



City Council

Action to Amend Section 17.35.080 of the Santa Clara City Code to temporarily authorize a deferral for the payment of park-in lieu fees for residential developments from building permit to certificate of occupancy or final building inspection, subject to certain conditions and to bring the code into compliance with state law.

Reena Brilliot, Economic Development Director
Agenda Item #6, (RTC # 25-1555)
November 4, 2025

1

Parks In-Lieu Fee Deferral to Facilitate Housing Construction



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2025 Unit Openings

- To date in 2025: 2,361 new residential units have opened.
 - 10 high density projects
 - Two 100% affordable projects




2

2

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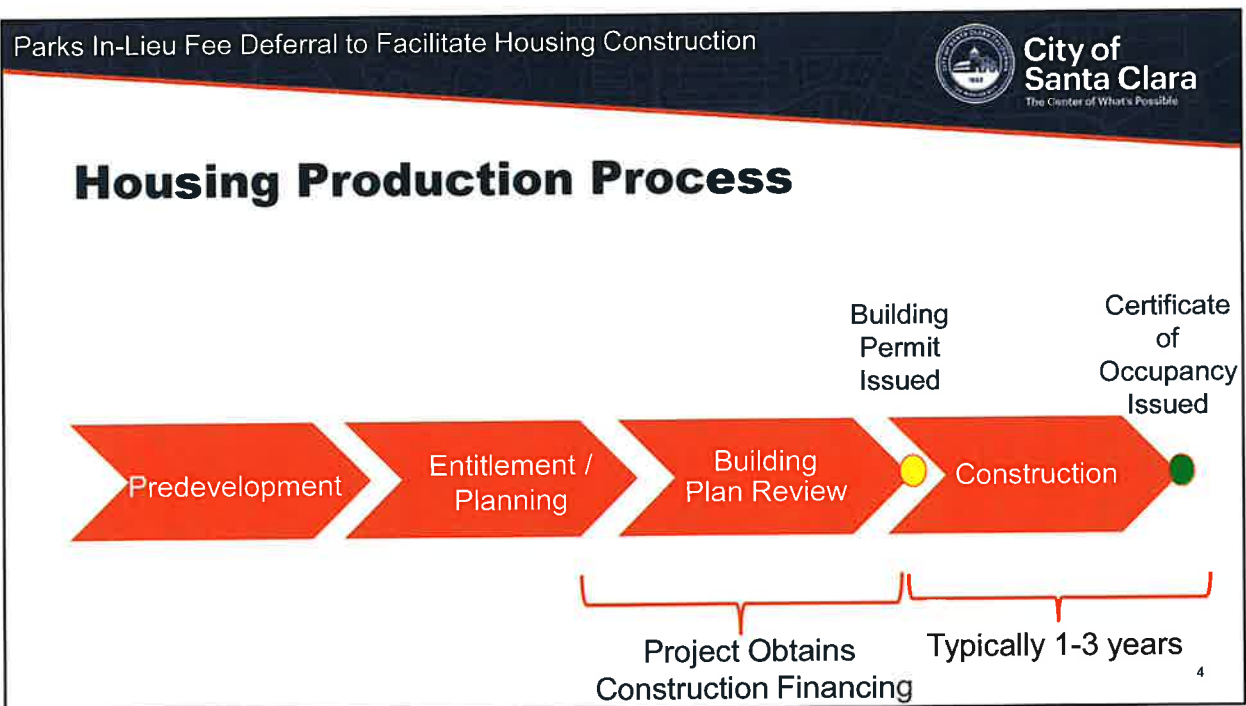
Urban Land Institute Special Meeting

- Special Council Meeting presented by ULI on Feb 13, 2025 presented challenging economic conditions shaping project feasibility for new construction multifamily housing:
 - Rising labor costs
 - Rising material costs due to inflation
 - Rising material costs due to tariffs
 - High interest rates for financing



3

3



4



Slowdown of Housing Pipeline

- In comparison to prior years since 2018, when building permits were issued for approximately 1,000 units annually, permit issuance has declined significantly in 2024 and 2025:
 - 114 units in 2024
 - 511 units in 2025



5

5



SB 937 Deferral of Impact Fees

- Local governments must delay collection of certain impact fees for “designated residential development”
 - Fees typically collected at Building Permit Issuance
 - SB 937 delays impact fee collection to Certificate of Occupancy
- Purpose of Fee Deferral to Certificate of Occupancy
 - Minimizes the impact of market fluctuations and high interest rates
 - Impact fees can be excluded from construction loans, which have higher interest rates than subsequent permanent financing

6

6



SB 937 Qualified Projects

- SB 937 defines “designated residential development” as any residential development that meets
 - (1) dedicates 100% of units to lower income households;
 - (2) Low Barrier Navigation Centers;
 - (3) is approved through streamlined ministerial review as authorized by AB 2011;
 - (4) is approved through streamlined ministerial approval and meets the requirements of Government Code section 65913.4(a);
 - (5) SB 4 projects that allow for affordable housing on the lands of faith-based uses or public universities;
 - (6) is entitled to a density bonus pursuant to state density bonus law, or
 - (7) that include 10 or fewer units.

7

7



Limitations of SB 937

- Not all projects will be eligible for SB 937's fee deferral
 - Likely not to qualify are Projects entitled before State's most recent version of Density bonus law took effect on Jan 1, 2023
 - Projects that provide their affordable housing unit contribution in an off-site arrangement

8

8



Expansion of Deferral for Parks In-Lieu Fees

- Proposal to offer fee deferral for Parks in-lieu fees for all housing projects to allow collection at Certificate of Occupancy or Final Inspection instead of prior to Building Permit issuance.

9

9



Parks In-Lieu Fees

- The City charges, in compliance with the State's Mitigation Fee Act, parks impact fees for all housing projects.
- There are also Quimby fees to support parkland that apply to for any projects including subdivision.
- The City uses the fee schedule before a project is deemed complete and before hearing of the their planning application to determine the amount owed in-lieu park fees to the City.
- In-lieu park fees are reduced if parkland is being dedicated and/or for private recreational amenities.

10

10



Why a Deferral of In-Lieu Parks Fee?

- Parks in-lieu fee is often the largest fee collected by the City for residential development projects.
- The parks in-lieu fee is associated with park improvements off-site from the project site.
- Need more time to analyze broader deferral opportunities for other impact fees.

11

11



Time Sensitive Opportunity

- State 2025 Building Standards Code takes effect January 1, 2026.
- Projects reviewed under earlier codes now required to be issued building permit under previous code reviewed under or need to resubmit new plans and pay fees for new 2025 Code.



12

12



Alignment with State Law

- Proposed ordinance change brings the City's Code into compliance with state law by clarifying that, when required by law, payment of the parks impact fee will be deferred.
- Parks In-Lieu Fee Deferral Agreement: State law allows cities to enter into an agreement for deferral. Included is the form agreement for all in-lieu park fee deferral requests.
- The deferral agreement is to be executed prior to the issuance of the Building Permit and runs with the land.

13

13



Safeguards

- Staff analysis of each fee deferral proposal that does not qualify under SB 937.
- City Manager to have discretion to deny deferral proposals that will negatively affect the City's park expansion efforts.

14

14

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Fee Deferral Process

- **SB 937 Projects:**
 1. Parks In-Lieu Fee Deferral agreement executed
 2. Building Permit issued
 3. All Impact Fees paid prior to Certificate of Occupancy/Final Inspection
- **All Other Housing Projects:**
 1. All impact fees, except parks in-lieu fee, paid prior to Building Permit issuance
 2. For Parks in-lieu fee, analysis to confirm that specific project's deferral will not negatively impact parks expansion efforts
 3. Fee deferral agreement executed
 4. Building Permit issued
 5. Parks in-lieu fees paid at Certificate of Occupancy

15

15

Parks In-Lieu Fee Deferral to Facilitate Housing Construction



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Temporary Modifications

- Two-year period for expanded deferral of parks in-lieu fee.
- Applies to projects that receive a building permit prior December 31, 2027

16

16



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Recommendation

1. Waive first reading and introduce an ordinance amending Chapter 17.35 (Park and Recreational Land) Section 17.35.080 (Procedure) of the Santa Clara City Code to temporarily authorize a deferral of the payment of park-in lieu fees of residential developments to certificate of occupancy or final building inspection, subject to certain conditions and to bring the code into compliance with state law.
2. Approve a standard form Park In-Lieu Fee Deferral Agreement and Notice of Lien with Power of Sale, on the terms and in substantially the form presented, authorize City Manager to modify the agreement as needed for individual projects, and execute the finalized agreement subject to approval as to form by the City Attorney.

17

17

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18

18



Trade-offs

- With this change, Parks In-Lieu Fees will be collected prior to issuance of Certificate of Occupancy/Final Inspection, which is one to three years after the current practice of collecting fees prior to the issuance of the Building Permit.
- The deferral of fees may delay the use of the funding and result in less buying power for those fees.
- City Manager's discretion to deny deferral proposals can mitigate/prevent unanticipated consequences to parks expansion efforts.

19

19



SB 937's Greatest Applicability to Santa Clara Projects

- SB 937 defines "designated residential development" as any residential development is entitled to a density bonus pursuant to state density bonus law
- A project qualifies for density bonus if it meets specified affordability requirements, including projects that have 10% of units affordable to households earning at or below 80% Area Median Income (AMI). The City of Santa Clara has an affordable housing ordinance that specifies that housing projects must have a minimum of 15% of units affordable to households earning 100% AMI.
- To comply with the City's affordable housing ordinance, many projects spread their required units across affordability brackets, placing some of the 15% of units below 100% AMI and some units above 100% AMI to provide an average of 100% AMI for the required units. This affordability spread is often strategically done to have projects meet the City's Affordable Housing Ordinance and be eligible for state density bonus law.

20

20



Fee Deferral Process

- SB 937 projects → Fee deferral agreement executed → Building Permit issued
→ impact fees paid at Certificate of Occupancy
- All other housing development projects :
 - All impact fees, except parks in-lieu fee, paid prior to Building Permit issuance
 - For Parks in-lieu fee → analysis to confirm that specific project's deferral will not negatively impact parks expansion efforts → Fee deferral agreement executed
→ Building Permit issued → impact fees paid at Certificate of Occupancy

21