

*Juan Martin Jayo*  
*Attorney at Law*  
*PO Box 7442*  
*San Francisco, CA. 94120*

Secretary Planning Commission  
City and County of San Francisco

Re: 480 Potrero St. Development

Dear Commissioners:

I write as the attorney for MUNA. MUNA and the wider neighborhood have been trying to get the Planning Department to give due consideration to the concerns that the community around 480 Potrero has raised about this project. I contacted Don Lewis of the Planning Department staff and advised him that I had not received notice of the continuance of this hearing to July 18, 2013 and because I will be out of State on business that day I could not attend. I requested a continuance so that my client can have the benefit of full representation. Mr. Lewis informed me he would pass my letter on to you. Therefore I again request that this hearing be delayed a reasonable time so that I may attend.

I also write to call your attention to the failure of the Planning Department staff to respond to, and in many instances even reply to, the concerns raised by MUNA and other members of the impacted community. In fact in most instances the Planning Department Staff, have acted more like cheer leaders for the project than the City representatives charged with ensuring that the project proponent follows the rules, that the project does not endanger the health of the community, that the project does not endanger historical or cultural resources, that environmental justice concerns are not swept under the rug, that the community does have access to relevant documents and a real opportunity to study the project and ensure a proper response to community concerns. MUNA has submitted an appeal and supplemented that appeal with additional concerns. I summarize additional failures to undertake required actions by the proponent and/or the Planning Department below. Where we have received a response, it is included.

Failure to provide notice to the tenants at Mariposa Gardens, a minority community including children and a community that should be provided environmental justice protections under San Francisco policy . Planning Department response – not required to notice tenants.

Failure to provide the new Phase 1 report to the community or those requesting notice until the week of the hearing. This document was not even submitted to Planning until July 8, 2013, and is not considered in the response to the appeal. Planning Department response- none.

Failure to require the proponent to study and report on the potential impact of the project on the Verdi club which is eligible for inclusion on the National Register of Historic Places, and thus protected. No discussion of this issue in the approval documents, no mitigation required. Planning Department response – none.

Failure to require a health risk assessment or require environmental investigation now of the impact of asbestos exposure due to excavation in serpentine rock of at least 8 feet (in the last two weeks we have now been told the excavation will be to 16 feet in depth). I wrote Mr. Lewis about this concern and my letter is in his file. Planning Department response - no response to my letter was prepared. (Since then, we now know there has been correspondence on this issue between Mr. Lewis and proponent attorney Ryan Patterson.).

Failure to require the project to meet the zoning height limit of no more than 58 feet. The current plans call for a building reaching 68 feet (including elevator shafts) in height not the 58 feet listed in the Planning Department report promoting approval of the project. Planning Department response – meets height restrictions.

Failure to mention that a decision on the MND is on the agenda for this hearing or on the sign posted on the project property. Planning Department response – no need to advise the neighborhood of this issue.

Failure to provide notice to **Down Town High School which is within the quarter mile (1,320 feet) radius for which notice is legally required under California Code of Regulations – CCR Title 14: Guidelines §15186.** Per aerial measurements which will be provided at the hearing, Down Town High school is 1113 feet away from the project, so notice is required. Planning Department response - Not Applicable: The project site is not located within one-quarter mile of an existing or proposed school, and therefore, Topic 1c is not applicable to the proposed project.

The community also advised the Planning Department that weekly classes of pre-K and grammar school age children are conducted at the Verdi Club adjacent to the project area, which should cause the same need for review under Title 14, but this issue has been ignored.

Failure to consider the fact that the proposed building is out of character for the neighborhood (six stories on a street where the vast majority of construction is no more than two stories and none are over four stories). The appellants point out that there is no building anywhere on Potrero even comparable with the project other than General Hospital. Planning Department response – it fits the character of the neighborhood (No explanation or support provided.).

Failure to require the proponent to prepare a geotechnical report for the project. The report being relied on by the Planning Department is for an earlier completely different project and is over eight years old. Planning Department response – The appellant has provided no substantial evidence that this is a problem and it is anticipated that the proponent will deal with this later during the building permit process. **(It should be pointed out that the proponent and the Planning Department have not provided any evidence that this is not a problem and that the appellant has no ability to enter the property to conduct testing necessary to answer the questions posed. The proponent who does have access and ability, should be required to do an adequate study for this project so that the needed information is available to the City and the community before the project is approved.)**

Failure to require that the plans being submitted for project approval have been prepared and approved by a licensed architect. This is raised in my June letter to Don Lewis. Planning Department response – none.

Failure to require the project to meet San Francisco open space requirements. Planning Department response – waive requirement.

Failure to require adequate shadow studies, traffic impacts and noise impacts relating to the project. Planning Department response – no need or no problem.

We respectfully request that the appeal be granted. We further request that the Planning Department be directed to require that any amended project respond to the concerns raised in the appeal, the amended appeal and this correspondence.

Very truly yours,

Juan M. Jayo

Cc: Don Lewis, San Francisco Planning Department