

The Center for Health, Energy & the Environment, LLC

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October 5, 2020

San Francisco Board of Supervisors
Attn: Angela Cavillo, Clerk of the Board of Supervisors
San Francisco City Hall, Room 244
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102

RE: BOS File #200992 and #200996 - Saint Ignatius Stadium Lighting Project

Honorable Members of the Board of Supervisors:

The Center for Health, Energy and the Environment, LLC (“CHEE”) had submitted letters related to the Project’s CEQA and CUA appeals on September 17, 2020¹, ². Our CUA appeal letter addressed the Planning Department’s CUA response memo dated September 14, 2020.

Here, we must also respond to the Planning Department’s CEQA response document dated September 28, 2020³ and the response letter from the attorney for Saint Ignatius (“SI”) dated September 25, 2020⁴ to correct the numerous false and/or misleading statements made in those documents that relate to CHEE’s appeal letters. The Board of Supervisors must have accurate and complete information upon which to base the decision of whether or not to uphold the Commission’s CEQA and CUA approvals of the Saint Ignatius Stadium Lighting Project (“Project”).

The Department CEQA response states numerous times that Project impacts (noise, parking, public safety, aesthetics, light/glare, and impact on biological resources) are not exceptions to CEQA categorical exemptions but that they “*may be more appropriately considered by the board in its deliberation of the conditional use authorization appeal.*”

While we disagree that the Project qualifies for CEQA exemption, we strongly agree that these impacts can and should be considered by the Board within the context of the CUA, applicable codes and the General Plan. Please refer to CHEE’s CUA appeal letter, SINA’s appeal letter, and SINA’s three prior Commission submittals for the many ways this Project does not meet these requirements.

¹ <https://sfgov.legistar.com/View.ashx?M=F&ID=8795227&GUID=08D6D714-853E-4C7B-A92C-680F8A91E726>

² <https://sfgov.legistar.com/View.ashx?M=F&ID=8795228&GUID=75D8EEC6-7C80-49BF-B139-3A6F21706F09>

³ <https://sfgov.legistar.com/View.ashx?M=F&ID=8814618&GUID=F6DF402F-1724-4448-B6C4-2B7F67461142>

⁴ <https://sfgov.legistar.com/View.ashx?M=F&ID=8813283&GUID=095A6874-F7C4-44AB-BD0F-A157741A9163>

A. Planning Department Response Letter

Planning Response 2, pp. 6-7: The Department claims there is nothing unusual about the Project that would trigger CEQA review simply because other “similar” projects have been approved in residential neighborhoods. The footnote on p. 6 calls the appeal “*moot*” since residential neighborhoods exist “*almost everywhere in San Francisco*”. Attachment 1 to the Department’s response lists 18 facilities in the City with field lighting as support for their “*not unusual*” contention.

CHEE Rebuttal: CHEE’s CUA appeal letter challenged the Department to list similar non-public lighting projects in RH-1 districts that had received CUA approvals. The Saint Ignatius Neighborhood Association (SINA) June 9, 2020 Commission submittal⁵ also questioned the Department’s CEQA exemption statement (see CUA Motion #20769) that: “*based on the planning departments [sic] experience of conducts environmental review on similar projects near residential areas*”, this Project’s impacts would not substantially impact people, properties or biological resources.

SINA has argued all along that this Project provides no public benefit. In fact, the Department confirms this since 15 of the 18 facilities are public recreation areas or fields that provide public benefits unlike this Project. Two other facilities are a public school in the SFUSD and the public San Francisco State University. Only one of the 18 facilities is private - San Francisco University (SFU) which incidentally is a Jesuit college. This begs the question of why Saint Ignatius, a private Jesuit high school cannot rent the existing lighted facilities at SFU.

The Department could not even identify the hours of lighting use for two facilities, nor identify the lighting technology or height of light towers at any facility and cannot demonstrate any similarity between those projects and the potential effects of this Project.

That other field lighting projects exist and were CEQA exempt (on whatever basis was used) does not eliminate the need to consider the specific circumstances and potential effects of this Project on this neighborhood. Simply because another lighting project has been found to be CEQA exempt does not imply that all such projects can or should be exempt as well.

Planning Response 3, pp. 8-9: With regard to cumulative impacts, the Department considers “*reasonably foreseeable projects*” to be those currently under CEQA review, or which have recently completed CEQA review, or for which review is anticipated “*soon*”. A footnote to that statement references p. 22 in the Transportation Impact Analysis Guidelines.

The Department references the school’s 10-year Master Plan⁶ published in 2017 and characterizes construction of the proposed projects therein as “*speculative*” echoing the Saint Ignatius response letter.

⁵ <https://sfgov.legistar.com/View.ashx?M=F&ID=8795833&GUID=A2C9C0D9-173C-4921-B6FB-5A7339579A21>

⁶ <https://citypln-m-extnl.sfgov.org/SharedLinks.aspx?accesskey=44983aa73874e902da916ddc551b2fcd11620f616550cc8d836a40e7db038f16&VaultGUID=A4A7DACD-B0DC-4322-BD29-F6F07103C6E0>

CHEE Rebuttal: The Transportation Guideline applies only to transportation impact analysis, yet the Department uses its guidelines as a distraction to avoid evaluating all other Project impacts.

The Department also completely dismisses the other past and reasonably foreseeable future projects at the school. By definition, a Master Plan is not “speculative”; rather it is a guide or strategy to implement large or complex projects in a logical, stepwise fashion. The school’s Master Plan purpose is to “*facilitate its efforts to maintain and renovate*” the existing buildings and add new buildings. The 2017 Plan spells out these projects:

1. The school “*intends to replace McGucken Hall and The Commons*” buildings and expand the Academic Building.
2. The school “*is in need of a [new] theater facility*” which also necessitates relocation of the practice field.
3. The school has unsuccessfully tried to improve its indoor pool facility and so “*is proposing to significantly enhance the existing pool facility*” by constructing a larger outdoor pool.
4. The school “*will request an increase*” in enrollment. This was approved under an existing CUA in 2018).
5. The school “*would like to add sports field lighting*” to Murphy Field. This is the current Project being appealed.

The Department falsely states that it “*has not received a project application or any other information from the school indicating that these facilities would be reasonably foreseeable under CEQA*”. The following two items are on the Planning record and clearly “*reasonably foreseeable*”.

- The project to replace, remodel and expand the buildings was opened within the Department’s record (2019-003579PRV) in March 2019 and remains “under review” at this time, according to the Accela website.
- The stadium lighting Project’s application included a request for a CUA modification to extend practice field lighting from 7:30 pm to 10 pm. The school apparently pulled back on that request before the Commission hearing on this Project, and it is not part of this Project’s CUA approval. However, school administrators stated to SINA representatives in a July 7, 2020 Zoom meeting that they “may make that request in the future”.

It is inconceivable that the recent past and future planned projects, along with this lighting Project will not produce reasonably foreseeable circumstances that could result in potential cumulative effects on people, property and/or biological resources.

Planning Response 4, pp. 9-11: The Department makes several unsubstantiated claims that noise impacts would not be significant. The Department also claims that:

- The baseline condition “*includes the approximately 40 to 50 evenings where the school uses temporary lights*” that require diesel-powered generators.

- The school does not “*expect the project to create an overall increase in event attendance*”, with a footnote on p. 10 that states event noise would not be expected to exceed 10 decibels (dBA) above existing ambient noise levels, which “*would be considered substantial*”.
- Noise generated from evening use of the stadium “*would be largely from unamplified voices*”.
- The Department does acknowledge that evening field use would occur “*at a more noise-sensitive time*” but claims that noise that does not interfere with sleep disturbance or result in physiological effects is not considered unusual in the City and “*is not considered a significant impact under CEQA*”.

CHEE Rebuttal: All of these claims are false.

- CHEE’s CEQA appeal letter contained a comparative noise analysis that provides substantial evidence that noise impacts are likely to be significant.
- The appropriate baseline condition is not the use of temporary lighting, but rather no lighting at all. As CHEE and SINA have argued in prior submittals, the temporary lighting use was apparently unlawful under Planning Code Section 205.4(b). Neighbor testimony is that prior to the 2019-2020 winter season, temporary lights were used only rarely. For the first time in 2019-2020, temporary lights were brought in for a 4 to 6-week period and the lights were often left on with no one on the field or for a small group that could of used the existing lighted practice field. The Department apparently obtained the 40-50 nights value from SI’s response letter. Regardless, the Project would increase the field use to 150 nights, or three times the alleged “baseline”.
- The school does expect the project to result in larger event attendance, as we noted before and as stated in the CUA application: “*the lights will enable the school to have night games; increasing parental participation...*” It is also very likely that non-football games and even practices would have greater parental attendance if held in the evenings.
- We do not know how the Department determined that a 10 decibel noise level change is the appropriate threshold for CEQA significance. Even if applicable to this Project (we believe the appropriate threshold is 8 decibels per the City’s Noise Guideline), our analysis clearly showed that noise levels are likely to exceed that threshold over ambient conditions for all games, at least along 39th Avenue and most of Rivera Street.
- The Department’s claim that only noise that interferes with sleep disturbance or results in physiological effects would be significant is unsubstantiated. Furthermore, neighbor testimony provided as part of the appeal reported that sleep has been disrupted, especially for the neighborhood’s small children who go to bed early, during past field use under temporary lights.
- The claim that noise would be largely unamplified is patently false. SINA has audio/video of recent daytime practices that used amplified sound and neighbor testimony reported the impacts from frequent and typical amplified sound including music for games and events other than the large football games.

Planning Response 8, pp. 13-14: With regard to aesthetics, the Department states that the Project “*would not substantially degrade the existing visual character or quality of the site and its surroundings*” but admits that it would “*change the existing character*” of the site, and the surrounding neighborhood.

The Department then claims that CEQA does not consider impacts to the “*private views*” from surrounding residences, and that the light towers would be “*consistent with the primary purpose of the project site as a school athletic stadium*”.

CHEE Rebuttal: The Department’s arguments are flawed. SINA’s prior submittals provided substantial evidence (including photo renditions) showing that the light towers would have visual impacts to public views not just private views for a wide area around the school.

More troubling, the Department seems to suggest that if a proposed new project is somehow consistent with the existing site’s primary purpose, then it is perfectly acceptable on aesthetic grounds - regardless of its aesthetic impacts. This perspective could set a dangerous precedent for all kinds of undesirable development in the future.

B. Saint Ignatius (SI) Response Letter

SI Response p. 7: With regard to landscaping SI states: “*The school is presently in discussions with Climate Action Now...and the SFPUC to install drainage swales on Rivera Street and landscaping for 39th Avenue.*”

CHEE Rebuttal: SI has not provided a landscaping plan and there is no guarantee to provide landscaping, so any discussions are merely “speculative” at this time. Further, the school does not address the need for installing street trees along both Rivera Street and 39th Avenue in accordance with the City’s Urban Forestry Ordinance, Planning Code Streetscape standards, and SF Better Streets program.

SI Response p. 7: With regard to CEQA, SI states: “*There will be no expansion of use and therefore no significant new noise, parking or traffic impacts.*”

CHEE Rebuttal: Both the school and the Department fail to recognize that the additional impacts of the project will result precisely from shifting field use from daytime into the evening and night time hours.

The noise impacts will be greater since it is typically quieter in the neighborhood during the evenings, the traffic impacts of large football games will overlap with peak commute times, and the current parking issues experienced during the day would continue on into the evening and night under the Project’s expanded times of field use.

It is completely misleading to suggest that 79 SI teams would benefit from the lighting. SI’s response (p. 2) and the table on p. 7 both list 79 teams (this table also appears in the

Department's response letter). According to the Project application materials only 17 teams actually use the field – 3 football teams, 6 soccer teams, 4 lacrosse teams, and 4 track/field teams.

SI Response p. 8: With regard to noise, SI states that noise at the athletic field “*already exists and has existed for decades*” and there will be no increase in noise levels by shifting use into the evening and night time. Another statement suggests that CHEE’s analysis of other comparable schools is flawed and inappropriate since ambient noise levels are higher at the SI Project than at the other schools. Lastly, SI states: “*a proper noise impact analysis must use actual data at and surrounding a particular site to measure impacts*” (SI response footnote 1).

CHEE Rebuttal: The actual noise level itself may not increase, but the noise impact will increase since day time ambient noise levels are higher due to current school activities, local MUNI service, and day time traffic. Evening and night time ambient levels are lower than during the day in this quiet neighborhood as documented by neighbor testimony and by my own personal experience visiting the neighborhood numerous times on school days, weekday evenings, nights, and weekends.

SI clearly does not understand our comparative noise analysis. It did not evaluate ambient noise levels at the other schools at all. It took the measured noise levels from games and practices at those other schools; then mathematically converted those measurements using standard sound transmission equations to obtain equivalent noise levels at this Project’s property lines; and then compared those adjusted noise levels to the published ambient noise levels in this Project’s immediate neighborhood.

We agree that a proper noise impact analysis must use actual data; however, as CHEE and SINA have reiterated – it is the responsibility of the Project sponsor to conduct such studies.

SI Response p. 8-9: SI states that CHEE’s parking and traffic study was “*unscientific*” since it was a desktop analysis, that parking issues are an existing condition, and that the Project would only change the times of parking impacts, not increase them.

CHEE Rebuttal: First, our analysis was not intended and should not be construed as a CEQA study. Second, desktop analysis is a valid and well-accepted scientific method used in many fields⁷ including natural resource investigations where onsite field work is impossible, cost prohibitive, or unnecessary. Again, it is not the Appellant’s responsibility to undertake the actual studies necessary to determine potential impacts which would rightfully require onsite work.

Our analysis simply used available information to evaluate current conditions on different occasions reflective of a school practice, a school game, and no school activity at the Project site.

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https://www.researchgate.net/profile/Glenn_Bowen/publication/240807798_Document_Analysis_as_a_Qualitative_Research_Method/links/59d807d0a6fdcc2aad065377/Document-Analysis-as-a-Qualitative-Research-Method.pdf

To correct SI's completely false statement that I "*admitted*" that I did the analysis from my desk in New Hampshire (as if that even makes a difference), the parking and traffic analysis was actually conducted with the assistance of SINA members in San Francisco who used desktop methods supplemented with field checks and measurements in the neighborhood surrounding the school.

Most important, the Musco photometrics and Verde design documents are themselves desktop analyses conducted via computer-based methods. So, the obvious conclusion to SI's argument is that those studies must also be flawed and unscientific. Please refer to Kera Lagios' response letter being submitted simultaneously with this letter for more information on the flaws in the school's lighting "study".

Interestingly, SI made no comment about CHEE's critique of the Large Event Management Plan. It can only be concluded by this silence that SI has no arguments against our critique and agrees that it is a flawed plan that will not work in practice.

SI Response p. 9: SI also accuses me personally of "*complaining*" about the aesthetic impacts of the four lighting towers.

CHEE Rebuttal: We never mentioned aesthetics in our CEQA appeal letter. Aesthetics was mentioned once in our CUA appeal letter in the context of Planning Code Section 101.1(b) where we noted that 90-foot towers in a residential 40-foot height district does not protect the neighborhood character as required under the Code. We stand by our argument.

SI Response p. 9: With regard to sensitive species, SI claims that I said "*without evidence*" that sensitive species exist near the field and that they need darkness and that the field is artificial turf that provides no habitat.

CHEE Rebuttal: We provided documentation that sensitive species (e.g., rare, threatened or endangered species list by the federal and state agencies) do exist near the school or are likely to be present. Some of those listed species do require darkness. Artificial turf does not mean there is no habitat for most of these species – primarily birds and bats that would not inhabit the ground surface of the field. There is plenty of available habitat directly surrounding the field.

The added impact of 90-foot tall lights used 150 nights per year can reasonably be expected to affect these species more than they are affected under current conditions, and the added impact could put such species at greater risk. Again, it is not the Appellant's responsibility to conduct the studies needed to determine the level of significance.

SI Response p. 9: With regard to lighting impacts, SI claims that it is not true that similar athletic field projects typically require an EIR, and that two schools cited by SINA or by CHEE in prior submittals "*did not involve the simple addition of lights to an existing field like this project*", and that more extensive projects found that adding lights was insignificant.


CHEE Rebuttal: SI's contention is false. SINA's June 9, 2020 Commission submittal and

CHEE's CEQA appeal letter collectively referenced eleven high schools with similar projects. A review of those projects shows that all but one involved only new lighting, or only new lighting and ancillary equipment such as new bleachers and/or replacement (not new) sound systems.

Mysteriously, SI then references a school (Exhibit A of the response) for which an EIR was conducted and aesthetics were found to be not significant. It is very important to note that the EIR in that case found that non-construction related noise impacts would be significant and unavoidable as our noise impact analysis above also showed for other schools.

As both SINA and CHEE noted in our prior submittals, numerous other similar projects have also found some impacts whether noise, traffic, parking or the lighting itself to have significant impacts. We stand by the prior statement that such projects do typically require EIRs.

Sincerely,

A handwritten signature in blue ink that reads "Maryalice Fischer". The signature is written in a cursive style with a long, sweeping underline.

Maryalice Fischer
Executive Director, CHEE LLC