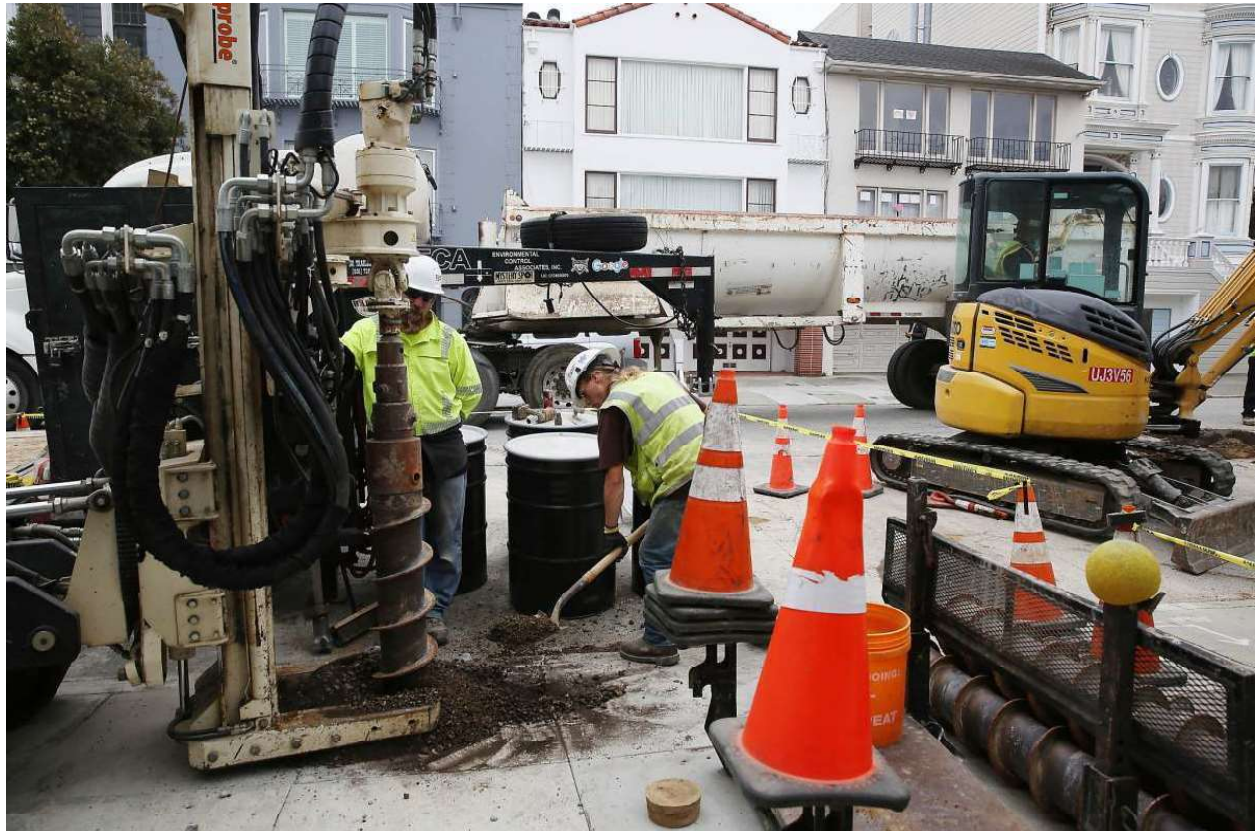


LOCAL

A polluted SF garage is being turned into condos. Neighbors say the city is violating state law to clean it up

[Cynthia Dizikes](#)

Aug. 12, 2020 | Updated: Aug. 12, 2020 7:12 p.m.



1 of 6

Laborers work in front of 1776 Green Street as a worker places dirt removed from the sidewalk into a barrel on Tuesday, August 11, 2020 in San Francisco, Calif. A Cow Hollow neighborhood group is contesting excavation work being done at 1776 Green Street saying that the city is not following state environmental law.

Lea Suzuki / The Chronicle

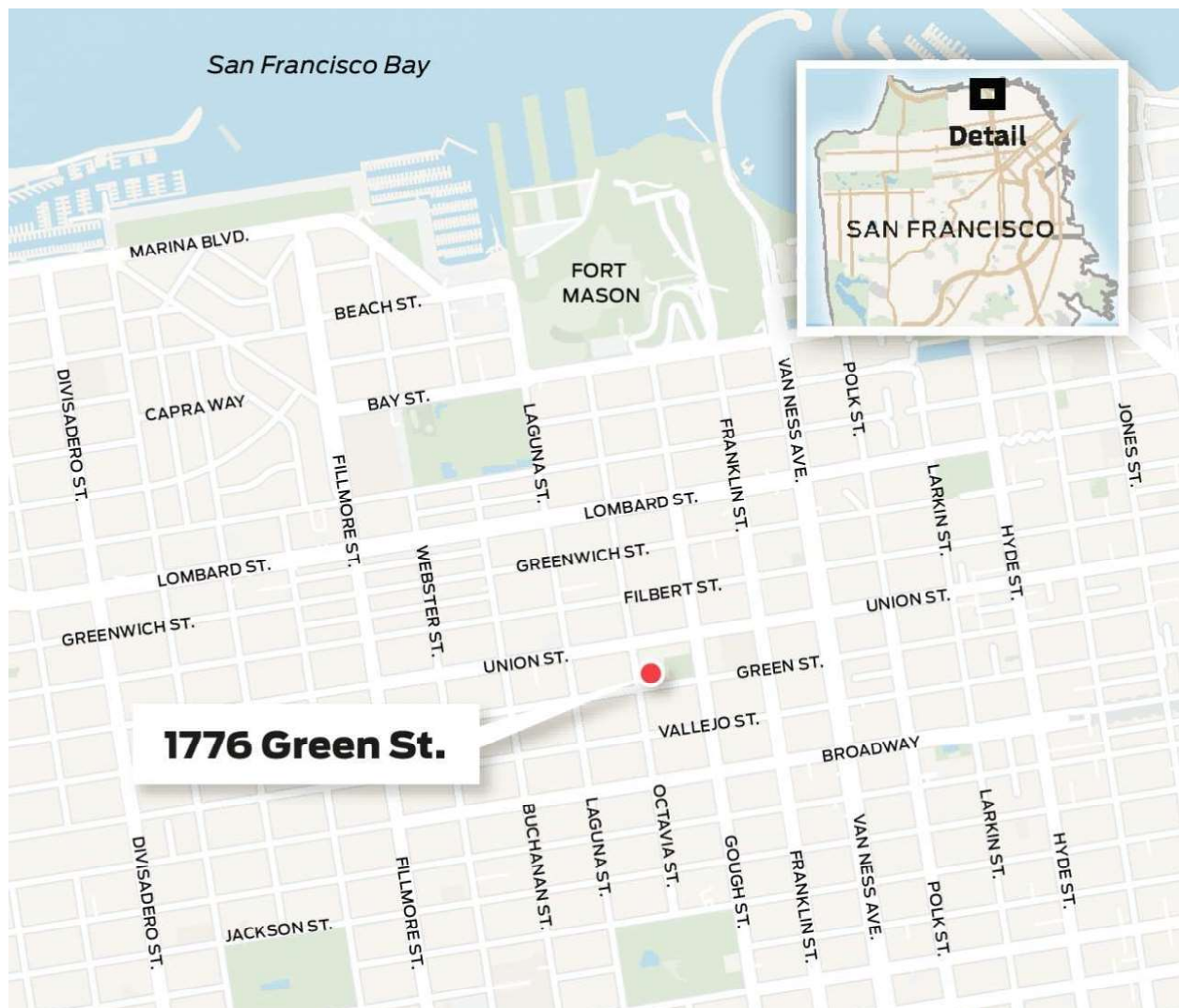
A group of San Francisco residents is accusing city officials of obstructing public oversight and violating the state's environmental protection law in the cleanup of a polluted auto repair garage being readied as the site for new condos.

The city's approach to the five-unit development at a vacant auto repair garage at 1776 Green St. is part of a pattern identified by The Chronicle in June, where planning officials have repeatedly let developers bypass state-mandated environmental reviews when assessing whether chemical-tainted properties — like gas stations, vehicle repair shops and parking garages — are safe for building new homes.

In the city's tony Cow Hollow neighborhood, the San Francisco Planning Department granted an exemption from state review for cleanup work beneath the sidewalk outside of

the Green Street garage where, years ago, gasoline storage tanks leaked high levels of cancer-causing benzene into the soil and groundwater. The exemption meant that the work, which includes excavating soil, could proceed without a public hearing and formal consideration of residents' concerns as required under the state's environmental law.

Neighbors appealed the exemption to the Board of Supervisors in July, arguing that it violated California law, which requires a thorough public review before cleanup begins. The neighbors want the supervisors to require that the project go through the state's environmental review process so they have a chance to fully vet cleanup plans and better ensure that nearby residents, construction workers and the condos' future occupants won't be exposed to any remaining hazards.

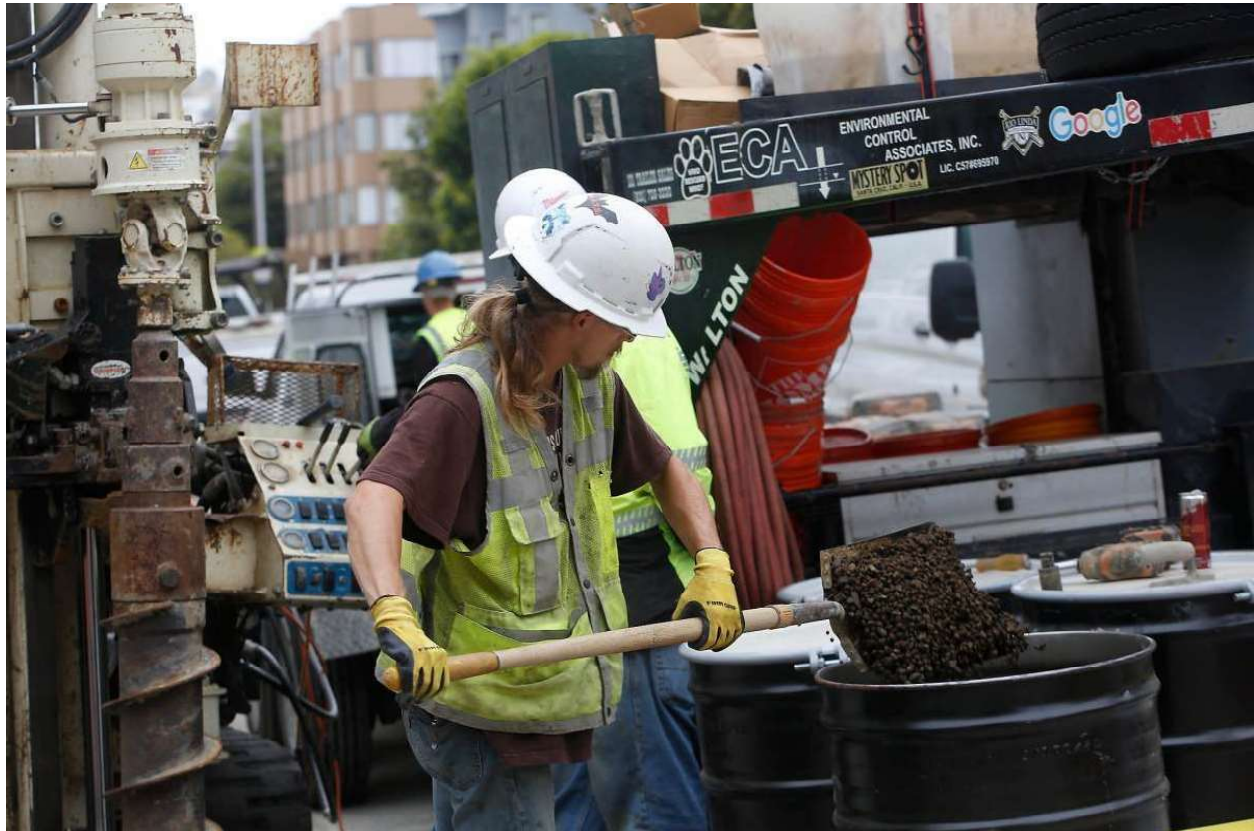


Despite the pending appeal, the San Francisco Department of Public Works allowed work to begin this week, and expects it to conclude on Friday. The supervisors have yet to vote on the appeal.

“In the 30 years I’ve been doing this I have never seen anything like it,” said Richard Drury, an environmental lawyer representing the group of neighbors in their appeal. “We are in the midst of an appeal process and they are short-circuiting the elected officials. City staff are making an end run around the Board of Supervisors.”

Supervisor Catherine Stefani, whose district includes the auto repair garage, said it was her “expectation that city departments closely adhere to the letter of the law.”

“If that’s not the case here, I will make sure they are held accountable,” she said.



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The Public Works Department referred questions to the Planning Department.

Spokeswoman Gina Simi said that the city is following the law and will address the legal issues that the residents have raised during the appeal process.

She has previously said the city cleans polluted properties according to state and regional standards, regardless of whether they go through the state’s environmental review process. In its document granting the exemption, Planning Department officials argue it is allowed because the sidewalk work is not part of the development itself — an approach the

neighbors say illegally “piecemeals” the project by carving it up into smaller parts.

Simi said they are separate projects and each “may be implemented without the other.”

The Green Street neighbors say what’s missing in the city’s process is the greater level of transparency and public engagement they are entitled to. Several environmental lawyers previously told The Chronicle that state law allows far more scrutiny of development on toxic sites than the city’s process alone. Under state law, the public can require that safer measures be taken to reduce significant impacts on the environment and health, and can more easily sue if they are not.

The California Environmental Quality Act requires local governments to notify the public about potential hazards at a site before cleanup and other development work begin. It allows the public to demand health protections and additional levels of cleanup, and requires formal consideration of those comments. To enforce compliance, people can sue agencies they think are failing to adhere to the law.

The neighbors also say the San Francisco Planning Department is simply not allowed to exempt the Green Street property from the state process.

The state law prohibits certain environmental review exemptions for tens of thousands of properties on a statewide roster of hazardous-waste sites, called the Cortese list, to protect the public, construction workers and future occupants from exposure to dangerous substances.

But in the past five years — as the city has faced intense pressure to build more housing — [a Chronicle investigation](#) found that the San Francisco Planning Department granted or considered implementing prohibited “categorical” exemptions for at least a dozen projects on Cortese list sites. The 12 projects, which included the Green Street garage, involved more than 250 current and future housing units around the city — in the Mission, Sunset, Cow Hollow, Nob Hill and other neighborhoods.

A categorical exemption is supposed to go only to projects with no significant impact on the environment or human health. After The Chronicle asked the Planning Department this year why it was exempting properties toxic enough to be on the Cortese list, planning officials announced they would no longer grant those exemptions.

But in the Green Street case, the Planning Department simply used a different kind of exemption for cleanup work in the sidewalk. The so-called “commonsense” exemption is intended for projects that present “no possibility” of significant hazards, according to state law.

In their appeal, the neighbors argue that the danger is apparent: Benzene — associated with the garage’s gasoline storage tanks under the sidewalk — was found in 2018 in the property’s groundwater at levels exceeding safety thresholds by about 900 times.

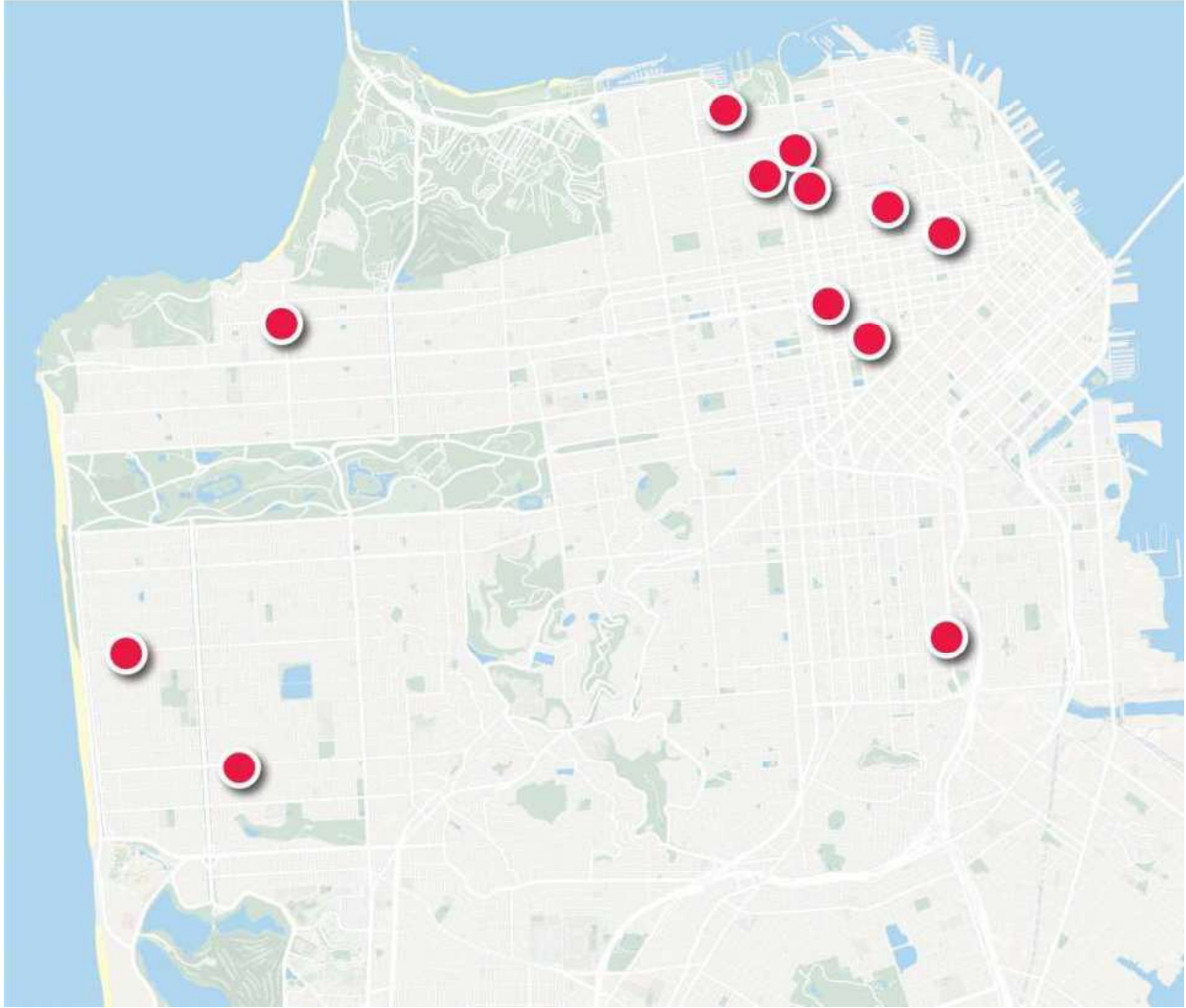


Anne Mackenzie, neighborhood resident, stands for a portrait across from 1776 Green Street on Tuesday, August 11, 2020 in San Francisco, Calif. A Cow Hollow neighborhood group is contesting excavation work being done at 1776 Green Street saying that the city is not following state environmental law.

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Additionally, they accuse the city of trying to “piecemeal” the cleanup from the development — a strategy that is barred under state law. The neighbors say the cleanup work under the sidewalk is clearly related to the development.

In his appeal, Drury wrote that the California Environmental Quality Act requires analysis of “the project as a whole,” so that “environmental considerations do not become submerged by chopping a large project into many little ones — each with a minimum potential impact on the environment — which cumulatively may have disastrous consequences.”



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Anne Mackenzie, who lives down the street from the garage and is contesting the exemption, said she was surprised late last week to see work notices fixed to the garage with bright red tape. Mackenzie and other neighbors have pushed the city for months to send the proposed development through environmental review so that they can weigh in on the cleanup.

“I don’t understand why they would approve this work if they had read the report documenting contamination on the property,” said Mackenzie, who has lived on Green Street for 50 years. “We are paying these people in these positions to take care of our community. We should not have to be fighting for them to go through this (public process).”

*Cynthia Dizikes is a San Francisco Chronicle staff writer.
Email: cdizikes@sfchronicle.com Twitter: [@CDizikes](https://twitter.com/CDizikes)*