



Californians United for a Responsible Budget

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June 2, 2015

San Francisco Planning Department
Attn: Sarah B. Jones
1650 Mission Street, Suite 400
San Francisco, CA 94103

Re: 850 Bryant Street-HOJ-Rehabilitation and Detention Facility

Dear Planning Department,

We are writing to appeal the approval of the Preliminary Mitigated Negative Declaration issued May 13, 2015 for the 850 Bryant Street Hall of Justice Rehabilitation and Detention Facility Project.

The Preliminary Mitigated Negative Declaration (PMND) failed to study significant environmental impacts regulated by CEQA. Because these impacts exist and have not been mitigated, the project must be further studied. We strongly urge that this study be conducted through a full Environmental Impact Report process so that public comments can be more thoroughly included and so that alternatives – including a no-build alternative – can be compared. Alternatives to the proposed project could be not only preferable under CEQA, but would also be lower cost measures and avoid the harsh social injustices of the proposed jail expansion. But with or without an EIR process, the Preliminary Mitigated Negative Declaration as currently written should be rejected because of its serious flaws.

1. Air quality and noise impacts on building occupants' outdoor space are not assessed and are potentially significant

The PMND recognizes that people being held in jail are “sensitive receptors” and that podular housing units are a sensitive land use for the purposes of CEQA air quality assessment, (PMND, p. 123-124, 128) and that the project is located in an Air Pollutant Exposure Zone. (PMND, p. 128) The PMND asserts that an Enhanced Ventilation Proposal approved by the Department of Public Health will be sufficient to mitigate the exposure of sensitive receptors to increased pollutant exposure. However, unlike other residential occupancies, people in jail are restrained not only in the indoor air quality they are exposed to but in their access to healthy outdoor air. In particular, the proposed building designs indicate that people in jail will be required to exercise and have outdoor recreation in yards that face Highway 101 to the west (PMND, p. 15-17). The proposed Enhanced Ventilation Proposal does not mitigate exposure to the dangerous air quality inherent in the proposed project site's outdoor areas. In fact, the building design of stacked, semi-enclosed yards facing into the prevailing winds coming across the freeway may well exacerbate already unacceptable outdoor air quality in the area. The potentially significant health impacts of having restricted outdoor spaces in an Air Pollutant Exposure Zone with designs that may concentrate pollutant levels have not even been studied in the MPND, let alone mitigated.

In addition, the noise levels for the outdoor yards are unacceptable. Although they have not been



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assessed within the PMND (which is its an error with the PMND), they can be expected to be at least as loud as current outdoor measurements at a similar elevation in the vicinity. (Elevation is an important factor to accurately reflect the distribution of freeway noise that is louder above and lower below the roadway guardrail height.) In fact, the partial enclosure of the proposed outdoor yards would likely reflect sound to increase noise levels. The PMND notes that “background noise levels (at or above the freeway elevation) were found to be 79 dBA (Ldn)74 near the northern façade (closest to the freeway) and 75 dBA (Ldn)75 near the southern façade (mid-block).” (PMND, p. 106-107) The most relevant categories from San Francisco’s Land Use Compatibility Chart for Community Noises are “Outdoor Spectator Sports,” which “should not be undertaken” in areas where outdoor noise is above levels of 73 dBA, and Playgrounds, which “should nor be undertaken” in areas where outdoor noise is above 75 dBA. (PMND, p. 97) Freeway noise levels are projected to increase by as much as 2.4 dBA in the future (PMND, p. 110). Noise is already recognized to be an additional source of stress within the jail environment, and outdoor spaces are generally one of a very few opportunities people in jails have to experience a less stressful environment. (Richard Wener, “The Environmental Psychology of Prisons and Jails,” Ch. 9 – “The Effects of Noise in Correctional Settings”: Cambridge University Press, 2012.) The proposed site is fundamentally incompatible with acceptable outdoor recreation, but the PMND has not studied, let alone mitigated, these conditions for the project.

While the inadequate level of study alone should result in rejection of the PMND, we would like to observe that the negative impacts of being forced to live in an extremely noisy Air Pollutant Exposure Zone are not borne equally by all sectors of San Francisco’s population. Many observers, including the San Francisco Sheriff, have noted the gross over-representation of people of color and specifically African-Americans in San Francisco’s jails. African-Americans are approximately 6% of San Francisco’s population but 56% of the county jail population. (Office of the Controller: “County Jail Needs Assessment,” August 15, 2012, p. 11 - http://www.sfsheriff.com/files/sf_jail_needs_8_2013.pdf) In addition, approximately 75% of people in jail are awaiting trial, most of whom can not afford bail but are not offered alternatives means of awaiting trial in the community because of under-funding of the Sheriff’s Pretrial Services Division. While we recognize that funding for local programs is not directly a CEQA concern, Environmental Justice is an appropriate concern for environmental planning documents. In the case of the proposed project, the negative health impacts of being forced to spend one’s only outdoor time in a noisy enclosed yard whose only open side is immediately adjacent to the most crowded freeway will be focused especially on poor African-Americans and people of color.

2. Project fails to comply with San Francisco Proposition M

As noted in the PMND, “Prior to issuing a permit for any project which requires an Initial Study under CEQA, prior to issuing a permit for any demolition, conversion, or change of use, and prior to taking any action which requires a finding of consistency with the General Plan, the City is required to find that the proposed project or legislation would be consistent with the Priority Policies.” (PMND, p. 28) Priority Policy #2 is “(2) conservation and protection of existing housing and neighborhood character to preserve the cultural and economic diversity of neighborhoods;” #3 is “preservation and enhancement of affordable housing;” and #5 is “(5) protection of industrial and service land uses from commercial office development and enhancement of resident employment and business ownership.” (PMND, p. 27) However, the project includes potential displacement of 14 units of existing affordable “SRO” housing: “If relocation of the building



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tenants is determined necessary, it is likely that the building could accommodate future commercial/office uses.” (PMND, p. 8) The potential “residential relocation plan” to be drafted by a different City department is not part of the PMND and may face significant hurdles. As is well known, the current supply of affordable rental housing in San Francisco is in a total state of crisis due to rising rents and the widespread use of eviction against low-income tenants. Waiting lists for public and affordable housing are years-long. San Francisco Housing Authority recognizes that “The demand for low-income housing in San Francisco far exceeds available units.” (<http://www.sfha.org/Residents-Applicants.html>) SFHA advises low-income tenants, “in many cases, you may have to wait 4 to 9 years before your name will reach the top of the List.” (<http://www.sfha.org/FAQ-s.html>) And at present, the waitlist for Section 8 housing is currently closed, and only 3 units were listed on their availability page within the past two years. (<http://sfha.org/Information--Section-8.html>, <http://sfha.gosection8.com/SearchRentals.aspx>)

In the current affordable housing crisis it is unrealistic in the extreme to assume that the Real Estate Division of the San Francisco General Services Agency has the funding or ability to acquire – even on a temporary basis – 14 units of affordable housing if the Housing Authority, which has the specific charge to find such units and lease them through Section 8 – cannot even accomplish this. Loss of the units violates Priority Policy #2 and #3; insofar as the area around this building is zoned SALI (Service/Arts/Light Industrial), conversion of the SRO into commercial/office uses would further violate Priority Policy #5 by encroaching such uses into an industrial and service land-use area.

The PMND fails to comply with the City and County of San Francisco’s Priority Policies #2, #3, and #5 and so should be rejected.

3. Parking impacts are not mitigated, but the project is not an employment center project

The PMND claims that “aesthetics and parking are no longer to be considered in determining if a project has the potential to result in significant environmental effects” per Public Resources Code Section 21099(d), effective January 1, 2014 (“aesthetics and parking impacts of a residential, mixed-use residential, or employment center project on an infill site located within a transit priority area shall not be considered significant impacts on the environment”) because the proposal is an “employment center project” (PMND, p. 31, 79). However, Public Resources Code Section 21099(1)(a) clearly states “‘Employment center project’ means a project located on property zoned for commercial uses with a floor area ratio of no less than 0.75 and that is located within a transit priority area.” The PMND states multiple times that the zoning from the project site is currently SALI (Service/Arts/Light Industrial) and is proposed to be changed to P (Public Use) (PMND p.2, 5, etc.) The project is not an “employment center project” because it is not on a parcel zoned for commercial uses – it is proposed to be zoned for public non-commercial uses. Thus parking impacts must be considered potentially significant unmitigated environmental impacts.

The PMND’s “informational” parking analysis indicates that the project will result in the removal of 22 off-street and 41 on-street spaces, all of them in a neighborhood of high demand. In addition, the project is projected to create a net increase of 47 new FTE employees (PMND, p. 36) creating a net new parking demand of 10 spaces for the Jail (“RDF”) portion, plus 26 more for the proposed reuse of 480-484 Sixth St. The PMND notes that “during field surveys on-street



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parking spaces on Harriet Street, Ahern Way, and Sixth Street were at or close to 100 percent occupied throughout the day,” and that “visitors or others that utilize the on-street parking on Harriet Street, Ahern Way, and Sixth Street would need to be accommodated elsewhere in the project vicinity, either on street or in other off- street facilities.” (PMND, p. 80.) The PMND concludes that “the net new project parking demand, and the demand associated with the parking spaces that would be eliminated, would need to be accommodated on-street or within nearby off-street facilities, and area-wide parking occupancy would increase further” – but the project includes no such accommodation. While the PMND speculates that “under cumulative conditions, as under existing conditions, due to the difficulty in finding on-street parking in the study area, some drivers may park outside of the study area, switch to transit, car-sharing, carpooling, walking, or bicycling.” (PMND, p. 89) However, the project includes no significant transit, car-sharing, carpooling, walking, or bicycling improvements, exacerbating the potentially significant unmitigated environmental impacts created by the parking impacts.

In fact, the PMND even recognizes that “considering cumulative parking conditions, over time, due to the land use development and increased density anticipated within the City, parking demand and competition for on- and off- street parking is likely to increase.” (PMND, p. 88) It also recognizes – but fails to study – “secondary physical impacts associated with constrained supply (e.g., queuing by drivers waiting for scarce on-site parking spaces that affects the public right-of-way)” and circling by drivers looking for parking spaces. (PMND, p. 79) The traffic analysis indicates that 4 of the 5 studied intersections already experience a Level of Service score of C or worse (1 is an F) at peak times (PMND, p. 59). Adding more vehicles to these congested conditions will aggravate traffic conditions and create more local air pollution and other potentially significant unmitigated environmental impacts.

In summary, the increased parking demand on both on-street and off-street parking spaces is clearly an unmitigated environmental impact. The unmitigated parking impacts could give rise to further unmitigated impacts on traffic and air quality. If for no other reason, the PMND should be rejected.

4. Wind impacts are underestimated and potentially significant

The PMND argument that “the proposed project would result in a less-than-significant impact related to wind hazards” (PMND, p. 139) relies on the fact that “the proposed Jail (“RDF”) would not be taller than the existing 117-foot-tall Hall of Justice.” (PMND, p. 138) However, there are significant errors in this purported fact. The wind analysis section identifies the new building as 95 feet high (PMND, p. 138) while elsewhere it is proposed as 95 feet high plus a 15-foot tall mechanical penthouse (PMND, p. 5). The project drawings indicate that the mechanical penthouse would occupy approximately 80% of the building roof area. (PMND, p. 9-12). The wind impact should thus be analyzed for a 110-foot tall building, which seems to be a basic error in the wind impact assessment.

A potentially greater error lies in the reliance on the existing Hall of Justice as part of the wind assessment. The Jail (“RDF”) project is only one piece of the larger Justice Facilities Improvement Program, which intends to demolish the majority of the Hall of Justice building “once all occupants are relocated.” (<http://www.sfdpw.org/index.aspx?page=127>) Because the Jail (“RDF”) proposal is the most complex and costly portion of the JFIP program, it is



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reasonable to assume that if the proposed project is built the Hall of Justice demolition will follow. In fact, the current project is proposed in order to enable the demolition of the Hall of Justice. The demolition of part of the Hall of Justice would significantly alter the wind dynamics in the area, yet the PMND wind assessment does not include the impact of the intended outcome of the proposed project. The PMND should not be approved with a flawed wind assessment.

5. A Full EIR will result in choosing a better alternative

Lastly, we would like to observe some the limitations of the proposed project approval by Negative Declaration. By choosing to (incorrectly) identify the project as one without significant environmental impacts, the project sponsors have avoided the time and cost but also the beneficial public input that would be part of a more thorough vetting of the project through CEQA's EIR process. The EIR process requires study of alternatives to the proposed project, generally including a no-build alternative. As we and many other San Francisco residents have already stated in public comments on this EIR and elsewhere, better alternatives to this project are not hard to find. For instance, an expanded Pretrial Diversion program could reduce the need for jail housing by hundreds of people, yet it was studied as an alternative to this expensive and negatively impactful proposal. It is also widely recognized that many people in jail have substance abuse and/or mental health problems. Instead of proposing to treat these vulnerable community members with relatively expensive and poorly performing interventions in a jail setting; public health based alternative programs, including residential programs, could serve the same population at lower cost, with greater effectiveness, and with a net benefit to public safety, by intervening before crimes have occurred. Again, such alternatives have not been studied, and will not be studied if this PMND is approved.

In closing, for all the reasons listed above, we urge your department to reject the Preliminary Mitigated Negative Declaration issued May 13, 2015 for the 850 Bryant Street Hall of Justice Rehabilitation and Detention Facility Project.

Sincerely,

Architects, Designers, Planners for Social Responsibility
California Coalition for Women Prisoners
Californians United for a Responsible Budget
Coalition on Homelessness
Critical Resistance-Oakland
Ella Baker Center
Housing Rights Committee
OWL-SF
San Francisco Tenants Union
St. James Infirmary
Tax Payers for Public Safety
Transgender, Gender Variant, and Intersex Justice Project
Western Regional Advocacy Project