

To:MTC/ABAG
Plan Bay Area Public Comment
101 8th Street
Oakland, CA 94607

Date: May 15, 2013

In Violation of CEQA, PBA And Its PDA's Will Destroy Established Neighborhoods

PUBLIC RESOURCES CODE

SECTION 21000-21006

21000. The Legislature finds and declares as follows:

- (a) The maintenance of a quality environment for the people of this state now and in the future is a matter of statewide concern.
- (b) It is necessary to provide a high-quality environment that at all times is healthful and pleasing to the senses and intellect of man.
- (c) There is a need to understand the relationship between the maintenance of high-quality ecological systems and the general welfare of the people of the state, including their enjoyment of the natural resources of the state.
- (d) The capacity of the environment is limited, and it is the intent of the Legislature that the government of the state take immediate steps to identify any critical thresholds for the health and safety of the people of the state and take all coordinated actions necessary to prevent such thresholds being reached.
- (e) Every citizen has a responsibility to contribute to the preservation and enhancement of the environment.
- (f) The interrelationship of policies and practices in the management of natural resources and waste disposal requires systematic and concerted efforts by public and private interests to enhance environmental quality and to control environmental pollution.
- (g) It is the intent of the Legislature that all agencies of the state government which regulate activities of private individuals, corporations, and public agencies which are found to affect the quality of the environment, shall regulate such activities so that major consideration is given to preventing environmental damage, while providing a decent home and satisfying living environment for every Californian.

21001. The Legislature further finds and declares that it is the policy of the state to:

- (a) Develop and maintain a high-quality environment now and in the future, and take all action necessary to protect, rehabilitate, and enhance the environmental quality of the state.
- (b) Take all action necessary to provide the people of this state with clean air and water, enjoyment of aesthetic, natural, scenic,

and historic environmental qualities, and freedom from excessive noise.

Hello, State Planners, You Intend To Willfully Violate CA Public Resource Code 21001(b)

Dear State Planners, are you awake this morning?

I wonder.

It seems that you all went to sleep for the many months that it took to draft Plan Bay Area and its accompanying EIR.

That's why I begin my letter this morning citing the preamble and beginning articles of CEQA---all of which admirably demonstrate the spirit and intent of this landmark legislation passed in 1970.

The lawmakers who wrote the California Environmental Quality Control Act, now embedded in the State Public Resource Code, would perhaps shudder at much of which is being proposed today and touted as an improvement of quality of life for all.

I'm speaking particularly about One Bay Area Plan and your intention to identify Priority Density Areas near transit and put the muscle on local municipalities to rezone accordingly---regardless of whether your new high-density construction would disrupt the tranquil atmosphere of established single-family neighborhoods.

You entirely forget, it seems, that many of the homeowners---who are also, by the way, are stakeholders---bought their properties so that they could live a quiet life separate from the urban style congestion that you state planners now so zealously want to reinsert.

Oh yes, I use the word "zealously" because it's entirely descriptive of your actions.

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(b) Take all action necessary to provide the people of this state with clean air and water, enjoyment of aesthetic, natural, scenic, and historic environmental qualities, and freedom from excessive noise."

So, what about this section 21001 (b) of the Public Resource Code?

In your rush to institute top down command and control planning "for the good of all" you completely ignore the protection offered by 21001 (b). Make no mistake, quality of life will be affected, quite negatively, by increased density forced upon neighborhoods who do not see this One Bay Area Plan as a social panacea.

And panacea definitely it is not.

Reality Check: The Truth About High Density Living

I am not a NIMBY.

I have a single-family house in an historic neighborhood in Corte Madera. The neighborhood is a mix of single-family homes and apartments. About 50-50 in terms of balance. Here is my situation: directly across the street, there is a duplex; next door to the east, I have a five-unit apartment building; same on the west side, five units of apartments; behind my property, to the south, are town houses.

So you see I am, so to say, a AIMBY---translated as It, meaning High Density, is “Already In My Back Yard.”

I have lived in my present location for 40 years and intend to stay for quite a few more mainly because of my greenspace---a big piece of property that actually has the type of yard that used to be more prevalent 45 years ago. The deer come and go. So do the night creatures, raccoons and opossums. And birds, also, lots and lots of birds.

Why am I telling you all this? Because I have the experience---the “street cred”---to speak on the subject of NIMBYism.

Let me tell you this: One has to be a diplomat to live in a neighborhood like mine because people are, after all, just people. The larger the group coming and going as a transient population of renters, the larger statistical sampling---AND VARIATION---you get as to social outlook and orientation, morality and what I call just plain old fashioned manners. Put simply, in regard to the kinds of people I’ve seen passing through my neighborhood, there are some very good people, some overall good, many in between, some sketchy and finally some just plain bad. That last category is the kind of person that is a disaster that has already happened. Their personal life is a mess. They are angry at life. And they inflict their attitude and lack of consideration on neighbors.

So what are the chief annoyances of high-density living? They are what I call the Big Four: excessive noise, dropped trash, parking in front of driveways, dog poop.

So tell me, dear planners, how does high-density living---AKA diversity---improve the quality of life for all?

It does not.

Nor should “social justice” be the rationale for foisting this ideology on quiet neighborhoods doing their level best to remain free of the Big Four Disturbances.

Stop Using The Pejorative “NIMBY” In State Publications

Actually, I’ve come to detest the word NIMBY. It’s actually a smug kind of slam. It carries the connotation of moral superiority, namely that “we know better than backward you what’s best for you and yours” NIMBY has become a cover and an excuse for pushing the agendas concocted mostly by state planning zealots and developers. The word has been so overused of late that it literally makes me sick and also quite angry. NIMBY, regrettably, has even found its way into official state publications.

It strikes me that state planners, tasked with setting what should be forward-looking public policy, have no done a perfect 180-degree turn from the environmental thinking prevalent when CEQA was written.

How bad has it gotten, this slide into a backward development-oriented mindset?

Two years ago, it would have seemed scarcely believable to imagine state bureaucrats employing name calling in order to push their ambitious plans for regional growth.

Yet astonishingly, there it is---the N__ word---embedded twice in an official state publication.

“NIMBYism can be prevented.”

“Good Design Beats NIMBYism In Irvine.”

Oh, but it’s true. These quotes are to be found in a publication titled “Myths And Facts About Affordable And High Density Housing” published by the California Department

of Housing and Community Development. Simply go online, type the title in the search box---which brings up the state-sponsored brochure---and then scroll down to Page 7. Up for further amazement? Drop to the end and view the credits, citing a galaxy of state sponsored studies and experts---some 54 references in all.

The point is that the bureaucrats of the state's alphabet agencies (ABAB, MTC, BAAQCB, BCDC, et al) now think they no longer need or want to hear dissenting views on their proclamation that "Density....at between 20 and 50 units per acre can be designed to fit in most California communities." (See page 6.)

Apparently, if you raise a democratic voice in opposition, you just haven't correctly understood. You simply have failed to recognize the benefits of what futuristic state planners envision as a multitude of perfectly designed, perfectly dense, perfectly diverse and socially equitable multi-story developments located near transit. Quite possibly coming, sooner rather than later, to a suburban neighborhood near you.

What Kind Of EIR Is This That Ignores Existing Residents, I.E, People?

The Bay Area Plan Draft EIR is a marvel in the care and attention given to possible impacts on flora and fauna. The section on "Biological Resources" fills 80 pages of the 1300+ page EIR. Predictably, state planners foresee no impacts on sensitive species once ample mitigation measures are deployed to potential construction sites.

Consider breeding raptors. The state proposes to establish a "no-disturbance buffer zone around active nests during the breeding season until the young have fledged and are self-sufficient...." For raptors, that buffer is a minimum of 250 feet. (Page 66).

The state has good reason to tread cautiously here.

"Take," as defined in Section 9 of the FESA (Federal Endangered Species Act), is broadly defined to include intentional or accidental 'harassment' or 'harm' to wildlife." (Page 39, PBA Draft EIR.)

In The State's View, People Apparently Are Less Significant Than Breeding Raptors

Yet, in all 80 pages, state report writers make zero (0) mention of possible impacts to the human ecosystem and human "nesting" sites once single-family neighborhoods are designated Priority Development Areas, rezoned accordingly and dense multi-story development goes forward. How very odd considering that many in suburbia bought their homes to escape the very urban noise and congestion that state planners now want to re-insert. Do state report writers tacitly assume that human beings are less biologically significant than breeding raptors? How about the "take" of human quality of life? Add NIMBY name-calling and you've got a serious case of STATE BAD MANNERS.

In closing, let me say that both the Plan Bay Area Draft and its Draft EIR clearly violate the spirit and intent of State Resource Code 21000-c:

"(c) There is a need to understand the relationship between the maintenance of high-quality ecological systems and the general

welfare of the people of the state, including their enjoyment of the natural resources of the state."

Yes, there is a need to understand the relationship of people, as well as flora and fauna, to the environment. All require their comfortable living space and their buffer, to some extent, from annoyance and distraction. The buffer cannot be the same for all. That is why some people actually choose the urban environment as their preferred home. Fine, let them. And god bless.

But, dear planners, I suggest that you let cities be cities and towns be towns. It is a very ill-conceived plan that wants to urbanize the suburbs. By definition, the people who chose to live there, in the suburbs, do not want to be urban or become part of the urban environment.

Freedom Of Choice IS American

And freedom of choice is the very essence of being American, is it not? If I've succeeded in waking you up, you must surely agree. That above-mentioned need to understand the relationship people-to-environment (21000-b) has not been met by you. Therefore, I ask you to scrap the ill-conceived One Bay Area Plan that elevates ideology and interests of developers high above those of the environment and living human beings. Go back to your drawing boards and write a new plan that is fair to all types and classes of people and does not wish to "Streamline CEQA" out of its very existence.

Sincerely,

Peter Hensel