Appendix A: Draft EIR Comment Letters
FYI: comments on the Almaden Corner Hotel EIR.

Thank you,

David Keyon
City of San Jose PBCE
Principal Planner  Environmental Review
(408) 535-7898

Hello Mr. David Keyon,

I represent the Department of Toxic Substance Control, a responsible agency, reviewing the Draft Supplemental Environmental Impact Report (SEIR) for the Almaden Corner Hotel Project. The project contact within the SEIR is listed as Thai-Chau Le. However, they appear to be out of the office until September 23rd. As our comment period for the SEIR ends prior to their return I thought I would direct our comments to the contact information on their “away message.” Upon review of the document DTSC requests the following comments be addressed in the revised SEIR:

- Due to the Recognized Environmental Condition (REC) that was indicated in the Phase I, hazards and hazardous materials should be fully investigated and characterized. The following comments are related to relevant past and future Hazards and Hazardous Materials topics that should be discussed in the SEIR. As indicated on the San Jose website, the Initial Study appears to be in draft form. Some of these comments may also apply to changes requested to be made to the Initial Study.
  - The report notes that a fire pump with an approximately 200 horsepower engine will be installed within the northern end of the basement. Typically fire pumps utilize a day tank with petroleum products as part of fueling operations. Please discuss how this fire pump will be powered and the planned regulatory permitting (if any) that will be instituted as part of operations.
  - The report notes that one emergency back-up diesel generator will be utilized within the western end of the basement of the proposed building. Within your description of the generator please include information on the type of diesel storage (i.e. day tank, underground storage tank, belly-tank, etc.).
  - A discussion of the project site history is included within the Initial Study. However, the project site history is not included within the SEIR. Please include a description of past uses of the site. Discuss potential hazards associated with these past uses.
  - According to the Initial Study, a gasoline service station/ automotive repair
facility operated on the project site from at least 1935 to 1955. In addition, according to the Phase-I ESA the adjacent property to the south, addressed 1 Almaden Boulevard, formerly operated as a gasoline service station/automotive repair business from at least 1915 to 1960. According to the report, there is no data indicating whether or not the underground storage tanks associated within the former gasoline service station/automotive repair business located on the property site were removed. Furthermore, the presence or absence of contamination on the site from the former gasoline service station/automotive repair facility or the former adjacent gasoline service station has not been determined. Prior to beginning work on the planned project, a Phase-II Environmental Site Assessment (ESA) should be conducted on the Project Site. The Phase-II ESA should conduct appropriate sampling (i.e. soil, soil gas, groundwater, etc.) in order to confirm the absence or presence of contamination at the site. In addition, an anomalies survey should be conducted by a licensed contractor to determine if any underground storage tanks associated with the former gasoline service station/automotive repair are still present at the project site. Should the Phase-II indicate contamination at the site above the regulatory screening levels, the local Certified Unified Program Agency and other pertinent regulatory agencies should be notified.

- The SEIR indicates that a Soil and Groundwater Management Plan will be implemented as part of construction activities. Unless the contamination is characterized and extent of contamination (if any) is delineated on the project site, a proper Soil and Groundwater Management Plan cannot accurately be implemented. It is pertinent to assess the extent of contamination (if any), media affected, and potential exposure pathways to protect construction workers, site personnel, and future guests and workers at the project site.

- The SEIR does not discuss open contamination cases within the project site vicinity. According to the Regional Water Quality Control Board’s Geotracker website, there are four open contamination sites within a .25-mile radius of the project site. These open contamination cases could potentially affect the project site. Please discuss these off-site contamination sources within the revised SEIR. In addition, a discussion of any open sites within DTSC’s Envirostor website should be discussed within the revised SEIR. If there are no open cases listed that could potentially affect the project site, please state this within the revised report.

Please feel free to reach out with any questions or concerns.

Best,
Ryan Ahrling

Ryan Ahrling
Environmental Scientist
Site Mitigation and Restoration Program
Department of Toxic Substances Control
700 Heinz Avenue
Berkeley, California 94710-2721
(510) 540-3817
Ryan.Ahrling@dtsc.ca.gov
October 3, 2019

City of San Jose
Department of Planning, Building and Code Enforcement
200 East Santa Clara Street, 3rd Floor Tower
San Jose, CA 95113

Attn: Thai-Chau Le
Via Email: Thai-Chau.Le@sanjoseca.gov

Subject: City File No. H18-038, Draft Supplemental Environmental Impact Report (SEIR) for Almaden Corner Hotel

Dear Thai-Chau:

The City of San José’s General Plan identifies the Santa Clara Street/Alum Rock Avenue corridor as a Grand Boulevard which provides preference for transit over other modes (p. 41). Santa Clara Street in downtown is VTA’s busiest transit corridor in the County of Santa Clara. Buses travel on this corridor every two minutes.

**City of San José Downtown Transportation Plan**
Currently, the City of San José is leading the Downtown Transportation Plan (DTP) to define transportation projects and programs to enhance access, mobility and livability downtown. The DTP promotes a transportation future that enables a safer and more convenient environment for walking, biking and using transit. VTA has had ongoing discussion with City Department of Transportation staff about including the concept of “Public Service Lanes” in the DTP. Public Service Lanes would be located along the curb-sides of Santa Clara Street for use by public transit and emergency vehicles only. VTA strongly supports the creation of Public Service Lanes, which will enhance downtown, support sustainable transit-oriented communities, and fast, frequent and reliable transit through downtown.

**Valet Drop-off/Pick-up Zone Operations**
VTA does not support the proposed curb-side three-car valet along the site’s Santa Clara Street frontage because it is inconsistent with the DTP’s concept of curbside Public Service Lanes. While the valet would be subject to a renewal on an annual basis, allowing an auto-oriented use such as valet, along Santa Clara Street would set a negative precedent that could preclude and interrupt a continuous future Public Service Lane serving the downtown core and the future downtown BART station.

If a valet is established on Santa Clara Street, VTA is concerned about the safety of the valet operation given that it will be located directly adjacent to an 11-foot travel lane containing a 10.5-foot wide buses operating at two-minute intervals. The proposed valet would be much more active than current uses along the corridor. Valet workers and passengers entering and exiting cars will occur many times per hour into the #2 travel lane along the valet.
Proposed Valet Drop-off/Pick-up Scenario
As a proposed alternative to a curb-side valet zone, VTA would be open to relinquishing the bus stop across from the proposed project on Santa Clara Street for valet use. This bus stop location provides over 100 feet of curb space in a much wider configuration than directly adjacent to the project’s frontage. The project valet could operate at this location and not disrupt VTA transit operations. Hotel patrons could safely cross Santa Clara Street in high visibility crosswalks at the Almaden Boulevard intersection. VTA requests a meeting to discuss the proposed valet and VTA’s alternative with City planning and transportation staff.

Transportation Demand Management (TDM)
VTA commends the project’s proposed TDM measures, including:
- Free VTA SmartPasses for all employees
- Incentives for off-site parking
- On-site TDM coordinator

VTA recommends the following items to further support the project TDM goals:
- Available transportation for emergency use by employees who do not drive to work
- On-site showers for employees (not apparent on August 2019 SEIR siteplan)

BART Silicon Valley Extension Project Coordination
As currently planned, VTA’s BART Silicon Valley (BSV) Phase II tunnel adjacent to the proposed project (Almaden Corner Hotel) would be approximately 65 feet below surface level. The design is progressing and more information will be available early next year. Continued coordination (meetings, plan reviews, sharing of design information) between the VTA’s BSV Phase II Project Team, the City of San José, and developer from the initial planning stages through preliminary design and construction phases will be required for successful delivery of both projects.

- **Construction:** Because of the proximity between the proposed project and VTA’s BSV Phase II project, specifically underground facilities, the development’s design including but not limited to the building’s foundation system, shoring, and support of excavation plans shall be shared with VTA to ensure there are no potential impacts on either project. Additionally, as both projects may be built concurrently, it is recommended that construction activities (including but not limited to haul routes, times, logistics, etc.) be further discussed as design progresses.

- **Monitoring impacts to historic structures:** Per the SEIR (p. 35): “construction of the proposed project could result in cosmetic damage to the De Anza Hotel (a City Landmark).” The SEIR identifies mitigation measures to monitor construction impacts on the De Anza Hotel. VTA’s BSV Phase II Project will be implementing a similar program to monitor and evaluate impacts to historic structures due to construction of the underground tunnel. Coordination between developer and VTA will be required in order to accurately evaluate and monitor impacts caused by one or both construction activities.
Thank you for the opportunity to review this project. If you have any questions, please contact me at (408) 546-7985.

Sincerely,

Brent Pearse  
Transportation Planner

CC: Florin Lapustea, Jessica Zenk, Wilson Tam, Doug Moody, Patrick Kelly, Eilbret Mirzapour, Arlyn Villanueva - City of San Jose; Erica Roecks, Adriano Rothschild, Samantha Swan - VTA

SJ1823
Hello -

I’m a downtown resident writing to express my support of this project. I am very excited to have increased hotel space for events and for people to come visit our beautiful city.

I also love that it will include a restaurant/bar on the 19TH floor. That will be one of the premiere rooftop venues in the entire south bay!

Move this project forward!!

Thanks!
A 19-story, 272-room hotel providing no on-site parking, blocking an adjacent condo, and destroying an adjoining historic hotel will soon be approved by San José powers-that-be. Nothing any of us can say will change your votes which you have, in all likelihood, already cast. I wish you could see how ridiculous this proposed plan is, how foolish you all appear to be, kow-towing to developers’ sweet talk and money. There is still time to save the street trees and to allow us to enjoy the Life Abundant mural before it is obliterated forever. Thank you for giving consideration to declining permission for this fiasco.  

*Linda Dahlberg*
Hello,

Previous studies were used to determine site sensitivity. Based on the information completed for the adjacent development within the same block back in 2004, no prehistoric cultural resources were previously recorded within the project area, but there are numerous prehistoric resources that have been recorded along the Guadalupe River floodplain. Based on information of past projects in and around this site, there has not been any records found of sacred sites.

Furthermore, based on the initial trench work that was done for the adjacent Axis residential project, it is known that artifacts pertaining to the Notre Dame School were present on the adjacent site. Testing and archival research has shown that two types of historic archaeological resources were present on the adjacent project site that retain integrity of location and setting, and were found to be eligible for the CRHR under Criterion 4. Therefore, the project has included mitigation measures for subsurface work.

Please let us know if you have any further comments or questions about this project.

Best regards,
Thai

So what did Sonoma State Clearing house say about Sacred sites in the area

On Mon, Aug 19, 2019 at 11:02 AM Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov> wrote:

NOTICE OF AVAILABILITY OF A DRAFT SUPPLEMENTAL ENVIRONMENTAL IMPACT REPORT (EIR) AND PUBLIC COMMENT PERIOD

Project Description: The 0.20-acre project site is currently developed with a private surface parking lot. The project proposes to develop an approximately 272-room hotel. The 19-story building would reach a maximum height of 225 feet. A restaurant and bar are
proposed on both the ground floor and the 19th floor. The hotel building would have one basement level for utilities and maintenance related services. No parking is currently proposed on-site. The project would provide parking for hotel patrons at an off-site City garage via a valet service and a parking agreement with the City of San Jose of up to approximately 30 years. The project would have a total of five valet parking (two on Almaden Blvd and three on Santa Clara Street).

**Location:** 8 North Almaden Boulevard, San Jose; Northeast corner of North Almaden Boulevard and West Santa Clara Street.

**Council District:** 3

**File Nos.:** H18-038.

The proposed project will have potentially significant environmental effects with regard to air quality, biological resources, cultural resources, hazardous materials, and noise. The California Environmental Quality Act (CEQA) requires this notice to disclose whether any listed toxic sites are present at the project location. The project site is not present on any list pursuant to Section 65962.5 of the California Government Code.

The Draft EIR and documents referenced in the Draft EIR are available for review online at the City of San José’s “Active EIRs” website at [www.sanjoseca.gov/activeeirs](http://www.sanjoseca.gov/activeeirs) and are also available at the following locations:

- Department of Planning, Building, and Code Enforcement
  200 East Santa Clara St., 3rd Floor
  San José, CA 95113
  (408) 535-3555

- Dr. MLK Jr. Main Library
  150 E. San Fernando St.,
  San José, CA 95112
  (408) 277-4822

The public review period for this Draft EIR begins on **August 19, 2019 and ends on October 3, 2019.** Written comments must be received at the Planning Department by 5:00 p.m. on October 3, 2019, in order to be addressed as part of the formal EIR review process. Comments and questions should be referred to Thai-Chau Le in the Department of Planning, Building and Code Enforcement at 408-535-5658, via e-mail: Thai-Chau.Le@sanjoseca.gov, or by regular mail at the mailing address listed for the Department of Planning, Building, and Code Enforcement, above (send to the attention of Thai-Chau Le). For the official record, please your written comment letter and reference File Nos. H18-038.
Following the close of the public review period, the Director of Planning, Building, and Code Enforcement will prepare a Final Supplemental Environmental Impact Report that will include responses to comments received during the review period. At least ten days prior to the public hearing on the EIR, the City’s responses to comments received during the public review period will be available for review and will be sent to those who have commented in writing on the EIR during the public review period.

Thai-Chau Le  
Supervising Planner | Planning, Building & Code Enforcement  
City of San Jose | 200 East Santa Clara Street  
Thai-Chau.Le@sanjoseca.gov | (408) 535-5658

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Michelle Zimmer

Enrollment and Communications Officer of the  
Amah Mutsun Tribal Band of Mission San Juan Bautista

The contents of this message, together with any attachments, are intended only for the use of the individual or entity to which they are addressed and may contain information that is legally privileged, confidential and exempt from disclosure. If you are not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this message, or any attachment, is strictly prohibited. If you have received this message in error, please notify the original sender.
From: Manford, Robert
Sent: Wednesday, October 2, 2019 8:58 AM
To: Kelly, Patrick (PBCE) <patrick.kelly@sanjoseca.gov>; Le, Thai-Chau <Thai-Chau.Le@sanjoseca.gov>
Subject: FW: Almaden Corner Hotel H18-038
Importance: High

Fyi and use.

From: Tran, David
Sent: Wednesday, October 2, 2019 8:18 AM
To: Manford, Robert <Robert.Manford@sanjoseca.gov>
Subject: FW: Almaden Corner Hotel H18-038
Importance: High

Hi Robert,

Please see below. Can you make sure this is part of the public record.

Thanks,

David Hai Tran | Senior Council Assistant
Office of Councilmember Raul Peralez
City of San José | District 3
200 E. Santa Clara St. 18th Floor | San José, CA 95113
(408) 535-4932 | david.tran@sanjoseca.gov | www.sjd3.com

From: Bill Souders [mailto: billsouders@outlook.com]
Sent: Tuesday, October 1, 2019 11:39 PM
To: Peralez, Raul <Raul.Peralez@sanjoseca.gov>; Tran, David <david.tran@sanjoseca.gov>
Cc: jeanie verbeckmoes <jeanieverbeckmoes@msn.com>; Ed Colligan <ed.colligan@gmail.com>; Bobbi Burns <ms.bobbi.burns@gmail.com>; Castaneda, Susan <susan.castaneda@cbnorcal.com>; Farhad Tchoubineh <tchoubineh@gmail.com>; Carol Harell <carolandgeorgebellingham@gmail.com>; Boram Hwang <boram.hwang@gmail.com>; Cheri Lewis <cheriklewis@gmail.com>; Phil Castaneda <uptick@mac.com>; SJ Downtown Residents Association <info@sjdra.com>; Jennifer Wadsworth <jenniferw@metronews.com>
TO: Councilmember Peralez
RE: Almaden Corner Hotel H18-038

As you are aware, I am a homeowner at the Axis Condominiums which are located next to the proposed 19-story Almaden Corner Hotel. I am writing to strongly encourage you to delay the decision on the approval of this plan. I make the request given the significant, and as of yet unknown, implications that this decision will have on the traffic congestion at this intersection, and on the surrounding streets.

The traffic report prepared in connection with the supplemental EIR estimated the hotel will generate 2,274 trips per day. I have reviewed the Downtown Strategy 2040 EIR Transportation Analysis and it makes virtually no reference to the West Santa Clara St – Almaden Blvd – Notre Dame intersections’ future plans nor possible congestion. As of yet we have no real sense of the traffic impacts from the nearly completed construction at San Pedro and Silvery Towers, nor the status of the planned hi-rise at Andy’s Pets. Additionally, there is a huge push to significantly activate Arena Green and Guadalupe River Park with unknown consequences. This intersection is frequently closed for community activities all year long, for races, fun runs, parades, marches, etc. And of course, there are the peak traffic levels of automobiles, pedicabs, and pedestrians for Sharks games, concerts, and large conferences.

I do not need to remind you that this intersection is the de facto gateway into Downtown from the planned Grand Central Station of the West. You have personally raised concerns about access to the transit center recently. The Diridon Integrated Station Plan is still in its very early stages, the Envision 2040 Urban Plan review is just getting underway, BART plans have been delayed, and the Google draft plan (which may or may not include traffic flow estimates) is not due until mid-next year.

I am just not convinced that now is the time to approve this large, 19-story, 272-room hotel with no onsite parking and only five assigned spaces on the street. These five spaces will need to accommodate all drop-offs, pick-ups, valet parking, and deliveries. Three of those five spaces will be on W. Santa Clara Street which will interfere with mass transit and bicycle lanes raising serious safety concerns. For reference, the 100 room Hotel De Anza has approximately one dozen loading and valet spaces, and that corner can become completely jammed at times.

I have been traveling around downtown observing various hotel locations like AC, Marriott, Fairmont, Hilton, St. Claire, etc. and NONE OF THEM manage their traffic with only 5 spots. And their locations have other areas to cope with virtually all of their other service delivery needs. As of now, it is still unclear how and where delivery services and waste removal will be effectively managed at the hotel. Try to imagine the Fairmont Hotel, or any of those other hotels, with dumpsters out in front six days a week. I cannot even visualize what a mess that will be on Almaden Blvd, especially now that the AXIS has been forced to move our dumpsters out to the front of our building six days per week due to DOT changes on Notre Dame Ave.

Approving this plan NOW just seems extremely PREMATURE. As far as I know, this lot has been vacant since 1930! It will be very disappointing if the city feels compelled to move quickly forward with a hotel of this size, on this tiny lot, at this crucial time. Please let’s not risk the future our 100-year vision in the Station Area by constraining ourselves with such a suboptimal design.

Thank you for your consideration.

Bill Souders
billsouders@outlook.com

Mobile: +1 (408) 202-2828

https://www.linkedin.com/in/bill-souders-546688/

To request a time to meet: Here’s my calendar link

Live as if you were to die tomorrow.
Learn as if you were to live forever.
--Mahatma Gandhi, 10/02/1869 - 01/30/1948
To: Edward Saum, Chair Historic Landmarks Commission
    Paul Boehm, Vice Chair, Historic Landmarks Commission
    Harriett Arnold, Historic Landmarks Commission
    Eric Hirst, Historic Landmarks Commission
    Stephen Pol cyn, Historic Landmarks Commission
    Anthony Raynsford, Historic Landmarks Commission
    Rachel Royer, Historic Landmarks Commission
    Juliet Arroyo, Historic Preservation Officer, Historic Landmarks Commission

To: Thai-Chau Le, Environmental Project Manager, Environmental Planning

From: Eugenia M Verbeckmoes
    38 N Almaden Blvd Unit 1100
    San Jose CA 95110

Date: October 2, 2019

Re: Almaden Corner Hotel Project (H18-038) Draft SEIR

Massing

I am writing to present some comments to the Draft Supplemental Environmental Impact Report (SEIR) prepared in connection with the Almaden Corner Hotel Project. I would like to bring up one of the areas of public concern that was discussed in the SEIR. Although I am concerned with other issues including but not limited to the increased traffic, insufficient parking and associated lack of specificity as to how the valet activities will be operated to accommodate an additional 2,274 vehicle trips per day, I would like to emphasize the issue of massing with you, since you are reviewing and will be providing comments on the historic resource analysis for the subject.

On August 19, 2019 I emailed Patrick Kelly stating that I saw a reference to a design plan set for the subject property dated 05/10/19. I requested those plans and any other documents that had been submitted since my last document request on May 7, 2019. Mr. Kelly provided me with a copy of a plan set dated June 7, 2019. I am using information from that plan set in this memorandum. That June 7, 2019 plan set included on Sheet No. G000, the rendering shown on the right side of page 3 below. The rendering shows a diagonal cutaway at the southeast corner of the building.

Along with the SEIR, an Initial Study was prepared. The Initial Study includes certain renditions of the subject including the South elevation at page 14 and the East elevation at page 17. These two elevations are shown on the left side of page 3 below. Both
elevations have shading that depicts a diagonal cutaway of a portion of the building’s southeast corner.

Although the Initial Study has the elevations, it does not have the analysis of the subject’s impacts to cultural resources which it states are evaluated in the SEIR and no further analysis was provided in the Initial Study.

The SEIR states at page 30 (emphasis added):

The southeast diagonal cutaway is designed so that the corner is square at the lower levels and is diagonally carved away at a point starting approximately at the height of the De Anza Hotel. The upper levels of the proposed new building would visually angle away from the historic property. According to the site plans, the “reverse corner slice at Almaden corner, spring[s] from De Anza roof datum.” The renderings illustrate the corner cutaway starting at about the tenth floor, the height of the De Anza Hotel.

The SEIR goes on to state at page 30 (emphasis added):

Some massing details also provide compatibility between the historic and proposed building. The detailing meets the intent, but not the letter, of the guideline that a new building be “broken down” in scale to be compatible with nearby historic resources. Although the proposed hotel does not literally step down to the height of the De Anza Hotel, the southeast diagonal corner wedge is aligned with the height of the historic roof, providing a shared reference point within their separate massing designs.

The SEIR states the cutaway begins at the 10th floor, and the rendering shows that as well, on Sheet No. G000. However, the cutaway, as shown in the rendering, is a much larger cutaway than what is shown on Sheet No. A131 of the same plan set. A portion of Sheet A131 (at the top of page 4 below) shows the cutaway doesn’t begin at the 10th floor but rather begins at the 17th floor. Further, the cutaway is much smaller in area than appears in the rendering. At the bottom of page 4 below, is a portion of Sheet G100 showing the building area summary including the gross area of each floor. The difference between the largest floor area and the smallest (excluding the rooftop bar area) is only 42 square feet. This would make it a very small cutaway.

When analyzing the impact of the subject on the Hotel De Anza, the SEIR assumed the cutaway started at the 10th floor. The SEIR also seems to rely on the carved cutaway as evidence that the proposed hotel does not crowd the Hotel De Anza or loom over it. Given that the plans at Sheet No. A131 show that the cutaway doesn’t start until the 17th floor, the analysis of the massing in the Compatibility of New Building Design and Scale with Historic Resources section of the SEIR should be revised.
October 2, 2019

Via Email to: Thai-Chau.Le@sanjoseca.gov

Thai-Chau Le
Environmental Project Manager
City of San Jose
Department of Planning, Building, and Code Enforcement
200 E. Santa Clara St., 3rd Floor
San Jose, CA 95113

Dear Ms. Le:

RE: Supplemental Environmental Impact Report ("SEIR") for the proposed 19-story Almaden Corner Hotel (the "Project") to be located at 8 N. Almaden Boulevard (H18-038)

I am writing to you as the Chairperson of the Land Development Committee of the Axis Homeowners Association, which represents approximately 700 owners and residents of the Axis Residential Tower ("Axis Tower") at 38 N. Almaden Boulevard.

Attached to this letter are the following:

1. Memorandum dated October 2, 2019 ("Comment Memo"), from Jodi Starbird of Starbird Consulting LLC, to the Axis Homeowners Association, containing numerous comments regarding the above-referenced SEIR;
2. Appendix to the Comment Memo, containing numerous photographs;
3. Letter from Axis Homeowners Association dated January 25, 2019, with initial comments to the Notice of Preparation for the SEIR dated January 11, 2019 ("NOP");
4. Letter from Axis Homeowners Association dated February 14, 2019, with supplemental comments to the NOP;
5. Letter from Axis Homeowners Association dated October 18, 2018, commenting on the Downtown Strategy EIR; and
6. Copy of Conceptual Utility Plan for this Project.

All of the above attachments, and all comments and information contained therein, are hereby incorporated by reference into this letter as if fully restated herein. This letter, the attachments to this letter, and all other correspondence and other communications between the City of San...
Jose, on the one hand, and the Axis Homeowners Association, the Land Development Committee of the Board of Directors of the Axis Homeowners Association, their respective members, and residents of the Axis, on the other hand, should be considered to be part of the administrative record for this Project in connection with any future legal action.

Since the preparation of the Downtown Strategy 2040 EIR and the Notice of Preparation for the SEIR, the Land Development Committee and many other members of the Axis Homeowners Association have made it clear that they do not support the Project, to be located adjacent to the Axis Tower at the northeast corner of N. Almaden Boulevard and Santa Clara Street in Downtown San Jose. These views were also expressed at the public meeting on February 4, 2019.

Please refer to the Comment Memo for a detailed description of our continuing concerns. In particular, we would like to highlight the following matters:

Areas of Controversy

As discussed in the Comment Memo, there are numerous areas of public concern and controversy that are not adequately discussed in the SEIR. These areas include increased traffic, insufficient parking, height and massing, and impacts on Hotel De Anza. These issues, as well as others, are of the utmost concern to us.

It is of particular concern that the summary of impacts at page 47 of the SEIR does not include traffic. The SEIR estimates the number of vehicle trips generated daily will be 2,274 with 128 during the peak AM hour and 163 during the peak PM hour. Surely the Downtown Strategy did not contemplate this concentration of traffic from a hotel with no on-site parking and only five loading/valet parking spaces. As stated in the Comment Memo, the Hotel De Anza with only 100 rooms has 12-15 loading/valet parking spaces. Unquestionably traffic needs to be included as a significant impact.

Valet Staffing

We are also very concerned about the valet staffing. As described in the Comment Memo, the Initial Study states only 3-4 valet attendants are needed while the supplemental valet report states up to 10 valet attendants will be needed during both the AM and PM Peak Hours. How many valet attendants will actually be required if it is “up to” 10? Who could possibly enforce this so that N. Almaden Boulevard does not become a parking lot when more cars arrive than the number of valet attendants can handle? What will happen when the SAP Center has
events? Who will enforce the condition when 10 valet attendants are needed but the hotel management has fewer?

**Inadequate Project Description**

The Project description fails to mention anything about the Almaden Boulevard Couplet Conversion, even though the memorandum from Public Works dated August 12, 2019, devotes three paragraphs to this topic. The memorandum also includes, as a project condition, that the “project will provide voluntary contribution in the amount of $250,000 to be used toward the future Almaden Boulevard couplet conversion and installing bike detection improvements ...” Changing from a one-way to a two-way street could significantly increase congestion, queuing problems and other issues, and should have been studied as part of the Local Transportation Analysis.

**Reduced Height Alternative**

As stated in the Comment Memo, the original environmental document for the Axis Tower project was the 47 Notre Dame Supplemental EIR (Axis SEIR), which described the Axis Tower as Phase I. Phase II was described as a six-story residential and retail building. The applicant of the proposed 19-story Almaden Corners Hotel (Applicant) represented to us, purchasers of the Axis condominiums, that the project evaluated in the Axis SEIR would be the project constructed. The reduced height alternative would be in keeping with the promises made by the Applicant.

The reduced height alternative, with fewer hotel rooms, would have a much reduced effect on the traffic and this significant impact would be mitigated appreciably. The reduced height alternative would also avoid the cultural impact a building taller than the Hotel De Anza would create.

We would like to make an observation about the project objectives. This Project has the objective of building a high density building. That is one objective. The applicant has reiterated that particular objective in four of its seven project objectives. If one can state one single objective in all of the project objectives, not satisfying that one objective eliminates that alternative. This is clearly biased and we do not believe it is the intent of CEQA to allow one objective to eliminate a project alternative.

**Historic Resources**

The peer Urban Design Review that was done by Skidmore, Owings and Merrill (SOM) had some significant design revisions. The revisions actually made by the Applicant to the subject plans were very minor and not at all meaningful. The SOM comments have genuinely not been
addressed. For example, SOM stated that the applicant should use more solid materials and avoid cladding the entire building with glass curtain wall that lacks articulation of windows and floors. SOM also stated that the massing of the top of the towers should be further reduced to create variations in form.

Land Taking

The Project Description states that the Project footprint would be set back 2.5 feet from the northern property line. This is a mistake because the plans call for a 3-foot wide flow-through drainage planter between the building and the Axis property line (see Attachment 5 to this letter).

In our letter dated February 14, 2019, we pointed out that the only way the Project could practically maintain these drainage facilities is by trespassing onto the Axis property. In its response O.9, the City says that the Project “is proposing a lot line adjustment to extend the property line to the chain link fence to the northern property, giving more area between the planter and the northern (proposed) property line... Without the lot line adjustment, the plans show areas for foot access to the planter area...”

To be clear, no one from the City or the Project has ever contacted the Axis Homeowners Association about a lot line adjustment, so how is it possible that they are proposing one? Also, members holding 2/3 of the entire voting power of the Association would be required to sign any lot line adjustment or easement deed, and so this is not a very realistic proposal.

To suggest that the Project’s maintenance crew can just walk on the Axis property without permission is to condone trespass on our property, which would be a de facto taking of property without compensation. The City cannot do this! The Axis Homeowners Association reserves the right to move its fence to the property boundary line and to utilize the strip of land that currently exists between the fence and the property line for purposes benefitting the Axis residents.

Respectfully submitted,

Eugenia M. Verbeckmoes
Chair, Land Development Committee
Axis Homeowners Association
Comments from Axis Homeowners Association Land Development Committee
Almaden Corner Hotel Project (H18-038)
October 2, 2019
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cc: Councilmember Raul Peralez
    Patrick Kelly, Supervising Planner, Planning Division
    David Keyon, Principal Planner, Environmental Review
    Edward Saum, Chair, Historic Landmarks Commission
    Juliet Arroyo, Historic Preservation Officer, Historic Landmarks Commission
    Sblend Sblendorio, Hoge, Fenton, Jones and Appel, attorneys for Hotel De Anza
    Scott Knies, San Jose Downtown Association
    Andre Luthard, Preservation Action Council of San Jose
    Bill Souders, San Jose Downtown Residents Association
MEMORANDUM

To: Axis Homeowners Association

Re: Supplemental Environmental Impact Report ("SEIR") for the proposed 19-story Almaden Corner Hotel to be located at 8 N. Almaden Boulevard (H18-038)

Date: October 2, 2019

The following are comments prepared on behalf of the approximately 700 owners and residents of the Axis Residential Tower ("Axis Tower") at 38 N. Almaden Boulevard.

The comments in this memorandum address the SEIR as well as the responses provided in the SEIR to the Axis comment letters dated January 25, 2019 and February 14, 2019, with respect to the Notice of Preparation dated January 11, 2019 (the “NOP”).

Responses to Notice of Preparation (NOP)

As was stated in the Supplemental NOP letter submitted to the City by the Axis Homeowners Association on February 14, 2019, the NOP did not state that the Hotel De Anza is listed on the National Register of Historic Resources. This is vital information that the responsible and trustee agencies (in particular, the State Office of Historic Resources and National Park Service) should have been notified of in order to provide specific comments related to potential impacts to this highly sensitive resource.

The City’s response to this comment in Appendix H1 of the SEIR is insufficient. As stated in the comment letter, the Hotel De Anza is listed on the National Register of Historic Resources – not just a City Landmark. To have not gotten input from SHPO consistent with the California Environmental Quality Act (CEQA) Guidelines Section 15082(a)(1), about how the impacts to the Hotel De Anza should have been analyzed is a serious flaw in the environmental review and a violation of CEQA.

Without the vital information related to the adjacent historic Hotel De Anza included in the NOP, the responsible and trustee agency was not provided with enough information to enable them to make a meaningful response related to the environmental impacts that could occur to this sensitive resource. It was recommended in Axis’ letter that the NOP be recirculated; however, this simple rectification did not occur. The preparation of an EIR without this input can be considered to be inadequate and a violation of CEQA.
It must also be noted that the tone of the responses to the NOP comments is one of project support. City staff must not take a tone that seemingly recommends approval or denial of a project. The SEIR Section 1.1 states “It is not the intent of an EIR to recommend either approval or denial of a project.” The environmental review must be objective and non-biased; however, the responses to the NOP comments and many sections of the SEIR do not achieve this. Neither the City, nor their consultants, are permitted to take on the appearance of being project proponents. This is a violation of the intent of CEQA to provide the decision makers and the public with objective analysis.

**Supplemental Environmental Impact Report**

The SEIR prepared for the Almaden Corner Hotel project is a Focused SEIR tiering from the Downtown Strategy 2040 EIR certified by the City Council in December 2018. An Initial Study was also prepared to supposedly confirm that the proposed project would not result in greater or different environmental impacts than the Downtown Strategy. As stated in the Summary of the SEIR, areas of controversy include increased traffic, insufficient parking, height and massing, interface with Hotel De Anza (a historic resource) and potential impacts to the hotel, and impacts to subsurface cultural resources.

Section 15063(c)(3)(A) of the CEQA Guidelines states that one of the purposes of an Initial Study is to assist in the preparation of an EIR, if one is required, by focusing the EIR on the effects determined to be significant. The proposed project would result in many significant impacts consistent with the Downtown Strategy; however, the impacts of most concern to the surrounding community were omitted from detailed specific analysis in the SEIR. The Downtown Strategy and Envision San Jose 2040 General Plan EIRs provide program-level environmental review; therefore, the project-level environmental review should have been completely included in the SEIR.

The only issue described in the SEIR is impacts to cultural resources, which of course are tremendously important. However, traffic, parking, noise, air quality, aesthetics and greenhouse gas emissions are all topics that also are of the upmost importance to the neighbors and issues for which the Downtown Strategy EIR determined would require project-level review. These issues/concerns were not given the level of analysis and impacts and mitigation measures are not identified in the Initial Study to the level required for an EIR.

As stated in Section 15146 of the CEQA Guidelines, “The degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.” Constructing a 19-story, 225-foot tall structure on an 8,000 square foot lot adjacent to existing high-rise development and busy streets can only be described as highly technical. The project description and analysis in the SEIR must, as CEQA requires, be as detailed and comprehensive for environmental impacts to be adequately addressed.
City Planning staff had represented to the neighbors that a new Supplemental EIR would be prepared for the project that included at least construction-related and long-term traffic operations, and air quality and noise analyses. This did not occur and the level of review in the Initial Study is inadequate for these significant project-level impacts. Technical reports were prepared, so why wasn’t the very important analysis included in the SEIR at a level of detail that provides a meaningful and complete discussion of impacts, mitigation measures, alternatives, and cumulative impacts?

As stated in CEQA Section 15063(a)(3), “an Initial Study is neither intended nor required to include the level of detail included in an EIR.” The Downtown Strategy EIR was a program-level environmental document that did not provide project-level review. The SEIR was supposed to provide this and it did not. This is a violation of CEQA.

By eliminating these topics from the SEIR, areas of controversy were not addressed and the level to which the alternatives and cumulative analyses were prepared is inadequate and disappointing. The residents of the Axis Tower and visitors to the Hotel De Anza will be subjected to months of construction impacts and a lifetime of privacy loss, gridlocked traffic, and noise from the adjacent hotel. These impacts should have been analyzed in depth in the SEIR as required by CEQA Guidelines Section 15064. Because the SEIR only analyzed one issue, a full description of environmentally superior feasible alternatives is not provided, as described below.

**Inadequate Alternatives Analysis**

The 22-story Axis Tower was constructed in 2008 with 329 units, most of which are owner-occupied. The original environmental document for the Axis Tower project was the 47 Notre Dame Supplemental EIR (Axis SEIR), which tiered off the original Downtown Strategy 2000 Program EIR. Page 1 of the Axis SEIR described the Axis Tower project as the construction of “a 22-story (approximately 228 feet above grade), L-shaped 350-unit residential condominium on the northwest corner of the property (referred to as Phase I).”

The project description continues on page 4 of the Axis SEIR and includes the following: “The southwest corner of the site, adjacent to the Hotel De Anza, will be developed with a six-story residential/retail building (referred to as Phase II) with two levels of below grade parking that are open to and accessed through the Phase I underground parking area. The Phase II building will be comprised of approximately 35 condominium units and 8,000 square feet of retail.”

As stated on page 18 of the Axis SEIR, “To minimize the overall visual impact of the residential tower on the Hotel De Anza, the tower is proposed to be located with the greatest possible setback from the hotel on the project site at the northwest corner of the block.” In fact, the Axis Tower building itself is also stepped back from the hotel as shown in the photo below. The 6-story Phase II building would not have been taller than the Hotel De Anza and would not block views of the hotel’s iconic rooftop neon
sign. In other words, it would not have contributed significantly to the impact of the Axis Tower structure, as described in the Axis SEIR.

Based on this information in the previous EIR for the site, the Axis Homeowners Association requested that the alternatives section of the EIR include an analysis of construction of the 6-story building on the site, as promised by the project applicant while the units at Axis were being purchased. The Axis project and SEIR included a 6-story structure on the project site and the applicant gave prospective buyers reassurances that the project evaluated in the SEIR would be the project constructed. The applicant has therefore misled the buyers of units in his building as well as the historic preservation community. This is totally unacceptable.

The SEIR states in Section 1.13.2.2 that a six-story building (Reduced Massing and Scale Alternative) would still impact the Hotel De Anza to the same extent as the proposed 19-story structure and would not avoid the less than significant impacts to the hotel. It also states that all construction impacts would be reduced, which is obviously true since the construction timeframe would be substantially less. However, to state that all of this is fine because the impact is less than significant, does not allow for the AVOIDANCE of the impact. Why not avoid the impact altogether?

Operational impacts as a result of the lack of parking and limited vehicle storage that will cause massive congestion would also be reduced because the hotel would have substantially fewer rooms. If the building were an office building, drop-off and pick-up needs would be minimal, and would be more conducive to the use of transit than a hotel use. A shorter building would not significantly affect the views, shading, or privacy of residents of the Axis Tower and Hotel De Anza guests, yet none of these
reduced impacts are mentioned. Just because the impact would not be completely avoided, does not mean that the reduced height and massing alternative is not environmentally superior.

The SEIR also states in Section 1.14 that while construction impacts of the 6-story structure would be reduced, less than significant impacts to the Hotel De Anza would still occur. No analysis is provided to show how the De Anza’s rooftop sign would continue to be visible from the east and west, nor that the Diving Lady painting could still be viewed under this alternative. Similarly, it is not mentioned nor any analysis provided to demonstrate that a shorter construction timeframe would result in fewer structural impacts to the De Anza, which is certainly the case. The alternatives section simply defies logic. All impacts would be significantly reduced with this alternative, which would also be the project the applicant promised and what many Axis Tower homeowners were expecting.

Section 15126.6(c) of the CEQA Guidelines states that “Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts. As stated in the SEIR, this alternative meets some of the objectives of the proposed project and is generally consistent with General Plan (GP) policies.

The Downtown Strategy 2040 includes up to 3,600 new hotel rooms and in fact, one of the objectives of the Downtown Strategy 2040 project is to Preserve the jobs sites (commercial, office, and hotel development) envisioned in the Downtown Strategy 2000 and 2040 General Plan.¹ Many news reports in recent years have bemoaned the fact that Downtown has far fewer hotel rooms than even adjacent smaller cities. Yet, the City seems intent on approving a project that will affect the booking rates and thus, financial viability, of one of its existing iconic historic hotels.

The noise that will result during construction and after will affect the Hotel De Anza’s ability to book rooms on its west side (approximately 45 rooms out of a total of 98), including its most expensive penthouse suite. Two years of construction would significantly affect the bottom line and the hotel could face financial ruin. It must be acknowledged in the Alternatives Section of the SEIR that the construction of the Reduced Height and Massing Alternative would significantly reduce these environmental and financial impacts of the proposed project. Decision makers must have information required to make an informed decision. That is one of the main purposes of CEQA, yet that is not occurring.

The 6-story alternative is certainly feasible and can be considered the highest and best use of the site. Evidence of this can be seen in the AC Hotel right across the street! This alternative would significantly REDUCE and in some instances, AVOID, all of the impacts of the proposed project and must be considered the environmentally preferable option if development on this site is to occur at all. This alternative must not be so easily dismissed and as CEQA requires, “must be discussed in a manner to

¹ Downtown Strategy 2040 FEIR, City of San Jose, certified December 2018.
foster meaningful public participation and informed decision making.” (Section 15126.6(f)) The EIR Alternatives discussion in the SEIR does neither and is thus, in violation of CEQA.

It should also be noted that although the City wishes to encourage denser development, it does not mean that every building should be built to its full density. In fact, for good planning, some parcels must not be built to the full potential height. Google certainly recognizes this. In presenting its conceptual development plan for its Diridon area development at a community meeting last month, the Google representatives emphasized numerous times that they intentionally were not planning their development to the full density limits, because there needs to be space and light and air in order to have a healthy, well-planned community.

The SEIR also evaluated an office use alternative. However, this section does not evaluate a 6-story office building, even though it would be viable and feasible and would be the environmentally preferred alternative. A reduced-sized office use would result in less traffic and parking issues and would not result in significant impacts to the privacy loss and noise as the proposed project. This alternative should have been included in the project. Also, to state that noise generated by an office versus a hotel would be “comparable” is not true and this statement was not substantiated in the noise analysis. An office space would not typically have a rooftop bar or occupants after 7 PM. Its noise generation would definitely be less.

**Impacts to Cultural Resources**

The impacts to the Hotel De Anza as a result of the proposed project relies on a Historic Resources Project Assessment and a supplement to that assessment prepared by Archives & Architecture. It appears that the supplemental report was prepared after the project was somewhat redesigned. The hotel still fails to reflect a “stepped back” design (comparable to the stepping back that was required of the Axis or 1 South Market residential towers, as shown in the photos below).
As was stated in the supplemental NOP letter submitted by the Axis Homeowners Association, the peer review by Skidmore, Owings & Merrill (SOM) dated November 16, 2018 suggests a number of significant design revisions, as depicted in the photo below. It continues to appear that the applicant has not addressed these comments and the City is ignoring that fact. The City must be sure that the project conforms to its own design requirements and incorporates the design recommendations from the peer review. In addition, they must apply their own regulations consistently especially for impacts to precious and diminishing cultural resources.

The Historic Resource Assessment (Appendix C) does not meet the requirements of CEQA Section 15064.5. It appears to only be a minimal analysis of whether the project is consistent with the City’s Historic Design Review Guidelines. Project-level environmental review, as required by the Downtown Strategy EIR, for impacts to the Hotel De Anza is required to ensure that the proposed project does not materially alter in an adverse manner those physical characteristics of the resource that convey its historical significance. For example, physical impacts associated with construction-generated noise and dust are not evaluated.

The analysis provided is subjective and not substantiated in fact. The information provided seems to simply be opinions and conclusions that can easily be countered by common sense. There should be more evidence of the conclusions and a robust discussion of how the conclusions were reached. Examples of how other structures constructed Downtown were required to respect and “step-back” from the historic resources and how successful those projects have been in protecting resources, should have been included.
For example, a determination that exterior materials of the proposed materials would be compatible with the Hotel De Anza without those materials being known, is somewhat irresponsible and not adequate for a CEQA analysis – especially when impacts to such a valuable historic resource will be so detrimental.

Also, the SEIR states (on page 30) that “The detailing meets the intent, but not the letter, of the guideline that a new building be “broken down” in scale to be compatible with nearby historic resources.” There is no substantiation as to the intent, and we do not agree that the detailing meets the intent. The SOM sketch above shows what we believe is the intent when the guideline uses the term “broken down.”

Lot patterns are described and a determination is made that because the proposed project would be approximately 11-13 feet from the historic Hotel De Anza (not shown on any plans), the project is compatible with the guidelines. Without substantive information in the way of project plans (not “estimations” by the consultant), this cannot be proven. And while the fire escapes and Diving Lady mural may not be removed, they will not be seen either. A pedestrian on the street can only back up so far before they are in the middle of W. Santa Clara Street to look up and see the mural.

In addition, it is stated by the consultant that they believe the Hotel De Anza design somehow intended for another building to be built adjacent to the west side of the structure. There is no evidence of this assertion. If that were the case, why are there up to 56 windows and the required fire escapes on that side of the structure? There has never been a real structure of any kind on that side of the building save a gas station and a parking lot, as shown in the photo below which is from about the time the
hotel was opened in 1931. In addition, the architecture on the front (Santa Clara Street side) is not different than the western side. This is another example of how the conclusions of this section are speculative and not substantiated, which leads any reader to believe that the proposed project is not consistent with the City’s historic guidelines.

The conclusions of the report as to whether the massing of the proposed structure is compatible with the historic Hotel De Anza building is especially subjective. The project plans do not clearly show the degree to which the proposed “reverse corner slice” would push the proposed building away from the Hotel De Anza, however, it would only push it away at the corner – not along the entire western side of the historic hotel.

The project plans do not show that the new hotel would not “crowd” the Hotel De Anza. The setbacks are very minimal and appear to both crowd and diminish the historic hotel. The report includes the following statement:
“The perceived overall massing of the neighboring buildings appears to be visually balanced. The wider, deeper, and shorter, visually heavier, symmetrical, stucco-façade Hotel De Anza would be visually balanced in massing with a narrower, shallower, taller, glass-curtained wall building that includes cutaway corners and an open-air penthouse.”

There is nothing apparent in the project plans, including the rendering in the Initial Study that prove this point. Again, applying common sense, to conclude that the proposed 19-story structure (the building materials for which are not included in the SEIR or Initial Study), is consistent with the massing of a 10-story art deco stucco building just doesn’t ring true. The differences between these two structures are dramatic. The new hotel would not be shallower or narrower on its lot than the high-rise portion of the Hotel De Anza, as shown in the rendering below from the project plans.

It is not known whether the new structure will be glass, since the materials have not been decided. Further, a “penthouse”, which would affect not only the historic hotel but the AXIS Tower, is not shown on any plans. This is an opinion without technical evidence and should not be considered a concluding statement that renders the project consistent with the guidelines.

The consultant acknowledges that these statements are their opinion and that others “may be concerned”. I have similar comments on the evaluation of the facades and entries and, using simple common sense and the fact that building materials are not yet provided, do not agree with the unsubstantiated conclusions of the report. The Hotel De Anza is a unique and valuable community asset that must be respected. Therefore, a peer review of the Historic Resource Assessment should be completed, and it appears that the consultant would not object to such. This peer review should be included in the Final SEIR.
INITIAL STUDY

Project Description

Section 2.8 of the Initial Study states many project-related approvals, agreements, and permits, including “Public Easement Vacation/Street Vacation” and “Easements, Sale of Land”. It is unclear what these related approvals are and they are not discussed or evaluated in either the Initial Study or SEIR. These approvals could result in impacts that cannot be evaluated. The Initial Study must be revised to include this vital information. For example, street vacations could affect the surrounding land uses and result in safety impacts to drivers, bicyclists, and pedestrians, a significant impact under CEQA (Appendix G of the CEQA Guidelines). It is also not described how the on-street and truck loading areas would operate if streets are “vacated”.

It should be reiterated that the Axis Homeowners Association has not granted an easement or otherwise relinquished any property rights to the applicant and is unlikely to do so (it would require that 2/3 of the total voting power of the Association sign the easement or lot line adjustment document). Therefore, no portion of the Axis property can be included as an easement (including air rights), and mitigation based on the assumption that such land is available for use by the hotel is not realistic. This could further exacerbate operational impacts of the proposed project.

Section 3.1.7 states that construction staging locations have not yet been determined. This information is also very important to evaluate safety and operational traffic impacts. In addition, it is not mentioned where construction workers would park. Again, the safety of these workers, transit users, bicyclists, and pedestrians must be evaluated and mitigation measures must be identified.

Figures 3.0-4, -5, -6, and -7 show the elevations of the proposed building from the south, west, north, and east. These elevations do not clearly depict the architecture of the proposed project. The portions of the building to be diagonally “cut away” at the southeast and southwest corners are not really depicted. How can the public, decision makers, or architectural historian evaluate the structure with confusing graphics? The “cut-aways” cannot be seen – are they truly part of the project? The supplemental historic report dated May 31, 2019 does not include graphics, so it is impossible to know what was actually evaluated, especially since the report was revised based on new plans.

This issue becomes more suspect as a result of a “rendering” included in the SEIR on page 30. This rendering appears to show no “cut-away” at the southeast corner of the building and appears to expand as it gets taller, which was part of the original design. So, what building was evaluated in the Initial Study, SEIR, and historic architecture reports and how are the public and decision makers to know what building is being proposed? These graphics, renderings, and the historic evaluation must be revised.

Perhaps most troubling is the fact that the Project Description does not include the fact that N. Almaden Boulevard may be altered in the future to be a two-way street rather than a one-way street,
even though the Department of Public Works comment memorandum dated 8/12/19 devotes three paragraphs to this topic. The memorandum also specifies, as one of the project conditions, that “The project will provide voluntary contribution in the amount of $250,000 to be used toward the future Almaden Boulevard couplet conversion and installing bike detection improvements …”

Changing from a one-way to a two-way street could significantly increase congestion, queuing problems and other issues, and should have been studied as part of the traffic operations analysis/Local Transportation Analysis (“LTA”) prepared by Hexagon Transportation Consultants. The LTA failed to analyze this (and many other factors affecting local traffic operations as described below), and therefore the LTA should be revised and recirculated for comment.

**Aesthetics**

There is no doubt that the proposed hotel structure would block views of the historic Hotel De Anza from both the east and west. While SR-87 is not a scenic resource, the loss of views of the historic resource must be evaluated in a more detailed level in the SEIR. The loss of views of the Diving Lady on the Hotel De Anza will be lost from all directions – vehicles and pedestrians. The loss of views of this resource will never be regained. The view from the Guadalupe River Park (a “major open space area in Downtown San Jose”) of the iconic neon sign and the Hotel De Anza will be lost. The loss of the view of the sign from this public park or traffic (vehicle, pedestrian, and bicycle) traveling eastbound, would not occur if a six-story structure were constructed instead, resulting in a significant reduction of the impact. This fact should also be included in the evaluation of Alternatives in the SEIR.

Further, the EIR that was prepared for the original Axis project which included construction of a 6-story structure (similar to the Reduced Height and Massing Alternative of the Almaden Corner EIR) would not have obscured the view of the iconic sign from either SR-87 or the Guadalupe River Park. It would also not result in the shading of either the Axis Tower or Hotel De Anza. This alternative would reduce this impact to a less than significant level; however, as stated previously, this was not disclosed in the SEIR Alternatives discussion.

Impact AES-4 states that the proposed building would not create a new source of substantial light or glare, yet the Historic Resource report states that building materials were not known when that evaluation was conducted. This results in an inadequate evaluation of both aesthetic and historic resource impacts. These impacts must be evaluated in the SEIR per the CEQA Guidelines.

The plans seem to show an illuminated sign at the top of the southwestern corner of the proposed building. No information is included in the Initial Study or SEIR that describes the size of this sign or details about its assumed illumination. If there is an open roof top bar at the top of the structure, it appears that this sign would be visible to residents of the higher levels of the Axis building. Neither the Initial Study or SEIR evaluate impacts from this sign and how night views from or privacy to the Axis Tower and Hotel De Anza will be affected.
An evaluation of how the project would conflict with GP policies regarding aesthetics was not included in the SEIR or Initial Study. Again, the Downtown Strategy was a program-level document and did not evaluate impacts on a project-by-project level. For example, Policy CD-1.18 states that loading docks and other utility uses be placed within parking structures or at other locations that minimize their visibility and reduce their potential to detract from pedestrian activity. The current site plan shows the loading dock on the backside (northern) of the building, adjacent to residential uses on a street that will be activated by pedestrians and clogged with vehicles attempting to pick-up or drop-off hotel patrons. This is inconsistent with this policy.

2040 General Plan Policies CD-10.2 and CD-10.3, new development adjacent to Gateways, Grand Boulevards, and freeways shall be designed to preserve and enhance attractive natural and man-made vistas." The proposed Hotel Project is along such a “Grand Boulevard” – Santa Clara Street, yet the design is far from one that preserves and enhances attractive natural and man-made vistas. In fact, the design would completely destroy the views from the street and surrounding land uses. Inconsistency with GP Policy CD-10.3 is described under Land Use, below.

**Air Quality**

The air quality section of the Initial Study has not been prepared to the level required of an EIR. The construction toxic air contaminant discussion on page 41 of the Initial Study states that the project would result in a significant impact related to single-source impacts at construction (Table 4.3-3).

Figure 2 of the Air Quality Assessment (Appendix B) shows the location of maximum off-site cancer risk and PM 2.5 impacts, including those as a result of an emergency generator and fire pump. This location is the southeast corner of the residential Axis Tower! The report does not give analytical data as to how the project would be able to reduce these impacts to sensitive residential uses to a less than significant level. Especially when most of the units on the south side of the tower have balconies. The document only states that a plan must be prepared that “demonstrates” that impacts would be reduced, yet does not include such a plan. This plan should have been included in an EIR analysis to give residents and visitors a level of comfort that living or sleeping near the project site will not result in cancer. Peace of mind should not be discounted.

The air quality analysis also relies on the installation of 36 bicycle parking spaces. These spaces are not included in the project description, nor are they shown on any of the plans included in the Initial Study or SEIR. If these spaces are included in a Transportation Demand Management (“TDM”) plan, which is not included in the Initial Study or SEIR, they must be shown somewhere. In addition, Appendix B mentions that truck trips to the site would be “infrequent.” While it is true that the site is very small and the number of truck trips for the disposition of soil may not be significant, ALL materials must arrive by truck daily – that can’t be done “off-site”. The correct information must be factored into the air quality analysis now.
**Biology**

Neither the Initial Study nor the SEIR include a discussion of how the project has been designed taking into account the City’s policies related to Bird Safe Design Building Standards. The proposed building is located within 500 feet of the Guadalupe River (not 600 feet as stated on page 101 of the Initial Study) and Los Gatos Creek, which are regarded as important wildlife corridors. The proposed building has apparently not been evaluated for bird safe design as there is no project-level discussion provided; therefore, the project is not consistent with GP policies ER-5.1 and -5.2.

**Hazards and Hazardous Materials**

The proposed project does not appear to have been evaluated at a project level as to whether emergency response or evacuations can occur at the project site. Neither the Initial Study nor the SEIR include a discussion of whether the project has been evaluated and deemed sufficient by any responsible emergency organizations, including the police, fire, or ambulance services.

If all of the loading zones on W. Santa Clara Street and N. Almaden Boulevard, as well as the loading dock area are occupied (which they most likely will be, given no on-site parking), how will these vital services get to the project site, the Axis Tower, or the Hotel De Anza in case of an emergency? There are no other areas on-site for any emergency access. It also appears that fire hydrants will be blocked by vehicle loading zones on the streets. Again, project-level environmental review must be included in the SEIR.

It must also be noted that crane and other dangerous construction operations will be occurring adjacent to both the Axis Tower and the Hotel De Anza. These operations must not trespass over the property lines or existing structures. Because on- and off-site construction staging areas are not yet identified, it is impossible to understand how impacts could be reduced to a less than significant level. This impact is not discussed in either the Initial Study or the SEIR.

**Land Use**

Section 4.11, Land Use of the Initial Study asks the question of whether the project would result in a 10 percent or greater increase in the shadow cast onto the Guadalupe River Park. The impact analysis then states that the project will, in fact, shade “roughly 188 feet onto the Guadalupe River Park” during the morning.

The discussion then goes on to state that the Guadalupe River Park is roughly 120 acres in size. This is an inaccurate depiction of the park in proximity to the project and does not take into account its linear shape as it traverses Downtown. A defensible analysis would have compared the existing condition of Arena Green, which is a stand-alone park within the Guadalupe River Park, to the condition after the project is completed. The percentage of Arena Green affected would have been much greater.
addition, the park is closer to 500 feet from the site rather than 600, thus extending the shaded areas further.

The shading of the Hotel De Anza would affect the ability to rent rooms on the west side of the hotel. The owners of the historic hotel state that approximately 45 rooms with 56 windows, would be virtually un-bookable, especially in the winter. At an average room rate of $230.00 per night and an 80% occupancy rate (both 2018 and 2019 thus far), this is a loss of $8,280 per night or approximately three million dollars per year. This does not take into account potential bookings lost for rental of the Palm Court convention/reception area that has an occupancy of approximately 225 guests due to its canvas roof that has little or no ability to attenuate noise during construction of the proposed project. This will lead to financial losses that would be devastating. To render existing hotel rooms in the Downtown as un-bookable is not consistent with the goals of the Downtown Strategy 2040. Further, it would compromise the historic designation of the building as a hotel since 1931.

It must be said again that this significant impact should have been included in the SEIR with a detailed study and an accurate depiction of this impact and views of the sign. The benefits of the Reduced Massing and Height Alternative should also have been discussed in the Alternatives section of the SEIR. Mitigation measures should have been included as well. As such, the SEIR is not complete.

Noise and Vibration

Significant construction-related and long-term noise would be generated by the proposed project; however, the noise section of the Initial Study does not reflect this. Page 109 of the Initial Study states that “Similar to the site development evaluated in the Downtown Strategy 2040 FEIR and the General Plan FEIR (as amended), the proposed project would result in less than significant noise and vibration impacts, as described below.” The section below then states that the project would result in noise in excess of City and other applicable agency’s standards. This is a conflicting statement that must be clarified.

As stated on page 6 of the Noise Assessment (Appendix F), the adjacent land uses are sensitive receptors; therefore, impacts must be carefully determined and mitigation must result in reduced noise levels. Standard Permit Conditions on page 112 of the Initial Study include construction from 7 AM to 7 PM. This is an excessively long day for residents and hotel patrons to withstand construction noise – especially when it is right outside their windows and balconies, which will be rendered useless. In fact, the Air Quality Assessment (Appendix B) modeled air quality emissions for the time period of 7 AM to 4 PM. This reduced construction period should be mandated for this project, as well as a prohibition on construction on weekends or holidays observed by the City of San Jose.

The Standard Permit Conditions also require the construction of “solid plywood fences around construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.” How will this be accomplished for a 19-story structure? If this cannot be implemented, then these
measures are not feasible which is required by CEQA and the project would result in a significant unavoidable impact. In addition, with the small size of the project site, how will noise-generating equipment be located far away from the adjoining sensitive land uses and enclosed in noise barriers while construction occurs. Again, if these conditions cannot be implemented effectively, they are not proper mitigation measures under CEQA – whether impacts are temporary or not.

The mitigation measures MM NOI-1.1-1.3 are for vibration impacts and are mislabeled. They are also different between the Initial Study, SEIR, and Supplemental Historic Resource Assessment. MM NOI-1.3 of the Initial Study (which should be labeled MM NOI-2.3) should be identical to MM NOI-2-3 of the SEIR which should also be identical to the mitigation measures in the Historic Resource Assessment. Where different, the most restrictive and comprehensive measures must be included in the project and Mitigation Monitoring and Reporting Program (“MMRP”) to be completed for the project. If these measures are not clearly stated in the MMRP with the entity responsible for their implementation accurately identified, the project will definitely result in significant unavoidable project-specific impacts NOT previously identified.

Noise impacts are also not evaluated in terms of effects on the Hotel De Anza, particularly during construction. Two years of construction with resulting heavy financial losses would be devastating for Hotel De Anza and inconsistent with the Downtown Strategy 2040 and Envision San Jose 2040 General Plan goals. In the long term, all rooms on the west side of the structure with up to 56 windows and the penthouse would be affected by the rooftop bar and/or penthouse noise.

The Historic Resource Assessment requires that the Historical Resources Protection Plan (“HRRP”) include a reconnaissance and discussion of other historic structures in the project vicinity. This evaluation is missing from the mitigation measures in the SEIR and should be included to understand the context and far-reaching impacts of damage to the Hotel De Anza.

The discussion of noise to be generated by the hotel’s rooftop bar is not adequate in either the Initial Study or Appendix F. Neither document has a rooftop plan to show the configuration or true location of the bar and information regarding the bar is only provided in the noise report and not in either the Initial Study or SEIR. The noise report states:

“The rooftop bar would have a maximum occupancy of 135 people, with hours of operation from 4:00 pm to 12:00 pm. The venue does not propose any live music. An open terrace is proposed along the western portion of the rooftop, wrapping around to the south. The eastern portion of the bar/restaurant would be enclosed and would not be anticipated to generate noise that is audible outside of the building structure. The restaurant structure on the eastern portion of the rooftop would also provide substantial acoustical shielding from rooftop terrace activities to receptors to the east (Hotel De Anza).”
This information should have been in the project description of both environmental documents. It is also confusing. What is on the eastern portion of roof - a restaurant or a bar? While the eastern portion may be enclosed, noise would emanate from the open areas – especially when the Hotel De Anza would only be 11-13 horizontal feet away. The penthouse hotel room on the top floor of the Hotel De Anza has an open patio that must also be shielded from noise generated at the top of the proposed hotel. The western portion of the bar must also be enclosed to avoid noise impacts to residents of the Axis units and their balconies which will be much closer to the bar. In addition, the privacy impacts to Axis residents and Hotel De Anza guests, and safety impacts to patrons drinking at 225 feet at an open-air bar are not described.

The report and analysis depend on an ambient noise level of 65 dBA. This may be the noise level at ground level, but at 225 feet at the top of the structure, it can only be expected that noise would be less. In addition, the noise modeled to be generated by the bar appear to be much closer in characteristics to a restaurant, not an open bar where music, even if not live, would permeate. Therefore, this bar should be enclosed with no windows on the northern side of the building.

The windows of the Hotel De Anza have not been replaced for many years and can be opened. The noise and shading generated by the proposed project would result in fewer rooms being booked and would be financially devastating. This financial ruin could eliminate the ability of the hotel to survive – no matter who owns it. This devastating conclusion would eliminate the ability of the building to continue to be a hotel – its only use since it was constructed.

This would affect the historic use of the Hotel De Anza as a hotel, which contributes to the historic integrity and physical characteristics that convey its historical significance and justify its inclusion in the California Register of Historic Resources. This is a significant impact under CEQA that was not analyzed or even mentioned in either the Initial Study or SEIR. The SEIR is therefore inadequate under CEQA.

**Transportation**

The proposed project includes up to 272 hotel rooms along with restaurants and bars without including any on-site parking. The traffic analysis (Appendix G1) states that “the project proposes a valet drop-off/pick-up area and one loading area driveway along Almaden Boulevard.” (page 3 and Figure 4), yet the project description also includes drop-off/pick-up space for three vehicles on W. Santa Clara Street. The local traffic operations analysis (the LTA) therefore does not include an evaluation of the additional three loading spaces on W. Santa Clara, nor do the project plans. This results in a significant omission related to traffic operations, as described below.

Impacts to pedestrians and bicyclists on W. Santa Clara Street has not been completed as part of the analysis required by the Downtown Strategy 2040. In fact, the three loading zones on W. Santa Clara Street are not included in the traffic operations study, nor are they on the project plans. Pity the bicyclist riding westbound on W. Santa Clara Street in a supposed bike lane between the parked...
vehicles and vehicular traffic along the major thoroughfare only to get struck by either a car driving off after pick-up or drop-off or by a car door.

In addition, an evaluation of the individual and combined operation of all the loading areas and the loading dock in the busy AM and PM peak hours has not been completed. Therefore, the Initial Study and SEIR are inadequate and must be revised to include these potentially significant project-level impacts.

It is evident that the entire block of N. Almaden Blvd. from Santa Clara Street to Carlysle Street, in front of the Axis Tower pedestrian and vehicle entrances (as well as the Comerica building entrances), will be adversely affected. This will be exacerbated if N. Almaden Blvd. is converted to a two-way street. An operational study of safety and access impacts to residents of Axis given this proposed unsafe condition is required, under both one-way and a two-way street scenario. This was not included in the Initial Study or the SEIR, rendering them inadequate.

Section 20.90.420 of Title 20 of the Municipal Code states that off-street loading spaces “must be not less than 10 feet wide, 30 feet long, and 15 feet high exclusive of driveways for ingress and egress and maneuvering areas”. It is not clear from the documents provided as to whether the areas shown on the most recent plans meet these important requirements. In addition, operations of how the proposed loading dock and vehicle loading zones proposed on N. Almaden Blvd. would interact with the existing Axis driveway on the south side of the Axis Tower is not provided. This driveway is used for access to the underground Axis parking lot and is also a delivery loading zone for the Axis Tower.

The omission of the valet spaces on W. Santa Clara Street also results in there being no discussion in the traffic analysis of how operations of the special curb zones in front of the Hotel De Anza will interact with the valet zone west of their location. In addition, there was no analysis of how VTA transit on W. Santa Clara Street will be affected by the three new vehicles parked within a few feet of an existing VTA bus stop at the northwest corner of the intersection with N. Almaden Avenue. This analysis must be revised and included in the SEIR – not just the Initial Study.

The garbage dumpsters for Axis are located in this area, as shown below. The addition of garbage dumpsters from the hotel, which are recommended to be wheeled out to the loading dock entrance on trash pick-up days, would render the loading dock unusable on garbage pick-up days. What the report fails to mention is that garbage and recycling pick-ups occur 5 days a week!

The Axis typically has between 2 and 8 large containers being collected Monday through Friday each week. Before pick-up, each of those containers must be wheeled from the Axis driveway into the street, then backed up to the curb. The process is reversed following pick-up. It is difficult to imagine that a hotel with 272 rooms, 2 restaurants and 2 bars will have less garbage and recycling than the Axis Tower. In addition, the Comerica building also wheels its garbage and recycling containers out on N. Almaden Blvd., across from the project site. (See Appendix, Photos 1 through 6.) The impacts
associated with the Axis and Comerica building garbage/recycling dumpsters (including wheeling the garbage/recycling bins out into the street, the “parking” of garbage/recycling collection bins awaiting collection, and collection truck pick-up activities) were not analyzed in the SEIR, the Initial Study or the traffic operations report, which is a serious flaw.

Even if the hotel dumpsters do not interfere with the hotel loading area, it is completely unrealistic to think that the one loading space will adequately serve the 272-room hotel, including the 2 restaurants and 2 bars. The loading zone for the Comerica building (which only has offices) is busy all day long, often with 2 or 3 trucks, delivery vehicles, service vehicles or Uber/Lyft drivers parked at any one time. When they run out of space there, they park in the metered spaces, or sometimes try to park in the Axis Tower driveway/service area. (See Appendix, Photos 7 through 10.)

The Axis service parking area is also busy all day long, with a wide variety of cleaners, delivery vans, plumbers, electricians, mail trucks, pool cleaners, landscapers, etc. all parking in that area, all of which are necessary for the normal day-to-day operation of the Axis Tower. That area is also often utilized by utility crews who have no other practical place to park, although their public utility easement does not extend to the driveway. (See Appendix, Photo 11.) Nothing in the traffic operations plan, the Initial Study or the SEIR adequately addresses the reality of the types, numbers, and frequency of vehicles that will need to park close to the hotel in order to properly operate the hotel. The Axis will not allow hotel parking in their driveway or service parking area.

The traffic operations report (LTA) states on page 12 the “Appropriate visible and/or audible warning signals should be provided at the loading space driveway to alert pedestrians and bicyclists of vehicles exiting the driveway.” This mitigation measure is not included in the Initial Study or SEIR; therefore, the project would result in significant impacts to pedestrian and bicycle safety. This is a violation of CEQA, the City’s General Plan, and the Downtown Strategy EIR.

The traffic analysis in the Initial Study concludes that the project is not inconsistent with General Plan policies. Two policies that are directly relevant are the following from the General Plan:

TR-1.5: Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.

TR1.6: Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.

The evaluation of traffic impacts and the safety of pedestrians and bicyclists should have been included in the SEIR with a robust and detailed evaluation of these impacts. The topic should have been analyzed at a project-level as required by the Downtown Strategy 2040 and its FEIR. For these reasons and those described above, the project is not consistent with General Plan policies.
The project does not include any on-site parking and 41 parking spaces are expected to be provided at the public San Pedro Garage on N. San Pedro Street; however, the traffic operations report states that the “City will require that the project secure a 10-year lease for a minimum of 116 parking spaces at designated off-site parking facilities within walking distance of the project site.” This is not part of the project description. The traffic operations report assumed 330 rooms rather than the proposed 272, and led to a requirement of 116 spaces. At 272 rooms, a comparable ratio for parking would require 96 spaces, which are not part of the project description.

In addition, the project descriptions of the Initial Study and SEIR include a statement that parking would be provided at the City-owned garage “via a valet service and a parking agreement with the City of San Jose of up to 30 years.” So, in addition to not providing the required parking, it is unclear how long the agreement will be in place. The use of the term “up to” means the City can require the parking be provided for even less than 10 years. This is a violation of CEQA, General Plan policies, and the Downtown Strategy EIR.

There is also no inclusion of what the TDM measures would be for the project, yet these measures are relied upon to reduce traffic operational impacts to a less than significant level. There is also no description of how many employees will be working at the hotel at any one time, and where those employees would park. This must be included in the project description now so that the public and decision makers have the information needed to make an informed decision.

The vehicle queuing analysis demonstrates that the eastbound left-turn lane onto Notre Dame Avenue from W. Santa Clara Street would be longer in the AM and PM peak hours as a result of the proposed project. This potentially could have significant negative impacts on the Hotel De Anza and their valet operations. In addition, it should be noted that the Hotel De Anza has 12-15 loading/valet parking spaces for their 100 rooms! The proposed project is apparently getting away with only 5, which will create significant impacts to vehicle and truck operations and pedestrian and bicyclist safety.

In addition, the existing loading zone on W. Santa Clara Street in front of the Hotel De Anza is utilized by tour buses and is not used as a passenger pick-up/drop-off area. (See Appendix Photo 12.) It is assumed that the rest of the curb to N. Almaden Boulevard is painted red for a reason. Now the proposed project intends to replace the red curb with valet loading spaces which will create a traffic operations disaster and because the traffic operations study does not include these spaces on W. Santa Clara Street, there is no project-level operational analysis as required by the Downtown Strategy EIR.

The traffic operations report states in its conclusions on page 19 that because the loading zone areas are on public streets (and it is assumed this is the case for W. Santa Clara Street, although no analysis was provided), the area will not be restricted to the use of only the hotel and may not be available for valet use at all times! Metered parking that is often occupied is located on the rest of the street. This only exemplifies the issues described throughout this letter and makes the case that the project cannot be implemented without resulting in significant operational impacts.
On page 136 of the Initial Study under “Site Access”, there is a statement that “Since the completion of the transportation analysis, supplementary analysis was completed for additional valet parking. The project proposes a total of five valet parking spaces (two on Almaden Boulevard and three on Santa Clara Street). The additional valet spaces along Santa Clara Street would result in a change in trip assignment outlined in the LTA, but the additional trips on Santa Clara Street would be minimal and would not change the conclusions of the LTA.” This information is not included in the traffic report (LTA) and there is no analysis of the three additional loading spaces; therefore, there is no indication that this project modification would not result in operational impacts, including impacts to transit. As described throughout this section, traffic operations will be different and much worse than what was analyzed in the LTA and it and the Initial Study must be revised and traffic must be included in the SEIR.

The conclusions of the traffic operations report also includes the installation of lane delineators at the bike lane buffer along N. Almaden Boulevard, yet this is not included as a mitigation measure in the Initial Study and is only mentioned in the final paragraph of the Site Access section of the Initial Study. This important safety measure must be included as a mitigation measure and without it, impacts are significant. Including it as a mitigation measure will guarantee that it ends up in the MMRP for the project. In addition, the traffic operations report did not include the loading spaces on W. Santa Clara Street, so there is no assessment of impacts to this recommended bike lane buffer.

The Truck Access section of the Initial Study (page 137) describes the on-site loading space included in the project. This section does not explicitly state that this loading space is for trucks. With the chaos that is surely to occur as a result of the project, no other loading should occur in this short driveway.

**Valet Operations**

Valet operations are a subset of Transportation, but such operations are so significant that they will affect almost every aspect of the Transportation analysis.

This section of the Initial Study states that the project requires 10 valet spaces based on the traffic operations report which assumed just two. Valet staff numbers are therefore increased to accommodate the fact that the project does not include enough loading spaces. Page 137 of the Initial Study states “Based on the LTA, additional valet parking analysis, and peer review for the valet parking requirements, it was estimated that approximately 10 valet spaces may be required. As the project may not be able to accommodate that many valet parking spaces, however, it was determined that adequate valet staff (three to four) allow for a reduction of valet spaces. Apparently, this conclusion was based on personal communication with the traffic engineer (footnote 47) who completed the LTA. No discussion or analysis is provided to show how or why the consultant changed their conclusion. This must be discussed in the LTA, Initial Study, and SEIR.

Other rules that are not identified as mitigation measures for this impact include not allowing vehicles to be retrieved in advance of guest being present at the valet area and excluding ride-hailing.
companies (Uber/Lyft, and, we assume, taxis, etc.) from utilizing the loading zones. How will these two measures that are being depended on to reduce the need for loading zones be enforced? They won’t be included in the MMRP for the project, so the entities responsible for enforcement of these measures have not been identified. This must be corrected. Will the ride-hailing companies exclude utilizing these spaces on their apps? How will those individual drivers be alerted to the fact that they can’t park there?

Experience shows that ride-hailing drivers usually don’t know the areas in which they are driving well and have no issues with double-parking, blocking traffic, parking in metered spaces without paying the meters, or using red zones to stop and either dropping off or picking up their rides. This will not only be a nightmare for traffic in the area, residents of the Axis Tower, and patrons of the Hotel De Anza, but it will be unsafe for pedestrians and bicyclists on both N. Almaden Boulevard and W. Santa Clara Street. These significant impacts must be analyzed in the traffic operations report, Initial Study, and included in the SEIR.

It should also be noted that the Valet Operations memo prepared by Kimley-Horn on May 2, 2019 and included in Appendix G also does not include an analysis of vehicle loading spaces on W. Santa Clara Street. The only analysis that includes these spaces is the supplemental valet report also prepared by Kimley-Horn dated August 8, 2019 (Appendix G2). This analysis states that an additional loading space could be accommodated at the proposed truck access driveway. As previously mentioned, this should not be allowed so that trucks will not be backing up into the street with all the other traffic/parking that is not being accommodated.

The drive routes to the garage from N. Almaden Boulevard and Santa Clara Street are shown traveling west on W. Santa Clara Street to Autumn Street and up to Julian Street. The report is correct that during events at SAP Center, Autumn Street is usually closed and traffic is very heavy. However, the report does not take into account the AM and PM peak hour traffic at many of the intersections that would be utilized to drive to the garage. For example, the intersection of Julian Street and the southbound on-ramp to SR-87 is so backed up in the PM peak hour, lanes of Julian Street are often blocked. There is no way driving this route could take three minutes.

As another example, when SAP Center has events, the PM peak hour traffic is so heavy that southbound cars on N. Almaden Blvd. sometimes stack up all the way to W. St. John street, and the intersection at N. Almaden Blvd. and Santa Clara Street becomes a log jam of cars and pedestrians dangerously intersecting with each other. (See Appendix, Photos 13 through 15.) Since the SAP Center has about 150 events per year, many during weekdays, this will have a material effect on the valet operations. However, this intersection was not discussed in either the LTA or the valet operations analysis (and therefore not in the Initial Study or the SEIR).

The supplemental valet report also states that “up to” 10 valet attendants would be required during both the AM and PM peak hours (page 5). It is unclear whether this means that 10 will be required, or
some number less than 10. This is further confused by the fact that the Initial Study states that 3-4 valet staff will be adequate for five loading spaces. This is in direct conflict with the supplemental valet report. The Initial Study must be revised - especially since staff will have to drive to and run back from a parking structure that is almost ¼-mile away during the AM and PM peak hour in Downtown San Jose. The Initial Study conflicts with the conclusions of the traffic operations report (LTA), valet study, and its supplemental report. The document must be revised to reflect the conclusions of the Initial Study and a project-level traffic analysis must be included in the SEIR.

The Kimley Horn parking operations analysis refers to a draft City ordinance dating back to the days of Mayor Gonzales, that purportedly would establish Chapter 11.36 of the San Jose Municipal Code to provide regulations for on-street valet parking zones. That ordinance was never adopted, and is not pending as claimed. Rather, the relevant Ordinance is Chaptered in Part 4 of Title 11 of the Municipal Code. Those Chapters provide that the Director of Planning may issue an on-street valet parking zone permit only if certain conditions are met, and only if the parking operations plan includes certain specified information. The valet operations analysis prepared by Kimley Horn is devoid of any discussion regarding the requirements of the actual Ordinance, and is missing most of the information that would be required before the Director could issue an on-street valet parking zone permit.

Finally, nothing in any of the reviewed documents indicates how the City will enforce the requirement that the hotel have any specific number of valet attendants. What documents can the City enter into with the applicant, that will require the hotel operator to staff the valet operation as promised? What will be the consequences to the operator and/or the applicant/owner if the requirements are not met? Assessing a fine or revoking the valet parking zone permit certainly will not solve the problem (and the City certainly isn’t going to step in to provide valet attendants if needed), but what enforcement alternatives does the City have? If the City has no practical legal mechanism for enforcing such an important mitigation measure, then it should not be counted as a mitigation measure.

**Mandatory Findings of Significance**

Under the discussion of Impact MFS-1, it is stated that “The project would have a significant land use impact from increased shading as discussed in the Supplemental EIR”. This subject is not discussed in the Focused SEIR for the project – but, it should have been! Shading impacts to the Axis Tower, Hotel De Anza, and the Guadalupe River Park will be significant and damaging to residents and wildlife. This impact should have been included in the SEIR as this section seems to state.

Under the discussion of Impact MFS-3, it is stated that “The project proposes to redevelop an infill location in downtown San Jose and it is anticipated that short-term effects resulting from construction would be substantially off-set by meeting the long-term environmental goals (such as increased building energy efficiency) for this downtown site.” The project is not the redevelopment of an existing structure. Nothing is located on the site and developing the site with the proposed project definitely results in more than just significant environmental effects related to construction. The
project DOES have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals. The statement is therefore false and results in inadequate review in accordance with the CEQA Guidelines.
Photo 1: Building crews use traffic cones to block part of the street when they are wheeling garbage containers out for pick-up.

Photo 2: Garbage containers must be first be wheeled out into the street before they can be positioned at the curb.
APPENDIX TO COMMENT MEMO – PHOTOS RELEVANT TO PROJECT IMPACTS

Photo 3: The Axis, which has 329 residential units, uses up to 8 garbage/recycling bins, with garbage/recycling pick-up 5 days a week. The hotel, which will have 272 rooms, 2 restaurants and 2 bars, will surely need at least as many bins and pick-ups.

Photo 4: Containers are placed curbside the afternoon/evening prior to pick-up.
Photo 5: The Comerica building on the west side of N. Almaden Blvd. also has frequent garbage/recycling pick-ups, typically with 3 to 5 bins each time.

Photo 6: The Axis and Comerica building dumpsters are positioned across from each other, next to the Almaden Corner Hotel project site.
Photo 7: Delivery trucks for the Comerica building regularly park on the west side of the street in the loading zone or on the east side of the street in metered spaces.

Photo 8: Axis service vehicles park in the off-street area along the main driveway of the Axis Tower.
Photo 9: The Comerica building loading zone is very busy.

Photo 10: Uber/Lyft drivers for Comerica building customers often park at the loading zone on the west side of N. Almaden Blvd. There will be no convenient, safe place for Uber/Lyft drivers to stop for customers arriving at or departing from the hotel.
The right turn lane onto Santa Clara Street was recently blocked for Viva Calle. The City regularly blocks portions of N. Almaden Blvd., W. St. John and Notre Dame for various community activities, sometimes cutting off access for residents for hours at a time.

Photo 11: Regular utility work often occurs on or around the Axis property. Utility crews often park in the Axis driveway even though that is not part of their easement.
Photo 12: Tour buses regularly park in front of Hotel De Anza. Construction trucks hauling loads of dirt along Santa Clara Street have become a frequent sight.
Photo 13: When the SAP Center has events, sometimes cars stack up to W. St. John Street, and the intersection at N. Almaden and Santa Clara becomes clogged.

Photo 14: Pedestrians are forced to navigate around vehicles stopped over crosswalks.
Photo 15: Valet round-trip times during peak hours, especially on days when there are events at the SAP Center, will be significantly increased. According to the SAP Center website, they have over 150 events per year.
January 25, 2019

Nizar Slim, Project Manager
Planning, Building and Code Enforcement
City of San Jose
200 E. Santa Clara St.
San José, CA 95113

Dear Mr. Slim:

Re: Community Meeting for Proposed 19-Story Hotel at 8 N. Almaden Blvd.
City File No. H18-038 (Hotel Project)

The Axis Residential Tower at 38 N. Almaden Blvd. comprises 329 condominium units and is home to over 700 people. Axis is adjacent to the site of the proposed Hotel Project, an 8,000 square foot lot at 8 N. Almaden Blvd.

Axis residents value downtown living and enjoy the ever-growing number of restaurants, entertainment, and community events that it affords. We strongly support further development of the downtown core, but that support is predicated on a given project’s consideration of and compatibility with surrounding existing structures and uses.

Unfortunately the proposed Hotel Project fails to meet this critical standard, and as such we strongly oppose it in its current form. Our concerns have been described in detail through previous correspondence with the City (copies of which are attached hereto):

- Email from Carol Tosaya, dated July 23, 2018
- Letter from San Jose Downtown Association, dated October 15, 2018
- Letter from Axis HOA, dated October 18, 2018
- Letter from attorneys for Hotel de Anza, dated October 31, 2018
- Letter from Axis HOA, dated December 4, 2018

We look forward to the upcoming February 4 community meeting (6:00 p.m. in Council Chambers) to hear how the project’s developer intends to address concerns, both those raised in our communications and those outlined in your own comment letter dated October 1, 2018.

To help our community best prepare for this important meeting, we ask for your help to ensure that the following requests are completed as soon as possible:
1. Please supply copies of the most recent plans for the Hotel Project, along with any letters, memos, or emails in your files regarding comments on the project so that we may review them prior to the community meeting. These documents may be delivered via email to tommycusick@axishoa.org. Please consider this as a request under the California Public Records Act.

2. Please have the developer’s surveyor install poles or other markings to clearly delineate the physical location of the property line and the proposed building setback line along the northern boundary of the Hotel Lot, so that our residents can see “on the ground” exactly where these lie in relation to the Axis property.

To help the City and the Developer better prepare for the community meeting, we have outlined some of our concerns and questions below. Please consider this a formal request to include the following issues in the scope of the Environmental Impact Report for the Hotel Project:

1. **Construction Impacts:**
   a. **Traffic and safety issues**
      - Where will the crane be located, and for how long? For the sake of safety, it is critical that no crane swing occur over any portion of the Axis property.
      - What size will the crane be, and how far will it intrude into the street?
      - Will there be scaffolding on the north side of the Hotel Project?
      - Where will the construction lay-down area be located?
      - Where will construction vehicles park?
      - How will vehicular, bicycle, scooter and pedestrian traffic be diverted?
      - How will an accessible path of travel be preserved for residents and visitors with disabilities?
      - How will construction affect the frequent community events that already close our access roads on a regular basis?
      - How can we guarantee that construction workers and suppliers will not trespass onto the Axis driveway or block the driveway? No shared use of the driveway is feasible, as the entire width of the Axis driveway is needed by Axis for its own operations.
      - Where will we be able to put our trash bins during construction? Where will the Comerica building put its trash bins?
      - Will construction workers use the constrained on-street metered parking?
   b. **Other environmental issues**
      - What will construction hours be?
      - What noise and vibration limitations will be imposed on the project?
• Will pile-driving cause structural concerns on the Axis Property?
• Where will diesel equipment be located, and how will fumes be controlled and/or vented away from Axis?
• How will dust/dirt/mud be controlled?
• What arrangements will be made for extra window cleaning/general cleaning of the Axis property due to construction-related debris?

c. Utility interruptions
• How often is utility service to the Axis expected to be interrupted?
• What is the recourse in the event that Axis utilities are inadvertently interrupted?

2. Permanent Impacts:
   a. Traffic and safety issues
• How will the project’s valet parking be operated?
• Where will the queue of cars waiting for passenger drop-off and pick-up be located?
• How much will valet parking operations intrude into lanes of traffic?
• If N. Almaden Blvd. is converted from a one-way street to a two-way street, what will the line of sight be for cars pulling out into traffic?
• What will be done to help prevent traffic accidents from occurring?
• Where will loading and unloading occur for hotel deliveries?
• Where will hotel service vehicles park?
• Where will hotel employees park?
• Where will the trash bins be placed for Axis, the Comerica building, and the Hotel Project?
• How many metered parking spaces around Axis will be impacted?
• What will be done to prevent the Axis driveway from being blocked, or from being used by hotel guests or delivery vehicles? What recourse is there in the event that these mitigations are insufficient?
• Where will the off-site parking spaces be located?
  o If these are too far away, guests and employees will be more tempted to use the metered spaces around the Axis.
  o Although your October 1, 2018 comment letter suggests that a ten-year term would be acceptable, we disagree. Such a limited term would violate the City’s own ordinance. Muni Code Section 20.90.200(B)(2) requires that the off-site parking be available during the life of the building or use.
• Satisfaction of parking requirements must be based on the current status of the laws and regulations, not what is anticipated to occur in the future.
  • Where will bicycle parking be located?

b. Views, privacy, light intrusion and shadowing
  • Why was the height of the project increased from the 6 stories committed to in the original Phase II plans for the Axis project?
  • What is the distance between the south side of the Axis tower and the north side of the hotel tower at the closest point?
  • What will be done to help protect the privacy of residents whose windows face to the south?
  • What type of glazing will be used on the windows of the Hotel Project, to help prevent reflection/glare from the afternoon sun?
  • What type of lighting will be used on the exterior of the building, and what hours will the lighting operate?
  • How much will the Hotel Project cause shadowing on the Axis, especially the pool area?

c. Noise, odors and other impacts
  • Will there be live music or other sources of noise on the rooftop deck?
    • What will the hours of operation be?
  • Where will delivery and loading activities occur? What are the hours of operation for these activities?
    • Note that the Design Guidelines specify that delivery and loading areas should not be located near any adjacent residential uses.
  • Where will the back-up generator be located, and how loud will it be?
  • Where will rooftop vents be located? How will odor-producing vents be directed?
  • Will smoking be allowed in the building or on the property?
  • Where will rooftop compressors or other noise-generating equipment be located and buffered?
    • Note that the Design Guidelines specify that mechanical equipment should be located to assure that it cannot be heard at any residential property line.
  • Where will trash collection areas be located? How will odors/pests be controlled in these areas?
Although we continue to have strong reservations about the Hotel Project as currently proposed, we look forward to a productive discussion with City staff and the developer at the February 4 community meeting. Thank you in advance for your consideration and assistance.

Respectfully submitted,

[Signature]

Thomas T. Cusick
President, Axis Homeowners Association

cc:
Councilmember Raul Peralez
Patrick Kelly, Supervising Planner, Planning Division
Jenny Nusbaum, Principal Planner, Environmental Review
Edward Saum, Chair, Historic Landmarks Commission
Juliet Arroyo, Historic Preservation Officer, Historic Landmarks Commission
Karen Mack, Public Works Transportation Manager
Yves Hansel, General Manager, Hotel De Anza
Steven Cox and Scott Knies, San Jose Downtown Association
Brian Grayson and Andre Luthard, Preservation Action Council of San Jose
Paul Escobar, Downtown Residents Association
Sblend Sblendorio, Hoge Fenton
Mark Tersini, KT Properties
February 14, 2019

Thai-Chau Le, Environmental Program Manager
Planning, Building and Code Enforcement
City of San Jose
200 E. Santa Clara Street, 3rd Floor
San Jose, CA 95113

RE: Notice of Preparation for an Environmental Impact Report (EIR) for the proposed 19-story hotel located at 8 N. Almaden Boulevard (H18-038)

Dear Ms. Le,

On behalf of the Axis Homeowners Association and the more than 700 residents of the Axis tower, I am writing to supplement the concerns previously raised in a letter to Nizar Slim, the City’s Project Manager for the project, in response to the Notice of Preparation (NOP) for the EIR. That original letter was prepared prior to the community meeting held on February 4, 2019, and we feel compelled to augment those concerns due to additional information that has come to light since the original letter was sent. As such, please consider this letter as part of our official response to the NOP.

1. The NOP does not state that the Hotel De Anza is listed on the National Register of Historic Resources. This is vital information that the responsible and trustee agencies (in particular, the State Office of Historic Resources and National Park Service) should have been notified of in order to provide specific comments related to potential impacts to this highly sensitive resource.

   As stated in CEQA Guidelines Section 15082(a)(1), “The notice of preparation shall provide the responsible and trustee agencies and the Office of Planning and Research with sufficient information describing the project and the potential environmental effects to enable the responsible agencies to make a meaningful response (emphasis added).” At a minimum, the information shall include:

   A. Description of the project;
   B. Location of the project (either by street address and cross street, for a project in an urbanized area, or by attaching a specific map, preferably a copy of a U.S.G.S. 15’ or 7-1/2’ topographical map identified by quadrangle name); and
   C. Probable environmental effects of the project.”

   Without an explicit mention of the Hotel De Anza’s status included in the NOP, the responsible and trustee agencies are not provided with enough information to enable them to make a meaningful response related to the environmental impacts that could occur to this sensitive resource. This must be rectified by recirculating the NOP to the State Office of Planning and Research so that they can ensure that the NOP is properly circulated to the appropriate responsible and trustee agencies. The preparation of an EIR without this input could be considered to be inadequate and a violation of the California Environmental Quality Act (CEQA).

2. The proposed project, which would have up to 272 hotel rooms along with restaurants and bars, includes only two parking spaces, which is severely insufficient for the hotel’s need of a valet staging area, hotel
patron drop off and pick up zone, and truck loading. Such limited parking and loading facilities will absolutely result in unreasonable and unfair burdens on adjacent public streets as well as neighboring properties. It is evident that the entire block of N. Almaden Blvd. from Santa Clara Street to Carlyle Street will be adversely affected, impeding access to the Axis Tower pedestrian and vehicle entrances as well as the Comerica building entrances. This will be exacerbated if N. Almaden Blvd. is converted to a two-way street. An operational study of safety and access impacts, covering both one-way and two-way street scenarios, must be completed to fully understand the nature of this proposal. A comparison should be made of other area hotels with valet operations to see how many cars stack up during peak hours.

Section 20.90.420 of Title 20 of the Municipal Code states that off-street loading spaces “must be not less than 10 feet wide, 30 feet long, and 15 feet high exclusive of driveways for ingress and egress and maneuvering areas”. The areas shown on the most recent plans do not appear to meet these important requirements. In addition, a casual inspection of the area makes it clear that there will not be sufficient on-street loading space to accommodate circulation and manipulation of freight and there is not available loading space within the public right-of-way on N. Almaden Blvd., as shown in the photo below. The proposal is untenable in this respect.

Further, construction details must be included in the EIR to determine the potential impacts due to construction on such a tight space. Where will the crane be located? Where will construction materials be staged? What will the encroachment permit allow? How will pedestrian, bicycle, and vehicle access to the Axis building and Hotel De Anza be maintained? Axis residents already know what it is like to have their access disrupted, due to the many parades, fun runs and other events that result in the blockage of the Axis driveways. To have access blocked for any significant period of time would be a substantial and unfair burden affecting the 700 people in our vertical neighborhood. Further, it is not good planning
to approve of a project that is certain to result in daily aggravation, tension and potential disputes between neighbors due to the fact that hotel guests, employees and vendors will be tempted to encroach onto the Axis premises and sidewalk areas just so they don’t block traffic in the busy intersection.

We have been told in the past that now is not the time for this information to be divulged and we must wait until final construction drawings are prepared. We submit that this is deferred mitigation and not allowed under CEQA. Our residents will be significantly affected by construction and most likely in the long-term due to inadequate space on N. Almaden Blvd. for stacking cars waiting for valet service and the delivery of hotel supplies. All specific mitigation measures need to be included in the EIR so that the City and the public can be assured that the project actually works before it is approved. The photo above shows the tight space we are describing. It is not at all clear how this short frontage on N. Almaden Blvd. will support all of the operations of a hotel with only two parking spots. An operations study must be completed to prove this is reasonably possible, and mitigation measures must be included to reduce impacts, including blocked traffic, to an insignificant level.

3. We request that a wind analysis be completed for the proposed 19-story building. As anyone who has traveled to cities with dense Downtown development knows, these areas can be quite windy. Trash and construction debris could result in significant short- and long-term air quality impacts. The community
wishes to see mitigation measures called out up front in order to build confidence that the impact can be mitigated.

4. At the February 4th public meeting, Mr. Nizar Slim, the City’s Project Manager for the hotel project stated that the current Downtown Design Guidelines and Historic Guidelines are dated and need to be revised. We must point out to Mr. Slim that CEQA impacts and consistency with plans and policies are determined based on the “existing condition”, which is the situation that exists at the time the NOP is circulated. Because the Downtown Design Guidelines and Historic Guidelines were not revised at the time the NOP circulated, the EIR must evaluate the project based on the existing guidelines – not guidelines that may someday be changed.

5. The discussion of historic impacts in the EIR must evaluate the project’s proposed exterior building materials for the hotel structure. We also request that the final historic report be specifically/separately sent to the State Office of Historic Preservation for their agreement and approval.

6. The City’s October 1, 2018 letter also mentions that a peer design review be completed because “the proposed design does not fully address” the Downtown Design and Historic Design Guidelines. Further, the letter states that “the new hotel should not dwarf the historic structure in presence” and “the general height and massing of the building needs to be more compatible with the adjacent historic resource.” The peer review by Skidmore, Owings & Merrill (SOM) dated November 16, 2018 suggests a number of significant design revisions. It appears from the latest plan set that the applicant has not addressed these comments. The City must be sure that the project conforms to its own design requirements and incorporates the design recommendations from the peer review.

For example, the City’s letter states that the building masses should better reflect the De Anza’s tiered, “stepped back” façade, and the vertical Art Deco elements should have some reference in the design of the hotel, as opposed to undifferentiated glass curtain walls. The design presented at the community meeting does not reflect these staff requests or the recommendations from the peer review. Has the applicant not received these requests and recommendations, or were they willfully ignored in the presented design? Without the changes, the project does not conform to City design standards.

The project applicant is no stranger to the concept of protecting historic structures. The One South Market Residential Tower was required to similarly “step back” from the adjacent Alcantara Building/Hotel Metropole and Sunol Building, placing its similarly massed parking adjacent to these historic structures. These structures are eligible for the California and National Registers as well and they were treated as such. Why is the De Anza Hotel not being treated the same way? The City must apply their regulations consistently. In the picture included below, the One South Market Residential Tower is the blue building in the foreground. Its parking is approximately two stories tall, set behind the tower and adjacent to the brick historic structures farther down the street.
7. The 22-story Axis Tower was constructed in 2008 with 329 units, most of which are owner-occupied. The original environmental document for the Axis Tower project was the 47 Notre Dame Supplemental EIR (Axis SEIR), which tiered off the original Downtown Strategy 2000 Program EIR. Page 1 of the Axis SEIR described the Axis Tower project as the construction of “a 22-story (approximately 228 feet above grade), L-shaped 350-unit residential condominium on the northwest corner of the property (referred to as Phase I).”

The project description continues on page 4 of the Axis SEIR and includes the following: “The southwest corner of the site, adjacent to the De Anza Hotel, will be developed with a six-story residential/retail building (referred to as Phase II) with two levels of below grade parking that are open to and accessed through the Phase I underground parking area. The Phase II building will be comprised of approximately 35 condominium units and 8,000 square feet of retail.”

As stated on page 18 of the Axis SEIR, “To minimize the overall visual impact of the residential tower on the De Anza Hotel, the tower is proposed to be located with the greatest possible setback from the hotel on the project site at the northwest corner of the block.” In fact, the Axis Tower building itself is also stepped back from the hotel as shown in the attached photo. The construction of the 6-story Phase II
building was not evaluated in great detail as it would not have been taller than the De Anza Hotel and would not block views of the hotel’s iconic rooftop neon sign. In other words, it would not have contributed significantly to the impact of the Axis Tower structure, as described in the Axis SEIR.

Based on this information in the previous EIR for the site, we request that the alternatives section of the EIR include an analysis of construction of a 6-story building on the site. This alternative met the objectives of the original project and has the potential to reduce the impacts of the project, especially in terms of impacts to the De Anza Hotel and aesthetic impacts to the Axis Tower. We also ask that the EIR include an alternative of office uses at a height and design more site appropriate and respectful of the De Anza Hotel. Office uses are consistent with the Downtown and Downtown Commercial General Plan and zoning designations and would not impede as much on the privacy of the Axis residents. Further, it would not require valet parking which we feel will result in significant operational and safety impacts on N. Almaden Blvd.

8. The Axis residents are also extremely concerned about the noise that would likely be generated by the hotel’s restaurant and bar activities, particularly the rooftop bar. We have researched the hotel brand shown on the preliminary review submittal set (Moxy), which is known for being a “party hotel.” Many Moxy guests have noted in reviews that noise from the hotel bar is so loud that it penetrates through the rooms, making it difficult to sleep. Such severe noise would be a nuisance to our residents, and the nebulous promise of incorporating sound mitigation measures in a future revision of the project is insufficient. Please specifically describe all mitigations up front; do not defer this crucial detail.

9. It is apparent that the proposed project will eliminate the existing sunshine on the Axis swimming pool level (third floor) and along our main driveway/garage access. All of the trees and vegetation will not withstand the loss of sunshine. Therefore, an evaluation of impacts to these biological resources and nesting birds must be included in the EIR.

10. A letter from the applicant’s engineer dated August 28, 2018 (attached) seems to suggest that the flow-through planters along the north side of the hotel will be successful because there will be sunshine on that side of the building, and there will be maneuvering room for maintenance activities, even though the 3-foot wide planters abut against the Axis property line. But there will in fact be no significant amount of sunshine in that 3-foot strip due to the shadows caused by the hotel building and the Comerica building. Further, the only way there would be any room for maintenance activities is if the maintenance crew encroaches onto Axis private property, presumably between the current location of the retaining wall/fence and the property line (see attached site plans). Because the Axis residents have not granted an easement to the developer and have not otherwise relinquished their property rights to that strip of land (and may fence it off and use that area for other purposes), no mitigation can be based on the assumption that such land is available for hotel use.

11. The project plans do not appear to address the significant grade differential between the Axis driveway area and the hotel parcel, which are currently separated by a retaining wall/fence and a strip of asphalt pavement/crushed rock. We have attached the stormwater discussion from Charles Davidson, Engineers that shows the project intends to put the stormwater quality mechanisms on the north side of the building. This discussion does not address how the pattern of surface water drainage will be affected by the
project? This must be addressed to prevent a stream of stormwater from flowing onto the right of way or over the retaining wall onto the Axis driveway.

12. In the City’s letter to the applicant dated October 1, 2018, it is stated that the project may be in conflict with the future underground BART station planned to be installed in proximity to the hotel building. This could be a fatal flaw of the hotel project. Has the City notified VTA that the proposed BART Subway may affect the project? We will be including the VTA in all of our future correspondence to be sure that they are aware of this critical issue.

13. The list of required project approvals in the NOP omits tree permits and potential street vacation/land sale discretionary actions. These and all other related discretionary actions should be fully described in the EIR.

We appreciate this opportunity to continue to provide feedback on the project proposal and look forward to your substantive responses to these questions and concerns.

Respectfully submitted,

Thomas T. Cusick
President, Axis Homeowners Association

cc: Councilmember Raul Peralez
Patrick Kelly, Supervising Planner, Planning Division
Jenny Nusbaum, Principal Planner, Environmental Review
Edward Saum, Chair, Historic Landmarks Commission
Juliet Arroyo, Historic Preservation Officer, Historic Landmarks Commission
Karen Mack, Public Works Transportation Manager
Yves Hansel, General Manager, Hotel De Anza
Steven Cos and Scott Knies, San Jose Downtown Association
Brian Grayson and Andre Luthard, Preservation Action Council of San Jose
Paul Escobar, Downtown Residents Association
Sblend Sblendorio, Hoge Fenton
Carolyn Gonot, Chief Engineering & Program Delivery Officer, VTA
Mark Tersini, KT Properties
Nuria Fernandez, VTA
Gretchen Baisa, VTA
Almaden Corner Hotel Stormwater Narrative

The Almaden Corner Hotel is a high rise hotel on the corner of North Almaden Avenue and West Santa Clara Street in downtown San Jose. The project contains 0.20 acres within the boundary. The project includes 1 story of below ground and 19 stories above ground.

The project qualifies as a Category A Special Project under the terms of the Municipal Regional Permit (MRP) because of its small site and 100% site coverage. It would also qualify in Category B as the floor area ratio is 16.6. The existing site is 100% impervious and consists of paved parking lot and compacted baserock. The proposed project will remove the automobile pollutant impacts because all the parking will be removed. As can be seen from the Special Projects Worksheet, the project qualifies for 100% LID treatment reduction credit.

Although the project qualifies to use 100% non LID treatment, it has been used wherever it is feasible within the project as described below. Green roofs were not selected for the towers due to; 1) the potential penetration of the waterproof membrane by planting or maintenance leading to leaks directly over residential units 2) the need for extensive irrigation in a drought prone climate, and 3) the need for continuous maintenance of the plantings and roof. The building extends to the property line on the south and west sides leaving no room for flow through planters. However on the north and east sides there is a 3' setback from the property line. The east side was not viable because the adjacent hotel is right on the property line leaving no room for maintenance and no sunlight to support plant life. The north side does not have those restrictions, so a majority of that side, almost 90 linear feet, will be a flow through planter. The planter will treat all of the tower roof area. Runoff from the amenity deck and covering will be directed into the media filter on the north side of the building. The narrow buffer strip between the proposed building and the easterly property line will be permeable pavers as a self-treating area.

The Garden Gate Project epitomizes smart development. It proposes to replace a small parking lot with a high rise hotel in the downtown core near transit and jobs. It adds pervious surfaces where there were none before. And finally, although it would qualify for 100% LID credit, it will be able to treat 70% of the area with LID methods.
Ms. Jenny Nusbaum  
Principal Planner, Environmental Review  
City of San Jose  
200 E. Santa Clara Street, 3rd Floor  
San Jose, CA 95113  
Jenny.nusbaum@sanjoseca.gov

RE: PP15-102, San Jose Downtown Strategy 2040 Draft Program Environmental Impact Report, September 2018

Dear Ms. Nusbaum,

On behalf of 329 homes and over 550 residents of the Axis Residential Tower (“Axis”) located at 38 N. Almaden Boulevard in Downtown San Jose, I am submitting this comment letter related to the Downtown Strategy 2040 Draft Program Environmental Impact Report (“DSPEIR”). We respectfully ask that our comments receive substantive responses.

Our residents understand that new development in the Downtown is integral to creating a vibrant, balanced, transit-oriented downtown area. In fact, many of us purchased units at Axis eagerly anticipating the continued revitalization of Downtown and the associated benefits: proximity to restaurants, entertainment and retail establishments, jobs, and state-of-the-art transit opportunities.

**Background of Axis**

The 22-story Axis tower was constructed in 2008 with 329 units, the vast majority of which are owner-occupied. The original environmental document for the Axis project was the 47 Notre Dame Supplemental EIR (“Axis SEIR”), which tiered off the original Downtown Strategy 2000 Program EIR. Page 1 of the Axis SEIR described the project as the construction of “a 22-story (approximately 228 feet above grade), L-shaped 350-unit residential condominium on the northwest corner of the property (referred to as Phase I).”

The project description continues on page 4 of the Axis SEIR and includes the following: “The southwest corner of the site, adjacent to the Hotel De Anza, will be developed with a six-story residential/retail building (referred to as Phase II) with two levels of below grade parking that are open to and accessed through the Phase I underground parking area. The Phase II building will be comprised of approximately 35 condominium units and 8,000 square feet of retail.”

As stated on page 18 of the Axis SEIR, “To minimize the overall visual impact of the residential tower on the Hotel De Anza, the tower is proposed to be located with the greatest possible
setback from the hotel on the project site at the northwest corner of the block." In fact, the Axis building itself is also stepped back from the hotel as shown in the attached photo. The construction of the 6-story Phase II building was not evaluated in great detail as it would not have been taller than the Hotel De Anza and would not block views of the hotel’s iconic rooftop neon sign. In other words, it would not have contributed significantly to the impact of the Axis structure, as described in the Axis SEIR.

Current Proposal for Hotel Project

The Phase II building was never constructed, although the developer gave Axis residents his personal assurances during sales of the condominium units that the future structure would not be taller than six stories. This same developer is now in the process of seeking entitlements for a 19-story, 272-room hotel (the Hotel Project – Project Number H18-038) on the small 8,000 square foot lot at the southwest corner of the block.

The Hotel Project would not include any parking, although the previous Phase II project included two levels of below grade parking. It may be that this parking is not part of the proposed Hotel Project because the developer would need to obtain an easement to access this parking from the existing Axis underground parking area, as originally planned. Or perhaps this parking is not included because of the engineering and design difficulty of fitting an underground parking structure onto a postage-stamp parcel, and the resulting costs. Whatever the reason, however, a hotel of this size with no parking would create an operational nightmare for both Axis residents and other nearby residential and office developments. For example, the Hotel Project’s valet operations would overflow into the public right of way and would almost surely trespass onto Axis’ driveway. In addition, all other modes of traffic (including bicyclists, pedestrians, and bus transit) in the project area would be adversely affected.

Our other issues with the proposed Hotel Project include the elimination of all views from and the loss of privacy for the residential units that face to the south. These views are why many of the residents purchased these units especially in light of the assurances provided by the developer that these views would never be restricted. As you can imagine, having the windows of a hotel facing the Axis building with very little setback would be unnerving to many of our residents, and again, the proposed building was never expected to be taller than six stories.

We are also very concerned about how the Hotel De Anza, its distinctive Art Deco rooftop parapet, its rooftop neon sign, and the diving lady painting will be affected by the construction of a 19-story hotel immediately adjacent to the hotel. As stated on page 18 of the Axis SEIR pertaining to the diving lady painting on the western façade of the Hotel De Anza building, “At the time that the De Anza was listed as a historic building, the painting was not included as a defining feature because of its relatively new age in comparison to the rest of the building. However, the painting has become a local icon and is widely recognized by San Jose residents. In order to avoid blocking the painting from view as people travel east on West Santa Clara Street, the Phase II building will provide a sufficient setback and a stepped design on the east side of the building to ensure an unobstructed view of the painting. In addition, the construction
materials and design of the Phase II building are proposed to be compatible with the Hotel De Anza and create the look of a contiguous pedestrian corridor along West Santa Clara Street. Furthermore, the project would conform to the City of San Jose Design Guidelines.”

The Hotel De Anza is one of the finest examples of Zigzag Moderne Art Deco style in the city of San Jose, and by far the best known. Its most widely recognized features are the stepped, zigzag parapet that extends across the entire ninth and tenth floor roofline of its front façade and the neon sign that tops the central parapet. Both the San Jose Design Guidelines and National Register guidelines stipulate that new construction should not dwarf an adjacent historic building.

The plans we have seen thus far for the 19-story Hotel Project do not respect the architecture or historic considerations of the Hotel De Anza. They appear to overcrowd and dwarf the structure and to completely block any views of the diving lady, and more importantly, the stepped parapet and the De Anza’s iconic rooftop neon sign. In fact, the plans show a building that actually spreads out as it gets taller. This is in direct conflict with the previous environmental review completed for the 47 Notre Dame Axis SEIR.

Further, page 30 of the Axis SEIR states the following: “It should also be noted that it was the conscious decision of the project proponent [of the Axis project] to site the proposed residential tower on the northwest corner of the block to ensure the greatest setback from the Hotel De Anza, thus minimizing the tower’s effect on the Hotel De Anza. The above notwithstanding, the Hotel De Anza was intended to be a visible landmark and has historically been the tallest building on the block since it was constructed. Its primary view corridor at present is from the south on Almaden Boulevard. According to the historic consultant, the addition of a tower taller than the roof of the De Anza, or its roof sign, significantly impacts the historic character of the property by reducing its position of prominence. This impact is site-specific and is specific to the Hotel De Anza since its stature played a role in its importance.”

Again, it is inconceivable to us that a 19-story structure could now be considered at 8 N Almaden Boulevard when the previous environmental review was for a 6-story residential/retail structure at the southwest corner of the site.

As stated in the Axis SEIR, the construction of the Axis project would obscure views of the Hotel De Anza from Highway 87 in the southbound direction, and it is true that Axis partially obscures this view; however, the Hotel De Anza and its iconic sign can still be seen from the northbound direction and from the Guadalupe River Park on the west side of the highway (see attached daytime and nighttime photos). The loss of the view of the hotel and its sign from the park was not considered under the Axis EIR in the determination of a significant unavoidable impact on the integrity of the setting of the Hotel De Anza. Further, the impact identified in the Axis SEIR was determined for a project that was the construction of a 6-story structure that could not have obscured the view from either the highway or the park. We request that a new Environmental Impact Report (EIR) be prepared to evaluate this new impact not previously identified in the Axis SEIR.
Downtown Strategy 2040 Draft Program EIR

Again, we support the overall continued redevelopment of the Downtown area as envisioned in the Downtown Strategy 2040. We also understand that it is the intent of the City for the environmental review provided in this new DSPEIR to cover the impacts of the proposed hotel project. We would like to point out that the DSPEIR is a program-level EIR and does not provide project specific environmental review for a 19-story hotel structure with no parking adjacent to a historic structure and a residential tower. For this reason, we respectfully request that a project specific environmental impact report be prepared for the proposed project.

This request is supported by the following statement included in the DSPEIR on page 40: “To reiterate, the Downtown Strategy 2040 is a planning document to guide development; it does not propose specific development projects at this time. Therefore, the following discussions provide program-level review of the potential aesthetic impacts that may result from implementation of the Downtown Strategy 2040. Future projects under the Downtown Strategy 2040 will be subject to subsequent environmental review and assessment of project-specific aesthetic impacts.”

Because the proposed Hotel Project is a project-specific development, and because site-specific aesthetic and historic impacts would be significant and unavoidable, specific mitigation measures should be presented in a new EIR for the Hotel Project. Program-level and General-Plan level impacts and mitigation measures are not specific enough to evaluate the construction of the 19-story Hotel Project immediately adjacent to a historic structure. This is especially true since the previous environmental review assumed a 6-story structure on the project site.

Aesthetic Impacts

As stated on page 40 of the DSPEIR, the discussion supports the use of General Plan policies and Design Guidelines to provide program-level mitigation for impacts to scenic views. “For example, in accordance with 2040 General Plan Policies CD-10.2 and CD-10.3, new development adjacent to Gateways, Grand Boulevards, and freeways shall be designed to preserve and enhance attractive natural and man-made vistas.” The proposed Hotel Project is along such a “Grand Boulevard” – Santa Clara Street, yet the design is far from one that preserves and enhances attractive natural and man-made vistas. In fact, the design would completely destroy the views from the street and surrounding land uses.

In determining impacts to visual character, the implementation of Design Guidelines and General Plan policies are expected to ensure that buildings in Downtown support high quality development. When considering Table 3.1-2: Design Guidelines by Category on page 41 of the DSPEIR, the proposed Hotel Project plans do not exhibit many of the guidelines in the table. For example, under “Building Form”, the Hotel Project does not “minimize bulk” or have a “distinctive design for interesting views to and from the building”. Under “Building Context”, the proposed hotel building does not reflect “the architectural context” of the existing Hotel De Anza nor is it “compatible with existing buildings” along the Grand Boulevard. Again, we request a
determination of specific impacts of the proposed Hotel Project in light of the Design Guidelines and the identification of site-specific mitigation measures in a new EIR.

This section of the DSPEIR also evaluates compatibility with surrounding development. As stated on page 43 of the DSPEIR, “For the purposes of this EIR, it is assumed that all future projects will reduce aesthetic impacts to a less than significant level through project design. In the event a future project proposes features that could substantially degrade the existing visual character, additional environmental review and detailed evaluation of resources and mitigation measures will be required prior to approval or implementation.” As we have demonstrated, the proposed hotel structure is inappropriately massive, intrusive, and incompatible with surrounding development, including the Hotel De Anza.

In fact, the preliminary review already conducted by the City’s planning department states that the new building should not dwarf the historic structure. It also states that the proposed hotel façade closest to the historic hotel has a window/glass geometry and height of a much larger scale than the Hotel De Anza. The Hotel De Anza’s tiered and “stepped back” façade and vertical Art Deco elements should have “some reference in the design of the new hotel”. The review states that these issues must be addressed. The current Hotel Project plans show no such considerations and project-specific impacts and mitigation measures must be identified in a new EIR.

**Construction-Related Impacts**

Axis residents are also very concerned about noise, air quality, and traffic operations during construction of the proposed Hotel Project. Page 65 of the Downtown Strategy DSPEIR states the following: “In the event a future project would exceed the average daily or annual emission threshold or otherwise result in a significant impact based on current BAAQMD Guidelines and City requirements, supplemental environmental review may be required prior to project approval or implementation to identify the additional feasible measures necessary to reduce emissions to less than significant levels.”

No such evaluation has been completed for the 19-story structure and it is unknown how long existing residents would be subject to such emissions. In addition, a construction Toxic Air Contaminant (TAC) evaluation has not been prepared to determine potential cancer risks to the sensitive residential land uses at Axis during construction. These project-specific impacts and mitigation measures must be evaluated in a new EIR.

Construction noise and vibration must also be addressed. Again, the mitigation measures included in the DSPEIR are general measures based on the Municipal Code and are not site-specific. Given the recent cracks and structural damage experienced in high-rise development in San Francisco, site-specific construction-related impacts associated with pile driving and geotechnical considerations must be evaluated. This is to ensure that the surrounding high-rise development will not be affected by this new construction that will undoubtedly require pile
driving and other vibration-generating construction techniques. Impacts to the Hotel De Anza must also be addressed. These impacts must be disclosed in a new EIR.

In addition, the small 8,000 square-foot lot is severely constricted with busy roadways located along the only two accessible sides of the property. It is not apparent where construction staging of materials and equipment will occur, and specifically where the crane would be located for the duration of what will likely be years-long construction. We are concerned about crane operations trespassing over the Axis driveway. We are also not in favor of City streets being used for the development of private projects, particularly where potentially hazardous crane operations might need to occur over a busy public street. To allow any construction staging on Santa Clara Street with its heavy traffic load and bus rapid transit lines or N. Almaden Boulevard, which is one-way, would result in significant short-term traffic impacts and safety impacts not specifically discussed in the DSPEIR. This will be especially true if N. Almaden Boulevard is converted to a two-way street.

Parking and Traffic

Unbelievably, the proposed Hotel Project does not include any on-site parking and it is not known where these cars will be staged or ultimately parked. According to the preliminary review conducted by the planning department, 0.35 parking spaces are required per room. Therefore, a 272-room hotel would require 95 spaces, yet the project does not include any parking. In addition, it is unclear where valet parking could even be employed or where cars trying to access the hotel could be stacked.

With the proposal to convert N. Almaden Boulevard to a two-way street, the lanes of traffic would be much narrower. There is no indication that traffic operations would not be chaotic and result in safety impacts to pedestrians, bicyclists, bus transit, and vehicles accessing the project area. This is the current situation at the 100-room Hotel De Anza where valet parking on Notre Dame Avenue regularly backs up northbound traffic on the street, especially during commute hours which can correspond to hotel check-in and check-out. In addition, these conditions would also block existing driveways, including those utilized by Axis residents.

The DSPEIR states that operational transportation analyses will be required for projects as they come forward. However, we contend that impacts associated with not providing ANY parking have the potential to result in significant safety impacts not specifically identified in the DSPEIR. A new EIR that addresses operational impacts specific to the proposed project is required. In addition, it is not apparent how freight and service vehicles, including waste disposal trucks, would access the site without blocking the surrounding streets and our access driveways.

Conclusion

The Axis Homeowners Association strongly supports Downtown San Jose’s continued revitalization. Our residents are community leaders and active participants in planning activities in the Downtown area. We live, play, and work in Downtown now and are committed to ensuring
that future Downtown development respects the existing surrounding land uses and viewsheds as well as the historical context. However, new construction incompatible with adjacent structures and landmarks is directly at odds with the vision set forth in Downtown Strategy 2040 and ultimately does not promote continued beautification or enhancement of the Downtown area.

For the reasons identified above, including the fact that all previous environmental documents prepared assumed a 6-story structure on the site, a new project-specific EIR must be prepared for the 8 N. Almaden Boulevard hotel project (H18-038).

Respectfully submitted,

[Signature]

Thomas T. Cusick
President, Axis Homeowners Association

cc:
Richard Doyle, City Attorney
Mayor Sam Liccardo
Councilmember Raul Peralez
Dave Sykes, City Manager
Councilmember Charles Jones
Councilmember Sergio Jimenez
Councilmember Lan Diep
Councilmember and Vice Mayor Magdalena Carrasco
Councilmember Devora Davis
Councilmember Tam Nguyen
Councilmember Sylvia Arenas
Councilmember Donald Rocha
Councilmember Johnny Khamis
Thai-Chau Le, Planner, Environmental Review
Rosalynn Hughey, Director, Department of Planning
Patrick Kelly, Supervising Planner, Planning Division
Nizar Slim, Project Manager, Planning Division
City Clerk
Commissioner John Leyba
Commissioner Ada Marquez
Commissioner Peter Allen, Chair Planning Commission
Commissioner Shiloh Ballard, Vice Chair Planning Commission
Commissioner Melanie Griswold
Commissioner Namrata Vora
Commissioner Michelle Yesney
Photo of Axis Building (38 N. Almaden Boulevard) taken from the south side of Santa Clara Street looking to the northeast. The stepped back nature of the building can be seen as well as its placement at the northwest corner of the block. Its distance and stepped back design respects the historical integrity of the Hotel De Anza and roof sign seen to the right.
View of the Hotel De Anza and neon sign looking to the east taken from the Guadalupe River Park on the west side of SR 87. The hotel sign is easily seen, even with the lighted tennis courts in the foreground.
Daytime view of Axis, Hotel De Anza, and Comerica Bank building looking to the east from the tennis courts in the Guadalupe River Park. The proposed 19-story hotel project would remove all views of the historic structure from the public open space.
October 2, 2019

VIA EMAIL (Thai-Chau.Le@sanjoseca.gov)

Thai-Chau Le
Environmental Project Manager
City of San Jose
Department of Planning, Building, and Code Enforcement
200 E. Santa Clara St., 3rd Floor
San Jose, CA 95113

Re: Supplemental Environmental Impact Report (SEIR) for the proposed 19-story Almaden Corners Hotel to be located at 8 N. Almaden Boulevard (H18-038)
Our File No.: 92616

Dear Ms. Le:

This comment letter prepared on behalf of ML San Jose Holding, LLC, the owner of the Hotel De Anza at 233 W. Santa Clara Street in Downtown San Jose ("Comment Letter"). This Comment Letter contains the substantial contributions of Jodi Starbird of Starbird Consulting. The Hotel De Anza and the approximately 700 residents of the Axis Residential Tower ("Axis Tower") at 38 N. Almaden Boulevard collectively engaged Ms. Starbird.

**Timeline of Previous Comments**

The Axis Homeowners Association submitted two letters dated January 25, 2019 and February 14, 2019. We prepared a letter dated October 31, 2018 on behalf of the owners of Hotel De Anza.

The Axis Homeowners Association and the owners of the Hotel De Anza submitted letters regarding the project as part of the environmental review for the Downtown Strategy EIR certified in December 2018. Those letters, the NOP letters, and all other correspondence between the two affected entities and the City of San Jose are hereby incorporated by reference into this Comment Letter. Copies are attached. Therefore, any future legal action will draw upon all letters and correspondence submitted.

**I. The Land Use Analysis fails to provide adequate mitigation measures from significant impacts that will put the project in conflict with a future BART station and will cause the Hotel De Anza to lose millions of dollars.**

**Eventual BART Station**

In the City's letter to the applicant dated October 1, 2018, the City states that the project may be in conflict with a future underground BART station to be constructed near
the project. The impact of this known construction is not described in any section of either the Initial Study or SEIR. The final report must analyze the impact of BART.

**Shading**

The shading of the Hotel De Anza by the project will affect Hotel De Anza’s ability to rent rooms on its west side. There are approximately 45 rooms that would be virtually un-bookable. These 45 rooms have 56 windows that open. Guests will be unable to use these windows during construction and the shadowing will negatively impact guest experience. Furthermore, it is unlikely that these windows will survive the noise and vibration of construction nor provide sufficient sound deadening once the project is occupied. Hotel De Anza estimates that with an average room rate of $230.00 per night and an 80% occupancy rate, the project will directly cause a loss of $8,280 per night or approximately $3,000,000 per year post construction. During construction the loss of revenue is estimated to be much higher ($5.5M or essentially 80% of the hotel’s current room revenue), as the noise/construction would impact the entire hotel. Hotel De Anza is a union hotel and carries union operating cost. The financial loss during construction and post construction would be devastating and essentially erode the entire hotel’s profit and its value. The hotel would be forced to shut down. To render existing hotel rooms in the Downtown as un-bookable is not consistent with the goals of the Downtown Strategy 2040. Further, if Hotel De Anza is forced to close it would compromise the historic designation of the building. The loss of $3,000,000 of revenue annual translates into the loss of operational value in the Hotel De Anza. Such a loss of value would also endanger the Hotel De Anza's ability to finance improvements thereby further compromising its historic designation.

The SEIR analysis is not complete because these significant issues were not analyzed.

**II. The Initial Study fails to mitigate several significant transportation and circulation impacts caused by the project.**

**Lack of Parking**

The proposed project includes up to 272 hotel rooms along with restaurants and bars without including any on-site parking. Instead of on-site parking, the project expects 41 parking spaces to be provided at the city-owned San Pedro Garage on N. San Pedro Street. The traffic operations report states that the “City will require that the project secure a 10-year lease for a minimum of 116 parking spaces at designated off-site parking facilities within walking distance of the project site.” There is no discussion of what will occur after that 10-year period.

The project descriptions of the Initial Study and SEIR include a statement that parking would be provided at the City-owned garage “via a valet service and a parking agreement with the City of San Jose of up to 30 years.” This statement blatantly contradicts the previous statement regarding a 10-year lease. This is a violation of CEQA, General Plan policies, and the Downtown Strategy EIR.
Finally, there is also no description of where employees would park. This must be included in the project description now so that the public and decision makers have the information needed to make an informed decision.

Circulation

The completion of the project will bring hundreds more daily visitors to the intersection of the project, but the circulation issues associated with this impact are not analyzed at all. There was no analysis of how VTA transit on W. Santa Clara Street will be affected by the three new vehicles parked within a few feet of an existing VTA bus stop. This analysis must be revised and included in the SEIR – not just the Initial Study.

The traffic analysis (Appendix G1) states that “the project proposes a valet drop-off/pick-up area and one loading area driveway along Almaden Boulevard.” (page 3 and Figure 4). In contradiction, the project description also includes drop-off/pick-up space for three vehicles on W. Santa Clara Street. The operations analysis therefore, does not include an evaluation of the additional three loading spaces on W. Santa Clara, nor do the project plans. This results in a significant omission related to traffic operations.

The traffic operations report states in its conclusion on page 19 that because the loading zone areas are on public streets, the area will not be restricted to the use of only the hotel and may not be available for valet use at all times. This only exemplifies that the project is not implementable without resulting in significant operational impacts on circulation within Downtown San Jose.

The drive routes to the garage from N. Almaden Boulevard and Santa Clara Street are shown traveling west on W. Santa Clara Street to Autumn Street and then to Julian Street. The report correctly observes that during events at SAP Center, Autumn Street is usually closed and traffic is very heavy. However, the report does not take into account the AM and PM peak hour traffic at many of the intersections that would be used to drive to the garage. For example, the intersection of Julian Street and the southbound on-ramp to SR-87 is so backed up in the PM peak hour, lanes of Julian Street are often blocked. It seems inconceivable that driving this route could take the stated three minutes.

Refuse Service

The garbage dumpsters for the Axis Tower are located in the area shown below. The addition of garbage dumpsters from the project, which are recommended to be wheeled out to the street on trash pick-up days, would render this area unusable for vehicle drop-off/pick-up spaces on N. Almaden Boulevard.
The Axis Tower typically has between 2 and 8 large containers being collected Monday through Friday each week. Before pick-up, each of those containers must be wheeled from the Axis Tower driveway into the street, then backed up to the curb. The process is reversed following pick-up. It is difficult to imagine that a hotel with 272 rooms, 2 restaurants and 2 bars will have less garbage and recycling than the Axis Tower. In addition, the Comerica building also wheels its garbage and recycling containers out on N. Almaden Blvd., across from the project site. The impacts associated with the Axis Tower and Comerica building garbage/recycling dumpsters (including wheeling the garbage/recycling bins out into the street, the “parking” of garbage/recycling collection bins awaiting collection, and collection truck pick-up activities) were not analyzed in the SEIR, the Initial Study or the traffic operations report, which is a serious flaw.

Even if the hotel dumpsters do not interfere with the hotel loading area, it is completely unrealistic to think that the one loading space will adequately serve the 272-room hotel, including the 2 restaurants and 2 bars. The loading zone for the Comerica building (which only has offices) is busy all day long, often with 2 or 3 trucks, delivery vehicles, service vehicles and Uber/Lyft drivers. When they run out of space there, they park in the metered spaces, or sometimes try to park in the Axis Tower driveway/service area.
Bicycle and Pedestrians

There are tremendous safety issues for bicyclists and pedestrians near the project. The following two policies from the General Plan that are directly relevant:

TR-1.5: Design, construct, operate, and maintain public streets to enable safe, comfortable, and attractive access and travel for motorists and for pedestrians, bicyclists, and transit users of all ages, abilities, and preferences.

TR-1.6: Require that public street improvements provide safe access for motorists and pedestrians along development frontages per current City design standards.

The evaluation of traffic impacts and the safety of pedestrians and bicyclists should have been analyzed at a project-level as required by the Downtown Strategy 2040 and its FEIR. They were not. For these reasons alone, the project is not consistent with General Plan policies.
Secondly, impacts to pedestrians and bicyclists on W. Santa Clara Street has not been completed as part of the analysis required by the Downtown Strategy 2040. In fact, the three loading zones on W. Santa Clara Street are not included in the traffic operations study, nor are they on the project plans. Pity the bicyclist riding westbound on W. Santa Clara Street in a bike lane between the parked vehicles and vehicular traffic along the major thoroughfare only to get struck by either a car driving off after pick-up or drop-off or by a car door.

As shown below, it is evident that the project will significantly impact the entire block of N. Almaden Blvd. from Santa Clara Street to Carlysle Street, in front of the Axis Tower pedestrian and vehicle entrances (as well as the Comerica building entrances). This will be exacerbated if N. Almaden Blvd. is converted to a two-way street. An operational study of safety and access impacts to residents of the Axis Tower given this proposed unsafe condition is required, under both one-way and a two-way street scenarios. This was not included in the Initial Study or the SEIR, rendering them inadequate.
Loading Zones

Section 20.90.420 of Title 20 of the Municipal Code states that off-street loading spaces “must be not less than 10 feet wide, 30 feet long, and 15 feet high exclusive of driveways for ingress and egress and maneuvering areas”. The areas shown on the most recent plans do not appear to meet these requirements.

An evaluation of the individual and combined operation of all the loading areas and the loading dock in the busy AM and PM peak hours has not been completed. In addition, operations of how the proposed loading dock and vehicle loading zones proposed on N. Almaden Blvd. would interact with the existing the Axis Tower driveway on the south side of the Axis Tower is not provided. This driveway is used for access to the underground the Axis Tower parking lot and is also a delivery loading zone for the residential tower.

Valet

The proposed project’s intensive and novel use of valet services deserves a separate analysis under the transportation analysis. There are numerous concerns with the proposed valet operations. On page 136 of the Initial Study under “Site Access”, there is a statement that “since the completion of the transportation analysis, supplementary analysis was completed for additional valet parking. The project proposes a total of five valet parking spaces (two on Almaden Boulevard and three on Santa Clara Street). The additional valet spaces along Santa Clara Street would result in a change in trip assignment outlined in the
LTA, but the additional trips on Santa Clara Street would be minimal and would not change the conclusions of the LTA." This information is not included in the traffic report (LTA) and there is no analysis of the three additional loading spaces; therefore, there is no indication that this project modification would not result in operational impacts, including impacts to transit. As we have described throughout this section, traffic operations will be far different and much worse than what was analyzed in the LTA and the SEIR and the Initial Study must be revised and traffic must be included in the SEIR. Further, on page 137 of the Initial Study, it states "Based on the LTA, additional valet parking analysis, and peer review for the valet parking requirements, it was estimated that approximately 10 valet spaces may be required. As the project may not be able to accommodate that many valet parking spaces, however, it was determined that adequate valet staff (three to four) allow for a reduction of valet spaces. Apparently, this conclusion was based on personal communication with the traffic engineer (footnote 47) who completed the LTA. No discussion or analysis is provided to show how or why the consultant changed their conclusion. This must be discussed in the LTA, Initial Study, and SEIR.
The existing loading zone on W. Santa Clara Street in front of the Hotel De Anza is utilized by tour buses and is not used as a passenger pick-up/drop-off area. It is assumed that the rest of the curb to N. Almaden Boulevard is painted to prevent further congestion, yet the project intends to replace the red curb with valet loading spaces. These valet loading spaces will create a traffic disaster because the constant valet flow will cause additional congestion on an already congested corridor.

The conclusions of the traffic operations report also includes the installation of lane delineators at the bike lane buffer along N. Almaden Boulevard, yet this is not included as a mitigation measure in the Initial Study and is only mentioned in the final paragraph of the Site Access section of the Initial Study. This important safety measure must be included as a mitigation measure and without it, impacts are significant. Including it as a mitigation measure will guarantee that it ends up in the MMRP for the project. In addition, the traffic operations report did not include the loading spaces on W. Santa Clara Street, so there is no assessment of impacts to this recommended bike lane buffer.

As previously discussed in this Comment Letter, the supplemental valet report also states that up to 10 valet attendants would be required as previously discussed, during both the AM and PM peak hours (page 5). This is not reflected in the Initial Study which states that 3-4 valet staff will be adequate for five loading spaces. This is in direct conflict with the supplemental valet report. The Initial Study must be revised - especially since valet staff will have to drive to and run back from a parking structure that is almost ¼-mile away
during the AM and PM peak hour in Downtown San Jose. The Initial Study conflicts with the conclusions of the traffic operations report (LTA), valet study, and its supplemental report. The document must be revised to reflect the conclusions of the Initial Study and a project-level traffic analysis must be included in the SEIR.

The Kimley Horn parking operations analysis refers to a draft City ordinance dating back to the days of Mayor Gonzales, that purportedly would establish Chapter 11.36 of the San Jose Municipal Code to provide regulations for on-street valet parking zones. That ordinance was never adopted, and is not pending as claimed. Rather, the relevant Ordinance is Chaptered in Part 4 of Title 11 of the Municipal Code. Those Chapters provide that the Director of Planning may issue an on-street valet parking zone permit only if certain conditions are met, and only if the parking operations plan includes certain specified information. The valet operations analysis prepared by Kimley Horn is devoid of any discussion regarding the requirements of the actual ordinance, and is missing most of the information that would be required before the Director could issue an on-street valet parking zone permit.

Finally, nothing proposed in any of the reviewed documents indicates how the City will enforce the requirement that the hotel have any specific number of valet attendants. What documents can the City enter into with the applicant, that will require the hotel operator to staff the valet operation as promised? What will be the consequences to the operator and/or the applicant/owner if the requirements are not met? Assessing a fine or revoking the valet parking zone permit certainly will not solve the problem (and the City certainly can't step in to provide valet attendants if needed), but what enforcement alternatives does the City have? If the City has no practical legal mechanism for enforcing such an important mitigation measure, then it should not be counted as a mitigation measure.

Ride Share

The SEIR and Initial Study fail to identify mitigation measures for the transportation impact from the prohibition of ride share companies (Uber/Lyft, etc.). Currently, ride share services are prohibited from utilizing the loading zones. Yet the analysis fails to provide how this prohibition will be enforced. The project fails to identify the entity responsible for enforcement of this measure. This must be corrected. Will the ride-hailing companies exclude utilizing these spaces on their apps? How will those individual drivers be alerted to the fact that they can't park there?

Experience shows that ride share drivers are generally unfamiliar of the area in which they are driving and have no issues with double-parking, blocking traffic, parking in metered spaces without paying the meters, or using red zones to stop and either dropping of or picking up their rides. This will not only be a nightmare for traffic in the area, residents of the Axis Tower, and patrons of the Hotel De Anza, but it will be unsafe for pedestrians and bicyclists on both N. Almaden Boulevard and W. Santa Clara Street. These significant impacts must be analyzed in the traffic operations report, Initial Study, and included in the SEIR.
Truck Access

The truck access section of the Initial Study (page 137) describes the on-site loading space included in the project. This section does not explicitly state that this loading space is for trucks. With the chaos that is surely to occur as a result of the project, no other loading should occur in this short driveway.

Two-Way N. Almaden

Perhaps most troubling is the fact that the Project Description does not include the fact that N. Almaden Boulevard may be altered in the future to be a two-way street rather than a one-way street, even though the Department of Public Works comment memorandum dated 8/12/19 devotes three paragraphs to this topic. The memorandum also specifies, as one of the project conditions, that “The project will provide voluntary contribution in the amount of $250,000 to be used toward the future Almaden Boulevard couplet conversion and installing bike detection improvements . . . .”

Changing from a one-way to a two-way street could significantly increase congestion, queuing problems and other issues, and should have been studied as part of the traffic operations analysis/Local Transportation Analysis ("LTA") prepared by Hexagon Transportation Consultants. The LTA failed to analyze this (and many other factors affecting local traffic operations as described below), and therefore the LTA should be revised and recirculated for comment.
III. Noise and vibration from the project will cause significant impacts on the adjacent properties that cannot be mitigated.

Significant construction-related and long-term noise will be generated by the project; however, the noise section of the Initial Study does not reflect this. Page 109 of the Initial Study states that “Similar to the site development evaluated in the Downtown Strategy 2040 FEIR and the General Plan FEIR (as amended), the proposed project would result in less than significant noise and vibration impacts, as described below.” The reference to “as described below” then states that the project would result in noise in excess of City and other applicable agency’s standards. This is a conflicting statement that highlights the lack of proper analysis of this impact.

As stated on page 6 of the Noise Assessment (Appendix F), the adjacent land uses are sensitive receptors; therefore, impacts must be carefully determined and mitigation must result in reduced noise levels. Standard Permit Conditions on page 112 of the Initial Study include construction from 7 AM to 7 PM. This is an excessively long day for residents and hotel patrons to withstand construction noise – especially when it is right outside their windows and balconies. In fact, the Air Quality Assessment (Appendix B) modeled air quality emissions for the time period of 7 AM to 4 PM. We collectively request this reduced construction period and that no construction occur on weekends or holidays observed by the City of San Jose. As previously described, the construction of the project will severely reduce the Hotel De Anza’s room count and will affect its economic viability.

Unclear Mitigation Strategies

The Standard Permit Conditions also require the construction of “solid plywood fences around construction sites adjacent to operational businesses, residences, or other noise-sensitive land uses.” How will this be accomplished for a 19-story structure? If this cannot be implemented, then these measures are not feasible which would result in a significant unavoidable impact.

In addition, with the small size of the project site, how will noise-generating equipment be located far away from the adjoining sensitive land uses and enclosed in noise barriers while construction occurs. Again, if these conditions cannot be implemented effectively, they are not mitigated under CEQA – whether impacts are temporary or not.

Long-Term Impacts

Noise impacts are also not evaluated in terms of effects on the Hotel De Anza, particularly during construction. Two years of construction with losses upwards of $5,500,000 per year would be financially devastating and inconsistent with the Downtown Strategy 2040 and Envision San Jose 2040 General Plan goals. In addition to a loss of revenue from room reservations, guests who stay at the hotel will be unable to use their balconies. Hotel De Anza will also lose significant event revenue because of the adjacent noise during and after construction.
The discussion of noise to be generated by the hotel’s rooftop bar is not adequate in either the Initial Study or Appendix F. Neither document has a rooftop plan to show the configuration or true location of the bar and information regarding the bar is only provided in the noise report and not in either the Initial Study or SEIR. The noise report states:

"The rooftop bar would have a maximum occupancy of 135 people, with hours of operation from 4:00 pm to 12:00 pm. The venue does not propose any live music. An open terrace is proposed along the western portion of the rooftop, wrapping around to the south. The eastern portion of the bar/restaurant would be enclosed and would not be anticipated to generate noise that is audible outside of the building structure. The restaurant structure on the eastern portion of the rooftop would also provide substantial acoustical shielding from rooftop terrace activities to receptors to the east (De Anza Hotel)."

This information should have been in the project description of both environmental documents. It is also confusing. What is on the eastern portion of the roof - a restaurant or a bar? While the eastern portion may be enclosed, noise would emanate from the open areas – especially when the Hotel De Anza would only be 11-13 feet away horizontally. The penthouse hotel room on the top floor of the Hotel De Anza has an open patio that must also be shielded from noise generated at the top of the proposed hotel. The western portion of the bar must also be enclosed to avoid noise impacts to residents of the Axis Tower units and their balconies which will be much closer to the bar. In addition, the privacy impacts to Axis Tower residents and Hotel De Anza guests, and safety impacts to patrons drinking at 225 feet at an open-air bar are not described.

The report and analysis depend on an ambient noise level of 65 dBA. This may be the noise level at ground level, but at 225 feet at the top of the structure, it can only be expected that noise would be less. In addition, the noise modeled to be generated by the bar appear to be much closer in characteristics to a restaurant, not an open bar where music, even if not live, would permeate. Again, we request that this bar be enclosed with no windows on the northern side of the building.

Incomplete Historic Resource Assessment

The Historic Resource Assessment requires that the Historical Resources Protection Plan (HRRP) include a reconnaissance and discussion of other historic structures in the project vicinity. This evaluation is missing from the mitigation measures in the SEIR and should be included to understand the context and far-reaching impacts of damage to the Hotel De Anza.

IV. The impact of the project on cultural resources is incomplete.

The impacts to the Hotel De Anza as a result of the proposed project relies upon a Historic Resources Project Assessment and a supplement to that assessment prepared by Archives & Architecture. It appears that the supplemental report was prepared after the project was somewhat redesigned. The proposed hotel does not reflect a "stepped back" as
shown in the photos below. Since the Axis Tower was required to provide a setback, it is unclear why the project is receiving different treatment.
Design Failures

As stated in the supplemental NOP letter submitted by the Axis Homeowners Association, the peer review by Skidmore, Owings & Merrill (SOM) dated November 16, 2018 suggests a number of significant design revisions. It continues to appear that the applicant has not addressed these comments and the City is ignoring that fact. The City must be sure that the project conforms to its own design requirements and incorporates the design recommendations from the peer review. In addition, they must apply their own regulations consistently especially for impacts to precious and diminishing cultural resources.

Incomplete Project Level Review

The Historic Resource Assessment (Appendix C) does not meet the requirements of CEQA Section 15064.5. It appears to only be a minimal analysis of whether the project is consistent with the City’s Historic Design Review Guidelines. Project-level environmental review for impacts to the Hotel De Anza is required to ensure that the proposed project does not materially alter in an adverse manner those physical characteristics of the resource that convey its historical significance. For example, physical impacts associated with construction-generated noise and dust are not evaluated.
The analysis provided is subjective and not substantiated in fact. For example, the analysis makes a determination that exterior materials of the project would be compatible with the Hotel De Anza without those materials being known. Such a conclusion is inadequate for a CEQA analysis.

The report includes the following statement: "The perceived overall massing of the neighboring buildings appears to be visually balanced. The wider, deeper, and shorter, visually heavier, symmetrical, stucco-façade De Anza Hotel would be visually balanced in massing with a narrower, shallower, taller, glass-curtained wall building that includes cutaway corners and an open-air penthouse." There is nothing in the project plans, including the rendering in the Initial Study, that prove this point.

Also, the SEIR states (on page 30) that "The detailing meets the intent, but not the letter, of the guideline that a new building be "broken down" in scale to be compatible with nearby historic resources." There is no substantiation as to the intent, and we do not agree that the detailing meets the intent. The SOM sketch below shows what we believe is the intent when the guideline uses the term "broken down."

Lot patterns are described and a determination is made that because the proposed project would be approximately 11-13 feet from the historic Hotel De Anza (not shown on any plans), the project is compatible with the guidelines. Without substantive information from project plans (not "estimations" by the consultant), this cannot be proven. And while the fire escapes and Diving Lady mural may not be removed, they will not be seen either.
The consultant states that it believes the Hotel De Anza design somehow intended for another building to be built adjacent to the west side of the structure. There is no evidence of this assertion. If that were the case, why are there up to 56 windows and the required fire escapes on that side of the structure? There has never been a structure of any kind on that side of the building save a gas station and a parking lot.
The conclusions of the report as to whether the massing of the proposed structure is compatible with the historic Hotel De Anza building is especially subjective. The project plans do not clearly show the degree to which the proposed "reverse corner slice" would push the proposed building away from the Hotel De Anza. Even assuming this were the case, it would only push it away at the corner – not along the entire western side of the historic hotel.

These are all examples of how the conclusions of this section are speculative and not substantiated. Therefore, the proposed project is not consistent with the City’s historic guidelines. The Hotel De Anza is a unique and valuable community asset that must be respected. We therefore ask for a peer review of the Historic Resource Assessment and it appears that the consultant would not object to such. Please include this peer review in the Final SEIR.

V. The analysis does not provide for a bird safe design.

Neither the Initial Study nor the SEIR include a discussion of how the project's design takes into account the City's policies related to Bird Safe Design Building Standards. The proposed building is located within 500 feet of the Guadalupe River (not 600 feet as stated on page 101 of the Initial Study) and Los Gatos Creek, which are regarded as
important wildlife corridors. The proposed building has apparently not been evaluated for
bird safe design as there is no project-level discussion provided; therefore, the project is
not consistent with GP policies ER-5.1 and -5.2.

**Supplemental Environmental Impact Report**

The SEIR prepared for the project is a Focused SEIR tiering from the Downtown
Strategy 2040 EIR certified by the City Council in December 2018. An Initial Study was also
prepared to supposedly confirm that the proposed project would not result in greater or
different environmental impacts than the Downtown Strategy. As stated in the Summary of
the SEIR, areas of controversy include increased expected mass transit systems, traffic,
insufficient parking, height and massing, interface with the Hotel De Anza Hotel (a historic
resource) and potential impacts of the proposed hotel, and impacts to subsurface cultural
resources.

Section 15063(c)(3)(A) of the CEQA Guidelines states that one of the purposes of an
Initial Study is to assist in the preparation of an EIR, if one is required, by focusing the EIR
on the effects determined to be significant. The proposed project would result in many
significant impacts consistent with the Downtown Strategy; however, the impacts of most
concern to the surrounding community were omitted from detailed specific analysis in the
SEIR. The Downtown Strategy and Envision San Jose 2040 General Plan EIRs provide
program-level environmental review; therefore, the project-level environmental review
should have been completely included in the SEIR.

Traffic, parking, noise, air quality, aesthetics and greenhouse gas emissions – all
topics of the utmost importance to the neighbors and issues for which the Downtown
Strategy EIR determined would require project-level review. These issues/concerns were
not given the level of analysis and impacts and mitigation measures are not identified in the
Initial Study to the level required for an EIR.

As stated in Section 15146 of the CEQA Guidelines, “The degree of specificity
required in an EIR will correspond to the degree of specificity involved in the underlying
activity which is described in the EIR.” Constructing a 19-story, 225-foot tall structure on
an 8,000 square foot lot adjacent to existing high-rise development and busy streets can
only be described as highly technical. The project description and analysis in the SEIR
must, as CEQA requires, be as detailed and comprehensive for environmental impacts to be
adequately addressed.

City Planning staff had represented to the neighbors that a new Supplemental EIR
would be prepared for the project that included at least construction-related and long-term
traffic operations, and air quality and noise analyses. This did not occur and the level of
review in the Initial Study is inadequate for these significant project-level impacts.
As stated in CEQA Section 15063(a)(3), "an Initial Study is neither intended nor required to include the level of detail included in an EIR." The Downtown Strategy EIR was a program-level environmental document that did not provide project-level review. The SEIR was supposed to provide this and it did not. This is a violation of CEQA.

By eliminating these topics from the SEIR, areas of controversy were not addressed and the level to which the alternatives and cumulative analyses were prepared is inadequate and disappointing. The residents of the Axis Tower and visitors to the Hotel De Anza will be subjected to months of construction impacts and years of privacy loss, gridlocked traffic, and noise from the adjacent hotel. These impacts should have been analyzed in depth in the SEIR as required by CEQA Guidelines Section 15064. Because the SEIR only analyzed one issue, a full description of environmentally superior feasible alternatives is not provided, as described below.

The alternatives analysis is inadequate because SEIR fails to discuss why a 6-story building is no longer preferable.

The 22-story Axis Tower was constructed in 2008 with 329 units, most of which are owner-occupied. The original environmental document for the Axis Tower project was the 47 Notre Dame Supplemental EIR (Axis SEIR), which tiered off the original Downtown Strategy 2000 Program EIR. Page 4 of the Axis SEIR provides: “The southwest corner of the site, adjacent to the De Anza Hotel, will be developed with a six-story residential/retail building (referred to as Phase II) with two levels of below grade parking that are open to and accessed through the Phase I underground parking area. The Phase II building will be comprised of approximately 35 condominium units and 8,000 square feet of retail.”

As stated on page 18 of the Axis SEIR, “To minimize the overall visual impact of the residential tower on the De Anza Hotel, the tower is proposed to be located with the greatest possible setback from the hotel on the project site at the northwest corner of the block.” In fact, the Axis Tower building itself is also stepped back from the hotel as shown in photos included below. The 6-story Phase II building would not have been taller than the De Anza Hotel and would not block views of the hotel’s iconic rooftop neon sign. In other words, it would not have contributed significantly to the impact of the Axis Tower structure, as described in the Axis SEIR.

Based on this information in the previous EIR for the site, we requested that the alternatives section of the EIR include an analysis of construction of the 6-story building on the site, as previously promised by the project applicant while the units at Axis were being purchased. The Axis project and SEIR included a 6-story structure on the project site and the applicant gave prospective buyers reassurances that the project evaluated in the SEIR would be the project constructed. The proposed project shows a clear intent to mislead the buyers of the Axis Tower units.

The SEIR states in Section 1.13.2.2 that a six-story building (Reduced Massing and Scale Alternative) would still impact the Hotel De Anza to the same extent as the proposed 19-story structure and would not avoid the less than significant impacts to the hotel. This is
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City of San Jose  
Department of Planning, Building, and Code Enforcement  
October 2, 2019  
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patently false because the shading, traffic, circulation, parking, impacts would all be significantly less. It also states that all construction impacts would be reduced, which is obviously true since the construction timeframe would be substantially less. However, to state that all of these impacts are acceptable because the impact is less than significant, ignores the possibility of avoiding the impact altogether. Avoiding the impacts is also an option.

Instead of a hotel, if an office building was proposed, drop-off and pick-up would not be required and it would be more conducive to the use of transit than a hotel use. A shorter building would not significantly affect the views, shading, or privacy of residents of the Axis Tower and Hotel De Anza guests, yet none of these reduced impacts are mentioned. Just because the impact would not be completely avoided, does not mean that the reduced height and massing alternative is not environmentally superior.

Section 15126.6(c) of the CEQA Guidelines states that “Among the factors that may be used to eliminate alternatives from detailed consideration in an EIR are (i) failure to meet most of the basic project objectives, (ii) infeasibility, or (iii) inability to avoid significant environmental impacts. As stated in the SEIR, the 6-story alternative meets many of the objectives the proposed project cannot and is generally consistent with General Plan (GP) policies.

This alternative is certainly feasible and can be considered the highest and best use of the site. Evidence of this can be seen in the AC Hotel right across the street! This alternative would significantly REDUCE and in some instances, AVOID, all of the impacts of the proposed project and must be considered the environmentally preferable option if development on this site is to occur at all. This alternative must not be so easily dismissed and as CEQA requires, “must be discussed in a manner to foster meaningful public participation and informed decision making.” (Section 15126.6(f)) The EIR Alternatives discussion in the SEIR does neither and is thus, in violation of CEQA.

The SEIR also evaluated an office use alternative. This section does not evaluate a 6-story office building. This alternative would be the environmentally preferred alternative, yet this option is viable and feasible. A reduced-sized office use would result in less traffic and parking issues and would not result in significant impacts to the privacy loss and noise as the proposed project. This alternative should have been included in the project. Also, to state that noise generated by an office versus a hotel would be “comparable” is not true and this statement was not substantiated in the noise analysis. An office space would not have a rooftop bar and would not have occupants after typically, 7 PM. Its noise generation would definitely be less.

**Mandatory Findings of Significance**

Under the discussion of Impact MFS-1, it is stated that “The project would have a significant land use impact from increased shading as discussed in the Supplemental EIR”. This subject is not discussed in the Focused SEIR for the project – but, it should have been. Shading impacts to the Axis Tower, Hotel De Anza, and the Guadalupe River Park will be
significant and damaging to residents and wildlife. This impact should have been included in the SEIR as this section seems to state.

Under the discussion of Impact MFS-3, it is stated that "The project proposes to redevelop an infill location in downtown San Jose and it is anticipated that short-term effects resulting from construction would be substantially off-set by meeting the long-term environmental goals (such as increased building energy efficiency) for this downtown site." The project is not the redevelopment of an existing structure. The site is vacant and has been for decades and developing the site with the proposed project definitely results in more than just significant environmental effects related to construction. The project DOES have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals. The statement is therefore false and results in inadequate review in accordance with the CEQA Guidelines.

**Conclusion**

The Hotel De Anza requests that the City respond to each comment and provide additional analysis as merited.

Very truly yours,

HOGÉ, FENTON, JONES & APPEL, INC.

[Signature]

Sblend Splendorio, Attorney on behalf of the Owners of the Hotel De Anza

SAS:eph

Enclosures

cc: Councilmember Raul Peraiez
    Patrick Kelly, Supervising Planner, Planning Division
    David Keyon, Principal Planner, Environmental Review
    Edward Saum, Chair, Historic Landmarks Commission
    Juliet Arroyo, Historic Preservation Officer, Historic Landmarks Commission
    Yves Hansel, General Manager, Hotel De Anza
    Steven Cos and Scott Knies, San Jose Downtown Association
    Andre Luthard, Preservation Action Council of San Jose
    Paul Escobar, Downtown Residents Association
    Carolyn Gonot, Chief Engineering & Program Delivery Officer, VTA
January 25, 2019

Nizar Slim, Project Manager
Planning, Building and Code Enforcement
City of San Jose
200 E. Santa Clara St.
San José, CA 95113

Dear Mr. Slim:

Re: Community Meeting for Proposed 19-Story Hotel at 8 N. Almaden Blvd.
City File No. H18-038 (Hotel Project)

The Axis Residential Tower at 38 N. Almaden Blvd. comprises 329 condominium units and is home to over 700 people. Axis is adjacent to the site of the proposed Hotel Project, an 8,000 square foot lot at 8 N. Almaden Blvd.

Axis residents value downtown living and enjoy the ever-growing number of restaurants, entertainment, and community events that it affords. We strongly support further development of the downtown core, but that support is predicated on a given project’s consideration of and compatibility with surrounding existing structures and uses.

Unfortunately the proposed Hotel Project fails to meet this critical standard, and as such we strongly oppose it in its current form. Our concerns have been described in detail through previous correspondence with the City (copies of which are attached hereto):

- Email from Carol Tosaya, dated July 23, 2018
- Letter from San Jose Downtown Association, dated October 15, 2018
- Letter from Axis HOA, dated October 18, 2018
- Letter from attorneys for Hotel de Anza, dated October 31, 2018
- Letter from Axis HOA, dated December 4, 2018

We look forward to the upcoming February 4 community meeting (6:00 p.m. in Council Chambers) to hear how the project’s developer intends to address concerns, both those raised in our communications and those outlined in your own comment letter dated October 1, 2018.

To help our community best prepare for this important meeting, we ask for your help to ensure that the following requests are completed as soon as possible:
1. Please supply copies of the most recent plans for the Hotel Project, along with any letters, memos, or emails in your files regarding comments on the project so that we may review them prior to the community meeting. These documents may be delivered via email to tommy.cusick@axishoa.org. Please consider this as a request under the California Public Records Act.

2. Please have the developer's surveyor install poles or other markings to clearly delineate the physical location of the property line and the proposed building setback line along the northern boundary of the Hotel Lot, so that our residents can see "on the ground" exactly where these lie in relation to the Axis property.

To help the City and the Developer better prepare for the community meeting, we have outlined some of our concerns and questions below. Please consider this a formal request to include the following issues in the scope of the Environmental Impact Report for the Hotel Project:

1. **Construction Impacts:**
   a. Traffic and safety issues
      - Where will the crane be located, and for how long? For the sake of safety, it is critical that no crane swing occur over any portion of the Axis property.
      - What size will the crane be, and how far will it intrude into the street?
      - Will there be scaffolding on the north side of the Hotel Project?
      - Where will the construction lay-down area be located?
      - Where will construction vehicles park?
      - How will vehicular, bicycle, scooter and pedestrian traffic be diverted?
      - How will an accessible path of travel be preserved for residents and visitors with disabilities?
      - How will construction affect the frequent community events that already close our access roads on a regular basis?
      - How can we guarantee that construction workers and suppliers will not trespass onto the Axis driveway or block the driveway? No shared use of the driveway is feasible, as the entire width of the Axis driveway is needed by Axis for its own operations.
      - Where will we be able to put our trash bins during construction? Where will the Comerica building put its trash bins?
      - Will construction workers use the constrained on-street metered parking?
   b. Other environmental issues
      - What will construction hours be?
      - What noise and vibration limitations will be imposed on the project?
• Will pile-driving cause structural concerns on the Axis Property?
• Where will diesel equipment be located, and how will fumes be controlled
  and/or vented away from Axis?
• How will dust/dirt/mud be controlled?
• What arrangements will be made for extra window cleaning/general cleaning
  of the Axis property due to construction-related debris?

c. Utility interruptions
• How often is utility service to the Axis expected to be interrupted?
• What is the recourse in the event that Axis utilities are inadvertently
  interrupted?

2. Permanent Impacts:
   a. Traffic and safety issues
   • How will the project’s valet parking be operated?
   • Where will the queue of cars waiting for passenger drop-off and pick-up be
     located?
   • How much will valet parking operations intrude into lanes of traffic?
   • If N. Almaden Blvd. is converted from a one-way street to a two-way street,
     what will the line of sight be for cars pulling out into traffic?
   • What will be done to help prevent traffic accidents from occurring?
   • Where will loading and unloading occur for hotel deliveries?
   • Where will hotel service vehicles park?
   • Where will hotel employees park?
   • Where will the trash bins be placed for Axis, the Comerica building, and the
     Hotel Project?
   • How many metered parking spaces around Axis will be impacted?
   • What will be done to prevent the Axis driveway from being blocked, or from
     being used by hotel guests or delivery vehicles? What recourse is there in the
     event that these mitigations are insufficient?
   • Where will the off-site parking spaces be located?
     o If these are too far away, guests and employees will be more tempted
       to use the metered spaces around the Axis.
     o Although your October 1, 2018 comment letter suggests that a ten-year
       term would be acceptable, we disagree. Such a limited term would
       violate the City’s own ordinance. Muni Code Section 20.90.200(B)(2)
       requires that the off-site parking be available during the life of the
       building or use.
o Satisfaction of parking requirements must be based on the current status of the laws and regulations, not what is anticipated to occur in the future.

- Where will bicycle parking be located?

b. Views, privacy, light intrusion and shadowing

- Why was the height of the project increased from the 6 stories committed to in the original Phase II plans for the Axis project?
- What is the distance between the south side of the Axis tower and the north side of the hotel tower at the closest point?
- What will be done to help protect the privacy of residents whose windows face to the south?
- What type of glazing will be used on the windows of the Hotel Project, to help prevent reflection/glare from the afternoon sun?
- What type of lighting will be used on the exterior of the building, and what hours will the lighting operate?
- How much will the Hotel Project cause shadowing on the Axis, especially the pool area?

c. Noise, odors and other impacts

- Will there be live music or other sources of noise on the rooftop deck?
  o What will the hours of operation be?
- Where will delivery and loading activities occur? What are the hours of operation for these activities?
  o Note that the Design Guidelines specify that delivery and loading areas should not be located near any adjacent residential uses.
- Where will the back-up generator be located, and how loud will it be?
- Where will rooftop vents be located? How will odor-producing vents be directed?
- Will smoking be allowed in the building or on the property?
- Where will rooftop compressors or other noise-generating equipment be located and buffered?
  o Note that the Design Guidelines specify that mechanical equipment should be located to assure that it cannot be heard at any residential property line.
- Where will trash collection areas be located? How will odors/pests be controlled in these areas?
Although we continue to have strong reservations about the Hotel Project as currently proposed, we look forward to a productive discussion with City staff and the developer at the February 4 community meeting. Thank you in advance for your consideration and assistance.

Respectfully submitted,

[Signature]

Thomas T. Cusick
President, Axis Homeowners Association

cc:
Councilmember Raul Peralez
Patrick Kelly, Supervising Planner, Planning Division
Jenny Nusbaum, Principal Planner, Environmental Review
Edward Saum, Chair, Historic Landmarks Commission
Juliet Arroyo, Historic Preservation Officer, Historic Landmarks Commission
Karen Mack, Public Works Transportation Manager
Yves Hansel, General Manager, Hotel De Anza
Steven Cox and Scott Knies, San Jose Downtown Association
Brian Grayson and Andre Luthard, Preservation Action Council of San Jose
Paul Escobar, Downtown Residents Association
Sblend Sblendorio, Hoge Fenton
Mark Tersini, KT Properties
February 14, 2019

Thai-Chau Le, Environmental Program Manager
Planning, Building and Code Enforcement
City of San Jose
200 E. Santa Clara Street, 3rd Floor
San Jose, CA 95113

RE: Notice of Preparation for an Environmental Impact Report (EIR) for the proposed 19-story hotel located at 8 N. Almaden Boulevard (H18-038)

Dear Ms. Le,

On behalf of the Axis Homeowners Association and the more than 700 residents of the Axis tower, I am writing to supplement the concerns previously raised in a letter to Nizar Slim, the City’s Project Manager for the project, in response to the Notice of Preparation (NOP) for the EIR. That original letter was prepared prior to the community meeting held on February 4, 2019, and we feel compelled to augment those concerns due to additional information that has come to light since the original letter was sent. As such, please consider this letter as part of our official response to the NOP.

1. The NOP does not state that the Hotel De Anza is listed on the National Register of Historic Resources. This is vital information that the responsible and trustee agencies (in particular, the State Office of Historic Resources and National Park Service) should have been notified of in order to provide specific comments related to potential impacts to this highly sensitive resource.

   As stated in CEQA Guidelines Section 15082(a)(1), “The notice of preparation shall provide the responsible and trustee agencies and the Office of Planning and Research with sufficient information describing the project and the potential environmental effects to enable the responsible agencies to make a meaningful response (emphasis added). At a minimum, the information shall include:

   A. Description of the project;
   B. Location of the project (either by street address and cross street, for a project in an urbanized area, or by attaching a specific map, preferably a copy of a U.S.G.S. 15’ or 7-1/2’ topographical map identified by quadrangle name); and
   C. Probable environmental effects of the project.”

Without an explicit mention of the Hotel De Anza’s status included in the NOP, the responsible and trustee agencies are not provided with enough information to enable them to make a meaningful response related to the environmental impacts that could occur to this sensitive resource. This must be rectified by recirculating the NOP to the State Office of Planning and Research so that they can ensure that the NOP is properly circulated to the appropriate responsible and trustee agencies. The preparation of an EIR without this input could be considered to be inadequate and a violation of the California Environmental Quality Act (CEQA).

2. The proposed project, which would have up to 272 hotel rooms along with restaurants and bars, includes only two parking spaces, which is severely insufficient for the hotel’s need of a valet staging area, hotel
patron drop off and pick up zone, and truck loading. Such limited parking and loading facilities will absolutely result in unreasonable and unfair burdens on adjacent public streets as well as neighboring properties. It is evident that the entire block of N. Almaden Blvd. from Santa Clara Street to Carlyle Street will be adversely affected, impeding access to the Axis Tower pedestrian and vehicle entrances as well as the Comerica building entrances. This will be exacerbated if N. Almaden Blvd. is converted to a two-way street. An operational study of safety and access impacts, covering both one-way and two-way street scenarios, must be completed to fully understand the nature of this proposal. A comparison should be made of other area hotels with valet operations to see how many cars stack up during peak hours.

Section 20.90.420 of Title 20 of the Municipal Code states that off-street loading spaces “must be not less than 10 feet wide, 30 feet long, and 15 feet high exclusive of driveways for ingress and egress and maneuvering areas”. The areas shown on the most recent plans do not appear to meet these important requirements. In addition, a casual inspection of the area makes it clear that there will not be sufficient on-street loading space to accommodate circulation and manipulation of freight and there is not available loading space within the public right-of-way on N. Almaden Blvd., as shown in the photo below. The proposal is untenable in this respect.
to approve of a project that is certain to result in daily aggravation, tension and potential disputes between neighbors due to the fact that hotel guests, employees and vendors will be tempted to encroach onto the Axis premises and sidewalk areas just so they don’t block traffic in the busy intersection.

We have been told in the past that now is not the time for this information to be divulged and we must wait until final construction drawings are prepared. We submit that this is deferred mitigation and not allowed under CEQA. Our residents will be significantly affected by construction and most likely in the long-term due to inadequate space on N. Almaden Blvd. for stacking cars waiting for valet service and the delivery of hotel supplies. All specific mitigation measures need to be included in the EIR so that the City and the public can be assured that the project actually works before it is approved. The photo above shows the tight space we are describing. It is not at all clear how this short frontage on N. Almaden Blvd. will support all of the operations of a hotel with only two parking spots. An operations study must be completed to prove this is reasonably possible, and mitigation measures must be included to reduce impacts, including blocked traffic, to an insignificant level.

3. We request that a wind analysis be completed for the proposed 19-story building. As anyone who has traveled to cities with dense Downtown development knows, these areas can be quite windy. Trash and construction debris could result in significant short- and long-term air quality impacts. The community
wishes to see mitigation measures called out up front in order to build confidence that the impact can be mitigated.

4. At the February 4th public meeting, Mr. Nizar Slim, the City’s Project Manager for the hotel project stated that the current Downtown Design Guidelines and Historic Guidelines are dated and need to be revised. We must point out to Mr. Slim that CEQA impacts and consistency with plans and policies are determined based on the “existing condition”, which is the situation that exists at the time the NOP is circulated. Because the Downtown Design Guidelines and Historic Guidelines were not revised at the time the NOP circulated, the EIR must evaluate the project based on the existing guidelines – not guidelines that may someday be changed.

5. The discussion of historic impacts in the EIR must evaluate the project’s proposed exterior building materials for the hotel structure. We also request that the final historic report be specifically/separately sent to the State Office of Historic Preservation for their agreement and approval.

6. The City’s October 1, 2018 letter also mentions that a peer design review be completed because “the proposed design does not fully address” the Downtown Design and Historic Design Guidelines. Further, the letter states that “the new hotel should not dwarf the historic structure in presence” and “the general height and massing of the building needs to be more compatible with the adjacent historic resource.” The peer review by Skidmore, Owings & Merrill (SOM) dated November 16, 2018 suggests a number of significant design revisions. It appears from the latest plan set that the applicant has not addressed these comments. The City must be sure that the project conforms to its own design requirements and incorporates the design recommendations from the peer review.

For example, the City’s letter states that the building masses should better reflect the De Anza’s tiered, “stepped back” façade, and the vertical Art Deco elements should have some reference in the design of the hotel, as opposed to undifferentiated glass curtain walls. The design presented at the community meeting does not reflect these staff requests or the recommendations from the peer review. Has the applicant not received these requests and recommendations, or were they willfully ignored in the presented design? Without the changes, the project does not conform to City design standards.

The project applicant is no stranger to the concept of protecting historic structures. The One South Market Residential Tower was required to similarly “step back” from the adjacent Alcantara Building/Hotel Metropole and Sunol Building, placing its similarly massed parking adjacent to these historic structures. These structures are eligible for the California and National Registers as well and they were treated as such. Why is the De Anza Hotel not being treated the same way? The City must apply their regulations consistently. In the picture included below, the One South Market Residential Tower is the blue building in the foreground. Its parking is approximately two stories tall, set behind the tower and adjacent to the brick historic structures farther down the street.
7. The 22-story Axis Tower was constructed in 2008 with 329 units, most of which are owner-occupied. The original environmental document for the Axis Tower project was the 47 Notre Dame Supplemental EIR (Axis SEIR), which tiered off the original Downtown Strategy 2000 Program EIR. Page 1 of the Axis SEIR described the Axis Tower project as the construction of “a 22-story (approximately 228 feet above grade), L-shaped 350-unit residential condominium on the northwest corner of the property (referred to as Phase I).”

The project description continues on page 4 of the Axis SEIR and includes the following: “The southwest corner of the site, adjacent to the De Anza Hotel, will be developed with a six-story residential/retail building (referred to as Phase II) with two levels of below grade parking that are open to and accessed through the Phase I underground parking area. The Phase II building will be comprised of approximately 35 condominium units and 8,000 square feet of retail.”

As stated on page 18 of the Axis SEIR, “To minimize the overall visual impact of the residential tower on the De Anza Hotel, the tower is proposed to be located with the greatest possible setback from the hotel on the project site at the northwest corner of the block.” In fact, the Axis Tower building itself is also stepped back from the hotel as shown in the attached photo. The construction of the 6-story Phase II
building was not evaluated in great detail as it would not have been taller than the De Anza Hotel and would not block views of the hotel's iconic rooftop neon sign. In other words, it would not have contributed significantly to the impact of the Axis Tower structure, as described in the Axis SEIR.

Based on this information in the previous EIR for the site, we request that the alternatives section of the EIR include an analysis of construction of a 6-story building on the site. This alternative met the objectives of the original project and has the potential to reduce the impacts of the project, especially in terms of impacts to the De Anza Hotel and aesthetic impacts to the Axis Tower. We also ask that the EIR include an alternative of office uses at a height and design more site appropriate and respectful of the De Anza Hotel. Office uses are consistent with the Downtown and Downtown Commercial General Plan and zoning designations and would not impede as much on the privacy of the Axis residents. Further, it would not require valet parking which we feel will result in significant operational and safety impacts on N. Almaden Blvd.

8. The Axis residents are also extremely concerned about the noise that would likely be generated by the hotel's restaurant and bar activities, particularly the rooftop bar. We have researched the hotel brand shown on the preliminary review submittal set (Moxy), which is known for being a "party hotel." Many Moxy guests have noted in reviews that noise from the hotel bar is so loud that it penetrates through the rooms, making it difficult to sleep. Such severe noise would be a nuisance to our residents, and the nebulous promise of incorporating sound mitigation measures in a future revision of the project is insufficient. Please specifically describe all mitigations up front; do not defer this crucial detail.

9. It is apparent that the proposed project will eliminate the existing sunshine on the Axis swimming pool level (third floor) and along our main driveway/garage access. All of the trees and vegetation will not withstand the loss of sunshine. Therefore, an evaluation of impacts to these biological resources and nesting birds must be included in the EIR.

10. A letter from the applicant's engineer dated August 28, 2018 (attached) seems to suggest that the flow-through planters along the north side of the hotel will be successful because there will be sunshine on that side of the building, and there will be maneuvering room for maintenance activities, even though the 3-foot wide planters abut against the Axis property line. But there will in fact be no significant amount of sunshine in that 3-foot strip due to the shadows caused by the hotel building and the Comerica building. Further, the only way there would be any room for maintenance activities is if the maintenance crew encroaches onto Axis private property, presumably between the current location of the retaining wall/fence and the property line (see attached site plans). Because the Axis residents have not granted an easement to the developer and have not otherwise relinquished their property rights to that strip of land (and may fence it off and use that area for other purposes), no mitigation can be based on the assumption that such land is available for hotel use.

11. The project plans do not appear to address the significant grade differential between the Axis driveway area and the hotel parcel, which are currently separated by a retaining wall/fence and a strip of asphalt pavement/crushed rock. We have attached the stormwater discussion from Charles Davidson, Engineers that shows the project intends to put the stormwater quality mechanisms on the north side of the building. This discussion does not address how the pattern of surface water drainage will be affected by the
project? This must be addressed to prevent a stream of stormwater from flowing onto the right of way or over the retaining wall onto the Axis driveway.

12. In the City's letter to the applicant dated October 1, 2018, it is stated that the project may be in conflict with the future underground BART station planned to be installed in proximity to the hotel building. This could be a fatal flaw of the hotel project. Has the City notified VTA that the proposed BART Subway may affect the project? We will be including the VTA in all of our future correspondence to be sure that they are aware of this critical issue.

13. The list of required project approvals in the NOP omits tree permits and potential street vacation/land sale discretionary actions. These and all other related discretionary actions should be fully described in the EIR.

We appreciate this opportunity to continue to provide feedback on the project proposal and look forward to your substantive responses to these questions and concerns.

Respectfully submitted,

Thomas T. Cusick
President, Axis Homeowners Association

cc: Councilmember Raul Peralez
    Patrick Kelly, Supervising Planner, Planning Division
    Jenny Nusbaum, Principal Planner, Environmental Review
    Edward Saum, Chair, Historic Landmarks Commission
    Juliet Arroyo, Historic Preservation Officer, Historic Landmarks Commission
    Karen Mack, Public Works Transportation Manager
    Yves Hansel, General Manager, Hotel De Anza
    Steven Cos and Scott Knies, San Jose Downtown Association
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    Paul Escobar, Downtown Residents Association
    Sblend Sblendorio, Hoge Fenton
    Carolyn Gonot, Chief Engineering & Program Delivery Officer, VTA
    Mark Tersini, KT Properties
    Nuria Fernandez, VTA
    Gretchen Baisa, VTA
October 31, 2018

Nizar Slim
Planner II/Project Manager
Planning, Building and Code Enforcement
City of San Jose
200 East Santa Clara Street
San Jose, CA 95113

Re: Proposed Hotel (H18-038) located at 8 N. Almaden Blvd.

Dear Mr. Slim:

We represent ML San Jose Holding, LLC, the owner of the Hotel De Anza. The De Anza recognizes and appreciates infill development's contribution towards building a denser, more vibrant downtown. We, however, have several concerns about the proposed hotel (H18-038) ("Project") at 8 N. Almaden Boulevard submitted by KT Urban. We ask that the City staff respond to our comments substantively. We have comments regarding the Project's design and the review process, the need for a project-level EIR, the need for an off-site parking and circulation study and operational issues created by the Project.

Design

The Project is in the Downtown Zoning District and, therefore, subject to the Downtown Design Guidelines. The Downtown Design Guidelines work in conjunction with and by reference to the additional expectations of the Specific Overlay Area Guidelines. The Project fails to comply with both the Downtown Design Guideline and the Downtown Historic Design Guidelines, the Specific Overlay Area Guidelines for this site.

Downtown Design Guideline

The Downtown Design Guidelines’ first principle objective is “to enhance the character of the City and ensure that new development sensitively fits the City’s expectations for the context, character and quality that will define San Jose.” (p.7) Since 1931, the De Anza has played a prominent role in helping define the context, character, and quality of San Jose and her skyline. The National Registry confirms the De Anza is “significant for its architectural style” as “one of San Jose’s few Zig Zag Moderne (Art Deco) buildings.” In recognition of the Downtown Design Guidelines’ first principle, the Project does not sensitively fit the City’s expectations by ignoring the De Anza’s existence and historical significance.

According to the Downtown Design Guidelines, “when a project is proposed adjacent to or across the street from a designated landmark site or District, a sympathetic treatment of the massing, overall design, façades, and streetscape should be required to ensure compatibility of the proposed project with the designated landmark.” (p. 22) The Project’s mass, overall design, and façade are grievously incompatible with the De Anza. The Project’s mass is imposing and lacks set-backs respecting the De Anza’s western edifice. Similarly, the Project’s east elevation’s façade is stridently incongruent with the...
De Anza's design and the westward view corridor. Additionally, the base of the Project is too narrow and inconsistent with the De Anza.

**Historic Design Guidelines**

The Project's disregard for the Historic Design Guidelines is particularly egregious. The project flouts the detailed approaches the Historic Design Guidelines provides to architecturally respect the De Anza. The Project defies each sentence of the Massing and Façade guidelines. We believe the Project must be reviewed by the Historic Landmarks Commission.

**Massing**

Projects are to "retain and respect the massing of historic buildings on a street...Building masses should not dwarf immediately adjacent historic buildings." (p.73) The Project dwarfs the De Anza, nearly doubling its height. The Project's height and massing are incompatible with the De Anza. The Guidelines are clear: "new building masses adjacent to lower historic resources should step down in height and street facades should turn the corner to provide articulated visible side façade in order to reduce the impact on historic buildings." The Project's height and street façade stand in sharp contrast to the De Anza, and no attempt is made to provide articulated visible side façades to reduce the impact on the De Anza.

Sensitivity to the creation of an unsightly height disparity between infill development and historic resources is echoed throughout the Guideline. "Larger buildings should be broken down into smaller masses that fit into the streetscape without overwhelming historic structures." (p. 73) The juxtaposition of a 19-story ice sculpture next to a historic 10-story Art Deco building is jarring. The Project is a case study representing the monstrous results the Guideline explicitly seeks to prevent.

**Façade**

New construction must "retain and respect the historic patterns and proportions of historic facades on a street." (p. 73) The proposed design's façade neither retains nor respects the historical patterns and proportions of the De Anza's façade. The Project introduces a new façade that includes features that are incompatible in scale, material, detail and massing with the De Anza. The Project makes no attempt to reflect the De Anza's tiered stepped back façade. Additionally, the Project's street facing façade is an unvarying glass wall that makes no reference to the De Anza's design.

The Project fails in spirit and execution to comply with both the Downtown Design Guidelines and the Historic Design Guidelines.

**Review by Commission**

We believe that the Project must be reviewed by the Historic Landmarks Commission. Section 20.70.110C of the City’s municipal code states that new structures exceeding one hundred fifty feet and a floor area ratio of 6:1 which are constructed within one hundred feet of a city landmark or contributing structure in a designated landmark district shall be reviewed by the historic landmarks commission prior to consideration or approval of a development permit for new construction. The comments of the Historic Landmarks
Commission shall be included in any development permit staff report subsequently presented to the executive director of the redevelopment agency, director of planning, planning commission or city council.

**New EIR**

A 19-story, 272 room hotel constructed on less than 1/5th on an acre (8,000 square foot lot) with no on-site parking requires a project-level Environmental Review Report (EIR) to adequately evaluate the Project's impact. A program-level review characteristic of the Draft Supplemental Program Environmental Impact Report (DSPEIR) to the Envision San Jose 2040 General Plan Environmental Impact Report (GP 2040 PEIR) is woefully inadequate. A site specific, project-level EIR is required to assess and disclose the significant impacts of:

- The massive scale of the hotel given the size of the lot (19 stories on a compact 8,000 square feet)
- Valet overflow from no on-site parking onto traffic and neighbors (circulation patterns)
- 19-story structure's intrusion on the historic character and business operations of the De Anza
- View of historic Diving Diva mural referenced in the National Registry virtually erased
- Shadow cast upon the De Anza and resulting reduction of natural light
- Obstruction of the view of the De Anza's iconic neon sign from northbound direction and Guadalupe Park
- Substantial degradation of the existing visual character resulting from a lack of compatibility with surrounding development
- Air quality, noise, and traffic operations while construction is underway
- Toxic air contaminant (TAC) from construction on the Axis residential community and the staff and guests of the De Anza
- Site-specific construction noise and vibrations associated with pile-driving on Axis and the De Anza – The De Anza's stucco façade and Mayan-influenced parapet are very susceptible to irreparable damage. Pipe-related water leaks and flood damage on the De Anza will create long-term damage to the older subterranean infrastructure
- Construction staging of materials and equipment on a tiny 8,000 square foot parcel surrounded by congested roadways
- Location of crane(s) for the duration of a multi-year project
- Operational impacts specific to the site: delivery/service equipment and garbage trucks accessing the site will invariably halt access to surrounding streets and driveways

The DSPEIR recognizes and supports the need for a project-level EIR: “To reiterate, the Downtown Strategy 2040 is a planning document to guide development; it does not propose specific development projects at this time. Therefore, the following discussions provide program-level review of the potential aesthetic impacts that may result from implementation of the Downtown Strategy 2040. Future projects under the Downtown Strategy 2040 will be subject to subsequent environmental review and assessment of project-specific aesthetic impacts.” (p.40).

A project-level EIR for the Project must address the inconsistency with the 47 Notre Dame Supplemental EIR ("Axis SEIR"). The Axis SEIR discussed the current 329-unit Axis residential condominium tower adjacent to the De Anza. The project description in the Axis SEIR states: "The southwest corner of the site, adjacent to the Hotel De Anza, will be developed with a six-story residential/retail building (referred to a Phase II) with two levels of below grade parking that are open to and accessed through the Phase I underground parking area." The Axis SEIR continues: "To minimize the overall visual
Impact of the residential tower on the Hotel De Anza, the tower is proposed to be located with the greatest possible setback from the hotel on the project site at the northwest corner of the block.”

Accordingly, a project-level EIR is required to disclose the significant and site-specific aesthetic, historic, and environmental impacts.

**Off-Site Parking Arrangement and Circulation Study**

Off-site parking is an exception to the General Parking and Loading requirements. As such, off-site parking for the Project requires a special use permit subject to Section 20.90.200 findings. A 19-story hotel with 272 rooms and no on-site parking will assuredly strain circulation on W. Santa Clara Street, N. Almaden Boulevard, and adjacent parking facilities with the potential to have a devastating impact on the neighboring residents and businesses. Furthermore, neither the Project nor the City has addressed the additional parking required for the hotel employees. All things considered, the Project’s valet operation is certain to overflow into the public rights of way, trespass onto Axis’ driveway, and disrupt the De Anza’s business.

The Project’s valet operation with a functioning off-site parking arrangement is problematic. An off-site parking arrangement that fails to comport with any aspect of 20.90.200 will produce calamitous results for the De Anza, Axis, and all modes of transportation attempting to negotiate through clogged streets and sidewalks. Accordingly, due to the hazardous results sure to follow a flawed off-site parking arrangement, an independent study confirming full compliance with 20.90.200 is of critical importance. Undergrounding the construction of BART in W. Santa Clara Street in the near future can only exacerbate circulation.

**Operational Issues**

The Project presents operational issues for the De Anza both during and after construction. During construction, the De Anza’s Palm Court Terrace, which seats up to 200 for wedding receptions and other private events, will invariably accumulate dust and construction-related debris. Noise and traffic produced by a multi-year construction project will have a severe negative impact on guest satisfaction and deter visitation. The attached photos (Exhibits A1-A3) of construction projects in the immediate area offer a glimpse into the constraints imposed upon movement through associated streets. Some of the streets surrounding the site are “permanent one lanes” that will be effectively inoperable due to heavy construction and the parking issues contractors and construction crews create.

Once construction is complete, the Project will cast shadows and leering eyes into each of the De Anza’s west-facing guestrooms. The De Anza’s penthouse’s western balcony will lose its unobstructed view of the Silicon Valley. The Project will perpetually gaze down on and into the private penthouse frequented by high-profile guests. The ever-looming shadow and loss of privacy will surely result in customer discontent and consequential reduction in revenue.

The Project will cause post-construction transportation disruptions, as well. The proposed curb frontage along Almaden Boulevard is approximately 71 feet. This amount of space is inadequate for queuing of vehicles. The inconvenience will push transportation
providers to alternative locations along W. Santa Clara Street or Notre Dame Avenue, infringing upon the De Anza's modest 154 feet of dedicated parking and drop-off space. The inevitable burden upon the De Anza’s limited space will disrupt operations.

Operational issues will not cease once the Project is complete. An ill-conceived development will lead to irreparable results that will ultimately devalue the De Anza as a business.

**Conclusion**

- The Project does not comply with both the Downtown Design Guideline and the Historic Design Guideline, and must be reviewed by the Historic Landmarks Commission
- Cramming a 19-story, 272 room hotel onto a postage stamp-sized lot with no on-site parking will cause significant impacts that require a project-level EIR.
- An independent study confirming absolute compliance with 20.90.200 is required to prevent disastrous results from the Project’s valet parking.
- Operational issues during and after construction are certain to plague the De Anza and negatively impact revenue and result in a devaluation of the business.

Sincerely,

HOGE, FENTON, JONES & APPEL, INC.

[Signature]

Sblend A. Sblendorio
Shareholder

SAS: sas

Cc: client
Patrick Kelly, Supervising Planner
October 3, 2019

Thai-Chau Le
Environmental Project Manager
Planning, Building and Code Enforcement
City of San José
200 East Santa Clara Street, 3rd Floor
San José, CA 95113

RE: Supplemental Environmental Impact Report (SEIR) for the proposed commercial development located at 8 N. Almaden Blvd (H18-038)

Dear Thai-Chau,

The San Jose Downtown Association (SJDA) provides the following feedback regarding the proposed hotel located at 8 N. Almaden Blvd.

Circulation
SJDA’s Downtown Design Committee previously commented on this project in a design review letter addressed to Planning Project Manager Nizar Slim dated October 18, 2018. While the parking situation has been updated since then with a plan to utilize spaces in a nearby City-owned garage, we have concerns about how the project will impact circulation at this prominent downtown corner. (See Figure 1.)

The current plan calls for five street parking spaces on Santa Clara Street and Almaden Avenue that will be converted to pick up and drop off. We feel that these spaces, even when utilizing valet service and modern curb management techniques, are insufficient to handle the traffic flow on Santa Clara Street from a 272-room hotel without disrupting traffic and negatively impacting circulation on downtown’s main street. The City should require this hotel to provide at least 12 spaces, the same amount as the smaller Hotel DeAnza has for the same purpose. This corner is already impacted with traffic from events at the SAP Center, bus routes, commercial loading, and the now ubiquitous ridesharing and delivery services—to say nothing of commute traffic, scooters, pedestrians, and bikes. A comprehensive review of street capacity for access and circulation should provide data with projection of future uses to
determine if Santa Clara Street/Almaden Avenue can successfully function with such an intensification of use. Also the utilization of public space for private use should be examined.

![Figure 1: Traffic circulation at the proposed site with existing traffic impacts.](image)

**Operations**

There are many questions about how the hotel would deal with trash, deliveries, catering and recycling given its location on the corner of two busy streets. This extremely tight lot leaves very few options for back-of-house functions such as deliveries and trash management. Given the small lot size, and proximity to The Axis and Hotel DeAnza, we are having a hard time imagining a hotel of this size working in this location without on-site facilities and physical spaces to accommodate demand generated by this project. Santa Clara Street and/or Almaden Avenue are not appropriate locations for “back of house” functions.

While we acknowledge a need for more hotel rooms and in general welcome development in downtown San Jose, we feel that concrete solutions to the issues raised by this committee and other stakeholders need to be addressed before this project is approved.

Sincerely,

Scott Knies
Executive Director

Cc: Michael Rewkiewicz
    Brian Corbett
Dear Mr. Le:

Preservation Action Council continues to have very serious concerns regarding the proposed Almaden Corner Hotel and its impacts to the De Anza Hotel. To date you have already received comments from Axis Homeowners Association, the De Anza Hotel and Hoge Fenton. We concur with the points made to the City of San Jose regarding the adequacy of the SEIR for this project, including insufficient alternatives analysis. We believe the SEIR contains many errors, mis-representations, and omissions.

We would like to emphasize again that the Hotel De Anza is listed on the National Register of Historic Places, the highest recognition afforded to historic resources in our nation. As such the Secretary of Interior Standards for Historic Rehabilitation clearly apply on this project. In the section of the Standards entitled New Exterior Additions to Historic Buildings and Related New Construction, and I quote, it is RECOMMENDED “that new construction is secondary to the historic building and does not detract from its significance”, and in a densely built downtown district, that “the infill structure must be compatible with the size and scale of the historic building”. Further it is NOT RECOMMENDED to construct a new building “on an adjacent site that is much larger than the historic building.”

The proposed hotel tower clearly violates the Secretary of Interior’s Standards in this regard. While minor changes in the design supposedly make impacts “less than significant”, these assertions are speculative, and we fail to see how this can be substantiated in fact, especially in light of the Standards quoted above. As well, the City has required other projects constructed near historic structures to comply with Secretary of Interior Standards and the City’s Historic Preservation Ordinance.
Respectfully submitted,

Sincerely,

André Luthard
Board President
Preservation Action Council of San Jose

Cc:
Councilmember Raul Peralez
Edward Saum, Chair, Historic Landmarks Commission
Rosalynn Hughey, Director, City of San Jose Planning, Building and Code Enforcement
Juliet Arroyo, Historic Preservation Officer
Sblend Sblendorio, Hoge, Fenton, Jones and Appel
Scott Knies, San Jose Downtown Association
Bill Souders, San Jose Downtown Residents Association
Eugenia Verbeckmoes, Chair, Land Development Committee Axis Homeowners Assn.
October 3, 2019

VIA EMAIL (Thai-Chau.Le@sanjoseca.gov)

Thai-Chau Le
Environmental Project Manager
City of San Jose
Department of Planning, Building, and Code Enforcement
200 East Santa Clara Street
San Jose, CA 95113

Re: Draft Supplemental Environmental Impact Report (EIR)
    Almaden Corner Hotel Project (File No. H18-038)

Dear Ms. Le:

I am writing to you as the Chair and empowered representative of the City of San Jose’s Historic Landmarks Commission (HLC), with the HLC’s comments regarding the historic resource analysis in the EIR for the above-referenced project. The proposed Almaden Corner Hotel is immediately adjacent to the De Anza Hotel, a designated City Landmark Structure, which was placed on the National Register of Historic Places on January 21, 1982.

Per the Historic Preservation ordinance, the HLC is the City’s designated advisory body for the preservation of the City’s historic built environment. Towards that end, the HLC provides project design comments and recommendations through full Commission meetings, and the smaller Design Review Committee (DRC). The Almaden Corner Hotel Project was discussed with the DRC on June 20th, 2018, and came before the HLC on April 3rd, 2019. As part of each of these discussions, numerous concerns regarding the incompatibility of the proposed design with the Art Deco Hotel De Anza were enumerated, including, but not limited to, the disproportionate scale, choice of materials, and nominal attempt to acknowledge the massing of the historic structure.

The consensus of the Commission is that the comments and concerns provided previously by the DRC and HLC were not addressed by the design revisions. Some of the most glaring incompatibilities have been exacerbated in the current design. This dismissal of the repeated input of the City’s historic advisory body should therefore be a part of the EIR’s historic resource analysis.

Our additional comments include, but are not limited to, the following:

- Per the Executive Summary, “the currently proposed Almaden Corner Project is generally compatible with the design of the adjacent historic property. The revised design does not appear to adversely impact the historic integrity of design, setting, feeling, and association of the De Anza Hotel.” The historic resource analysis then enumerates the ways in which the design is incompatible with the City of San Jose Downtown Historic Design Guidelines. The Executive Summary should be revised.

- Per the Design Guidelines, “Building masses should not dwarf immediately adjacent historic buildings.” From its first iteration, the proposed 19-story structure has dwarfed the 10-story stepped massing of the De Anza Hotel, with little to no attempt at mitigating this sizable, undeniable impact.

- Per the Design Guidelines, “Add new infill construction that respects the massing and detailing of historic buildings on the street. New building masses adjacent to lower historic resources should step down in height…” This point has been consistently reiterated by the DRC and HLC; to date, no attempt has been made to address the sheer 9-story disparity between the two projects. This is a direct, unmitigated impact upon the setting and feeling of the De Anza Hotel.
Per the EIR, “the detailing meets the intent, but not the letter, of the guideline that a new building be ‘broken down’ in scale to be compatible with nearby historic resources.” The detailing has changed with every iteration, with only a nominal nod to the basic tenets of Art Deco design and massing. We cannot agree with the EIR’s assessment. The intent of the guideline is that the building be broken down in scale; not that detailing be arbitrarily applied to try and mitigate the otherwise unresponsive massing of the proposal. There are no diagonal shapes or chamfered cuts in the Hotel De Anza, yet the Almaden Corner Hotel is rife with them. The upper floors of the building should be stepped back, articulating the massing in relation to the Hotel De Anza.

Per the Design Guidelines, “Add new building materials that match the historic materials of masonry, terra cotta, limestone, stucco… New materials should be compatible with historic materials in scale, proportion, design, color, finish, texture and durability.” The intent of the Design Guidelines is not that said building materials be used as incremental mullions and elements to break up the mass of otherwise nominally articulated glass curtain walls. The materials in the Almaden Corner Hotel are clearly not compatible.

The original environmental document for the adjacent Axis Tower project, the 47 Notre Dame Supplemental EIR (Axis SEIR), identified the Almaden Corner Hotel project site as ‘Phase II’, a 6-story residential and retail building. This reduced height proposal would be more in keeping with the adjacent De Anza Hotel, and should be specifically enumerated as a previously submitted alternate for the project site.

The historic resource analysis consistently uses the phrase “generally compatible”. The project shows multiple nominal, if mostly unsuccessful, attempts to address the Design Guidelines. The analysis downplays the more substantive negative impacts the proposal has upon the De Anza Hotel, and the myriad ways in which the choice of materials, massing, and detailing consciously ignores the adjacent historic precedent.

The Design Guidelines state that projects should “Add new corner development that is compatible with and respectful of historic corner development and relationships, in terms of scale, massing, materials, texture and color.” The analysis corrects the De Anza Hotel does not include corner towers, diagonals, or the like, only to describe the glazed diagonal corner of the Almaden Corner Hotel as somehow being an appropriate response. The central main entrance of the historic resource and the corner diagonal of the proposed development could not be less compatible, and the diagonal corner shows no respect of the scale, massing, materials, texture, or color of the De Anza Hotel’s entrance.

The City has, in the past, required other projects constructed near historic resources to comply with both the Secretary of Interior Standards and the City’s Historic Preservation Ordinance. The proposed hotel tower, as submitted, fails in both regards. A project on this iconic of a corner, immediately adjacent to one of San Jose’s highest profile historic landmark structures, should be held to the highest standard. At present, the design proposal and historic resource analysis instead seek out the lowest common denominator, indicating the least amount of effort possible to nominally relate to the iconic De Anza Hotel.

Sincerely,

Edward Saum
Chair, City of San Jose Historic Landmarks Commission

cc: Councilmember Raul Peralez
    Rosalynn Hughey, Director, Department of Planning, Building and Code Enforcement
    Juliet Arroyo, Historic Preservation Officer
    Patrick Kelly, Supervising Planner, Planning Division
    David Keyon, Principal Planner, Environmental Review