



Housing

Commercial Linkage Fee

**Housing and Community
Development Commission**

January 13, 2022

Item VII. A

Rachel VanderVeen

Deputy Director

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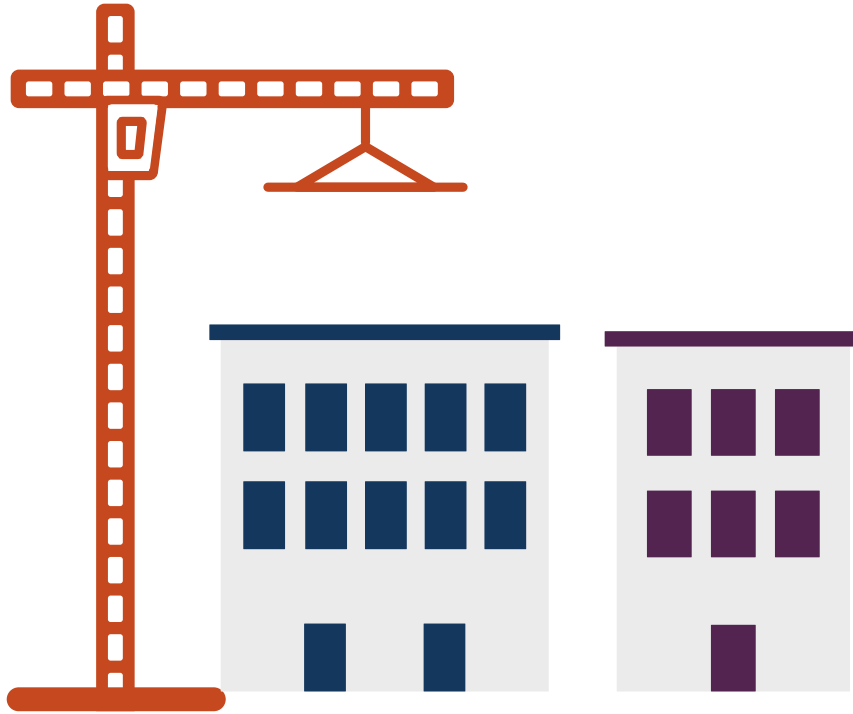
Elisha St Laurent

Development Officer

Background on Commercial Linkage Fee (CLF)

- Council adopted Commercial Linkage Fee (CLF) Ordinance and Fee resolution Fall 2020
- Council directed staff to explore developer credits

Purpose of Commercial Linkage Fee



Support affordable housing development that is generated by commercial development



Generate resources for affordable housing

Developments under CLF Obligation

- 🏠 All Non-Residential Projects and all Non-Residential portions of a Project over 5,000 square feet shall pay the fee based on the gross square footage of each use included in the proposed Project by Geographic Subarea

Applies to ALL Non-Residential



Fee Resolutions



Fee Resolution for Downtown and Nearby

| Non-Residential Use | Fee Per Square Foot (sq.ft) | |
|---|-----------------------------|---|
| Office (>100,000 sq.ft.) | \$12.00 | Paid in full* |
| | \$15.00 | Paid in phases: \$5.00* then \$10.00 at each Certificate of Occupancy** |
| Office (<100,000 sq.ft.) | \$0 | Under 40,000 sq.ft. |
| | \$3.00 | Over 40,000 sq.ft. |
| Retail | \$0 | |
| Hotel | \$5.00 | Excludes Common Area |
| Industrial/Research and Development (>100,000 sq.ft.) | \$3.00 | Paid in full* |
| | \$3.00 | Paid in phases: \$1.00* then \$2.00 at each Certificate of Occupancy** |
| Industrial/Research and Development (<100,000 sq.ft.) | \$0 | |
| Warehouse | \$5.00 | |
| Residential Care | \$6.00 | Excludes Common Area |

* Prior to Final Inspection of Building Shell

** Within Building Shell, but prior to occupancy by the tenant(s)

Fee Resolution for North San José and Nearby & West San José Urban Villages

| Non-Residential Use | Fee Per Square Foot (sq.ft) | |
|---|-----------------------------|--|
| Office (>100,000 sq.ft.) | \$5.00 | Paid in full* |
| | \$5.00 | Paid in phases: \$2.00* then \$3.00 at each Certificate of Occupancy** |
| Office (<100,000 sq.ft.) | \$0 | Under 40,000 sq.ft. |
| | \$3.00 | Over 40,000 sq.ft. |
| Retail | \$0 | |
| Hotel | \$5.00 | Excludes Common Area |
| Industrial/Research and Development (>100,000 sq.ft.) | \$3.00 | Paid in full* |
| | \$3.00 | Paid in phases: \$1.00* then \$2.00 at each Certificate of Occupancy** |
| Industrial/Research and Development (<100,000 sq.ft.) | \$0 | |
| Warehouse | \$5.00 | |
| Residential Care | \$6.00 | Excludes Common Area |

* Prior to Final Inspection of Building Shell

** Within Building Shell, but prior to occupancy by the tenant(s)

Edenvale & Monterey Corridor

| Non-Residential Use | Fee Per Square Foot (sq.ft) | |
|---|-----------------------------|--|
| Office (>100,000 sq.ft.) | \$5.00 | Paid in full* |
| | \$5.00 | Paid in phases: \$2.00* then \$3.00 at each Certificate of Occupancy** |
| Office (<100,000 sq.ft.) | \$0 | Under 40,000 sq.ft. |
| | \$3.00 | Over 40,000 sq.ft. |
| Retail | \$0 | |
| Hotel | \$5.00 | Excludes Common Area |
| Industrial/Research and Development (>100,000 sq.ft.) | \$0 | Paid in full* |
| Warehouse | \$5.00 | |
| Residential Care | \$6.00 | Excludes Common Area |

* Prior to Final Inspection of Building Shell

** Within Building Shell, but prior to occupancy by the tenant(s)

South & East San José Growth Areas

| Non-Residential Use | Fee Per Square Foot (sq.ft) | |
|---|-----------------------------|--|
| Office (>100,000 sq.ft.) | \$0 | Paid in full* |
| Retail | \$0 | |
| Hotel | \$5.00 | Excludes Common Area |
| Industrial/Research and Development (<100,000 sq.ft.) | \$3.00 | Paid in full* |
| Industrial/Research and Development (>100,000 sq.ft.) | \$3.00 | Paid in phases: \$1.00* then \$2.00 at each Certificate of Occupancy** |
| Warehouse | \$5.00 | |
| Residential Care | \$6.00 | Excludes Common Area |

* Prior to Final Inspection of Building Shell

** Within Building Shell, but prior to occupancy by the tenant(s)

Council Direction

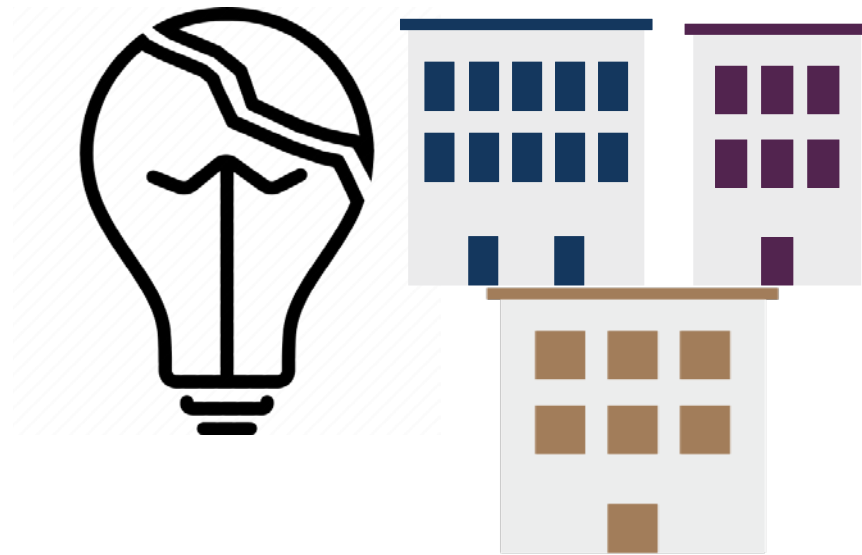


Exploration of Potential Fee Credits

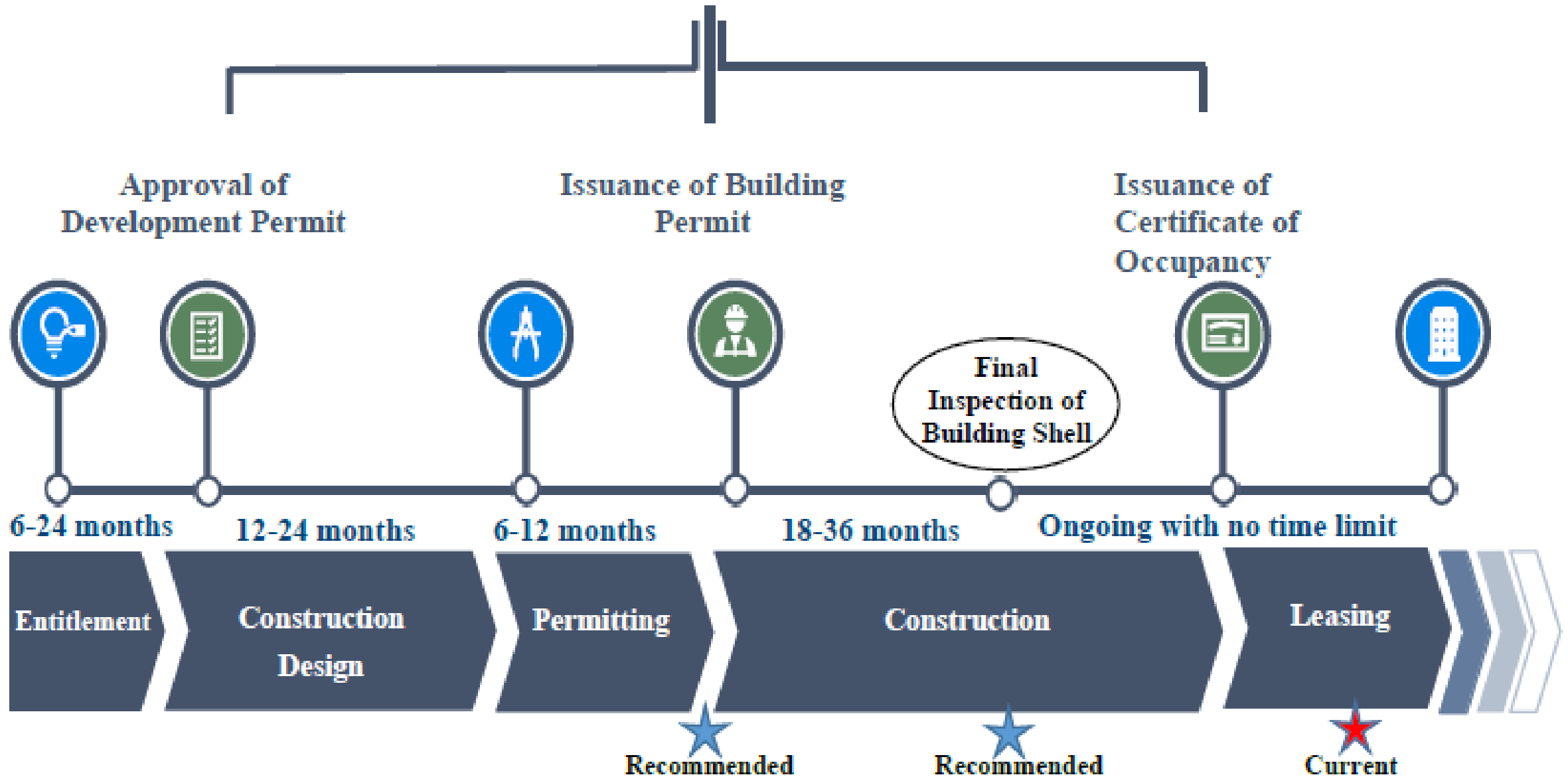
- Affordable Housing Credit
- Historic Preservation Credit
- Environmental Sustainability Credit
- Threshold of Square feet eligible for an initial fee reduction

Implementation Challenges – Timing of Payment

- Delayed Phased Payment Option: Overburdensome or unworkable for downtown office projects over 100,000 sq.ft.



City Control Points for Assessing Fees



Other Cities

| Other Cities Commerical Linkage Fee | Fee Paid at Building Permit | Fee paid at Building Permit or Deferral | Fee paid prior to Certificate of Occupancy or Final Inspection | Phased Payment Option |
|---|-----------------------------------|--|---|-----------------------------|
| 54 | 40 | 9 | 3 | 2 |

Comparison of Payment Options Difficulty

| Payment Options | Difficulty Level |
|---|------------------|
| Final Building Shell or TCO Tenant Improvements | HIGH |
| Choice with Incentive: Building Permit or Final Building Shell | MODERATE |
| Final Inspection of Shell Building Permit | LOW |
| Building Permit | LOWEST |

Exploration of Potential Fee Credits



Affordable Housing Credits

| Affordability Level | Floor Area Credited for CLF Payment for each Affordable Unit Provided | |
|----------------------|---|----------------|
| | Downtown Office | All Other Uses |
| Extremely Low-Income | 25,405 SF | 60,971 SF |
| Very Low-Income | 19,507 SF | 46,817 SF |
| Low-Income | 15,122 SF | 36,292 SF |
| Moderate-Income | 3,629 SF | 8,710 SF |

Credit for Historic Preservation

Reduction in CLF for Historic Preservation

CURRENT

No reduction
in CLF Fee



Possible Change

No change
recommended; credit is
likely to be very minor
relative to the cost of
preservation work

Credit for Sustainability Measures

Reduction in CLF for Sustainability at the Net Zero standard

CURRENT

No reduction
in CLF Fee

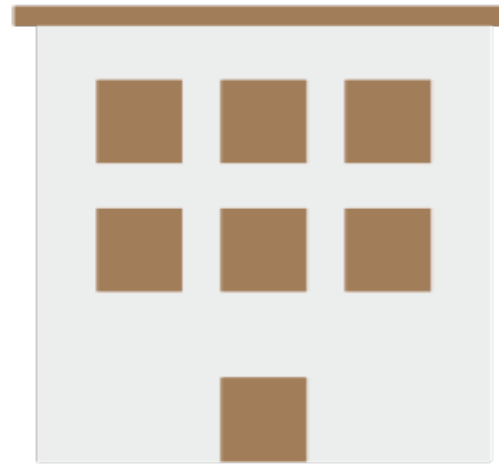


Possible Change

No change
recommended; State
requirements are
moving to
a comparable
standard by 2030

Council Direction on CLF Credits

**INCREASE
EXEMPTIONS**



**TO FIRST
50,000 SQ. FT**



Directed to **increase exemption** from first 40,000 sq. ft. to first 50,000 sq. ft. for projects \geq 100,000 sq. ft.

Recommendations

- Change the payment options for all types of projects to require the CLF fee be paid at final inspection of building shell and allow projects that choose to pay at building permit issuance to pay 80% of their CLF fee.
- Establish a credit for the construction of or recordation of covenants to provide affordable units.
- Exempt the first 50,000 square feet of a development from the CLF fee, an increase from the current 40,000 square feet parameter, for office projects less than or equal to 100,000 square feet of gross floor area.

Next Steps



Continue to develop the backend tech support



Implement new amendments to the Ordinance.



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Item IV

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