City Council approved a set of incentives for Downtown high rises per a motion that included the recommendations from the Administration contained in a memorandum dated April 23, 2012, (http://www.sanjoseca.gov/clerk/Agenda/20120515/20120515_0402.pdf) and additional incentives contained in a memorandum from Mayor Reed and Councilmember Liccardo dated May 9, 2012 (http://www.sanjoseca.gov/clerk/Agenda/20120515/20120515_0402att2.pdf). Two of the incentives involve a 50 % reduction of the Building and Structure Construction tax and a 50%

reduction of the Commercial-Residential-Mobilehome Park Building Tax for high rise projects from May 15 to December 31, 2013.

ANALYSIS

Based on the Council's action, an ordinance is needed to effectuate the construction tax incentives. The proposed ordinance reflects the Council's May action by:

- Temporarily reducing the Building and Structure Construction Tax (SJMC 4.46) by 50%
- Temporarily reducing the Commercial-Residential-Mobilehome Park Building Tax (SJMC 4.47) by 50%
- Making these tax incentives available to:
 - Residential high rise construction with a minimum height of 150 feet
 - The first 1,000 high rise, housing units to obtain building permits within the Downtown Growth Area (as defined by the Envision San Jose 2040 General Plan)
 - Downtown high rise developments that obtain building permits before December 31, 2013

The proposed ordinance also includes a provision to encourage completion of high rise developments benefiting from the incentives. Specifically, in the event that a building permit is issued for residential construction that meets the above parameters and has not received a certificate of occupancy on or before December 15, 2015, then any permit issued to complete construction of that development would need to pay the full amount of taxes at the rate in effect at the time a new building permit is issued.

POLICY ALTERNATIVE

Alternative #1: The geographic area for the construction tax incentives could be the same area benefiting from the temporary reduced Parkland Dedication/Parkland In-Lieu fees as set forth in Resolution 73587. This is a smaller area than the Downtown Growth Area as defined in the Envision San Jose 2040 General Plan in that it only includes the portion of the Downtown Growth Area located east of Highway 87.

Pros: This is the portion of the Downtown Growth Area that is benefiting from the temporary reduced Parkland Dedication/Parkland In-Lieu fees as set forth in Resolution 73587.

Cons: The tax incentives would not be applicable for the western portion of the Downtown Growth Area between the railroad tracks through the Diridon Station and Highway 87.

Reason for not recommending: Even though the area west of Highway 87 does not benefit from the Parkland incentive, the construction tax incentives are significant and should encourage high rise development.

EVALUATION AND FOLLOW-UP

The Administration is monitoring development activity that may participate in the incentives and will provide the City Council with an update of actual high rise development prior to the expiration of the incentive package.

FISCAL/POLICY ALIGNMENT

This ordinance facilitates development envisioned in the General Plan.

FISCAL IMPACT

The fiscal implications of the tax suspension were discussed in a memorandum from Joseph Horwedel and Kim Welsh to the City Council dated April 23, 2012:

http://www.sanjoseca.gov/clerk/Agenda/20120515/20120515_0402.pdf

PUBLIC OUTREACH/INTEREST

- Criteria 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Although this item does not meet any of the above criteria, outreach was conducted prior to the May 2012 City Council action. In addition, this memorandum will be posted on the City's Council Agenda Website for the September 18, 2012 City Council Meeting.

COORDINATION

The preparation of this memorandum and the ordinance was coordinated with the City Attorney's Office.

HONORABLE MAYOR AND CITY COUNCIL

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CEQA

Not a Project, PP10-069, City Administrative Activities.

/s/

JOSEPH HORWEDEL, DIRECTOR

Planning, Building and Code Enforcement

For questions, please contact Laurel Prevetti, at 408-535-7901.