SPUR
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April 14th, 2016

Supervisor Malia Cohen, Chair
Land Use and Transportation Committee
San Francisco Board of Supervisors
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

Dear Supervisors,

Thank you for the opportunity to comment on the Inclusionary Affordable "trailing legislation" introduced by Supervisor Kim and Supervisor Peskin. SPUR believes that any changes to the City's inclusionary housing requirements should not only maximize the amount of affordable housing created, but also ensure that market rate housing remains feasible to construct. We support many aspects of the legislation before you – particularly the requirement for the Controller to prepare an economic feasibility report and the creation of a Technical Advisory Committee to provide input into that analysis. We believe both of these provisions are critical to ensuring the success of San Francisco's inclusionary program.

However, we also believe the legislation should be revised on some significant ways.

Inclusionary housing requirements can result in the production of a significant amount of affordable housing — but only if two important factors are considered. First the levels must not be set so high that they make privately financed development infeasible. Second, changes in these requirements must "grandfather" in projects already in the pipeline that have been structured under a previous set of rules. For the real estate market to function, when people are investing large sums of money to purchase land and undertake projects, there needs to be a consistent and predictable rule of law about regulations like inclusionary housing requirements.

We support a gradual phase in of the affordable housing increases for projects in the pipeline **provided they are uniformly applied across all pipeline projects regardless of where they are located or their height**. Projects that have obtained their first final entitlement approval in 2016 should also be protected. While we appreciate the changes that the sponsors have made to this legislation, we believe there is more work to be done to ensure that this legislation creates fair grandfathering for projects in the pipeline.

Our recommendations are as follows:

1. **Ensure that pipeline projects in the Mission NC-T have the same pipeline protections as projects in all other areas.**
   SPUR believes it is inappropriate to single-out projects in the pipeline based on where they are located. Simply because a district includes higher affordability requirement does not mean they should be "carved-out" from protections granted other similarly situated projects. Instead, SPUR supports imposing a similar increase in affordability percentages for projects in those districts. This ensures a uniform increase across all pipeline projects, which is fair and reasonable.

   We appreciate that the sponsors have removed the carve out for the UMU and SoMA Youth and Family zones. However we strongly support the Planning Commission recommendation to remove all the specific "carve-outs" for areas in the legislation, including the Mission NC-T.

2. **Eliminate the exclusion of pipeline protections for projects over 120 feet.**
   As with the carve-outs from pipeline protections for projects in certain districts, SPUR believes it is inappropriate to single-out projects in the pipeline based on height. Under the current proposal, pipeline projects above 120 feet do not receive any in-lieu or off-site grandfathering, doubling their obligation. There are many midrise projects in the pipeline at 130 feet for which the new fee would be infeasible. As you know, taller projects are more likely to be for-sale projects. For most for-sale projects, the Homeowners Association dues are too high to effectively incorporate the inclusionary units on site, meaning that these projects often chose the in-lieu or off-site option for meeting their inclusionary requirement. Eliminating grandfathering for the in-lieu/off-site option will jeopardize these projects.

   We strongly support the Planning Commission recommendation to remove the specific exclusion for projects over 120 feet from the pipeline protections.

3. **Projects that have already received their entitlements by the effective date of the Charter Amendment should be protected from further changes in the rules.**
   We appreciate that the project sponsors have added language to the legislation that exempts projects that received their first final discretionary approval by January 12th, 2016. However we feel that projects that receive their planning approvals between January 12th 2016 and June 7th, 2016 should also be protected. We estimate that over 1,600 units have been entitled between December 12th 2015 (the date by which a project would need to be entitled for the 30 day appeal period to be complete as of January 12th, 2016) and April 7th, 2016 and there are likely hundreds more that will be entitled between April and June. These projects were started long before this measure was introduced for the ballot and should be subject to the rules that were in place at the time of their entitlement.

4. **The currently proposed grandfathering cut-off date of January 12, 2016 should be extended to the effective date of the Charter Amendment.**
   We support extending grandfathering provisions to projects that have submitted their first Environmental Application prior to June 7th, 2016. These projects are far enough along in the process that the financial structure of the project is predicated on the inclusionary requirements that are currently in place.

   Thank you for the opportunity to comment on this legislation. Should you have any questions, please do not hesitate to contact me at 415-577-1411.

   Sincerely,

   Sarah Karlinsky
   Senior Policy Advisor