Takoma Park City Council Meeting – July 24, 2024
Agenda Item 7

Work Session

Presentation on Proposed Housing Tax Credits.

Recommended Council Action

Receive a presentation and provide guidance and feedback on four proposed tax credits to incentivize new rental housing construction, missing middle housing, affordable housing preservation, and housing reinvestment for existing multifamily properties. Guidance provided during the work session will assist HCD in further refining the proposals, including a full fiscal impact analysis for each credit based on eligibility criteria feedback.

Context with Key Issues

As discussed during the July 1st Housing Policy Framework presentation, HCD are proposing a new slate of tax credits aimed at incentivizing new rental housing construction, missing middle housing, affordable housing preservation, and housing reinvestment for existing multifamily properties. The Department has focused on tax credits because, with limited annual revenues but high per property assessments, tax credits represent the best avenue for the City to realize more immediate gains in housing priorities with lower up-front cost. These credits will address several pressing strategies in the Housing & Economic Development Strategic Plan. A brief summary is in the table below. After an initial work session on July 24th, HCD plan to return to Council in September and October 2024 with ordinances for the adoption of credits at the opening of the 2026 fiscal year. Feedback from the upcoming work session will HCD to conduct additional fiscal impact studies based on Council direction of eligibility criteria.

	New Rental Construction	*Missing Middle Housing Construction*	*Affordable Housing Preservation*	*Housing Reinvestment*
Goal/Purpose	Encourage the creation of new rental housing.	Incentivize smaller scale/achievable homeownership opportunities.	Subsidize deed-restricted affordable housing for specific populations.	Incentivize reinvestment in existing multifamily housing.
By-Right/By-Application	By-Right	By-Right	By-Right	By-Application
Eligibility Criteria*	10+net new rental units	1+ net new homeowership units	Provides 30% AMI, Transitional or Units for specific groups (Individuals with	Investment meets HUD definition of substantial

Prepared by: Ira Kowler, Director HCD
Approved by: Robert DiSpirito, City Manager

Posted: 07/19/2024

		Buyer makes 120% AMI or less	Disability, Seniors)	Multifamily rental building
Credit Amount	Incremental difference between current tax bill and reassessed amount. (10 years full credit with 5 year scale up)	Incremental difference between current tax bill and reassessed amount. (10 years full credit with 5 year scale up)	Percentage Discount equal to the share of qualifying units, capped at 50% of the tax bill. Annually renewed/verified	50% off tax bill for 10 years

*Decision Point

A full discussion and analysis of the proposed credits is in the attached staff report.

Council Priorities

Environmentally Sustainable Community
Community Development for an Improved & Equitable Quality of Life

Environmental Considerations

The proposed credits would incentivize potential new construction. Each potential project would be evaluated as part of the permitting process and would have to mitigate or address potential environmental impacts. Some tax credits incentivize the improvement or preservation of housing which can result in lower emissions.

Fiscal Considerations

Some credits would not reduce current revenue but would provide a credit that would forgo revenue created by development for a period of time. Currently, the City gives up roughly $63,000 in Tax Credits to properties under one-off Payment in Lieu of Taxes (PILOTs). Depending on the criteria and credits adopted, the annual reduction in tax revenue for the proposed credits could be between $150,000 and $407,000.

Racial Equity Considerations

50% of City residents are renters, and non-Hispanic white households make up less than 20% of renter households. Roughly half of the City's renters qualify as low income. 89% of the City's housing stock was building over 40 years ago and most of the City's high rise apartment were built before 1970.

Attachments and Links

- Staff Report

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COUNCIL STAFF REPORT

DATE: July 24, 2024

TO: Mayor & City Council, Takoma Park

FROM: Ira Kowler, Director, Housing & Community Development

BY: Devin McNally, Housing Manager, Housing & Community Development

CC: Robert DiSpirito, City Manager
David Eubanks, Deputy City Manager
Andrew Bolduc, Deputy City Manager

SUBJECT: Proposed Housing Tax Credit Structure

As discussed during the July 1st Housing Policy Framework presentation, HCD are proposing a new slate of tax credits aimed at incentivizing new rental housing construction, missing middle housing, affordable housing preservation, and housing reinvestment for existing multifamily properties. The Department has focused on tax credits because, with limited annual revenues but high per property assessments, tax credits represent the best avenue for the City to realize more immediate gains in housing priorities with lower up-front cost. These credits will address several pressing strategies in the Housing & Economic Development Strategic Plan. A brief summary is in Table 1. After an initial work session on July 24th, HCD plan to return to Council in September and October 2024 with ordinances for the adoption of credits at the opening of the 2026 fiscal year. Feedback from the upcoming work session will HCD to conduct additional fiscal impact studies based on Council direction of eligibility criteria.

TABLE 1

	New Rental Construction	*Missing Middle Housing Construction*	*Affordable Housing Preservation*	*Housing Reinvestment*
Goal/Purpose	Encourage the creation of new rental housing.	Incentivize smaller scale/achievable homeownership opportunities.	Subsidize deed-restricted affordable housing for specific populations.	Incentivize the reinvestment in existing multifamily housing.
By-Right/By-Application	By-Right	By-Right	By-Right	By-Application
Eligibility Criteria	Net new rental units created	Net new homeowership units created Buyer income level	Deed restriction to provide low-income or needed housing	Substantial investment criteria
Credit Amount	Incremental difference between current tax bill and reassessed amount. (10 years full credit with 5 year scale up)	Incremental difference between current tax bill and reassessed amount. (10 years full credit with 5 year scale up)	Percentage Discount equal to the share of qualifying units, capped at 50% of the tax bill. Annually renewed/verified	50% off tax bill for 10 years.
Potential Annual Financial Impact	No existing revenue loss; forgone future revenue project dependent	No existing revenue loss; forgone future revenue project dependent	$100,000-$257,000 based on affordability criteria	$50,000-$150,000
Potential Housing Impact	TBD; fiscal estimates based on ~200 new units produced	TBD; fiscal estimates based on ~20 new units produced	580-1,290 affordable units preserved based on affordability criteria	275-850 units improved based on funding level

1. New Rental Construction Tax Credit

Strategic Plan Strategy Addressed: *2.2.B:* Encourage moderate and higher density development and redevelopment through means such as supporting applications during the development review process and providing or encouraging financial assistance for projects.

Proposed Eligibility Criteria: Rental housing projects producing 10 net new residential units

Proposed Credit Structure:

Year(s)	1-10	11	12	13	14	15	16-Onward
Existing Property Tax Collected	100%	100%	100%	100%	100%	100%	100%
Incremental Property Tax Collected	0%	10%	20%	40%	60%	80%	100%

This by-right tax credit – meaning that any applicant meeting the eligibility criteria would receive a credit – would give a 15-year credit on the improved assessed value[1] of any property that is constructing ten (10) or more net new residential units. The credit would offer a 100% incremental credit for the first ten (10) years, before gradually decreasing over the final five (5) years.

On February 28, 2024, Council held an initial work session on the proposed tax credit. The discussion yielded a number of questions for HCD, including potential impacts, costs, comparisons with other jurisdictions, goals and metrics, and interplay with other City policies.

Location and Properties that may have Potential Development

Figure 1 displays the zones that currently allow for multifamily development of 10 or more units. In most cases, these are located along the major corridors in the City (New Hampshire Avenue, Maple Avenue, Carroll Avenue, and Flower Avenue). These consist of about 390 parcels, of which 80% are currently

[1] The improved assessed value is defined as the difference between the assessed value before the project (and resulting tax bill) and the new assessment after the project was completed.

developed (either as housing or commercial properties) and totals about 154 acres (around 10% of the City's land area)[2].

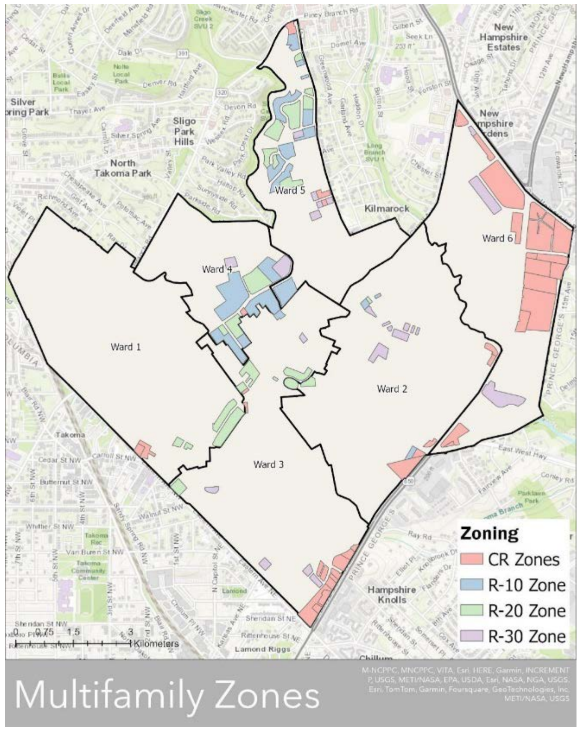

FIGURE 1

Fiscal Impact and Requirements for New Development

New construction and substantial renovation typically require the development to provide 1) a payment of impact fees for roads and schools and 2) the provision of public benefits[3]. These public benefits vary based on the project but include the requirement to build/upgrade sidewalks, provide open space, public art, or other benefits based on the area plan.

New development also must be built to the current building code standards, which include more stringent requirements for stormwater management and energy efficiency. The tax credit would not include a waiver of the City's Stormwater Fees and Rental License Fees, which offset the cost of overseeing inspections and

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[2] Some parcels are not currently zoned for Multifamily (such as the Hospital Site) that could have future development. These would either have to be rezoned or go through extra processes to develop housing.

[3] A project larger than the greater 0.5 FAR or 10,000 square feet of gross floor area in CR and LSC zones is required to include public benefits, implemented through a points system developed by the County Planning Department. For the CRT and EOF zones, the threshold is the greater of 1.0 FAR or 10,000 square feet of gross floor area. When public benefits are mandated, the process is known as the optional method of Development https://montgomeryplanningboard.org/wp-content/uploads/2023/12/Attachment-A-Summary-of-Development.pdf (page 1)

managing the City's stormwater infrastructure. Buildings that use City trash and recycling collection would also have to pay those fees as well. Staffing for the Library as well as Parks and Recreation are determined by those departments and would function independently of any housing project.

Comparison to Other Jurisdictions

Staff researched forms of housing incentives available in the DC Metropolitan area as part of putting together their proposal. A list of subsidies is in Table 2.

TABLE 2

Jurisdiction	Type	Details
Montgomery County	Payment in Lieu of Taxes (PILOT)	3 types, 2 based on affordability (For affordability period); 1 for WMATA Property (15 years) Focus is specific TOD or Affordability
Montgomery County	Housing Initiative Fund (HIF)	Grant/Cash Flow Notes to affordable housing projects
City of College Park	Revitalization Tax Credit Program	2 Levels (5-year lower credit, 15-year higher credit); geographic focus
Prince George's County	Housing Investment Trust Fund	Provides Workforce Housing Gap Financing with an emphasis on supporting the development of new construction, rehabilitation, and preservation of existing workforce and affordable housing while targeting households earning up to 120% of the area median income (AMI).
City of Alexandria	Predevelopment Loan	Loan for predevelopment for Affordable housing
City of Alexandria	Housing Opportunities Fund	Grants and loans for affordable housing projects and activities consistent with the goals and principles of the Housing Master Plan and City Strategic Plan.
Arlington County	Affordable Housing Investment Fund	AHIF is the County's main financing program for affordable housing development providing loans to affordable housing developments
District of Columbia	DC EDF Unit	PILOTS/TIFS/Abatements to support development. Total subsidy amount depends on an analysis of the project

District of Columbia	Housing Production Trust Fund	Loans/Grants for affordable housing production

While most of these focus on the provision of affordable housing, HCD were looking to incentivize the creation of new housing beyond affordable housing (which are typically units with rents affordable between 50 - 65% AMI). Over 90% of the City's rental housing is either deed restricted affordable housing or has rents affordable deemed to be naturally occurring affordable housing. For reference, Montgomery County estimates that roughly 45% of their rental units are affordable[4]. Based on this, the City is interested in providing incentives for a wider range of rental housing, including market rate rental housing.

To that end, HCD wrote the credit with greater flexibility, and modelled it after the City of College Park which provides a tax credit for redevelopment work in specific areas of the City[5]. DC does offer a tax credit/PILOT program, through their economic development finance unit, however, this program is case specific. One weakness of both programs is that it requires Council approval for the credit. Staff wrote this proposal to provide greater certainty for potential projects and to not preclude rental projects that may be proposed in the future but were not anticipated at the time of this proposal.

Condominium development was not included in this proposal for several reasons. First, any tax credit or PILOT program is typically aimed at rental housing where there is a single property owner. Any condominium tax credit would be difficult to administer given that each condominium would be separately assessed and there would not be a "base" tax rate to use for the incremental assessment. There also are homeowner tax incentives at the State and County level for condominium owners. Given these circumstances, HCD do not believe that including condominiums would be feasible or would make sense for inclusion in this specific Tax Credit Program[6].

HCD would prefer any ordinance to not have a sunset requirement for ease of administration as well as certainty. There could be confusion for example if a building submits for a tax credit but is delayed in getting a Use and Occupancy Certificate after the sunset date; or, if buildings receiving a credit receive it past the sunset date. Instead, Staff suggest including information on the program along with the Annual Housing Report, with the option for Council to propose and direct staff to make changes to the program.

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[4] Montgomery County Preservation Study conducted in July 2020; https://montgomeryplanning.org/wp-content/uploads/2020/11/200914-Montgomery-County-Preservation-Study.pdf (page 6)
[5] https://www.collegeparkmd.gov/DocumentCenter/View/343/Revitalization-Tax-Credit-Program-Guidelines?bidId=
[6] Condominium developments face several hurdles - such as finance underwriting and defect liability - which a tax credit would not address or likely overcome. (https://www.urban.org/urban-wire/housing-market-needs-more-condos-why-are-so-few-being-built#:~:text=First%2C%20financing%20constraints%20are%20an,hand%20or%20can%20obtain%20financing.)

Interplay with City and County Policies
Any newly constructed units would be exempt from Rent Stabilization for a 5 year period at which point any rent increases would be subject to the City's Rent Stabilization Ordinance (barring the approval of any exemptions under City Code). All housing projects are required to meet any affordability provisions set by County Code, such as the Moderately Priced Dwelling Unit (MDPU) program, which requires a set aside of 15% of units built in projects of more than 20 units.

Goals & Metrics
Currently, given that there has not been new construction in the City for the past 40 years, HCD are hoping to incentivize the production of 200 new units over the next 10 years. We hope to measure the tax credit using the following metrics:

- Number of units taking advantage of the credit
- Average Subsidy per Unit per Year
- Total Annual Credit Per Building and in Total

HCD would annually report on these metrics as part of the Annual Housing Report.

2. 'Missing Middle' Housing Construction Project Credit

Strategic Plan Strategy Addressed: *2.1.C:* Encourage and facilitate ways to allow purchase or rental of single-family homes by people of moderate incomes, through initiatives such as broadening down payment assistance programs, increasing available tax credits, encouraging use of accessory dwelling provisions, encouraging donations of property, exploring shared equity arrangements with outside partners, and educating residents and real estate professionals about these opportunities.

Proposed Eligibility Criteria: Homeownership project which creates 1 net new unit and a buyer making 120% AMI or less.

Proposed Credit Structure:

Year(s)	1-10	11	12	13	14	15	16-Onward
Existing Property Tax Collected	100%	100%	100%	100%	100%	100%	100%
Incremental Property Tax Collected	0%	10%	20%	40%	60%	80%	100%

A question that was asked of HCD is if there could be a tax credit for projects that develop smaller scale homeownership opportunities in areas that were previously single family. These are commonly known as missing middle housing types. Staff are proposing a tax credit, similar to the adding the following criteria for new homeownership housing projects:

- The project adds at least 1 new residential unit
- The recipient of the credit would be the buyer who would income certify at the time of the purchase as making 120% or less the area median income

Staff envision this being approved for projects that would be defied as ‘missing middle’ housing[7]. In cases where a lot was split as part of the project, the credit would be split proportionally between the two new lots so both potential buyers could benefit. Based on a recent duplex project in the City, Staff are estimating that the value of the resulting property(ies) would increase by anywhere from 60% to 130% and represent an annual benefit of between $800 to $2,000[8].

[7] These include duplex, townhouses, triplexes, fourplexes, multiplexes, cottage courts, and similar housing types. For a full list and discussion of these housing types: https://missingmiddlehousing.com/ offers a good primer.
[8] Given the few number of duplex or missing middle projects completed in the City, this represents a singular case study.

3. Affordable Housing Preservation Tax Credit

Strategic Plan Strategy Addressed: *1.1.B:* Provide support for multifamily buildings that include housing affordability protections for a majority of their units through direct or indirect government assistance such as Payment in Lieu of Taxes (PILOT) agreements, grants, tax credits, etc.; develop criteria for PILOT agreements and work to extend housing affordability agreements.

Proposed Eligibility Criteria: Deed-restricted projects which provide 30% AMI, Senior, Transitional Housing, or units for individuals with disabilities.

Proposed Credit Structure: A discount on the tax bill equal to the share of qualifying units with a maximum discount of 50% of the bill.

After discussions with affordable housing providers who are operating in the City, the City is moving forward with a potential framework for an affordable housing tax credit. HCD's goal with the tax credit is to promote the current provision of difficult to provide housing types. This credit would also replace the City's current one-off policy for awarding PILOTs to affordable housing projects, which are awarded without broad criteria or equity considerations.

Currently, HCD is proposing the credit to target units which provide units for:

- extremely low-income individuals (30% AMI),
- individuals with disabilities,
- seniors;
- and individuals who were previously homeless.

The proposal is to provide a credit based on the percentage of units meeting the above criteria, confirmed through regulatory agreements with state, county, or federal agencies. This would be a preservation tax credit, and the credit would exist as long as the regulatory agreement was in effect. The credit would be confirmed through the collection of the compliance reports submitted to the City under the Rent Stabilization Ordinance. The maximum credit awarded would be a 50% reduction of the tax bill. A sample credit calculation is included below in Table 3.

TABLE 3

Total Units	Eligible Units	Tax Credit
100	30	30%
50	26	50%
10	10	50%

HCD is proposing these criteria for several reason. One reason is that this is not incentivizing the creation or rehabilitation of units but rather would be an operating subsidy of existing units. Since many rent stabilized properties deliver affordable units for low income families (defined in this case as 50% of the AMI), we are trying to incentivize going “above and beyond” with this credit. Currently, there are 21 rental facilities that have deed restricted affordable housing. Of those, 10 would likely be eligible for this tax credit. A breakout of the cost and comparison of a higher AMI cap is in Table 4.

TABLE 4

Scenario[9]	No. of Buildings	No. of Units	20 Year Credit Value	Avg Annual Credit Value
Buildings with Senior, Disabled, or 30% AMI Units	10	580	$2,000,000	$100,000
Buildings with Senior, Disabled, or 50% AMI Units	17	1,090	$2,700,000	$135,000
Buildings with Senior, Disabled, or 60% AMI Units	21	1,290	$5,100,000	$257,000

[9] Assumes a 2% annual increase in the property assessment. Starting Assessments based on FY24 Tax Bill.

Currently, the City is providing tax credits in the form of PILOTs to 7 properties at a cost of roughly $60,000 per year. These credits will be expiring over the next two to three years. The intention of this credit is that it could be 'stacked' on top of other credits so that buildings could take advantage of other credits. So for example, if a property was a new senior housing complex, it could get the incremental assessment value in addition to a 50% Tax credit for providing all senior apartments.

HCD is proposing a 30% AMI maximum for the tax credit for several reasons. First, these units, like senior and supportive housing, are more expensive to maintain and provide which is why they require targeted incentives. While 60% AMI and below units are needed for City renters[10], we were also sensitive to the budget situation of the City, with an increase in eligibility to 60% AMI increasing tax credit

A concern of HCD is how equitable a credit would be for non-deed restricted buildings, which fall under rent stabilization. Roughly 93% of units in rent stabilized buildings have rents that would be defined as being affordable to 50% AMI households, however, these units would be ineligible for the proposed preservation tax credit, despite not having any subsidies, unlike deed-restricted housing. This recommendation is based on both being fair to all housing providers in the City and providing support for those providers who go "above and beyond" in providing needed housing types in our City.

[10] Roughly 40% of the City's Renters fall below 60% AMI per 2022 American Community Survey Table B25118

4. **Housing Reinvestment Tax Credit**

Strategic Plan Strategy Addressed: 1.3.D: Provide support to property owners and business owners through means such as grants and tax credits to allow such owners to maintain their property; such grants and tax credits should be targeted to those situations meeting criteria set by Council.

Proposed Eligibility Criteria: Multifamily rental property which contains 2 or more rental units and is proposing a project which would meet the HUD definition of substantial rehabilitation without permanently displacing any residents.

Proposed Credit Structure: 50% credit on property tax bill for 10 years.

The final new credit would be targeted towards buildings who conduct renovations which extend the life of the building. A breakdown of multifamily properties and their estimated tax bill is below.

TABLE 5

Building Type	**Count**	**Typical Annual Tax Bill**
Small Scale (6 Units or Less)	143	$4,140.00
Mid Size (7-19 Units)	15	$11,000.00
Large (20-99 Units)	21	$27,600.00
Towers (100+ Units)	8	$60,000.00

Given the number of multifamily buildings, any reinvestment credit would have to be both a competitive program and have special conditions for large scale buildings (those with 100 units) to not overextend City's budgetary commitments. Under the proposed credit, a property would have to propose a project that constitutes a substantial rehabilitation under the Department of Housing and Urban Development (HUD) to be eligible. Currently, this amount is $6,500 per unit. Only expenses for long term improvements (such as window replacements, appliance upgrades, boiler and AC upgrades, and roof replacements), would count towards the amount. Given the minimum cost to be eligible and a typical tax bill, Staff recommend a 50% Tax Credit since it provides a reasonable subsidy (roughly a third of the minimum project cost) provided for 10 years.

Due to the sheer number of potentially eligible properties, HCD recommending limiting the number of buildings depending on the level of funding for the program on an annual basis. Staff have laid out three options below for various funding amounts.

TABLE 6

Option	Annual Amount	Small Buildings (2-6 Units)	Medium Buildings (7-19 Units)	Medium Buildings (20 – 99 Units)
Option A	$50,000	2 every other year	1 every 5 years	1 every 10 years
Option B	$100,000	2 every year	1 every 3 years	1 every 5 years
Option C	$150,000	3 every year	1 every other year	1 every 3 years

Staff propose these options to try and balance our capacity and budget with the variety of housing types we have in the City. These credits would be competitively awarded based on the following criteria:

- Affordability Level of Units
- # of Violations/Citations
- Planned Improvements and Scope

It is important to note that this would not include the largest multifamily buildings – those with 100 units or more. Staff propose that those would need to be approved by council and evaluated individually given the size of the credit ($30,000 + per year).

Fiscal Impact

All of the proposed credits have meaningful fiscal impacts on the City, with some easier to predict than others. Both the Affordable Housing and Housing Reinvestment Credits would impact real existing tax revenue, but are also easily predictable, since the Affordable Housing Credit is based on existing rental licensing data (see Table 4) and the Housing Reinvestment Credit value would be capped by Council action (see Table 7). In total, these two credits would cost the City between $150,000 and $407,000 per year based on the eligibility criteria established.

In the case of the Missing Middle and New Construction Tax Credits, the impact would be on foregone revenue, while current revenue would remain the same. Additionally, since these credits are designed to incentivize additional development on underutilized parcels, the projects would have long-term net gains for City tax revenues. While HCD have estimated initial impacts in Table 8, a further analysis will be conducted based on Council feedback in July 2024, allowing the City to set deliverable and financial impacts for both credits.

TABLE 7

Option	New Construction Credit[11]	Missing Middle Credit[12]	Affordable Housing Credit	Housing Reinvestment Credit
Est. Units Created/Preserved/Rehabilitated	200	20	580 – 1,290	275 – 850
Est. Non-City Funds Leveraged[13]	$100,000,000	$10,000,000	-	$1,800,000 - $5,525,000
Est. Annual Real Revenue Impact Ranges	-	-	($100,000-$257,000)	($50,000-$150,000)
Est. Foregone Revenue (20 years)	($5,000,000)	($350,000)	-	-
Est. Revenue Increase (20 Years)[14]	$4,300,000	$175,000	-	-
Total 20-Year Fiscal Impact	**($1,025,000-$1,282,000)**			

11 Based on the Development of 200 new units at 2 sites with an assessment increase from $3.5 million to $35 million.
12 Based on the increased valuation of a sample project in the City and assuming 20 similar projects.
13 Assumes $500,000 per new unit created and $6,500/unit for reinvestment.

14 This represents revenue that would not have been collected if the project had not occurred.