

# Memorandum

**TO:** Honorable Mayor &  
City Council

**FROM:** Toni J. Taber, CMC  
City Clerk

**SUBJECT:** The Public Record  
October 19 – October 25

**DATE:** October 31, 2018

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## ITEMS FILED FOR THE PUBLIC RECORD

### Letters from Boards, Commissions, and Committees

#### Letters from the Public

1. Letter from Board of Supervisors, dated October 23, 2018, regarding the National MeToo and TimesUp movements.
2. Letter from AT&T, dated October 15, 2018, regarding AT&T Mobility Site – 10095845 – CCL00502 – SNFCCA0502 – 1340 South De Anza Boulevard.
3. Letter from Axis San José, dated October 18, 2018, regarding PP15-102, San Jose Downtown Strategy 2040 Draft Program Environmental Impact Report, September 2018.

TJT/tt

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Toni J. Taber, CMC  
City Clerk



October 23, 2018

Dear Colleagues,

The national MeToo and TimesUp movements and the courageous stand of Dr. Christine Blasey Ford have put sexual assault issues front and center.

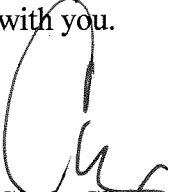
In light of that, we would like to request that the County of Santa Clara and the City of San Jose work together through the County's Children, Seniors and Families Committee, chaired by Supervisor Cindy Chavez who serves on the Committee with Supervisor Dave Cortese, and the City's Public Safety and Finance Committee, chaired by Councilmember Raul Peralez who serves on the Committee with Vice Mayor Magdalena Carrasco and Councilmember Sylvia Arenas, to consider the problem of sexual assault in our community. The Committees will work in close collaboration with public safety and justice partners and community-based organizations.

The time has long been overdue for our policies and budgets to reflect preventative solutions as well as adequate services for the victims of these crimes who are overwhelmingly women and girls. Furthermore, the time has come for us to find effective ways to change the behaviors of perpetrators of these crimes and to change social norms and social costs associated with these behaviors.

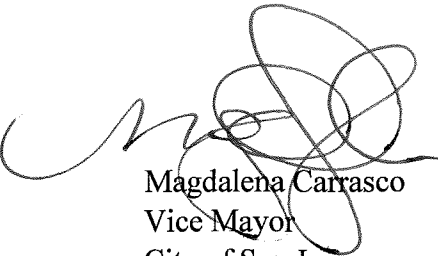
Put simply, we want women, girls and children in our communities to live lives free of violence and free from fear of violence.

The Committees would look at this problem in depth and put forward proposals to the Board of Supervisors and the San Jose City Council for effective interventions, services and further research and evaluation.

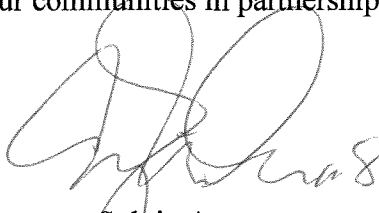
Thank you for your support and we look forward to transforming our communities in partnership with you.



Cindy Chavez  
Vice President  
Board of Supervisors  
County of Santa Clara



Magdalena Carrasco  
Vice Mayor  
City of San Jose



Sylvia Arenas  
Councilmember  
City of San Jose

cc: Clerk of the Board, Santa Clara County  
City Clerk, City of San Jose



AT&T  
2600 Camino Ramon  
4W850L  
San Ramon, CA 94583

10/10/2018

**VIA EMAIL**

Ms. Anna Hom  
**CONSUMER PROTECTION & SAFETY DIVISION**  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

**RE: AT&T Mobility Site - 10095845 – CCL00502 – SNFCCA0502 – 1340 SOUTH DE ANZA BOULEVARD, SAN JOSE, California 95129**

This is to provide the Commission with notice to the provisions of General Order No. 159A of the Public Utilities Commission of the State of California ("CPUC") that:

(a) AT&T Mobility has obtained all site land use approval(s) for the modification of the project listed above described in Attachment A.

A copy of this notification letter is also being provided to the appropriate local governmental agency for its information. Should there be any questions regarding this project, or if you disagree with any information contained herein, please contact me at [ellenmagnie@caldwellcompliance.com](mailto:ellenmagnie@caldwellcompliance.com) or 925-918-5182.

Sincerely,

**Attachment**

cc: City Planning Director  
City Clerk  
City Manager

City of San Jose  
200 E. Santa Clara Street, San Jose, California 95113



## ATTACHMENT A

- 1-9 Project Location:** Modification
- Site Identification Number: CCL00502
- Project Number: 3701A0BACD
- Site Name: SNFCCA0502
- Site Address: 1340 SOUTH DE ANZA BOULEVARD, SAN JOSE,  
California 95129
- County: SANTA CLARA
- Assessor's Parcel Number: 372-22-049
- Latitude: 37-17-57.6
- Longitude: 122-01-54.2
- 10-14 Project Description:**
- Number of Antennae to be installed: 6 antennas total approved at  
42 in height
- Tower Design: BUILDING
- Tower Appearance: BUILDING
- Tower Height:
- A) Structure Height 35
- B) Top of antenna Height 42
- Building Size(s): N/A
- 15 Business addresses of all Governmental Agencies (from permit)**
- City of San Jose  
200 E. Santa Clara Street, San Jose, California 95113  
(408) 535-3555
- 16 Land Use Approval:** R/R (6) antennas, R/R (6) RRUs antenna level, install (3) (N) RRUs in equipment area, install (6) (N) RRUS antenna level
- 17 If Land Use approval was *not* required:** N/A



October 18, 2018

Ms. Jenny Nusbaum  
Principal Planner, Environmental Review  
City of San Jose  
200 E. Santa Clara Street, 3<sup>rd</sup> Floor  
San Jose, CA 95113  
[Jenny.nusbaum@sanjoseca.gov](mailto: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 roofline 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,

A handwritten signature in black ink, appearing to read 'T. T. Cusick', written over a horizontal line.

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  
Rosalyann 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.