

July 31, 2013

Ballot Simplification Committee
1 Dr. Carlton B. Goodlett Place
City Hall, Room 48
San Francisco, CA 94102

Re: **Request for Reconsideration of Digest for “8 Washington Initiative”**

Dear Members of the Committee:

Thank you for your time and hard work in preparing the approved digest for the “8 Washington Initiative” measure on the November ballot. I write to request reconsideration of the digest to urge you to make the following specific changes for purposes of clarity and factual accuracy:

A. THE WAY IT IS NOW

1) Include the Existing Open Space For An Accurate Description Of Current Site

The existing site includes “open space” in addition to walkways, the recreation center, and the public parking lot. On the northeastern corner of the site, there is approximately 7,500 square feet of grass that is privately-owned and maintained but open to the public at all times. Many residents and visitors currently use this open space to sit, eat lunch, play, and walk their dogs. Therefore, to give voters an accurate picture of what is there now, it is necessary to also include the words “open space” in the first paragraph describing the site as it is.

Suggested language for paragraph 1, sentence #2: “Approximately 80% of the Site is owned by the Golden Gateway Center and used as open space, walkways”

2) Change “Club” To “Center” To Fairly Describe Existing Recreation Center in a Parallel Fashion to The Description of the Proposed New Recreation Center

As the Committee stated in your Tuesday meeting, the existing recreation center is private and the 8 Washington developer’s proposed new recreation center would also be private. Therefore, both of them should be described using the same terms. In the approved digest, the existing recreation is described as a “club” whereas the proposed new recreation is described as a “facility” and as a “center.” They should all be described with the same term.

To ensure that voters understand what exists and what is being proposed are both private recreation centers open to people who pay for a membership or a day pass, we suggest that you use the same term to describe them in each location.

Suggested language for paragraph 1, sentence #2: “. . . and a private tennis and swim center.”

Suggested language for paragraph 2, sentence #1: “. . . a private fitness and swim center”

3) Use the Term “Height Limits” Rather Than Simply “Heights” Because That is The Term Most Voters Understand And Is More Accurate

The common term used to describe the zoning laws restricting the heights of buildings along San Francisco's waterfront and elsewhere is "height limits." The current version of the digest uses both the term "height limit" and "legal building heights" in "The Way It Is Now" section and elsewhere.

It would help voters understand the issue better if the same term used earlier in the digest were consistently used to describe the proposed change and what voters are being asked to vote for or against. Therefore, we suggest that the phrase "legal building heights" be changed to say "legal building height limits" to be consistent with the earlier description.

Suggested language for paragraph 3, sentence #1: "In approving the development project, the Board also adopted an Ordinance to increase the legal building height limits on a portion of the project."

4) Use The Same Terms To Describe How the Referendum and Initiative made the ballot since they both qualified for the ballot through a petition with sufficient voter signatures.

The current version of the digest states that the referendum "was filed" but then states that the initiative "qualified for the ballot." This will give voters the mistaken impression that the two measures made it to the ballot in different ways. It would be more clear and eliminate confusion to use the same term "qualified for the ballot" to describe them both.

Suggested language for paragraph 3, sentence #2: "A referendum (Proposition ___) then qualified for the ballot requiring that the Ordinance be submitted to the voters."

B. THE PROPOSAL

1) The Increase In Legal Building Height Limits up to 136 Feet Is Not a Part of the "Special Use District" and instead should be described in a stand-alone sentence rather than be simply listed as one of the numerous bullet point "features" of the new Special Use District.

In an identical way that the 8 Washington Referendum would increase legal building height limits on the Site by making amendments to the San Francisco General Plan and Planning Code, the Initiative would do the exact same thing. It is inaccurate to describe this height limit increase – the single most important and controversial feature of the Initiative – as simply one of the many "features" of the 8 Washington Initiative Plan.

The bullet points spelled out in the Digest are contained in Section 3 of the initiative as requirements of the new Special Use District. However, the increase in legal building height limits is not spelled out in that section – it is a separate and independent part of the Initiative, in the same way that the new restriction on the City Planning Director's time and discretion is a separate change.

Therefore, we urge the Committee to use the identical language used in the Referendum Digest to make the increase in legal building height limits a separate sentence and place it before the lengthy description of the "features" of the Special Use District, so that voters understand this is a fundamental change the Initiative would make to existing law.

*Suggested language for the first stand-alone sentence in "The Proposal" section:
"Proposition ___ would increase the legal building height limits on an approximately half-acre portion of the Site from 84 feet to 92 feet in one section and from 84 feet to 136 feet in another section."*

2) The Affordable Housing Payment Is Not A “Benefit” of The Special Use District But Is Legally Required By City Law Since No Affordable Housing Would Be Built On the Site

In the bullet point description of the 8 Washington Special Use District, the Digest states that the district requires “payment by the developer to the affordable housing fund of the City and County of San Francisco.” That is not accurate. The San Francisco Inclusionary Housing Ordinance (Section 415.1 *et seq* of the San Francisco Planning Code) already legally requires this payment since the developer has chosen not to include any units of affordable housing on the Site, and is only proposing to build multi-million dollar luxury condos on the Site.

Therefore, the Digest should state that this payment is required by city law since the developer has chosen not to include any affordable housing on site. Furthermore, since the Initiative does not specify the exact amount that will be paid into the site, and includes a range of condo units that would be built, which would impact the amount paid, it is appropriate not to include a specific dollar figure in the Digest, which would be entirely speculative.

Suggested language for the fifth bullet point: “payment by the developer to the affordable housing fund of the City and County of San Francisco as required by city law since no affordable housing units will be built on the Site.”

3) The Proposal Section Should Be Limited to Concrete Facts About What The Initiative Does, Not Opinions, Consequences, or Arguments For Passing The Initiative Such as “Expanded Pedestrian Access To the Waterfront,” “Bicycle and Pedestrian Safety,” “New Construction and Permanent Jobs” and “Increased Revenue For the Port and the City”

The Digest should describe what the Initiative factually and substantively does in an impartial fashion and not be a laundry list of the proponent’s arguments in favor of the measure. While the “Preamble” language in the Initiative includes a list of political arguments slanted in favor of why the Initiative is good, the substantive language of the Initiative is contained in Section 3, Section 4, and Exhibit A.

Nothing in the substantive Sections of the Initiative specify the “creation of new construction and permanent jobs” or “increase revenue for the Port and the City.” These are arguments in favor of the Initiative and potential, speculative consequences of its passage put forth but its advocates such as the developer and staff at the Port. While the title of one section states that it “enhances pedestrian and bicycle safety,” this is not a factual change made by the initiative but a rhetorical argument. The factual change is the replacement of existing curb cuts with one new curb cut. Rhetorical arguments for one side or the other have no place in the Digest. Previous Digests have not included statements that the measure “creates jobs” and we strongly urge the Committee to delete that and other rhetoric from this section as follows:

Replace the rhetorical argument: “new and expanded pedestrian access to the waterfront and enhanced bicycle and pedestrian safety” with the concrete fact “replaces existing curb cuts with a single curb cut”.

Delete the rhetorical argument: “The project will create new construction and permanent jobs and increase revenue for the Port and the City.”

If the Committee chooses to retain these “consequences” of the Initiative that argue for the benefits of passing the Initiative it would only be fair and balanced to also include some of the other “consequences” of the Initiative that describe some of the costs of passing it.

These should include:

“The project will demolish an existing recreation center used by seniors, children, and families and replace it with a more expensive recreation center less than half the size.”

“The project will cast new shadows on portions of Sue Bierman Public Park.”

“The project will eliminate public parking for customers of shops in the Ferry Building.”

“The project will block public views of Coit Tower from the Embarcadero and the Ferry Building.”

4) As Stated in the City Attorney’s Title and Summary, the Initiative Would Limit Both the City Planning Director’s Time and Discretion In Reviewing Plans for the Site

The objective Title and Summary prepared by the City Attorney and circulated to voters who signed petitions to qualify the Initiative accurately stated that the Initiative “creates a new ‘administrative clearance’ process that would limit the Planning Director’s time and discretion to review a proposed plan for the Site. This is not merely a technical detail but a fundamental change to existing law that eliminates the power of the Planning Department to review the project.

Furthermore, this new process in the Initiative would also eliminate the valuable right of any citizen who wants to challenge the approvals of building or site permits by appealing those to the Board of Permit Appeals through the normal process that exists today. By removing the decision from the Zoning Administrator who usually handles these matters and at the same time severely restricting the Planning Department’s time to review the process – if not approved within 30 days it will be deemed approved – removing the Planning Department’s discretion by making this a “ministerial” check-the-box approval only, and eliminating the public’s right to appeal through the normal process this legal change in the Initiative is something voters should be fully informed of. This is especially important in the Initiative because serious questions have been raised by the Public Utilities Commission and others about whether the building plans as proposed would endanger a major city sewer line.

Therefore, we request that the Digest reflect the City Attorney’s impartial description of the change made that will restrict both the City Planning Director’s time and discretion to review a proposed plan for the project and also will restrict the public’s right to appeal any decision.

Suggested language: “Proposition __ also would limit the City Planning Director’s time and discretion to review a proposed plan for the Site and would eliminate the public’s existing right to appeal building or site permits to the Board of Appeals.”

C. A “YES” VOTE MEANS & A “NO” VOTE MEANS

1) Since the Initiative Makes the Exact Same Change To Increase Height Limits as the Referendum Does, The Same Language Should Be Included in the YES/NO Questions.

A "Yes" vote on the Referendum does one thing: Increases Legal Building Height Limits at the 8 Washington Street Site. A "Yes" vote on the Initiative does two things: approves the 8 Washington Street Site project AND Increases Legal Building Height Limits at the 8 Washington Street Site. These are twin measures and the language needs to be the same.

The current version of the digest "YES" question implies that a "yes" vote approves the project but does not approve the same legal building height limit change that is indicated in the Referendum "YES" question. For consistency sake and to minimize voter confusion, we urge you to harmonize these questions and ensure that voters understand that the height limit increase is exactly the same in both measures.

Suggested language for "A 'YES' Vote Means": *"If you vote 'yes,' you want to increase legal building height limits on an approximately half-acre portion of the 8 Washington Street Site and approve the 8 Washington Street Site project."*

Suggested language for "A 'NO' Vote Means": *"If you vote 'no,' you do not want to increase legal building height limits on an approximately half-acre portion of the 8 Washington Street Site and approve the 8 Washington Street Site project."*

Attached to this letter is a clean version of a revised digest that includes these requested edits.

Thank you for time, consideration, and valuable public service to the voters of San Francisco.

Sincerely,



Jon Golinger
Director, No Wall on the Waterfront

Clean Copy Of Approved Digest With Suggested Revisions Underlined

8 Washington Initiative

The Way It Is Now:

The site proposed for development as 8 Washington Street is 3.2 acres bounded by the Embarcadero, Washington Street and Drumm Street (the Site). Approximately 80% of the Site is owned by Golden Gateway Center and used as open space, walkways and a private tennis and swim center. The remaining 20% is a public parking lot under the jurisdiction of the City and County of San Francisco's Port Commission.

In 2012 the Board of Supervisors (the Board) approved a development project for the Site involving construction of two mixed-use buildings containing 134 residential units, ground floor restaurants and retail, a private fitness and swim center, a public park and open spaces, and underground public and private parking. Aspects of this project were also approved by the San Francisco Planning Commission, the Port Commission and the California State Lands Commission.

In approving the development project, the Board also adopted an Ordinance to increase the legal building height limits on a portion of the project. A referendum (Proposition __) then qualified for the ballot requiring that the Ordinance be submitted to the voters.

This initiative (Proposition __) dealing with the same Site then qualified for the ballot.

The Proposal:

Proposition __ would increase the legal building height limits on an approximately half-acre portion of the Site along Drumm Street from 84 feet to 92 feet in one section and from 84 feet to 136 feet in another section.

Proposition __ would create a special use district known as the 8 Washington Parks, Public Access and Housing District. The district would require the 8 Washington Street Site project to include:

- two buildings housing a total of between 121 and 141 residential units;
- a private fitness and swim center, with a two-story height limit;
- a height limit of 6 stories for the residential building along the Embarcadero;
- payment by the developer to the affordable housing fund of the City and County of San Francisco as required by city law since no affordable housing units will be built on the Site;
- public parks, open space, walkways and sidewalks on at least 20% of the Site;
- a single curb cut to replace existing curb cuts

- ground floor retail and cafés; and
- underground private and public automobile and bicycle parking.

Proposition ___ also would limit the City Planning Director's time and discretion to review a proposed plan for the Site and would eliminate the public's existing right to appeal building or site permits to the Board of Permit Appeals.

A "YES" Vote Means: If you vote "yes," you want to increase legal building height limits on an approximately half-acre portion of the 8 Washington Street Site and approve the 8 Washington Street Site project.

A "NO" Vote Means: If you vote "no," you do not want to increase legal building height limits on an approximately half-acre portion of the 8 Washington Street Site and approve the 8 Washington Street Site project.