

Notes: Wiener CEQA Legislation Strategy Summit – Thursday 11/15/2012

Attendees

1

- Rose Hillson, Coalition for SF Neighborhoods
- Hiroshi Fukuda, Coalition for SF Neighborhoods
- Jeanne Quock, Coalition for SF Neighborhoods
- John Bardis, Coalition for SF Neighborhoods, former SF Supervisor
- Brent Plater, Wild Equity Institute
- Jonathan Evans; Staff Attorney, Center for Biological Diversity (CEQA issues at state level)
- Mike Buhler, SF Heritage
- Karen Babbitt, Sierra Club
- Jess Dervin-Ackerman; Conservation Program Coordinator, SF Bay Chapter, Sierra Club
- Sue Vaughn, Sierra Club
- Bernie Choden, SF Tomorrow, Parkmerced Action Coalition
- Angela Armstrong, Hunters Point Art Gallery
- Espanola Jackson (69 years in SF) long time organizer Bayview/Hunters Point (The Southeast Sector) – Black Human Rights Leadership Council; 30+ groups
- Eric Brooks, Our City (ourcitysf.org) and SF Green Party
- Howard Wong, SF Tomorrow
- George Wooding, Coalition for SF Neighborhoods
- Kathy Howard, SF Ocean Edge, Golden Gate Park Preservation Alliance (artificial turf is CEQA issue)
- Andrea O’Leary, advocate for parks on Mt. Davidson
- Roland Salvato, Aquatic Park Neighbors; Preservation Consortium
- Tes Welborn, Haight Ashbury Neighborhood Council (HANC)

History

2006 – Fiona Ma introduced legislation to weaken public access to CEQA procedures (drafted by long time aide for various supervisors Bill Barnes). Former Board of Supervisors president Aaron Peskin and others quashed legislation, and decided to leave current law and its ad hoc exemptions process as is, believing that it basically serves us well enough without amendments.

2010 – Michela Alioto-Pier re-introduced slightly revised 2006 measure. Planning Department had just been similarly attempting to weaken local Discretionary Review (DR) challenges of developer projects. Because this DR legislation preceded Alioto-Pier’s legislation on CEQA, an opposition coalition was already queued up and ready for battle, and so easily killed both DR (at Planning) and CEQA legislation (in the Board of Supervisors (BOS) Land Use Committee).

2012 – Present Legislation (Scott Wiener) far more egregious adaptation of Alioto-Pier measure.

State Level, 2007-2012 - various recent attempts to weaken CEQA law, including:

- SB 375 (Steinberg, 2008) ‘Streamlining’ CEQA review for ‘transit oriented’ projects. Passed.
- 2012, Senators Darrell Steinberg and Michael Rubio introduce legislation to severely weaken CEQA (at end of legislative session in an attempt to sneak it through). Killed in committee.
- 2012, Rubio appointed chair of Senate Environmental Quality Committee; wants to turn CEQA into a checklist; no public environmental disclosure. He, Steinberg, others intend state legislation in 2013. Steinberg sets CEQA ‘reform’ as ‘priority’ in 2013.

Note: For history of successes of CEQA interventions statewide, see Planning & Conservation League <http://www.pcl.org> “Everyday Heroes” (please add your own CEQA success reports)

Eric: Proposed core talking points for opposing:

1. There are many serious problems with this legislation restricting public access to CEQA process. Too many problems to amend; current text should be rejected outright.
2. Stakeholders representing our groups were not in any way invited to help draft legislation (enviro, social justice, neighborhood, historic preservation, parks advocates)
Demand fully inclusive stakeholder process in 2013 for entirely new legislation.
3. Rushed calendar for adoption during election and holidays outrageous, unacceptable.

Discussion of specific problems with legislation:

Brent: BOS can usurp the decision making; intervene and adopt the CEQA document far too proactively. Legislation could also be used to prevent appeals from being heard before full Board in many or all cases. These restrictions drastically reduce the time to supply relevant information, and the ability to establish environmental problems extensively in the public record through a longer formal appeals process. Since appeals are rarely upheld, this public record is crucial to later court challenges of project approvals.

Jonathan: Hinders public involvement in the process. For example requires filing an appeal before matter is even officially noticed. Extensive public involvement improves projects as they are considered. Wiener measure curtails environmental protection and informed self government.

- Under proposed amendments, public must submit materials to the BOS one day prior to when the decision is noticed (this is a Catch 22), and appeal period reduced to 10 days.
- Creates complex and confusing process for exemptions; limits the amount of notice provided; no paper copies provided to appellants when email is available regardless of appellant preference.
- Requirement to file two separate \$500 appeal fees before matter can go to BOS; double cost, admin overhead;

John Bardis: *At this stage we should focus on seeking delay due to flawed process (not on problems with legislation itself).*

Bernie: *Today's hearing is premature.*

Mike B: Presented UC Hastings Community Economic Development Clinic legal analysis, which states that Wiener legislation decreases opportunities for those with concerns to provide input; prevents challenges of environmental determinations if no approval action has yet been taken by the city; notification is less certain. Would streamline the process but would curtail the process.

Wiener legislation can trigger appeal far too early in approval process; eschews mandatory public notice in many cases; and for project sites / properties listed under historical survey would not be subject to mandatory public notice at all.

Said Supervisor Wiener claims legislation has been “well-vetted”.

Eric & others: *“well-vetted” apparently, simply refers to past attempts at passing this legislation and discussions with developers and proponents.*

Eric: Other Serious Flaws:

3

- City agencies would have autonomous authority to approve a project (or even just part of a project) simultaneously declare that project exempt from environmental review, and then simply get the Planning Dept. Environmental Review Officer to casually sign off on it. This would then trigger the appeal process *immediately at beginning* of project negotiation and development, instead of months or even years later when final form of project is established and approved. (For example Treasure Island appeal would've been triggered in 2006.)
- Any mandated BOS approvals of any part of a project eliminate appeal of project to BOS.
- If Planning or other dept. puts forward a project in response to a BOS ordinance, appeal would also be preempted. So supervisors could pass preemptive ordinances to block appeals.
- Via these and other sections the legislation, BOS could avoid most or even all appeals.

Hearings and Vote Timelines

- Planning Commission today (may be continued).
- If passed, is currently intended for BOS Land Use Committee Nov 19, and full BOS Nov 20.
- BOS Land Use Committee – Supervisor Eric Mar (chair of Land Use) will potentially schedule for Dec 3 or later. Nick (Mar's legislative aide) said postponement until Dec 3 likely.

[IMPORTANT Follow Up Note 11/21/12: We now know this item will be heard in the Planning Commission on Thu, Nov 29, 3pm, and will not reach the Board of Supervisors until 2013.]

Strategy – Who will vote on this item?

Next Year – New Supervisors

- D5 Supervisor – former Redevelopment Commissioner London Breed, Treasure Island, Bayview Hunters Point Shipyard – voted for all Lennar project approvals; is a developer rubber stamp. Will likely vote in favor of Wiener legislation.
- D7 Supervisor – EITHER: Norman Yee (another Olague?) is moveable but uncertain; OR: FX Crowley – trade union leader; FX will likely vote in favor of Wiener legislation to please building trade unions. (Note: Peskin has said building trades might have concerns with this legislation, indicating possible to get Crowley to vote no. What are these concerns?)

Likely Votes - Current Board

D1 – Eric Mar – maybe – likely on our side

D2 – Mark Farrell – Will vote with Wiener

D3 – David Chiu – maybe; but wants to be BOS president & so may side with Wiener

D4 – Carmen Chu – Will vote with Wiener

D5 – Christina Olague – maybe; looking for a job with SEIU? Other? Conflict of interest?

D6 – Jane Kim – probably with us (but also in contention for Board President?)

D7 – Sean Elsbernd – Will vote with Wiener

D8 – Scott Wiener – Will vote with Wiener

D9 – David Campos – Will very likely side with us and strongly oppose

D10 – Malia Cohen – maybe not; her aide on this issue is Andrea Bruss (pro-developer)

(only way to swing Cohen in our favor is heavy pressure from her constituents and D10 orgs)

*D11 – John Avalos – Will very likely side with us and strongly oppose, **but** wants our vote count*

Other Strategy Notes

Reach out to groups and individuals who endorsed given board members to get their help in influencing the vote.

Bike Coalition – they are in City’s favor and will vote with Wiener; they don’t need public comment; they are upset about CEQA because it was employed against them in bike plan lawsuit. Wiener will raise bike plan issue to argue for passage.

John Bardis: Don’t deal with specific leg problems or ask for stakeholder process right now at all. Focus only on bad process, and call for *delay* – don’t bring up legislation details or stakeholder meetings until necessary.

Bernie: Lawyers can enjoin the City from implementing the ordinance. We need to focus on legal strategy. If we lose, what do we do? Need lawsuits against faulty legislative process and legislation itself. Noted Wiener said “Streamlining will save the City and Developers money.”

Closing Strategy Session Argumentation Points:

1. State in today’s hearing that Sponsors have never come to all of us (deeply flawed process -and- demand a full stakeholder process. (all agreed on former but not latter – too early for such a specific ask, which might hem us in)
2. **State that our stakeholder groups have not been informed at all of the legislation! (all agreed)**
3. Outline the specific flaws... (not yet, too early – as in point 1)
4. State flat opposition because this legislation is filled in general with flaws, contradictions, and ambiguities, and has not been created through a suitable public process. (all generally concurred, but consented to lean toward avoiding too much specificity, as noted above)
5. State the brief outlines of how this legislation violates State Law – and that this *will* go to court (no consensus but no strong concerns)

Final Consensus Points Reached for Planning Commission Meeting:

- Make no specific recommendations to Planning and the Board yet, just raise basic general opposition and flawed process points (mainly the latter).
- Since Planning Commission does not have to make a determination today ask them to join the Historic Preservation Commission (HPC) in asking for a continuance.

Remaining Agenda Items – Detailed Opposition/Lobbying Strategy & Power Mapping

Bump the discussion of deeper strategy and power mapping (scoping out influence points and influential people on legislators) to next strategy meeting (all agreed)

-end of meeting notes-