SAN FRANCISCO
PLANNING DEPARTMENT

Memo to the Planning Commission

HEARING DATE: JUNE 16, 2016

1650 Mission St.
Suite 400
San Francisco,
CA 94103-2479

Reception:
415.558.6378

Fax:
415.558.6409

Planning
Information:
415.558.6377

Project Name:	**Streamlining Affordable Housing Proposals** **Proposed Government Code Section 65913.3**
Initiated by:	Governor Jerry Brown
Staff Contact:	John Rahaim, Planning Department Director

BACKGROUND

In May, Governor Edmund G. Brown Jr. released his May Revision to the State's 2016-17 budget[1]. His budget emphasized the need for fiscal prudence in anticipation of a decline in the state's economy. In the document the Governor expressed concern over California's "extremely high" housing costs. He stated that "[a]pproximately 1.5 million low-income California households pay more than half their income in rent, straining their ability to pay for other household expenses." In light of that, the May Revision asserts that:

> "Local land use decisions surrounding housing production have contributed to low inventories — even though demand has steadily increased. Local land use permitting and review processes have lengthened the approval process and increased production costs. Ultimately, the state's housing affordability will improve only with new approaches that increase the housing supply and reduce its cost. The Legislature is currently considering a number of these approaches. The May Revision proposes additional legislation[2] requiring ministerial "by right" land use entitlements for multifamily infill housing developments that include affordable housing. This would help constrain development costs, improve the pace of housing production, and encourage an increase in housing supply. It is counterproductive to continue providing funding for affordable housing under a system that slows down approvals in areas already vetted and zoned for housing. "

At today's Planning Commission hearing, the Director would like to discuss the Governor's Trailing Bill for Streamlining Affordable Housing Approvals with the Commission and the public.

[1] The Governor's 2016-2017 May Revision is available at http://www.ebudget.ca.gov/2016-17/Revised/BudgetSummary/BSS/BSS.html

[2] The May Revision to the Governor's Budget included the first draft of the Trailing Bill for Streamlining Affordable Housing Approvals. It is available at http://budgettrack.blob.core.windows.net/btdocs2016/1185.pdf

PROPOSAL SUMMARY

What would the bill do? In general, a housing project of two (2) units or more units that is consistent with certain "objective[3]" standards in the General Plan, Planning Code or Zoning Map (in effect at the time of application) and are within certain areas, shall be approved ministerially, if certain levels of affordability are provided.

Locational Applicability. The locational controls for sites that may utilize the streamlining provisions are restricted to "designated housing sites". "Designated housing sites" include sites designated to allow housing development by the General Plan, a zoning ordinance, *or*, for which a certified environmental review document includes provisions to mitigate potential harm from housing developments. Further, these sites must be either adjacent (or with at least 75% of the site's perimeter adjacent to) developed urban uses or must be bounded by a natural body of water. And, sites cannot be located on prime farmland, wetlands, very high fire hazard zone, hazardous waste site, delineated earthquake fault zone, within a FEMA flood plain or flood way.

Affordability Required. In order to qualify for the streamlining the project must provide affordable housing units for at least thirty (30) years if ownership, and 55 years if rental at the following rates:

i. If within a "Transit Priority Area", the project must provide at least 10% low-income (70% AMI) or 5% very-low income (50% AMI) .
ii. If not within a "Transit Priority Area", the project must provide at least 20% at 80% or less AMI.

Further, the proposed project must replace rent-controlled or income-restricted units at equal to or greater levels of affordability in order to be located on a parcel that has such units or had such vacant units or demolished units with rent restrictions within the past 5 years, or was occupied by low or very low income tenants. Lastly, displaced tenants are allowed relocation assistance under state law. The developer must pay relocation assistance expenses incurred by a local agency.

Review Process. The City has thirty (30) days to determine and provide documentation supporting whether a project is inconsistent with objective standards. If this inconsistency is not described and documented within thirty (30) days, the project is deemed consistent. The City can conduct design review for not more than a total of ninety (90) days from submittal of the application. Design review cannot "inhibit, chill, or preclude ministerial approval".

Legislative History. To date, the Governor has released three versions of the bill.

1. **Version Three, June 10, 2016. (Current Version)**
   http://www.dof.ca.gov/budgeting/trailer_bill_language/local_government/documents/707StreamliningAffordableHousingApprovals6-10-16.pdf

[3] The second version appears to limit the objective standards to the following: "The development is consistent with the following objective planning standards: land use and building intensity designation applicable to the site under the general plan and zoning code, land use and density or other objective zoning standards, and any setback or objective design review standards, all as in effect at the time that the subject development is submitted to the local government pursuant to this section."

2. **Version Two.** http://www.dof.ca.gov/budgeting/trailer_bill_language/local_government/documents/707StreamliningAffordableHousingApprovalswithTechnicalModifications.pdf
3. **Version One, May Budget Revision.** http://budgettrack.blob.core.windows.net/btdocs2016/1185.pdf

FAQ's and our best answers.

A. **Does CEQA apply to "streamlined" projects?** No, there would be no CEQA review on these projects. The City could codify important CEQA related standards as Planning Code controls.
B. **What does it mean to limit design review to that which does not "inhibit, chill, or preclude ministerial approval"?** The bill is unclear. It appears that projects could not be denied for design issues but that the Department or Commission could request certain design changes. The City could require a public notice and hearing process, if such process could be completed within 90 days of submittal of the application, but would appear to be unable to require design changes that were not based on objective standards.
C. **Would San Francisco's Affordable Inclusionary Housing Requirements as described in Planning Code Section 415 still apply?** Yes, the streamlined process would be available to projects meeting the lower state thresholds for affordability but projects would still have to comply with the City Planning Code's Inclusionary Housing Ordinance. Projects would likely either satisfy the City's Inclusionary Housing Ordinance by providing units on-site (currently 12%), or could combine the lower state on-site requirement (10%), with payment of the Inclusionary fee.
D. **Will on-site BMR units be rental units?** No. If there is no discretionary action, there can be no Costa-Hawkins agreement. Projects that want to provide on-site BMR rental units may be able to do so in conjunction with a subdivision application.
E. **How would the City protect historic resources?** Historic resource protections – such as mitigation measures or preservation alternatives - that currently occur through the CEQA process would not occur. Version Three of the Trailing Bill specifies that the streamlining provisions cannot be used on a site designated as a National Historic Resource or a listed State resource. It is unclear how locally Landmarked Buildings (Article 10) and the Downtown Conservation District (Article 11) protections would be applied. Articles 10 & 11 have "objective" triggers but typically have discretionary application.
F. **What happens to projects that need a variance, exception, or CU?** The Bill is not clear. The original legislation specifically stated "The review of a permit, license, certificate, or any other entitlement, including, but not limited to: the enactment and amendment of zoning or design review ordinances or guidelines, the issuance of zoning variances, the issuance of conditional use permits, and the approval of tentative subdivision maps, by any public agency with land-use authority over any development that satisfies subdivision (b) of this section shall be ministerial." Version Two and Version Three do not include this language.

Generally, speaking it appears that projects needing an exception would no longer be eligible for streamlining. If this is correct, then projects needing a Variance, a 309 Downtown Exception, a 329 Large Project Authorization or a 304 Planned Unit Development would not be eligible for streamlining.

However, projects requiring a Conditional Use authorization could be eligible for streamlined review if the project met *objective* conditional use criteria. It appears that the City could not apply any *subjective* criteria in deciding whether to approve the CU. Further, the CU process while allowed, it would need to be concluded within the timeframes permitted by the State Law. This may mean that the process would need to happen during the 30-day review window for objective standards and not the 90-day review window for design review.

G. **Would any local jurisdiction be "exempted" from the streamlining provisions?** No, Version Three explicitly states that the process applies to all cities, cities and counties, and charter cities, and that the legislation is designed to advance the attainment of sufficient housing to *accommodate all local government shares of regional housing need* (emphasis added) as referenced in Section 65584.
H. **What happens to "other" objectives standards not described in the footnote below**[4]? The Bill is unclear.
I. **Will this be the final version?** It is unclear. The Mayors of many major California cities have expressed overall support for the bill, while seeking some modifications. The letter to the Governor from San Francisco Mayor Edwin Lee is attached. In addition, other letters to the Governor may be found online, including letters from Oakland Mayor Libby Schaaf[5] and Los Angeles Mayor Eric Garcetti[6].
J. **Does Subdivision Map Act still apply?** Yes, if subdivision needed.
K. **Who can enforce land use restrictions?** A public agency and the public including non-profit corporations.
L. **When would this take effect?** The State Legislature is required to adopt and forward a final budget by June 15 to the Governor. While this deadline for the budget at large was met hours short of the June 15 deadline[7], the legislature took procedural steps to defer consideration of the Streamlining Bill until the August 2016.

---

[4] The second and third version appears to limit the objective standards to ONLY the following: The development is consistent with the following objective planning standards: land use and building intensity designation applicable to the site under the general plan and zoning code, land use and density or other objective zoning standards, and any setback or objective design review standards, all as in effect at the time that the subject development is submitted to the local government pursuant to this section.

[5] As posted by the San Francisco Housing Action Coalition. Retrieved on June 16, 2016 via: http://www.sfhac.org/wp-content/uploads/2016/06/Oakland-Letter-of-Support.pdf

[6] As posted by Los Angeles Times State Politics Report, Liam Dillon. Retrieved on June 16, 2016 via: http://twitdoc.com/view.asp?id=276346&sid=5X8A&ext=PDF&lcl=Brown-Governor-Housing-Budget-Proposal-June-2016.pdf&usr=dillonliam

[7] Megerian, Chris. "California Legislature approves $171 billion state budget", Los Angeles Times. June 15, 2016. http://www.latimes.com/politics/la-pol-sac-california-pass-budget-20160615-snap-story.html

Definitions.

Housing development project. Defined as a new structure with two or more units that is residential only, or residential with groundfloor neighborhood commercial or transitional or supportive housing. It does not include a second unit or conversion of units to condos in an existing building.

Transit Priority Area. An area within one-half mile of a major transit stop that is existing or planned provided the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program.

Major transit stop. a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a service interval frequency of 15 minutes or less during the morning and afternoon peak weekday commute periods, and offering weekend service.

Urban uses. Any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

Objective Zoning Standards and Objective Design Review Standards. Standards that involve no personal or subjective judgment by the public official; the standards must be uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and public official prior to submittal. Such standards may be embodied in alternate objective land-use standards adopted by a locality, and may include but are not limited to housing overlay zones , specific plans, inclusionary zoning ordinances, and density bonus ordinances.

REQUIRED COMMISSION ACTION

None. This item is informational only.

Attachments:

Exhibit A: Streamlining Affordable Housing Proposals Trailing Bill, Version Three

Exhibit B: Mayor Edwin Lee's Letter to Governor Brown Regarding the Streamlining Affordable Housing Proposals Trailer Bill

Streamlining Affordable Housing Approvals
Trailer Bill Technical Modifications (6-10-16)

SECTION 1. Section 65400.1 is added to the Government Code, to read:

65400.1. (a) A development applicant or development proponent pursuant to Section 65913.3 of the Government Code may submit information describing the development, including, but not limited to, land use and zoning designations and requested permit(s) for the development to the Department of Housing and Community Development in a reporting format to be made available. The information submitted shall be compiled along with information pursuant to subparagraph (B) of subsection (2) of subdivision (a) of Section 65400 and Section 65588 of the Government Code as follows:

(1) Upon receipt of a local government determination regarding the development submittal.

(2) Issuance of a building permit for the development.

(b) The Department of Housing and Community Development shall annually review and report on its website the information that has been submitted pursuant to this section.

SEC. 2. Section 65913 of the Government Code is amended to read:

65913. (a) The Legislature finds and declares that there exists a severe shortage of affordable housing, especially for persons and families of low and moderate income, and that there is an immediate need to encourage the development of new housing, not only through the provision of financial assistance, but also through changes in law designed to do all of the following:

(1) Expedite the local and State-supported residential development process.

(2) Assure that local governments zone sufficient land at densities high enough for production of affordable housing.

(3) Assure that local governments make a diligent effort through the administration of land use and development controls and the provision of regulatory concessions and incentives to significantly reduce housing development costs and

thereby facilitate the development of affordable housing, including housing for elderly persons and families, as defined by Section 50067 of the Health and Safety Code.

These changes in the law are consistent with the responsibility of local government to adopt the program required by subdivision (c) of Section 65583.

(b) The Legislature further finds and declares that the costs of new housing developments have been increased, in part, by the existing permit processes and by existing land use regulations, and that vitally needed housing developments have been halted or rendered infeasible despite the benefits to the public health, safety, and welfare of those developments and despite the absence of adverse environmental impacts. It is therefore necessary to enact this chapter and to amend existing statutes which govern housing development so as to provide greater encouragement for local and state governments to approve needed and sound housing developments~~.~~**,** and so as to assure that economic contributions by taxpayers and the private sector to support housing are cost-effectively and efficiently deployed to promptly create new housing in locations and at densities that have already been approved by local governments in general plans and zoning codes.

(c) It is the intent of the Legislature that the provisions of Section 65913.3 of the Government Code advance all of the following:

(1) Provisions of Government Code Section 65008.

(2) Implementation of State planning priorities pursuant to Government Code Section 65041.1.

(3) Attainment of Section 65580 of the Government Code.

(4) Significant actions designed to affirmatively increase fair housing choice, furthering the objectives of the Federal Fair Housing Act, 42 U.S.C. 3601, and implementing regulations.

(5) Objectives of the California Global Warming Solutions Act of 2006, commencing with Section 38500 of the Health and Safety Code.

(6) Compliance with non-discretionary inclusionary zoning ordinances adopted by localities.

(7) By right approval for developments that are consistent with objective land-use standards as defined in Section 65913.3(a)(9) and adopted by a locality, including but not limited to housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(8) Attainment of sufficient housing to accommodate all local government shares of regional housing need referenced in Section 65584 and improve reporting progress pursuant to Section 65400 for the legislature to amend Section 65913.3 or take additional measures to further attain the State's planning priorities.

SEC. 3. Section 65913.3 is added to the Government Code, to read:

65913.3. (a) For the purposes of this section, the following terms shall have the following meanings:

(1) "Approved remediation measures" shall mean measures included in a certified environmental impact report to mitigate the impact of residential development in the subject location; or uniformly applied development policies or standards that have been adopted by the local government to mitigate the impact of residential development in that location.

(2) "Affordable housing cost" or "Affordable rent" shall be as defined by Health and Safety Code subdivision (b) of Section 50052.5 or subdivision (b) of Section 50053, respectively.

(3) "Attached housing development" or "development" means a newly-constructed structure containing two or more new dwelling units that is a housing development project, as defined by subdivision (2) of subsection (h) of Section 65589.5 of the Government Code, but does not include a second unit, as defined by subdivision (4) of subsection (i) of Section 65852.2 of the Government Code, or unit from conversion of an existing structure to condominiums.

(4) "Department" means the Department of Housing and Community Development.

(5) "Financial assistance" means any award of public financial assistance that is

conditioned upon the satisfaction of specified award conditions; this term shall include but not be limited to: the award of tax credits through and by the California Tax Credit Allocation Committee, and the award of grants or loans by any state agency or any public agency.

(6) “Land-use authority” means any entity with state-authorized power to regulate land-use permits and entitlements conferred by local governments.

(7) “Land-use restriction” means covenants restricting the use of land, recorded regulatory agreements, or any other form of an equitable servitude.

(8) “Major transit stop” means a site containing an existing rail transit station, a ferry terminal served by either a bus or rail transit service, or the intersection of two or more major bus routes with a service interval frequency of 15 minutes or less during the morning and afternoon peak weekday commute periods, and offering weekend service.

(9) “Objective zoning standards” and “objective design review standards” mean standards that involve no personal or subjective judgment by the public official; the standards must be uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the development applicant or proponent and public official prior to submittal. Such standards may be embodied in alternate objective land-use standards adopted by a locality, and may include but are not limited to housing overlay zones , specific plans, inclusionary zoning ordinances, and density bonus ordinances.

(10) “Public agency” means a federal, state, or local government agency, or a local or regional housing trust fund which has been funded or chartered by a federal, state, or local government agency.

(11) “Required by law to record” means, but is not limited to, a development applicant or proponent is required to record a land-use restriction based on any of the following:

(A) As a condition of award of funds or financing from a public agency.

(B) As a condition of the award of tax credits.

(C) As may be required by a contract entered into with a public agency.

(12) “Transit priority area” means an area within one-half mile of a major transit

stop that is existing or planned, provided the planned stop is scheduled to be completed within the planning horizon included in a Transportation Improvement Program adopted pursuant to Section 450.216 or 450.322 of Title 23 of the Code of Federal Regulations.

(13) "Urban uses" means any residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.

(b) A development that satisfies all of the following criteria shall be a permitted use by right as that term is defined in subdivision (i) of Section 65583.2 of the Government Code:

(1) The development applicant or proponent has submitted to the local government its intent to utilize this authority, and has certified under penalty of perjury that, to the best of the person's knowledge and belief, the development conforms with all other provisions identified herein.

(2) The development is consistent with the following objective planning standards: land use and building intensity designation applicable to the site under the general plan and zoning code, land use and density or other objective zoning standards, and any setback or objective design review standards, all as in effect at the time that the subject development is submitted to the local government pursuant to this section.

(3) The development is located either on a site that is immediately adjacent to parcels that are developed with urban uses or on a site in which at least 75 percent of the perimeter of the site adjoins parcels that are developed with urban uses or bounded by a natural body of water. For the purposes of this section, parcels that are only separated by a street or highway shall be considered to be adjoined.

(4) The development must be an attached housing development, for which the development applicant or proponent already has recorded, or is required by law to record, a land-use restriction, which shall require all the following:

(A) A duration of at least 30 years for owner-occupied developments or 55 years for rental developments.

(B) That any public agency and any member or members of the public, including non-profit corporations, may bring and maintain an enforcement action to assure

compliance with this land use restriction. This sub-paragraph (B) shall also be deemed satisfied where a public agency that provides financial assistance to a development has the exclusive right to enforce the subject land use restriction.

(C) For developments within a transit priority area, a restriction on the real property of the development to a level of affordability equal to or greater than either of the following:

(i) At least ten percent of the total units of a housing development for lower income households, as defined in Section 50079.5 of the Health and Safety Code.

(ii) At least five percent of the total units of a housing development for very low income households, as defined in Section 50105 of the Health and Safety Code.

(D) For developments not within a transit priority area, a restriction on the real property of the development to a level of affordability equal to or greater than at least twenty (20) percent or more of the residential units restricted to and occupied by individuals whose income is eighty (80) percent or less of gross county area median income.

(5) Unless the development incorporates approved remediation measures in the following locations as applicable to the development, the development is not located on a site that is any of the following:

(A) “Farmland of statewide importance,” as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation.

(B) Wetlands, as defined in Section 328.3 of Title 33 of the Code of Federal Regulations.

(C) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Section 51178 of the Government Code, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Section 4202 of the Public Resources Code; however, this limitation shall not apply to any of the following:

(i) Sites excluded from the specified hazard zones by a local agency

pursuant to subdivision (b) of Section 51179 of the Government Code.

(ii) Sites that have adopted sufficient fire hazard mitigation measures as may be determined by their local agency with land-use authority.

(iii) Sites that are within a five (5) mile driving distance of the nearest fire station.

(D) Hazardous waste site that is listed pursuant to Section 65962.5 of the Government Code, or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed-uses.

(E) Within a delineated earthquake fault zone as determined by the State Geologist in the official maps published thereby as referenced in section 2622 of the Public Resources Code, unless the development complies with applicable fault avoidance setback distances as required by the Alquist Priolo Act and complies with applicable State-mandated and objective local seismic safety building standards.

(F) Within a flood plain as determined by maps promulgated by the Federal Emergency Management Agency, unless the development has been issued a flood plain development permit pursuant to Sections 59 and 60 of Title 44 of the Code of Federal Regulations.

(G) Within a flood way as determined by maps promulgated by the Federal Emergency Management Agency, unless the development receives a no rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.

(H) Within an area determined by the Department to be inappropriate for affordable housing development by additional objective criteria, including areas severely lacking in access to public transit, accessibility to employment or educational opportunities, and residentially supportive retail and service amenities, all as to be determined through regulations adopted by the Department at its discretion; until the Department adopts such regulations this sub- paragraph (H) shall not be interpreted to prohibit any such site. The Department is authorized, but not mandated, to adopt regulations to implement the terms of this sub- paragraph (H); and such regulations

shall be adopted pursuant to the Administrative Procedures Act set forth in Government Code section 11340 et seq. Division 13 of the Public Resources Code shall not apply to either: the Department's adoption of the regulations authorized by this section, or any financial assistance awarded by any public agency to any development that satisfies subdivision (b) of this section. This section shall be operative regardless as to whether the Department adopts the regulations authorized by this section.

(I) Within a site that has been designated in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966, or a site that has been listed in the California Register of Historical Resources pursuant to section 5021 of the Public Resources Code.

(6) Unless the proposed housing development replaces units at a level of affordability equal to or greater than the level of a previous affordability restriction, the development must not be on a site in which any of the following apply:

(A) The site includes a parcel or parcels on which rental dwelling units are, or, if the dwelling units have been vacated or demolished in the five-year period preceding the application, have been subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of lower or very low income.

(B) The site is subject to any other form of rent or price control through a public entity's valid exercise of its police power; or occupied by lower or very low income households.

(7) The development applicant or proponent shall provide a copy of the declaration required by subsection (b)(1) of this section to all landowners of legal parcels adjacent to the development concurrent with filing the submittal authorized by this section. This sub-paragraph (7) may be satisfied if the aforementioned declaration is mailed to the landowners at the address identified for receipt and payment of taxes through the applicable county assessor, or if mailed to the subject adjacent parcel's postal address.

(8) The development shall not be upon a site that is Prime Farmland, as defined pursuant to United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared

by the Farmland Mapping and Monitoring Program of the Department of Conservation.

(c) If the applicable local government determines that the development is inconsistent with at least one of the objective planning standards delineated in subsection (b)(2), then it must provide the development applicant or proponent written documentation of which standard or standards the development is not consistent with, and a written explanation why the development is not consistent with that standard or standards, all within thirty (30) calendar days of submittal of the development to the local government pursuant to this section. If the documentation described in this subsection fails to identify the objective standard or standards that the development is not consistent with, if it fails to provide an explanation of why it is inconsistent therewith, or if it is not provided to the development applicant or proponent within thirty (30) calendar days of submittal, then for the purposes of this section, the development shall be deemed to satisfy paragraph (2) of subdivision (b) of this section.

(d) Any design review of the development shall not exceed ninety (90) days from the submittal of the development to the local government pursuant to this section, and shall not in any way inhibit, chill, or preclude the ministerial approval provided by this section and the effect thereof.

(e) A development that satisfies subdivision (b) of this section shall not be subject to the requirements of Section 65589.5 of the Government Code in order to be accorded by right status under this section.

(f) This section does not relieve an applicant or public agency from complying with the Subdivision Map Act (Division 2 (commencing with Section 66410)).

(g) The review or approval of a permit, license, certificate, or any other entitlement, by any public agency with land-use authority over any development that satisfies subdivision (b) of this section shall be ministerial.

(h) Any person, as defined in Section 11405.70, seeking to require a City, County, or public agency to ministerially review or approve the matters set forth in subdivision (g) or enforce the by right provisions of subdivision (b) shall have the right to enforce this Section through a writ of mandate issued pursuant to Section 1085 of the Code of Civil Procedure. Owners of legal parcels adjacent to any development that

obtains by right approval under this section may also obtain relief through a writ of mandate issued pursuant to Section 1085 of the Code of Civil Procedure, the petition for which must be filed within thirty days of the earlier of the adjacent land-owners receipt of written notice of the subject approval, or actual notice of the approval.

(i) The development applicant or proponent may submit information describing the development pursuant to Government Code Section 65400.1(a).

(j) The Legislature finds and declares that this section shall be applicable to all cities and counties, including charter cities, because the Legislature finds that the lack of affordable housing is a matter of vital statewide importance.

(k) Any and all individuals displaced by a development that is approved through the ministerial process authorized by this section shall be accorded relocation assistance as provided in the California Real Property Acquisition and Relocation Assistance Act, set forth in Chapter 16, commencing with Government Code Section 7260. The development applicant or proponent shall be responsible for paying for relocation assistance expenses incurred by any local agency as a result of this section.

(l) This section shall apply, notwithstanding anything to the contrary contained in this code or in any other law.

(m) Nothing in this section shall be construed to expand or contract the authority of local government to adopt an objective standard by ordinance or charter amendment requiring housing developments to contain a fixed percentage of housing units affordable to and occupied by persons of specified lower or moderate incomes. Any affordable housing units shall be credited against the affordable units required to be created pursuant to subsection 65913.3(b)(4).

(n) A locality may adopt and publish a list clarifying its existing objective planning standards that a development must be consistent with as referenced in subsection (b)(2) of this Section.

OFFICE OF THE MAYOR
SAN FRANCISCO

EDWIN M. LEE
MAYOR

June 13, 2016

The Honorable Edmund G. Brown Jr.
Governor of the State of California
State Capitol, Suite 1173
Sacramento, CA 95814

Re: Streamlining Affordable Housing Approvals Trailer Bill

Dear Governor Brown:

I write with overall support for the Streamlining Affordable Housing Approvals Trailer Bill, and to urge the inclusion of key amendments and needed funding to allow cities such as San Francisco to better address the State's critical housing and homelessness concerns.

Like cities across California, San Francisco has experienced dramatic increases in housing prices, which has strained the pocketbooks of working families and further challenged the City's efforts to provide housing to those who need it most. In San Francisco, we have committed to addressing this pressing issue in a number of ways. The City is implementing ambitious local policies to encourage the production of affordable housing and meet our goal of constructing and rehabilitating 30,000 new units of housing by 2020, with at least one-third permanently affordable to low- and moderate-income households, and with over 50 percent accessible to middle-class San Franciscans. In addition, the City has prioritized moving people off of our streets and into supportive housing. The recently-formed the Department on Homelessness and Supportive Housing will bring all of the City's homeless services under one roof to more efficiently and effectively care for and house our most vulnerable residents.

Despite determined efforts at the local level, fully addressing our shared housing crisis will require a heightened commitment from the State. The proposed budget agreement allocating desperately needed funding for low-income housing and adopting the $2 billion "No Place Like Home" bonding initiative for California's homeless population represents a strong step in the right direction. Such funding, if coupled with thoughtful land use policy improvements, can help turn the tide on the housing crunch. By accelerating approvals for development in areas already zoned for housing, the Streamlining Affordable Housing Approvals Trailer Bill has the opportunity to provide a needed update to California's well-intentioned but often-abused review process.

With the addition of important amendments, the trailer bill can produce better results for cities seeking to thoughtful increase their housing supplies. Specifically, San Francisco respectfully requests the following:

- **Rental Units Included:** With increased production of rental units a critical component to addressing the housing crisis, clarification is needed to confirm that the holding of the 2009 *Palmer/Sixth Street Properties, L.P v. City of Los Angeles* case does not apply, and that the

1 DR. CARLTON B. GOODLETT PLACE, ROOM 200
SAN FRANCISCO, CALIFORNIA 94102-4681
TELEPHONE: (415) 554-6141

trailer bill extends to rental developments and municipalities utilizing the provisions of the bill have the ability to control prices for inclusionary rental units;

- **Ability to Go Further:** The latest revision to the trailer bill clarifies that the affordable housing requirements set forth in the trailer bill are minimums and do not restrict local jurisdictions from adopting stronger requirements, including for the percentage of inclusionary units, area median income (AMI) levels, or duration of affordability covenants. However, to ensure that economically infeasible local requirements are not used as a tool to circumvent this legislation, language should be included mandating that such local requirements be supported by a technical study confirming economically feasibility;

- **Extended Timeline:** Because detailed design and technical review can take a significant amount of time – particularly for larger projects – the trailer bill would be improved by allowing for a longer timeline for project review. This includes an initial 30-day period for a preliminary and nonbinding determination of conformance with objective planning standards, and then up to 90 days for smaller projects (fewer than 50 units) or 270 days for larger developments for detailed project review;

- **No Net Loss:** The trailer bill benefited greatly from recent revisions requiring no net loss of rent controlled or subsidized housing, and the legislation should be further strengthened by making ineligible for streamlining any developments that would result in the demolition of rent controlled or permanently affordable units;

- **Ellis Act Reform:** To bolster protections for current affordable housing statewide, provisions should be added to the trailer bill to prevent unwarranted evictions through abuse of the Ellis Act;

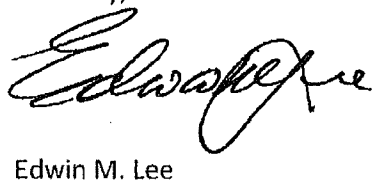
- **Construction Time Limit:** In order to ensure that residential projects approved through this new streamlined process actually get built in a timely fashion, a time limit for beginning construction after approvals are obtained should be added to the bill;

- **Workforce Equity:** Since housing is also a workforce issue, the trailer bill should support the payment of workers a competitive wage for the region, as well as provide apprenticeship opportunities for disadvantaged residents.

If paired with increases in State funding for affordable and supportive housing, a thoughtfully amended Streamlining Affordable Housing Approvals Trailer Bill will provide local governments with needed tools to address California's housing crisis.

Thank you for your leadership on this critical issue.

Sincerely,



Edwin M. Lee
Mayor